

Planning & Zoning Minutes

June 5, 2014



CITY OF
REXBURG
America's Family Community

35 North 1st East
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020
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Commissioners Attending:

Dan Hanna
Richie Webb
Steve Oakey
Melanie Davenport
Mark Rudd
Cory Sorensen

City Staff and Others:

Mayor Richard Woodland
Brad Wolfe- City Council Liaison
Stephen Zollinger – City Attorney
Natalie Powell – Compliance Officer/Planning Assistant
Nick Cummock – Community Development Intern
Elaine McFerrin - P&Z Coordinator

Chairman Thaine Robinson was excused. **Commissioner Dan Hanna** acted as chairman and opened the meeting at 7:02 pm. He welcomed everyone. Community Development Director Val Christensen was excused.

Presentation:

1. Recognition of Service for P&Z Commissioner Richie Webb

Mayor Richard Woodland said it was his honor to present a plaque to Richie Webb in recognition of his years of service to the City as a P&Z Commissioner. The Mayor always has been impressed with Richie Webb's great service. Mr. Webb is a developer, a thinker, and a doer. He has always been a fair man. The Mayor thanked him for his dedication to the Commission and for the time he has given.

Richie Webb thanked the Mayor. His six years on the P&Z Commission have been a great experience. There has been a lot of growth and change in Rexburg during those years. It has been exciting to see that growth happen. He has enjoyed trying to influence it in some way as part of the Commission and to try and make Rexburg a better place. He commended his fellow Commissioners and those who were before them for their time and dedication to the City. Tisha Flora is going to replace him, and she will do well. It has been great. He thanked everyone.

Chairman Hanna thanked Richie Webb. The Commission appreciates and values Richie Webb's time and effort and thoughtful process of issues. He has made Rexburg a better place with his dedicated service. Not only has he served on the Commission; he has invested with the Hemming family in a lot of wonderful projects in the Rexburg community.

Roll Call of Planning and Zoning Commissioners:

Mark Rudd, Steve Oakey, Dan Hanna, Cory Sorensen, Richie Webb, Melanie Davenport

Gil Shirley, Thaine Robinson, Bruce Sutherland, Chuck Porter, and Jedd Walker were excused.

Minutes:

1. Planning and Zoning meeting – May 15, 2014

Cory Sorensen motioned to approve the Planning & Zoning minutes of May 15, 2014. **Steve Oakey** seconded the motion.

Richie Webb abstained for not having been present.

None opposed. **Motion carried.**

Public Hearings:

1. 7:05 pm –Rezone – 136 South 1st West- Medium Density Residential 1 (MDR1) to Hemming ? Project Redevelopment Option (Hemming PRO-Zone)

Chairman Hanna briefly explained the procedure that is followed for public hearing. He asked if any of the Commissioners wished to declare a perceived or direct conflict of interest.

Richie Webb declared a direct conflict of interest. He recused himself and stepped down from the dais. He is representing Hemming Properties and will present the proposal for this rezone request.

Richie Webb, 680 Wheatland Drive. He presented the proposal to the Commission to change the zoning of 136 South 1st West from Medium Density Residential 1 (MDR1) to the Hemming Redevelopment Option (Hemming PRO- Zone).

The Commission was provided with site plan copies and copies of a shared use agreement made with the Hancocks who live just north of and adjacent to the subject property.

Mr. Webb presented a brief PowerPoint to update the Commission on where the Hemming Village is and where they hope to go in the future. He pointed out the different areas of the established Hemming PRO-Zone.

A significant part of the Hemming vision is to try and preserve some history. They have also added some historical elements. Last summer, a statue of Mr. Webb's grandparents was added to the historical Hemming cabin site on 2nd West.

The Hemming retail building has been there for some time. The building now has a tenant in the basement, the SSI Call Center, which will be opening next week. Bill's Bike Shop will be coming to the corner next to Jimmy John's. Additional parking has been added behind The Pines and in the former church parking lot.

The Willows complex is next to the subject property and has been there a couple of years. Hemming Properties also own the homes to the south. It is their hope to over time develop that side of the street. Hemming Properties has committed to the Commission and to the City Council to inform the City of any new development within the Hemming PRO-Zone.

