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Staff Report Memorandum November 3, 2022

To: Planning Commission
From: Community Development Department
Subject: Picklr Sandy - Extended Hours & Parking
8725 S. Highland Drive
(Willow Creek, #18)

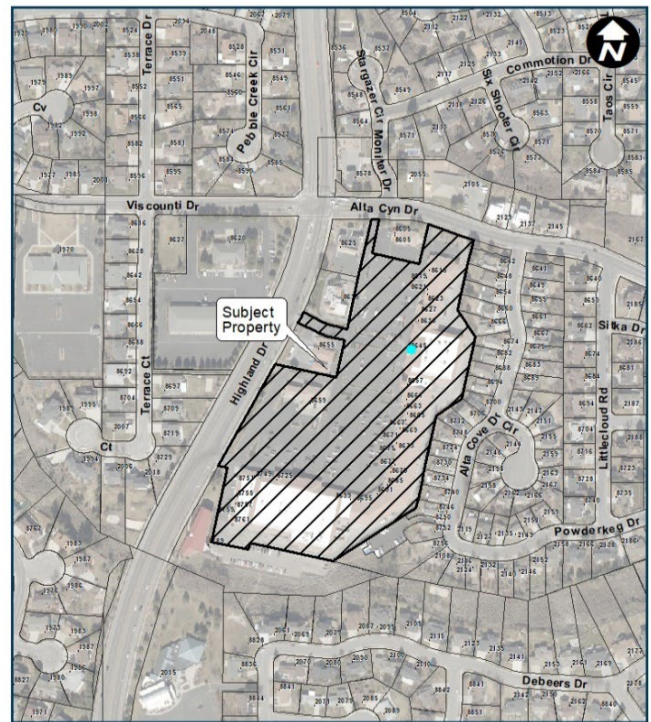
CUP09162022-006401
Neighborhood
Commercial (CN)
1.74 Acres

Meeting Notice: This item has been noticed to property owners within 500 feet of the subject area.

Request

With the permission from the property owners of the Willow Creek Shopping Center (Ream Fiesta Village LTD), the applicants, Jorge Barragan, and Carter Randall, are requesting a conditional use permit for extended operating hours of an indoor recreation use for a property located at 8725 S. Highland Drive. The tenant space the Picklr intends to occupy is located at 8645 S. Highland Drive. They are also seeking a determination for required amount of parking for their proposed use, which is to convert the former Rite Aid

pharmacy portion of the strip mall into indoor pickleball courts. The request is to extend the hours for this center to 5 a.m. to 1 a.m. within the Neighborhood Commercial (CN) zone (see applicant letter, Exhibit "A").



Background

The subject property is located on the east side of Highland Drive, a major arterial street. This strip mall was built in 1982 and then later a subdivision in 2002. The entire site area is



CUP09162022-006401
Picklr Sandy
8645 S. Highland Dr.

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487,436 square feet, with the store space comprising approximately 24,502 square feet. Properties directly east are zoned PUD (6). The properties to the north, west and south are in the R-1-8 zone and developed as single-family residences.

Property Case History	
Case Number	Case Summary
SPR# 82-28	Site Plan Review for the Busch Development. It was approved by staff on December 17, 1982
CUP#88-33	Conditional Use Permit for Fiesta Village to allow for extended hours to operate until 1 a.m. It was approved by the Planning Commission on September 15, 1988.
SUB# 01-16	A subdivision plat was approved by the Planning Commission in July of 2001 and recorded on February 19, 2002. This allowed this created six separate lots for commercial center.

Public Notice and Outreach

This item has been noticed to property owners within 500 feet of the subject area by mail. A neighborhood meeting was held on Wednesday, October 5, 2022. Five residents from the surrounding neighborhood attended and expressed concerns regarding 24/7 hours of operation, lack of staff during all hours of operation, and noise behind the building. A summary of the meeting has been provided (see Exhibit “B”).

Analysis

The applicant is proposing to adaptively reuse a portion of the existing retail building for a indoor pickle ball courts, which is a permitted use in the neighborhood commercial (CN) zone. That applicant originally was requested to operate 24/7 but after the concerns raised at the neighborhood meeting, the applicant is now requesting a conditional use permit for extended hours to operate the gym between the hours of 5 a.m. and 1 a.m., seven days a week. They are proposing members of staff on site between the hours of 6 a.m. and midnight. The facility would be accessed through a code that is specific to a reservation that must be made in advance. During the night hours of operations, the facility will be equipped with motion sensor lights and video surveillance inside and outside the facility (see Proposed Floor Plan, Exhibit “C”).

