

Planning & Zoning Minutes

March 1, 2007

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CITY OF
REXBURG
America's Family Community

Commissioners Attending:

Rex Erickson – Council Member
Winston Dyer – Chairman
Ted Hill Thaine Robinson
Dan Hanna Charles Andersen
Mike Ricks Mary Ann Mounts
Mary Haley Randall Porter
David Stein

City Staff and Others:

Gary Leikness – P&Z Administrator
Stephen Zollinger – City Attorney
Jimmy Barrett – Assistant City Attorney
Natalie Powell – Compliance Officer
Emily Abe – Secretary

Chairman Dyer opened the meeting at 7:04 pm.

Chairman Dyer recognized **Commissioner Joe Laird**, who died in an automobile accident a couple weeks ago. He recognized the great contribution he made to our community as City Engineer and as a long standing member of the Planning & Zoning Commission. Rexburg is a better place because of the efforts of Joe Laird. Our condolences, thoughts and prayers are with his family at this time.

Roll Call of Planning and Zoning Commissioners

Thaine Robinson, Charles Anderson, Randall Porter, David Stein, Winston Dyer, Mary Ann Mounts, Mike Ricks, Mary Haley, Ted Hill, Dan Hanna

Minutes:

A. Planning and Zoning meeting – February 1, 2007

Corrections:

- P. 5 – Indicate “None” after agenda items where there was no business.
- P. 5 – Under the discussion on a joint meeting with the County and Sugar City, list the possible agenda items that were discussed.

Dan Hanna motioned to approve the minutes for February 1, 2007 as amended. **Mike Ricks** seconded the motion.

Mary Ann Mounts, **Randall Porter**, and **Mary Haley** abstained.
None opposed. **Motion carried.**

Compliance:

A. Rexburg Housing Sign (Jessica Pace)

Natalie Powell introduced a letter from Jessica Pace from Rexburg Housing requesting permission to leave a temporary banner located at 460 South 2nd West up until April 31, 2007, due to bad weather.

Mary Ann Mounts said there were nice days last week when there was no snow and they could have taken it down.

Mike Ricks motioned to have the banner taken down by March 15, 2007, or further action will need to be taken.

Mary Ann Mounts seconded the motion.

None opposed. **Motion carried.**

David Stein asked Natalie Powell for an update on the dormitory style housing situation in Low Density Residential areas and Hidden Valley Subdivision.

Natalie Powell said as she receives complaints that this is going on in the homes, she takes out copies of the Ordinance specific to the zone they are located in, so the owners are aware of the compliance issue. When they are located in a zone that allows this with a Conditional Use Permit, she works with them to get them through the Conditional Use Permit process. When they are located in zones that do not allow dormitory style housing at all, she asks them to move. The people in the home in Hidden Valley subdivision are moving. She said she is aware of about 25 of these situations throughout town.

Chairman Dyer suggested we look into the federal guidelines on time limits we can give these people to move out of their homes.

Mary Haley asked if there is an ordinance that requires refrigerators in yards to be chained shut or have their doors removed. Natalie Powell said she would look into it and let the Commission know.

Public Hearings:

7:05 pm – Conditional Use Permit – 710 S. 5th W. (Terry Madsen) **Cancelled**

7:15 pm – Conditional Use Permit – 346 W. 2nd S. (Bryce Owen)

Bryce Owen; 259 Melanie Drive; Applicant for this proposal. He said his uncle owns the property, and he is the general manager. They are interested in creating a facility that will allow social and recreational activities for people with mental and physical disabilities. They want to strengthen family relationships by encouraging parents and siblings to interact with all of their family members, including those with physical and mental challenges, through providing ability-appropriate social and recreational activities during evening and weekend hours. They do not intent on having anyone stay overnight, and they will have family members accompany the children. They plan to have staff members there to assist as they go hiking, bowling, etc. These activities will be held in the evenings and on the weekends, since these hours can be the most difficult for parents. There are a lot of agencies that provide services during the day, but not at night when families can come together to participate.

Thaine Robinson asked if there are two buildings involved. Bryce Owen said he wants to use both the properties. No one would live in the homes. He outlined the property on the map.

David Stein asked how many clients will be there at one time. Bryce Owen said there could be 15 to 20 maximum bodies there at any one time. **David Stein** asked what would keep them from having 50 people there at one time.

