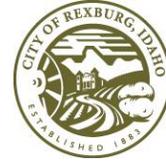


# Planning & Zoning Minutes

August 4, 2011



CITY OF  
**REXBURG**  
America's Family Community

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Rexburg, ID 83440

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## Commissioners Attending:

Winston Dyer – Chairman  
Dan Hanna                      Thaine Robinson  
Jedd Walker                      Nephi Allen  
Scott Ferguson                  Cory Sorensen

## City Staff and Others:

Stephen Zollinger – City Attorney  
Daren Spencer – Community Development Intern  
Elaine McFerrin – P&Z Coordinator

**Chairman Dyer** opened the meeting at 7:03 pm.

Community Development Director Val Christensen was excused from the meeting.

## **Roll Call of Planning and Zoning Commissioners:**

Scott Ferguson, Nephi Allen, Dan Hanna, Winston Dyer, Thaine Robinson, Cory Sorensen, Jedd Walker

Marilyn Rasmussen, Richie Webb, Gil Shirley, and Mary Ann Mounts were excused.

## Minutes:

1. Planning and Zoning meeting – July 21, 2011

**Thaine Robinson** motioned to approve the Planning & Zoning minutes of July 21, 2011. **Scott Ferguson** seconded the motion.

Nephi Allen, Winston Dyer, Dan Hanna, and Jedd Walker abstained for not having been present. None opposed. **Motion carried.**

## Public Hearings:

7:05 pm – Conditional Use Permit (CUP) - 881 Jet Stream Drive – to allow an “Off-Premise” Sign

**Chairman Dyer** explained the procedure that is followed for public hearings. The applicant or representative will present the proposal. The Commission may then ask clarifying questions of the applicant and staff. Public testimony will then be taken. Staff evaluation and recommendations will be given. The Commission will then deliberate in order to come to a decision.

**Greg Bitter**, 2806 North River Rd, St. Anthony. He is the applicant representing PMS Dune Rentals. Justin Packard, property owner of the subject location, could not attend the meeting tonight. Photos of the location showing the sign on the southwest corner of the Madison Gymnastics building were distributed to the Commissioners. It is very securely fastened. They do not want it to come apart in the wind. The location is a good one for their sign because it is visible from Highway 20 to anyone going north up to West Yellowstone. They do ATV rentals for the St. Anthony Sand Dunes. They heavily advertise in West Yellowstone and Jackson Hole. Their focus and emphasis has always been to try to attract perspective clients staying in those areas over to the Sand Dunes. The advantage to Rexburg is that a lot of their clients may do something here. Some of

their employees are from this city. They get parts and other necessary items for their business from Rexburg and feel they have a strong affiliation with this city.

**Chairman Dyer** asked if the banner sign is already up on the building.

**Greg Bitter** said it is up.

**Chairman Dyer** asked why.

**Greg Bitter** stated that he started this process in April 2011 when they submitted a permit application. It was denied. He did not know why. He turned to his legal counsel. It was discovered that they were given the wrong permit to begin with. In June he told the City he needed to get this banner up because of their short season. Staff gave him temporary approval to put up the banner but told him the issue would need to go before the P&Z Commission for a decision.

**Stephen Zollinger** said as a result of a clerical error that was made by staff, the applicant was granted an administrative permit to put the sign up. The applicant was made aware that the Commission's decision tonight would ultimately dictate whether the sign would be allowed to remain up.

**Greg Bitter** said their season is very short at the sand dunes. There is only a three or four month window, and they had already wasted half of it.

**Chairman Dyer** said the Commission recognizes this concern, but there are eleven members on this Commission who give their service and their time to the community. There are procedures and protocol. Please understand that point of view as well.

**Thaine Robinson** clarified that this sign is a temporary sign.

**Greg Bitter** said that was correct.

**Thaine Robinson** said a temporary sign permit would be for 60 days.

**Mr. Bitter** understood that there are two permits - there is a temporary sign permit for 60 days but there is also a conditional one good for a year.

