

Planning & Zoning Minutes

January 3, 2013



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Thaine Robinson
Dan Hanna
Jedd Walker
Cory Sorensen
Mark Rudd
W.C. Porter

City Staff and Others:

Mayor Richard Woodland
Bruce Sutherland – City Council Liaison
Stephen Zollinger – City Attorney
Natalie Powell – Compliance Officer
Scott Johnson – Economic Development Director
Darrik Farmer – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:04 pm. He welcomed Mayor Woodland, City staff, and interested members of the community.

Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Cory Sorensen, Dan Hanna, Mark Rudd, Jedd Walker, Winston Dyer, Thaine Robinson, and Chuck Porter.

Mary Ann Mounts, Richie Webb, Gil Shirley, and Scott Ferguson were excused.

Minutes:

1. Planning and Zoning meeting - December 20, 2012

The Chair asked if Debra Smith had been contacted about her expressed concerns regarding her trailers (page 3). Compliance Officer Natalie Powell said City staff has contacted her.

Dan Hanna motioned to approve the Planning & Zoning minutes of December 20, 2012.

Thaine Robinson seconded the motion.

Cory Sorensen and Jedd Walker abstained for not having been present.

None opposed. **Motion carried.**

Public Hearings:

7:05 pm – Conditional Use Permit –for a Hotel – Approximately 75 Pioneer Road

Chairman Dyer explained the process that is followed for public hearing. The applicant or a representative will present the proposal to the Commission. The Commissioners may ask clarifying questions about the proposal. The public will also be given the opportunity to ask questions to help them understand the proposal. Public input will be taken from those in favor, neutral, and those opposed to the proposal. Everyone will have the opportunity to have their say. Staff evaluation and recommendations will be given, followed by deliberation of the Commission. The Commission will look at pros and cons, thoroughly looking at the issue in order to come to a decision. The Commission is an advisory body to the Rexburg City Council. The decision tonight would be a recommendation to the City Council.

Jeremiah Bigelow, 5035 East 34 North, Ririe. He presented the proposal. They are requesting a Conditional Use Permit (CUP) for a hotel to be located at approximately 75 Pioneer Road. The property size is a little over 2 acres. The City soccer field is just north of the property. The zoning is Community Business Center (CBC).

The location was shown on the overhead screen. The canal runs to the east of the property. The City has stubbed in water and sewer. There is a 6 inch waterline. Conduit is already in place for electricity.

At the time of making the offer on the property, they did not know the property was regulated by the Federal Aviation Administration (FAA) because of its proximity to the airport runway area. They have submitted an application to the FAA for approval.

The plan is to build a two-story, 55 to 70 bedroom hotel, on the south side of the property so that there can be more height. There will be plenty of parking as well as area for snow storage. All improvements have been made to the parcel. They feel they should be able to build a 32 to 35 foot high building. The FAA will review this. Their purchase of the property is contingent on being able to build a two-story building. It is a good piece of property for a hotel, with close access to the highway. It would be near an existing hotel. There are new traffic signals close by on Main Street. Traffic should not be an issue.

Mr. Bigelow said the soccer field to the north is like having a park next door. The field will not be a visual block to the hotel. They know they will always be seen from Main Street.

The site plan was shown. The building would be 55 feet wide and 214 feet long. Setbacks are 15 feet. They would be using about two-thirds of the lot. They would put a privacy fence on the east near the canal.

The property accesses on the site plan were clarified.

Mr. Bigelow said the location of the building can be adjusted if there are easements.

Chairman Dyer said normally a hotel has a driveway and lobby area. The site plan shows the distance as 24 feet from the back of the sidewalk to the front of the building and includes a difficult turn. He asked for clarification.

Jeremiah Bigelow said that cars would enter the property through one access and exit through the other. There are two egresses. This site plan is very preliminary. They are not even set on the size of the building.

Chairman Dyer said there is 214 feet of straight line building shown that according to the City's design standards requirements would need to have stepping. For a Conditional Use Permit, according to Section 6.9 of the Development Code Ordinance No. 1026, there should be quite a bit of information at this point of a request— a site plan showing building heights, connections to utilities, building elevations, etc.

Jeremiah Bigelow said he was not aware this information was needed at this point.

