

COMMISSIONER MULDER RECOMMENDED IN REGARD TO 2021-37 CIDER MILL ESTATES PRELIMINARY PLAN THAT THEY APPROVE AND MOVE ON TO CITY COUNCIL WITH THE CONDITION THAT ALL REVIEW AGENCY COMMENTS AND ALL ISSUES IDENTIFIED IN THE STAFF REPORT BE ADEQUATELY RESOLVED WITH THE FINAL PLAT APPLICATION

COMMISSIONER HANCEY SECONDED THE MOTION

MOTION PASSED 4-0

Application #	2021-41
Application Name	Dwell Final PUD Plan
Application Type	Final PUD Plan and Rezone to PUD
Location	1136 17 ½ Road
Current Zone	Community Residential (CR)
Description	This is a request for approval of a Final PUD Plan for a 37 lot subdivision on approximately 4.85 acres featuring single family detached and attached housing units along with a 1 acre park and to rezone the subject property to a Planned Unit Development (PUD) zone.

Commissioner Fabula introduced Application # 2021-41 Dwell Final PUD Plan

Mr. Henry Hemphill gave the Staff report and entered his Power Point into the record

Slide 1 – Introduction

Slide 2 – Legal Notice

- All Legal Notice regarding this application was accomplished in accordance with Section 17.01.130 of the Fruita Land Use Code.
 - Property – October 21, 2021 (19 days prior to Planning Commission meeting)
 - Postcards – October 22, 2021 (18 days prior to Planning Commission meeting)
 - Paper – October 22, 2021 (18 days prior to Planning Commission meeting)

Slide 3 – Newspaper Legal Notice

Section 17.01.130 (A)(1) states that publication once in a newspaper of general circulation within the city, at least 15 days prior to the public hearing.

Slide 4 - Public Notice Sign(s)

Land Use Code

Section 17.01.130 (A)(3) states “Sign(s) posted on or near the subject property. One or more notices that are sufficiently conspicuous in terms of size, location and content to provide reasonably adequate notice to potentially interested persons of the land use action

at a specified date and time. Such notice(s) shall be posted at least fifteen (15) days prior to the public hearing;”

Slide 5 – Legal Notice Site Postings

At Wildwood Drive (facing west) and At North Maple Street (facing east).

Slide 6 – Postcard Buffer

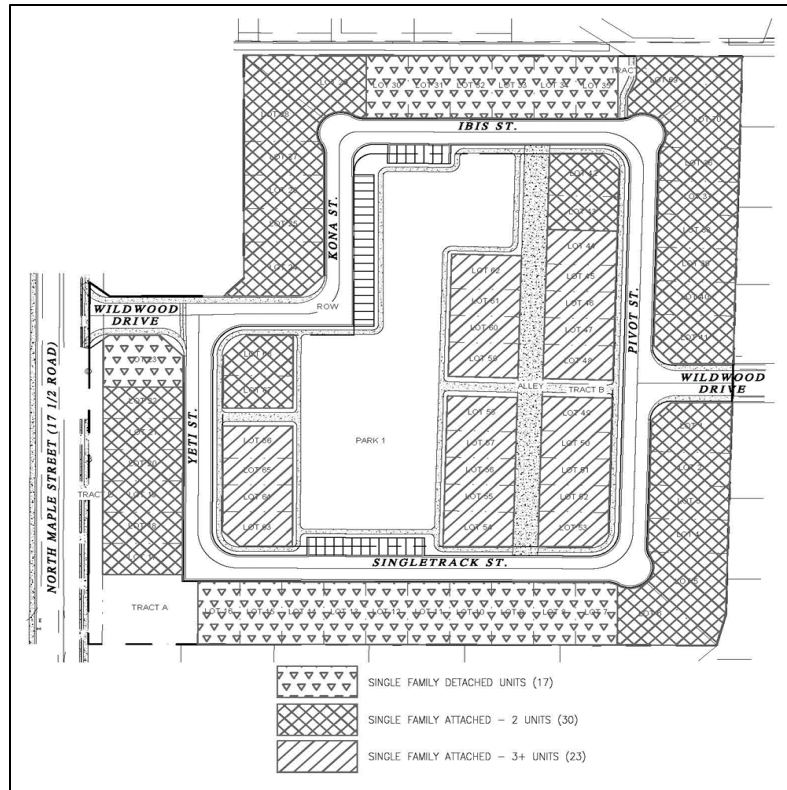
- Section 17.01.130 (A) (4) Public Notices, requires written notice to be mailed to property owners within 350 feet of the subject property at least 15 days prior to the public hearing.
- These are sent to the property owners’ mailing address on record with the Mesa County Assessor.
- 96 post cards were mailed out on October 22, 2021.

Slide 7 – Legal Notice Mailing Labels

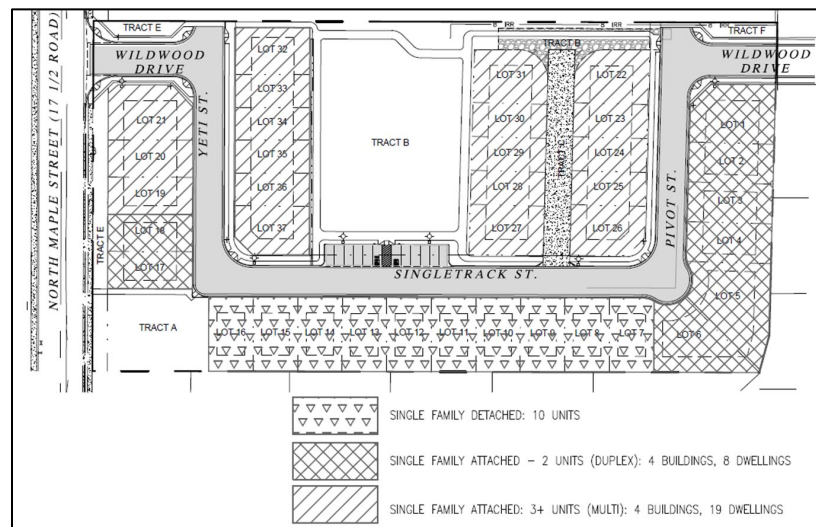
Slide 8 – Project Description

- 37-lot subdivision over approximately 4.85 acres, proposed to be complete in 2 Filings.
- Filing 1 consists of 17 dwelling units and Filing 2 with the remaining 20 dwelling units.
 - 27 attached dwelling units.
 - 10 detached dwelling units.
 - Density = 7.6 du/acre.
- Primary access from Wildwood Drive (existing street stub) and North Maple Street (17 ½ Road).
- Internal streets within the subdivision are proposed to have approximately 25 feet of asphalt with a detached sidewalk on one side with landscaping between the street and the sidewalk.
 - Alley access proposed as well for approximately 10 of the units.
- Approximately 1 acre of open space proposed (nearly 20% of the overall acreage).
 - Open Space consists of benches, trails, and playground equipment.
 - Approximately 46% of the homes will have views of this park.