**Stephen Zollinger** clarified that there are two distinct sign permits that are available. One allows the applicant to put soft banners up if they are affixed to a permanent frame – it would be governed by permanent sign standards. There is also a temporary wall banner – it can be up to 20% of the building wall space with a time limit of 60 days. Permanent sign standards would reduce the sign size to 10%, 12%, or 14% of the building wall.

**Thaine Robinson** asked if this request had anything to do with the heights of signs.

**Stephen Zollinger** said the request is for a wall sign only. If the applicant were requesting a free-standing sign, the sign would be governed by the 24-foot height restriction.

A wall sign is restricted by the wall itself.

**Thaine Robinson** said the basic reason for the Conditional Use Permit hearing tonight is for an off-premise sign.

**Stephen Zollinger** stated that was correct. An off-premise sign offers a service or product that is not for sale at that location.

**Nephi Allen** asked if the intent was to take down the banner sign in the off-season and then put it up again when it is the season.

**Greg Bitter** said that is their intention.

**Dan Hanna** asked how effective the sign has been for the business.

**Greg Bitter** said as of right now, they do not know if they would put the sign back up again. They will evaluate its effectiveness.

The **Chairman** thought it may be a little confusing because the advertised business is not in the gymnastics building where the sign is located.

**Mr. Bitter** said the sign does specify to take the next exit to the sand dunes. They are hoping that people look at the phone number or the internet web address on the sign. The owner of the gymnastics business has not expressed any concerns about people coming into the building looking for the dune rental business.

**Chairman Dyer** said the applicant had alluded in his presentation that there were advantages for Rexburg. He asked the applicant to address why this request is in the best interest of the community of Rexburg.

**Greg Bitter** said the question is do they want to draw in any type of business from outside areas. He would think the answer is yes. They are trying to target Jackson Hole and West Yellowstone to get people down to this area. When people come to the St. Anthony Sand Dunes they are often referred to Rexburg to eat, stay overnight, get gas. etc.

**Chairman Dyer** asked why this sign would not be put in St. Anthony.

**Mr. Bitter** said they are trying to catch people going north. The subject location is a good one with the best visibility. He would hope to also have a sign in St. Anthony.

**Scott Ferguson** asked the definition of “temporary sign”.

**Stephen Zollinger** quoted from Sign Ordinance No.1027- a temporary sign ... “is intended to be displayed for no more than thirty (30) days consecutively and is not permanently affixed... and may not be used more than sixty (60) days in total during any calendar year...”.

**Greg Bitter** asked about the other type of sign permit.

**Stephen Zollinger** said the other type of sign permit is for a permanent sign, which would be a sign up over sixty (60) days and permanently affixed –“... Wall banners up for 60 days or less are considered temporary; all others are considered permanent and shall adhere to applicable sign standards...”

**Greg Bitter** said their whole intent was that they would have the 90-day window from Memorial Day to Labor Day.

The **Chair** said the copies of the PMS Dune Rentals sign application that the Commissioners have before them indicates the sign would be removed between September 15<sup>th</sup> and September 20<sup>th</sup>. That exceeds the 30-day allowed time. They could go 30 days and then re-apply for an additional 30 days as long as they do not exceed 60 days in total during the calendar year.

**Mr. Zollinger** said that was correct.

**Thaine Robinson** asked if the banner sign complies with the 10 % rule of the maximum area for wall signs.

**Greg Bitter** said they are way under that figure.

**Chairman Dyer** asked **Stephen Zollinger** if there was any information he wanted to add to help the Commission to understand the proposal.

**Stephen Zollinger** said all relevant points have been addressed.

**Chairman Dyer** opened the public input portion of the hearing.

**In Favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:** None

**Chairman Dyer** closed public input and asked for the staff evaluation and recommendations.

**City Attorney Stephen Zollinger** stated that **Community Development Val Christensen's** staff report states that "...the Commission should determine if the purpose of the Conditional Use Permit required for off-premise banners includes advertising for business located in other jurisdictions." This industry clearly has roots in the Rexburg, Madison County, and Fremont County area. A considerable number of people who visit the sand dunes use Rexburg's hotels from April through October. How far-reaching such permit requests should be is something the Commission needs to consider.

