

Planning & Zoning Minutes

March 17, 2022

35 North 1st East
Rexburg, ID 83440

www.rexburg.org

Phone: 208.359.3020
Fax: 208.359.3022



CITY OF
REXBURG
America's Family Community

City Staff and Others:

Alan Parkinson – P&Z Administrator
Tawnya Grover – P&Z Administrative Assistant
Kyle Baldwin – Planner 1
Natalie Powell – Compliance Officer
Spencer Rammell – Commissioner Attorney

Chairperson Smith opened the meeting at 6:-- PM.

5:00 PM – Work Meeting – Commissioner Training – Attorney Spencer Rammell, Alan Parkinson –

The meeting started late due to another group going late in the Council Chambers.

5:15PM - Attorney Rammell and Alan have discussed the previous Commissioner Training meeting. In the last meeting, there was an emphasis on the items Staff considers prior making recommendations to the Commission. The statute is the governing force.

The Association of Idaho Cities; A Guide to Growth Management for Idaho City and County Officials says in regards to rezones, *“The most common zoning ordinance amendments are rezones requested by property owners. A rezone involves a change in zoning districts, which is reflected as a change to the zoning map. Applications for rezoning are submitted to the local planning and zoning department. Many cities and counties encourage pre-application meetings to allow the applicant the opportunity to present the proposal to staff and determine the feasibility of the request. Once the application is received, staff reviews it and the analysis and recommendations are presented in a staff report to the commission or governing board.*

*As with other zoning ordinance amendments, rezones must be approved by the governing board, which must find that the rezone **is in accordance with the comprehensive plan and will not have demonstrable adverse impacts on local service delivery.**”*

Idaho Code 67-6511(c) *“The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan. If the request is found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts...”*

“It is important to note that the zoning ordinance and any amendments must be in accordance with the comprehensive plan,” notes City Attorney and Planner Jerry Mason. “However, this does not mean that the projected land use designations in the comprehensive plan must exactly match the current land use designations in the zoning ordinance.”

“The Idaho Supreme Court has held that the comprehensive plan and zoning ordinance serve different purposes, and that what has been projected as a pattern of land use is not necessarily what a property owner is entitled to have zoned today.”

Attorney Rammell continued, when we have a rezone, the most common application before the Commission, the statute gives you this direction: the request must be in accordance with the Comprehensive Plan. The Commission needs to know what items they rely on Staff for and the items the Commission is responsible for. **Bruce** began speaking about the Teton Vue Drive-In and he was stopped short, because this item will still come back for consideration by the Commission. The group encouraged him to speak in generalities. We are called the governing board? **Alan** clarified that City Council is the governing board. The Commission is a recommending board working for the City Council. **Attorney Rammell** said the reason is because every city does not have to have a Planning & Zoning Commission. City Council can act as both.

A list of required Comprehensive Plan sections has been provided to help the Staff and the Commission come up with questions they can ask themselves when deliberating on a land use application. This will also help the Commissioners determine what specific things they want to consider and allow them have to have relevant questions for City Staff when Staff is for a proposal or neutral to a proposal. The Commission will be able to say whether or not they feel something is in accordance with the Comprehensive Plan objectives and goals. **Alan** said that even though Staff signed off on the application, the Commission can still ask Staff questions for clarification.

Aaron arrived 5:23PM.

Attorney Rammell said there are some applications where one or more of the sections of the Comprehensive Plan will not apply. For example, the Community Design section may not apply to a rezone, because this section deals with specifics of a development like landscaping and building design. However, when considering a Planned Unit Development (PUD) those specifics do need to be considered.

Chairperson Smith said on the application, one of the questions the applicant is asked is what is the proposed use. This should not be a consideration of the Commissioners. Why is the information there? **Alan** said Staff does consider this in their review, but the Commissioners need to focus on the zone itself and all things permitted within the zone. **Chairperson Smith** asked doesn't the Commission have the latitude to determine if a request fits the area? The application may check all the boxes for the Staff, but it may not be a good fit for the neighborhood. **Randall** gave an example of the request beside the Jr. High in which the services were available, but the request did not fit the neighborhood. As he has been trying to think about this, Staff tells us what is possible, and the Commission decides what is appropriate, based on the other measures of the comprehensive plan. **Attorney Rammell** clarified this is true to some extent. When Staff recommends approval, they not only think something is possible, but in their measure of the comprehensive plan objectives, they also feel the request is in accordance with those objectives. **Alan** said there is some ambiguity that cannot be based on some points on a checklist. The Commission has to take into account if something fits in a specific neighborhood. **Chairperson Smith** confirmed City Council does not have to approve everything the Commission recommends to them also.

Alan asked what influences the Commissioners in a meeting? Often, when no one gets up to say anything, we tend to think no one has a problem with the applicant's request. But all the sudden we get ten (10) people in the room that hate the applicant's request, who say we do not want this in our neighborhood; do not do it. Does this influence the Commissioners' decisions? **Todd** said it influences him to a certain extent;

