

# Planning & Zoning Minutes

November 20, 2014



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

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## Commissioners Attending:

Thaine Robinson – Chairman  
Dan Hanna                      Mark Rudd  
Jedd Walker                      Melanie Davenport  
Bruce Sutherland              Steve Oakey  
Tisha Flora

## City Staff and Others:

Brad Wolfe- City Council Liaison  
Val Christensen- Community Development Director  
Clark Wilcox – Community Development Intern  
Elaine McFerrin – P&Z Coordinator

**Chairman Thaine Robinson** opened the meeting at 7:00 pm. He welcomed City Council Liaison Brad Wolfe, City staff, and interested citizens.

## Roll Call of Planning and Zoning Commissioners:

Steve Oakey, Mark Rudd, Bruce Sutherland, Dan Hanna, Thaine Robinson, Jedd Walker, Tisha Flora, Melanie Davenport.

Gil Shirley was excused.

Chuck Porter and Cory Sorensen were absent.

## Minutes:

1. Planning and Zoning meeting - October 16, 2014

**Bruce Sutherland** motioned to approve the Planning & Zoning minutes of October 16, 2014.

**Steve Oakey** seconded the motion.

Jedd Walker and Dan Hanna abstained for having not been present.

None opposed. **Motion carried.**

**Chairman Robinson** stated that there is a request to amend tonight's agenda to add an item under New Business, regarding the Charles Place Planned Unit Development. A motion is necessary.

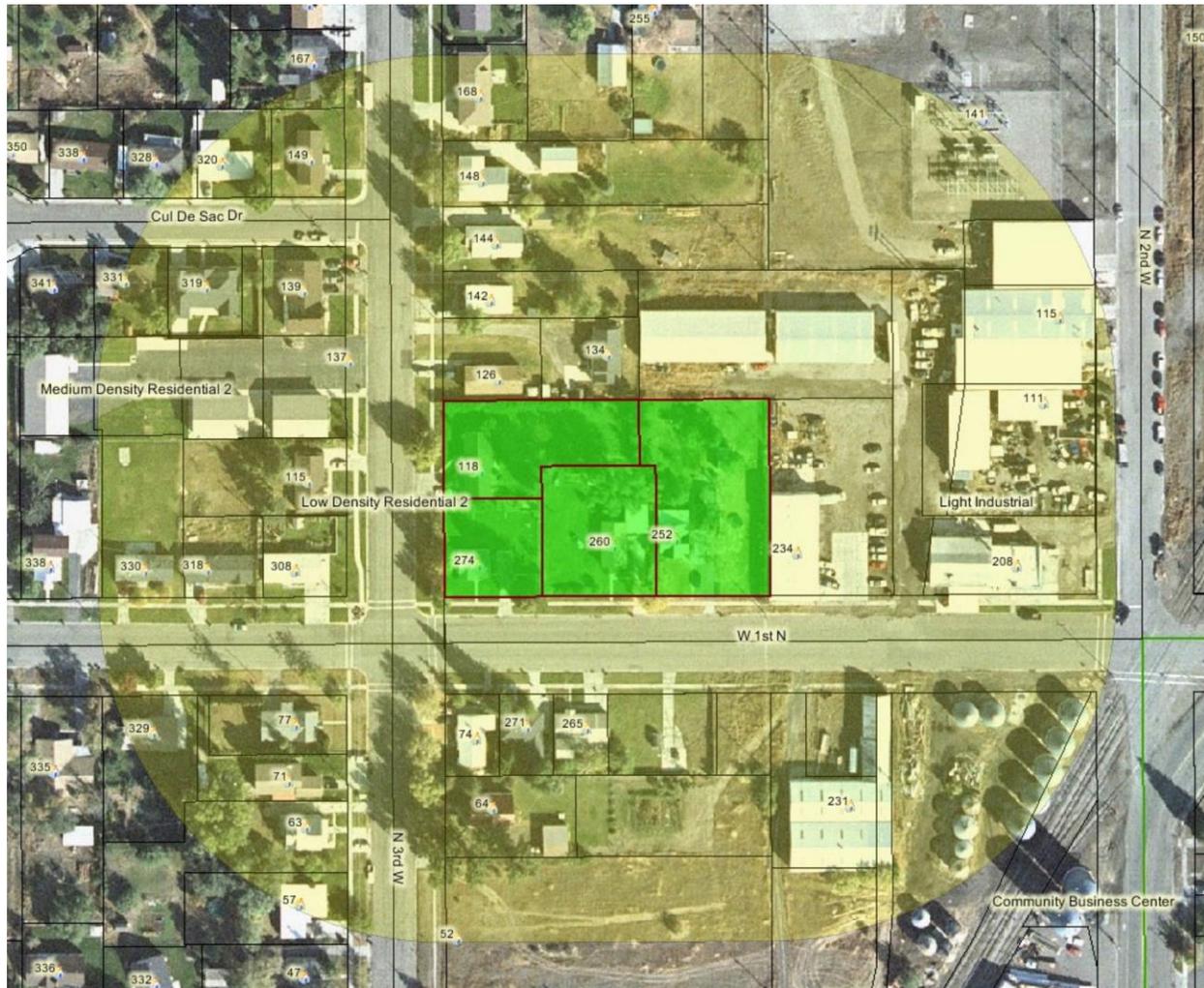
**Dan Hanna** motioned to amend the agenda for tonight's meeting to add the *Charles Place PUD (Planned Unit Development) Preliminary Master Plan* review item. **Melanie Davenport** seconded the motion. None opposed. **Motion carried.**

