

Planning & Zoning Minutes

September 20, 2007

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Commissioners Attending:

Winston Dyer – Chairman
Mary Haley Thaine Robinson
Ted Hill Dan Hanna
Mike Ricks

City Staff and Others:

Rex Erickson – City Council Liaison
Gary Leikness – Planning Administrator
Stephen Zollinger – City Attorney
Emily Abe – Secretary

Chairman Dyer opened the meeting at 7:17 pm.

Roll Call of Planning and Zoning Commissioners

Ted Hill, Mike Ricks, Winston Dyer, Mary Haley, Thaine Robinson, Dan Hanna

Charles Andersen, Randall Porter and **David Stein** were excused.

Minutes:

A. Planning and Zoning meeting – September 6, 2007

Corrections:

P.4 – under Mary Ann Mount’s amendment to her motion, change “50 feet from the curb” to “at least 50 feet from the back of sidewalk to the gate to allow for safely parked vehicles with trailers.”

Dan Hanna motioned to approve the Planning & Zoning minutes for September 6, 2007, as amended. **Mike Ricks** seconded the motion.

None opposed. **Motion carried.**

Public Hearings:

7:05 pm – Rezone – LDR2 to MDR2 – 710 S 5th W (Terry Madsen)

Terry Madsen, 535 Maple Drive; owner and applicant. We have realized that with the direction the City is going in change in land use, we realized it is perhaps possible to rezone this parcel and develop it into four (4) three-bedroom, two-bath duplexes.

Mary Haley asked what the use is now on the property. Terry Madsen said we currently have a duplex with a family upstairs and four people downstairs.

Dan Hanna asked if the existing home would be demolished. Terry Madsen said it is not their plan to demolish the home. We understand that part of what would be required would be curb, gutter, and culverts on the ditch on the north and east sides of the property.

Thaine Robinson asked how you can go from low density to medium density without impacting the schools. Terry Madsen said it depends on who moves in, and how many children they have.

Chairman Dyer asked if there was a site plan for what they would eventually be proposing. Terry Madsen said there is not. We were waiting to see if the zone change was approved.

Gary Leikness reviewed the existing zoning in the area.

Chairman Dyer opened the public input portion.

In favor: None

Neutral:

Jordan Busby; 752 S 5th W. I got a little information from Mr. Madsen at the beginning of this meeting. I feel like that whole area has been approved for some planning that has not been done correctly. Hyde Park had a whole list of requirements when it was developed that they have not lived up to. They dug up my canal twice and I was without water for a whole summer. They fixed my canal, but they haven't done everything else they were supposed to do. If this project does go through, which I hope it doesn't, I hope Planning & Zoning and City Council will make sure all the requirements are done before occupancy is allowed to take place. I have a canal running through Madsen's property, but there is a way we would fix this if this proposal goes through. Directly across the street from this property is another house that we don't know what it is zoned. We are told that there is a family living there, but every morning there are over 10 cars parked there, 4 from different states. I am worried about what will go on the corner there that will affect my property value in years to come. I don't feel like we are being satisfied. We are getting a lot of lip service. We are setting a dangerous precedent in Rexburg if we don't start to enforce these things. I just want to ask that if you do approve it, that you make sure it is aesthetically pleasing to the eye. Hyde Park is not an aesthetically pleasing development. I have almost 3 acres in the area that I am trying to protect for me and my family.

Brock Goff; 725 S 5th W. I own the home talked about that has all the cars. My family does live there. We buy and sell cars. There are cars from different states that I am working on. I personally own three (3) vehicles, my brother owns two (2), and my little brother and my sister both have one. We do have a cousin living with us, and we have a friend living with us. I am the only college student that lives there. My mother died last year, and I am the legal guardian of my little brother, who attends Madison High School. I apologize to the neighbors. I am sure we have caused some problems. If they want to talk to us, that is fine. None of the neighbors have ever talked to us. I am personally in favor of the proposal. I am not against it.

Opposed:

Randall Foster; 728 S 5th W. I want to give you a brief history of the property. It was annexed into the City as LDR2. On December 12, 2001, the owner got a conditional use permit. He is still operating under a conditional use permit for two family units. The whole neighborhood is being taken over by apartments. Some of us are here for what is going to be the less of two evils. We could take what Mr. Madsen has to develop there, or wait for someone else to come in and do something worse. We haven't had a good history with the developments that have gone on. Hyde Park hasn't fulfilled their promises. This other gentleman is living in a home that is still zoned as a single family residence. It sounds like they are running a business out of it by buying and selling cars. We are pretty weary of any more development going on, unless we can actually see something on paper to provide a legal aspect

that this gentleman is going to come in and do what he says he will do. I would be 100 percent against the zone change. This is spot zoning in the low-density area. I have had a lot of experience with developers, and most of the experience has not been good. Mr. Madsen probably bought this property at the price of LDR2. If the property is zoned to medium density residential, the property price will go up. By changing the zone, you will probably make Mr. Madsen a considerable chunk of money, but you will de-value the neighboring properties.

