



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

Chairman Orme called the meeting to order at 7:03 pm.

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

With 4 commissioners present in the room and Commissioner Richardson connected via conference call; a quorum was present. According to the Planning and Zoning Bylaws Article V – Section 1 – a quorum present includes electronic communication ie telephone. Therefore, a quorum was declared and the meeting was continued.

Also present were: Melodie Halstead, Planning and Zoning Administrator; Robin Dunn, City Attorney; and Keith Hammon, Police Chief.

**Old Business**

No old business.

**New Business**

**Farnsworth, Doug & Lori – Public Hearing 1:39 Disc 1 of 3**

**507 Pleasant Country Lane**

**Variance**

**“C” Commercial Zone**

Melodie Halstead, Planning and Zoning Administrator presented the staff report. Mrs. Halstead also read Rick Lamoreaux comments into the record as Exhibit T-1.

Robin Dunn asked if any of the Commissioners have had any exparta conversations with the applicant. Mr. Dunn then excused himself since he owns property adjacent to this parcel and wanted to ensure that the entire process is transparent. Commissioner Warner indicated that he had a conversation and visited the site with the applicant. Commissioner Warner stated that he encouraged the applicant to file a variance application. Commissioner Warner did not feel that he had a conflict and did not recuse himself from the board.

Chairman Orme then opened the public hearing at 7:05 pm.

Applicant: Doug Farnsworth 7:40 Disk 1 of 3

Mr. Farnsworth used Exhibit T-2 (Diagram) to demonstrate the site plan that was previously approved. Mr. Farnsworth indicated that he would prefer to keep this layout if the Commission could guarantee that the undeveloped un-named road would be constructed and paved by September 1, 2013. The Commission could not guarantee the completion of the un-named cul-de-sac prior to September 1<sup>st</sup>, therefore Mr. Farnsworth presented Exhibit T-3 (Diagram) which identifies the proposed southerly 4-plex shifted south 10 feet to allow a 20 foot driveway between the two 4-plex buildings which leaves only a 13 foot building setback from the un-named cul-de-sac to the southerly 4-plex. This concept will allow the residences of the new 4-plexes to ingress and egress from the paved roadway system of Pleasant Country Lane onto the paved driveway of the 4-plex complex. Since the commercial zoning requires a 20 foot setback, Mr. Farnsworth is requesting a 7' variance to allow his building structure to be 13 feet from un-named cul-de-sac' property line boundary.

Robin Dunn answered questioned concerning the Developer, Willard Price & LLC, Rigby Towne Square Subdivision, the undeveloped un-named cul-de-sac and the legal procedures with what had occurred prior to this variance application. Mr. Dunn indicated that the city entered into a settlement agreement from the developer which stated that Mr. Price is to finish the roadway from Annis Highway to Pleasant Country by 2015. Mr. Dunn also mentioned that several items within the subdivision have not been completed to city standards: water lines that are supposed to be at 6' depth are at 4', electrical is not properly done, cul-de-sac is not completed, and street lights are not installed. Hopefully the city will require the developer to complete these items. The City did receive a small amount of money to cover the chip sealing costs on Pleasant Country Lane and Stockham. At this time, it is unclear when the un-named cul-de-sac will be constructed. There has been some litigation to get to this point; the city received a small amount of money and a promise of completion.

Support - None

Neutral - None

Opposition - None

Rebuttal – None

Chairman Orme closed the public hearing at 7:26 pm.

Chairman Orme reminded the Commission that the deliberations must be focused and remain on the application at hand. All motions must state decisive reasons for approving or denying the proposed application. Decision-making must be based on reasons relative to ordinances, laws and public input. This helps the public and

the applicant to understand the process. Variances should only be approved in cases of undue hardship due to the site.

Questions:

Commissioner Brown asked if emergency vehicles could safely access this property with the reduced property setbacks. Chairman Orme asked Police Chief Keith Hammon if that was a concern. Police Chief Hammon responded that question was best addressed by the Fire Chief not the police chief, the police department would still be able to access of the property with the reduced setbacks.

