

MINUTES
RIGBY PLANNING AND ZONING COMMISSION
April 14, 2005
7:00 PM

Members present: Acting Chairman Kelly McKamey, Bill Millet, Karen Durst, Lawrence Blackburn, Travis Poole and Gerd Zimmermann. Also present were City Attorney Steve Clark, Planning and Zoning Secretary Linda Radford, Councilman Charlie Taylor, and Mike Jaglowski from Keller & Associates, the City of Rigby Engineers. Others present were: the proponents for the hearings and other items on the agenda; Scott Stoker, Paul Hepworth, Doug James, Kevin Thompson, Kendall Shippen; The meeting was called to order at 7:13 P.M.

1. Doug James presented his request for a letter of approval to be sent to Jefferson County for the construction of two homes and a road going through to 3rd West in the impact area. He is concerned with the back part of his property becoming landlocked. He wanted to build the road to county specifications and not the more stringent city specifications. He stated that building to city specifications would triple the cost. Karen Durst moved to table the discussion upon further review. Lawrence Blackburn seconded. All voted aye and the motion passed.

2. Hunter Creek Rezone from R-1 to R-2 Hearing began at 7:32PM. Kevin Thompson entered into evidence on behalf of the proponent, H&S Development, a map of the phases of construction in the subdivision (Exhibit A). A larger version was placed for the members and audience to refer to during the hearing. He pointed out that Pioneer Park has R-2 housing along the other side of the canal bank from the proposed zone change. Scott Stoker, of H&S Development, explained that the area would be reserved for four-plex town homes and not apartments. He entered a photo of what the homes would look like (Exhibit B)

The floor was opened for public comment from those for the rezoning.

Chris of 3868 East 390 North is a potential buyer of some of the lots in the subdivision and said he has no problems with town homes being across from where he plans to build. He thought they looked very nice in the picture.

Heath Treasure is purchasing two lots in the subdivision and plans to live in one of them. He feels the R-2 zoning would fit very well and that they bring in responsible owners.

Misty Stoker is in favor of the homes. She is the wife of one of the developers and they are building their own home in the subdivision. She feels that people do not want to build a residence beside a canal due to the dangers posed to children and town homes are bought mostly by single persons.

Jody Hepworth, the wife of the other developer, felt that access was not an issue to be dealt with in this hearing since only eight (8) lots were up for rezoning. They plan to have covenants dealing with maintenance and upkeep of the homes. They also live in the development.

Dee Stoker, of 477 North 3200 East, Lewisville, organized the development and discussed the dream he had of building in the community with his son and son-in-law.

Paul Hepworth, of H&S Development, discussed the current comprehensive plan and how the development fit within it.. He addressed the affordable housing aspect and said it doesn't have to mean small apartments.

The floor was closed to those for the proposal and opened for those against.

Kelly McKamey read a letter submitted by Craig Bates, the former Planning & Zoning chairman for the City of Rigby, who was against the rezone. This was entered into the record as Exhibit C.

He also read a letter from the Hibbard's, owners of Pioneer Park, the development to the North, who are opposed to the rezoning. This was entered as Exhibit D.

Ryan Poole of 530 Aspen Drive, is a former member of the City of Rigby Planning & Zoning commission and said his feelings were the same as Craig Bates and the Hibbard's. He stated that, if 1st North were to be blocked, there would be no other route out of or into the development. He feels it is very dangerous to have only one way in and out for so many people. He notes that the requirement may have been relaxed on access but the need is greater now than ever.

Heath Blackburn of 238 North 4th West, Rigby, is concerned that multi-family dwellings could become rentals and is opposed to the units becoming apartments. He wants everyone in the neighborhood to have a copy of the impact statement before things go any farther.

Brad Hathaway, 525 Aspen Drive, Rigby, wanted to know if there was a regulation that prevented them from building four-plexes for rent. Acting Chairman Kelly McKamey explained that the rezone could be conditional or constructed to prevent such a thing from occurring. Mr. Hathaway also had problems with construction crews and equipment that were used during the first phase of the development. He feels it should stay R-1 because that is what it was originally platted for.

Bess Stoddard stated she has lived the longest of anyone in the area. She said they were told by the original developer that the area would remain R-1. She does not want to live near multi-family homes and feels that access through 2nd North should have been resolved first. She feels additional access should be required before the second phase is begun.

