



ORDINANCE 910

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO, APPROVING THE DOWNTOWN DISTRICT REDEVELOPMENT PLAN, WHICH PLAN INCLUDES REVENUE ALLOCATION FINANCING PROVISIONS; AUTHORIZING THE CITY CLERK TO TRANSMIT A COPY OF THIS ORDINANCE AND OTHER REQUIRED INFORMATION TO COUNTY AND STATE OFFICIALS; APPROVING THE SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about the 6th day of November, 1991, by Council Resolution, the Council and Mayor of Rexburg created an urban renewal agency, the Rexburg Redevelopment Agency (the “Agency”), authorizing it to transaction business and exercise the powers granted by the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, as amended (the “Law”), and the Local Economic Development Act, the same being Idaho Code, Title 50, Chapter 29, as amended (the “Act”), upon making the findings of necessity required for creating said Urban Renewal Agency;

WHEREAS, pursuant to Idaho Code Section 50-2008, an urban renewal project may not be planned or initiated unless the local governing body has, by resolution, determined such area to be a deteriorated area or deteriorating area, or combination thereof, and designated such area as appropriate for an urban renewal project;

WHEREAS, Idaho Code Section 50-2906, also requires that in order to adopt an urban renewal plan containing a revenue allocation financing provision, the local governing body must make a finding or determination that the area included in such plan is a deteriorated area or deteriorating area;

WHEREAS, the City Council of the City of Rexburg, Idaho (the “City”), after notice duly published, conducted a public hearing on the North Highway Urban Renewal Project pursuant to the North Highway Urban Renewal Plan (the “North Highway Plan”) to redevelop a portion of the City, pursuant to the Law and the Act;

WHEREAS, following said public hearing, the City adopted its Ordinance No. 728 on December 27, 1991, approving the North Highway Urban Renewal Plan and making certain findings;

WHEREAS, the Rexburg City Council, after notice duly published, conducted a public hearing on the North Highway Amended and Restated Urban Renewal Plan (the “North Highway Amended and Restated Plan”);

WHEREAS, following said public hearing the City Council adopted its Ordinance No. 815 on December 30, 1998, approving the North Highway Amended and Restated Plan and making certain findings;

WHEREAS, the Rexburg City Council, on April 9, 1997, passed Resolution No. 97-01, finding the Washington School Site Area as “deteriorated” or “deteriorating area” as defined by Idaho Code Section 50-2018(h), (i) and 50-2903(b) declaring such area as an urban renewal area, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Agency to prepare an urban renewal plan;

WHEREAS, the Rexburg City Council, after notice duly published, conducted a public hearing on the Washington School Urban Renewal Plan (the “Washington School Urban Renewal Plan”);

WHEREAS, following said public hearing, the City Council adopted its Ordinance No. 794 on June 3, 1997, approving the Washington School Urban Renewal Plan, and making certain findings;

WHEREAS, the Agency has had certain discussions concerning examination of either a new area adjacent to the Washington School Site Area, or an expansion of the Washington School Site urban renewal area;

WHEREAS, in November, 2002, the Agency authorized the commencement of an eligibility study and the preparation of an eligibility report of the Site and surrounding properties;

WHEREAS, the Agency, retained Harlan W. Mann, Real Estate Consultant (“Consultant”), to study the area in question and to prepare an eligibility report (the “Eligibility Report”), which would examine the designated urban renewal area for the purpose of determining whether such area is a deteriorating or deteriorated area as defined by Idaho Code, Sections 50-2018(i) and 50-2903(6)(b);

WHEREAS, the Agency, on February 5, 2003, adopted Resolution No. 2003-1 accepting the Eligibility Report for the Downtown District Site, dated January 31, 2003;

WHEREAS, the Rexburg City Council, by way of Council resolution on March 19, 2003, accepted the Eligibility Report for the area by adoption of City Council Resolution No. 2003-6;

