

# Planning & Zoning Minutes

October 2, 2008



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

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## Commissioners Attending:

Winston Dyer – Chairman  
Thaine Robinson            David Stein  
Randall Porter             Dan Hanna  
Josh Garner

## City Staff and Others:

Rex Erickson – City Council Liaison  
Gary Leikness – P&Z Administrator  
Stephen Zollinger – City Attorney  
Christopher Mann – City Council President  
Elaine McFerrin - Secretary

**Chairman Dyer** opened the meeting at 7:10 pm.

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

Josh Garner, Randall Porter, David Stein, Winston Dyer, Thaine Robinson, Dan Hanna

**Ted Hill, Charles Andersen, Mary Ann Mounts, Richie Webb, and Mike Ricks** were excused.

## Presentation:

David Stein, Planning & Zoning Commissioner - Recognition of Service

Christopher Mann, Rexburg City Council President, stated he was happy to be here tonight to make a special presentation, as the Mayor was unable to attend tonight's meeting. He presented **David Stein** with a plaque on behalf of the City of Rexburg, in recognition for his years of service as a Rexburg Planning and Zoning Commissioner, from October 2, 2002 through October 2, 2008. He has dedicatedly served for the betterment of the City of Rexburg. Councilman Mann stated his appreciation to **Mr. Stein** for the great insight and expertise he has brought to the Planning and Zoning Commission. It is often a thankless job that involves a lot of hard work, but it is very much appreciated.

**Chairman Dyer** stated there are few that have understood City code as thoroughly and deeply as **David Stein**. His consistent wisdom and good judgement in helping the Commission deliberate planning matters will be greatly missed. **Chairman Dyer** thanked him for all his great work. He extended personal thanks to **Mr. Stein** for being there to take over in his stead to lead the Commission. Rexburg is a better place for his valued involvement. He will be sorely missed.

## Minutes:

1. Planning and Zoning meeting – September 18, 2008

**Thaine Robinson** motioned to approve the Planning & Zoning minutes for September 18, 2008. **Randall Porter** seconded the motion.

**Josh Garner** abstained for having not been present.  
None opposed. **Motion carried.**

**Public Hearings:**

7:05 pm – Conditional Use Permit – Family Fun Center – College Ave.

**Chairman Dyer** briefly explained the public hearing procedure to those in attendance.

Julie Ferrin, 500 Edith Circle, presented the proposal. She and her husband are owners of the property. They have in the past bought old homes, fixed them up, and made them better. The location of this proposal is the old Idamont Hotel. It is the ultimate old home to buy and fix up and make better – and it is located in downtown Rexburg. They moved here from Nampa. They saw great potential in this building-they found “the worst home in the best neighborhood”. The Ferrins want to make a gathering place for families. The location is close to BYU-Idaho as well as other schools and the business district. They want to make available to the community physical entertainment and activity different than other venues in town. These activities include laser tag and miniature golf. With the profits they make they hope to fix up the outside of the building. They bought the building 3 years ago and have been doing their homework – they have looked at the City plan, have talked to City officials and BYU-I students, to community members, and to small business development. They want to make something on College Ave. that would not only be viable but would bring walking people downtown. They have taken a lot of community input. The proposed Family Fun Center will generate jobs. Mrs. Ferrin stated they consulted Cooper Roberts Simonsen and Associates, architects who have experience with old historic buildings. The applicants are very excited about their proposed project.

The Commissioners asked clarifying questions of the applicant about the proposal.

In answer to **David Stein’s** question, Julie Ferrin explained that the proposal involves about 14,000 square feet. The whole main floor and parts of the basement are the areas the Family Fun Center will be located.

The issue of parking was addressed. Mrs. Ferrin said there is more than ample parking (City) behind the property. The Fun Center’s hours would be from 5:00 pm to 10:00 pm and from 5:00 pm to midnight on the weekend, which is after usual business hours.

Stephen Zollinger pointed out the permitted parking areas on the photo projected on the overhead screen.

