

# Planning & Zoning Minutes

October 18, 2007



CITY OF  
**REXBURG**  
America's Family Community

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## Commissioners Attending:

Winston Dyer – Chairman  
Mary Haley      Thaine Robinson  
Dan Hanna      Charles Andersen  
Josh Garner      Mary Ann Mounts

## City Staff and Others:

Rex Erickson – City Council Liaison  
Gary Leikness – Planning Administrator  
Stephen Zollinger – City Attorney  
Emily Abe – Secretary

**Chairman Dyer** opened the meeting at 7:04 pm.

## **Roll Call of Planning and Zoning Commissioners**

Charles Andersen, Mary Haley, Thaine Robinson, Winston Dyer, Mary Ann Mounts, Josh Garner, Dan Hanna

**Randall Porter, Mike Ricks, Ted Hill and David Stein** were excused.

## Minutes:

A. Planning and Zoning meeting – September 20, 2007

### ***Corrections:***

P.4 – Under Chairman Dyer's comments: change neighborhood to neighbors, then neighborhoods to neighborhood.

P.4 – Under the vote on the motion, one was opposed.

**Dan Hanna** motioned to approve the Planning & Zoning minutes for September 20, 2007, as amended. **Thaine Robinson** seconded the motion.

**Charles Anderson, Mary Ann Mounts and Josh Garner** abstained for having not been present. None opposed. **Motion carried.**

## Public Hearings:

7:05 pm – Variance – 290 N 1<sup>st</sup> E (Madison School District)

Nicholas Holmes, representing the School District, 290 N 1<sup>st</sup> E. We are expanding our parking lot. We have actually built the parking lot already. We are here to ask you to allow us to not use the 40 foot landscape setback. We purchased 5 new busses this summer, and we have 3 new busses coming next spring. We are out of space. We built a sidewalk along the property and left a green strip. I had no clue that we had to have a 40 foot landscaped setback. We are putting 8 spots in there for 8 busses to be plugged in during the winter. It could be expanded for 10 busses, but we have to have this maneuvering room. If we put the 40 foot landscaped setback in, there would be no room to pull the busses in there. Some surrounding properties do not meet the setback requirements. We are

asking for an additional 12 feet to allow for maneuvering room. We are planning to provide landscaping for that area, and a decorative fence, as opposed to the chain link fence that was up there previously. This will make it attractive. We are willing to make some concessions to enable us to have that maneuvering room for the busses. There will be nothing parked anywhere near the 40 foot setback. All of the parking will be in the interior. We had a meeting with the Mayor, John Millar, and Gary Leikness. We discussed drainage. The space between the parking lot and the sidewalk will be a catch basin.

**Chairman Dyer** asked what the zoning is on the property. Gary Leikness said it is zoned Community Business Center (CBC).

**Thaine Robinson** asked Nick how he had no idea about the setback requirement. Someone from the school district should be familiar with our code and know what the city's requirements are.

**Chairman Dyer** asked why the school district builds things without getting a permit first. Nick Holmes said they have had this happen, but it will not happen any more.

**Mary Haley** asked why Nick has not known in the past to look at the code. She has a concern that they don't finish what they start. She pointed out several projects that have not been completed correctly. The idea that the school board should be the ones establishing the relationship is incorrect. You are working with us, not the school board.

Gary Leikness pointed out the zoning on the surrounding properties. He said the city requires a 20 foot landscaped setback from the property line. In this case, the property line is about 20 feet back from the existing curb on 1<sup>st</sup> East. This means the setback line is about 40 feet from the existing curb. The applicant is asking for a 12 foot encroachment into the setback.

**Chairman Dyer** asked what staff's opinion is about this application having standing as a variance request. Gary Leikness said the 4 criteria for a variance have to be met. There are no physical limitations on the lot, but the Commission may consider a hardship being that the community has experienced a lot of growth. This is an imposed hardship on the School District, and they are trying to supply their school busses on this location. They are planning on further bus services out at the new school areas, which will help alleviate this problem. Staff recommends that if you do see this as a significant enough hardship to grant a variance, that you condition this that when the busses go away, this area be restored to landscaping. All future uses should comply with the 20 foot setback.

