

# City Council Meeting

April 6, 2016

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

blairk@rexburg.org  
www.rexburg.org

Phone: 208.359.3020 x2313  
Fax: 208.359.3022



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

April 6, 2016

Mayor Jerry Merrill

Council Members:

President Sally Smith    Jordan Busby

Donna Benfield         Tisha Flora

Christopher Mann       Brad Wolfe

City Staff:

Stephen Zollinger – City Attorney

Matt Nielson – Finance Officer

Blair D. Kay – City Clerk

John Millar – Public Works Director

Val Christensen – Community Development Director

Scott Johnson – Economic Development Director

## **6:30 P.M. City Hall – Pledge to the Flag**

**Michael Brugger** led the pledge.

**Chandra Scholes** said the prayer.

## **Roll Call of Council Members:**

**Attending:** Council President Smith, Council Member Flora, Council Member Busby, Council Member Mann, Council Member Wolfe, and Mayor Merrill.

Council Member Benfield asked to be excused.

**Public Comment:** not scheduled on the agenda (limit 3 minutes); issues may be considered for discussion on a future agenda. Please keep comments on point and respectful.

**Marin Scholes** of Rexburg recently got a dog and would love to have a dog park where she could take her dog to play. Rexburg has a lack of dog parks. She proposes the City convert Park Street Park or any other park into a dog park. Many city residents have dogs and would appreciate a dog park. A good dog park would include a bench, waste receptacle with a bag dispenser, some play equipment for dogs, dog watering station and a five foot vinyl coated chain link fence.

## **Presentation:**

**Ms. Kimber Tower** presented information to City Council concerning their services to the community.

### **Family Crisis Center Information**

1. We are located at 16 East Main Street in Rexburg, Idaho
2. We serve victims of domestic violent and sexual assault primarily
3. We cover the following counties:
  - a. Madison
  - b. Jefferson
  - c. Fremont
  - d. Clark

4. Our main office is open Monday-Thursday from 8am-4:30pm, and Friday from 8am-2pm. We are available on our 24 hour crisis line after hours.
  - a. Anyone can walk in to get help
  - b. We respond on scene when law enforcement or the hospital calls us
5. We have a staff of 10, 10-12 interns at any time, about 20 volunteer advocates, and countless volunteers.
6. We have been operating for about 28 years.
7. We have multiple important resources for community members:
  - a. Court advocacy
  - b. Emotional advocacy
  - c. Assistance navigating Victim's Comp, or Legal Aid
  - d. Lending Library of support books
  - e. Access to counseling
  - f. Access to support groups
  - g. English classes for those who are learning it as a 2<sup>nd</sup> language
  - h. Thrift Store
  - i. Food Bank
8. We have been implementing a few new programs:
  - a. Satellite Offices
  - b. Child Forensic Interviews
  - c. Child Advocacy
9. In the past year our numbers have been increasing. In 2014 we served 270 people and in 2015 we served 391 people.
10. We would love to give any councilman or other official a tour of our office at any time.
11. Questions?

**Council Member Smith** mentioned she and Council Member Benfield have both served on the Family Crisis Center Board and she appreciates all that they do. She would encourage community members to get involved.

**Mayor Merrill** said its mixed feelings that numbers are going up but he is glad people are getting the help they need. He thanked Ms. Tower for all her good work.

**Mayor Merrill** introduced Terri Hill as the new Human Resources Director for the City of Rexburg.

**Mayor Merrill** had Terri tell a little about herself. She grew up in Teton. She is married and has three children. Her son is serving in Kuwait. Her other son works for Alpha Graphics and her daughter's husband works for the city of Idaho Falls. She is thrilled to be here and looks forward to serving the community.

**Valeea Quigg** will be retiring on the 13<sup>th</sup> of April after 33 years with the City.

**Committee Liaison Assignments for 2016:**

**A. Council Member Mann:** *Golf Board · Emergency Services Board · GIS Oversight. Development Workshop Board*

**Council Member Mann** reported the Golf Board met last night and they will be putting up new signs for the Legacy Golf Course, formerly known as the Municipal Golf Course. The Legacy Golf Course is great for families and has affordable prices. They are working on paying down their debts. He appreciates Chief Finance Officer Neilson for keeping such good financial records. He is on the board for the Developmental Workshop. He went on a tour of the facility yesterday. This is a place where people with disabilities work. They have a large sewing center where they sew together kits and other projects. They are currently sewing collars on United States Airforce women's uniforms. Several local businesses, including the City of Rexburg, hire people from the Developmental Workshop. Boy Scouts are welcome to go check it out. Emergency Services have not met. GIS is doing fine. He thanked the Mayor for doing such a great job in keeping City Council informed and doing a great job as mayor.

**B. Council Member Busby:** *· Airport Board · Traffic & Safety · Trails of Madison County*

**Council Member Busby** reported the Airport Board met today. Things are status quo right now. They will be seal coating the taxiway and runways. They are not going to do anything with the pilot's lounge. Traffic & Safety was cancelled. The Trails Committee will meet next week.

