

Planning & Zoning Minutes

November 15, 2012



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Dan Hanna Thaine Robinson
Mary Ann Mounts Cory Sorensen
Richie Webb W.C. Porter

City Staff and Others:

Bruce Sutherland – City Council Liaison
Val Christensen- Community Development Director
Stephen Zollinger – City Attorney
Elaine McFerrin – P&Z Coordinator
Darrik Farmer – Community Development Intern

Chairman Dyer opened the meeting at 7:12 pm. He welcomed everyone and explained that official business cannot be conducted until the Commission has a quorum; the public hearing that is going to be held is not officially scheduled until 7:30 pm. There is an item of information that can be discussed.

Val Christensen addressed the Commission regarding the Infill/Redevelopment Policy being adopted and added into the Development Code Ordinance No. 1026 document. He read the definition of “Infill” and the definition of “Redevelopment”.

The Infill/Redevelopment Policy and definitions will be cross-referenced in the Development Code’s different zone information sections for those who may come forward with an infill project. Buffering and setback requirements as stated in the Infill/Redevelopment Policy would apply, depending upon the project.

There was some discussion on the document wording.

Val Christensen stated the City Council unanimously voted for approval of the Infill/Redevelopment Policy to be added into the Development Code.

It is a guideline in making decisions.

Chairman Dyer again welcomed those in attendance. The Commission now has a full quorum and the official, noticed time for the scheduled public hearing has been reached.

Roll Call of Planning and Zoning Commissioners:

Dan Hanna, W.C. Porter, Winston Dyer, Thaine Robinson, Mary Ann Mounts, and Richie Webb.

Jedd Walker, Mark Rudd, Gil Shirley, and Scott Ferguson were excused.

Minutes:

1. Planning and Zoning meeting - November 1, 2012

Thaine Robinson said the secretary did a wonderful job correctly reporting the minutes, especially during the heated part of that meeting.

Thaine Robinson motioned to approve the Planning & Zoning minutes of November 1, 2012.

Richie Webb seconded the motion.

Winston Dyer abstained for having not been present.

None opposed. **Motion carried.**

Chairman Dyer noted for the record that the scheduled 7:05 pm Public Hearing regarding a Comprehensive Plan Amendment was cancelled by the applicant.

Public Hearings:

Chairman Dyer explained the procedure that is followed for public hearing. The applicant or a representative will state the proposal. The Commission may ask the applicant or staff questions to help clarify the proposal. The audience would be given the opportunity to ask clarifying questions about the proposal. Public testimony will be taken, followed by the staff evaluation. The Commission will then deliberate the issue in order to come to a decision.

1. 7:05 pm - Comprehensive Plan Map Amendment – Commercial & Low-Moderate Density Residential to Moderate-High Density Residential – Approximately 900 North Yellowstone Highway - **Cancelled by Applicant**
2. 7:30 pm – Conditional Use Permit - to allow a lowered number of parking spaces and increased density through the use of the Pedestrian Emphasis Zone (PEZ), Ordinance No. 1021, and for 100% residential in the Mixed Use 2 Zone (MU2)– Approximately 177 South 1st East – (Sakkara Properties)

Rachel Whoolery, 2169 Ferris Lane, the applicant and one of the owners of the properties. This has been a dream since she purchased the first property 4 years ago to put several properties together to create a complex. She appreciates all of the meetings and time that City staff has given to help this day happen. The property is at approximately 177 South 1st East. The ending line for the MU2 zoning on the block stops at their final property on the east. Seven contiguous properties are included. The property was shown on the overhead screen. The property is across the street from the BYU-I campus.

Mrs. Whoolery read from the Development Code. The MU2 zone was established “... to provide areas in which a variety of housing types may exist among neighborhood-serving commercial and institutional uses...” The MU2 zone is an area where commercial and residential co-exist with different percentages of each. As one moves down 2nd South from the west there is 100 % commercial, and then partial commercial and partial residential. She feels the 100% residential she is requesting is a good buffer for the Low and Medium Density Residential to the east of her project. Less parking and higher density through use of the PEZ Ordinance is also being requested. The project would be a planned community with a variety of housing types.