Commissioner Richardson stated that a variance application must meet the requirements. Chairman Orme stated that he felt that the applicant has an inconvenience for exiting south onto the unfinished roadway but has a difficulty of determining a hardship due to the site.

Commissioner Williams asked Police Chief Hammon if there would be any issues with emergency vehicles accessing this parcel through the unimproved cul-de-sac. Police Chief Hammon stated that he agreed with Public Work Rick Lamoreaux' letter, vehicles will most likely get stuck if the residents have to use an unimproved roadway system. The proposed design would be similar to what is already constructed on Stockham and the emergency vehicles are able to access all of those units without any difficulties.

Chairman Orme asked Mr. Farnsworth if there is a passage way between the existing 4-plexes on Stockham and these proposed 4-plexes. Mr. Farnsworth answered that there was not an access; the garages are built along the back of the property lines. Mr. Farnsworth stated that he spoke with the Fire Chief and the Fire Chief supported the concept of accessing the site via a paved driveway between the two buildings.

Commissioner Warner asked for the definition of hardship. Commissioner Warner stated that the applicant has zero control over when the unconstructed unnamed cul-de-sac will be paved and finished. With the history and current agreements in place, it could be 2 plus years before the cul-de-sac is finished. Commissioner Warner stated that the City is in the best position to exercise the control to force the developer to construct the cul-de-sac. Commissioner Warner stated that the applicant is asking to build apartment buildings like the existing buildings on Stockham.

Commissioner Richardson stated that hardship is defined in Rigby Code 10-13-5. Commissioner Richardson stated that 10-13-5 D #2 and #3 were met in the application. However, Commissioner Richardson has a concern with item # 1 which states "*which are not applicable to other lands, structures or buildings in the same district.*"

Commissioner Warner asked for clarification from Commissioner Richardson.

10-13-5 D 1 *special circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.* Commissioner Richardson agreed that the application complied with the first portion of the requirement, but questioned whether the second portion of the requirement "which are not applicable to other lands, structures or buildings in the same district" excludes the application from a variance.

Chairman Orme asked Mrs. Halstead if there were any other projects within the area. Mrs. Halstead replied that there are not any other applications in the area at this time.

Commissioner Warner speculated that the reason that we are not seeing any other property owners within the area is because they are not proposing any new developments at this time, and the cul-de-sac may be constructed by the time that the property owners are ready to begin construction.

Commissioner Warner asked Mr. Farnsworth about other possible plans in the area. Mr. Farnsworth responded that he has an option to purchase the lot at the end of the cul-de-sac currently owned by the Bank of Commerce. Mr. Farnsworth intends to mirror the proposed lot with his current lot. Commissioner Warner asked if there would be a need to come back before this commission asking for an additional variance. Mr. Farnsworth replied that was a possibility if the cul-de-sac was not constructed. Commissioner Warner is hopeful that the other lot would not require a variance.

Chairman Orme asked to see a map of the area. Mrs. Halstead reminded him that there was a vicinity map included in the PZ packet as Exhibit S-3.

Chairman Orme asked Robin Dunn if it was appropriate for Commissioner Warner to remain on the Commission after he has declared an ex parte conversation with the applicant. Commissioner Warner stated that he does not have any monetary interest in this development. Commissioner Warner appreciated the question because he does not want to see any issues arise due to an improper procedure. However, Commissioner Warner felt that by disclosing the ex parte conversation that the issue has been addressed. Chairman Orme did not pursue the issue any further.

Commissioner Williams asked Mr. Farnsworth if a delivery truck had been stuck in the mud in the location of the un-named cul-de-sac within the last 2 weeks. Mr. Farnsworth confirmed that there was a delivery truck that was stuck in a mud bog in that location. Commissioner Williams stated that his concern is the accessibility of that un-named road and its current undeveloped condition may create additional problems.

Motion

Commissioner Warner Moved to approve the variance for a reduction of minimum building setbacks requirements from 20' side street setback to 13' for property located at 507 Pleasant Country Lane based on 10-13-5 D 2 & 3. Commission Williams Seconded the motion.

Roll Call Vote: Brown – Aye, Richardson – No, Warner – Aye, Williams - Aye.  
Motion passed 3 – 1 in favor of the motion.