## Public Hearings:

1. 7:05 pm – Rezone – 252, 260, and 274 West 1<sup>st</sup> North; and 118 North 3<sup>rd</sup> West – Low Density Residential 2 (LDR2) to High Density Residential 1 (HDR1)

**Chairman Robinson** explained the procedure that is followed for public hearing. The applicant will present the proposal. The Commission may ask questions of the applicant and staff to help them understand the proposal. Public hearing testimony will then be taken. Those who are in favor of the proposal will come forward first, followed by those who are neutral to the proposal, and then those

who are opposed. There is now a 5-minute time limit per person on public comment during a public hearing. If there is opposition to the proposal, the applicant will be given the opportunity for rebuttal. This will be followed by staff evaluation and recommendations. The Commission will then deliberate the issue in order to come to a decision and make a recommendation to the City Council.



**Jonathan McMullin**, 3944 South 2000 West, the applicant, presented the proposal to rezone the specified property from LDR2 to HDR1. The property was shown on the overhead screen. There are 4 parcels as stated. The Comprehensive Plan supports this type of change. He owns 252 West 1<sup>st</sup> North, and 3 other properties with different owners are included in this request. Signed, notarized Affidavits of Legal Interest are part of the application. There are commercial and multi-family properties in this area. Storage units are directly to the east of his property, and there is also a mechanic shop. He purchased his property with the idea of developing it, but from previous experience he felt it would be better to speak to his neighbors (3 who are part of this request) and get them onboard. Rental properties are to the north. In answer to the Chairman's inquiry, Mr. McMullin has not spoken to those residents, but others who are part of this request have done so.

He quoted from the Rexburg Development Code Ordinance No.1115 Section 4.16 Infill/ Redevelopment Standard:

*The purpose of the Infill/ Redevelopment effort is to balance community good with individual choice and property rights...and making the necessary zone changes to encourage development not only will clean up vacant weeded properties, but will also partially level the playing field for these projects versus the lower cost of finding cheaper agricultural ground on the periphery of the City.*

Mr. McMullin stated that with this rezone, a few properties would be cleaned up. The location is close to the City core with services available. The high density would fit well.

**Dan Hanna** asked how many of the 4 subject properties are owner- occupied.

**Jonathan McMullin** stated that his property is not; the other 3 properties are owner-occupied.

**Val Christensen** went over the infill/redevelopment scoring of the property. The scoring is a bit higher than average; it is ranked at 35.

