

Planning & Zoning Minutes

January 2, 2014



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Dan Hanna Thaine Robinson
Jedd Walker Chuck Porter
Richie Webb Mark Rudd
Cory Sorensen Melanie Davenport

City Staff and Others:

Natalie Powell – Code Enforcement Officer
Daniel Widenhouse – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:01 pm and welcomed everyone. Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Cory Sorensen, Mark Rudd, Dan Hanna, Richie Webb, Winston Dyer, Thaine Robinson, Jedd Walker, and Melanie Davenport.

Gil Shirley and Mary Ann Mounts were excused.

Minutes:

1. Planning and Zoning meeting - December 19, 2013

Clarifications requested by the Chairman:

Page 1 – Regarding Winston Dyer’s statement to Bruce Sutherland, clarify that “...The Chair noted he was appointed to this P&Z Commission and as chair by Mr. Sutherland at the time when *Mr. Sutherland* (replacing the word *he*) was mayor of Rexburg. It is recognized that *Mr. Sutherland* (replacing the word *he*) has the community’s best interest at heart...”

Page 2 – “The focus *should* (replacing the word *would*) be off of Walmart and onto the use of this property...”

Page 3 – Add the word *list* to “...The Comprehensive Plan map is the wish *list*...”

Page 8 – Regarding a question from the audience: “...*A citizen asked if there are restrictions on the sale of the existing Walmart Property.*”

Page 15 – Regarding the Walmart rezone request, clarify Winston Dyer’s statement that “...if they cannot come to terms (successful negotiation and execution) on the Development Agreement, *then* the land use should not move forward...”

Page 16 – Clarify regarding the first hearing for the Pier 340 CUP that “...Due to hearing process procedure error (*hearing had 3 City and 3 County P&Z members when it should have been just the full Rexburg P&Z Commission*) that hearing was declared null and void...”

Page 16 – Regarding the Pier 340 CUP, clarify that “... the Commission knows what to focus on that will help to facilitate *discussion of this matter.*”

Dan Hanna motioned to approve the Planning & Zoning minutes of December 19, 2013 as amended. **Thaine Robinson** seconded the motion.

Jedd Walker abstained for having not been present.

None opposed. **Motion carried.**

Chuck Porter arrived at 7:07 pm.

Public Hearings: None

New Business: None

Compliance: None

Unfinished/Old Business:

1. Development Code Changes - Discussion continued

The discussion will focus on the Rexburg Municipal Code's Title 14 Mobile Homes and Travel Trailers (Mobile Home Ordinance No. 548).

Chairman Dyer stated that the Commission will start with this issue tonight in order to hear input from Rachel Whoolery, who has a previous engagement she must leave for. She is the owner of the Pier 340 Trailer Court, which just went through the Conditional Use Permit hearing process in order to expand an existing trailer court.

Following this discussion, the Commission will hear from the Bell Black properties representatives about their issue. Then the Commission will return to more discussion of the Title 14 document.

Chairman Dyer said the Commission became familiar with Title 14 during the recent hearing for a trailer court expansion. Title 14 stands separately from the Development Code; it was determined that it would be best to try and update this information. The subject ordinance was written in 1974. Staff was asked to go through the document and make recommendations on what changes should be made and how it can best be incorporated into the Development Code, changes to which are part of the larger discussion of the Commission. In addition, it was felt to be appropriate to ask for input from owners who are involved in these mobile home facilities. Rachel Whoolery is here tonight as one of those owners. Others have been asked to give input in subsequent discussions.

Natalie Powell presented the issue for Val Christensen who was ill tonight. She stated there are 72 definitions listed in the beginning of this Mobile Homes document. Many of these definitions already are listed in the Development Code. The definitions would be updated and any duplications would be removed. She called upon Rachel Whoolery to give input on the document as an owner of a mobile home park.

Rachel Whoolery, 2169 Ferris Lane. As she has gone through the whole process, Rachel Whoolery has discovered that the calculations of mobile home parks are completely different than most other developments. Keep in mind that a mobile home park needs not to be a beautiful landscaped subdivision. The community needs to still be able to have lower income housing and not drive it out.

She addressed density requirements (14.03.010). She suggested to remove the density requirement or to raise it. Telling the developer how many homes they can have minimizes their ability to make things pencil out.

Regarding boundary lines (14.03.030), the language in the document is strange. Change the language. Take out evergreen planting language and put trees, shrubs, berms, and other landscaping tools to create a division between the mobile home park and the surrounding properties. Make the mobile home park nice and attractive, but we also have to make sure it is not a golf course or a subdivision.

