

City Council Meeting

December 03, 2008



CITY OF
REXBURG
America's Family Community

12 North Center
Rexburg, ID 83440

blairk@rexburg.org
www.rexburg.org

Phone: 208.359.3020 x313
Fax: 208.359.3022

December 03, 2008

Mayor Shawn Larsen

Council Members:

Christopher Mann – Council President
Rex Erickson Randy Schwendiman
Bart Steven Richard Woodland
Adam Stout

City Staff:

Stephen Zollinger – City Attorney
Richard Horner – Finance Officer
John Millar – Public Works Director
Val Christensen – Building Official
Blair Kay – City Clerk

7:00 P.M. City Hall – Pledge to the Flag

Roll Call of Council Members:

Attending: Council Member Mann, Council Member Erickson, Council Member Schwendiman; Council Member Stevens; Council Member Stout; and Mayor Larsen.

Excused: Council Member Woodland

Mayor Larsen asked the boy scouts to introduce themselves. They are working on Citizenship in the Community and Communications.

Presentations: - NONE

Committee Liaison Assignments for 2008:

A. Council Member Chris Mann *Museum Committee · Beautification Committee · Emergency Services Board*

Council Member Mann reported Emergency Services did meet. The Museum Committee meets tomorrow night and the Beautification Committee meets next week.

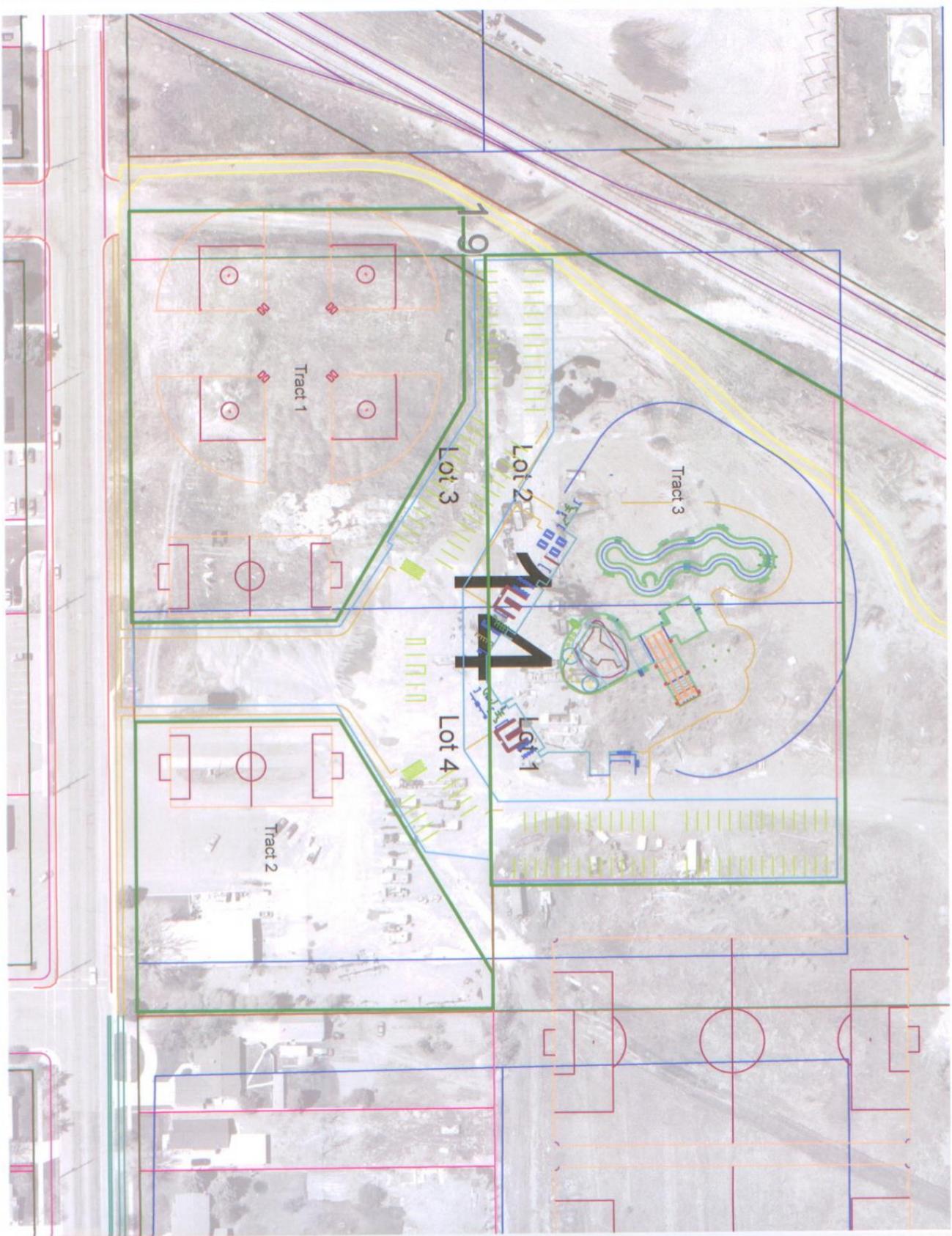
B. Council Member Rex Erickson *Golf Board · Planning & Zoning · Rexburg Redevelopment Agency*

Council Member Erickson reported there is some Planning and Zoning items on the agenda tonight. The Rexburg Redevelopment Agency met last Friday, November 28th to review the proposal. The big agenda item was the Redevelopment Agency proposing to build the swimming pool and how it will be financed.