The plan is to remove seven BYU-I student approved houses and construct a two-building student complex that is 4 levels high. There would also be a three-level parking structure. They are considering tandem parking. They have worked extensively with Headwaters Construction and with architect Ken Harris to create a project that uses the 1.3 acres for a 4-story complex with a 3-level parking garage, tiered to best fit with the elevation incline. There would be 340 tenants. There would be 4, 6, and 8-person apartments. There would be one building for men, and one building for women.

The subject property is in the PEZ1 overlay area. They meet the PEZ requirements. They currently have seven buildings with 15 units and are proposing to provide 51 units. They will provide 3 different bike parking areas, both covered and uncovered. This bike parking will be placed next to both sides of the ramps for easy accessibility, it will be adequately lighted, and it will not be located in the front yard setback. The locations were pointed out on the projected site plan.

Cory Sorensen arrived at 7:45 pm.

Rachel Whoolery stated they will provide access for the neighboring American Belle tenants to have pedestrian access through the subject Sakkara property.

Currently there are 5-foot wide sidewalks. They would provide 8-foot sidewalks to accommodate pedestrian traffic. There would be green strips between the curb and sidewalk.

Onsite managers would keep sidewalks clear of debris and snow.

Several of the existing grandfathered-in houses on the property now function with little to no parking. Rachel Whoolery feels she has a history of the parking needs for the property; a one to one ratio is not needed. They propose .47 parking ratio, which includes visitor parking.

They currently have car contracts- it is already set that there are no contracts if they do not have parking spots.

Visitor parking would increase from 2 to 34 spaces.

Rachel Whoolery presented her idea for tandem parking. She is suggesting 30 tandem parking spots. The tenants would have to be within the same apartment (combo parking pass), and the tenants could be given a price break. Currently the tenants do not need to access their cars too often except for shopping once a month. It is a very short walk to campus. Tandem parking is not included in the .47 parking ratio.

There would be 122 parking spaces, 34 visitor parking spaces, and 30 tandem parking spaces. There would be about 45% compact car spaces. They want to create the ideal parking structure.

They are requesting zero setbacks. Their property is already set back 29 feet from the road on 2nd South and 21 feet from the road on 1st East. All it would do if there was not the zero setback would be to create more grass and less parking. More than the 10% required landscaping would be provided.

The two planned residential buildings were shown. The 7 homes would be taken down. It would be a great service to the community to enhance the property. The building design is French Tudor, which has universal appeal and is very attractive.

Mrs. Whoolery is very excited about the project. Every apartment has a balcony. Every bedroom will have its own private bathroom. There would be islands in the kitchens, study areas, music practice areas, and lockers for long-term storage. There will be a 4-foot tall vertical climbing wall that works like a treadmill on the men's fourth floor.

For over 4 years, she has been thinking about what would be the most perfect design. Lots of time and thought were put into this complex. She feels it is a huge improvement on what she is currently offering her tenants.

Thaine Robinson said he struggles with MU2 and no commercial. The commercial is a main point of MU2. The zero setback allows the building to be closer to the road. Mrs. Whoolery had said the 100% residential would be a good buffer; is it also a financial issue?

Rachel Whoolery said it is not a financial issue. She started her design with having the first few floors with commercial on the corner. She struggled with the BYU-I approval; it is her entire market. The other issue was parking. The parking in front of the commercial could not be designated for the business; the City said the parking would need to be in the interior of the parking structure. It was taking away from the tenants. What would really work right there? The property is not by any restaurants or other commercial. There is a church and residential. Commercial is not a good fit.

Thaine Robinson said why would they not change the zone to high density rather than ask for permission to not use commercial.

Rachel Whoolery said because the MU2 zone language says she can ask for zero commercial and 100% residential. She does not need to rezone if the request works within that zone. MU2 has a variety of housing. This project would be the variation.

Chairman Dyer said the City Council determined the transition to residential on the east by ending the MU2 zone a half block from 2nd East.

Rachel Whoolery stated she feels the 100% residential fits.

Chairman Dyer asked if the applicant would be willing to accept a requirement of commercial as part of the approval.

Rachel Whoolery said it would depend on how much commercial. She is on a fine balance of making this project work.

