

City Commission Staff Report for the Sundance Apartments Conditional Use Permit (CUP) Application - #Z-12220

Item: A Conditional Use Permit to establish an apartment complex with 195 dwellings at 2450 Vaquero Parkway.

Property Owner and Applicant: Rockworth Companies, 9980 South 300 West, Ste 310, Sandy UT 84070

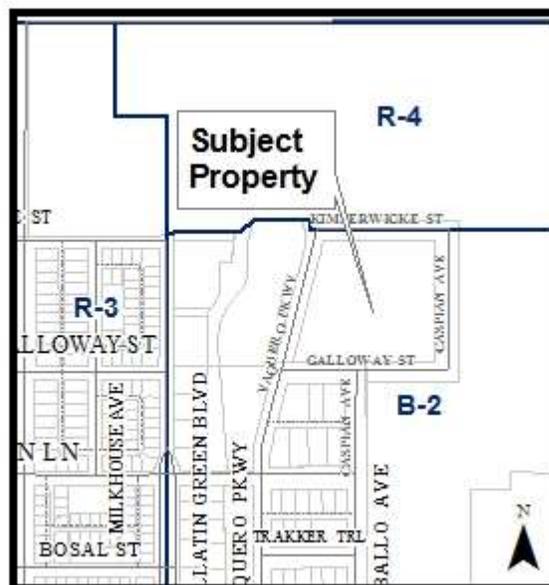
Date: City Commission Meeting October 15, 2012 at 6:00 p.m., in the City Commission Meeting Room, Bozeman City Hall, 121 North Rouse Avenue, Bozeman, Montana.

Report By: Chris Saunders, Assistant Director

Recommendation: Conditional Approval

Project Location

The site is located at 2450 Vaquero Parkway. The property is legally described as Lot 1, Phase 2B, Baxter Meadows Subdivision, City of Bozeman, Gallatin County, Montana. The zoning designation for said property is B-2 (Community Business District). Please refer to the vicinity map provided below.



Map 1

Proposal

The Conditional Use Permit (CUP) is requesting to establish an apartment complex of 195 dwellings in seven residential buildings and with six accessory buildings for parking and one for administration. The apartments are a mix of 48 one bedroom, 123 two bedroom, and 24 three bedroom units.

The Development Review Committee reviewed the application and forwarded a recommendation of approval, with Staff's recommended conditions and code provisions, to the City Commission at their public meeting on September 19, 2012.

Recommendation

Staff supports approval of the requested Conditional Use Permit. Several conditions are recommended, in addition to the required code provisions noted within this report beginning on page 3.

Staff Recommended Conditions

1. Upon submitting the Final Site Plan for approval by the Planning Director the applicant will also submit at the same time a written narrative outlining how each of the above conditions of approval and code provisions have been satisfied or met.
2. A detailed accessibility plan showing the circulation to and between accessible dwelling units, trash enclosures, parking spaces, and throughout the site shall be provided along with the building permit submittal.
3. Sheet A001 shall be corrected to list the correct number of depicted accessible parking stalls. The first accessible parking stall of each 6 provided must be van accessible.
4. The Final Site Plan shall confirm which buildings will have the accessible units so there is an accessible parking space in proximity.
5. The Final Site Plan shall include the required detail for the trash enclosures included with the site plan. The detail shall include description for how accessibility will be provided.
6. The specifications for the outstanding lighting in the right of way and median plantings shall be provided with the Final Site Plan.
7. An addressing plan per the COB Design and Specifications manual shall be coordinated with Fire and Engineering to determine building and unit numbers.
8. A comprehensive sign plan developed per Sections 38.28.060 and 38.28.080. The comprehensive sign plan shall include a narrative describing how any signs allowed for individual dwellings or spaces used for commercial purposes will be handled.
9. Please describe any provisions you intend to adopt addressing use of the residential areas for any commercial business greater than that allowed in 38.22.110. [E.g. signage, owner approvals, designated parking, accessibility.]
10. Verify adequacy of the depicted water meters for each building. Correctly sized meters shall be depicted on the Final site Plan.
11. Relocate the water and sewer service lines to the Vaquero parkway buildings to provide a minimum 10 foot separation from any trees.
12. Water line is shown as going under the swimming pool. The service line shall be relocated to avoid obstacles .
13. No building lighting details or locations are included in the preliminary site plan submittal. If any are proposed they shall be depicted on the Final Site Plan submittal and documentation provided

to verify compliance municipal code.

