



MINUTES
Twin Falls City Planning & Zoning Commission
September 24, 2013-6:00 PM
City Council Chambers
305 3rd Avenue East Twin Falls, ID 83301

PLANNING & ZONING COMMISSION MEMBERS

CITY LIMITS:

Nikki Boyd Jason Derricott Tom Frank Kevin Grey Gerardo "Tato" Munoz Chuck Sharp Jolinda Tatum
Chairman

AREA OF IMPACT:

Lee DeVore Steve Woods
Vice-Chairman

CITY COUNCIL LIAISON

Suzanne Hawkins Rebecca Mills Sojka

ATTENDANCE

PLANNING & ZONING MEMBERS

PRESENT:

Boyd
Derricott
Frank
Grey
Munoz
Sharp
Tatum

ABSENT:

AREA OF IMPACT MEMBERS

PRESENT:

Woods

ABSENT:

DeVore

CITY COUNCIL MEMBERS PRESENT: Hawkins, Mills-Sojka

CITY STAFF PRESENT: Carraway, Spendlove, Strickland, Vitek

I. CALL MEETING TO ORDER:

Chairman Frank called the meeting to order at 6:00 P.M. He then reviewed the public meeting procedures with the audience, confirmed there was a quorum present and introduced City Staff present.

II. CONSENT CALENDAR:

1. Approval of Minutes from the following meeting(s):

May 2, 2013 Work Session
July 3, 2013 Work Session
August 27, 2013 Public Hearing
September 10, 2013 Public Hearing

2. Approval of Findings of Fact and Conclusions of Law:

- Desmond Estates (Pre-plat 09-10-13) • Forrest LeBaron (SUP 09-10-13)
- D.L. Evans (SUP 09-10-13)

Motion:

Commissioner Munoz made a motion to approve the consent calendar, as presented. Commissioner Tatum seconded the motion. All members present voted in favor of the motion.

III. ITEMS OF CONSIDERATION: NONE

IV. PUBLIC HEARINGS:

1. Request for Special Use Permit to operate a retail hookah lounge with extended hours of operation to be open until 1 AM seven (7) days a week, on property located at 677#C Filer Avenue c/o Artem Petrosyan, on behalf of the Hookah Paradise (app. 2589)

Applicant Presentation:

Adel Marwan, 677 Filer Avenue Ste. C, stated the request is to be able to have the business open unit 1:00 am. There was a request prior to tonight for this however they, he didn't have the information posted on the property correctly so it was postponed. They have difficulty keeping customers without staying open later, staying open later will help the business. Considering noise complaints, there is already a bar at this location and there will not be any increase in the noise. They have not had any complaints from the other businesses; the parking area is lit well for safety.

Questions/Comments:

- Commissioner Munoz clarified that the request is to stay open until 1:00am.
- Mr. Marwan explained yes that is correct.

Staff Presentation:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. He proceeded to explain that the regular hours of operation for a retail business are 7:00am-10:00pm. This request is to extend those hours for retail beyond 10:00pm to 1:00am. In 1981 Ordinance 2012 was passed in 1981 rezoning the property to its current zone Campus Commons building is currently zoned C-1 but outside of the complex it is surrounded by R-2 which is a residential zone.

Campus Commons as a whole has seen multiple tenants in its various spaces over the years. More recently it has seen some redevelopment on the East end of the area with the Europe Bar, Hair Salon, and other service and retail establishments. The applicant has supplied a narrative outlining the detail of the proposed operation and use of the property. Currently the applicant is operating an outright permitted retail establishment. They submitted a request for an SUP to extend business hours at the established Hookah Paradise Lounge Café at 677 #C Filer Avenue. The extended hours requested are that they be permitted to be open until 1:00 AM seven (7) days a week. The applicant claims current traffic patterns/customer numbers are 10-20 people on weekdays and 20-50 people on weekends. The applicant states 2-3 employees will be on-site during weekday hours, and 5 on the weekends. Generally the applicant would like to have 1 employee for every 10 customers. The applicant does not anticipate any significant impacts to neighboring businesses.

Per City Code 10-4-8.2: Permitted retail/trade uses operating outside the hours of seven o'clock (7:00) AM to ten o'clock (10:00) PM require a special use permit in the Commercial Highway District (C-1). The C-1 Zone is intended to provide commercial activities of various sizes from large retail stores to small specialty shops with residential opportunities for persons wishing to work and live in a unified environment.

Per City Code 10-4-8.3: There are no rear and side yard setbacks, and landscaping requirements are equal to five percent (5%) of the total parking area. Consequently this shopping center was established and developed prior to current landscaping requirements being established.

Per City Code 10-10: Off Street Parking is required for this business at a rate of one space for each two hundred fifty (1:250) square feet of floor area. This results in a parking requirement of twenty (20) parking spaces. The shopping center has a cross use agreement for all tenants and parking has been satisfied with that agreement.

Possible Impacts: The neighboring uses within the Campus Commons shopping center are commercial/retail/office in nature. These various restaurants, specialty shops, offices and other businesses may not be greatly impacted by these proposed extended hours.

However, the areas surrounding the Campus Commons shopping center are existing residential neighborhoods. The operation of a retail establishment open until 1:00 am is a cause for concern. Due to the late hour which customers will be allowed to enter the establishment, it is reasonable to believe that customers will not leave the general area at the appointed 1:00 AM. This could lead to an increase in disturbances to neighboring residences.