Be flexible with the elements that are used. A mobile home park will always be at 1- story. Take that into consideration.

Walkways (14.06.020) - Mrs. Whoolery said she is good with the language, but a one and one-half foot minimum width for a walkway is strange for a private walkway.

Mobile Home Space Area (14.07.010) - On the 4000 square feet requirement, Mrs. Whoolery recommended clarifying that the measurement is from the center of the road to the end of the lot.

Rachel Whoolery suggested that with visitor parking the total should be 2 spaces per mobile home stall. It is necessary.

Chairman Dyer thanked Rachel Whoolery for her input and for coming to the meeting on such short notice.

The Chair said this discussion would continue after addressing the Bell Black Properties issue that is scheduled under *Non-Controversial Items*.

Non controversial Items Added to the Agenda:

1. Bell Black Properties (East 2nd North) – Parking question

Natalie Powell introduced the issue. A photo map was shown of the subject area. The Bell Black building is at 237 North 2nd East. To the west is the Standard Plumbing building. The lot in question is the upper end of the lot (behind the house) just to the west of Standard Plumbing.

Bell Black Insurance came in to the City with a site plan and the idea that they need more parking, for their employees. The proposal is to put the parking lot behind the existing home on the west. They have not gotten an easement through the Standard Plumbing property, so they were proposing that the employees would walk down to 2nd North and then back up North 2nd East to the work building location.

An issue was that between the property line to the left of the house and the house itself, there is a large power pole. Between the power pole and the house there is 17 feet, which would not allow for 2-way traffic for a driveway back into the parking area. (Development Code Ordinance No. 1026, Section 5.5 iii)

If a parking lot is further away than 200 feet from the actual business, the parking cannot be counted to serve as a parking lot for that business. (Development Code Ordinance No.1026, Section 5.2)

This plan does not meet the code.

Mrs. Powell said Val Christensen had directed Bell Black Properties to come before the P&Z Commission to further discuss the issue and perhaps come up with something that might work for them.

Richie Webb asked if Bell Black Properties has the ability to expand the parking in their current location.

Natalie Powell said they do not.

Their largest tenant, Home Care Pulse, would like to increase their number of employees from 30 people to up to 90 people and would need additional parking. Home Care Pulse is currently considering renewal of their lease. If additional parking cannot be provided, they would need to move.

Chairman Dyer asked if the power pole were moved, would there be sufficient room for clearance?
Natalie Powell clarified there would not be enough room.

Melanie Davenport asked if Bell Black Properties owns the home and property in question.
Natalie Powell said they do not, but they are looking at purchasing it.
The parking lot would be behind the house.

Cory Sorensen commented that we are allowing students to do offsite parking, why is it not ok here? Employee parking 400 feet away makes more sense than students having to park a mile away. Maybe the ordinance should be looked at, especially regarding an employee parking situation.

Thomas Black, 237 N. 2nd East, of Bell Black Properties (Mr. David Bell was in the audience). The parking lot would be at 145 E. 2nd N. As was mentioned, the parking lot would be for employees only. It is to accommodate overflow parking. Everyone would be coming and going at the same time of day. They are working toward solving the driveway width issue. They are working with Standard Plumbing to buy a strip of land from the back of the Standard Plumbing lot, but Standard Plumbing did not want to discuss this matter until April or May.

The urgency of this issue is due to projections of growth of their tenant, Home Care Pulse, currently employing 30 people and increasing that number to between 60 to 90 people. Home Care Pulse does not want to move. There is no other space in Rexburg that would provide what is needed at a reasonable cost. Bell Black wants to keep them as long term tenants. The planned lot is genuinely the closest property. People are used to walking a lot farther than 200 feet. This occurs at many businesses.

Bell Black wants to put in a nice, attractive, approved lot to allow for expansion. This property is the most viable. It keeps from having another big vacant building in town. The property is already zoned commercial (Community Business Center – CBC).

The Comprehensive Plan Map land use designation is Neighborhood Commercial/Mixed Use.

A letter was provided from the Madison Fire Department Inspector saying an 18 foot parking lane width for the fire truck would be satisfactory.

It was clarified for Dan Hanna that there would be 3 work shifts, with 30 to 35 people at one time.

