

Planning & Zoning Minutes

September 17, 2015



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Thaine Robinson – Chairman
Gil Shirley Mark Rudd
Melanie Davenport Steve Oakey
Bruce Sutherland Tisha Flora
Rory Kunz

City Staff and Others:

Brad Wolfe- City Council Liaison
Natalie Powell-Community Development Compliance Officer
Mark Daniel- Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Thaine Robinson opened the meeting at 7:00 pm.
Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

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

Chuck Porter and Jedd Walker were excused.
Cory Sorensen was absent.

Minutes:

1. Planning and Zoning meeting – August 6, 2015

Rory Kunz motioned to approve the Planning & Zoning minutes of August 6, 2015. **Gil Shirley** seconded the motion.

Bruce Sutherland and Mark Rudd abstained for not having been present.
None opposed. **Motion carried.**

Public Hearings:

1. 7:05 pm – Conditional Use Permit – 649 West Main – to allow a duplex in an existing residential structure in the Low Density Residential 2 (LDR2) zone.

Chairman Robinson stated there are 3 public hearings tonight. All are much the same nature and in the same geographical location. All three will be heard separately.

He explained the process for a public hearing. The applicant will present the proposal. Staff may clarify the proposal. Public testimony will then be taken – those in favor of, neutral to, or opposed to the proposal. Please be brief in stating what you would like the Commission to hear. Staff will then give their report and recommendation, followed by deliberation by the Commission in order to reach a decision on the proposal.

The Chairman clarified that the P&Z Commission has the authority to make the final decision on Conditional Use Permit requests for a duplex, per the Development Code Ordinance No. 1115, Section 6.12f. The three CUP requests scheduled for public hearings tonight do not have to go on to City Council. The final decision of the P&Z Commission may be appealed to the City Council.

Chairman Robinson asked if any of the Commissioners had a direct or perceived conflict of interest with the first CUP hearing, for 649 West Main.

Rory Kunz declared a direct conflict of interest for the first and second CUP hearings (649 West Main; 651 West Main) on the agenda. He represents the buyer for 649 West Main and both sides in the acquisition of the property for 651 West Main. Both sales are contingent on approval of the Conditional Use Permits.

He recused himself from this first hearing (649 West Main) and from the second hearing (651 West Main).

Kelly McCandless, 223 Jill Drive. He represents the applicant as well as the hopeful owner. They have made offers to purchase both properties (649 and 651 West Main). The purchases are contingent upon both properties obtaining a CUP. Both properties would be converted into duplexes.

He clarified that this hearing is addressing 649 West Main. A photo of the existing “A-frame” home was shown. A unit would be on the main floor with a second unit in the basement. There would be some exterior renovations and landscaping. In the property description of 651 West Main, there is a shared easement for ingress/egress for this property (649 West Main) and 651 West Main using the existing drive. The schematic view including the easement was shown. This resolves one of the staff concerns. The whole area is zoned LDR2. In accordance with that zoning, they are making application for a duplex here. They will do appropriate renovations.

The property at 649 West Main is over 20,000 square feet so it is twice the square footage that is the necessary minimum. They are assuming that the renters would be a family. Each unit would have 2 bedrooms.

It was clarified by the Chairman that a duplex is two dwelling units on one parcel. It can be up and down, or side by side.

Chairman Robinson asked if anyone in the audience had any questions to help them understand the proposal. There were no questions.

There were no additional clarifying comments from staff.

Chairman Robinson opened the public input portion of the hearing.

In Favor:

Deanna Wylie, 649 West Main. She and her husband own the subject property. When she moved in, she had three young children, so she needed the space. Now just she and her husband live in the home. She has had health difficulties that make it hard for her to climb the stairs. They really need to sell the home. They know it can accommodate another family. There are five levels in the house. There is plenty of room for parking, vehicle turnaround, etc. A duplex could be enjoyed by some younger people.

Rod Jones, 3720 West Mountain View Drive. He is in favor. There are some homes in the area that have apartments. This request for 649 West Main and the next request for 651 West Main will improve the looks of the neighborhood and the street without hurting the other homes in the area.

Neutral:

Lynda Marquez, 697 West Main. She is neutral to the proposal at this time, but does have concerns. She worries that if both properties have duplexes, renters would be coming and going. She has lived in her home for 33 years. West Main is a first impression of Rexburg as people enter the

city. She is concerned about the maintaining of the property. She also worries about the traffic and safety. If there are 4 different families in the 2 homes and they have children, there is concern. In the winter, the sidewalks are non-existent. West Main is a busy street. Rexburg is beautiful; it is a family community. She wants to make sure that whatever this changes into would mesh with the homes around it.

