

Planning & Zoning Minutes

April 16, 2015

35 North 1st East
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020
Fax: 208.359.3022



CITY OF
REXBURG
America's Family Community

Commissioners Attending:

Chairman Thaine Robinson
Steve Oakey Cory Sorensen
Mark Rudd Melanie Davenport
Bruce Sutherland Tisha Flora
Rory Kunz

City Staff and Others:

Brad Wolfe- City Council Liaison
Val Christensen- Community Development Director
Stephen Zollinger – City Attorney
Timothy Helferstay – Community Development Intern
Darrik Farmer – Building Permit Technician
Elaine McFerrin – P&Z Coordinator

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

Welcome Newly Appointed P&Z Commissioner – Rory Kunz

Chairman Robinson introduced and welcomed Rory Kunz to the Commission. He was appointed by the Madison County Commission as a representative who lives in the City's Impact Area.

Rory Kunz stated that he grew up in Rexburg. He moved away to Houston for a short time and then came back to make Rexburg his home. He is glad for the opportunity to be on the P&Z Commission and to serve the community.

Roll Call of Planning and Zoning Commissioners:

Attending: Steve Oakey, Rory Kunz, Mark Rudd, Thaine Robinson, Bruce Sutherland, Tisha Flora, and Melanie Davenport.

Jedd Walker was excused. Chuck Porter and Gil Shirley were absent.

Minutes:

1. Planning and Zoning meeting – March 19, 2015

Bruce Sutherland motioned to approve the Planning & Zoning minutes of March 19, 2015.

Mark Rudd seconded the motion.

None opposed. **Motion carried.**

Rory Kunz abstained; he was not yet a member of the Commission.

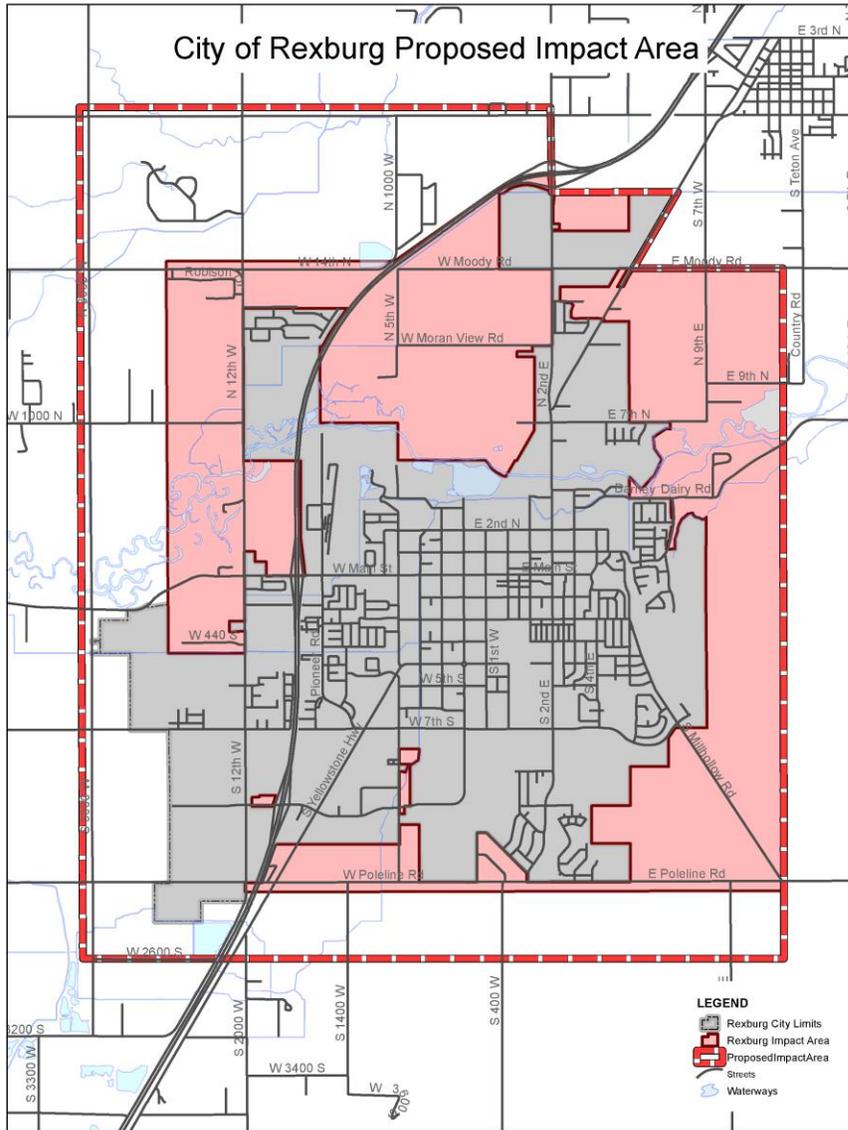
Public Hearings:

