

Planning & Zoning Minutes

September 18, 2014



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Thaine Robinson – Chairman
Dan Hanna Gil Shirley
Steve Oakey Bruce Sutherland
Mark Rudd Melanie Davenport
Tisha Flora Cory Sorensen

City Staff and Others:

Brad Wolfe- City Council Liaison
Natalie Powell – Planning Assistant/Compliance Officer
Clark Wilcox – Community Development Intern
Elaine McFerrin- P&Z Coordinator

Chairman Thaine Robinson opened the meeting at 7:01 pm. He welcomed staff, City Council Liaison Brad Wolfe, Commissioners, applicants, and interested citizens from the community. Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Cory Sorensen, Steve Oakey, Gil Shirley, Mark Rudd, Thaine Robinson, Bruce Sutherland, Tisha Flora, Melanie Davenport

Chuck Porter and Jedd Walker were excused.

Minutes:

1. Planning and Zoning meeting September 4, 2014

Steve Oakey motioned to approve the Planning & Zoning minutes of September 4, 2014.

Melanie Davenport seconded the motion.

Gil Shirley and Cory Sorensen abstained for having not been present.

None opposed. **Motion carried.**

Public Hearings:

Chairman Robinson explained the procedure that is followed for public hearings. The applicant or a representative will present the proposal. The Commission and the public will be given the opportunity to ask clarifying questions to help them to understand what is being proposed. Staff may also clarify the proposal.

If anyone wishes to speak to give public testimony, please state your name and address for the record, and your affiliation, such as neighbor, concerned citizen, etc. Please try to keep your remarks to facts and not emotions, as the Commission will try to do.

If giving testimony, please try not to repeat what someone else has said; just say that you concur. People may testify in favor, as neutral, or opposed to the proposal. If there is opposition, the applicant has the right of rebuttal, like in a court of law. During the public testimony, there cannot be interaction between the Commission and the person who is testifying. It is an opportunity for you to testify in a short period of time giving some facts the Commission may use in helping with their deliberation of the proposal.

Everyone has one voice to express their input on the proposal, not two voices. If anyone has submitted a letter of written input, the letter can stand as representing their voice, or they may give public testimony – but not both because that would be an unfair advantage. If anyone has signed a petition, they can do one or other – go with your name representing you on the petition and what it is stating, or you may speak and give public testimony.

The staff report will then be given, followed by deliberation of the Commission on the proposal in order to come to a decision. The Planning & Zoning Commission is a recommending body and will make a recommendation to the City Council.

The Chair asked if anyone had questions about the hearing procedure.

There were no questions.

Dan Hanna arrived at 7:06 pm.

The City has 2 maps that are often referred to for land issues.

The Comprehensive Plan land use designation map is the vision of where growth would be and with what kinds of growth.

The Zoning map is actually what is allowed, what can or cannot be done on a piece of property per City regulations.

The first hearing is a proposal to change the Comprehensive Plan map, with the hearing scheduled after it addressing a zone change request for the same property. The zoning has to fit with the Comprehensive Plan land use map designation. The applicant is requesting to change the Comprehensive Plan map from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use in order to then request a zone change to the Mixed Use 2 zone in the next hearing.

1. 7:05 pm - Comprehensive Plan Map Amendment – 117 South 2nd East; and 204, 216, and 230 East 1st South – Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use

Johnny Watson, 1152 Bond Ave., representing Westland Holdings LLC, presented the proposal for a Comprehensive Plan map change.

The Comprehensive Plan is the community's vision of how that community should be planned over the long term. The current Comprehensive Plan is called Vision 2020. It represents the idea of where we are headed as a community. What is Rexburg going to look like in the year 2020?

In 2008 when the current Comprehensive Plan was put together, it was thought that the subject properties should be in the Low-Moderate Density Residential land use designation.

In all the years he has been in this community, Mr. Watson cannot remember anything being on the vacant subject largest lot.

With the development that has occurred near Professional Plaza and the commercial growth in Rexburg, the applicant feels this location would be a good location for his development. The request tonight is to change to the Neighborhood Commercial/ Mixed Use Comprehensive Plan designation from Low-Moderate Density Residential. It is the first step. This would allow the applicant to go toward changing the zone and doing something with the vacant lot.

A Power Point presentation was shown, including pictures of the subject property.

The Rexburg Comprehensive Plan was quoted:

Overall Goals of this Comprehensive Planning Effort

1. To improve the physical environment of the community as a setting for human activities-to make it more functional, beautiful, decent, healthful, interesting, and efficient.
2. To promote the public interest, the interest of the community at large, rather than the interests of individuals or special groups within the community.
3. To facilitate the democratic determination and implementation of community policies on the physical development.
4. To effect the political and technical coordination in community development.
5. To inject long-range considerations into the determination of short-range actions.
6. To bring professional and technical knowledge to bear on the making of political decisions concerning the physical development of the community.
7. To maintain high levels of interaction with the public for planning and decision-making. Encourage citizen input when considering code modifications.

Mr. Watson stated that community planning has to be looked at as what is best for the whole. Mixed Use has been a difficult idea for some.

A Mixed Use zone development was shown (Seasons Medical). Most would feel the development is a positive addition to the community.

