

Planning & Zoning Minutes

November 20, 2008

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CITY OF
REXBURG
America's Family Community

Commissioners Attending:

Thaine Robinson Ted Hill
Randall Porter Josh Garner
Mike Ricks Richie Webb
Charles Andersen

City Staff and Others:

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

Winston Dyer was unable to attend the meeting. **Thaine Robinson** acted as chair and opened the meeting at 7:01 pm.

Roll Call of Planning and Zoning Commissioners:

Charles Andersen, Randall Porter, Mike Ricks, Thaine Robinson, Ted Hill, Richie Webb, Josh Garner

Dan Hanna, Mary Ann Mounts, and Winston Dyer were excused.

Minutes:

1. Planning and Zoning meeting – October 16, 2008

Mike Ricks motioned to approve the Planning & Zoning minutes from October 16, 2008. **Richie Webb** seconded the motion.

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

Postponed Agenda Item:

1. Founders Square request- **To be rescheduled**

Public Hearings:

7:05 pm – Conditional Use Permit – 165 South 1st East –
Dormitory Housing (Rachel Whoolery)

Chairman Robinson briefly explained the procedure that is followed for a public hearing.

Rachel Whoolery, 2169 Ferris Lane, the applicant, presented the proposal requesting a conditional use permit for 165 South 1st East.. She wants to change the property from a single family dwelling to dormitory housing. The home has 3900 square feet, 6 bedrooms (one of which will be used for

community study), a very large living room and kitchen, and a concrete patio leading out to a grassy backyard. The location is very close to the BYU-I campus and within walking distance of Main Street and the downtown area shops and restaurants. This closeness will increase revenue for local business owners without adding to the car traffic. She pointed out 165 South 1st East and the surrounding properties that she owns - Regent Villa, Amanda's, and Bristol Manor, all dormitory style housing - on the projected map. The subject property is the last remaining single family residential island in this area. She thinks the area around campus is becoming uglier and uglier as green turns to asphalt black.. Mrs. Whoolery would like to preserve the residence and make the property look good, with lots of green. She is planning to create a private fenced- in patio and green grass yard for the women residents to enjoy. It would be a yard for the complex of residences. A fenced in private yard is something only a home usually can provide. Because of this plan, she might only have room for 11 parking spaces. If she has to have the 12 required parking spaces on the subject property, then the entire back yard plan would become asphalt. She is working with the City on a parking lot area and is hiring a surveyor. She handed out the current parking lot draft. She is requesting to borrow one spot from another lot she owns to accommodate for the 12 parking spaces (12 tenants) that are required because of grandfathering. Rachel Whoolery said many students are looking for a home with character. This house provides plenty of room for 12 girls. There will be 3 bathrooms. She is installing a fire extinguisher, smoke detectors, and GSCI (Staff believes she is referring to GFI or GFCI outlets, Ground Fault Circuit Interrupter) outlets per City inspections that have been completed.. The house needs little cosmetic changes, as the interior is in great condition. She wants the parking to be internal, with green around the asphalt. Receptacles for garbage are behind the house and not visible from the street. There will be covered bike parking. Mrs. Whoolery feels that the proposal fits with the City's Comprehensive Pan and into the MDR1 zone with a conditional use permit.

Richie Webb asked Rachel Whoolery to review the parking in relation to the amount of residents for each of the properties that she owns.

Mrs. Whoolery pointed out the areas on the projected map; she said parking numbers were grandfathered in. She stated the number of parking spaces for each property – Bristol Manor has 8, Amanda's has 2, Regent has 4, and Mann's(165 S. 1st E.) is to have 12 – and 44 girls. They are already renting to girls who do not have cars. In the contracts, a girl is assigned a parking space if needed and available. She also has been granted an easement which could be an option

Josh Garner asked where snow storage would be. Mrs. Whoolery pointed out the areas. The front area is grass. Snow would be pushed into the back yard.

Ted Hill asked if there are parking provisions for guests. Mrs. Whoolery stated there is not – space is tight. Guests- would have to park on the street. None of the 4 properties have guest parking.