The subject property for this rezone request was purchased from Darrell Ard. Hemming Properties did not own the property when the Hemming PRO-Zone originally was established, and that is why it is being added now. When the home was purchased, they did not have a clear vision of what was going to be done. There was some discussion about potentially taking the house down. They did not feel the home was needed as part of Willows project. They also looked at renovating the home. Students were in the home for a period of time.

It was thought that the home might be used for the Hemming management offices, but the decision was made not to do this and to use the Atrium location on the second floor of the main Hemming building for the offices.

The Ard House's exterior has been worked on. There is some new brick and a new roof while still trying to preserve some of the home's history.

The subject property is zoned Medium Density Residential 1(MDR1). They are requesting a rezone to the Hemming PRO-Zone. The intent is to move professional office into that space.

Some things they want to do with the site to make it work include taking down the shed in the back in order to have ample room for parking. There would be a 31-foot clearance going in and out of this area, and there would be 6 parking spots. In the discussion with the Hancocks, they suggested to

open up the space in back to connect to the Pines parking so that employees at the new business could access the parking without going up and down the driveway, which is shared.

The Shared Use Agreement drawn up with the Hancocks, who live next door to the north, includes addressing the shared driveway and the shared use of the garage. The intent is to widen the driveway to 24-feet. The business would be an insurance company. It is hoped that with the exterior renovation and landscaping, the property from the street will look much better and be very appealing.

One of the important issues for Hemming Properties is that they have sensitivity to the fact that the Hancocks live right next door to the subject property. They have had many conversations. The Hancocks were kind enough to come to the Hemming office to discuss concerns. The Shared Use Agreement was put together. It defines the relationship that the Hemmings and Hancocks have in terms of who owns what, who accesses where, driveway, parking, shared garage, etc.

SHARED USE AGREEMENT

This Shared Use Agreement is entered into to be effective as of June 1, 2014 (the "Effective Date") by and between Jesse D. and Ann Hancock, (Hancock) and Hemming Village Holdings, LLC, (Hemming) an Idaho limited liability company, located at 160 West 2nd South, Suite 200, Rexburg, Idaho 83440.

Recitals

- A. Hancock owns the property located at 124 South 1st West, Rexburg, Idaho 83440
- B. Hemming owns the property located at 136 South 1st West, Rexburg, Idaho 83440
- C. Hemming purchased referenced property and inherited a previously negotiated arrangement by which the two referenced properties shared a common driveway and garage.
- D. The parties desire to set forth their own terms and conditions in writing by way of this Shared Use Agreement.

NOW, THEREFORE, the parties agree as follows:

1. The shared driveway will be enlarged to 20 – 24 feet, depending upon City requirements, with the dividing line to be in the middle of the drive leaving 10 – 12 feet of drive to be used by Hancock and 10 – 12 feet of drive to be used by Hemming or its tenants. If 24 feet is required by City, Hancock agrees to allow driveway to be extended two feet to the north, toward Hancock home. All costs, including the cost for asphalt, moving of sprinklers and any other costs associated with the expansion of the driveway will be paid for by Hemming. Hemming shall be responsible for the upkeep and maintenance of the shared driveway.
2. Both parties will do all within their power to prevent parking or extended stopping by owners, employees, clients or visitors along the driveway extending approximately 80 feet from the entrance point from the street.
3. Parking of all vehicles on both properties will be confined to designated areas located to the rear of their respective buildings.
4. Hemming agrees to allow Hancock use of the entire garage which is currently shared, but Hemming will retain ownership of the south half of the garage and retain the right to restrict access to Hancock for the south half of the garage upon 30 days written notice. If no such notice is given, Hancock will be entitled to use the garage as long as they own the home at 124 South 1st West. Further, as long as Hancock uses the entire garage, Hancock will be responsible for the entire upkeep and maintenance on the garage. Further, any required major

SHARED USE AGREEMENT HANCOCK, HEMMING - Page 1

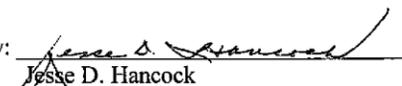
repairs or replacement of the shared garage will require joint consent by the two parties. Payment for said agreed upon repairs and or replacement would be shared 50/50.

