

Planning & Zoning Minutes

April 21, 2011



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Mary Ann Mounts Thaine Robinson
Dan Hanna Cory Sorensen
Jedd Walker Marilyn Rasmussen
Nephi Allen

City Staff and Others:

Rex Erickson – City Council Liaison
Stephen Zollinger – City Attorney
Natalie Schneider – Compliance Officer
Jake Rasmussen – I.T. Technician
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:03 pm. He welcomed everyone, recognizing Councilman Erickson, members of staff, applicants and interested citizens. Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Marilyn Rasmussen, Cory Sorensen, Nephi Allen, Winston Dyer, Thaine Robinson, Dan Hanna, Mary Ann Mounts, Jedd Walker

Richie Webb, Gil Shirley, and Scott Ferguson were excused.

Minutes:

1. Planning and Zoning meeting - April 7, 2011

Dan Hanna motioned to approve the Planning & Zoning minutes of April 7, 2011. **Cory Sorensen** seconded the motion.

Jedd Walker, Mary Ann Mounts, Nephi Allen, and Thaine Robinson abstained for having not been present.

None opposed. **Motion carried.**

Public Hearings:

Chairman Dyer explained the procedure that is followed for public hearing. The applicant or a representative will come forward to present the proposal to the Commission. The Commission may ask clarifying questions about the proposal. The public will also be given the opportunity to ask clarifying questions. Public testimony will be taken. Staff evaluation and recommendations will be given, followed by deliberation by the Commission in order to come to a decision.

7:05 pm - Annexation & Rezone – Approximately 200 South 12th West – Rural

Residential 1 (RR1) to Low Density Residential 2 (LDR2) – L.D.S. Church

Johnny Watson, 1152 Bond Ave., of JRW & Associates, representing the applicant, the L.D.S. Church. He presented the proposal, pointing out the subject property on the displayed map. The L.D.S. Church is purchasing 4.5 acres, broken off from a larger parcel owned by Nielsen and Company, Inc., for a three ward meeting house. The scale of the meeting house would be similar to those of the Harvest Heights Church. The size of the building will be about 16,000 to 17,000 square feet. There will be about 203 parking spaces. This church building will serve the Rexburg 13th Ward and the Willowbrook Ward – currently a portion of each of these wards is on the east side of Highway 20. It is centrally located for the current wards. The subject location is on South 12th West

just north of Leon Parson's property. The property is in the impact zone and is currently zoned Rural Residential 1 (RR1). In order to tie on to the City's infrastructure, annexation is required per discussion with the Public Works Director. The RR1 zone allows only a fifty percent lot coverage, which would not work with the necessary parking spaces and the building. Rural Residential 2 (RR2) would be a tight fit.

There is Low Density Residential 2 (LDR2) all around the area. The LDR2 zone was chosen as the requested zone because it has workable lot coverage and setbacks. The choice did not have anything to do with the density of residential. A church is a conditional use in a residential zone.

Mr. Watson said they are trying to accomplish two things: get closer to eighty percent lot coverage, and connecting to the City system for the planned structure's water and sewer.

Chairman Dyer said this annexation and rezone application is for property of 4.5 acres. He asked if the property is a stand-alone parcel that has been deeded.

Johnny Watson said it is.

Chairman Dyer asked about the rest of the large parcel from which this subject parcel will be carved, and perhaps even the rest of the neighborhood – what are their thoughts about the zoning?

Johnny Watson said the owner of the large parcel has spoken to him about what may be a possibility with that neighborhood; the land would remain RR1 until the owner possibly comes forward in the future. There has been no master planning of the lot.

Chairman Dyer clarified that no one else has expressed an interest in joining with this annexation request.

Johnny Watson said that was correct.

The **Chair** said the City Engineer and other City staff are interested in making sure that the proposed development will be conducive to their objectives for improving 12th West. They have talked about widening and granting the necessary right of way to do so and to then construct curb and gutter, sidewalk, and improvements on the property. That is a development issue that will come later on. A proposed condition of approval for the annexation and the rezone is to include a commitment to enter into a Development Agreement with the City for those stipulations. He asked if this condition is acceptable to the applicant.

Johnny Watson said it is acceptable.

Terry Bradshaw, L.D.S. Church representative, 7770 Makayla Dr., Nampa, ID. He clarified that the conveyance deed has not yet taken place; it is subject to approval of this request.

Chairman Dyer asked Natalie Schneider if she had any further clarifying information for the Commission to help them understand the proposal. She did not.