Randall Porter asked if there was an onsite manager for the 4 properties. Rachel Whoolery said there are onsite managers living at the back of Bristol Manor. **Mr. Porter** asked if this type of student housing requires BYU-I housing approval. Mrs. Whoolery said approval is required and has been completed. They are only awaiting the conditional use permit for 165 S. 1st E.

Chairman Robinson asked for Gary Leikness' input.

Gary Leikness referred to his staff report and the proposed conditions of approval. If the Commissioners accept the proposed conditions of approval, he asked them to strike #9 of the listed conditions, as it does not apply. In response to **Chairman Robinson**, Gary Leikness stated that the question is raised in his staff report as to whether or not the proposal fits into the comprehensive plan vision. **Chairman Robinson** also was concerned with there being enough greenscape for this piece of property.. Gary Leikness said this issue would be reviewed by -City staff if the Commission states that the approval is subject to site plan approval by staff. Mr. Leikness stated a big question is the issue of parking spaces being provided on other properties - is that acceptable, to borrow from an adjoining property, or should the parking all be provided on the subject property, given that the adjacent properties do not meet current parking standards but may be grandfathered at their current parking ratio? Is the use appropriate for the location? Does it accomplish the Comprehensive Plan goals? These are the questions the Commission needs to consider. He added that he has verified some of the grandfathering- in figures, but not all of them.

Ted Hill said that the draft ordinance proposal addressing dormitory housing parking (on this agenda but to be addressed at a future P&Z meeting) would solve some problems for this conditional use permit proposal. The applicant might want to wait to see if the parking draft proposal is passed – it would relax some of the current parking restrictions.

Gary Leikness said # 4 of the proposed conditions of approval addresses possible ordinance changes. He has met with the applicant, and she is aware of possible changes.

Charles Andersen said the reason he likes where the parking ordinance is going is that BYU-I really does want a walking environment to the campus and to reduce the number of people bringing cars.

Discussion continued.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral:

Sally Smith, 512 S. Millhollow Rd., the applicant's realtor. She stated that everyone who had looked at the property when it was for sale wanted to change it from a single family residence. The area is not a family neighborhood; it is a student neighborhood. She feels the reduced parking around campus is important to look into at this time, for safety first. Also, students who want to live close to campus typically do not have a car, so it makes sense to enforce having no cars through the housing contract. It also allows the properties to be much more attractive, without so much asphalt. She is excited that the City is addressing this problem and feels they should move forward with it.

Opposed: None

Written Input: None

Chairman Robinson closed the public input portion. The Commissioners discussed the proposal.

Charles Andersen asked Gary Leikness to specify what changes he had previously mentioned there should be to the proposed conditions of approval.

Gary Leikness again stated to strike number 9 from the proposed conditions of approval, in that it is not applicable. He also suggested that this conditional use permit could be limited to 12 students, and if the owner wanted to increase that number, the conditional use permit would have to be amended. He stated the Commission could address guest parking in the conditions if they wished to do so.

Ted Hill, in reference to # 3 of the proposed conditions of approval, stated that if all the properties Rachel Whoolery owns are under one deed, then borrowing 1 parking space from one of the other adjacent properties to make a total of 12 spaces would be no problem. If the properties each have separate deeds, and she sells the property in the future, then she would be one space short.

Josh Garner agreed with Sally Smith, as far as use of this property, in that a family would not want to live in this house in this area. It is logical that it be used as dormitory housing. He stated that he trusts City staff to make certain that all conditions are met.

Richie Webb thought they could condition the 12th parking space to be provided if the property is sold, as Mrs. Whoolery owns all 4 properties.

Gary Leikness said a Restrictive Lot Line Covenant (RLLC) is a tool that could be used as a deed restriction for all four properties that would lock the properties together, so that the City would need to be a party if they were to be sold individually, but would allow shared parking to occur. The Restrictive Lot Line Covenant could be a condition of approval. If so, the Commission would need to strike #3 of the proposed conditions, which requires that parking spaces be on the subject property only.

Charles Andersen motioned to recommend approval to City Council to grant a Conditional Use Permit for 165 South 1st East to change a single family dwelling to dormitory housing, to include all staff proposed conditions excluding #9 and #3, and to require a Restrictive Lot Line Covenant tying the 4 properties together, and to include that this conditional use permit limit the dormitory residents to 12 students. **Josh Garner** seconded the motion.

