

Planning & Zoning Minutes

August 7, 2014

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CITY OF
REXBURG
America's Family Community

Commissioners Attending:

Jedd Walker Cory Sorensen
W.C. Porter Steve Oakey
Melanie Davenport Tisha Flora

City Staff and Others:

Val Christensen – Community Development Director
Nick Cummock – Community Development Inter
Elaine McFerrin – P&Z Coordinator

Chairman Thaine Robinson was excused. **Commissioner Jedd Walker** acted as chairman and opened the meeting at 7:10 pm. He welcomed everyone. City Council liaison Brad Wolfe was excused.

Roll Call of Planning and Zoning Commissioners:

Steve Oakey, Chuck Porter, Jedd Walker, Cory Sorensen, Tisha Flora, Melanie Davenport

Mark Rudd, Gil Shirley, Bruce Sutherland, Thaine Robinson and Dan Hanna were excused.

Minutes:

1. Planning and Zoning meeting - July 17, 2014

Steve Oakey motioned to approve the Planning & Zoning minutes of July 17, 2014. **Cory Sorensen** seconded the motion.

Jedd Walker and Chuck Porter abstained for having not been present.
None opposed. **Motion carried.**

Public Hearings: None

Unfinished/Old Business: None

New Business:

1. Final Plat – Tamana Fields South Phase One

Barry Whitson, of Keller Associates, 356 West Sunnyside, Idaho Falls.

He presented an updated Final Plat for Tamana Fields South Phase One, which was shown on the overhead screen. The land location is University Blvd. and South Yellowstone Highway. All staff review comments have been addressed.

The easement is shown regarding joint access to Lot 1.

An access easement from South Yellowstone continuing into the property to the east is shown.

An access to Lot 1 is shown.

A 10 foot utility easement is shown along the west (front) side of the property for power, etc.

The Flood Plain statement is shown.

Accesses are shown regarding determining addressing.

Chairman Walker asked for Commission comments.

Steve Oakey asked if the added access roadway would go to the property to the south where the hotel is located.

Barry Whitson said arrangements have already been made with property owners to the south for access.

Tisha Flora asked for clarification on access to property to the east.

Barry Whitson said there is existing curb that will feed into the property.

Chairman Walker asked for staff comments.

Val Christensen stated that this newly updated final plat has been before himself, GIS Director Craig Rindlisbacher, and Public Works Director John Millar. All staff review items have been addressed. The Commission would still have to make their recommendation to the City Council for a final decision.

Cory Sorensen motioned to recommend to the City Council approval of the Final Plat for Tamana Fields South Phase One, located at South Yellowstone Highway and University Blvd. **Steve Oakey** seconded the motion.

None opposed. **Motion carried.**

Val Christensen explained why this plat was not seen as a short plat. Currently the Subdivision Ordinance states that a short plat cannot exceed 4 lots and cannot have any Development Agreement needs. This plat had right-of-way issues. Public Works Director John Millar's suggestion is that if a similar plat situation is brought forward in the future, the City staff will try to get the Development Agreement completed prior to the application, so the applicant will be able to go through the Short Plat process instead of the regular plat process.

Short plats are administratively approved by City staff and do not have to come before the P&Z Commission and the City Council. A short plat can expedite the entire process for smaller plats.

Compliance: None

Non controversial Items Added to the Agenda:

1. Food Trucks – Discussion

Chairman Walker asked Val Christensen to help frame the discussion for the Commission by describing how the City currently addresses food trucks.

Val Christensen explained that if the food truck is of a mobile nature, the City has different areas that have already been approved where they can be; if they stay mobile, they can come and go. If the food trucks are not truly mobile, they could be allowed to stay in one place for 6 months like a seasonal business (as per the City Attorney Stephen Zollinger), although some are not truly seasonal. Then they would have to move.

The other way would be that the businesses would be in an actual permanent structure, which would have to meet all building code requirements. The difficulty for the City's building department is if the truck is allowed to sit in one place for an extended period of time, it can become like an abandoned vehicle that does not move. The City would have to let mobile trailers such as a house trailer be on lots all over the city.

