



**City of Rigby
Planning and Zoning Meeting
April 11, 2013
7:00 p.m.**

Chairman Orme called the meeting to order at 7:04 pm.

Chairman Orme turned the time over to Lorie Berrett and Reed Williams, new Planning & Zoning Commissioners, to introduce themselves. Chairman Orme then swore both Berrett & Williams in as Planning and Zoning Commission Members.

Melodie Halstead conducted roll call. Those present were: Commissioner Berrett, Commissioner Brown, Commissioner Carpenter, Chairman Orme, Commissioner Richardson, Commissioner Warner, and Commissioner Williams. Also present was: Melodie Halstead, Planning and Zoning Administrator and Robin Dunn, City Attorney. Absent was: Commissioner Bennett.

Old Business

No old business.

New Business

Jeff Patlovich – All Idaho Land Consulting 7:13 Disk 1 of 3.

Mr. Patlovich was recently hired by City Council to update the city's Comprehensive Plan. Mr. Patlovich asked the P & Z Commission what schedule they had in mind for the Comprehensive plan. Mr. Patlovich would like to start with a "scoping" meeting to find out what the citizen like about the current plan and what they would like see modified. Mr. Patlovich suggested the Planning and Zoning Commissioners discuss amongst themselves, determine what date would work best and let him know what day the P & Z decided. Mr. Robin Dunn stated that one of the main concerns was to ensure that the airport was included in the new comprehensive plan update. Melodie Halstead asked Mr. Patlovich how much lead time was needed to schedule this type of a meeting. Mr. Patlovich stated 72 hours was required by state law but he preferred at least one week. Mr. Patlovich will wait to hear from Mrs. Halstead what the Planning and Zoning Commission decided.

"Official Zoning Map" – Public Hearing cont. 14:14 Disk 1 of 3 7:20 p.m.

Chairman Orme provided a brief explanation of the map update and the reasons behind the initial map update. The maps on the wall in city hall have not been updated since 1998 and several ordinances and development agreements have occurred since that time.

Mrs. Melodie Halstead presented a brief review of the public hearing requirements that have occurred since the previous public hearing. During the initial public hearing on March 14, two additional locations were identified as areas that needed to be considered for modifications, since those areas were currently being utilized as something other than their current zoning. Therefore,

the public hearing was continued and those property owners within those areas were notified of the possible changes and this public hearing.

Chairman Orme opened the public hearing.

Support: none

Against:

Craig Stoddard 257 W. 2nd South

Mr. Stoddard has a concern that Holder's Metal Shop expansion was required to construct a cinder block fence 5 -6 years ago; then they didn't proceed with the expansion or the fence and they have since gone out of business. A woodworking business now occupies the building and there haven't been any problems. Mr. Stoddard would like the laws to be enforced to ensure that there are not any conflicts between the commercial and the residential uses.

Douglas James 3726 E. 190N.

When the Family Dollar built, they build adjacent to the property line which is allowed in a commercial zone. Mr. James felt that an additional buffer should be required when a commercial building is constructed adjacent to existing residential structures.

Mrs. Halstead stated that the Rigby Code has a provision that already mandates additional setbacks for commercial adjacent to residential zones. Commissioner Richardson read from Rigby Code 10-5D-3, which requires an increase of side and rear property setbacks for commercial property adjacent to residential zones.

Note: Rigby Code 10-9-2 states the nonresidential uses abutting residential districts: shall not be located nor conducted closer than forty feet (40') to any lot line of a residential district; except... may be reduced 50% with acceptable landscaping.

Neutral:

Rex Sutherland 463 W. 3rd N.

Mr. Sutherland is concerned with the property behind his house becoming high density residential. Mrs. Halstead assured him that the property located to the south of Mr. Sutherlands property is zoned R-1 single family residential.

Chairman Orme closed the public hearing at 7:40 p.m.

