

Before the City of Sugar City

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| _____) | |
| In the Matter of an Application for an Amendment) | |
| to the Land Use Map, Amendment to R-3 and MU-1) | |
| Zones, establishment of a new MU-2 Zone and) | FINDINGS OF FACT, |
| Approval of a Preliminary Plat.) | DISCUSSION OF ISSUES, |
|) | CONCLUSIONS OF LAW |
| Jeff and Ryan Lerwill) | AND ACTION |
| 1216 Stocks Ave. No. 1) | |
| Rexburg, ID 83440) | |
|) | |
| Applicant.) | |
|) | |

FINDINGS OF FACT

1. Jeff and Ryan Lerwill, submitted an application for changes to the Land Use Map which is attached to the Comprehensive Plan, zone changes, including:

Multiple Use (MU1): Provides for a mixture of uses such as residential coupled with business, professional and commercial. This district is intended to permit diversity within a planned community or set of uses and to encourage open space and other amenities. Adding the following: Residential units are small and have a minimum parking requirement of 1.5 spaces per unit. Maximum density shall be sixteen (16) units per acre. All units will be subject to approval by the Design Review Committee for the City.

A new Multiple Use (MU2): Provides for a mixture of uses such as high density residential coupled with business, professional and commercial. This district is intended to permit diversity within a planned community or set of uses and to encourage some open space and other amenities. Residential units shall have a minimum parking requirement of 1.5 spaces per unit. Maximum density shall be thirty (30) units per acre. All units will be subject to approval by the Design Review Committee for the City.

High density residential (R3): Provides for high density residential use typically located near collector and arterial streets and characterized by multi-family dwellings, ample off street parking, with a minimum of 1.5 spaces per unit, higher traffic volumes, open space, and low nuisance potential. Maximum density shall be sixteen (16) dwelling units per acre. All units will be subject to approval by the Design Review Committee for the City.

and for approval of a preliminary plat on December 3, 2015. The affected property is described as follows:

See the attached map.

2. Jeff and Ryan Lerwill, are the record owners of the property proposed for rezoning.

3. The property consists of approximately 145 acres presently zoned R-1 residential and R-2 medium density residential. The land surrounding the proposed development is mix of agricultural, commercial and residential uses.

4. A public hearing on the application was held on December 3, 2015 by the Planning and Zoning Commission.

5. The City Clerk, Wendy Walker provided the commission with the completed application. All application fees had been paid. All required notices regarding the hearing had been published, mailed and posted in a timely fashion as required by the Sugar City Zoning Ordinance and Idaho State law. The affidavit of publication and affidavit of mailing and posting were entered in the record and were included with the Planning and Zoning Commission's recommendation.

6. The Planning and Zoning Commission submitted its written recommendations, recommending that the Land Use Map as modified by approved and adopted, that the zoning ordinance be amended as requested and the preliminary plat submitted by the applicants be approved. The Supreme Court has held that a City Council can simply adopt the recommendations of the Planning and Zoning Commission as its decision document. The council accepts and adopts the findings, conclusions and recommendations of the Planning and Zoning Commission, including, but not limited to the following:

a) The preliminary Plat presented by the owners of Old Farm Estates is recommended for approval, based on the following considerations, as required by City Code 10-3-5 (B):

i) Completeness and applicability of information in the application: The application was considered to be both complete, and the information applicable.

ii) Phased development in relation to the master plan: The preliminary division #1 was done under the original master plan, which has been changed by the owners to a new plan. This division #2 is in keeping with the new overall master plan. We believe the new master plan to be appropriate for the needs of the City.

iii) Requirements and standards in the Idaho Code: The application and our considerations are in keeping with the Idaho Code as applicable to preliminary plat.

iv) Requirements and standards in chapters 4 and 5 of this title: The application has met the requirements and standards in chapter 4, and chapter 5 of this title is not applicable to this application.

v) Intents and issues in the comprehensive plan: We are not aware of any issues in the comprehensive plan that this application would not meet in its intent.

vi) Recommendations of the design review board: This area is not applicable as there are not planned buildings or homes to be constructed as of yet.

vii) Reports from experts, departments, and agencies: There were several meetings with the Public Works director, the existing Mayor, the Planning & Zoning Chairman, and the developers to make sure that all public infrastructures were adequate and met all required codes. The impact study done by the developer's engineer was reviewed and considered in our ultimate recommendation.