Chuck Porter asked Mr. Christensen to clarify the current policy.

Val Christensen said mobile food trailers are allowed on a temporary basis. At the American Planning Association meeting that he recently attended in Atlanta, he took a class on the issue of mobile vendors. It is a craze all over the whole country. It is wanted and encouraged. Rexburg encourages it also, but cities deal with mobile vendors in different ways. Austin, Texas is known for its many vendors. He observed that in Gilford, Connecticut, where he has visited, the vendors are completely mobile, pulling into and out of a designated area at specific times.

Chairman Walker asked Steve Oakey to express his perspective, as Mr. Oakey had requested that this topic of food trucks come before the Commission for discussion.

Steve Oakey said he had provided links to three articles on Food Trucks – “*Taste of Mexico*”, “*Myths and Realities*”, and “*Streets of Dreams*,” for the Commissioners information. He is familiar with the objections to this issue. Last year there was a bit of controversy because certain established brick and mortar business people wrote letters of complaint to the Mayor and the City Council. They wanted stronger prohibitions against the food trucks. There was a City Council meeting, where multiple vendors were present and where some of the vendors spoke. The established brick and mortar opposition held at bay any change. The Mayor and the City Council voted against any change of Rexburg City Ordinance No. 1029, which addresses mobile vendors.

Mr. Oakey quoted Rexburg City Ordinance No.1029, Section 6.01.040 Definitions.

“ 27. Temporary: Is defined as six months or less.” He has researched the issue and wanted to propose a minor change.

This issue of having to move the business every six months is impacting people’s livelihood, and it does so unfairly. The articles Mr. Oakey provided go into the matter. He wants the people whose lives this issue impacts to be able to have more input. There is one person with such a business present in the audience tonight. There are some common allegations against mobile vending and mobile food trucks that include proximity restrictions regarding distance from established businesses or restaurants, and laws regarding moving within hours of setting up. There are multiple variations of restrictions in cities across the United States.

Rexburg has mobile home parks. The City does not require them to move every six months, although they have tires and wheels. They pay rent and taxes.

Val Christensen said in his opinion, the City might be on board with a park that was designated for mobile food vendors. From that stand point, the vendors would not be able to serve inside their vehicles. It would be an area/ park set aside to be for that purpose.

A mobile home is a residence; the requirements are different for residences and for commercial.

It is not any more than a mobile unit until it is put permanently somewhere, and then it has to have rules.

Steve Oakey wished to propose for consideration to leave Ordinance No.1029 as it is, but with this additional wording or similar wording:

“Temporary, durational, or proximity restrictions do not apply to vendors occupying private property.”

Steve Oakey said there could be underused property that would benefit from this.

Val Christensen said overused property could also add vendors, which would bring additional problems, including parking.

Steve Oakey read from one of the articles he provided to the Commissioners regarding Julio Ortiz, who moved his food vendor business away from Rexburg to the City of Idaho Falls, which does not make him move every 6 months as Rexburg did. Moving also made it difficult for his customer base to find him. He has been at his Idaho Falls location for 2 years, having obtained a business license and paying rent to the property owner. In conversation with Mr. Oakey, Mr. Ortiz said he would consider coming back to Rexburg if the 6-month rule were to be changed. To restrict these very hardworking peoples' activity and livelihood with a law like this is unfair.

Val Christensen talked to the City of Idaho Falls' assistant planner in regard to this article. He was told that at the time the subject business came in, Idaho Falls did not have an ordinance that would prohibit it. Idaho Falls is now looking at what they are going to do about the food truck issue for the future.

Mr. Christensen stated that the value of the food trucks is understood, as a mobile unit. If it is not mobile, there are rules and regulations.

The idea of a permanent space for farmers markets, food vendors, etc. from a mobile standpoint was briefly discussed.

