

Planning & Zoning Minutes

January 4, 2007

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CITY OF
REXBURG
America's Family Community

Commissioners Attending:

Rex Erickson – Council Member
Winston Dyer – Chairman
Randall Porter Thaine Robinson
Dan Hanna Charles Andersen
Ted Hill Mike Ricks
Mary Haley

City Staff and Others:

Gary Leikness – P&Z Administrator
Stephen Zollinger – City Attorney
Emily Abe – Secretary

Chairman Dyer opened the meeting at 7:05 pm.

Roll Call of Planning and Zoning Commissioners

Randall Porter, Winston Dyer, Mike Ricks, Charles Andersen, Thaine Robinson, Ted Hill

Mary Ann Mounts and **David Stein** were excused.

Minutes:

A. Planning and Zoning meeting – December 7, 2006

Charles Andersen motioned to approve the minutes for December 7, 2006. **Thaine Robinson** seconded the motion.

Mike Ricks and **Ted Hill** abstained for having not been present.
None opposed. **Motion carried.**

Dan Hanna arrived at 7:08 pm.

Public Hearings:

7:05 pm – Conditional Use Permits – Powell Subdivision

Gary Leikness presented the Conditional Use Permits for the Powell Subdivision. He said a group of citizens in the Powell Subdivision have gathered together and paid the city to review applications for 14 Conditional Use Permits for two(2)-family dwellings in the subdivision. The Powell Subdivision is zoned Low Density Residential 2. The City initiated Ordinance 851 for life safety to get anyone in the City that owns and operates multi-family dwellings to go through a process to make sure those structures are habitable and safe. 12 of the 14 properties here tonight went through that process. The request is to take all these and grandfather them in with legitimate Conditional Use Permits. City Council has recommended that, at least in the case of the Powell Subdivision, the apartments that went through the process to conform to Ordinance 851 be “grandfathered in” as legitimate duplexes. For whatever

reason, two (2) of the applications here tonight did not complete the life safety process. Staff recommends a condition of approval that these two (2) properties get a building permit. Other recommended conditions of approval are delineated in the staff report.

Chairman Dyer asked if the two exceptions are 475 Linden and 75 Oak, noted as parcels #10 and #11 in the packet. This is correct. He asked if they didn't pass the inspection or if they were not inspected. Gary Leikness said the inspection list is unclear.

Chairman Dyer asked about the site plans and zoning requirements. Gary Leikness said there are a several that are considered "grandfathered in" due to the life safety inspection that fail to meet the minimum standards for land use requirements. Some fall short of the minimum lot size and some fall short in parking.

Thaine Robinson asked if any of these homes are approved housing with BYU-Idaho. **Chairman Dyer** said to get University approval you usually have to show that you have City approval.

Chairman Dyer invited the public to ask questions of clarification of staff.

A citizen asked what would constitute a single family. Stephen Zollinger explained the definition of a family as written in the City of Rexburg Development Code.

A citizen asked if the "grandfathered" status would be void if the use of the properties as duplexes were abandoned for one (1) year. Stephen Zollinger explained the difference between "grandfathering" and granting a Conditional Use Permit. These properties have applied for Conditional Use Permits, which become property rights. Conditional Use Permits do not expire if the use of the property as a duplex is abandoned for 12 months.

Gary Leikness said the two (2) properties that do not have life safety approval have enough lot size, they have ample parking, and they have been existing.

Chairman Dyer opened the public input portion.

Opposed: None

In favor: None

Neutral: None

Written Input:

-2 letters from Edward Malstrom confirming existence of a duplex at 525 Maple Drive.

-Letters from Beverly Rietz, L. Kay Wilding, Robert Schwartz, and Roger & Joanne McPheeters confirming existence of a duplex at 75 Oak Avenue.

-Letter from Don Hammar confirming existence of a duplex at 475 Linden Avenue.

Chairman Dyer pointed out some letters received in favor of the proposal.

Chairman Dyer closed the public input portion.

Thaine Robinson said he does not have a problem approving these, as long as the two (2) have to conform to the Life Safety requirements.

Charles Andersen asked if the recommended condition of approval of installing sidewalks would be a surprise to the applicants. He asked how many of the properties do not already have sidewalks. Gary Leikness estimated

about four (4) need sidewalks installed. Stephen Zollinger said the City always requires sidewalks, and they will be required to put in sidewalks in the next few years anyway, regardless of whether they are single-family residences or duplexes.

The Commissioners discussed the recommended conditions of approval.