In answer to **Chairman Dyer’s** request for clarification regarding this proposal being in the downtown district, Gary Leikness stated that a change of use does not trigger a parking demand.

**Thaine Robinson** asked if there are residential units on the upper floors of the building and in adjoining buildings. Mrs. Ferrin said there were and that they were the owners of these apartments.

**Mr. Robinson** asked if there might be a conflict between the residents and the Family Fun Center if the center is noisy.

Steven Zollinger said during the years the location was a dance club, the City never received complaints from residents outside of the structure. He anticipated that the noise level of the Family Fun Center would be considerably less in volume than the noise generated from the dance club.

**Chairman Dyer** asked for clarification on the building having 4 levels – the basement and the main level would be the location of this proposal and the upper two levels are both residential and would remain so.

Julie Ferrin said that was correct.

**Randall Porter** asked what is planned for redoing the outside and restoring it.

Mrs. Ferrin said they have talked with the National Historic Society and are planning for the location to be on the National Historic Registry. They would like it to look as it originally did.

**Chairman Dyer** said that if they do get on the national register, it could substantially affect what can be done to the interior of the building.

Julie Ferrin said their first concern is that the Family Fun Center will be a viable downtown business.

**Chairman Dyer** asked for Gary Leikness' input to help the Commissioners understand the proposal.

Gary Leikness clarified that this conditional use permit is for the activities of the business being allowed in this Central Business District zone. He pointed out the parking again on the overhead screen. He does not see a huge parking impact due to the business hours. For the record, this conditional use permit would be just for the main floor and the lower floor. Any expansion would require an amendment to this conditional use permit. The proposed project is all interior. No negative impacts are foreseen to the adjacent properties.

**Thaine Robinson** asked where the trash receptacles are located. They were pointed out on the overhead screen.

Gary Leikness suggested that the applicants maintain the transparency of the front street side windows – it may be good for the record for this concern to be stated.

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

**In Favor:**

Trevor Einerson, 1105 Coyote Willow Way. He feels the building in the proposal has incredible architecture. He stated the community would benefit from this proposed development, as a safe haven for larger groups of students and for families. He is in favor of preserving historical buildings and having them be an active part of the City.

Chris West, 330 East 1<sup>st</sup> South, is in favor of this proposal. He feels the proposed development is well thought out and very well put together. He has observed the work the Ferrins have done with the property. They have put a lot into this building and made their tenants happier. They have put research and time into their proposed project. He feels the business will be a success. Mr. West stated he comes from a city where there are all sorts of attractions such as this one. There are very few things like this proposal that are offered to do here in Rexburg. It will enhance the image of Rexburg. It will be fun, clean, good entertainment for families as well as university students. It will be great for College Ave. to be revamped with some new businesses.

Latrisha Mars, 30 College Ave, Apt. 210. She is the apartment manager at the location of this proposal and has been able to observe how the owners have grown to love the building and want to enhance the property. She has had tenants ask about the planned project. They get excited about the ideas of what will be there, and that the business will bring jobs and fun to College Ave. There has been no mention of concern for the noise the center might generate.

**Neutral:** None

**Opposed:** None

**Written Input:** None

**Chairman Dyer** closed the public input portion of the hearing. He asked Gary Leikness if there was any other clarifying information in regard to staff evaluation of the project. There was not.

The Commissioners discussed the proposal.

**David Stein** thought the proposal was a great idea. He felt the proposal should be approved for a conditional use permit that should have conditions which would address Gary Leikness' concern regarding leaving the street front windows transparent; also, possible noise nuisance concerns outside of the building should be addressed.

**Thaine Robinson** stated he was in agreement with **Mr. Stein** for recommendation of approval of the proposal and for the conditions as well.

The presentation of the front windows to the street was discussed.

**Thaine Robinson** wondered if the historical aspect of the exterior of the building should be addressed in the conditions.