Kristen Hathaway of 525 Aspen Drive, Rigby, is confused about what exactly is being built. She stated that town homes are allowed in R-1 areas and was afraid that by rezoning this area to R-2, there would be nothing to stop anyone from tearing down the town homes and building four unit apartment buildings.

Michael Hillman, of 235 North 4th West. Rigby, has lived in his home for eighteen years, owns three lots in the area, and says it had been platted as R-1. He believes the access is sub-par already and having only one outlet is dangerous. He feels the canal between the Pioneer Park apartments and Hunter Creek Estates is a great natural buffer. He states there are many kids in the area and the increased traffic would pose a danger to these children. He feels four-plex homes would degrade the value of his home.

Susan Cutts of 495 West 1st North, Rigby, says 1st North has deteriorated a great deal over the years and is concerned the bridge being put in between Pioneer Park Estates and Hunter Creek Estates on 4th West would funnel Pioneer Park traffic through Hunter Creek. She said access is her greatest concern.

Rebuttal by proponent.

Paul Hepworth addressed the questions about access and stated that access was mentioned during the first phase of the development last year and he has documentation from the City of Rigby guaranteeing access through Pioneer Park along 4th West. He feels the City of Rigby doesn't maintain any of its streets, and the area

under consideration was not the only street in poor condition. Susan Cutts had said she did not want to pay for street improvements in a new subdivision. Mr. Hepworth pointed out that city ordinances state that the city taxpayers bear the burden for improvements city-wide. He addressed the letter from Craig Bates by noting that he lived in the impact area and not the city limits. He feels the access through 4th West is an adequate alternate access and that these issues should have been brought up earlier in the process (i.e. preliminary plat, Phase 1, etc.) He then gave examples of subdivisions of 150 to 450 homes in Idaho Falls that have only one access point or a second access through another subdivision. Mr. Hepworth grew up in Rigby, but has lived in many big cities and feels that Rigby does not have anywhere near the traffic problems of any big cities. He believes 1st North will be hazardous whether there is an increase in homes or not. There has been no plot on record beyond what was already in existence on Aspen Drive and in the city limits before the annexation of 2004. He reports that he had tried to talk to the owner of the property west of where 2nd North ends for an additional access route into the subdivision and was told that the owner in question (Kenny Smith) would never sell. He told the committee that he had checked into the laws and ordinances for multiple owner housing and found that a conditional use permit is required in an R-1 zone and only condominiums are allowed according to Idaho State Code. Mr. Hepworth considered the letter from the Hibbards and the comments they made quite inappropriate as they are a direct competitor. He discussed the median age and income of this area and felt the town homes were a good way for lower income people to obtain their own home. He feels he has complied with all the applicable laws and ordinances and that the neighbors' disagreement with the project is not something that should be under consideration in the application.

The floor was opened for rebuttal of the proponent.

Terry Andrews, of 256 N 4th West, Rigby, wanted to know what kept the new owners from putting in four-plexes. She wanted to know how she missed knowing about the bridge. She was informed that the notice was published in the official newspaper of the City of Rigby and letters were sent out on hearings by the city council.

Ryan Poole said the letters submitted into evidence should not be discounted just because the person doesn't live in the city.

Bess Stoddard stated that Morgan Lake had previously platted the whole area as R-1. Mr. Lake had decided not to go forward with his development plans because of the problems with 1st North. She stated she had issues with the bridge going in because she did not want additional people using her road.

Ralf Wilson, of 4th West, Rigby, said he would prefer cows as neighbors. He feels the difference of going from R-1 to R-2 would be significant.

Stephanie Mahoney, asked how this will affect property taxes and LID's.

Paul Hepworth has covenants in place concerning the appearance of the town homes. A photo was already entered into the record showing how the homes will look. They will have stone, stucco, or brick fronts and be 4 unit town homes. He states that one builder will be buying all eight lots and the look of the homes will remain consistent. He did not have any awareness of what was stated by Morgan Lake and apologized for any misconceptions on the plat.

Sharon Poole is concerned that with the lots having an R-2 zoning, it opens the way for apartments to be built there or the town homes themselves becoming rental units.

The public hearing was closed at 9:02 and the commission began their discussion of the rezone proposal.

Bill Millet asked about the canal company access and Steve Clark told him that is negotiated between the developer and the canal company. Kevin Thompson said that

easements are twenty-five (25) feet from the high water mark in other developments in and near the city.

The previous zoning before the annexation was Agricultural/Residential and was brought in as R-1 single family housing.