he takes it into account. **Eric** said there is a reason why we have public input; we should take the comments into consideration. **Alan** said you do, but you also consider the things you know about the goals of the Comprehensive Plan. Perhaps the statements do not make sense; what the comments are saying do not fit what the Commissioners know. **Attorney Rammell** said there needs to be some thought to both sides of the coin. Discussion could center around the request being better for the whole community. He gave an example of a big box warehouse coming in. Those that are affected within three or four parcels or three or four miles are noticed. People show up to the meeting in opposition to voice their concerns. If you only listen to the comments, you would think this is obviously not a good idea, because the impact on these residents is all negative. As a town, though, how many jobs would be created for the community? What will the property tax benefits be? How many rooftops will follow? Sometimes if you are for something, you are not going to come out and speak for the application. There is no doubt this example may have a negative impact on those three or four parcels from the request; this is why these are tough decisions. On one side you may have to have in your discussion, despite the affects this request will have on adjacent neighbors, approval of this application is better for the city. Or you may have to say to the applicant, despite your private property rights, the request does not fit the neighborhood and is not better for the community. The Commission listens, but also considers the jobs for the citizens, the additional property tax for the city, the housing that would increase, etc. When considering the comprehensive plan sections, the Commissioners' goal is to narrow their focus to make their job easier. Is Public Airport Facilities going to apply? Are National Interest Electric Transmission Corridors going to apply to each application? As a group, create a tool that the Commission can consider to narrow the focus on what really matters for an application request. Space has been provided to allow for drafting questions or making notes about who the Commission is relying on for a section of the comprehensive plan. Will Agriculture apply? **Vince** asked is our checklist for whether something fits or does not fit or both? **Alan** said all these questions need to be considered. You need to be able to determine the argument why you support a request or do not support a request. You might ask, which questions override others you might ask.

Property Rights

Attorney Rammell said the Commission will need to consider the rights of the property owner, as well as the adjacent property owners. Property rights do not mean you will be free from all nuisance. If the Commission can see the application is good for both, they need to lean towards the applicant in front of them. How will the values of the adjacent property land be affected? **Jim** said one of the items listed in this section is the phrase, "adversely impact property values". How do we determine this? **Chairperson Smith** has heard people come in and say, the request is to build a large apartment complex, and this will negatively impact the price of my property. She knows the value of the adjacent properties will not decrease but will increase.

Housing

Attorney Rammell said often, the Commission will hear an opposition to a certain kind of development. The Commission will have to look at the community to determine if those units are needed despite the opposition. Every city needs a variety, depending on the needs of their population. **Alan** listens to the people when they speak of unit availability. Staff is looking at the costs of land and homes right now. We need housing and consider the growth of the population.

Population

Staff considers the Census numbers, and the Commission can rely on them for this consideration. **Aaron** said we also need to look at economic conditions. If the nation, as a whole, is needing a certain type of housing, our community is going to need to provide that type of housing during that time. **Attorney**

Rammell said there is a reason there is a wide range of community members on the Commission; we want you to use your knowledge and experience.

School Facilities and Transportation

Community members often want to bring school facilities up. Does the Staff or Commission have any control over school facilities? **Alan** answered Staff have no authority in this area. Staff meets with BYU-Idaho and Madison School District, consistently, so they can see what is coming and make plans. In return, the school entities let Staff know what the schools are doing to plan the infrastructure to support them. Staff does not influence the School District in any form.

Economic Development

Attorney Rammell said we cannot have only one type of housing. **Alan** said we can not influence commercial either. **Randall** said we do talk about where there is a good place for commercial and industrial. **Attorney Rammell** said if someone is willing to develop that land right now, and we deny them, that same land may not develop for ten to twenty years. This is a balance with the private property rights. **Aaron** said he talked with Vince about the possibility of asking the applicant to convey their impact to the tax base at time of application. **Eric** said tomorrow that could change; the property could be sold tomorrow. **Attorney Rammell** said to do it correctly, the questions and conversation must be generic verses more specific. The Commissioners could ask Alan, what types of development could happen on this property if rezoned. **Alan** said earlier in the week there was a meeting about how to get more commercial in the city? The CFO showed a chart that indicated, based on taxes, housing is increasing and commercial is decreasing. Alan asked what has shifted in your shopping habits. Where are you shopping right now? We are shopping for a lot of the items we need online; perhaps we do not need as many brick and mortar commercial buildings as we did in the past. Residential rentals, if considered commercial, would show an increase.

Agriculture & Land Uses

Alan – How does this affect the landowner? How much are we going to increase the agriculture uses in the city of the impact area? We want to allow the agriculture that is there to continue to function, but eventually the city will grow. Land use is critical. What is it being used as today? What is it going to be used as in 5 years? Ten years? Planning for land use must be adjusted. For example, the city has had to adapt to Walmart on the north side of town and the high school on the south end of town. Commissioners will need to take into account the buildings that are already built as they determine how land uses will affect areas in the city. We have neighborhoods that expect to stay the same indefinitely, not considering while they enjoy a country atmosphere now, they exist in the city limits and their atmosphere will change as the city builds out.

Natural Resources

Attorney Rammell said this is more of a rare consideration and depends more on geological area.

Hazardous Areas

Alan said we have steep slopes, floodplains, and river areas in our city. Staff will make sure to let the Commission know if there is a problem.

Public Services, Facilities and Utilities & Transportation

Attorney Rammell said there will be concerns that will be brought up in meetings on these topics. The Commission will have to determine how much information they want to know. If they want to ask questions to solicit more specific information, they can. **Alan** said Keith will tell the Commission in his Staff Reports whether something will work or not. Alan will answer the Commissions' questions to the best of his ability. **Vince** says he feels like the Commission does pretty good about not getting into those specifics.

Alan brought Keith in to help the Commissioners have the information to help them make their decisions. **Jim** said it helped him to know water and sewer will be considered by Keith. **Randall** will be able to say I understand your concern, but I am alright with this report.

Recreation

Alan said the Commission may see plats come in with land set aside for parks. Walkability may be a consideration.

Special Areas or Sites – includes historical, archeological, architectural, ecological, wildlife, or scenic significance.

David was reminded of the sign height and the Commission took scenic into account.

Public Airport Facilities

Alan said Airports may be important to the Commissioners soon, because a request may be in the flight path or because the airport is moving to a different location.

Vince clarified each section of the Comprehensive Plan does not need to be addressed – only if the Commissioner has concerns as related to such section. **Attorney Rammell** said not all application requests may have all these considerations, but this should be a jumping off point for the Commissioners to determine their own questions and items for consideration.