Melanie Davenport asked if the neighbors' opinions were known regarding the plan.
Mr. Black said he had not spoken with the neighbors, but lighting per requirement would complement the area and would not be a bother to other residential properties.

Thaine Robinson asked if the house was owner-occupied or rented.
Mr. Black said the house currently is vacant. They would make it a rental and would clean up the property and put privacy fencing around it.

The house west of and next to the subject house is owner-occupied.

Thaine Robinson asked if the applicant has spoken to the neighbors about the driveway.
Mr. Black said they had not.

Richie Webb said it would be a good idea to speak with them. He asked why there was such a hurry to make a decision.

Thomas Black clarified that the reason for the rush of this issue is that the tenant will move if they are not assured of sufficient increase in the parking area for future employee expansion.

Bell Black plans to continue to work with Standard Plumbing on an agreement regarding about 15 feet of property.

Mr. Black clarified for Dan Hanna that there is currently a barbed wire fence and not a privacy fence near the home.

Dan Hanna reiterated that it is good to talk to the neighbors first.

The **Chairman** said tonight Bell Black Properties is asking advice of the P&Z Commission on how the Commission may feel about the matter and if it should move forward more formally.

Natalie Powell said that was correct. She clarified that the one-way driveway does not meet the current ordinance.

Chairman Dyer said the applicant is discussing the issue with the Commission in theory especially to where it is contrary to what the current code stipulates.

Should there be a consensus identified that this issue might be doable, the next step would be a formal application for a variance.

Rexburg has had incredible growth over the last decade. Everyone has their reasons and special situations. Imagine where the City would be now if everyone could be granted variances. At the same time, from a business perspective, it makes sense. The Commission appreciates the thinking on this matter.

Variances are not often granted.

Dan Hanna said another alternative would be to look at the Development Code and reconsider the offsite parking distance requirement.

The **Chair** said the other issue is the width of the driveway and the safety of getting vehicles in and out.

Mr. Black clarified that Bell Black Properties would close on the subject house property to the west in 2 weeks, but would have no definite information from Standard Plumbing until spring.

Jedd Walker said regarding the aisle width, if a variance was applied for, the issue would go through the public hearing process. It is a gamble and not a guarantee.

It was clarified that the P&Z Commission is an advisory body to the City Council.

Chairman Dyer stated the Commission should determine if there is a consensus for directing this matter to move forward toward a formal variance request.

Cory Sorensen felt the only option was a variance.

Chairman Dyer clarified that staff told Bell Black Properties they could not do this. Tonight Bell Black Properties wanted to explain what they felt to be their special circumstances.

Chuck Porter asked if there was a possibility of moving the house or having it come down.

Mr. Black said there is not that possibility financially.

Mark Rudd said the main question before the Commission is whether the applicant can have less than 24 feet for the driveway.

Chairman Dyer said that is one question - if the applicant would be allowed to have a substandard driveway width to enter the parking area. The second issue is if this kind of parking could be allowed because of distance from the business; the code does not differentiate between employee and customer parking, and there is the requirement that the parking needs to be within 200 feet of the front door of the establishment.

Cory Sorensen and **Dan Hanna** thought there may be ways to make the issues work.

Jedd Walker felt this matter may be doable with the one exception of the width of the entry. Either the ordinance could be rewritten, which takes a public hearing, or a variance could be applied for, which takes a public hearing.

Mr. Walker said to approve a Variance, all 4 conditions stated in Development Code Ordinance No. 1026, Section 6.11 Variances must be met. He read the specifications:

“a. Required Findings. To approve a variance, the Commission must find, in writing, that the application for a variance fulfills all of the following conditions:

- i. The need for a variance results from physical limitations of the lot upon which the variance is requested which are not generally applicable to other properties in the same zone;
- ii. Failure to approve a variance will result in undue hardship;
- iii. The alleged hardship has not been created by the action of the applicant or the property owner; and
- iv. Approval of the variance is not in conflict with public interest.”

Mr. Walker did not know if all 4 conditions could be satisfied.

Cory Sorensen said it may be an undue hardship for the business to relocate. One thing this community really needs is jobs.

Jedd Walker said this would require a public hearing, and City Council approval. It would not meet the time line. It is a great idea, but procedurally it is a gamble.

Chairman Dyer clarified that the Commission needs to give the Bell Black Properties guidance so they can determine how best to proceed.

Thaine Robinson said he does not have a problem with the parking lot. He has a problem with the width of the driveway. There is a reason why the Development Code specifies lane width footage. It is a question of safety.