Questions:

Commissioner Richardson discussed the public comments received during the public hearing process and determined that the majority of the comments were centered on enforcing the existing regulations and the additional setback requirements for commercial businesses adjacent to residential uses which has a 10 foot setback. Commissioner Richardson stated that the commission is not addressing R-2 zoning this evening.

Chairman Orme agreed that the concerns are valid, as far as enforcement and some of the zoning issues. However, updating the Official Zoning Map is the item that is before the commission this evening.

Motion:

Commissioner Richardson Moved to ratify the "Official Zoning Map" dated March 18, 2013 by recommending approval as presented to the City Council. Commission Warner Seconded the motion. Motion passed unanimously.

Legacy Land Holding LLC. – Public Hearing cont. 42:02 Disk 1 of 3 7:45 p.m.
322 1st South (Highway 48)

Variance

R-1 zone

Chairman Orme opened the item for discussion.

Commissioner Williams recused himself from the discussion, since he has property that is adjacent to the proposed project.

Melodie Halstead, Planning and Zoning Administrator presented the staff report, previous parcel history, and explained the non-buildable/illegal parcel status. Mrs. Halstead also read Ricky Bingham's Testimony into the record (T-1), which Mr. Bingham had called into the office on April 5, 2013.

Chairman Orme opened the public hearing.

Support:

Applicant: Jeremiah Bigelow 50:20 Disk 1 of 3

Mr. Bigelow is the managing member of Legacy Land Holdings LLC. Mr. Bigelow purchased this property in 2010 with an approved variance for 12 duplex in 6 separate buildings under a PUD. Previous P & Z Director had stated that Mr. Bigelow could not reduce the number of units within the PUD without obtaining a new PUD. This PUD was denied and the variance was revoked by the city council. Mr. Bigelow conducted a survey in 2010 which identified a 40 foot access strip to 1st South (Highway 48). Rigby ordinances require 50 foot for a local subdivision road. Now Mr. Bigelow has a piece of property that he cannot do anything with unless he can get a new variance approved. Mr. Bigelow stated that the goal would be to come back with a five lot single family subdivision, but only if the lots will meet all of the zoning requirements such as the 55' frontages.

Robin Dunn, city attorney, stated that the Planning & Zoning Commission needed additional clarification on the reason for the variance and the right hand only turn onto Highway 48 with the State.

Mr. Bigelow responded that when they surveyed the skinny strip of their property, they only had 40 feet of road access. The property on either side of the 40 foot access has not been for sale during the entire time that Mr. Bigelow has owned this property; therefore Mr.

Bigelow is unable to purchase any additional property to add to his property to make up the 50 foot requirement. Without the additional property Mr. Bigelow does not have enough property to meet the minimum 50 foot road requirement, therefore needing the variance to access this property. The State Transportation Department approved a right of easement with the original PUD proposal which was right-hand-turn-only on exit but that expired after one year. Any new development will require a new easement access with the State. Mr. Bigelow is going to request a full access agreement with a left and a right turn access. Mr. Bigelow will have enough room to accommodate snow removal and the cul-de-sac will meet city code on the preliminary plat. Just to recap, Mr. Bigelow purchased a piece of property that he can not do anything with unless he gets a variance approved.

Commissioner Richardson asked if a single home could be built on the property. Mr. Bigelow responded that it could not without a variance because the city ordinances requires a minimum of 55' of road frontage and the parcel only has 40'. Commissioner Richardson asked how the 40' road section would look. Mr. Bigelow responded that he had spoken with Rick Lamoreaux, Public Work Supervisor, and he indicated that the city would like a 32' asphalt road, 2.5' gutter if the variance is granted than it could be decided if the sidewalk would be on both sides of the streets. Mr. Bigelow stated that he felt that parking should not be allowed along the narrow portion of the street.

00:02 Disk 2 of 3

Mr. Bigelow stated that Rick Lamoreaux's last statement indicates that there is a solution for all the concerns mentioned, and Mr. Bigelow agrees that all issues could be resolved at the preliminary plat stage.