Randall says he thinks this training is good, but week after week we have people come in with the same concerns. He needs public relations training to bridge the gap between the concerns of the citizens, because, in a sense we are trying to educate them. **Randall** wants to know how to bridge the gap between their needs and helping them feel alright about what the Commission is doing. For example, I want to help the people understand their property values are going to go up or the traffic is not going to be detrimental. **Attorney Rammell** said the Commission will not be able to make everyone happy but can seek for a better line of communication to convey the concerns were heard and considered. The Commission will need to lay an adequate record, which may be, despite these concerns of the neighbors, we are looking at the city as a whole and all you can do is explain and communicate. There is far less frustration if you give the reasons for approval or denial, instead of a “no” answer. **Randall** confirmed this has to be done in the context of the Commissioners’ discretion; this is difficult. **Alan** said the city is a dynamic, growing beast. Listen to the comments of the crowd but think about what would really happen. Where are their comments coming from? Are the comments true? Will what they are saying really happen? Are the changes coming regardless of whether or not this project is approved?

Plats – Alan – Lot Line Adjustments and Short Plats do not come to the Commission and City Council. The fifth buildable lot triggers a regular plat. The Plat will have roads and dedications for the city; the city accepts public roads after they are built, so they have to meet city Engineering Standards. The Commission looks at the lots, densities, etc. A Planned Unit Development (PUD) is a type of plat that by meeting certain standards, may increase densities within a zone. **Eric** clarified this would affect overall density. **Alan** continued the applicant could apply for reduced setbacks to cluster the buildings to create a larger open space. **Chairperson Smith** confirmed the Commission can ask lots of questions about specifics with a PUD. **Alan** mentioned Condo Plats; this is the platting of individual units to be sold separately. Condo Plats are more intense for Staff to review. Teton River Flats was a condo plat the Commission approved. **Attorney Rammell** says the Commission will make determinations of whether the plat complies with the State laws and the comprehensive plan. Staff will make approvals based on the Infrastructure Plans,

sometimes known as a preliminary plat stage. **Alan** clarified the city only has a single plat process. Staff will review the Infrastructure Plans.

6:37 PM Planning & Zoning Meeting: (Video 1:28:52)

Welcome

Pledge of Allegiance – Todd Marx

ROLL CALL of Planning and Zoning Commissioners:

Present: Aaron Richards, Bruce Casper, David Pulsipher, Jim Lawrence, Randall Kempton, Sally Smith (Chairperson), Todd Marx, Vince Haley (Vice Chair), Eric Erickson, Brad Wolfe.

Amend the Agenda: **Alan** – The applicant requested the application for Rezone from LDR1 to LDR2 (22-00100) be tabled, because he would like to take some time to visit with the community about their concerns prior to the commissioner consideration on the agenda. The request was made a couple of hours ago.

MOTION: Motion to amend the agenda based on the applicant's request to table the (22-00100) application to be heard at the next meeting Planning & Zoning meeting., Action: Approve, Moved by Vince Haley (Vice Chair), Seconded by Aaron Richards.

Commissioner Discussion on the Motion: None

VOTE: Motion carried by unanimous roll call vote (summary: Yes = 10).

Yes: Aaron Richards, Bruce Casper, David Pulsipher, Eric Erickson, Jim Lawrence, Randall Kempton, Sally Smith (Chairperson), Todd Marx, Vince Haley (Vice Chair), Brad Wolfe.

Minutes: (1:32:48)

Planning & Zoning Meeting March 3, 2022 (action)

MOTION: Motion to approve the Planning & Zoning minutes for March 3, 2022, as written., Action: Approve, Moved by Todd Marx, Seconded by Jim Lawrence.

Commissioner Discussion on the Motion: None

VOTE: Motion passed (summary: Yes = 9, No = 0, Abstain = 1).

Yes: Bruce Casper, David Pulsipher, Eric Erickson, Jim Lawrence, Randall Kempton, Sally Smith (Chairperson), Todd Marx, Vince Haley (Vice Chair), Brad Wolfe.

Abstain: Aaron Richards.

Public Hearings: (1:33:41)

1. **6:30PM (22-00072) Glen Muir DIV1 (1 lot -RP04MG1001004D) – Rezone from Transitional Agriculture (TAG) to Medium-Density Residential 1 (MDR1) in the Area of Impact.** This property is a flag lot adjacent to US Highway 20 on the north and a small strip connecting to W Moody Rd. The property is one parcel in the Muir Glen DIV1 subdivision. One parcel has been split from the original plat. The property is now 11.18 acres. Final approval will be the Madison County Commissioners. The



property is actually at approximately 236 W Moody Rd. – Rachel Whoolery (action)

Staff Report: Alan Parkinson – The property was shown on the overhead map. The property is in the Area of Impact, not in the city limits. The ground around the proposal is Transitional Agriculture. This parcel is currently also Transitional Agriculture (TAG) and the applicant is requesting to rezone to Medium-Density Residential 1 (MDR1). City water and sewer will need to be accessed at the intersection of N 2nd E and W Moody Rd. Roads will have to be built-out to the applicant's property, complete with sidewalks. All storm drainage will have to be maintained on site. Staff is neutral on recommending this to the commissioners.

Commissioner Questions: Vince asked about showing the zoning sheet and show the differences between the TAG and MDR1 zones. **Alan** said in Transitional Agriculture (TAG), the minimum size is one acre lots. In Medium-Density Residential 1 (MDR1) there is 16 units per acre allowed. **David** asked if the application would also be heard by the County Planning & Zoning Commission. **Alan** said no, we are holding the hearing, then the request will go to the Madison County Commissioners for final approval. **Aaron** asked if the property would need to be annexed prior to the city providing utilities. **Alan** answered if the applicant is allowed to connect to city water and sewer, the applicant will be charged 1.5 times the normal rate in the Area of Impact. **Aaron** clarified the request is not for annexation also. **Alan** confirmed the property is not contiguous to city limits and will not be annexed at this time.