Parking

With the change of use to indoor recreation from commercial retail sales and services, the Planning Commission must review and determine the appropriate amount of off-street parking for this use (see section [21-24-8](#) of the Sandy City Land Development Code). Explain how many stalls they are allocated in their lease. Explain the max anticipated occupancy of the use. Discuss whether staff supports the change of use and expected parking demand.



Business Hours

There is an existing conditional use permit for this commercial center to operate between the hours of 6 a.m. and 1 a.m. Because the applicant is requesting to begin operating at 5 a.m., they are requesting to extend the permitted hours of operation, beyond the typical hours of operation from 6 a.m. to 10 p.m., this requires a conditional use permit (see [section 21-23-19](#) of the Sandy City Land Development Code). It is important to note that this request would apply to the entire center and not just this specific space within the center.

Conditional Use Standards

The City may impose conditions on a conditional use based on certain standards of review found in section [21-33-4](#) of Sandy City Land Development Code. The following items from that list are applicable to this particular request and merit discussion or additional consideration by the Planning Commission (staff analysis is found below in *italics*):

Sec. 21-33-4. Conditions.

In order to achieve compliance with the standards set forth herein, the City may impose conditions that address:

- (4) Design, location and amount of off-street parking, loading areas and solid waste disposal and collection areas.

The proposed use appears to have sufficient parking for this proposed use. The property owner or manager will need to control parking through their leasing to ensure all necessary parking can be handled off-street.

- (7) The location and design of all site features, including proposed signage, lighting, and refuse collection.

The applicant intends to install motion censored lighting that is low impact, directional lighting. Wall pack lights are not allowed, and all lighting must be directed to not spill over the property line and create undo impact to the surrounding residential properties.

- (12) The regulation of operating hours for activities affecting normal schedules and functions.

That the hours of operations be extended to 5 a.m. to midnight, instead of allowing twenty-four hours, seven days a week operation. The close proximity of this development to residential uses makes the applicant's original extended hour request incompatible and unnecessary to operate the proposed business. This increase of operating hours should be limited to not include lot sweeping, trash collection, store deliveries or any other activity that would generate extensive noise. If the business is open, then staff must be present at all times.

- (15) Such other conditions determined reasonable and necessary by the City to allow the operation of the proposed conditional use, at the proposed location in compliance with the requirements of this title.

That the applicant complies with all Building & Safety, and Fire & Life Codes.

Staff Concerns

Staff has a concern that no members of staff will be onsite to monitor the courts at 1:00 a.m. and 5:00 a.m. and the impacts it could create for the surrounding residential properties. This is compounded by the unintended consequences of the request applying to the entire commercial center property.

Recommendation

- #1 Staff recommends that the Planning Commission amend the original conditional use permit (CUP#88-33) for the Willow Creek Shopping Center to extend business hours from 5 a.m to 1 a.m. on the property located at 8725 S. Highland Dr., based on the following findings and subject to the following conditions:

Findings:

1. That the request does comply with Sandy City Development Code.

Conditions:

1. That each tenant ensures that a staff member be on site during all hours of operation.
2. That no outside activity between 10 p.m. and 6 a.m. that would create a large amount of noise be allowed (including but not limited to lot sweeping, trash collection, and store deliveries). That each tenant shall restrict employee activity behind the building adjacent to residential property during those hours as well.
3. That the applicant complies with all Building & Safety, and Fide & Life Codes.

4. That the applicant be responsible for meeting all provisions of the Sandy City Development Code, and all conditions of approval imposed by the Planning Commission.
5. That this Conditional Use Permit be reviewed upon legitimate complaint.

#2 Staff recommends that the Planning Commission determine that 108 stalls is sufficient for indoor recreation use of PicklR Sandy on the property located at 8645 S. Highland Dr., based on the following findings:

Findings:

1. The applicant intends to have a maximum capacity of 98.
2. That the applicant has been allocated 108 stalls through their lease.
3. That there is sufficient parking available to meet the demand for this use and the estimated occupancy.

Planner:



Brynn Bohlender
Planning and Zoning Technician

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Exhibit "A"

Letter of Intent

Pickleball is the fastest growing sport in the nation, however the number of quality indoor facilities is nearly nonexistent across the country.