**Dan Hanna** asked why certain properties are scored higher.

**Val Christensen** explained that the main reason is the size of the acreage.

**Tisha Flora** asked for clarification of scoring.

**Val Christensen** explained that as per the Development Code, all Infill/Redevelopment properties are scored/ranked with a scientific method at the time of a rezone request. Different items have been determined to be considered important – location in relation to single family neighborhoods, percent of property that is vacant, infrastructure availability, nearness to amenities, closeness to campus and downtown, street access, historic, etc. There are also weightings. The document is just a tool so the Commission can compare with other properties. The highest possible ranking would be about 40 to 50.

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

**In Favor:**

**Trever Einerson**, 87 Ash. He usually speaks neutral at land use hearings because of his real estate profession, but he is in favor of this rezone. To the east of the property, there is industrial. He has spoken to the owner of the storage units to the east.

Mr. Einerson formerly owned 4-plexes to the west of the specified property. He found out how many people like to live in apartments in a neighborhood rather than being crunched in with other apartments. There are already rentals in the area. As a real estate professional, he has seen that some homes he had listed in the area did not sell. There has been enough redevelopment discussion regarding this area; it is already a very mixed area. This rezone would take out blight and would revitalize the area. It meets the needs and desires of the Comprehensive Plan.

**Don Allen**, 118 N. 3<sup>rd</sup> W. His property is included in this rezone request. He reiterates what Jonathan McMullin has said. There are 6 houses in the block that are currently rentals. One is a duplex. It would be good for the neighborhood to add apartments here. There are great neighbors. It would be good for families who are just starting out.

**Neutral:** None

**Opposed:**

**Shawna Hill**, 318 West 1<sup>st</sup> North, just to the west of the specified properties. She is here as part of the Neighborhood Association that was started. In May, they came before the Commission trying to change the Comprehensive Plan. She has talked to numerous people who signed a petition at that time. They would like her to relay a message – they do not want the zoning changed. They still would like the Comprehensive Plan to be Low-Moderate.

After that meeting, she attempted 4 times to get a hold of City staff, in order to talk to Mr. Christensen about making their requested change smaller. Nobody returned the messages she left. At this point, because of lack of response, most residents in the area are of the opinion that the City does not care what they think and does not want to listen to them. The City is not for the citizens of this area.

**Renee Belle Johnson**, 265 West 1<sup>st</sup> North, directly across the street from three of the subject properties. She came to voice her concern about this rezone request. This neighborhood has been a traditional neighborhood all of her life. She was raised in the same house, and she raised her children here, surrounded by the same homes for over 62 years. It has always been a great place, with lawns, yards, and gardens, and friendly neighbors. They do not want to change the fundamental nature of their neighborhood. It has been here longer than any of them have been alive. There are other properties that have been rezoned to high density. It would be nice to have those developed for high density or commercial business, without removing homes. Please leave some of this traditional Rexburg intact. She recognizes there are times for change. It should be change for the betterment of the community and the citizens. Residential neighborhoods close to downtown are essential to maintain the flavor of their town. Do not change that flavor or the goodness of this community. It helps make Rexburg the great place it is.

**Written Input:** None

**Rebuttal:**

**Jonathan McMullin** thanked those who spoke for their comments and concerns. Regarding Mrs. Hill's comments, other people should be here at this meeting if the proposal is a concern to them. Regarding Mrs. Johnson's comments, it was mentioned that this neighborhood is a good family community. His requested change would give the opportunity to live here to new families, and they could glean a little bit of life lessons from other families that live here. It would not detract from the overall feel of the neighborhood.

**Chairman Robinson** closed the public input portion of the hearing and asked for the staff evaluation and recommendations.

**Val Christensen** said there has been some discussion about the neighborhood group of people in the 3<sup>rd</sup> West area. Kathy Hanosky, the neighborhood representative who brought in the original petition for the Comprehensive Plan change request that was before the Commission in May, has been instructed by the City Attorney that a new petition is needed in order for a new application request to change the Comprehensive Plan to move forward, because the boundary description has changed. So there is continued contact with that group, which the City thought was the Neighborhood Association. The original request was much too large. The neighborhood group was instructed to try to re-do the boundaries. The application had been tabled for several months and was finally taken off the table and dismissed. Regarding Mrs. Hill's comment, he cannot imagine missing 4 calls. He answers his calls and messages every day. He apologizes. The neighborhood group appears to be progressing and is expected be coming back.