**C. Council Member Benfield:** *Police · MYAB · Parks & Recreation*

**Council Member Benfield** was excused. Mayor Merrill mentioned last week was busy for the Rexburg Police Department; however, things have quieted down now. Chief Turman said they are doing training this week.

**Mayor Merrill** indicated Riverside Park is being cleaned up and improved. It will be landscaped. The Teton Dam Marathon is coming up.

**D. Council Member Smith:** *Legacy Flight Museum · Beautification Committee · M.E.P.I.*

**Council President Smith** reported several community members commented they were pleased with the way the Rexburg Police Officers handled the Walmart incident. *This is in reference to the March 30<sup>th</sup> standoff in Walmart with a man making threatening gestures with a machete and hammer.* June 18<sup>th</sup> is the air show and it will go all day. There will be a lot of World War II planes flying in for the show. MEPI is planning the Business Competition for May 12<sup>th</sup>. The Beautification Committee, when formed, will be working on the Center Street project.

**E. Council Member Flora:** *School Board · Rexburg Arts Council/Museum of Rexburg*

**Council Member Flora** reported the School Board recently saved the community just over two million dollars by restructuring a bond. The School District is co-hosting the third annual Community Wellness weekend coming up on April 29<sup>th</sup> and 30<sup>th</sup>. They will be doing health screening and giving away thousands of dollars in prizes. It's a free event. The Museum Curator, Jackie Rawlins, is organizing, cataloging and sorting all the artifacts from the museum storage room. The Museum will open again in May. The Arts Council has been working on a new website [www.rexburgarts.com](http://www.rexburgarts.com) that will have lots of area events and a list of local artists. The Cultural Arts Department has had events in the Romance Theater and Tabernacle every weekend and they are already booking through next spring. They have themed movie nights coming up where you can dress up and go to the movie. They are also working on ADA seating in the Romance Theater.

**F. Council Member Wolfe:** *Planning & Zoning · Urban Renewal Agency · IBC*

**Council Member Wolfe** reported Urban Renewal has not met. Planning & Zoning has two items on the agenda for tonight. Both came recommended to City Council.

**Staff Reports:**

**A. Finance:** Chief Finance Officer Matt Nielson said the CPI has not been made available, yet. He will delay the review of the proposed cost of living adjustment until next City Council meeting.

1. Review proposed Cost of Living Adjustment

**B. Public Works:** John Millar reported the waste water project will start next week on schedule. The main piping for the water project bids out on April 18<sup>th</sup>. They are starting two pilot wells at the north well sight on 7<sup>th</sup> North and at the high school. They will put down a 6 or 8 inch pilot well to verify what's down there and analyze the data before they spend two hundred thousand dollars on the main water well. The portion of the water project that the City Engineering Department is working on will be out to bid the end of the month. They plan on eliminating a lot of old two inch pipe lines that are starting to corrode. The Streets Department is working on the storm drain project from Kennedy School to the round-about.

**Public Works Director Millar** reported one of the street sweepers died. It is a mechanical sweeper and everything on it is hydraulic and that system has failed. Repairs estimate at fifty to one hundred thousand dollars. He is looking for a replacement. The vacuum sweepers are used the most; however, the mechanical sweeper does heavier work in the spring and when they do seal coatings and need to pick up the rock chips. He has budgeted \$250,000 to \$260,000 for a replacement sweeper in two years. He has found a good used sweeper in Sacramento for \$65,000. They are going to check it out and if it will work he would like to buy it for now and save the budgeted money for a vacuum sweeper in the future.

**Council Member Busby** asked if there is any value in the broken down sweeper. Public Works Director Millar said they could keep it for parts since both sweepers are Johnson 4000 models; however it is only worth around \$5,000.

**Council Member Busby** asked if there are any seal coating projects coming up. Public Works Director Millar said that they haven't put the seal coating bid out, yet. They have set aside \$200,000 for seal coating. They have been using the county to do seal coating and they do a great job. Council Member Busby asked about the new system where you can drive on it right away and if it has held up to expectations. Public Works Director Millar said it has but there was just one problem on the north part of 5<sup>th</sup> West and the company will redo it at their cost.

**Council Member Smith** asked about the 4<sup>th</sup> West project and where the new water lines are. Public Works Director Millar indicated the new pipe goes right between the road and the canal.

**Council Member Busby** asked when the water will come into the canal. Director Millar said it comes in this Saturday.

**Council President Smith** asked if any of the work on 4<sup>th</sup> West north of Main Street has anything to do with Dave Thueson's project. Public Works Director Millar said that Mr. Thueson put the new bridge in that goes to his property.

**Council Member Mann** asked about the speed limit on Main Street in front of the new Maverick where it is 45 mph. and asked if it should be reduced. Public Works Director Millar said if we feel it needs to be reviewed it will go through the state transportation department. Public Works Director Millar said ITD has applied for funding to do something with the ramps on the south and central interchanges.

**Council Member Flora** thanked Public Works Director Millar for having the streets swept and she thanked him for the speed bump on Pinehaven. The residents there are thrilled. Public Works Director Millar said traffic is now moving from Pinehaven to Johnson Street. They will be monitoring any traffic issues on the streets mentioned.

**Council Member Wolfe** asked about the \$85,000 value on the old sweeper. Public Works Director Millar replied that it is only \$5,000.