The Picklr will create the industry standard for this market. Indoor, ample lighting, environmentally controlled. Concrete floors with the highest quality courts attracting all players throughout the year. Hot days of summer, windy days of fall, snow covered days of winter and the cold wet days of spring will only increase the interest in being a member of our quality facility.

Services Offered

- Hourly Court Rental
- Tournaments
- Leagues
- Clinics and Youth Camps
- Private Events / Parties
- Pro Shop and Rental Equipment
- Corporate Sponsorships
- Memberships / Annual and Monthly

Hours of Operation

We are looking to be open from 5AM-1AM. We will have people playing people as early as 5AM to ensure that they can make it to work. It is one of our most popular times to play and a very important time for our business.

It will be staffed from 6AM-12AM but will have a keypad that will generate a door code specific to a court reservation.

Potential Impact of Noise

We have on average one tournament a month which is the biggest event we host at The Picklr. For the most part we will have around 28 people playing and at most 25-30 people spectating. On average we have 5-10 people on staff with 1-5 on duty during normal business hours.

At this time, we haven't had the ability or the room to exceed more than 98 people. The courts take up most of the space that is being occupied by no more than 4 players at a time.

Exhibit "B"

Picklr, Sandy Neighborhood Meeting Minutes***October 5, 2022, 7:00 pm***

five residents attended the neighborhood meeting, and we received comments and concerns from four of them.

The project was presented by the applicant, Jorge Barragan

The item was opened to public comment.

Jim expressed he had concerns about the proposed business hours and impacts on evening/night traffic impacts to the neighborhood.

Katherine had concerns with noise and lighting impacts from operating twenty-four-seven. She also explained that there have already been issues with people congregating behind the building and has concerns with more people being back there.

Kent asked if the conditional use permit would run with the entire parcel or just be tied to this specific business and use.

Marcy expressed safety concerns with no staff being on site from midnight to 5am to regulate what was happening around and inside the business.

The applicant, Jorge Barragan explained that they will be installing motioned censored lighting inside the court and low impact lighting outside of the building. He also explained that the only opening and exit will be through the main doors and that the rear door will have an alarm and will only be used as an emergency exit.

Staff explained that the current issues with people congregating behind the building is a police issue and the landowner but that if there does become a larger impact, that all conditional use permits can be reconsidered upon legitimate complaints.

Jorge Barragan stated that the indoor courts will have video surveillance for monitoring while staff is not onsite during the proposed night hours. He also explained that after staff has left for the evening, the only way to get access into the gym is through an access code that is given to the member who reserved the court. He said that the code will be available thirty minutes prior to the meeting and thirty minutes after the start time of the reservation. After that the code automatically changes.

The Residences and applicant further discussed the business hours and Jorge Barragan explained that they would be willing to reduce the business hours from five-am to one-am.

Exhibit "C"



Exhibit "C"