Peggy Gibson, 629 West Main. She lives right next door to the east of the subject property. She has the same concerns as Mrs. Marquez.

Opposed: None

Written Input: None

Rebuttal:

Kelly McCandless appreciates the comments. He clarified they will not lease any properties unless it is at least a year long lease. They hope to have tenants who will stay. Property maintenance is their responsibility as the owners - lawn care, sprinklers, keeping the grass green, etc. That is the standard at which they want the properties to be maintained. They are committed to this.

Both properties are relatively large with huge backyards. His assumption is their tenants may use the paved walkway at the back of the property to the south which goes toward Kennedy School, rather than using the front sidewalk.

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

Community Development Compliance Officer Natalie Powell stated the home is in the LDR2 zone so a Conditional Use Permit is required for a duplex. She clarified the use – the apartment could be rented to families and to singles as long as the definition of “Family” stated in the Rexburg Development Code is met. That eliminates confusion of students or an abundance of singles living there.

In Community Development Director Val Christensen’s staff report, he requested a parking plan which the applicant has provided here tonight. The applicant will also need to have a landscaping plan. A dedicated easement was also necessary and was shown tonight.

In Public Works Director John Millar’s review, his concerns were as follows:

Public Works Staff Review Comments

Property Location: 649 West Main and 651 West Main

1. *The existing property at 649 West Main does not appear to have a separate access to the property.*
2. *The parking shown includes the property to the west at 651 West Main. We do not have any agreements on how these two properties are connected or could be developed.*
3. *There are also not sufficient dimensions to show how the proposed parking will meet the needs.*
4. *Is there an existing agreement on shared access and parking?*
5. *Additional information is required before this can be approved.*
6. *The only way the properties can be developed this way is to have an agreement that will tie these two properties together in perpetuity.*
7. *Parking must be constructed so that cars will not have to back out onto West Main.*

These concerns were addressed.

The Fire Department reviewed the application and did not have any comments at this time. There are City ordinances that address landscaping, snow removal, etc.

All building requirements would need to be met during the building permit/inspection process in order for a Certificate of Occupancy to be issued.

The **Chairman** said an agreement between the 2 properties would probably need to be recorded.

Melanie Davenport wanted to be sure that this request would be harmonious to the neighborhood. **Natalie Powell** felt it would be harmonious. There are other duplexes in the area.

Chairman Robinson clarified that the question before the Commission is, shall a duplex be allowed at this location, and if so shall there be any conditions?

Steve Oakey said staff recommendations have been addressed by Kelly McCandless. No conditions are needed.

Chairman Robinson expressed that conditions are necessary in order to address concerns in an official CUP document in case the property is ever sold, such as on the sharing of the parking and the entranceway.

Steve Oakey said the land developers and potential buyers could make that arrangement themselves.

Tisha Flora said another reason for a CUP is that for the concerned neighborhood residents, it is a way for the developers to be held to what they say they are going to do.

The **Chair** said the Commission wants to protect the neighborhood, the City, and the people who are buying the property.

Bruce Sutherland motioned to approve a Conditional Use Permit to allow a duplex in an existing residential structure in the LDR2 zone on the property located at 649 West Main, to include the three conditions stated in the staff report, and adding a fourth condition:

1. Provide a parking plan.
2. Provide a landscape plan to identify buffering.
3. Provide a copy of dedicated easements to tie the properties together.
4. There shall be a recorded agreement between 649 West Main and 651 West Main regarding the easement the 2 properties will share and tying the 2 properties together.

Mark Rudd seconded the motion.

The “Standards Applicable to Conditional Use Permits,” Section 6.12B of the Rexburg Development Code No. 1115, apply to all Conditional Use Permits.

None opposed. **Motion Carried.**

2. 7:15 pm – Conditional Use Permit – 651 West Main – to allow a duplex in an existing residential structure in the Low Density Residential 2 (LDR2) zone.

As stated at the start of the previous hearing, **Rory Kunz** declared a direct conflict of interest for the first and second CUP hearings (649 West Main; 651 West Main) on the agenda. He recused himself.

Kelly McCandless, 223 Jill Drive. This home at 651 West Main has been uninhabited for some time. It has been used as a kind of storage place; there also is a garage. The recorded easement is already in place for the 2 properties (649 and 651 West Main) in the legal description. The easement is actually on this property. In perpetuity, it grants shared access with 651 West Main to those who live at 649 West Main.

This property is in a greater need of landscaping and sprucing up than 649 West Main.