14. The location of private utilities needs better depiction; show the location of private utility easements and equipment on the Final Site Plan and that private utilities will not interfere with site development.
15. Trees shall be setback not less than 3 feet from the back of the sidewalk to preserve roots and prevent panel heaving.
16. Calculations and irrigation design shall be provided to verify that required landscape irrigation can be provided in compliance with restrictions on exempt water well limits.
17. Detail L.1.5 shall be modified to provide a conforming bicycle rack. The site plan shall be revised to inset the bike racks two feet further in from the sidewalk. This makes a total 7 foot deep pad and is needed to avoid blocking travel on the sidewalk.
18. Any ground mounted mechanical equipment or roof mounted requires visual screening. Any equipment shall be shown on the final site plan along with a depiction of the required screening.
19. A phasing plan for installation of infrastructure shall be provided with the Final Site Plan. If concurrent construction of infrastructure and buildings is proposed the required documents shall be provided.
20. This application has been reviewed as a single ownership development. Any future conversion to condominiums or other ownership change may require additional formal review by the City.
21. Landscape screening along the end section of the parking lot by the SW corner building. Place required landscaping to avoid snow damage from the snow storage area or by clearing of the sidewalk.
22. The stormwater is being routed differently than was anticipated by the underlying subdivision. Calculations must be provided to show that there is adequate capacity for the alternate routing that is proposed. This applies to both the storm sewer infrastructure and the ponds.
23. All water and sewer mains must have a minimum of 10' of clearance from any proposed structure on the site.
24. Manholes must be installed on the end of any 8" sewer main stubs that will be utilized on the project.
25. Street lights shall be installed in accordance with the approved subdivision lighting plan

Zoning Designation & Land Uses

The property is zoned B-2 (**Community Business District**). The intent of the B-2 district is to provide for a broad range of mutually supportive retail and service functions located in clustered areas bordered on one or more sides by limited access arterial streets.

The area is covered by the Baxter Meadows Planned Unit Development. Apartments on the ground floor are allowed as a conditional use.

The following land uses are adjacent to the subject property:

North: Undeveloped, zoned R-4 (High Density Residential District).

South: Undeveloped and Developed lots. One mixed use building, zoned B-2

East: Undeveloped, zoned B-2.

West: Park and open space. An un-named watercourse/drainage swale and associated open space and

parkland zoned B-2.

Adopted Growth Policy Designation

The Future Land Use Map of the Bozeman Community Plan designates the subject property to develop as “Community Commercial Mixed-Use.” Activities within this land use category are the basic employment and services necessary for a vibrant community. Establishments located within these categories draw from the community as a whole for their employee and customer base and are sized accordingly. A broad range of functions including retail, education, professional and personal services, offices, residences, and general service activities typify this designation.

In the “center-based” land use pattern, Community Commercial Mixed Use areas are integrated with significant transportation corridors, including transit and non-automotive routes, to facilitate efficient travel opportunities. The density of development is expected to be higher than currently seen in most commercial areas in Bozeman and should include multi-story buildings. A Floor Area Ratio in excess of 0.5 is desired. It is desirable to allow residences on upper floors, in appropriate circumstances. Urban streetscapes, plazas, outdoor seating, public art, and hardscaped open space and park amenities are anticipated, appropriately designed for an urban character. Placed in proximity to significant streets and intersections, an equal emphasis on vehicle, pedestrian, bicycle, and transit circulation shall be provided. High density residential areas are expected in close proximity. Including residential units on sites within this category, typically on upper floors, will facilitate the provision of services and opportunities to persons without requiring the use of an automobile.

Review Criteria & Staff Findings

Section 38.19.100 “Plan Review Criteria”

In considering applications for plan approval under this chapter, the review authority and advisory bodies shall consider the following criteria:

1. Conformance to and consistency with the City’s adopted growth policy;

The development proposal is in conformance with the Bozeman Community Plan including the Community Commercial Mixed-Use land use designation. High density residential is contemplated in the designation and the development is occurring in an area with good proximity to future urban services.

