

FARMINGTON CITY COUNCIL MEETING

Wednesday, February 16, 2005

CITY COUNCIL STUDY SESSION/ KITCHEN AREA OF CITY OFFICES

PRESENT: Mayor David M. Connors, Council Members David Hale, Larry W. Haugen, Susan T. Holmes, Sid Young, and Rick Dutson, City Manager Max Forbush, City Planner David Petersen, City Attorney Lisa Romney, and Deputy Recorder Jeane Chipman.

Mayor Connors began discussion at 6:30 P.M.

Ms. Romney reviewed procedures to be observed during the regular session when the City Council will consider the appeal of the Planning Commission's decision to sustain an existing conditional use permit #C-8-05 for an attached garage and site plan for development of property at 139 East 400 North. The appeal was being brought by Larry Alsup and Cindy Morrow. It was emphasized that discussion during the work session only included procedural information and did not include anything of substance regarding the appeal itself. Ms. Romney stated that comments during the regular session agenda item must be kept relevant to the grounds of the appeal. No new evidence or information could be considered. She presented information regarding the standard of review and the rules of statutory construction in review of ordinance interpretation. The standards and rules gave the framework for reviewing the Planning Commission's decision. The decision was an administrative decision and not a legislative decision thus the standard must be "correctness." Did the Planning Commission take correct action in their decision to sustain an existing conditional use permit? Also, did the Planning Commission provide a substantial record to support the decision they made? Ms. Romney discussed 13 rules of statutory construction in reviewing ordinance interpretations. Council members were each given a copy of the rules.

REGULAR CITY COUNCIL/CITY CHAMBERS/CALL TO ORDER

PRESENT: Mayor David M. Connors, Council Members David Hale, Larry W. Haugen, Susan T. Holmes, Sid Young, and Rick Dutson, City Manager Max Forbush, City Planner David Petersen, City Recorder Margy Lomax, City Attorney Lisa Romney, and Deputy Recorder Jeane Chipman.

Mayor Connors called the meeting to order at 7:00 P.M. The invocation was offered by **Rick Dutson** and the Pledge of Allegiance was led by **Kyle Heninge** of Scout Troop 1365 .

APPROVAL OF MINUTES OF PREVIOUS MEETING

Larry Haugen moved to approve the minutes of the February 2, 2005, City Council Meeting. **Rick Dutson** seconded the motion. The voting was unanimous in the affirmative.

REPORT OF PLANNING COMMISSION (Agenda Item #3)

David Petersen reported proceedings of the Planning Commission meeting held February 10, 2005. He covered the following items:

- The Planning Commission recommended the City Council grant final plat approval for Farmington Ranches Phase 7A and 7B located at approximately 2200 West Clark Lane.
- The Planning Commission granted preliminary plat approval for the northern portion of the McKittrick subdivision consisting of 28 lots located at approximately 800 North 1875 West.
- The Planning Commission granted conditional use and site plan approval to adjust property sign requirements for the Farmington Crossing on Spring Creek Pond development located in the vicinity of Shepard Lane, Shepard Creek Parkway, U.S.89, and I-15.

PUBLIC HEARING: APPEAL OF PLANNING COMMISSION’S DECISION TO SUSTAIN AN EXISTING CONDITIONAL USE PERMIT #C-8-05 FOR AN ATTACHED GARAGE AND SITE PLAN FOR DEVELOPMENT OF PROPERTY AT 139 EAST 400 NORTH/LARRY ALSUP AND CINDY MORROW (Agenda Item #4)

Mayor Connors introduced the appeal by Larry Alsup and Cindy Morrow of the Planning Commission’s decision to sustain an existing conditional use permit issued to Mr. Alsup and Ms. Morrow. The Mayor briefly described the appeal and outlined the planned procedure for the hearing. There had been an hour set aside for the appeal business. The Mayor directed that every presentation during the agenda item must be limited to information within the scope of the appeal. No new evidence would be heard or considered. Information given the City Council included the appeal information submitted by the appellant and the staff report in response to the appeal.

Lisa Romney (City Attorney) reviewed rules of statutory construction and standards of review. This was a review of an administrative decision by the Planning Commission. The standard was “correctness.” A copy of material summarizing the standards of the reviews and the statutory rules of construction had been given to the City officials and the appellant. It was stated that the City Council had been clearly instructed regarding those rules.

Mr. Petersen presented an overview of the proceedings of the Planning Commission. He said City officials had originally responded to a citizen complaint stating that the applicant had not followed the conditional use permit as granted. Mr. Petersen illustrated the variations from the site plan design which had been carried out by Mr. Alsup and Ms. Morrow. Because of the variations,

a stop work order had been issued. The City Planner reviewed the staff report as presented in the packet:

Packet Information:

A. Conditional Use Permit and Site Plan

On June 24, 2004, the Planning Commission approved a Conditional Use Permit and Site Plan Application from Larry Alsup and Cindy Morrow to construct a single family dwelling and an attached garage on property located at 139 East 400 North, Farmington, Utah. The Conditional Use Permit was approved for a garage to be constructed even with the front setback line of the dwelling in accordance with the requirements and provisions of Section 11-17-050 of the Farmington City Zoning Ordinance. A copy of the minutes from the June 24, 2004 Planning Commission meeting are attached. The approved Conditional Use Permit and Site Plan are also attached.

B. Building Permit

In accordance with the approved Conditional Use Permit and Site Plan for the subject property, Farmington City issued a building permit to Larry Alsup on October 20, 2004 for a single family home and an attached garage. The City issued a Notice of Violation of Conditional Use Permit on December 9, 2004 on the grounds that an existing building on the site was demolished in violation of the approved Conditional Use Permit and Site Plan. Notice of a revocation hearing to be held before the Planning Commission on January 13, 2005 regarding the issued Conditional Use Permit was also provided in the Notice of Violation.

C. Stop Work Order

The City issued a stop work order for the attached garage portion of the project on December 16, 2004. The Stop Work Order was issued for failure to comply with the approved Site Plan and Conditional Use Permit for the site and violation of Section 11-17-050(4) of the Farmington City Zoning Ordinance. A copy of the Stop Work Order is attached.

D. Revocation Hearing

The Planning Commission held a hearing on January 13, 2005, regarding the potential revocation or modification to the Conditional Use Permit for the stated violations of the permit and applicable City Ordinances. The Planning Commission received public comment regarding the proposed revocation or modification to the Conditional Use Permit. The property owners were provided an opportunity to present evidence as to why the Conditional Use Permit should not be revoked or modified.

E. Planning Commission Decision

After taking public comment and hearing from Staff and the property owners, and having fully considered the matters and arguments raised, the Planning Commission voted to affirm the Conditional Use Permit as issued for the subject property. The Planning Commission also directed the property owners to come back to the Planning Commission with an acceptable and satisfactory resolution of the screening issues created by the demolition of the existing structure. The property owners were required to comply with the terms and conditions of the approved Conditional Use Permit and Site Plan for the property and to return to the Planning Commission with acceptable remedies on or before February 24, 2005. The motion passed by a unanimous vote (6-0). A copy of the minutes of the Planning Commission meeting of January 13, 2005 are attached.

The Planning Commission established the following findings in support of their motion to affirm the Conditional Use Permit:

1. The action complied with the ordinance as written.
2. The action sustained the original conditional use permit. Any modification to that conditional use permit would have to follow ordinance requirements.
3. The action allowed the applicant time to work with City Staff and come into compliance with the ordinance.

F. Appeal

The property owners appealed the Planning Commission's decision by letter of appeal dated January 28, 2005 ("Appeal"), as submitted by the property owner's legal counsel Richard W. Jones of Helgesen, Waterfall & Jones, Ogden, Utah. A copy of the Appeal is attached hereto.

