

Planning & Zoning Minutes

September 4, 2014



CITY OF
REXBURG
America's Family Community

35 North 1st East
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020
Fax: 208.359.3022

Commissioners Attending:

Thaine Robinson – Chairman
Dan Hanna Jedd Walker
Mark Rudd Bruce Sutherland
Steve Oakey Melanie Davenport
Tisha Flora

City Staff and Others:

Brad Wolfe- City Council Liaison
Natalie Powell – Compliance Officer/Planning Assistant
Scott Johnson – Economic Development Director
Shawn Summers – TCS Analyst
Clark Wilcox – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Thaine Robinson opened the meeting at 7:02 pm. He welcomed everyone.

Mayor Richard Woodland praised the Commissioners for the great job they do for the City. He appreciates all of their hard work. He excused himself from the meeting.

Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Steve Oakey, Dan Hanna, Mark Rudd, Thaine Robinson, Jedd Walker, Bruce Sutherland, Tisha Flora, Melanie Davenport

Gil Shirley, Cory Sorensen, and Chuck Porter were excused.

Minutes:

1. Planning and Zoning meeting August 7, 2014

Steve Oakey motioned to approve the Planning & Zoning minutes of August 7, 2014. **Tisha Flora** seconded the motion.

Bruce Sutherland, Thaine Robinson, Mark Rudd, and Dan Hanna abstained for having not been present.

None opposed. **Motion carried.**

Public Hearings:

1. 7:05 pm – Rezone – 231 East 2nd North – Community Business Center (CBC) to Mixed Use 2 (MU2)

Chairman Robinson explained the procedure that is followed for public hearing. The applicant will explain the proposal to the Commission. The Commission may ask the applicant questions to help clarify what is being proposed, and staff may give any additional clarification. Public hearing testimony will then be taken from those in favor of, neutral to, or opposed to the proposal. This is followed by staff evaluation and recommendations. The Commission will then deliberate the issue in order to come to a decision on the proposal.

For all three of the public hearings tonight, the Commission will make recommendations to City Council for the final decisions.

Debra Smith, 216 Mohawk, property owner and applicant, presented her rezone request for 231 East 2nd North. The property is next to Arctic Circle. She inherited the property, which has been in her family for several years. The home was in bad need of repair. For about six years she let it be rented. Then, when that tenant had to be evicted due to problems, the home was vacant a while, and she eventually decided to improve the home and put it back into use. The home was built in 1944. They started improving it. There was a steep stairway, which they decided to eliminate, and opened it up to the basement, making a basement apartment. That is how the home became a duplex. Her contractor moved forward. She was not aware of the permit process. They did not think there was a problem with doing this duplex, because next to her property there is a six-plex, which is really partially on her property. Now she is backtracking and asking for the MU2 zoning.

Mrs. Smith clarified for Chairman Robinson that the duplex is not occupied at this time. There are people that have rented it, but they are not in residence because there is no power. They are waiting for approval from the P&Z Commission and the City Council. She feels they have made significant improvements to the property.

Dan Hanna asked if the duplex is ready for occupancy now.

Debra Smith said it is ready.

Mr. Hanna asked if the building has had a City life safety inspection.

Mrs. Smith said it has. The plumbing and electrical inspections are complete. Other necessary inspections are being done.

Natalie Powell clarified that this hearing is a request for a rezone. The Commission could save their current discussion for the next hearing, which is for a Conditional Use Permit (CUP) for the same property.

The **Chairman** reiterated that this is a land use discussion.

Steve Oakey asked about the cost of the rezoning process and building process.

Debra Smith said she has paid some inspection fees and hearing application fees. She estimated that she has spent about \$3,000.00.

Natalie Powell clarified that this particular project was started without any building permits. When City staff spoke to the contractor, they informed him that he needed to have a permit for electrical, plumbing, and change of occupancy. There are impact fees because of the change of use.

Bruce Sutherland asked if the contractor started the project before obtaining permits and if the duplex was completed without a permit.

Mrs. Powell said that was correct.

Steve Oakey clarified that he was referring more to the cost of the zoning, and the loss of revenue.

Mrs. Smith said that the zoning application was \$750.00, and about \$2500.00 in rental money was not made.

Natalie Powell stated that if permits had been pulled at the start, the applicant would have known that a rezone was necessary in order to put a duplex in this particular area, and that could have all been taken care of while the construction was being done.

She further explained that if the single family home had just been remodeled, it would have been fine and would be seen as a grandfathered use. Where the applicant changed the occupancy into a duplex, a zone change was necessary so the use is compliant with the zone.

