

# Planning & Zoning Minutes

July 16, 2015



CITY OF  
**REXBURG**  
America's Family Community

35 North 1<sup>st</sup> East  
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020  
Fax: 208.359.3022

## Commissioners Attending:

Thaine Robinson – Chairman  
Cory Sorensen      Mark Rudd  
Melanie Davenport      Steve Oakey  
Rory Kunz      Tisha Flora  
Bruce Sutherland      W.C.Porter

## City Staff and Others:

Val Christensen – Community Development Director  
Porter Wilkins – Community Development Intern  
Darrik Farmer – GIS Permit Technician  
Elaine McFerrin – P&Z Coordinator

**Chairman Thaine Robinson** opened the meeting at 7:03 pm.

City Council Liaison Brad Wolfe asked to be excused.

## Roll Call of Planning and Zoning Commissioners:

**Attending:** Steve Oakey, Rory Kunz, Cory Sorensen, Mark Rudd, Chuck Porter, Thaine Robinson, Bruce Sutherland, Tisha Flora, and Melanie Davenport.

Gil Shirley and Jedd Walker were excused.

## Minutes:

1. Planning and Zoning meeting – July 2, 2015

**Steve Oakey** motioned to approve the Planning & Zoning minutes of July 2, 2015. **Bruce Sutherland** seconded the motion.

Tisha Flora abstained for having not been present.

None opposed. **Motion carried.**

## Public Hearings:

1. 7:05 pm– Sweetwater Housing Planned Unit Development (PUD) – Approximately 902 Everett Place - Preliminary Master Plan/Preliminary Plat

**Chad Shirley**, 565 Pioneer Road, representing the developer, presented the proposal. The plan was viewed. They are separating the lots and wanting to sell the buildings individually instead of as just one entire property. They are asking for Preliminary Master Plan/Preliminary Plat approval of the Sweetwater Housing PUD. There are nine 4-plexes.

**Community Development Director Val Christensen** explained that the process for a PUD is different than a standard preliminary plat. This project was started as a stand-alone project, one lot, meaning that it was going to have one ownership and parcel lines would be removed. As it progressed, the applicants decided they wanted to be able to sell the buildings individually. If a condominium plat had been done, they could only sell the units individually. The City Attorney suggested that the applicant go through the PUD process because they wanted to sell the buildings individually. It was felt by the City Attorney that the PUD is a much cleaner method. It is a platting

process that allows a developer to cluster. Density bonuses are possible, but the applicant is not doing this.

**Chairman Robinson** stated that usually a project would not start until after the PUD application process is complete; in this case buildings are already being built. Basically what the Commission is looking at is whether to allow the applicant to sell nine different lots.

**Mr. Christensen** clarified that this is not a more complex zoning process but it is a more complex entity to address. It would affect how the property is owned and how it is sold.

**Melanie Davenport** said she fails to see how this proposal fits as a PUD. Per the Development Code, a PUD encourages more creativeness in the site plan and building design, and greater diversification, etc.

**Val Christensen** said the project could be built under one ownership and then sold off. He reiterated that in order to sell the individual buildings, this PUD is being requested, because of a technicality of the City's Development Code.

Most of the PUD guidelines are based on meeting density bonuses. The applicants are not asking for any density bonuses. Their buildings have met the City's design requirements. All they are asking for is to sell the buildings individually instead of the units individually. It is a technicality.

**Melanie Davenport** expressed that the PUD section of the ordinance may need to be tweaked, for future PUD proposals to proceed more easily.

**Val Christensen** agreed. As stated in the staff report, staff would like to address the 3 acre minimum size requirement for a PUD. This proposal is less than 3 acres. The City Attorney directed that it move forward with the process as there does not appear to be justification to specify that the size be 3 acres rather than 2 acres.

**Steve Oakey** thought the PUD size issue should be discussed separately from this proposal.

**Chairman Robinson** agreed.

The Chairman asked if any of the Commissioners had a conflict of interest or perceived conflict of interest with this issue. No one declared a conflict.

**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 of the hearing and asked for the staff report.

**Val Christensen** stated that most points have been addressed.

PUDs are usually fairly complicated because of all the qualifications that are being asked for. It gives more room to work within the ordinance. An example would be the Founders Square PUD with its smaller setbacks, homes, and a park.

In this current request, all the applicants are asking for is to allow the ownership to be a little different than it would normally be - to be able to sell the buildings individually. The common space is jointly owned.

It was clarified that this PUD Preliminary Master Plan/ Preliminary Plat will go to the City Council for a final decision. It will eventually come back before the Commission as the PUD Final Master Plan/ Final Plat.

**Melanie Davenport** said this proposal feels arbitrary. That is not the applicant's fault. The City does not have something that really fits what they are trying to do. When they come back with final plans, perhaps they can show how they are conforming to some of the PUD requirements.

