

# Planning & Zoning Minutes

July 15, 2010

35 North 1<sup>st</sup> East  
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020  
Fax: 208.359.3022



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

## Commissioners Attending:

Winston Dyer – Chairman  
Thaine Robinson     Richie Webb  
Jedd Walker         Nephi Allen  
Dan Hanna         Scott Ferguson  
Cory Sorensen

## City Staff and Others:

Val Christensen – Community Development Director  
Natalie Powell – Compliance Officer  
Elaine McFerrin – P&Z Coordinator  
Jake Rasmussen – I.T. Intern

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

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

Nephi Allen, Thaine Robinson, Winston Dyer, Jedd Walker, Ritchie Webb, Scott Ferguson, Cory Sorensen

**Ted Hill** and **Gil Shirley** were excused.

## Welcome: Cory Sorensen – New P&Z Commissioner

**Chairman Dyer** welcomed **Cory Sorensen** and asked him to tell the Commission a little about himself.

**Cory Sorensen** said he has lived in Rexburg for 10 years. In 2003, he graduated from BYU-I with a degree in Accounting and a minor in Business Administration. He has had some experience with development and with planning and zoning. He has been developing in Madison County and the City of Rexburg - mostly single-student housing apartment complexes. One complex is by Porter Park, the Parkview Apartments. He has also developed 100 acres in Burton. The Mayor had asked him to be on the Commission, and he is happy to be here.

## Presentation:

Josh Garner, Planning & Zoning Commissioner – Recognition of Service - *Postponed*

## Minutes:

1. Planning and Zoning meeting - June 3, 2010

## Clarification:

Page 11 - regarding the statement about a possible work meeting of the P&Z and City Council, **Chairman Dyer** requested that information be included stating when that meeting took place. "...**Ted Hill** asked about a possible work meeting with the P&Z Commission and City Council to address the Preferred Land Use Map changes before there is a public hearing in City Council. The Commission asked Val Christensen to check into this matter. (*The P&Z Commission and City Council work meeting on the Preferred Land Use Map was held on June 23, 2010 – information on the meeting is in the City Council minutes of that date.*)"

**Thaine Robinson** motioned to approve the Planning & Zoning minutes of June 3, 2010, as amended. **Nephi Allen** seconded the motion.

**Cory Sorensen** and **Scott Ferguson** abstained for having not been present. None opposed. **Motion carried.**

**Dan Hanna** arrived at 7:08 pm.

The scheduled public hearing was delayed until the arrival of the applicant.

**Compliance:**

Natalie Powell updated the Commission on several compliance issues. She is trying diligently to contact property owners, some who do not live here, regarding fire danger and the necessity of maintaining their property – on Airport Road, the Henderson subdivision, and property behind Burger King. Founders Square and Sky Meadows are planted with wheat, which should be harvested in about 3 weeks. She has spoken with Jon Gregory – he is working hard on the property south of Paul Mitchell School and behind World Gym, clearing them of weeds.

For properties that are not developing for a year or two, the owners are being asked to at least level what is there.

At the corner of Trejo and Yellowstone – there was a fire on this property, and now there is a lingering odor which was thought to be from burned trees, but seems more like a garbage smell.

**Dan Hanna** said the smell could possibly be from coal.

It was suggested to douse the area with more water.

Ms. Powell has spoken to the owner of Stone's, who is taking care of the property behind his business. She has also contacted a representative for Canyon View Estates about mowing down the property. It should be done by the end of the week.

She continues to work on getting vacant lots taken care of, in a number of neighborhoods.

Various subdivisions are also being worked on. Valley Wide subdivision is working on their lots.

She also continues to try to reach a property owner on some weedy parcels on South 2<sup>nd</sup> East (Bonnie Anderson, who lives out of state), regarding taking care of her property.

The cell tower on the corner of North 3<sup>rd</sup> East and Barney Dairy Rd. – water has been hooked up and the property is being landscaped. Per the City Engineer, it will eventually be put on an LID for curb, gutter, and sidewalk.