5. Hemming acknowledges their intent to seek a rezone of the property at 136 South 1st West from low density residential to the Hemming PRO Zone. Hemming acknowledges that the Hemming Project Redevelopment Option (PRO) Zone allows for a number of permitted uses under Section 3.30.020, Permitted Uses. Hemming also recognizes the need to lease the property to uses that are compatible with the neighborhood and acceptable to Hancock. Hemming agrees to lease property for use as professional office space and for no other use until such time that Hancock or a member of their immediate family no longer owns the property at 124 South 1st West. At that point in time, and only after that point in time, will Hemming be entitled to lease the property for other permitted uses within the Hemming PRO Zone.

6. If Hancock determines to market and or sell their home at 124 South 1st West, Hemming retains first right of refusal to purchase home at list price, unless it is sold to an immediate member of their family. If it is sold to an immediate family member, Hemming retains the first right of refusal until such time the property is finally marketed to the general public.

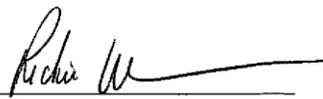
IN WITNESS WHEREOF, the parties have executed this Shared Use Agreement to be effective as of the Effective Date.

HEMMING VILLAGE HOLDINGS, LLC a
Idaho limited liability company

By: 
Jesse D. Hancock

By: Hemming Corp., an Idaho corporation
Its Manager

By: 
Ann Hancock

By: 
Richie Webb, President

Hemming Properties would keep professional office (in general, not defined) as the use as long as the Hancocks live in their home or immediate family members live there. If not there, then the PRO-Zone intent would revert back. If the Hancocks chose to sell their home, the Hemming Corporation would have the option or right to purchase the property.

Mr. Webb said they want to work together so that they have a good relationship that works well for all parties.

Chairman Hanna asked if anyone in the audience had questions to help them to understand the proposal. There were none.

There were no clarifying questions from the Commissioners.

Chairman Hanna opened the public input portion of the hearing.

In Favor: None

Neutral:

J.D. Hancock, 124 South 1st West. He referred to the following statement of the Hancocks' concerns with the rezone request:

We have serious concern about the increased traffic on South 1st West, the safety of vehicular and pedestrian traffic on S. 1st West, and the ingress and egress of more vehicles using the driveway which was formerly shared by the two adjoining single family residences.

We therefore propose that the house and lot at 136 South 1st West may possibly become a part of the Hemming "PRO" Zone and that if so, it be granted a Conditional Use Permit (Ord. 1006, Sec. 3.30.020 D) for the following uses:

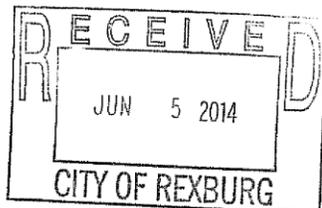
1. Accountants, CPAs, Bookkeepers
2. Attorneys
3. Appraisers
4. Licensed professional counselors
5. Graphic designers
6. Insurance agents
7. Investment, stock or mortgage brokers
8. Financial planning consultants
9. Optometrists
10. Travel agencies
11. Hemming property management offices
12. Home health agencies

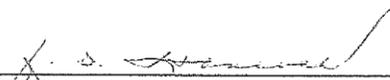
NOTE: Safety and joint use of a shared driveway mandate that only those businesses with a low volume of vehicular traffic should be granted a conditional use permit to occupy the house and use the lot at 136 S. 1st W. This is because of the lack of parking available at the rear of the existing house. In our opinion, the above-mentioned uses should not create much traffic. Also Hemmings should provide enough parking for the business' employees and clients. It is also important for all of us using the shared driveway to have sufficient space to turn vehicles around and exit the driveway onto 1st West going forward.

Dated this 4th day of June, 2014.



Ann Hancock





J. D. Hancock
124 South 1st West
Rexburg, Idaho 83440

J.D. Hancock said they have maintained a residence here for 44 years. They have seen a lot of change in Rexburg. They shared the driveway and the garage for over 40 years with Darrell Ard, and there were never any problems or conflicts in that period of time.

The Hemmings have been wonderful neighbors. He has known the Hemming family for many years.

Specifically, the Hancocks feel the Hemming plan is a good one.