**Dan Hanna** said the request is for a temporary sign to be displayed on the building from Memorial Day to past Labor Day and asked if that was allowed under the ordinance.

**Stephen Zollinger** said it would not be allowed as a temporary sign but may be allowed under a Conditional Use Permit. Tonight the Commission needs to evaluate the issue addressing the sign being up from now until just past Labor Day. If the applicant wanted to have the sign up longer than 60 days next year for his target season, he would need to submit an application for a permanent sign.

**Thaine Robinson** said his concern is if this request was just for a regular banner sign the Commission would not even be seeing this issue. Because it is for an off-premise sign, the request is before them. Because this is the first one coming in, it would be setting precedent if this request is allowed, although it would have to come back each year through a CUP application. This banner is the size of a billboard. The Commission did not want to see billboards along and through the City. It could open the door for many more. He is looking 5, 10 or 15 years down the road. When traveling to Salt Lake City, all one sees upon getting to the north Ogden area is billboard sign pollution for about 3 miles. It does not look good.

**Chairman Dyer** stated the Commission has long been concerned about the Highway 20 corridor, going so far as wanting the City code to address this corridor through special treatment and special consideration of conditions, including the banning of billboards along the corridor. The Commission studied long and finally formulated some special design and landscaping standards for the corridor, so there would be aesthetic benefit for the community and to not overly distract from the vista that is eastward. Standards for signs along the corridor were thoroughly discussed, but research this week has indicated that this portion of the discussion did not get put into the books. He echoes **Commissioner Robinson's** statement about setting precedent. In theory, every building along the highway corridor could have walls plastered with temporary signage. There is concern of opening the door and where it will go. The Commission recognizes that recreational vehicle use is part of the area economy. Regarding how this matter benefits the citizens of Rexburg, one is not sure it is in the community's best interest, especially when the sign is advertising something off-premise and a business elsewhere. The Chair is struggling with this proposal and reiterated his concern for the highway corridor. A lot of hard work and time was put into this matter.

**Dan Hanna** said that based on the current ordinance, this sign banner does comply, other than addressing the Conditional Use Permit and the length of time the sign is up.

**Chairman Dyer** said the Commission's charge is to look at impacts and their potential to the community for any Conditional Use Permit requests. If something is found to not be in the neighborhood's or community's best interest, even though the code may allow the conditional use it is not an automatic thing. It does not have to be granted.

**Dan Hanna** felt any business activity within this region does have economic impact on Rexburg. It is helpful and beneficial to the greater good of the community. The dune rentals may even be beneficial for the local people who do not have access to such vehicles. Most of the Chair's concerns are not addressed by the ordinance.

**Jedd Walker** said regarding temporary versus permanent signage, if this sign were a permanent sign, it could still be interchanged with other signs throughout the year if in a permanent frame.

**Stephen Zollinger** said that was correct. The City's Sign Ordinance No. 1027 allows for a temporary sign to be put in a permanent fixture (*"...A business wishing to have an area for wall mounted banner signs that allow interchangeability ... may do so by providing a tasteful, permanent looking frame..."*).

The **Chair** clarified that any off-premise sign automatically triggers the Conditional Use Permit (CUP) process, whether the sign is permanent or temporary.

A temporary sign would have a time limit and could be applied for again the following year.

**Stephen Zollinger** said if the request is for permanent signage, the CUP for an off-premise sign could be allowed indefinitely.

**Jedd Walker** said he does not see the request as establishing a precedent because anyone that wants such a sign for 60 days would come before the Commission because of the CUP process. The Commission has the right to say no at any time. It would not be establishing a trend that has to be maintained.