Jon Weber, Joseph West, and Brad Smith came representing the Rexburg Redevelopment Agency. Mr. Weber is excited to work with the city when he starts his upcoming Madison County Commissioner's job. Mr. Weber explained the term sheet between Inland Development Properties from Texas and the Rexburg Redevelopment Agency concerning building of an aquatic center in Rexburg. No contract has been signed. He mentioned the proposed land exchange item on the agenda between the City of Rexburg and the Rexburg Redevelopment Agency for the proposed aquatic center

City Attorney Zollinger explained the proposal to exchange property on 2nd North with adjoining property to the north. There are three parcels involved, tract 1, tract 2, and tract 3. Tract One and Tract Two containing the Zollinger Construction building are owned by the Rexburg Redevelopment Agency; while Tract Three is owned by the City of Rexburg. The proposal is to exchange properties of near equal value to provide property to build an outdoor aquatic facility. Interior Tract Three lies north of Tracts One and Two. Regardless of the proposed aquatic center, the land exchange is needed for the Parks and Recreation Department.

Council Member Erickson inquired about the size of the territories on the map. City Attorney Zollinger reiterated the city is obtaining a building and an extensive amount of land in exchange for square footage of the city's land. He stated the approval of the exchange is contingent upon the agency approving it as well.



CITY OF
REXBURG
America's Family Community

**Land Exchange between the City of Rexburg and
Rexburg Redevelopment Agency**

RESOLUTION NO. 2008-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO,
APPROVING THE EXCHANGE OF REAL PROPERTY BETWEEN THE CITY OF
REXBURG AND REXBURG REDEVELOPMENT AGENCY; AND AUTHORIZING AND

DIRECTING THE MAYOR, TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO IMPLEMENT THE EXCHANGE; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION, made on the date hereinafter set forth by the City Council of the City of Rexburg, Idaho, a municipal corporation under Idaho Law, hereinafter referred to as the "City."

WHEREAS, the City, is authorized to exchange real property in accordance with Idaho Code, Chapters 14 & 20, Title 50;

WHEREAS, the City is the owner in fee simple title of real property described on Exhibit A attached hereto and made a part hereof ("City's Relinquished Property");

WHEREAS, the Rexburg Redevelopment Agency, hereinafter referred to as the "Agency" is owner in fee simple title of that certain parcel of real property described on Exhibit B attached hereto and made a part hereof ("Agency's Relinquished Property");

WHEREAS, the City and the Agency desire to accomplish a real property exchange, in order that on the completion of such exchange, the City shall be the owner in fee simple of the Agency Relinquished Property and the Agency will be the owner in fee simple of the City's Relinquished Property;

WHEREAS, City staff has reviewed the Exchange and recommends approval of the Exchange as a fair value for value exchange;

WHEREAS, the City Council finds it in the best public interest to approve the Exchange and to authorize the Mayor to execute all necessary documents to implement the transaction subject to the conditions set forth below.

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO, AS FOLLOWS:

Section 1. That the above statements are true and correct.

Section 2. That the Exchange is hereby approved and accepted subject to approval by the Agency.

Section 3. That the Mayor is hereby authorized, permitted, and directed to execute all necessary documents required to implement the actions contemplated by the Exchange Agreement attached and made a part hereof as Attachment "C", subject to representations by all parties to the exchange.

Section 4. This Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED by the City Council of the City of Rexburg, Idaho, on December 3, 2008. Signed by the Mayor, and attested by the City Clerk, on this 3rd day of December, 2008.

APPROVED:

By _____
Shawn Larsen
Mayor

ATTEST:

By _____
Blair D. Kay
City Clerk

Council Member Mann moved to approve the land exchange between the City of Rexburg's Tract Three and the Rexburg Redevelopment Agency's Tracts One and Two; plus the accompanying Resolution 2008-21. Council Member Stout seconded the motion; all voted aye, none opposed.
The motion carried.

C. Council Member Bart Stevens *Airport Board · Romance Theatre Committee · MYAB · School Board*

Council Member Stevens reviewed the by-laws for the Airport Board which is to be approved at their January meeting. City Attorney Zollinger stated they wanted to approve the bylaws at the January meeting.

Mayor Larsen said the MYAB wrapped about 150 gifts at Kmart; also the December 13th is Shop with a Cop. They were able to wrap all of the gifts in about an hour. Also, there will be free Carousel rides at Porter Park for the next two Fridays from 5:00 P.M. – 8:00 P.M.

D. Council Member Randy Schwendiman *Parks & Recreation · Traffic & Safety Committee*

Council Member Schwendiman indicated the Traffic and Safety Committee met last night working on proposals. There is a need for a new chair for the Parks and Recreation Committee. Mayor Larsen asked for volunteers for city committees. Several committees need new appointments.

E. Council Member Richard Woodland *Rexburg Arts Council · IBC Committee · Tabernacle Civic Center*

Mayor Larsen stated the Arts Council worked with the Turkey Choir on Thanksgiving morning and they gave a great performance.

F. Council Member Adam Stout *Legacy Flight Museum · Trails of Madison County*

Council Member Stout reported the bridge over the canal in the Walker Subdivision will be done next spring. Doug Stutz is working on a Bicycle Ordinance. The Trails Committee is working on grants to extend the trails system to the high school.

Mayor Larsen asked more scouts to introduce themselves.

Public Hearings: - NONE

New Business:

A. Request a (CUP) Conditional Use Permit for dormitory housing at 165 South 1st East; the current zoning is (MDR1) Medium Density Residential. – Rachel Whoolery

Council Member Mann sold the property so he stepped down from the Dias.