Appeal Standards And Procedures:

A. Appeal to the City Council

Section 11-8-113 of the Conditional Use Permit provisions of the Zoning Ordinance provides “[a]ny decision made in the administration of this Chapter may be appealed as outlined in Section 11-4-109 of this Title.” Pursuant to Section 11-4-109 of the Zoning Ordinance, any person aggrieved by any decision of the Planning Commission in the administration of the Zoning Ordinance may appeal such decision to the City Council.

B. Standards and Procedures

A discussion of the relevant standard of review and procedures for hearing the appeal shall be provided by separate correspondence from the City’s legal counsel.

Staff Analysis:

It is Staff’s opinion that the Planning Commission’s decision affirming the Conditional Use Permit as originally issued was correct and should be affirmed by the City Council on appeal. As more particularly discussed below, the Planning Commission agreed with Staff’s interpretation of City Ordinances regarding the required Conditional Use Permit and the stated violations of the Conditional Use Permit and Site Plan approved for the property. The stated grounds for appeal are discussed and addressed as follows.

A. Issuance of Conditional Use Permit

The Appeal argues that a conditional use permit was never issued and that a conditional use permit is not required for the intended construction. Appellants further argue that there was some confusion or “recharacterization” of the conditional use permit requirement and process. It is clear from the record that a conditional use permit was required in this case for the construction of a garage even with the dwelling. The record shows that the Appellants filed a conditional use permit application as early as May 24, 2004. A conditional use permit hearing was held by the Planning Commission on June 24, 2004 regarding this issue. The Planning Commission approved the conditional use permit by action and motion of the Planning Commission on June 24, 2004, as indicated in the minutes of the meeting.

To the extent the Appeal argues that an actual “permit” was never issued and therefore a conditional use permit was not approved, it is Staff’s opinion that the action and motion of the Planning Commission on June 24, 2004 is sufficient showing of the approval of a conditional use permit.

Notwithstanding the foregoing, and in order to comply with the property owners' desire to be "issued" a conditional use permit, a permit consistent with the original action of the Planning Commission on June 24, 2004 has been issued for the subject property. See, correspondence dated January 31, 2005 and Conditional Use Permit, as attached.

Furthermore, and perhaps more importantly, if the City Council agrees with the Appellant's argument that no Conditional Use Permit was ever issued in this case for construction of the garage, the construction would be in violation of City Ordinances for failure to obtain a conditional use permit to construct a garage even with the front setback of the dwelling as required by Section 11-17-050(4).

B. Application and Interpretation of Zoning Ordinance

The Appellants' next contention is that the Planning Commission and Zoning Administrator have not correctly applied the relevant Zoning Ordinances and that the garage has been properly placed on the lot. Staff and Planning Commission's interpretation of the applicable Ordinances are set forth as follows.

The subject property is located in the Original Townsite Residential (OTR) Zone. The purpose of this Zone is to "conserve and protect the beauty and historic character of the original townsite residential area of Farmington City through conservation of neighborhoods which reflect distinctive features of the original townsite, to promote the public welfare by keeping the original townsite area a desirable and attractive place in which to live, *and to assure compatibility of design of new residential units, additions, remodels, and accessory structures.*" (emphasis added). As many of the old homes in the OTR Zone do not have garages or garages in the front of the house, provisions were placed in the OTR Zone regarding garages and acceptable locations of new garages in order to provide for compatible development.

Section 11-17-050(4) provides:

(4) All garages and any similarly related accessory buildings, whether attached or detached, shall be considered for approval as follows:

(a) Under no circumstance shall any garage encroach into the front yard, or any other yard, except side yards and the rear yard, of the building lot;

(b) Attached garages constructed even with the front setback line, or that are setback (or recessed) from the front setback less than a distance equal to half the depth of the main building, shall require a conditional use permit;

(c) All other garages, unless otherwise provided herein, shall be

considered as a Permitted Use.

Subsection (4)(a) sets forth an overall prohibition of garages in the front yard providing that “under no circumstances” shall any garage encroach into the front yard, or any other yard, except side yards and the rear yard, of the building lot. There are two definitions of “front yard” in Chapter 2 of the Zoning Ordinance. The first definition is “Yard, Front” which is defined as “[a]ny yard between the front line and the setback line of a main building and extending for the full width of the lot.” The second definition is “Yard, Required Front” which is defined as “[a]ny yard between the front lot line and the minimum setback distance required for the front yard in a particular zone.” The intended difference between these two definitions is: (1) to define an area between the building and the front lot line as the “front yard;” and (2) to define the area between the front lot line and the required minimum building setback as the “required front yard.” The required front yard area in the OTR Zone is thirty (30) feet as provided in Section 11-17-040. This means that any building constructed in the OTR Zone must be built “at least” thirty (30) feet back from the property line. The front yard area is that area between the actual building location and the front lot line. Thus, if a building is constructed fifty (50) feet back from the front property line, the required front yard area is still thirty (30) feet, but the front yard area is fifty (50) feet.

The applicable ordinance provision in Subsection (4)(a) at issue uses the term “front yard” not “required front yard.” Thus, wherever the building is actually constructed, whether at the minimum required front yard setback (30 feet) or further back (50 feet), the garage in the OTR Zone must be set back or even with such building under Subsection (4)(a). The City Council could have adopted an ordinance that prohibited encroachment into the required front yard area. Such an ordinance provision would permit a garage in the OTR Zone to be built anywhere beyond the 30-foot required setback. It did not. The ordinances should not be read to provide for something they do not.

Subsection (4)(b) is consistent with and builds upon the provisions of Subsection (4)(a) regarding the location of garages in the OTR Zone. As noted, Subsection (4)(a) provides that under no circumstances shall a garage encroach into the front yard area of the lot. Subsection (4)(b) further provides that if the garage is not setback or recessed from the front of the house by at least a distance equal to half the depth of the main building, a conditional use shall be required. Read together, these provisions provide that a garage in the OTR Zone cannot encroach into the front yard area *and* if the garage is even with or recessed less than a distance equal to half the depth of the main building a conditional use must be obtained. Both provisions are applicable in the case at hand and subject the proposed construction of the garage even with the main building to conditional use permit requirements. The ordinance provisions do not permit the construction of the garage in the front yard area (as suggested by the Appellants). The ordinance provisions do not permit the construction of the garage even with or less than a distance equal to half the depth of the main building without a conditional use permit (as also suggested by the Appellants).

Even if it is determined that the Ordinances have been incorrectly interpreted, the Appellants have still failed to construct their site in accordance with the approved Site Plan for the property. Failure to construct in accordance with approved Site Plan is a violation of City Ordinance and subject to enforcement action, including Stop Work Order.

C. Lack of Conditions for Conditional Use Permit

Appellants argue that the conditional use permit is invalid or not issued because no conditions of approval were imposed with the permit by the Planning Commission. There is nothing in City Ordinances that requires the Planning Commission to impose conditions on a conditional use permit. If there are no conditions necessary to mitigate any negative impacts, a conditional use permit may be issued without conditions. City Ordinances recognize that conditional use permits may be issued with or without conditions. Section 11-8-107(1) provides: "After consideration of the testimony, the application, and all other evidence presented, the Planning Commission may approve the application, approve the application with conditions, continue the application to a subsequent meeting, or disapprove the application." Furthermore, Section 11-8-107(2) provides: "Appropriate conditions *may* be attached to any approval where, and to the extent that, the Planning Commission finds that the imposition of such conditions will directly mitigate or eliminate some impact created by the proposed use which violates the intent of this Chapter and Title." (emphasis added).