The Commissioners discussed the motion.

Stephen Zollinger said that the subject of guest parking was referred back to the university by the City Council, to give the university and the housing owners the opportunity to try and resolve conflicts that have surfaced by increased visitor parking.

Charles Andersen felt that #4 of the Proposed Conditions would address the guest parking issue.

Discussion continued.

None opposed. **Motion carried.**

Proposed Conditions of Approval

1. No issuance of a Conditional Use Permit can occur until all site plan issues are resolved and approved through administrative review which shall take place at the time the applicant applies for a change of use with the Community Development Department.
2. All parking lot requirements shall be depicted on the revised site plan, including proper aisle widths, grades, parking stall sizes, number of spaces, etc.
3. **STRIKE #3** ---*Required parking spaces shall be placed on the subject property only, not adjacent properties.*
4. Should City policies and/or ordinances change regarding parking standards, these standards will apply to the subject property.
5. Trash dumpsters/receptacles shall be located within the interior (behind front building line, but minimum is required setbacks) of the lot and shall be enclosed with materials that are consistent with those materials used in the building that they are adjacent to, e.g. brick, wood, etc.
6. Lighting shall be reviewed. All lighting shall be applicable lighting standards, including full cut-off fixtures and lower wattage light sources, i.e. 60-75 watt. Violating lights on site shall be replaced prior to issuance of a certificate of occupancy.
7. A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, etc. shall be submitted and approved by the City prior to the issuance of a building permit.
8. A landscape plan shall be submitted when an application is submitted for a change of use, or building permit. Landscaping shall be required to be implemented prior to the issuance of a full certificate of occupancy. The site shall include 30% landscaping (per ordinance 926), this percentage shall be shown on the approvable landscape plan.
9. **STRIKE #9** - *In providing reduced setbacks (14-feet on 2nd East, and 13-feet for 2nd South), as allowed by ordinance, parking areas shall be screened by more mature landscaping. Deciduous trees shall be 2-inch caliper at planting. Evergreen trees shall be 7-feet in height at planting, and shrubs shall be 5-gallon at planting. Number of trees and shrubs shall be adequate to screen parking areas. No parking shall be provided on this site within these setbacks.*
10. Proposed project entrances shall be enhanced through landscaping. This requirement shall include all mechanical equipment installed as part of the development to be adequately screened from the ROW and from adjacent property.
11. Lighting shall be low (under 15-feet in height) and not create glare, and as a minimum shall adhere to the City's lighting ordinance. Any proposed lighting would need to be submitted to the City for review and approval subject to the submittal and approval criteria found in the development code.
12. All exterior sidewalks adjacent to the site (including any property encumbered by the proposal, as these properties will then become part of the proposed parking solution.) must be installed or repaired (to City standards) prior to the occupancy of the proposed structure

13. All sidewalks both exterior and interior should be interconnected and should connect to the main entrances of the unit
14. To encourage alternative travel options, which are likely to decrease vehicular trip generation, bicycle parking shall be provided, both long term (several hour stay, weather protected) and short term (visitors- two hours or less). As a minimum, for dormitory housing, long-term parking spaces (sheltered) shall be provided at a ratio of 1 space per 3 tenants and short-term parking at a ratio of 1 space per 2 tenants. For this development this would require 4 long-term spaces and 6 short-term spaces.
15. Sheltered parking, like the screening of trash dumpsters shall be constructed of high quality building materials that are consistent with the main building. Sheltered parking shall not be located within the required front yard. A hard surface path shall be provided from the City right-of-way to sheltered parking and then to the main entrance of main structure.

7:15 pm –Rezone -130 West 1st South, 124 West 1st South, 226 South 1st West-MDR1/HDR1 to PRO-Zone (Hemming)

Richie Webb declared a direct conflict of interest and recused himself from the table.