Council Member Erickson said Planning and Zoning was concerned with traffic flow. Ms. Whoolery said an easement could be required on the property to maintain the required traffic flow.

City Attorney Zollinger explained the goal is an approval conditioned with staff approval.

Council Member Schwendiman reviewed the following letter:

DENNIS M. RICHARDSON

55 S. 5th Street
Central Point, Oregon 97502
(541) 664-6622
December 1, 2008

City of Rexburg
America's Family Community
12 North Center,
Rexburg, Idaho 83440

Mayor: Shawn Larsen
Council Members:
Christopher Mann – Council President
Rex Erickson, Randy Schwendiman,
Bart Steven, Richard Woodland, Adam Stout

Re: Conditional Use Permit for dormitory housing at 165 South 1st East

Dear Mayor Larsen and Council Members:

Recently, I purchased the home located across the street from BYUI at 165 South 1st East with the goal of remodeling the home and making it a pleasant and secure “dormitory residence” for BYUI students. BYUI has given approval for the home to become single-girls housing, subject to approval from the City of Rexburg.

In addition to the property at 165 S 1st E, I recently purchased the property next door (177 So. 1st East), and my son-in-law, Matthew Whoolery, purchased an adjacent property at 111 East 2nd South. The fourth property mentioned at the planning and zoning meeting was purchased last August by my 401 (k) Pension and Profit Sharing retirement plan. This property is called The Bristol Manor (student residence at 117 East 2nd South), which is located next door to Matthew Whooley’s property. For purpose of orientation, the property at 165 South faces 1st East and its northern side boundary abuts the rear-most boundaries of the other three properties.

Last week Charles Anderson presented and the Rexburg Planning Commission approved a recommendation to the City Council to grant a conditional use permit for the property at 165 S. 1st E. We would appreciate having the approval for the CUP, with one exception.

Since the Bristol Manor is a rental property owned free-and-clear by a qualified 401 (k) pension and profit sharing plan, it cannot become part of a consolidation with three other non-qualified properties that have mortgages on them without opening up the entire matter to IRS audit and penalties.

Therefore, since three of the four properties have separate owners and since the proposed requirement for a restrictive lot line covenant tying all four properties together could have serious unintended tax consequences, I hereby request the City Council grant the requested CUP for 165 So. 1st East, without requiring the restrictive lot line consolidation covenant.

Cordially,


Dennis Richardson

Planning and Zoning Administrator Leikness reviewed the proposal on the overhead screen. The proposal requires a Conditional Use Permit recommended by Planning and Zoning.

Council Member Erickson explained the reason Planning and Zoning conditioned the approval on shared parking by tying the four properties together was to assure future parking in case Bristol Manor was sold to another party.

Rachel Whoolery asked for dormitory housing at 165 South 1st East. The proposal meets the zoning requirements in MDR1. She wanted to maintain green space for the occupants.

Gardening sheds would be taken out to maintain some green space and required parking. She currently has 11 parking spaces on the property. She explained how some of the property could be sold and maintain the required parking for the properties.

Discussion: To require adequate parking with deed restrictions and remove the condition of property encumbrance. Mayor Larsen suggested adding a 16th condition which was displayed on the overhead screen.

Insert from Planning and Zoning meeting November 20, 2008

***Rachel Whoolery – Conditional Use Permit
165 S. 1st E.
#08 00522
Conditions of Approval***

1. *No issuance of a Conditional Use Permit can occur until all site plan issues are resolved and approved through administrative review which shall take place at the time the applicant applies for a change of use with the Community Development Department.*
2. *All parking lot requirements shall be depicted on the revised site plan, including proper aisle widths, grades, parking stall sizes, number of spaces, etc.*
3. *Should City policies and/or ordinances change regarding parking standards, these standards will apply to the subject property.*
4. *Trash dumpsters/receptacles shall be located within the interior (behind front building line, but minimum is required setbacks) of the lot and shall be enclosed with materials that are consistent with those materials used in the building that they are adjacent to, e.g. brick, wood, etc.*
5. *Lighting shall be reviewed. All lighting shall be applicable lighting standards, including full cut-off fixtures and lower wattage light sources, i.e. 60-75 watt. Violating lights on site shall be replaced prior to issuance of a certificate of occupancy.*
6. *A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, etc. shall be submitted and approved by the City prior to the issuance of a building permit.*
7. *A landscape plan shall be submitted when an application is submitted for a change of use, or building permit. Landscaping shall be required to be implemented prior to the issuance of a full certificate of occupancy. The site shall include 30% landscaping (per ordinance 926), this percentage shall be shown on the approvable landscape plan.*
8. *Proposed project entrances shall be enhanced through landscaping. This requirement shall include all mechanical equipment installed as part of the development to be adequately screened from the ROW and from adjacent property.*
9. *Lighting shall be low (under 15-feet in height) and not create glare, and as a minimum shall adhere to the City's lighting ordinance. Any proposed lighting would need to be submitted to the City for review and approval subject to the submittal and approval criteria found in the development code.*
10. *All exterior sidewalks adjacent to the site (including any property encumbered by the proposal, as these properties will then become part of the proposed parking solution.) must be installed or repaired (to City standards) prior to the occupancy of the proposed structure.*
11. *All sidewalks both exterior and interior should be interconnected and should connect to the main entrances of the unit.*