The Hancocks are definitely opposed to having a ‘thru’ driveway from the west even for employee parking. This is because college students always take the shortest route to get where they want to go. Students use the shared driveway now to cut through. The Hancocks would request that a fence between the properties be maintained, so that access to the new business parking be from 1st West. A few weeks ago, a vehicle parked overnight in the driveway, which caused problems by blocking the access for the Hancocks to get out.

The Hemmings have done a marvelous job with their development, but the total PRO-Zone uses listed in the Hemming PRO-Zone Ordinance No. 1006, are almost limitless. There are some professional uses that the Hancocks do not feel would be compatible. That is why they have suggested some conditional uses to the Commission.

Opposed: None

Written Input: None

Rebuttal:

Richie Webb said he is absolutely fine with putting a fence at the southwest corner if that is the Hancocks’ preference. They were hoping to prevent the back and forth of traffic out onto 1st West as employees come and go.

He is a little concerned about limiting the professional office uses to the list that the Hancocks suggested. There are a lot of professional services. He is a little hesitant to say he is okay with just the 12 suggested uses. It is a little restrictive. He would be willing to re-look at the list.

Their intent is of professional offices generally.

Chairman Hanna closed the public input portion and asked for the staff evaluation and recommendations.

Natalie Powell explained that Community Development Director Val Christensen is out of town at a flood plain training conference.

She gave the staff review. The City Engineer did not express any concerns.

Staff’s concern is the same as was just voiced. If there is a shortcut, students would take it and come out on to 1st West. Having many cars exit onto South 1st West from a parking lot is not an option.

Employees coming and going may create some extra traffic, but far less than cars from the housing complex to the west. Staff is pleased that the parties are working together as neighbors.

Chairman Hanna wished to clarify that staff is in favor of closing off access from the west.

Natalie Powell said that was correct.

Chairman Hanna said there is the opportunity at this time for the Commission to discuss the issue and to make a decision.

Steve Oakey said he can think of no better development in the City of Rexburg than the Hemming Village. It has added value not only to the City, but it has been a wonderful example of how developers can do things correctly and engage the neighbors. He commended the Hemmings and

the Hancocks for putting together the shared use agreement. It is a perfect example of how private owners and developers can enter into a private contract to decide on a land usage that has a direct bearing on their property. This contract should be taken into serious consideration for a couple other comprehensive plan and zoning issues, and the booting and towing issues. This is a proper way in which land development and private property ownership should be agreed upon. Richie Webb gave a good presentation. Mr. Oakey is in favor of the rezone proposal.

Mark Rudd agreed. He likes that the parties got together and talked about concerns. His only concern is the fence to close off the property on the south west and if that needs to be part of the agreement.

The Chair said the issue could be conditioned in the motion.

The issue of the permitted uses list for the property was discussed.

Melanie Davenport said it is stated as professional uses.

Steve Oakey said the definition should be kept broad enough so that it allows for future use.

Cory Sorensen wondered if the words 'low traffic professional office' should be used.

Steve Oakey said the Hancocks and the Hemmings seem to have had a very fruitful previous discussion on many of these issues, barring the fence. They might be able to decide on some proper verbiage to address both their concerns.

Stephen Zollinger said South 1st West is eventually going to be realigned. The Engineering Department is not comfortable with turning this street into a thoroughfare for a large parking lot. The intention is that the shared use agreement would be recorded against the property as an encumbrance.

The Chair suggested that the Commission could make reference to the shared use agreement in the motion and also reference the closing off of the southwest corner of the property to prevent thru access from the parking lot on the west.

Melanie Davenport motioned to recommend to City Council the approval of a zone change for the property located at 136 South 1st West, to change the zoning from Medium Density Residential 1(MDR1) to Hemming Project Redevelopment Option (Hemming PRO-Zone), and to include two conditions:

1. The *Shared Use Agreement* between the Hancocks and the Hemming Corporation shall be maintained by both parties.
2. Vehicular access from the west shall be restricted.

Steve Oakey seconded the motion.

None opposed. **Motion carried.**

Richie Webb re-joined the Commission on the dais.

Unfinished/Old Business: None

Non-controversial Items Added to the Agenda:

1. Pedestrian Emphasis Zone (PEZ) concerns with Visitor Parking – Various Complex Owners

Ashley Boyd, 313 Oaktrail Drive, of Innovative Student Housing. They manage 4 properties: the Gates, Mountain Lofts, Viking Village, and American Belle.
She read a statement.

