

**PLANNING & ZONING
COMMISSION MEETING**

September 8th, 2016

7:00 p.m.

Meeting Minutes

Call to order: Vice Chairman Belk

Roll call: P&Z Administrator Hathaway

Comm. Belk- **Present**

Comm. Bennett- Absent

Comm. Ellsworth- **Present**

Comm. Chairman Finlayson- **Present/ by phone**

Comm.- Moore- **Present**

Comm.- Treasure- Absent

Comm. Warner- Absent

Comm. Williams- **Present**

Vice Chairman: Vice Chairman Belk called the meeting to order at about 7:03 p.m.

Determination of Quorum- Following the roll call, Vice- Chairman Belk declared there was a quorum present and there were no “ex parte” or conflicts with the commission.

In addition to the commission members in attendance, Jesse Byram, Joel Robinson, James Sutherland, Barry Lewis, Fred Miller, Mindy Jensen, Ryan Day, Alan King, Richard King, Jennifer Togiaai and Jorge Spat signed to provide testimony at Public Hearing #1. There were also other community members that did not sign to provide testimony at either public hearing, in attendance. Councilman Datwyler and Planning Administrator Hathaway also attended the meeting.

Approval/amendment of the minutes from the June 9th, 2016 meeting. Comm. Moore made a motion to approve the meeting minutes as written, from the June 9th, 2016 meeting. Comm. Williams seconded. Vote was unanimous in the affirmative.

Commissioner Belk: In preliminary discussion to begin the meeting, with reference to “ex parte” communication, **Comm. Belk** indicated that he had talked approximately two weeks earlier with Jesse Byram about the general need for more R2 Multi-family housing in Rigby. He told Mr. Byram that he was on the Planning and Zoning Commission, and the discussion was ended. **Comm. Moore** also indicated that a person had come to her door to gather support for not approving the zone change, but she did not discuss it with them. After discussion, it was determined that no “ex parte” violation occurred.

The public meeting began at about 7:10 p.m. **Comm. Belk** asked **Comm. Ellsworth** to read the “General Rules for Testifying at Public Hearings.” (copies were provided for all attendees) The rosters for those wishing to testify was given to Vice Chairman Belk. Following the reading of the rules for testifying, **Comm. Belk** asked the applicants representative, **Kevin Thompson of Thompson Engineering** to present the proposal.

Mr. Thompson represents the potential developers, Moria Westenskow and Joel Robison.

Mr. Thompson outlined the proposal to rezone the approximately six acres owned by the Kee Crank (Le) family located around 359 N. 3rd W., Rigby, ID. The ultimate goal for the development would be to build multi-family, (four-plex), units on the property.

Mr. Thompson continued by explaining that the intended housing units would be well done, and not just basic unattractive and poorly built and planned units. He showed actual pictures of the projects previously developed by the applicants in Rexburg and other areas. He also cited the comprehensive plan sections from a previous Comprehensive Plan, and read portions of the narrative included in the application in support of the zone change. The project is/would be, accessed from N. 3rd W. He completed his initial presentation and asked for questions.

Comm. Belk asked if there was a layout to show how the buildings in the development would be situated. **Comm. Williams** asked about impact to the road system. **Comm. Moore** asked about what capacity was expected, for the development. The answer to all these questions is that they are not decided or finalized yet. The zone change will have to take place first, then plans will be developed, reviewed, and permitted according to current code requirements. Mr. Thompson submitted pictures of the subject property for the review by the commission.

Comm. Belk opened the meeting for public comment and reviewed the list. Those speaking in favor of the zone change were called on first. Jesse Byram was called on first. He spoke in favor and clarified that he and **Comm. Belk** work in the same office. He was unaware that **Comm. Belk** served on the P & Z Commission. He works as a real estate agent and **Comm. Belk** works as a property manager. He asked **Comm. Belk** what he thought the rental market for apartments like these would be. **Comm. Belk** informed him that he was on the commission, and they immediately ceased discussion related to the apartment market in Rigby. Mr. Byram continued by saying that he had checked with other rental agencies about the availability of rentals in Rigby. He found that rentals are in extremely short supply and any that become available are immediately filled. He also stated that well designed and built complexes like the one proposed for this location, if the zone change is approved, would clean up and enhance the area by building attractive buildings with lawns and landscaping. It would replace the old unoccupied buildings and weed filled land that currently exists.

Next to speak was Joel Robison, in favor of the project. He is the developer and co-applicant for this project. He re-stated the need for quality rental property that is affordable, in Rigby. He also presented pictures of past projects he had developed. He continued by saying that rentals in Rexburg are limited. He would like to develop a quality complex that will enhance the community.

