

Planning & Zoning Minutes

September 15, 2016



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Jedd Walker – Chairman
Mark Rudd
Steve Oakey
Bruce Sutherland
Rory Kunz
Greg Blacker
Melanie Davenport
Gil Shirley
John Bowen
Richard Smith

City Staff and Others:

Brad Wolfe- City Council Liaison
Stephen Zollinger – City Attorney
Natalie Powell - Community Development Compliance Officer
Colton Murdock – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Jedd Walker opened the meeting at 7:00 pm. He welcomed everyone. The Commission appreciates the interested citizens who are in attendance.

Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Attending: Steve Oakey, Richard Smith, Greg Blacker, John Bowen, Gil Shirley, Mark Rudd, Jedd Walker, Bruce Sutherland, Rory Kunz, and Melanie Davenport.

Heidi Christensen was excused.

Minutes:

1. From Planning and Zoning meeting – September 1, 2016

Bruce Sutherland motioned to approve the Planning & Zoning minutes of September 1, 2016. **Gil Shirley** seconded the motion.

Steve Oakey, John Bowen, and Richard Smith abstained for having not been present.

None opposed. **Motion carried.**

Public Hearings:

1. 7:05 pm - Comprehensive Plan Map Amendment – 141 and 135 South 2nd East - Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use – Steve Herdti and 2M Holdings LLC

Chairman Walker explained the procedure that is followed for a public hearing. It is a quasi-judicial hearing which follows certain rules. The applicant will explain the proposal to the Commission. The Commissioners will be given the opportunity to ask clarifying questions. The Chairman may also allow the public to ask clarifying questions in order to better understand the proposal. Please save any opinions about the request for the public hearing testimony. Staff may also clarify the proposal. If anyone wishes to give public testimony, they should state their name and address for the record, and their affiliation with the request, such as neighbor, interested citizen, etc. Public input will be heard from those in attendance who are in favor of, neutral to, or opposed to the proposal. At this time

there cannot be back and forth or question and answer between the citizen, the applicant, or the Commission. It is simply the time for the Commission to listen to testimony. If there is opposition to the proposal, the applicant has the right of rebuttal. Once public hearing testimony is closed, staff would give their report, and the Commission would then deliberate in order to come to a decision. The P&Z Commission is a recommending body and will make a recommendation to the City Council.

Judy Hobbs, 117 West Main, Realty Quest, representing the applicants. She thanked the Commission for the time they give applicants to make these presentations and for working hard at creating orderly growth. She complemented the city support staff who help the process go smoothly for applicants and for the Commission.

The property was shown on the overhead screen. The request is for a Comprehensive Plan map land use designation change from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use, which is how the property to the north that is owned by the Mattsons (2MHoldings) has already been designated. 2M Holdings also owns 135 South 2nd East and is under contract to purchase 141 South 2nd East, which is Steve Herdti's home. That purchase is subject to their being able to change the land use designation and the zone. The request would extend the Comprehensive Plan land use map so it would be the same designation as the property to the north. The north properties have been rezoned to Mixed Use 2 and have been leveled out and are getting ready for construction. There will be dormitory housing. That project is already approved. It is too late for the two subject properties to be included with that development. The two properties are not planned for development at this time.

As the city continues to grow and the University continues to grow, there is tremendous pressure on these neighborhoods that are close to the University and close to the center of town. There is a lot of pressure for redevelopment. At some time in the future it is very possible that these properties could be part of another redevelopment. The former Barrick (135 South 2nd East) home may be used as the manager unit for the north corner project. The Herdti home will be used as a rental property.

They feel the extension of the Comprehensive Plan here and eventually its future rezoning is kind of a housekeeping matter.

Mrs. Hobbs stated that in reading the staff review, the review suggests that if this area were to redevelop, it could help with traffic flow because it could potentially eliminate individual driveways backing out onto 2nd East, hopefully channeling that traffic to the north on 1st South or to the south on 2nd South.

Melanie Davenport asked if there was a traffic plan regarding the properties. Judy Hobbs clarified there is no plan for redevelopment of the two subject properties at this time. They will remain as they are at this time, single family homes.

Chairman Walker clarified that a traffic analysis would not be required until the time a zone change or development proposal were to come forward. At this time they are just talking about the proposed change of the underlying land use map (to change from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use).

