

Planning & Zoning Minutes

November 3, 2011



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Winston Dyer – Chairman
Mary Ann Mounts Thaine Robinson
Dan Hanna Richie Webb
Jedd Walker Nephi Allen
Scott Ferguson Marilyn Rasmussen
Gil Shirley

City Staff and Others:

Val Christensen – Community Development Director
Daren Spencer – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Dyer opened the meeting at 7:02 pm. He welcomed everyone, including several students from a government class. In America, everyone gets their chance to speak without fear or intimidation. The Commission follows the procedures stated in Roberts Rules of Order. The Chairman helps to make sure everything is done in order and that everyone is given the opportunity to have their say. There is a scheduled public hearing on tonight's agenda. Be observant of the hearing process tonight to see how this procedure works. The Commission is grateful for the audience's interest in the community.

Roll Call of Planning and Zoning Commissioners:

Mary Ann Mounts, Gil Shirley, Richie Webb, Scott Ferguson, Winston Dyer, Thaine Robinson, Marilyn Rasmussen
Cory Sorensen was excused.

Minutes:

1. Planning and Zoning meeting - October 20, 2011

Marilyn Rasmussen motioned to approve the Planning & Zoning minutes of October 20, 2011.
Scott Ferguson seconded the motion.

Thaine Robinson, Gil Shirley, and Mary Ann Mounts abstained for having not been present.

None opposed. **Motion carried.**

Nephi Allen arrived at 7:04 pm.

Jedd Walker arrived at 7:06 pm.

Public Hearings:

7:05 pm – Rezone – 420 and 450 West 4th South – Community Business Center (CBC) to Mixed Use 2 (MU2)

Chairman Dyer explained the procedure that is followed for a public hearing. First, the applicant or representative will present the proposal. The Commissioners may then ask clarifying questions of the applicant and staff to help them understand the proposal. There will then be the public testimony portion of the hearing. Staff evaluation and recommendations will be given, followed by

deliberation of the matter by the Commission in order to come to a decision, based on the evidence and the information that is put forward.

Christopher Carr, 420 and 450 W. 4th S, the applicant. He presented the Rezone proposal. The property was formerly the Magnuson Hotel and before that the Best Western Cottontree Inn. Their intent is to change the property from the Community Business Center (CBC) zone to the Mixed Use 2 (MU2) zone. The current hotel would be converted to studio apartments – community housing for everyone. They believe they will primarily have newlywed students as residents. The apartments will have small kitchenettes. There will be prime common areas - the existing swimming pool, a couple of community kitchens, and a couple of community family rooms. There will be a real sense of community.

Mr. Carr stated they are spending a lot of money to renovate the building and property to bring it back to its former glory days. It was built in 1977. His mother-in-law actually planted the trees that are on the property. They do have a long history in Rexburg. He believes they are the second largest apartment owners in Rexburg, owning three single student housing apartment complexes. This is their first foray into married housing, but anyone can live there, as it is community housing. Their goal is to finish the renovations by about the first of January; they will then be open for business. So far, they have pre-leased about 25 % of the units. This rezone request is in conformance with the City’s master plan for the area.

Thaine Robinson asked the applicant to explain the kitchenettes (cinderblock walls) and to address the length of the rental agreements that will be offered.

Christopher Carr said they are not increasing the room sizes. The cinderblocks are actually beautiful architectural blocks. In the wall that adjoins the bathroom there will be a sink base and a 24-inch refrigerator, and some cabinets with a microwave shelf. The City is aware of all changes. There will be sprinklers per the Fire Code requirements.

Mr. Carr stated that their goal is to have annual leases; that would be the most affordable lease. They are planning to offer 6- month leases for a small premium and possibly month to month leases for a premium. The apartments will be marketed to everyone, although they think that their residents will likely be primarily newlyweds.

Mr. Robinson said this project is the first of its kind in the City – studio apartment rentals. His concern is that it does not turn into a “half-way house”. He is concerned about rental lease agreements.

Mr. Carr said the complex very definitely would not become a “half-way house”. They are the second largest apartment owners in Rexburg. They work very closely with the University. The University has expressed to the owners the need to have flexibility - there is the possibility of students leasing apartments for a month or two in this subject complex when they have graduated. The students may have to linger longer in this area because of on-line classes or internships. Those students, because they have graduated, have to move out of single student housing. The owners do not want to be inflexible to the market although they definitely would prefer yearly leases. They want to definitely discourage the idea of a “half-way house”; their way of doing that is by lease price.