Regarding tonight's rezone request, the size of the property is about 2 acres; the applicant is requesting a rezone from LDR2 to HDR1. The Comprehensive Plan supports this change; the land use designation is Moderate-High Density Residential. There were no Public Works concerns. If the Commission determines that the change is in the best interest of the City and the adjoining neighborhoods are not adversely affected, Staff requests that the Commission recommend that the City Council process the change.

**Steve Oakey** thought Shawna Hill had intimated that there was a 2<sup>nd</sup> petition for the neighborhood's Comprehensive Plan request.

Staff has not received a second petition. The group has been directed that a new petition is necessary with a new application if the boundary has changed for the request.

It was clarified the property owner has to obey his own setbacks indicated in the zone. The rezone applicant would have to meet the current Building Code and Development Code Standards.

**Dan Hanna** said the scoring of the subject property helps the Commission determine the level of impact to the neighborhood.

**Chairman Robinson** clarified that the rezone request is a land use issue. The question before the Commission is shall the zone be changed from LDR2 to HDR1.

**Melanie Davenport** said her only concern is the light industrial zone so close to a high density development.

The **Chairman** said if buffering a residential area from industrial, it is better to buffer with high density rather than LDR1 or LDR2.

**Tisha Flora** said she would be more comfortable with a medium density zone rather than going from low to high density. Residents have come in and wanted to change the Comprehensive Plan. If she were living in a home next to high density residential apartments, a lot of problems usually come with more apartments.

**Dan Hanna** said there is a light industrial area here that is going to stay light industrial. This neighborhood has changed a lot. Good City planning says to buffer light industrial with higher density rather than lower density. Many of the homes are not owner-occupied. Single family residential is just not harmonious with what is happening in the area.

**Melanie Davenport** said she was the person who made the motion to table the original Comprehensive Plan Amendment request of the neighborhood. She has had some time to think about this. She feels this rezone request is a good area for an infill project. There is a lot of diversity in this large area.

**Jedd Walker** pointed out the original neighborhood Comprehensive Plan request on the overhead map. At the time, he had questioned the size of the request based on the uses around it that he did not think were harmonious with lower residential density.

**Melanie Davenport** motioned to recommend approval to the City Council of a zone change from Low Density Residential 2 (LDR2) to High Density Residential 1 (HDR1) for the property located at 252, 260, and 274 West 1<sup>st</sup> North and 118 North 3<sup>rd</sup> West. **Dan Hanna** seconded the motion. None opposed. **Motion carried.**

**Unfinished/Old Business:** None

**New Business:**

1. Charles Place PUD (Planned Unit Development) – Preliminary Master Plan review

**Chairman Robinson asked City Councilman Brad Wolfe to join the Commission** on the dais for this issue. He clarified the reason for this, as stated in the Development Code Ordinance No.1115, Section 4.15 Planned Unit Development (PUD), c. Pre Application Conference:

*“Prior to filing an application for a planned unit development, the applicant shall review the preliminary master plan with the Planning and Zoning Commission and one person from the City Council, or the Mayor, or a designated representative at a pre-application conference. The purpose of the pre-application conference is to inform the city of the nature of a likely PUD application at an early date and to provide the potential applicant with information on what will be needed to make an application complete.”*

The Chairman explained that this presentation before the Commission tonight will count as the pre-application conference for the Charles Place PUD Preliminary Master Plan review, in order for the applicant to eventually come back with a master plan application for approval.

The site plan was projected on the overhead screen. The location is within the block bordered by North Center, East 2<sup>nd</sup> North, North 1<sup>st</sup> East, and East 1<sup>st</sup> North. The area is zoned LDR2. There is not development there currently.