12. *To encourage alternative travel options, which are likely to decrease vehicular trip generation, bicycle parking shall be provided, both long term (several hour stay, weather protected) and short term (visitors- two hours or less). As a minimum, for dormitory housing, long-term parking spaces (sheltered) shall be provided at a ratio of 1 space per 3 tenants and short-term parking at a ratio of 1 space per 2 tenants. For this development this would require 4 long-term spaces and 6 short-term spaces.*
13. *Sheltered parking, like the screening of trash dumpsters shall be constructed of high quality building materials that are consistent with the main building. Sheltered parking shall not be located within the required front yard. A hard surface path shall be provided from the City right-of-way to sheltered parking and then to the main entrance of main structure.*
14. *Applicant shall provide all required parking spaces on the subject property, or secure required number of spaces through a parking agreement with adjacent property within a distance allowed by ordinance, if that property has excess parking beyond requirement. This can be accomplished through a Restrictive Lot Line Covenant (RLLC), or a perpetual parking easement.*

Council Member Schwendiman moved to approve (CUP) Conditional Use Permit for dormitory housing at 165 South 1st East including the addition of an additional (16th condition) - “Applicant shall provide all required parking spaces on the subject property, or secure required number of spaces through a parking agreement with adjacent property within a distance allowed by ordinance, if that property has excess parking beyond requirement. This can be accomplished through a Restrictive Lot Line Covenant (RLLC) or a perpetual parking easement.” plus remove the property encumbrance condition; Council Member Stout seconded the motion; roll call vote:

Those voting aye

Council Member Schwendiman
 Council Member Stevens
 Council Member Stout

Those voting nay

Council Member Erickson

The motion carried.

Council Member Mann rejoined the City Council on the Dias.

- B. Preliminary Plat for Meurs Subdivision** at 1321 South Yellowstone Hwy; 4.95 acres
 – Forsgren Associates representing Rexburg Lodging Associates

Planning and Zoning Administrator Leikness reviewed the proposal on the overhead screen. Planning and Zoning recommended approval.

Erin Swenson and Nate Taylor representing Rexburg Lodging Associate’s lot split from Fujimoto’s property to start the development. Now they want to subdivide the five acres into three lots. One lot is for Springhill Suites (Marriott). Storm drainage will be retained onsite. The three properties will have shared access for public access. They asked for connectivity language to be in the development agreement instead of having a dedicated driveway through their parking lot for future developments.

Council Member Erickson asked why the second access required for the Conditional Use Permit was missing from the proposal.

Council Member Stevens reviewed the need to have interior access noted on the Conditional Use Permit.

Council Member Mann preferred an access (side road) off University Blvd for the Fujimoto property developments.

Council Member Erickson reviewed the Conditional Use Permit requiring two interior access points to property on the east and north. City Attorney Zollinger suggested a motion requiring the development to comply with the conditions set forth in the Conditional Use Permit approval which required interior access to other property on the east and north. It could be a condition in the

development agreement. Council Member Stevens reiterated the need to have interior access to this development for future adjoining developments. He did not want a wall built around this development limiting any access from adjoining properties.

Council Member Schwendiman did not want additional accesses onto Yellowstone Hwy.

Council Member Stout moved to approve Preliminary Plat for Meurs Subdivision at 1321 South Yellowstone Hwy as approved by the Planning and Zoning Commission with access points to the east and north properties as discussed; also, delineate in the development agreement to abandoned the north access point to the South Yellowstone Hwy if a new road is constructed entering into the property within 150 feet of the north access point; Council Member Schwendiman seconded the motion; Discussion: Council Member Stevens asked if the access points need to be specified on the plat. City Attorney Zollinger explained the development agreement would specify a required access point to the north and to the east. All voted aye, none opposed. **The motion carried.**

Five minute break

C. Rezone request from (MDR1) Medium Density Residential and (HDR1) High Density Residential to (PRO) Project Redevelopment Option. The Hemming property is located at 130 West 1st South, 124 West 1st South, and 226 South 1st West – Lane Hemming

Planning and Zoning Administrator Leikness reviewed the proposal on the overhead screen. They are proposing to extend the Hemming ProZone to three additional properties for a total of 12.5 acres. The new properties would be subject to all the Hemming ProZone conditions. Council Member Mann asked why Planning and Zoning Administrator Leikness did not recommend approval based on the 50% completion rule. He wanted the ProZone to grow systematically from one phase nearing completion to the next new phase.

Richie Webb at 680 Cleveland Drive reviewed the progress of the Hemming ProZone on the overhead screen. They have a building in the Hemming ProZone under construction for completion next year. The full build out of the Hemming ProZone would require some underground parking. They plan to keep the City Council informed of the progress of the development as it moves forward. Planning and Zoning Administrator Leikness plugged the Design Review Committee for suggesting building design improvements to one of the buildings.

Council Member Erickson requested the applicant to combine all future requests for the development into one application to save expenses.

Council Member Mann asked about Breckinridge Apartments being in the Hemming ProZone development. What is the advantage? Mr. Webb said it would give flexibility for future developments.

Insert from Planning and Zoning meeting April 03, 2008

**Proposed Conditions of Approval (Hemming ProZone)
AS AMENDED TO INCLUDE P&Z'S
RECOMENDATIONS**

Substantive

1. *The rezoning proposal should be limited to an area labeled as "phase 1" of a multi-phased approach. This phase 1 should be determined by the Commission working with the applicant. A phased approach would allow the developer to proceed with a limited area of development as well as allow the City to find out if there are any unintended consequences to this Hemming PRO zone category. The area for a phase 1 should be limited to the southwest area of the proposal, specifically to the areas of mixed-use development on both sides of W 2nd South, and the proposed Hotel/Lodge area.*
2. *As the developer and the City are prepared, the applicant can come forward with an additional to be rezoned to the Hemming PRO zone. The Hemming PRO Zone is allowed to be extended as long as it is determined that the zone is being utilized to create a cohesive development and neighborhood, not*

just to utilize the flexibility of setbacks and parking standards. Each additional boundary modification should be based on a specific proposal.