Applicant Presentation: Rachel Whoolery - 131 Charles Place – When we were looking at the best use of this land, we were looking at what was going on in our community. In March 2019, the median house was valued at \$254,000. As of February 2022, the median house is \$380,000. The average price to build a home ranges from \$110 to \$120 per square foot. Supplies are limited. Construction companies are overbooked. All of this has created a change for Rexburg.

Madison County is the least affluent county in Idaho. Households in Madison County have a median income of \$39,160. At this income level, the people cannot afford a home that is \$380,000. Our community has expanded, doubling its size in the last ten years. Most of our community cannot afford a median house. People have to rent to live here. With eleven acres, it would be better to have a mix of housing. She mentioned different types of units. In an MDR1 zone at 16 units per acre, we are talking about a community feel. The housing would all be residential. Rachel owns a property management company here in Rexburg. As of this morning, she has 47 people on a waiting list for 9 units. She sees the need and demand; we need a place for low- and medium-income people to live. The number of single students in the community have gone up, while the number of married students has gone down. Married students are going to nearby communities instead of staying in Rexburg. A housing crisis is happening, which takes a while to build; the situation will continue for some time as we have more people moving into this area.

Along the frontage of W Moody Rd, there are single-family homes. To change this property commercial, the Comprehensive Plan Map would have needed to be changed also. Also, there is already a residential feel in the neighborhood. Therefore, the residential zone is being sought. In this area, the Church of Jesus Christ of Latter-Day Saints purchased 106 acres and announced a temple. Commercial entities are starting to come in and be built near Walmart. This area is becoming one where Rexburg will see development. People need to be able to walk to the commercial and residential will create the customers. She is asking to rezone to MDR1, which is an allowed zone in the Comprehensive Plan. Rachel also asks for permission to hook-up to city services – water and

sewer. The property is not contiguous to city limits; there is a property between this one and city limits, whose owner is not interested in annexing at this time.

Commissioner Questions: None

Chairperson Smith opened the public input portion of the hearing at 6:54PM. (1:45:14)

Favor:

Colby Hatton – 156 S 4th W – He is in favor of the new zoning, allowing housing to be built on this parcel. In Rexburg, there is a tight, housing crunch. It is very difficult to find affordable, livable housing. Housing near commercial amenities is desirable; it would be amazing to have a house so close to Walmart and a temple. The applicant's land will become important land in the coming months and years. We need to be able to build the houses we need in Rexburg to strengthen our community.

Neutral:

Teton Island Canal Company – Roger Muir - 252 W Moran View Rd – The Teton Island Canal company needs adequate access to clean and maintain the canal that runs along US Highway 20. A trackhoe is needed to access the canal to maintain the canal banks and clean the canal out. A major headgate check in the canal at the northwest end of the property that may need cleaned or have concrete replaced. An irrigation ditch runs down the west of the property that also needs to be accessed at all times. No landscaping and trees can be put in here.

Commissioner Questions: **Bruce** confirmed the canal is used all the time. **Eric** asked about the normal right-of-way. **Roger** answered, as per Jerry Rigby, there is no set footage right-of-way for irrigation and canals; it is the amount of land needed to maintain the canals and ditches. At this location, it is the width of a trackhoe.

Wayne Neff – 232 Moody Rd – He does not disagree that Rexburg needs affordable housing. The plans for this property have changed every season. There is no commitment for the neighbors. Wayne's impression is that this property will be resold. Anything the applicant says about what would be built here should not be considered. Wayne confirmed from Rachel – she will not be developing the property. He feels changing the property at this time would be premature. Wayne bought the property last fall. The Moody Rd is not well maintained. Snow removal is not consistent. This might change as sidewalks and such are put in that may mediate the existing conditions.

Opposed:

Neil Call – 320 W Moody Rd – Neil's property is immediately west of this property. He has lived there for 47 years and has a lot of knowledge of what is going on in this area. The canal runs a major stream of water all summer long, irrigating thousands of acres. The water is deep and fast running. One of his concerns is the flooding. There are cross checks along the canal and when the canal is full, and it is a farmer's turn to irrigate, he puts boards across the crosscheck to allow the canal to backup the water and raise the water over his headgate. Up the canal to its origin, the canal is lined with trees. When there is a wind that breaks the trees' branches, sometimes those branches fall into the water and the ditch will raise the water higher than you anticipate. The same affect happens when garbage blows into the canal.

These circumstances cause the water in the ditch to run over. He cannot remember a summer when the canal water has not run over its banks. While the land considered tonight has been maintained as farm ground, there has been no problem with this situation. A few years ago, someone purchased the ground and went in and leveled the ground. It was not long after that, there was a wind, debris in the canal, and the canal ran over. The land we are talking about was completely covered with about four inches of water. Several hours passed before the water soaked back in to the ground. It is not possible to raise the land at the checks. Neil and the Muirs flood irrigate. By June or July, the subwater rises in the summer up to ground level. Apartments with a septic system will be affected when the subwater rises. Neil has fought septic problems for a lot of years because of the high water table and he is farther from the canal. When the sewer backs up into the house, it does not make for a happy wife. Another concern he has is for safety. If you are going to have a lot of children there, you can say you will fence them in, but you can only fence so much. The water, ducks and geese nest there along the canal bank, will attract children. The request seems premature right now.