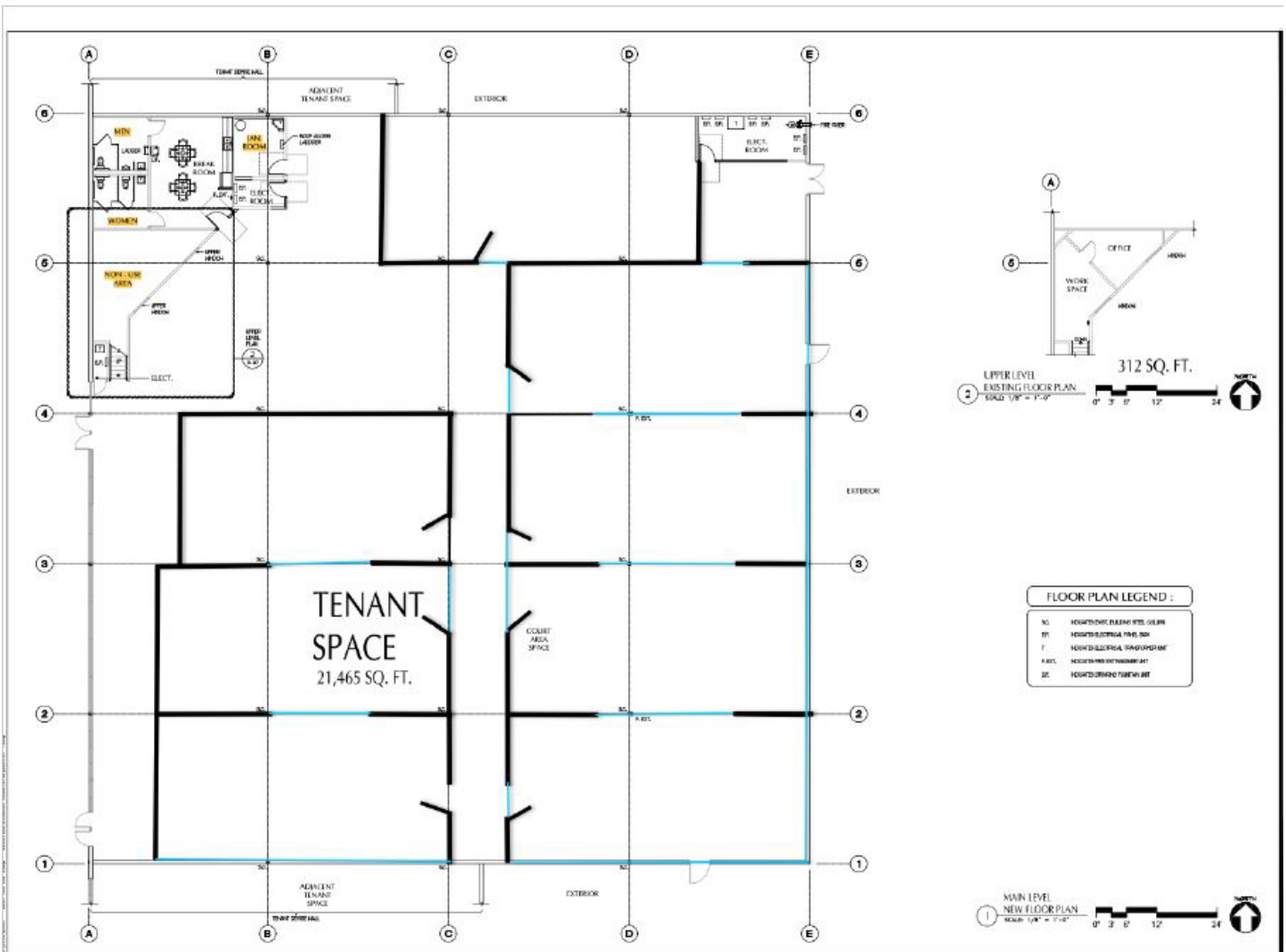


Exhibit "C"

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South. Because of the road improvements and the location of the existing building, the property is limited in meeting all City requirements. The drive-thru portion of the restaurant is vital to the success of the business. Mr. Glissmeyer stated that they have no problems with the conditions of approval listed by staff.

Bill Emerson, owner of the day care center to the west, was present. He has no objection to the request for a drive-thru window as long as they install the block wall.

Mike Tingey commented that the evergreen trees out on the corner of the property should be moved and transplanted.

Steve Burt moved to approve the conditional use for a drive-thru window for Dairy Queen, 7788 South 700 East, subject to the conditions listed by staff with the following additional conditions:

11. That existing roof equipment be screened from view.
12. That the conditional use be reviewed upon complaint. A specific area of concern is the noise level of the drive-thru speakers.
13. The existing evergreen trees be relocated to the northwest corner of the property.

Neal Swensen seconded the motion. The vote was as follows: Steve Burt, yes; Neal Swensen, yes; Carole Stokes, yes; Holly Barney, yes; Cathy Owens, no; Mike Tingey, yes.

Cathy Owens voted no because she feels that anything less than 100 feet to a residential zone is too close and should not be allowed.

(Steve Burt was excused from the meeting at 7:40 p.m.)

4. Fiesta Village - Extended Hours
8600 So. Highland Drive

CU #88-33

Gil Avellar reported that on December 10, 1987 the Planning Commission granted extended hours to 12:00 midnight from December 10, 1987 to January 2, 1988 in conjunction with Farmer Jack's grand opening. Any requests for more permanent extended hours would need to be resubmitted to the Planning Commission at a later date. In addition, the Planning Commission directed the applicant to meet with staff, the City Administration and the neighbors to address any concerns these individuals may have regarding extended hours.