3. *If the Hemming PRO zone is not moving forward with actual construction of buildings and uses that are substantially the same as proposed and intended during the rezone request, then the City shall initiate a reversion to the previous zoning (most recent prior to the PRO Zone designation). This time limit should include an 18 month period. The time shall begin at the adoption of the Hemming PRO zone or at each phase. Within the 18 month period a building permit shall be submitted that requests approval of a substantial building that is consistent with the intent of the Hemming PRO zone. No new phases should be considered until at least fifty (50) percent build out has occurred on previous phases.*
4. *For bicycle parking the proposed zone shall include short-term and long-term parking standards. Short term parking areas would be bike racks that area located in front of stores. Long-term parking would be for overnight parking that is sheltered from the elements.*
5. *The Purpose and Objectives section needs further development. Need to address the purpose of the zone as well as what will be accomplished through this unique zone.*
6. *“Multiple Family Dwelling” should be eliminated from permitted uses along 2nd west and 2nd South. The 2nd West street frontage is currently zoned commercial and may be the envisioned use along that street.*
7. *Eliminate the following permitted uses:*
 - a. *Membership lodging*
 - b. *Retail trade*
 - c. *Religious quarters*
 - d. *Residential hotels*
 - e. *Transient lodgings*
 - f. *Travel agencies*
 - g. *Paint, glass and wallpaper*
 - h. *Residential facility for elderly persons*
 - i. *Residential facility for persons with a disability*
8. *Add the following permitted uses:*
 - a. *Hotels (parking in rear or side yard, and non-auto oriented, i.e. motel-parking in front of unit)*
 - b. *Retail trade (as part of a mixed-use building, i.e. residential and/ or office)*
 - c. *Office and professional services (uses must be located above first street level floor, or below. Must be part of a mixed-use building, i.e. residential and/ or retail)*
 - d. *Disabled persons residential facility (as a part of a mixed-use building, i.e. non-residential uses)*
 - e. *Miscellaneous business services, i.e. real estate, insurance, etc. Buildings containing these uses may only occupy up to 20% of useable (roads, driveways, green strips, or parking areas not included) frontage along a public right-of-way per block and only on each side of the street.*
9. *Eliminate the following conditional uses:*
 - a. *Spreading grounds*
 - b. *Apartments (maximum of six (6) persons per unit attached to commercial or other non-residential use as a mixed-use project set forth in Section 3.15.160, Rexburg City Code).*
 - c. *Communications*
 - d. *Motorcycles, motor scooters, parts, accessories, and supplies*
 - e. *Antiques and second hand merchandise*
10. *Add the following conditional uses:*
 - a. *Dormitory housing (maximum of six unrelated persons per unit physically attached to commercial or other non-residential uses as a mixed-use project)*
 - b. *Communications (subject to City of Rexburg Telecommunications Ordinance, and utilizes feasible “stealth” features to disguise the towers and antennas)*
 - c. *Motorcycles, motor scooters, parts, accessories, and supplies (as part of a mixed-use building, i.e. residential and/ or office)*
11. *Section 3.30.100 Building Heights Should read, “Building heights for residential buildings shall not exceed 40-feet. Building heights for commercial and mixed-use buildings shall not exceed 52-feet.”*

12. *Section 3.30.120 Permissible Lot Coverage Should read,*
 - a. *No building or structure (parking lots included) shall not cover an area of more than seventy (70) percent of the lot or parcel of land upon which they are placed. If the lot or parcel has a recorded contractual agreement to participate in a park, open space area, plaza, or similar, that is located within seven-hundred (700) feet of the site, the lot coverage may be increased to one-hundred percent. The park, open space area, plaza, or similar area shall have a minimum area equal in size to the increase of lot coverage for each participating lot or parcel, cumulatively. Required setbacks are not related to lot coverage and therefore must still be observed.*
 - b. *Individual buildings and connected structures shall not exceed a 30,000 square-foot foot print, regardless of lot size.*
13. *A dwelling density section should be added that limits dwelling densities to 42 units per acre.*
14. *A Section should be added regarding required setbacks. It should be noted that corner lots are determined to have two front yards. Setbacks when adjacent or across the street from a residential zone should be similar to most restrictive zone, and only applicable to sides of the proposed building that are visible from residential zone.*
15. *A Section should be added regarding permitted projections into required setbacks.*
16. *Strike Sections 3.30.130 (A) through (F). Instead, begin section by stating, "Parking requirements of the development code shall be adhered to except as modified in this section."*
17. *Under §3.30.130(G) Required number of Spaces, add "The counting of on-street parking spaces to fulfill parking requirements shall apply only to non-residential and lodging land uses. In addition, only those on-street parking spaces that are within 200-feet of the main entrance to the building for which they are to be counted shall be allowed, and shall not be located across any public street.*
18. *Add section regarding parking, loading, and access, similar to §3.17.130 of the CBC zone. This deals with parking being disallowed in required front yards, requiring certain surfacing, etc.*
19. *Structured parking and parking areas for over 25 vehicles proposed to have access on to S 2nd West, shall be reviewed by the City Engineer for feasibility and safety prior to approval of any development.*
20. *Add section regarding fencing*
21. *Add language to §3.30.150(C) Landscaping. Include the following:*
 - a. *Surface parking lots (single level)*
 - i. *Provide ten (10) percent landscaping/ snow storage for total area of impervious surface, may be interior landscaping or perimeter.*
 1. *Provide one (1) tree per 500 square feet (2 inch caliper minimum).*
 2. *Provide one (1) shrub per 50 square feet (3 gallon minimum).*
 - ii. *Ground cover shall primarily be live plant material (e.g. grasses versus rock)*
 - b. *Perimeter of all parking areas adjacent to public right-of-way.*
 - i. *Regardless of building setbacks, provide twenty (20) foot landscaped strips running parallel to right-of way.*
 1. *Provide one (1) tree per 20 lineal feet of road frontage (2 inch caliper minimum).*
 2. *Provide one (1) shrub per 5 lineal feet of road frontage (5 gallon minimum) and/ or shall be sufficient in size to create desired screening within two years of planting.*
 - ii. *Ground cover shall primarily be live plant material (e.g. grasses versus rock)*
 - c. *Landscaped areas shall utilize an automatic, low volume, irrigation system to insure maturation and maintenance.*
22. *Add a §3.30.150(F)(2) Walls and Fences that reads, "No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard.*
23. *Add a §3.30.150(F)(3) Walls and Fences that reads the same as §3.17.160(2). This requires a decorative masonry wall or other material as agreed upon by adjacent property owner and Planning Commission.*