Hi, My name is Ashley Boyd with INNOVATIVE Student Housing and I want to thank you all for your time tonight.

I am here tonight along with the support of 12 other properties to propose an amendment to the current ordinance number 1021 section 5.10 paragraph 11 which states, "One vehicle parking space per 10 residents shall be provided for guest parking." We are concerned with the percentage that has been allocated for visitor parking.

We move that guest parking requirements be **lowered to a more reasonable three percent, or one guest parking spot per 30 residents.**

After speaking with managers from the different complexes in our PEZ Zone, we have found that the numbers of visitor parking stalls they currently have are closer to the three percent than ten. We understand that some of these complexes are grandfathered in to this ordinance and not required to provide 10% visitor space, but upon talking to the other mangers we have found that the three percent is more than enough for their volume of visitors when the complex is at full capacity.

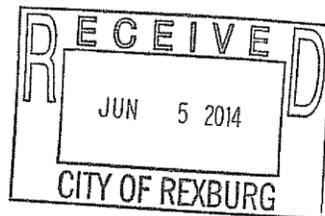
The amount of space that 10% requires in our zone is a huge number compared to the number of total spaces in the parking lots. For INNOVATIVE properties alone in this PEZ Zone, that would mean that The Gates would be required to have 62 visitor parking spaces which equates to 13% of the available parking. For Mountain Lofts which is the largest complex in the city for single students, we would be required to provide over 100 parking spaces for visitors. This will consume 18% of the resident's available parking.

Additionally, based on observations over the last two months, on average The Gates has had 3 vehicles parked within the assigned visitor parking each day. Complying with the current 10% ordinance would inconvenience our paying residents in that we would literally be taking their already limited parking spaces. This problem is compound during the winter months when street parking is not an option.

In summary, the law was originally written in 2009, and since then we have seen tremendous growth in the size of complexes in our zone such as Mountain Lofts, The Towers, Bountiful Place, and The Gates.

Why can we not reduce the required amount when it was working for the complexes that have been grandfathered into the ordinance and are not having issues with the three percent visitor parking? This amount is more than sufficient and we move that this law be amended to three percent for the convenience of our residents.

Thank you.



They are here with the support of 12 other housing complexes in proposing an amendment to the PEZ Ordinance No. 1021(projected on screen).

They are requesting a change in visitor parking requirements - to be lowered to 3 percent, or one guest parking space per 30 residents.

Chairman Hanna clarified that basically it has been stated what the complexes would like the City to do, which would be to amend the current ordinance.

Ashley Boyd said that was correct.

The Chair asked if she was aware of the process that must be gone through in order to change an ordinance.

Ashley Boyd said she was not.

Steven Zollinger clarified that such a request could require a formal ordinance change.

He wanted to address that there are no PEZ approved apartments with anything other than the 10 percent visitor parking requirements as stated in the ordinance.

The PEZ offered a number of options. What it allowed for was that as the property was considered in the area to be readily walkable, it allowed the developers to go away from the 1 to 1 ratio of parking. Tenants could have 'no-car' contracts.

The trade-off was that there would be a higher visitor parking ratio in exchange for the lower parking ratio. It was not an arbitrary determination. There were pre-comprehensive studies among the students and the demographics.

It is not a readily changeable formula.

As long as predatory booting and towing exists, the number of visitor parking stalls would probably go up because of the predatory booting and towing that is going on with the students who would otherwise be parking in visitor parking stalls.

It is a tradeoff – if less visitor parking is wanted, the booting and towing of students that cannot find visitor parking would need to stop.

Stephen Zollinger stated that a better approach might be to look at PEZ2. Parking lots are not filled.

Ashley Boyd said they run out of space.

Mr. Zollinger said the City monitors the parking lots carefully. There has not been a time at NorthGate where there were not at least 10 empty stalls at 4:00 am in the morning.

He said any suggestion that the City needs to amend the ordinance would be met with a substantial inventory of facts. Changing the ordinance would be difficult.

The request is a complicated question but it is something that the Commission could consider.