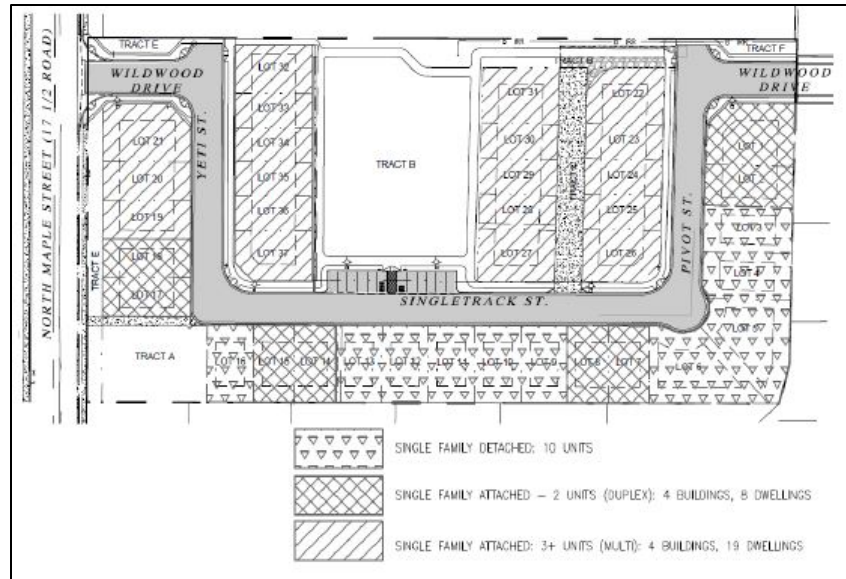
Slide 9 – Site Plan – Concept Plan



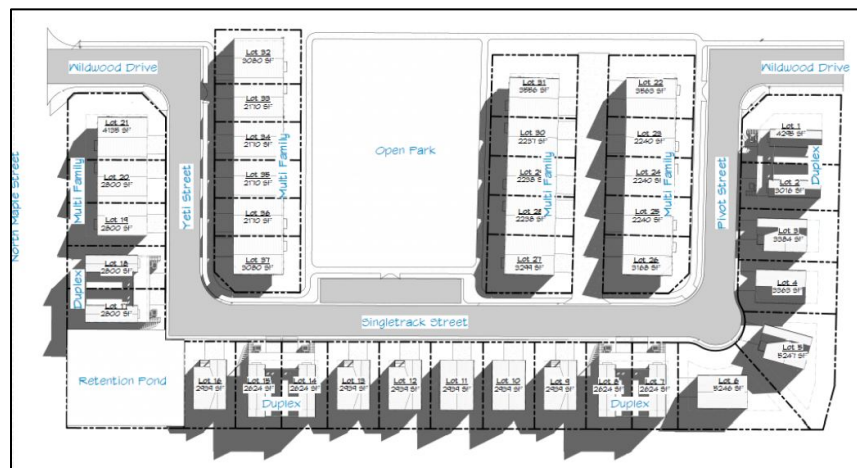
Slide 10 – Site Plan – Preliminary PUD Plan



Slide 11 – Site Plan – Final PUD Plan



Slide 12 – Lot Layout



Slide 13 - Review of Land Use Code and Master Plan – Final PUD Plan

- For Planned Unit Development Subdivisions, the Land Use Code sets forth 15 criteria that must be considered during the review.
- Additional building elevations have been submitted for review. Most are contained in the Project Narrative.
- Building heights, no longer requesting the 40-foot max. height.
 - This may be the applicant's intent to meet the Planning Commissions, City Council's and public concerns related to building height.
- Allowed uses within the PUD Guide – Home Occupations, Child/Day Care Homes, and Short-Term Rentals are specifically called out.

- The PUD Guide also says that these need to meet the Land Use Code for the Community Residential zone. Staff doesn't believe there is a need to call this out in the PUD Guide if its already covered by the Code.
- No redlines/responses were made with this application from the decisions and review comment of the Preliminary PUD Plan.
 - Outstanding review comments still have yet to be addressed. Review comments are included with the Staff Report and review materials for this meeting.

Slide 14 - Review of Land Use Code – Rezone from Community Residential to PUD

- Section 17.13.060, Amendment to the Official Zoning Map (Rezone), of the Land Use Code (2009, as amended) states that the Official Zoning Map may be amended when the following findings are made:
 - 1) **The proposed amendment is compatible with surrounding land uses, pursuant to Section 17.07.080, and is consistent with the city's goals, policies and Master Plan; and**
 - 2) **The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or**
 - 3) The area for which the amendment is requested has changed substantially such that the proposed zoning better meets the needs of the community; **or**
 - 4) The amendment is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions and is consistent with the city's goals, policies and Master Plan; **or**
 - 5) The zoning amendment is incidental to the annexation of the subject property and the proposed zoning is consistent with the city's goals, policies, and Master Plan.

Slide 15 - Review Comments & Public Comments

- Review Comments
 - All review comments received have been provided to the applicant and are included with the application review materials.
- Public Comments
 - Written public comments have been received. These comments have been provided to the Planning Commission and the applicant and will be provided to the City Council.

Slide 16 - Options Available to Planning Commission

- 1) Recommend approval of application 2021-41, the Dwell Final PUD Plan including the rezone from Community Residential to Planned Unit Development as proposed.

- 2) Recommend approval of application 2021-41, the Dwell Final PUD Plan including the rezone from Community Residential to Planned Unit Development with conditions.
- 3) Recommend denial of application 2021-41.

Slide 17 - Staff Recommendation & Recommended motion

- Staff recommends approval of application 2021-41, the Dwell Final PUD Plan including the rezone from Community Residential to Planned Unit Development, with the condition that all review comments and all issues identified in the Staff Report are adequately resolved prior to the recording of the PUD Guide and Plat.
- Mr. Chair, I move we (approve/deny) application 2021-41, the Dwell Final PUD Plan including the rezone from Community Residential to Planned Unit Development to the City Council with the condition that all review comments and all issues identified in the Staff Report be adequately resolved prior to the recording of the PUD Guide and Plat.

Mr. Hemphill turned the time over to the applicant's representative.

Mr. Ty Johnson, Senior Planner with Vortex Engineering introduced himself. He said that he was the owner's representative for the application. He said that their address was 861 Rood Avenue in Grand Junction. He presented a Power Point.

Slide 1 – Introduction

Slide 2 – Location Map

He said that the location of the site is 1136 18 ½ Road was approximately 4.8 acres in size and the future land use designation for the property is residential 4-8 and the Dwell PUD was designed specifically to achieve the goals of this future land use designation to create infill and take advantage of existing urban infrastructure in the area.

