

Planning & Zoning Minutes

October 20, 2016



CITY OF
REXBURG
America's Family Community

35 North 1st East
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Phone: 208.359.3020
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Commissioners Attending:

Jedd Walker – Chairman
Mark Rudd
Steve Oakey
Melanie Davenport
John Bowen
Richard Smith
Heidi Christensen
Rory Kunz

City Staff and Others:

Brad Wolfe- City Council Liaison
Val Christensen – Community Development Director
Scott Johnson – Economic Development Director
Colton Murdock – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Jedd Walker opened the meeting at 7:04 pm.

Roll Call of Planning and Zoning Commissioners:

Attending: Steve Oakey, Richard Smith, John Bowen, Mark Rudd, Jedd Walker, Rory Kunz, Melanie Davenport, and Heidi Christensen

Greg Blacker, Bruce Sutherland, and Gil Shirley were excused.

Minutes:

1. Minutes from Planning and Zoning meeting – October 6, 2016

Melanie Davenport motioned to approve the Planning & Zoning minutes of October 6, 2016. **Mark Rudd** seconded the motion.

Heidi Christensen, Rory Kunz, and Richard Smith abstained for having not been present. None opposed. **Motion carried.**

2. Minutes from September 15, 2016 – tabled at the October 6th meeting.

Steve Oakey motioned to take off the table the September 15, 2016 P&Z minutes. The minutes were tabled requesting more detail on the Danny Hebdon CUP discussion. **Melanie Davenport** seconded the motion.

Steve Oakey motioned to approve the September 15, 2016 minutes as presented. **Rory Kunz** seconded the motion.

Richard Smith and Heidi Christensen abstained for having not been present. None opposed. **Motion carried.**

Public Hearings:

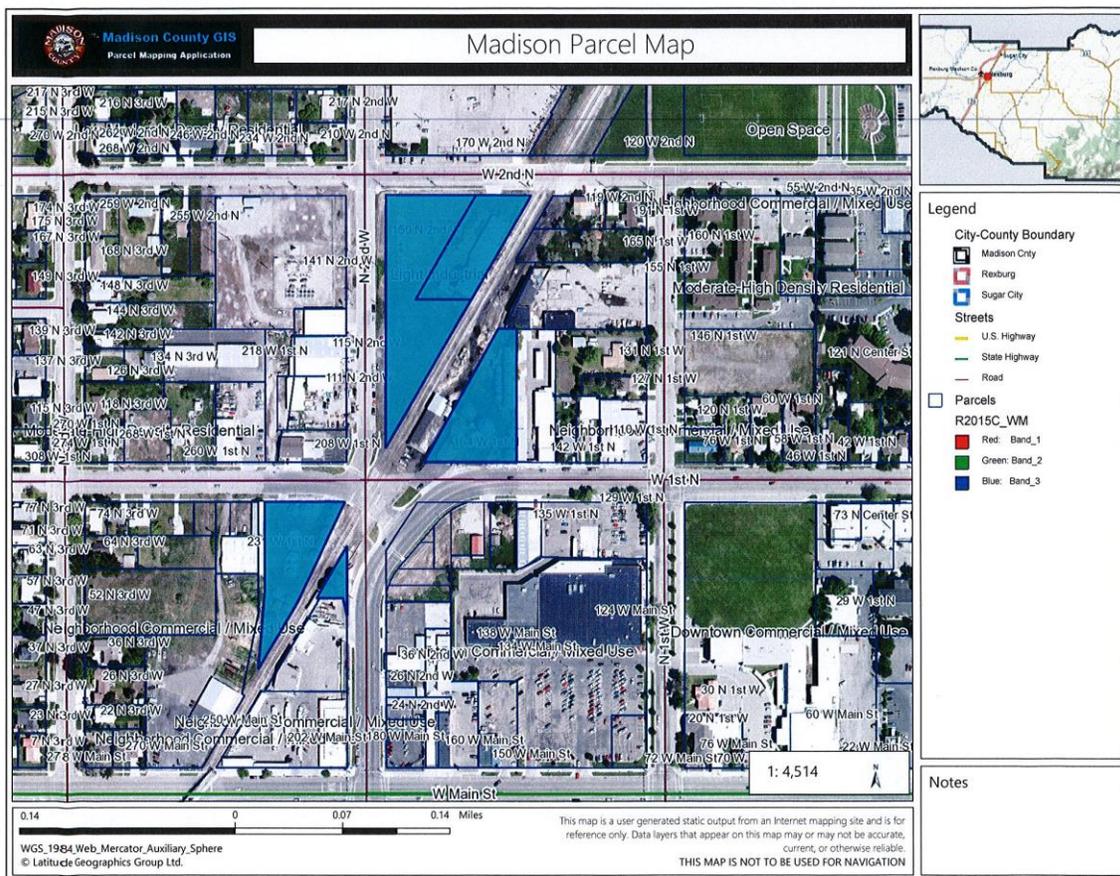
1. 7:05 pm - Comprehensive Plan Map Amendment – 150 North 2nd West, 164 West 1st North, and approximately 203 West 1st North - Light Industrial and Neighborhood Commercial/Mixed Use to Neighborhood Commercial/Mixed Use – Jeff Lerwill, Ryan Lerwill, and Scott Campbell