The offer to purchase the properties (649 West Main and 651 West Main) is contingent on both Conditional Use Permits being granted. The applicant/developer would be responsible for property maintenance. They want to take care of their assets.

Chairman Robinson noted that no Certificate of Occupancy will be given until it is determined that all life safety issues have been addressed satisfactorily. The City's building permit process would be required.

There were no additional clarifying comments from staff.

The Chair asked if any Commissioners wished to declare a conflict of interest. Rory Kunz was already recused as stated earlier. No other Commissioners had 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 evaluation and recommendations.

Natalie Powell said staff notes on this request for a CUP for 651 West Main are the same as in the previous request for a CUP for 649 West Main. She reiterated there are City ordinances to address landscaping, snow, etc. All requirements would have to be met before the Certificate of Occupancy would be issued.

Melanie Davenport asked if all life safety issues would be cleared up through the permitting process. **Mrs. Powell** said they would be.

Mark Rudd said this request looks like a nice fit for the property. It has been for sale for a long time. It has been in disrepair, and someone now is going to go in and clean it up and make it livable.

There was discussion. It was expressed that the conditions for this CUP for 651 West Main should be the same conditions as those for the CUP for 649 West Main.

Melanie Davenport motioned to approve a Conditional Use Permit to allow a duplex in an existing residential structure in the LDR2 zone on the property located at 651 West Main, to include the three conditions stated in the staff report, and adding a fourth condition:

1. Provide a parking plan.
2. Provide a landscape plan to identify buffering.
3. Provide a copy of dedicated easements to tie the properties together.
4. There shall be a recorded agreement between 649 West Main and 651 West Main regarding the easement the 2 properties will share and tying the 2 properties together.

(These are the same four conditions that were included in the CUP for 649 West Main).
Tisha Flora seconded the motion.

The “Standards Applicable to Conditional Use Permits,” Section 6.12B of the Rexburg Development Code No. 1115, apply to all Conditional Use Permits.

None opposed. **Motion carried.**

Commissioner Kunz re-joined the Commission on the dais.

3. 7:30 pm – Conditional Use Permit – 517 West Main – to allow a duplex in an existing residential structure in the Low Density Residential 2 (LDR2) zone.

Darrik Farmer, 517 West Main. He and his wife bought the subject property a year and a half ago. They originally intended to put the apartment above the existing garage. After speaking with Rocky Mountain Power, they have changed the site plan and would now build a new garage structure with an apartment above it. He has spoken to 3 immediate neighbors. The site plan was shown on the overhead screen. He was not able to speak to his neighbor to the west about this new site plan. Having this new building may be a better buffer.

By the Development Code, 4 parking stalls could be up front. To do that, they would have to take out a nice maple tree. They also just put in a new fence. They feel parking in back would provide the opportunity for the cars to turn around and exit face front on to West Main Street, which would address a concern of City staff regarding cars backing out on to West Main Street.

A tentative floor plan was also shown. Cantilevers may be used to add variety instead of having a straight wall. The garage will be flush with the house, but the upstairs will be set back to the east.

Steve Oakey said he assumed Mr. Farmer worked out some of the difficulties of the project with his neighbor. **Darrik Farmer** said they did have a conversation, but he did not have a chance to show the new plan to his neighbor.

The Chairman asked if any of the Commissioners needed to declare a conflict of interest or perceived conflict of interest. There were none.

Chairman Robinson opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed:

Jodi Johnson, 527 West Main. She lives to the west next door to the subject property. She has lived there about 48 years. Her parents are here tonight, and they live just to the west of her home. Her biggest concern is safety. Where the Farmers’ drive comes out, there is not a turn lane.

There is already a basement apartment, so two families are living in the house. Potentially this would be a third. There could be six cars. Pulling into the driveway with all the traffic is a concern. There is also a lot of sidewalk traffic. The path behind the homes alleviates some of it but walking and biking are frequent, and the road is not well lit. There may not be room to turn around and go out forward

on the subject property. The driveway is very narrow between the side of the subject house and the property on the corner.

Her second concern is the sewer line from the subject house goes underneath the corner of her house on the east side, across her front yard, and it dumps into the manhole in front of her parents' house. She is concerned about the adequacy, and possibly having to tear up her yard to fix the line in order for it to be adequate. Regarding traffic, lots of Walters cement trucks and trailer traffic going to the fairgrounds pass through the intersection. In winter, the area is very slick.

The Farmers put up a really nice fence but it is right up against the sidewalk and hard to get around. Lastly, she is concerned about their privacy and their backyard. It is their sanctuary. They have worked hard to have their home. Her husband's hobby is his backyard. She is also curious regarding stipulations and recording them as was mentioned earlier in the meeting. If the Farmers outgrow their house, and they have turned it into this income property, and they move, are new owners held to the same standards? Right across the street on the corner is a rental property, and it is an eyesore. The property is not being taken care of. She is concerned about something like that being right next door.