Representing Hemming Properties, **Richie Webb**, 680 Wheatland Drive, then presented the proposal to change the stated properties from their current zoning, MDR1 and HDR1 (Medium Density Residential 1 and High Density Residential 1) to the PRO-Zone (Project Redevelopment Option). He gave an update and perspective on where they are now with Hemming Village. He showed a drawing of the first Hemming building, on the overhead screen. The foundation is in. They have redesigned it from a 3-story to a 2- story building with a basement to be used for mechanical equipment and storage. The first level will be retail. There are 11, 884 square feet. There will be an office lobby in the center of the building. There was a design review meeting held last week. The developers hope to have the building completed and open by September of 2009. **Mr. Webb** then showed the Hemming master plan on the overhead screen. With the PRO-Zone approval, they are really focused on the south end of the property. They have secured the D&L Cleaners property on the corner of South 2nd West and West 2nd South. They have changed the area of where the hotel/conference center will be located – he pointed out the change in location on the projected map. They are still negotiating on the church parking lot. **Richie Webb** pointed out the 2 properties (130 W.1st S. and 124 W.1st S.) that were overlooked in the original PRO Zone request, that are being addressed in this public hearing tonight. The 3rd property being addressed tonight is Breckenridge Apartments. at 226 S. 1st W, which Hemming Properties has purchased and also want to be in the Hemming PRO- Zone. **Mr. Webb** read Gary Leikness' staff report and feels there is a misunderstanding on what was approved. His understanding was that all property they submitted for approval was rezoned to the PRO—Zone, but that only one section could be developed (the section they presented plans for), and as they moved on in the development plans of other parts of the property, they would be required to come back to Planning & Zoning and to City Council to get approval on the buildings they wanted to construct. He did not interpret that to mean they could not

get property rezoned to the PRO-Zone unless they demonstrated a certain amount of building occurring. Tonight they just want to include the 3 stated properties into the Hemming PRO Zone., so they can continue with their plans.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Robinson closed the public input portion of the hearing.

Gary Leikness presented his staff report. The proposal would add approximately 1.5 acres to the existing PRO-Zone. The University is generally within one block of the PRO-Zone. Some of the design standards of the PRO-Zone are very open. He would ask the Commission to consider clarifying the gray areas of architectural design standards for this PRO- Zone.

Mr. Leikness referred to page 4 (item 7) of his staff report. This P&Z Commission originally recommended to City Council that zoning approval be limited to Phase 1 (the hotel and the building shown on the overhead), so that the P&Z Commission and the City could see how the project is progressing, and expand as needed. City Council overturned this phase approach and approved the rezone for the entire project, but they asked for building phases, so that the developer will come into the City as they proceed with building. One of the conditions of approval was that there must be a 50% buildout before any future boundary expansion occurs. Just because ownership occurs does not mean that the Hemming PRO-Zone should necessarily expand. He stated the 50% buildout has not occurred; therefore, the boundaries of the Hemming PRO zone should not be expanded at this time. The north property (130 and 124 West 1st South) is not part of any current or proposed building, and the property to the south (226 South 1st West) is an existing building that has an appropriate use for that location ; there is no need to change it at this time.

Chairman Robinson asked for clarification that Gary Leikness is recommending that the P&Z Commission does not approve this rezone. Gary Leikness said that was correct. If, however, they choose to recommend approval, he is recommending that all conditions of approval that were applied to the original approval of the Hemming PRO Zone apply to this rezone. He also would ask that the conditions include asking for clarification on the design standards for the Hemming PRO Zone and that the conditions of approval still be upheld for the church parking lot that was approved by the Commission at a previous meeting.

Randall Porter asked about a hypothetical unintended consequence of approving this rezone at this time. Gary Leikness said a PRO Zone allows for a chance for some flexibility and ingenuity, but the zoning is there to protect people's property rights. Places adjacent to the PRO zone may not want to eventually be part of Hemming Pro Zone. Let us expand the zone appropriately. Zero front setbacks could be a problem to adjacent residences that have historically had 20-foot front yard setbacks in the neighborhood.

The Commissioners continued to discuss the proposal.