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

Disc 2 of 3

Peterson, Ray – Public Hearing 00:31 Disc 2 of 3

5<sup>th</sup> West between 1<sup>st</sup> South and 1<sup>st</sup> North

Zone Change

R-1 Zone

Melodie Halstead, Planning and Zoning Administrator presented the staff report. Mrs. Halstead also read a Petition of Opposition into the record as Exhibit T-1.

Commissioner Williams asked Mrs. Halstead which property to the south is zoned R-2. Mrs. Halstead explained that the property that is currently zoned R-2 is owned by the City of Rigby.

Commissioner Brown asked Mrs. Halstead how many property owners within 300' signed the petition. Mrs. Halstead stated that the petition has 54 signatures which may include husband and wife signatures and Mrs. Halstead mailed out 69 property owners notices to the property address which is addressed to both the husband and the wife.

Chairman Orme opened the public hearing.

Applicant: Ray Peterson 10260 S. 600 E Rexburg 7:40 Disk 2 of 3

Ray Peterson started by explaining the history of his owning these parcels. Mr. Peterson was under the impression that when his property was annexed by the city it would be with an R-2 designation; therefore he did not contest the city wide annexation in 2009. Mr. Peterson has always wanted these parcels to be R-2 zoning. Since Mr. Peterson has purchased this property, he has been informed of the agreement between the city and H & S Development, which affects his property but no liens on Mr. Peterson's parcels have been recorded with the county. Mr. Peterson stated that he has not been involved in any discussions concerning these agreements and how it affects the properties or the 5<sup>th</sup> West road situation. Mr. Peterson is not asking for the entire property to be rezoned to R-2 zoning. Mr. Peterson presented a proposed plan Exhibit T-2. The new plan will buffer the existing R-1 residential with R-1 zoning, and then twin homes adjacent to the R-1 zoning and the area adjacent to the City's property currently zoned R-2

Mr. Peterson would like to ask for R-2 zoning with the intent of multi-family dwellings. Mr. Peterson stated that he constructs very nice developments with HOA's and would like to obtain permission to proceed with this development in Rigby. <1:26 min left>

Support -

Kurt Roland-Eagle Rock Engineering 1331 Fremont Ave Idaho Falls 18:14 Disk 2 of 3

Mr. Roland has been hired by Mr. Peterson to complete the engineering for this project. When Mr. Peterson researched the property, the former planning and zoning administrator showed him the map on the hallway wall which identified an R-2 zoning on the comprehensive plan map. Mr. Peterson has completed several projects. You can look at the internet at his projects in Rexburg. All of them have been done nicely. Mr. Peterson is a good neighbor. Projects compliment the city. <3:23 min left>

Neutral - None

Opposition

Laverl Noreen 500 W. 1<sup>st</sup> S. 21:00 Disk 2 of 3

Mr. Noreen owns 5 acres. Mr. Noreen has never met or visited Mr. Peterson prior to this public hearing; therefore Mr. Noreen does not consider Mr. Peterson to be a good neighbor. Mr. Noreen does not want houses built along his north property boundary. Mr. Noreen runs a junk yard and is concerned that children will play on his property. Nor does Mr. Noreen want anyone to complain about the condition of his property, since he runs a junk yard. <4:10 min left>

Ron Noreen 500 W. 1<sup>st</sup> S. 22:10 Disk 2 of 3

Mr. Noreen had not heard about the proposed apartment complex prior to receiving the letter from the city. Mr. Noreen is concerned that if this project is allowed to precede that there will be lawsuits requiring the Noreen's to clean up their yard. Mr. Noreen is concerned that children will be getting onto his property and getting injured. Mr. Noreen is opposed to the zone change. <4:38 min left>

Joe Site 212 N. 4<sup>th</sup> W. 23:27 Disk 2 of 3

Mr. Sites lives on the corner near the north entrance of the proposed subdivision. Mr. Sites attended the public hearing the City Council held last Thursday discussing increasing the sewer dump fees. Mr. Sites also mentioned that the City has a water ordinance that regulates when the city residents can water their lawns. Mr. Sites feels that the developer should have an impact study and plot plan feasibility study completed on this project prior to be presented to Planning and Zoning. Mr. Sites feels that Exhibit T-2 is too vague. Mr. Peterson said in his application that this development would be similar to the development north of town, but Mr. Sites would like to know how will the project be similar. <2:01 min left>