The applicants, Fiesta Village and Farmer Jack's, have submitted a request for a conditional use to allow themselves, the future tenant who may take over this store (Farmer Jack is selling all of their Utah stores), and a number of other general uses which may lease in the center (with the exception of the gas and convenience store) to operate with extended hours. The extended hours being requested are that they be allowed to operate until 1:00 a.m. seven days a week.

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Staff feels comfortable with allowing extended hours in as much as there were no known complaints filed when Farmer Jack was allowed extended hours during their grand opening.

Staff has reviewed the conditional use request and would recommend that the Planning Commission allow extended hours until 1:00 a.m. for the following uses: grocery store; restaurant (no drive-thru); drug store; commercial school; and medical/health care facilities. Also, the conditional use for extended hours be subject to the following conditions:

1. That the conditional use be reviewed upon complaint should the extended hours become a problem with a particular tenant.
2. No outside activity between 9:00 p.m. and 7:00 a.m. be allowed according to City ordinance including, but not limited to, lot sweeping, trash collection and store deliveries. It is the responsibility of the tenant to control employees outside activities beyond those hours. Outside activities shall be kept to a minimum.

Barry Vernon, real estate director for Farmer Jack, was present and agreed to those stipulations recommended by staff. He commented that no complaints were received when the store had extended hours during their grand opening.

Bailey Butters, of Busch Corporation, was present and explained that this conditional use for extended hours for the requested general categories is needed because they are finding it to be an important issue as they attempt to lease to potential tenants. Extended hours are needed to make the center competitive and viable. He noted that there may be a possibility that a health club may want to come to Fiesta Village with a need for extended hours to 11:00 or midnight which is why this use was included in his requested uses. In a letter dated September 9, 1988, the following uses for extended hours were requested: (1) commercial retail sales and services; (2) restaurant and restaurant drive-in; (3) commercial schools; (4) medical and health care offices or facilities; (5) recreation, indoor; (6) athletic, tennis or health club.

Carole Stokes stated that she would prefer to have a health club facility come back separately if extended hours are needed.

Cathy Owens pointed out that when this center was planned, it was done with restrictions on certain uses that would be compatible with the residential character of the area.

Mike Ownby, representative from the neighborhood, reported that some residents still want a 10:00 p.m. closing hour, a large number can support 11:00 p.m. and some felt that 12:00 midnight would be reasonable. No one indicated that they could support 24 hours. On those uses recommended by staff, the residents can support a 1:00 a.m. closing time due to the fact that the City has spent a lot of time negotiating this issue. Mr. Ownby expressed surprise that Mr. Butters was still requesting extended hours for

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an athletic club since he was involved in the negotiations. This use was specifically discussed, and it was felt that it should come in individually.

Carole Stokes stated that she feels uncomfortable giving a blanket conditional use for extended hours. However, she did not have a problem allowing extended hours for a grocery store or a sit down restaurant. She did not feel comfortable approving extended hours for a medical center or commercial school. Holly Barney indicated she could support extended hours for a medical type use. Mike Tingey indicated he could also support longer hours for a grocery store and had no problem allowing a medical/health care facility to be open 24 hours.

Carole Stokes moved to grant a conditional use for extended hours for Fiesta Village Shopping Center to 1:00 a.m. closing time for grocery/drug stores and any indoor sit down restaurants subject to the following conditions:

1. That the conditional use be reviewed upon complaint should the extended hours become a problem with a particular tenant.
2. No outside activity between 9:00 p.m. and 7:00 a.m. be allowed according to City ordinance including, but not limited to, lot sweeping, trash collection and store deliveries. It is the responsibility of the tenant to control employees outside activities beyond those hours. Outside activities shall be kept to a minimum.