**Chairman Dyer** said a shuttle business parks its vehicles on this cell tower property. **Natalie Powell** will check on this concern.

The owner (out of state) of property across the street from this cell tower has been contacted to maintain his property.

The Fat Cats Theatre is progressing. Signs have been put up. The property in back of the building will be mowed.

On 7<sup>th</sup> North, a very large, hazardous dead tree has been removed.

**Dan Hanna** asked about the old stock yard near the veterinary office on North 2<sup>nd</sup> East.

Natalie Powell said that area has been mowed down.

East side of 2<sup>nd</sup> East – **Chairman Dyer** said several private “for sale” vehicles are being parked here. Some block visibility (across from Cal Ranch).  
Ms. Powell will check on this issue.

Numerous sign permit applications are coming in for processing.  
**Chairman Dyer** asked Ms. Powell to check on the Denning sign near Hwy 20 – the time allotted for the owner to remove it has expired.

A site plan for Utah Power has been submitted referencing sidewalks, fencing, landscaping, etc. – there will be a buffer as one drives up 2<sup>nd</sup> West. Work on the site will start this week.

Natalie Powell said some garbage dumpsters or cans with enclosures are being put in the City right-of-way, or in the front yard setback, which is not allowed per the City’s Development Code. She is sending out letters to property owners, addressing this issue.

Several parking lots are being redone and updated, bringing them up to code regarding handicapped spaces, signage, etc.

She continues to keep an eye on gardens in the right-of-way.

The First American Title monument sign, which was put up without a permit, was in the City right-of-way. The owners were asked to move it and have done so.

**Chairman Dyer** thanked Natalie Powell for all her great efforts. The Commission appreciates what her compliance work does for the community.

### **Public Hearings:**

7:05 pm – Conditional Use Permit – Steve Kelly – 325 and approximately 275 North 1<sup>st</sup> East-to increase the density in Mixed Use 2 (MU2) from 30 units per acre to 40 units per acre and decrease the commercial component to zero percent

**Chairman Dyer** explained the procedure that is followed for public hearings. The applicant or representative will come forward and give a presentation to help the Commission to understand the proposal. The Commission may then ask clarifying questions of the applicant and staff. Public testimony will then be taken. The Commission will ask for the staff evaluation, which will be followed by deliberation leading to a decision.

Steve Kelly, 1818 S. 100 W., Orem, UT, presented the proposal. He gave a brief overview of where the property is located; a photo was shown on the overhead screen. The property is now zoned Mixed Use 2 (MU2). The City’s Development Code says the commercial component can be zero percent with a Conditional Use Permit. He is requesting a density of 40 units per acre and zero percent commercial. The site plan was shown on the screen. They are planning to have two identical buildings. They will each have 62 one-bedroom units and 27 two-bedroom units, which require 294 parking stalls. They are planning 202 standard stalls and 26 compact stalls, with 66 underground stalls. The underground parking would be under the building shown farthest west on the site plan. He pointed out the access point. They may use joint parking and need to contact owners of the

parking lot to the west of K-Mart. If they cannot make their necessary number of spaces, they will reduce the number of units.

**Thaine Robinson** said the applicant went to great lengths to get the Mixed Use 2(MU2) zone; one of the purposes and objectives of that zone is having more commercial than residential. They are requesting a Conditional Use Permit for zero percent commercial. Would there not have been a better zone?

Steve Kelly said the only zones allowed for the subject property would be Mixed Use 1 or 2, or Central Business District.

Val Christensen said Mixed Use 1 (MU1) density only goes up to 16 units per acre and was aimed to go into a residential area. Mixed Use 2 (MU2) fits the commercial and has more similarities to the Downtown Commercial land use. The MU zones were adopted under the Downtown Commercial land use designation.

**Cory Sorensen** commented about the canal on the north end of the subject property. He asked about the access road shown on the site plan in that location.

Steve Kelly said that access will be taken out of the site plan; it was shown there in error.

**Cory Sorensen** asked how landscaping near or up to the canal would be addressed.

**Chairman Dyer** said the canal company has an easement – they have right of access. Any possible joint use would need to be worked out with the canal company.