**Council Member Busby** motioned to give Public Works Director Millar and/or his mechanic the authority to purchase the used street sweeper in Sacramento for \$65,000 if he finds it will serve our purpose; Council Member Wolfe seconded the motion; Mayor Merrill asked for a vote;

**Those voting aye**

Council President Smith  
Council Member Flora  
Council Member Busby  
Council Member Mann  
Council Member Wolfe

**Those voting nay**

None

**The motion carried**

**C. Community Development:** Val Christensen

**Community Development Director Christensen** reviewed the March Valuation Report: The March report came in at \$7,400,000. Our fees were about \$50,000 and our impact fees were \$100,000.

**Mayor Merrill** asked how that compares to previous years. Community Development Director Christensen said it's all over the board because one large permit can dramatically change the numbers. This is the time of year when permits start picking up.

**Council Member Wolfe** asked about year to date numbers. Community Development Director Christensen thinks probably under twenty million. He thinks this year will be similar to last year. There are some big projects that will be coming in and it should be a big year.

Issued Permits Monthly Valuation Report								
			Month: March	Year: 2016				
Permit Type	Tag	Location	Applicant	Estimated Valuation	Building Fees	Impact/Other	Total Fees	
Building - Commercial	DP Beck Apts - Bld 2(12 Units-3 bedroom)	300 N 2nd W	JRW & Associates	\$ 1,657,813.08	\$ 11,851.00	\$ 34,260.00	\$ 46,111.00	
Building - Single Family Residence	Brighton Townhomes - Bldg 5	242 W 6th S	Lisa Larsen	\$ 650,891.70	\$ 5,607.00	\$ 22,125.00	\$ 27,732.00	
Building - Single Family Residence	Brighton Townhomes - Bldg 6	242 W 6th S	Lisa Larsen	\$ 650,891.70	\$ 5,607.00	\$ 22,125.00	\$ 27,732.00	
Building - Single Family Residence	930 Oak Hill Way - SFR	930 Oak Hill Way	John Blumhorst Construction Inc	\$ 284,631.46	\$ 853.00	\$ 5,775.00	\$ 6,628.00	
Building - Single Family Residence	898 Pine Brook - SFR	898 Pine Brook	SDH Construction	\$ 276,617.20	\$ 979.00	\$ 5,785.00	\$ 6,764.00	
Building - Single Family Residence	1121 S 5th W - SFR	1121 S 5th W	The Highpointe Companies LLC	\$ 447,008.12	\$ 4,076.00	\$ 2,530.00	\$ 6,606.00	
Building - Single Family Residence	880 Pine Brook Ln - SFR	880 Pine Brook Ln	SDH Construction	\$ 307,291.04	\$ 931.00	\$ 5,775.00	\$ 6,706.00	
Commercial Addition	Providence Square Storage units	195 S 5th W	NBW Architects, P.A.	\$ 1,176,485.50	\$ 8,006.00	\$ 25.00	\$ 8,031.00	
Commercial Remodel	Madison Memorial Hospital Remodel	450 E Main	JRW & Associates	\$ 180,000.00	\$ 2,537.00		\$ 2,537.00	
Commercial Remodel	Albertsons - Remodel	490 N 2nd E	Michael Teeter	\$ 400,000.00	\$ 4,401.00	\$ 125.00	\$ 4,526.00	
Commercial Tenant Finish	Season's II - Tenant Finish	36 Professional Plaza St	Headwaters Construction	\$ 1,423,240.00	\$ 4,262.60	\$ 63.00	\$ 4,325.60	
Residential Mobile Home	387 Airport Rd #42- Mobile Home	387 Airport Rd #42	Mark Barnes		\$ 165.75		\$ 165.75	
SFR Basement Finish	783 Park St - Basement Finish	783 Park St	Brian Godfrey	\$ 7,000.00	\$ 195.00		\$ 195.00	
				<b>\$ 7,461,869.80</b>	<b>\$ 49,471.35</b>	<b>\$ 98,588.00</b>	<b>\$ 148,059.35</b>	

**Mayor's Report:** The Mayor reported, he along with Community Development Director Val Christensen, Economic Development Director Scott Johnson and GIS Director Craig Rindlisbacher just returned from a conference in Phoenix early this morning. It was a good conference about City Planning and Economic Development. They will have a report for council at a later date.

**Public Hearings:** None

**Items for Consideration:**

A. **Conditional Use Permit** – 129 South 2<sup>nd</sup> East, and 204 & 216 East 1<sup>st</sup> South - to allow 100 % residential and zero percent commercial in a Mixed Use 2 zone.

**Karl Matson** from Ashton represents 2M Holdings which owns the property at 129 S 2<sup>nd</sup> E and 216 E 1<sup>st</sup> S and has the property at 204 E 1<sup>st</sup> S under contract. On November 5th, 2014 the City Council approved a zone change on this property from Low-Moderate Density Residential to Neighborhood Commercial/Mixed Use. Mr. Matson explained at that time they were looking at mixed use but it ended up not being a feasible option. He indicated the commercial vacancy in Rexburg is very high. There are twenty different commercial entities that are now vacant. They were recently approached by BYU-I about building student dormitory housing at this location. They would like to build the dormitory housing without the 10 percent commercial. He is applying for a conditional use permit that would eliminate the commercial use requirement.