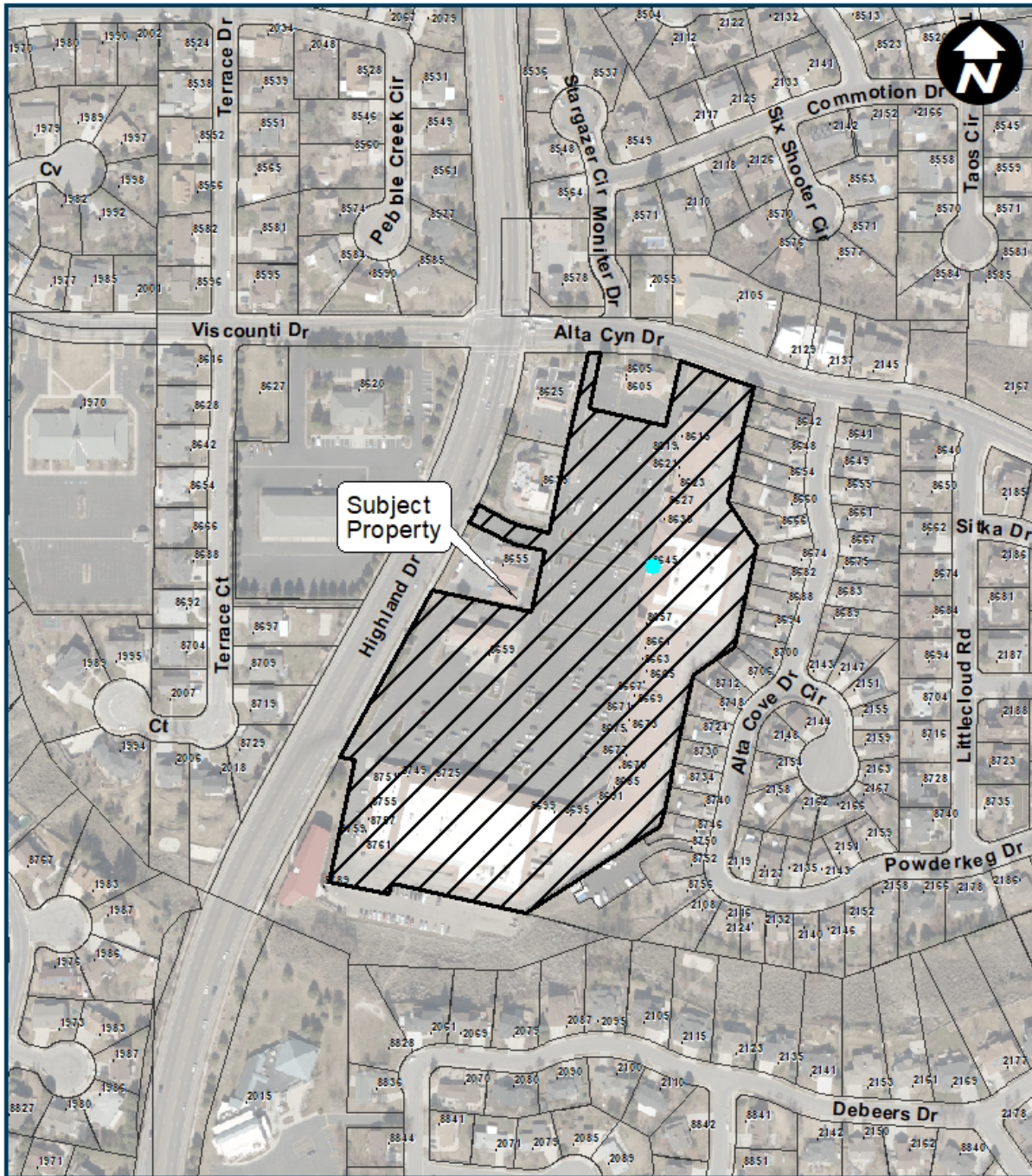
Holly Barney seconded the motion. The vote was as follows: Carole Stokes, yes; Holly Barney, yes; Cathy Owens, yes; Neal Swensen, yes; Mike Tingey, yes.

Holly Barney moved to approve a conditional use for extended hours to 1:00 a.m. closing time at Fiesta Village Shopping Center for medical care facilities. Mike Tingey seconded the motion. The vote was as follows: Holly Barney, yes; Mike Tingey, yes; Carole Stokes, no; Neal Swensen, no; Cathy Owens, no. The motion failed.

Those who voted no indicated that they did not have a specific problem allowing extended hours for medical care facilities but felt any such request should be reviewed on an individual basis.

Bailey Butters commented that it is difficult for him to understand why a commercial school would be objectionable. Mike Tingey clarified that the Planning Commission doesn't necessarily object to extended hours for a commercial school but feel this type of use should be considered on an individual basis to determine if it would be a compatible use. Carole Stokes felt there is a need to stay within the CN zone as much as possible. She did not feel comfortable in making a blanket approval for extended hours in a zone that required 10:00 p.m. closing time.

Exhibit "D"



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Picklr Sandy
8645 S. Highland Dr.



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