Chairman Dyer said if this is approved as all residential would she be willing to accept a setback requirement? **Mrs. Whoolery** said she would lose the tandem parking and some other parking. It would be difficult but she is willing to discuss it.

The **Chair** asked Rachel Whoolery to clarify University input and how that might impact her options.

Rachel Whoolery said the subject property is 1.3 acres, which is enough for one complex. If the commercial component that was completely separate from her residential building was required, that would shut down the project. She would not have enough residential income to bring in investors. If the commercial component was put in the same building, she could not go vertically with residents. In her meetings with the University, there is concern about a commercial component because of what kind of business could come in. BYU-Idaho is very hesitant to approve any project with commercial and residential components. She was trying to put in an office space or two, but the University held their approval up – the University was not sure if they would approve a commercial component if she added it to her residential.

Chairman Dyer said the Commission appreciates her long endurance with this matter. It has been several years. The Commission recognizes that Rachel Whoolery has had quite a struggle in comprehensive planning and in different zoning requests along the way and also in obtaining the properties. He speaks for the Commission in expressing their appreciation for her tenacity and her willingness to try to put together a redevelopment project that captures the vision of what the P&Z Commission and the City Council put together for this particular area.

He asked what is in the City's interest for this project. How would it benefit the community?

Rachel Whoolery said permit fees and impact fees would create revenue for the City. Her tax base would also go up. All these years, she has attended all of the meetings that were held to create the PEZ Zone. It was made to bring the students in - take down old structures to make way for a complex. The land is not being used to the best advantage. There is impact on roads with more cars. Her complex would be very close to campus – preventing accidents by bringing students to the spot they need to be and with no need to drive to school.

The **Chair** said Mrs. Whoolery named advantages that any development going in here would give. Usually the Commission looks at what pedestrian amenities will be provided or greater green space.

Rachel Whoolery said there are currently seven parcels with seven driveways. That would change to one entrance on 1st East and one on 2nd South. A better flow of traffic would be created. All of the

plumbing will be updated. There will be a basketball court for the residents to enjoy. This complex will also encourage the health advantages of walking.

The Chair asked if Mrs. Whoolery is willing to accept an 8- foot width sidewalk requirement. She answered yes.

The **Chair** asked if the audience had any questions to help them to understand/clarify the proposal. There were no questions from the audience.

Cory Sorensen said the parking structure is a double ramp system, 2 lanes of traffic going up and 2 lanes going down. Would this create a bottleneck? Potentially 2 cars could be coming out at the same time.

Val Christensen said this was discussed in the past on another project. The City Engineer did not address the issue for this proposal.

Cory Sorensen said it is an amazing design but a concern – 4 lanes all merging out of the same spot.

Richie Webb asked for clarification on the zero setback of the buildings.

Val Christensen clarified there will still be landscaping requirements that will have to be met internally in the project. The landscaping in the City right-of-way does not count towards the requirements.

Thaine Robinson asked Phil Packer, BYU-Idaho representative in the audience, to clarify Rachel Whoolery's description of the University's position on the commercial aspect.

Phil Packer clarified that the University policy is that residential cannot be above or below commercial (over/under).

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

In Favor:

Randall Rhead, 224 Cornell. He has lived here for 20 years. This area has gone through demographic changes. There are lots of rentals on that street. Because this is a college town and a walking campus is wanted, we need to move in that direction. All around town new high-rises are coming up. This is housing close to campus. If this proposal is approved, it may change the attitude of a lot of his neighbors. He is in favor of this request.

Kent Hansen. He lives in Montevue, but he owns property on the same block as this request. Rachel Whoolery has done a good job and has done her homework. He struggles with the commercial aspect idea. He likes it the way it has been presented.

Seth Hansen, 106 East 1st South. He is a student at the University. From a student perspective, this is more opportunities and options, and better housing. It is also very close to campus.

Neutral: None

Opposed: None

Written Input: None

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

Val Christensen felt that Rachel Whoolery's tandem parking idea is a really good one. It is great when someone thinks outside of the box. Other complexes have had to partly call on campus lots. This parking structure is so much better. It is good use of that ground.

He commends Richie Webb and Cory Sorensen and Rachel Whoolery and others who are starting to look at these parking structures.

