

Planning & Zoning Minutes

June 21, 2012



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Dan Hanna Thaine Robinson
Richie Webb Marilyn Rasmussen
Cory Sorensen

City Staff and Others:

Stephen Zollinger – City Attorney
Val Christensen- Community Development Director
Craig Fisher – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:07 pm. He welcomed everyone, including students from a policies class here to observe the meeting process.

Roll Call of Planning and Zoning Commissioners:

Cory Sorensen, Richie Webb, Dan Hanna, Winston Dyer, Thaine Robinson, Marilyn Rasmussen.

Jedd Walker, Mary Ann Mounts, Scott Ferguson and Gil Shirley were excused.

Presentation

Nephi Allen, Planning & Zoning Commissioner – Recognition of Service – postponed to a future meeting due to a schedule conflict.

The Chairman explained that Mr. Allen has resigned from the Commission because he has moved out of the City.

Minutes:

1. Planning and Zoning meeting - May 17, 2012

Marilyn Rasmussen motioned to approve the Planning & Zoning minutes of May 17, 2012.

Dan Hanna seconded the motion.

None opposed. **Motion carried.**

Public Hearings: None

Unfinished/Old Business: None

New Business:

1. Final Plat– Mesa Falls Apartments Division #1 - Approximately 900 South 5th West

Troy Kartchner, 601 W. 1700 S., Logan, Utah. He reviewed the project and its location. The Preliminary Plat has been approved.

The Final Plat now has a requested modification. They had dedicated only 50 feet and not the necessary dedication of 60 feet of right-of-way to the City, along 5th West. Kurt Roland of Eagle Rock Engineering clarified that the section line is on the east side of road.

Mr. Kartchner said they will put in the road on the south and half the road on the west. He assumes that when there is future development the other half would be put in.

Thaine Robinson asked about the name of the street as it continues from Mikan Drive turning to the east. He is not aware of any road in Rexburg that turns like this one and still retains the same name.

Kurt Roland said the Geographic Information Systems (GIS) Department has asked the developer to keep it the same name.

Stephen Zollinger stated that GIS is responsible for naming the roads.

Dan Hanna asked if the appropriate adjustments have been made to allow for the 408 units, which was discussed at the time of the Preliminary Plat presentation.

Troy Kartchner stated they have made the necessary adjustments.

Val Christensen said where there would be two named roads, it was decided by the transportation committee years ago that there would just be one name used if the road was more like a loop.

Chairman Dyer asked if the City Engineer had commented on the Commission's concerns on this road.

Val Christensen informed the City Engineer of the Commission's concerns. The City Engineer did not feel any changes were needed.

Chairman Dyer said the question before the Commission is shall this proposed final plat for the Mesa Falls Apartments Division #1 be recommended to the City Council for approval?

Thaine Robinson said he supports this request.

There was consensus of the Commission.

Dan Hanna motioned to recommend approval to the City Council of the Mesa Falls Apartments Division #1 Final Plat located at approximately 900 South 5th West. **Cory Sorensen** seconded the motion.

None opposed. **Motion carried.**

Compliance: None

Non controversial Items Added to the Agenda: None

Report on Projects: None

Tabled Requests:

1. Conditional Use Permit - Adams Elementary School, 110 North 2nd East – to keep a portable classroom
2. Conditional Use Permit – Madison Middle School, 575 West 7th South – to keep two portable classrooms.

A School District representative was not present.

Chairman Dyer noted the Commission has been provided with further clarification information as the Commission requested at the May 3rd P&Z meeting, showing the School District's need to keep the temporary modular classroom buildings.

There was discussion on whether the CUPs should remain tabled since a representative was not present.

Stephen Zollinger said he would ask that the Commission consider what is before them. Absence of action gives them what they have.

Dan Hanna was excused from the meeting.

Russel Wilson, representative of the Madison School District, arrived.