Written Input: None

Rebuttal:

Terry Madsen, 535 Maple Drive. We understand the concerns. Just to clarify, when we bought the property, we were moving to Rexburg, and our business was going under where we were moving from. We were looking to buy existing duplex rental properties for our retirement program. We are not necessarily developers. I understand the plight of this gentleman here, because we thought bought our other home as a duplex. When we moved in with seven (7) children, we created an adverse affect upon the neighborhood. I understand the concern of appearing to be a rental property when you are a single family. We did not buy this property with the intent of seeking a zone change or doing different developments. We discovered that the direction the City was going was that, so my wife and I decided that perhaps we could do this. We also own a unit in Hyde Park, and people call more often than not asking for a three-bedroom unit. We saw a need for three-bedroom housing for people going to college. The requirements that would be set forth based on parking, landscaping, etc. would really preclude us from doing anything large. Our intent was simply to provide housing for young families. We are limited on that small parcel as far as what we can develop. We wanted to put something in that would be a transition from the higher density to the lower density. Hyde Park is not aesthetically pleasing. We own one, and it is not something we are happy about, but that is the way it is. When I read the staff report, the recommendation of going to MDR1 would certainly be consistent. We asked for MDR2 because of a misunderstanding of what would be allowed on the property. Now that I understand, MDR1 would be fine with us.

Chairman Dyer closed the public input portion.

Gary Leikness presented the staff report. The zoning request is in compliance with the comprehensive plan. He recommended a zone of Medium Density Residential 1 instead of Medium Density Residential 2.

The Commissioners reviewed the Comprehensive Plan Map in the area.

Chairman Dyer asked about the staff report, and the statement that because of City requirements of setbacks, etc, the property will not have adverse impacts on surrounding properties. Either this is going to have impacts, or it is going to be so restrictive that the applicant won't be able to do anything with the property anyway. Gary Leikness said he believes the latter is more accurate. He explained what the property would have to do to meet the standards, and how this would minimize the impacts. All the parking would have to be screened from the right-of-way.

The Commissioners discussed the proposal.

Chairman Dyer said the Commission is very sensitive to this neighborhood and what is happening over there. We have had a long history, and the neighbors are correct in the fact that people have not lived up to their commitments. We still have violations of our code, and despite numerous visits by compliance officers, we are not getting compliance. This might be reflected a little in our deliberations.

Mike Ricks said as long as there are single family residents around this property, I am not going to support changing the density of the property. Even though the zoning says this is possible, when someone buys all those single family homes around that block, then we will talk higher density. I am not in favor of this at all.

Thaine Robinson said leaving that house there will create a challenge to develop anything else with the design standards we have.

Ted Hill said the request would create additional requirements for parking spots. Traffic on that road is going to increase substantially. Part of this will be due to University Boulevard. Staff has indicated that this is not a major roadway, but the traffic will increase there.

Chairman Dyer said in the past, we have had quite a bit of input from the neighbors, and we have tried to preserve the single family neighborhood. We have asked for buffering and transition elements. We have had testimony tonight that it isn't being done and that it isn't effective. At the same time, the reason it is Comprehensive Planned as higher density is that we recognize that the larger neighborhood in the area is in transition. We have a remnant island of single-family residential. It is a hard question, as to what point in time we move forward with increasing the density. We ought to be looking at a proposal that is more of a neighborhood request, where we are doing more with more property. There is a legitimate concern about the property values. When we look at the technical requirements of the code, it doesn't look like anything can be done there anyway.

Mary Haley said the Comprehensive Plan is developed with the future in mind. The zone takes care of what is there now. What is there now is single family residential with the possibility of a conditional use permit for a duplex. I think this neighborhood will eventually change, but it is not changing now. We have a natural barrier of 7th South and 5th West. I cannot see changing the zone here.

Dan Hanna said I am leaning towards the staff recommendations. The Comprehensive Plan suggests that this property can be rezoned, and we have the rules and regulations in order to effectively comply with the applicant's request, if he can meet our standards. The only other side of that is that he could decide there would be more value in tearing down the existing home and redeveloping the entire acre.

Mike Ricks motioned to recommend to City Council to deny the zone change from LDR2 to MDR2 at 710 South 5th West because of the single family homes that are adjacent to the property. **Mary Haley** seconded the motion.

Mike Ricks clarified his motion that this proposal is not compatible with the directly adjacent neighborhood. **Mary Haley** seconded.

Those in favor:

Winston Dyer
Thaine Robinson
Mary Haley
Mike Ricks
Ted Hill

Those opposed:

Dan Hanna

Motion carried.

Unfinished/Old Business: None

New Business: None

Compliance:

The Commission discussed various compliance issues around town.

Non controversial Items Added to the Agenda:

1. Zoning Definition Request – Randall Rhead

Gary Leikness said the applicant wondered if his business would fit into the Light Industrial or a commercial zone.

The Commissioners decided Light Industrial was the right zone for the proposed use of a powder coating business. A commercial zone like CBC would be inappropriate.

Tabled requests:

1. Preliminary Plat – Silver Estates

Issue remained tabled.

2. Sign Ordinance – Statement of Intent

Issue remained tabled because only six Commissioners were present.

Report on Projects: None

Building Permit Application Report: None

Heads Up:

1. Variance – 290 N 1st E – Madison School District

Chairman Dyer adjourned the meeting at 9:17 pm.