1. 7:05 pm - Amend City of Rexburg Impact Area

Chairman Robinson briefly explained the procedure that is followed for public hearing.

Tonight's hearing will result in a recommendation to extend the City of Rexburg Impact Area. It is a recommendation only, which will be made to the City Council. The City Council would make a recommendation to the Madison County Commissioners, who would make the final decision.

The subject map was shown on the overhead screen. Boundaries were pointed out (approximately 3000 West on the west; 2600 South on the south; Russell Road on the east; 3000 North on the north).



Proposed Impact Area Map

Community Development Director Val Christensen presented the proposal. He indicated that City staff feels it may be the right time to increase the City's impact area. The east impact area boundary would not change.

Public input tonight would be given to the City Council along with the P&Z Commission's recommendation. The P&Z Commission would make a recommendation to City Council. The City Council would then make the decision and a recommendation to the Madison County Commission.

Chairman Robinson stated that the current impact area at the south border of Rexburg is only about 300 feet, and there is essentially no impact area on the southwest corner.

Mr. Christensen said that the City looks at the issue from a logical standpoint of where it is felt that potential growth will occur.

Steve Oakey asked for clarification on what responsibilities there are with any impact area and how it will affect the County.

Val Christensen said the impact area is still in the County. The net effect is that in the impact area, one follows the City zoning and Development Code issues. Building permits and services would be through Madison County. The biggest reason for the impact area is to be able to plan areas out regarding future roads, right of ways, etc. so areas are planned out in advance.

Steve Oakey asked what the determinate factors are regarding annexation of an impact area into the City.

Val Christensen said annexation could come in a few ways including an extending levy or at the requests from citizens. There are no annexations on the board at this time.

The impact area is more of a planning tool.

The Chairman stated if a developer wants to develop a subdivision and they want city services, the City annexes them in.

City Attorney Stephen Zollinger clarified that the City would not extend their services into a development without annexing them.

Chairman Robinson said another definition for the impact area is that the County can see that eventually at some time, certain property may become City, so the County wants the City to govern it as it grows.

Tisha Flora asked if there would be any repercussions for anyone being added into the impact area with this proposed change.

Val Christensen said yes - if a property owner wants to change the use of their land they would have to follow City rules instead of County rules if they own property in the impact area.

Stephen Zollinger clarified that although it is the Rexburg Development Code that would govern in such a situation, it is actually a County law. Madison County adopted Rexburg's Development Code as the code that would govern the Impact Area. If an issue is in the impact area, the P&Z Commission would make a recommendation to the Madison County Commission instead of the City Council. The consequence to people who own land outside the City limits but inside the impact area is that they are governed by a different statute than they would be if they were outside the impact area.

Chairman Robinson asked if the audience had any clarifying questions to help them to understand the proposal.

Judy Coy of the Madison County P&Z Department asked what percentage of the current impact area is available for development.

Stephen Zollinger explained that once the impact area starts developing the City would likely annex it. He pointed out the current impact area of the viewed map. It is marginally developed. Looking forward, it is reasonable to anticipate that some of those areas are going to need infrastructure. They are going to develop at a higher density than is consistent and normal for

County management. It is not encouraged that high density development be allowed on stand-alone septic systems.