The **Chairman** asked if anyone in the audience had any questions to help them understand the proposal.

A woman in the audience wondered what the shape of the lot is for the church.

Johnny Watson clarified the roughly rectangular shape on the projected aerial photo map.

The westerly boundary of the church property will be close to the northeast corner of the Parson family park.

A man asked if the church property will be fenced. There is an irrigation ditch near the southern boundary.

Johnny Watson said the Church standard design is a 6-foot high chain link fence around the perimeter of the property.

The man asked if there is an athletic area planned for this development.

There is not such an area planned.

Chairman Dyer clarified that the question before the Commission tonight is a zoning and land use question. Later on the applicant will come back with a development proposal for the layout of the building and how it will be buffered with the neighbors. The Planning & Zoning Commission will have an opportunity at that time to see how the development will fit with the neighborhood, what impacts it might impose, and what mitigation would be necessary to keep impacts to the neighborhood to a minimum. The Commission recognizes that buffering and screening are very necessary. Landscaping will be looked at, along with examining lighting requirements.

Chairman Dyer opened the public input portion of the hearing.

In Favor:

Eric Erickson, 897 Widdison Lane. He is stake president of the Rexburg Center Stake. The newly planned building will be under their jurisdiction. Currently this stake has a stake center and two ward buildings. They are at and over capacity in all three of these buildings. This proposal will allow them to move two wards and possibly later a third ward to the new building. They have worked long and hard with the building representatives of the Church, who have done a tremendous job in getting this parcel location procured. They are looking forward to moving right in and relieving the pressure from the current three buildings in the stake. He would appreciate the Commission's consideration of this proposal.

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed the public input portion of the hearing.

Chairman Dyer noted that there are two Commissioners who reside in the ecclesiastical jurisdiction of this proposed development. **Mr. Sorensen** and **Mr. Dyer** declared a perceived conflict of interest. They have no vested interest in the outcome of this issue.

Mr. Dyer also declared a further perceived conflict of interest in that he is an ecclesiastical leader in the stake; the issue does not involve their building. There is no vested interest in the outcome.

The Commission had no objections; the two Commissioners were allowed to remain on the dais to help in deliberating the proposal.

Chairman Dyer asked for the staff evaluation and recommendations.

Natalie Schneider stated that the subject property is 4.5 acres, surrounded by mostly single family homes to the south and east, and farm land to the west and north. The zone change request from Rural Residential 1 to Low Density Residential 2 is compatible with the City's Comprehensive Plan, which designates the property as Single Family Residential. Staff consulted with the Public Works Department; the issue of a Development Agreement is addressed in the Proposed Conditions of Approval stated in the Community Development Department staff report. Staff felt the proposal was positive and suggested that it move forward.

Chairman Dyer stated that the questions before the Commission are: a) shall the Rexburg P&Z Commission recommend approval or not to the City Council for an annexation into the City for this parcel; and b) as is required by state law, when a parcel is annexed it must be assigned an appropriate zone - shall the P&Z Commission recommend approval or not for a rezone to LDR2.

Thaine Robinson said he has no problems with the annexation. His only concern had been the zoning, and **Mr. Watson** had answered that issue for him regarding Low Density Residential 2 rather than Rural Residential.

Mary Ann Mounts agreed with **Mr. Robinson**. She added that there has been no opposition expressed from neighbors.

Marilyn Rasmussen wondered if the applicant was requesting enough land to be annexed in, in case they wanted to add an athletic area or other area.

Chairman Dyer said, in looking at the proposed development's land requirements, the applicant would not be able to have such an area at this time. They would have to come back and request annexation of additional property at another time.

The Chair had some concerns about the proposal. In the past, the Commission had a lengthy discussion regarding the impact area as it expanded westward and annexed in the development to the south of tonight's proposal. The Commission also had some discussions with neighbors about the rural character of this neighborhood and whether or not the rural residential-type zones would be appropriate. The Commission had felt that from 12th West through to the next mile would end up being more urban or city type development, which lends itself to the low density type zones. It was thought that if anything went further west it would be more rural residential.

The question the Commission should consider is, once a church house is here in the subject location, the area around it would be prime for additional development residential in nature; what would be the appropriate nature of that development? LDR2 or LDR1 would be likely.

The **Chair** at first struggled with the rezone request, wondering if it was too dense, but he feels the request for LDR2 would be an appropriate zoning for this property.

There was discussion about the next street location in regard to the transportation grid.