Steve Oakey asked about the neighbor's building on the east encroaching on Debra Smith's property and how the rezone of the subject property might impact it.

Debra Smith said the building is right on the property line.

The zoning map was shown. **Natalie Powell** said right along North 2nd East to the west of the subject property is the main corridor for businesses. Staff feels that by rezoning the subject property to MU2 it would be a step down from the commercial to the residential to the east and would be a good fit. The apartment complex next door could possibly benefit from the rezone; she clarified that the apartment complex property is not part of this rezone request.

Melanie Davenport had a question on the parking.

It was clarified that this issue could be addressed during the next hearing for the CUP of this property. During the rezone hearing, the Commission is addressing only a land use change.

Chairman Robinson asked if the MU2 zone rather than another residential zone was the recommendation of staff.

Natalie Powell said that was correct.

Dan Hanna asked if the City denied a certificate of occupancy permit until a zone change took place.

Natalie Powell stated it was not the zoning issue at that time; it was a building issue. Prior to tenants moving in, she delivered a letter to the contractor stating that until the permits were pulled and inspections were completed, tenants could not move in. Over a weekend, tenants did move in. The City's electrical inspector contacted the power company telling them the home was not up to code. The power was turned off and the tenants moved out. It was a building and safety issue; tenants could not be living there.

Natalie Powell said the Mixed Use 2 zoning allows for a commercial component with residential.

Chairman Robinson clarified that the 2nd hearing tonight for this property (a CUP) is to override that commercial aspect.

Chairman Robinson opened the hearing for public input.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

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

Natalie Powell said the staff recommendation was that if the Commission determines that all criteria are met, staff would request that the Commission recommend that the City Council process the zone change. The Public Works Department did not have any concerns. Staff feels this zone change would be a good fit.

Jedd Walker asked if the requested zone change fits with the Comprehensive Plan Map land use designation of the property.

The Comprehensive Plan land use designation is Neighborhood Commercial/Mixed Use. The requested zone change to Mixed Use 2 is in conformance.

Dan Hanna motioned to recommend to City Council approval of a zone change from Community Business Center (CBC) to Mixed Use 2 (MU2) for the property located at 231 East 2nd North.

Bruce Sutherland seconded the motion.

None opposed. **Motion carried.**

The Chair stated to Mrs. Smith that the only grief that this Commission has is basically the process and order of which the contractor did not follow.

2. 7:20 pm - Conditional Use Permit – 231 East 2nd North – to allow 100 percent residential and zero percent commercial in a Mixed Use 2 Zone

Debra Smith, 216 Mohawk, property owner and applicant. She stated that she is requesting the Conditional Use Permit so that she is able to have a duplex here and no commercial.

Melanie Davenport asked for clarification on the provided parking.

Debra Smith pointed out the parking on the projected site plan.

Melanie Davenport asked if a parking plan had been reviewed by the City.

Natalie Powell said the City has reviewed the parking. The project has met the requirement of 4 parking spaces. The driveway on left only is required to be 13 feet wide for one-way traffic. Staff feels this is adequate. The driveway on the west also meets the requirements. Setbacks are met.

Jedd Walker asked for clarification. With a CUP, if the applicant wanted to develop further on this property, they would need to come before the Commission again with another request.

Natalie Powell said if they wanted zero percent commercial on another part of the property, they would need to come forward with another CUP request.

Natalie Powell clarified that before a certificate of occupancy could be issued for the subject project, all necessary final inspections would need to be completed.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

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

Natalie Powell gave the staff report. The Fire Department and Public Works Department had no concerns about this request. From the Community Development Department staff report, "...If the Commission feels that the commercial is not needed at this time or in the foreseeable future, staff recommends that the proposed Conditional Use Permit request be approved contingent on site improvements (parking/landscaping) and building permit finalization (Certificate of Occupancy)."

Chairman Robinson stated that the request before them is for the ability to have a duplex project without a 10% commercial component that is required in the MU2 zone. The request is for 100 % residential and 0% commercial.

Natalie Powell clarified that 10 percent commercial could also not fit.

Dan Hanna asked about buffering between neighbors.

Natalie Powell said in MU2, it is not required.

Chairman Robinson clarified that if the neighboring properties were in a residential rather than a commercial zone, then buffering would be required.

Dan Hanna suggested to include a condition regarding maintaining the subject lot all the way to its north property line.

Jedd Walker felt the conditions staff recommended were adequate.