Chairman Dyer said the Commission is here to determine the potential impact on the surrounding neighborhood. A CUP is a use that can be allowed with certain conditions as long as it does not make a negative or substantial impact on the surrounding neighborhood. The neighbors are here because they are concerned about what the impacts will be. The Commission needs sufficient information that allows them to see, to know, to understand and gage those issues. Height is a primary question the neighbors may have. No elevations are included. Size is not known. It may be a 2-story building if the FAA allows it.

Jeremiah Bigelow said they will not purchase the property if they are not allowed to build a 2-story building. The FAA will determine this. They have been told it will be about 30 days for application review. They submitted their application to the FAA about a week and a half ago. They have not yet signed up with a franchise and are looking at a few of them; it would be a national franchise.

The **Chairman** stated the information is sorely lacking in detail in order for the Commission to be able to do their job and due diligence. The Commission represents the citizens of Rexburg.

Jeremiah Bigelow said he does not like to spend a lot of money before knowing where this is going. The building would be a brick building, pleasing to the eye.

Chairman Dyer said on a Conditional Use Permit the Commission usually establishes some conditions. He asked if the applicant would be willing to accept conditions. Jeremiah Bigelow said they would.

Thaine Robinson asked if the property is within the 1500 foot circle of the intersection of the freeway for signage height.

Stephen Zollinger said yes, but the applicant would likely be restricted by FAA regulations.

Cory Sorensen asked what national chain the hotel might be.

Jeremiah Bigelow stated he would rather not say at this point. It would be a budget hotel in the top ten. Cost would be \$50.00 to \$60.00 a room. He and his family have a background in the hotel industry – his father owns one in Idaho Falls and one in Rigby. They would be the builders.

Chairman Dyer said many people have asked how this can be done at the end of a runway. It can be done under certain conditions. According to the FAA, there is a *Runway Protection Zone (RPZ)* in which nothing can be built or developed, due to safety. There is also from the end of the runway a glide path. To make sure that there are no vertical restrictions in the glide path, there is a requirement regarding height. It is about to change under FAA regulations. For every 34 feet of length, you can go up one foot – 29 feet at the north property line, and about 34 feet would be the maximum height at this site under FAA regulations. It is understood that one of the primary concerns is if that building were to be built, how high would it be and what kind of impact would it represent to the neighborhood.

David Taylor, of the Rexburg Airport Board, said there is an *Obstacle Free Zone* – defined by the FAA as the airspace below 150 feet and above the established airport elevation and along the runway an extended runway center line that is required to be kept clear of all objects except for necessary airport equipment. He is concerned that the way it is defined it appears that the whole subject property sits within the *Obstacle Free Zone*. He wants the Commission to be aware - the FAA is kind of unwavering. He likes to see new businesses come to town. He is thrilled they are here and hopes they are successful. His impression is the FAA does not deviate.

City Attorney Stephen Zollinger said he is familiar with the *Object Free Zone*. The City has not been given any information from the FAA on an *Obstacle Free Zone*.

Chairman Dyer clarified that any proposed development at this location would need to have proper clearance and permits from the FAA.

Stephen Zollinger said that was correct.

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

1. Has the site plan been pre-approved by a design review board?

Chairman Dyer explained that the site plan has not been pre-approved by the design review board. Normally, the process is that a public hearing is held as is being done tonight, the Commission makes a recommendation to the City Council, the City Council makes a decision, and design review for a development of this size comes after if the request is approved.

2. The back and sides of the building are what most people are concerned about. Any plans?

Jeremiah Bigelow said the building would be the same all the way around – the material would be brick. The building would be visible from all directions.

Chairman Dyer explained that the City’s design standards address “eyes to the street “ – any portion of a proposed new building that can be viewed from the street has to meet certain standards and requirements to make sure it is aesthetically pleasing and presentable. This issue would apply to all sides of the proposed building.

3. Has the applicant done any due diligence on occupancy rates of area? The propensity of this failing in the next few years could turn the building into small transient businesses.

Jeremiah Bigelow said they have done due diligence. They feel they are in a unique situation.

The Chair clarified that the Commission’s decision would not be based on business or commerce.

4. The site plan shows that the parking lot will go into green space right up against the soccer fields, with no barrier or fence to separate it.