Mary Ann Mounts motioned to recommend approval to City Council of an Annexation for property at approximately 200 South 12th West, and a Zone change from Rural Residential 1 (RR1) to Low Density Residential 2 (LDR2) for this specified property. **Nephi Allen** seconded the motion.

Mary Ann Mounts amended the motion to include the Proposed Conditions of Approval as stated in the Community Development Department staff evaluation. **Nephi Allen** seconded the amended motion.

None opposed. **Motion carried.**

#11 00084 Annexation & Rezone – L.D. S. Church Proposed Conditions of Approval

1. The development will be subject to a Development Agreement. The agreement will include the Developer being required to give the required right of way for their portion of 12th West. The Developer will also be required to construct their portion of 12th West Street, which will be constructed according to the City of Rexburg Typical Street Section 5. The property is also subject to front footage fees and per acreage charges that will be according to the most current City of Rexburg Rate Schedule. Water and sewer main lines have been extended to serve the property; the development will be required to reimburse the City for those expenses. All of these fees will be outlined and calculated in the Development Agreement.

7:20 pm – Rezone - 146,150, 156, 160, 170, and 176 South 1st West – to Hemming Pro Zone
Joe Smith, Method Studio, 532 South 800 West, Orem, Utah, project architect, representing the Hemmings.

He presented the Rezone proposal, clarifying that three of the specified six properties need to be rezoned to Hemming Pro Zone. The other 3 parcels are already zoned as the Hemming PRO-Zone. The properties were pointed out on the overheard aerial map.

For clarification, current zonings of the properties are:

<u>Medium Density Residential 1</u>	<u>Hemming PRO-Zone</u>
146, 170, 176 South 1 st West	150, 156, 160 South 1 st West

Mr. Smith said since the Hemming PRO-Zone was created several years ago, additional property has been acquired to be part of the zone.

Chairman Dyer stated that when it is said that a property is to be part of the Hemming PRO-Zone, it means lots of different things in lots of different places. One area was for mixed use; other areas were commercial or remaining residential in order to accommodate some existing properties.

There was quite a variety of development planned for the Hemming PRO-Zone.

The **Chairman** asked for clarification of what is planned for the subject lots in tonight’s proposal.

Joe Smith said the applicants are on tonight’s agenda for a Conditional Use Permit for the properties. The intended use is for student housing.

Lane Hemming, in the audience, Hemming Corporation, owner. The Hemming PRO-Zone was a first for the City of Rexburg. There was no model to go by. As the owners acquired land, that land was added to the Hemming PRO- Zone, as is being requested tonight. One stipulation was to keep the City informed as they move forward, which the applicants continue to do.

The **Chairman** asked if the owners of the properties had been approached at the time the Hemming PRO-Zone originated.

Mr. Hemming said they were approached and were willing to move in that direction, except for the property kitty-corner to the stadium.

Chairman Dyer asked what use is being proposed for the subject properties.

Joe Smith said the development would be for single student housing (dormitory style housing).

Chairman Dyer said it must be taken into account what the current designated uses are of the properties around the subject properties. He is trying to look at how this proposal fits with what is there right now and is also looking at continuity in the neighborhood.

Joe Smith said the proposal fits with the Hemming master plan, which shows additional student housing in the Hemming PRO-Zone.

The **Chair** asked for clarification on whether the applicant is proposing that the six properties in this proposal to be for dormitory style housing.

Mr. Smith said that was correct.

Lane Hemming said the properties to the north of the subject six parcels on South 1st West are not owned by Hemming Properties, although they have had discussions with all the owners. The properties are single family homes with the exception of one house.

Marilyn Rasmussen said Hemming Village is in an urban renewal area. She asked if urban renewal goes further into the PRO-Zone.

Mr. Smith thought it did.

Chairman Dyer clarified that the urban renewal zone coincided with the Hemming PRO-Zone at that time. If this Hemming PRO-Zone now is to be expanded, the property would not automatically

be in urban renewal. There would have to be another request of the Urban Renewal District for these newly acquired properties.

Chairman Dyer asked if the public had any clarifying questions for the applicant about the proposal.

There were no questions.

Chairman Dyer asked if staff had any clarifying information.

Natalie Schneider said the total area of the rezone request is about 1.3 acres. The Comprehensive Plan Map identifies the property as Neighborhood Commercial/ Mixed Use. The Development Code does say that PRO-Zone requests are allowed. The request is compliant with the Comprehensive Plan.

The Commissioners viewed the photos in their packets of the specified properties and the homes that are currently on the properties.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed the public input portion of the hearing.