Nicole Farnsworth – 278 W Moody Rd – Nicole owns Lot #2 of the Muir Glen DIV1 subdivision. She was responsible for platting the Muir Glen DIV1 subdivision. MDR1 allows 16 units per acre. This density on potentially 100 acres is a huge number. Those kind of numbers do not fit in a farming neighborhood. The Commissioners know the challenges better than anyone else that come with each different zone. To allow these challenges into a neighborhood that is not equipped to handle those challenges, in her opinion, undermines the whole idea of zoning. She is concerned for the need of sidewalks. Who will pay for the sidewalks? If the burden is placed on the residents, this would range from being a heavy financial burden to an impossibility for some to pay. With the recent changes in the TAG zone from two acres to one acre, there are a lot of single-family homes that could fit on the applicant's piece of land and no zone change would be necessary. These comments would upset the way of life for the people who already live in this neighborhood.

Mark Farnsworth – 278 W Moody Rd – Also lives at Lot #2 of Muir Glen DIV1. He shares his wife's concerns. Compared to the land around it, the requested density is very different from the current one home per two acres, and recently, one-home-per-acre properties. At least two acres is lost along US Highway 20 with the canal. There would be a lot of change for the neighborhood and the community. The road access would need to be widened and better maintained. There is concern about how the impacts will be physically and financially to the residents currently living there. Already submitted to the Commission, is a petition the neighbors and residents all signed against this request. The businesses and purchase of land in this area is accurate, however, these reasons alone are not adequate to redesignate this land at this time; this is a decision we get to make as a community. This seems like the wrong decision to rezone at this time and the request is not compatible with the neighborhood.

Roger Muir – 252 W Moran View Rd – He has grown up here and lived here all his life. The shortage of housing does not create an atmosphere of hopscotch to create a subdivision, especially since the sewer and water is three-quarters of a mile away. Without the density, putting in that sewer and water is impossible to do. Farnsworth's made a subdivision with 2 acre lots and then the zoning ordinance changed to allow 1 acre lots. The change is a hindrance to the Farnsworths, because they could have done a lot more with

their property. Roger does not like change in his backyard, but he understands change will happen. Change does not need to happen until resources are in place to make the development possible and make it flow. The church build-out on their property will determine much of the build-out in this area. He assumes there will be high-end housing around a temple, as this is a common pattern of development for the Church of Jesus Christ of Latter-Day Saints. He thinks it is a poor idea to change the zoning at this time. If they would like to put one acre lots as those that would be allowed in the current TAG zone, this would be a better fit for the area.

Commissioner Questions: Vince confirmed Roger's earlier comments were as the President of the Teton Island Canal Company, and his most recent comments are personal.

Wendy Sakota – 78 W Moody Rd – For this proposed subdivision, the people would drive right by her house. Some of her concerns have already been mentioned like the road is not well-maintained. The road is not very wide. In the winter, the south wind comes right into her yard. When she drives down the road in the winter, she has to go as fast as she can to make it over the drifting snow. During the summer, there is a lot of farm equipment going up and down the road. Farm animals are moved down the road. The corner is not safe where the light is at the intersection of Walmart. She takes her life in her hands each time she goes straight to Walmart. Out of town people think they have the right-of-way to turn left; it is not a right-of-way, they have to yield. The width is not wide enough for two lanes. This make accidents more possible. Wendy does not want sidewalks in this area. Sixteen years ago, her father-in-law owned the land and let her and her husband build there. Her neighbors are all quiet and lovely and she is opposed to the zone change.

Mack Shirley – 443 W Moran – He is representing his family. They own a homestead near the west end of the road. His family are neighbors to Neal Call. He is not opposed to expansion and helping with what the community needs. This request seems to be premature as Wayne mentioned. We really do not know what the development is going to be like on the Church of Jesus Christ of Latter-Day Saint's property. We need to approve something that is compatible with what is going on there. He is against this proposal for these reasons and lends his voice in opposition in agreement with his friends and neighbors.

Richard Garner - 650 Palmer Circle – He is the principal of an elementary school in the Sugar-Salem School District. This area is in the Sugar-Salem School District. If this is the type of housing is brought into this area, more children may be brought into this district. Sugar-Salem School District just opened a new middle school and maxed out their bond at this time. The school district is bonded out for quite a while. As the Commissioners consider the decision, the school district cannot accommodate additional students at this time.

Written Correspondence:

We, the undersigned, oppose the rezoning of 232 W Moody Rd parcel number RP04MG1001004D in the Muir Glen subdivision from Transitional Agriculture to Medium-Density Residential 1 (MDR1). As current residents of the surrounding area, our voices should take priority in considering any zoning changes, and this change is not right for our neighborhood. We call on the Rexburg Planning and Zoning Commission to reject the proposed rezoning.

Name	Address
Wendy Sakota	78 West Moody Rd Rexburg
Dan T. Sakota	78 West Moody Rd Rexburg
Nicki Farnsworth	278 W. Moody Rd.
Mark Farnsworth	278 W. Moody Rd.
Alan Sakota	66 West Moody Rd Rexburg
Abelyn Sakota	66 West Moody Rd Rexburg
Cliff Call	320 W Moody Rd Rexburg
David B. Call	401 W. Moody Rd Rexburg
Sherry Farnsworth	281 W. Moody Road Rexburg
Ray Farnsworth	281 W. Moody Rd Rexburg
Kellan Muir	206 W. Moody Rd Rexburg

Rebuttal:

Rachel Whoolery - She understands this is change and she understands it is hard. She is trying to be aware of the needs and concerns of the neighborhood. Rachel would like to make a correction – she said Rexburg is the least affluent county and the truth is Rexburg is the third poorest county in Idaho. We have a poverty rate of 30.5%. People are already here and families are needing places to live. If they were young students, they would be living next to campus. Sidewalks are paid for by the developer. A lot of times developers are required to make sidewalk connections to commercial clusters. There is a way to make the area safer for pedestrians. The Comprehensive Plan was already voted on for the use of the land for the scope of this property. The land is farmland and very rural, but we are 3,000 feet from Walmart. Rachel spoke of an overpass going over Hwy 20 from Moody Rd. to Hibbard. She claimed funding was being obtained. Development means the infrastructure gets better. As far as the canal, that is really good information. The water level was tested. The canal already has an easement. US Highway 20 has a setback. 1 ½ to 2 acres of the 11 acres for this request is undevelopable land. Those areas will already need to be engineered with retention ponds. Build-up will need to happen to prevent flooding. She thinks there will be a lot more development. This is on the lower side of density for development near these anchor stores. You usually do not see single-family homes surrounding these commercial anchor stores. She may be the first, but she will not be the last who will come forward and make these kinds of requests. Medium-density is a buffer from the high-density that will come in later.