Bryce Owen said it is not big enough to fit any more there. He does not know about any state ordinance that regulates this.

Chairman Dyer asked if there was any kind of licensing from a public health or regulatory agency they would need. Bryce Owen said he did not know.

Mary Haley asked how this will be paid for. Bryce Owen said they will get donors and grants. The families may have to pay a fee, but these decisions have not been made yet.

The Commission discussed whether the facility would be a not-for-profit entity.

Chairman Dyer asked if most the activities would be held on site or off site. Bryce Owen said the activities that would be held on site would be music and art related. The others would be held off site. This program would not involve any counseling or therapy.

Dan Hanna asked what the property is currently used for. Bryce Owen said there are 34 students living there now.

Chairman Dyer complimented the applicant on the completeness and the organization of the application. This is a model application.

Chairman Dyer opened the public input portion.

In favor:

Angie Owen; Another applicant. This use is very much needed in this family-oriented community to help them feel more included.

Neutral: None

Opposed:

Fred Caulder; 244 Steiner Avenue. I have lived and owned property at this address for over 35 years. I live within three quarters of a block of the subject property. I also own a piece of property at 377 West 2nd South which is kiddy corner across the railroad tracks and is within 150 feet of the subject property.

Here tonight we have a proposal to have the Planning and Zoning Committee issue a Conditional Use Permit to allow the owners of the property located at 346 West 2nd South to provide physical facilities for families with mental and physically challenged students to meet, support, and socialize with other families who have similarly challenged students.

First let me make sure I have the facts right:

The operating hours will be between 9:00 a.m. and 9:00 p.m. Monday through Saturday.

The students to be served will be between the ages of 5 years to 18 years and are mentally and physically challenged.

Some of the classes suggested to be offered are: art, dance, theatre, music, physical activities and outdoor activities.

Additional class curriculum is alluded to. There will also be a lot of opportunity for socializing.

There will be at least one trained employee at all activities. There will be a receptionist available during normal business hours.

Ample parking is to be provided.

The eventual projected operating capital needed to operate this organization will be between \$30,000 and \$50,000 per month. These funds are projected to come from grant applications and established foundations as well as from personal and business donations.

I assume the above facts brought forth are accurate and correct.

The proposal presented here tonight is a very carefully presented and well thought out presentation. The presenter wants you to believe there are many positive and beneficial reasons why this new business should come to Rexburg. I fully support this new business and wish the new owners success in establishing this much needed school for the mental and physically challenged students in our area.

There are however, some additional issues that have not surfaced that need to be discussed before we proceed.

PARKING:

The presenter has pointed out there is ample parking for the anticipated traffic flow. The depth measurements of these two properties are relatively deep, and there is a lot of room for parking. However the parking needs for this type of school will be much greater as compared to the parking needs of multiple apartments of which this property is presently zoned for. It is probable some public bussing from the local school districts and privately owned transportation companies will be used, but mostly the students will be delivered to the school in a ratio of one car or van for each student. In other words if you have 20 students attend classes then you will have need for 20 parking spaces. If you have 35 students attend classes then you will have need for 35 parking spaces and on up and up. If school buses are used, and they surely will be, then by law traffic is stopped in both directions as students load and unload causing traffic congestion. Wheel chair ramp loading and unloading could cause even greater traffic congestion. The need for a lot of parking is greater for this type of school than for an ordinary school

Conclusion: Traffic flow will drastically increase in this neighborhood because it is a school and because of the nature of the school.

BUSINESS:

The term being used to designate this proposition is Not-For-Profit Organization. The reason for this unique terminology is probably to soft-pedal and perhaps cover up the fact that this is going to be what could be considered a large business. The funds to operate this organization as specified, "will come mostly from grant applications through established foundations as well as from personal and business donations."

It is broadly known governmental administrations both, on a national basis and on a state basis are eager for programs such as, No Child Left Behind and many others, to take off and to be successful. They are most anxious to get this type of school established in this area and you can be assured they will be eager to endow this business with financial stimulation. It is proposed by the owners that eventually \$30,000 to \$50,000 will be needed on a monthly basis to operate this business. That projects out to \$600,000 a year. Six hundred thousand dollars as operating capital on an annual basis is a huge amount of money. If looks like a duck, if it sounds like a duck, if waddles like a duck, it must be a duck.