**Val Christensen** stated it is the first time something like this has been asked for. There needs to be give and take. He reiterated that the reality is that technically they can do this project just like it looks. All the PUD would do is change their ability on how it can be sold.

**Chairman Robinson** was concerned about green space.

**Val Christensen** said the project does show a buffer for the parking lot, and the buildings are set back.

**Steve Oakey** thanked the applicant and staff for being willing to bend.

**Mark Rudd** stated that he likes the idea of the buildings being able to be sold individually.

**Chairman Robinson** agreed with Mr. Rudd. He likes the idea that a developer can do this on a larger project with multiple buildings.

**Bruce Sutherland** said the Commission could address buffering the parking lot on the east .The Commission is here to work with the developer and the community. Put a human side on this, so that there is flexibility and give and take. As Mr. Christensen said, this is just a technicality. The project is a good use and change that is logical and appropriate.

**Cory Sorensen** pointed out that the 'Landscape Plan' proposed condition in the staff report addresses the issue. There will still be a final plat to see. It seems premature to tell the applicant now what kind of landscaping is needed.

**Bruce Sutherland** motioned to recommend approval to the City Council for the Sweetwater Housing Planned Unit Development (PUD) Preliminary Master Plan/Preliminary Plat to include the 13 proposed conditions from the staff report.

**Melanie Davenport** seconded the amended motion.

Discussion regarding eliminating proposed condition #5 regarding PUD minimum acreage requirements, for discussion at another time.

**Bruce Sutherland amended** the motion and motioned to recommend approval to the City Council for the Sweetwater Housing PUD Preliminary Master Plan/Preliminary Plat **to include 12 proposed conditions of approval from the staff report and striking proposed condition #5 regarding PUD acreage requirements, which will be discussed separately.**

**Tisha Flora** seconded the amended motion.

None opposed. **Motion Carried.**

**Proposed Conditions of Approval  
15 00341 Sweetwater Housing PUD  
Preliminary Master Plan/Preliminary Plat**

**General**

1. The final master plan/final plat application shall include all required submittal standards and incorporate all conditions of approval.
2. Language shall be clear in the CC&Rs that no approval granted by the HOA or Architectural Committee shall violate City Code (e.g. accessory structures, building heights, fencing, location of building on lot, etc.).
3. The final CC&Rs shall be reviewed and approved by the Community Development Director prior the recordation of a plat.
4. Requirement of the underlying zoning prevails where no specific requested variation has been considered and granted in this PUD request.
5. ~~Staff recommends that there be discussion on changing the requirements for area requirements for PUD requests. This language is found in Section 4.15e in the City of Rexburg Development Code. Staff recommends adding language that would allow less area than those described on a case by case basis.~~

**Performance Standards**

5. Utilities- All new utilities must be placed underground.
6. Water Conservation- The final master plan for each phase shall show, in sufficient detail, how the proposal will incorporate low volume irrigation systems throughout the landscaped areas of the development.
7. Individual lot owners shall be required to incorporate low volume irrigation systems throughout their landscaped areas; this requirement shall be stated in the CC&Rs under Section 4.13.
8. Refuse Bins- Individual trash bins shall be kept in garage or screened from the public right-of-way on days of no trash service in the neighborhood. .
9. Glare Reduction- The proposal must adhere to the City's lighting standards, details shall be provided with the final master plan/final plat for each phase.

**Common Open Space**

10. Maintenance- As the common area is proposed to be private rather than public, the homeowners association shall be responsible for common space maintenance. Until such time as a homeowners association is established, the applicant or owner of record shall be responsible for all maintenance of common areas and all unsold lots.
11. Hardscape- In order to determine hardscape percentages the final landscape plan, submitted with the final master plan, shall provide detailed information on hardscape percentages.
12. Landscaping Plan- The applicant has not addressed this requirement during the preliminary master plan/preliminary plat application process; therefore the final master plan shall reflect this on the landscape plan. In addition, the final CC&Rs shall have the PUD ordinance requirement written into the CC&Rs. The final landscape plan shall consider amount of trees and bushes, landscaping buffer for parking lot and solar access as required by the PUD ordinance in the placement of deciduous and evergreen trees.

---

**Chairman Robinson** suggested that the Commission should address the PUD minimum acreage requirements at this time. The Chair felt the Commission needed some kind of guideline as there is for zones, to address this issue.

**Melanie Davenport** felt that some complexes need more green space. It is better design in a walkable city.

**Val Christensen** agreed. The City has been looking at where to put new parks, in part so that people in the infill redevelopment (considered downtown) area and elsewhere have parks to go to. Not a lot of grass area may be needed, because of surrounding amenities. He stated that the City Attorney does not think a 3 acre minimum size for a PUD could be supported. It is too arbitrary.

