

Planning & Zoning Minutes

November 7, 2013



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

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

City Staff and Others:

Bruce Sutherland – City Council Liaison
Val Christensen- Community Development Director
Elaine McFerrin – P&Z Coordinator
Daniel Widenhouse – Community Development Intern

Chairman Dyer opened the meeting at 7:00 pm. He welcomed everyone, including several students and Boy Scouts.

Roll Call of Planning and Zoning Commissioners:

Melanie Davenport, Dan Hanna, Chuck Porter, Mary Ann Mounts, Winston Dyer, Thaine Robinson, Jedd Walker, Mark Rudd.

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

Minutes:

1. Planning and Zoning meeting - October 17, 2013

Correction:

Page 3 – Regarding Melanie Davenport’s statement, change the word *adjacent* to *contiguous*:
“...Perhaps the Commission should look at addressing the City Code in regard to parking that is *contiguous* to a complex.”

Mary Ann Mounts motioned to approve the Planning & Zoning minutes of October 17, 2013 as amended. **Dan Hanna** seconded the motion.

Thaine Robinson and Jedd Walker abstained for having not been present.

None opposed. **Motion carried.**

Public Hearings: None

New Business: None

Compliance: None

Non-controversial Items Added to the Agenda:

1. Central Storage – 424 Pioneer Road – Asphalt question

Cherrie Allen, and **Gordon Allen**, owners of Central Storage. They bought the property years ago. There are several storage unit buildings. She pointed out on the map where a new building was just completed on the property. The building is the same size and looks the same as the others. The building was planned years ago but not done until now. Landscaping was done in front to match the Henderson Subdivision that is across the road. They put in the sidewalk at the front. Their storage units were built with the intention of providing a lot of area around the buildings for a vehicle or

trailer to back up. They had never intended to blacktop around the storage unit buildings. Currently this is gravel. The space at the front of the property may eventually be used for an office. Mrs. Allen showed the Commission a photo of what has been done. The black top coming into the property was just redone from the road to the gate where the grass ends. Val Christensen and John Millar had given their blessing. They have done a lot of work on the property with paving and landscaping and have conformed enough to the Code. The property looks nice. They are hoping it is suitable so they can use the new building.

Val Christensen stated the original permit called for pavement around the buildings and in the back. The applicant does not want to do that for a few reasons. They paved in just to get to the first building. As people drive in they would be running over the edge of the asphalt. The applicant makes a good point for stopping the asphalt right at its current point. His and John Millar's concern is that this may set precedent. Other storage sheds are being constructed at this time. Another site is being looked at. They have been asked on one of the sites whether the City would let them stay with a gravel lot. Tonight's development is a different story because there were existing storage buildings, and it is a grandfathered situation.

Chairman Dyer clarified that this is a previously existing non-conforming use.

Val Christensen said this situation has some clear reasons of why the project might not have to go farther with the asphalt, versus another project. The decision really needs to come from the Commission and not the Community Development Director.

The Zoning of the property is Rural Residential 2 (RR2). The original project was built when the property was in the County. They have now added a new building that is complete. It is a grandfathered use. The new building was on the original plans years ago and did not get constructed until now.

Chuck Porter asked if they do not need the asphalt here, why would any storage unit development need it.

Val Christensen said the City requires all parking and all aisles to be asphalted. It is required by the Development Code for all businesses. The City does not allow anything to come in and have just gravel or dirt. He reiterated that this is a grandfathered use.

Chairman Dyer pointed out on the overhead older photo map that vehicles coming in and out of the project when it was all gravel tracked silt and mud in both directions out into the street. That is another reason why the City requires businesses to have pavements. Now that the project is paved from the street to the edge of the grass, this will not happen.

Melanie Davenport asked if they did put in asphalt if it would raise the grade of the parking area and flood the units.

Val Christensen said no; they could grade away from the units.

Melanie Davenport said she as a business owner wonders if it is necessary for the applicant to incur another additional operating cost if it is not necessary.

Val Christensen said this matter would be seen as a grandfathered use versus an entire new project.

It was discussed that if the use were to change here, asphalt would be required.

Dan Hanna wondered about a buffer in front along the sidewalk such as trees, because of the bare area in front and the non-conforming use.

Mary Ann Mounts clarified that what Mr. Christensen wants from the Commission is for the Commission to justify for him not having the developer do the asphalt - what this developer's one building has triggered. Mr. Christensen said that was correct.

Mary Ann Mounts said the only thing the Commission could look at that is different in this case than someone building a new development is the fact that the newly completed building is part of the original plat and they built it late. How often would that happen? This differs from enlarging. This building was always intended to be there and was part of the original drawing. This would be the only way to justify not making the developer have the asphalt – that is the issue. The situation is a little unique.

Melanie Davenport asked the owners' opinion of the asphalt issue.