2. Conformance to this chapter, including the cessation of any current violations;

The applicant is advised that unmet code provisions, or code provisions that are not specifically listed as conditions of approval, does not, in any way, create a waiver or other relaxation of the lawful requirements of the Bozeman Municipal Code or state law. The following code provisions must be addressed in the final site plan submittal:

- A. Section 38.19.110.F states that the right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure/ and that all of the conditions shall constitute restrictions running with the land use, shall apply and adhered to by the owner of the land, successors or assigns, shall be binding upon the owner of the land, his successors or assigns, shall be consented to in writing, and shall be recorded as such with the county clerk and recorder’s office by the property owner prior to the issuance of any building permits, final plan approval or commencement of the conditional use.
- B. Section 38.19.110.I. Termination/ Revocation of Conditional Use Permit approval:

1. Conditional use permits are approved based on an analysis of current local circumstances and regulatory requirements. Over time these things may change and the use may no longer be appropriate to a location. A conditional use permit will be considered as terminated and of no further effect if:

a. After having been commenced, the approved use is not actively conducted on the site for a period of two continuous calendar years;

b. Final zoning approval to reuse the property for another principal or conditional use is granted;

c. The use or development of the site is not begun within the time limits of the final site plan approval in section 38.19.130.

2. A conditional use which has terminated may be reestablished on a site by either, the review and approval of a new conditional use permit application, or a determination by the planning director that the local circumstances and regulatory requirements are essentially the same as at the time of the original approval. A denial of renewal by the planning director may not be appealed. If the planning director determines that the conditional use permit may be renewed on a site then any conditions of approval of the original conditional use permit are also renewed.

3. If activity begins for which a conditional use permit has been given final approval, all activities must comply with any conditions of approval or code requirements. Should there be a failure to maintain compliance the city may revoke the approval through the procedures outlined in section 38.34.160.

- C. **Section 38.19.120**, *Final Plan*, states that no later than six months after the date of approval of a preliminary plan, the applicant shall submit to the Planning Department a final plan with accompanying application form and review fee. The number of copies of the final plan to be submitted shall be established by the Planning Director. The final plan shall contain the materials required in 38.41.080 and 38.71.090 BMC and whatever revisions to the preliminary site plan or master site plan are required to comply with any conditions of approval. Prior to the passage of six months, the applicant may seek an extension of not more than an additional six months from the Planning Director. In addition the owner shall submit a certification of completion and compliance stating that they understand any conditions of approval and the submitted final plans have complied with any conditions of approval or corrections to comply with code provisions.
- D. **Section 38.23.150 F** *Lighting Specifications for All Lighting*, states that in all light fixtures, the light source and associated lenses shall not protrude below the edge of the light fixture, and shall not be visible from adjacent streets or properties. For lighting horizontal areas such as roadways, sidewalks, entrances and parking areas, fixtures shall meet IESNA “full-cutoff” criteria (no light output emitted above 90 degrees at any lateral angle around the fixture).
- E. A utility easement is required for the public water main per City standard dimension in Section 38.23.060.C. Separate documents shall be recorded with the Gallatin County Clerk and Recorder and the receipt or a copy of the recorded document with document numbers shall be provided with the Final Site Plan.
- F. **Section 38.41.100**, The landscape architect must provide their stamp on the Final Site Plan landscape drawings.
- G. **Sections 38.26.050.E and 16.05.330** The spacing of street trees along Caspian shall be adjusted to meet the required spacing of not less than 30 feet or more than 50 feet.
- H. **Section 38.26.100 A**. *Landscaping General Maintenance* states required landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning and other maintenance of all

plantings as needed. Failure to maintain required landscaping in a healthy growing condition at all times may result in revocation of an occupancy permit. When enforcing this provision of this chapter, external factors such as seasonality and availability of landscape stock shall be considered before any action to revoke an occupancy permit is taken.