D. Garage as Main Building

The Appellants assert that the garage does not encroach into the front yard of the lot due to the fact that the garage is part of the main building. They state that under the definitions in the Zoning Ordinance, the setback begins at the main building (which includes garages) and ends at the street.

This argument fails to acknowledge the word "attached" as set forth in Section 11-17-050(4) of the Ordinance. All garages, whether attached or detached, in the OTR zone cannot encroach into the front yard and attached garages constructed even with the front setback line, or that are setback (or recessed) from the front setback less than a distance equal to half the depth of the main building, shall require a conditional use permit. The Appellants state that the main building, in this case the house, includes the garage, and therefore the plain language of the ordinance, "all garages . . . whether attached or detached", does not apply.

The Planning Commission determined that the attached garage is not the main building for the lot. Main buildings by definition house the principle use on the lot. In this case the dwelling is the principle use and therefore the main building for the lot. Section 11-2-020(33) of the Zoning Ordinance defines a dwelling in part as: "Any building or portion thereof which is designed for use for residential purposes." Meanwhile, Webster's II New Riverside University Dictionary defines a

garage as: “A building or wing of a building in which to park a car”. [Note: Dictionary definitions may be used as set forth in Section 11-2-010 of the Zoning Ordinance for words not included therein]. The Planning Commission correctly distinguished the garage from the main building of the lot which is the dwelling.

The fact that residential space is provided above a garage does also not change the nature or character of the garage area of the structure. Any portion of such structure which houses vehicles is considered the garage and under the provisions of the OTR Zone, the garage must be set back from the main building or a conditional use permit obtained to allow it to be constructed even with the front setback line of the main building.

E. Demolition of Existing Structure

Appellants indicate that the demolition of the historic home did not create a negative impact with regards to the orientation and screening of the single-family home and attached garage. The Appellants support this assertion with arguments that the 1861 home was not historic.

It is not the City’s position that the 1861 structure that existed on the Appellants’ lot was listed on the City’s Historic Sites List or Historic Landmark List. The City’s position is that the structure was demolished without a demolition permit in violation of City Ordinances and Building Codes. Furthermore, the demolition of the existing structure altered the approved Site Plan for the property. Under City Ordinances regarding site plan approval and review, the Site Plan for the property must be amended to reflect the elimination of a previously existing structure. As part of such Site Plan amendment, further screening may be necessary to address issues raised by the elimination of the front structure. The Planning Commission is authorized and responsible for addressing these issues as part of the Site Plan amendment process whether the demolished structure was historic or not. The Planning Commission’s directive to the property owners regarding this matter was correct and authorized.

Provisions of the OTR Zone further support consideration of building setback, orientation and screening as part of development review and approval. Section 11-17-070(1) provides that new buildings in the OTR Zone should be arranged on their sites in ways similar to existing buildings in the area. Such consideration includes building setbacks, orientation and open space. Section 11-17-070(2) also provides that the setbacks proposed shall be compatible with the character (including historic qualities related thereto) of the site, and the existing setback of structures on adjacent and surrounding properties.

Prior to the demolition of the front structure, the conditional use permit issued for the site complied with above-stated standards set forth in the OTR zone because the site with the front structure was compatible with the character of the surrounding properties and had been for years. The site does not comply with these provisions now. The row of historic structures screened the Appellants’ proposed new dwelling on the lot. Without the front row screening of compatible structures, the proposed construction of the lot is not compatible with the character of surrounding properties because it is not arranged on the site in a way similar to other buildings in the area.

Conclusion:

To the extent the Appellants have suffered any injury or delay in the construction their home on the subject property, it is based upon their own actions and failure to comply with approved plans and applicable City Ordinances. The Appellants failed to construct the garage in accordance with the approved Conditional Use Permit and Site Plan for the property. In fact, according to information submitted by the Appellants, the construction of the garage encroaches some twenty-one (21) feet into the front yard area of the lot. The approved plans show the garage even with the front setback line of the dwelling. In addition, the Appellants demolished an existing structure on the property without obtaining the required demolition permit. The Planning Commission correctly affirmed the existing Conditional Use Permit and Site Plan for the property and provided the Appellants with reasonable time to bring the construction into compliance with the approved plans or to revise the plans to bring them into compliance with City Ordinances.

Supplementary Information:

The following information is submitted to the City Council as constituting the record of the proceedings before the Planning Commission in this matter.

May 24, 2004 Conditional Use and/or Site Development Application
June 24, 2004 Planning Commission Staff Report (with attachments)
June 24, 2004 Planning Commission Minutes
June 24, 2004 Approved Site Plan (Stamped September 29, 2004)
June 24, 2004 Conditional Use Permit (Issued January 31, 2005)
July 2, 2004 Letter from David Petersen
October 20, 2004 Building Permit (Application date September 15, 2004)
December 9, 2004 Notice of Violation of Conditional Use Permit
December 10, 2004 Letter from David Petersen
December 16, 2004 Stop Work Order
January 3, 2005 Letter to David Petersen
January 12, 2005 Letter to David Petersen
January 13, 2005 Planning Commission Staff Report (with attachments)
January 13, 2005 Planning Commission Minutes
January 19, 2005 Letter to Alsup and Morrow on Planning Commission Decision
January 26, 2005 Revised Site Plan
January 28, 2005 Appeal of Planning Commission Decision
January 31, 2005 Letter to Alsup and Morrow on Conditional Use Permit
January 31, 2005 Letter to Alsup and Morrow on revised Site Plan
February 11, 2005 Letter from Robert J. Dale (Attorney)
Undated correspondence from Larry Alsup to Planning Commission
Relevant Ordinances

It was the opinion of City Staff that the Planning Commission had acted correctly.

Mayor Connors invited Richard Jones to address the City Council and present the appellant's reasoning concerning the appeal. Mr. Jones was asked to limit arguments to issues raised in the appeal and to the evidence in the record.

Richard Jones (legal representative for Mr. Alsup and Ms. Morrow) stated that the standard of review set forth in City ordinance directed that appeals must be presented within 15 days of the action being appealed. According to those ordinances, the City Council may act as the Planning Commission, which Mr. Jones understood to mean the City Council could look at the issues as a new application.

Mr. Jones explained there had been three buildings historically on the property. It was the intent of Larry Alsup and Cindy Morrow to preserve all three (the barn, the grainery, and the house). Larry and Cindy had spent a great deal of money in preservation of the buildings. The house had been evaluated and had been deemed unsafe. The appellants had tried to preserve the old home but could not. Mr. Jones felt the appellants were not bad people but rather had good intentions to help the City by preserving the historical structures. These were accessory buildings on the property. Mr. Jones felt there were areas in which the City had made mistakes, and there should be mitigating actions by City officials showing forth discretion and forgiveness for mistakes made by the appellants.

It was the appellant's contention that Farmington City had never issued a written conditional use permit in this matter nor had the City ever reduced to writing the terms of the conditional use. Mr. Jones reported there were two documents which outlined the actions by the Planning Commission and the City Planner. The first was the minutes of the Planning Commission meeting held June 24, 2005, wherein the Planning Commission moved to grant conditional use and site plan approval subject to all applicable Farmington City ordinances and standards. No conditions were listed in the minutes of that meeting. The second was a letter sent Mr. Alsup from the City Planner wherein Mr. Petersen stated that the Planning Commission had approved the application to construct an attached garage located at 139 East 400 North subject to all applicable Farmington City ordinances. The letter was dated July 2, 2004 and also stated: "Let us take this opportunity to remind you that a building permit will be approved only after a Conditional Use Permit is issued." Mr. Jones stated that the conditional use permit was not issued until 4 months after the building permit was issued, and the conditional use permit did not contain any specific list of conditions. It is hard to say that the appellants had not met the conditions of the site plan when the conditions were not in the minutes of the meeting or the letter of affirmation. No conditions were ever given. When asked if Mr. Alsup had signed the building permit with an understanding that the Planning Commission had granted the conditional use implicit in the building permit, Mr. Jones was unclear. Mr. Jones had another attorney look at the documents described, and his opinion that no conditions had been established had been supported.