A possible increase in disturbances and calls for police service could be hazardous or disturbing to existing or future neighboring uses, this correlates directly with City Code 10-13-2-2(D): Standards Applicable to Special Uses - #4: Will not be hazardous or disturbing to existing or future neighboring uses.

The possible increase in disturbances to the neighborhood was confirmed by an inquiry to the Twin Falls Police Department. Multiple calls for service have already been placed to our Police Department regarding this particular location. For further details about those calls please refer to the memorandum furnished by the Police Department in the staff report attachments. City Staff as a whole feels that extending the operating hours of this business is not a good fit for the neighborhood in general, and we have a legitimate concern for the safety of patrons and the quality of life for the surrounding residents.

If the Commission grants this request, a condition that it may be subject to expiration in one (1) year may be appropriate due to the concerns previously expressed. This would allow the Commission, neighbors and the police department to better determine the impacts to the surrounding neighborhoods.

Planner I Spendlove stated should the Commission grant this request as presented; city staff would recommend approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the noise level remaining at an acceptable level with respect to the surrounding residential neighborhoods.
3. Subject to hours of operation not exceeding 1:00 AM.
4. Subject to all activity taking place indoors at all times.
5. Subject to this Special Use Permit expiring on September 24, 2014.

Chief Pike, stated that they are in support of local businesses, they work closely with business to encourage public safety and successful businesses in the community. The business owner's are responsible to the City, the community and residents that live in an around their establishment. The concern for the police department is that at this time the normal hours of operation have not been followed, so compliance is a real concern. They are out of compliance generally and the question is whether or not the business will comply with the Special Use Permit. The main thing is that they be a good partner and comply. There are several officers available for questions regarding service calls.

Staff Sargent Garner stated he has statistics for this location and some from their previous location. The majority of the complaints relate to the parking lot at the Main Avenue location there were also some complaints for activity in the alley as well. Most of the disturbance complaints are generated from outside.

Questions/Comments:

- Commissioner Boyd asked what a noise disturbance would include.
- Staff Sargent Garner stated it can include fireworks, crowds, loud music, loitering after hours, speeding and fights. There was a stabbing at the Main Avenue location.
- Commissioner Tatum asked if the calls could be directly correlated to the business.
- Staff Sargent Garner stated he compiled his numbers by calls to the specific address of the business.
- Commissioner Sharp asked about the calls that have come in regarding this location.
- Staff Sargent Garner stated they have had a couple complaints about the parking lot and noise disturbances. They had a rape reported at 4:00am and reports that people were being charged a cover charge after operating hours.
- Commissioner Frank asked about previous business operations at this location.
- Staff Sargent Garner stated he is not sure what business operated at this location previously
- Commissioner Wood asked if there are reports for the Euro bar.
- Staff Sargent Garner stated they have had service calls for the Euro Bar also but he did not compile those numbers for the meeting.
- Commission Sharp asked if after their relocation to this spot if it seems like they have tried to clean up the problems.
- Staff Sargent Garner stated they have had fewer service calls.
- Commissioner Boyd asked how this could be attributed to the Hookah Bar and the disturbance is in the parking lot how do you keep it separated from the Euro Bar customers.
- Staff Sargent Garner stated the address and description if it said Hookah Bar the service call was included in his numbers.
- Commissioner Tatum asked if the calls came from the Hookah Bar was it to prevent impacts to the surrounding neighborhoods.
- Staff Sargent Garner stated it could however the calls didn't come from the Hookah Bar it came from the surrounding neighbors.

- Planner I Spendlove stated for clarification could Staff Sargent Garner address how long the Hookah Bar has operated. The records for this address indicate they moved in around the beginning of July, 2013
- Staff Sargent Garner explained the calls for service for the Main Avenue location date back approximately 2 years from 2011 to until they relocated to this location.
- Commissioner Frank asked if the office could explain how many service calls have been made to the new location since they began operation.
- Staff Sargent Garner stated the number of calls for this location is (7) seven.
- Commissioner Frank asked if statistically this number is high for one business.
- Staff Sargent Garner stated in his opinion that number is high.
- Commissioner Munoz asked about the previous location and what time they operated.
- Planner I Spendlove stated the allowed retail hours of operation would have been 7:00am to 10:00pm. He did not review the history at the previous location.
- Zoning & Development Manager Carraway stated that they establishment did have an approved Special Use Permit to allow retail until 1:00am.
- Commissioner Frank asked if this location had service calls for the previous tenant.
- Zoning & Development Manager Carraway stated as for zoning issues she does not recall having any complaints about the previous tenant. She stated she remembered the previous tenant to be Garibaldi's.
- Staff Sargent Garner stated he does not recall any calls to Garibaldi's when they operated at this address.
- Commissioner Boyd asked when the Hookah Bar operated at the Main Avenue location was the establishment next to any bars.
- Staff Sargent Garner stated there were not any bars operating until 1:00am in this area on Main Avenue.
- Commissioner Boyd stated she is trying to determine if it is the mix of having the bar next door that creates a bigger disturbances or if it is the Hookah Bar alone.
- Commissioner Derricott asked if Staff Sargent had any comparison for service calls concerning the Euro Bar versus the Hookah Bar.
- Staff Sargent Garner stated he doesn't have the numbers with him but the numbers could be researched.