Thaine Robinson motioned to pick up both Conditional Use Permit requests - for Adams Elementary and for the Middle School- off the table for discussion. **Marilyn Rasmussen** seconded the motion.

None opposed. **Motion carried.**

Chairman Dyer explained that the School District has made application to either renew or obtain Conditional Use Permits for a temporary portable classroom at Adams Elementary School and also two temporary portable classrooms at Madison Middle School. The hearings were opened at the May 3rd meeting. Public input was taken – in this case there was no public input. The Commission began to deliberate the matter. At that time, the requests were tabled and the Commission requested more information from school district representatives to show the need to keep the modular buildings, in order for the Commission to make a reasoned and informed decision. In addition, the Chair made a request of the school district that it would be helpful to have that information in written form in advance of the meeting, so the Commissioners would have the opportunity to review it and be in an informed position when and if the matter was taken up for further discussion.

The Chair noted that the Commission has received written information including charts and graphs, supporting the School District's position. He asked Mr. Wilson to come forward.

Russel Wilson, 3208 Hartert, Idaho Falls. A graph on school district growth, included in the information provided to the Commission, was shown on the overhead screen. He clarified that the submitted written information is identical for both schools.

From 2002 through 2011 the Madison School District has grown by almost 1,000 students. The modular classrooms are helping to accommodate the growing number of students. They do not know what the next 10 years will bring.

Marilyn Rasmussen asked if the growth has been in the elementary and junior high schools.

Russel Wilson said growth has been across the board, including the high school.

A list of other school districts which have modular classrooms was included in the provided information.

Thaine Robinson said of the Jefferson School District's 18 modular buildings, how many are in the city limits of Rigby versus the county.

Russel Wilson said he looked at it as one school district and did not divide the number between city and county. He stated the Madison School District is anticipating continued growth. If they knew where that growth was going to be he would propose to move the modulares.

Adams Elementary added brick and mortar last year, so the portable was not used this year but it will be used. They would like to not have to move the modular buildings.

Mr. Wilson said there is an issue with the setback of the modular unit at Adams. The district has had an initial discussion with the neighboring property owner about obtaining an easement for setback. The Adams portable is eight feet from the property line and should be 10 feet from the property line.

It was clarified that the property line on the Adams temporary building is bordering just one property.

Thaine Robinson had a general question about safety of a modular unit. If there is a lockdown in the school, can the modular be locked down?

Russel Wilson said the buildings are notified over the intercom. The door would be locked the same way as the main building. No buildings have automatic lockdown except the high school. All others use a key lockdown.

A graph was shown of the outstanding bond principal.

There are two modular 2-classroom units at the old Burton Elementary that are in storage at this time, one modular at Adams, and two modular buildings at the Middle School. One modular is stored at the police shooting range.

Mr. Wilson stated that yearly state funding per child has also gone down.

Currently the district is adding on to the Burton Elementary in order to facilitate the mandatory state requirement for Pre-K children who fall under a category of risk, or not being able to keep up.

These children are paired with children who are not at risk. The district formerly had an arrangement with BYU-I regarding these children, and that arrangement has deteriorated.

The other addition to Burton is for severe needs children.

There will be 5 classrooms – 3 preschool and 2 severe needs.

Russell Wilson said the District acknowledges they are not using the subject modulares fully at this time, but they are requesting to keep them in place and not have to move them - cost is prohibitive.

Chairman Dyer asked Mr. Wilson to be more specific on when the modular buildings would be fully used and needed.

Russel Wilson said by 2013 or 2014 the school district will definitely utilize the portables.

They are asking for a five-year extension.

Thaine Robinson said if the conditional use permits were granted and one of the conditions would be for the Adams Elementary modular to meet setback requirements of the City's Ordinance, would that be a problem?

Russel Wilson said the building is on concrete strips, so it would need to be moved two feet to the north, and they would have to re-do the sidewalks.