Dan Hanna arrived at 7:13 pm.

Richie Webb asked the planned number of units.

Christopher Carr said there will be 101 units, with several shared spaces for community use - about 6 community rooms for fitness, laundry, shared kitchens that have full stoves/ovens, etc. They want the complex to be amenity-rich for their residents. Each unit could have up to two people.

Richie Webb asked the parking ratio.

Christopher Carr stated there will be about 220 parking stalls.

Val Christensen clarified that there would not be able to be any more than 2 non-related people in each unit by City Ordinance (definition of Family).

Chairman Dyer asked if the applicant had approached neighboring property owners to see if they wanted to join in the change of zones to change the block rather than one property.

Mr. Carr said he did not approach neighboring property owners.

The Comprehensive Plan Map was shown, focusing on the subject area.

Val Christensen said two Comprehensive Plan Map land use designations split the property – the front part is Neighborhood Commercial/ Mixed Use and the rear is Moderate-High Density Residential. The applicant could pick a zone under either designation by law. It was felt that with the front of property and neighboring properties having commercial at this time (restaurant, laundromat, former Chamber of Commerce building), the MU2 zone would make more sense than an HDR zone.

Chairman Dyer asked staff to explain for the benefit of those in attendance why a change in zones is necessary.

Val Christensen explained that the current zoning is Community Business Center (CBC), which is strictly a commercial zone. That zone allows a motel but does not allow apartments. That is why a zone change has been requested. Mixed Use does allow apartments.

Mary Ann Mounts asked if all the units have an outside window.

Mr. Carr said all units have an outside window. There is proper ingress/egress. Life safety issues have been addressed.

Chairman Dyer asked if the applicant has had conversations with the University about this plan.

Christopher Carr said they have spoken with BYU-I reps but the housing is not approved by them. The University does not approve married housing; they approve only single student housing. The University likes the project because it will bring a high quality product to the marketplace at the lowest price point. This will be a beautiful complex that may also serve beauty school students.

The **Chairman** asked for any input from **Phil Packer**, BYU-I representative in the audience.

Phil Packer said the University is glad for this housing project. The University Housing Department is happy to consult, but he clarified that this is not approved housing.

Chairman Dyer asked if the public had any questions to help them understand the proposal.

A woman in the audience asked if newlyweds with a child would be allowed as residents.

Christopher Carr said from a health and safety standpoint, there should not be more than two people per unit. They would encourage the people to find apartments elsewhere if the family consisted of more than two people.

Chairman Dyer asked if a Conditional Use Permit (CUP) would be required later on for this plan.

Val Christensen said if the applicant had requested High Density Residential zoning, a CUP would not be necessary. It was felt that was not the best zoning to request.

The City's Ready Team felt that with the MU2 being requested, if the applicant has to do a CUP regarding percentage of renters/commercial, it would be something the City would step up and pay for, as the City sees what is being requested tonight as the best zone for the use. This is an existing building and not a new building.

The commercial percentage meets the spirit of the ordinance, but it is borderline, a gray area.

A woman in the audience asked the definition of a "half-way house".

Thaine Robinson explained what he meant with the term "half-way house": a place where people may come and go frequently, staying 3 or 4 days, almost like a hotel. That is why he asked the length of the rental leases. If the leases were very short, he would be very concerned.

Christopher Carr said they trying to have sense of community. They want to work hand in hand with the City. They want this project to be a win-win for the City, the community, and for them.

Chairman Dyer added that the community is interested in stability and things that will make a good, stable neighborhood. This point could be a condition.

A woman in the audience asked if residents could start renting a unit in mid-month.

Mr. Carr said management would be flexible. The concern is not when residents move in but how long they will stay.

Dan Hanna asked for clarification on sufficient commercial.

Mr. Carr said they have the 4,000 square foot former Chamber of Commerce building. It is now the Enterprise Rental Car business. They have a lease. The future intention would be to continue to lease the building out.

Dan Hanna brought up the issue of horizontal mixed use and vertical mixed use, which was discussed.

Jedd Walker stated that the MU2 zone section in the Development Code No. 1026 currently lists transient lodging as a permitted use. It may need to be changed to a conditional use.

Val Christensen clarified that the same items that were in high density use were brought across to the mixed use zones when these zones were created.

Mary Ann Mounts said there is a need for transient housing for people who come here for short periods of time to do projects – such as construction, a big college project, etc. The term should not have a bad connotation.