**Johnny Watson, JRW & Associates**, representing the applicant, made the presentation. There have been very few PUDs in Rexburg. A PUD development would make the subject area a lot more usable, a lot more community friendly, and pedestrian friendly. The owners want to create a homeowners association for this development, which would be made up of smaller single family residences that are single-story, possibly for those looking to get out of their large homes, such as people who are retired. The reason for a PUD is that the zoning ordinance specifies minimum lot sizes in zones that would not work well in interior block areas. A PUD would allow for smaller lots. A few existing homes would be included in the PUD; this would help meet minimum PUD acreage as stated in the Development Code

The new street that is going into the development from East 1<sup>st</sup> North would not be a city street, but would be a part of the PUD. This street would be privately maintained. There would be lower traffic. The street would be smaller and would not meet City street requirements. The only requirements that would have to be met are private vehicular traffic and fire truck circulation. The particulars are left to the Commission to create the requirements for the PUD, possibly looking at smaller setbacks, a little more density, green space, and interior pedestrian paths. A PUD gives the developer a way to maximize interior areas.

**Chairman Robinson** said the City could relax on some standards and replace them with others to help create a great development area – for example, Founders Square has more landscaping, a park, building design, etc.

From the Development Code Section 4.15a:

*A PUD allows “...a more flexible approach to land development than that which is normally accomplished through the subdivision and zoning ordinances of the city ...and provides more desirable environments by encouraging creative site planning and building designs...”*

**Val Christensen** stated that a PUD allows some flexibility and allows thinking outside the box. The issue is presented tonight to see if the Commission feels there is merit to having a PUD in this location.

**Johnny Watson** explained that the plan would be for having about 17 units. They are trying to make a close knit development.

Tonight, the applicants are trying to get the Commission's preliminary thoughts and ideas on if they are headed in the right direction with the PUD, in order to eventually start the process.

**Bruce Sutherland** stated that he grew up in this area. The subject land has been this way for many years. This PUD is a great idea.

**Melanie Davenport** has spent a lot of time thinking about downtown development and the traffic, in relation to the zone and the Comprehensive Plan. Does this development fit in with what is being planned on this street?

**Johnny Watson** said it very much fits in to what Rexburg is trying to achieve as a community. Increasing the density in the City's core reduces traffic. There is better use of the infrastructure. This development would be within walking distance to downtown, library, schools, stores, etc.

**Val Christensen** clarified that this particular project is a downtown project. Densifying the downtown increases the vibrancy of downtown. The developer is required to be at the density of their zone; they could get a little more density by getting extra density points. They will have to show why they are asking for extra density if that is something they decide to do. The Commission will have to determine if they agree when this request comes forward.

**Councilman Wolfe** stated that a few weeks ago, a zone change request for property at South 2<sup>nd</sup> East and East 1<sup>st</sup> South was before the P&Z Commission and the City Council. One of the opponents to that rezone request brought in a map and proposed that something similar to this PUD could be built there; Mr. Wolfe felt it would not fit at that location. In tonight's case, Mr. Wolfe feels that the Charles Place PUD is a perfect location for such a development. He likes the idea, and it makes good use of the land.

**Councilman Wolfe** asked if the narrower single access/egress (East 1<sup>st</sup> North) for the PUD is adequate. **Dan Hanna** also expressed concern on this issue and thought a second access would be good.

**Val Christensen** stated the plan has not been before staff for any review yet. The question is if the fire department would accept the one access going in and coming out. There is nothing that precludes this.

**Johnny Watson** said the owners do not want to create a mid-block cut-through.

**Chairman Robinson** thought that this PUD is a great idea.

**Jedd Walker** asked if one developer would build all the homes. He would not want a barracks look.

**Johnny Watson** said the PUD has to be under one ownership according to the Code. The homes could be sold. This PUD is under one LLC (Limited Liability Company).

**Mark Rudd** thought this PUD would help to save the neighborhood and revitalize it.

It was clarified that design review is part of the PUD process.

**Dan Hanna** asked if the neighbors have been spoken to about this proposed PUD.

**Johnny Watson** thought they have been spoken to. The applicants have a good pulse on what the neighbors would want.

**There was P&Z Commission consensus and Councilman Wolfe was in agreement** that they like the presented Charles Place PUD Preliminary Master Plan and would like to see the PUD move forward.

## 2. Windsor Manor Apartments – Visitor Parking Discussion (Rachel Whoolery)

**Rachel Whoolery**, an owner of Windsor Manor Apartments. About 5 years ago, the City's PEZ (Pedestrian Emphasis Zone) overlay was created. She participated and gave input at that time. The City did not want to touch the PEZ Ordinance for 5 years to give it time to show how it worked. That time has now passed. Her development is the poster child of PEZ. They acquired 7 properties over time, right near the campus; in that time they have also been able to analyze whether the ratios are working.