Barry Lewis 560 W. 1<sup>st</sup> N. 26:52 Disk 2 of 3

Mr. Lewis thanked Mr. Peterson for holding the neighborhood meeting. Mr. Lewis is concerned that the plan is too general and vague. Mr. Lewis feels that this is not the appropriate time to rezone the property. <4:14 min left>

Robert Cardwell 579 W. 1<sup>st</sup> N. 27:58 Disk 2 of 3

Mr. Cardwell presented Exhibit T-3 picture taken 2 days prior to the property being plowed, although plowing did not make much of a difference. Mr. Cardwell is concerned that the amount of traffic will cause a need for a traffic signal on Highway 48 and 5<sup>th</sup> West and who would pay for that. Mr. Cardwell agrees with Mr. Sites and Mr. Lewis that this project is too early to be submitted. <4:11 min left>

Darwin Dinsdale 449 W. 1<sup>st</sup> N. 29:33 Disk 2 of 3

Mr. Dinsdale read from a letter that he submitted into the record as Exhibit T-4. Mr. Dinsdale stated that this property has requested an R-2 zoning several times and each time the applications have been denied. Mr. Dinsdale asked that this property not keep coming back and requesting an R-2 zoning year after year. Mr. Dinsdale stated that they obtained at least one signature from almost every property owner within 300 feet around the proposed project. Mr. Dinsdale stated that impact studies (by professionals), such as traffic, schools, police, sewer and water needs to be submitted. Mr. Dinsdale feels that we should address the other half finished subdivisions around town before approving any additional subdivisions. Mr. Dinsdale asked the Planning and Zoning Commission to deny the rezone request for Mr. Peterson. <1:34 min left>

Rob Webb 551 Aspen Dr. 34:26 Disk 2 of 3

Mr. Webb stated that he had four points to make. 1. Mr. Webb asked why we were considering this application if the project has been discussed before. 2. Mr. Webb stated that if this project were to be approved his subdivision would be sandwiched between apartment complexes, which will negatively affect his property values. 3. As Mr. Webb understands, the incoming portion of 5<sup>th</sup> west will need to be widened if this property is zoned anything other than R-1. Who will pay for the widening of this portion of the road? 4. Apartments have a large number of parked cars. Parking is always a concern. Where there are cars parked on street, people can not see the kids that are riding their bikes. <3:01 min left>

Heath Treasurer 596 Aspen Dr. 36:48 Disk 2 of 3

Mr. Treasurer has not ever met Mr. Peterson. Although Mr. Treasurer has heard good things about Mr. Peterson, Mr. Treasurer does not consider him a good neighbor. Mr. Peterson paid a lot of money for his project; well Mr. Treasurer paid a lot of money for his R-1 property as well. Mr. Treasurer feels that this property needs to stay as R-1. Mr. Treasurer is opposed to the rezone application; because he feels that the city has enough R-2 zoning in that area already. <2:41 min left>

Victor Gentle 191 N. 3<sup>rd</sup> W. 39:35 Disk 2 of 3

Declined to speak.

Barbara Gentle 191 N. 3<sup>rd</sup> W. 39:55 Disk 2 of 3

Mrs. Gentle stated that she lives in the old Hill's House which was the governor's house that was built in 1903. Mrs. Gentle does not want any other traffic on that road, she watches people blow past that stop sign already. Mrs. Gentle stated that a wider road will increase the speeding not decrease it and increase the hazard for the children and the pets in the area. <4:00 min left>

