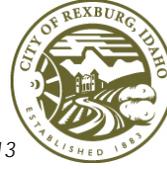


City Council Meeting

November 28, 2012



CITY OF
REXBURG
America's Family Community

35 North 1st East
Rexburg, ID 83440

blairk@rexburg.org
www.rexburg.org

Phone: 208.359.3020 x2313
Fax: 208.359.3022

November 28, 2012

Mayor Richard Woodland

Council Members:

Christopher Mann Jordan Busby
Donna Benfield Jerry Merrill
Bruce Sutherland Sally Smith

City Staff:

Stephen Zollinger – City Attorney
Richard Horner – Finance Officer
John Millar – Public Works Director
Val Christensen – Community Development Director
Scott Johnson – Economic Development Director
Blair Kay – City Clerk

7:00 P.M. City Hall – Pledge to the Flag

Mayor Woodland welcomed everyone to the meeting.

Roll Call of Council Members:

Attending: Council President Mann, Council Member Sutherland, Council Member Benfield, Council Member Merrill, Council Member Smith, Council Member Busby and Mayor Woodland.

Police Officer Randy Lewis led the Pledge to the Flag.

Ben Johnson said the prayer.

Public Comment on non-controversial issues: not scheduled on the agenda (limit 3 minutes)

Presentations:

A. SnoShackOais, LLC – Ryan Ballard

Ryan Ballard
SnoShackOasis LLC
28 Mill Race Rd.
Rexburg, ID 83440
208-270-2826

November 20, 2012

Rexburg City Council
35 North 1st East
Rexburg, ID 83440

Dear City Council:

I am writing on behalf of myself, my wife Stephanie, and her parents, Eric and Robyn Eastin. We are the owners of SnoShackOasis LLC. In reviewing the minutes from the Nov. 7 City Council meeting, I noticed an appearance was made by Mr. Robert Coray and a letter was entered into the record written by him. Mr. Coray gave a laundry list of complaints about "fly-by-night peddlers" operating portable shacks in Rexburg that I would like to respond to.

Mr. Coray fails to mention which brick-and-mortar business he operates in town, but I will take a moment to tell you about our business. Stephanie and I have been part-owners in SnoShackOasis LLC for three years; Eric and Robyn have owned part of the business for seven years. We are the latest in a string of owners who have continuously operated this company in Rexburg since 1978. Our primary location for the past few years has been on Main St. next to Taco Bell. This past season we also operated inside of Rexburg Rapids. Prior to our current location on Main St. we were in what is now the Melaleuca parking lot and at that time was the parking lot of Broulims. As you can see from our long and distinguished history, we are the antithesis of a "fly-by-night peddler."

SnoShackOasis employs 20-25 high school and 5-10 college kids each summer. Over the course of the past 34 years, we have employed hundreds of teenagers who might not have otherwise been able to find employment among the limited options in this area. Many of these young people have grown up to be solid employees of local businesses and have helped stimulate the economy by opening businesses of their own.

SnoShackOasis has provided more benefit to the community than the people of Rexburg could begin to quantify. Rather than, as Mr. Coray suggests, come in and strip all the profits from the

hardworking business owners of Rexburg and then leaving town, former owners have used the money they made operating SnoShackOasis to finance the purchase and development of a Rexburg nursery, dental practice, law practice, office product supply company, construction company, and fitness center, among others.

SnoShackOasis in Rexburg is also one of the leading purchasers of supplies from another Rexburg business, Snoshack Inc. According to president Burt Hensley, there are 450 Snoshacks across the country which buy from him, with the Rexburg locations being No. 2 on the list. Among those 450 are many Snoshacks started by former BYU-Idaho students who came, saw what successful entrepreneurship is all about, and went home to open up their own shacks, which further stimulates the national economy.

Contrary to Mr. Coray's suggestions, we do abide by many business and health regulations. We are regularly inspected and held to health and safety standards just like those of a brick-and-mortar food business. We work with the city planning department to ensure our locations are set up in an attractive and safe manner. Our shacks are constructed in a quality, attractive manner. We stain the building at the beginning of every season. We clean the building's interior daily and make sure to clean up the area around us. We take great pride in our place in Rexburg.

Given the eagerness with which the Council appeared to agree with Mr. Coray without hearing the other side of the story, I would like to request an opportunity to be heard at the next City Council meeting. If the Council does decide to continue with their work meeting to discuss changes to city ordinances and/or regulations regarding season food establishments, I request that I be given the opportunity to give input as a member of the affected community of businesses.

Sincerely,



Ryan Ballard, part-owner of SnoshackOasis LLC

On behalf of part-owners:

Stephanie Ballard

Eric Eastin

Robyn Eastin

Ryan Ballard at 28 Mill Race Road speaking only on behalf of SnoshackOasis LLC partnership commented on a letter presented to City Council by Mr. Robert Coray addressing mobile businesses. Mr. Ballard addressed three main assumptions made by Mr. Coray. SnoshackOasis has been in Rexburg since 1978 and is as much of the community as any business that operates twelve months out of the year. Like brick and mortar businesses, SnowshackOasis is subject to regulations. They are regularly visited by the Idaho Department of Health and Welfare, building regulations are followed, and every safety precaution is taken to provide safety to the public. SnowshackOasis adds great

value to the community by employing 25 to 35 people every year. Regulation should be imposed only when needed and not to decrease competition for brick and mortar businesses.

Council Member Benfield and Council Member Smith asked to have a work meeting on December 05, 2012 at 6:00 P.M. to review temporary seasonal businesses and address the concerns of brick and mortar businesses. The meeting will be advertised in the newspaper and the normal email list.

Committee Liaison Assignments for 2012:

A. Council Member Christopher Mann: *Golf Board · Emergency Services Board · MYAB*

Council President Mann reported MYAB did not meet. The Emergency Services Board met last night. Mike Walker from the Rexburg Fire Department presented the work done during the summer fires on the overhead screen.