Cory Sorensen declared a perceived conflict of interest. He owns property on 1st South within 300 feet of subject property.

The Commission had no objections, and he stayed on the dais as a member of the Commission.

Chairman Dyer said the question before the Commission is, shall the three specified properties of the six subject properties be brought into the Hemming PRO-Zone, and shall the six contiguous properties be assigned the designation within the Hemming PRO-Zone of dormitory style housing. This decision would be a recommendation to City Council. If it is recommended approval and then approved, the Hemming PRO-Zone Ordinance would need to be amended.

Thaine Robinson said because the properties are contiguous with everything else, the proposal makes sense.

Mary Ann Mounts felt the proposal is positive.

Dan Hanna said the proposal is well crafted and planned.

Chairman Dyer asked if the Commission felt the proposal was consistent with the Hemming PRO-Zone itself and with the neighborhood and the changes coming to the neighborhood.

Dan Hanna felt the proposal was great redevelopment.

There was discussion regarding the church parking lot on 1st South and the property on the corner of 2nd South and South 2nd West (formerly D&L Cleaners). GIS map ownership information shows the property as Project Redevelopment Option. There was a question of whether these properties are in the Hemming PRO-Zone.

Stephen Zollinger clarified that tonight the Commission is looking just at the six specified properties.

Dan Hanna motioned to recommended approval to City Council of a rezone from Medium Density Residential 1 (MDR1) to the Hemming PRO-Zone of the 3 specified properties (146, 170, 176 South 1st West), and including the proposed land use of dormitory style housing for the six contiguous properties (146, 150, 156, 160, 170, and 176 South 1st West) in the Hemming PRO-Zone. **Mary Ann Mounts** seconded the motion.
None opposed. **Motion carried.**

Tabled Requests:

1. Conditional Use Permit – 146,150, 156, 160, 170, and 176 South 1st West – to allow reduced parking through the use of Pedestrian Emphasis Zone (PEZ) Ordinance 1021; and for dormitory housing in the Hemming PRO Zone.

Mary Ann Mounts motioned to pick the Hemming Corporation Conditional Use Permit request up off the table. **Dan Hanna** seconded the motion.
None opposed. **Motion carried.**

Joe Smith, of Method Studio, project architect. He presented the proposal. The language of the Hemming PRO-Zone requires a conditional use permit for dormitory style housing, which is one of the reasons for this CUP request. The other reason for the request is to have reduced parking for the project.

A PowerPoint presentation was shown which included an overview of Hemming Village and the proposed project. This student housing project is Phase 3 for Hemming Village. The site plan was shown. There will be surface and underground parking. Each apartment will have six beds and three bedrooms. The building would be a four-story structure standing on top of the parking podium. There will be a plaza area and manager's office above the garage. They are planning to have an exit/entry between this new development and The Pines to the west.

Dan Hanna asked how many units are planned.

Joe Smith said there will be sixty units.

Chairman Dyer said some existing parking in the area will be reduced. He asked if that issue has been factored in with the reduction that is being requested.

Joe Smith said the issue has been addressed. In other parts of the project there will be additional parking. The Pedestrian Emphasis Zone (PEZ) allows .1 (ten percent) ratio for this piece of property. They are achieving .2 ratio with their proposed parking.

Chairman Dyer said no development has gone that low before this project.

Lane Hemming said that is why they are planning underground parking.

Thaine Robinson asked where visitor parking will be located. Visitor parking has to be designated. Stephen Zollinger clarified that the PEZ Zone allows zero parking for the residents and .1 minimum visitor parking. The applicant is planning 10 percent for visitor parking and 10 percent resident parking, which is more than adequate.

Marilyn Rasmussen asked how many additional parking spots are in Hemming Village

Mr Hemming said they have an additional 70 spaces, more than what is required.

Chairman Dyer asked if there was any additional clarifying information from staff on this proposal. Natalie Schneider said there was no additional clarifying information.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed the public input portion and asked for the staff evaluation and recommendations.

Stephen Zollinger said the Hemming PRO Zone was written at a time when the maximum height was 30 feet for a building. That building height was changed in the Development Code 1026 to 55 feet due to the fire department's new ladder truck. The height increase change was not carried into the PRO Zone language, which will be corrected to reflect the change. This subject building would be allowed to go to 55 feet.

The parking shown as reverse diagonal would need to be turned.