The City has been working on infill and redevelopment. The subject parcel is identified as a key area for infill and redevelopment.

Part of the goal of redevelopment is that it not only be walkable, but it should be in proximity to businesses, schools, work and play, etc. The subject properties are part of a walkable area that was identified. The location is close to all amenities. The proposed project that the developer is looking at is similar to a business incubation center. For the developer to be successful, the project needs to be near the University and the downtown businesses.

From the Comprehensive Plan:

Mixed-Use supports higher density development and provides higher quality experience by leveraging proximity of uses to one another. Mixed-use developments often have higher property values. It creates independence of movement, eases traffic congestion, maintains air quality, lowers traffic speeds, provides safety through around-the-clock presence of people, and provides economic viability.

Johnny Watson said infrastructure is already in place at the subject location. The Comprehensive Plan states a goal of encouraging development of vacant or underused land when appropriate. By creating places where people can work that are closer to downtown, the revitalization of the downtown would be helped.

Natalie Powell reiterated that the requested Comprehensive Plan map land use designation change would be from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use. Staff feels the request is consistent with the property to the north and to the west. The Commission should take public testimony to determine if the requested change will be in the best interest of the community. If the Commission concludes that the change is in the best interest of community and the adjoining neighborhoods are not adversely affected, staff requests that the Commission recommend that the City Council process the requested Comprehensive Plan Map change.

Melanie Davenport wanted verification that the subject property location is in the infill area.

Natalie Powell said the property is in the infill area. The focus area for infill and redevelopment is addressed in the Development Code Ordinance No. 1115, Section 4.16. There was a lot of time and dedication put into identifying the area. This seems like a logical fit.

Steve Oakey asked what the current land use designation is to the north and also in the Walgreen's area.

Natalie Powell stated that the Comprehensive Plan map land use designation to the north of the subject properties is Neighborhood Commercial/Mixed Use, which is what is being requested for the subject property.

The Walgreen's block has a Downtown Commercial/Mixed Use land use designation. The zoning of Walgreen's is Central Business District.

Steve Oakey asked how many permanent residents there are to the south of Seasons Medical and up to the subject property, as opposed to rentals in this area.

Natalie Powell stated that she did not have that data.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral:

Cindy Harrell, 216 East 1st South. Her home is one of the subject properties in this proposal. She has always felt that she is neither for nor against the Comprehensive Plan. The reality is that at some point their little neighborhood is going to change, with some things that they do not necessarily want but that they are willing to live with if done with some forethought. She would love to see the neighborhood stay a neighborhood as much as it can but she also knows that she is the one that has dealt with that field. It is an eyesore, but it is also a hazard. The City has not made an attempt to force the owner Bonnie Anderson to actually take care of that property. In the summer, she has actually worried about fire because of the very high weeds.

We have to be cautious about the traffic that we are putting into this neighborhood. Harvard Avenue is really tiny. It was never designed to be a huge outlet for everyone. It is almost like an alley. There is not enough room. The idea that the Comprehensive Plan would make Harvard Avenue as a thoroughfare is scary. Children walk to school and adults are walking. Take this into account.

Cindy Harrell is neutral because at the same time she understands it makes sense for the community and not necessarily for the neighborhood. What is being proposed is probably more of a development that goes with what we want to keep - the safety of our kids and the people that live here. Yes, she has a vested interest. The developer approached her. She thought this squared off the block and would give the developer access on 1st South.

Think about both sides, not just the overall community but the community that already lives here.

Opposed:

Ralph Kern, 148 Harvard Ave. He has just built and moved into his new home on Harvard which is next to the subject property. He has crossed his name off a petition he brought so that he could speak tonight. He is representing himself and some of his neighbors. There are signatures of 42 neighbors who oppose this proposal. He has listened to his neighbors. There is a common theme – they are tired of defending their homes and their property rights. These are cared-for homes. The residents are proud of their homes. Many have made significant investments. There is general fatigue from feeling the pressure of development from both the south from Kensington and now from the north. A request like this one came through several years ago but was denied. He was part of that. Then he himself came through with a Rezone to LDR3 for his and other properties in 2009. The Anderson property owner (117 S. 2nd E.) was happy with that change- it gave her almost double the land use. The property owner would not sell the land to him or other developers to build on that property lot by lot.

The home Mr. Kern just built is not like others in Rexburg – it is barrier free, no steps, able to work for older couples like the University has. Some developments serve for larger families. He built on his lot with that smaller home vision. The economy hurt everyone in 2008. He and others believe the

Comprehensive Plan is working here; they just need some time. The area can develop to a higher density to serve a population of empty nesters. They are making progress. There are 3 new units. His request is: let us finish the job.

Johnny Watson has spoken of an incubation business being here. It is Mr. Kern's understanding that this incubator is directed at students. If that is true, the University would be the prime party. The University has other visions. There is 82 percent occupancy in housing rate. There is no need for additional higher density development. The baby boom is over. We are not going to see the kind of growth we saw but we will see tremendous online growth.

A small family or empty nesters would be more interested in a smaller lot and home.

Mr. Watson talked about walking zones. This property is not in the PEZ (Pedestrian Emphasis Zone) zone. This street does not require a parking permit. He wondered how many students would park here. It is just a little too far for students to walk.