Bob Carlson, 539 West Main. He lives 2 houses west of the subject property and next to his daughter who just spoke. They built the house their daughter now lives in 50 years ago. After they put the roof on, the building inspector said it was too close to the house on the east – the house on the east (Farmer house) was too close to the property line. If another building is built on the back, it would be too close to the property line again. The sewer line runs under his daughter's home and into a manhole in their front yard and not into the City sewer line. He doubts the 4-inch line would handle 2 more families.

Bobbette Carlson, 539 West Main. She is very concerned about safety. The fence the Farmers just built is nice but it is right up against the narrow sidewalk. The curbing drops off onto the roadway. There is no grassy area as in other neighborhoods that have homes with fences up against the sidewalk. If a child was to fall over when riding a bicycle, they would fall onto the highway. The Farmers' mailbox has been turned sideways in order to give a little more room, but this is not sufficient.

Shane Johnson, 527 West Main. He is an avid gardener. It is possible to live on Main Street and have a sanctuary. He is concerned about a 2-story building in relation to his property and the blocking of sunlight. Mr. Farmer has been renting the basement of the house since he moved in to at least 4 families. They parked in the back of the school yard on the other side of the bike path.

Written Input: None

Rebuttal:

Darrik Farmer stated regarding Jodi Johnson's comments - it is true that the sewer line does run through the Johnson property. A plumber felt the line was sufficient. If it were an issue, it would be Mr. Farmer's cost if anything else is necessary. Regarding the Johnsons' backyard being their sanctuary, he admires this. They would be willing to put up a better fence between the two properties, with their neighbors; they have spoken to their neighbors about this. It could be a condition.

If the Farmers sold the property, the conditional use permit would carry to the next owner – a CUP goes with the property. Things change, but they plan on staying here forever. The reason why they are making this request is that they did not follow the proper steps, and they are making an effort now to fix that. Their intention is to have the entire house to themselves, and this subject new unit would be the only unit there. There would not be the issue of having 3 units.

Bob Carlson mentioned concerns about the property line. The property line from the fence to the house measures 6 feet; the house meets the current required setback. The fence was put up because the safety of their children has been a concern. Mail boxes bottle neck in many places up and down on West Main. They asked the post office if they could move their mailbox and put it on their fence or back on their property, and were told they could not. Mr. Farmer turned the mailbox sideways to try to provide a little more space.

Shane Johnson had the concern regarding the planned 2-story building blocking sunlight into the Johnsons' yard. The building would sit back 10 feet. With the summer sun at noon, the casting of a shadow would probably not be any more than what the fence is already doing.

The Farmers feel this request will help them financially, but they also think having this income will help them keep the property beautiful.

Chairman Robinson closed the public input portion of the hearing and asked for the staff report.

Natalie Powell stated the Public Works Director had a concern.

From the Public Works Staff Review: "*There is concern about additional cars backing out onto Main Street.*" Staff felt that providing parking in the back with a one lane entrance/exit accomplished 2 things: the driveway would not be in the front, and cars would not have to back out onto the street.

Mrs. Powell stated the dimensions of the driveway will be examined through the Building Department review process. It will have to meet the code in order for the project to move forward. The Fire Department did not have concerns. The distance to the nearest fire hydrant met requirements. A fire truck would not necessarily have to go back on the property.

Conditional Use Permits do carry over with the property to the next owners.

Setbacks may change over the years. Currently, setbacks must meet the current International Residential Building Code requirements. A building may have met a past code. If a building is going to be remodeled, the remodeling must meet the current code. This would include plumbing and sewer. It is an opportunity to make things better.

The fence definition in the Development Code regulates fences. The Farmers could have gone up to a 6 foot high fence with a 50 percent see-through fence. They chose to build a 3 foot fence for the safety of their children.

Regarding mailboxes on Main Street and narrow sidewalk space, this has been an issue with the post office here and in other parts of the City. The Post Office will not deliver to the door. City requirements for new developments now require wider sidewalks and boulevard strips.

Melanie Davenport wondered about the widening of the sidewalks by new or current owners.

Natalie Powell said the City tries to keep consistency in an area.

The issue could possibly be addressed for a group of properties as part of an LID (Local Improvement District) if the neighborhood was found to be in need of improvement.