**Chairman Dyer** opened the public input portion.

**In favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:**

Letter from Dean and Diane Sharp, employees of the school district, in favor of the proposal.

**Chairman Dyer** closed the public input portion.

**Mary Ann Mounts** declared a conflict of interest and excused herself from the table.

Gary Leikness presented his proposed conditions of approval.

**Mary Haley** said the home to the south of this property has become an eyesore to the neighborhood. Their commitment to the city was that this house would remain looking like a residence. It is in very poor condition. She wonders if there is room for a couple busses on the north end of the property.

**Charles Andersen** said he supports the proposed variance.

**Josh Garner** said he supports what the school district is trying to do. They have met the requirements. I don't know where else they can put more busses. If they agree to follow through with what they have promised here as far as building an attractive fence and landscaping the area, and if we condition the variance that if the use changes they have to go back to the original setback, I have no problem with this. I do think we are seeing a bad trend here, though. In the time I have been on this commission, I have seen this happen several times. I think the applicant realizes our concern and hopefully voices that to the school district.

**Mary Haley** said she does not have a problem with the variance here if the school district agrees to clean up their other issues. The Lincoln school has a major drainage problem onto the neighboring properties, and has not finished the landscaping along the street. The house to the south of the proposed property needs to be taken care of. The accountability on their part has not been there. In order to have this, they need to finish the other issues first.

Gary Leikness said this is not legally defensible to hold them up for issues on other properties.

**Thaine Robinson** said he understands the need for a variance, and has empathy for the variance. I am not in favor of giving variances. I would be in favor of this variance if the school district puts in a good faith effort of making that look better than it does now. This should revert back to the ordinance requirements when those busses are no longer there.

**Dan Hanna** said it is very likely that this entire area could be re-developed to a much higher use, which would make this all go away at some point in the future.

**Charles Andersen** motioned to approve the variance for the setback requirements for the parking lot of Madison School District administrative office at 290 North 1<sup>st</sup> East of a 12 foot reduction of setback, with the condition that the landscaping be approved by the city, along with the irrigation system, and that the variance be only for the use bus maneuvering area and not for buildings or any other use. Should the area involved be changed in the future, the current setback requirements at that time shall be adhered to and landscaping restored. **Josh Garner** seconded the motion.

**Mary Haley** said she could go along with this if the house to the south was improved as part of the condition of the variance. I cannot vote for this as it stands.

**Chairman Dyer** asked if this property is held in common with the others, or if it is a separate parcel. Gary Leikness said it is a separate parcel.

Gary Leikness said our landscape ordinance is very unclear on the number and size of trees and shrubs required. This may be an appropriate condition of approval.

**Charles Andersen** amended his motion to include that the landscaping shall include six trees, preferably evergreen, at least 7 feet tall at planting. **Josh Garner** seconded.

**Charles Andersen** amended his motion to include that the fence should be along the North and South to the house, as well as the West side of the property. **Josh Garner** seconded.

**Chairman Dyer** said he is not inclined to vote for the motion because this is not the way we should be doing business in Rexburg. We do not go out and build without permits, without planning, and then come in and force the City into corners. This does not qualify for a variance, in my opinion. There are no unusual physical limitations of the lot, like rock outcroppings, unusual grade, etc. Failure to approve the variance will not result in an undue hardship. They have been running the busses that they have out of there. I cannot see that it will create a hardship. The hardship has actually been caused by the applicant. Approval of the variance is certainly in the public's interest, and I support the school, but we don't do business this way. I cannot vote for this on a matter of principle and of law.

**Those in favor:**

Dan Hanna  
Josh Garner  
Charles Andersen

**Those opposed:**

Thaine Robinson  
Winston Dyer  
Mary Haley

**Motion failed.**

**Mary Haley** motioned to deny the variance because it does not meet the requirements of a variance. The limits of the lot were known before the lot was purchased. Failure to approve the variance does not create a hardship, because they have busses parked everywhere. The applicant was involved in the hardship that they created themselves when they chose to put more busses on the lot without looking at the ordinance. The variance is in conflict with the public interest.