Bill Millet moved to table the decision until after the other hearings scheduled for the evening have been heard. Gerd Zimmermann seconded, all voted aye and the motion passed.

#3 Hunter Creek Estates Final Plat Hearing began at 9:06. Approval of this application is contingent upon approval of the Rezone Hearing above. Kevin Thompson informed the body that the only difference between the final plat map and the preliminary plat were the words "preliminary" and "final."

The floor was opened for public comment by those in favor of the proposed final plat.

Misty Stoker, of 609 5th West, Rigby, is building a home in Hunter Creek. She said that six of the ten homes sold in the first phase were sold to Rigby High School alumni.

Rebecca Thompson, of 567 North 1068 East, Rigby, wondered about future parks as there were none shown on the proposed map.

The floor was closed to public comment from those for and opened for those against.

Ryan Poole wants things to proceed and grow in an orderly manner and felt this was too much to fast.

Brad Hathaway questioned if 5th West will be paved on one side or both. He was told that both sides would be paved but there would be curb and gutter put in only on the side that the current developers own.

Bess Stoddard wanted to know why the first phase isn't finished before they began the second phase. She was informed that all the lots in the first phase are sold and are either already built upon or being built. She wanted to go on record as still being against multi-family housing.

Michael Hillman wondered about the state of the sewer system at present and wanted to know the time frame for the paving of 5th West.

Janet Wilson 265 N 4th West, Rigby, wanted to know if the sewer line would be going through her property.

The floor was opened for the developer's rebuttal. Paul Hepworth addressed the issue of a park by saying that Pioneer Park had a park and it would be accessible to those in Hunter Creek Estates. He said the sewer line would not be going through Janet Wilson's property but could not answer the other sewer questions.

Kelly McKamey asked Mike Jaglowski of Keller & Associates, the city engineers, about the sewer status. Mr. Jaglowski said the city is currently wrapping up a sewer study and will be pursuing a regional wastewater study. Before the Hunter Creek property was annexed there was a flow analysis done and it was determined it was adequate. Kevin Thompson stated that the sewer lines being put in were large enough to handle further development and growth. Travis Poole asked about parts compatibility and Kevin Thompson replied that the City of Rigby uses Idaho Falls standards. He also asked how all of 5th West would be paved and Mr. Hepworth told him that H&S Development has an option to buy the adjoining property.

Bill Millet asked if the R-2 zoning was shown on the preliminary plat and it had been. He pointed out that this particular hearing was to approve lots and lot sizes and not zoning.

Travis Poole asked why a stub was not put in place in the event the Kenny Smith property became available and 2nd North could be extended through to the subdivision. Others stated that 2nd North itself would have to undergo improvements if the road was

put through. Bill Millet said that further access to the West side of town by way of Highway 48 was very much encouraged.

Bess Stoddard questioned why there was a need for the bridge over 4th West at all. She was told that the subdivision needed a second access and Bill Millet felt that the city had the power to require a bridge but that it could not force a road through a property against the owner's will.

The hearing was closed at 9:38 PM.

Karen Durst moved to table the decision until the end of the evening. Travis Poole seconded the motion. Lawrence Blackburn felt the decision needed to be made immediately. Karen Durst withdrew her motion and Travis Poole seconded. Karen Durst then made the motion to approve the final plat as it stood. Bill Millet seconded. Travis Poole thought the motion should include the requirement that 5th West be paved as a full road. Karen Durst amended her motion to reflect that the road be complete with curb and gutter on the East side. All voted aye and the motion carried. Kelly McKamey suggested to the developers that they set aside a lot or two for a park.

#4 Rivers Edge Development's Annexation Hearing began at 9:55 PM.

Kevin Thompson of 154 East Main, Rigby, displayed an "information only" map of the proposed area to be annexed. This was not entered as an exhibit. His map showed proposed locations of roads and lots. The map entered into the record at the time of application showed no improvements. He also showed a draft version of a zoning map drawn up by Jefferson County. He stated that there is plenty of residential growth in the area but not much commercial. The property in question is north of the existing Rigby Town Square commercial development. He said commercial property is taxed at a higher rate than residential and the development would provide for more income to the city. Water lines are close enough to be available for the property and he suggested that the sewer lines could run directly to the treatment ponds since they are so close. The area is close to Highway 20 and he believes that most people would not want to live near a busy and noisy highway. This development would have only commercial enterprises and no residential or industrial. Jefferson County will be swapping the 11.5 acres they own in Rigby Town Square to build the court house with 11.5 acres in the new development.

