

Planning & Zoning Minutes

May 5, 2016



CITY OF
REXBURG
America's Family Community

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Commissioners Attending:

Jedd Walker – Chairman
Mark Rudd
Steve Oakey
Rory Kunz
John Bowen
Greg Blacker
Melanie Davenport

City Staff and Others:

Brad Wolfe- City Council Liaison
Stephen Zollinger – City Attorney
Natalie Powell - Community Development Compliance Officer
Scott Johnson – Economic Development Director
Stephen Park – Community Development Intern
Elaine McFerrin – P&Z Coordinator

Chairman Jedd Walker opened the meeting at 7:03 pm.
Community Development Director Val Christensen was excused.

Roll Call of Planning and Zoning Commissioners:

Attending: Steve Oakey, Greg Blacker, Mark Rudd, Jedd Walker, Rory Kunz, and John Bowen

Heidi Christensen, Bruce Sutherland, Gil Shirley, and Richard Smith were excused.

Minutes:

1. From Planning and Zoning meeting – April 21, 2016

Steve Oakey motioned to approve the Planning & Zoning minutes of April 21, 2016. **John Bowen** seconded the motion.

None opposed. **Motion carried.**

Public Hearings:

1. 7:05 pm - Rezone – 419 West 1st North – from Low Density Residential 2(LDR) to Mixed Use 2(MU2)

Chairman Walker explained the procedure that is followed for a public hearing. The applicant will present the proposal to the Commission. The Commissioners may ask questions to clarify the proposal. The Commission may allow the public in attendance to ask clarifying questions in order for them to better understand the proposal. Staff may also give information to clarify the proposal for the Commission.

The public hearing testimony portion will open. At this time there can be no back and forth dialogue between those testifying and the Commission or the applicant, as this is a quasi-judicial hearing. Those in favor, neutral, or opposed to the request may give testimony, stating their name and address for the record and their affiliation with the proposal, such as neighbor, interested citizen, etc. If there is opposition to the proposal, the applicant has the right of rebuttal. The public input portion of the hearing will then be closed. The staff report will be given, followed by discussion and deliberation by the Commission. There can be no back and forth between the Commission and those in attendance at this point also. The Chair will ask the Commissioners if they have any perceived or direct conflict of interest in regard to the proposal. The Commission will make a recommendation to the City Council.

Chairman Walker clarified that both public hearings on the agenda, a rezone request and a conditional use permit request, have the same applicant. The two hearings concern the same property.

When a rezone request is presented, there is a tendency to focus on what the applicant is planning to develop, but the first hearing, a rezone request, has to stand on its own regardless of the development. So, the Commission will not be considering the development; the Commission will only consider whether this rezone would be the right use of the land.

David Thueson, 360 West 3500 North, owner and applicant. The proposed property at 419 West 1st North was shown on the overhead screen. He is requesting to change the zoning from LDR2 to MU2. In conjunction with this request he is requesting a CUP for 100 percent residential and zero percent commercial in the next hearing.

Their intention is to build 13 units for independent living on the specified property as part of the Homestead Assisted Living development. There will be services available such as garbage pick-up, landscaping maintenance, snow removal, transportation provided, and emergency call buttons for the residents. The units will be two-bedroom with a one-car garage.

Chairman Walker stated that once a zone change is granted, it stays that way at least for 4 years. **City Attorney Stephen Zollinger** clarified that the owner could request a change; the City could not.

Chairman Walker said although the development information is informative, if for some reason there is a change regarding the applicant, this zone change would have to stand on its own, regardless of what the applicant has proposed he would do. With that, the Chair would like to avoid questions regarding the specific development because the questions should focus on whether this zone change would be the correct use of the land.

Greg Blacker wondered about MU2 versus MU1 and why MU2 was chosen.

Mr. Thueson stated that he requested what was recommended to him. These units will be one story and not multi-level.

The Chairman asked if anyone attending the meeting had any questions to help clarify what is being proposed. There were no questions from the audience.

Community Development Compliance Officer Natalie Powell did not have additional comments to clarify the request.