Chairman Robinson said the main reason there are permits is for life and safety. It does not have to do with City revenue or anything else. It is just to make sure that if we have occupancy in a building, people's lives are protected and they are safe.

Bruce Sutherland motioned to recommend approval to City Council of a Conditional Use Permit to allow 100 percent residential and zero percent commercial in a Mixed Use 2 zone, for the property located at 231 East 2nd North, to include the Standards Applicable to Conditional Use Permits, Section 6.12B from Development Code Ordinance No.1115, and to include two conditions:

1. All occupancy requirements shall be met for building permit finalization (Certificate of Occupancy).
2. The north part of the subject property shall be maintained in accordance with the City of Rexburg nuisance ordinance (Ordinance No. 706).

Dan Hanna seconded the motion.

None opposed. **Motion carried.**

As there were a few minutes until the next scheduled hearing could be addressed, **Chairman Robinson** said that the Food Trucks discussion that is scheduled to continue tonight will be postponed until the next P&Z meeting so that additional City staff may be present to participate.

Chairman Robinson also clarified why he has asked the P&Z Coordinator to email the Commission the information on Notice of Public Hearings announcements and the dates the notices will be in the newspaper. Not everyone takes the newspaper. Every time there is a public hearing that is scheduled to come before the Commission, this lets the Commissioners know what is moving forward to them and also that there cannot be discussion on the issue.

3. 7:45 pm – Conditional Use Permit – 669 Pioneer Road Suite #100– to allow a Call Center in a Community Business Center (CBC) Zone

Doug Brasier, 669 Pioneer Road #100, applicant. He is director of operations for Zylun Insights. The request is to be granted a Conditional Use Permit (CUP) to have a call center in this location. He clarified that the business is not just a call center. They are a marketing research company that is going to be headquartering here in Rexburg. This is very unique for Rexburg. All of the company's professional jobs will be here in Rexburg besides the jobs that college students and others would fill. Mr. Brasier said he has been in the industry for a number of years. In the past he ran call centers in Rexburg for about 7 years. He has a concern – the issue of parking. The requirement is 0.9 spaces per employee. The parking is adequate where they are now. However, in an industry like the call center where 50 to 65 percent of the employee base may be college students, and 40 percent may drive to work (most come by bicycles or walking) , the requirement does not seem to be a fair shake.

Chairman Robinson asked how many employees would be onsite at one time.

Doug Brasier said about 88 employees can be accommodated. Currently they have about 50 employees.

Chairman Robinson said about 79 parking spaces would be needed for 88 employees.

Doug Brasier said in no way will they be using all the parking, probably not even what they have now, which is 54 spaces. Based on what the rules say, he would need to have that larger number of spaces. Many staff will come from the married housing across the street. He clarified there are no parking spaces immediately to the south of the building. There could be 15 more parallel spaces on the curve to the southwest.

Jedd Walker asked if the parallel parking on the curve was included in the count.

Natalie Powell clarified that the curve location is a fire lane. There cannot be parking there.

Melanie Davenport asked if it would be possible for the business to maintain parking by permit.

Doug Brasier said it would. He clarified that the business is just starting, with staff already on site. They are trying to get ready to ramp up. If they ramped up to 80 people, they still would not fill the current allotted parking spaces.

Steve Oakey asked how the parking allotments for the different businesses in the strip were decided upon.

Doug Brasier said the parking allotments were based on what was allotted prior to the other businesses being there.

Mr. Oakey asked if there was an enforcement mechanism. **Mr. Brasier** said there is not.

Mr. Oakey said as neighboring businesses change in the location, there could be some parking encroachment. **Mr. Brasier** said his understanding is that this allotment is theirs at a minimum, per an agreement with the owner of the building.

Melanie Davenport asked if parking could be built on the other side of the building.

Doug Brasier said it would be possible.

Natalie Powell clarified that as per the Development Code, a CUP is required for a call center business to be allowed in the CBC Zone.

Chairman Robinson asked if there are safety inspections that have been done for the building and business.

Natalie Powell said the inspections are part of the building permit process that is currently being done.

Mark Rudd asked for clarification on the parallel parking question about parking on the south curve of the property.

Natalie Powell reiterated that per the Fire Department, there would not be room for the fire truck if parking was put on this curve. It is a fire lane.

Chairman Robinson opened the public input portion of the hearing.