Summer Fires 2012

Number of fire locations: **16**
 Number of resources dispatched: **22**



High Park Fire - CO



Summer Fires 2012

States we were dispatched to:
 Idaho, Wyoming, Colorado, Utah, Nevada



Wood Hollow Fire - UT



Summer Fires 2012

Dates we were out on fires:
 June 17 until October 16 (with a two-week break the last half of July)

Trevin Ricks & David Ivey

Fontenelle Fire - WY



Summer Fires 2012

Total number of man hours worked on wildland fires this summer: **11,629.5**



Seeley Fire - UT



Summer Fires 2012

We had up to 9 people out on assignment, but usually tried to keep it at 6-8 people out at any given time.



Halstead Fire - ID



Summer Fires 2012

Total wages earned by Paid Call personnel: **\$179,915.71**
 Total wages earned by Full-Time personnel: **\$245,147.67**
 Total wages earned/brought in: **\$444,622.88**
 Hourly Average Wage: **\$38.23**
 Total Number of Employees Dispatched: **24**
 Average Total per Employee: **\$18,526**



Mustang Fire - ID



Summer Fires 2012



Summer Fires 2012

Economic Stimulus for Madison County (Multiplier of 7)- \$1.3m Wages



Mustang Fire - ID

Names of the fires this summer:

Camas
 Cedar Butte WSA
 Charlotte
 Cox's Well
 Downey West
 Fontenelle
 Halstead
 High Park
 Holloway
 Horsethief Canyon
 Knox Canyon
 Mustang
 Ridge Top
 Seeley
 Thompson Creek
 Wood Hollow

Mustang Fire - ID



Council President Mann commented on the heroism from the Rexburg Fire Department. Council President Mann presented Johny Watson to be appointed to the Golf Board. Madison County has appointed Johny Watson to the Golf Board replacing Trent Cichos. The Golf Board will recognize Trent's service to the Golf Board at their next meeting. Council President Mann asked to have the City Council confirm the appointment.

Council Member Benfield moved to confirm the County appointment of Johny Watson to the Golf Board; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

- Council President Mann
- Council Member Merrill
- Council Member Sutherland
- Council Member Benfield
- Council Member Smith
- Council Member Busby

Those voting nay

None

The motion carried.

B. Council Member Jordan Busby: GIS Oversight · *Airport Board*

Council Member Busby reported the Airport Board has not met. The GIS meeting has been postponed.

C. Council Member Donna Benfield: *Trails of Madison County · IBC · Teton Flood Museum Committee · M.E.P.I.*

Council Member Benfield reported the Trails of Madison County met on the 15th of November. The committee discussed a bike park and possible grant for building one, a pedestrian path along Poleline Road, and connecting a trail by 1st North. M.E.P.I. will meet next Monday, December 3rd.

D. Council Member Sally Smith: *Legacy Flight Museum · Rexburg Arts Council (Romance Theatre & Tabernacle Civic Center, Orchestra)*

Council Member Smith reported the Arts Council will be meeting next Thursday, December 6th. Many events have taken place at the Romance Theater and the Tabernacle recently. The Legacy Flight Museum will not meet until January.

E. Council Member Jerry Merrill: *Beautification Committee · Parks & Recreation · Traffic & Safety · Urban Renewal Agency*

Council Member Merrill reported the winter programs for Parks & Recreation are continuing well. Regarding Traffic & Safety, street light are being installed around town. The Traffic & Safety Committee is looking for new members. Council Member Merrill suggested an idea to paint murals on snow plow blades. The Urban Renewal Agency is considering participating with Madison County in building a pocket park by the Madison County Court House.

F. Council Member Bruce Sutherland: *Planning & Zoning · School Board · Police*

Council Member Sutherland reported Planning & Zoning met a couple weeks ago and discussed some of the topics on the agenda tonight. Regarding Police, Sgt. Gary Hagen is receiving an award tonight. Council Member Sutherland thanked the Police Department and Emergency Services for everything they do.

Mayor's Report:

A. Lifesaving Award for Sgt. Gary Hagen from the Police Department – Chief Turman

Chief of Police Shane Turman presented Officer Gary Hagen with the “Rexburg Police Department Life Saving Award” for saving an 11 month old infant’s life that could not breathe. He stopped the parents’ car on the way to the hospital and preformed the Heimlich maneuver to save the infants life.

November 7, 2012

Sgt. Gary Hagen:

On August 10, 2012 at 6:56 P.M. Sgt. Gary Hagen was dispatched to 111 West 7th South #507 for an eleven month old baby, Benjamin Ogbuehi, who had stopped breathing after choking and who was turning blue. Sgt. Hagen responded immediately towards the call running code, however, prior to his arrival the mother of the child, in a panic, told dispatch that they were taking the child themselves to the hospital. She then hung up on dispatch. At this same time other officers observed a vehicle leaving the above address at a high rate of speed towards South 2nd East. Moments later, at 6:58 P.M., Sgt. Hagen observed this same vehicle speeding north on 2nd East.

Sgt. Hagen, knowing that a non-breathing infant probably had only moments to live, pulled the Ogbuehi vehicle over. Upon stopping the vehicle he found the baby in the back seat; face down on his father’s lap. The infant at this time was foaming at the mouth and was attempting to take breaths without success, his eyes had rolled back into his head and his face and lips had turned dark purple.

Sgt. Hagen immediately grabbed the infant from his father and cleared his mouth with his finger. He then began to perform the Heimlich maneuver, with the infant laid across his knee. After three attempts the infant began to clear his throat and started to breathe; showing immediate improvement in color and awareness. Ambulance crews arrived shortly after and the infant was taken to Madison Memorial Hospital where he was given a clean bill of health.

It is with pride and gratitude that we present to Sgt. Gary Hagen the Rexburg Police Department’s Lifesaving Award. Sgt. Hagen’s quick response and actions made all the difference in the life of Benjamin Ogbuehi and his parents.

Respectfully Submitted,

Chief Shane Turman

NOTE: Heimlich Maneuver - “Choking because of an obstructed airway is a leading cause of accidental death. If a choking person is not coughing or is unable to speak, that's your cue to perform the Heimlich maneuver immediately.

Chief of Police Shane Turman recognized Police Officer Benjamin Johnson for completing the Idaho Peace Officers Standards and Training Academy.