Val Christensen said his position from the Building Official standpoint is that building and life safety code rules are the law of the land. They protect life and must be followed.

Steve Oakey said that the market and not government should establish such a thing as a food court. There are private property owners who have invited businesses like these to be on their property. The private property owner should utilize his property as best as he sees fit, as long as it is not a safety or health hazard. He is asking that the ordinance remain as it is with the provision that private property is exempted from a temporary nature. It would make these business owners' lives easier and would bring more people to do business in this town.

There was more discussion.

Melanie Davenport said a concern is that if there is an exemption for private property, that could unwittingly expose the business owner to other problems that might prohibit their business even more.

She suggested the businesses could briefly move from the spot they are located at and then could come right back to the same spot.

Chairman Walker addressed Mr. Christensen. The point you are struggling with is that you are required as a code official to apply certain laws to developments and brick and mortar sites for the life-safety of the inhabitants and users. When you have a structure that is temporary but permanent, then there is a grey area.

Val Christensen spoke of a mobile bank that wants to come in and test the market. They do not want to move in 6 months, so they are putting in a foundation so they can be considered a real building, going through inspections, etc.

Chuck Porter said any commercial building has to meet a lot of federal requirements, including ADA (American Disabilities Act) regulations, etc., which the mobile businesses do not have to meet. The City may have actually done these businesses a favor by giving them a full six-month status.

Melanie Davenport would propose to consider keeping the food truck in the same spot if they can work out an agreement with the property owner.

Tisha Flora said that she agrees with Steve Oakey - allow a private property owner to allow someone with such a business to come in, and they do not have to abide by the 6-month rule, but they have to abide by all the other regulations. Our country was based on a capitalist and free market system. There is no reason to limit someone's livelihood.

Jorge Pelayo, a Rexburg food truck owner and restaurant owner present in the audience, agreed. It is hard to find a place every 6 months. That law was not here when he first came here about 6 years ago. They have established their lives and family here. He went into a building near campus, and students did not like it. They liked the food bus. Moving to a different place every 6 months is very hard.

Steve Oakey said he is asking for as broad a range of free choice as is possible. Provisions can be made for safety issues, as was done regarding the school district modular classrooms, and for mobile homes, and manufactured homes, etc.

Val Christensen said the City is still bound by laws, including accessibility laws. What is being suggested has to meet the laws. The City Attorney is the legal counsel and guide for the City.

Cory Sorensen said an example of the necessity of following the law is the apartments he is building. They have to have 20 units out of 165 units that are ADA units. There may never be that number of disabled residents, but the developer still has to build it that way. He was also a food vendor when he was going to college, so he has seen both sides.

Chairman Walker clarified that tonight this subject is a discussion item.

Val Christensen said when the Commission is ready to do so, they could make a recommendation to the City Council to pursue an ordinance change for public hearing.

Steve Oakey said he may be able to seek out some additional legal advice. We are putting up a road block that does not need to exist.

Cory Sorensen said private property owners do have some freedoms.

The **Chair** said they do, within the bounds of the laws that are already in place.

Chairman Walker suggested that all of the Commissioners should read Ordinance No. 1029 in order to be more knowledgeable on this issue. The secretary will send the document to everyone. The Commission will have further discussion and address the possible making of a recommendation about this issue of food truck vendors for a future P&Z meeting.

Val Christensen requested to have City Attorney Stephen Zollinger present for the continued discussion and making of a recommendation regarding this issue.

Report on Projects: None

Tabled Requests:

1. Comprehensive Plan Map Amendment –City of Rexburg – 3rd West Neighborhood – Moderate-High Density Residential to Low-Moderate Density Residential

Building Permit Application Report: None

Heads Up:

Chairman Walker stated there are no agenda items scheduled for the August 21st P&Z meeting date.

Chuck Porter motioned to cancel the August 21, 2014 P&Z meeting, as there are no agenda items. **Tisha Flora** seconded the motion. None opposed. **Motion carried.**

Chairman Walker adjourned the meeting at 8:25 pm.