Over the last ten years, 50 percent of what had been part of the City's impact area has been incorporated into the City.

Judy Coy asked if there is a percentage of the impact area that has to be developed before the impact area boundaries can be extended.

Mr. Zollinger stated there is not.

Val Christensen stated that it is important to try to keep the impact area in front of the growth. As the City grows, one has to look at all the connections such as roads, etc. and where they are going to be, in order to be a step ahead in planning.

Tisha Flora asked if those property owners with septic systems in the impact area have to hook up to City water and sewer.

Val Christensen said no. If the water or sewer is run to them, then there are state laws that could apply.

Stephen Zollinger said there is a law that the City could require it. They have never done that.

Cory Sorensen arrived at 7:25 pm.

Mark Rudd asked how long it has been since the impact area was last extended and how long they would see this proposed impact area change lasting.

It was thought that boundary changes to the City's impact area were last done in about 1998.

The time to change the boundaries again would depend on the development growth of the City. An example is that the development of the high school on the south spurred growth around it.

Bruce King stated he is president of the Sugar City Council. He expressed that 50 acres of the east end of what appears to be the Harris property (north of the new Walmart development) appears to be mis-drawn as showing as being in Rexburg's impact area on the map. Those 50 acres on the east end are in Sugar City's impact area; 30 acres on the west side are in Rexburg's impact area.

Stephen Zollinger clarified the issue. It is accurate that the parcel is the Tom Harris property. It is accurate that 50 acres on the east end are in Sugar City's impact area. It is inaccurate to say that those same 50 acres are not also in Rexburg's impact area. It was never removed from Rexburg's impact area. It was put into Sugar City's impact area by the County at a hearing six or seven years ago. The City of Rexburg chose not to challenge or question it because there is an agreement in place that says when and if someone seeks annexation of the 50 acres, Rexburg will allow the 50 acres to be annexed into Sugar City out of Rexburg's impact area if it is the developer's decision. It is a technical overlap that exists and has existed since whenever the County put the acreage into Sugar City's impact area, but the property was never taken out of Rexburg's impact area. It is in both. Prior to this year that was legal. Now it is not, but the City of Rexburg does not see a reason to argue about the issue. The City of Rexburg has had meetings with the Mayor of Sugar City and Sugar City's attorney. They have all decided to just let this process go through, and it should shape itself out. It would be developer-driven.

Todd Smith, Madison County Commissioner. He understands that in the impact area, property would come under the City's planning and zoning. He asked if architectural design for buildings would also be under the City's rules.

Stephen Zollinger said only those portions of the ordinance that the County has adopted apply in the impact area. There is a list of zones that are applicable. The County adopted those as their own zones in the impact area.

Both the City and County have adopted the regulations regarding the Hwy. 20 corridor.

Val Christensen stated architectural design would only be for a commercial building.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral:

Elaine King, 433 East Palomino, Sugar City. She is here representing the Sugar-Salem Moody Cemetery District. They received a hearing notice in the mail. They are concerned about the impact area boundary on the east side of the map, in relation to the cemetery's location. They are concerned with how this proposal may affect them and if there would be any impact.

Stephen Zollinger explained that the east boundary of the City's impact area map is not changing. All taxing district jurisdictions within Madison County were sent a hearing notice for their information, whether the proposal would affect them or not. There would not be any impact to the Sugar-Salem Moody Cemetery District.

Opposed:

Bruce King, 433 East Palomino, Sugar City. He is president of the Sugar City Council. He would oppose this proposal on the grounds that he does not believe that a parcel can be in 2 impact areas at the same time. Sugar City has ordinances that were passed and signed by Sugar City and the County, placing the east 50 acres of Mr. Harris's property in Sugar City's impact area.

Written Input: None

Rebuttal: No rebuttal comments.

Chairman Robinson closed the public input portion of the hearing and asked for any further staff evaluation.

Val Christensen stated that all information has been discussed.

Steve Oakey asked for more explanation on the apparent conflict with the agreement made on the Harris parcel.