Public Hearing: Opened

- Valerie Van Leeuwen, 577 Polk St, stated she grew up in this neighborhood. A few years ago she purchased the home she grew up in and seen a rejuvenation in the neighborhood. The concern is the late hours close to a residential area the other businesses are closed at this time. She doesn't want people walking through the neighborhood at 1:00am. This is not a good match for a neighborhood. She requests that the Commission deny the request.
- Cindy Brown, 4105 Fillmore St, stated she is located on the other side of Filer Avenue. This location has been revitalized with new families and she is concerned with the late hours of operation. This is a residential area with several young children and families in this area, being open until 1:00am will create safety concerns with fights, people congregating in the parking lot, stabbings and rapes. She was not sure what a Hookah Bar was, researching it she has discovered it is the use of special machinery to smoke tobacco products and how does anyone know the products being used are not going to impair judgment. She hopes that the Commission hears the citizens' concerns and protects the citizens by denying the request.

- Cathy Brown, 583 Fillmore St, she lives along the back alley of this property. They have lived in this neighborhood for 40 years. The businesses in the Campus Commons building have always had neighborhood friendly businesses. The tenants in the building have changed quite a bit lately and the Hookah Bar has presented some questionable clientele. She has made calls to the police department because of safety concerns and disturbances. The facility that was at this previous address was a restaurant with a bar and there were not any issues. They don't know what impact this is going to have and currently they don't feel safe because of this business.
- Dave Burgess, 477 Fillmore St, stated he lives three houses south of this property, where he and his wife enjoy sitting outside and walking through the neighborhood in the evening. He stated that just last night there were 2 cars coming out of the Hookah Bar parking lot racing down the street at approximately 50 mph. There are fights, loud music in the parking lot and it has escalated recently. He has been in the neighborhood for 20 years and things have changed at this location.
- Tim Parker, 548 Fillmore St, July 4, 2013 was the opening of the Hookah Lounge. There have been loud disturbances since then. Recently they have had to be quieter while waiting on this process to take place but people are still showing up there. They don't show up until 9:30 and the people congregate in the parking lot. His children have heard and witnessed things that are not appropriate; including people urinating on the side of the building. If this is any indication of how the business is going to operate when they have to close at 10:00 how is it going to be if they are operating until 1:00am. There is trash in the parking lot, people loitering in the parking lot all hours of the night. The need to move it to a different location.
- Gene Sturgill, 567 Polk St, has lived in this area 60 years and enjoyed this area. It is a nice neighborhood, he doesn't worry about his children because they are grown, however he is concerned for the neighborhood's children. The young families are his concern and he wants the area to continue to be a nice place to live. Bars do not lend to a residential area. This business generates quite a bit of traffic at night and he thinks this is not good for the neighborhood.
- Melissa Parker, 548 Parker, she says there are cars that race along the street 50-80mph. She has found bullet casings in her yard, picked up beer bottles and boxes. They have patrons that urinate on the side of the building and she pleads that the Commission deny this request.
- Linda Burgess, 477 Fillmore St, stated in her neighborhood she has seen homes purchased and the neighborhood is rejuvenating. They hear the noise, the fights, and the cars with loud music racing up and down the road from their back yard. She also asked if the patrons can go back and forth between the Hookah Bar and the Euro Bar from the inside, if so how do you know what is really going on.
- Julie Sturgill, 567 Polk St, she is not speaking for her office but as a neighbor to this business. She can provide some insight to Hookah Bars based on her prosecuting experience. They have prosecuted many things that have occurred outside of this Hookah Bar. Most recently there was a stabbing affiliated with the Hookah Bar, and they will tell everyone they can't control the people once they exit their business, and that all they sell is flavored tobacco. The problem is the clientele they attract. The owner of this bar was prosecuted in 2011 for possession of a controlled substance called spice and haze. You don't make money off of flavored tobacco it is made off of something that is more expensive, whether it is illegal doesn't matter the chemical they put on it has the same effect. The chemicals are designed to help people who have things like Parkinson's. If you do not have Parkinson's the chemical binds with your natural chemicals and exacerbates the effects of the drug. So you will get someone who is on soaped up on marijuana. They are always experimenting trying to make sure it slides underneath the code, but it still has the

same affect. These things and the clientele that the Hookah Bar attracts do not need to be in a neighborhood it is a danger to the community. She understands that the man here tonight is representing the applicant, but the applicant has tried on multiple occasions at several locations to make this work. He has had to move several times and the question is why, most likely it is because of the clientele and the lessors do not want this type of business on their property.

- Mathew Thompson, 634 Taylor St, stated his concern is the safety, noise and the types of clientele this business brings to a residential area. This is a nice safe neighborhood and he doesn't want this to change.
- Robert C Brown, 583 Fillmore St, directly behind this location. They heard a fight from the establishment and the people went back in when the police showed up. The noise problem was an issue when it was Garibaldis but it was taken care of as soon as they spoke to the business owner. The cars will travel up and down the alley and has created a problem since the opening of the business during the summer.
- Norman Carlson, 553 Polk St, stated in the past individuals planning to go into the bar missed the parking lot and ended up in the neighbors basement with their car. If the permit is granted for them to operate until 1am, is there a means for Garibaldis to request the same hours of operation.
- Jeremy Brown 465 Fillmore St, stated why we would want to promote a business like this to attract college students.
- Jonathan Spendlove stated this establishment is not a bar, it is next door to a bar. This establishment is a lounge strictly for the retail sale of tobacco which is a permitted use per code and this request is to extend the hours of the retail establishment past 10:00pm to 1:00am.
- Commissioner Woods asked the permitted use is for the sale and use of the product. This so that the applicant can sell the tobacco after 10:00pm.
- Zoning & Development Manger Carraway stated that a community gathering place is allowed and does not have limited hours of operation in this zone. The retail hours are what are limited in this zone. Public assembly does not have hours of limitation a retail business does.
- Commissioner Grey asked it the Eurobar has a Special Use Permit to operate with extended hours.
- Zoning & Development Manager Carraway stated that a previous occupant at this location had a Special Use Permit to sell alcohol with extended hours so a change of name doesn't change anything, so yes they are operating under an approved Special Use Permit.
- Commissioner Woods asked a neighbor that previously spoke for clarification as to whether or not the activity at this location has changed from before the Eurobar to the time the Hookah Bar was established.
- Valerie Van Leeuwen, stated that since July of this year when the Hookah Bar was established the disturbances have increased. The noise has increased, the car racing and traffic in this area has increased significantly since July. The other businesses seem to be contained well, but since the Hookah Bar has opened the people congregate out in the parking lot and smoking their product.