Stephen Zollinger stated the former building tenant had painted the windows black because of the former use as a dance club, which presented a very uncomfortable exterior presentation to the street. The Commission can direct people on how to present their windows to the street rather than telling them how to treat their windows.

Gary Leikness stated that the last criterion listed in the Conditional Use Permit Standards (Section 6.13 in Development Code 926) addresses the preservation of historic features of significance to the community of Rexburg.

**David Stein** motioned to recommend approval to City Council of a Conditional Use Permit for the properties as proposed - 22, 24, 28,30,32,40, and 42 College Avenue - for the Family Fun Center, with the conditions to include the standards for a conditional use permit as stated in Section 6.13 of the Development Code 926, and with special mention that exterior noise be kept within City nuisance laws, and that the exterior presentation of the building remain consistent with its historic nature. **Dan Hanna** seconded the motion. None opposed. **Motion carried.**

**New Business:**

1. Preliminary Plat - Trehusen Subdivision – 4<sup>th</sup> West and 2<sup>nd</sup> South

Neal Smith, 111 Douglas Drive, developer for the project. He presented the proposal to the Commission. They are proposing 3 newly constructed town homes at 4<sup>th</sup> West and 2<sup>nd</sup> South. It is an infill project in part of the Rexburg town site. The property was projected on the overhead screen. The location is on the northeast corner near (1 property away from) the railroad tracks, west of Porter Park. They will demolish the existing shed and greenhouse. Trees on the south side of the property will stay as well as the front tree. One tree needs to be removed to build the townhomes. The town homes will be single story residences with patios. They are trying to appeal to older members of the community, with 1400 square feet and 2-car garages per unit.

**Thaine Robinson** asked the applicant to address the Public Works staff review comment regarding the alley on the north side of the property and its use. Mr Smith said it is a private easement to the next property.

Access to the proposed project will be off of 4<sup>th</sup> West. Parking will be provided with 2-car garages.

**Chairman Dyer** asked for Gary Leikness' input.

Gary Leikness complimented the applicant on the material provided for City review; it was very sufficient and straightforward. The boulevard strip that is to be provided will compliment the City and allow the developer to have decreased setbacks.

The Commissioners discussed the project.

**Chairman Dyer** said the “alley” right-of-way on the site plan would need to be changed to “easement” as per the Public Works staff comment.

**Randall Porter** asked about the proximity of the proposed development to the adjacent property.

Neal Smith stated that the proposed building is as far forward as possible to avoid the issue of nearness to other residences. There are 2 front yards and 2 side yards, but no backyard. There will be a fence put up as well.

**Dan Hanna** motioned to recommend approval to City Council of the Trehusen Preliminary Plat at 4<sup>th</sup> West and 2<sup>nd</sup> South. **Randall Porter** seconded the motion. None opposed. **Motion carried.**

**Unfinished/Old Business:**

1. Storage units at 322 West 4<sup>th</sup> South

The applicants were not present.

Stephen Zollinger stated the applicants were not being given any options in regard to the gate distance from the street being put at 35-feet rather than the stated condition in their Conditional Use Permit of 50-feet. The Commission will either ratify the changed circumstance or not. The applicants' input was given at the last P&Z meeting (September 18, 2008). They were aware that what they were doing in regard to gate location was not right. Based on his visit to the site with the Mayor and Rex Erickson, and the feedback from the Commissioners, and the minutes of the September 18<sup>th</sup>, 2008 P&Z meeting, Mr. Zollinger is recommending the City treat this problem as a non-permitted activity that the City, after the fact, would accept, with the developer then to be given a penalty of the highest amount allowed by City Ordinance, which would be \$1,000. Removal of the gate would have had public safety concerns.

Stephen Zollinger is proposing on behalf of the City that the Commission revise the storage unit's conditional use permit to say the current gate location is acceptable as built, and then to fine the developers. They could have come back to the Commission regarding the original conditions, but they acted without proper procedure, which is what the City would be penalizing them for.