Josh Garner motioned to recommend approval to City Council of a Rezone for 130 West 1st South and 124 West 1st South from MDR1 (Medium Density Residential 1) to the Hemming PRO Zone (Hemming Project Redevelopment Option), and 226 South 1st West from HDR1 (High Density Residential 1) to Hemming PRO Zone, to include the condition recommended by staff stating that “All conditions of approval that were applied to the original approval of the Hemming PRO Zone shall apply to this proposal”, and the condition to uphold the conditions of approval stated for the church parking lot conditional use permit that was previously approved for Hemming(#08 00423 at September 18, 2008 Planning & Zoning meeting), and to include clarification of design standards (*note from staff*: if a specific architectural design standard is not modified by language found in the Hemming PRO zone, than the appropriate design standards found in the Development Code for commercial and/or residential shall apply.) for the Hemming PRO Zone. **Charles Andersen** seconded the motion.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business:

1. Final Plat – Trehusen Subdivision – 4th West and 2nd South –
Postponed until December 4, 2008
2. Preliminary Plat – Meurs Subdivision – 1391 South Yellowstone Hwy

Aaron Swenson, 266 Jill Drive, of Forsgren Associates, representing Rexburg Lodging Associates, showed the area of the proposed subdivision on the overhead screen. The area had been before the Commission several months ago for a conditional use permit. The adjacent ground to the north, the east, and the south is all farmland owned by 2 different families. The Springhill Suites building area was pointed out. They now want to subdivide the remaining 5 acres into 3 lots – the Marriot Hotel (lot 1), a concept for a restaurant (lot 2), and a concept for an office building and an extended stay hotel (lot 3). Storm drainage will be retained on site. They will connect to City water and sewer. These issues were addressed during the public hearing for the Conditional Use Permit for Springhill Suites (June 26, 2008).

Mike Ricks asked about the road entering the development to the north and if it will meet City standards regarding size and width.

Aaron Swenson stated that the entire driveway will be approximately 28-foot wide and will meet all City standards. The entire driveway will be built and completed as a part of the Marriot Hotel. The south driveway will be built during the second phase of the project.

Chairman Robinson asked for Gary Leikness’ input.

Gary Leikness handed out the staff comments for the Meurs Subdivision Preliminary Plat. As they are aware, there has been a conditional use permit issued for this hotel. He recommended that the

final plat show access easement language for the project. An access easement to the east should be required. Cross access through the development is important to maintain. All access easements through the development should be shown on the final plat. He stated the need for more detailed information regarding the uses of the buildings so that parking standards, etc. are addressed and provided. He feels the developers are doing a great job providing information but would request this building usage information be provided.

The Commissioners discussed the proposal.

Charles Andersen motioned to recommend approval to City Council of the Preliminary Plat for Meurs Subdivision at 1391 South Yellowstone Hwy, to include all staff comments, to reference deeds on the final plat showing previously deeded city ownership, that vehicle connectors to adjacent properties to the east must be established and identified, to show common use access easements on the final plat, and to recommend that the applicant include details with the final plat materials regarding the uses on each of the 3 lots. **Josh Garner** seconded the motion.

None opposed. **Motion carried.**

Compliance: None

Non controversial Items Added to the Agenda:

1. Rural Residential 1 (RR1) development question – Bed & Breakfast = **postponed until December 4, 2008**
2. Reduced student parking further discussion – **postponed until December 4, 2008**

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

Gary Leikness stated that Development Code 926 is now top priority, as the Comprehensive Plan document was adopted by City Council last night, November 19th. He is awaiting the draft document to be sent to him by the planning consultants.

Chairman Robinson informed the Commission about the Design Review meeting for Hemming held last week. Several other issues were briefly discussed.

The Commission discussed the P&Z meeting schedule for December and January.

Charles Andersen motioned to cancel the Planning & Zoning meetings of December 18, 2008 and January 1, 2009. **Randall Porter** seconded the motion.

None opposed. **Motion carried.**

Gary Leikness said the Association of Idaho Cities is having a video feed training on December 10th about model ordinances. He will email information to the Commissioners.

Gary Leikness informed the Commission that the City will be accepting Comprehensive Plan Map Amendment applications throughout December. The applications will be reviewed in-house by staff in January and will go to Planning & Zoning on February 5th, followed by City Council on March 4th.

The Commission briefly discussed the University parking situation.

Chairman Robinson adjourned the meeting at 9:03 pm.