Public Hearing: Closed

Closing Statements:

Adel Marwan, representing the applicant, stated this business has operated for 4 years and just recently he has invested his own money into the business. He understands, noise complaints can be disturbing. The customers for the bar are the same customers for his business. The people go to the bar and come out and fight because they are drunk. He has purchased cameras for security and he can report the disturbances. Hookah is a hobby for the people that come into the business. Closing at 10pm has impacted his business financially. Having it open after 10pm allows his customers to come in and purchase tobacco when they get off work or are done with their school work. He has tested the noise level from the parking area when the music is loud and the doors are closed. He can't hear the music from the business. He put up the cameras to help keep track of the fights. He can't control the fights he has tried to prevent the fights, but the bar is the reason for the fights. The flavored tobacco that they sell is like tobacco for cigarettes. He has cleaned up the parking lot and he has spoken to the building manager about complaints. He has tried to keep the business in compliance, but he can't control people.

Discussion Followed:

- Commissioner Woods asked if the cameras were installed at the time the fights occurred and the police were called.
- Mr. Marwan, explained the cameras were put up after the fight.
- Commissioner Woods stated the applicant spoke about the music coming from the establishment, but didn't address the noise that comes from the outside parking area. He is trying to get a feel for the entertainment environment versus the restaurant environment. The owner doesn't have direct control over the patrons of the business once they leave the bar. The owner does however have some indirect control by explaining to the customers that their behavior impacts the business. This neighborhood is being impacted and he is struggling with whether or not the establishment fits in the neighborhood. He wonders if there is room for compromise, if the time could be extended until 11pm with a two month trial, allowing the applicant to prove they will comply.
- Commissioner Munoz stated in reviewing the standard for approving a Special Use Permit He has concerns with standard #3 that states it will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area. He feels that this use has and will continue to change the essential character of the area. This type of business adjacent to a residential area has impacts, because it is commercially zoned does not meet this is the correct place for this type of business. This request in his mind does not comply with standard #3 for approval.
- Commissioner Grey stated that this is detrimental to the neighborhood and there is not a transitional zone for this building and it is not a good fit.
- Commissioner Sharp stated that the testimony showed that the complaints have gone up since the business has been at this location.
- Commissioner Boyd stated there used to be a grocery store at this location she could ride her bike and raise her family. Having a business in Campus Commons is not the hot spot for a business. She is not against someone making a living and is familiar with a Hookah Lounge, however being open until 1:00am is not a new threat on the neighborhood but the clientele that this business brings to the area is not a good fit.
- Commissioner Munoz stated they have the responsibility of making a decision based on facts and conditions.

- Commissioner Frank stated that he is not sure that it's the business or the clientele that brings the problem.
- Commissioner Grey stated seven calls within two to three months of the establishment being open is concerning. The location of the business can impact the number of calls; it is not as likely to get calls when it is located in downtown environment versus a neighborhood.
- Commissioner Frank stated no matter what you are responsible for the clientele he doesn't agree that they have no control after they leave the door. There is nothing that would stop them from operating at this location during the regular retail hours, giving them an opportunity to prove they can control the situation. If at that time they want to apply again for extended retail hours they could do so.
- Commissioner Munoz stated not having the statistics makes it difficult however he wanted to remind the neighbors that the Eurobar is operating under a Special Use Permit and if they are having difficulties with that business they can request that the Special Use Permit be reviewed for revocation.

Motion:

Commissioner Derricott made a motion to approve the request, as presented, with staff recommendations. Commissioner Woods seconded the motion. All members present voted to deny the motion. The motion failed.

SUP WAS Denied

5 minute break taken at 7:30 to 7:35 pm

Commissioner Tatum stepped down.

2. Requests for an amendment to Special Use Permit #1257, granted on December 28, 2011, to allow the operation of an aerial tour business on the Canyon Springs Golf Course limited to operation during daylight hours. The request is to allow operation of the zip line tours at night for a maximum of ten (10) nights per calendar year in which the business may operate until one-o'clock (1:00)A.M. on those operating nights. c/o Jolinda Tatum on behalf of Magic Valley Flight Simulation, LLC (app.2600)

Applicant Presentation:

Jolinda Tatum, the applicant stated she is here to request that their Special Use Permit be amended. She provided photo copies of the equipment that will be used during the evenings while operating after dark. There have worked hard to become a viable business a good neighbor and she brought with her comments about their business. She stated she did not advertise this request on their website or Facebook page not did she solicit patrons for their feedback regarding this request. She has read the letters and will try to address the concerns so they can continue to be good neighbors. They believe they have proven themselves to be a viable business, they have served 4981 riders. They have had no complaints filed with the County, the City or the Police Department regarding the business; they have moved from the 9th spot on the Thing to Do in Twin Falls list to the #2 spot and are a five star business. They have provided free passes and discounted passes to local businesses and charities and feel they have become a part of this community. Local business have used them as a business event, hundreds of families have come and celebrated birthdays and anniversaries. All have come and rediscovered the canyon. This request for night tours is a direct result of customer requests. Now that they have been open a year they feel confident that they can safely

provide night time tours on a limited basis. The specific request is to allow them to be open at night for rides specifically for Halloween, New Year Eve and July 4th.