Windsor Manor Apartments was shown on the overhead screen. The complex will open this January 2015. Parking stalls will all be assigned; students may purchase a contract. They will know exactly how many parking stalls there are— they can control exactly how many contracts there are. They have a variety of parking solutions. They are using tandem parking; there is a lockbox at each tandem stall so a car can be moved if it is in way. They do charge for parking. The goal is to get cars off the street. There are 8 foot sidewalks. There is inside bike parking. Bike and motorcycle parking are free. More boys are bringing cars than girls.

Mrs. Whoolery is having more cars than she counted on. She is using 3 offsite lots, within a block of the complex, as a temporary arrangement.

The towing need is taken away because the parking is assigned.

With visitor parking, at the percentage required (10%), a vast amount of visitor stalls would sit unused. She would like to reduce that amount.

She read from Development Code, Chapter 9 Pedestrian Emphasis Zone (PEZ) Section 510k:

*“One vehicle parking space per 10 residents shall be provided for guest parking. Guest parking shall be marked with signage that is clearly visible during all seasons of the year. These spaces shall not be included in the parking contract required to be entered into... Guest parking spaces shall be the City's full-size parking space standard.”*

Mrs. Whoolery suggested that a sentence be added:

“A reduction from the above guest parking requirement is allowable if an alternative parking management plan is approved by staff.”

She has done her CUP (Conditional Use Permit) and has all of her numbers. Her location is right near campus, so a portion of the guests may walk. She has assigned parking for her tenants and clearly marked visitor parking. She does not need to patrol.

She wanted to submit her idea for her particular situation and location: that 10 percent of her parking stalls be visitor parking, not 10 percent of the occupancy.

**Chairman Robinson** clarified that a decision would likely not be made tonight, but the input is wanted.

**Val Christensen** reported that when the 10 percent visitor parking rule was put into effect, economies of scale were not thought about close. It may or may not be the right number. Keep scale in mind.

How is it determined if the parking is managed properly, and who determines it? Rachel Whoolery is proactive, and actively managing her parking spaces.

A lot of visitor spaces are being used by students. Management is not always managing. He has been told by several managements that they are not coming close to filling visitor spaces. Mr. Christensen stated he is on board with Mrs. Whoolery, but he is wondering how this would be done.

**Steve Oakey** felt Rachel Whoolery is on to something. The City should not necessarily be telling her how to manage her own parking. The City's concern is the streets.

The **Chairman** said that would involve changing the ordinance.

**Rachel Whoolery** asked if she could be the case study or guinea pig on this issue. She has researched that she would need 18 visitor parking spaces for her size complex. She has 53 apartments.

**Mark Rudd** said the complex is not open yet. How is it known how many spaces will be needed? He would have more faith in this if this complex was functional for a year and then Mrs. Whoolery could come back to report. This seems premature.

**Rachel Whoolery** said she has been watching the history in other complexes. She is trying to start out correctly.

**Melanie Davenport** said the parking study she is part of (*BYU-I Off-Campus Householders Association Parking Study*) involves several large complexes. Rachel Whoolery's complex was not included in the initial study because it is still under construction. The study will finish in December. By March, there would be a meeting with BYUI and with the City Council and those involved in the study. Anyone may submit ideas and should do so soon.

It was stated that the P&Z Commission would be invited to this meeting.

**Dan Hanna** agreed with Mr. Rudd about the unknown. What if Mrs. Whoolery is not able to accommodate visitors in mid-semester?

**Rachel Whoolery** expressed that she does not see problems as unsolvable. If there is a problem, she would make it work. She would purchase land close by if visitor parking becomes needed.

**Val Christensen** wondered if there would be any merit in doing a test, trying something out, before a decision is made across the board. The City Attorney would have to be consulted.

Rachel Whoolery has a CUP for the subject property.