Rachel Whoolery has worked to make sure there would be the pedestrian amenity of providing access through her project for the adjacent apartment complex. It will be covered access. She is also looking at doing raised gardens in different areas.

This project consists of 1.3 acres. The property is zoned MU2. A CUP is necessary for the requested zero commercial and reduced parking.

The buildings will have to meet design standards.

The City Engineer's concerns were building the project without using the City right-of-way and safely managing pedestrian traffic during construction. Staging becomes a very difficult problem.

It is important to identify if any of the existing homes that are planned to be removed are historic or have a historic feature. None of the homes were on a certified historic list.

Mr. Christensen read the recommendation from his staff report. "...Staff has concerns about allowing a zero front yard setback to a completely residential project. Staff recommends that the Commission take public testimony, and determine if the proposed conditional use permit can be approved, denied, or approved with conditions." He is concerned with the precedent that might be set.

A main concern in past hearings was commercial in proximity to homes. This is at the east end of the MU2 zoning in this area and is close to the residential.

Chairman Dyer said the City Council determined where this MU2 zoning would end in this area. They put the line in the middle of the block. He asked Mr. Christensen to clarify this issue.

Val Christensen said residents from the 2nd East and from the Cornell areas expressed being against commercial at the time of the zone change request.

The MU2 zone allows going to zero commercial. Each project needs to be looked at on a case by case basis. The last MU2 project approved did include commercial, but it is right across the street from other commercial.

Dan Hanna wondered if the Commission would be criticized for not having a commercial component and for allowing a zero setback. A wide right of way exists.

The Chair said the criticism may come from other developers. The right of way is the same, but there is a narrower street.

Val Christensen said with wider streets there would be more traffic and additional safety concerns.

Cory Sorensen asked if the City had ever done a traffic study of the subject intersection.

Val Christensen said the City Engineer has looked at all these plans; he did not request a traffic study.

The Commission discussed that there will be a significant increase in people crossing the street to campus.

Stephen Zollinger said the subject intersection was referred to the traffic safety committee about 15 months ago. At that time, pedestrian elements did not warrant a significant change yet. The City Engineer will address with the developer alternative mechanisms for managing the pedestrian crosswalk at this area as this project moves forward, and also in conjunction with the University's development in the College Avenue area.

Chairman Dyer asked Val Christensen to address the issue of 4 stories (one below ground), with no commercial and zero setback.

Val Christensen said the precedent component is his only concern. Commercial in the MU zones should be encouraged. The housing component is what attracts a developer, but from a planning standpoint, as the number of student residents grows on these blocks, it is a good idea to have commercial so they can walk to restaurants, banks, etc. The University has expressed a great desire to keep the half of these blocks that face the campus mainly residential and to filter in commercial as the location goes toward town.

Stephen Zollinger said the Hemming Willows complex is slightly closer to the back of the curb than this project would be, and it is 4 stories plus a parking structure.

Widening the road near the subject property is not an option that the City is looking at.

The issues of less parking, higher density, zero commercial, tandem parking, and zero setbacks were discussed.

W.C. Porter said the student parking contracts address the parking space issue. Regarding the commercial question, it is not practical or viable. The project is too small.

Thaine Robinson agreed that commercial does not fit with this particular project, but he feels the real issue is that the mixed use zones call for a mix of commercial and residential.

Cory Sorensen also felt that commercial would not work here with this project. It will always be a difficult issue to look at. The University adds to it because of their over/under issue.

Richie Webb said it depends on the amount of land that is able to be amassed. Each case needs to be look at – the Commission has the opportunity to say they think it is right or wrong. He has no problem with all residential here.

Mary Ann Mounts agreed with Mr. Webb.

Dan Hanna concurred.

The **Chair** said the Commission discussion for the record would show the uniqueness of the situation – the justification of maximization of residential and the justification for no commercial.

Mary Ann Mounts said this project location is not contiguous to any other commercial. It was brought up by the applicant that the location is very close to classrooms. Maximizing residential here makes sense. There also was no opposing public input given tonight.

Dan Hanna said each complex has its own unique characteristics. This one lends itself to this type of provision by its location, the dynamics of the University, and the size.