Cindy Harrell brought up the fact that Harvard Avenue is a forgotten street. It narrows in a couple of places. It is an interesting street. Princeton and Rosewood are cul-de-sacs. Harvard is the only street that serves the back side of a major street that is not a cul-de-sac. Professional Plaza is really a parking lot. In reality commercial would not lessen traffic.

The general consensus when this was rezoned to LDR3 was that it would be considered a buffer zone to protect neighbors to the east and south, and it would maintain the neighborhood character. It would enable the Andersons more choice to develop and was well-accepted at that time.

Come see what can be done with a smaller home on a smaller lot, and how accommodating it can be. They just need more time to finish it. The Comprehensive Plan is labeled 2020. He thinks it can be done by then.

A petition was submitted by Ralph Kern and will become part of the permanent record of the hearing. Mr. Kern's name was crossed off of the petition because he decided to give public testimony tonight.

Wilson

Sept 14, 2014

As a group of neighbors & property owners we are united by NOT IN FAVOR of the Comprehensive Plan Amendment nor the Zone change as proposed by Westland Holdings LLC as attached.

1. ~~Ralph A. Kohn~~ 753-9767
158 Harvard.
156 Harvard.
148 Harvard
146 Harvard
2. Ruth Corneau 359-6159
(Luc Corneau)
231 HARVARD
3. Kathy Bates 359-2632
250 E 2nd S.
4. Rene Bates 359-2632
250 E. 2nd S.
5. Gwen Butler 356-4148
225 Harvard
6. Sylvia Butler 956-4148
225 Harvard
7. JEREA CLUNE (612) 618-7515
Jill Clune
224 Harvard
8. Kathryn Clune (763) 234-1119
Kathryn Clune

9. Terri Wilding 230 Harvard
Keith Wilding

10. Dennis R. Maden 208-359-5335
Roy Lee Macki 231 E PRD S

11. Lex J. Shiley 208-356-7971
James G. Shibles 325 Harvard
Doris C. Shiley

12. LaRue Moss
236 Harvard 356-9844

13. Jesse & Doris Brizzol
216 Harvard 356-3298

14. Janette Wood
258 Harvard Ave. 208.403.1740

15. Laura Rudisbacher 359-6195
266 Harvard Ave.

16. Gayle Taylor 356-3259
275 Harvard Ave.

17. Norma Larsen
263 Harvard 356-3739

18. David L. Ward
249 Harvard Ave 356.9304

- 19. Rita Smith
132 S. 3rd E. 356-7466
- 20. W. F. Edgington
130 SO. 3RD E 356-4644
- 21. Meanna Edgington
130 S. 3RD E. 356-4644
- 22. Margaret Barrick
Jerome Barrick 356-5993
- 23. Tom Thornton
225 E 2ND S.
Rebecca Thornton 356 9402
- 24. Leah Davis
152 South 2nd East 208 403 8036
- 25. ~~_____~~
148 South 2nd East 208-757-2372
- 26. David D. Martin & Ruth C. Martin
130 SO. 3RD EA.
356-5409
- 27. Dennis & Marjie Birch
229 1st St South
356-3759
- 28. Chad Mabry
214 EAST 1st South
201-647-4119
- 29. Don Sparhawk
37 S. 3rd East 208-356-6781
- 30. Michael Paul
159 3rd East 208-313-4163

31. Mary M. Haley
275 E. 1st South

32. David Mann 
262 E. 1st South

33. STEVE HERDTI 

Don Sparhawk, 37 South 3rd East. He asked that his name be crossed off of the petition so that he could give spoken testimony tonight instead. He compliments the City of Rexburg for the Comprehensive Plan. As he understands it, it is supposed to be a long term plan, extending out 20 years. It is a vision of what we want our community to look like. He agrees with the way it has been designated.

Somewhere the line has to be drawn between commercial development and residential development. He believes the City spent a lot of time thinking about that and came up with this Comprehensive Plan. He has spoken with a lot of people up and down that hill as Mr. Kern did, and there are a lot who are tired. He is tired. We have been concerned about this for 15 years. Many people will not even come to meetings anymore because they are frustrated, and they think the City does not listen to them. We live in one of the very finest neighborhoods in the City. He loves his neighborhood as do others in this room tonight.

Mr. Sparhawk understands that the field is open and vacant. He believes in the concept of infill, but his vision and others' vision is to infill with homes in this residential neighborhood, where people can live and walk to work or downtown. Ralph Kern and others have a great vision of lovely cottage-type homes on smaller lots. Mr. Kern has just built a beautiful home, which Mr. Sparhawk was given a tour of. It is one of the loveliest homes in the entire city. It will be next to a commercial area if this change is approved. He believes this City has an ethical responsibility to the neighbors. Five years ago the City agreed to this new zoning concept where smaller homes could be built (LDR3). Some people trusted the City; two of them went ahead and built new beautiful homes. Lastly, although these designations look great, if you really look at the existing land use, the area north may be zoned mixed use but it is not used as mixed use. There are homes and Autumn Arbor. Even between the new Seasons Medical buildings, there are homes. The homeowners take great pride in their property. The area is surrounded by residential properties, not commercial. Please keep the subject property residential. Listen to the people who live in this neighborhood. Someday their vision of a beautiful neighborhood along 2nd East will come to pass.