Public Hearings:

A. 7:30 P.M. Ordinance 1097 Assessment Roll for Local Improvement District Number 42 ("L.I.D. 42)

Written correspondence:

To Whom It May Concern, Matthew Nielson, and Joel Gray;

The property 274 East 3rd South was assessed as owing 1,455.37 and we are confused as to why it costs that much. We live on a corner lot, and were told that the corner would be paved over, and it has not been. The workers tore out the landscaping and moved a bush, but there is still a hole and dirt where they said paving would go in. The amount of work done in our yard thus far was the repair of two total side-walk blocks, so that they now include yellow friction safeties. That amount does not seem at all to match the amount we are being asked to pay, therefore we request that the amount be reduced to reflect the work done.

In addition to the work promised and not done, we are also concerned that we are being charged for a portion of our neighbor's sidewalk that they had put in. Upon the purchase of this house we put in a sidewalk as per regulations through the property. That sidewalk ended at the end of our property until this summer when our neighbors (as done by the city) connected to that sidewalk and continued up the street. Because of this concern, we request an itemized list of all of the things we are being charged for, that we may more fully understand why we have to pay so much.

Thank you and respect,

Eda Ashby and Charlotte Goga

Item # 101
Property: 274 East 3rd South
Current amount: 1,455.37

Presentation by staff: **Engineer Keith Davidson** explained resident concerns that surfaced after the construction work was completed. The concerns were resolved and will be addressed next spring.

Facts to offer into the record by City Council members: - NONE

Public Testimony **in favor** of the proposal (5 minute limit): - NONE

Public Testimony **neutral** to the proposal (5 minute limit): - NONE

Public Testimony **opposed** to the proposal (5 minute limit): - NONE

Rebuttal by applicant: - NONE

Hearing closed for deliberations:

Council President Mann thanked city staff for their efforts to address and resolve public concerns.

Council President Mann moved to approve the Assessment Roll for Local Improvement District Number 42 (L.I.D. 42); Council Member Benfield seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

- Council President Mann
- Council Member Merrill
- Council Member Sutherland
- Council Member Benfield
- Council Member Smith
- Council Member Busby

Those voting nay

None

The motion carried.

Items for Consideration:

- A. **Rezone – 137 North 3rd West** – Low Density Residential 2 (LDR2) to Medium Density Residential 2 (MDR2) - (Hanna Properties)

Public Input:

Brandon Kuhns --- 115 N 3rd W

I share the same concerns that many of neighbors have had and continue to have. I would like to outline my concerns which I feel are being significantly overlooked in the big picture with our neighborhood over the past 6 months. It is my request that this letter be taken seriously, not just a citizen who wants to complain about everything. The topics I discuss below are sincere concerns, please respect them.

It has been hard to relax the last six months, because our neighborhood has been under attack by the many zoning changes. We recently had a zone change on 3rd West, allowing an 80-unit apartment complex to be placed right between residential homes. Then a recent zone change recommendation one block further north on 3rd West. (Hanna Properties) Then an addition of an approximately 34 bed nursing home on 1st North and 4th West was approved. Also the zone change was approved for 3rd N and 2nd W. These are all within 2 blocks of my home.

Before getting into my concerns, I have a few questions about the above mentioned zone changes.

1. Have traffic and safety studies been performed to determine if an 80-unit apartment complex right off Main Street, right next to railroad tracks is logical and safe?
2. Will there be enough water pressure? Are the sewer lines capable of this increase?
 - a. Have the studies been reviewed by the council or has it just been stated that they are good?
 - b. If the studies are being done, what are they comparing it to? Especially when zoning changes continue to happen, are they comparing each proposal individually to what currently exists? I hope the studies are now taking into account, 80 unit apartment complex plus potential 8 more units at Dean Ricks Apartments, plus a 34 bed nursing home...ALL within 2 blocks of each other.
3. Is the council aware of the conflict of interest involved in some of these changes? (Both the Homestead and Hanna Properties proposals have conflicts of interest; Zollinger and Hanna). I just want to make sure that they are handled appropriately.

One of the main concerns is with the professionalism of this process. A couple of things disturbed me during and after the P&Z meeting that occurred on November 1st.

First, during the proposal of Hanna properties to be rezoned to allow the building of 4 more units, the members of the public were able to ask questions about the proposed zone change. The context of the whole meeting (by both the public and the P&Z committee) was about the pros and cons of the rezone. Then when deliberation occurred, the whole context changed. The committee started talking about some of the concerns of the public and then a committee member said "Wait a minute. Our purpose is just to decide if legally (by code and regulation) and physically it can be done." So my questions is, was this just a show? Why did I even come? What was the purpose of my coming and sharing my views, if by the opinion of the P&Z committee, my comments were invalid to their decision? Early in deliberation, a committee member stated "We have 64 signatures in protest of this change how can we even consider making this change?" Shortly there after, he was the one to second the motion to pass the zoning change. It is important to note that a good representation of those signatures also came in person to the meeting.

Secondly, during the deliberation, the committee brought up the Comp Plan goals of the city for our neighborhood. It showed the goal is for our neighborhood to become apartment complexes. Of course we were all shocked. So after the decision the committee took a couple questions. We probed about this goal of the city. We were told if we were unhappy about the goal, it was up to us to prevent our homes from getting "Bulldozed". Well city council...let me make a couple things clear...those are our homes; this is

where we give shelter to our families. So if the goal of this city is to bulldoze our homes unless we do something to stop it, then please, please listen to the members of this neighborhood. The only way for us to fight this is to use our voice. That's all we have. Please listen to the ones who LIVE in the neighborhood; not the developers who live elsewhere.

Next, after the decision was made on the Hanna Properties proposal, the room cleared out. A few members of the public stayed. Only one of my neighbors stayed. I didn't know what was on the agenda for the remainder of the meeting but I thought I would stay for the entire meeting. The next topic turned out to be a zone change for an addition to the Homestead Nursing Home. The proposal was given; no objections were made by the public. Then P&Z committee member, Ferguson, raised his hands in the air said, "Where are all the citizens that were against Hanna's proposal? This is going to be worse than a 4 unit apartment complex." At another point Mr. Ferguson said the same thing. He was reminded by Mr. Thuesen that should not have any weight on their decision. But when that is said, it shows the true colors of the perspective of the P&Z committee. The perspective that we are here just to complain is false. I remind you that these are OUR homes. We are not here to complain, but to protect.