The Chairman asked if the audience had any questions to clarify what is being proposed. There were none.

Community Development Compliance Officer Natalie Powell did not have additional comments to clarify the request.

Chairman Walker opened the public input portion of the hearing.

In Favor:

Karl Mattson, Ashton . He represents 2M Holdings. Judy Hobbs did a very good job of presenting the issue, and he does not have anything to add to her presentation. He is in favor of this proposal. **Steve Herdti**, 141 South 2nd East. His home is one of the subject properties in this request. He is in favor of the proposal. He cannot see that this change would harm anything. He is grateful to Judy Hobbs and what she has done to help. He tries to get along with his neighbors and has talked to most of them. One neighbor was opposed. The others were okay with the change.

Neutral: None

Opposed:

Carla Jimison, 255 Harvard Ave. She stated that it sounds as if this block is being put in a precarious situation. Changing the Comprehensive Plan implies that there will be change. When those things change could be sooner than later. Her concern in her neighborhood is the amount of traffic that additional housing will put onto her street. No conditions have been made to keep student traffic out of the neighborhood. Development would significantly change their neighborhood.

This is not the right time for the requested change. Something should be agreed upon and done now; a traffic light should be put in on 2nd East. She understands development on the west side of 2nd East but development on the east side should have some conditions that are carried out.

Judy Taylor, 203 East 2nd South. She has looked through six months of meeting minutes, and she realizes that having the Commission deny something that is proposed to them is rare. She lives on the southwest corner of the block, and her concern is splitting the block with a zigzag that would be created. If you split a block, split it in half. Leaving one property seems to be a strategic move by the developer to try and procure the other half of the block for him to develop, which leaves the rest of the residents beholden to that developer. If you leave it, why not leave it for another developer to come in and develop?

As far as traffic, they were told the developer would work with them. They received a letter just prior to this meeting from the developer telling them that they were going to make a left- turn -only sign on 1st East so that cars would not go up Harvard. If that is done, there needs to be some sort of traffic light. She has a difficult time getting out of her driveway now, and it would be worse later. If nothing is going to change, why not wait?

David Taylor 203 East 2nd South. They have lived there for 20 years. They have seen the infrastructure and growth of Rexburg. He is not opposed to growth or development, but some of the needs are exaggerated at times. Much of the growth of the University involves online students. Students are gravitating to newer, more luxurious complexes. There are complexes at this time that can be used. Those need to be supported. He knows at some point this change is going to happen. They just got a letter 2 years after the start of the corner project from this developer. It is not the original proposal. It does not make sense to include the Herdti property. There was no mention of the Herdti property in the letter. Is this another strategic move by the developer?

Written Input: None

Rebuttal:

Judy Hobbs said it is important that we separate the development that is already approved to the north from the request tonight. The two subject properties are not part of that development. In the request for the rezone of the north property, there was a non-dormitory residential buffer required on the west side of Harvard/the east side of that project. That should preclude any traffic from turning onto Harvard. She believes that staff indicated the same buffer would be required if this current request were eventually granted a rezone. The developer offered to put up a left-turn-only sign to eliminate as much traffic as possible on Harvard. She does not think there is any way for the developer or the city to completely stop people from turning right on to Harvard, but the flow from the development will try to be mitigated as much as possible.

Any developer could come in and purchase any of these properties if the properties were available for sale, and then they could possibly do a redevelopment in this area. No one is ever forced to sell. This is not an eminent domain situation.

The University has published projections that show they are over 600 beds short for the fall of 2017. The University has been very open about this issue. There is encouragement of redevelopment as close to the University as possible. It may be encouraged not only in this area but other neighborhoods close to the University and to downtown.

Chairman Walker closed the public input portion of the hearing.

Compliance Officer Powell stated the subject property is .71 acres.

The applicant is seeking to change the subject property from Low-Moderate Density Residential on the Comprehensive Plan Map to Neighborhood Commercial/Mixed Use.

From the Community Development Staff Report:

“Staff’s concern is that consensus should be reached on the future use of the properties along 2nd East. Engineering is concerned about higher traffic on 2nd East. The residents of the neighborhood have expressed concern about added traffic on Harvard. There seems to be consensus on the fact that individual driveways with vehicles backing out onto 2nd East is not in the best interest of the community. Redevelopment that removes these traffic conflict points and redirects traffic to 1st South and 2nd South seems to be a logical solution.