Charles Andersen motioned to approve the Conditional Use Permits for the Powell Subdivision as shown in Exhibit A of the staff report, with the following conditions:

1. Both units shall have their own waste receptacles for trash service.
2. Trash receptacles shall not be visible from the public right-of-way or adjacent property.
3. Sidewalks shall be installed and maintained to City standards along all portions of the property abutting public right-of-way. Sidewalks must pass inspections performed by the City. Sidewalks shall incorporate ADA access standards where applicable, e.g. corner lot ramp access, slope, etc.
4. Parking areas of four or more spaces outside of a garage shall have landscaping adequate to screen all but two of the spaces from the right-of-way and adjacent properties.
5. Existing lots less than 10,000 square feet shall not through any lot line adjustment or other land transfer or dedication decrease their current lot size. Those that are over 10,000 square feet shall not decrease their lot sizes below 10,000 square feet through any lot line adjustment, land transfer, or dedication. Should the City standards regarding minimum lot sizes for duplexes be modified in the future to allow for less than 10,000 square feet, then this condition shall follow that standard.
6. Because Life Safety Inspections were not obtained per Ordinance 851, the properties located at 475 Linden Avenue and 75 Oak, shall fulfill and comply with all Life Safety requirements as determined by the Building Official for the City of Rexburg for the structural use as a two-unit dwelling or duplex.

Dan Hanna seconded the motion.

Charles Andersen amended his motion to include that the properties shall comply with Article 6.13B of Ordinance 926 regarding Conditional Use Permits. **Dan Hanna** seconded.

None opposed. **Motion carried.**

7:15 pm – Comprehensive Plan Map Amendments

Area #1

Gary Leikness pointed out Area #1 on the Comprehensive Plan Map.

Brad Archibald; 843 North 5th West. They want to keep their entire farm designated Agriculture. As of right now, there is nothing that can be built there. They wanted to protect their farm and cattle operation. He said down the road, they don't want it to be sold for less because it is designated as "Open Space."

Chairman Dyer pointed out the difference between the Comprehensive Plan Map and the Zoning Map. The Zoning Map is the only map that restricts what you do with the property.

Gary Leikness said the Comprehensive Plan Map restricts what property can be zoned.

Area #2

Gary Leikness pointed out area #2, and the Preferred Land Use designations surrounding it. He highlighted some issues for the Commission to consider.

Greg Stoddard; 1991 East 183 North. He is an owner of the property. They came before them a few months ago and talked about the future use of the area. They want to do some more industrial uses. They would intend to go for a Light Industrial zone. He represents 3 land owners.

Area #3

Gary Leikness pointed out area #3 on the map. He said it is approximately 29 acres. It is currently designated Low-Moderate Residential, and the applicant would like to change it to Commercial. Areas to the North are also here for consideration for Commercial tonight. The property is approximately ¼ mile from the intersection of University Boulevard and 12th West. There are also existing commercial uses in proximity to this property.

Brett Patterson; 104 Star View Drive, representing Kerry Schneider. It is reasonable that if one side of the road is designated Commercial, the other side of the road be designated Commercial as well. They would like an 800 foot wide Commercial corridor.

Area #4

Gary Leikness pointed out this area on the map. This is a City-initiated application to go from Moderate-High Residential to Commercial. He pointed out the land use designations surrounding the properties. The Southwest corner of the proposed area is located in the 100 year flood plain, and should maybe be designated as Open Space. He said the Commission makes a recommendation to City Council, and can modify the request if they chose.

Thaine Robinson asked if there is a difference in buffering requirements between Moderate-High Residential and Commercial. Gary Leikness said there is no buffering requirement when Commercial property abuts residential property, but the City will make sure they are at least landscaping in a compatible manner with the adjoining neighborhood during the site plan review. The Commercial designation will go literally to the back yards of these properties.

Dan Hanna said the Commission has heard in the past that we have more control over the quality of the buffer in a commercial situation than a medium residential situation. He said he and Mr. Leikness met with five (5) of the seven (7) property owners in the Stonebridge subdivision that are affected by that property on the West side. They explained the situation to them. The property owners were not aware that the subject property was designated as Moderate-High Residential. The consensus he got from the property owners was that they were more in favor of the quality of the buffer, and willing to accept our commitment to ensure a proper buffer on the Commercial property.

Mary Haley arrived at 8:30 pm.

The Commissioners discussed buffering the property.

Area #5

Gary Leikness pointed out area #5 on the map. This area is a City-initiated change. The land is 43 acres.

Don Heinz; 3849 Lakeside Lodge Lane, Island Park, ID. He read in the paper that a City Council member does not like islands in the City. As property owners, they have no objections to this proposal to change the property to a Commercial designation.

Chairman Dyer said the proposal is for the whole piece of property to be changed to Commercial. He asked how the owners would feel if the north end were to be changed to something else. Don Heinz said there are two (2) homes on the north end. He said a 208 feet buffer along the north to match those two homes would be fine.