Val Christensen noted that Fremont County has a rule about transient lodging – anything less than 30 days is considered a transient rental. Words can mean different things in different communities.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed the public input portion and asked for the staff evaluation and recommendation.

Val Christensen went over his staff report. He reiterated that the Comprehensive Plan map shows two different land use designations on this one piece of subject property – the front of the property

is Neighborhood Commercial/Mixed Use and the rear of the property is Moderate-High Density Residential. The land use does meet the requirement. The MU2 zone is allowed under the Neighborhood Commercial/Mixed Use land use designation.

In Staff's opinion, the applicant did have enough commercial to move forward without a Conditional Use Permit (CUP). Staff did not feel a CUP was necessary. If the Commission feels a CUP is necessary, the City would step up and pay for the process. He reiterated that the issue is borderline.

Scott Ferguson asked why a CUP would be needed. The main concern is the nature of the housing. **Val Christensen** said the question would be if the existing building at the front of the property would be sufficient for the 10 percent commercial to fit the MU2 designation. Staff is alright with the commercial component that is there. Staff is requesting that the Commission recommend to City Council to process this zone change.

There was thorough discussion.

Thaine Robinson asked if staff had any traffic concerns because of the location.

Val Christensen said the City Engineer felt the structure had the occupancy before with its earlier use and did not voice a concern. There was also the potential of another entrance to the parking lot.

Mr. Christensen said that the applicant had discussed working with the property owner to the north for another connection.

Jedd Walker expressed concern about the 10 % commercial component as stated in the Development Code under MU2 and going through the necessary process.

Val Christensen said this issue is gray enough that they can look at it project by project. Staff is saying this is a technicality.

The **Chairman** stated that the question before the Commission is, shall the Commission recommend to the City Council that this subject property be rezoned from CBC to MU2?

Mary Ann Mounts feels this is a good change to be made. There is a demand for this type of housing, for beauty school students and others. The Commission needs to keep in mind that they approved this facility with the previous use. She shares Mr. Walker's concern about the possible need for a CUP.

Jedd Walker thinks the proposal is a good use. He has expressed his concern with the technicality that is involved.

Dan Hanna thought a second egress from the property onto 4th West should be explored.

Thaine Robinson expressed concern with traffic that will be generated.

Scott Ferguson motioned to recommend approval to the City Council of a zone change from Community Business Center (CBC) to Mixed Use 2 (MU2) for the property at 420 and 450 West 4th South, to include that the City Council and staff identify how an additional egress from the property will be achieved. **Mary Ann Mounts** seconded the motion.

There was discussion of the motion.

Scott Ferguson amended his motion to specify that the additional egress should be onto 4th West on the north side of the property. **Mrs. Mounts** seconded the amended motion.

Jedd Walker said he does not want it construed that the Commission did not follow the specifications of the ordinance.

Mary Ann Mounts stated if staff is okay with this issue then it is up to staff and not the Commission.

Val Christensen clarified said this is an oddball split of the property into two land use designations. It becomes a technicality. The developer requested the MU2 to help the City, as that zone is better for the community. It is a very convoluted circumstance.

Mary Ann Mounts called for the question.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business: None

Compliance: None

Non controversial Items Added to the Agenda:

1. Discussion - Parking Contracts; City Parking Permits and expansion of permit area

Val Christensen said one of the most immediate concerns came when the Henderson Ivy Apartments opened up the first portion (about 25%) of their facility; they also opened 50% of their parking. It was immediately noticed that students were parking up and down the streets. Staff is not against granting reduced parking for a developer in the Pedestrian Emphasis overlay, but they needed to get some teeth behind this issue. Staff wanted to bring the issue to the Commission for discussion and input. Staff feels the City needs to toughen up on the parking contracts.

Mary Ann Mounts reiterated her concern expressed a couple P&Z meetings ago, that the Kartchner Housing development also has students parking on the street.

Policing of the parking contracts and the language of the parking contracts was discussed.

Val Christensen said the City is trying to put some of the burden of responsibility back on management – an example of this was more specific language as a condition for a CUP requested at the P&Z meeting a couple of weeks ago.

The City Attorney had said if someone signs a no-parking contract and brings a car anyway, there is nothing that can be done. Once winter hits, there could be a real problem.

Mary Ann Mounts is worried about the landlords honoring their agreement for the PEZ zone. The landlords should alert the students to the parking situation and should provide the number of spots that they were supposed to, and/or provide off campus parking if that was part of the agreement. The City's Compliance Officer cannot be running all over town.