Scott Stoker 215 N. 5<sup>th</sup> W. 41:44 Disk 2 of 3

Mr. Stoker opposes the R-2 zoning. Mr. Stoker owns the property to the north. Mr. Stoker also developed the Hunter Creek Subdivision. Mr. Stoker pointed out that Mr. Peterson purchased the property after 5<sup>th</sup> West was constructed, which would have meant that the ordinance would have already been in place. Mr. Stoker stated that typically R-2 zoning is a buffer zoning between commercial and low density residential. The property is currently zoned R-1 and Mr. Stoker would welcome an R-1 zoned development. Currently Mr. Stoker is unable to sell his lots that are adjacent to the existing R-2 zoning along Caribou. Mr. Stoker feels that if this property were to be rezoned that he would not be able to sell any of the lots on the south boundary of Hunter Creek Subdivision. Mr. Stoker stated that there have been numerous fights to get to this point. Mr. Stoker also pointed out the costs increase and a person must continue to pay for those costs. Mr. Stoker stated that as a city taxpayer he would not be will to participate in paying for widening for any roads. Mr. Stoker stated any that he would welcome an R-1 development. <0:11 min left>

Dee Stoker 477 N. 3200 E. 46:56 Disk 2 of 3

Declined to speak.

Stacy Grant 482 W. 1<sup>st</sup> N. 47:12 Disk 2 of 3

Ms. Grant seconds what has already been said, there is already enough R-2 on this side of town. <4:34 min left>

Richard Datwyler 525 Aspen Dr. 47:51 Disk 2 of 3

Mr. Datwyler is new to the area and is purchasing a piece of property that is located within the R-1 zone. Mr. Datwyler stated that he chose Rigby because of the heritage of the area and the fact that the town is a family community. Mr. Datwyler stated that there are four people that would be affected by this change, the property owner/developer, the future home owners, the surrounding land owners and the city in general. <1:34 min left>

Misty Stoker 215 N. 5<sup>th</sup> W. 51:25 Disk 2 of 3

Ms. Stoker is strongly opposed to the R-2 zoning. Ms. Stoker lives on a street that is already lined with 36 units apartments. If this project were approved Ms. Stoker would be sandwiched between multi-family developments. Ms. Stoker states that she has fought the proposed R-2 zoning every time it has come up during the past 10 years. Ms. Stoker stated that the homes in Hunter Creek Subdivision make up the majority of the tax base in the city. She would hate to see anything affect the



property values. Ms. Stoker believes that Rigby has the capacity to grow, but prefers that the growth occur from the inside out. Ms. Stoker asked the Planning and Zoning Commission to protect the cities assets and honor the agreement with H & S Development and not allow any R-2 zoning developments in this area. Ms. Stoker feels that it would be a terrible mistake if special arrangements were made with the developer. <0:02 min left>

Patsy Burtenshaw 142 N. 3 W. 57:00 Disk 2 of 3

Ms. Burtenshaw stated that there was never a home fire on the property across from her property. Ms. Burtenshaw asked the Planning and Zoning Commission to protect all of their property by voting down this proposal. <3:19 min left>

Joyce Strupp 152 N. 3<sup>rd</sup> W. 58:58 Disk 2 of 3

Decline to speak, but agreed with what has been said.

DeAnna Dinsdale 449 W. 1<sup>st</sup> N. 59:04 Disk 2 of 3

Mrs. Dinsdale is concerned with all of the undeveloped land already located within the city and is currently just weed patches. The City has a city ordinance 4-4-1 which addresses how a property owner handles their weeds. Mrs. Dinsdale submitted into the record as Exhibit T- 5 pictures of the proposed project property showing the weed situation. Mrs. Dinsdale stated that there are several subdivisions located within the city limits, but are unconstructed. <2:04 min left>

Teresa Murray 119 N. 3 W. 1:03:02 Disk 2 of 3

Ms. Murray was not present.

Doug Murray 119 N. 3 W. 1:03:12 Disk 2 of 3

Mr. Murray was not present

John Kenny Smith 480 N. 3<sup>rd</sup> W. 1:03:28 Disk 2 of 3

Mr. Smith stated that when the Petersons purchased this property there was not any R-2 zoning on the south of Rigby canal. Mr. Smith stated that he put the old zoning map together. Mr. Smith also stated that the Hunter Creek Subdivision agreement specifically prohibits R-2 housing in this area. Mr. Smith opposed the R-2 zoning and he stated that he was forced into the city. <1:42 min left>