Slide 3 - Future Land Use Map

The Future Land Use Map from the recently adopted Fruita Comprehensive Plan shows the property classified as R 4-8 (Residential), which calls for densities of 4-8 du/ac

Dwell has been specifically designed to implement this FLU designation which has a goal of encouraging infill development to make efficient use of existing infrastructure and encourage a variety of housing types

Slide 4 – Zoning Map

The current zoning of the property is CR, Community Residential. The applicant requests a rezone from CR to a PUD in an effort to achieve the density envisioned by the R4-8 LU designation & goals and policies of the Comprehensive Plan.

Slide 5 – Final Plan & Filings

The Final Plan for the Dwell PUD proposes a 37 lot subdivision featuring attached and detached single family homes to be built over two filings. Filing 1 will consist of 17 dwelling units and

open space Filing 2 will consist of 20 dwelling units. There are two points of access that tie into Wildwood Drive on the east and west sides of the development, and two ROW stubs that will provide future access to the neighboring property to the north.

Slide 6 – Housing Types

Mr. Johnson showed an image of a breakdown of the housing types and where they will be throughout the development. Housing types will consist of single family attached and detached units in a variety of configurations, including 2 unit structures and 3+ unit structures. There will be:

10 single-family detached units, 4 single-family attached buildings w/ 2 units each (8 units total) and 4 single-family attached buildings w/ 3+ units for a total of 37 units.

Slide 7 – Open Space & Trails

The Final Plan proposes .97 acres of park space and 943 linear feet of trails, which Mr. Johnson pointed out is almost twice as much as is required under the City of Fruita Land Use Code.

Public trails will surround the park space and provide connectivity within the neighborhood and to the west on 17 ½ Road and to the east to Wildwood Drive.

Mr. Johnson pointed out the parking pods just south to the open space. He stated that that will be owned and maintained by the HOA. He said that this will be constructed as part of Filing 1.

Slide 8 – Description of Units

Mr. Johnson said that the motion that was approved by City Council in May for the Preliminary Plan, the condition attached to that was that they provided updated renderings. He said that the next couple of slides are going to show some updated renderings that were created to display what the dwelling units will look like in Dwell.

The exterior of dwelling units will be of a modern urban cottage or row house design. All homes will have at least one front facing porch or deck with a minimum of 60 square feet. Roof pitch shall be a minimum of 4/12; flat roof accents will be allowed with asphalt architectural shingles, metal, tile or slate material. The outside façade of each structure will be of primarily wood or wood composite siding (such as Hardi); wood, stone, brick, metal and/or stucco accents are allowed and encouraged. Exterior color schemes will be primarily earthen tones.

Slide 9 – Design Details

Mr. Johnson added that all design standards related to construction of homes and related improvements will be governed by the CC&Rs and an HOA Architectural Control Committee which shall review and approve proposed plans for compliance with all PUD design standards prior to issuance of a Planning Clearance and Building Permit for construction.

- No building (including fence or addition) until plans submitted and approved in writing by the Architectural Control Committee (ACC)

- The ACC shall approve or deny requests for architectural control within 30 days after complete submission of copies of all plans
- An affirmative majority vote of the ACC is required to approve a request for architectural approval

Slide 10 – Proposed Derivations

Mr. Johnson said that they were proposing two deviations from the underlying zoning in order to achieve the following goals. This is why they were utilizing the PUD process to begin with.

- PUD process - flexibility in underlying zoning to achieve the goals of the Comprehensive Plan:
 - Create infill development - provides efficient utilization of existing utilities and public services
 - Future Land Use Map Density – Comprehensive Plan
 - Promote greater variety and innovation in residential design
 - To conserve and make open space available

Slide 11 – Proposed Deviations – Lot Size

Mr. Johnson talked about the lot size deviation and compared the proposed lot size compared to the existing CR zone lot size.

Proposed Deviations from Section 17.07.060(I)		
	Proposed	Existing CR Zone
Minimum Lot Area		
Single Family detached	2,900 sq. ft.	3,500 sq. ft.
Single Family Attached	2,100 sq. ft.	3,500 sq. ft.

- Comprehensive Plan – Future Land Use Map – R4-8 Density
- Efficient Use of Land
- Provide more Open Space

In order to make efficient use of land, provide more open space and achieve the density envisioned by the R4-8 LU Designation, smaller lot sizes are necessary and are being requested for the PUD. The minimum lot sizes proposed for the Dwell PUD are 2900 square feet for single-family detached homes and 2100 square feet for single-family attached homes.

Slide 12 – Proposed Deviations – Setbacks

Mr. Johnson explained the front setback deviation as requested. He stated that this deviation is only for 2/3 of the lots because 10 of the lots are alley loaded and meet the underlying zoning.

Proposed Deviations from Section 17.07.060(I)		
	Proposed	Existing CR Zone
Setbacks		
Front	15 ft.	15' alley loaded 20' no garage 25' street facing garage

- Activate the street
- Efficient use of land
- Consistent Community Look/Feel

Slide 13 – Review Agency Comments and Public Comments

- All review agency comments have been addressed or will be addressed through the subdivision review process.
- Public Hearings to date:
 - Concept Plan - Planning Commission 3/10/2020
 - Concept Plan – City Council 5/19/2020
 - Preliminary Plan – Planning Commission 4/13/2021
 - Preliminary Plan – City Council 5/4/2021
- Changes to project have been made to reflect the feedback received at the public hearings

Mr. Johnson stated that all review comments have been addressed or will be addressed. He said to recap, this was their 5th public hearing on for the Dwell PUD. Mr. Hemphill mentioned the Concept Plan, the Preliminary Plan and now this was their 5th public hearing and the 1st one on the Final Plan. He added that changes have been made to project. He wanted to go through those changes.

Slide 14 – Changes Made in Response to Comments

- Open Space and Trails
 - Added trail connection in the SW corner, providing connection to 17 1/2 Rd.
 - Open Space & Trails to be built in Filing 1

Mr. Johnson said that adding a trail connection was what they heard in public testimony at public hearings. Also, they decided to construct the open space and trails with filing 1. Initially it was proposed to be constructed in filing 2. They wanted this to be there to serve those units that were included in filing 1.

Slide 15 – Changes Made in Response to Comments

- Street stubs to the North

- Street stubs have been included to provide two connections to property to the north

Mr. Johnson stated that street stubs to the North was also something that they heard in public testimony. They wanted to provide street stubs to the neighboring property to the North that will accommodate development if it was to occur there.

Slide 16 – Changes Made in Response to Comments

- Height
 - Single-Family homes will either be 25.5' or 31.25'
 - Attached single-family (2+ units) will be 33'
 - Attached single-family (2 units) will be 35'

Mr. Johnson said that initially they requested a 40' height limit, which was a slight deviation from the underlying CR zone. They took it back to 35' which is the allowed height in the underlying Community Residential zone. With the Final Plan they have gone a step further and imposed additional restrictions on the development and are going to have single family homes at either 25 ½ feet or 31 ½ feet, attached single family units will be 33 feet and attached single family units (that are only 2 units) will be 35 feet. He added that 29 of the 37 lots will have a building height below 35 feet which is the allowed maximum height in the underlying Community Residential zone. He said that this was a pretty significant change that they made for the Final Plan.