If the changes asked by this developer can be attributed to the project to the north then Staff feels they could be considered at this time. However, Staff recommends that there be Ready Team and Task Force involvement for direction with changes to the rest of the block and for the rest of the neighborhood. A traffic study is also recommended as part of the review...”

Compliance Officer Powell clarified that this request is for a Comprehensive Plan map change and not a Zone change. This issue would be a recommendation to City Council for a final decision.

Steve Oakey stated there is a lot of misunderstanding about a Comprehensive Plan change and a zoning change. The Commission cannot take any action on anything other than what is before them.

Compliance Officer Powell clarified that the Comprehensive Plan map land use designation indicates what the city would like to see as the best use for a property. The zoning is more detailed and specific and indicates particular uses.

Steve Oakey added that the Comprehensive Plan land use designation is a vision of what the future use of the land should be. It is a planning tool and requires a change in this particular case in order for a specific zone change request to take place in the future.

Chairman Walker asked if any of the Commissioners had to declare a direct or perceived conflict of interest in regard to this request. No one needed to do so.

Greg Blacker thought the requested change fits with the area.

Chairman Walker said the concern in previous requests was that there was encroaching too far into the single family residential. His concern is the continued encroaching on the Harvard area neighborhood. The past rezone regarding the north corner property was conditioned. The issues concerning the two subject properties would need to be addressed at the time of a future rezone request.

Richard Smith added there will be another opportunity in the future when a rezone comes forward, for the citizens to voice their concerns.

Melanie Davenport stated it is encouraging to hear that the city's Ready Team would be involved in future direction of changes of the area. That is important.

Bruce Sutherland said one of the challenges the P&Z Commission faces is trying to look forward to the future and seeing the best land use for the area. That is what the Comprehensive Plan map change is all about. Is 2nd East best with mostly residential or not? The west side has already changed to some degree. The east side is changing. A change in the Comprehensive Plan map to Neighborhood Commercial/Mixed Use for the subject properties makes sense.

Steve Oakey said the request may indicate an evolution of a neighborhood that naturally occurs. Timing is important. As time goes by, more property owners may reconsider their positions, as Mr. Herdt appears to have done, and as some other citizens did who were involved in the corner rezone request.

Richard Smith motioned to recommend to City Council approval of a Comprehensive Plan Map Amendment change, from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use, for the property at 141 and 135 South 2nd East. **John Bowen** seconded the motion.

None opposed. **Motion carried.**

2. 7:20 pm - 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

Chairman Walker clarified that this request is for nightly or short term rentals of the subject property.

Danny Hebdon, 322 West Main. He presented his proposal to have short term rentals on the subject property which is in the MDR1 zone with a professional overlay. He has taken the necessary steps in regard to parking and landscaping. Vehicles would not have to back out onto West Main, but could exit the property with the vehicle face forward.

He feels there is a need for such lodging and wishes to have the proper permit to do so. He has worked with city staff and worked hard on the property, and the request fits the area.

The property is currently just a regular rental. Mr. Hebdon also owns the adjacent property at 328 West Main. A neighbor at 328 West Main would manage the property in the future. The properties have been tied together through a recorded document.

Steve Oakey asked if Mr. Hebdon had done overnight/short term rentals before.

Danny Hebdon said he has not. The home is just a regular rental, as is the property next door.

Steve Oakey asked Danny Hebdon what he sees as the difference between a rental unit and an overnight-stay unit.

Danny Hebdon said he is in the real estate business. He feels there is a need for short term/overnight rentals, but he has not had experience with it. There have been several places that have been shut down in the last month or so because they have not been doing this legally and have not gone through the necessary process as he is trying to do. He has worked with the property owner on the west. Eventually, his plan would be to do something on the whole property. He feels this property fits in the area and the requested use fits.

Mr. Oakey stated that Danny Hebdon has control over both those properties. One is a long term rental; the other would be a short term rental. How does Mr. Hebdon anticipate the customer base is going to reflect on the management style of the property or value of the property?