Conclusion: Because of the large projected financial income this operation is and should be classified as a large commercial business.

SCHOOL:

The Mission Statement of H.A.V.E F.U.N. is stated as follows:

Strengthen family relationships by encouraging parents and siblings to interact with all of their family members including those with physical and mental challenges through providing ability-appropriate social and recreational activities during evening and weekend hours. Families will be able to meet, support, and socialize with other families with similar situations.

Classes to be taught in this setting are: Art, dance, theatre, music, physical activities, socializing, and outdoor activities. The door is left open for other class curriculum to be added in the future. This is not all bad, in fact, it's a good thing. Let's stop a minute and take a look at what is happening however. The presenter is very careful not to give you the impression that a school will be established. The term "School", in fact, seems to be very appropriate.

In order to have a school you need: (1) a place of teaching, (2) a subject to be taught, (3) students that are available and willing to be taught, (4) teachers that are qualified to teach.

Conclusion: This institution, qualifies in all four requirements. Therefore it is a school. In fact it is a "Private School" since the ownership is private.

ZONING:

When you purchase a piece of property in the City of Rexburg you automatically receive a zoning designation that is part of the ownership right of that particular property. i. e. the properties in the area we are talking about are zoned as MDR 1. This means family dwellings and medium density apartment dwellings are allowed. All other types of dwellings and businesses are excluded.

There has been a lot of money and effort spent to convert these two homes into multiple living apartments. It makes a lot of sense to leave these units as they now exist. They are money making apartments. Locate the proposed school in a different location in Rexburg where the property is appropriately zoned and reap the rewards of income coming off from two businesses instead of one.

When Ricks College became a four-year university a few years ago, there was an immediate need for additional housing in the city of Rexburg. The 9 block area west of the campus, From 2nd West to the canal on 4th West and 1st South to 4th South, was immediately impacted. There was a rush to convert family homes into apartment for students. Under the MDR 1 zoning guidelines this was and is appropriate. In the future it is a sure thing more homes in this area will be replaced by apartments because of the need for additional student housing.

The main reason we are here tonight is that the MDR 1 zoning designation attached to the two subject properties is being challenged. There is a request for a conditional use permit to be issued by the Planning and Zoning Committee to allow this large business, which is also a school, to function in our neighborhood. The property owners in and around this neighborhood are opposed to this proposition. We feel if the Conditional Use Permit is to be allowed it would be the start of additional businesses and perhaps schools to be built in our area. You might compare this to dropping a rotten apple in a barrel of good apples. The effect of this business if it were to be allowed in our neighborhood would have a bad and negative effect on our property values.

CONCLUSION: In the end, the whole area will be adversely affected and the quality of our neighborhood will go down hill. It will also adversely affect the property values of our highly valued possessions. Our homes and our apartments.

RAILROAD:

The proposal indicates there is a need for better fencing around the outskirts of the property. There is no mention in the proposal that the property adjoins the road track on the west side. Probably the thinking is that better fencing is required so the students will be protected from the dangers of the railroad. This certainly is good thinking. The problem is building a school next to a railroad track is not a good idea in the first place. A railroad track is a magnet for children to play on and around. In spite of warnings, instructions, and threats children are drawn to a railroad track to play. It's just a fun place to be. There is the possibility that a student sometime, somewhere, somehow will slip under the radar and go and play in harm's way of an oncoming train. In this case, where you're dealing with mentally challenged students, the possibility of slipping under the eyes of supervision is even greater. What a tragedy it would be if a mentally challenged student got injured or killed by an oncoming train, while attending school located next to the railroad track. Placing a school next to a railroad track is using poor judgment. The only school that could justifiably be located next to a railroad track is a lockdown prison.

I contacted my insurance agents and inquired about the cost of liability insurance for students in a school located next to a railroad track. He indicated the cost of insurance is based upon the factors of risk. In the case of a school being located next to a road track the insurance cost would be prohibitive, clear off the charts. I wonder if the proper home work has been done on this issue.

We as property owners in the neighborhood have no objection for this private school coming to Rexburg. We think it is an excellent business opportunity and a good idea. The objection we have is locating the school at the proposed location.

