

# Planning & Zoning Minutes

July 7, 2016

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

## Commissioners Attending:

Jedd Walker – Chairman  
Steve Oakey  
Melanie Davenport  
Mark Rudd  
Rory Kunz  
Greg Blacker  
Bruce Sutherland

## City Staff and Others:

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

**Chairman Jedd Walker** opened the meeting at 7:04 pm.  
Community Development Director Val Christensen was excused.

## Roll Call of Planning and Zoning Commissioners:

**Attending:** Steve Oakey, Greg Blacker, Rory Kunz, Mark Rudd, Jedd Walker, Bruce Sutherland, and Melanie Davenport.

Heidi Christensen, Gil Shirley, John Bowen, and Richard Smith were excused.

## Minutes:

1. Planning and Zoning meeting – May 19, 2016 minutes

**Melanie Davenport** motioned to approve the Planning & Zoning minutes of May 19, 2016.

**Bruce Sutherland** seconded the motion.

Jedd Walker and Mark Rudd abstained for having not been present.

None opposed. **Motion carried.**

## Public Hearings:

1. 7:05 pm - Rezone – 1030 South 5<sup>th</sup> West – Rural Residential 1 (RR1) to High Density Residential 1 (HDR1) – Troy Kartchner

**Chairman Walker** explained the procedure that is followed for public hearing. The applicant will come forward to explain the proposal. The Commission may ask clarifying questions and may give the public the opportunity to ask such questions. Public hearing testimony will then be given. During this time there can be no back and forth dialog between the Commission and applicant and those testifying, as this is a quasi-judicial hearing. The staff report will be given, followed by discussion and deliberation by the Commission. The Commission will make a recommendation to the City Council, who will make the final decision on the request.

**Troy Kartchner**, 601 West 1700 South, Logan, Utah, the applicant. They are proposing a rezone to High Density Residential 1 (HDR1) for the specified property. The request meets the Comprehensive Plan, which was just changed to Moderate-High Density Residential. He pointed out the property on the overhead screen. The completed Mesa Falls Apartments are to the north. Commercial property, multi-family property, and homes in the area were pointed out.

Traffic flows have been discussed with staff in the past. Mr. Kartchner will finish the road (Mikan) out to University Blvd, and they will widen South 5<sup>th</sup> West. The City has been making some plans to help with traffic flows in the area. The developer will continue to work with the citizens in the area to the north along 5<sup>th</sup> West, to widen the road on the west side as well as adding a sidewalk, and to add curb and gutter.

Mr. Kartchner stated that these things do not have anything to do with the rezone, but he is bringing them up because they are concerns for the developer, for citizens and future citizens, and for the City. He wanted to emphasize that they will be diligent in working with the citizens and with the city in making sure that the traffic flows are addressed.

**Chairman Walker** asked if the audience had any questions that would help clarify the proposal.

A man asked about the density change that comes with HDR1 and the amount of apartments there would be on the subject property.

**Troy Kartchner** said nothing is designed at this point, but the development will be similar to what was done with the completed Mesa Falls Apartments. On that request, the developer needed to have a Conditional Use Permit (MDR2 zone) in order to have the density that was wanted - 24-unit buildings, and to have 20 units per acre. There also is a significant amount of green space and common area for the residents.

They anticipate the new development will be a little denser. The units will be smaller, with probably more 1-bedroom units than 2 or 3-bedroom units. That is why they are requesting HDR1 zoning. They would have to go 4-stories or higher to meet the densities that are actually allowed. That is not their intention. The development will be similar to what is already developed.

**Chairman Walker** clarified that the zone change to HDR1 would allow 30 units per acre by right. **Community Development Compliance Officer Natalie Powell** stated that was correct. Buildings housing more than forty-eight (48) dwelling units may be allowed with a Conditional Use Permit (Section 3.9.070 of the Rexburg Development Code).

**Greg Blacker** asked the time frame for this development.

**Troy Kartchner** stated they would like to start this project in the spring of next year.

He stated, in regard to all multi-family zones, that there are certain requirements for green space and for parking. Due to those requirements, it would be extremely difficult to get the densities that are allowed in HDR1. It just keeps the densities reasonable. It does not make sense for them to build 4-stories because the costs go up.

There were no further clarifications from staff.

**Chairman Walker** opened the public input portion of the hearing.

**In Favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:** None

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

**Natalie Powell** stated that the subject property just went through a Comprehensive Plan change successfully to Moderate-High Density Residential. Staff feels the rezone request would be a good buffer between commercial and lower density residential zones. It is a good fit in the overall area. The applicant has worked with staff on pedestrian access and vehicular access and will continue to do so.