Comm. Ellsworth asked if he had an idea about how many units they intended to build. Mr. Robison replied that ten four-plex buildings would be the maximum, but that more likely there would be seven to eight buildings. **Comm. Belk** asked the developer if he was aware that fire suppression needed to be built for any apartment units. Mr. Robison stated he was aware of that.

Comm. Ellsworth asked if the developer had considered building townhomes or duplexes. Mr. Robison stated the preference was four-plexes, but whatever was built would have to conform to code requirements for setbacks, open space, parking, and all other codes. The commission and developer discussed general requirements but agreed that the first step is to get the zone change. If the zone change is allowed, then the planning and permitting of the project would be reviewed at that time, and require an additional separate approval process. This concluded the testimony of those speaking in favor of the zone change.

Comm. Belk then invited those testifying in opposition to the project to speak, noting there were eight signed up. (There were actually nine) First to speak was James Sutherland.

Mr. Sutherland stated his opposition to the zone change. His concerns were density, and the accompanying problems including parking, snow removal, and traffic. He would like to see the property developed as R1 housing instead, and cited the Caribou street development as an example of poor planning. Emergency vehicle access was also a concern. He felt there should not be another project like the one on Caribou, allowed. He stated he was “vehemently” opposed to the project.

Next to speak was Barry Lewis. His concerns began with limited law enforcement to deal with the additional youth and traffic in that area, with a project like this. He also was concerned with traffic, sewer, and other infrastructural issues. He is opposed.

Fred Miller was next to testify. He also stated traffic concerns with the potential project that may accompany this zone change. He felt the city police cannot handle speeding and other issues now. He felt there would be more problems if the zone change were allowed. Mr. Miller asked if the entire area zoning would change, or just those lots. He is opposed. **Comm. Belk** replied that only the proposed lots zoning would change if approved.

Next to testify was Mindy Jensen. Ms. Jensen lives directly across the street from the proposed lots. She feels that there is already significant R2 zoned property in their area, and other areas of the city. This creates overcrowding and it is already too crowded. She calculated if there were forty apartments and the occupancy averaged four to five people, that would be an additional 160-200 people in the area. She also was concerned that their property values would be adversely affected. She would rather have a field than a bunch of two-story apartments across her fence, affecting her privacy. Major safety and traffic concerns. She is opposed.

Ryan Day testified next and submitted a portion of the outdated comprehensive plan of the City of Rigby. He stated he had served previously on the city council, and had many of the same concerns as others speaking in opposition. He also felt the project did not comply with the old comprehensive plan. He stated previous plans to develop this property had been submitted for thirteen units, when he was on the city council. He also felt that the old comp plan stated that R2 zones should only be allowed in areas adjacent to commercially zoned property, which this property is not. He feels this change would affect privacy issues, as well as create additional law enforcement issues. Absentee

owners from out of state made it difficult to compel conformance to the code. He continued that another project was proposed when he was on the council and the developer and initial development numbers were misrepresented. He felt it would be a negative impact on market values for homes. He also felt the vacant lot on the east end of the project could be utilized for access. He is opposed.

Next to testify was Alissa King. She is new to the area and lives across the street from this property. She is concerned that rentals are not good neighbors. They don't care for the property the same as owned homes. Traffic and safety, as well as law enforcement issues are a concern for her. She is opposed.

Jorge Spat was called to speak next, and declined. **Comm. Williams** brought up the written letters received in opposition and wanted to make sure all the commission members had an opportunity to read the letters. The commissioners stated that they had read them. This concluded the testimony for those who had signed to testify in support and opposition to the proposed change. No one signed to testify as neutral.

Comm. Belk then asked the applicants representative, Kevin Thompson of Thompson Engineering, if he had had rebuttal testimony to provide. Mr. Thompson stated that he did. He continued that the proposed project, if zoning is changed, would not be anything like those projects developed on Caribou street and the Pioneer Park development. The code requirements were much more stringent and addressed the issues brought forth in the testimony of those opposed. He reiterated that off-street parking, green or open space, set-backs and other concerns were now much different than when the other mentioned projects were built. He continued that if the zoning was changed to allow this development, it would be a quality, well designed project, and meet the need for additional rental property in Rigby.

Comm. Belk then moved to close the public comment portion of the public hearing, and asked **Administrator Hathaway** to clarify some of the mentioned code changes currently in place, that were not in place when the other projects mentioned by previous testimony. In addition to previously mentioned changes, it was also clarified that on R1 zoned property adjacent to R2 property, only single story structures were allowed without special additional permitting.

There was a request from a couple of attendees that had testified earlier to make rebuttal comments. **Comm. Belk and the commission** agreed to allow two people to provide supplementary testimony. James Sutherland spoke first.