Chairman Hanna said when PEZ1 and PEZ2 were developed, the City left the parking up to the discretion of the developer to come in and ask for a conditional use permit to request less parking than the required 10%. It was their decision on how to proceed.

Ashley Boyd said they are trying to figure the issue out as a whole. It is good to understand from the City's perspective.

Stephen Zollinger said that the Bountiful Apartments complex went with 1 to 1 parking and 3 percent visitor parking. They chose not to do the PEZ Ordinance option of less parking although they are in the PEZ zone.

Chairman Hanna stated the City wanted to create incentive for developers to build and densify that area. Developers were given a reduced parking option. It was the developer's choice. Because the location was closer to campus, it was assumed that the students would walk more.

Cory Sorensen said just because we created the PEZ Zone does not mean we were right. Visitor parking space numbers that are required of some complexes may be similar to the amount of parking at Broulim's. He sees both sides but the city may not have seen enough history yet to actually change the ordinance; perhaps the number could be tiered. The issue deserves discussion.

Steve Oakey said many apartment owners and developers for some reason do not consider their apartment complexes to be businesses. They are. Businesses such as McDonald's or Broulim's or Walmart have already thought out their traffic patterns. It needs to be conveyed to the developers and owners that parking is their problem, to accommodate their customers. The streets are the City's problem. Street parking should never be an option. The streets belong to the City.

Ashley Boyd said from her perspective as a manager, they do see their apartment complexes as businesses and want to make the residents happy. The residents are their customers. She has a hundred spots that her residents cannot park in because the spaces are designated for visitors.

Steve Oakey said it is an unfortunate decision that the developers made. It is not the City's problem; it is the property owner's problem.

Stephen Zollinger agreed that it has to be recognized that these apartments are businesses. The reason the ordinance was written was to protect the customers at least marginally from predatory practices as complexes know the students have to live there because they have to live in housing somewhere. Five years ago, more beds were needed. If left to the owners, there may have been zero visitor parking, with constant towing and booting. The complexes are in the business of providing housing to young people who are going to school. Young people attending school come with visitors. So the balance was struck that the City would allow reduced parking, but the City wanted to be sure that the customers' interests were protected.

It may be that there are too many visitor parking spaces. This issue is certainly something that can be discussed.

The Chair clarified this not a public hearing. It is just a discussion. Anyone may make a comment if they wish to.

A man in the audience stated that at the Gates complexes, the towing and booting has been with visitors who have parked overnight and are not in a reserved parking space. There is a system in place at the Gates that a visitor can come to the office to get permission to park overnight.

Stephen Zollinger complimented them on the handling of this issue.

Cory Sorensen said that visitor parking could be monitored on a daily basis for a certain amount of time to prove the usage.

Stephen Zollinger said such monitoring could be used as tangible evidence that certain standards should be modified.

Chairman Hanna said the tangible evidence, some statistical analysis that would suggest that in these cases 10% visitor parking is excessive, could be presented at a work meeting.

Cory Sorensen thought multiple complex owners need to get together to do studies.

Chairman Hanna reiterated that changing the ordinance would be difficult.

Ashley Boyd said her hope would be that the Commission would understand that those at Innovative Student Housing are trying to make things better for their residents and do not want to be predatory in any way.

The Chair said if they want to come back and have a discussion on amendment of the ordinance they could do so, but trying to amend the ordinance would be a lengthy process.

The manager of Mountain Lofts, in the audience, said they do see the apartments as a business, but their number one priority is to make a difference – everything is geared toward the residents. They do not want this to be seen as somehow downplaying the residents' needs. The first point is that they stand by their customer service. Secondly, it is the nature of the new beast – the sheer size of some of the complexes. It would be good to look at the numbers and see what is needed and how the visitor parking is used.

Steve Oakey said he is in favor of simplifying the parking ordinance, but this issue cannot be the City's problem. Housing has to provide for its residents. There is a public domain and a private domain.

Richie Webb said one of the reasons the City chose to have the PEZ zone, was understanding the cost of land near the University and being able to make it work financially for developers. It is customer service. Also, you have to make money, or why are you going to build. It is important for the Commission and the City Council to really look at what is needed.

There is the idea of pulling together to look at what is happening. Information is needed. History is a great teacher. Educate this body and the City Council.