**Chairman Dyer** asked Steve Kelly to address the one-hundred percent residential, which is of concern to the Commission.

Steve Kelly said from a developer's standpoint, he has always liked the mixed use concept of commercial and residential, but he feels residential would be more positive. For an example, he showed a photo of a development in Orem (done by the same architect that is doing the subject property) where not many commercial buildings are being used – some remain vacant. He also showed a complex near BYU that is also suffering regarding empty commercial buildings. Both the areas have traffic moving around them. He is not against commercial, because he sees it as extra rental space, but he does not feel it would be the best in this situation. He just does not feel it would be best for the developers or for the City to have more vacant commercial space.

**Scott Ferguson** said Utah County is one thing; Rexburg is another. Could there be business traffic on this street?

Jedd Walker felt there is not a lot of traffic currently on North 1<sup>st</sup> East to support commercial.

Steve Kelly reiterated that he does not see this subject property as positive for commercial. He showed an aerial photo of Rexburg. The traffic along North 1<sup>st</sup> East is very low, although that may change with the recreation center coming in. He does not see traffic increasing significantly. He does not see anything that really fits to be tucked in under an apartment complex.

**Chairman Dyer** asked if the Utah photos are his developments.

Steve Kelly said they are not his developments. They are his observations.

The interior layout of the proposed units was shown. They will probably not be furnished.

Steve Kelly said that a higher density does not necessarily mean bigger buildings.

40 units per acre would allow 178 units. 30 units per acre would allow 133 units. The square footage of the buildings would remain the same. Higher density also does not necessarily mean bigger

profits. 40 units per acre would provide more bedrooms, which is providing something that the market needs.

**Chairman Dyer** asked about parking.

Steve Kelly said if units are decreased, the parking requirements would go up because there would be more bedrooms. The total parking would be less with fewer units, but not significantly so.

**Chairman Dyer** said the number of spaces would be significant for a development that is shy on parking.

Steve Kelly said if they cannot meet the parking requirements or they choose not to do the underground parking, they will reduce their number of units, or have more one bedroom units.

**Chairman Dyer** said that would be a business decision, but tonight the Commission is going to examine the issue, to determine if this is too much for this site. Are there too many conditions here that the applicant has to meet in order to make a go of this project? Is it in the interest of Rexburg and development, the neighborhood, etc? He said the Commission is charged with looking at impact to the neighborhood. This proposal is a great business plan, but the Commission needs to be thorough in examining all facets of it.

**Dan Hanna** asked about the easement on the South end of the property. Cody Howard has been granted an easement on the project property.

Cody Howard (from the audience) said it is a shared access that allows him access to his building. He said the easement is not on his property. He asked if any of the parking stalls are infringing on the road right-of-way.

Steve Kelly said they are not.

An audience member (neighbor to the subject property) said that the past owner of the subject property gave easement access (not formally) to several property owners.

Mr. Howard said the current owner wanted to put some buildings up that would have affected the access. Neighbors got a restraining order that stopped the building process, it went before a judge, and the judge defined the legal right-of-way of the easement. Steve Kelly has been given the legal description. He again asked if any of the parking stalls are in the easement.

Mr. Kelly reiterated that none of the parking spaces are infringing on the easement.

The easement is wide enough for a semi-truck to turn around - it was shown on the overhead screen.

This easement is open to all the neighboring owners including Steve Kelly - if he purchases this property, the easement would be on his property.

According to Mr. Kelly's plans, the easement would remain open and unobstructed.

**Dan Hanna** commented about underground parking access. He is concerned about the easement being left the way it is – he feels it would need to be cleaned up and maintained. He also expressed concern about the canal, to possibly beautify and landscape it with the permission of the canal company. The area could be a great greenbelt.

Steve Kelly said the easement does not benefit them, but they will abide by the easement and do whatever is necessary He had thought about planting trees along the area to separate it from the development. Mr. Kelly said a commercial component would be difficult to make work. They feel the requested 40 units per acre will fill a need and be of benefit for the community. He said that the City is wise in putting certain restrictions/standards on a development – they leave the developer to be creative within the framework and space he has, making it a better outcome for everyone.