To address the neighbors' concerns they have scaled back the original lighting plan and will be using two head lamps on a helmet. Originally the plan was to have plant lights to illuminate the entire canyon floor so they could see the riders; they have decided to go with lights on the helmets to reduce the neighbors' concerns with lighting. They will also have glow in the dark bracelets on their wrists and ankles so they can see how the rider is coming in on the line with glow in the dark paint and makeup. They will request that if someone comes in a costume that they have something else on them that glow in the dark. The trail will be illuminated with solar yard lights that can be turned on and off with a switch. Additional lamps will be available for illuminating the stairs and platforms. The locals have asked to be able to zip at night. Another concern for the neighbors' was alcohol use with impaired drivers driving up and down the road. They can make it abundantly clear, the seats will be pre-scheduled and people will know when they are scheduled. Advertising will be clear that there is no alcohol allowed on the tour, there is no alcohol allowed within the premises and they reserve the right to refuse service to anyone who appears impaired. It is something they have done in the past, because the golfers tend to enjoy alcoholic beverages, and think they will have some liquid courage and ride the zip-line. They have turned people away in the past and will continue to do so, it is not safe. They can be completely off the zip-line by 12:00am this coming Halloween Season this fall. They believe that night tours would be a bonus within the community keeping some of the locals at home. Currently the closest haunted houses are in Gooding and Albion, this could draw people here for the Haunted Desert Tours, keeping the local closer to home. It will be something fun for people to do that does not involve alcohol. The tours will be pre-sold and pre-scheduled so people will know when they will need to be there and won't be wondering around in the canyon or standing in line for the next tour. They believe they have proven themselves as viable business and have been good neighbors as well as becoming integrated with the community. They would like to be able to offer a service that has been requested by the community.

Questions/Comments:

- Commissioner Frank asked for clarification if they can have everyone off by midnight why should the hours be extended to 1:00am.
- Ms. Tatum explained it was for simplicity, in the narrative it says during fall hours when it gets dark earlier they were planning to have a tour that starts at 8:00pm followed by another tour at 10:00pm. They can process 14 people per tour within two hours safely. The request for 1:00am is because the July 4th tour is in the summer and it doesn't get dark as early. If they have to wait until 10:00pm to operate she is not sure they would be able to be off the course safely by midnight if they run two tours.
- Commissioner Woods verified that the powered lighting with generators is no longer the plan and should not be a concern.
- Ms. Tatum confirmed.
- Commissioner Sharp asked what days the Halloween tour would operate and if they have plans for the July 4th event.
- Ms. Tatum stated they have no plans for the July 4th Holiday, they have a tentative plan for Halloween to operate from Friday, October 25th to Thursday, October 31st, closed Sunday. They have had a request for a New Year's Eve tour, she is not sure they would even do that tour but it has been requested so they included it in the request. If tickets don't sell, obviously the tour will not be provided.
- Commissioner Sharp asked how the 10 days are spread out amongst the holidays.

- Ms. Tatum stated they thought was that they would have one day for the July 4th tour, one day for New Year's Eve and 7-10 days for Halloween. Traditionally the haunted houses are open before the holiday and one tour for just Halloween night would only allow 28 people to ride. That would be not economically viable to decorate the trail and just have one night of tours. People tend to have parties and celebrate Halloween throughout the week of the Holiday.
- Commissioner Munoz asked about the noise from the people screaming on the ride especially on a haunted ride.
- Ms. Tatum stated she would argue that the noise level would be any more than what is currently on the canyon whenever special events are held on the canyon rim. Currently if there is an event going on at Canyon Crest or open bands you can hear the music throughout the canyon. There is also the golf course with a restaurant and bar that hosts events with people coming and going from there all the time. There will be screaming, they can discourage the screaming and ask them to be scared quietly, but whether it is doable or not is questionable. However by making sure the tours are over and off the course by midnight they know there should be no other noise generated from their business after that time.

Staff Presentation:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. He explained that if this request is approved it will allow the applicant to proceed with special after daylight operating hours no more than 10 days in a calendar year. As specified, the hours would be midnight certain times of the year and 1:00am other times.

On December 13, 2010, the City Council approved a Zoning Title Amendment with Ordinance 2997 which added a definition to §10-2-1 for a zip line and added that "Zip Lines operated by outfitters and guides licensed by the Idaho Outfitters and Guides Licensing Board" may be allowed by Special Use Permit in the Open Space (OS) zone.

The Planning and Zoning Commission denied a request of the applicant for a Special Use Permit for a zip-line on February 8, 2011, with a tied vote of three (3) for and three (3) against. The action was appealed to the City Council by the applicant and was scheduled for March 14, 2011 hearing. The application was withdrawn as the City worked with the Twin Falls County Commissioners on an amendment to the Area of Impact agreement regarding code changes. That matter was resolved as the County now accepts all zoning decisions made by the City in the Area of Impact.