Councilman Brad Wolfe said there is a booting and towing ordinance amendment proposal now before the City Council. It could have a positive effect on what is being discussed. There will be a public hearing on the issue soon.

Natalie Powell added that one of the good tools for management are the car contracts and selling only the amount to fit the number of spaces that are available, and also the 'no car contract' addressing not bringing a car.

Ashley Boyd thanked the Commission and said the complexes would get together and try to do the research and come up with some numbers.

Richie Webb and Cory Sorensen were excused.

New Business:

1. P&Z Commission Training

Tisha Flora joined the Commission on the dais for the training discussion. Her first meeting as a new P&Z Commissioner will be the June 19, 2014 meeting.

Stephen Zollinger conducted the training.

Chairman Hanna requested that Mr. Zollinger include a brief discussion on the Comprehensive Plan and its purpose, and how the Commission should interpret the Comprehensive Plan with respect to the zoning map.

Stephen Zollinger said he would be touching on the basics of what the City expects of the Commissioners and what the City hopes they will be able to provide to the community as members of the Planning & Zoning Commission.

The Commissioners all serve at the discretion of the Mayor and the City Council. The P&Z

Commission serves as a recommending body in almost all cases, but there are some exceptions.

Those exceptions include some conditional use permits listed in the Development Code that allow the Commission to make the final decision at this level.

Local Land Use Planning – every city adopts a formal plan for their community.

Three of the P&Z Commission's eleven members represent the Impact Area. They serve at the discretion of the City Council, but they are appointed by the Madison County Commission.

If the location of the land use issue (rezone, CUP, etc.) is in the City of Rexburg Impact Area rather than in the City, then the Commission would make their recommendation to the Madison County Commission instead of to the City Council.

If the matter is in the Impact Area, the vote of the three P&Z Commissioners representing the Impact Area is equal to the vote the other eight Commissioners.

Stephen Zollinger said that in the course of making recommendations, the P&Z Commissioners serve in 2 different capacities:

1. Legislative – anything recommending change to policy. Commissioners are allowed to interact with the public outside of the meeting with virtually no restrictions. You can talk to your constituents, neighbors, or friends.

2. Quasijudicial - Property decision.

You are acting under the same rules and guidelines as a judge. Everything you use to make that decision on an issue should have been produced during the hearing process. Specific facts that you intend to rule on should have been provided to you during the hearing. You are the triers of facts.

When you are making property decisions that affect a defined number of individuals, you as Commissioners can talk to each other but not to your neighbors. It is a difficult responsibility. Tell them that you do not want to be in a situation where you can't participate in the discussion when it gets to the public hearing. Ask them to bring all their concerns and information to the public hearing so everyone hears them.

If they do talk to you, and you feel that some element of information has been conveyed to you that you did not want to know outside of the hearing, then you can fix this by disclosing this conversation at the beginning of a hearing or before public testimony, saying that you need to disclose that you talked with this individual. By making this disclosure you cure the defect.

If this conversation is not disclosed, then the decision is reversible. Usually there are fines associated with such an issue.

Public hearings:

Mr. Zollinger said once in a public hearing process, the Commissioners are supposed to discuss the request, not the hypotheticals or possibilities or worst case scenarios that are not relevant to the hearing. As Commissioners, is not appropriate to act on anything that is not based on facts.

Tabling:

Mr. Zollinger advised the Commissioners not to table proposals, because the Commission is a recommending body.

Table a matter only if additional information is needed to make a decision.

If the Commission feels the request is too broad, the Commission could send up a recommendation to the City Council that reduces what is being asked for. The proper course is possibly to recommend some portion of the request, or possibly recommend to deny.

One of the Commission's responsibilities is to push things forward with the best recommendation the Commission feels can be made. Look out for the general interests of the community. The goal is to reach a common decision.

Steve Oakey asked for clarification on making recommendations. Regarding the 3rd West Neighborhood Comprehensive Plan request at a past meeting, he asked where his motion to recommend failed. His intent was to deny the motion and let the group bypass the City and exercise private rights. (The Chair read the motion from the May 15, 2014 minutes; the motion died for lack of a second).

Stephen Zollinger said Mr.Oakey's recommendation was not responsive to what the neighborhood was requesting. The Commission's goal is to evaluate the facts that have been presented, and make a recommendation based on those facts.