She read from the Community Development staff report:

*“Staff continues to see this area as one with mixed growth potential, and with opportunities for both commercial and residential development. With respect to this particular property, it is the opinion of staff that with appropriate management of vehicular and pedestrian traffic infrastructure, the property can be developed at a higher density than is currently allowed. Any such increase should take into account such infrastructure. If the Planning and Zoning Commission determines that the change is in the best interest of the City of Rexburg and the adjoining neighborhoods are not adversely affected, Staff requests that the Planning and Zoning Commission recommend that the City Council process the requested zone change.”*

**Natalie Powell** quoted from the City of Rexburg Vision 2020 Comprehensive Plan, Chapter 11 Housing - Objective 1.6:

*“Through the Comprehensive Plan, plan for a land use policy that encourages housing to meet the demands of all stages of the life cycle, including starter and senior housing.*

*Policy – Allow for multi-family or town home mixed-use development as buffers between commercial and single-family residential areas, as well as in the vicinity of town centers and near the university....”*

**Steve Oakey** said it was stated at the City Council meeting last night that Councilman Busby and city staff met with neighbors in the subject area. He asked who attended and the nature of the discussion.

**Natalie Powell** clarified that City Economic Development Director Scott Johnson met with individual property owners, going door to door and individually talking with them about the pedestrian access sidewalk issue. It was her understanding Mr. Johnson was able to contact all but one property owner who was not home at the time. Mr. Johnson will continue in his attempts to meet with all property owners about how the issue would be addressed. Councilman Busby is a resident in this area.

The **Chairman** commented on Public Works Director John Millar’s review comments and the concerns regarding vehicular and pedestrian access/connectivity.

From Public Works Staff Review:

*“The Public Works Staff recommends that **the** proposed methods for management of vehicular and pedestrian access be developed in detail and go hand in hand with information presented for the consideration for a zone change to the high density zone. This consideration would include a fully developed plan for pedestrian access along South 5<sup>th</sup> West and the development of a connecting access south onto University Blvd. This information would need to discuss details of the proposal and how the access connections would be developed time wise with the timing of the construction of the development.”*

**Chairman Walker** said this could be a condition to the zone change and asked City Attorney Zollinger to address the issue.

**City Attorney Stephen Zollinger** said the concern could be a condition. Conditioning of the rezone would make sense in this case. It would be a mechanism to solve the concerns at this time. There is still a large section of single family residential users who are impacted by this request. They are an island in the middle of a sea of denser development.

**Melanie Davenport** said if someone is driving in the area, there currently does not appear to be adequate lighting or striping of streets. As the densities increase, does the City have plans to improve these issues by striping the streets and increasing the lighting? Would they work with this developer

to make sure the lighting is adequate in the subject area and also look at other streets to make sure they are safe for citizens?

**Stephen Zollinger** asked for clarification on the area of concern.

**Melanie Davenport** stated the location is a cluster of streets and developments. It was clarified that the area of concern was between 2nd West and 5<sup>th</sup> West.

**Stephen Zollinger** said the City has a very specific guideline that must be followed. It is established by the federal government. There is also a local ordinance that regulates the requirements for the City's lighting and street striping. If these areas are inadequate, the City would address it and move forward to improve it. There is a fund created specifically for increasing lighting in underserved areas.

**Melanie Davenport** stated that as a common citizen, she is making a comment that she hopes staff would consider looking at making changes by installing adequate lighting and striping of crossings where necessary.

**Greg Blacker** stated that currently the street is not wide enough. Should the request be tabled in order to possibly have an LID (Local Improvement District) for the area before the zone change?

**Chairman Walker** felt the applicant is willing to work toward this connectivity issue as was stated.

**Steve Oakey** said this rezone request should not be tabled, as the issue has been dealt with. He asked Natalie Powell to clarify the neighborhood meetings.

**Natalie Powell** said staff has met with property owners along 5<sup>th</sup> West. first clarified that an LID cannot be done in the specified area because there is no right-of-way there. The City would have to work with individual property owners.

Meetings with the individual property owners were very positive. All the residents that were spoken with except one were in agreement regarding the widening of the street and putting in sidewalk. The issue has been and will continue to be dealt with.

**Chairman Walker** stated that his concern is that although zone changes are not typically conditioned, in this case there needs to be some guarantee that staff concerns are addressed. The question before the Commission is, should the zone be changed? If the applicant were to go bankrupt, and a new developer came in, the zone change would stay. We need to have some sort of mechanism to guarantee that staff concerns about pedestrian and vehicular connectivity are addressed. If any zone change were to have conditions, this specific zone change request meets why it should, per legal counsel. **Stephen Zollinger** stated they could condition the zone change to a pedestrian access plan being done between the city and the developer; the zone change could be contingent on the pedestrian access being accomplished.