**Motion died** for lack of a second.

**Josh Garner** asked what Thaine Robinson's concerns were against the first motion. **Thaine Robinson** said he agreed with the Chair on his previously stated concerns.

**Josh Garner** asked where the busses are going to be parked if they are not parked here. The Commissioners discussed the issue.

**Chairman Dyer** invited Nick Holmes to take this issue to City Council for their deliberation and decision.

**Unfinished/Old Business:** None

**New Business:**

1. Preliminary Plat – Bronze Business Park

Chris Park; Schiess & Associates, presented the plat. He pointed the property out on the map. He addressed the staff review comments. The preliminary plat has a street down the middle, with a lot on the North and the South. There was concern about emergency access turn around. Each one of the lots will have accesses onto the streets running east and west, which will provide the emergency vehicle turn around and access. If the city prefers, we could put a temporary turn around down at the end. A portion of the property is zoned residential. We will have to have it rezoned to commercial. The whole area is commercial on the preferred land use map. We are currently trying to work things out with the Idaho Transportation Department for an access onto Yellowstone Highway.

**Chairman Dyer** asked if there is any master plan with the development to the east for coordination of street locations, etc. Chris Park said the plan is for the streets to meet up between the two subdivisions.

Gary Leikness said there is a pending application to the east of this proposal, for Silver Estates. This commission directed them to re-align their roads to more closely meet the grid system. He recommended that the road on the Bronze Business Park plat would have to align with the road in the Silver Estates plat. He reviewed the staff review comments.

**Thaine Robinson** said this developer needs to make sure they are in agreement with the developers of Silver Estates of where the road is going to be.

**Mary Haley** asked if the proposed road follows the grid. Gary Leikness said it is off the grid. City Council has directed that we need to look at where the grid can be adhered to, but to focus more on the mile grid.

**Chairman Dyer** suggested a temporary turn around on the east end of the road until further accesses are developed.

**Mary Ann Mounts** motioned to recommend to City Council to approve the preliminary plat for Bronze Business Park with the conditions that a temporary turn around be put on the east end of the road, and that they line the street up with the Silver Estates development to the east. **Thaine Robinson** seconded the motion.

None opposed. **Motion carried.**

## 2. Final Plat – Henry’s Fork Plaza Amendment

Chris Park, Schiess & Associates, presented the plat. He reviewed the staff review comments.

**Chairman Dyer** asked if there were changes from the preliminary plat. Chris Park said there have not been changes from the preliminary plat.

The Commissioners discussed the plat. The developers would be required to stagger the buildings, following the intent of what was shown on the site plan/preliminary plat.

**Mary Ann Mounts** motioned to recommend to City Council to approve the final plat for the Henry’s Fork Plaza Amendment with the conditions that every owner sign the plat, that the accesses easements be clear that they are public access easements allowing access from Yellowstone Highway to the eastern side of the property, and that a master site plan be submitted and approved by staff prior to additional building permits being issued. **Dan Hanna** seconded the motion.

None opposed. **Motion carried.**

## Compliance:

### Non controversial Items Added to the Agenda:

1. Highway 20 Landscape Corridor - Discussion

**Chairman Dyer** said quite a few developments are going in next to the Highway, now that the zoning has been changed to Light Industrial. We had put together a corridor standard some time ago, that would allow for landscaping and buffering of buildings from the freeway to preserve the vision and the aesthetics of the view from the freeway. This was for anywhere along Highway 20. Now that we are getting specific requests, we are finally getting down to the fine details of the corridor. We have had some discussions, and we would like to clarify the intent with the commission.

The Commissioners discussed the issue.

The Commissioners asked Gary Leikness to come up with some recommendations for the corridor for the Commissioners to consider.

**Tabled requests:**

1. Preliminary Plat – Silver Estates

Issue remained tabled.

2. Sign Ordinance – Statement of Intent

Issue remained tabled.

**Report on Projects:** None

**Building Permit Application Report:** None

**Heads Up:**

1. Conditional Use Permit – Preschool – 374 Oaktrail

**Chairman Dyer** adjourned the meeting at 9:40 pm.