Lastly, I am a bit confused on the P&Z committee to be so determined to follow the Comp Plan goal, but not determined to following the goal of eliminating spot zoning. Everything in my neighborhood has been spot zoning. In the case of Hanna Properties, it is not in compliance with the requirements for the current zoning. P&Z brought this to the attention of those at the meeting. This was one of the main reasons to get the property rezoned, so it would then be in compliance. Later in the meeting Mr. Zollinger stated that even with the zone change the property would still be out of compliance. During deliberation, however, members of the committee again went back to the reason to pass the rezone, was to get it in compliance. But we were just told a few minutes earlier that it would still be out of compliance. Why would we change something that is out of compliance and then after the change still have it be out of compliance?

There may be some things in this letter that seem questionable. I am sure each meeting is recorded, so rather than question me on he said she said, please watch the full recording of the P&Z Committee meeting.

I like the neighborhood I live in. There are good people here. It's not a wealthy neighborhood, it's not fancy, but we have worked hard for what we have. We cannot follow the recommendation of one P&Z committee member to move if we don't like it. Most of us have made sacrifices to get and build up what we have.

I have written this letter to express my sincere concerns. I hope they have come across as concerns and not a whiny citizen. It is imperative that the public be heard. Just as we were warned by the P&Z committee, it is up to us if we want our neighborhood to stay intact. I have been forward and honest in this letter and hope you will give serious attention to the things I have said as well as to the many concerns my neighbors have expressed.

Sincerely,

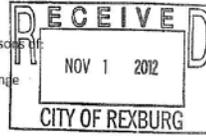
Brandon Kuhns

Petition against the rezone of Hanna Property:

Total = 60

We the undersigned are petitioning against any zoning change on the property at 137 North 3rd West, Rexburg, for the reasons of:

1. There is not enough room on the property for another four plex to comply with the current or any new zoning change
2. Not enough room to meet the existing distance to property boundaries
3. Does not meet minimum landscape requirements
4. Does not meet minimum parking requirements including snow removal
5. Any additional building would not be able to be placed in correct architectural alignment with existing buildings therefore would not have appropriate aesthetic appeal which would decrease existing neighbor's property values



Name	Address	Signature	Comments
Karl J. Hanosky	330 W 1 st N	Karl J. Hanosky	
Kathy Hanosky	330 W 1 st N	Kathy Hanosky	
GEORGE E. WATSON	333 W 1 st N	George E. Watson	
Jeanne W. Whittier	335 W 1 st N	Jeanne W. Whittier	
BERNDA PAREDES	308 W 1 st N	Bernda Paredes	
JOO PAREDES	308 W 1 st N	Joo Paredes	
BRANDON KUHNS	115 N 3 rd W	Brandon Kuhns	
Danielle Kuhns	115 N 3 rd W	Danielle Kuhns	
Jessica Sparks	331 Cul de Sac	Jessica Sparks	
Jessica Sparks	331 Cul de Sac	Jessica Sparks	
Stephanie Brunson	351 Cul de Sac	Stephanie Brunson	
Linda Gschubald	354 Cul de Sac	Linda Gschubald	

We the undersigned are petitioning against any zoning change on the property at 137 North 3rd West, Rexburg, for the reasons of:

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3. Does not meet minimum landscape requirements
4. Does not meet minimum parking requirements including snow removal
5. Any additional building would not be able to be placed in correct architectural alignment with existing buildings therefore would not have appropriate aesthetic appeal which would decrease existing neighbor's property values

Name	Address	Signature	Comments
Ken Hill	132 SYRINGA	Ken Hill	what the ...
Brian Hill	435 W Main #20	Brian Hill	That's so dumb
SARAH HILL	319 W 2 nd NORTH	SARAH HILL	ITS 9/14!
Kon Juhl	328 W 1 N	Kon Juhl	NOT KNOWN AREA
11 Janel Smith	354 W 1 N	Janel Smith	
John P. Smith	354 W 1 N	John P. Smith	
Charlene Tripp	134 N 4 th West	Charlene Tripp	It agree with the new bus hotel above
Michelle Tripp	146 N 4 th W	Michelle Tripp	
Candi McFadden	182 N 4 th W	Candi McFadden	
Josy McFadden	371 S 4 th N	Josy McFadden	

We the undersigned are petitioning against any zoning change on the property at 137 North 3rd West, Rexburg, for the reasons of:

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3. Does not meet minimum landscape requirements
4. Does not meet minimum parking requirements including snow removal
5. Any additional building would not be able to be placed in correct architectural alignment with existing buildings therefore would not have appropriate aesthetic appeal which would decrease existing neighbor's property values

Name	Address	Signature	Comments
Ronan Mitchell	317 5 th West Apt 301	Ronan Mitchell	Potential fire hazard
Tony Chadwick	369 W 2 nd North	Tony Chadwick	Parking
Justin Broadbent	359 W 2 nd N.		
Russell Garrison	317 W 2 nd N.		
Maura Young	174 N 3 rd W		Property tax, home based traffic issues
Maria Garrison	1108 N 3 rd W		
Sam McLean	223 Ferris Lane	Sam McLean	
Jennifer Owens	273 N 3 rd W	Jennifer Owens	
Barry Ricks	137 N. 3 rd W.	Barry Ricks	
Natalie Daylong	139 N 3 rd W	Natalie Daylong	lots more traffic!
Jennifer Craver	24 N 3 rd W	Jennifer Craver	
Katy Dietz	347 N. 4 th W #11	Katy Dietz	

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Name	Address	Signature	Comments
Keith Ambuhl	334 Cul-de-Sac	Keith Ambuhl	
PERSEK LEBLANC	318 West 1 st North	Persek LeBlanc	
Shauna Hill	318 1 st N.	Shauna Hill	
Dave Parris	150 N. 4 th W	Dave Parris	
Adissa Carlson	206 S. Pike	Adissa Carlson	
Paul Gil	369 L 2 nd W	Paul Gil	
Brad Wright	215 N 5 th W	Brad Wright	
Beth Wright	"	Beth Wright	
Latina Castorena	270 W 2 nd N	Latina Castorena	
Jane Amadu	40 W 2 nd S	Jane Amadu	
Chad Knight	142 N 3 rd W	Chad Knight	
Mandy Jentinc	328 Cul de Sac Dr.	Mandy Jentinc	