viii) Streets requiring special approval: There were no streets that would require any special approval. They all meet with the current City Code.

ix) Conditions relevant to special subdivision, and is therefore, not applicable.

x) Consideration inherent to the locale, including, but not limited to, the transportation plan, water and utilities, and adjacent land uses: Since this subdivision has already been approved in the past, we are now looking at items relative to any changes to be made in the future. The transportation plan was considered, and there should be fewer vehicles on the road that were anticipated in the old plan. We have discussed with the developer and the city the plans to still provide a well and storage tank for water and this will not change. The sewer capacity will be sufficient for now, but future expansion will be necessary, especially since there is another subdivision under consideration. We are working with the City of Rexburg to help ameliorate this issue. There have been some concerns with neighbors to this development, and we have tried to make the ordinance sufficient to help alleviate many of the concerns.

b) The modified Land Use Map was recommended for approval. This modification is the addition of a multiple use zone to the east and adjacent to 7th west, bordering the Old Farm Estates development. The reason for this recommendation is as follows:

i) The commission feels this change, and its location, is beneficial to the future development and growth of the city. The addition of some multi-family dwellings and businesses will provide much needed tax base, and diversity to the City. We feel that the location is appropriate for these uses, and although there are some residences close by, the developers should agree to create landscaping berms and buffers to help alleviate these concerns.

c) The changes to the zoning Districts, as indicated in the attached Ordinance, are recommended for approval. The reason for these changes are as follows:

i) The changes made to the Zone districts of R2, R3, MU1 and a new Zone of MU2 were done to allow for future expansion for the City and creating more diversity. We increased some of the density requirements in order to allow for some multi-family units, which also required us to indicate minimum parking standards, and the use of design review on all buildings within the MU zones to make sure the result is family friendly and maintains a small town feel. The parking standards used are compatible to what the City of Rexburg has been

using for its small units. We also added a 20% minimum requirement for open space in MU2 in order to make sure it has a small town feel and looks attractive.

In addition, the hearing record established the following:

7. There were ten members of the public in attendance at the public hearing.

8. There were three letters, one from Brent Kinghorn, one from Robert Searcy, and one from Paul Jeppson, received and entered into record.

9. Ryan Lerwill testified in favor of the three proposals:

There are now 39 lots now in existence in Old Farm Estates (the property which is the subject of the application). 24 have been sold. 6 homes being built.

The applicant is requesting changes to the existing R-3 zone to increase density from 12 units per acre to 16 units per acre and a minimum of 1.5 parking spaces per unit. The applicant requests that the MU-1 zone be amended to provide for an increase from eight to 16 residences per acre, 1.5 parking spaces per unit and to add professional uses. The applicant requested that there be a new MU-2 zone established which will provide for 30 living units per acres in addition to the other uses provided in MU-1.

The changes will benefit the City as they will provide needed industry, businesses and high density housing for its tax base.

School district gets its share of school tax from Wal-Mart. Rexburg gets all other taxes that Wal-Mart pays. The City can't survive as single family residences only.

The new and amended zones will allow for much needed housing for singles, young couples and retired couples. As members of the community, we understand and agree that preserving a small town feel and values is important and these properties will be developed to protect those values. We do, however have to have the flexibility to market the properties and the demand in this area is for these kinds of uses.

We have discovered that there is interest in the following potential businesses to be located in the areas to be designated MU-1 or 2:

Birthing Center
50 and older community
Farm and Garden Center
Hotel
Multi Unit Residential
Patio Homes
Town Homes

Proposing two more zones to mix commercial and higher density residential will add to the attractiveness of our community and will make for an energetic and vital segment of this new development.

The western portion of this property is in a view corridor from US 20 and is in proximity to Wal-Mart in an area that is already heavily commercial.

The reason for zoning is that potential buyers ask what's around me? How many rooftops? How many people will come through my doors? Must have zoning and plan in place or there is no chance of selling. May not happen for 10 years anyway. This must happen if Sugar City is to maintain its own identity and have sufficient tax base so as not to be absorbed by Rexburg.

High density is the least expensive route for city to gain tax revenue. As developed- will improve road intersections that exist. This is necessarily a part of the development process. We are proposing much better intersections and traffic flow than now exists. There is lots of room for transit zones in this development. It encompasses over 140 acres.