Stephen Zollinger clarified that a number of years ago there was a legal action involving the City of Sugar City and the City of Rexburg. At its conclusion, the court ordered Sugar City to give up any claim to the Harris property. Immediately after that, Rexburg reached out to Sugar City and indicated that Rexburg was prepared to accept a developer-driven resolution to the property, but they were not going to allow annexation without at least having some knowledge that a developer was the one driving that decision and not Sugar City's Planning & Zoning versus Rexburg's Planning & Zoning.

An agreement was executed in approximately 2006 between then Mayor Glenn Dalling of Sugar City and Mayor Shawn Larsen of Rexburg, which stated exactly that – at such time as Sugar City chose or presented a developer seeking to annex those 50 acres into Sugar City, Rexburg would not oppose it. Despite the fact that the court case had clearly stated that Rexburg had the right to oppose it and reject it in perpetuity, Rexburg determined it was in the best interest of both communities to allow

the developer to drive that decision. It spoke specifically to the annexation of the property; it did not speak at all to the impact area. Rexburg at that time did not amend their impact area although at that time they had a request in to the County to do so, as did Sugar City. The County chose not to act on either of the requests at that time.

At some time subsequent to that, in about 2010, the County executed without a public hearing or without any notification that can be found, a transfer of the subject parcel into Sugar City's impact area. There is no evidence of when this issue was put to hearing or where it was published.

Rexburg thinks it was an honest misunderstanding on the part of the County and Sugar City and appears to be a misunderstanding of the agreement, in believing the agreement spoke to the impact area and not to an eventual annexation.

Rexburg then met with their legal counsel and determined there was no reason to fight about it. They would simply just wait and allow it to be in either impact area as determined by a developer's request. There are currently parties who are discussing the property. They have met with Rexburg, and they have met with Sugar City.

After Rexburg's recent meeting about 10 days ago with Sugar City's Mayor and Sugar City's legal counsel, the City of Rexburg's position remains unchanged. The City of Rexburg will allow the developer to make a request into whichever city they choose. Legally, Rexburg saw no point in challenging the validity of the property being put into Sugar City's impact area; it does not affect Rexburg right now. They have an agreement executed by both governmental entities stating they will allow the issue to be determined by the developer.

Chairman Robinson stated that the question before the P&Z Commission is, shall the Commission recommend to the City Council the expanded impact area as proposed?

Bruce Sutherland stated he is amazed at how things have moved along. When the first impact area was defined in 1997, it was a very interesting process. There was so much misinformation. Many people were opposed because they thought they were losing rights. It was a state law the city was trying to comply with. Tonight, the Commission would be giving a recommendation to the City Council, who will recommend to the County Commission what they feel is best. It is in the best interest for Rexburg, Sugar City, and the County to work together. It is a great plan. The size is appropriate. It will help in planning better for the future.

Cory Sorensen asked about specific distance beyond the bordered roads.

Val Christensen said it is 100 feet to the other side of the road in order to get both sides of a road, as shown on the map. Stephen Zollinger said this can be changed.

Melanie Davenport agreed with Mr. Sutherland that this is a good proposal. It is based on statistics and growth patterns. The City has been considerate of the neighbors. It is in the best interest of the community.

Chairman Robinson added that this proposal squares off the area of impact instead of the jogging of some of the current boundaries. He is in favor of this amendment.

Bruce Sutherland motioned to recommend to City Council the amended boundaries for the Impact Area of the City of Rexburg, as presented by City staff. **Melanie Davenport** seconded the motion.

None opposed. **Motion carried.**

It was noted that it is now up to the City Council to decide about the City's Impact Area proposed boundaries amendment and what their recommendation will be to the Madison County Commissioners.

Unfinished/Old Business: None

New Business: None

Compliance: None

Non-controversial Items Added to the Agenda: None

Report on Projects: None

Tabled Requests: None

Building Permit Application Report: None

Heads Up:

May 7, 2015 P&Z meeting - Discuss PEZ zone visitor parking amendment.

Chairman Robinson adjourned the meeting at 8:00 pm.