Pat Hinton, 55 South 2nd East. She agrees wholeheartedly with Ralph Kern and Don Sparhawk. Living next to Seasons Medical is not the same; the neighborhood feeling is not there. She would hate to have her neighbors experience the same loneliness out there in no-man's land that she has felt.

Mary Haley, 275 East 1st South. She asked that her name be crossed off of the petition so she could speak tonight. She is against the requested Comprehensive Plan change. Ralph Kern and she have spouses with the same health problems. If there were more places in town like the one he just built, her house would be up for sale. Her husband at this time is in a rehab center because he cannot get in their home. Mr. Kern has shown us what can be done; there are not these kinds of homes elsewhere. She has looked at homes anticipating a time when her husband may be wheelchair-bound at home, and she could not find an affordable single family home in the area they choose to be. They did not want to be where there are apartments. What Mr. Kern has done with his property should be done in more places. Many people would then be able to be in their homes rather than in rehabilitation facilities. It is exactly what is needed in this area. It is close to a drugstore, doctors, and places to get food. To change the property's designation to allow an incubation center is commercial development plopped down in the middle of a neighborhood. Be aware of neighborhoods. We all are not students. It is an ideal place for housing that could represent many such as herself.

Vince Haley, 2309 West 960 South. He feels this change would not be in the best interest of the community. Where he now lives there is a lot of open space. He likes to see development in Rexburg. He is excited about the Maverik development and the Fujimoto development. Why in the world would we squish everything altogether here, making more traffic in the middle of town?

Mr. Watson has said that one of the goals would be to help make this a walking community. Based on what he has observed of Seasons Medical, that is not a walking facility. No one walks there. He has seen that their parking lot is full to the max. This has pushed traffic out to 2nd East. Further up 2nd East is the goal to get rid of traffic. Looking from Main Street to the intersection of 2nd East and 1st South, 2nd East funnels quite a bit. Harvard Avenue is so narrow that 1 car has to yield to the other car if someone has parked on the street.

Mr. Watson also stated earlier that a goal of the Comprehensive Plan is to promote the public interest, the interest of the community at large, rather than the interest of individuals or special groups in the community. He sees this request as an effort by an individual or special group that is not in the best interest of community.

Written Input:

The petition submitted tonight by Ralph Kern opposing the Westland Holdings LLC Comprehensive Plan Amendment request and the Westland Holdings LL Rezone request is part of the official record of the hearings.

Rebuttal:

Johnny Watson stated that being a lifelong resident here, he appreciates the citizens' comments and their protective nature toward their property. He finds a little irony in the fact that two employees of BYUI-Idaho are complaining about the growth of their employer. About a hundred students call his business every semester looking for internships and complaining about job opportunities in the City of Rexburg. The City has an excellent process here, and he turns to the Commission.

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

Natalie Powell clarified that the Commission is not talking about projects at this time but just the Comprehensive Plan land use designation of the property, although the City Engineer did mention that backing out onto 2nd East would be problematic.

The request is to change the Comprehensive Plan map designation from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use for the specified property. Staff felt this request was a logical fit with the current map area and had no objections.

Chairman Robinson asked if anyone on the Commission wanted to declare a perceived or direct conflict of interest.

No one declared any conflict of interest.

Steve Oakey agreed with Natalie Powell in that the focus should be that this is a land use discussion only; there has been a lot of comment, a lot of ideas and wishes expressed on what people think should be on that property.

Tisha Flora said this request is one that is really hard for her. She has thought a lot about it, of the citizens and their homes. If this was just affecting 2nd East, she would not have a problem approving the requested change, but she is having a very hard time regarding Harvard. It is an appropriate change for 2nd East and even 1st South, but this is not appropriate for Harvard Avenue. Harvard is fully residential. People have invested here. The Comprehensive Plan was set up. It becomes a social contract between the City and citizens who have invested here.

On the other hand, she also sees that if someone wants to build something, they have their land rights.

Melanie Davenport said in order to prepare for tonight, she went through past discussions on infill in Planning & Zoning meetings. In some of those discussions, Mr. Watson was present and gave some suggestions regarding issues the Commission could suggest to mitigate for development such as orientation of the buildings, minimize windows facing neighbors, location of exits and entrances, access - for a prior Comprehensive Plan map amendment and zone change. They were things that could be done to minimize the impact on neighboring properties. She wondered if things had been followed up on to see if this was successful.

It was reiterated that tonight's request is for a Comprehensive Plan map amendment land use change. Mrs. Davenport's concern deals more with a rezone and development.

The Chairman referred to a page from the Rexburg Comprehensive Plan – *Summary Table of Appropriate Land Uses For Each Comprehensive Plan Map Designation*. It clarifies what zones are allowed under the Low-Moderate Density Residential Designation currently and what zones are allowed if the Comprehensive Plan map designation is changed.

Dan Hanna said the temptation is always to get into what the potential land use may be. There are lots of ways to mitigate, but we do not know what is going to be done here. The Commission can look at lots of ways to mitigate the development at that time if the development comes before them, to be consistent with the Comprehensive Plan, and to protect the owners and residents who live in the area. At this point in time, the Commission does not have direction other than is this change consistent with growth, the neighborhood, etc.