**STAFF REPORT:** Community Development Department Val Christensen reviewed the zoning changes that this property has gone through.

**II. SITE DESCRIPTION**

The project will be located at approximately 129 South 2nd East, and 204 and 216 East 1st South, Rexburg, ID which are comprised of an unimproved lot and two existing homes. Case No.16 00153

**III. ANALYSIS**

The following are the criteria for granting a conditional use permit. Some of the criteria are followed by staff's analysis. A conditional use will:

a. **Constitute a conditional use as established in Table 1, Zoning Districts, Table 2, Land Use Schedule.**

*A CUP is required for reduced Commercial percentage.*

***b. Be in accordance with a specific or general objective of the City's Comprehensive Plan and the regulations of the City of Rexburg Development Code.***

*Comprehensive Plan:*

*The Comprehensive Plan Map identifies the area as "Neighborhood Commercial/Mixed Use". The use is in accordance with the Comprehensive Plan.*

*Development Code (Ordinance 1115)*

*This use is allowed with a Conditional Use Permit as per the City of Rexburg Development Code Section 3.14.025.*

***c. 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.***

*Staff requests that the Planning and Zoning Commission study the proposal and determine if reducing the 10% commercial requirement would negatively impact the character of the neighborhood.*

***d. 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.***

*Staff does not feel the request creates any nuisance or safety hazard as described.*

***e. 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.***

*The City Engineer did not have concerns.*

***f. 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.***

*The City Engineer did not have concerns. Case No.16 00153 Page 3*

***g. Be effectively buffered to screen adjoining properties from adverse impacts of noise, building size and resulting shadow, traffic, and parking.***

*Staff requests that the Planning and Zoning Commission study the proposal and determine if these requirements have been considered in the proposal by the developer.*

***h. 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.***

*The lot has some slope but it should not affect the project.*

***i. Not result in the destruction, loss or damage of a historic feature of significance to the community of Rexburg.***

*N/A*

#### ***IV. STAFF RECOMMENDATION***

*Staff recommends that the proposed Conditional Use Permit be approved contingent upon the Planning and Zoning Commission determining that the reduction of commercial does not have a negative impact on the surrounding neighborhoods.*

*When the zone was changed to Mixed Use 2, the following conditions were placed on the development:*

- 1. There shall be a sunset clause of 24 months for the applicant to obtain a building permit, or the zoning reverts back to Low Density Residential 3.*
- 2. Building height shall not exceed 30 feet.*
- 3. There shall be limited access on Harvard Avenue.*
- 4. There shall be adequate buffering of the neighbors on the south property line.*

**\*\*Motion from the “November 5, 2014” City Council Meeting:**

*Council Member Wolfe moved to approve the Rezone and consider first read BILL 1122 for 117 South 2nd East; and 204, 216, and 230 East 1st South to be rezoned from Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2); with the Planning and Zoning Conditions; including a 1 to 1 setback for building height; and that the residential area on Harvard be non-dormitory housing; and the access onto Harvard Avenue be residential access only; Council Member Smith seconded the motion. Mayor Woodland asked for a vote:*

**Those voting aye**

*Council President Smith  
Council Member Merrill  
Council Member Wolfe*

**Those voting nay**

*Council Member Mann  
Council Member Busby*

***The motion carried.***

**Community Development Director Christensen** indicated there is some questionable wording on the conditions that went along with the original zone change. He believes it needs to be more specific. The access on Harvard was intended to be residential single family access not dormitory access. The adequate buffering of the neighbors on the south property line was supposed to be the one to one set-back. There were no specifics put in requiring trees or other landscaping. If City Council wants landscaping to be identified it should be put into this conditional use permit.

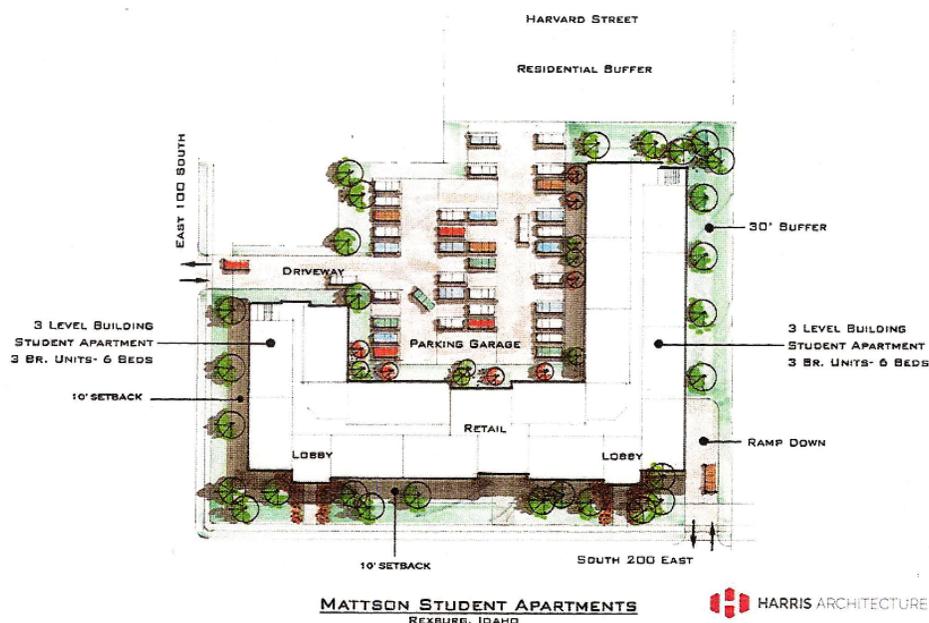
**Council President Smith** asked to have the picture of the property brought up on the screen to take a closer look at the south border of the property.