The Planning and Zoning Commission approved Special Use Permit #1257 for the installation and operation of an aerial tour business on the southeast portion of the Canyon Springs Golf Course on December 28, 2011 subject to seven (7) conditions. The conditions are as follows:

1. Subject to a review by the building Department to determine if a Certificate of Occupancy is required for the use of the Clubhouse facility for the zip-line staging area;
2. Subject to a review of parking requirements for the clubhouse and zip-line use to determine if additional parking is required;
3. Subject to the launch site having a security fence or suitable enclosure to provide security to the site;
4. Subject to signage on Canyon Springs Road being placed by operator indicating that no parking or stopping is allowed on the road way in the vicinity of the launch area at any time;

5. Subject to the zip-line(s) being operated by outfitters and guides licensed by the Idaho Outfitters and Guides Licensing Board. Documentation provided to City prior to operation;
6. Upon abandonment or discontinuation of use, the property owner/business owner shall physically remove all structures associated with the zip-line(s) facility within ninety (90) days of the date of abandonment and/or discontinuation of use, and restore the site to its original condition. The property owner/business owner shall provide to the City, prior to issuance of a permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) or a bond equal to a written estimate from a qualified contractor to guarantee that the facility will be removed when no longer in use and site restored. The City shall be named as an obligee in the bond and must approve the bonding company;
7. Subject to site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.

Approval was appealed to the City Council on January 23, 2012. The City Council tabled the issue. On February 6, 2012 the Council voted to uphold the Planning and Zoning Commission's decision to approve the Special Use Permit. The County Commissioners approved the request for the Special Use Permit for the installation and operation of an aerial tour business on February 24th, 2012.

There is no further zoning or complaint history associated with this use after that February date.

This property is located in the OS, Open Space District, adjacent to the Canyon Springs Golf Course and Centennial Park. The zip line area is about 10 acres and the trail length from the Canyon Springs clubhouse to the launch site is about 2/3 mile. The applicant would like to amend the approved Special Use Permit #1257, which allowed operation of a zip line-based recreation and education program and facility during seasonal daylight hours, to allow limited night-time operation of the zip line facilities.

The applicant has included a description of the after-hours zip line operations. The applicant will limit the night-time operations to a total of ten (10) calendar days. The night hours described in the narrative would extend to 12:00 AM during the months of October – April and to 1:00 AM June - September. The number of participants will be limited to fourteen (14) per tour, with a limit of two (2) tours per night. All participants will be required to pre-purchase/reserve tickets for tours. The applicant does not foresee the noise after dark being any more of an impact than that which is currently present with other businesses on the canyon rim which hold night time events.

The amendment being asked for is a change in hours of operation that the applicant had placed on themselves during the original SUP presentation in 2011. During the original hearing process, the business was portrayed as operating during daylight hours only. Since that time, the business has operated fully within compliance of the approved Special Use Permit. City Staff has not received complaints regarding the business operations in terms of increased traffic, noise, or any other miscellaneous complaints.

Recently Staff has received multiple letters of concern that will be read into the record and maintained in the application file.

Possible Impacts: Possible impacts to neighboring land owners include light intrusion, and noise. The original application had the plant lighting that included a generator and massive lighting of the entire canyon. Because that has been changed the light intrusion and the noise issues staff had concerns with have been addressed and there are no other issues staff can foresee with the approval of this request.

The applicant has expressed that the time of year these night-time excursions could potentially occur will be around Halloween, New Years, and the 4th of July. General activities during these times typically extend beyond normal daylight hours, and include some outdoor activities that generate noise. It is not believed that the noise generated by the customers would be beyond reasonable noise levels already prevalent in the area during the time of year the applicant wishes to have these extended hours. It is not anticipated that there will be any additional odor, fumes, vibration, or glare to the area should this request be implemented.

Planner I Spendlove stated upon conclusion should the Commission approve the request to amend SUP #1257, as presented, staff recommends the following conditions be placed on this permit:

1. Subject to the original conditions of SUP#1257 remaining in place, and in full force.
2. Subject to generators being prohibited during night-time operations and large area lighting to be downward facing.
3. Subject to the applicant/Zip Line Representative informing P&Z Staff a minimum of ten (10) days prior to any night time event.

Chairman Frank read the public comments (6) submitted prior to the public hearing.

Public Hearing: Opened

- Barbara Beck, 699 Riverview Dr, stated when the controversy surrounding the original request for approval of the Zip-line Special Use Permit, it was stated they would be providing an educational tour and that it was not a carnival ride. The hours of operation were to be during daylight hours only no lighting would disrupt the night time sky. They now want to extend the hours of operation into the night well beyond the closing of our city and county parks which state 6:00pm in winter months and 10:00pm in summer months. They also want to decorate the zip line, the trails the course and use illuminated lights body paints, glow in the dark paint and advertise for best costumes. This is considered a carnival like atmosphere whether this it is just coincidence that they want their closing hours to be the same as the bars could be point for discussion, but she guarantees the two will go hand in hand. Encouraging the light night visitors to the zip-line and having them drive up a dark narrow winding canyon should be enough to cause grave concern let alone noise disturbances to passing neighborhoods to well past 1:00am in the morning. Twin Falls City Ordinance states the zip line is to provide "recreation and education activities that preserves the natural environment and habitat by enabling people to transverse terrain by means of cable and trolley." Last time she stood before this panel with this issue a couple of the members stated it sounded like fun. As members of the Commission it is not about you it is about preserving and doing the best thing for the magic valley. Several years ago the Rotarians started moving on the right track with the formation of Centennial Park, then Jazz in the Canyon and have since moved on to other community minded events. They gave the park to the City, the Jazz Festival to the Chamber of Commerce and now the Jazz Festival is now gone and being replaced with carnival rides. David Mead was right when he showed what would happen if we don't respect our natural resources and do what is best for the community. In summary this was very controversial, they stated that it wouldn't be a carnival ride that it was educational, there would not be lights at night, it would operate only during daylight hours and now just about a year later they are asking for all the things that were so controversial. She is not sure how many people have requested the night time rides but she would appreciate it if the Commission would do the right thing.