- I. **Section 38.34.100** states that a building permit shall be obtained within one year of approval, or said approval shall become null and void. Prior to the lapse of one year, the applicant may seek an extension of one additional year from the Planning Director.
- J. **Section 38.34.110** states that no permit or license shall be issued unless the use, arrangement and construction has been set forth in such approved plans and applications.
- K. **Section 40.02.750 Protective Devices**, In Accordance with the BMC Section 40.02.750 the Water/Sewer Superintendent is requiring an inspection of your water service to determine whether the water service has backflow protection and if such protection is installed that the device is appropriate for the level of use for the facility. If the service has been found without backflow protection the applicant will have a preventer and expansion tank installed. If the existing device does not provide adequate protection, the applicant will be required to replace the preventer with a preventer that is designed to provide adequate protection. Please call the Water Department's Backflow specialist @ 582-3200 to arrange an inspection of the water service.
- L. The FSP shall be adequately dimensioned.
- M. A Storm Water Drainage/Treatment Grading Plan and Maintenance Plan for a system designed to remove solids, silt, oils, grease, and other pollutants must be provided to and approved by the City Engineer. The plan must demonstrate adequate site drainage (including sufficient spot elevations), storm water detention/retention basin details (including basin sizing and discharge calculations, and discharge structure details), storm water discharge destination, and a storm water maintenance plan.
- N. A Storm Water Management Permit (SMP) must be submitted and approved by the City Engineer prior to Final Site Plan Approval. The SMP requires submittals of an application form and a Storm Water Management Plan in compliance with the City of Bozeman's Storm Water Management Ordinance #1763. The SMP is independent of any other storm water permitting required from the State of Montana, and does not fulfill the requirement to obtain a Storm Water Pollution Prevention Plan (SWPPP) if they are required for this development.
- O. A storm water easement must be established on the adjacent property and filed with the County Clerk and Recorder's Office for the retention pond and discharge course if located off the subject property.
- P. Plans and specifications for any water, sewer and/or storm sewer main extensions, and Public or Private Streets (including curb, gutter & sidewalks) prepared by a Professional Engineer (PE) shall be provided to and approved by the City Engineer. Water and sewer plans shall also be approved by the Montana Department of Environmental Quality. The applicant shall also provide Professional Engineering services for construction inspection, post-construction certification, and preparation of mylar record drawings. Specific comments regarding the existing and proposed infrastructure shall be provided at that time. Construction shall not be initiated on the public infrastructure improvements until the plans and specifications have been approved and a pre-construction conference has been conducted.
- Q. No building permits will be issued prior to City acceptance of the infrastructure improvements, unless all of the requirements for 38.39.030.C.1.c are met to allow for concurrent construction.
- R. Plans and Specifications for any fire service line must be prepared in accordance with the City's Fire Service Line Policy by a Professional Engineer (PE), and be provided to and approved by the City Engineer prior to initiation of construction of the fire service or fire protection system.

The applicant shall also provide Professional Engineering services for construction inspection, post-construction certification, and preparation of mylar record drawings.