We the undersigned are petitioning against any zoning change on the property at 137 North 3rd West, Rexburg, for the reasons of:

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Name	Address	Signature	Comments
Melissa Winkler	222 W 2 nd N	Melissa Winkler	stop the 5 th zoning
Krista Jephson	274 W 1 st N	Krista Jephson	STOP SPOT ZONING!
Scott Wheeler	222 W 2 nd N	Scott Wheeler	Already listed
Ashley Trefon	146 N 4 th W	Ashley Trefon	
Natasha J. Pasaka	46 W 1 st N	Natasha Pasaka	
Brandon Pasaka	46 W 1 st N	Brandon Pasaka	
Amy Dickson	259 W. 2 nd N.	Amy Dickson	
Lance Parker	160 N 1 st W #33	Lance Parker	
Cary Craver	260 3 rd West	Cary Craver	
Aisa Ricks	12 th N. 4 th W	Aisa Ricks	" "
Mick Backstein	355 1 st North N.	Mick Backstein	
EMILY BACKSTEIN	355 Cul de Sac Dr	Emily Backstein	

November 19, 2012

Terri L. Hepworth
275 North 2nd West
Rexburg, Idaho 83440

Hi Terri,

Your letter to the Editor, published in the Standard Journal raised some interesting questions. If I may, I would like to respond to your comments.

In your letter you wrote:

"Now they are planning to take away a play area to put in more apartments."

Yes, there is a swing set and monkey bars on the lot for the children of our tenants to play on. There will continue to be a place on our land for the existing playground equipment. We will be adding additional playground equipment, the existing landscape will be improved, additional landscape added, and the dumpster will be screened from the road.

"What about the apartment complexes already built that are going into foreclosure?"

I am not aware of any apartment buildings going into foreclosure. I do have knowledge of the demand by investors to purchase community housing complexes. The university is continuing to increase enrollment annually, driving the demand for additional housing. Vacant land and under-developed lots are prime areas for development, especially land that is close to the City center and within blocks of the University.

"Weren't zoning laws to protect the neighborhoods? Now I'm beginning to feel like these laws are there to be changed at the whim of any developer."

In all of the meetings that you and I have attended at the same time the ramifications of the "Comprehensive Plan Map have been explained and discussed. No one from your "neighborhood" has requested that the "Comp Plan" be amended to change the current "vision" for future development of your "neighborhood". My request to re-zone is consistent with the Comprehensive Plan Map, a "vision" that was developed almost 12 years ago. The "Comp Plan" informs residents and developers/investors of the potential uses of each parcel of property in our city.

"I heard that members of the Planning and Zoning are also the developers of these apartments. Isn't that a conflict of interest? I hope what I've heard is wrong."

You heard right. There are several members if not all of the members of P&Z who own homes and property in Rexburg or Madison County and all of us have or will someday buy, build or invest in our community. How is that a conflict of interest? The members of Planning and Zoning do not make rules or enforce the development code. We make recommendations to the City Council. We expect to be

treated like any other member of our community and we actively participate as members of P&Z in promoting responsible growth and development in our city.

I also attended the meeting where Robert Grow discussed "Envision Utah". I am excited about the opportunities this approach will bring to our city and county. Please get involved, run for City Council, ask to be appointed by the Mayor to serve on Planning and Zoning or any number of other committees and organizations working to improve the quality of life in our community. **We are working together to build a community that works for all of us.**

Quite frankly, I am surprised by all of the interest my request to build a four-plex has generated, especially where it will be on vacant land next to two other existing four-plexes that have been there for about 40 years. I will be surprised if anyone even notices another four-plex. Most people drive by and do not even realize that there is a 40 by 80 foot cinder block shop located in the back of our property. I have enclosed a drawing of our property that shows where the proposed 4-plex could be located in compliance with the Development Code of the City of Rexburg.

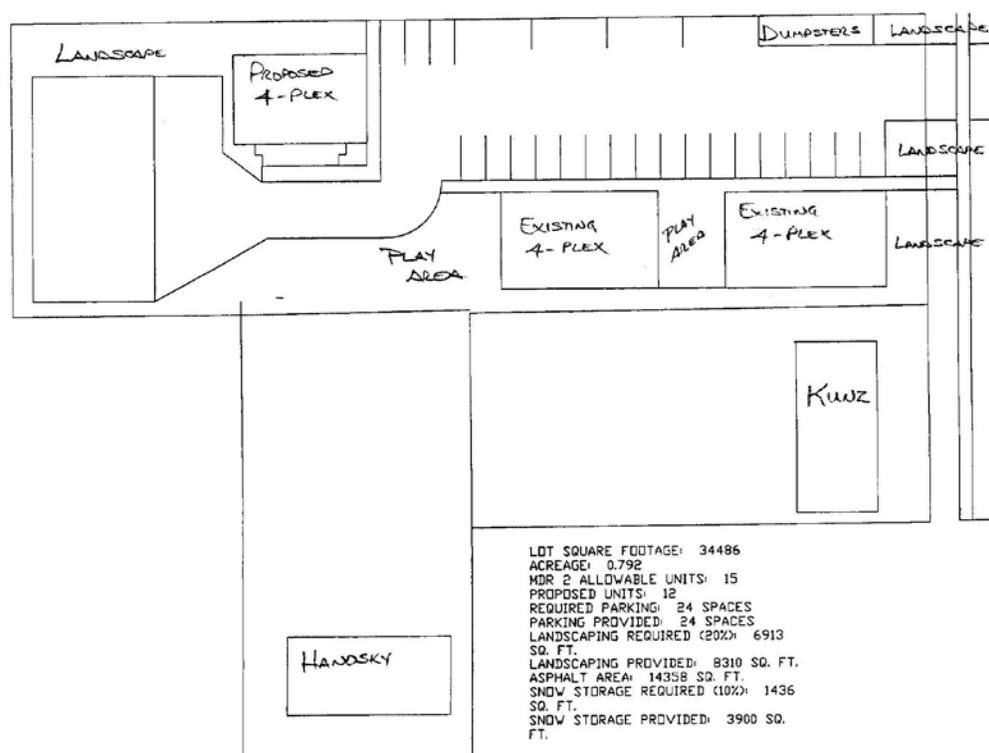
Please contact me if you desire additional clarification. I have asked that this letter together with your published letter in the Standard Journal be delivered to members of the Rexburg City Council in preparation for the public hearing on November 28, 2012. You have raised some excellent questions and I hope that my response to you will accurately address other people's concerns about my proposed zone change in your neighborhood.