**Community Development Director Christensen** indicated the small parcel on the south side of the property could be purchased by the owner and that piece could serve as the buffer. That small piece is not zoned MU2 so it could not add anything to the density of the project.

**Council Member Wolfe** asked if the owner does use that property as a buffer would there be an issue down the road if they sold it. Community Development Director Christensen replied any new owner would know exactly what they were purchasing.

**City Attorney Zollinger** said any new owner would have to encumber it with an easement.

**Council Member Busby** asked about the 30 foot buffer between the existing house that is already there. Community Development Director Christensen said there has been discussion if the 30 foot set back was on the whole thing. That also needs to be clarified. By going to zero commercial they lose the ability to go right to the property line. If it did have commercial it could go right to the property line.



Discussion:

**Council President Smith** believes the mixed use zone has been misused. She explained that any time they make a zone change; it doesn't define what the developer will do, no matter what they say. This is a good example of that. Her problem with this is that anything that fits is okay to do. She appreciates Mr. Matson going to the neighbors beforehand and letting them know what he wanted to do. The neighborhood originally agreed with a call center or something similar because they believed it would be less traffic. Now the developer is changing his plans. The Idaho Supreme Court just had a case where some people who had been previously living in a subdivision and who had bought and built homes under the covenants of that subdivision were now faced with the home owners association wanting to change the covenants to say they would allow seasonal rentals. The Supreme Court Ruled against it because the people, who had built homes there originally, did so thinking that the covenants would stand. Council President Smith doesn't believe it is fair to the neighbors to issue the conditional use permit. She said the lease rates are very high on the empty commercial buildings and that is why they are still empty. She understands that BYU-I needs more housing but she feels it is unfair to the neighborhood. We need to be very careful when considering these zone changes. She also feels that this area not being in the PEZ zone is a concern.

**Council Member Flora** expressed her concerns. She agrees with Council President Smith. She feels what was proposed back in November of 2014 when the zone was changed and what is proposed now are totally different. She quoted some things that were said by Mr. Watson in the November 2014 council meeting when the zone was changed. It was supposed to be a very low traffic change with ninety percent commercial and ten percent residential. She also quoted Mr. Watson when he said, "With the MU2 zone, if you look at what is allowed on this sight, there is a huge range and with the unknown it is probably terrifying to these people (the neighbors). To head down the road correctly and to be responsible, we need to narrow that down so they have a better feeling of security. For example, Mr. Kearns just built a brand new house to the south and it would be horrible to build a three story building just off of his property line. It would be irresponsible for us to do that and it would be irresponsible as city planners to do that." Since there is no legal means to undo or take back the zone change and the MU2 zone is already in place, it puts them in a difficult spot. Council Member Flora would like to take those original conditions and the Planning and Zoning conditions and really scrutinize over those in order to do a good project that the neighbors can be happy with.

**Council Member Wolfe** also had concerns. He said they tend to listen to what the project is going to be and base their decision on that instead of what the zone change means. The big concern in the beginning was the traffic and he is not sure that student housing would have any more traffic than a commercial project.

**Council President Smith** asked about parking. Which would require more; student housing or commercial? Director Christensen said commercial could potentially require more parking to accommodate employees but most likely residential would be more.

**Mayor Merrill** said that traffic is a concern. Sometimes single residential causes more traffic.

**Council Member Mann** thanked Council Member Flora for what she said. He voted against this zone change back in November, 2014 because he realized they were approving much more than just the project at hand. He thinks it is so important to watch what is developed there. He expressed how important it is when someone asks for a zone change that they remember they are approving more than what the developer is originally asking for. He did point out that 2<sup>nd</sup> East is already a heavy traffic street. It's not the people whose house is in question but the people behind them who look at that as their buffer zone.

**Council Member Busby** asked how many beds are planned. Mr. Matson said it is not set yet but around 324. Council Member Busby indicated he also was opposed to this zone change back in November of 2014 because he did not want to go through what they are going through now. He is very sensitive to the neighbors there. He feels that their homes and their investment should be protected. There are many opposed to this project.

**Mayor Merrill** said moving forward they need to look at the conditions and clarify those. Community Development Director Christensen reminded council what is before them at this time is whether this property is going to be ten percent commercial or not.