Gordon Allen said if they were to do the asphalt all the way, it becomes a problem at this stage with flooding and water going into the units. They would have to put in some kind of drain besides the asphalt. It would be quite costly. If he was building a new development he would want asphalt, but here it would disrupt business and create financial loss. He hopes the Commission will take this into consideration.

Chairman Dyer said the question before the Commission is, what needs to be done in this particular request to finish the existing development, a previously existing non-conforming use, and what standards should or should not apply? When the Commission makes a decision, the record should clearly show the what and the why of this particular issue, so when others come forward, this circumstance will be a matter of record for consideration.

Jedd Walker felt the request is reasonable.

Chuck Porter asked if the Commission is prepared to make the exception every time someone develops storage units.

Thaine Robinson said he has no problem with allowing this request. As far as a new storage facility coming in, the City now has design standards that have to be met.

Mary Ann Mounts said the only grounds for allowing this exception is that the building was planned from the beginning of the project and was not built until now.

Mark Rudd asked how many years ago the project was built. It was discussed that it was at least 25 years ago.

Ben Hillman, builder for the Allens, said the Allens are constantly making substantial improvements to their properties. His concern is the overwhelming cost for them. A site plan was shown to the Commission. They have paved to the gate. There is sidewalk and rock in front per City standards. When doing an office in the future, at that point they would do more improvements to the empty area in front.

It was discussed that the applicants paved to the gate on their own. It was hoped that they would not have to pave the rest.

Dan Hanna wondered if the Development Code needs to be looked at more closely regarding future developments of this kind.

Chairman Dyer believes there is strong justification in the fact that this was a presently existing development that showed the new building on the submitted original plan over 20 years ago. The land used to be in the County. There would be justification to not have to put in pavement in this case, under the grounds of the level of preparation and intent done previously. At the same time, the Commission understands what it means to set a precedent. It is important to consider everything and make a clear statement of why the pavement would not need to be put in. He is supportive of not having to put in the pavement. Clarification of a decision should be in the record of the minutes.

Melanie Davenport said she would address this issue tonight with the idea that the standards and talking to other current storage unit owners should be looked into in the future. She is not in favor of creating more maintenance and owner cost. She does not want to make her mind up today on anything for the future.

The Chairman clarified that the question before the Commission tonight is what does the Commission do in this case and why. He reiterated it is important to make clear for the record the reasons why this particular case may be different.

Mary Ann Mounts motioned to direct City Staff, that in this particular case regarding asphalt at Central Storage, 424 Pioneer Road, due to the discussion tonight – 1) the development was platted with the newly built building showing on the original plan although it was not built until now; 2) about 90% of the development was completed years ago - the partial pavement to the gate that has been done to alleviate the problems with the road will be satisfactory and will suffice. It is justified because of these reasons for the developer to not have to put in the rest of the asphalt that would usually be required according to Development Code standards. **Jedd Walker** seconded the motion.

There was discussion of the motion.

Those in Favor

Mary Ann Mounts
Jedd Walker
Winston Dyer
Chuck Porter
Thaine Robinson
Mark Rudd
Melanie Davenport

Those Opposed

Dan Hanna

Motion Carried.

2. City purchased parcel near Evergreen Park

Chairman Dyer stated for the Commissioners' information that the City has purchased the parcel of land just south of Evergreen Park. Several months ago developers had requested to put a hotel at the location.

3. Regarding Heads Up - CUP – 340/330 North 12th West – public hearing scheduled for the November 21st P&Z meeting.

The property is in the City's Impact Area, so procedure follows the Inter-Local agreement with the County. The request will be heard by 6 participants - 3 Madison County P&Z Commissioners and 3 Rexburg P&Z Commissioners. They will make a recommendation to the Madison County Commission for the final decision, due to the property being in the Impact Area. It was decided that Dan Hanna, Melanie Davenport, and Winston Dyer would be the 3 Rexburg P&Z Commissioners.

The Chair read from the Inter Local Agreement for clarification. The agreement does not indicate that the Rexburg P&Z Commission participants have to be from the Impact Area.

4. Jay McMaster in the audience asked a question.

He is one of the physicians building the Upper Valley Ear Nose and Throat medical facility on North 2nd East. He asked who he would express a grievance to in regard to the impact fees assessed to their business.

The Chairman said the Commission is a recommending body to the City Council. It is recommended he take the concern to City Council. It may be advisable to work with staff in advance.

Val Christensen said Mr. McMaster could also speak of the matter during the time allowed for public comment (3 minutes) at the beginning of City Council meetings if the issue was considered non-controversial.

Unfinished/Old Business:

1. Development Code Changes - Discussion continued

At the Chairman's request, the Technology Coordination Services Department will be informed that the overhead projector is in need of repair.