**Chairman Dyer** said it would be difficult to tell others "no" when one has been told "yes".

**Scott Ferguson** said the question is whether the applicant should be given 30 more days this year. He does not see precedent in this issue.

The **Chair** said he is looking further down the road. At another time, they need to have a discussion addressing signage in this corridor.

**Thaine Robinson** said regarding best interest to the citizens of Rexburg – even the applicant said people would not get off into Rexburg once past the sign. He does not see a lot of people turning around. He does not look at a lot of signs when driving somewhere and is not sure signs are the biggest economic development boost a business can have.

**Nephi Allen** said if someone is going to the sand dunes, the sign is in the perfect place. After being at the sand dunes, visitors could come back into the area by way of 2<sup>nd</sup> East for food or fuel, etc.

**Stephen Zollinger** said **Commissioner Robinson** is right - this is not a sign intended to get people off the freeway and into Rexburg.

**Chairman Dyer** stated the question before the Commission is, shall a Conditional Use Permit for the PMS Dune Rentals banner sign currently installed on the Madison Gymnastics building, be approved or not, to stay up until September 15-20<sup>th</sup> (as the application states)?  
He clarified the request is for an off-premise temporary sign.

**Stephen Zollinger** said staff is taking responsibility for the fact that the sign is up. The Commission is being asked to consider if the sign may stay up from now to September 15<sup>th</sup> or 20<sup>th</sup>. This time is less than 60 days.

**Dan Hanna** said the sign complies with the current ordinance.  
The **Chair** said the sign is permissible under the current ordinance and the right conditions.

**Dan Hanna** motioned to approve the PMS Dune Rentals LLC Conditional Use Permit request for an off-premise sign currently located at 881 Jet Stream Drive, extending the time the sign may be up on the building to September 20, 2011. **Jedd Walker** seconded the motion.

**Thaine Robinson** said if the City had not made an error in the application process he would vote against this issue. Since there was an error made, he sees the request as a correction of that error.  
**Dan Hanna** reiterated if the sign is in compliance with the ordinance, he cannot say the applicant cannot do it.

Those in Favor:

Scott Ferguson  
Dan Hanna  
Nephi Allen  
Thaine Robinson  
Cory Sorensen  
Jedd Walker

Those Opposed

Winston Dyer

**Motion carried.**

The **Chair** said he opposed this request because it is too impactive for the Highway 20 corridor even though the ordinance says it may be allowed through a conditional use permit.  
Regarding the corridor issue, the Development Code would need to be addressed soon.

**Unfinished/Old Business:** None

**New Business:** None

**Compliance:** None

**Non controversial Items Added to the Agenda:**

**Scott Ferguson** wanted to bring up two concerns.  
Earlier this week, he had briefly discussed his concerns with **Compliance Officer Natalie Schneider**, who was not able to be here tonight to bring the issues before the Commission.  
His first concern was enforcement of life safety issues in the rental market; he feels a lot of the life safety requirements are not enforced.

**Stephen Zollinger** said any life safety issue the City becomes aware of is vigorously pursued.

The Building Code states that minimum life safety standards must be met. A City Ordinance addresses life safety inspections.

**Scott Ferguson's** second concern was the Conditional Use Permit process and the fees that are involved. He felt the fee should be commensurate with the project. Some of the fees that are charged discourage rather than encourage development and improvement of properties.

**Stephen Zollinger** said the fee is directly related to the cost of conducting a hearing – publication of notices, staff, mailings, postings – it has nothing to do with size of the project. The issue could be addressed at a future joint meeting of the P&Z Commission and the City Council.

**Stephen Zollinger** will speak further about these concerns with **Val Christensen**.

**Report on Projects:** None

**Tabled Requests:** None

**Building Permit Application Report:**

**Heads Up:**

The Commission made the decision to cancel the August 18<sup>th</sup> P&Z meeting due to not having any new business items and difficulties in securing a Commission quorum the last few meetings.

The meeting was adjourned at 8:25 pm.