Chairman Walker explained the procedure that is followed for a public hearing.

Scott Campbell, 164 West 1st North. He is the owner of Centennial Grain, formerly Steiner Elevator. He owns 2 of the parcels included in the application request; the other subject properties are owned by the Lerwills. Jeff Lerwill approached him a few weeks ago to ask if he wanted to join in this Comprehensive Plan Map Amendment application request. He feels that downtown is not the best place for a grain elevator. It is near the railroad but the city is growing up around his property. It is difficult and not the best location for the growers and farmers who do business with him, who drive their trucks through the traffic in town to get to him.

The city is growing; the college is growing. Here is an opportunity to change this land use to fit that growth.

The subject property was shown on the overhead screen.



Chairman Walker clarified what the application is for – it is a Comprehensive Plan Map Amendment for 150 North 2nd West, 164 West 1st North, and approximately 203 West 1st North, requesting to change the Comprehensive Plan land use designation from Light Industrial and Neighborhood Commercial/ Mixed Use to Neighborhood Commercial/Mixed Use.

It was clarified that some of the property is already designated as Neighborhood Commercial/Mixed Use but was included because of future possibilities.

Scott Campbell explained that when the street project occurred a couple years ago in the area, the Eastern Idaho Railroad, the city, and Mr. Campbell came to an agreement to take some worn, old track out that was not safe. He has room for 2 railcars but they do not cross the street. The remaining track still functions. They have another facility east of the new Walmart that also has the capacity to load railcars.

Community Development Director Val Christensen clarified that changing the Comprehensive Plan map would not change anyone's uses, which are grandfathered in.

There would be remaining Light Industrial on both sides of the property in this request.

Jeff Lerwill, 1190 Stocks Ave., the applicant and property owner. Their property has a Comprehensive Plan Map land use designation of Light Industrial. Buyers are scarce. The applicants are not opposed to keeping it Light Industrial; they are just looking for an escape route or exit strategies due to supply and demand. They originally went to the city to talk about doing future high density residential. Based on recommendation from staff, they are making the request for Neighborhood Commercial/Mixed Use land use designation.

There have been a couple studies; it is not sure if commercial use is ready for the area. There is a possible new zoning code called form-based that the City is looking at; it would be important to have that. It could allow using something as all residential until the time when commercial could come in. If the Comprehensive Plan designation is changed, they could put possibly put something larger together.

Rexburg has a 4-year university. Their location has great proximity to it. Demand right now seems to be more for residential. They are trying to prepare and eventually have correct land use designation and zoning.

Val Christensen clarified that Mr. Lerwill brought up form-based code. The city does not have this yet. This Comprehensive Plan change request would probably be in line with it if a form-based product does get brought to the Commission and then City Council in the future.

Form-based code is more about how a building looks, how it interacts with the street, and not so much about the use. Buildings for residential could have 14-foot high ceilings, so in the future if there is commercial demand, the building could also be acceptable for commercial.

The City is not there yet. Staff is nowhere close to presenting the issue, but they have been looking into it. Staff talked with the Lerwills about it.

In the meantime, if the applicants were to find the right renters or buyers, staff felt this Comprehensive Plan Amendment request could move forward; mixed use would be in the right direction.

Steve Oakey asked why a traffic plan would be required here (stated in staff report recommendation) for a Comprehensive Plan change. There is already the Horrocks traffic study.

Val Christensen clarified that if this moves on to a mixed-use product, a traffic plan would be required prior to construction.