Stephen Zollinger clarified that although mixed use was designed to have a minimum business requirement, the intent of the ordinance is met with mixed use for this project when looking at the spirit and development of the Hemming PRO Zone as a whole. The intent is met both vertically and horizontally and is consistent with the mixed use that was intended for the area.

The Commission discussed the proposal and decided to eliminate the 8th proposed condition of approval in the Community Development Staff Report, regarding zoning, as the issue has been addressed.

Mary Ann Mounts motioned to recommend approval to City Council to grant a Conditional Use Permit for reduced parking through use of the Pedestrian Emphasis Zone (PEZ) Ordinance 1021, and for Dormitory housing, for property at 146, 150, 156, 160,170, and 176 South 1st West, to include the seven (7) proposed conditions (and excluding proposed condition #8)from the Community Development Department staff report. **Thaine Robinson** seconded the motion.

Cory Sorensen expressed that this project is an example of exactly what the PEZ Zone was designed for. **Mary Ann Mounts** agreed.

None Opposed. **Motion carried.**

**#11 00089 Conditional Use Permit - Hemming Corporation
Proposed Conditions of Approval**

1. *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.*
2. *Design Standards and a landscape plan shall be reviewed and approved by the Design Review Committee prior to the issuance of a building permit. A minimum 3" caliper shall be required for street trees.*
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. *To encourage alternative travel options, i.e. bicycling, bike racks and hard surface must be provided. Location of racks needs to be shown on revised site plan. This requirement is identified in the PEZ Ordinance.*
5. *Sidewalk and pathway maintenance to be performed as per the PEZ Ordinance.*
6. *Parking Contracts to be approved by the City Attorney.*
7. *Requirements of the PEZ Zone Ordinance to be applied to this project.*
8. *The Conditional Use Permit is contingent upon the zone change to the Hemming PRO-Zone of the three parcels (out of the six parcels) in this application that are zoned Medium Density Residential 1 (MDR1).*

Unfinished/Old Business:

1. Discussion - Other Bridge Crossings over the Teton River within Rexburg – Deferred

New Business: None

Compliance: None

Non controversial Items Added to the Agenda: None

Report on Projects: None

Building Permit Application Report: None

Parliamentary Procedure:

Commission Information – Chairman Winston Dyer

Chairman Dyer stated that this Commission operates under a modified version of Robert’s Rules of Order – just enough to give a sense of order but not to intimidate anyone. He thought it would be appropriate to review the purpose of the rules, including some of the major ones that the Commission utilizes in their procedures. He also wanted to review hearing procedure rules. Robert’s Rules of Order provides some common rules and procedures for deliberation and debate, in order to put everyone on the same footing. The rules are meant to aid in having constructive meetings.

The conduct of all the business before the Commissioners is controlled by the general will of the entire Commission. It assures that each side has its proper say.

Robert’s Rules of Order are meant to have everyone give input and are also meant to facilitate input. If a Commissioner does not give input, the Commissioner’s silence means consent.

A rule to observe in order to give input is to obtain the floor before speaking - ask to be recognized by the **Chair**. Such a rule helps to maintain order.

The Commission cannot begin to debate a matter until a motion is made. When someone is making a motion, do not help to craft the motion unless asked to do so.

Original and substitute motions were addressed, along with changing or modifying a motion. The mover cannot call for the question.

When deliberating, direct any remarks to the entire Commission. It is the body that deliberates and makes a decision.

“Point of privilege” – regards noise, personal comfort, etc. – it is an allowable interruption of the proceedings.

“Point of information” – applies to information desired from the speaker.

“Point of order” – discusses an infraction of the rules or improper decorum.

Both the laying on the table of an issue, and picking up the issue from the table, require a motion. A motion to reconsider an issue can be done at the meeting following when the motion was made.

When a public hearing is formally advertised or noticed in the newspaper, the Commissioners should not have discourse with anyone about the issue. The subject site should not be visited. Direct and perceived conflicts of interest were addressed.

The P&Z Commission must be fair and unbiased in its approach to any decision making.

Robert’s Rules of Order are really beneficial to the Commission’s work and what the Commission is trying to accomplish for the benefit of the community.

Chairman Dyer will email Robert’s Rules of Order information to the Commissioners.

Heads Up:

May 5th – Conditional Use Permit – Dormitory style housing - 264 Steiner Ave.

Rezone – on South 4th West CBC and MDR1 to HDR2

Rezone – on South 5th West LI to HDR1

The Commission briefly discussed the *Heads Up* items with the City Attorney, viewing the property locations of these proposals on the overhead screen map.

The meeting was adjourned at 9:22 pm.