Slide 17 – Changes Made in Response to Comments

- Lot Layout
 - Lot layout re-arranged to reduce the visual impact on neighbors
 - Staggering building type and associated building height.

Mr. Johnson said that another change that they made, at the last hearing in May at City Council they heard concerns about a consistent 35 foot height across the boundaries and how that would interrupt views. Not only did they make a change to height but they decided to add a couple of duplexes to the southern boundary that would straddle neighboring property lines. He showed this on the slide. He said that their intention was to open up a little view corridor in between the buildings. He stated that these single family buildings would be either 25 or 31 feet. They will have a variety and they are going to stagger the building type there and the height on the southern and eastern boundary.

Slide 18 – Statement

As stated by staff in the staff report, the proposed Final Plan and PUD Guide meets or will meet the approval criteria in the City of Fruita Land Use Code, and the applicant respectively requests approval

Slide 19 – Questions

Mr. Johnson concluded his presentation.

Commissioner Fabula thanked him. He then opened the meeting to public comment, gave instructions on how to participate and invited the public to speak. He asked Mr. Hemphill if there was anyone online that wanted to make a public comment.

Mr. Hemphill said that there was.

Mr. Ron Abeloe who lives at 720 Bella Canyon Drive in Grand Junction spoke. He said that he was a property owner in Fruita. He spoke for this project. He thought it was a much needed price point and product in Fruita. He said that he was a builder working in Fruita and not seeing anything in the more moderate price point and he thought that this product would serve a need that is currently not being met. He thought it would be a price point that the middle class working family can afford to buy a new home where that doesn't exist in Fruita right now. He said that he was impressed with the number of improvements to the plan and the additional amenities to improve the project as they had gone through the hearing process. He thought that they have proposed something that has a number of unique qualities and it is an attractive project. He wanted to be on the record of supporting this project.

Commissioner Fabula thanked him and asked if there was anyone else online that wanted to make a comment.

Mr. Hemphill stated there was not.

Commissioner Fabula asked for more public comments.

Mr. Chriss Rusch who lives at 711 Hall Street in Wildwood Acres Subdivision went up to comment. He said that his house would border the east elevation of the proposed Dwell. He said he emailed in a comment about 45 minutes ago. He didn't know if they had it. He said he would be happy to distribute it. He wanted to go over the points he had but also wanted to most humbly and respectfully state that this proposed Dwell project going into Final development without scaled full size elevation drawings. He did not think that this was in the best interests to anyone in Fruita. He said in order to keep moving on he read what he put in. He said that they support reasonable development that enhances our immediate neighborhood and not sacrifice the quality of life, safety and integrity of existing neighborhoods and the 'Small Town' feel of Fruita. Dwell does NOT represent a common, sensible solution to blend exiting neighborhoods without negatively effecting/sacrificing the character of our neighborhoods and those of us who pay property taxes. Dwell does NOT belong in this neighbor and effects ALL of us in Fruita. Our concerns are- Density- (37) dwellings vs approx. (20) dwellings on the same lot area of bordering neighborhoods, Height- 25.5'-33' dwellings vs our immediate neighborhoods with 17'-25' dwellings, Setbacks/Heights- He said that his neighbors also sent something in that doesn't take much imagination to go from them to him about 15 feet and look up 30 some feet, it is imposing on their neighborhood. They will lose all of their privacy! He did not think this was good. Not only will they see this, but the neighbors who live close to them will see these imposing structures right behind them as well. He did not think this was neighborly. The

traffic/parking safety both for pedestrians and autos in this proposed Dwell and overflow into our neighborhoods. This is not good. He said that Dwell is not in any means in character with our neighborhood. A PUD like this belongs on or near Hwy 50 in an area that will have a PUD plan that shares similar characteristics. This would be a Smart Growth Plan. We would appreciate your careful evaluation and denial of this Dwell Project which so adversely effects all of us here in Fruita. He appreciated their time.

Commissioner Fabula thanked him.

Mr. Hemphill corrected saying that Mr. Rusch did send in written comments via email at 6:00 pm. He said that those will be entered into the record. He assured Mr. Rusch that his comments would be passed along to the Council. He said that he thought he had sent in comments earlier today.

Mr. Craig Johnson who lives at 725 Hall Street in the Wildwood Subdivision went up to speak. He said that he had sent in comments earlier today. He had two questions at this point that he wanted to address to the Commission. He asked what was the burden of proof that the applicant must meet to qualify for a rezoning from Community Residential to a PUD at this point in the process? Secondly, what does the Commission as the agency approving this what is the legal test that they apply to decide whether this should be moved on the City Council?

Commissioner Fabula thanked him for his comments.

Mrs. Christa Robinson who lives at 987 Wildwood Drive in Wildwood Acres went up to speak. She was there not protesting so much the building of homes on the vacant lot, again they have heard concerns from the other citizens, not only distance between the 15 feet from the back of the lot to the back of the building that is being built. Fifteen feet is not a lot of room. She understood that it was within code and certainly that can be done. It is not what they would like to see because if you look in the surrounding neighborhoods around Wildwood Acres and the neighborhoods that surround them, she asked where did they see homes that are row homes and are 35 feet tall? She asked if anybody saw those in their neighborhood around Wildwood Acres. She answered, no there weren't any. She said that there were some down off of Aspen, but that was not in their immediate area. She said that they were just asking for the City Council to be respectful of the people who live in Fruita, not so much the people who might live here, but the people who do live here. They hoped that they would listen to them and care about what the people of Fruita are saying to them. Especially the people in Wildwood Acres. They are not objectionable to the building of new homes on that lot. They are objectionable to not only the height but the row houses. She asked where they saw row houses with one car garage in their surrounding neighborhoods? She said they didn't, there weren't any. They were asking again for them to be respectful of the people who live there and listen to them. She thanked them.

Commissioner Fabula thanked her. He asked for more comments.

Mrs. Lisa Wolf Johnson who lived at 725 Hall Street went up to speak. She said that she was a regular correspondent. She wanted to make a couple of comments. She stated that that they had probably seen what she submitted that afternoon. She said that she sat there and listened, and she thought respect was important and they needed to respect them, and they needed to respect the

working people of Fruita and help them, stand by them. She had a couple of points to make. The extreme density of the PUD proposal, the Dwell PUD proposal is not a minor deviation from Community Residential. Nor is it consistent with Community Residential and she did not understand the claims being made suddenly tonight that it was all just copasetic with Community Residential. She felt that they complied with Fruita zoning restrictions and that they deserved Fruita zoning protections. She asked them to do what was honorable and what was right. She said please listen to the people of Fruita. She said that they have seen their petitions, they know that over 250 people signed against this in less than a weeks' time last spring. They know that there were other avenues for them to follow if this does get approved. She said that maybe they would see them at the ballot box, maybe they would see them in court. Meanwhile, she asked them to be respectful and think about this. She asked if this was the right thing for Fruita and for these quiet neighborhoods? Is this something they would want in their backyard? She thanked them.