**Chairman Dyer** asked the audience, because of the neighboring property owners that are involved, if they had questions.

Cody Howard asked Steve Kelly about the drainage/ elevations issues which would affect his building to the south of the subject property. He is concerned about flooding.

Steve Kelly spoke with the City Engineer. French drains would be used for storm water to be collected on the property and maintained. It will be taken care of as part of the development.

**Chairman Dyer** asked about an elevation differential between Mr. Howard's southwesterly building and the adjacent site property.

Cody Howard said there is a big differential.

Steve Kelly said they may have to build the property up.

**Cory Sorensen** asked in regard to underground parking, if there will be a sub-water (groundwater) issue.

An audience member said that going down about 6 feet hits water.

Steve Kelly said the underground parking would be the same level as Mr. Howard's building, and Mr. Howard has not been flooded.

**Richie Webb** said the applicant spoke about a lot of things that they may have to do (may have to do underground parking/do not know if they can do underground parking, may have to bring plan in because they are too close to property lines, may have to shrink building, may have to change parking, etc.). Have they run performance on all these scenarios to know that they can do about anything they have to for this project to make it work?

Steve Kelly said they have. He said once they figure out what they are allowed to do with the property – if they are granted the Conditional Use Permit for 40 units per acre and zero percent commercial component, that is when they will be spending the money to design and get everything exact.

**Chairman Dyer** said the Commission has to decide whether they would be wise planners to approve a density that is going to be forcing the applicant into some of these issues that appear a little doubtful.

Steve Kelly said they would be wise planners, because if the applicants cannot make it work, they will lessen the density.

**Chairman Dyer** asked if staff had any information that would help to clarify the proposal for the Commission.

Val Christensen asked the height distance from the road down to Cody Howard's property. and if they will bring in fill.

Mr. Kelly was not sure of the height distance, but if necessary they will bring in more fill where the parking is going to go.

Val Christensen had no additional clarifying comments to add at this time.

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

**In Favor:** None

**Neutral:** None

**Opposed:**

Roger Harris, 19 East 2<sup>nd</sup> North. The back of his property is to the south of and very close to the area of the subject property. He is not a hundred per cent opposed, but he has some concerns. He would like to see the lot cleaned up because it has been an eyesore for a long time. For that reason, he welcomes such a change. However, one of his main concerns is that he and other property owners do not get landlocked. The back of his lot has an access road shared with other property owners. With the City building the park, and he is in favor of the park, they are going to lose the west entrance to the road; it will be blocked off. There will only be one way in and one way out. He also shares the concern of all those who have light industrial buildings located in the area. They have got to have access and be able to have turn – around room for large trucks. His greatest concern, however, is the 178 units and possibly 178 cars or twice that coming to the area. Mr. Harris said that 2<sup>nd</sup> North is already a speedway. He is concerned about the amount of traffic that will be generated. Streets are not going to be safe for children and grandchildren and the people that live there. It is difficult for those who live on 2<sup>nd</sup> North to make it in or out of their driveways. Adding traffic near McDonald's coming onto North 2<sup>nd</sup> East is a big concern that the City will have to address. The 4-way stop at 2<sup>nd</sup> North and 1<sup>st</sup> East will also need to be addressed. He does not care about the development – he thinks it would be wonderful. He is concerned about the additional traffic.