Marilyn Rasmussen hopes that more enforcement could go back to management and not fall on the City.

The Chair believes the Commission has a responsibility in this matter. The City created the PEZ zone overlay and has allowed developers to have reduced parking, realizing the potential impact on the community. They allowed the reduced parking in trade for pedestrian amenities and other enhancements. The goal was to facilitate a pedestrian friendly campus and reduce car usage. Given the fact that it does not seem to be working, it is incumbent on the Commission to give some recommendations as to how to handle this matter. He agrees that the issue should be put back on the owners. They were given the opportunity to do something different than what was required in

the zone in return for their conformance with having a certain level of parking and no-parking contracts. The Commission needs to help property owners understand that there is a commitment.

Jedd Walker wondered if they could see what apartment management is doing. What is actually happening? There needs to be more research into what contracts were actually issued. Was the verbiage clear? It can be restricted as to where a student parks a car, but no one can say “you cannot have a car.”

Richie Webb said the Hemming project is embarking on this very issue. It concerns him. They will have contracts and will do everything they can to make sure that students who do not have spaces are not in spaces. It is impossible to monitor if a car is brought by a resident and then parked down the road.

Val Christensen thought of the idea of requiring a certain level of parking in a complex’s lots, and instead of having “no-parking” contracts, have any additional needed parking spaces in storage parking (University). Then everyone that brings a car would have a place to put it.

Parking permits were discussed. The parking permit that is given is an actual visual permit that is put in the car.

Mary Ann Mounts wondered if when the snow flies (December 1 regarding street parking), will the problem be cured on its own? Cars will not be allowed to park on streets.

Thaine Robinson felt a landlord can police his own lot, but not the streets. A concern is that the landlord should give out the proper number of permits.

Scott Ferguson said let’s not turn landowners into policemen.

The Chair said educating the public is a part of this issue.

Phil Packer said storage spaces through the University are not being purchased. It is still early. There is storage space available.

Nephi Allen said if he was a college student, he would not buy the space until he had to. Be patient.

Val Christensen wondered if it could be requested as part of the CUP that the apartment complexes get the storage spaces. At this time the complexes are telling the students to get the storage spaces.

Scott Ferguson asked the cost of a storage parking space.

Phil Packer said the permit is \$10.00; a complex is billed \$100.00 per space.

Richie Webb said one of the incentives of the PEZ zone is for people to come in close to the university, spend a lot more money to acquire properties that have homes on them and then redevelop, versus going further out in the City and developing. The PEZ zone provides a good incentive for higher density so that the developer can offset the cost of developing. He does not think they should get into mandating specific numbers. The intent by building close to the University is to get students to not bring cars. See how things develop. The matter is very new. They are going to learn a lot in the next year or two. At that time, maybe they can put in stronger restrictions if necessary.

The **Chair** asked the Commission to give direction to staff on this issue.

Richie Webb suggested the Commission could invite some apartment owners in the PEZ overlay who are facing challenges to come and talk to the Commission about this parking issue, to express what is happening and what concerns there are.

Dan Hanna asked **Richie Webb** how Hemming Properties is handling this parking issue.

Richie Webb, who is an owner of Hemming Properties, said they have talked about teaming up with other developers and using a shuttle service. They have talked about buying storage. They have talked about having rental Wee cars. They have talked about many options, but they do not know how students will respond. It would be helpful to have some apartment owners facing these challenges to come and explain to the Commission what they are hearing and seeing.

Chairman Dyer thought a meeting with apartment owners was a positive idea.

It was decided that after the first of the year, **Val Christensen** would try to put together a work meeting of the Commission with some PEZ apartment property owners and possibly with potential PEZ property owners. The University will be invited to this meeting.

Mary Ann Mounts suggested that in the future the verbiage of the CUP conditions should be stronger.

The **Chair** added that this is a suggestion to tighten up the language when the Commission and City Council approve conditional use permits that would take advantage of the PEZ opportunities.

2. Nine Person Joint P&Z Committee meeting – held on October 27th

Thaine Robinson reported on this second committee meeting. The committee is trying to get the zoning names/language compatible between Sugar City and Rexburg. No decisions were made at the meeting because of low attendance. Three people from each entity (Rexburg, Sugar City, Madison County) make up the committee. No date has been set for the next meeting.

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

The Commissioners came to the decision to cancel the November 17, 2011 P&Z Commission meeting because there are no agenda items.

Chairman Dyer adjourned the meeting at 9:10 pm.