Commissioner Fabula thanked her for her comments.

Ms. Brittany Clingan who lives at 903 Wildwood Drive went up to speak. She had a couple of concerns. She didn't think the west end of Wildwood Drive in the Wildwood Acres Subdivision should be open as a through street. She thought it would become a heavily used racetrack not appropriate in a residential neighborhood. She suggested making it a walking path and an emergency vehicle use only with locks that could only be removed by fire or ambulance personnel. She said that there were already plans for Yeti and Pivot Streets to be connected to future outlets. She added that the argument of needing two exits didn't work in her mind for two reasons. First an emergency only outlet at their east end of Wildwood Drive would serve the purpose in the unlikely emergency. Second, there are quite a few developments that currently have a single point of ingress and egress. She said that she had a list if they wanted to see them. Another concern she had was the 35-foot duplexes destroying the privacy and value of existing homes. She asked, how about 4 smaller ranch style homes? She said that they sell too. She thanked them.

Commissioner Fabula asked if there were any more comments? He asked if there was anyone online?

Mr. Hemphill said he was not seeing anything online.

Kelly Maves who lives at 1988 J Road in Fruita, Colorado. She said that the last time she stood before them they talked about the real estate market because that is what she does. She talked about her kids graduating from Fruita Monument High School, she graduated from Fruita Monument High School. She looked at some of those statistics today. She said that the real estate market is still doing the same thing, still crazy in Fruita. She said that there was about 1.2 months of inventory on the market right now. She said that this was a problem, and the average price point is around \$600,000. She said that she changed what she was going to talk about and didn't have notes. She said that she spoke to a community member who moved out of the City of Fruita. They were living here in the area, and they were looking for a home and could not find a home. So, because of that, they moved to the City of Grand Junction. She said that this was a solid community member, somebody who was involved in schools and the community and

unfortunately because of the pricing in Fruita they made the decision to move their kids out of Fruita schools where this was preferable for them and move them into town in different schools and relocate their family. She said she didn't think that is what they wanted for Fruita. She didn't think that is what they wanted for Fruita. She said that there have been lots of time and effort that went into the Comp Plan to meet those demands for the community. To help move Fruita forward. It is Fruita in Motion. In order to do that they do need a variety of housing, and this does meet exactly what was designed in the Comp Plan and what they got lots of feedback from the public on in the revisions of the Comp Plan recently. She wanted them to know that was what was happening in real life. It is people who are moving out of Fruita because they can't afford to live here and that is a problem.

Commissioner Fabula thanked her for her comments.

Mr. Michael Maves who lives at 1988 J Road went up to speak. He wanted to bring up a few things. He said that they listened to the first project go through, Cider Mills, 47 lots. He said that there were 20 properties that touched that 47 lot subdivision. Some of those are 53 acres, some are 2 acres, and some are 8 acres. He said that nobody brought up anything about height, or their back yard. Those houses can be 15 feet off the property line, they can be 35 feet tall, and nobody is concerned about it. He said at their last meeting, over zoom, at the City Council meeting he believed the recommendation was to move forward but they wanted better height restrictions with the neighbors that were around the subdivision. They have done that. They moved houses around, they limited the height which he didn't think other subdivisions have done. They one they just passed and recommended to move forward; it was not done on. Those houses can be 35 feet too. Dwell has 37 houses, it touches 10 properties, one of them will probably be developed, one is up against their park so there are 8 backyards that are touching their property, 8 yards that are affected, 2 of those people were there tonight and he apologized to them. They will mess up their views. He added that no matter what they built there, it would mess up their views. He stated that the wall behind them was 12 foot tall and the shortest house he could build was 16-18 feet tall and they wouldn't be able to see over that either. He said that he wasn't saying that every house would be 33-35 feet, they were asking that they can be that high. He can make the roof shorter, but he didn't want to. He wanted to make a 12, 12 roof because it looks good, and he wanted to have that freedom as he thought he should have as a property owner. He apologized to those that they will affect their view, but he found it hard to them to make a decision that will directly affect 8 people's backyards after over 4000 people weighed in on the Code that the City approved. They are trying to do what was proposed by them. He was going to build 22 homes there and they said the Fruita in Motion plan has something that they could do, exactly what they just developed and that was why they brought it up. He guaranteed them if they have to do the 22 homes, they will all be over \$600,000 and they will all be 35 feet tall because that was what was allowed, and they are not restricting that. He understood that there were a lot of complaints about how tall they were but it doesn't matter if it was this or what was already allowed there. He thanked them.

Commissioner Fabula thanked him for his comments. He asked if there were anymore comments either online or at the location. There were none. He closed the public comment section of the meeting. He opened the meeting to applicant rebuttal.

Mr. Ty Johnson went up to speak. He wanted to reiterate that Dwell has been specifically designed to meet the Comprehensive Plan. In terms of open space, they were providing twice as much open space as required under a normal subdivision review. Housing, goal number 4 in the Comprehensive Plan, allow and encourage a variety of housing types, prioritize infill development over development at the edge of the City and again with the density that has been talked about a lot the future land use designation for the property calls for 4-8 dwelling units per acre. He added that thousands of residents supported this density throughout the Comprehensive planning process, the Fruita Planning Commission voted to approve the Comprehensive Plan which includes this density, and City Council also voted to approve the Comprehensive Plan. He wanted to address some of the comments. He said that fully scaled drawings that was not a requirement of the submittal, so they don't have fully scaled elevation drawings, but they saw their updated renderings and that was in direct response to the last City Council meeting which was a condition of the motion that they made to approve. He continued, row homes, whether they saw row homes or attached single family homes of this nature, it is a use by right in the Community Residential zone. He said that you would see that if they didn't already at some point in time. He addressed height, parking and said that they meet the parking requirements, and he would be happy to answer any questions if they come up. He thanked them.

Commissioner Fabula thanked him. He opened the meeting to Commissioner discussion.

Commissioner Nisley stated that they had spent a lot of time on the Comp Plan where more than 4000 people gave comment on what they wanted for Fruita. He said it was a mix of units, they have an affordability issue that was talked about with price points in the 300-400 range and thought this was not affordable but maybe it would open space down the line. He thought that throughout the many times the applicants went before people they got comments and they have clearly tried to address those. He added that opening the view corridors, he thought this was a reasonable compromise and they are doing their best to meet some of the concerns.

Commissioner Hancey asked what some of the price points, with the current market, that these would serve? What were they looking at in today's market, what would these homes sell for compared to the average on the market?

Mr. Maves answered that it would be difficult to say. The rest of the comment was inaudible.

Commissioner Hancey stated that in the renderings in the northwest stubbed road, he asked if the at was going into the side of the house that is on the north side?

Commissioner Fabula addressed Mr. Maves and asked if he was there as the applicant or a citizen and if they were allowed to ask him questions.