Commissioner Questions: **Chairperson Smith** asked how wide is the access into this property. **Rachel** answered the access to W Moody is sixty (60') feet. Either the road is a private road, or a land swap with a neighbor may be possible to get the sixty-six (66') feet for a standard public road. **Vince** confirmed the measurement of the access strip.

Chairperson Smith closed the public input portion of the hearing at 7:26PM.

Commissioner Questions for Staff: **Aaron** asked for this type of density, is a single point of ingress/egress standard. **Alan** said he thinks 180 units or greater requires a second access. Number of accesses is based on the fire department's review. (The Fire Department clarified 30 units of non-sprinklered units requires a second access. 200 sprinklered units would require a second access road.) **Aaron** asked if the city would accept a sixty (60') feet right-of-way. **Alan** said this would be a private drive unless the road is built up to city standards. **Bruce** asked if crops were grown on the property last year or the year before. The answer from the audience was no. **Aaron** asked if a Traffic Study will be requested. **Alan** said one will be requested if it is required. Part of the car wash request on the corner of W Moody and N 2nd E would be to widen the road at the intersection. The widening of the road will happen regardless of whether this applicant's request is approved or denied. **Chairperson Smith** asked about the overpass. **Alan** said it has been discussed, but the City is not moving forward with ITD on this overpass at this time. If the three interchanges fail, then alternative routes across the highway will be considered.

Chairperson Smith asked about the sidewalk requirement and who would be responsible. **Alan** said for MDR and HDR zones, connectivity of the sidewalk needs to connect to the nearest commercial cluster by sidewalk. The applicant would be responsible for curb and gutter, sidewalk, and a landscape strip. **Aaron** confirmed this requirement is not only on the developer's frontage, but all the way from the applicant's property to the Walmart intersection. He asked if septic was an option. **Alan** answered septic is not an option, but for water, this development could have their own wells; the development would have to connect to city sewer. **Chairperson Smith** asked Alan to repeat how far the connection is from the applicant's property. **Alan** answered the land is approximately 3,000 feet to the Walmart intersection. A study would probably have to be done, but the city anticipates the need for a lift station at this location. In preparation for growth, the city would upsize the lift station and the sewer line. The developer would pay for the required sizes and the city would pay the remaining cost to upgrade the lift station and lines.

Jim confirmed Madison County would still be responsible for snow removal on this section of W Moody Rd until the properties along the road are annexed. **Alan** said the county and city work together to determine whose roads are whose for maintenance. He is not sure whose responsibility this road is.

Vince said he knows the land is currently TAG or the Transitional Agricultural zone. He asked Alan to give a summary of what TAG is designed to be. **Alan** answered this kind of land is generally farm ground now, but we anticipate this land will move into city limits in the future. It all depends on this side of town and how it grows. TAG allows the size to be preserved, so when a developer comes in, those larger lots would be available. When we made changes to the minimum lot size in a TAG zone to one-acre lots, the size of the lot was a better fit for the city. Under the current conditions, the land can continue to be farmed or have some animals.

Attorney Rammell asked Alan to explain why Staff is neutral. **Alan** replied; some of Staff is opposed and some are in favor. Some Staff do not feel this request fits the area at this time. It is a stretch for the sewer and water connection. It will be an expense for anyone who wants to develop this land. In the future, Staff thinks it might work, but for right now, some do not feel this is a good fit. **Bruce** was reminded he cannot interact with the public in the audience once the public input portion of the meeting is closed. **Chairperson Smith** asked about communication with canal companies. **Alan** said when a development starts, the canal company is contacted. We also inform the applicants to work with the canal companies to maintain those ditches and flows. The City understands the value of irrigation water.

Vince asked Attorney Rammell about the definition of a spot zone. **Attorney Rammell** read, *“Spot zoning commonly refers to the singling out of one lot or other small area for zoning classification that is different from that accorded to similar surrounding land, usually for the benefit of the owner and to the detriment of the community. The most widely accepted test for determining an illegal spot-zoning is sometimes stated in combination or sometimes separately as whether the zoning for the parcel in question is in accordance with the Comprehensive Zoning Plan, whether the zoning of the subject parcel is compatible with the uses in the surrounding area, and whether the zoning of the subject property serves the public welfare or merely confers the discriminatory benefit on the owner of the property.”*

Conflict of Interest? – **Chairperson Smith** asked the Commissioners if they have a conflict of interest or if they have been approached by any parties relative to this particular subject. If you believe your prior contact with respect to this subject has created a bias, you should recuse yourself, otherwise at this time please indicate the nature of your conversation or contact. **None.**

Commissioner Discussion:

Aaron thinks ultimately this is what will play out with what is underway. The challenge that we are grappling with is timing. This development by itself is not feasible due to the costs. The amount of utilities required to build this density on this parcel makes it undevelopable on a cost per unit basis. The questions he is asking are: Is the request beyond our current utilities? Does this qualify as spot zoning? He is not opposed to the land use. This will be an important corridor to the city. But how far out will this be? 10 years? 5 years? **Randall** is also thinking about the timing? Will one person have to buy a bunch of the land? Or will it come in piece by piece? When do we say we are ready for this area to go to higher density? **Jim** said he was thinking the same thing. Do we want the city to grow out contiguously?