Mr. Jones stated that the City had issued a "stop work" order on December 16, 2004. The "stop work" order did not indicate how the site plan had been violated. The "stop work" order referenced Section 11-17-050(4)(a) of the City ordinances but that ordinance had been incorrectly applied.

Mr. Jones explained it was his contention that the reading of ordinances regarding whether or not the garage was in front of the front yard setback line was misinterpreted. By ordinance definition, it was clear that the front yard starts with the main building which includes the main building's appendages. Also, by State law, city ordinances should be read in a way that they will allow property owners the use of their land. Farmington City ordinances state that a property owner can have a garage even with the front yard setback if a conditional use permit is granted. The conditional use permit can allow the garage to be put any place on the lot if it is not in the front yard. The Planning Commission decision on June 24th only required compliance with the City ordinances, not that the garage be set back further on the yard than the 100 plus feet that it already is. There was simply no requirement that the garage be set back any further than the front setback line (which the ordinance requires at 30 feet). There could not be a violation of the City ordinances when there was no requirement set by the Planning Commission requiring a further setback. Since the garage is not in the front yard there is no violation. The only way to interpret this differently is to redefine "building" and "main building" to not include a garage, but these definitions clearly include a garage as part of a building and a main building. The only conclusion to reach is that the home and attached garage do not violate the provisions of the ordinance. Mr. Jones also stated that site plan approval was the responsibility of the City Planner and not the duty of the Planning Commission.

Mr. Jones stated that the appellants had done a good job of protecting the City; their home was not offensive and was a beautiful addition to the community; and there was no reasonable grounds to make them tear down the \$30,000 garage and make them build it over again. The garage was allowed to be built any place on the lot except in front yard. Mr. Jones admitted that Mr. Alsup had presented a site plan to the Planning Commission and subsequently changed it, but doing so was fairly common.

For clarification, **Mayor Connors** asked if it was indeed the position of the appellant that there was no conditional use permit issued.

Mr. Jones said the conditional use requirements were never established. Therefore, Mr. Alsup and Ms. Morrow did not know what the conditions were. He continued by explaining what happened to the historic home. The roof of the home fell. Mr. Alsup had a back hoe there and so tore down the entire rest of the structure. He also noted that the garage was located 130 feet off the pavement. The home as built was consistent with the surrounding area. Larry and Cindy had submitted a modified site plan. Mr. Jones asked that the City Council recognize the good the appellants had done and that the City Council also recognize the real intent of Larry and Cindy's actions. If the City Council was considering that the attached garage could not be considered as part of the main building it was an unfair question because the ordinances do not deal with that issue.

Mayor Connors invited the City Council members to ask questions regarding the appeal. No questions were forthcoming at the time.

Public Hearing

Mayor Connors opened the meeting to a public hearing. He asked that comments be limited to issues raised in the appeal and to evidence in the record. He also asked that comments be addressed to the City Council. A three minute time limit was set for each person making comments.

Ken Hardy (long-time Farmington resident) stated he had known Larry Aslup for quite a while. Mr. Aslup was a good builder. His past home was beautiful. Mr. Hardy had helped with the building of Mr. Aslup's current home, which was going to be beautiful. The home was set far enough back from the road that it would be acceptable. Mr. Hardy said that City codes were guides and not actually laws. Mr. Aslup's new home was not hurting anyone or anything. Mr. Hardy had helped some with the attempt to remodel the old house on the current property. It was very hard to get the work done. Even as the work was being done the chimney collapsed. When he had learned that the roof fell in, he was not surprised. Mr. Hardy believed that the current action of the City officials was a power play and that Mr. Aslup was being railroaded. He agreed that Mr. Aslup had made a couple of mistakes, but it was not really hurting anyone. There had to be some give and take in the situation.

Alsy Revell (208 West State Street, Chair of the Farmington City Historic Preservation Commission) stated that whether a conditional use permit was issued or not, the site as it has currently been built does not comply with the OTR. Because other builders have been required to comply with the zoning ordinance, Mr. Aslup should also be required to do so. The Historic Preservation Commission supported the Planning Commission in the decision they made. In order to be consistent and fair to everyone it was imperative not to make exceptions to the rules. All new construction must be compatible with the surrounding areas. Mr. Aslup's construction does not comply with the OTR.

Judy Anderson (45 East 300 North) reported she had been a member of the OTR steering committee. Mr. Jones' interpretation of the ordinance was inconsistent with the intent of the zone. The intent of the OTR was to protect and preserve the historic nature of Farmington. The Aslup home was clearly out of code. To allow the Alsups to continue would send a message that the ordinance was vulnerable to whatever changes developers wished to make.

Anson Clark (life-long resident of Farmington) stated he was a barber in the community. Because his family helped to settle the Farmington area he had always paid close attention to historic homes in the area. He had watched the construction happening on the Aslup property, and he watched the attempt at remodeling the old home. He had talked to his customers regarding what was happening and had heard overwhelming support of what Mr. Aslup was doing. Citizens felt Mr. Aslup was a good builder and that the City was lucky to have Larry restoring the historic buildings. The historic barn was successfully restored, and it had been a beautiful job. The new garage was barely visible and was unoffensive to neighbors. The layout of the site was something one might find in *Better Homes and Gardens*. Mr. Clark had no problem with the Aslup project.

Public Hearing Closed

Mayor Connors closed the public hearing. He invited both staff and the appellant's attorney to make any concluding remarks they wished summarizing their respective positions.

David Petersen reported that language in City ordinances state conditional use permits are to be “issued.” If there are conditions to the conditional use permit, such conditions must be entered in the minutes of the meeting when the conditional use is granted. Chapter 8 of the zoning ordinances state that any conditional use permit issued for single family homes must conform to Chapter 7 of the zoning ordinance. Conditional use permits are tied to site plans. City staff does not have the authority to review and approve conditional use permits, only the Planning Commission can do this. He illustrated the City’s ordinances regarding front set backs for the benefit of the City Council. Mr. Petersen also stated that on the original site plan submitted by Mr. Alsup, the garage was even with the main building. Because it was even and not behind, it required a conditional use permit. The conditional use permit which include the site plan were approved in June of 2004. A letter was sent by Mr. Petersen on July 2, 2004, informing Mr. Alsup of that approval. On January 31, 2005, Mr. Petersen sent Mr. Alsup and Ms. Morrow a letter affirming the Planning Commission’s granting of the conditional use permit.

Mr. Petersen referred to the staff report contained in the packet indicating that the subject property was located in the OTR zone of the City. The purpose of the OTR was to “conserve and protect the beauty and historic character of the original townsite residential area.” As many of the old homes in the OTR zone do not have garages or garages in the front of the house, provisions were placed in the OTR zone regarding garages and acceptable locations for new garages in order to provide for compatible development.