Danny Hebdon said income obviously is part of that. He has spoken with the neighbor who rents from him. Her son manages the yard. She would possibly help with cleaning, depending on who would currently be there.

Richard Smith commented that Mr. Hebdon mentioned that similar businesses doing short term rentals had been shut down.

Danny Hebdon said his understanding was the owners were not living on the premises; the homes were being rented out for short-term stays, in lower density neighborhoods that do not allow it, including the Henderson subdivision and several locations in a neighborhood on the hill.

Rory Kunz asked if the applicant anticipates that the customer base for this rental property would be something more along the lines of someone who would wreak havoc, throw parties, etc. or would they be more along the lines of those people who are coming here for a short-term stay as they would in a hotel.

Danny Hebdon said that is a big concern. He clarified that he sees his customer base and the need as families or parents coming to visit, people staying for a week looking possibly having employment interviews, and also wanting a kitchen, wanting a place to stay, more than just a hotel could provide. He rented some similar property at Lake Powell for a short-term stay, and it worked very well. He does not potentially see young kids renting this property for 3 or 4 days to party, etc.

Melanie Davenport asked how many rooms would be rented. Mr. Hebdon said the home is 1 bedroom with 1 bath, so it would be the home that was rented. It is currently a rental and has been for years. There is not a basement. The other property he owns does have a basement.

Greg Blacker asked if the property would be marketed as an Airbnb. **Danny Hebdon** said it would. As far as he knows, he would meet the Airbnb requirements. They want to have a 3-night minimum stay and would put a limit on how many days the property could be rented. The possible renters are screened by Airbnb. Mr. Blacker said the Airbnb grades you and what is being rented and you grade the people that stay.

Steve Oakey asked Mr. Hebdon to address the pervasive fear of absentee ownership. Do you have a manager on-site at your other rental properties?

Danny Hebdon said he did not. He manages most of the approximately ten rental properties that he owns. They are long-term rentals. Rent-Master also helps.

Mr. Oakey said a lot of the Airbnb renters and the tenants of Mr. Hebdon's rental properties are/would be referrals.

Melanie Davenport asked if Mr. Hebdon has gone through the definitions in the City Code of a boarding house or a bed and breakfast. **Danny Hebdon** said he was made aware of those definitions. Mrs. Davenport asked if as part of the conditional use proposal, he is also requesting the property not be a primary residence? Mr. Hebdon answered no. He did work with the city and they did bring up that concern.

Chairman Walker clarified that under *Section 3.7.025* of the Rexburg Development Code Ordinance No. 1115, under the section regarding Medium Density Residential One (MDR1) zoning, there is not a specific Conditional Use listed for overnight or short term rentals.

The closest fit is a boarding house, but Mr. Hebdon is not asking for a boarding house. He is asking for an overnight or short term rental.

City Attorney Stephen Zollinger clarified that the requirement for a bed and breakfast is that there be a manager who maintains a residential presence on the property. That could be the presence of the resident of the property next door who may help in management; the property is also owned by Mr. Hebdon. At this time, as the city works through this issue that is new to them, a short term rental could fit under bed and breakfast.

Mr. Hebdon has gone through the process of tying the two properties together.

A boarding house requires owner-occupancy. A bed and breakfast requires a management presence on-site.

It was clarified that a bed and breakfast is not listed under the Development Code's MDR1 Conditional Uses.

Steve Oakey said Mr. Zollinger appears to have conveyed that we are treading on new ground. We do not have a fine definition to apply to Airbnb.

Stephen Zollinger said the request would fall under the definition of bed and breakfast, but a bed and breakfast is not listed as a conditional use under the MDR1 zone.

City Attorney Stephen Zollinger stated his recommendation would be to table this request due to error in code interpretation. There is not the legal ability for this request to move forward at this time.

Rory Kunz motioned to table the Danny Hebdon Conditional Use Permit request (for 322 West Main) due to error in code interpretation. **Bruce Sutherland** seconded the motion.

None opposed. **Motion carried.**

Interested citizens who have signed the attendance sheet will be contacted when/if this request moves forward.

Unfinished/Old Business: None

New Business: None

Compliance: None

Non-controversial Items Added to the Agenda: None

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

The meeting was adjourned at 8:05 pm.