Chairman Walker opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed:

Mary Jackson, 430 West 1st North. Her home is across the street from the subject property. The neighborhood has been very disrupted by all of the changes that are going on. Her understanding when all of this first started was that Mr. Thueson was coming to the neighborhood and wanted to be a good neighbor. She had no understanding that he intended to change it so drastically.

The high density of the MU2 zone is too much. She does not think it is the best use for her little neighborhood. There are a lot of families. Traffic flow has increased a great deal with all of the medical and care givers traveling back and forth all the time, and the construction, although she realizes construction will eventually stop. She requests that the land not be changed to that level of density if there is a change made at all.

Written Input:

1. Letter from Julie Hyatt, on behalf of the owners of Main Street Station Apartments, opposed to the proposal

The written input letter was read by Commissioner Greg Blacker. The letter is part of the official record of this Public Hearing:

Elaine McFerrin

From: JULIE HYATT <juliehyatt@me.com>
Sent: Monday, May 02, 2016 3:28 PM
To: Elaine McFerrin
Subject: Dave Thueson Proposed Project

Dear Elaine,

I am writing on behalf of the owners of Main Street Station Apartments. We have received an email from Dave Thueson stating the City would allow them to build six feet from the property line with our approval and requesting our permission to build six feet north of the property line instead of twenty feet.

Please inform the Planning and Zoning Board and City Council we do not support this request. We feel it will jeopardize the safety and minimize the open space enjoyment and privacy for our residents.

We respectfully request that the request to reduce the 20' setback be denied.

Thank you and please feel free to contact me if you need additional information.

Main Street Station Apartments, LP

Julie Hyatt
Manager for the General Partner
208-286-2229

Rebuttal:

David Thueson pointed out on the plan rendering that they hoped to use the open space in the front to landscape and beautify the property. They wanted to build 6 feet from the back property line. Main Street Station Apartments has a 20-foot space. It is all grass and trees on the Main Street Station back side. No one appears to use it, but it is what is there. Mr. Thueson said if they were to build 6 feet from the property line, they would have less grass in back. They can make it work with a 20-foot setback, but they just were hoping to make the property more attractive. He does not believe the Main Street Station property would be very impacted.

There is a 6 foot cedar fence that runs between the Homestead properties and the Main Street Station. The fence will stay in place.

Chairman Walker closed the public input portion of the hearing.
Melanie Davenport arrived at 7:18 pm.

Steve Oakey asked if the 6-foot setback has been approved by staff.

Stephen Zollinger said staff has no authority to change the rule. Staff is trying to facilitate a meeting between the two property owners to work out mutual use agreements.

The real change would be from a 20-foot backyard, a 25-foot frontyard, and two 6-foot sideyards, changing to a zero setback on all four sides, and the building code addresses this with the six-foot distance. The setbacks are a zone change issue that is more relevant once the Commission gets to the project (next hearing for CUP).

Chairman Walker said the Commission needs to consider the rights that go with the MU2 zone, in case someone else was to come in to develop the property. He reiterated that this hearing is not project related.

The Chairman asked for the staff report.

Natalie Powell pointed out the subject property on the map, along with the surrounding properties. Staff has reviewed the zone change request and feels it is a good fit.

Steve Oakey asked that Mrs. Jackson's property be pointed out. The property is zoned MDR1.

Chairman Walker said the question before the Commission is shall the property be changed from LDR2 to MU2 with all the rights (setbacks, density, building height, etc.) that go with that zone?

Natalie Powell stated a developer may have the right to build a certain amount of units, but he may be limited by what is required for parking, landscaping, etc.

Steve Oakey asked if the subject property is in the infill/ redevelopment area. If so, he asked the purpose of infill/redevelopment to be clarified.

Natalie Powell said the specified property is within the infill/redevelopment area.

Definition of "Infill/Redevelopment" from Rexburg Development Code Ordinance No.1115:

An area of the City that has been designated by the Rexburg City Council as a focus area for Infill and Redevelopment. Whenever possible, mixed use projects, apartments, multi-family projects, dormitories and other higher density residential developments should be constructed on vacant lots or underutilized properties within this focus area.

Stephen Zollinger clarified that unless there is a CUP, MU2 requires a minimum of 10 percent residential or commercial, and MU1 requires a minimum 30 percent residential or commercial.