24. *Strike §3.150.150(G) Transitional Development Standards. This issue is resolved by an earlier amendment that requires property in the Hemming Zone to meet certain setbacks when adjacent or across the street from a residential zone.*
25. *Strike §3.30.160 Residential Standards as these proposed standards allow increased building heights, and modifications to driveway standards that have not been approved by the Public Works Department or Fire Department. In addition, the standards in §3.30.160 don't appear to be necessary to accomplish the Hemming PRO zone, and therefore default development code standards should apply.*
26. *Modify §3.30.170(A) Introduction to suggest that the Hemming PRO zone will complement the historic downtown rather than including language that suggest that this site is part of the historic downtown.*
27. *Strike §3.30.170(C) Development Review Committee and Design Review Board Procedures. Replace with language that suggests that development proposals will be reviewed by the City's established Design Review Committee (DRC) or designee.*
28. *Introduction to design standards, second paragraph (precedes §3.30.170(E)). The statement, "simple configuration and solid craftsmanship are favored over complexity and ostentation in building form and articulation of details," appears to conflict with the City's current design standards which promote articulation of buildings, in order to reduce large expanses of buildings, and to add visual interest. Specifically, the current design standards state, "Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances" of buildings. The Hemming PRO zone introduction to design standards should incorporate this established intent.*
29. *Modify §3.30.170(E)(1)(a)(4) Applicability, to not exempt buildings that do not receive the public. All buildings should have design standards applied to them in the PRO zone or any other commercial or multi-family zone.*
30. *Clarify what §3.30.170(E)(1)(b) Hemming PRO Zone Block Development intends to accomplish. It is not clear what regulations are being described, or what figures are being referred to.*
31. *Clarify what §3.30.170(E)(1)(b)(2) Provide useable pedestrian space requires. Specifically, what amount of pedestrian space needs to be provided? A standard might be that for every one-hundred (100) feet of street frontage a useable pedestrian area of 100 square feet must be established. These areas should include benches, wider sidewalks, water features, or similar.*
32. *Clarify what §3.30.170(E)(1)(b)(2) Building Orientation Standard means when it states that, "Each development provides street trees or planters, space for outdoor seating, canopies or awnings, and on-street parking (in certain areas)." Is there a required quantity of these features to be provided by each development?*
33. *Modify §3.30.170(E)(1)(c)(2) Building Orientation Standard to explain how corner lot buildings shall have "main" entrances on both street that are fronted. They should not be allowed to have main entrances on the sides of buildings, rather they should be encouraged to have a beveled corner entrances. This will frame the streets together and also allow for clear vision areas to be observed.*
34. *Clear vision areas in the Hemming PRO zone should be reduced to 15-feet, but should be approved by the City Engineer prior to adoption. This reduction should only be allowed for main building structures, not accessory structures, or landscaping, which should both still maintain the 30-foot clear vision area currently adopted.*
35. *Strike §3.30.170(E)(1)(c) Variances. Modifications are negotiated through the DRC. Significant deviations should follow the variance procedure currently adopted.*
36. *Modify §3.30.170(E)(2)(a) Maximum building height to only allow a 35-foot building for residential building and a 45-foot building for commercial or mixed-use buildings. Also a minimum building height should be established at 18-feet.*
37. *Modify §3.30.170(E)(2)(a) Maximum building height to not include roof equipment as an exemption. Roof top equipment should be included in building heights and should be screened by parapets or similar.*
38. *Modify §3.30.170(E)(3)(b)(1) Detailed Storefront Design to eliminate the wording, "...unless an approved landscape buffer is applied." Corner buildings need to embrace both streets on which they are located through storefront design.*

39. Section 3.30.170(E)(3)(b)(1)(b) Detailed Storefront Design requires, “regularly spaced and similar shaped windows.” The intent may be to prevent long expanses of buildings that do not have windows, but the language may also promote repeating patterns over long expanses of walls that go against currently adopted design standards.