Mr. Oakey said this may be jumping the gun having the issue brought up at this request.

Mr. Christensen said not necessarily. Light Industrial has a lot less traffic than mixed-use.

Staff is not asking for it at the Comprehensive Plan map change level, but wanted it specified if this is going forward.

Heidi Christensen asked about sewer concerns mentioned in the Public Works Department staff review.

Val Christensen said sewer would have to be upgraded eventually in this area if there is a project.

Chairman Walker opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Walker closed the public input portion of the hearing and asked for the staff report.

Val Christensen said he stated 2 concerns - a traffic plan and 10% mixture of uses when there is zone change - in his report because of Public Works staff review comments. He felt it necessary to address Public Works concerns.

From Community Development staff report recommendation:

There were mixed feelings about this Comprehensive Plan map change at the staff meeting. They included concerns about the traffic it would create and the location. Staff feels that if a traffic study is completed that identifies that the change is suitable, with good traffic practice, and the Planning and Zoning Commission concludes that the change can be compatible with the neighborhood's current uses, then it is recommended with the following conditions:

- 1. A traffic plan is required.*
- 2. When a zone change is requested, the minimum requirement of 10% mixture of uses shall be strictly held to.'*

Mr. Christensen read from the Public Works staff review:

"The existing property is currently on the Comprehensive Plan Map as Light Industrial and Neighborhood Commercial/Mixed Use and is requesting to go to Neighborhood Commercial/Mixed Use:

Sanitary Sewer Service: *There is limited access to sanitary sewer on the largest parcel. There is no sanitary sewer in North 2nd West from 1st to 2nd North. The parcel on the east side of the railroad has existing sanitary sewer into the middle of the parcel. The parcel on the west of the railroad and south of 1st North has no access to sanitary sewer.*

Water: *The water line on North 2nd West is only 4 inch and would not be adequate for any additional development. There is an 8 inch line in 1st North that could be connected into.*

Transportation: *The area bounded by West Main, the railroad and 4th West has limited access out of the area. The railroad crossing on 1st North is adequate for the traffic volumes presently, but an extensive densification of the area would be limited on 1st North, 3rd and 4th West onto West Main Street and good access is only available at 5th West where there is an existing traffic signal. Traffic moving from this area towards the university campus would not likely use 5th West. Densification of this area would result in a lowered level of service and ultimately more traffic accidents. The same would be true for pedestrian traffic because there is limited connectivity with the railroad crossing.*

Compatibility with surrounding area: *The area is bounded on the north by Rocky Mountain Power, on the west by an electrical substation and an industrial user, and on the south with industrial or commercial use, and on the east by existing industrial or commercial use. Public Works recommends that this area remain light industrial. There are numerous conflicts with existing and future uses and it is not a good location for residential use of any density, especially a high density use.*

It is anticipated that there will be little public input due to the fact that there are no residential areas that will be affected by the change of use. This is an area that will be critical for staff and the commission to evaluate."

Val Christensen stated that the Commission should understand that the Public Works Director is one member of staff. There were quite a few other staff members who felt the location was good for this type of use.

Heidi Christensen asked about sewer and water concerns.

Chairman Walker said in his opinion, these concerns become a development issue. The Comprehensive Plan is really to say, this is what we think the land should be over time. When someone wants to rezone and build, they cannot do so unless the sewer or water or traffic are addressed beforehand.

He clarified that the question before the Commission is: is changing the Comprehensive Plan Map designation to Neighborhood Commercial/Mixed Use the best land use for the subject property?

Rory Kunz motioned to recommend to City Council to approve the Comprehensive Plan Map Amendment change for the property located at 150 North 2nd West, 164 West 1st North, and approximately 203 West 1st North - to change the land use map designation from Light Industrial and Neighborhood Commercial/ Mixed Use to Neighborhood Commercial/Mixed Use. **Richard Smith** seconded the motion.

None opposed. **Motion carried.**

2. 7:20 pm - Development Code Ordinance No. 1115 Amendment –Proposed changes to the Development Code concerning substantive and non-substantive changes – City of Rexburg

Chairman Walker explained that there are a lot of proposed changes for the Development Code. There was a Task Force that convened and worked through many of the details. We would like Mr. Christensen to review just the few items that have changed since the Task Force meetings. Staff would like to address three changes for public hearing tonight, have the Commission vote and then send these to City Council, and then the Development Code proposed changes would be tabled to review more changes at the next meeting until all changes are addressed with any questions the Commission may have so they do not have to go through the changes line by line, and move forward that way.