There currently is a fence there. The developer would put in a new fence, but it would not be a privacy fence.

5. The Community Business Center (CBC) zone minimum lot size is 5 acres. This parcel is only 2 acres.

Stephen Zollinger explained “grandfathering”. If a lot pre-exists the zoning or is a result of roadways, etc, a smaller lot would be allowed.

If the property is grandfathered, does it still have to satisfy other requirements?

All other requirements still apply.

6. According to Section 3.18.120 of Development Code Ordinance No. 1026 – in a property that is bordered by residential zones buildings can cover only 50 percent of a lot.

Stephen Zollinger said this would apply.

7. The application says the estimated water usage per month for the proposal would be 25,000 gallons. Over the last few months this family has averaged about 50,000 gallon of water a month. The applicant’s estimate appears low.

Chairman Dyer said the City Engineer will look at the necessary requirements.

8. Will there be another hearing assuming the FAA says okay to this project? The site plan is very ambiguous and seems very premature.

Chairman Dyer said technically this hearing would suffice Planning & Zoning and would also be used by the City Council in their decision making. The issue of whether the Commission has enough detail may be discussed later in the meeting.

9. Is there an appeal process?

Any appeal to the actions of the P&Z Commission is directed to the City Council.

Stephen Zollinger said if inadequate information was provided as to building size, etc., there may be a continuation of this procedure. The application could be tabled.

Chairman Dyer said given the fact that many neighbors are here tonight, the Commission wants to give them the opportunity to give input.

10. The owner of the subject property, Dana Green, said this meeting is heading in a different direction than its true purpose. This is a meeting for a CUP; it is not a meeting to determine if everything is designed exactly right. No one can expect someone to pay for architectural drawings that could be turned down. The meeting tonight is to determine whether under the proper conditions, this permit can be issued. It is in a CBC zone, and this is a permitted use.

Chairman Dyer stated it can be a permitted use but it is not an automatic right. That is why we are here tonight, to be able to see what kind of impacts there may be.

Mr. Green said when the Commission talks about not moving forward until they see the design of the buildings, that is going further than what this meeting is about.

Stephen Zollinger clarified the hearing tonight is to determine whether the volumetric configuration that the applicant wants to build would be approved. One issue that has to be looked at is building height, and where the volume of the structure is going to fit in this property. We are not here to decide building design, but we are here to decide whether building heights, building transitions, etc. are harmonious with the neighborhood. The Commission is well within their rights. No elevations for the particular structure are shown. The elevations do not need to be final elevations, but they do need to be structural shaded drawings to give the Commission the ability to determine whether the volumetric configurations that are being proposed are harmonious with the neighborhood.

11. Clarify the shown entrance next to the canal bridge. Would there be a stoplight at Lodgepole and Pioneer?

The Chair said the City Engineer would evaluate the issue when it comes down to the more detailed proposal for development.

Dan Hanna asked if the Commission can condition the elevations in the hearing tonight to comply with the design standards.

Chairman Dyer said that might be legally troublesome.

Stephen Zollinger clarified the Commission would need to know volumetrics before a decision can be made. It is difficult to determine what the Commission feels are appropriate conditions without the elevations.

Dan Hanna asked if a CUP can be denied.

Chairman Dyer said the CUP can be denied.

Stephen Zollinger said the conditional uses listed in the Development Code are allowed uses with conditions.

Chairman Dyer said the Commission could recommend that the CUP not be granted because of certain concerns about impacts.

Stephen Zollinger stated there is the absolute right to build a hotel at the specified location as long as reasonable conditions can be met.

Jeremiah Bigelow said he is fine with all of the staff recommendations. Why is design being brought up now? There are committees in place to look at this. He would have to lay everything out ahead of time. The application does not ask for plans.

Chairman Dyer stated that elevations are required with the CUP application (Section 6.9 of Development Code No.1026).

Stephen Zollinger said because the neighbors are here tonight, Chairman Dyer and the Commission want to give them the opportunity to be heard, although it is recognized that not all the information they should have had is being provided. They know as a Commission that they are not going to be able to finalize the answer tonight.

Jedd Walker asked for clarification that the green space on the north is about a fourth of the size of the lot, about a half-acre.

Jeremiah Bigelow said that was correct.