- Ann Ferrell, 819 Canyon Park Avenue, stated this is a quiet neighborhood and sees no reason for letting them operate at night and she would like the Commission to deny the request.
- Tom Tucker, 822 Canyon Park Avenue, he said he goes up and down the canyon and plays a lot of golf at the golf course. He thinks so far they have a great business; he doesn't see a lot of business. When they are doing the tours it looks fun and great but he would recommend that they continue to work within the hours that were established. If you look at the clock at 8:00 last night they had to turn in their golf cart because it was dark. Daylight savings is not until the first week of November, and he thinks they could still have a great Halloween Event if they still closed by 10:00pm because it will be dark before that time. He is opposed to the extended hours.
- Keith Beeson, 961 Sparks Avenue, works for Magic Valley Flight Simulation as a guide. They bring in people from all over the world to visit the zip line. This is a family friendly event and it is not going to be a drunken fest. This would be a trial run to see the canyon at night and the wildlife that comes out. This would be a tourist attraction that would bring people from other areas and support the local businesses.
- Annette Tucker, 822 Canyon Park Avenue stated they can't be in control of the clientele and it is not necessarily safe at this time of night.

Closing Statements:

- Ms. Tatum stated she wanted to come to a negotiable agreement and is willing to compromise. They want to be able to work through this process so that it allows them to operate but is amenable to the neighbors as well. She heard a few statements that they are not opposed to the request but does it have to run until midnight could it be limited to 10:00pm. Those are all negotiable and she would ask that the Commission consider if it will make a difference for approval of the request. It is getting dark enough now that if the first tour was started at 7:00pm the second tour could start at 9:00pm. They don't have to do two tours every night; the conditions could be amended so that it is as agreeable for everyone. It is unfortunate that every single person that has written letters against the request have not experienced the zip-line. She does not know that any of those people have actually ridden the zip-line. She then read into the record some of the reviews written by clientele that have ridden the zip-line and posted comments on Trip Advisor. As for education this activity promotes the use of skill sets that people don't often use. It is experiential based learning. You overcome the fear, you learn that you can trust the harness you can trust the gear and other people. You can be safe in what feels unsafe to you, which is part of overcoming fears, stretching yourself, exercising courage, using skill sets that you wouldn't normally use; this is what makes it educational. She would have to counteroffer that we don't provide education and that it what is offered is not of any value.

Discussion Followed:

- Commissioner Frank asked about the timeframe and if the 10:00pm is viable for the business.
- Ms. Tatum stated if there is public interest the tickets will sell if not the event won't happen. Remember, also if the tickets are purchased then it will be clear that the community supports this event. As for alcohol there are people drinking down in the canyon all the time, she stated she is continually picking up beer bottles where people have parked and thrown their beer bottles over the side and she has to clean it up the broken glass so that her patrons are safe. She can't imagine what happens to the wildlife in that area walking around in the glass.

She believes having the zip-line in this area has created an improvement to the area for the habitat that lives down there by cleaning up the broken glass and the things people have thrown over the canyon wall. She is aware that there are people that don't like them down in the canyon but they are doing their very best to be good neighbors.

- Commissioner Sharp asked if the Canyon Springs Golf Course open until 1:00am.
- Planner I Spendlove stated there is a bar and restaurant at the golf course but he is not aware of the hours of operation.
- Commissioner Sharp also asked if the applicant would consider shuttling the tour customers down to the zip-line from the top of the canyon.
- Ms. Tatum showed a picture of the trailer that is used on the tour it will hold up to 16 people in seats with seatbelts. This would be a viable option to consider shuttling the customers.
- Commissioner Derricott asked about complaints since the business began operation.
- Planner I Spendlove stated there have been no complaints reported for traffic, noise, or light intrusion since the business began operation.
- Commissioner Munoz stated he is conflicted; he was part of the original decisions and was one of the Commissioners that voted against the motion to approve. At that time there were a lot of unknowns and since it has been approved he hasn't heard any complaint which is something he always promotes, that if someone has issues report it to the proper people. One concern is the noise but you would have to be looking into the canyon at the proposed times to see the lighting; it is not going to be intrusive. He also appreciates that the applicant is willing to work with the neighbors and the Commission. He doesn't like limitations or terms on Special Use Permits but for this type of request possibly limiting it to this first event to give the applicant a trial run and it gives the citizens a chance to see the impacts. He would not personally participate in this type of activity, when he reviews the nine standards for approving a Special Use Permit he can't say for sure yes or no to the disruptive part. He is not sure that it will not be disturbing to the surrounding properties, because there is no evidence. He would be willing to give it six months.
- Commissioner Sharp contended that this situation is very different than that last item on the agenda we heard tonight. The Hookah lounge already had complaints; this business has had zero complaints. If they do get approved for the amended Special Use Permit and it doesn't work on Halloween all of these people that are here have the right to inform everyone that it was a problem it can be reviewed for revocation. There is so much positive feedback from this activity, people enjoy it but if the ones here tonight that are opposed to it find there are lots of problems during the Halloween Event let everyone know.
- Commissioner Munoz state in order to revoke a Special Use Permit it has to violate a condition, and noise is not one of the conditions, if there is a problem with noise they have to call the police, that is why an expiration date would be more feasible.
- Commissioner Grey stated he was conflicted also with regards to noise and traffic and appreciates the folks that live in the area. He thought he knew how he was going to vote when he came into this, but the presentation addressed the concerns before staff had a chance to do their presentation. The noise; there will not be big generators, the lighting; there will not be big spot lots.
- Commissioner Munoz explained the lighting will not be any different than scouts camping and using flashlights.
- Commissioner Frank stated there is already a business in the same area that is allowed to be open until 1:00pm with wedding receptions, functions that bring traffic and activity to this area. He doesn't see how you could determine which business was causing the traffic. He hears the issue but he would need statistics to prove it's an issue. He is on the canyon trail quite a bit and he hears more trucks and breaks coming across the Perrine Bridge and vehicles that is more irritating. He doesn't have any statistical information that says a yell