Mr. Jones stated that it was not possible for the garage to be in the front yard because of the definitions of the ordinances. He stated that his clients should not be held to requirements when there was so much confusion in the ordinances. The new home being constructed by the appellants was consistent with the surrounding properties. The Alsup/Morrow home was not out of character or in disharmony with the OTR zone. It was the intention of Mr. Alsup and Ms. Morrow to help to preserve old Farmington. The City Council could interpret the ordinances as strictly as possible, allow the construction of the garage, and it would not send the wrong message to future developers. The bad message would be to require the appellants to tear down a structure they had built with a permit. He asked the City Council to consider the suggested motion which would grant approval for the appellants to move forward. The Council should focus on the beautiful job the builder had done on the barn and the grainery. The garage was an issue not properly discussed by the Planning Commission during their meeting in June. Mr. Jones also asked the City Council to remember that a building permit was not to be issued until after the conditional use permit was issued. The conditional use permit was not issued until January 31st. That being the case, the building permit should not have been issued when it was. The appellants have been asked to comply with ordinances that seem to be in conflict. There has been a suggestion that the house be built out to where it would be even with the garage thus making the construction appear to be compliant with staff’s interpretation of the ordinance. Doing so would set a bad planning precedent. Mr. Jones asked the City Council to extend mercy regarding something that would benefit the community. It was evident that ordinances directed that garage placement was within legal limits as long as it was placed observing the required 30 foot setback.

Mayor Connors asked if City Council members had questions or comments.

Susan Holmes asked for clarification regarding the timing of events.

Mr. Petersen briefly reviewed that the Planning Commission meeting wherein the Commission granted the conditional use and site plan approval was held on June 24, 2004. The letter informing the applicant of that approval was sent July 2, 2004. The building permit was issued on October 20th. Mr. Petersen stated that a footing and foundation permit was also issued which included the language “commence at your own risk.” When asked about the permit, Mr. Petersen stated the conditional use permit was not reduced into writing until January of 2005.

Mr. Hale reported he had been a member of the Board of Adjustment when Karlynn Hinman discussed the historic property. It had been in her family for years, and it was Ms. Hinman that sold the property for development. Mr. Hale was able to tour the buildings and was impressed with the extent of the preservation done by Mr. Alsup. He was amazed that Mr. Alsup would go to the extent he had to preserve the history of the property. It was obvious to Mr. Hale that the old house on the property was in very poor condition. He agreed with Mr. Hardy that restoring the house would have been extremely difficult. He complimented Mr. Alsup on the quality of his construction. The issues before the City Council during the appeal process was to look at the “correctness” of the actions of the Planning Commission, but Mr. Hale wanted Mr. Alsup to know that the City was appreciative of the quality with which he constructed his new home.

Mr. Young inquired if the site plan at the time of submittal included the old house and if that site plan had been attached to the building permit.

Mr. Petersen responded in the affirmative.

Mr. Young asked for clarification regarding the set back definitions.

Mr. Petersen referred to ordinance information included in the packet material. He reviewed that information for the City Council.

Mayor Connors stated that the City Council had options regarding the agenda item, but that with any decision they made they would need to do so with good reasons. Findings would need to be part of any motion taken by the Council.

Lisa Romney explained that the City Council could, once a decision had been made whether to uphold the Planning Commission’s decision or not, act with the authority of the Planning Commission and decide if any modifications needed to be made. The City Council would still be bound by City ordinances.

Mr. Dutson stated the Planning Commission had issued a conditional use permit. The paper work flow was not clear, but it was evident that a conditional use permit had been granted. The conditional use required the applicant to adhere to City ordinances, including set backs and the preservation of existing structures. That conditional use was acceptable to both parties. The Planning

Commission felt no need for additional conditions because the site plan was tied to the conditional use.

Mr. Petersen said that conditional use permits allow improvement of sites according to the site plan with or without conditions.

Mr. Jones stated that conditional use permits are required to have conditions. The Council must ask what happens when developers have no conditions.

Mayor Connors said the OTR zone language stated that if you are going to locate a garage even with the main building or in front of the main building you need to have a conditional use permit.

Mr. Jones commented that the main building includes the garage.

Mayor Connors said the City Council needed to decide whether Mr. Jones' interpretation reflected the true intent of the OTR zone and if the interpretation was consistent with the definitions within the ordinance. Does the definition of the main building include the garage?

Mr. Alsop commented that the garage he had built was so far away from the road that no one could see it. The intent of the OTR was to have a good looking site.

Mr. Dutson agreed that even when there are errors there needed to be mercy and understanding. When the original hearing on June 24, 2004, took place, every one—both members of the Planning Commission and the applicants—walked out of the room knowing what the building was going to look like. It was assumed that the construction would be built to code. There is always a need for give and take with respect to what's on the plan and what's in the field. However, the Planning Commission obviously struggled with the 21 foot variation issue. Twenty-one feet is evidence of a deliberate moving of the garage without approval. That is not just a tweak or a mistake. The Council had been asked for mercy in appreciation to the preservation work that had been done. On the other hand there was a precedence issue involved. Was it a good precedence to disregard site plan approvals and set back regulations? Ordinance language states that garages, attached or detached, shall not encroach on front yards. Mr. Dutson stated that he would have a hard time defining the garage as part of the main building.

Motion

Sid Young moved that the City Council affirm the Planning Commission's decision to affirm Conditional Use Permit #C-8-04 for property located at 139 East 400 North in the Original Townsite Zone requiring construction to comply with the approved conditional use permit and site plan for the property or for the property owners to submit for approval a revised site plan complying with City Ordinances. This motion was based on the following findings:

1. The Planning Commission approved a conditional use permit for the construction of a garage even with the main building on June 24, 2004.
2. Conditions are not required for the issuance and approval of a conditional use permit.
3. Section 11-17-050(4) references both main buildings and garages and also references garages as attached or detached. City Zoning Ordinances distinguish between main building and garage.
4. "Front yard" and "required front yard" are two separately defined terms under the City zoning Ordinances. Section 11-17-050(4) uses the term "front yard" as opposed to "required front yard."
5. Construction on the lot violates the approved Site Plan which was attached to the Building Permit Application.
6. Demolition of the front structure was conducted without a required demolition permit in violation of City Ordinances.
7. Interpretation of the Zoning Ordinances complies with rules of statutory construction and the stated intent of the OTR zone.

Rick Dutson seconded the motion. The City Council voted unanimously in favor of the motion. (See Attachment "A" to these minutes.)

PUBLIC HEARING: CONSIDERATION OF REQUEST TO REZONE APPROXIMATELY 111 ACRES FROM A TO AE LOCATED IN THE NORTHWEST QUADRANT OF THE CITY NORTH OF BURKE LANE, WEST OF 1525 WEST STREET AND EAST OF THE UTA RAILROAD RIGHT OF WAY/DANVILLE LAND INVESTMENTS (Agenda Item #5)

Mr. Petersen introduced the agenda item. He reviewed the following information:

Most of the property was master planned for rural residential uses and therefore may be considered for the AE zone designation. However, the southeast part of the subject property was master planned for Class A Business Park uses. The Farmington City General Plan for this area was updated in July of 2004. Lines on the Future Land Use map were not intended to be "hard and fast" like zone boundary lines. Mr. Petersen stated that the Planning Commission voted on January 27, 2005, to recommend approval to the City Council of application #Z-1-05 for a zoning change from A to AE on property located at approximately 1650 West 950 North which did encroach into the Business Park area designated on the General Plan.

Public Hearing

Mayor Connors opened the meeting to a public hearing.

Kyle Stowell stated he owned property and was planning to build a home in the vicinity. He was not really opposed to the rezone but wanted the City Council to know of the citizens concerns regarding the traffic safety in the area. Residents do not want Burke lane to be widened. Something needed to be done before subdivisions were approved in that area.