Thank you,



Dan Hanna
850 East 7th North
Rexburg, Idaho 83440
cell: 208.520.2406

Site plan drawing of the proposed zone change:



Dan Hanna presented his proposal to add a four-plex to his development. It complies with the Comprehensive Plan. Amenities (i.e. playground) will be maintained for the children. The site plan map above shows the building will be in compliance with landscape and setback requirements. Additional landscape and sidewalks will be added to the front of the property to bring the property into compliance with requirements. The 4 different parcels will be brought together to make one cohesive property. This zone change follows the city's comprehensive plan.

Discussion on the neighborhoods opinion on the project.

Council Member Busby asked City Attorney Zollinger about the non-compliant issues arising with the development. City Attorney Zollinger explained the two existing buildings have been grandfathered into their current zone and there are no requirements to bring them into compliance. The current buildings cannot be altered further out of compliance; however, any new buildings would have to comply with the code.

Council Member Busby continued to review the neighborhood issues with the rezone.

City Attorney Zollinger reviewed the testimony given in the Planning and Zoning Public Hearing.

Mr. Hanna reviewed the confusion on how the Comprehensive Plan was developed and how it affects the application process. His proposal is an investment decision; He reviewed the issue of a conflict of interest. The applicant explained P&Z Commissioners have been very careful to avoid a conflict of interest. He proposed the rezone as a citizen and he relinquished his right as a P&Z Commissioner to vote on the proposal due to a conflict of interest.

Council Member Busby reviewed the letter submitted by Brandon Kuhns. Brandon Kuhns explained some of the comments made after the Planning and Zoning deliberations. Mr. Kuhns' would like his voice to be heard.

Karl Hanosky reviewed the site-plan on the overhead screen. Mr. Hanosky felt the new four-plex would not fit on the lot and be compliant with code. *(Site plan reviews are not taken into consideration with rezone proposals.)*

Mr. Hanna was asked if he had any other input.

Council Member Merrill asked about the lot size. It is 8/10s of an acre.

Council Member Merrill moved to approve the Conditional Use Permit at 410 West 1st North to allow an Assisted and Residential Care Facility per the Planning and Zoning Conditions - (Madison-Carriage Cove) the “Standards Applicable to Conditional Use Permits” Section 6.12B in the Development Code Ordinance No. 1026.; Council Member Sutherland seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

- Council President Mann
- Council Member Merrill
- Council Member Sutherland
- Council Member Benfield
- Council Member Smith
- Council Member Busby

Those voting nay

None

The motion carried.

- C. **Conditional Use Permit** - to allow a lowered number of parking spaces and increased density through the use of the Pedestrian Emphasis Zone (PEZ), Ordinance No. 1021, and for 100% residential in the Mixed Use 2 Zone – Approximately 177 South 1st East - (Sakkara Properties)

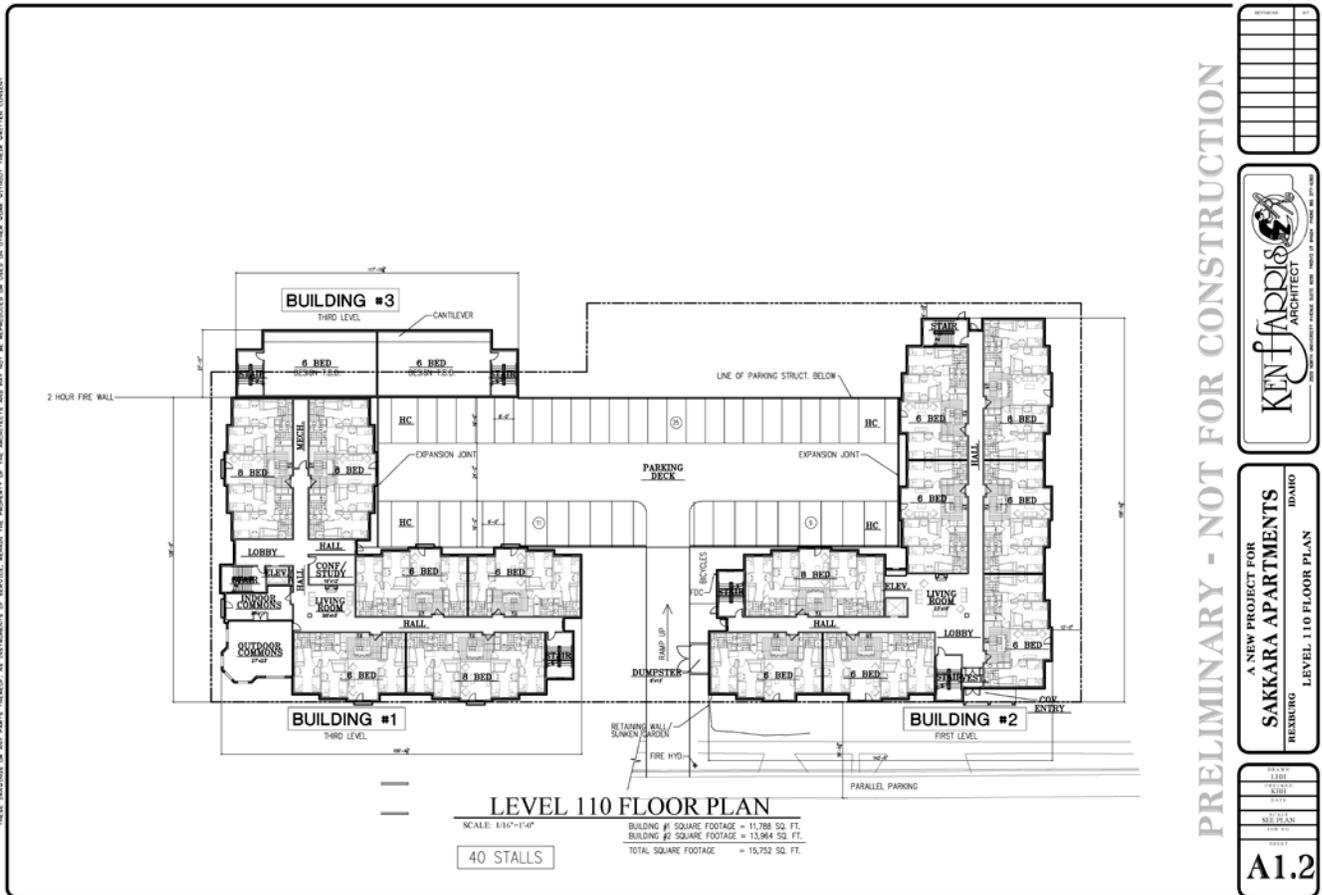
Architect Rendition of the Development:



Location of the Development Site within Rexburg:



Floor Plan of Sakkara Apartments:



Presentation by **applicant: Rachel Whoolery** at 2169 Ferris Lane reviewed the project on the overhead screen. The Sakkara property consists of seven parcels. The current zone is Mixed Used 2 (MU2) and they are asking to be permitted to build 100% Residential. This property would counteract the 100% Commercial located on Hemming Properties. Discussion on required percentages of Residential and Commercial within MU2.

Ms. Whoolery described the three-tier parking structure. The bottom level will only have access from 1st East. The second and third levels will have access from 2nd South. The ingress and egress onto the 2nd and 3rd levels will be right turn only. The 3rd level will have snow plowed into a basketball court during the winter. The parking structure will have 122 regular parking stalls, 34 visitor parking stalls, and 30 tandem parking stalls. The apartments will house 332 students and one manager. The entire property currently has 15 units and will be increased to 51 units. It will have three different bike parking areas. Planning and Zoning motion:

“On November 15, 2012 a Conditional Use Permit (CUP) for this property was recommended to City Council for approval from the P&Z Commission:

Mary Ann Mounts motioned to recommend to City Council to grant approval of a Conditional Use Permit for the property at approximately 177 South 1st East, to allow a lowered number of parking spaces and increased density through the use of the Pedestrian Emphasis Zone (PEZ), Ordinance No. 1021, to allow 100% residential (zero % commercial), and to allow zero setback in the Mixed Use 2 Zone, and to include 4 proposed conditions:

- 1) There shall be a pedestrian management plan for during construction, done in coordination with the City Engineer;*
- 2) Include tandem parking in the project if possible;*
- 3) Provide 8-foot wide sidewalks; and*
- 4) There shall be a design review meeting for the project.*

Dan Hanna seconded the motion. None opposed. Motion carried.”

Council Member Merrill moved to approve the Conditional Use Permit to allow a lowered number of parking spaces and increased density through the use of the Pedestrian Emphasis Zone (PEZ), Ordinance No. 1021, and for 100% residential in the Mixed Use 2 Zone with the Planning and Zoning Conditions at approximately 177 South 1st East (Sakkara Properties); Council Member Smith seconded the motion; Discussion:

Community Development Director Christensen reviewed the conditions recommended by the Design Review Committee:

There was consensus of the Design Review Committee that:

1. *Boulevard strips on both streets (2nd South; 1st East) will be 8 feet and will include trees.*
2. *Elevations approved as submitted – full review at time of building permit process.*
3. *Visually clarify public and private resident entrances possibly using flagstone paths for resident entrances.*
4. *Break up the length of retaining wall with landscaping, rock, etc.*
5. *A landscape plan will be submitted for review.*
6. *Applicant is encouraged to speak with neighbor on the east about the possibility of removing existing fence and making a grassy common area.*
7. *Parking structure exits recommended to be right turn only onto 2nd South and right turn only onto 1st East - to be determined by the City Engineer.*

The applicant would like the CUP to include 100% compact parking within the parking structure. All parking will not be compact; however, the full size will be adjusted in order to allow greater room in the driving lane within the parking structure. This adjustment can only be permissible by allowing 100% compact inside the parking structure. Council Member Merrill amended his motion to include 100% compact parking allowed in the parking structure. Council Member Smith seconded the amended motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