40. 3.30.170(E)(3)(b)(1)(c) Detailed Storefront Design requires large windows. Large display windows are exactly what pedestrian areas need, but windows should not extend from grade to ceiling height. These types of windows are more consistent with strip commercial development rather than pedestrian downtowns, and should therefore be avoided especially if this development intends to complement the existing historic downtown to the northeast. A horizontal requirement for window area should be 60 (sixty) percent as a minimum (or greater!).

41. Figure 3-2 suggests a design that deviates from historic buildings in the downtown area. The figure appears to promote a different theme. A different figure should be used if the intent is to create building that extend the downtown and complement it. The figure should show more details regarding how to reduce the massive scale of the large buildings rather than drawing attention to specific architectural features of a particular architectural style.

42. Clarify, does §3.30.170(E)(3)(b)(2)(c)(1) Design of Large Scale Buildings intend to incorporate all other design standards in the Hemming PRO zone as well as these for large scale buildings?

43. Modify §3.30.170(E)(3)(b)(2)(c)(1) Design of Large Scale Buildings to provide clear standards that quantify intent.

44. Modify §3.30.170(E)(4)(b) Guidelines and Standards to make standard based on street frontage, number of stories, square footage of building, or other. The proposed language only states that, “each development” shall provide these pedestrian amenities. Each development should contribute, but larger developments need to provide proportionately more.

45. Modify §3.30.170(E)(5)(a) Residential Uses. Last sentence should add, “...unless substantial reconstruction occurs and/or expansion.” It should continue, “Substantial reconstruction shall mean that valuation of proposed improvement exceeds fifty (50%) of assessed value for the previous calendar year. Standards shall only apply to areas of expansion unless the gross floor area of the proposed expansion exceeds fifty (50) percent of the existing structure’s gross floor area.

46. Section 3.30.170(E)(5)(a)(1) Residential Uses may be written to allow residential uses to dominate the Hemming PRO Zone. The PRO zone should disallow stand alone residential uses from fronting any street within a half block from S 2nd West. These areas, generally, were zoned and designated on the Comprehensive Plan map as commercial. The intent of these area being commercial should be preserved in the Hemming PRO zone.

47. Modify §3.30.170(E)(5)(a)(3) Residential Uses allow a maximum dwelling density of 42 units per acre. Dwelling densities should be spelled out rather than making them limited by other standards. This allows residents an opportunity to understand potential impacts of development.

48. Modify §3.30.170(E)(5)(b) Bed and Breakfast Inns and Vacation Rentals. Language should be included which requires owner occupancy and a maximum of twenty-five (25) percent of home to be used for B&B. In addition, B&Bs and vacation rental dwellings should be required to register with a local management group or as a minimum have a local contact available at all times. These land uses should be listed as conditional uses as they often have impacts that need great scrutiny by the Commission.

49. Modify §3.30.170(E)(5)(d) Accessory Uses and Structures. Second to last sentence should continue with, “...provided they are incidental to, and do not substantially alter the character of the permitted principal permitted use.

50. Modify §3.30.170(E)(5)(e)(2)(b) Drive up, drive-in, and drive-through facilities, to a fifth standard that reads, “No outdoor PA system shall be located within 300 feet of a residential zone.

51. Modify §3.30.170(E)(5)(g)(2) Light manufacture, Location, to read, “the light manufacture use shall be fully enclosed within a building, and shall not be located within two-hundred (200) feet of a residential zone.”

Non-substantive

52. Lot lines shall be appropriately adjusted, or a Restrictive Lot Line Covenant (RLLC) shall be submitted as part of each development. Lot line modifications and/or RLLC must be approved by the City, prior to County recordation.

53. Change title of zone to, "3.30(1). Hemming (PRO A B R 1) Project Redevelopment Option Zone"
54. Strike, "Hemming Project, Location: see attached"
55. Strike §3.30.020(A) Categories...
56. Strike §3.30.020(B) Permitted Principal Uses...
57. Change §3.30.020(C) to §3.30.020(A)
58. Change §3.30.020(D) to §3.30.020(B)
59. Remove SIC code numbering system
60. Strike last sentence of §3.30.130(A) referencing the University Zone.
61. Rename §3.30.130(G) to read, "Required parking spaces."
62. Strike "Use Parking Spaces"
63. Strike all parking requirements except the requirement for "mixed use."
64. Modify sentence in §3.30.150(A) Signs, to read "All signs shall be approved by the Planning Commission or designee prior to the issuance of a sign permit." (*italics added temporarily for emphasis*)
65. Strike reference to Downtown Blueprint in §3.30.170(A) Introduction
66. Clean up figure 2-1 Building Height Diagram. Hard to read and some strike-through is occurring on words.
67. Modify §3.30.170(E)(3)(b)(1) Detailed Storefront Design. There is a reference to features a-e, when there are only features a-c.
68. Modify §3.30.170(E)(3)(b)(2)(c)(2) Design of Large Scale Buildings to eliminate the language that follows the standard. The DRC can negotiate with the applicant of a particular building if there are unusual circumstances involved.
69. Modify §3.30.170(E)(5)(c) Public and Institutional Uses to eliminate reference to the "Rexburg Downtown District." Should say, "Hemming PRO zone."
70. Modify §3.30.170(E)(5)(d)(1) Primary use required, to continue, "...on the same lot."
71. Modify §3.30.170(E)(5)(d)(2) Setback Standards, to read, "If an accessory structure requires a building permit, all setbacks required of the principal structure shall be observed as well. In addition, no accessory structures shall be allowed to encroach in to a front yard. Accessory structures visible from public or private rights-of-way shall be consistent in materials as those used for the principal structure.
72. Modify §3.30.170(E)(5)(f) Sidewalk Displays to read, "A minimum clearance of six (6) feet of walkable surface shall be maintained." Also, add "beds, appliances" to the list of large display items.