Steve Oakey said it is key to understand what the natural evolutionary pressures are bringing about this request. If the City was not growing, the Commission would not be talking about this. Four property owners are asking for this change. We are not talking about what is going to be done on this property, but is this a natural fit given the pressures this particular piece of property is under.

Cory Sorensen said stand back and look at 2nd East. It is one of the only true north and south streets going through the whole community. That street will get busier, unfortunately for some homes along that street. We can protect residences to a certain point. Secondly, look at what has happened on and near Main Street within a block. There is Walgreen's, Ace Hardware, Seasons Medical, the City's new building, and development is coming on the corner to the east of the Courthouse. There is a trend of commercial growth in the area and not homes.

Bruce Sutherland stated that 2nd East used to be the same width as Harvard Avenue. In 1986, it was widened. That year the State of Idaho required a comprehensive transportation plan. They looked at traffic and development at that time. It was logical that 2nd East was seen as a major arterial. Major arterials tend to depress residential. Then came the Temple, and Ricks College became BYU-Idaho. He tries to think of what it will be like in 15-20 years when making a decision. We are just looking at a change in the Comprehensive Plan land use designation. Will there be more pressure for high density? Many apartments are full. All these things add pressure. If the Comprehensive Plan changes, it seems logical to make it the least pressurizing – mixed use rather than commercial or high density residential.

Chairman Robinson agrees with many points on both sides. For example, he feels 2nd East, Main Street, and perhaps 5th West are going to be transitional streets whether we like them to be or not

because of the things that happen there. He also agrees with Mrs. Flora regarding protecting the residents. The City made a commitment to the residents with neighbors here and south all the way to the Kensington Apartments. He would be in favor of changing the land use designation on 2nd East, but he is not in favor of doing so in toward the neighborhood and residential area. Regarding the commercial aspect and comments from Mr. Sorensen, there has been commercial growth but not within a residential area except for Seasons Medical.

Tisha Flora agreed with comments regarding 2nd East. What this request impacts is not just 2nd East, but Harvard Ave. There are two brand new homes, next to and across from the subject property. It is not fair to those on Harvard. We are talking about land use. Every lot is residential. If the Comprehensive Plan land use designation is changed, it changes the land uses completely. Not one zone under one designation is in common with the other.

Natalie Powell clarified that the Neighborhood Commercial/Mixed Use land use designation being requested could have both commercial and residential. We are looking at a land use designation change and not a project.

Dan Hanna appreciates the concern for protecting the neighborhood. Later on in the zone change hearing, the Commission has the ability to state conditions, including one limiting the access on Harvard. Four property owners are exercising their rights and requesting the change. Someone is willing to invest in Rexburg and willing to do so in a responsible professional way that in the past has always created value and added to the community. He is in favor of the Comprehensive Plan change.

Melanie Davenport said she agrees. In looking back, the Commission has done this before, and it has worked.

Mrs. Flora wanted some clarification regarding the site plan of a project.

A site plan would be reviewed by staff whenever a project moves forward. The Commission does not always see the site plan.

If the project has anything not concurring with the Development Code No. 1115, then it would go through a Design Review Committee meeting. The Design Review Committee is composed of a P&Z Commissioner, a City Council member, and a professional from the community. The Design Review meeting does not include input from surrounding neighbors. The Design Review meeting allows for some flexibility – to try to see what the issues are and try to find a compromise, to make sure the project is an asset and benefit to the city of Rexburg as well as for the developer.

If a site plan for a project holds to the ordinance requirements, a Design Review Committee meeting would not be necessary.

It was discussed that conditions could be placed on the requested zone change for the property. That request follows this hearing.

Cory Sorensen said a great example of what we may be looking at is Professional Plaza, which used to be part of Harvard Avenue. A development can be done smart.

Chairman Robinson said sometimes we get caught up in instant gratification. We have somebody who wants to buy now and develop now. Mr. Kern had a good argument. The Comprehensive Plan looks to the future. The economy turn hurt everyone, and they want the opportunity to finish the

development to how they had it changed (zoning to LDR3) in the first place. Sometimes we make too many quick decisions saying that it is progress in the City. Sometimes, we just may need to hold back for a period of time.

Dan Hanna motioned to recommend approval to City Council of a Comprehensive Plan Map Amendment change from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use. **Melanie Davenport** seconded the motion.

Those in Favor:

Cory Sorensen
Steve Oakey
Mark Rudd
Dan Hanna
Bruce Sutherland
Melanie Davenport

Those Opposed:

Gil Shirley
Tisha Flora
Thaine Robinson

Motion carried.

The Chair clarified for the citizens attending tonight that City Council will make the final decision on this request.

2. 7:25 pm – Rezone –117 South 2nd East; and 204, 216, and 230 East 1st South – Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2)

It was clarified that under Mixed Use 2 (MU2) zoning regulations in Development Code Ordinance No. 1115, Section 3.14.025 states, "...Each building or project must have a minimum of 10% residential or commercial and may have as little as 0% residential or commercial with a Conditional Use Permit (CUP)...".

Johnny Watson, 1152 Bond Ave, representing Westland Holdings LLC, presented the rezone request. It would be sad if the community were not here protecting what they feel is important to them. He appreciates Commissioner Flora's comments on the protection of what is on Harvard. On the map it is easy to see a large section of single family homes to the east, but there is also a community surrounding the subject property.