Chairman Dyer opened the public input portion of the hearing.

In Favor:

Dana Green, 113 North 330 East, Rigby. He and his siblings own the subject property. His mother lived there a long time. She fought the City taking her property for a long time. The FAA said they would provide a grant to the City to buy the property. If the FAA did so at that point, does it not say that that is the extent of their interest? Height restrictions must be complied with. In the past, he sat in front of City Council regarding this issue. None of you were here then. When the road was going to be changed to benefit all of you, he did not see anyone complaining. Now that there is this piece of property that is left over, it is a concern of not wanting a hotel there, yet there is already a hotel not a hundred yards away. The property is zoned CBC – commercial. As long as conditions are met, the City cannot stop a hotel from being built there. His family could have fought the traffic light issue. A hotel is certainly a better proposition than a bunch of storage units. The property will be sold. The community needs to decide what they are willing to accept. It is their right to say they do not like it. If this does not go forward something else will. As owners of the property, they want to see it used to the advantage to the community. Money would be brought into the community with this development. Some hotels in Rexburg are now gone, as they have been converted to student housing. More hotels are needed.

Neutral:

David Taylor, 1000 Larch Drive. As a businessman, he welcomes new entrepreneurs. The FAA's *Obstacle Free Zone* is the issue. Speaking as a pilot, the zone goes right down the center of the runway centerline. He is concerned that they are going through a lot of exercise when he feels he knows what the answer will be.

Opposed:

Stephanie Colvin, 51 Tamerack . She thanked the Commission for the work they do for the community. It is appreciated. In the introduction to the Rexburg Comprehensive Plan 2020, it is stated that ... “the City recognizes the importance of preserving private property rights. All land uses, decisions, policies, and procedures should be implemented in such a way that public good and private rights are equally balanced...”

In that spirit she comes here tonight, not to infringe on another's property rights, but to balance the proposal put before them with legitimate concerns and in an effort to find a long-term solution that might be acceptable in regard to public good and private rights. She appreciates the efforts the City

has made to address fencing, landscaping, and beautifying open spaces in other areas in her neighborhood, including the property north of the subject location. Their little neighborhood and the surrounding spaces are a welcoming gateway into America's Family Community. Her family moved to Rexburg more than 10 years ago when they made the decision to purchase a home in the Evergreen Subdivision. They were told at that time by a City official that those areas abutting their subdivision could never be developed because of proximity to the airport. Many members of the neighborhood have been told the same things by various City officials. There are two empty lots in their neighborhood for this reason. When a commercial For Sale sign went up on the property, she was surprised. She did not realize that the City did not own the property.

She is puzzled as to why this small piece of property so close to a park and residential area is zoned CBC, when it is surrounded on 3 sides by residential zoning. According to the Development Code, that would mean that only 50 percent of the subject lot could be developed, hardly enough for a hotel.

She has with her a petition from the citizens of the Evergreen Subdivision – over 90 signatures – to submit to the Commission.

(Stephanie Colvin submitted to the Chairman the petition from the residents of the Evergreen Subdivision, opposing the requested CUP. The petition will be part of the official record of this hearing).

Stephanie Colvin stated she could speak of the hard-working families and the amount of children in this neighborhood, the safety of the patrons, of the open space, of the concerns over air space, and of the impact this would have on the quality of life of neighborhood residents. She could speak about light and noise pollution, concerns over attracting a transient moving population so close to their homes and to a park, and near to the main entrance to their neighborhood, and the limited privacy a business of this nature would bring.

She feels the Community Vision Statement from the Comprehensive Plan is their strongest argument:

“... The City is interested in ensuring a harmony of land uses, and maintaining existing densities and land use patterns. Residents take pride in their homes and strive to maintain them appropriately...” Additionally, a stated overall goal is “...to improve the physical environment of the community as a setting for human activities – to make it more functional, beautiful, decent, healthful, interesting, and efficient...”.

A hotel or any 24- hour business does not meet these goals. Most businesses in a CBC zone do not meet these goals. She pleads with the Green Family Trust. She does not stand to alienate their rights, only to express what she believes to be hers. As they move forward with any development, consider the impact this will have on many families.

The Commission has the ability to protect something sacred to the residents – their homes and their quality of life with their families. She hopes for a long-term solution that will be functional, beautiful, decent, healthful, interesting, and efficient.