Allan Dunn - Sugar City school district. I can't say for sure how this development will affect the school district. More business raises the tax base. The school district can use more money for the schools. More students cost the district more. If all that is built are single family houses, it is reasonable to conclude that the increase in students would either result in no net gain in funding for the schools or a net loss for the schools. Commercial and high density housing can reasonably be expected to result in a net gain in tax revenue.

Scott Johnson- Madison Economic Partners He wanted to clarify how development affects the City's finances. He testified that a city's share of sales tax collected by the state is based on total value of city. A city's share of the gas tax is based on population. Commercial-multi family are the more profitable zones- less infrastructure- more tax base.

Paul Jeppesen- We don't have enough info about MU 1&2. MU-2 hasn't even existed before. We don't know where the streets would be in this development. We don't know what improvements would be there. There should be more specifics about how the development will build out before and new zone is adopted. He would prefer that the higher density housing be in the center of the development and taper out. We have a beautiful view from our front yard. Development will block it. Revitalize main street first. An intersection at less than 100 feet from 33 southern most access will create a bottle neck and will be dangerous. Opposed to MU2.

Todd Lines- I came in favor and am leaving not in favor. I suspect the developers motives. They say this is non confrontational. I suspect it is not. Old plan did not meet the City's rules. This needs to benefit residents- not just developers. High Density housing brings in traffic and crime. Doesn't fit into city's master plan. This will decrease property values. It's happened in every city I've lived in. Business zone literally across the street from commercial zone. We have set aside places for high density housing and commercial in town already. These are already in the plan. This application helps the applicants but not the citizens of Sugar City. I'm almost

neutral on the preliminary plat. I like the bigger lots. It moves High Density housing closer to the city. We need small starter homes.

Dave Thompson- I don't have sufficient information to make a judgment whether these amendments and the new zone are good or not. We have to trust the knowledge of the Planning and Zoning Commission. You know more about this but I am not comfortable with it. Having additional tax reserves would be good. But we need to do it wisely. Don't have enough information yet. Nail down things that have been discussed.

Richard Dopp- takes map as an insult to community. Sugar City can grow with out being bombarded with apartments and cracker-jack houses. Development needs to be inside community and it needs to blend in. Parking for apartments is a problem. Our way of life will change if we go along with any of this. The developers either need to sell or buy a tractor.

Dell Barney. I'm against this because I'm against change. MU2 changes MU1 and I'm against it. I can live with changes to MU-1. Like those changes. Does not like MU-2. Not in accord with Comprehensive plan. We do need the tax base.

Debra Thompson- against because there is not enough information.

Natalie Cleverly- agree with Paul and Becky, beautiful view. Keep Sugar City what it is now. Multiple Use equals increased crime. Apartment dwellers don't care about Sugar City. They will junk it up.

Kevin Cleverly- we need tax base. Opposed to high density housing. We don't have any business because people want to do business in Rexburg. I don't see people coming to Sugar City to have a baby. In Rexburg all the high density is on the outskirts but we have a view. Why not put the commercial and high density housing in the middle of the development.

Brent Kinghorn- Does not support changes. These changes alter the original plan proposed by the developer. More density is contrary to our small town values. We are a separate community from Rexburg. We should not be imitating it.

Robert Searcy- I am concerned about traffic. The application doesn't show where the streets and intersections are. It does not provide for the traffic jams that are certain to occur if high density housing and multiple use are allowed.

Jody Crawford- I don't support the amendments. I'm against them for all the reasons stated before.

Christine Lines- Our Comprehensive Plan says we should remain a small town. We have always had an independent spirit. The Comprehensive Plan also says we are to provide housing for every resident's needs. A person that doesn't already live here is not a resident. We don't have to supply housing for new residents. The Comprehensive Plan requires that we perpetuate what exists. We shouldn't grow. There have been failures in the past (Toscano Dalling donut hole). We should have contiguous zones rather than spot zoning.

Art Hunt- Applicants are in a tough spot. They need to attract business and have to tell buyers what to expect. MU-2 feels like a blank check. Needs more planning and information.

Many Louise Barney- 435 units in town now. 1400 in 140 acres proposed. That is too much density and will change the character of our community. It will lead to traffic jams. Doesn't want her house butted up next to a K-Mart. What is going to happen to 7th West- Will it be a 4 lane highway? It will be right next to my door. What does it do to the water table? Water table will not be affected- Does not like big huge apartments.