The applicant is requesting a zone change from Low Density Residential 3 (LDR2) to Mixed Use 2 (MU2).

A rezone request is where there is the latitude in perhaps compromising between both parties, and protection of the neighborhood. As was done on previous projects, there is the latitude to impose greater setbacks, or no public access on certain sides, or restricting the building height, etc.

For example, in a rezone for property near Wolfe Lighting, there was concern about access to the west, so access to the west was denied. It was also suggested that single family scale residential units be put in on that side to fit in with the streetscape.

There is a huge range of what could be allowed in MU2. This could be narrowed down so neighbors would have a better feeling of security. For example, Mr. Kern has built his beautiful new home. It would be horrible and irresponsible of a developer to build a 3-story building right next to it, 10 feet off the property line. It would be irresponsible as planners to allow the developer that prerogative.

What the developer is proposing is a mixed use development which would be more a commercial development rather than residential.

At this time there are not conceptual elevations or a site plan. Buffering could be addressed. The developer would be more than willing to work with the City. There needs to be sensitivity to all. The property is not in the PEZ (Pedestrian Emphasis Zone) overlay, so they would not get a reduction like housing units in the PEZ Zone. Parking regulations would greatly restrict the amount of density on the property. He cannot see single family residences in this area. That bridge has been crossed.

Steve Oakey asked if any mockup has been done.

Johnny Watson said he was asked to maximize the piece of ground for development. There is enough room on just the largest parcel (Anderson) to put an 8,000 to 10,000 square foot footprint on the one large lot and still have enough area for parking (office space/professional medical). The developer may want smaller structures. He was not asked to look at any high density residential. He looked at strictly commercial.

Steve Oakey asked where the 10% residential would be.

Johnny Watson said it would likely be in phase 2 of the project on the east or possibly the south.

Mrs. Flora asked why MU2 is being requested instead of MU1.

Johnny Watson stated the developer is looking at more flexibility in the future. More residential can be done in MU2.

Steve Oakey asked if, for the record, Mr. Watson can tell the Commission that the developer is sensitive to the neighborhood's needs, and would the developer be engaged with the neighborhood to make sure the 10% residential will protect their vision.

Johnny Watson said, for the record, that as long as he is hired by this individual, yes- the developer is very sensitive to the neighborhood. The developer, Erik Mattson, has been involved in a number of other successful projects in Rexburg. Mr. Watson has told Mr. Mattson of his experience in working with the Seasons Medical development and that in his opinion, this group is the strongest neighborhood group in the community.

For that earlier development, there were a number of neighborhood meetings held so the people could see how it was being developed. This is an imperative part of a mixed use development, especially in a transitional area.

Tisha Flora said the maximum building height in MU2 is 55 feet, over 5 stories. The maximum building height in MU1 is 45 feet, about 4 stories.

Johnny Watson felt that the height was something that could be limited. It is the Commission's prerogative.

Natalie Powell stated that the total area in the rezone request is 2.21 acres. The request is to change the zone from LDR3 to MU2. In MU2, there cannot be less than 10% commercial or residential without a CUP.

A CUP would allow conditions to be put on a project.

A CUP would be needed for 100 percent commercial or 100 percent residential in a MU2 zone.

Chairman Robinson opened the public input portion of the hearing.

In Favor

Cindy Harrell, 216 East 1st South. She would love to see the property used for the development of homes. The problem is that Mrs. Anderson who owns the subject big lot would not want to sell for that. She has given permission to this specified request. Ms. Harrell is more in favor of doing what is right for the neighborhood in a way that we know for sure is happening rather than what might happen. She would like to see limitations Harvard - that nothing comes off of Harvard. 2nd East is busy enough and should not have anything coming off of it. No matter where the entrance is, it is still better to have hope that the owner would do something that all would love to see. Someone asked her why her property is part of this request. She felt it would square off the block and would be used for one project versus a commercial project in the middle. She waited till the last minute to accept being included in the request.

Ms. Harrell is in favor of the requested rezone and of the property being used for the business as long as limitations are put on it. She would like to see it developed where in the evening there is nothing going on there. Put in something safe. Does she want something like Seasons Medical? No. She does not think this developer is proposing a huge building. The development should funnel off of 1st South.

The request suits the neighborhood in the sense that if we cannot have the homes, then at least it is not going to be an eyesore like a huge apartment complex would be, blocking out the sunlight. She is in favor of this request mainly because she is tired of giving her hopes up every 5 or 6 years because the property owner will not sell. She would rather have a parking lot on the backside of her house, because she knows it would be sloped. Every year she goes through flooding because the lot is not graded as it should have been. She would rather have something there than have the mice and all the stuff that comes with that lot.

Neutral: None

Opposed:

Ralph Kern, 148 Harvard. Some of the Commissioners have conscionably broken a social contract. He came before the Commission several months ago to obtain a CUP for a duplex. A lot of work was done, and he thought the zone was protected by the Comprehensive Plan to remain in that zone, and it was not. You have made a huge jump. Shame on you.