In Favor:

Doug Brasier, applicant. He wanted to clarify that this is a temporary situation. Zylun Insights is bringing in their headquarters. The 4 partners in this company have been in market research and have more than 35 years of experience. They are a company that has come to Rexburg because their experience here in the past has been very positive. Rexburg is a great community. They have put a lot of money into the community in past years. For years, they were one of the biggest sponsors for the International Folk Dance Festival. What they did not have previously is their headquarters here. With the rapid expansion that they are looking at, he projected that within 3 years, the business is planned to have more than 2,000 employees here in Rexburg. That is not a dream; it is reality. As it sits, they are just opening up their doors. He is currently actively looking at another facility for opening up a second call center facility, because this one is not big enough. They are also looking at plans to build their headquarters facility.

Scott Johnson, 78 Aries. He first met with one of the partners about 8 months ago. He has been working with them to get here. They have demonstrated that there would be about 2,000 employees. A lot of the jobs for this business, although not the majority, are actually professional jobs that will come as they have their headquarters here. There are great things we normally do not see. We normally see companies come in having just lower paying jobs. We are seeing the employment opportunities with this company as a very healthy mix. We are excited to have them here in Rexburg.

Neutral: None

Opposed: None

Written Input: None

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

Natalie Powell said the parking is something the City is currently looking into; we are on new ground here. Some studies are being done; different call centers and similar businesses have been contacted for information regarding their parking needs.

From the Community Development Department staff report:

“...If the Commission finds that the use is compatible with the area and that the parking is adequate for this facility and the mall in general, staff recommends that the Commission make recommendation to the City Council that the proposed Conditional Use Permit be approved.”

Natalie Powell stated staff feels the subject business is a good fit for the zone and the area. It does not pose problems regarding extra traffic in this area.

Because this is a temporary business, a condition might address that for a certain amount of months it could be seen if the current 54 spaces is sufficient, with City review at the end of that time. Legal counsel would need to be consulted regarding if this is a possibility.

Increasing the bike racks for employees is also something the Commission could look at.

Parking permits might also be issued as a way to monitor the parking lot. Another possibility would be monitoring the parking through booting and towing.

Scott Johnson suggested that if it is allowed, the Commission could possibly make a condition that addresses this business as a test site, how it might work, to better understand what the parking needs really are. Each business such as this one is unique. The .9 parking may not work for everyone.

Steve Oakey said he would hate to see the parking become an issue that would keep this business from being at this site. There have been previous efforts by the landowner to accommodate the internal parking for each of the businesses. A condition could be that the business would police their own parking issues, and the City will police the street parking issues.

Melanie Davenport said she does not feel it is good policy for owners to police their own parking. It could create bad feeling between people who run the center and people who access the center.

Chairman Robinson stated he is in favor of this being a kind of test site as proposed, for looking at parking, based on this location being a of a temporary occupancy nature.

Dan Hanna stated that management has to take the responsibility to manage.

Bruce Sutherland said the Commission does not want to encroach on City Council responsibility. It may be best to recommend a trial or test situation. Allow the fine tuning to be done by the City Council.

Chairman Robinson said tonight the decision before the Commission is whether to allow this type of business in a CBC zone, and possibly with appropriate conditions. It would be a recommendation to the City Council.

Scott Johnson said the City Attorney has just been consulted by phone to see if a time frame/sunset clause can be put on looking at the subject parking issue. The City Attorney said yes, this could be done in a condition; legal also said that the business would have to manage their parking.

There was more discussion.

Dan Hanna motioned to recommend approval to City Council of a Conditional Use Permit to allow a call center (marketing research company) in the Community Business Center for the property located at 669 Pioneer Road, Suite #100, to include the Standards Applicable to Conditional Use Permits, Section 6.12B from Development Code Ordinance No.1115, and to include one condition:

1. The management (of Zylun Insights) shall be responsible to prevent parking encroachments onto non-authorized parking areas both public and private for a period not to exceed 12 months subject to further review by the City.

Bruce Sutherland seconded the motion.

None opposed. **Motion carried.**

Unfinished/Old Business:

1. Food Trucks – Discussion continued-

This issue has been postponed until the next P&Z meeting when additional staff are present.

New Business: None

Compliance: None

Non controversial Items Added to the Agenda:

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:

September 18, 2014:

1. Comprehensive Plan Map Amendment – 117 S. 2nd E., and 204, 216, and 230 E.1st S. – Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use
2. Rezone – 117 S. 2nd E., and 204, 216, and 230 E.1st S. – Low Density Residential 3 to Mixed Use 2

Chairman Robinson adjourned the meeting at 8:28 pm.