Melanie Davenport said at the meeting regarding the 3rd West request, there were a few people present wanting to represent 80 acres. It was a huge piece of land. How does the Commission, in the short time of the meeting, look at the proposal and make a determination with just the information that was given to the Commission by a few people. She thought the best alternative was to reduce the size of the request.

Dan Hanna stated that during deliberation, the Commissioners have the opportunity to express their feelings or understandings or questions. Then they come up with the precise wording to make a recommendation.

When a proposal is presented, the Commission has the option of approving it, denying it, or approving with some modifications.

It was clarified that a rezone request can be made by the Commission to go down in zoning, but it cannot go to a higher zone.

Stephen Zollinger said there are two layers of land maps used in regulating property decisions, the Comprehensive Plan Map and the Zoning Map.

The Comprehensive Plan Map is an underlay, a foundational document that has to be complied with, but it is not intended to define the final use of a particular property. It is a concept map.

The Zoning map has to fit under the Comprehensive Plan land use designation; if it does not, the Comprehensive Plan land use designation needs to be changed first before a rezone can be requested.

The Comprehensive Plan map gives someone the right to ask; it does not give an actual right. It does not enable someone to do anything but ask. It carries no rights whatsoever other than being a prerequisite to ask for a zone change. It does not change one's ability to use their property. Mr. Zollinger clarified that the Comprehensive Plan map is not an authorizing document; it is a restricting document.

The Comprehensive Plan Map is a 20 year planning document, a concept or vision of where the city might go over the course of the next 20 years.

Mark Rudd asked who made all the changes to the Comprehensive Plan map after the University announcement in 2000.

Stephen Zollinger said this body participated in making the changes over the course of about six months. Public hearings were held.

It was stated that the City's Impact Area is going to be modified in the near future.

Commissioners may request through the Chairman or staff that discussion of an item be put on the agenda.

Tisha Flora said she sees the Comprehensive Plan Map as the vision for the City unless something major is changing that vision, like the BYU-Idaho announcement.

Stephen Zollinger said that could be, or it could be the passage of time, a change in circumstance, technology changes, or if someone points out an inaccuracy that would need to be evaluated.

Public hearing principle concepts & practices

Stephen Zollinger said parliamentary procedure and Robert's Rules of Order are to regulate unruly and hostile environments. A far better process for this type of a board is one where everybody acknowledges that there is a process and that ultimately the Chairman should be in charge of the process, and to the best of his ability he never has to fall back on hard and fast Robert's Rules. When a hearing ends and the Commission is in deliberation, it is not appropriate to allow voluntary input because the hearing is over.

Chairman Hanna said a question that would have a yes or no answer is sometimes allowed to be asked by the Commission.

Brad Wolfe feels it is very helpful when the public hearing procedure is explained just before public testimony is given.

Mr. Zollinger gave the Commissioners copies of the University of Michigan pamphlet entitled "**The Meeting Will Come to Order**," for their information on meeting procedure. They were also provided with copies of Winston Dyer's "Planning Principles and Values."

Compliance issues

Stephen Zollinger said the Commissioners can help by being vigilant and aware.

If they see violations or have concerns, staff encourages the Commissioners to bring the information to Natalie Powell so the City can address any issues.

Regarding meeting procedure, **Natalie Powell** stated that the Chairman conducts and controls the meeting. Other Commissioners and participants should ask the Chairman for permission to speak.

Stephen Zollinger said he would present additional training as requested, at a future meeting.

Steve Oakey asked if Val Christensen would be reporting on the American Planning Association Conference that he attended.

Natalie Powell said Mr. Christensen would present the information at a future meeting.

It was suggested by **Chairman Hanna** that if you are the Commissioner making the motion, write down the motion.

Compliance: None

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:

June 19, 2014:

1. Welcome Newly Appointed P&Z Commissioner – Tisha Flora
2. Conditional Use Permit – Verizon Wireless Monopole - 1076 West Main-The property is in the Impact Area.
3. Conditional Use Permit – Verizon Wireless Monopole - 344 West 4th South

July 3, 2014: P&Z Meeting Cancelled

Chairman Hanna adjourned the meeting at 9:43 pm.