Richie Webb said Mr. Christensen said tonight that the earlier rezone opposition to becoming MU2 was the neighbors' opposition to commercial. Secondly, in looking at some of the planning done in the past, there is a kind of pod approach where there are centralized areas for retail and for commercial. This subject location would be quite a blank pod. From Hemming Village, it is far enough away to where it would not feel like it is part of what has already been done to the west. This would be another reason why it does not make sense to push commercial here. It would also be difficult to lease.

Mary Ann Mounts said the width of the street at this time is also different.

Cory Sorensen said curb appeal may need to be looked at in design review.

Thaine Robinson expressed that he likes what has been presented. It is a good-looking project. It is not nearly as large as other projects.

Cory Sorensen said that the balconies would help to break up the buildings. He feels positive about the project.

Zero setbacks were discussed.

W.C. Porter said this is a small piece of property. He does not see a problem with it in this situation. It fits the neighborhood.

Chairman Dyer stated he is concerned that the Commission would be forgiving a lot of issues on a lot of ground. He is concerned about what is in it for the residents of Rexburg. If everything is 100% residential and to the street, should there be more green space to make it fit in with the adjacent residential areas that are going to stay that way?

Val Christensen clarified there are no required setbacks in MU2. The Development Code says one may be considered - maximum front yard setback is 10 feet.

The HDR zones setback is 20 feet.

Richie Webb said he is sympathetic to the developer. The setback could affect the quality of the project, and this needs to be taken into consideration. They need to try and help developers to accomplish what the Commission wants them to accomplish if the project is a quality project. In his opinion, Rachel Whoolery has thought this project through.

W.C. Porter said Rachel Whoolery has addressed a lot of the issues proactively already.

Stephen Zollinger said the side yard setback would need to be that of the adjacent MDR1 –10 foot maximum.

There was consensus of the Commission for the zero setbacks.

Suggested proposed conditions were discussed.

The Chair expressed that the Commission has had thorough discussion on all points of concern.

Mary Ann Mounts motioned to recommend to City Council to grant approval of a Conditional Use Permit for the property at approximately 177 South 1st East, to allow a lowered number of parking spaces and increased density through the use of the Pedestrian Emphasis Zone (PEZ), Ordinance No. 1021, to allow 100% residential (zero % commercial), and to allow zero setback in the Mixed Use 2 Zone, and to include 4 proposed conditions:

- 1) There shall be a pedestrian management plan for during construction, done in coordination with the City Engineer;
- 2) Include tandem parking in the project if possible;
- 3) Provide 8-foot wide sidewalks; and
- 4) There shall be a design review meeting for the project.

Dan Hanna seconded the motion.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business: None

Compliance: None

Non-controversial Items Added to the Agenda:

1. Sign Ordinance change:

The Commission discussed the sign ordinance change that was approved by City Council for sign height up to 40 feet to be allowed at the three Highway 20 interchanges.

Chairman Dyer said the issue of signs around the south interchange has come before the Commission no less than 4 times. The Commission has not supported a change there. It was last spoken of this spring (March 1, 2012 P&Z meeting), when there was a split vote on the matter which did not support a recommendation to City Council. After quite a lengthy delay, the Sign Ordinance height change was addressed at the last City Council meeting and was passed.

Val Christensen said the Sign Ordinance height increase issue came before the City Council but was tabled. Once the Infill Policy was completed by City Council, the Sign Ordinance height change came before the City Council at the last meeting and was approved.

Sign size of the Burger King/Conoco/Subway sign was briefly discussed.

2. Hanna Properties Rezone:

As a courtesy point of information and for clarification purposes, **Dan Hanna** distributed a possible site plan for the property in his rezone request, which came before the Commission at the November 1st P&Z Commission meeting. He explained that the project will fit the property, which was in question at that meeting.

3. Discussion - Regarding presentation of a proposal and leaving the meeting room after the presentation during the deliberation process of a public hearing if the applicant or applicant representative is a P&Z Commissioner. Stephen Zollinger said there are State Code "Conflict of Interest" rules which the City has always complied with.

The issue will continue to be looked at.

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

December 6th - Conditional Use Permit – Approximately 40 North 5th West - to allow a building with more than four (4) units: one 6-plex

The meeting was adjourned at 10:00 pm.