Community Development Director Val Christensen said a few things have come up lately on top of what has transpired with the Task Force meetings.

One was the Airbnb issue. City Council held two work meetings that were open to the public to address this subject. The City Council voted 5 to 0 to not do any change with the LDR (Low Density Residential) zones – the LDR zones will remain as they are.

Changes would be made to the code so the definitions were clearer and the uses were clearer in the MDR (Medium Density Residential) and HDR (High Density Residential) zones.

The first proposed change would be to the Definition section of the Development Code:

Bed and Breakfast. The word ‘multiple’ would be removed regarding amount of guest rooms. There would need to be a managerial presence on site.

Boarding House definition says owner would live in a unit – definition not changed.

Short Term Rental – to be added to the definition section:

Any rental of a dwelling unit that is for a time of less than their (30) days, is not the primary residence of the property owner and is managed on or off site.

Under MDR1 and MDR2: ‘Boarding House’ would be added under **Permitted Uses.**

Under MDR1 and MDR2 - Conditional Uses: Add 'Bed and Breakfast Inn' and Short term Rentals.

In High Density Residential, it is all allowed by right.
In Medium Residential, there are still single family neighborhoods.

Melanie Davenport stated we are talking about a sharing economy; we are seeing sharing of homes and vehicles. There are a lot of other things that have not hit Rexburg yet, so the definitions have to be very clear. Basically, all of these terms mentioned are short term rentals. The way to differentiate is between a bed and breakfast and a boarding house, and the common name for short term rental would probably be vacation rental. The definitions need to be clearer – how many nights or weeks, maximum number of sleeping rooms, etc.

Val Christensen clarified that these uses are not permitted in LDR zones at this time. The City Council gave him direction to clean up the language for the MDR and HDR zones regarding the issue.

Melanie Davenport wondered about addressing exclusive use of bedrooms and bathrooms. If there is a shortage of housing, the higher densities become very lucrative for this type of use. If they are given consideration, then the commercial lodging should also be given the same consideration regarding number of permits, etc.

Val Christensen said he has not seen City Council willing to delve into restrictions on the market.

Scott Johnson said the city started to talk about these issues long before someone complained about Airbnb. They tried to understand what is happening and did recognize that there are consequences.

He clarified that right now the task is to clean up the language that we have. The City will definitely address the issue further and with a lot more detail.

Val Christensen stated that they would like the three clarifying changes presented tonight to move forward rather sooner than late, so applicants are not being held up.

John Bowen asked if someone starts running a business out of an Airbnb what would happen?

Val Christensen said it is not allowed in the LDR zones; people have gotten cease and desist letters if the city knows about it and if they have not complied as requested by the city. If there continues to be problems, the City Attorney would address them.

John Bowen wondered how these uses would be monitored.

Rory Kunz said that by nature of the zones (MDR and HDR) where this would be allowed, there would be limited space.

Val Christensen added that another limiting factor would be the availability of land.

It was reiterated that the City Council's desire at this time is to clean up the specified definitions.

It was clarified that Airbnb could fall under Bed and Breakfast.

Melanie Davenport said the definitions (Bed and Breakfast, Boarding House, Short Term Rentals) given conform to the most recognized versions of the definitions as stated in the dictionary.

Insert into boarding house definition the word ‘daily’.

The second proposed change would be to the HDR sections of the code.

3.9 Setbacks and Right of way exceptions. – currently there is a 20-foot front yard setback (from the right-of-way) for the HDR zones.

It was felt that in the PEO (Pedestrian Emphasis Overlay), it would be advantageous to allow a building to come closer to the right-of-way (similar to Northpoint and Windsor Manor which are in MU2).

This change would allow the building to be 15 feet closer, which basically would allow it as close as 5 feet if the developer did the items listed under the PEO.

The original intent of the PEO was to densify.

Richard Smith wondered if we are shooting ourselves in the foot with this proposed change.

Scott Johnson said this was a very long discussion. What is driving this is increase and demand. Are we helping or hindering?

Chairman Walker suggested changing a word in **d.** to ‘include’ rather than ‘including’; clarify the second sentence too.

He suggested including ‘balconies’ in *Permitted Projections*.