Nate Pugsley (Woodside representative) stated the developer had been trying to obtain a higher density than AE for the area. Given the location next to I-15 and railroad, the fact that the area needed to be a buffer to the business park zone, the construction of the future Legacy Highway, and the western future light rail line, it would not work well to have a low density development located there. The area would be better served by high density. However, the developer finally decided to try to make the project work with AE zoning.

Public Hearing Closed

Susan Holmes thanked Mr. Pugsley for the hard work he had done trying to cooperate with the City and resolve the transportation situation. For the information of Mr. Stowell, Ms. Holmes explained that the City was looking at the transportation plan for the area and was trying to alleviate the problems with the curves and overpasses and other dangerous road conditions. The City Council was very interested and would keep track of those problems.

Mr. Dutson wanted more information regarding how the proposed development would impact the class A office park environment. Exactly where was the subdivision located relative to the park designated on the General Plan? He also wanted more information regarding the wetlands and acreage and the topography of the area.

Mr. Pugsley stated the subdivision rested on a natural upland and the boundary was a creek which seemed to be a natural geographic divide.

Mr. Dutson asked if there was enough property there or if the subdivision was being squeezed onto the property. The property was an impressive parcel.

Mr. Petersen explained that indeed the current application was not consistent with the intent of the Class A Business Park designation in the General Plan.

Mr. Forbush commented that staff had struggled with a firm recommendation because the traffic plan for the area was not solid. Traffic corridors depended on the outcome of the Shepard Lane and I-15 interchange. Market forces would make a difference to the success of an office park development. He thought the proposed subdivision property should be rezoned to AE consistent with the City's General Plan and to wait on the rest of the property until more facts are known relative to transportation corridor placement. If Shepard Lane was made an interchange, it would be nice to have non-residential uses off such an interchange. The non-residential uses and the other uses could be swapped according to where the interchange was placed.

Mayor Connors asked if it was legal for the City Council to rezone property in a manner that was opposite to direction indicated by the General Plan.

Mr. Petersen said the Planning Commission felt the lines on the General Plan were close enough to allow the rezone. They did not feel a General Plan amendment was necessary.

Motion

Barring any problem with the General Plan, **Susan Holmes** moved that the City Council approve Ordinance No. 2005-04, an ordinance amending the zoning map to show a change to zone for property located south of Shepard Lane, west of 1525 West, north of Burke Lane, and east of the Utah Transit Authority (UTA) railroad tracks from A to AE.

In discussion of the motion, **Mr. Dutson** asked for clarification. Did Ms. Holmes want to exclude the Class A Office Park area from the motion and did she want to make sure the subdivision did not encroach into General Plan Office Park designations?

After further discussion, **Ms. Holmes** withdrew her motion.

Motion

Mr. Dutson moved that the City Council approve an ordinance amending the zoning map to show a change to zone for property located south of Shepard Lane, west of 1525 West, north of Burke Lane, and east of the Utah Transit Authority (UTA) railroad tracks from A to AE except for portions for the property which are master planned for Class A Business Park uses. **David Hale** seconded the motion.

In discussion of the motion, **Mr. Hale** expressed his feeling that the uplands would make a great area for residential development.

Mr. Pugsley commented that given the land would make good residential property, it would make poor office park property. It would take 30 to 40 years to get the benefit from office park zoning and the developer was not willing to wait that long.

Mayor Connors said that in past discussions the City Council felt the Class A Office Park Zone area was valuable to the General Plan. If it was to be changed it should go through the process of General Plan amendment. If an amendment was eventually accomplished, the original request of the developer could be considered at that time.

The City Council voted unanimously in favor of the motion.

Mayor Connors felt that much more information needed to be given the City Council before an informed decision could be made on issues related to the property. The General Plan should not

be amended through the zoning process.

PUBLIC HEARING: CONSIDERATION OF ORDINANCE AND ANNEXATION PLAN TO ANNEX APPROXIMATELY 2 ACRES ADJACENT TO LUND LANE AND THE I-15 FRONTAGE ROAD/CONSIDERATION TO ZONE THE PROPERTY "R" (RESIDENTIAL) AND TO CONSIDER SCHEMATIC PLAN APPROVAL FOR THE PROPOSED DEVELOPMENT/GUY HASKELL (Agenda Item #6)

Background information provided and reviewed by the City Planner indicated the subject property was located in Farmington City's expansion area and should be annexed, however, the schematic plan for the project was inadequate for a number of reasons, including, but not limited to, the following:

1. The width of the cul-de-sac is not identified on the plan.
2. The small and shallow 7,000 square foot lots are less than 80 feet from front to back which may leave an impossible building envelope for constructing a single-family home.
3. It is anticipated that Farmington City will receive an annexation petition consisting of unincorporated land adjacent to the north boundary of the property. How will this property be developed? And is a cul-de-sac for the subject property the best street configuration for the most advantageous development of adjoining areas and the entire neighborhood or district?
4. Chapter 10 of the General Plan states, "residential areas should be buffered from the visual lighting and noise impacts that can result from living next door to a commercial, institutional, transportation, or industrial use." Recommendation number 10 of Chapter 8 of the General Plan states, "noise abatement policy as established by UDOT shall be adhered to for all land uses prescribed in the General Plan next to freeways (high speed highways with full access control such as I-15), expressways (high speed highways with limited access control such as US 89), the Legacy Highway, and any major retro-fit project along these or other similar corridors. Noise abatement options include, but are not necessarily limited to , distance, landscaping, and earth berms. Due to negative visual impacts and other degrading qualities, sound-walls should not be considered for traffic noise abatement." The developer is proposing a limited amount of space for a sound-wall adjacent to the I-15 corridor. This is inconsistent with the recommendations of the General Plan.

Mr. Petersen stated that the Planning Commission voted to recommend the annexation for the property located at approximately 125 West Lund Lane on January 27, 2005, and to zone the property A. The schematic plan was not recommended. Upon request, the City Attorney offered an opinion that it was appropriate to consider the property for annexation upon application.

Public Hearing

Mayor Connors opened the meeting to a public hearing.

Dwayne Smit (representing himself and the Parker family, owners of nearby property) stated that the cul-de-sac plan as presented was not consistent with the rural nature of the surrounding property. The lots were very small and very dense. Large lots match the area much better. If approved, the plan would land-lock adjacent property. The Parker family was fine with the annexation, but strongly disagreed with the zoning of any zone other than A. There were horse properties next to this parcel. It would be dangerous and inappropriate to have such small lots near the horse property.

Dee Evans (44 West Lund Lane) said neighbors had talked about annexation of the property. It would cause a peninsula effect. The plan did not protect the country feel of the area. People in the area realized that this parcel was going to be annexed but the 8,000 square foot lots were not acceptable. The lots would only have an 80 foot frontage. It was important to maintain a rural type setting in the area. Doing so would require at least a 100 foot lot frontage. Mr. Evans urged the City Council to keep the lots large and consistent with horse property. He also noted there were problem with the drainage from the new developments nearby. He offered photos of Lund Lane showing pot holes. He said the road would need to be improved and widened in order for it to handle increased traffic from new subdivisions. The area was dangerous. More access roads would also be needed.

Guy Haskell (applicant) said the plan was the best use of the property. He noted the zone designation of nearby properties. The people in the neighborhood are used to the rural nature of the land but looking at the best use for the property it would have to be developed into high density housing. Property value would be impacted by nearby subdivisions which are high density zoning. Large lots would not sell on that parcel. He addressed the issue of land-locking nearby parcels. Putting roads where citizens had suggested would cause big problems. The lots proposed were on average 8,000 square feet. Most were actually 10,000 square feet. The Planning Commission had said they did not want a lot of access roads off of the frontage road.