from a person riding the zip-line is any louder than a golfer making a whole-in-one. This makes it very difficult for making decisions.

- Commissioner Woods stated he is probably the only one that has been on a zip-line. He just returned from an overseas trip where he rode nine (9) different zip-lines; one of which was 1/3 of a mile long and left him stranded 100' above the trees. The young people that were the guides, were filling them full of information about the area, information that they would not have gotten anywhere else. He has heard this is strictly for amusement it isn't educational, several of the comments made by their patrons talked about learning things about the area. He asked if the applicant could give a sample of what they tell the people about the Snake River Canyon while they are on the tour.
- Ms. Tatum recited historical information that they share with the tour customers.
- Commissioner Frank stated he understands during the day time these areas can be pointed out and asked how this information would translate to a night time tour.
- Ms. Tatum explained they have access to a gentleman that developed the Twin Fall Haunted Tours and has gathered information about haunted sites in the Magic Valley that goes back 200 years when the settlement of the area started. The idea is to provide this information on the night tour.
- Commissioner Boyd stated she has no problem approving this request for the following reasons. Why and since when have we become so afraid to have thing available after dark. Alcohol is coming up constantly, after dark what else is there to do around here. The Blue Lakes grade is every bit as scary and guaranteed a huge percentage of the people coming up from the Blue Lakes Country Club are potentially intoxicated. The Country Club is already open until 1:00pm and what kind of events do they have there obviously they are not golfing at night; weddings, parties and events all of which are serving alcohol and most likely more than one glass of wine per patron. We have the opportunity for potentially 10 days a year to add something else that people can do in Twin Falls. If it works it works if it doesn't it doesn't, her question so why wouldn't it be attempted. Enjoyment of the Canyon is for everyone, most of us only drive over the bridge and look down. Eventually, someone may take a kayak trip and realize the canyon is phenomenal. If you never do that you don't appreciate its beauty. She didn't grow up here and in the past she was looking for something to do and found the Gardner's Trip. She took her parents on the trip because it was a safe boating trip and what she learned about the canyon was phenomenal and now anyone who comes to visit her has to go down there and see the canyon and enjoy it. You can't get down in the canyon by traversing a road that is less than super wide and flat. We have enough flat around here, we have fought for years about putting anything on the rim of it and now there is an opportunity at Elevation 486 to sit and have a nice meal often accompanied by a glass of wine and look at the beautiful canyon. As far as Halloween goes she wouldn't miss it if it went away as a holiday, but a lot of people really enjoy the holiday. This will bring in something new and different that is all chaperoned, safe and would be a wonderful thing. She would be tempted to join them on July 4th.
- Commissioner Sharp stated it is the most family oriented thing in the area besides boating.
- Commissioner Boyd stated if you don't have a boat you can't enjoy it that way.
- Commissioner Derricott stated it is worthy to note that there were a lot of unknowns and concerns before when the zip-line was approved and there have not been any reported complaints. It shows the character of the business.

Motion:

Commissioner Grey made a motion to approve the request, as presented, with staff recommendations. Commissioner Boyd seconded the motion.

Discussion on the motion:

- Commissioner Woods made a motion to amend the conditions requiring that they shuttle the customers down to the zip-line. There was not a second, amendment failed.
- Commissioner Frank asked for clarification as to whether or not the second condition was still required for approval.
- Planner I Spendlove stated because the generators will not be used condition #2 can be removed from the list of conditions.
- Commissioner Frank read the conditions for clarification and called for a roll call vote. Motion approved with Commissioners Frank, Grey, Sharp, Woods, Boyd, & Derricott voting in favor of the motion and Commissioner Munoz voting against the motion. Motion passed 6-1.

Approved, as presented, with the following conditions

1. Subject to the original conditions of SUP#1257 remaining in place, and in full force.
2. ~~Subject to generators being prohibited during night time operations and large area lighting to be downward facing.~~
3. Subject to the applicant/Zip Line Representative informing P&Z Staff a minimum of ten (10) days prior to any night time event.

Commissioner Tatum returned to her seat.

V. PUBLIC INPUT AND/OR ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION: NONE

VI. UPCOMING PUBLIC MEETINGS (held at the City Council Chambers unless otherwise posted):

1. Public Hearing – **Tuesday**, September 24, 2013 6:00 pm
2. Work Session – **Thursday**, October 3, 2013 12:00 pm – 1:00 pm

VII. ADJOURN MEETING:

Chairman Frank adjourned the meeting at 8:42 pm.

Lisa A Strickland

Lisa A Strickland
Administrative Assistant
Community Development Department