WHEREAS, the Mayor and Council considered the steps set forth by the Act and Law, accepting the Eligibility Report finding the area set forth therein to be “deteriorated” or “deteriorating” areas as defined by Idaho Code Sections 50-2018(h), (i) and 50-2903(b) declaring such area as an urban renewal area, making additional findings regarding the characteristics of the area, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Agency to prepare an urban renewal plan;

WHEREAS, under Idaho Code Section 50-2008, an urban renewal project for an urban renewal area shall not be planned until such area has been found to be deteriorated or deteriorating by the adoption of a resolution by the City Council;

WHEREAS, the Legislature of the State of Idaho has enacted the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, referred to herein as the “Act,” authorizing certain urban renewal agencies, including the Rexburg Redevelopment Agency, referred to herein as the “Agency,” to adopt revenue allocation financing provisions as part of their urban renewal plans;

WHEREAS, in order to implement the provisions of the Act and the Law, either the Agency may prepare a plan or any person, public or private, may submit such plan to the Agency;

WHEREAS, Agency staff and consultants have undertaken the planning process during 2003;

WHEREAS, the Agency has prepared a proposed Downtown District Redevelopment Plan (the “Downtown District Plan” and the urban renewal area referred to as the “Downtown District Project Area”) for the areas designated as eligible for urban renewal planning;

WHEREAS, such proposed Downtown District Plan also contains provisions of revenue allocation financing as allowed by the Act;

WHEREAS, the Board considered all comment and information submitted to the Agency during its October 29, 2003 meeting;

WHEREAS, on October 29, 2003, the Agency Board passed Resolution No. 2003-2 proposing the Downtown District Redevelopment Plan;

WHEREAS, the Agency has, by letter of transmittal dated October 29, 2003, submitted the Downtown District Redevelopment Plan to the Mayor and City Council of Rexburg;

WHEREAS, the Mayor and City Clerk have taken the necessary action to process the Downtown District Redevelopment Plan;

WHEREAS, at a meeting held November 20, 2003, the Rexburg Planning and Zoning Commission considered the Downtown District Redevelopment Plan and found that the Downtown District Redevelopment Plan is in all respects in conformity with the Comprehensive Plan; a copy of the Finding is attached hereto as Exhibit 1;

WHEREAS, notice of the public hearing of the Downtown District Redevelopment Plan was caused to be published by the Rexburg City Clerk of Rexburg, Idaho, in the *Standard Journal* on November 3, 5, and 24, 2003, a copy of said notice being attached hereto as Exhibit 2;

WHEREAS, as of November 3, 2003, the Downtown District Redevelopment Plan was submitted to the affected taxing entities, available to the public, and under consideration by the City Council;

WHEREAS, the City Council during its regular meeting of December 3, 2003, held such public hearing;

WHEREAS, as required by Idaho Code Sections 50-2905 and 50-2906, the Downtown District Redevelopment Plan contains the following information which was made available to the general public and all taxing districts at least thirty (30) days prior to the December 3, 2003, regular meeting of the City Council: (1) the kind, number, and location of all proposed public works or improvements within the revenue allocation area; (2) an economic feasibility study; (3) a detailed list of estimated project costs; (4) a fiscal impact statement showing the impact of the revenue allocation area, both until and after the bonds are repaid, upon all taxing districts levying taxes upon property in the revenue allocation area; and (5) a description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred;

WHEREAS, the Downtown District Redevelopment Plan authorizes certain projects to be financed by revenue allocation bonds and proceeds from revenue allocation;

WHEREAS, appropriate notice of the Downtown District Redevelopment Plan and revenue allocation provision contained therein has been given to the taxing districts and to the public as required by Idaho Code Section 50-2906;

WHEREAS, it is necessary and in the best interest of the citizens of Rexburg, Idaho, to adopt the Downtown District Redevelopment Plan, including revenue allocation financing provisions since revenue allocation will help finance urban renewal projects to be completed in accordance with the Downtown District Redevelopment Plan (as now or hereafter amended), in order to: encourage private development in the urban renewal area; prevent and arrest decay of Rexburg, Idaho, due to the inability of existing financing methods to provide needed public improvements; encourage taxing districts to cooperate in the allocation of future tax revenues arising in the urban renewal area in order to facilitate the long-term growth of their common tax base; encourage private investment within Rexburg, Idaho; and to further the public purposes of the Agency;