Cody Howard, 642 Harvest Drive. Along with Mr. Harris, he does not have a problem with the development. However, he feels drainage issues could be a nightmare. His property sits very low. The road right-of-way is not his; he has ingress and egress over it. The road right-of way easement is owned by Steve Kelly if he owns the property now. If Mr. Kelly owns the property, he would need to address the weed issue that currently exists, or it would need to be taken care of by Mr. Rudd if he still owns the property. Cody Howard also stated he has concerns about the increased traffic that would be generated if the easement becomes the actual main way into and out of the development. It would become quite a thoroughfare. All the vehicles would be coming right in front of his building, along with trucks delivering items to him. He is Light Industrial, next to residential on basically all sides. He does manufacturing, sometimes working late at night; and there is a noise issue. Part of his concern is if he will be forced to eventually shut down his operation to only work during certain hours of the day because of the residential. Previously, there had been a plan for commercial retail going on that lot. Now there is residential. His concern is how he will be affected in the future. He does feel that Steve Kelly has a nice plan. Something being done with that property would be better than what there is right now. Mr. Howard added that when he spoke at a past City Council meeting regarding Mr. Kelly's rezone request, he spoke under the *Neutral* testimony designation. The Mayor had expressed that it was not really neutral. Therefore, tonight he is testifying under *Opposed*.

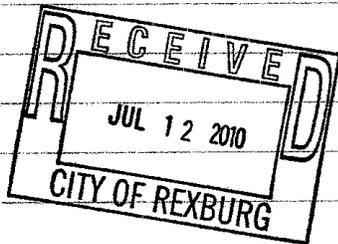
**Written Input:** read by Chairman Dyer  
Letter from Dennis Fikstad, opposed to the proposal.

Parcel is located at 325 and approx 275 North 1<sup>st</sup> East, Rexburg.

I Dennis F. Estel in regards to the (ZUP) to increase the density in (M42) from 30 units per acre to 40 units per acre. I am totally against this.

Dated: 7-12-2010

Dennis F. Estel  
55 East 2<sup>nd</sup> N.  
Rexburg.



**Rebuttal:**

Steve Kelly declined the opportunity for rebuttal.

**Chairman Dyer** closed the public input portion of the hearing and asked for the staff evaluation.

Val Christensen said that before going into his evaluation, he wanted to reiterate that this proposal is their first Mixed Use development project, this one being Mixed Use 2. It is important especially with a conditional use permit, that this body keep in mind that in the future they will find things out about these two zones (Mixed Use 1 and Mixed Use 2) that they do not know right now. The more they can talk about it, the better prepared they will be. With a conditional use, they can look at many different aspects; any concerns/ideas can be discussed. He does not know if the Mixed Use Zones document is a complete document yet. They will learn as they go.

Mr. Christensen stated that the Development Code does require a conditional use permit in Mixed Use 2 for 40 units per acre. Lessening the commercial component to zero percent also is a conditional use. Conditions can be discussed thoroughly and decided by this body. He went over his staff report, touching on points to consider. The property will not be typical to its surroundings. Therefore, to have harmony with its surroundings, landscape buffering would be necessary. City Engineer John Millar will review and address the drainage issue.

The existing conceptual plan does not show a 10-foot wide landscape strip between the parking and the street – this will need to be addressed. Regarding setbacks, buildings can go up to the property line, but parking lots will require buffering. A site geotechnical soil survey will be required. The sub-water (groundwater) issue and traffic concerns will also be examined.

Mr. Christensen briefly went over the six Proposed Conditions of Approval in his staff report. He reiterated that this proposed project is the first one applied for under the new Mixed Use 2 requirements. He felt that design standards should be closely examined. This development is a great idea but all these issues must be addressed.

**Chairman Dyer** said land use and development issues both need to be looked at very closely and how they are going to impact surrounding properties.

**Jedd Walker** said there is not a lot of difference between the “by right” allowable 30 units per acre and the requested 40 units per acre.

Site elevation differential was a concern.

Val Christensen said the burden is on the developer.

He was concerned that there be sufficient buffering between residential and the light industrial.

**Dan Hanna** asked if on the site plan as proposed, with the easement for Mr. Howard and the other landowners, and then with the developer’s ingress/egress access, are they too close together? Is there any concern with the industrial access and the residential access points?

Val Christensen felt there was sufficient room.

**Jedd Walker** felt there should be a condition to maintain and protect the easement.

**Chairman Dyer** said he wanted to make sure that the Commission gives fair discussion to all sides of the issue and makes the best decision possible.