**Council Member Flora** asked to clarify the eight conditions and make them more specific.

**Mayor Merrill** agreed.

**\*\*When the zone was changed to Mixed Use 2**, the following conditions were placed on the development:

**\*\*Motion from the “September 18, 2014” Planning and Zoning Public Hearing:**

1. *There shall be a sunset clause of 24 months for the applicant to obtain a building permit, or the zoning reverts back to Low Density Residential 3.*
2. *Building height shall not exceed 30 feet.*
3. *There shall be limited access on Harvard Avenue.*
4. *There shall be adequate buffering of the neighbors on the south property line.*

**\*\*Motion from the “November 5, 2014” City Council Meeting:**

**Council Member Wolfe** moved to approve the Rezone and consider first read BILL 1122 for 117 South 2nd East; and 204, 216, and 230 East 1st South to be rezoned from Low Density Residential 3 (LDR3) to Mixed Use 2 (MU2); with the Planning and Zoning Conditions;

5. *Including a 1 to 1 setback for building height; and*
6. *That the residential area on Harvard be non-dormitory housing; and*
7. *The access onto Harvard Avenue be residential access only;*

**Council Member Wolfe** said that Condition #1 and #2 from the Planning and Zoning Public Hearing are set and do not need changed. #3 Limited access on Harvard; we should strike and add to #7 to say access should be limited to non- dormitory residential only.

**Council Member Busby** asked if it would be okay to go into executive session to seek legal advice. City Attorney Zollinger replied that they can do that.

**Council Member Busby** moved to go into Executive Session per Idaho Statute 74-206; (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated; Council President Smith seconded the motion; Mayor Merrill called for a roll call vote.

**Those voting aye**

Council President Smith  
Council Member Flora  
Council Member Busby  
Council Member Mann  
Council Member Wolfe

**Those voting nay**

None

**The motion carried**

**Executive session started** at 7:55 p.m.

**Executive session ended** at 8:25 p.m.

**Mayor Merrill** announced City Council was back in session at 8:27 p.m.

**Council Member Flora** moved to approve the **Conditional Use Permit** for 129 South 2<sup>nd</sup> East, and 204 & 216 East 1<sup>st</sup> South - to allow 100% residential and zero percent commercial in a Mixed Use 2 Zone with the following conditions clarified:

**\*\*Original Conditions set in the motion from the “November 5, 2014” City Council Meeting:**

1. *There shall be a sunset clause of 24 months for the applicant to obtain a building permit, or the zoning reverts back to Low Density Residential 3.*
2. *Building height shall not exceed 30 feet.*

3. *There shall be limited access on Harvard Avenue.*
4. *There shall be adequate buffering of the neighbors on the south property line.*
5. *A one to one setback for building height*
6. *The residential area on Harvard to be non-dormitory housing; and the access onto Harvard Avenue be residential access only;*

**After the Executive Session: the following clarifications to the current conditions were defined:**

- 1 – The Sunset clause will remain in effect as stated.
- 2 – Building heights shall not exceed 30 feet as stated.
- 3 – The non-dormitory housing on Harvard is clarified to be two story twin or townhomes or two story single unit homes only.
- 4 – There shall be limited access on Harvard and shall be residential access from the twin and town homes only.
- 5 – There shall be adequate buffering of the neighbors on the south property line with a minimum of 15 foot trees such as a thick hedge of evergreen trees as a better visual and sound buffer and as approved by the design committee.
- 6 - One to one set-backs, meaning there shall be a 30 foot set-back on the south side of the property and also a set-back of 10 feet on Second East to match the housing to the south.
- 7 - Sidewalks on Second East and First South shall be widened to a minimum of 8 feet wide as stated by Planning & Zoning.
- 8 – The parking structure shall be designed or screened from the adjoining residents to the south and reviewed by the design review committee as set forth by Planning and Zoning.
- 9 – If twin homes are not built within two years, those lots which were intended for twin homes shall be landscaped with grass and trees and maintained as a park like area until such time as the homes are built.

**Council Member Smith** seconded the motion; Mayor Merrill asked if there was any further discussion.

**Council Member Wolfe** asked about a screening structure to the east if the twin homes are not built and wondered if that should also be in the conditions.

Discussion:

**Mayor Merrill** asked for a vote;

**Those voting aye**

Council President Smith  
 Council Member Flora  
 Council Member Busby  
 Council Member Mann  
 Council Member Wolfe

**Those voting nay**

None

**The motion carried**

**B. Ordinance 1142** – Hemming PRO Zone (Project Redevelopment Option) replacing Ordinance No. 1006; including modifications to the Development Code for Parking Regulations and Building Heights in the Infill/Redevelopment areas only.

**Richie Webb** presented the amendment request in the PRO Zone for Hemming Village. With this new project they have looked at the language and some changes that have happened with the PRO Zone. They have worked with Community Development Director Christensen and gone over their plan and determined some modifications they would like added to the ordinance. Mr. Webb then asked if he could show the pictures of the project they intend to build.

**City Attorney Zollinger** clarified the PRO zone was intended to be project specific. This is the Hemming PRO Zone so they were expected to show their plans for the entire project from the beginning. Any zone that starts with “PRO” you do want to see the project plans because it is a project specific zone.