Juli Lauritsen, 70 Douglas Drive. The back of their home faces the subject property. She has concerns about privacy, especially with a 2-story hotel in this location. They can see to the ground level of the property from their kitchen window. A 2-story hotel would allow anybody to look right into their back yard and into their home. Lighting would shine into their bedroom windows. It would be disruptive to the privacy of their family. They understand that the property will be developed. They would rather have a storage unit that would be limited in lighting and access. They hope this does not go forward. The issue has been very upsetting to their family.

Kelly McKamey, 868 Widdison Lane. He has served on other P&Z Commissions in the past. He recognizes the difficulty in developing a master plan for the City and in trying to make sure the Comprehensive Plan fits everyone's needs. He wants more business in the community, but there are other properties available that are not necessarily abutting so much residential. Perhaps in the future, the property could be rezoned for more homes. When they bought their property on Widdison, he came to the P&Z Commission and the City Council. He was told nothing but a single family residence could be here; he could not have a duplex. How can there be a 2-story, 70-room hotel across the street?

Mr. McKamey has children and grandchildren. He is concerned about children crossing the street to get to the soccer park, as there would be increased traffic with such a proposal. There are many children throughout the neighborhood.

Chris Beard, 64 Ponderosa. He does not deny the applicants and owner's opportunity and right to pursue business. He understands the minimum acreage of a CBC lot to be 5 acres. The record of survey says the parcel is about one and a half acres. The building can occupy no more than fifty percent of the lot. Mr. Bigelow said two thirds of the parcel would be used. Ten percent of the parcel must be landscaped. There are also side yard and front yard minimums. The frontage distance does not meet the minimum 500 feet requirement. The applicant would be putting the hotel very near residential – there are access concerns, and safety of children crossing streets regarding increased traffic to Pioneer Road and West Main. During the summer, play at the soccer field brings additional traffic to the area. The premise of commercial is to maintain and enhance property values. Placing a motel here would detract from the neighborhood.

Meredith Beard, 64 Ponderosa. She has been speaking with a representative of the FAA.

According to information she received from them, the runway safety area will never be modified. The FAA has changed the 20 to 1 foot inclination, to 34 to 1 foot. She did not grow up here, but she has never felt so safe and secure anywhere. She grew up near Detroit. They have lived in this community for 5 years. Here there is a sense of safety. If there were a hotel built here, the safety of her children would be compromised. There are about 30 children on Ponderosa Ave. alone.

An outdoor-entrance type motel would attract a certain kind of clientele that would not be desirable to have near a residential area or where children are playing soccer.

Nona Drake, 52 Ponderosa. She is an owner of 2 houses in the Evergreen Subdivision. She pays a considerable amount of property taxes. She strongly opposes this proposal. She moved here 5 years ago, to retire in a family community, moving from the Rogue Valley in Oregon, a very beautiful area. Interstate 5 ran right through the middle of that area. There were residential subdivisions with beautiful parks and golf courses that were beautiful to the eye of the traveler.

Growth and expansion were promoted. Commercial took away the parks and golf courses, which over the years were replaced with hotels and billboards and adult shops. People became desensitized. Crime, gangs, and graffiti appeared. Residential subdivisions became rundown. Property values were gone. Now the Interstate 5 corridor is an eyesore.

She does not want to stand at her kitchen window and look at the back of a motel/hotel where she now sees children playing soccer and families enjoying the park. On Ponderosa and Tamarack, there are about 90 children. That is a lot of children being put in a place of jeopardy. The zoning of the property is not what the community wants. They do not want business or commercial in their back yards. They want a safe place to raise a family and to retire, and that is why retired people are moving here. She moved here to get away from the liberal corruption.

Myrna Hart. She is speaking for Diane Eaton, 124 Ponderosa, who had to leave this meeting. She thought perhaps this comment may be a neutral comment. Diane Eaton had wondered if the City could buy the subject property from the Greens and turn it into a parking lot needed for the soccer field. There could be room for a hotel off of Highway 20 to the north.

Melinda Lawrence 87 Douglas. They are renting their home. She wanted to express how much they love their neighborhood. They would buy a home here if one were available. They used to live in Texas. It was not safe. They could not allow their children to be further than sight view.

This neighborhood is a wonderful safe place for her family.

The new Pioneer Road seems to have a divided use. It seems like it does not fit being near residential.

Jeremy Slade, 99 Douglas. He is the father of 4 young children. It concerns him greatly to have a hotel that would be located just a block away from their home. People would be coming at all hours of the night. Their neighborhood is safe and residential. This would change the dynamics of the neighborhood.

Joel Galbraith, 65 Aries. To put commercial on this side of Pioneer is odd and does not make sense. Businesses are to the west. This moves into the neighborhood area. It is strange that it would be considered.

Rebuttal:

Josiah Bigelow, 3928 East 100 North, Rigby. He is Jeremy Bigelow's brother. A lot of concerns were expressed tonight. This meeting is not to change the zoning. It is already zoned as commercial. They realize that the meeting's purpose is not to infringe on their rights.

There is an existing hotel right near this location, which has neighbors in its backyard as well.

This subject property has the canal and a street separating it from residential. The entrance to the proposed hotel, not a motel, would be a lot safer than the existing hotel's.

He understands the fear the neighbors have of travelers staying in town. They do not feel the proposal changes the demographics. There are some great positives. The hotel would bring jobs and tax revenue. He understands the frustration of it, but he does not feel like it infringes at all on the neighborhood. The City of Rexburg has architectural committees to determine if elevations, style, etc. will fit.

The FAA will rule on the application they submitted. It is the FAA's decision, not the City of Rexburg's. He feels this is biased and irrelevant. If the FAA determines they cannot be on that property, they would not move forward.

The footprint of the building is less than 50 percent. The centerline of the runway does not touch the subject property. Traffic will enter on the west and will not go into the neighborhood. Lighting would be for a parking lot and would be low impact. Lighting will not shine into the houses and would be according to city ordinance requirements.

There is a need for more budget-friendly hotels. Their hotel in Rigby fills up regularly. People are frustrated that they cannot stay in Rexburg because there are not enough places. Hotels are needed here because of growth.

This would not be a "cardboard box" hotel. They will follow the process to the fullest. They have a great track record. If there are conditions, they would be happy to work with the City to do whatever needs to be done to make it a win-win situation for the neighbors, the City, and themselves. Currently, the property is just weeds. This proposal would be an asset to the community and could raise property values. The project would pay taxes that would help to maintain the City's roads and infrastructure.

Rexburg should be known as an area that promotes business growth and does not kill it. The existing hotel that is close by has had very low impact on its neighbors.

Written Input: None

Compliance Officer Natalie Powell gave the staff report.

The Community Development Department Staff report recommended 2 proposed conditions:

1) Buffer the east and the south side of the property with minimum 10” wide landscape strip planted with 2” caliper Norwegian Maple trees (or other variety approved by the Planning and Zoning Commission) spaced at 20 foot intervals; and 2) Provide a 6 foot high privacy fence along the north, south and east side of the property. Fence to be white vinyl (or other as approved by the Planning and Zoning Commission).

The project will need to meet the City of Rexburg Design Standards.

The Fire Department would require additional fire hydrants. If the building is greater than 30 feet in height the fire lanes will need to be at least 26 feet wide.

The applicant was given the form necessary to be submitted to the FAA, which has been done.

The applicant would have to have FAA approval before they could get a City building permit. A lighting plan would need to be submitted to the City. A traffic study has also been recommended by staff.

Chairman Dyer said an issue raised several times tonight is why the subject property is zoned commercial. He stated this subject property has been zoned commercial for many years, the reason being that properties along a major access such as Main Street are prime commercial properties. It has been appropriately zoned. It is part of the larger commercial zoning that extends to the highway interchange. The owner of the property has the right to develop the property according to legal and permitted uses. One of those is a hotel. It can be done if appropriate conditions are set, which is why a conditional use permit public hearing is required, so the Commission can understand the impacts. Some of those conditions would include issues such as separation and buffering.

The Chairman is troubled with some lack of the information that would give a clear picture to the Commission of what the project would look like and what the impacts would be. A conceptual plan was included.

The Development Code does call for specifically more information.

At this point the Commission could proceed, or the Commission could consider a motion to table the request if it is felt that more information is needed.

Cory Sorensen said it is okay to talk through this issue, but it would be important to have the FAA decision. Perhaps that should have been sought before coming to the Commission. Having that decision would have been very advantageous.

Jedd Walker wanted clarification of what is required.

Stephen Zollinger stated that Sections 6.12 and 6.9 of Development Code 1026 specify what information is necessary. Included is Section 6.9g:

“A site plan drawn to scale showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; the location and dimensions of the proposed building, sidewalk, driveway, carport, parking area or any other structure or alteration; the location, layout and access of proposed on-site parking; the location and type of landscaping, fencing, and screening proposed on the lot...”

Building heights are also specified.

Dan Hanna said the Conditional Use Permit application language should be amended for clarification of what is required. **Stephen Zollinger** stated that the application could reference **Sections 6.9 and 6.12** of the Development Code.

Thaine Robinson concurred with Mr. Sorensen. This proposal tonight may be the chicken before the egg - the FAA has not made their decision.

Dan Hanna motioned to recommend that the City create an LID for the area, and that the City purchase the property for more soccer fields.

Stephen Zollinger clarified that what should be acted on by the Commissioners is the CUP application before them.

Dan Hanna asked that the motion show for the record.

The **Chair** noted that the motion died for lack of a second.

Thaine Robinson motioned to table the CUP request for a hotel at approximately 75 Pioneer Road until the FAA has given their decision on the issue. **Dan Hanna** seconded the motion.

Jedd Walker said the issue could still be debated regardless of the FAA outcome.

Cory Sorensen concurred. The public is here.

W.C. Porter clarified the Commission would just be discussing conditions.

Cory Sorensen thought a discussion could bring to light certain conditions that may affect whether this is a feasible project.

Jedd Walker said a motion to table should not be based on the FAA decision, but on the need for more information.

Thaine Robinson amended his motion to include that more information in regard to the site plan be submitted by the applicant, in order for the Commission to make a decision.

Dan Hanna withdrew his second.

Substitute motion:

Dan Hanna motioned that the Commission now discuss the proposal to come up with potential conditions for this CUP request for a hotel.

Cory Sorensen seconded the motion.

Stephen Zollinger stated the application before the Commission is incomplete, as per the Ordinance. Tangible documentation on what is being proposed is necessary.

The direction would be to table the issue, to possibly be scheduled for the first P&Z meeting available after anticipated FAA approval, and for the applicant to provide the required application information.

Public input already has been heard tonight. There would not need to be another hearing.

The hearing could be reopened if the applicant's information is substantively different.

Dan Hanna withdrew his substitute motion; **Cory Sorensen** withdrew his second.

Jedd Walker motioned to table the Conditional Use Permit (CUP) request for a hotel at approximately 75 Pioneer Road until the February 7th P&Z meeting, to allow the applicant time to provide the information necessary for the Commission to make a decision. **W.C. Porter** seconded the motion.

None opposed. **Motion carried.**

The Chair clarified for the audience that the CUP request has been tabled so that the applicant can submit more information as required by the Development Code to the Commission, including

elevations, building heights, etc., and also the hope that the applicant would be able to bring to the Commission the FAA decision on whether or not this issue is doable as proposed.

Break called.

Unfinished/Old Business: None

New Business: None

Compliance: None

Non controversial Items Added to the Agenda:

1. Temporary Vendor Businesses Map – Discussion

Chairman Dyer introduced this issue.

On January 16th, the City Council will be discussing Temporary/Seasonal businesses. It was inferred at the Commission's last meeting that the Commission would be a great source of input or recommendation to the City Council on this issue. At that meeting, Commissioner Webb brought up that Chairman Dyer had addressed the issue in an email some time ago when two temporary seasonal business owners were to come before the City Council to request permission for their businesses. It was felt this email would be an appropriate starting point for discussion of the issue. The email was re-sent to Commissioners last week, and several Commissioners gave input on the issue. The Chair provided the Commissioners with a summary of these email communications.

There is an ordinance currently in place for temporary businesses, Ordinance No. 1029. This ordinance was a matter of much discussion for this Commission over a lengthy period of time, including the issue of trying to manage potential impacts to the community of these businesses that might be seen as troublesome.

The Chairman has asked staff to give a bullet point summary of Ordinance No.1029 for the benefit of all the Commissioners. Secondly, there are maps of areas where these businesses are or could take place.

Two maps and a bullet point summary of Ordinance No. 1029 (Mobile Vendor, Temporary Vendor, Seasonal Vendor) were provided to the Commissioners. The maps indicate zones that allow seasonal businesses, locations where businesses have been located, and locations where seasonal businesses could locate under the current ordinance.

Chairman Dyer said the purpose of tonight's discussion is to look at the broad general overall view of the temporary business issue.

Is the Commission going to give input or a recommendation to the City Council? If so, what will that input be? Is there a need to try to change this ordinance?

Darrik Farmer went over the bullet point summary of Ordinance No.1029, which included specific standards for mobile vending carts, trailers, vehicles, and also location restrictions.

Commercial zones allow temporary businesses.

Natalie Powell stated that written permission by the property owner would need to be verified as part of the temporary business registration process. All such businesses would go through the City's business registration procedures and must meet the requirements of the ordinance. The businesses have to meet setback requirements and cannot cause an obstruction of vision.

Dan Hanna had expressed earlier that many businesses start this way and that some of the temporary businesses in the community progress to brick and mortar businesses.

It was discussed that the temporary businesses should not create any adverse impacts.

The Chair noted that at the Mayor's request, the Commissioners have received copies of a letter from business owner Randall Porter that rescinded some input he had given earlier on the temporary business issue.

Natalie Powell reiterated that all temporary businesses go through the City's business registration and inspection processes. A site plan is required for review. City inspectors inspect the business. The Health Department also inspects the business. The process usually takes a few days for completion.

W.C.Porter asked if temporary businesses are allowed on public streets.

They are not, other than an ice cream truck or similar business. These types of businesses cannot stay in one place for more than an hour.

Jedd Walker asked for clarification of what the concern is that they are addressing.

Stephen Zollinger clarified that a businessman had started the conversation by expressing a great deal of concern that he as a brick and mortar tenant was being unfairly competed against by transient vendors who do not pay taxes, do not follow the rules, etc.

Temporary businesses are inspected by the Health Department. They do go through City inspections, and they do pay the same sales taxes. They do not pay property tax as a building would. The Commission could reaffirm to the City Council their support of the current temporary business ordinance.

The **Chair** said that he gets input from brick and mortar business people frequently.

Cory Sorensen stated he is all for mobile vendors. In the past, he had a mobile business, and he paid his way through college.

W.C. Porter stated that temporary businesses, especially in the summer, are good for the downtown businesses. They show something new and interesting. They create traffic for the brick and mortar businesses in the vicinity. The existing ordinance does a good job of regulating the temporary businesses. His only concern would be the public nuisance aspect from time to time.

The City has a nuisance ordinance (No. 706) in place to address any issues.

Thaine Robinson's only real concern is a design standard for these businesses. He feels the Sno-Shack businesses look great.

Dan Hanna said the property owner should be responsible enough to say that a business looks good and attracts business or that a business looks bad so they do not want it on their property.

Mark Rudd said he gets several calls a year from potential vendors. He has turned a lot of them down if it is something he does not like or that he does not think will fit. The ordinances just need to be enforced.

Seasonal vendors can be in one location for more than fourteen days in any year, but for less than one hundred eighty days in any year, per Ordinance No. 1029.

Chairman Dyer identified that there is Commission consensus that temporary/seasonal businesses are needed in Rexburg. They are healthy for the economy. He is hearing from the Commission that:
– we have an Ordinance in place; if we properly use it we can keep this issue adequately regulated; we will let commerce and property owners try to be the other end of the regulatory spectrum.

After thorough discussion of the issue and of the Temporary/Seasonal Businesses Ordinance No. 1029, there was Commission consensus in support of the Ordinance No. 1029 that is currently in place.

Council Member Bruce Sutherland said the P&Z Commission's discussion tonight on temporary businesses is sufficient for the City Council. The Council appreciates the Commissioners taking the time to discuss this issue.

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

Cory Sorensen motioned to cancel the January 17, 2013 P&Z meeting because there were no agenda items. **Dan Hanna** seconded the motion.
None opposed. **Motion carried.**

Chairman Dyer adjourned the meeting at 10:15 pm.