He said there are a number of issues that Val Christensen has brought up in addition to stressing that this is the first proposal for mixed use. He said copies of the new Mixed Use Zones document had been included in the Commissioner information binders as a tool to help them.

**Chairman Dyer** asked for discussion on the **2 main issues**:

- 1. Shall the Commission allow, through a Conditional Use Permit, reduction of the commercial component down to 0 percent as has been requested?**

**Thaine Robinson** said he struggles with a Mixed Use Zone having a proposal of a development that is not really mixed use. He struggles with not having any commercial at all. He would rather see it more as a residential apartment building where it would have to be off the street rather than up to the property line. Buffering is definitely needed to protect the people who will live there.

**Richie Webb** felt that commercial would not fit at the subject location. It would be difficult to make it work.

**Chairman Dyer** wondered if anyone saw the area as a commercial corridor that needed to be preserved, or if they would be heading toward predominantly residential.

**Dan Hanna** thought that just because this development does not have commercial does not mean that other future developments couldn't.

It was pointed out that some nearby buildings are right up to the road (storage units, school district).

**Thaine Robinson** thought no commercial would be okay. The burden is on the developer to make it work for the City.

**Jedd Walker** read from the Mixed Use Zones 2 document (3.14.010 Purpose and Objectives)

The purpose and intent of Mixed Use 2 is "...to provide areas in which a variety of housing types may exist among neighborhood-serving commercial and institutional uses." He asked Val Christensen to clarify the statement regarding the phrase "may exist among neighborhood-serving commercial and institutional uses."

Val Christensen clarified that the intent of Mixed Use 2 is to allow higher residential dwelling unit density than Mixed Use 1. MU1 requires a higher percentage of residential or commercial. MU1 is more residential; MU2 is supposed to be more commercial. The focus was mainly on blocks between Main and the University, but could work in other parts of the City.

**Chairman Dyer** felt the phrase "neighborhood-serving" was accurate – things that serve the neighborhood.

**Chairman Dyer** said he does not see this area developing as commercial. Established commercial is a block away

**Cory Sorensen** said with the issue of the existing storage units and the easement issue, etc., he would not put commercial here if he were the developer. It is more just this specific lot than the whole street.

There was Commission consensus to include in the motion the zero percent commercial.

- 2. Density issue – increasing the density from the allowed 30 units per acre to 40 units per acre.**

**Scott Ferguson** felt the increased density for the proposal could work, with the right conditions put upon it.

The burden of the responsibility is on the developer.

**Chairman Dyer** was troubled that there could be way too much for the lot.

**Cory Sorensen** said his concern is with the tight fit of the site plan getting tighter and tighter.

**Thaine Robinson** said he understands why the Chairman is struggling

**Dan Hanna** said he is not prepared to design this project.

**Cory Sorensen** said if this site were just a square lot, things would be much simpler. If they can develop as they plan on that lot, then great.

The Proposed Conditions of Approval were discussed. The Commission decided to add additional Proposed Conditions of Approval to the six proposed conditions listed in Val Christensen's staff report. There was thorough discussion.

Val Christensen expressed that he worries that they have not done this before with the development going to the street. As a condition, they could request to see what the building is going to look like regarding design standards.

Six of the eight Commissioners present expressed they okay with the density of 40 units per acre.

**Richie Webb** thought there should be strong landscape buffering.

**Dan Hanna** thought the final site plan and elevations should be viewed by the Commission.

**Cory Sorensen** felt an agreement with the canal company would be necessary.

It was felt that the easement should be protected.

Any grade changes should not adversely affect adjacent properties.

The final site plan should come before the Commission.

It was felt they need to be careful about precedent.

**Chairman Dyer** said it is a question of impacts. If there are impacts, they need to be mitigated in order to make it work for everyone.

**Dan Hanna** motioned to recommend approval to City Council for a Conditional Use Permit for property located at 325 and approximately 275 North 1<sup>st</sup> East, to allow decreasing the commercial component to zero percent, and to allow increasing the density from 30 units per acre to allow 40 units per acre; and to include the six (6) Proposed Conditions of Approval in the Community Development staff report, plus five (5) additional proposed conditions of approval (numbers 7 through 11 stated below) - a total of eleven(11)proposed conditions of approval. **Scott Ferguson** seconded the motion.