Chairman Dyer said tonight the Commission resumes their discussion of the Development Code. The City is always trying to update the ordinance. He explained for the audience that the Development Code Ordinance, which is a 300 page document that guides what can and what cannot be done in regard to land use in the City of Rexburg. The City continues to update the Code trying to refine it and make it better, correcting any errors, and trying to maintain the balance for the greater good of the community and private property rights, and development.

Val Christensen said the Commission has completed the review of the Development Code up to the Mixed Use (MU) section.

Among the changes made is the wording regarding Conditional Uses. Conditional Uses will have its own section under each zone. Throughout the document the wording has been changed stating that Conditional Uses *may be permitted* instead of *are permitted*.

Tonight's review will begin with Mixed Use.

Mixed Use (MU)

The Chair clarified for the audience that mixed use zones allow a mix of residential and commercial together in an area.

Val Christensen said that the Mixed Use zones sections were added to the Development Code a short time ago. Mixed Use 1 has not been requested yet by a developer.

Mixed Use 2 (MU2):

Add that the front yard setback shall be a minimum requirement of 10 feet when the minimum requirement of 10% commercial/residential mix is reduced through a Conditional Use Permit request.

Add - minimum rear yard of at least 6 feet.

Under Reversion of Zoning - add ‘on a case by case basis’.

Remove sunset clause that is under Reversion of Zoning.

Melanie Davenport commented that some apartment complexes have minimal landscaping. Residents walk out of their doors in some complexes, and they are on concrete. She wondered about the possibility of small pocket parks to break areas up.

Chairman Dyer said there is a recreational impact fee that developers pay. That money is aggregated together for the City for parks.

Val Christensen said there is somewhat of a reluctance to do small pocket parks by the City. The parks are not well used. The monies have been spent toward larger parks.

Discussion of landscaping.

Jedd Walker said it is already stated in the ordinance that there is a green space requirement on every development.

Neighborhood Business District (NBD)

Dwellings - remove sentence

There was discussion regarding the listed Permitted Uses. Are we allowing a gas station, because convenience stores, listed under Permitted Uses, usually have gas stations.

Yes, allow gas stations.

Chuck Porter said allowing this use makes the business more viable.

What is a ‘Retail trade item food’ listed under Conditional Uses?

Change the wording under Conditional Uses to allow less specific.

Under Single ownership and control - Keep the section but simplify the wording.

General Business District (GBD) -

An area in the City is zoned GBD – at Yellowstone and University Blvd – on the north side of University Blvd.

Mr. Christensen will check for any other existing GBD zoning and will discuss possible removal of this zone with the Ready Team. Check to make sure that the existing property owners do not lose any benefits. Chairman Dyer commented that the GBD zoning designation where it exists could possibly be able to be changed to CBC (Community Business Center).

Central Business District (CBD) - downtown area

Remove “Gas Storage” from under Conditional Uses.

Remove the yard requirements.

It was clarified this is for new construction.

The Development Code says downtown building height cannot be over 45 feet.
Discussion.

Jedd Walker felt height will regulate itself in this zone. You do not get super high buildings until you have population density and the demographic to support it.

Remove the Building Height restriction.

Leave in Architectural Design Standards section.

“Developments in the Central Business District shall (change from *should*) implement projects...”

The Development Code discussion concluded tonight with completion of the Central Business District (CBD) zone section. The discussion will continue at future meetings.

Non-controversial Items Added to the Agenda – continued from the Non-Controversial Items earlier in this meeting

Two Design Review Committee meeting reports were given.

5. Report on Madison County Implement Design Review Committee meeting, October 31, 2013

Thaine Robinson said the meeting was held regarding the issue of a new steel (box) accessory building planned for the Madison County Implement (John Deere) business at 1247 South 12th West. There was concern about the building’s presentation to 12th West. The building will only be used for cold storage of items that are currently stored outside; the public will not have access to this building. The owners want to present an industrial look to their farm customers and do not want to overly dress up the building.

The meeting conclusions were: 1) Site plan would be acceptable as shown at the meeting, with the addition of a minimum of two large trees on the west end of the building between the corners and the doors; 2) a 2-foot (minimum) canopy detail to be located over the west doors; 3) the north and south sides of the building shall be lined with trees.

6. Report on Stones Town and Country Motors Design Review Committee meeting, November 7, 2013

Chairman Dyer said Stones wants to move their plain box building from North 2nd East (and 7th North) to their South Yellowstone business. The building does not meet design standards.

Although the Stones existing main building on South Yellowstone is in the Community Business Center (CBC) zone, the property to its west where the moved building is to be located is zoned High Density Residential 1 (HDR1). A zone change from HDR1 to CBC will be necessary.

The meeting conclusions were that awnings shall be put over the bay doors on the north side, and trees shall be used on the west side of the north front corner of the building in order to break up the visual line of the building.

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

November 21st - CUP –340 and 330 North 12th West (Impact Area) – to expand the existing mobile home park

Chairman Dyer adjourned the meeting at 9:10 pm.