Eric says Vince’s comment of spot zoning needs to be discussed. This zoning seems to be an island of MDR zoning out there by itself. He seems to have a problem with that, in that it is impossible to know the future on adjacent properties. We might pigeonhole ourselves into something that may or may not fit down the road. **Chairperson Smith** said two of the three elements in the spot zoning definition seem to apply to the applicant’s request. **Randall** said on the face of it, it seems this in the middle of nowhere. What is MDR doing here? Except in the Comprehensive Plan, we see this area building out as mostly residential. We envisioned more density in this area. Someone has to be the pioneer. **Aaron** said we also need to consider frontage on the highway. Single-family against the highway is not a good use either. **David** said he agrees with the conversation; he can see where this is going. So much of this is speculative. This feels natural for how we anticipate this area going; it fits with the Comprehensive Plan; this is a perfect use of the property as we imagine this area is going to happen. We anticipate things moving in certain directions, but events often take us in different

directions, much like the high school reoriented focus in the city. It feels appropriate, but it seems like we are placing a flag out there and indicating we want everything back to N 2nd E to continue to develop. It feels premature, but on the face I would say yes. **Aaron** said the request is an appropriate step down from commercial to single-family detached residences.

Chairperson Smith asked Alan about the business park of Bron Leatham. **Alan** is not aware of the business park moving forward. **Chairperson Smith** said she saw a shop under construction on one of the front lots of the Muir Glen DIV1 subdivision. **Chairperson Smith** asked would the sidewalk requirements be the same for the commercial business park? **Alan** said commercial and light industrial are different; they would be responsible for the portion in front of their property but would not have to connect sidewalks to the commercial cluster. With residential, more foot traffic is generated. Commercial has more car and truck traffic. **David** asked if the church property goes all the way down to the Moody Rd. The applicant may be assuming the church will help pay some of those infrastructure costs. **Alan** said there would be a clawback over a certain time frame to allow the developer to recoup the connection costs.

Vince said we need to remember it is a slippery slope of what could be done in the near future. What we have before us is an application based on what is currently in place. He would make his decision based on utilities not being there and a large presence of agriculture in the area; there is nothing even remotely close to a higher-density of residential until a mile south of cemetery road. He agrees with comments before, but the timing is wrong. Vince's vote will be based on this piece of property and how this property interacts with and affects the land around it. **Brad** said he has been listening; we are getting hung up on utilities and projects. Is this an area in which we want to see this zoning now or in the future? If it is, you vote accordingly. The applicant will have to work with the city on all the other details.

MOTION: Motion to recommend to the Madison County Commissioners that the application (22-00072) Glen Muir DIV1 (1 lot -RP04MG1001004D) Rezone from Transitional Agriculture (TAG) to Medium-Density Residential 1 (MDR1) in the Area of Impact be denied, based on it not interacting well with the TAG zones around it and the inability for the Commission to see any of the property in this area moving to a higher density in the near future, Action: Deny, Moved by Vince Haley, Seconded by Jim Lawrence.

Commissioner Discussion on the Motion: Attorney Rammell said there were some comments about spot zoning. Are there any issues or concerns that would be a part of the motion? **Vince** said because the request does match the designations of the Comprehensive Plan Map, allowing the ability to request Medium-Density Residential, would this request still be considered a spot zone. **Attorney Rammell** counseled spot zoning is up for debate and could be argued either way. **Jim** said part of the spot-zoning definition talked about compatibility with the surrounding area; I think this part of the definition fits in the context of this discussion. **Eric** said, yes, the Comprehensive Plan Map allows for the zoning, but this is a zoning issue, not a comprehensive plan issue. In the context of zoning, this in his opinion, appears to be a spot zoning, an island of MDR out there on its own. **Vince** asked if the Commissioners need to amend the motion to strengthen the motion and add wording about spot zoning. **Randall** asked about the terminology *"inability for the Commission to see any of the property in this area moving to a higher density in the near future."* **David** said he would be willing to consider the motion if it did not have the language, *"the inability for the Commission to see any of the property in this area moving to a higher density in the near future."* We have a murky crystal ball, but we

are anticipating this area moving in that direction. Potentially, several zoning changes may be coming to the Commission in the next six months to a year. As far as the spot zoning aspect, that is a stronger argument.

Attorney Rammell said the options procedurally are to vote on the motion that has been moved and seconded. Or Vince could retract his motion. **Vince Haley** retracted the motion.

Motion: Motion to recommend the Madison County Commissioners that the application (22-00072) Glen Muir DIV1 (1 lot -RP04MG1001004D) – Rezone from Transitional Agriculture (TAG) to Medium-Density Residential 1 (MDR1) in the Area of Impact be denied, based on it not interacting well with the TAG zoned properties surrounding it and spot zone concerns based on the current land use surrounding this property., Action: Deny, Moved by Vince Haley, Seconded by Jim Lawrence.

Commissioner Discussion on the Motion: None

VOTE: Motion passed (summary: Yes = 7, No = 3, Abstain = 0).

Yes: Bruce Casper, David Pulsipher, Eric Erickson, Jim Lawrence, Sally Smith (Chairperson), Todd Marx, Vince Haley (Vice Chair).

No: Randall Kempton, Aaron Richards, Brad Wolfe.

Bruce Casper and Todd Marx represent the Area of Impact. The applicant has a right to appeal the County Commissioners in writing.