Let me review our objections:

1. Traffic flow would greatly increase in our neighborhood.
2. It would introduce business zoning into a residential area. This means the flood gates for big business to infiltrate the area would be opened wide.
3. Property values in dollars and cents would decline. The very thing we as property owners have been struggling our guts out for years to own and to get paid off would decline.
4. It would allow a school to come into an area that is not zoned for a school.
5. Issuing a conditional use permit allowing a school to be built next to a railroad track is poor judgment. It's like allowing the owners of the school to put big bucks in their pockets while setting up the conditions so mentally challenged students can be exposed to death and destruction on the railroad track.

Members of the Planning and Zoning Committee please cast your vote for the right reasons! We can still have this much needed School right here in Rexburg. Just not at this proposed location for the reasons we have discussed here tonight. Thank you!

Corey Sorensen; 154 S. 3rd W. This is a great idea, but this is not the best location. Kent Hillman, another property owner, also asked for his name to be in opposition to this proposal. This area is mostly single student housing. Their worry is that this will turn away tenants. This proposal will make it harder for them to keep their apartments full. They feel that putting children with special needs next to single housing is not a good idea. There are better places in town for this facility.

Frank Jenkins; 256 W. 4th S. He owns the 12-plex across the road from this proposal. This is the wrong location for this facility. This area is predominantly student housing for BYU-Idaho. He is worried about the age of the students at this facility. He has a disabled boy, so he knows about what goes on in these facilities. Safety is a top priority. 2nd South is a through street that a lot of traffic has to use. The railroad track and canal are also safety concerns. He phoned around, and Health and Welfare didn't know anything about this facility. They will have to have a license to run this kind of a facility. He likes the idea of the facility, but not in this location. There will have to be an inspection and a license. He is opposed to this in this location.

Written Input:

Letter from Dennis Ramsey, owner of the six plex next to the property, neutral to the proposal.

Letter from David W. Evans of MDE Investment Company, LLC, owner of Woodshed Apartments across the street, opposed to the proposal.

Rebuttal:

Bryce Owen said he would like to clarify some misconceptions. They will have the required licenses. It is most convenient to do this in this location because his uncle owns the property. It is in close proximity to Porter Park, which would be a great facility for them. If they are able to have BYU-Idaho interns, it is within walking distance of the college. They are not going to make big money with a big business. They lived in this area, and never once did their children go to the railroad tracks. He appreciates the support of the idea of having this type of an agency in town. They would love to have this facility in Rexburg.

Chairman Dyer closed the public input portion.

Gary Leikness said on January 18, 2007, the Commission classified this use as a conditional use within the zone. Schools are also allowed in this zone. He said a conditional use is something that is allowed in the zone, but needs to be looked at a little more carefully to help it fit in. It is a use that someone buying a property can expect to use, if they can make it fit in with reasonable conditions of approval. He has analyzed this proposal as a conditional use, and has suggested possible conditions of approval relating to office hours, noise, etc. He compared this facility to one he worked at once in Provo, Utah. This facility was located across the street from single family homes, and there were no vacancies in the homes that he was aware of. The facility he worked for was able to get grants for United Way vans, which he saw as an impact to the neighborhood. He suggested a condition of approval be that if they have these types of vehicles, they shall be fully screened from the public right-of-way. The facility he worked for was within walking distance to a park, which was a huge benefit for the clients. The clients were always an upbeat group. They did not interact very much with the residences, but when they did, it was positive. Because this zone is not our most restrictive zone, but is a transition zone in residential areas, a mix of use is healthy.

Charles Andersen asked Gary Leikness if the facility he worked for was licensed. Gary Leikness said he believes that once you get funding through United Way or similar agencies, there is a lot of scrutiny involved.

David Stein asked if we are able to put conditions of approval on this regarding family members being present. Stephen Zollinger said you could put a condition with relation to ratio of clients to supervision. We might not be able to make it mandatory that family members be present.

David Stein asked about the parking situation, there being 26 cars. Gary Leikness reviewed the parking requirements in the ordinance.

Mary Haley said as she investigated the property, she noticed snow has taken up quite a bit of the parking in the area. The island in the middle is not holding all the snow. People might be parking on the street.