Gary Leikness recommended that the buffer be sized appropriately to accommodate interior streets, etc. We would not want a bunch of lots with street access to 7th South.

Area #6

Gary Leikness pointed out area #6 on the map. It has been divided into two (2) tracts. The tract along the river to the north is owned by the City. The rest of the area to the south is privately owned. The application is to change the northern tract (Tract 1) to Open Space, and the southern tract (Tract 2) to Commercial. Tract 1 is located in the flood plain. Tract 2 is also in the 100 year flood plain. It is in a business park that is currently in development. It will have to be developed under FEMA flood plain standards.

Chairman Dyer reminded the Commission that this area was supposed to have reverted back to Commercial when earlier plans for development didn't go through. The change was made conditional that if the project didn't proceed, it was to automatically revert. It never got changed, so we are doing it now to make it an official matter of record.

Area #7

Gary Leikness pointed out area #7 on the map. This piece of property was annexed, but was not given a designation on the Comprehensive Plan Map. This is a clean up item. As Low-Moderate Residential, the property could potentially yield 550 to 825 homes.

Area #8

Gary Leikness pointed out area #8 on the map. This is an area that was previously recommended to change from Low-Moderate Residential to Commercial by the Planning & Zoning Commission, but the City Council tabled the item.

Chairman Dyer opened the public input portion.

In favor: None

Neutral: None

Opposed:

Kay Baker; 6509 East 2000 North; Owner of the mobile home court next to Area #2. They are concerned about the area being changed to Industrial with the trailer court being there.

Jay Warnick; 637 West Stonebridge. He liked the comment comparing Area #4's situation to North and South Korea. Their neighborhood has felt a little like South Korea with nuclear missiles perched and waiting to rain down upon it in the form of going with a large commercial structure. He was not able to attend the neighborhood meeting. His concern is that they are being asked to pick the lesser of the two evils. As it is explained to him, choosing commercial gives the opportunity to provide a buffer. What he does not understand is that not choosing commercial seems to leave them outside the protection of the buffer. Maybe we should look at the buffer ordinances that would apply to this situation. For them to have to pick between a very potentially large structure and apartments might indicate that the system is broken. A better buffer should be provided, no matter what abuts our neighborhoods.

Written Input:

Letter from Archibald in favor of the proposal for area #1.

Letter from JRW & Associates in favor of the proposal for area #6.

Chairman Dyer closed the public input portion.

The Commissioners decided to deliberate each area separately.

Area #1

Mike Ricks said he does not have any problem with this proposal. Because of the restrictions on the flood plain area, this would not make that much of a difference.

Chairman Dyer said when the Comprehensive Plan Map was created, we noted that there were areas of ground that could not be developed because of topography or whatever. The idea at the time was to designate those as Open Space so potential developers would know that the preferred use was to leave those areas as they were, since they are not developable.

Dan Hanna motioned to recommend to City Council to approve the Comprehensive Plan Map Amendment application to change Area #1 from Open Space to Transitional Agriculture. **Mike Ricks** seconded the motion.

None opposed. **Motion carried.**

Area #2

Chairman Dyer declared a perceived conflict of interest in that he has in the past been employed by the owner of the property. The Commissioners did not have an issue with this.

The Commissioners discussed buffering between Industrial and Residential.

Chairman Dyer said this area is developing as industrial already. This is the first step towards getting a zone that would allow the continuation of development of the subdivision along these lines.

Thaine Robinson motioned to recommend to City Council to approve the Comprehensive Plan Map Amendment application to change Area #2 from Commercial to Industrial. **Dan Hanna** seconded the motion.

Chairman Dyer abstained.

None opposed. **Motion carried.**

Area #3

Chairman Dyer declared a perceived conflict of interest in that he is employed by the applicant on another piece of property in Rexburg. The Commissioners did not have an issue with this.

Dan Hanna said the request seems to be consistent with the surrounding properties.

Mike Ricks said he would like to see Commercial only on the East side of 12th West. The Commercial we already have has not filled in yet, so we don't need more now.

Thaine Robinson said since it is by the highway interchange, commercial would be the highest and best use for the property.

Randall Porter said we have not been as concerned with infill as we have been in the past. The law of supply and demand would suggest that the more commercial property we have, the less valuable it will become. He thinks we are getting ahead of ourselves, and he would like to see these properties remain agriculture until there is a need for more commercial. We should let the existing commercial ground fill up first.

Thaine Robinson said we haven't had the businesses coming to town yet. The Comprehensive Plan is supposed to be a plan for 5 to 10 years in the future.

Chairman Dyer said we could have this property fill up with residential and no longer be available for commercial.

Mike Ricks said since there will be a school in this area, we should have residential around the schools. It would be safer for the children to be located next to residential.