WHEREAS, the City Council finds that the equalized assessed valuation of the taxable property in the revenue allocation area described in Attachments 1 and 2 of the Downtown District Redevelopment Plan is likely to increase as a result of initiation of urban renewal projects in accordance with the Downtown District Redevelopment Plan;

WHEREAS, under the Law and Act any such Downtown District Redevelopment Plan should provide for (1) a feasible method for the location of families who will be displaced from the urban renewal area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan should conform to the general plan of the municipality as a whole; (3) the urban renewal plan should give due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of the children residing in the general vicinity of the site covered by the plan; and (4) the urban renewal plan should afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise;

WHEREAS, if the urban renewal area consists of an area of open land to be acquired by the urban renewal agency, such area shall not be so acquired unless (1) if it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the municipality; that the need for

housing accommodations has been or will be increased as a result of the clearance of slums in other areas; that the conditions of blight in the area and the shortage of decent, safe, and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality; or (2) if it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action, as provided in the Law, because of defective or unusual conditions of title, diversity of ownership tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area;

WHEREAS, the overall base assessment rolls for the various revenue allocation areas cannot exceed ten percent (10%) of the Base Assessment Value of the City of Rexburg;

WHEREAS, the City at its regular meetings held on December 3 and 17, 2003, considered the Downtown District Redevelopment Plan as proposed and made certain comprehensive findings.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG:

SECTION I: It is hereby found and determined that:

(a) The Downtown District Redevelopment Project Area as defined in the Downtown District Redevelopment Plan is a deteriorated or a deteriorating area as defined in the Law and the Act and qualifies as an eligible urban renewal area under the Law and Act.

(b) The rehabilitation, conservation, and redevelopment of the urban renewal area pursuant to the Downtown District Redevelopment Plan are necessary in the interests of public health, safety, and welfare of the residents of the City of Rexburg.

(c) There continues to be a need for the Rexburg Redevelopment Agency ("Agency") to function in the City of Rexburg.

(d) The Downtown District Redevelopment Plan conforms to the Comprehensive Plan of the City of Rexburg.

(e) The Downtown District Redevelopment Plan gives due consideration to the provision of adequate park and recreation areas and facilities that may be desirable for neighborhood improvement (recognizing the mixed use components of the Downtown District Redevelopment Plan, the need for overall public improvements, and the proposed public open space), and shows consideration for the health, safety, and welfare of any residents or businesses in the general vicinity of the urban renewal area covered by the Downtown District Redevelopment Plan.

(f) The Downtown District Redevelopment Plan affords maximum opportunity consistent with the sound needs of the City as a whole for the rehabilitation and redevelopment of the urban renewal area by private enterprises.

(g) The Downtown District Redevelopment Plan provides a feasible method for relocation of any displaced families residing within the urban renewal area.

(h) The collective base assessment roll of the Downtown District Project Area, the base assessment roll of the North Highway Project Area, the Amended and Restated North Highway Project Area (reflecting the area added in 1998) and the Washington School Site Project Area, do not exceed ten percent (10%) of the assessed value of the City of Rexburg.

SECTION II: The City Council finds that the Downtown District Project Area and Revenue Allocation Area do not consist of predominantly open land, that the Agency does not intend to acquire any open land on any widespread basis, and that the Downtown District Project Area is planned to be redeveloped in a manner that will include both residential and nonresidential uses. Provided, however, the City Council finds that if portions of the Downtown District Project

Area and Revenue Allocation Area are deemed “open land,” the criteria set forth in the Law and Act have been met.