None opposed. **Motion carried.**

**#10 00235**

**Conditional Use Permit – Steve Kelly**  
**Proposed Conditions of Approval**

1. *Trash dumpsters/receptacles shall be located within the interior (behind front building line, but in required setbacks) of the lot and shall be enclosed.*
2. *A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, snow storage, drainage, etc. shall be submitted and approved by the City prior to the issuance of a building permit.*
3. *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.*
4. *Storm drainage and other Engineering considerations to be reviewed and approved by the City Engineer.*
5. *Applicant to demonstrate that adequate parking is provided and buffered from the street. This includes having landscape buffers of at least 10 feet from public ways. The current site plan does not meet the requirements of the Development Code.*
6. *Staff recommends that as part of the CUP the Planning and Zoning Commission review conformance to the Design Standards as found in the Development Code. The proposal is the first one applied for under the new MU2 requirements.*
7. *Provide adequate buffering of subject property from all adjacent developed parcels.*
8. *Have an agreement with Rexburg Canal Company addressing set-backs, access, and landscaping along the canal.*
9. *Preserve and protect recorded easement; any improvement or development of the easement shall be in agreement with the property owners served by said easement.*
10. *There shall not be any grade changes that would adversely affect adjacent property owners.*
11. *The final site plan and elevations shall be reviewed by the Planning & Zoning Commission.*

**Chairman Dyer** asked Steve Kelly how he felt about the stated proposed conditions. Steve Kelly said he felt the Commission has been pretty fair.

**Unfinished/Old Business:** None

**New Business:** None

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

1. Using canal for project landscape requirement – General discussion

**Dan Hanna** opened the discussion about developing or improving or landscaping canals. He said the canal is one of the nicer amenities of the City. They may have missed in the past some opportunities to see canal banks enhanced and landscaped and perhaps in the future having a waling or bike path. As developments come through that are adjacent to the canal they could be looking at this issue.

**Cory Sorensen** felt that putting a fence up along the canal is the worst thing that could be done. He has seen lots of graffiti on them; it totally closes the canal off.

Val Christensen said the canal company at the present time will allow a property to put snow up to the canal, if they have given them permission to do so.

A developer would need to meet with and have an agreement with the canal company in order to landscape along it.

**Chairman Dyer** had concerns – in tonight’s hearing, canal company property was within the subject property, so it is very appropriate for the developer to work with the canal company.

On another development, the canal company is outside of the property, in the public right-of-way but not in the development property.

There was discussion on whether this landscaping could be counted toward a development’s required landscaping.

Val Christensen said he had spoken with City Engineer John Millar regarding landscaping of a canal in the public right-of-way. The consensus of staff was why not allow counting it toward the landscaping requirement if it is on the side between the canal and the property and the developer will maintain it?

**Jedd Walker** commented that Without an agreement with the canal company, nothing is going to happen. There has to be an incentive for the developer to maintain the whole piece.

Without an agreement with the canal company, nothing is going to happen.

Val Christensen said the incentive would be the extra amount of feet.

**Dan Hanna** felt the situation would have to be looked at almost on a case by case basis.

Val Christensen said his concern is to make sure there will be adequate landscaping where it needs to be for a development, in addition to the possible landscaping of the canal.

**Chairman Dyer** said this issue could be a conditional use, which would be a planning tool.

It was felt the City needs a tool in place to encourage the enhancement of the canal.

**Chairman Dyer** expressed that the next step would be to put together some languagin a document addressing this canal issue that could eventually be sent to City Council for consideration.

**Report on Projects:** None

**Tabled Requests:** None.

**Building Permit Application Report:** None

**Heads Up:**

August 5<sup>th</sup> – Conditional Use Permit – 405 and 431 West 4<sup>th</sup> South

The meeting was adjourned at 10:30 pm.