Natalie Powell stated she has a meeting next week with the Main Street Station Apartments owners. The local manager of the apartments is not against the 6-foot setback. The owners may not be against it when it is explained further.

Rory Kunz pointed out the zoning of surrounding properties. This request fits and does not conflict.

Steve Oakey agreed.

Steve Oakey motioned to recommend approval to the City Council of a rezone from Low Density Residential 2 (LDR2) to Mixed Use 2, for the property located at 419 West 1st North. **Rory Kunz** seconded the motion.

None opposed. **Motion carried.**

2. 7:20 pm – Conditional Use Permit – 419 West 1st North -to allow 100 percent residential and zero percent commercial in a Mixed Use 2 zone.

The CUP is dependent upon the approval by City Council of the rezone of the specified property (hearing just took place; P&Z Commission recommended approval to City Council) to Mixed Use 2.

David Thueson, 360 West 3500 North, owner and applicant. He is requesting a Conditional Use Permit for zero percent commercial and 100 percent residential for the property at 419 West 1st North, which will have cottages with garages for each resident.

Stephen Zollinger clarified that the industry which Mr.Thueson represents is sort of in no-man's land. No one considers what he does in the strictest sense to be residential. He is not selling the units to people for their personal property. He is managing the property in a commercial manner for people who need assistance. This is a level of assistance somewhere between being able to take care of one's self and needing complete assisted living, which is what the Homestead offers. This is independent living in that the residents would be coming and going on their own but can have care as needed from the main Homestead facility. Staff viewed this matter as a fundamentally commercial enterprise but not strictly so.

Mark Rudd said the project technically fits.

Stephen Zollinger stated when the Mixed Use Zones 1 and 2 were first created, what was envisioned were apartments being built on top of retail space or office spaces. The City wanted to give the opportunity for intermixing commercial and residential uses. It has been widely unsuccessful in generating that type of commercial/residential hybrid, but the City continues to maintain the mixed use zones for the purpose of generating these types of functions, with residential-like uses in commercial areas and commercial-like uses in residential areas. The City would want to see low impact commercial in a residential area.

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 evaluation.

Attorney Zollinger stated this CUP request is more about the project than the zone. The project that Mr. Thueson presented has been very carefully reviewed by the staff. If the issues of setbacks and other elements can be resolved, staff considers Mr. Thueson's proposed project as exactly the type of project they would want here. It is a good way to integrate a neighborhood and a good way to infill a neighborhood that is not regenerating on its own. Mr. Thueson could be required to build substantially as was presented.

If the CUP is approved, staff recommends that the CUP should be tied to this project.

The Commission would then be protecting the opening made because of the rezone of the property. Staff will continue to work with the owners and setbacks, although there is a solution to build the project without the requested 6-foot setback.

There was discussion of possible conditions for the CUP.

Mark Rudd praised Mr. Thueson's projects. His projects have been good for the community and are all well-built and taken care of well.

Mark Rudd motioned to recommend to City Council approval to allow 100% residential and zero percent commercial in a Mixed Use 2 zone, for the property at 419 West 1st North, with the following proposed six conditions (the first five conditions are from the Public Works staff report, with one additional condition):

1. All required set-backs must be met.
2. New service lines for water and sewer will likely be required.
3. Due to the density an additional fire hydrant may be required.
4. Existing sidewalks shall be brought up to standards.
5. Other items may be required during the final site plan review.
6. The specified project as presented shall be limited to no more than 15 (fifteen) units.

John Bowen 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.**

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 19, 2016:

1. Comprehensive Plan Map Amendment – 1030 South 5th West – Low-Moderate Density Residential to Moderate-High Density Residential
2. Comprehensive Plan Map Amendment - Approximately 1001 South Yellowstone Hwy - Commercial to Moderate-High Density Residential.
3. BYU-Idaho Student Enrollment – Eric Conrad

Stephen Zollinger requested that the proposed ordinance amendment regarding ‘Planned Parking Management’ be emailed to the Commissioners, as staff would like their input.

There was brief discussion on form-based zoning and also the possibility in the future of integrating retail as needed back into what were residential units. It would be market-driven.

The meeting was adjourned at 8:11pm.