**Chairman Dyer** expressed his appreciation to the Commissioners for their input on this matter. Having monitored the conversation on this storage unit problem, **Chairman Dyer** said there was a consensus among the Commissioners for this particular solution, but he also wanted them to be aware that the opinion was not unanimous - at least 3 Commissioners feel the safety concern has not been met; they also feel that the consequence is minute compared to the value of the whole development. They were not in favor of this solution as a matter of principle and as a matter of precedent.

Stephen Zollinger said the motion tonight would be to amend this storage unit's (322 West 4<sup>th</sup> South) conditional use permit. He said this situation does not create a precedent. Unacceptable behavior gets punished.

The buildings were built as shown on the site plan, but with the gate setback increase that was asked for, if they had observed this increase, the applicants would have lost a couple of units. The discussion continued.

**David Stein** motioned to modify the Conditional Use Permit for the storage units at 322 W. 4<sup>th</sup> S., to specify that the 35-foot setback for the gate, where it currently is located, is adequate for public safety, and that the City will fine the developers the maximum fine allowed by City Ordinance. **Dan Hanna** seconded the motion.

**Those in Favor:**

David Stein  
Randall Porter  
Thaine Robinson  
Dan Hanna  
Josh Garner

**Those Opposed:**

Winston Dyer

**Motion carried.**

**Compliance:**

Stephen Zollinger stated, for the Commissioners' information that Compliance has been relocated to the Community Development Department and will be working directly with Gary Leikness and Val Christensen.

**Non controversial Items Added to the Agenda:**

1. Stephen Zollinger – discussion on reduced student parking

Stephen Zollinger stated there were initial discussions about a year ago concerning the question of the possibility of giving some student housing close to campus the ability to issue “walking only” contracts. .

**Chairman Dyer** clarified there had originally been 2 trains of thought. First, several non-conforming (not enough parking as per ordinance) housing apartments for students were already there, and the walking contract subject was broached to allow them a pathway to compliance. Later, the discussion addressed that other housing might be interested in this type of contract. Now, the Commission is interested in finding out if this type of contract is a tool that can be made available for them in addressing student housing issues.

Stephen Zollinger stated it can be made available, but the ordinance would need to be amended to allow for such uses. The subject has been addressed to a certain degree in that the parking ordinance was modified about a year ago. A disclosure concerning parking availability/nonavailability must now be on all multiple/single student residential housing contracts. Complaints have lessened to a small degree. He stated Gary Leikness could put together a parking ordinance modification that would protect the community. He spoke of a couple student housing complexes that are marketing themselves as a place students can live without a car.

**Chairman Dyer** stated one of the goals of the comprehensive plan was to create a band of high density housing around the university that would encourage pedestrian activity and uses and would allow densification without having to spread out widely. To help to meet that goal, having this “walking only” contract available would be a great tool.

Mr. Zollinger stated the Commission could direct himself and Gary Leikness to review how other communities handle their student parking concerns. City Council will be revisiting several community parking issues. The Commission's concern could be a part of these issues.

**Dan Hanna** motioned to direct City staff to explore how other communities address their student parking concerns. **Randall Porter** seconded the motion. None opposed. **Motion carried.**

**Chairman Dyer** briefly reported to the Commission about the Design Review meeting held today for the Madison Library. They are constrained due to the existing developments around them. The main entrance would be on the south side of the building rather than street side as is usually called for in the downtown district.

The Commissioners briefly discussed various development concerns, including Burton Elementary, and ordinance concerns.

Gary Leikness informed the Commission that information was mailed out to Sign Review Subcommittee members this morning. Members have been asked to submit feedback by the 15<sup>th</sup> of October. There will then be another Subcommittee meeting held, followed by a recommendation to the P&Z Commission.

**Report on Projects:** None

**Tabled Requests:** None

**Building Permit Application Report:** None

**Heads Up:**

1. Conditional Use Permit – Loel Nyal Walker - 271 N. 3<sup>rd</sup> W. - Duplex

**Chairman Dyer** adjourned the meeting at 8:58 pm.