The floor was opened for public comment from those in favor.

Kendall Shippen, of Rivers Edge Development, felt that the area along Highway 20 is ideal for commercial development and that Keith Johnson, who owns the Riot Zone is in favor of being annexed also. He thinks the annexation of this property and the adjacent properties along Rigby Lake Drive should be done at the same time.

Rebecca Thompson of 67 North 4086 East, Rigby, had concerns because the Riot Zone was not included and thought all adjacent properties should be annexed at once.

Chris Hayward, of 421 North 3950 East, Rigby, is involved with the Chamber of Commerce and wanted the court house to stay in the downtown area but sees that option is not feasible. The Chamber is in favor of more commercial areas and feels that court houses needs room to allow for expansion. Visibility of the proposed property and Rigby Town Square would make the area seen from Highway 20 more attractive.

Ted Wood, of 386 North 3800 East, Rigby, is the son of the owner of the property in question. He says the family has tried to keep the land agricultural but sees the need for expansion of commercial areas to provide for more businesses and jobs.

Ron Baxter, a Jefferson County Commissioner, wants the court house moved to the Rivers Edge Development instead of Rigby Town Square (RTS). The new location would be only two or three city blocks from the old location but they would like to have

the attractive new building more visible from Highway 20. He said residential growth is expanding too much in the old proposed location in RTS and he felt it was no longer an appropriate area for a court house. He said the area surrounding a court house should not have residential clusters and he does not like the apartment complexes on Stockham being so near.

DaNeil Jose, 243 East Fremont, Rigby, is the Jefferson County Planning & Zoning Administrator. She said we need to look 30 years into the future, not just the next few years. She feels the new annexation is necessary in order for Rigby to grow.

Scott Stoker, Rigby, said the new commercial subdivision would be an asset to the area.

Keith Johnson, owner of the Riot Zone on Rigby Lake Drive, said his neighbors have complained about his lights and feels the court house would provide a good buffer zone.

The floor was opened for neutral public comment but there were none in attendance.

Acting Chairman Kelly McKamey read a letter from the city attorney citing a possible conflict of interest (Exhibit B) but the commission did not feel he needed to recuse himself from the proceedings.

The floor was opened for public comment from those against.

Gerald Wolz's letter was read (Exhibit C) and placed into the record.

Lorin Walker of 503 North 4000 East, Rigby, is a developer and built the George Dental Office. He feels the remaining area of RTS will become a weed patch if this annexation and agreed-to land swap of 11.5 acres between Jefferson County and Kendal Shippen goes through. He does not know if or when Mr. Shippen will build on his 11.5 acres in Rigby Town Square. Many builders and buyers of property in RTS were relying on the court house being the anchor. If the anchor is going to be taken away, then many areas of RTS will become a weed patch and the city is hop-scotching over a weed patch for more commercial area. He feels RTS will be adequate to suit Rigby's needs for many years to come.

Willard Price, 697 East 1600 North, Idaho Falls, states that he has been heavily criticized for by homeowners on Annis Highway because he is keeping promises to keep the Annis Highway area residential. This is the reason for the apartments along Stockham Drive, to provide a buffer between residential and commercial. The property now under consideration is clean because there is nothing there but farmland. Jefferson County bought 11.5 acres in RTS and planned to build on six of those acres. There would still be plenty of room for an expansion. The new location is twice as far as the original site. Builders and interested businesses agreed to build only after the county committed to building there. He feels the annexation is premature. Studies showed that there was a need for 225,000 square feet of commercial space and RTS covers that. The annexation of the Wood property would create an over-saturation of commercial properties. Willard gave the commissioners papers with statistics for them to read. This was entered into the record as Exhibit D.

Jay Steven Felt of 1302 Rachel Drive, Blackfoot, committed to buy lots north of the original court house site in RTS and wanted professional space and open green space for workers in the area to enjoy. What he had proposed would not work in the site under consideration.

Lorin Walker said he had been asked to speak on the behalf of the President of the Bank of Commerce as he was unable to stay as late as the hearing started. He said that the commitment for the Bank of Commerce was based upon the assumed location of the court house in RTS.

The March 10th and 24th minutes were read and approved.

Gerd Zimmermann moved to adjourn and Travis Poole seconded. All voted aye and the motion carried. Meeting adjourned at 1:05 AM.