Commissioner Brown asked if Mr. Bigelow could address the garbage truck issue that Rick Lamoreaux had mentioned in his letter. Mr. Bigelow stated that he thought garbage pickup wouldn't be a problem because the garbage truck is able to pick up the trash at the Gator Jack building and the setbacks around that building are only 10'. The cul-de-sac will be built to city standards and the only reduction that Mr. Bigelow is requesting is 10' to the 50' minimum road requirements along 40' strip of property that accesses 1st South (Highway 48).

Commissioner Brown asked Mrs. Halstead to read the definition of a variance and a special use permit. Commissioner Brown stated that she doesn't see how purchasing the property and not being able to develop it is a hardship. Mr. Bigelow responded if the variance isn't granted, the lot will stay like it is a big weed patch that can not be used for anything until a variance is given.

Mrs. Halstead read the definition of 11.2.1 under the subdivision section. Mrs. Halstead also read Idaho State Code 67-6516.

Against:

Scott Hayden 184 S. 2nd W. 08:10 Disk 2 of 3

Mr. Hayden stated that his concerns are that the proposed project is too dense. Mr. Hayden thought the property may have originally been designed to provide access to the

other properties because the other houses are built too close to the side property lines to be able to drive a vehicle into their back yards. Mr. Hayden felt that proposed lot 5 is too small and currently has a power pole located there. Mr. Hayden is wondering how Rocky Mountain Power will be able to access their power poles. Mr. Hayden may be interested in purchasing a lot or a portion of this property to build a shop for him. Mr. Hayden doesn't see a need for any additional lots for sale in the area. Mr. Hayden doesn't see a hardship for a variance. The proposed lots are too small for this area. Mr. Hayden suggested dividing the property up and selling it to the existing property owners.

Barbara Jones 320 W. 1st S. 12:52 Disk 2 of 3

Most of the concerns that Ms. Jones had have been addressed. We did show the proposed plans to someone that was on the fire district and they said that the fire district would not approve the plan as submitted.

Gary Williams 175 S. 2nd W. 14:08 Disk 2 of 3

Mr. Williams has attended previous meetings and agrees with Mr. Hayden. The diagram isn't drawn to scale and there are too many lots for the area. When Mr. Williams wanted to developed a piece of property behind his house with a single lane road and he was told that the minimum cul-de-sac width was 100'. Mr. Williams wanted to know when this ordinance was modified.

Commissioner Richardson stated that 11-5-2G requires a minimum of curb diameter of 88' back of curb to back of curb and a street property line diameter of at least 100'.

Mr. Williams thought that 2 really nice lots and homes would be a better assets and maybe another access than trying to sell cheaper homes. Mr. Williams came by to say that he had been turned down with a 40' road and that he had to have a 100' cul-de-sac when he had wanted to develop before.

Rebuttal

Jeremiah Bigelow 19:01 Disk 2 of 3

Mr. Bigelow stated that he had previously met with Scott Blackham with Rocky Mountain Power and they walked perimeter. Rocky Mountain Power currently does not have any easements for their power poles through Mr. Bigelow's property. Mr. Bigelow stated that if a preliminary plat is approved then he will plat easements for the power pole.

Mr. Bigelow stated that if ordinance requires a 100' cul-de-sac then he will plat 100'. The plat will comply with city ordinances.

Commissioner Warner stated that he is surprised that there has not been a fire on this parcel before. The concerns that he sees are the density and the access. Commissioner Warner asked if Mr. Bigelow has contacted any of the neighbors to see if they were interested in partnering with his LLC to create a better development.

Mr. Bigelow stated that he had not been in contact with any of the neighbors about joining the development but that he had been driving around the block every month to see if there was a home or property that went up for sale that he could combine with this parcel. Another problem with approaching a neighbor would involve the removal of an existing structure and Mr. Bigelow doesn't like having that conversation with a neighbor.

Mr. Bigelow stated that he has allowed the neighbors to drive through his property to access their property if they needed to. Mr. Bigelow stated that he is happy to bring back a

preliminary plat that the Commission can pick apart if they would grant the variance. Mr. Bigelow stated that I can't even put a goat on there and let it eat down the weeds. Commissioner Warner suggested that Mr. Bigelow contact his neighbors and try to get their community buy-in.