- S. Plans and specifications for fire service lines must be a separate, stand alone submittal meeting the requirements of the COB design standards for fire lines. They cannot be part of infrastructure or final site plan sets.
- T. Easements for the water and sewer main extensions shall be a minimum of 30 feet in width, with the utility located in the center of the easement. In no case shall the utility be less than 10 feet from edge of easement.
- U. Sewer and water services shall be shown on the FSP and approved by the Water/Sewer Superintendent. City of Bozeman applications for service shall be completed by the applicant.
- V. The location of existing water and sewer mains shall be properly depicted, as well as nearby fire hydrants. Proposed main extensions shall be labeled "proposed".
- W. The drive approach shall be constructed in accordance with the City's standard approach (i.e., concrete apron, sidewalk section and drop-curb) and shown as such on the FSP.
- X. City standard sidewalk shall be installed and properly depicted at the standard location (i.e., 1 foot off property line) along the street(s) frontage. Any deviation to the standard alignment or location must be approved by the City Engineer.
- Y. Typical curb details (i.e., raised and/or drop curbs) and typical asphalt paving section detail shall be provided to and approved by the City Engineer. Concrete curbing shall be provided around the entire new parking lot perimeter and adequately identified on the FSP.
- Z. The Montana Fish, Wildlife & Parks, NRCS, Montana Department of Environmental Quality and Army Corps of Engineer's shall be contacted regarding the proposed project and any required permits (i.e., 310, 404, Turbidity exemption, etc.) shall be obtained prior to FSP approval.
- AA. All existing utility and other easements must be shown on the FSP.
- BB. Adequate snow storage area must be designated outside the sight triangles, but on the subject property (unless a snow storage easement is obtained for a location off the property and filed with the County Clerk and Recorder's office).
- CC. Drive approach and public street intersection sight triangles shall be free of plantings which at mature growth will obscure vision within the sight triangle.
- DD. If construction activities related to the project result in the disturbance of more than 1 acre of natural ground, an erosion/sediment control plan may be required. The Montana Department of Environmental Quality, Water Quality Bureau, shall be contacted by the Applicant to determine if a Storm Water Discharge Permit is necessary. If required by the WQB, an erosion/sediment control plan shall be prepared for disturbed areas of 1 acre or less if the point of discharge is less than 100' from State Waters. A copy of the Notice of Intent (NOI), the Storm Water Pollution Prevention Plan (SWPPP), and the approval letter from the Montana Department of Environmental Quality shall be submitted to the City.
- EE. The applicant shall submit a construction route map dictating how materials and heavy equipment will travel to and from the site in accordance with section 38.39.020.A.1 of the Unified Development Code. This shall be submitted as part of the final site plan for site developments, or with the infrastructure plans for subdivisions. It shall be the responsibility of the applicant to ensure that the construction traffic follows the approved routes.
- FF. All construction activities shall comply with section 38.39.020.A.2. of the Unified Development Code. This shall include routine cleaning/sweeping of material that is dragged to adjacent

streets. The City may require a guarantee as allowed for under this section at any time during the construction to ensure any damages or cleaning that are required are complete. The developer shall be responsible to reimburse the City for all costs associated with the work if it becomes necessary for the City to correct any problems that are identified.

3. Conformance with all other applicable laws, ordinances, and regulations;

The final site plan application will be reviewed to ensure compliance with this section. The plans will be further evaluated against the requirements of the International Building Code at the time application is made for a Building Permit (if required). There are remaining lighting and landscaping to be completed which were financially guaranteed with the initial subdivision of the property. The financial guarantee remains in force and the work will be completed with the site plan. No known violations of other standards have been identified.

4. Relationship of site plan elements to conditions both on and off the property;

The proposed use occupies the entire block. No adjacent parcels are presently developed. The residential use should be benefitted by proximity to the park to the west. No conflicts have been identified.

5. The impact of the proposal on the existing and anticipated traffic and parking conditions;

The proposed site plan provides adequate parking. Some conditions are necessary to ensure full compliance with ADA requirements. Needed revisions are minor and will be verified during the final site plan process.

6. Pedestrian and vehicular ingress and egress;

Vehicular and pedestrian access to the site is provided from adjacent public streets. Access points are limited and controlled to reduce possible conflicts with on-street traffic. An internal pedestrian circulation system is provided. Verification of ADA circulation will occur with the required accessibility plan during building permit review.

7. Landscaping, including the enhancement of buildings, the appearance of vehicular use, open space, and pedestrian areas, and the preservation or replacement of natural vegetation;

The proposed landscaping conforms to the requirements of Chapter 38.

8. Open space;

No additional parkland dedication is required for this development. The original Baxter Meadows PUD made provision for the necessary park spaces. On-site open space has been provided through a combination of open areas and balconies and complies with the code requirements.

9. Building location and height;

The height and location of the building addition conforms to all height and setback standards. No concerns have been identified.

10. Setbacks;

The provided yard setbacks meet the required minimum.

11. Lighting;

No lighting is shown on the site plan. If lighting is desired it must be shown on the final site plan and any necessary documentation provided to show compliance. Street lighting will be required and provided per the original subdivision review.

12. Provisions for utilities, including efficient public services and facilities;

Verification of back flow prevention is a code requirement as noted under item 2 above. Public utilities are depicted. An appropriate easement is needed for the public water main extensions internal to the

development. Certain locations need to be changed to avoid conflicts with landscaping and buildings. These shall be adjusted and shown on the final site plan and plans and specifications.