Chairman Dyer referred to the Development Code, Article 6.13(F), which gives authority to the Commission to grant certain Conditional Use Permits. The Commission decided that since this proposal does not exactly fit into any of the listed uses, they should make a recommendation to City Council, who should make the final decision.

Chairman Dyer said the question before the Commission is “shall the Commission recommend to City Council to approve, deny, or approve with conditions this Conditional Use Permit?”

Chairman Dyer said he is personally acquainted with the Owen family, and he can ensure that there is nothing disingenuous about this proposal. They do have a challenged child, and they are looking for opportunities to meet and network with others of similar situation, and for a chance to get out of the home and have positive experiences with others.

Mary Ann Mounts said she does not see anything thing that would cause us to not recommend this. This is an allowed use with conditions. If we don’t think the conditions can be met, we can deny it. Otherwise, it is an allowed use with conditions. She spent 5 years working with life skill students in school; going bowling, out to eat, skiing, etc. She can say that this is a compatible use in this neighborhood, for these children to get together and spend time with each other and with their families. If you say this is a school, schools are allowed in this zone also. The comment was made that it is zoned for students, then why not these students? Why can they not fit in with college students? They fit in fine, they are just students. She sees nothing about this that would turn away tenants from their complexes. The opposite would be true. This will not be a “mental health facility.” This is for people with mental and physical disabilities to get together and spend time with each other and their families. She loved the time she spent working with these students. She sees no reason why this would be not be compatible with this neighborhood. The middle school is located next to railroad tracks, and the new high school is will also be close to a railroad. There was also an open canal next to the middle school when it was built.

Mary Haley said the Development Workshop is located within a block of Smith Park. It is nice to see people using the park for what they were intended. People are accepting of these disabled people. They are a part of our community, and we need more facilities like this.

David Stein said he thinks this is an appropriate use, and we need to place appropriate conditions of approval on this proposal. His biggest concern is parking. There is a risk of high traffic flow. We need to restrict it to the proposed hours. A parking plan needs to be submitted to the city and approved. He wants this to become what it is proposed to be.

Randall Porter said he endorses what the other Commissioners have said. He has had some experience working with these children, and the experience has been positive. Other facilities on major streets have not had problems with traffic, safety, or property values. His one concern is licensing, with ratios of supervisors to clients.

Mike Ricks asked if this will require a business license. Stephen Zollinger said it will be required to have a business license, and will require a building inspection for safety. He asked the Commissioners to attach a use category to this, for parking regulation purposes.

David Stein said the professional services designation for parking regulations would probably be appropriate, which is 5 spaces for 1000 square feet of building.

Mary Ann Mounts motioned to recommend to City Council to approve the Conditional Use Permit for 346 West 2nd South with the following conditions:

1. Trash receptacles should be fully screened from the public right-of-way and should not be visible from adjacent residential property.
2. There should be no outside storage of material or equipment unless fully screened from public right-of-way. This screening, if in itself is deemed objectionable by affected property owners, should be reviewed and approved by the Planning Commission or designee.
3. The hours of operation, other than general office usage, as proposed by the applicant shall be adhered to, unless future modifications are made and approved by the Planning Commission. The hours of operation shall be limited to:
 - a. Monday-Thursday 6pm-8pm
 - b. Friday 6pm-9pm
 - c. Saturday 9am-5:30pm
4. If the City receives noise complaints in excess of two, on separate occasions, within a period of 30-days, the applicant is required to come before the Commission and address the issue and explain how it will be resolved. If the situation becomes chronic (i.e. more than two visits before the Planning Commission in a 12-month period) revocation of the conditional use permit may be warranted.
5. Vehicles that are used in conjunction with the use, e.g. vans or similar, shall be fully screened from the public right-of-way.
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. Commercial lighting standards per the City's development code shall be adhered to.
8. Parking shall be held to the requirement for Professional Services (Physician), or 5 spaces per 1000 square foot gross floor area.
9. Applicant shall comply with all State, Federal, and local regulations.

Dan Hanna seconded the motion.

Mary Ann Mounts amended her motion that the ratio of supervisor to client be 1 to 3. **Dan Hanna** seconded.