**Bruce Sutherland** felt a zone change should not be conditioned. He believes the issue can be handled with the developer and staff. The less the Commission puts conditions on rezones, the better.

**Chairman Walker** clarified that the developer as he develops the property would be required to put in sidewalk along University Blvd and widen the street on 5<sup>th</sup> West. Natalie Powell said that was correct.

**Melanie Davenport** said, and the purpose of requiring pedestrian access would be...? Safety, answered the Chairman.

**Greg Blacker** felt there should be a condition on the rezone to make sure the neighborhood is safe.

**Stephen Zollinger** said conditioning the rezone would be the mechanism to generate offsite improvements to accomplish connectivity for the project. This developer stepped forward and asked what it would take to make this land an appropriate location for the high density development they would like to do. Public Works staff's view was the rezoning would be appropriate if connectivity is established. It is not often that a developer is willing to step up and develop a portion of the City's infrastructure.

**Chairman Walker** said Mr. Kartchner has treated Rexburg very well with his other developments that he has done, but if something were to happen, there is no mechanism to protect the City unless the zone change is conditioned. Mr. Zollinger agreed.

**Steve Oakey** understands Mr. Kartchner's responsibility for his own parcel.

He asked Mr. Kartchner to clarify that he is participating in the development of the connectivity to the north of the project.

**Troy Kartchner** said that was correct. He is participating in the development to the north.

**Mark Rudd** said he has no problem with conditioning the zone change if Mr. Kartchner is willing to participate in this issue.

**Troy Kartchner** thought that it is a good idea to condition the rezone as suggested.

**Greg Blacker** motioned to recommend approval to the City Council of a rezone from Rural Residential 1 (RR1) to High Density Residential 1 (HDR1), for the property located at 1030 South 5<sup>th</sup> West, **with the condition to provide pedestrian connectivity from the development location on South 5<sup>th</sup> West to 7<sup>th</sup> South.**

**Mark Rudd** seconded the motion.

None opposed **Motion carried.**

2. 7:20 pm – Rezone – 149 and 185 East 3<sup>rd</sup> South - Low Density Residential 2 (LDR2) to Medium Density Residential 1 (MDR1) - Porter Wilkins

**Porter Wilkins**, 536 Sunflower Road, the applicant. He feels the request to rezone the specified properties to MDR1 would be an appropriate zoning in this area given the location next to the University. Quite a few properties on Cornell and on 2<sup>nd</sup> East near the subject property are rentals, and Kensington Apartments are across the street with medium density and high density zoning. Both subject properties exit onto 3<sup>rd</sup> South, not 2<sup>nd</sup> East or Cornell. There would not be any significant increase in traffic. Currently, the property on the corner (185 East 3<sup>rd</sup> South) has a medium density residential use; it is rented as dormitory-style (grandfathered in). There have been no issues in the neighborhood with this property. The requested rezone would fit into this area.

**Steve Oakey** declared a perceived conflict of interest. He lives nearby on Cornell. He does not have any financial or other interest in the property. He wanted to make a general comment that he believes people should be able to do what they want to do with their property.

**Melanie Davenport** declared a perceived conflict of interest. She owns property on Cornell and on 1<sup>st</sup> East. She does not have any financial or other interest in the property.

There was no Commission objection if both Commissioners wished to continue participating in the hearing.

Commissioner Davenport and Commissioner Oakey decided to stay on the dais and continue participating.

An audience member asked if the buildings would be torn down. Mr. Wilkins stated the buildings would not be torn down.

It was discussed that things could change in the future if the property was sold to someone else, although the properties would have to be separate because of various utilities buried in the alleyway, including natural gas lines, fiber optics, and a main water line.

**Chairman Walker** clarified that zone changes carry rights with them, regardless of intentions.

**Chairman Walker** opened the public input portion of the hearing.

**In Favor:**

**Craig Chandler**, of St. Anthony, and owner of the corner property, 185 East 3<sup>rd</sup> South- part of the rezone request. Currently the property is non-BYU-Idaho student housing, which has been grandfathered in. It is called The Avenues. There is a need for this type of housing in Rexburg – for beauty college students, students who have graduated, students in between blocks, or intended students who do not get accepted into BYU-I. The rentals are always full. He has had no problems. He has often asked the neighbors if the residents are quiet, and the answer has been yes. Traffic should not be an issue.

Mr. Chandler owns Chandler Insurance. He insures 30 public entities – cities, counties, schools, fire districts. He goes to many meetings like this one. He stated that every community needs people like those on this Planning & Zoning Commission, who care about their community and want to protect it.