Stephen Zollinger clarified that the problem with the Adams School portable is not a zoning question. It is a building code violation and so is not discretionary; it will have to be corrected.

Russel Wilson asked if the problem is correctable by an easement.

Stephen Zollinger said the building code problem would be correctable with an easement.

Marilyn Rasmussen said the School District is asking for a 5-year extension. Are they going to put up a bond?

Mr. Wilson reiterated they are asking for a 5-year extension. During that period of time, the district feels that the projected growth will fill these modulares, and they will be going for a bond as well.

He cannot speak for the school board but possible planning would be for a new elementary in and an addition to the junior high in the next 5 years.

Chairman Dyer said permission was granted in the past with a commitment from the School District that they were going to build brick and mortar classrooms and that the modular buildings would be a temporary situation. The modulares were to be gone within the given time frame. That

did not occur. The Commission recognizes that the bonding capabilities have been maxed with other needs. The Chair asked for clarification.

Russel Wilson said in 5 years the modular classrooms would still be needed. Hidden Valley is the fastest growing area. The best answer he has for the Commission is that the modular buildings would be moved wherever they are needed in the next 5 years. The school board takes the commitment to the City very seriously. Their goal is to provide the best quality education to the children of Rexburg and Madison County.

Richie Webb asked if the cost to move the portables has been looked at.

Mr. Wilson said the average cost is \$25,000 to move a modular building and set it back up. Hibbard and South Fork might use the modular units in the future. It is a matter of where the growth will be.

Thaine Robinson said speaking for the Commission, Mr. Wilson's presentation tonight is very much appreciated. It was very well done.

He stated that the information report that was submitted to the Commission was very condescending, and he asked that this be conveyed to whoever wrote the report.

The **Chair** said there is Commission consensus on this point.

Stephen Zollinger asked for the number of students at the Middle School.

Russel Wilson said there are about 850 students, and the school is designed for 1100 students.

Chairman Dyer said there are two application requests before the Commission, one for a single modular unit at Adams and one for 2 modular units at the Madison Middle School. The Commission could have separate or one deliberation discussion.

The Commission determined they would have one deliberation discussion.

Val Christensen reiterated that the building department major issue is that the distance from the property line at Adams Elementary must be resolved; it is in violation. It is a liability and life-safety issue.

The definition of temporary and permanent buildings was discussed. The building code states anything under 180 days is temporary. The zoning ordinance gives the definition of temporary as a perspective use intended for a limited duration generally less than one year.

Mr. Christensen stated if he had known the buildings would be there for a long period of time, the City would have worked with the School District to get the buildings put in correctly as permanent structures.

Stephen Zollinger said the Bonneville School District uses their modular buildings in a much more modular way, often moving them as needed and storing them at the end of the school year.

From a building department standpoint and from a legal public hearing standpoint, the Commission needs to decide whether to treat these modular buildings as temporary or permanent. With all due respect to the School District, they are asking to store the modular buildings in their current locations.

The Middle School has corrected notifying of the modular classrooms during a fire drill or other drill.

The third-party renting is troubling. Temporary structures located adjacent to a building are supposed to be used by and as accessory to the property owner – used to buffer the brick and mortar building. A meeting of the School Board and the P&Z Commission and City Council would

be very appropriate to discuss how they can help each other to handle this modular building issue in the future as more growth is seen. A request for a 1 year use has turned into a 4 or 5 year use. The School District would rather not see the structures as permanent.

There was Commission consensus that these modular buildings would not be treated as permanent.

Cory Sorensen asked what the student numbers are at Adams.

Russel Wilson said there are about 285 students with a capacity of 310 students.

Thaine Robinson said he is comfortable with the fact that the CUPs be granted, but he would do so for a short period of time because of the history. The Adams setback issue must be resolved. He feels there should not be renting to a third party; the modular should be used by the school district to help the community's children.