None opposed. **Motion carried.**

7:30 pm – Annexation/Rezone – 1076 S. 12th W. (Kerry Schneider)

Kerry Schneider; 1716 N. 900 E. Ogden, Utah. They are proposing the annexation of a number of properties. He pointed out the properties on the map. Multiple property owners are seeking annexation. They want to get this annexed into the City without pockets of non-annexed properties around them. They want to master plan their property. They would like LDR2 zoning with an 800 foot wide commercial strip along 12th West. They believe there will be demand for residential and commercial around the new high school. They want to develop affordable entry-level housing. The impact zone runs through their property and makes it hard to master plan their property. They would like the entire property annexed. They understand that the County has concerns with annexing outside of the impact area. He said they did contact the County on 3 separate occasions to let them know what they were applying for.

Thaine Robinson asked how close the city services are to this property. They are extended to about halfway down this proposed property. Gary Leikness showed this on the map. Kerry Schneider said they will eventually have to have a lift station for the sewer.

Dan Hanna asked if they can proceed with their development and plans at this time if they do not get the Southern part of their properties annexed. Kerry Schneider said they have bought the property based on a price that assumes the city will annex the property.

Ted Hill asked what the Preferred Land Use map shows for this property. Gary Leikness pointed out the area on the Comprehensive Plan Map. The property is designated Low-Moderate Residential Density and Commercial.

Randall Porter asked how many homes can be placed on the property. Kerry Schneider said the property is a total of 147 acres, so approximately 325 homes could be built on this property.

Gary Leikness showed the property on the map, and the Comprehensive Plan Map designations on the property. He pointed out the City limits, the impact area limits, and the proposed annexation limits.

Chairman Dyer opened the public input portion.

In favor:

Darren Klingler; 1230 S. 12th W. He owns part of the property in question. He is in favor of the annexation, because these developers are going to pay for the city services to be extended. The City would be crazy if they didn't take these developers up on it.

Kirk Ricks; 1266 S. 12th W. He has a man whole in his front yard, so he's in favor of the annexation.

Neutral:

Brent McFadden; 5335 N. 6000 W. He represents Madison County as the Planning & Zoning Administrator. He is concerned that this is not all in the impact area. This is legal, but we have a problem when we start extending past the impact area. He sees no problem with the developers stopping at 2000 South and designing their subdivision to the North. They will do this anyway. They will design the South part of the property separately, because of the road. There is no problem with the annexation, but they would like to see it follow the procedures of expanding the impact zone prior to the annexation. The letter in the packets is from the County Commissioners. They see this as being developer-driven, and not good planning.

Ralph Robison; County Commissioner. He said Brent indicated the County Commissioners' feelings on this annexation. We should follow proper procedure in the effort to get along from one entity to another.

Opposed:

Bruce Howell; 2625 W. 2000 S. They operate a small specialized drilling operation on their property. They do fabrication and consulting on specialized projects. He rented the property in 1973. They purchased it a few years later. They later put in a large shop on the property. They are concerned that their business base is worth more than their home is, by a considerable amount. They are not against the annexation or development of the property, but it shuts them off from ever being able to sell their property as a small commercial home-based operation. They sometimes employ as many as 50 people on projects off site. They have been there long enough to be grandfathered, and they have built up to be more of a commercial operation. With the John Deere complex on 12th West, they believe the commercial was moving towards them. To put this residential strip in cuts them off from it. They are also concerned that if this property is annexed, they will be on the end of the city. They don't want everyone turning around in their driveway when they find they are at the end of the city. They are also concerned about their water rights. There is a ditch along the road, and he wants to keep his water rights. He would like the area South of 2000 South to have the option of being commercial or residential. He is afraid this will devalue his property.

Written Input:

Letter from Brent McFadden and the Madison County Commissioners, neutral to the proposal.

Rebuttal:

Kerry Schneider said in all the other developments they have done, they have had to pipe irrigation, because they can't just shut someone off from their water rights. Concerning the other issue with the turn around, there are not going to be any homes facing that road. They will have internal roads, and no driveways would face the main road at all. He said when they went to City Council, they were told that the City knew development was going to move West and South. They were instructed to take this to the next step. Also, they did not intend to step on anyone's toes. They want a result that is beneficial to everyone.

Chairman Dyer closed the public input portion.

Chairman Dyer declared a conflict of interest in that he is employed by the applicant elsewhere in town. He excused himself from the table.