13. Site surface drainage;

A master drainage plan was developed with the Baxter Meadows PUD. The project proposes some changes to the drainage. Verification of function will be required with the plans and specification review.

14. Loading and unloading areas;

No loading and unloading areas are required or provided.

15. Grading;

Grading will be required to prepare the site. A stormwater permit is required as the area to be disturbed is in excess of one acre.

16. Signage;

The site plan does not depict sign details. The location for a complex identification sign is shown. The project is in the B-2 district and is allowed up to 400 square feet of sign area. A comprehensive sign plan is required to coordinate sign locations and types. Address signs are required for each building. The City’s adopted design standards and guidelines contain the standards for the address signs.

17. Screening;

No mechanical equipment is presently proposed. Any provided shall be screened and shown on the final site plan submittal.

18. Overlay district provisions;

Not applicable.

19. Other related matters, including relevant comment from affected parties;

No public comment has been received to date. All comments received prior to the public hearing will be forwarded to the City Commission.

20. If the development includes multiple lots that are interdependent for circulation or other means of addressing requirement of this title, whether the lots are either:

Configured so that the sale of individual lots will not alter the approved configuration or use of the property or cause the development to become nonconforming, or

The subject of reciprocal and perpetual easements or other agreements to which the City is a party so that the sale of individual lots will not cause one or more elements of the development to become nonconforming.

Not applicable

21. Compliance with Chapter 10, Article 8, BMC (Workforce Housing)

Not applicable

22. Phasing of Development

A phasing plan has not been provided. Phasing has been discussed. Any intended phasing needs to be shown on the final site plan.

Section 38.19.110 “Conditional Use Permit”

In addition to the review criteria of Section 38.19.110, the review authority shall, in approving a conditional use permit, determine favorably as follows:

1. That the site for the proposed use is adequate in size and topography to accommodate such use, and all yards, spaces, walls and fences, parking, loading and landscaping are adequate to properly relate such use with the land and uses in the vicinity.

No unique needs for this use have been identified.

2. That the proposed use will have no material adverse effect upon the abutting property. Persons objecting to the recommendations of review bodies carry the burden of proof.

Staff has not identified any adverse effects upon the abutting properties.

3. That any additional conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare. Such conditions may include, but are not limited to: regulation of use; special yards, spaces and buffers; special fences, solid fences and walls; surfacing of parking areas; requiring street, service road or alley dedications and improvements or appropriate bonds; regulation of points of vehicular ingress and egress; regulation of signs; requiring maintenance of the grounds; regulation of noise, vibrations and odors; regulation of hours for certain activities; time period within which the proposed use shall be developed; duration of use; requiring the dedication of access rights; other such conditions as will make possible the development of the City in an orderly and efficient manner.

No special conditions have been identified except one procedural item to verify compliance with requirements of the municipal code.

Public Comment

As of the writing of this staff report, the Department of Planning has received no public testimony in response to the mailings, posting or newspaper notice regarding the requested variance application. Any public comments received after the date of this report will be distributed to the City Commission at the public hearing.

Conclusion/Recommendation

Staff has reviewed the Sundance Apartments Conditional Use Permit application and recommends to the City Commission approval of said application with the recommended condition (beginning on page 2) and code provisions (beginning on page 4) outlined in this staff report. Staff has identified various code provisions that are applicable to this application. Some or all of these items are listed in the findings of this staff report. The applicant must comply with all provisions of the Bozeman Unified Development Code, Chapter 38 of the Bozeman Municipal Code, which are applicable to this project, prior to receiving final approval. The applicant is advised that unmet code provisions, or code provisions that are not specifically listed as conditions of approval, does not, in any way, create a waiver or other relaxation of the lawful requirements of the Bozeman Municipal Code or State law.

Attachments:

Applicant's Submittal Materials

Report Sent to:

Rockworth Companies, 9980 South 300 West, Ste 310, Sandy UT 84070

TD&H Engineering, 234 E Babcock St., Ste 3, Bozeman MT 59715