Cory Sorensen said the Middle School is at 75 percent capacity, which may mean the buildings could sit there for a longer period of time. Adams Elementary is at 91 percent capacity, so it appears the units would be used sooner.

Thaine Robinson said that in keeping the modular buildings mobile, each time the School District wished to move them they would need to apply for a CUP, which would give the Commission the opportunity to see the requests. It also gives the School District the flexibility to be able to move the buildings around.

Chairman Dyer said the Commission is right where they were when these issues started about five years ago. The Commission wants to be good citizens and wants to support their school board. The Commission wants the tax dollars to be well used. At the same time, the Commission's charge and charter is to represent the community and the community's interests. Setbacks, which were discussed, are a huge liability for the City. There is also an aesthetic issue with these modular buildings. When the modular buildings first came in, neighbors from all around were very concerned and did not want them. Design standards are also an issue. Developers spend many dollars to make their facilities meet the City's design standards so buildings are attractive and contribute to the overall appeal of this community.

On another level are the modular buildings. From the information and the presentation given, the buildings are accommodating the students and growth of the School District and helping the District with a cost issue. Beyond this, he finds no other assets or advantages to the community.

Marilyn Rasmussen asked for clarifications on what BYU-Idaho students are using at the Middle School.

Russel Wilson said this year they used both classrooms in one modular. The other modular was vacant. Next year BYU-I wants to use both modulares (4 classrooms).

Richie Webb feels it makes sense to grant a one year CUP to allow the modular units to remain. For the future, efforts should be made to come up with better solutions. The bigger issue is how the School District manages growth effectively.

The third-party issue was discussed. **Stephen Zollinger** clarified that BYU-I is not using the modular structures at the Middle School. It is the School District that is providing a learning

experience. Interns do not belong to the entity that sends them but rather to the entity that is using them (student teaching). The University is not renting the classroom spaces. The third-party use is at Adams Elementary for a private pre-school.

Stephen Zollinger stated that one motion can be made for both School District Conditional Use Permit requests.

Thaine Robinson motioned to recommend to the City Council to approve a new Conditional Use Permit (CUP) for the Madison School District #321, to have two temporary Modular Classrooms located at the Madison Middle School, and to recommend to the City Council to approve a new Conditional Use Permit (CUP) for one temporary Modular Classroom at Adams Elementary School. Both CUPs will expire June 30, 2013. The following conditions will apply to the CUPs:

*Proposed Conditions of Approval
12 00128 – CUP Adams Elementary School
12 00129 CUP Madison Middle School*

1. *The Adams Elementary School Modular Classroom must meet the set-back requirements in the City Ordinance.*
2. *Any Third-Party or other businesses within the modular classrooms will not be allowed.*

Thaine Robinson amended his motion to include a third condition. **Richie Webb** seconded the amended motion.

3. *The Planning and Zoning Commission along with representatives from the City will meet with the Madison School District representatives to work out an agreement for future handling of the temporary mobile Modular Classrooms.*

None opposed. **Motion carried.**

Building Permit Application Report: None

Heads Up:

July 5:

1. Conditional Use Permit – Approximately 1150 North 9th East and 906 East Moody Highway – to allow a Home Business: cabinet shop
2. Comprehensive Plan Map Amendment – Approximately 245 West 1st North – Moderate-High Density Residential and Light Industrial to Neighborhood Commercial/Mixed Use
3. Rezone –Approximately 245 West 1st North – LDR2, CBC, and LI to MU2
4. Rezone –Approximately 424 West 2nd South – LI and MDR2 to HDR1

There was a brief discussion on the design review process, which appears to be working pretty well. The Commissioners were encouraged to look at several buildings in the community to better see if the design review meeting process is working well and if the process may need tweaking. In addition, the Commission will look closely at requests for zero percent commercial in the Mixed Use zones. Val Christensen said there always should be the option; applications should be looked at on a case by case basis.

The meeting was adjourned at 9:20 pm.