Rory Kunz said his biggest concern is that the LDR2 zone does not allow a triplex. It was mentioned that there is currently a downstairs apartment. Mr. Farmer mentioned that his intention is to live in the entire house, with the second unit being the newly constructed one. If this CUP is approved for a duplex, wording should clarify the issue.

Chairman Robinson clarified that the Conditional Use Permit would be for a duplex, not a triplex. The basement would not be able to be used as a unit.

Steve Oakey said a lot of concerns have been answered. It is commendable that Darrik Farmer has approached some of his neighbors regarding this proposal.

Chairman Robinson said his concern was the closeness of the property to the corner of West Main and South 5th West in regard to entering and exiting the subject property. A right turn in and a right turn out would be the safest.

Melanie Davenport said all her concerns have been answered by Natalie Powell and by other Commissioners.

Rory Kunz motioned to approve a Conditional Use Permit to allow a duplex (the building of a new duplex unit over a new garage as discussed) on the property located at 517 West Main in the Low Density Residential 2 (LDR2) zone.

Steve Oakey seconded the motion.

There was discussion regarding Standards for Conditional Use Permits that are stated in the City's Development Code.

Rory Kunz amended his motion, to approve a Conditional Use Permit to allow a duplex (the building of a new duplex unit over a new garage as discussed) on the property located at 517 West Main in the Low Density Residential 2 (LDR2) zone, to specifically include that the "Standards Applicable to Conditional Use Permits," Section 6.12B of the Rexburg Development Code No. 1115, apply to this Conditional Use Permit.

Steve Oakey retracted his second.

Melanie Davenport seconded the motion.

Tisha Flora clarified for the audience that the apartment currently in the basement would not be allowed.

The CUP would be for a new apartment to be constructed.

Steve Oakey asked Darrik Farmer if abandoning the downstairs living quarters being used as an apartment in favor of building the new duplex unit would comply with his wishes. Mr. Farmer said it did.

Those In Favor:

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

Those Opposed:

Gil Shirley

Motion Carried.

From City of Rexburg Development Code Ordinance No. 1115:

6.12B. - Standards Applicable to Conditional Use Permits. *The approving body shall review the particular facts and circumstances of each proposed conditional use and shall find adequate evidence to show that the proposed use will:*

- 1. Constitute a conditional use as established in Table 1, Zoning Districts, and Table 2, Land Use Schedule.*
- 2. Be in accordance with a specific or general objective of the City's Comprehensive Plan and the regulations of this Ordinance.*
- 3. Be designed and constructed in a manner to be harmonious with the existing character of the neighborhood and the zone in which*

the property is located.

4. *Not create a nuisance or safety hazard for neighboring properties in terms of excessive noise or vibration, improperly directed glare or heat, electrical interference, odors, dust or air pollutants, solid waste generation and storage, hazardous materials or waste, excessive traffic generation, or interference with pedestrian traffic.*
 5. *Be adequately served by essential public facilities and services such as access streets, police and fire protection, drainage structures, refuse disposal, water and sewer service, and schools. If existing facilities are not adequate, the developer shall show that such facilities shall be upgraded sufficiently to serve the proposed use.*
 6. *Not generate traffic in excess of the capacity of public streets or access points serving the proposed use and will assure adequate visibility at traffic access points.*
 7. *Be effectively buffered to screen adjoining properties from adverse impacts of noise, building size and resulting shadow, traffic, and parking.*
 8. *Be compatible with the slope of the site and the capacity of the soils and will not be in an area of natural hazards unless suitably designed to protect lives and property.*
 9. *Not result in the destruction, loss or damage of a historic feature of significance to the community of Rexburg.*
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Unfinished/Old Business:

1. Minimum acreage requirements for Planned Unit Development (PUD) – Discussion continued.

From the August 6, 2015 P&Z Commission meeting minutes:

“Chairman Robinson stated that the issue of PUD size requirements would be scheduled on the September 17th, 2015 P&Z Commission meeting agenda for further discussion, in order to allow staff and P&Z Commissioners time to do some research.”

Chairman Robinson stated this issue is being postponed until the next P&Z meeting, on October 1st, so that Community Development Director Val Christensen, who was not able to be here tonight, will be in attendance to present the issue.

Chairman Robinson asked the Commission to continue with their assignment of researching PUDs in other communities.

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:

October 1, 2015 P&Z meeting:

1. **Presentation:** Recognition of Service for P&Z Commissioner Chuck Porter
2. Minimum acreage requirements for Planned Unit Development (PUD) – Discussion continued

In answer to Tisha Flora’s request, Steve Oakey explained some of his research on PUDs. The subject will be fully addressed at the next meeting.

The meeting was adjourned at 8:43 pm.