Mr. Webb showed the renderings of Hemming Cedars student housing. It is intended for married housing. There will be retail commercial space underneath. The other end will have single student female housing. They are keeping the same theme designs that have already been used in the other buildings. The center section will be single student housing and a lounge area, and gym. The building will be 5 stores with 450 single student female beds.



**Council Member Busby** asked if the street will be widened. Mr. Webb said no, the pictures just ended up looking like that.

**Council Member Mann** asked about married and single housing together and if the policies have changed on that. Mr. Webb explained that the policy has not changed and there will be a separation section in the middle.

**Council Member Busby** asked where the parking structure is. Mr. Webb indicated that the parking structure is in the middle and not visible from the street.

**Council Member Busby** asked how many parking stalls there will be. Mr. Webb said 485 stalls in the garage and some more on the street.

**Council Member Flora** asked about percentage of parking to beds. Mr. Webb said 2.5 percent per 1000 in the commercial is what is required but they actually did more than that. This project will have 4 per 1000 parking in the commercial, one half a stall per bed on the single student housing plus the visitor requirement parking, and married will have 1.6 per unit average.

**Council Member Mann** commended Hemming Village for their projects. He said it's been a great addition to Rexburg.

**Mr. Webb** asked for approval on the following changes:

***Repeal and replace Ordinance 1006 by Ordinance 1142***

*Amend the Hemming PRO Zone language to include the 2nd phase of Hemming Village to be consistent with surrounding development (Mixed Use 2), and to create consistency with the changes in City Ordinances to allow for higher density development near BYU-Idaho in keeping with both PEZ (Pedestrian Emphasis Zone) and Mixed Use language.*

**Community Development Director Christensen** reminded City Council that this is about changing this ordinance. Mr. Webb said these changes are in line with changes that have already been made but with minor additions. These changes are specific to the Hemming Pro Zone.

**Council Member Busby** indicated any time they reduce parking he worries. He asked Mr. Webb why they want to go down to .8 percent parking. City Attorney Zollinger explained this is within the PEZ zone and he meets those requirements.

**Mr. Webb** said there was a question on if they could extend beyond the property line at the top. He was wondering if they are okay above 12 feet. Council Member Wolfe clarified that at 12 feet up they can go 3 feet out.

**ORDINANCE NO. 1142**

***AN ORDINANCE AMENDING ORDINANCE NO. 1115; PROVIDING FOR THE AMENDMENT OF THE "HEMMING PROJECT REDEVELOPMENT OPTION ZONE (PROZONE)"; REPEALING ORDINANCE 1006; REMOVING BUILDING HEIGHT REQUIREMENTS IN HDR1, HDR2, MU2, AND CBD ZONES EXCEPT WHERE ADJACENT TO LOW OR MEDIUM DENSITY RESIDENTIAL ZONES AND WHERE BUILDINGS MEET MITIGATION REQUIREMENTS IN SECTION 4.16; ADD REDUCTION IN DORMITORY PARKING TO .8 PER STUDENT IN THE INFILL/REDEVELOPMENT ZONE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.***

<p><b>Development Code:</b> <b>CHAPTER 3:</b></p> <p><b>3.31.100. PRO Zones Adopted</b></p>	<p>PRO Zones - The following Project Redevelopment Option zone has been adopted by Ordinance 1006: Hemming Project Redevelopment Option Zone (PRO Zone) - passed by City Council on August 6, 2008</p> <ol style="list-style-type: none"><li>1. <b>Repeal and replace Ordinance 1006 by Ordinance 1142.</b><ol style="list-style-type: none"><li>A. Amend the Hemming PRO Zone language to include the 2nd phase of Hemming Village to be consistent with surrounding development (Mixed Use 2), and to create consistency with the changes in City Ordinances to allow for higher density development near BYU-Idaho in keeping with both PEZ (Pedestrian Emphasis Zone) and Mixed Use language.</li></ol></li></ol>
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<p><u>Development Code:</u>  <b>CHAPTERS 3 and 4:</b>   <b>Section 3.9.100</b>  <b>Section 3.10.100</b>  <b>Section 3.14.120</b>  <b>Section 3.17.090</b></p>	<p><b><u>Modifications to the Development Code for Parking Regulations and Building Heights in the (Infill/Redevelopment areas only)</u></b>  <b>2. Section 4.16 - Infill/Redevelopment Standard</b>   A. Change to read in the infill/redevelopment zone as described in Section 4.16. There are no height requirements in the High Density Residential 1 (HDR1) zone; High Density Residential 2 (HDR2); Mixed Use 2 (MU2); and the Central Business District (CBD) except where these zones abut low or medium density residential zones, and then buildings must meet the mitigation requirements of Section 4.</p>
<p><b>CHAPTER 5:</b></p>	<p>1. <b>Section 5.8 – Add:</b> Dormitory parking to be reduced to .8 per student in the infill/redevelopment zone as described in Section 4.16.</p>

Discussion:

**Council Member Wolfe** moved to approve the amended Hemming PRO Zone (Project Redevelopment Option) proposed in Ordinance 1142 replacing Ordinance No. 1006; noting the amendments to the Hemming Pro Zone Development Code as presented do not require review by the Design Review Committee; Council Member Flora seconded the motion; Mayor Merrill asked for a vote:

<b><u>Those voting aye</u></b>	<b><u>Those voting nay</u></b>
Council President Smith	None
Council Member Flora	
Council Member Busby	
Council Member Mann	
Council Member Wolfe	

**The motion carried**

**Community Development Director Christensen** continued with some changes to the development code. He said after their trip to the Phoenix conference, they would like to get the building height portion tabled to have more time to consider what they learned at the conference.