When asked, **Mr. Petersen** reported that the Planning Commission had recommended annexation of the property but did not recommend the schematic plan approval.

Mayor Connors asked the applicant if he would withdraw the annexation application if the City Council agreed with the Planning Commission regarding the schematic plan.

Mr. Haskell said he would not withdraw the annexation application but he would come back for a rezone. He also stated that the drainage problems in the area would not be caused by his subdivision. The roads would have to be improved at the time the subdivision was developed, thus Lund Lane would be upgraded.

Public Hearing Closed

With no further comments, **Mayor Connors** closed the public hearing.

Mr. Petersen reported that the Planning Commission recommended annexation with the zone designation of A (agriculture).

Motion

Rick Dutson moved that the City Council approve Ordinance No. 2005-05, an ordinance extending the corporate limits of Farmington City to include the annexation of 2.5 acres of property located on the northeast corner of Lund Lane and the I-15 frontage road zone the property A (agriculture). **Larry Haugen** seconded the motion, which passed by unanimous vote.

Mayor Connors stated that the applicant was asking for waivers and exceptions to the ordinances and that no compelling reason had been offered for the Council to consider zoning the property residential or to consider the current schematic plan as presented.

CONSIDERATION OF PROPOSAL SUBMITTED BY CHRIS HAERTEL TO REDUCE REIMBURSEMENT OBLIGATION FOR CULINARY WATER RESERVOIR (Agenda Item #7)

Mr. Forbush introduced the agenda item and explained the proposal made by Mr. Haertel regarding the reduction of his reimbursement obligation for the culinary water reservoir.

After a brief discussion, **Mayor Connors** noted that there was no obvious incentive for the City to approve the reduction for Mr. Haertel's reimbursement obligation. The proposal did not reflect benefit to the City in equal proportions to the benefit given to Mr. Haertel.

By consensus, the Council asked that Mr. Forbush conduct further negotiations if requested by Mr. Haertel. Otherwise, the current agreement should stand.

FARMINGTON RANCHES HOMEOWNERS ASSOCIATION CONSIDERATIONS REGARDING OPEN SPACE MANAGEMENT (Agenda Item #8)

Mr. Forbush explained the request by the Farmington Ranches homeowners' association regarding open space management within the subdivision. Several small patches of open space existed within the subdivision that were not landscaped and not maintained. Citizens within the area were concerned about the problem. The president of the HOA, Gordon Crabtree, had met with Mr. Forbush and discussed the problem. Mr. Forbush offered the following recommendations:

1. Allow for amendments to the subdivision design by expanding lots boundaries to include open space (with conservation easement still in force).
2. Add the proposed soccer field with connecting trail(s) to the north to the City's Capital Facilities Plan.

3. Contribute \$15,000 toward tree planting on 1525 West and Clark Lane frontage road (Farmington Ranches East frontage). The trees are to be 2 inch caliper trees.
4. All of the above is to be subject to the HOA completing their additional landscaping plans and to the HOA's maintaining the City's cross project trail landscaping.

Mr. Forbush also noted the map included in the packet prepared by a landscape architect included recommendations as to how to maintain open space in the development.

By consensus, the City Council delegated the issue to the Development Review Committee (Susan Holmes and Sid Young) along with the City Manager and City Planner who could meet with the Farmington Ranches Homeowners Association Board to negotiate an acceptable agreement to be presented to the City Council.

REQUEST TO REDUCE 50 FOOT WIDE DRAINAGE EASEMENT IN CORNERSTONE SUBDIVISION /J.C.WHEELWRIGHT (Agenda Item #9)

Mr. Forbush explained the request by Mr. Wheelwright to reduce the 50 foot wide drainage easement in the Cornerstone Subdivision in exchange for an easement on the north side of the lot. There were three documents that would need to be approved to accomplish the transaction. Mr. Petersen, Mr. Forbush, and the City Attorney had reviewed the request.

Motion

Susan Holmes moved that the City Council authorize the City Manager to sign three documents regarding: 1) the drainage easement release subject to Mr. Wheelwright providing to the City a drainage easement along the northern boundary of his lot, 2) revocation and abandonment of the 50-foot storm drainage easement on the norther portion of Mr. Wheelwright's property, and 3) a 10 foot temporary construction easement agreement to allow installation of a pipe without damage to the property. **Rick Dutson** seconded the motion, which passed by unanimous vote.

MINUTE MOTION APPROVING BUSINESS OF CONSENT (Agenda Item #10)

Larry Haugen moved that the City Council approve the following items by consent as follows:

1. Ratification of approval of construction Bond Agreements previously signed by Mayor Connors.
2. Approval of January's list of disbursements.
3. Approval of cash improvements agreement with Gary Gines for Gines Acres.

4. Approval of Services Agreement with Stephanie Paget as the Performing Arts Coordinator.
5. Approval of Service Agreement with Paul White as Emergency Preparedness Coordinator.
6. Ratification of Mayor's approval of History CLG Grant application. This has to be submitted by February 11, 2005, to meet the deadline requirement.
7. Approval of recommended changes in the Administrative Department/Clarification of Annual Leave Accrued Policy for Permanent Part-time employees. The changes in the Administrative Department are illustrated on the attached document prepared by Keith Johnson. The clarification of annual leave accrual policy for permanent part-time employees is illustrated on the memo prepared by Keith Johnson. Both of these actions have been reviewed by the City Council Personnel Committee and have been approved by them. Additionally, the City Manager, by way of information, is presenting in memorandum form information relative to changes in job classification and grade. He is also recommending a change to his job description further clarifying his job responsibility to manage the human resource function for the City. Approval of this particular segment of the Consent Agenda also approves recommendations stated in the City Manager's letter.
8. Resolution supporting Legacy Parkway asking Army Corps and Federal Highway Administration to reject "Redwood Road" alternative.
9. Approval of Road Agreement with Woodside homes Corporation. This agreement permits the builders to get a building permit in Hunters Creek Subdivision during the winter time without the streets being paved. The developer assumes certain obligations for this to occur. This has been recommended by David Petersen and the Fire chief.

David Hale seconded the motion, which passed by unanimous vote.

IMPROVEMENT AGREEMENTS PERTAINING TO THE MCKITTRICK AND HUNTERS CREEK SUBDIVISIONS (Agenda Item #11)

David Petersen described the plans for the road alignment through the McKittrick and Hunters Creek Subdivisions. Upon consideration by the Planning Commission and after input from residents, the corridor had been designed and planned as a 66 foot collector. If a bypass road is not built in a timely manner, the developer will need to improve the connecting road so it safe and passable. Citizen response to the changes have been favorable. There will be an 80 foot collector further north. The developer had indicated agreement with the plan with the exception of one major policy issue. The developer felt that the railroad crossing improvements and attendant approaches (which would be extensive and costly) should be considered system improvements and therefore

funded by impact fees. The developer wanted consideration for either reimbursement or credit regarding the funding of the crossing improvements.

Mr. Forbush stated it would be necessary to review the issue with the impact fee specialist and the City attorney before asking the Council to consider resolution of the developer's proposal. It would also be wise to collect other information, such as traffic counts, impact of nearby school construction, and the potential impact from the possible interchange at Shepard Lane and I-15. The developer was asking that the impacted road segments be added to the capital facilities plan. He asked if the City Council conceptually agreed to have staff investigate and move forward with negotiations regarding funding for the crossing improvements.

By consensus, the City Council directed staff to obtain more information and move forward with negotiations with the developer. They also asked that Kaysville City be contacted to find out what their position was. The Council asked that a public hearing be scheduled regarding the issue on March 16, 2005. The Council asked that Kaysville City be notified of the hearing.