SECTION III: The City Council finds that one of the Downtown District Redevelopment Plan objectives to increase the mixed use development opportunity to include housing does meet the sound needs of the City and will provide residential opportunities in an area that does not now contain such residential opportunities, and the portion of the Downtown District Project Area which is identified for nonresidential uses is necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Rexburg Comprehensive Plan to overcome economic disuse, the need for improved traffic patterns, and the need for the correlation of this area with other areas of the City.

SECTION IV: The Downtown District Redevelopment Plan is attached hereto as Exhibit 3 and is made a part hereof, and the same is hereby approved. The City Clerk and/or the Agency may make certain technical corrections or revisions in keeping with the information and testimony presented at the December 3, 2003, hearing, and the December 17, 2003 meeting.

SECTION V: No direct or collateral action challenging the Downtown District Redevelopment Plan shall be brought prior to the effective date of this Ordinance or after the elapse of thirty (30) days from and after the effective date of this Ordinance adopting the Downtown District Redevelopment Plan.

SECTION VI: Upon the effective date of this Ordinance, the City Clerk is authorized and directed to transmit to the County Auditor and Tax Assessor of Madison County and to the appropriate officials of Madison School District No. 321, Madison County, Rexburg Cemetery District, Madison Library District, City of Rexburg, Madison County Ambulance District, Madison County Mosquito Abatement District, and the State Tax Commission a copy of this Ordinance, a copy of the legal description of the boundaries of the Revenue Allocation Area, and a map or plat indicating the boundaries of the Revenue Allocation Area.

SECTION VII: The City Council hereby finds and declares that the Revenue Allocation Area as defined in the Downtown District Redevelopment Plan (defined as the Downtown District Project Area in the Downtown District Redevelopment Plan), the equalized assessed valuation of which the Council hereby determines is in and is part of the Downtown District Redevelopment Plan is likely to continue to increase as a result of the initiation and completion of urban renewal projects pursuant to the Downtown District Redevelopment Plan.

SECTION VIII: The City Council hereby approves and adopts the following statement policy relating to the appointment of City Council members as members of the Agency’s Board of Commissioners: If any City Council members are appointed to the Board, they are not acting in an ex officio capacity but, rather, as private citizens who, although they are also members of the City Council, are exercising their independent judgment as private citizens when they sit on the Board. Except for the powers to appoint and terminate Board members and to adopt the Downtown District Redevelopment Plan, the City Council recognizes that it has no power to control the powers or operations of the Agency.

SECTION IX: This Ordinance shall be in full force and effect immediately upon its passage, approval, and publication and shall be retroactive to January 1, 2003, to the extent permitted by the Act.

SECTION X: The provisions of this Ordinance are severable, and if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

SECTION XI: One-half, plus one of the City Council members finding good cause, the City Council hereby dispenses with the rule that this Ordinance be read on three different days; two readings of which shall be in full, and have hereby adopted this Ordinance, having considered it at one reading.

SECTION XII: The Summary of this Ordinance, a copy of which is attached hereto as Exhibit 4, is hereby approved.

SECTION XIII: All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

SECTION XIV: SAVINGS CLAUSE: This ordinance does not affect an action or proceeding commenced or right accrued before this ordinance takes effect. PASSED by the City Council of the City of Rexburg, Idaho, on this 17th day of December, 2003.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 17th day of December, 2003.

Mayor Bruce L. Sutherland

(SEAL)

ATTEST:

Blair D. Kay, City Clerk

First Reading: December 03, 2003

Second Reading: December 17, 2003

Adopted after second reading by suspension of the Rule as allowed pursuant to Idaho Code Section 50-902

Yes: _____ No: _____

Third Reading: _____

Exhibit 1

RECOMMENDATION FINDING THE DOWNTOWN DISTRICT REDEVELOPMENT
PLAN
IN CONFORMITY WITH COMPREHENSIVE PLAN

Exhibit 2

NOTICE PUBLISHED IN THE *STANDARD JOURNAL*

Exhibit 3

DOWNTOWN DISTRICT REDEVELOPMENT PLAN

Exhibit 4

SUMMARY OF ORDINANCE NO. 910