Spencer Cook- Asks question. How much tax will we receive if proposed zones are approved? Does anyone have a better solution. He is neutral. We need to grow and bring business. If you are against- What is your plan?

Robert Saurey- Neutral. At least 80 cars a day go in and out of the Old Farm Estates development. New development will bring more traffic. New intersections need to be in place before development occurs.

10. Our review of the comprehensive plan use map shows that the Sugar City Comprehensive Plan provides for residential and commercial use and development of this area of the City.

11. The only evidence before the commission as to the ability of the City to provide utility services was from the developer, but the evidence indicated that there was at this time sufficient capacity in the system to support a development of the size projected if the developer provides the necessary water rights and pumping station for potable water as the development builds out and provides the necessary infrastructure to bring sewage to the existing city sewer system.

12. There was no evidence indicating any other public services could not be delivered to this property if the zoning was changed..

13. Under current zoning, approximately 440 residential units can be built on the property affected by the zoning changes. If the changes being proposed were applied to the property, the approved density would allow for up to 1,400 resident units to be built on the property.

DISCUSSION

Following is a summary of provisions in the City's Comprehensive Plan that bear on zoning issues.

Central Values and Supporting Values

1. Promote health, safety, and general welfare of people.
2. Promote livability and orderly growth.

3.Promotes a safe, clean, prosperous and attractive community. Upholds justice, education, wholesome recreation, the natural environment and respect for the past.

Chapter 3. Property rights:

Maximum individual liberty with regards to property rights.

Balance public interests with the interests of property owners.

To maintain a regulatory framework ensuring that land use policies, restrictions and fees do not excessively impact property values.

Provide for legitimate applications of police power, which may restrict land use without paying compensation when deemed necessary to protect the public interest.

Chapter 5. Economic development:

Encourage economic developments that are suitable to various locations and public needs.

Zone so as to provide optimal settings for each sector of use.

To encourage cohesive and complete residential neighborhoods and vibrant commercial and business districts.

Chapter 6. Land Use:

Residential. Lands used primarily for single-family or multi-family dwellings.

Land Use Map is a roadmap for development.

The multiple-use zoning district in the city ordinances, however, is *guided only indirectly by the comprehensive plan*. Lands are designated for multiple use on a case-by-case basis as directed by ordinance, consistent with values and goals in the comprehensive plan. Multiple use may involve lands in any land use classification(s) on the land use map.

Chapter 11. Housing:

Promote a range of housing types and affordability.

To ensure smooth transitions between housing types.

Zone to retain a predominance of single family housing.

To require transitional lots and/or buildings-or buffers- as appropriate at zone boundaries and between land uses.

To allow a modest range of densities and encourage appropriate clustering.

To discourage development of large, independent residential areas outside the city or its impact area.

It is clear that there are provisions in the Comprehensive Plan that support an amendment of density and parking regulations of the zoning R2 and 3 zoning districts and the MU1 and 2 zoning districts. The Planning and Zoning Commission's findings and recommendations touched on several of these factors, including:

1. A review of the Comprehensive Plan and a finding that there were not "any issues in the comprehensive plan that this application would not meet in its intent."

2. "[A]ll public infrastructures were adequate and met all required codes."

3. "The impact study done by the developer's engineer was reviewed and considered in [the] ultimate recommendation."

4. "There were no streets that would require any special approval."

5. Changes in zoning districts are necessary to "allow for future expansion and to [create] more diversity."

6. "To make sure the result [of development] is family friendly and maintains a small town feel." The developers, prior to the hearing had agreed to reduce the density of units in their application for a new MU2 zone from 30 units per acres to 24 units per acre.

7. "We added a 20% minimum requirement for open space in MU2 in order to make sure it has a small town feel and looks attractive."

8. Appendix A of the Comprehensive Plan, The current Land Use Map, reflects that this property is designated as multiple use and residential. The past land use map showed this property as residential.

There are three provisions out of those listed that may be found to be contrary to the proposed changes in zoning. Not all of these were directly commented on by any of the witnesses.