David Stein was selected to act as chair for this issue.

Gary Leikness said we do not have land use designations outside the impact area, so it would be premature to rezone this to anything. He presented a pie-chart of current preferred land use designations in the impact area. He said the County, Sugar City, Rexburg, and BYU-Idaho have just hired a land use consultant that will help us steer development in the city. This area is prime for analysis and suggestions. If these areas were annexed, he would suggest leaving the areas designated as Commercial on the Preferred Land Use Map as Transitional Agriculture. He also recommended that if the land outside the impact area were annexed, that it remain at the same zoning it is currently zoned. He noted that adjacent land use conflicts are common when you expand into the County area.

The Commissioners discussed protocol for annexing into the County.

Thaine Robinson said he believes in order. We should wait for the County to increase our impact area before we annex the land outside it.

Mary Haley said we have had a problem coming regarding good commercial and industrial property in our town. She would be in favor of annexing as far as the impact zone, but leaving the rest of the property in the County. She would like to make room for industrial and commercial zones.

Mike Ricks said he feels we should not extend past the impact area. He would be in favor of only annexing what is inside the impact area.

Mary Ann Mounts motioned to recommend to City Council to annex only the area of the proposal that is inside the impact area, to allow the new planner to determine the best land use in the area. She motioned we zone the portion that is designated on the Comprehensive Plan Map as "Low-Moderate Residential Density" as LDR2, and leave the portion that is designated "Commercial" on the Comprehensive Plan Map as Transitional Agriculture 1 (TAG1). **Thaine Robinson** seconded the motion.

None opposed. **Motion carried.**

Winston Dyer was restored as Chair.

Chairman Dyer declared a 5 minute break.

8:00 pm – Conditional Use Permit – 347 W. Main (Woodshed Properties)

Kevin Snell, of Woodshed Properties, LLC, presented the proposal for the Conditional Use Permit at 347 West Main Street. The property is zoned Medium Density Residential 1.

Thaine Robinson asked where the accesses are. Kevin Snell pointed these out on the site plan.

David Stein asked why this proposal is before the Commission as a Conditional Use Permit. Gary Leikness said he interprets the Medium Density Residential 1 (MDR1) zone allowing a 4 unit building, per development, as a right. The zone allows 5 and 6 units as a conditional use. He wonders if this is even allowed in the zone at all.

The Commission discussed this proposal and how it fits into the Medium Density Residential 1 zone. They understood the zone as allowing up to 16 units per acre.

Kevin Snell said they want to create individual townhouses to be sold to individual families. They will eventually have 36 units with 36 families, each owning their own unit.

Stephen Zollinger suggested this proposal would need to come under the Planned Unit Development ordinance.

Mary Ann Mounts motioned to deny this application because it is the wrong process. The applicant needs to re-submit a proposal under the Planned Unit Development ordinance. **Mary Haley** seconded the motion.

Mary Ann Mounts amended the motion to include that the City will take care of any costs to re-notice. **Mary Haley** seconded.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business:

A. Final Plat – Valley View Division 6, Phase 3

Gary Leikness said Bart Stevens was unable to make it to the meeting. The GIS department has highlighted a few technical issues that will need to be addressed before the plat is signed. Substantively, this final plat is in compliance with the preliminary plat previously approved, so staff recommends approval.

The Commissioners discussed the street names and how they correlate with each other.

Chairman Dyer said the issues the GIS department pointed out will need to be fixed before anyone signs the plat. He said it is disconcerting to have this much of a concern at the final plat stage.

David Stein motioned to recommend to City Council to approve the Final Plat for Valley View Division 6, Phase 3, with the condition that the staff review issues be resolved prior to the plat being signed. **Dan Hanna** seconded the motion.

None opposed. **Motion carried.**

B. Final Plat – Valley View Townhomes, Phase 1

Chairman Dyer declared a direct conflict of interest and excused himself from the table.

David Stein was selected to act as chair for this issue.