**Blake Willis**, in the audience and an owner of Towers Apartments, stated he likes Mrs. Whoolery's approach, but he has some points. An average of 70% of students bring cars. His complexes have 1 to 1 parking; they did not do the PEZ reduction. He has enough parking at the Towers. There is not a booting problem at the Towers because like Mrs. Whoolery, they assign parking stalls. He feels that predator parking happens when there is not enough parking. He is not opposed or in favor of Mrs. Whoolery's proposal. The students that live in the more expensive complexes are more likely to bring cars. His concern is that he does not want the street to be used for resident overnight parking.

**Steve Oakey** said as long as the City is controlling its streets and thoroughfares, and if Mr. Willis feels each business owner knows their business best, does that include knowing their business well enough to manage their own parking?

**Blake Willis** thought so. He thinks that he and Rachel Whoolery care very much about their tenants and want to make them happy. Their complexes are small compared to some of the others. For the next 3 or 4 years, it is going to be a big question of what is normal.

**Chairman Robinson** stated that the input tonight has been very valuable. This is just a discussion of the issue. Where does the Commission go from here?

**Val Christensen** expressed that he sees merit in waiting and putting the whole findings and input together. Some good ideas have been presented tonight.

The possibility of doing an experiment to see how things go for one semester was discussed.

**Rachel Whoolery** stated that if the Commission allowed her to have 18 visitor parking spaces (10% of her parking) rather than 34 spaces, that meets the PEZ. The eliminated spaces would go to one of her locations off-site. She would basically be experimenting with what is on site and off site.

**Jedd Walker** expressed that if the ordinance does not specify where visitor parking is, Mrs. Whoolery is within her rights to manage it with what she has. She meets the CUP (.51 parking). She has more than that. The Commission does not need to do anything. She could just manage it.

**Councilman Wolfe** stated that per City Attorney Stephen Zollinger (consulted by phone), should the Commission decide to grant a temporary test period, it would be legal for the Commission to make some kind of motion, as long it is done with the objective of having a public hearing in the future to determine what is going to be done permanently on this parking issue.

**Melanie Davenport** stated that she would likely abstain or vote against a motion because she is part of the ongoing parking study group.

**Mark Rudd** reiterated that there are too many unknowns. Let the complex be functioning for a year. The ideas sound good, but the complex is not even open yet. It is just a theory that things are going to work. To give a test period now does not fit.

**Dan Hanna** wondered who from the city would enforce a temporary test period. He suggested that possibly there be no motion and just let Rachel Whoolery manage the issue, bringing in some data after a certain period of time.

**Chairman Robinson** stated that in the beginning of the next year, there will be more information and much more discussion on this matter.

**Blake Willis** wondered how other apartment owners would feel. Is the Commission going to let them do the same thing?

After further discussion, the Commission decided that nothing will be done at this time. They are going to wait until they get all the information they need before having the parking discussion. The Commission will take all of the points they heard in tonight's discussion as input on the parking issue and will use that at a later date to help in making a final decision.

**Compliance:** None

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

**Chairman Robinson** reported on a Design Review Committee meeting held on October 31<sup>st</sup>, regarding a 12-plex to be located on West 6<sup>th</sup> South. Mr. Robinson, Jerry Merrill, and Brent McFarland served as the Design Review Committee. The Committee suggested foliage and landscaping, and breaking up of the roof line. The building design resembled a barn.

**Val Christensen** informed the Commission that this project is no longer planned. The property has been sold.

**Report on Projects:** None

**Tabled Requests:** None

**Building Permit Application Report:** None

**Heads Up:**

December 4, 2014 -There are no agenda items for this P&Z meeting date.

**Bruce Sutherland** motioned that the December 4, 2014 P&Z meeting is Cancelled, as there are no agenda items. The December 18, 2014 P&Z meeting will be cancelled unless an issue comes forward that needs to be addressed. **Dan Hanna** seconded the motion.

**None opposed.** Motion carried.

January 1, 2015 – New Year’s Day holiday

January 15, 2015 - Joint Work Meeting with the City Council and the Planning and Zoning Commission to discuss policies and practices, at 5:30 pm (meal provided), before the regular P&Z meeting .

The meeting was adjourned at 9:58 pm.