MAINTENANCE, PARKING, AND TRAIL AGREEMENTS WITH GARBETT HOMES (Agenda Item #12)

Mr. Forbush said Garbett Homes had requested changes in the Maintenance, Parking, and Trail Agreements. He briefly explained the changes requested and said the agenda item constituted a first reading. A recent item had been raised by the developer. In order to provide extra guest parking, the developer proposed cut outs on the Shepard Creek Parkway right of way. Mr. Forbush had contacted the City attorney to help determine the best way to handle the situation. The attorney drafted the agreement which included the right of the City to revoke the use of the cut outs. The cut outs presented problems with snow plowing and maintenance. The attorney had suggested the written agreement be transferrable to the HOA.. Trail agreement changes were suggested because the developer did not want to bond for the entire trail at first. The developer agreed to build the trail within 2 years but only wanted to bond for sections of the trail on phase by phase basis. The last issue had to do with picnic tables and benches. The developer was hesitant about having the tables and benches on his property because some may be in back yards of private property owners. Mr. Forbush suggested putting the tables and benches in the pocket park, adjacent to the perimeter trail, and if the pond is developed as a public amenity that some tables and benches could be placed near the pond. He also suggested that the status of pond development be explored and considered for urban fishery development and/or other park purposes.

Mayor Connors commented that a continuous design for parking along Shepard Creek Parkway would be much better for plowing and maintenance. He asked if the City Council felt they could give conceptual approval to the issues discussed by Mr. Forbush.

Motion

David Hale moved that the City Council authorize the Mayor to sign the three proposed agreements with Garbett Homes subject to final review by the City Attorney and Staff. **Rick Dutson**

seconded the motion, which passed by unanimous vote.

REVISIONS TO TITLE 1 OF CITY ORDINANCES/FIRST READING (Agenda Item #13)

Mr. Forbush stated that the City Staff and the City Attorney had initiated steps to review and where necessary rewrite the City's ordinances. The process had been in the works for several years. It was requested that the City Council review and give conceptually approval to each title one at a time. Mr. Forbush said he would have staff prepare an enactment ordinance and have it ready for consideration at the next City Council meeting.

STORM WATER POLLUTION PREVENTION ENFORCEMENT ACTIVITIES AS THEY RELATE TO NEW DEVELOPMENT (Agenda Item #14)

Mr. Forbush reported that the City's Zoning Administrator had received some resistance from developers in complying with the State and Federally mandated requirements regarding storm water pollution prevention enforcement. Up until a few months ago, City staff had not had time to make sure that every development possessed a permit from the State Environmental Quality which also requires a storm water management plan for their development. Mr. Klinker, the Zoning Administrator, was a great help to the City in its efforts to comply with the storm water management goals which were identified in the City's permit with the State Division of Environmental Quality. This permit and plan was submitted in early 2003. Mr. Forbush reported that staff would have an ordinance dealing developers' responsibility regarding storm water management and clean up in the near future for consideration by the City Council.

MUSEUM/COMMUNITY ARTS CENTER BASEMENT FINISHING PROJECT REVIEW (Agenda Item #15)

Mr. Forbush introduced the agenda item and detailed financial information. Recent proposed changes in the RDA laws may impact the City's plans for financing some projects in the City. He proposed that the Community Arts Center and Museum Project Budget be increased to cover needs for RDA project nearing consideration. Mr. Forbush also briefly explained the debt service plan

Motion

Susan Holmes moved that the City Council approve architectural services agreements with new amounts as provided in recent cost estimates and that the City Council approve the budget and financing for both the Community Arts Center and the Museum renovation . **Larry Haugen** seconded the motion, which passed by unanimous vote.

SCHOOL DISTRICT "DAVIS READS" PROGRAM (Agenda Item #16)

Mr. Forbush briefly explained the "Davis Reads" program. He suggested that the task of participating in the program be handled by the Leisure Services Department and the Leisure Services

Board. By consensus, the City Council directed that the Leisure Services Department or other City entities such as the Youth City Council or Miss Farmington handle participation in the “Davis Reads” program.

MISCELLANEOUS

Road conditions in Farmington Ranches

Mr. Haugen reported a citizen’s complaint regarding poor road conditions on Ranch Road in the Farmington Ranches subdivision. The area is west of the elementary school.

Enterprise Newspaper

Mr. Dutson suggested the City subscribe to the *Enterprise Newspaper* because it could help information officials about what the business world is doing.

UDOT workshop

Mr. Dutson had attended the UDOT workshop for future planning. He gave a brief report.

Main Street and State Street tree care

It had been noted by Mr. Dutson that UDOT had severely pruned the sycamore trees on Main and State. He hoped the trees had not been damaged and asked that staff look into the matter.

Meeting with Hughes Estates property owners regarding trail uses

Mr. Young asked to have the meeting with property owners in the Hughes Estates Subdivision scheduled in the near future.

Corn maze debris

Mr. Young also noted there were problems with the corn maze site on Rice property along the frontage road. There was debris left from the corn maze use which needed to be removed.

Possible interchange at Shepard and I-15

Mayor Connors raised the issue of the possible interchange at Shepard and I-15. It was a controversial issue which will need to be addressed by the City Council. Decisions made will significantly impact traffic corridors in the area.

Legislature actions regarding RDA

The Mayor asked for information regarding the current status of RDA issues in the Utah Legislature.

Mr. Forbush stated that it was apparent the Utah Legislature would likely pass new rules for RDA creation which would exclude retail development from project areas. However, if projects are on the books prior to March 1, 2005, they may go forward. Station Park is on the City's books now. The East Park Lane/600 North area needs to be moved forward so that it will meet the deadline. Mr. Forbush reported that in the Farmington RDA meeting prior to the City Council meeting, the Board had voted to authorize the blight study for the proposed Haugen project. The RDA would need to increase their budget to finance legal counsel, the blight study, and the consultant's work in the amount of \$32,000. He said the RDA Board approved the budget increase contingent on City Council approval of using Council contingency funds. The City Council, therefore, needed to consider the request in order to begin work on the Haugen property. The blight study public hearing was proposed for February 23, 2005.

Motion

Susan Holmes moved that the City Council approve the use of \$32,000 from the Council contingency fund for the RDA budget increase. **David Hale** seconded the motion, which passed by unanimous vote. Larry Haugen recused himself from discussion and from voting on the issue.

City Council meetings

The Council will be holding the following meetings in the near future:

February 22 at 4:30 P.M.– Either a special meeting of the RDA or a special meeting of the City Council to discuss Station Park with Rich Haws.

February 23 at 6:00 P.M.– Special meeting of the RDA to conduct a blight hearing for the Haugen project area.

Interior design for the Community Center

Mr. Forbush reported having received an offer from Ricki Staska offering to help with the color scheme in the basement of the Community Center.

Davis County Commissioner's Cup

City Council members were invited to participate in the golf tournament. The activity is a fund-raiser and participants must pay their own fees.

LDS Church Commemoration Activities

Lew Swain had contacted Mr. Forbush and requested the City suggest service projects which the four LDS stakes within the City could do as part of their 200th commemoration of the birth of Joseph Smith. The date for the projects would be May 7th. Council members suggested that Woodland Park be a part of the service project. By consensus, Council members asked the City Manager to organize project proposals and draft a letter for all for LDS stakes within the City.

ADJOURNMENT

David Hale moved that the meeting adjourn at 11:00 P.M. **Larry Haugen** seconded the motion, which passed by unanimous vote.

Margy Lomax, City Recorder
Farmington City