Mary Haley said there are schools that have been located far out of town. The students race into town for lunch, and then race back. There have been some very deadly accidents because of this.

Ted Hill said there is already a lot of commercial property in that area.

Dan Hanna motioned to recommend to City Council to approve the Comprehensive Plan Map Amendment application to change Area #3 from Low-Moderate Residential to Commercial. **Charles Andersen** seconded the motion.

Those in favor:

Mary Haley
Thaine Robinson
Charles Andersen
Dan Hanna

Those opposed:

Mike Ricks
Randall Porter
Ted Hill

Chairman Dyer abstained.

Motion carried.

Area #4

Chairman Dyer said this has a lot to do with the ultimate destiny of the North 2nd East corridor. It is well taken from what we've heard from the members of the neighborhood that we need to provide protection and proactive measures there to make sure they are protected no matter what may eventually come of this. We need to make sure they will receive maximum protection in return for their willingness to help the greater good of the community.

Thaine Robinson said we should protect the little section at the Southwest corner as open space.

The Commissioners discussed the need to protect the neighbors and to include them in what they consider to be an affective buffer with future development.

Thaine Robinson motioned to recommend to City Council to change Area #4 on the Comprehensive Plan Map from Moderate-High Residential to Commercial, and that any piece of property with a significant change in elevation in the Southwest corner be designated Open Space. **Mike Ricks** seconded the motion.

Thaine Robinson modified his motion to say the non-farmland area in the Southwest corner be designated Open Space. **Mike Ricks** seconded.

Dan Hanna abstained.
None opposed. **Motion carried.**

Area #5

The Commissioners discussed what the best planning for this property should be. They were not sure if this parcel would be best used as Residential or Commercial.

Mike Ricks motioned to recommend to City Council to change Area #5 to Mixed Use on the Comprehensive Plan Map. **Charles Andersen** seconded the motion.

None opposed. **Motion carried.**

Area #6

Mike Ricks motioned to recommend to City Council to change Area #6, Tract 1 to Open Space, and Area #6, Tract 2 to Commercial on the Comprehensive Plan Map. **Charles Andersen** seconded the motion.

None opposed. **Motion carried.**

Area #7

Dan Hanna motioned to recommend to City Council to designate Area #7 as Low-Moderate Residential on the Comprehensive Plan Map. **Thaine Robinson** seconded the motion.

None opposed. **Motion carried.**

Area #8

Thaine Robinson said this area has the future expansion of University Boulevard going through the center, and is close to the interchange.

Mary Haley said she thinks this property should be commercial.

Thaine Robinson motioned to recommend to City Council to change Area #8 to Commercial on the Comprehensive Plan Map. **Dan Hanna** seconded the motion.

Randall Porter said there is a lot of commercial in the area that might not infill.

Those in favor:

Chairman Dyer
Thaine Robinson
Charles Andersen
Mary Haley
Ted Hill
Dan Hanna

Those opposed:

Mike Ricks

Randall Porter abstained.

Motion carried.

Unfinished/Old Business:

New Business:

A. Suggested Development Code Amendments – First 1/3 of Ordinance 926

Gary Leikness said he has had a chance to go through the first 1/3 of the Ordinance and scrutinize it. The Commissioners received his comments in their packets. He asked the Commissioners to read them and become familiar with them. They will be discussed at a later meeting.

Compliance:

Non controversial Items Added to the Agenda:

Chairman Dyer said Madison County has a proposed ordinance that they are going to hear on January 11, 2007, in the County Planning & Zoning Meeting in the Commissioner's Room. The proposal is to adopt an AG2 zone, which will require a 160 acre minimum lot size. This is proposed to come right up to the impact area limits on the South and Southeast sides of Rexburg. He said he has a spot on the agenda immediately before the hearing to talk to them about the issues we have of them adopting our design standards, etc. in the impact area.

Gary Leikness said many cities have done this; it's called an "Urban Growth Boundary." It is to limit development directly outside the City limits. This encourages a person to want to be annexed, which gives the City leverage to ask for things. This looks like an effort to help the City infill.

Stephen Zollinger explained why creating 160 acre lots will not help the City at all.

The Commissioners discussed this issue.

Chairman Dyer said it is incumbent on the Commissioners to get informed on this issue and to give input to the County.

Report on Projects:

Tabled requests:

Building Permit Application Report:

Heads Up:

- A. Rezone – Approx. 261 N. 3rd E. – MDR2 to CBC (Dr. Hopkin)
- B. Conditional Use Permit – Harvest Heights Church
- C. Conditional Use Permit – 539 Maple Drive (Dennis Warr)
- D. Conditional Use Permit – 210 W. 2nd N. (Brodie Hanni)
- E. Final Plat – The Meadows, Phase 2

Chairman Dyer adjourned the meeting at 11:10 pm.