Insert from City Council meeting May 07, 2008

Council Member Erickson moved to approve the entire PRO-Zone area with the understanding they would come back to the Planning and Zoning Commission and City Council to get each phase approved. It is also contingent upon compliance with conditions as outlined by Planning and Zoning. Council Member Schwendiman seconded the motion. All voted aye, none opposed. **The motion carried.**

Insert from Planning and Zoning meeting November 20, 2008

*Hemming Corp Rezone # 08 00536
130 and 124 W. 1st S., 226 S. 1st W.*

On November 20, 2008, Richie Webb presented to the Planning & Zoning Commission for the City of Rexburg the Request for a Rezone for the properties specified above.

*Josh Garner motioned to recommend approval to City Council of a Rezone for 130 West 1st South from MDR1 (Medium Density Residential 1) to the Hemming PRO Zone (Hemming Project Redevelopment Option), and 226 South 1st West from HDR1 (High Density Residential 1) to Hemming PRO Zone, to include the condition recommended by Staff stating that "All conditions of approval that were applied to the original approval of the Hemming PRO Zone shall apply to this proposal", and the condition to uphold the Conditions of approval stated for the church parking lot conditional use permit that was previously approved for Hemming (#08 00423 Planning & Zoning meeting), and to include clarification of design standards for the Hemming PRO Zone. Charles Andersen seconded the motion. None opposed. **Motion carried.***

Council Member Erickson moved to approve the rezone request from (MDR1) Medium Density Residential and (HDR1) High Density Residential to (Hemming ProZone) Project Redevelopment Option per staff analysis and conditions of Planning and Zoning noted above; Council Member Schwendiman seconded the motion; Discussion: Council Member Mann asked to restrict ProZone development down 1st West; Council Member Stout concurred. Roll call vote:

Those voting aye

Council Member Mann
Council Member Schwendiman
Council Member Stevens
Council Member Erickson

Those voting nay

Council Member Stout

The motion carried.

D. Land Exchange – City Attorney Zollinger
(Item covered under liaison reports **Page 1 - Item B.**)

Staff Reports:

A. Public Works: Keith Davidson

City Engineer Davidson reported on the following projects:

1. Valleywide Property Storm water tie in on to storm water line on Hwy 33 is complete.
2. Catch basins almost completed for storm water running into the roundabout.
3. Bid opening on December 12th for a pedestrian bridge behind Cal Ranch connecting a pedestrian path to Barney Dairy Road. Mayor Larsen asked about proposed trail funding from the Imagining Center to help pay on an existing trail. Staff will follow up with the Imaging Center on the funding question. Discussion on extending the trail system to Hidden Valley to compliment the new pedestrian bridge. The city (Madison County Trails Committee) could apply for a grant with a 30% match to work on the trail system per Engineer Davidson. The road crossing will need to have
4. Water Main Line connector is being installed to Max Drive to improve service.

Council Member Erickson asked about \$53,000 matching funds to pay for the street light on Hwy 33 and 4th West. **Mayor Larsen** said it was the final payment on the matching funds for the light.

B. Cafeteria and HRA Plan approvals – Richard Horner

Mayor Larsen said the vendor changes are not ready for the plan; therefore, it will be discussed on a future meeting.

Calendared Bills and Tabled Items:

A. BILL Introductions:

1. **BILL 1016 “Waste Water Sewer Use”** replacing Ordinance 800

City Attorney Zollinger explained the reason for the new waste water ordinance was due to increasing pretreatment penalties and requirements. The hauler fees were changed to a per gallon fee instead of a per truck rate.

C. First Reading: Those items which are being introduced for first reading. – NONE

D. Second Reading: Those items which have been first read. – NONE

E. Third Reading: Those items which have been second read: – NONE

Tabled Items: Those items which have been the subject of an affirmative vote to a motion to table:

- A. **BILL 1014 Amending Ordinance 911** for “Towing and Parking Enforcement”

City Attorney Zollinger spoke with University today. The University will schedule a meeting with apartment owners as soon as possible. Discussion concerning students seeking support from the City Council by doing a call in campaign to explain their grievances.

Old Business: - NONE

Mayor’s Report:

Mayor Larsen reported on a meeting about lighting and pedestrian safety around the University with the University.

Calendar:

December 5th – Employee Benefits Seminar at City Hall for employees and spouses.

December 10th – Employee Benefits reception at Rex Center from 6:00 P.M. to 10:00 for employees and their families. The event has been planned by the employee committee.

December 17th – City Council meeting at **7:00 A.M.**

Consent Calendar: The consent calendar includes items which require formal City Council action, however they are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar for discussion in greater detail. Explanatory information is included in the City Council’s agenda packet regarding these items.

Minutes:

A. November 19, 2008 meeting

B. Approve the City of Rexburg Bills

Council Member Stevens asked to note in the minutes he rejoined the Dias after the five minute break on November 19th.

Council Member Erickson moved to approve the Consent Calendar with the change noted by Council Member Stevens; Council Member Stevens seconded the motion; all voted aye, none opposed. **The motion carried.**

Adjournment

Shawn Larsen
Mayor

Attest:

Blair D. Kay
City Clerk