**Steve Oakey** wondered if it is possible that the City could creatively incentivize developers to cooperatively and voluntarily offer up green space inside their development in exchange for some other benefit, such as a tax incentive, or cash incentive, or waiving of park fees. That would help to minimize the acreage and address green space.

**Chairman Robinson** said it is good idea, but how can it be enforced.

**Steve Oakey** said it would not need to be enforced. The developer would realize that it would help to market their product better.

**Cory Sorensen** said there may be a little bit of a wrong mind set on what green space is. Green space for a walkable community is benches, trees, potted flowers, etc., not grass. Grass is the easy cheap way.

The PUD size could be tiered depending on what zone the project would be in.

**Steve Oakey** felt it was better to not think in terms of an absolute number for the size of a PUD.

**Chairman Robinson** requested that Val Christensen confer with the City Attorney and come back to the Commission with suggested language for discussion of minimum area requirements for PUDs. (from staff report - "Staff recommends adding language that would allow less area than those described on a case-by-case basis").

There was interest in discussing Euclidean zoning and Performance-Based zoning.

**Chairman Robinson** requested that Val Christensen address this subject at a future meeting for discussion when time allows.

**Unfinished/Old Business:** None

**New Business:**

1. Tru North Development Rezone (2012) - Sunset clause extension

Chairman Robinson read from findings. This rezone took place for the specified properties in 2012. One of the conditions was a 36-month sunset clause specifying that the subject property (specified property at approximately West Main and West 1<sup>st</sup> North) will revert back to the original zoning if the project does not move forward in that period of time.

*From City Council September 19, 2012 minutes:*

**"Council Member Merrill** moved to approve the re-zone from Low Density Residential Two, Light Industrial and Community Business Center to Mixed Use Two at approximately 245 West 1st North with the exception of the two 3rd West lots be left LDR2 at the depth needed for what will be built in the LDR2 lots, including the following conditions:

*Planning and Zoning conditions:*

1) There shall be surface parking only - no parking structure;

2) No access onto 3rd West;

3) No landscaped area along the frontage of the subject property on 3rd West with a depth of not less than fifty (50) feet (Lots have been left as LDR2); and

4) **Thirty-six month sunset clause specifying that the subject property will revert back to current zoning if the project does not move forward in that period of time.**

*Additional conditions:*

- 5) *Sufficient buffering with landscape for any line of site from a building to a neighboring backyard;*
- 6) *1:1 ratio setback; and*
- 7) *Allow no more than 16 units per acre;*

**Chairman Robinson** said the focus is to discuss extending the sunset clause, which would be expiring soon, causing the property to revert back to the original zoning. The Zone change was from Low Density Residential Two, Light Industrial and Community Business Center to Mixed Use Two.

**Val Christensen** explained that an extension of the sunset clause was asked for by Brad Wolfe, who is one of the property owners who took part in the rezone, as he has some ideas for the part of the rezoned land that he owns.

**Cory Sorensen** recused himself from voting on this issue because of conflict of interest. He originally presented the Rezone for the developer. He is not part of the ownership now.

The Chair said that sometimes a sunset clause protects an area that is under a lot of controversy.

**Steve Oakey** said to keep in mind that when the rezone request was heard, the Commission voted in favor of the restrictions the neighborhood was asking for. Think in those terms.

It was clarified the City Council's condition that was put on this rezone regarding allowing no more than 16 units per acre is a separate issue that would not be addressed at this time.

**Tisha Flora** and **Bruce Sutherland** felt the sunset clause should be extended.

Mr. Sutherland felt that any change in density would need to be generated by the parties that have an interest.

**Val Christensen** stated the only question before the Commission tonight is should the City allow the sunset clause for this rezone to be extended.

**Melanie Davenport** motioned to City Council to extend the sunset clause for the Tru North Development Rezone by 18 months. **Chuck Porter** seconded the motion.

Steve Oakey thought 18 months would be tough to get anything done. He suggested 36 more months for the sunset clause. Commission discussed.

**Melanie Davenport amended the motion** to City Council, **to extend the sunset clause for Tru North Development Rezone (12 00273) for 36 months from today's date (July 16, 2018).** (Zone change was from Low Density Residential Two, Light Industrial and Community Business Center to Mixed Use Two). **Chuck Porter** seconded the amended motion.

None opposed. **Motion carried.**

Cory Sorensen did not participate in the vote – he recused himself due to conflict of interest.

**Compliance:** None

**Non-controversial Items Added to the Agenda:** None

**Report on Projects:** None

**Tabled Requests:** None

**Building Permit Application Report:** None

**Heads Up:**

August 6, 2015 P&Z Meeting:

1. Conditional Use Permit – 679 West Main- to allow an existing Daycare in a home in the Low Density Residential 2 (LDR2) zone.

Chairman Robinson adjourned the meeting at 8:27 pm.