1. Zone to retain predominance of single-family housing.

The Comprehensive Plan does not specify, quantify, or give any further guidance as to what "retain predominance of single family housing" actually means. It has been defined "as present as the strongest or main element." "The quality of being more noticeable than anything else." This is a difficult characteristic to judge as it, as with perhaps, beauty, is mainly in the eye of the beholder. Be that as it may there are some quantifiable measures to be considered:

a. Currently in Sugar City there are 751 lots either built as single family homes or existing and zoned for single family residences. (This does not count infill [read this as vacant] lots in the City.) There is another roughly 60 acres of undeveloped land identified in the land use map as residential which adjoins the traditional single family residence neighborhoods in the City. This acreage, if developed as single family residences would provide as many as 200 more single family residences in the City. By far, most acreage in the city is zoned for detached single family housing.

b. There are substantial business and industrial areas within the City, including, potato processing, a business park, farm equipment dealership and a fertilizer plant.

c. Currently there are 16 multi family units existing, and with the latest zoning a possibility of 684 additional multifamily units that could be built.

d. The location of the developable multifamily property in this development lies in the southwestern portion of the City, separate from existing single family housing excepting those single family homes in the county which are west and across a road from the zones.

e. There is a mobile home park in the City directly north of the zones allowing the development of multiple family housing.

f. The comprehensive plan specifically calls out multiple use districts as being only indirectly guided by the comprehensive plan.

There is no direct evidence that the proposed zone amendments are not in accord with the plan. There would appear to be more single family residences allowed/planned for than any other use permitted or planned in the City. A large majority of the land in the City is used/dedicated/or planned for use as single family residences.

2. Promote housing consistent with [Sugar City's] small-town, family-focused character.

Again, there is no evidence that establishes that the proposed zoning is not in accord with the plan. Add all the possible occupants of the projected multifamily housing to the residents of Sugar City and those that might come from the development of additional single family housing, and you still have a really small town. Family focused is not something you can zone for when you are talking about different forms of residential housing. It is the Council's conclusion that family focused housing is that housing that allows families, in all their varieties to have a place in our community.

3. Maintain and perpetuate . . . quiet neighborhoods.

The only evidence in the record that development allowed by the new zoning would result in noisy neighborhoods is perhaps that there will be increased traffic and more people. There is a difference between noise generated by commercial, recreational and industrial uses and that which is inherent in residential neighborhoods. There is nothing in the new zoning that invites or permits noisy activities in residential areas.

Our review of the record leads us to the conclusion that all of the other factors listed in the Comprehensive Plan support the amendment/establishment of these zones.

According to Idaho Code, Section 67-6502, the purpose of this the land use planning act that provides for comprehensive plans and the zoning process “shall be to promote the health, safety and general welfare of the people of the state of Idaho” as follows:

(a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.

(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.

(c) To ensure that the economy of the state and localities is protected.

(d) To ensure that the important environmental features of the state and localities are protected.

(e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, fiber and minerals, as well as the economic benefits they provide to the community.

(f) To encourage urban and urban-type development within incorporated cities.

(g) To avoid undue concentration of population and overcrowding of land.

(h) To ensure that the development on land is commensurate with the physical characteristics of the land.

(i) To protect life and property in areas subject to natural hazards and disasters.

(j) To protect fish, wildlife and recreation resources.

(k) To avoid undue water and air pollution.

(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.

The proposed amendment of the Land Use Map, zoning and preliminary plat protect property rightsm encourage appropriate development in Sugar City, avoid undue concentration of population and overcrowding of land, encourage economic development within the City and are not contrary to the other purposes in the Local Land Use Planning Act.

CONCLUSIONS OF LAW

The City Council concludes regarding the application that:

1. The proposed amendments to the Land Use Map complies with state law, the Sugar City Code and the Comprehensive Plan.
2. The proposed amended zones and proposed new zone comply with state law, the city code and the Comprehensive Plan as noted above.
3. The proposed preliminary plat complies with applicable state and federal laws and regulations, the requirements of the city code and the Comprehensive Plan.

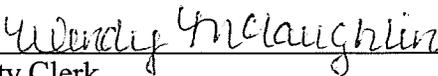
CITY COUNCIL ACTION

Concluding all of the above, the Sugar City City Council approves and adopts the amendments to the Land Use Map as shown in the map attached hereto. The City Council further approves the preliminary plat submitted by the applicant with the requirement that the proposed alignment or connection of Third South to Idaho 33 (Front Street) be redesigned. The City Council shall consider an ordinance amending the R-3 and MU-1 zones and establishing and new MU-2 zone.

Signed this 19th day of April, 2016.

By: 
Mayor

Attest:


City Clerk