When the LDR3 zone was made, the zoning code said that a duplex or multifamily home could be built on a 6,000 square foot lot. Then, all of a sudden and without contact to him or anyone else, the Code was changed and states that a duplex would need 8,000 square feet. If he were to think there was any reason to bring a law suit, you have given it. He does not think he would go there, but you have materially changed the opportunity and value in developing that property, in a negative way. That is wrong. Shame on this Commission.

If this request is approved, if you allow access or continue to have Harvard open, you are creating more traffic. The whole street would become a thoroughfare. At least consider a cul-de-sac to stop traffic, as has been done on Princeton and Rosewood, to help preserve a neighborhood. Preserve it for all of these people who signed this statement. Think of other people besides greedy people.

Vince Haley, 2309 West 960 South. If access is done into 1st South from the development, please consider the traffic that will drive 1st South to the east into neighborhoods. Anyone that has tried to cross 2nd East going east or west knows that you do not cross 2nd East at that intersection because you will be there for 5 minutes waiting to cross because of large traffic on 2nd East. He grew up in this neighborhood, and his parents live here. He grew up here and did not realize how much traffic was on this street until he moved away from it.

If a building the size of Seasons Medical is put here, it will be gigantic; there would no buffer for residents. Seasons Medical is a beautiful building but it is almost an eyesore, because of how big it is compared to the buildings around it. A point was also made by Commissioner Sorensen that there has been a lot of commercial development in the area. It is all within a hundred yards of Main Street, obviously a thoroughfare of traffic in Rexburg. Why in the world are we bringing this up further than is needed?

Don Sparhawk, 37 South 3rd East. He is opposed to the zone change for the same reasons he expressed earlier during the Comprehensive Plan public hearing. If the Commission goes ahead with this, please consider compromising for the neighbors. Look at restricting the height of the buildings to two stories. Deny any access on Harvard Avenue. It would be most logical to have the access on 2nd East, which is a major arterial, rather than on a neighborhood street. Enforce the 10 % residential and guide it to be along Harvard Avenue.

Pat Hinton, 55 South 2nd East. Her concern is that there is no guarantee that this development is what is going to go there. Once the zone is changed, what if the developer decides to go a different route, or what if the developer decides to sell? Restrictions can be put on it, but she has reservations on what the developer may do, because there are no guarantees that their rights will be protected once the zone is changed.

Written Input:

The petition submitted tonight by Ralph Kern opposing the Westland Holdings LLC Comprehensive Plan Amendment request and the Westland Holdings LL Rezone request is part of the official record of the hearings.

Rebuttal:

Johnny Watson said the Commission could consider possibilities for control in order to help ensure that the neighbors' concerns are addressed - such as the limiting of building height, and increase in setbacks from the residential areas.

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

Natalie Powell said the city engineer did not have concerns regarding the infrastructure. The concern of flooding and finding a way to improve the situation has been discussed in the past. Staff did not feel the change would have a negative effect on area. If the P&Z Commission finds that the change is in the best interest of the City of Rexburg and the adjoining neighborhoods are not adversely affected, Staff requests that the Commission recommend that the City Council process the requested zone change.

Steve Oakey said traffic issues come up frequently. What kind of traffic must there be before the possibility of stop lights.

Natalie Powell said the City staff reviews the site plan thoroughly when a project is submitted. If necessary, traffic studies could be done to determine the need for a stoplight and other issues. In cases where there is high traffic, there is the possibility of a right turn only to help alleviate this. Staff is aware of the issues on North 2nd East.

It was clarified that the LDR3 zone allows a maximum building height of 30 feet per the Development Code. The MU2 zone allows a maximum building height of 55 feet. The Commission has the ability to go down but not up in limiting the building height.

Cory Sorensen suggested that a condition could be to leave the maximum building height as is in LDR3 – 30 feet.

Chairman Robinson suggested that a sunset clause could be a condition addressing that the developer would have a certain amount of time in which to obtain a building permit or the zone would revert back to the original zone.

Steve Oakey said Johnny Watson has stated his commitment to work with the neighbors to alleviate their fears. Councilman Wolfe is the liaison from the Council and is here tonight. Mr. Oakey would hope that his concerns are expressed to the Council.

Chairman Robinson said the only way to do this would be in a motion.

Dan Hanna said Mr. Kern made a comment about a change in the lot size in the LDR3 zone. The Development Code states that a home can be built on a 6,000 square foot lot, with an additional 2,000 square feet necessary for a duplex. He was not aware that any changes have been made to lot size. **Natalie Powell** will check on this. A duplex requires a CUP.

Gil Shirley felt it would be a good idea to have a restriction on height and possibly address setbacks, because in MU2 the setback is zero.

Tisha Flora felt that the MU1 zone may be better. It has more setbacks. The request by Mr. Sparhawk for no access on Harvard is very reasonable; it is a residential street.

Steve Oakey said they could bypass a long list of requirements and as a condition the Commission could address with strong verbiage that the developer work constructively with the neighborhood to seek out solutions to the problems we are discussing.

The possibility of MU1 instead of MU2 was discussed. Natalie Powell read the descriptions from the Development Code.

Cory Sorensen said the Commission needs to be careful regarding changing the request to MU1 rather than MU2. The MU1 zone may not be the best for this location because it could increase the amount of residential and traffic here. MU1 may affect the neighborhood more negatively.