Winston Dyer; The Dyer Group, 310 N 2nd E, Ste. 153, the authorized representative of DSC Investment. This is a proposal for approval of the Final Plat for Valley View Townhomes, Phase 1. The Preliminary Plat was previously approved through P&Z and City Council for the entirety of the property. This proposal embraces the Westerly portion. This particular piece has 2.9 acres and 7 lots proposed. These lots are to be single-family twin homes, which is consistent with the LDR2 zone. He pointed the area out on the map. Lot 7 on the plat is a non-conforming lot, and is therefore not developable. This piece could be turned over to the city in the future for the development of the water tower. Lot 1 is deemed to be a common area for the remaining five (5) ownerships. There will be a utility and road easement through the plat. The access road to 2nd East has been turned to square up to 2nd East for safety reasons. The five (5) developable lots are sized so twin homes can be built, and then split down the middle for separate ownership. There is a roadway access along the back. The buildings will front to this road, and will back to 2nd East. However, the appropriate front yard setback will be held from 2nd East. This development could result in an increase of 18 pupils in the schools. It would generate up to 12 cars in the peak hour. It will increase the tax base and help develop a challenged piece of land. It is consistent with the Comprehensive Plan and the residential use of the area. Staff comments say there is no flood plain designation on the plat, and this is because there is no flood plains anywhere near this property.

Gary Leikness asked if there were any access restrictions for lots 2 through 6, and if there should be a condition for lot 7 to be dedicated. He said he is concerned with the private access easement along the back side of the lots. It approaches Sunrise Drive in that area, which will be a future extension to the East. He recommends that access not be a road access, but the access follow the curve to the 2nd East connection. Winston Dyer said that is the intent. Gary Leikness said his understanding is that the entire approach of Tower Road will be improved, as well as half street improvements on Tower Road abutting lot 6.

Mary Ann Mounts motioned to recommend to City Council to approve the Final Plat for Valley View Townhomes, Phase 1. **Mike Ricks** seconded the motion.

None opposed. **Motion carried.**

Winston Dyer was restored as Chair.

C. Development Code Revisions – TAG1 and TAG2

Gary Leikness presented staff's proposed amendments to the Transitional Agriculture 1 (TAG1) and Transitional Agriculture 2 (TAG2) zones. The Commission discussed these proposed amendments.

The Commissioners set the public hearing date for the TAG1 and TAG2 Development Code revisions for April 5, 2007.

D. Sign Height Requirements along Interstate Interchanges

Gary Leikness said they have the potential to bring to the Commission an ordinance that allows a varying sign height standard for properties near the highway interchanges. It has been brought to the City's attention that signs near the highway may be less visible to travelers with a sign height of 24 feet. It has been requested that we review

the sign ordinance to see what changes, if any, can be made to requirements for signs in these areas. He presented a proposal with several options of how to increase sign height and size along the highway interchanges. The proposal included some pros and cons of changing the ordinance. He asked the Commissioners to take the proposal home, review it, and let him know how they feel about it.

The Commissioners discussed this issue.

Mary Ann Mounts suggested we amend the ordinance to give the housing complexes specific time periods in the year when temporary banner signs are allowed. It is too difficult to regulate these banners under the current ordinance.

Chairman Dyer asked the Commissioners to come prepared to the next meeting to articulate their concerns and positions on these matters. They will deliberate and debate the sign ordinance issues.

Non controversial Items Added to the Agenda:

Gary Leikness said the County, Sugar City, BYU-Idaho, and Rexburg have decided on a planning consultant firm out of Salt Lake City. He said hopefully the consultant will include the Commission through the whole process.

Chairman Dyer encouraged the Commissioners to be supportive and cooperative in this effort.

Stephen Zollinger said the school district is also involved in this process.

Gary Leikness asked if March 28 would work for the joint meeting with the County and Sugar City. This is a tentative date. The Commissioners said this date would work.

Gary Leikness said he would like some feedback on the PUD ordinance as soon as possible. Some developers are waiting for the ordinance to be adopted. He asked them for their feedback *in writing*.

Chairman Dyer suggested we make this an item on the next meeting's agenda. He asked the Commissioners to give their input to Gary before this date.

Report on Projects: None

Tabled requests: None

Building Permit Application Report: None

Heads Up:

- A. Conditional Use Permit – Henry's Fork Plaza Church (Mark Paulsen)
- B. Variance – Head Start Building – 55 W. 2nd N.
- C. Annexation/Rezone – 701 S. 12th W. (Blair Heinz)

Chairman Dyer adjourned the meeting at 11:48 pm.