Mr. Hemphill said that he could respond to those comments because he is the property owner and the applicant. He asked that if he did speak, he needed to step up to the microphone.

Commissioner Hancey asked if the north stub if this was a good place for it.

Mr. Stephen Swindell of Vortex Engineering went up to speak. He said that they laid out both of those stubs so that they would clear the back of the adjacent parcels. He said that it was envisioned that if they could flip flop the north along that property line, could they do a mirror

image. In this case it is a little odd with that, this one they may not be able to fit houses on both sides. The alignment is a little odd on that western border, but the road stubs are put so that it won't interfere with anything.

Mr. Sam Atkins said that Hawks Landing was subdivided, he said it was set up to where the house that is on the street could have access to the western stub, that is how it was laid out in the sketch plan and that is how it would be laid out for the future. There would be only access or units on the right side of the western stub.

Commissioner Mulder said that when he first looked at this application, he thought maybe CMU had put a satellite out here on 17 ½ Road in Fruita and they were building college dorms. He doesn't agree with that. He said that the compatibility issue is not being addressed. He added that the residents there tonight are showing their feelings similar to his own. The residents on the remote are showing feelings similar to his. If pricing helped to determine compatibility it would probably be better use to the PUD development to put tiny homes in there. He didn't think that is what they wanted to do in that area of Fruita. He didn't believe that this development has the PUD application warrants a Community Residential zone change.

Commissioner Fabula said that on the height, they showed him a nice slide that had a purple line to show the 35 feet and then the different housing types where they fell within that. Have they assigned those houses to the buildout totally? Or has that not been assigned yet?

Mr. Swindell answered that other than the multifamily, that has been assigned a spot along the alley and on the western edge, the duplexes were originally on the eastern leg but in response to trying to break up those highest and widest pieces, they moved those to spread around and picked lots that would be where the duplexes would straddle a lot line so that one neighbor would not have a duplex fully across their boundary. Other than that, those are the only buildings that have been assigned, multifamily on the alleys and the three or four lots for the duplexes. The other ones are still up for the smaller heights, but they haven't decided those individual lots. The only representation of the PUD was that they won't put two heights the same. If they have one that is higher or taller single families, it won't be next to a taller single family, it would be next to the shorter single family.

Commissioner Fabula asked Mr. Hemphill regarding the scale and the rendering, they typically don't see renderings with applications, was this a requirement of the PUD or is this something that the applicant has gone above and beyond in terms of providing renderings because it was requested at a previous public hearing?

Mr. Hemphill answered that it was the latter. He stated that it was not required that they submit their building elevations at zoning but with this being a Planned Unit Development and their intention to create a neighborhood that is more innovative and less homogenous than what has been developed in Fruita in the past, they are proposing something different of a housing type through standard zoning and how they get that. They need to either apply for a PUD at which time the code and the Master Plan didn't mesh up to get them to the residential classification of 4-8 dwelling units per acre, so they went with a PUD. He continued that within that PUD and the guidelines the proposal was they wanted to do something innovative and different in the

Fruita market because they felt it could work and that is what was represented in Fruita in Motion. They started to show renderings of what it would look like. As the conversations occurred over the past few months of public hearings that is what has come to fruition. They have done their duty of providing those additional elevations and to the respect of the builder, they can't design all of these ahead of time there are elements within construction that do change over time, and they have to work with what they have. He continued that what was included in their submittal does appear based on what he heard in this meeting that this was the response to what they heard in the public hearing process and what the Planning Commission and City Council set forth with expectations of what they wanted to see.

Commissioner Fabula thanked him. He asked Mary Elizabeth Geiger, City Attorney, what was the burden of proof that makes a PUD allowed and what do the Commissioners look at to move a PUD application forward to City Council?

Mary Elizabeth Geiger responded that as far as the burden of proof is on the applicant. She added that in this instance Mr. Hemphill walked through the criteria that needed to be met. She asked Mr. Hemphill to show the slide. She said that this would be the criteria for moving this on. She stated that one thing to bear in mind is that City Council is the approving body, and they were the recommending approval or denial or approval with conditions. She said that their legal standard is different. They don't have some of the leeway that Council may have for final approval so if this application meets the criteria here then they should be recommending approval unless there is a missing piece. She mentioned that one issue that was brought up was the issue of compatibility with surrounding land use. It was her understanding that the applicant has not addressed every review comment. Typically, applicants will walk through each one saying here is the comment and here is our response, here is a red line, here is the change. Her understanding was that this has not occurred. She did not see that necessarily as a fatal flaw for recommending approval, but she did think that this was a shift of burden from the applicant, the applicant should have done that coming into the hearing so that they, the public and staff were more fully informed. She stated that they were making a recommendation, they were not the final decision-making body. She thought the question from the public was what that criterion might be for final approval. They are to look at the criteria and always add a condition if they felt something has not been met to make sure it gets met or is addressed prior before going to Council.

Commissioner Fabula thanked her.

Mr. Hemphill added they were seeing a final plan which is the layout and construction and how the site interacts. The other aspect of the PUD guide itself, the zoning regulations that administer the uses on this property. Although redlines were not issued for their final plan, there are going to be outstanding review comments. This isn't ready to go to construction yet. He continued, that in regard to the PUD guide itself, there are a lot of comments that are for clarification, he gave an example. He said that not a lot of the stuff in the PUD guide and the zoning itself is influential enough that they would need to go back to the drawing board. There aren't many comments that would change the outcome of how the site functions. They need to know from the applicant how those housing types in relation to those lots, so they know how to administer

that when the builder comes in for a planning clearance. Part of the zoning is having this in place. They are basically writing their own land use code with those deviations that were proposed, the setbacks and the lot sizes. They are calling out Community Residential. He gave an example of how they would administer something that was not included. A lot is making sure the verbiage is accurate and that they can administer this from a Staff perspective.

Commissioner Fabula thanked him.

Commissioner Nisley said that just because a PUD allowed a short-term rental as a land use, it would still need to go through the normal permitting process.

Mr. Hemphill responded that this was one of the reasons they need to lean on the Land Use Code to help them administer that so that there is no confusion from a future property owner. There could be some questions as to what the Land Use Code says versus what they say in the PUD guide. He said it needs to be clear. They have learned from past PUDs that some things work, and some things don't. If they call out that underlying zone as they have and just allow the Land Use Code to administer land uses to create the compatibility from a land use perspective around the other areas, then this is solid and easier to do.

Commissioner Nisley thanked him.

Commissioner Fabula said that there were a lot of comments about the loss of privacy due to the height of these houses and a couple of comments about how 35 feet is available in the Community Residential zone. He asked if Mr. Hemphill could comment on that.