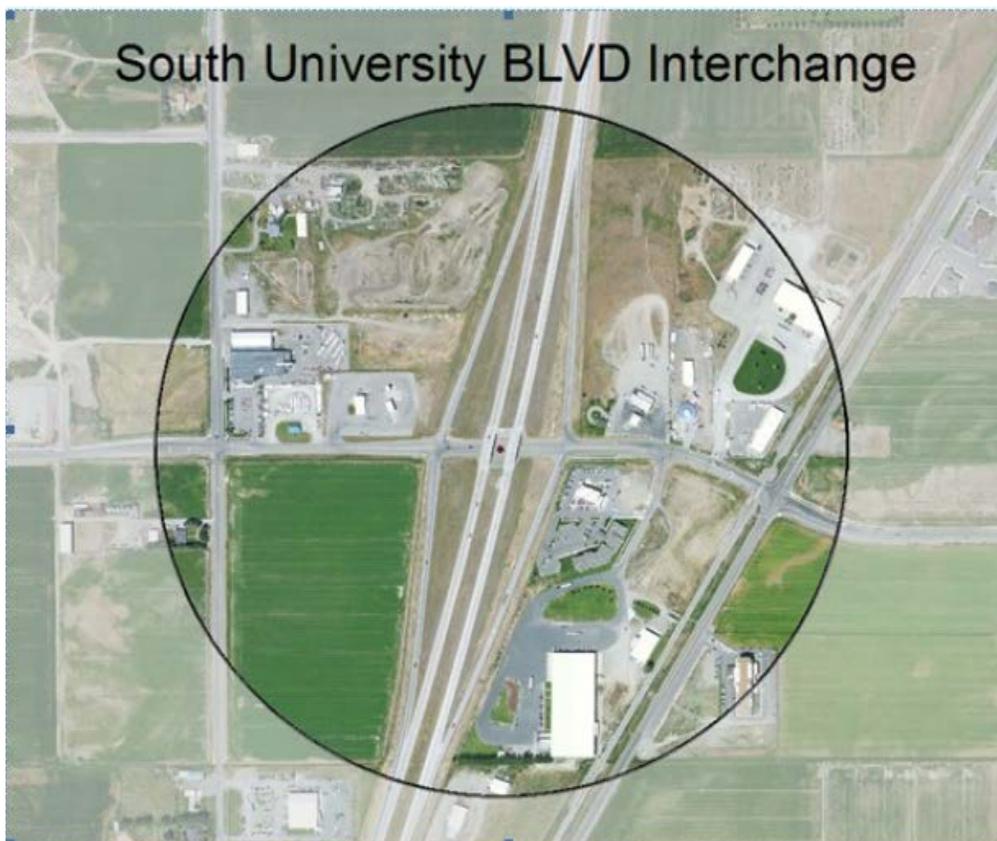
Those voting nay

None

The motion carried.

D. Bill 1095 – Amend Ordinance 1026 to include Infill and Sign Heights – Val Christensen

Community Development Director Val Christensen reviewed the reason to add the recently approved infill policy and sign heights to the Development Code. He also added the infill language to the residential codes. The sign code was amended to include the 1500 foot radius for Hwy 20 interchanges for sign heights up to 40 feet high.



Discussion on the decision to add higher signs to the interchanges.

- 1) Only one 40 foot sign per parcel is allowed on US 20 interchanges within the 1500 foot radius.
- 2) The interchange sign heights will be measured from the average grade level of the parcel to the top of the sign.
- 3) The Hwy 20 interchange signs will be located on the interior of the lot off the right-of-way.

Council Member Busby moved to first read Bill 1095 to amend Ordinance 1026 to include Infill and Sign Heights with amendments as discussed; Council Member Benfield seconded the motion; Discussion: Council President Mann was opposed to having the higher signs. Continued discussion on the Hwy 20 interchange sign locations off the right-of-way so they would not block the public's vision of the other properties. Mayor Woodland asked for a vote:

Those voting aye

Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

Council President Mann

The motion carried.

Staff Reports:

Public Works: – John Millar

1. Moving canal on West Main Street to allow a sidewalk along West Main Street.
2. New street lights on 2nd East and other locations.
3. Pedestrian vehicle accidents were reviewed.
4. Nine pedestrian lights will be added around the University by the University.
5. Burton School crossing pedestrian light will be added.
6. Trejo crossing pedestrian light will be added.
7. Wastewater plant upgrade is continuing.
8. Pinnacle building on South 1st East is under construction for apartments.
9. Water line failures on Main Street were reviewed.
10. Firewood from trees being removed is being given to requestors.
11. Kartchner's 5th West project needs caution signage for large trucks entering onto 5th West.

Finance Department – Richard Horner

Finance Officer Horner said December 10, 2012 is the deadline for insurance changes.

Calendared Bills and Tabled Items:

A. "LAND USE ACTION" – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE: – NONE

B. BILL Introduction:

1. **Bill 1094 – Stopping, Standing, & Parking** replacing Ordinances 818A and 1028.

City Attorney Zollinger explained minor changes were done to 818A plus including Ordinance 1028 into a new ordinance. A home in the University parking district can have a permit for a homeowner. The definition for a street face was changed to include both sides of the street. Parking meters were removed.

Council Member Sutherland moved to suspend the rules for Bill 1094 for Stopping, Standing, & Parking on city streets, replacing Ordinances 818A and 1028; Council Member Merrill seconded the motion; Mayor Woodland asked for a roll call vote:

Those voting aye

Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith

Those voting nay

None

Council Member Busby
Council President Mann

The motion carried.

Council Member Sutherland moved to third read and approve Bill 1094 for Stopping, Standing, & Parking on city streets, replacing Ordinances 818A and 1028; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

2. **Bill 1095 – Amend Ordinance 1026** to include Infill and Sign Heights.

BILL 1095 was first read under agenda item 8-D above.

3. **Bill 1096 – Amend the International Fire Code Ordinance 1063.**

Dale Pickering reviewed the changes to amend the International Fire Code. The changes include public safety issues. Council Member Merrill requested any changes to the code to have fire personnel available to comply with the code.

Council Member Busby moved to approve and first read Bill 1096 to amend the International Fire Code Ordinance 1063; Council Member Smith seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

C. First Reading: Those items which are being introduced for first reading:

1. **Ordinance 1097 Assessment Roll** for Local Improvement District Number 42 ("L.I.D. 42)

Council Member Sutherland moved to suspend the rules for Ordinance 1097 Assessment Roll for Local Improvement District Number 42 ("L.I.D. 42); Council Member Merrill seconded the motion; Mayor Woodland asked for a roll call vote:

Those voting aye

Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

Council President Mann

The motion carried.

Council Member Sutherland moved to approve and third read Ordinance 1097 Assessment Roll for Local Improvement District Number 42 ("L.I.D. 42); Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

D. Second Reading: Those items which have been first read: – NONE

E. Third Reading: Those items which have been second read: – NONE

Consent Calendar: The consent calendar includes items which require formal City Council action, however they are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar for discussion in greater detail. Explanatory information is included in the City Council's agenda packet regarding these items.

- A. Minutes from November 07, 2012 meeting
- B. Approve the City of Rexburg Bills

Council President Mann moved to approve the Consent Calendar and pay the bills; Council Member Merrill seconded the motion; Mayor Woodland asked for a vote:

Those voting aye

Council President Mann
Council Member Merrill
Council Member Sutherland
Council Member Benfield
Council Member Smith
Council Member Busby

Those voting nay

None

The motion carried.

Adjourned at 10:13 P.M.

Richard S. Woodland, Mayor

Attest:

Blair D. Kay, City Clerk