Building materials – high quality is necessary.

Steve Oakey said he has used cinder block (CMU). It can be designed well and be of quality.

Rory Kunz clarified – if he wanted to build a cinder block building he could still do that; he just could not build it closer to the road. Staff said that was correct.

Scott Johnson said nothing is being taken away. It is giving an option.

In f. - high quality materials to be approved by staff.

Scott Johnson said the intent was to get rid of stark concrete. This is addressing new buildings, not existing buildings. **Val Christensen** said the staff is asking this for the first floor – more windows, more doors, etc, pedestrian friendly, etc.

Chairman Walker said basically what is being asked for is ‘good design’. It is hard to regulate good design because what ‘good design’ is, varies from person to person.

To get good design, there would need to be a Design Review Committee that is qualified.

Val Christensen explained the make-up of the Design Review Committee - a P&Z Commission member, a City Council member, and a professional from the community. People on the committee vary; it is not always the same people.

Scott Johnson explained the Ready Team is made up of representatives of various city departments – Community Development Director (P&Z& Building), Public Works, Economic Development, Engineering, Fire Department, GIS Department, the City Attorney, and the Mayor.

It was suggested by Mr. Christensen that the City's Ready Team could be the review board that could over-rule the Community Development Director's findings, if the applicant does not agree with the Community Development Director's decisions.

Richard Smith felt that would be good.

The third proposed change would be in regard to the PEO (Pedestrian Emphasis Overlay, formerly called Pedestrian Emphasis Zone):

In Chapter 9, the PEO chapter, it should be clearly stated that a CUP (Conditional Use Permit) is required in order to use the lesser parking that the PEO would allow. This is just a clean-up so that people do not have to go to the definitions section to have it explained.

Put in section 5.10 and chapter 9 at the beginning of the PEO section, that the PEO requires a CUP.

Staff is trying to just clarify that a CUP is a requirement of a developer wants to use the PEO.

Richard Smith gave suggested language for this section (Chapter 9, section 5.10).

Melanie Davenport asked the process for Commissioners to initiate an amendment.

Val Christensen said the issue could be brought up with staff or in P&Z meetings. It can be done anytime. **Mrs. Davenport** wanted to propose that an amendment to the code regarding Halloween sales establishments be formulated. This is currently not addressed in the code. She has written up some of her thoughts. **Scott Johnson** suggested she send them to Mr. Christensen, who could look at including the issue along with other future proposed changes.

Chairman Walker opened the public input portion of the hearing. He explained that the 3 proposed changes would move forward tonight, per staff request, with a recommendation to City Council. **Val Christensen** clarified that staff would include what was asked for by the Commission tonight.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Walker closed the public input portion of the hearing.

Melanie Davenport motioned to recommend approval to the City Council of the 3 proposed specified changes to Development Code Ordinance No. 1115:

1. *Clarify existing definitions for boarding houses, bed and breakfast, and short term rentals.*

Bed and Breakfast Inn: *A structure containing guest room(s) where lodging, with or without meals, is provided on a daily rate basis, and a manager maintains a residential presence on site or on an adjacent lot.*

Boarding House: *A building that is the primary residence of the owner in which rooms are provided on a daily, weekly or monthly basis for compensation, by the owner, to three or more persons not related by blood, marriage, or adoption to the owner.*

Short Term Rental: *Any rental of a dwelling unit that is for a time period less than thirty (30) days, is not the primary residence of the property owner and is managed on or off site.*

2. *Chapter 3 Section 3.9.090 (HDR1) and Section 3.10.090 (HDR2) Setbacks and Rights-of-Way Exceptions In the Pedestrian Emphasis Overlay, the required front yard setbacks for buildings (not parking)*

may be reduced up to fifteen feet (15') by meeting the following requirements:

- a. A minimum 8' wide sidewalk is required parallel to any city street.
 - b. Street trees and other landscape amenities are required and include as a minimum the use of 2" caliper deciduous trees at a maximum of 20' spacing in the landscape strip between the curb and sidewalk. The space between the building and sidewalk shall be landscaped with ornamental trees, shrubs, annual and perennial flowers to achieve a "fully landscaped look". The landscape strip and the front yard setback shall be planted with grass between the trees, shrubs and other landscape features. An irrigation system is required and is the responsibility of the property owner as is the maintenance of the landscaped areas.
 - c. The building shall be oriented toward the street with architecturally defined entrances; a ground floor prominence; and elements that break up vertical and horizontal walls.
 - d. Section 3.9.090.vii.b is not allowed. Permitted Projections include balconies (no more than three (3) foot extended from building), cornices, eaves, belt courses and sills.
 - e. There shall be a variety of openings and other features that enhance the buildings visual interaction with the street. These features include doors, windows, balconies and/or other items such as stoops, awnings, porches, dooryards, canopies, overhangs, recesses, etc. that in combination enhance the human scale and pedestrian experience of the street. Balconies, awnings, canopies and other structural elements may extend a maximum of three (3) feet into the setback.
 - f. The first floor wall facing the right-of-way shall be faced with high quality materials (as approved by Community Development Director or Designee).
 - g. Street lighting and utilities within the right of way must be installed as per the City Engineering Standards.
 - h. Renderings identifying all of the above requirements and the Design Standards shall be provided to city staff prior to the request for a building permit. The Community Development Director or Designee will have authority to review the submittal and determine if it meets the above requirements and spirit in which they were created. At request by applicant the City Staff will have authority to over-rule the findings of the Community Development Director or Designee.
3. Chapter 9 Section 5.10. Parking requirements for dormitory housing units that are located within the Pedestrian Emphasis Overlay (PEO) (see attached boundaries or appendix of development code) may be reduced pursuant to a Conditional Use Permit (CUP) and subject to the following requirements and provisions: (as stated in Development Code).

John Bowen seconded the motion.

Steve Oakey said he is okay with two of the provisions.

He is not comfortable with Airbnb and Boarding House and Short Term Rentals definitions. He does not want to attach his name with that provision; it is too confusing and too convoluted and does not achieve a fair, equitable, simple goal.

Melanie Davenport stated that her motion stands – it was explained earlier in this meeting that this is just cleaning up the verbiage at this time of what is already here in the Development Code.

Rory Kunz wanted to understand what it is that Mr. Oakey is not comfortable with.

Steve Oakey said it runs counter to a basic philosophy that he has of allowing people to stay in your home under conditions that you feel are appropriate.

Val Christensen said he understands Mr. Oakey's concern.

The definitions were already there; the city is trying to make them more open. This is taking an existing ordinance and adding another item to it in order to be more flexible. The first two are basically the same. The definition for short term rentals would address something the other two definitions did not address. This is taking an existing ordinance and giving it more flexibility. Bed and Breakfast, and Boarding House definitions match the existing definitions that are in the dictionary.

Richard Smith said he believes that in Roberts Rules of Order there is a provision that says any member of a body can vote on a matter and provide an explanation of their vote, which becomes part of the record.

Steve Oakey said he is faced with a quandary. He is particularly thinking of Danny Hebdon's CUP request, which was tabled. He would hope this is not final discussion.

Scott Johnson clarified that this is a cleanup of what we currently have. The discussion will continue. The intent is to clean up the current code, which staff was asked to do, to include cleaning up the specified definitions as they apply to medium residential and high residential.

Steve Oakey said he will do an about-face and vote in favor of this, but with the caveat that it needs further discussion, further modification, and further simplicity.

None opposed. Motion carried.

Steve Oakey said as an explanation for his vote, that he does not want to stand as a roadblock for any requests that are tabled or coming before the Commission shortly, but also noting that the short term rental/Airbnb issue needs simplification. It needs a just and adequate and equitable application which he does not think this change achieves; for the sake of short term success for those who have medium density, he is in favor of it.

This issue of three changes will go before the City Council at their next meeting.

Richard Smith motioned to table the proposed Development Code changes presentation and hearing to be continued at the next P&Z meeting. **Rory Kunz** seconded the motion

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business: None

Compliance: None

Non-controversial Items Added to the Agenda: None

Report on Projects: None

Tabled Requests: remaining tabled

1. Conditional Use Permit – 322 West Main- to allow per the Rexburg Development Code Section 3.7.025, a “Boarding House” (i.e. nightly rentals; short-term rentals) in a Medium Density Residential 1 Zone

Building Permit Application Report: None

Heads Up:

November 3, 2016 P&Z meeting:

1. Rezone – 135 and 141 South 2nd East – Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2)
2. Preliminary Plat – Grove Meadows Condominiums – Approximately 814 North Yellowstone Hwy

The meeting was adjourned at 9:38 pm.