**Richard Western**, 149 East 3<sup>rd</sup> South, owner of this property that is part of the rezone request. He is here in support of Porter Wilkins. He is for the zone change. It is a great location for the use. He agrees with Mr. Chandler.

**Neutral:** None

**Opposed:** None

**Written Input:** None

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

**Natalie Powell** stated the total area of the request is .4 acres. In her years with the City as the Compliance Officer, she has never had a complaint on the subject properties.

**From Community Development Staff Report:**

*“Staff continues to see this area as one where demand for increased density growth exists, and where single family residential remains viable, but not as desirable as in the past. With respect to this particular property, it is the opinion of staff that with appropriate buffering to protect the interests of the single family uses to the North, the property can be developed at a higher density than is currently allowed. Any such increase should take into account ongoing single family uses.*

*If the Planning and Zoning Commission determines that the change is in the best interest of the City of Rexburg and the adjoining neighborhoods are not adversely affected, Staff requests that the Planning and Zoning Commission recommend that the City Council process the requested zone change.”*

The Public Works staff comment was that a parking plan must meet parking requirements and would need to be approved by City staff.

Staff feels the request is a good fit, because of the location and the surrounding properties.

The MDR1 zone allows 16 units per acre. There are parking requirements and landscape requirements. There would only be enough beds to match the parking.

There was Commission discussion.

**Steve Oakey** commented that there appears to be less citizen interest in this area than there has been in the past. He stated he is not opposed to this zoning change.

**Bruce Sutherland** motioned to recommend approval to the City Council of a rezone from Low Density Residential 2 to Medium Density Residential 1 for the property located at 149 and 185 East 3<sup>rd</sup> South. **Rory Kunz** seconded the motion.

None opposed. **Motion carried.**

3. 7:35 pm – Comprehensive Plan Map Amendment – 263 & 267 West 4<sup>th</sup> South and 429 South 3<sup>rd</sup> West - Neighborhood Commercial/Mixed Use to Moderate-High Density Residential – Ryan J. Nelson

**Greg Nelson**, representing applicant Ryan Nelson, 629 North 3510 East, Menan. He presented the request to change the Comprehensive Plan land use map designation of 265 and 267 West 4<sup>th</sup> South and 429 South 3<sup>rd</sup> East, from Neighborhood Commercial/Mixed Use to Moderate-High Density Residential. He pointed out the property on the overhead map for clarification.

Staff had no additional clarifying information.

**Chairman Walker** opened the public input portion of the hearing.

**In Favor:** None

**Neutral:** None

**Opposed:** None

**Written Input:** None

**Chairman Walker** closed the public input portion of the hearing.

**Natalie Powell** presented the staff report. She reminded the Commissioners that this request is for a Comprehensive Plan map Amendment Change, which is not project-specific. There were not any review comments from Public Works at this time.

**From Community Development staff report:**

*“Staff believes that given the current uses in the immediate vicinity, and the proximity to the University, that this particular request is consistent with the trending demand for additional high density housing near the University. There are no concerns relative to traffic and pedestrian access.”*

The Comprehensive Plan Map was viewed. The subject property is adjacent to Moderate-High Density Residential to the east and to the south, with Neighborhood Commercial/Mixed Use to the west and to the north.

**Steve Oakey** commented on the effects of comprehensive plans and zoning and the limited districts they create that do not allow a wide variety of uses. Here is a main thoroughfare with 2 separate uses that do not seem to be interchangeable.

**Chairman Walker** commented that the request seems to fit well within the Comprehensive Plan. It would be a good use of the land.

**Bruce Sutherland** felt the request made sense

**Steve Oakey** motioned to recommend to City Council approval of a Comprehensive Plan Map Amendment change, from Neighborhood Commercial/ Mixed Use to Moderate-High Density Residential, for the property at 263 and 267 West 4<sup>th</sup> South, and 429 South 3<sup>rd</sup> West. **Bruce Sutherland** seconded the motion.

Rory Kunz had a comment. Are we going to piece this together as we go along, or half block by half block? Chairman Walker clarified that the Commission can reduce the size of a request but they cannot make it larger.

None opposed. **Motion carried.**

**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:**

July 20, 2016, 5:00 pm - Joint Work meeting of P&Z Commission and City Council

July 21, 2016 P&Z:

1. Comprehensive Plan Map Amendment - Approximately 1100 South 12<sup>th</sup> West – Low-Moderate Density Residential & Commercial to Commercial – Douglas S. Kauer

The meeting was adjourned at 8:17 pm.