Dan Hanna asked for clarification of the letter from the Fire Department.

Chairman Dyer said the letter addresses just 1 concern.

Melanie Davenport said impact of traffic around the specified house is something to consider.

It was clarified that a variance application would need to address the lane being reduced in width and the distance of parking from the business facility.

Chairman Dyer said the Bell Black Properties representatives have heard the Commission discussion and concerns. Both sides of the issues have been looked at.

The issue does not meet the code. A next step could be a variance request or Bell Black Properties could make some other business decisions – such as an easement, or demolition of the subject house and turning it into more commercial development, etc., that might be beneficial to them and the community without having to worry about exceptions to policies.

Richie Webb stated that 2 Commissioners are not here tonight. If the variance application were to come before the Commission in the future, there may be a completely different make up that could completely change the outcome. He does not think the issue should be put to any kind of vote tonight. He suggested leaving it with the input that has been given and let Bell Black make their decision.

Chuck Porter agreed.

Thomas Black felt this discussion was helpful and thanked the Commission. Tearing the house down or doing another commercial building is not an option. They need to proceed to try to get approval. Is this the board that can decide yes or no?

Chairman Dyer said it appears the Commission has the authority to make a decision on a variance. It is hoped the representatives have seen that if this had been a variance hearing tonight, it is unsure which way the vote would have gone.

The public hearing process time frame was summarized.

Natalie Powell will speak with City Attorney Stephen Zollinger on the question of a variance application and public hearing, and who makes the decision on a variance request.

Chuck Porter was excused from the meeting.

Unfinished/Old Business:

1. Development Code Changes

Discussion continued on the Rexburg Municipal Code's Title 14 Mobile Homes and Travel Trailers (Mobile Home Ordinance No. 548) which was addressed at the beginning of this meeting.

Natalie Powell stated that mobile homes and travel trailers are two separate issues. Throughout the Mobile Homes (Article I) part of the document, travel trailers are sometimes addressed. There was consensus of the Commission to move any travel trailer issues all together under Travel Trailers (Article II).

14.01.020 - Definitions:

If the definition is already in the Development Code or is considered not relevant, it should be taken out of this document.

Remove definition #67 Trailer Coach; #56 Rest home, elderly housing home; #57 Restaurant.

Definition #45 Transport and #46 Foundation, etc. belong under #44 Mobile Home definition.

Cory Sorensen thought staff should go through the definitions and make recommendations on what to cut out.

There was Commission consensus that staff will clean up the definitions section and bring it back before the Commission.

14.02.010- Location in Mobile Home Park required.
Clarify wording - “compliant” mobile home park.

Chairman Dyer suggested making a reference to the zoning chapters or applicable sections of the Development Code regarding mobile home parks.

14.02.040 – Travel trailer stand
Put in travel trailer section.

14.02.050 - Temporary Parking
Stipulate what parking is required in a mobile home park. Make reference to Chapter 5(Parking Regulations) of the Development Code.

14.02.060 – Storage of unoccupied mobile homes, trailers, travel trailers
Clarify wording of this section.

14.02.070 -Parking spaces
Consensus of Commission to change to 2 parking spaces per mobile home space.

Move Travel Trailer parking to the travel trailer section.

14.02.090- Auxiliary storage buildings in residential areas
Staff will bring something back on square footage of auxiliary buildings.

14.03.010 - Mobile Home Density requirements
Drop density requirements and go with lot sizes, setbacks and green space requirements.

Setbacks -Match the zone the mobile home park is in if the conditional use is granted.

Buffering requirements discussed.

14.03.030- Setbacks from park boundary line
Tweak language. Remove evergreen requirement.

Fencing as buffer and use of landscaping discussed.

Richie Webb said define the guidelines on what is working best. He suggested staff investigate and perhaps look at the best examples in the community of what is working for mobile home parks.

14.03.050 Minimum land area
Consensus of Commission to increase minimum acreage from 2 acres to 4 acres.

Natalie Powell said staff will make revisions and bring the document back before the Commission.

The staff will also make suggested changes for the remainder of the document that was not discussed tonight.

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

January 16th P&Z meeting:

Comprehensive Plan Map Amendment – 1042 West 7th South - Single Family Residential to Low-Moderate Density Residential

and

Rezoning – 1042 West 7th South – Rural Residential 1 to Medium Density Residential 2

Chairman Dyer adjourned the meeting at 9:18 pm.