2. **(22-00100) 4 Parcels south of the Hidden Valley Subdivision PH7 & PH8 at Approx. Centennial Loop and Star View Dr. - RPRXBCA0291838, RPRXBCA0291851, and RPRXBCA0297510 – Rezone from Low-Density Residential 1 (LDR1) to Low-Density Residential 2 (LDR2).** These properties were annexed into the City of Rexburg as Area 4 in 2003 and zoned at that time as Low-Density Residential. The properties are a total of 95 acres. (action)

*(*Agenda was amended at the beginning of this meeting to postpone the 22-00100 hearing until the next P&Z meeting. *)*



Plat: (2:48:41)

1. **(22-00042) Brigham's Mill Apartments – 431 S 3rd W – Condo Plat.** An existing apartment building is being platted for individual sale of units as condominiums (Shown below is PG1 of 4). (action)

single-student housing. Reduced parking was granted. She knows this is financially helpful to these apartment owners. But she sees this opening the door to other apartment owners that have single-student housing. This request is changing the dynamic. The college is not getting any smaller. **Eric** asked if this was taking 186 students out of approved college housing. Would the college remove this housing from their approved housing? **Alan's** understanding for BYU-Idaho is they would not approve dormitory housing per unit. **Attorney Rammell** said we cannot control the housing conditions the school puts on those who provide single student housing. In Provo, Utah this situation does not exist. What is to stay the college will not loosen certain standards to provide opportunities for housing? **Alan** said it is not our responsibility, as a city, to maintain the student housing. Staff has talked with the university, so they understand what is happening. Staff and the Commission need to look at this request and determine if it meets the Development Code and if it is a good place within the city for this type of use.

Eric's concern is because of the economic benefit, there will be a flood of plat requests where we would find ourselves without any single-student housing. **Attorney Rammell** said that could be addressed at the preliminary plat stage if it occurs. **Alan** said he cannot get into the economics of the applicant's business. All he can say is whether or not the applicant does or does not meet the requirements. Supply and demand will drive the private sector. **Attorney Rammell** said the Commission is speculating; not all of those proposals will line up the way this one will line up. **Chairperson Smith** said the beauty college students could live in this housing dormitory-style.

Vince said dormitory is single-people housing. The parcel is located in the Pedestrian Emphasis District (PED), which is designed for higher-density housing with lesser parking requirements due to the ability to walk to nearby amenities. This property will continue to be higher-density. **Alan** said we are not changing the density, this is only changing how these units will be sold. **Eric** said from a planning perspective, with the PED zone, we have approved this area for single-student housing. **Vince** corrected, the area is not approved for single students only. **Vince** referenced Aaron's comments of a housing shortage on both ends - what we have seen is a higher-density of single-student housing around the campus, but I am sure there would be a high-density of married students who would love to not have to drive to campus.

Chairperson Smith said the beauty college students could live in this housing dormitory-style. **David** said if you figure parking per unit as family, how is the possible dormitory-style living figured in to an equation if used by students other than single-students at BYU-Idaho. **Alan** said the request meets the requirements at this time. If the parking situation causes problems on the city streets due to lack of parking from too many cars of residents to fit in the parking lot, the cars will be ticketed. In a single-family home, if you have six kids, each with their own car, and they park in the driveway, the problem comes when they park on the street. **Vince** said this is something the Commission does not have to worry about, because Staff has figured the parking out. **Aaron** clarified the CUP does not have any restrictions the building must remain dormitory; it was only for the reduced parking. **David** confirmed the new use does not require a Conditional Use Permit (CUP), because they will have more than the number of parking stalls required. **Greg** said there are 112 parking stalls. **Alan** said only about 60 stalls are required. Parking is figured per bed for dormitory. The condo units would require parking of 2 stalls per unit.

Attorney Rammell said to approve a final plat, the governing board determines if the plat complies with State law, the Comprehensive Plan, and the conditions required at the preliminary plat stage. **Vince** clarified if the plat meets the criteria, it needs to be approved. **Attorney Rammell** said the

debate could be whether or not the request meets the Comprehensive Plan. **Vince** went back to the Comprehensive Plan.

Conflict of Interest? – **Chairperson Smith** asked the Commissioners if they have a conflict of interest or if they have been approached by any parties relative to this particular subject. If you believe your prior contact with respect to this subject has created a bias, you should recuse yourself, otherwise at this time please indicate the nature of your conversation or contact. **None.**

MOTION: Motion to recommend to City Council to approve the new plat for Brigham's Mill Apartments, allowing the individual sale of units as condominiums, because this meets all the requirements of the Comprehensive Plan Map designations, the Pedestrian Emphasis District (PED), addresses the housing needs of Rexburg residents, and exceeds the parking requirements., Action: Approve, Moved by Aaron Richards, Todd Marx seconded.

Commissioner Discussion on the Motion: None

VOTE: Motion carried by unanimous roll call vote (summary: Yes = 10).

Yes: Aaron Richards, Bruce Casper, David Pulsipher, Eric Erickson, Jim Lawrence, Randall Kempton, Sally Smith (Chairperson), Todd Marx, Vince Haley (Vice Chair), Brad Wolfe.

Vince asked if a work meeting will be held on April 7th. **Alan** said there will not be a work meeting on April 7th, there is already a lot on the agenda. Alan and Attorney Rammell will allow the Commission to digest what has been taught to them so far. Notes will be kept to determine what to address in future work meetings.

Tabled Items: None

Report on Projects: None

Heads Up for April 7th:

1. (22-00033) 1114 N Yellowstone Hwy (Teton Vu) – Comprehensive Plan Map change from Commercial/Mixed Use to LDR1-MDR1. This application was returned for a 2nd Hearing as requested by City Council.
2. (22-00019) – 1114 N Yellowstone Hwy (Teton Vu) – Rezone from Community Business Center (CBC) to Medium-Density Residential 1 (MDR1). This application was returned for a 2nd Hearing as requested by City Council.
3. (22-00102) – Pine Brook DIV2 Blk6 Lots 16-24 – Comprehensive Plan Map change from Rural to LDR1-MDR1
4. (22-00103) - Pine Brook DIV2 Blk6 Lots 16-24 – Rezone from Rural Residential 2 (RR2) to Low-Density Residential 2 (LDR2)

Adjournment