Mr. Sutherland mentioned the HOA, (home owner's association), was misleading because it consists of homeowners and not renters, and would not be accountable or beneficial.

Barry Lewis also spoke with reference to HOA's. He does not think it would be workable with renters.

Comm. Belk ended the public testimony portion of the meeting and the commission began deliberations.

Comm. Williams began by citing a positive recent renovation of a rental complex upgrade on 3rd W. He was impressed by the difference it had made with relation to that complex and the surrounding area, so his opinion was that all multi-family projects should not be considered the same or negatively.

Comm. Belk called for a break at this time to change the tape and take a break. The break began at 8:10 p.m. The tape was replaced and the meeting continued at 8:20 p.m.

Comm. Finlayson reviewed the written testimony again. **Comm. Belk** stated he believes we do need additional R2 housing in the city. **Comm. Williams** agrees we need additional rental units. **Comm. Moore** reminded the commission that they are not reviewing a specific project, but a proposed zone change, for a property. She feels the application and request is compliant with the code. **Comm. Ellsworth** believes this particular area is not a good candidate for a zone change from R1 to R2, and would rather see it remain R1 zoning.

Comm. Williams made a motion that the requested property located at 359 W. 3rd N., Rigby, ID., be recommended to the city council, for change from R1 zoning to R2 zoning. **Comm. Finlayson** seconded the motion. Commission voted 4-1 in the affirmative. **Comm. Ellsworth** dissented. Public hearing #1 was concluded at approximately 8:30 p.m.

Comm. Belk called the meeting to order and began Public Hearing #2. This hearing request was submitted by Richard Marler representing the Marler Family Trust. The application is to change zoning on a parcel of land located at the south end of S. 5th W., Rigby, ID., further identified as parcel number RPA00000240732 in the records of Jefferson County, ID. This meeting began at 8:33 p.m.

Comm. Belk reviewed the sign-up sheet to provide testimony at this hearing. There was no one signed up to provide testimony in favor, against, or neutral.

The applicant, Richard Marler representing the Marler Family Trust, was invited to present his proposal for the request to change zoning on this parcel.

Mr. Marler began by stating that he believes after talking with previous building administrators in previous years, that this property was already zoned R2. Somehow between then and now, it is showing that only part of the property is zoned R2, and the remainder is zoned R1. The surrounding and adjacent property is already zoned R2 or Commercial.

Comm. Williams stated he was a personal friend of the Marlers, and wondered if that would constitute an “ex parte” issue. **Administrator Hathaway** asked **Comm. Williams** if he had any potential financial interest, or other interest in this property being considered for a zone change, or if he had discussed it with Mr. Marler. He stated no to the questions. The commissioners felt there was no potential “ex parte” violation and **Mr. Williams** continued in the meeting.

After some discussion by the commission members related to the location and adjacent land uses, and more discussion on the need for multi-family housing in Rigby, the commissioners were ready for a motion.

Comm. Williams made a motion to recommend approval for the requested zone change for the Marler Family Trust property from R1 to R2, and forward this recommendation to the city council with a “do pass” recommendation. **Comm. Moore** seconded. **Comm. Belk** also indicated that he felt if an error had been made and the property had been previously zoned R2, Mr. Marler’s application fee should be returned. **Administrator Hathaway** agreed to do the necessary follow-up to see if there was documentation related to this matter. A vote was called for by the commission. The vote was unanimous in the affirmative to approve recommending the zone change be adopted. Public hearing #2 concluded at approximately 8:48 p.m.

Administrator Report:


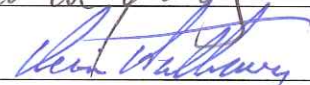
Administrator Hathaway updated the commission on the meeting held with Jefferson County P & Z and the Association of Idaho Cities representatives, held on August 23rd, 2016.

The meeting discussion was primarily on area of impact agreements between cities and counties. The general consensus was that cooperation between entities is the best way to develop and implement an effective area of impact agreement. When an agreement is made, both the city council and county commission must adopt identical ordinances, in order for them to be valid. Some discussion took place among the commission members related to this subject. More work will be done in the upcoming months to develop, update, and implement our new agreement and prepare it for adoption by the city and county.

Comm. Williams announced to the other commission members that he would be resigning after the upcoming commission meeting in October. He and his wife will be out of the area after that for a few months. Administrator Hathaway joined the other commission members in thanking him for his dedicated service and wishing him well in his future endeavors.

The proposed meeting date for next month will be October 13th, 2016 at 7 p.m.

Having no further business, a motion to adjourn was made and seconded. Meeting adjourned at 9:05 p.m.


_____ - Commission Chairman or Vice-Chairman

_____ - Attest Kevin Hathaway- P&Z Administrator

Dated- 10 13 - 16