Chairman Orme closed public hearing at 8:35 p.m.
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Chairman Orme called for a 5 minute recess.

Questions:

Commissioner Richardson discussed the requirements of the variance. When Mr. Bigelow purchased the property there was an approved variance from the city to use the entrance to access additional parcels on small lots. The applicant did his homework prior to purchasing the property. Commissioner Richardson stated that at this time the applicant is only requesting a variance for a reduced entrance onto 1st South, not a five-lot subdivision or an eighty foot cul-de-sac. One of the requirements to determine a variance is whether the variance benefits the community. Commissioner Richardson stated that he doesn't believe having an empty lot with weeds benefits the community. Currently the neighbors use this parcel to access the back part of their lots. Commissioner Richardson questions whether the commissioners are saying it is okay to access this driveway when it is dirt but not when it is paved. Commissioner Richardson stated that he is inclined to approve the variance based on hardship and that it would benefit the community.

Chairman Orme stated that he agreed with Commissioner Richardson that something needs to be done with the lot and the hardship is that the property is landlocked and has very limited uses that could be done with that. Chairman Orme has concerns with the layout, number of lots, and snow removal but all of that will be determined at the preliminary plat stage rather than this variance. Chairman Orme also stated that the commission could issue a conditional variance. If the conditions were not completed than the variance would become null and void.

Commissioner Warner explored the option of approving the variance with the condition of meeting all local, state and federal laws.

Commissioner Brown stated that she has an issue with the enforcement of the conditions that are placed on a project. Law enforcement doesn't always have manpower to enforce conditions placed on a project.

Commissioner Berrett asked Mr. Bigelow if he had contacted the neighbors to the west to try to purchase additional property from them. Mr. Bigelow responded that he had not; they were not always on the friendliest of terms. Mrs. Halstead explained that the purchase of additional property along the west would place that existing house into non-compliance status because the new street would be too close to the existing house to meet the minimum twenty foot setbacks.

Commissioner Richardson asked Mr. Bigelow if he was willing to table this variance application and hire an engineer to draw up a preliminary plat obtain approval from the fire department, the state highway department and the city public work department as well as prior to proceeding. Mr. Bigelow responded that the variance doesn't give him permission to build back there and he was not comfortable throwing money at a preliminary plat unless he had an approved variance.

Motion:

Commissioner Richardson Moved to approve the variance for a 40' access point at approx 322 W. 1st South (Highway 48) with the conditions that all future developments comply with all local, state and federal laws. Commission Warner Seconded the motion. Roll Call Vote: Berrett – No, Brown – No, Carpenter – Yes, Richardson – Yes, Warner – Yes. Motion passed 3 – 2 in favor of the motion.

This decision is a Planning & Zoning Commission final decision unless appealed to City Council within 15 days.

Commissioner Williams rejoined the Commissioners.

Minutes – February 7, 2013 Meeting

Commissioner Brown moved to approve the February 7, 2013 minutes as written. Commissioner Warner seconded the motion. Motion passed unanimously.

Minutes – March 14, 2013 Meeting

Commissioner Carpenter moved to approve the March 14, 2013 minutes as written. Commissioner Warner seconded the motion. Motion passed unanimously.

Administrator's Report

The Commissioners decided that Comprehensive Plan Scoping Meeting should be held before the regularly scheduled meeting on May 9, 2013. The general consensus was that any additional meeting should be scheduled at a later date if needed.

Meeting Adjournment

Commissioner Richardson moved to adjourn the meeting. Commissioner Williams seconded the motion. Motion passed unanimously. Meeting adjourned at 9:25 pm.

Submitted by:

Melodie Halstead
Melodie Halstead, AICP
P & Z Administrator

5-9-13
Date

Approved by:

Val R. Orme
Val Orme, Chairman,
Planning & Zoning Commission.

5-9-2013
Date