Natalie Powell consulted the previous Development Code No.1026, which was in use just before the current Development Code Ordinance Ordinance No. 1115. There was no change to LDR3 language. The issue will be researched further.

Steve Oakey motioned to recommend approval to City Council of a Rezone from Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2) for the property located at 117 South 2nd East, and 204, 216, and 230 East 1st South, to include the conditions of a 24 month sunset clause, and project acceptance proceeded with verifiable constructive neighborhood input.

Melanie Davenport seconded the motion.

Tisha Flora asked who is going to verify that the neighborhood and the developer work together.

Dan Hanna said sometimes a few extra words may make things simpler. Don Sparhawk's specific recommendations could be included.

Cory Sorensen thought that building heights should be addressed.

There was further discussion on possibly amending the motion.
Steve Oakey did not want to amend his motion.

There was a vote on the stated motion:

Those in Favor:

Steve Oakey
Melanie Davenport

Those Opposed:

Cory Sorensen
Tisha Flora
Mark Rudd
Dan Hanna
Thaine Robinson
Gil Shirley
Bruce Sutherland

Motion failed.

Natalie Powell stated that City Attorney Stephen Zollinger, just consulted by phone, advised that the Commission be careful regarding conditioning a zone change. It is legal to do conditions in this case because the applicant representative brought forth some of the ideas.

Bruce Sutherland said we are opening a bag of worms. Several people are here with their own views and opinions on the requested rezone. We should either pass it or fail it on its merits. We are an advisory board. Let the City Council decide what conditions should be put on this.

Tisha Flora felt that conditions are important. If the City Council does not take the recommendation, then the City Council would have to have another public hearing.

For clarification, **Chairman Robinson** quoted from the Development Code, Section 6.14 xi – Hearing Procedures:

When the City Council rejects a Comprehensive Plan Map or a Zone Change Recommendation from a Public Hearing that was held at a Planning and Zoning Commission meeting, another Public Hearing shall be required to be held at the next available City Council meeting.

Melanie Davenport said the Commission has the obligation to suggest some sort of protection through conditions for the neighborhood, as the Commission has been given that opportunity to recommend conditions because of the applicant's expression about possible conditions.

Tisha Flora agreed.

Mark Rudd felt the Commission should put conditions on the rezone that they agree with and should not address the neighborhood and developer working together. That opens too many doors.

Dan Hanna motioned to recommend approval to City Council of a Rezone from Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2) for the property located at 117 South 2nd East, and 204, 216, and 230 East 1st South, and to include 4 conditions:

1. There shall be a sunset clause of 24 months for the applicant to obtain a building permit, or the zoning reverts back to Low Density Residential 3.
2. Building height shall not exceed 30 feet.

3. There shall be limited access on Harvard Avenue.
4. There shall be adequate buffering of the neighbors on the south property line.

Mark Rudd seconded the motion.

Those in Favor:

Cory Sorensen
Steve Oakey
Mark Rudd
Dan Hanna
Gil Shirley
Tisha Flora
Melanie Davenport

Those Opposed:

Bruce Sutherland
Thaine Robinson

Motion carried.

Unfinished/Old Business:

1. Food Trucks - Discussion

The discussion was postponed so that Stephen Zollinger and Val Christensen can be present to give input.

New Business: None

Compliance: None

Non controversial Items Added to the Agenda:

Time limit:

Chairman Robinson stated he would like to put a time limit on public testimony during public hearings. He asked if any of the Commissioners would object to this.

There was discussion. There was consensus of the Commission that putting a time limit on public testimony is a reasonable request. A time limit would make meetings go more smoothly and more effectively.

Gil Shirley motioned that public comment for public hearings shall be limited to 5 minutes per person at P&Z Commission meetings. **Bruce Sutherland** seconded the motion.

None opposed. **Motion carried.**

The time limit will be stated on the *Public Comment* sign-up sheet that is made for each hearing.

Clarification:

In regard to Ralph Kern's comment that the Development Code's requirement of additional square footage per unit was changed in LDR3, **Natalie Powell** clarified that in all earlier versions of the Development Code, additional square footage has always been required for each additional unit.

Report on Projects: None

Tabled Requests:

1. Comprehensive Plan Map Amendment –City of Rexburg – 3rd West Neighborhood – Moderate-High Density Residential to Low-Moderate Density Residential

Chairman Robinson stated that this application was before the Commission on May 15, 2014 and has been tabled since that date. He proposes that the City contact the neighborhood representative to let them know if no information is brought in for the second P&Z meeting in October (October 16th), the application will be taken off the table and dismissed.

There was discussion.

The proposal had been tabled until/if the neighborhood was to come back in with the information requested by the Commission.

It was decided that the City will contact the neighborhood representative to let them know that the proposal would be taken off the table and dismissed if the neighborhood does not come forward with anything by the October 16th P&Z meeting.

Building Permit Application Report: None

Heads Up:

October 2, 2014:

1. Urban Renewal Plan Amendment – Terry Butikofer of The Development Company

October 16, 2014:

1. Conditional Use Permit- 132 East 1st South - to allow 100 percent residential and zero percent commercial in a Mixed Use 2 Zone

The meeting was adjourned at 10:10 pm.