Mr. Hemphill stated that the Land Use Code contains density and dimensional standards that are adopted by Council and 35 feet is an allowed max height in the Community Residential zone. This has been in the Land Use Code for over 10 years. He said that was common for municipalities to have this as a max height allowance for residential. He added that the underlying zone was consistent with that as far as administering and allowing the 35 feet. He clarified that it was not 35 feet from 15 feet. There was also a setback from the adjacent property that is another 15 feet in Community Residential, so there is 30 feet from structure to structure, primary dwelling unit to primary dwelling unit. He thought there was confusion that 35 feet would be 15 feet away and this was not the case and wouldn't be the case with a standard zone district. They are Community Residential, and they did by right land use allowances. He believed that this was their response to the public and through the public hearing processes to say that they were doing the best that they could and trying to listen to them, but they are also trying to be flexible and innovative in how they were administering this Planned Unit Development. That is what the PUDs were for, to provide flexibility and density and dimensional standards. They were proposing a park that probably wouldn't be there unless it was a Planned Unit Development. They are making some tradeoffs on lot size with the size of the park, they were providing well above the linear feet of concrete for trail connections that will be incorporated into a future subdivision to the north.

Commissioner Fabula thanked him.

Mr. Hemphill touched on density. He said that the Land Use Code was just recently amended to help facilitate and implement the guiding principles within the Future Land Use Map and the Master Plan, Fruita in Motion which was adopted by resolution from the City Council in 2020. He said that this set forth future densities for residentially zoned properties. It calls out Residential 4-8 but in the code it calls out Community Residential and this allows by right 6 dwelling units per acre with the ability to get up to 8 utilizing density bonus. Density bonus allows you to get two more density bonus points, so 6 to 8, which is still allowed by right, they have to provide some amenities or trade offs to get more density. He said that the density would be or how you would administer density bonus is the performance. Innovative housing types or a mix of housing types, open space and trail connections and they are utilizing those. Unbeknownst to them, they started this PUD process before that Land Use Code was in place. The Land Use Code was in place to implement the Master Plan and that is exactly what the Planning Commission and City Council just completed through the public hearing process.

Commissioner Nisley added that they discussed those densities at length going up to it, 4-8 wasn't a random number and was decided based on community input.

Commissioner Fabula said that this application is below that 8.

Mr. Hemphill stated that if they were to utilize density bonus points in Community Residential, they could still have 35-foot-tall homes at 15-foot setbacks.

Commissioner Fabula had a question about parking standards. He asked if they had a standard that dictated how many parking spots were available in a subdivision and how was this measured?

Mr. Hemphill responded that single family requires 3 off street parking spaces, if their setback for the garage, a single car garage, they will need to provide additional parking space in the garage and in the driveway. Driveway's count, but that is the requirement in the Land Use Code in Parking Standards.

Commissioner Fabula said he really like the picture that depicted the added trail space. He noticed that the trail space not only connected to the park but also went around the perimeter of the park. He asked if they typically considered the perimeter of the park trail space or park or is his misunderstanding what that trail space will be? Will it be more than grass, or will it be a sidewalk or trail?

Mr. Johnson answered the trail is counted towards linear feet of trail and is not counted towards the park space.

Commissioner Fabula asked if the trail was grass or sidewalk?

Mr. Johnson said it will be concrete.

Commissioner Fabula stated that the exterior of the park will have a sidewalk that moves around the park. He thanked him.

Commissioner Hancey wanted to talk further about the compatibility again.

Mr. Hemphill said that compatibility from the Land Use Code perspective speaks to land use. He said that the way that Staff is interpreting those words is, are they proposing any uses, residential, commercial, mixed uses that are compatible with existing or surrounding uses in the vicinity that are allowed or may be allowed in the Code. He gave an example of a vacant lot and what it could be zoned. He added that in this case, the Future Land Use map for the vacant lot to the north recommends Residential 4-8, Community Residential zone and it is already zoned Residential. The compatibility measure comes into effect when you have a mixed border of zoning classifications. There is Downtown Mixed Use and Community Residential, if there were uses that were proposed in an area that abuts Residential, that factor would come into play. In this case they are proposing no uses than what is allowed in the Residential zone districts and to administer the Land Use Code and the PUD guide for uses it is compatible with the surrounding land uses that are allowed. The adjacent land uses that are in these subdivisions subsequent of any covenants that are placed on these properties, home occupations are allowed, that could be running an administrative business where one is not inviting any clients to the house but doing administrative work, those are allowed in Community Residential zone by a business license. He added that this was how they would review the land use compatibility portion of it. When it comes to the PUDs it is different because the City Council can soften the compatibility issue by making some deviations because of the flexibility that is required in Planned Unit Developments to be able to get those differences in dimensional standards, to get something different that is unique in the City of Fruita. He showed the map and pointed out that the brown color was PUD and there are a lot of them that are zoned PUD that have those special above and beyond the conventional zone district. He talked about Hollow Creek and Vintner's Farm which are Planned Unit Developments and just to the north. They are specific and creating their own land use code and when it is silent that is why they call out an underlying zone, so we are able to administer that. He added that learning from past PUDs where they didn't call that out it is very difficult to administer when something comes up like that. Land use compatibility is going to be maintained because of the underlying zone that is called out. This was the interpretation by Staff and reviewed by the city attorney through the review criteria for the rezone and subsequent 15 other criteria that must be considered to approve a Planned Unit Development. Having all of those should insure that is going to happen.

Commissioner Hancey said that current setbacks between the PUD and CR are identical when it comes to setbacks, heights and that stuff, the big thing is the density and multifamily.

Mr. Hemphill stated that attached units were allowed in Community Residential. He said that the setbacks in the rear are identical to Community Residential no less than 15 foot for the primary structure. The only deviation for setbacks is the front setback which is 15 and the Community Residential does allow 15 but the parking needs to be in the rear. He said that there is no greater deviation than what is allowed but there are different performance measures that need to take place if you have a 15-foot front setback in Community Residential you would have to have the parking in the back. He continued that this didn't mean that they were going to do that. He gave the example of Windsor Park Subdivision. He added that this was a Planned Unit Development. He said that there could be aspects of the design, they are telling you what they are planning on doing. That is where the PUD comes into play, to deviate somewhat from those

density and dimensional standards that are codified in the Community Residential zone. They are deviating from the front yard setback and lot size.

Commissioner Fabula said that he liked the deviation in front of the buildings and anyone that moves into the community would be aware of that. His concern was in the rear, but they established that this was the standard that they have.

Commissioner Hancey added that it met CR zone to begin with and not a deviation.

Commissioner Fabula stated that it was a dense subdivision, but it was still under what they talked about in the Master Plan. This was inaudible. He said that buyers of the community will move in knowing that and that will be what they are seeking. He added that one of the comments was about people leaving the community because they couldn't find housing types and this is a challenge that they face is when there is so limited housing people move into what not works best for them personally or what they like or what fits the needs of their families. They move into what was available. He thought this was a challenge that they couldn't address tonight when there is nothing available you take what you can get. He said that ideally, they would have all these varieties of housing, all available for purchase at any given time in the community so that when a family, person, or a retiree shows up to our community they can find just the right housing they want. We don't have that availability.

Commissioner Hancey asked what they expect for home sizes to be built for the different options?