**Council Member Busby** moved to table discussion on Modifications to the Development Code for Parking Regulations and Building Heights in the (Infill/Redevelopment areas only); Council President Smith seconded the motion; May Merrill asked for a vote:

<b><u>Those voting aye</u></b>	<b><u>Those voting nay</u></b>
Council President Smith	None
Council Member Flora	
Council Member Busby	
Council Member Mann	
Council Member Wolfe	

**The motion carried**

**Community Development Director Christensen** discussed the .8 parking requirement for dormitory housing. It would mostly interact with single students. He said the .8 came about from looking at the studies done. He is comfortable with what the university is telling us; that 60 percent of students are bringing cars. Community Development Director Christensen also believes 10 percent is adequate for visitor parking. They found the visitor parking was never 100 percent full. They feel that they have adequate parking at 80 percent.

**Council Member Flora** asked if the 80% includes visitor parking. Community Development Director Christensen said yes, 80% includes visitor parking. The one to one parking does not require visitor parking. Areas in the PEZ zone allow reduction in parking but always requires at least ten percent visitor parking. No one was doing the one to one parking. The reason they feel that it's important to do the 80% parking is because developers do not want to build another 20

percent parking that doesn't get used. Parking should be based on use. The PEZ zone allows for some negotiation. He feels that .8 is a realistic number.

**Council President Smith** asked if students bringing cars has gone down. Community Development Director Christensen said it has gone down and then back up again. He also indicated one thing they learned at the conference is that you need to think about the future like driverless cars which will be available in three years. People will be able to get out of their car at the front door and then send their car to go park itself; therefore, parking can be further away and we will be able to lower the amount of parking.

**Council Member Mann** wanted to point out the large size of the Infill Redevelopment Zone. Community Development Director Christensen indicated they are trying to give incentive to build inside the Infill Redevelopment Zone.

**Council Member Flora** said 80 percent sounds great but out further from campus it may need to be higher. Community Development Director Christensen said this is only for dormitory housing. Council Member Flora asked about The Grove and he said that doesn't apply to this because it is community housing.

**Mayor Merrill** asked for a motion on Chapter 5 of the Development Code.

**Attorney Zollinger** indicated that this would probably need to be tabled as well because the agenda was not published correctly.

**Council Member Busby** motioned to table the decision on Chapter 5 of the Development Code; Council President Smith seconded the motion; Mayor Merrill asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Flora  
Council Member Busby  
Council Member Mann  
Council Member Wolfe

**Those voting nay**

None

**The motion carried**

**Calendared Bills and Tabled Items:**

- A. LAND USE ACTION – BILLS RECOMMENDED/APPROVED IN A LAND USE PUBLIC HEARING PROCEDURE: – NONE**
- B. BILL Introduction: – NONE**
- C. First Reading: – Those items which are being introduced for first reading:**

- 1. **Ordinance 1142 – Hemming PRO Zone** (Project Redevelopment Option) amending the Development Code.

**Council Member Flora** moved to consider BILL 1142 first read as pertaining to the Hemming PRO Zone; Council Member Busby seconded the motion; Mayor Merrill asked for a vote:

**Those voting aye**

Council President Smith  
Council Member Flora  
Council Member Busby  
Council Member Mann  
Council Member Wolfe

**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

**Mayor’s Business:**

**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. Approve acceptance of the City Council minutes from March 16, 2016; Planning and Zoning minutes from March 17, 2016; and Arts Council minutes from March 10, 2016.
- B. Approve the City of Rexburg Bills
- C. Approve yard waste clean-up dates for April 4<sup>th</sup> to May 20<sup>th</sup>, 2016.

**Council Member Flora** reminded City Council that they need volunteers for meals on wheels; also, Council Member Mann had mentioned in the previous City Council meeting that there needs to be pet signs by the storm water pond by Pinehaven and she wanted to know if that got done. It’s full of dog feces and then when water fills it, kids swim in it. There needs to signs posted that say no pets. She would like it on the agenda for next time.

**Council Member Smith** would like City Council to have lunch with BYU-I President Gilbert on Friday, June 3<sup>rd</sup>; does that work for everyone? The Drive Around will be on May 4<sup>th</sup>.

**Council Member Wolfe** moved to approve the Consent Calendar and minutes and pay the bills; Council Member Flora seconded the motion; Mayor Merrill asked for a vote:

**Those voting aye**

- Council President Smith
- Council Member Flora
- Council Member Busby
- Council Member Mann
- Council Member Wolfe

**Those voting nay**

None

**The motion carried**

**Adjourned at 9:19 P.M.**

APPROVED:

\_\_\_\_\_  
Jerry Merrill, Mayor

Attest:

\_\_\_\_\_  
Mary Flanary, Deputy City Clerk