Rebuttal 1:08:22 Disk 2 of 3

Ray Peterson – Mr. Peterson stated in the P & Z packets include an old comp plan map designating this area as R-2. Mr. Peterson stated that there is currently R-2 located on the City owned property south of his property on Highway 48. Mr. Peterson stated that multi-family dwellings pay increased water/sewer rates and higher taxes. Mr. Peterson will conduct the impact studies at the next stage once the zoning is established. Mr. Peterson is only requesting the R-2 zoning at this time; he understands that any preliminary plat will need to be presented for approval. Mr. Peterson thinks Rigby is a fantastic city. Mr. Peterson again asked that the old comp plan map be reviewed and used as the considered for the

decision. Mr. Peterson stated that since the property is now located within the city, the property can not be farmed. <0:00 min left>

Chairman Orme closed the public hearing and opened the floor for questions from the commission.

Disc 3 of 3

### Questions

Commissioner Richardson verified in order to recommend a zone change the modification must be in compliance with the comprehensive plan. Chairman Orme answered that is correct.

Commissioner Richardson asked Mr. Peterson when the property had been zoned R-2. Mr. Peterson responded the map on the city hall wall identified the property as R-2, Mr. Peterson did not know that the city would annex the property with the R-1 designation. Commissioner Richardson asked Mr. Peterson when the property was purchased. Mr. Peterson responded in 2007 or 2008.

Chairman Orme asked for a copy of the Hunter Creek Subdivision Agreement before proceeding any further.

Commissioner Williams asked why this proposal was being considered again if the application has been before the commission before. Chairman Orme answered that the ordinance allows the property owner to resubmit an application after 1 year from the denial date.

Chairman Orme stated that throughout the comp plan, R-2 is encouraged as a buffer zone to commercial zoning. Therefore R-1 may not be a good fit for this area based on these situations.

Commissioner Brown stated that she would like to see additional impact studies, plot plan, sewer plans and road access prior to be rezoned to R-2 zoning.

Commissioner Warner commented on the full room. Commissioner Warner stated that it is unfortunate that change pits homeowners against each other. Change is inevitable. Commissioner Warner asked what is an acceptable level of change/development. Commissioner Warner stated that growth benefits the city in many ways. Commissioner Warner feels that we need to keep an open mind. Commissioner Warner stated that these are difficult decisions.

Commissioner Brown asked legal counsel what the legality for the Hunter Creek agreement would be if the planning and zoning commission were to recommend approval of this application. Robin Dunn responded that if Hunter Creek chose, it would be difficult for Mr. Peterson to do what he wants to do.

Motion

Commissioner Brown Moved to recommend denial of the zone change to an R-2 multifamily residential based on the legality of the Hunter Creek Agreement/Settlement between the City and Hunter Creek Developers. Commission Richardson Seconded the motion.

Roll Call Vote: Brown – Aye, Richardson – Aye, Warner – Aye, Williams - Aye.  
Vote: 4 – 0 Motion passed unanimously.

Minutes – May 9, 2013 Meeting

Commissioner Richardson moved to approve the May 9, 2013 minutes as written. Commissioner Williams seconded the motion. Motion passed unanimously.

Minutes – June 13, 2013 Meeting

Commissioner Richardson moved to approve the June 13, 2013 minutes as written. Commissioner Williams seconded the motion. Motion passed unanimously.

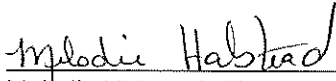
Administrator's Report

Melodie Halstead reminded the planning and zoning commissioners of the special work session next week (July 18) to work on the comprehensive plan chapters 4-6 pgs 21-37. Mrs. Halstead also reminded the commissioners that the August meeting was pushed back one week; the regularly scheduled meeting on August 8 will be moved to August 15, 2013.

Meeting Adjournment


Commissioner Brown moved to adjourn the meeting. Commissioner Warner seconded the motion. Motion passed unanimously. Meeting adjourned at 10 pm.

Submitted by:

  
\_\_\_\_\_  
Melodie Halstead, AICP  
P & Z Administrator

8-15-13  
Date

Approved by:

  
\_\_\_\_\_  
Val Orme, Chairman,  
Planning & Zoning Commission.

8-15-13  
Date