Mr. Maves responded 1100-3000 square feet, he said that there was a wide variety.

Commissioner Hancey asked about single family and duplex sizes.

Mr. Maves said it was the same.

Commissioner Fabula asked for a motion. There was discussion on the motion.

Commissioner Hancey asked if they proposed denial what would that be doing?

Mary Elizabeth Geiger answered that if they made a recommendation of denial this was something that City Council will have for their consideration. It didn't mean that the applicant did get to go before City Council. She recommended that if they were moving to recommend denial, they needed to be specific about what criteria they are lacking so the applicant, the public and Council knows what that is. She added that Council will get a copy of the minutes from this meeting. If they were moving to recommend denial, they needed to provide some specific findings.

Commissioner Fabula said that they could make a recommendation and recommend denial, recommend approval and vote against that motion. If they had a motion for approval and there were no votes it would be reflected.

Commissioner Nisley stated that one must pass.

Mary Elizabeth Geiger said that she was having a hard time hearing them but thought they were discussing how votes would need to go and they were correct. She added that in order for a

motion to pass they would need 3 votes, if it is a vote of 2-2 the motion would fail, and they would have to make another one. They would need 3 Commissioners voting for the motion in order to move it on to Council.

Commissioner Nisley said that if they went 2-2 that no recommendations is made to Council.

Mary Elizabeth Geiger reiterated that if someone made a motion and it was 2-2 the motion fails, somebody would need to make another motion, they would try to get something to move to Council.

Commissioner Hancey stated that the goal would get to a 3-1.

Mary Elizabeth Geiger said that the goal would be to get to a 3-1 and if they cannot get there the record is going to reflect that they couldn't make a recommendation one way or the other and Council would take that into consideration.

Commissioner Fabula said that he was fine to vote affirmative and send it to Council. He asked if there were specific conditions that they wanted to attach to a motion?

Commissioner Mulder said that the motion should stand on its own. He added that Mr. Hemphill had given the plus and minuses of this project and all of the work that has gone into it, but they failed in one particular aspect of this project, compatibility is an issue. He said that they have failed. The neighborhood was there speaking that, they have failed. His feelings were that in going by that project site is that they have failed. It is the wrong place for this project, so it did not warrant a PUD zone change, CR needed to stay in place until future projects came before them on that particular piece of ground.

Commissioner Nisley pointed out that Staff's opinion was that it was compatible.

Commissioner Nisley moved to approve Application #2021-41 Dwell Final PUD Plan including the Rezone from Community Residential to Planned Unit Development to the City Council with the condition that all review comments and all issues identified in the Staff report be adequately resolved prior to the recording of the PUD guide and plat.

Commissioner Hancey said that he wanted to continue to talk about it. He understood the huge concern and understood that the setbacks rules exist and that the major differences were on the front side of the homes, on the street side not the back. He said that the back was the big issue for neighboring community and that is where he has conflict. He had conflict on how to proceed appropriately taking in the consideration that the vast majority of people's concerns are current allowed rules of the Land Use Code, yet they don't want it. He said that his conflict was that he knew the Code says one thing, but the surrounding community is concerned and if they were building a CR neighborhood, they wouldn't have most homes going back as far as 15 even though they could it would match more with the community.

Mary Elizabeth Geiger thanked him and said she knew it was hard to be new on a Planning Commission, she has sat on a Planning Commission in Glenwood for 8 years and is familiar with what they are going through from that seat. She said that he hit on something that she was trying to talk about earlier but as a reminder that their role was to look at the Code, the criteria, and

whether the project does or doesn't as far as recommending approval or approval with conditions or denial. She continued, she thought it would be appropriate if they wanted to add something to a motion, she wouldn't call it a condition but to ask City Council to really look at the public comments. She added that they were the ones that have a little more political leeway and flexibility with regard to how to address and incorporate public comment. She added that their role was slightly different from City Council's in that regard.

Commissioner Hancey asked how he would propose a go forward but didn't want it to be full of talk, he wanted something to happen, so would you please address, would you look at? He wanted it to be substantial and not just that they chatted for 2 minutes and called it good.

Commissioner Nisley asked what specific change he was asking for?

Commissioner Mulder stated that they needed to keep in mind if they voted denial, it still goes to Council.

Mary Elizabeth Geiger said it did, that is exactly right. She added that City Council would be hearing this. Their role is very important because they were making that finding or not whether the criteria and the Code are being met. This is guidance to City Council. It is their role, and they are the first stop in public hearing. She didn't want them to think that what they say is irrelevant, it certainly is. They can't tell City Council what to do as they will have their own public hearing and will hear additional public comment, there might be additional things that the applicant may address to City Council based on the information they receive and hear tonight that is why their feedback is important. If they were concerned about public comment and City Council looking at that they could highlight that in a motion if they wanted and it does mean something.

Mr. Hemphill reminded them that they have a motion on the table but no second.

Mary Elizabeth Geiger said that this was correct and that they were waiting on a second. She said it would be appropriate if someone asked the Commissioner who made the motion whether they would be willing to amend it to add something.

Commissioner Hancey wanted to amend it.

Commissioner Nisley said he didn't know how to amend it to cover what he was looking for. He understood his concerns, but he thought it met the Code.

Commissioner Hancey wanted to give a point of concern to officially pass on to the City Council. That was all that he felt that they could do.

Commissioner Fabula said that they could request that the City Council give deeper consideration to the impacts of the compatibility issue.

Commissioner Hancey added the backyard setback, that is what he would add.

Commissioner Fabula asked if he wanted to add that to the motion or leave it as it stood.

Commissioner Nisley said he wanted to leave it as it stood, and they can kill it and submit another one.

Mary Elizabeth Geiger said there was no second, so they need another motion.

COMMISSIONER HANCEY RECOMMENDED APPROVAL OF APPLICATION 2021-41 DWELL FINAL PUD PLAN INCLUDING THE REZONE FROM COMMUNITY RESIDENTIAL TO PLANNED UNIT DEVELOPMENT WITH THE CONDITION THAT THE CITY COUNCIL TO CONSIDER PUBLIC COMMENT WITH THE FIFTEEN FOOT SETBACKS ON THE BACK SIDE OF HOMES WITH THE THIRTY-FIVE FOOT HEIGHT LAND USE CODE DUE TO THE CONTINUED COMMUNITY COMMENTS WITH THAT ISSUE

Mary Elizabeth Geiger said that one thing for point of order, just because somebody seconds a motion does not mean that they had to vote for it but if they wanted to get a motion moved to a point for a vote to be taken, they could do that.

COMMISSIONER NISLEY SECONDED THE MOTION

MOTION PASSED 3-1

I. OTHER BUSINESS

1. Community Development Updates

Mr. Hemphill talked about the regional Planning Commissioner training that will be held at 200 S. Spruce Street. He wanted to extend invitations to all the Planning Commissioners and the alternates to take part in it.

2. Visitors and Guests

None

3. Other Business

None

Adjournment 8:12 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita