

# Planning & Zoning Minutes

March 7, 2013

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

## Commissioners Attending:

Winston Dyer – Chairman  
Mary Ann Mounts Thaine Robinson  
Scott Ferguson Jedd Walker  
W.C. Porter Dan Hanna  
Mark Rudd

## City Staff and Others:

Bruce Sutherland – City Council Liaison  
Val Christensen- Community Development Director  
Marianna Gonzalez - Customer Service  
Darrik Farmer – Community Development Intern  
Elaine McFerrin – P&Z Coordinator

**Chairman Winston Dyer** opened the meeting at 7:04 pm. He welcomed everyone in attendance.

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

W.C. Porter, Dan Hanna, Jedd Walker, Mary Ann Mounts, Winston Dyer, Thaine Robinson, Mark Rudd, Scott Ferguson

Gil Shirley, Richie Webb, and Cory Sorensen were excused.

## **Minutes:**

1. Planning and Zoning meeting - February 7, 2013

Corrections:

Page 4 – In the discussion about a grievance process being in place for citizens to speak to the City about concerns, add that: "...Dan Hanna said the process should include asking the persons with neighborhood complaints if they have talked to their neighbors..."

Page 6 – Regarding Joint P&Z meetings, add that: "... the Chair stated if the Commissioners attend the Joint P&Z meetings, the City will pay the standard per diem allowance..."

**Scott Ferguson** motioned to approve the Planning & Zoning minutes of February 7, 2013 as amended. **Dan Hanna** seconded the motion.

Mary Ann Mounts, Chuck Porter, and Mark Rudd abstained for having not been present. None opposed. **Motion carried.**

**Chairman Dyer** asked that Compliance Officer Natalie Powell follow up on the Sonic sign issue which was mentioned at the last P&Z meeting.

**Chairman Dyer** stated for the record that the Conditional Use Permit request for a hotel at approximately 75 Pioneer Road will remain as Tabled per the applicant request. The issue will not be discussed tonight. The applicant has been in contact with the City and does not have all the requested information.

**Public Hearings:**

7:05 pm – Rezone – 577 South 5<sup>th</sup> West – Medium Density Residential 2 (MDR2) to High Density Residential 1 (HDR1)

**Chairman Dyer** explained the procedure followed for public hearing. The applicant or representative will present the proposal. The Commission may ask clarifying questions of the applicant and staff; the public may also ask questions to help them understand the proposal. Public input will then be heard from those who are in favor of, neutral to, or opposed to the proposal. If there is opposition, the applicant has the right of rebuttal. Staff evaluation and recommendations concerning the proposal will be given. The Commissioners will deliberate the issue in order to reach a decision and a recommendation to City Council.

**Jonathan McMullin**, 3944 South 2000 West, presented the proposal. He is the applicant. The location of the subject property at 577 South 5<sup>th</sup> West was shown on the projected photo map. The request is to change the current MDR2 zoning to HDR1.

They have spent a lot of time with City staff on seeing what the options are and how they can best revitalize this infill property. They also took much consideration in discussing the idea of the zone change with neighbors surrounding the subject property. They went down most of 5<sup>th</sup> West to 7<sup>th</sup> South to speak with them. Most neighbors were in favor of it.

**Chairman Dyer** asked for clarification on the issue of talking to the neighbors about the rezone. Does this request include them?

**Jonathan McMullin** said at this point, this rezone request is for only 577 South 5<sup>th</sup> West and does not include other surrounding properties, which they initially had considered in their discussions with the City. They decided at this time to push toward this one specific property for the rezone request. Mr. McMullin's father owns the property next door and is in favor of the request. The basis for the request is that some of the surrounding property is of higher density. It would be the best use of the subject property to change it to HDR1.

Mr McMullin stated they have not talked to the townhome residents to the north, or to their homeowners association. It is their understanding that the majority of the people living there are renters. To be able to track all the owners in order to move forward with a larger request seemed difficult at this time. Some of the owners live out of town.

**Dan Hanna** said there may not be any advantage to changing the property to the north to high density because the property is already fully developed.

**Chairman Dyer** clarified that the applicant said they had talked with the neighbors whose property fronted on 5<sup>th</sup> West.

**Jonathan McMullin** said that was correct. These neighbors were fine with the request. Only one was not.

The **Chair** for clarification again asked if these property owners wanted to join in the rezone request.

**Val Christensen** clarified that the rezone is only the rectangle (577 S. 5<sup>th</sup> W.) as specified in this request. The rest of the land is built out. He does not consider this a spot zone.

The time element was against including other properties at this time.

**Scott Ferguson** clarified that most of the neighbors Mr. McMullin spoke to are not opposed to this request but are not part of the actual rezone request. Jonathan McMullin said that was correct.

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

An audience member asked what is being built, what is the size of the footprint, what about parking, lawn area, etc.

Chairman Dyer said tonight's issue is a land use question - what is the appropriate use of the land and an appropriate density that would be assigned to it through that use? Once that is determined, actual development proposals will come later. Tonight those particular details would not be discussed.

Dan Hanna said any development proposal will have to comply with City requirements.

The Chair said the development will go through thorough City review, to address building height, setbacks, sideyards etc. during the building process. It is a difficult lot to make things fit in terms of meeting requirements

Jonathan McMullin said they spent much time with City staff to make sure they will have adequate parking and green space.

Val Christensen said the question is: is this is the right land use for the area – all rules and regulations will have to be met. The property is contiguous to a high density residential area. The Staff report recommendation suggests limiting the building height so it stays in proportion.

Jedd Walker clarified the density would go from 13 units to 20 units. Val Christensen said that was correct.

The applicant would build nine more units.

An audience member is concerned with parking – more apartments means more people. Where will the residents park? Will they be parking in the Lincoln Park lots? He is also concerned that children would be playing on the Lincoln Park property.

Chairman Dyer said the developer will be required to provide parking on site.

Jonathan McMullin said they meet the requirements of the Development Code for parking.

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

**In Favor:**

**Trevor Einerson**, 87 Ash. He was the developer of the Lincoln Park Townhomes several years ago. It was a revitalization and infill process where they tore down a building to build the complex. They wanted to buy the subject property at that time but the owner did not want to sell. Currently there are shared accesses. An easement is half on Lincoln Park's property and half on Jonathan McMullin's property. The shared access was done knowing that someday there would be the opportunity for future development. As they considered the footprints for their property, all buildings were built townhome style, with a kitchen and living room on the ground floor, and bedrooms on the upper floor. They wanted to make sure there was not a random piece of infill property left over. He has met with Jonathan McMullin regarding the easement. This will help finish up the redevelopment. He has tried since coming to Rexburg to help encourage infill and revitalization of areas not being used to their best density. The City has done a great job in helping to facilitate this issue. Jonathan McMullin has taken a lot of time to talk to the neighbors about his rezone request. He is in favor of this request.

**Neutral:** None

**Opposed:**

**Dan Klingler**, Blackfoot. He owns 4 units in the Lincoln Park complex. He does not see how 9 units and 18 cars, garbage dumpsters, a playground area - how can it all fit – without it spilling onto the town home property? That is a big concern. He does not want to see the value of his property decrease. There is potential for some units to be added here, but he is unsure about high density. This proposal looks like a lot of development for the property. There are already some issues with space, snow removal, and garbage dumpsters. He sees some potential problems.

**Trent Angell**, Sugar City. He owns some Lincoln Park townhomes He shares Mr. Klingler's concerns. He gave an example regarding their business, the B-Dazzled Hair Salon in Rexburg. Everything was fine until a survey call business came into the business complex. The employees take up all the parking. There was no room for B-Dazzled's customers. That is his concern tonight. More people would be moving in. There would be parties and other activities. The same thing could happen here. All the parking spaces would be taken .The property is a little small to have that much activity.

**Rebuttal:**

**Jonathan McMullin** appreciates the expressed concerns. These are concerns that have been considered. Currently some trash cans belonging to Lincoln Park are on the subject property; they have allowed this, and there have been no issues. They have the right to build 5 units with the current zoning. They will be sure that if they are able to build the nine units that HDR1 would allow, all necessary requirements of the Development Code will be met. They have gone to the expense of hiring an engineer to make sure that the requirements are met. They have met with Val Christensen and John Millar. Green space requirements will be met. Currently, every unit in the development has 2 parking stalls. This would also be provided for the new units. It seems a little ironic that there are issues about allowing this even though the neighboring property has that same amount.

**Written Input:** None

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

**Val Christensen** said this property is in the City's Infill Redevelopment focus area. On the staff report's accompanying excel summary spreadsheet, the property scored '35' out of a possible '50'. It is specifically the one parcel that is the focus. There was not time to look at the complete area. Also, the City Council would like to look at rezoning of smaller pieces rather than looking at a big area of zoning. He does not consider this request spot rezoning. The subject property is contiguous to the same zone across the street to the west. Properties to the south may have the potential for a redevelopment area.

**Scott Ferguson** asked for clarification of the staff view of High Density Residential here.

**Val Christensen** stated as close as the property is to the University, High Density Residential makes sense. Most of the surrounding properties have apartments, condominiums, or townhomes. This is an infill project. The request fulfills what the City has been looking at in regard to where the City sees higher density.

**Chairman Dyer** said the public brought up the concern of higher density next to medium density – and the possibility for spillover because there is more dense development, more activity, and more parking.

**Val Christensen** stated the City has rules that must be followed. Parking will be the same – 2 parking spaces per unit. Less green space is required in high density than in medium density.

**Chairman Dyer** asked if the difference in green space would be highly noticeable - would it change the character of the neighborhood.

**Val Christensen** said it would depend on how the project is put together and if the green space is in strips or mostly in mainly one area.

**Dan Hanna** clarified that there is no difference in green space for the two zones. MDR2 and HDR1 both require the same amount of green space - 20 percent.

**Thaine Robinson** asked if there are more restrictions of what can be done when two different zones abut each other.

**Val Christensen** stated with the infill and redevelopment section of the code that is what is addressed. When this issue was looked at, separations between medium and high were not done.

He read the recommendation in the Community Development staff report:

“The townhomes directly to the north and east bordering the proposed zone change are located in a Medium Density Residential zone. As such the additional setbacks and buffering requirements of the City of Rexburg Development Code Section 4.16 Infill/Redevelopment Standard do not apply. However, due to the amount of single family-owner occupied use of many of the town homes, Staff recommends limiting the building height to 30’ as a condition of the zone change.”

Setbacks are the same in both zones.

If the 30’ height restriction is made a condition of this zone, that restriction would remain if the property is sold.

**Jedd Walker** asked how conditions put on zone changes are tracked.

**Val Christensen** said the information is a part of the permanent files. Computers hold the information. Any condition is tracked by staff in the future. Information can also be tagged to the GIS (Geographical Information System) mapping system.

Mr. Christensen said he looked at the level of the neighboring townhomes when he addressed height. The bigger question becomes is there concern with having more people here.

**Jedd Walker** wondered how a conditioned zone change would protect the general public. Is it a good long-term solution to do conditional zone changes? How does a future purchaser discover any conditions?

**Scott Ferguson** thought the Commission had been hesitant to condition a zone change in the past.

**Chairman Dyer** said in the past when a zone change was conditioned, it was more to make sure that a development would follow-up and move forward. How the Commission conditioned a rezone was that the property would revert back to previous zoning if development was not done in a specified period of time (sunset clause), as opposed to a condition placed on the actual development.

**Val Christensen** said there is no problem if the Commission does not want to condition the rezone. He is fine without it. He would retract the recommendation. The applicant does not want to go higher, but things happen. Mr. Christensen based the recommended condition on protecting the neighboring townhomes.

**Dan Hanna** stated it is a challenge to condition a piece of property. Conditions should be tied back into the warranty deed of the property, so it is part of the public record.

**Scott Ferguson** said with some other by right proposals that have come before the Commission conditions have sometimes been placed on them.

**Mary Ann Mounts** said if it is a right it becomes a safety issue, or a capacity issue rather than an aesthetic issue.

**Val Christensen** stated that the City Engineer did not have any concerns on this rezone request.

**Thaine Robinson** said he does not have an issue with the land use change itself. The property is small; they are limited in what can be done. There are not a lot of building options. Whatever is done must fit the ordinance requirements. The rezone would be alright because of the size of the property. He is always in favor of a sunset clause if it is found to be necessary.

It was clarified that maximum building height in HDR1 is 55 feet.

**Scott Ferguson** asked why limit the height with a condition? Why work on a precedent we do not need?

**W.C. Porter** said if the developer were to go 55 feet, there would have to be more units and more parking spaces – then you start to put yourself out of business.

It was discussed that the property is self-limiting. The building could not be 55 feet in height because there is not enough room for required parking.

**Mary Ann Mounts** said the decision that needs to be made by the Commission tonight is: is HDR1 the right or wrong zone for the area? Since the property location is contiguous to HDR1 zoning, she feels it is the right zone. Surrounding properties are increasingly going to go in that direction. The very nature of the subject property limits what can be developed. It is the right direction to go; she is in favor of the requested change.

**W.C. Porter** stated the public had valid concerns about parking. The fact is that the zoning would require 2 spaces per unit. He does not think there would be a congestion problem. There would usually be couples more than families in this type of housing. The requirements of the new zone would take care of any issues.

**Jedd Walker** agreed with the Commissioners who spoke before him on this matter. The land use is a good choice based on the City's efforts to densify. He specifically thinks we do not need the condition on the height. If we are going to change the zone, then change the zone and allow all the requirements in the Development Code to kick in for that particular zone. The Commission could consider a sunset clause.

**Dan Hanna** motioned to recommend to City Council approval of a zone change from Medium Density Residential 2 (MDR2) to High Density Residential 1 (HDR1) for the property located at 577 South 5<sup>th</sup> West. **Mary Ann Mounts** seconded the motion.

None opposed. **Motion carried.**

## **Unfinished/Old Business:**

### **1. Discussion of Building Heights and other Development Code changes**

**Val Christensen** distributed a Development Code Summary spreadsheet showing building heights and other standards in the various City zones. He was instructed by the P&Z Commission at the previous P&Z meeting to bring the issue to the Ready Team; the entire team has not met together. The City Engineer did express concern about height; we have to get used to what we have first; he feels that higher building heights would be a good thing but not quite yet.

**Mary Ann Mounts** felt building heights may be a little high in some areas.

The discussion at the last P&Z meeting was that height may not be high enough in the high density areas.

**Scott Ferguson** thought the height increase might be market driven. It may take some time.

**Val Christensen** said the enrollment of the University may be in a dip right now, but it is expected within two years to go right back up to adding 1,000 students a year. The question is, is it time for higher building heights?

**Scott Ferguson** said just because housing can be built closer to the school, and taller, does not necessarily mean that a development would be granted the okay as student housing. It depends on the enrollment needs of the University. If there is no need they do not issue it as approved housing. The **Chair** said the University has an approved housing process. They have a list. They will issue a designation to try and balance the demand and the supply. If there is not a need, they would not issue approval.

**Val Christensen** asked, do we want to give more options to the developer when a property is being redeveloped?

**W.C. Porter** wondered about safety issues with taller buildings. What about the Fire Department?

**Val Christensen** stated it is a non-issue. The taller buildings are safer.

The Chair said concrete and steel are used – these materials are nonflammable.

**Chairman Dyer** said Commissioner Richie Webb raised the question at the last P&Z meeting. The Chair appreciates his wisdom and quoted Mr. Webb's words from the February 7<sup>th</sup> P&Z meeting minutes – Mr. Webb "...likes stories rather than foot height .... He suggested moving up building height gradually as demand comes. The Commission needs to think about how the community would see a change. The Commission has to look at the impact of building height on the market and also protect the existing apartment community..."

A brief discussion of various buildings and structures included the Westbank in Idaho Falls, which is 8 stories high, the Ivy Apartments in Rexburg, and the McDonald's sign.

**Mary Ann Mounts** stated she is a save the sky and save the sunlight person. Her concern is not how tall a building might look, but what effect a tall building has on surrounding properties. She is concerned about sunlight and how it may be blocked from smaller structures by tall buildings.

**Val Christensen** said in the Infill Redevelopment section of the code, there is a setback requirement. If you are next to a residential zone, there is a one to one setback.

**Chairman Dyer** said that at the detailed discussion of building heights at the previous meeting the Commission was going to move forward. Where is this issue going now?

**Val Christensen** said it is unsure what heights the City may want to go to and if it is the right time. He felt they could continue to discuss the issue.

The question is, in looking at where to put additional students that will be coming here – should housing be on the outskirts of town, or in town – that is what first started the height discussion.

**Jedd Walker** stated his concern. In planning you have to be proactive about the way you want your City to develop and grow in the future long term. We do not want sprawl. We want more dense development. Now is the time to plan and put it in place. The University could even be taken out of the picture. How do we want Rexburg to grow and look long term?

**Dan Hanna** said the group Envision Madison is focusing on just such issues.

**Val Christensen** suggested he will do further research to get a better feel of the building height issue from a visual standpoint and will bring back more information to the Commission.

This could include possibly looking at buildings in other communities.

Val Christensen will also continue to work on reviewing the Development Code for discrepancies.

**New Business:** None

**Compliance:** None

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

1. **Thaine Robinson** reported on the February 27<sup>th</sup> Design Review meeting for the Mountain Lofts Apartments project (555 South 3<sup>rd</sup> West). He brought the drawing plans discussed at the meeting. It was a unique design review, with project representatives from Houston and Chicago and Boise. The parking structure will be on the south. The City asked that there be adequately high landscape screening on the south side yard setback of the property and against the parking structure. The project is a win-win for the City and the developer.

**Report on Projects:** None

**Tabled Requests:**

1. Conditional Use Permit –for a Hotel – Approximately 75 Pioneer Road

**Building Permit Application Report:** None

**Heads Up:**

March 21\_ P&Z meeting will begin at **7:30 pm** instead of 7:00 pm.

March 21 - Conditional Use Permit – 137 North 3<sup>rd</sup> West - to allow a twin home in a Low Density Residential 2 (LDR2) zone.

Rezone – 137 North 3<sup>rd</sup> West - Low Density Residential 2 (LDR2) to Medium Density Residential 2 (MDR2)

The meeting was adjourned at 8:50 pm.