

## FARMINGTON CITY COUNCIL MEETING

Farmington City Hall, 130 North Main

Tuesday, October 16, 2007

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### CITY COUNCIL WORK SESSION

**PRESENT:** Mayor Scott C. Harbertson; Council Members Richard Dutson, Larry W. Haugen, Paula A. Alder, David Hale, and Sidney C. Young; City Manager Max Forbush; City Planner David Petersen; and City Recorder Margy Lomax.

The work session began at 5:40 p.m. and the following agenda items were reviewed by Mayor Harbertson and City Council Members.

#### **Consideration of Schematic Plan for Nicholl's Nook PUD Subdivision located at approximately 100 West State Street (both sides of 100 West south of State Street)**

\_\_\_\_\_ Mayor Harbertson stated that a number of residents living on 200 West have expressed concern about this development because of the plans for a cul-de-sac. The eastern portion of 100 West is not as big an issue. The dead-end created by the cul-de-sac west of 100 West Street does not allow other residents to develop their backyards. The backyards are huge and have development potential. It was suggested staff do a master plan of the western portion of the development, possibly a road could be stubbed rather than having a cul-de-sac so other property owners will be able to develop their backyards.

The property has had an R-4 zoning for the past 30 years or more. During the process of the OTR ordinance there was a hesitancy to down-zone the property, because R-4 property owners had purchased the property as an investment. However, members of the City's Governing Body believed that the R-4 property is close to the OTR zone there is a need for historic sensitivity in the design of the subdivision.

Concern was expressed about a lack of parking for visitors and the fact there are no sidewalks or park strips planned for the development (east side). David Petersen said he will have the developers take a look at the possibility of sidewalk, at least on one side. The units will be owner-occupied. Each unit will have accommodations for two vehicles in the garage and two on the pad. It has not been discussed with the developer if the street into the development will be public or private.

Mr. Forbush stated the City owns a small rectangular-shaped piece of property to the development and is being planned as part of it. The developer will need to find something to trade with the City for this parcel of property, or the City will need to declare it surplus and follow State law regarding disposal of surplus property. Mr. Forbush will contact the City Attorney regarding this issue.

It was suggested a motion be made in the regular meeting to approve the eastern portion of the development only. The western portion needs to be master planned so as not to restrict other property owners from developing the rear portions of their respective properties.

**Consideration of Schematic Plan for McBride Subdivision consisting of 2 lots on 1.14 acres in an AE zone at approximately 320 South 650 West**

The McBride Subdivision is a simple lot split. The developer will convey 30' of property to the City to allow a road to be built into the City's west Farmington park property. The property will be conveyed to the City when the subdivision plat is recorded.

**Consideration of formal action approving Capital Facilities Plan for Storm Drainage, Parks & Recreation, Fire and Police/Consideration of formal action approving the impact fee analysis for the same, setting forth amended impact fees for each**

On this agenda item there will be two motions for the City Council to consider – one approving the Capital Facilities Plan and the other setting the impact fees. Mr. Forbush pointed out that \$1 million had been trimmed from the Parks Capital Facilities List. There was discussion on the amount of the Parks & Recreation impact fees. It was felt the impact fees of \$3,997 for single family and \$2,671 for multi-family were too high. Mr. Forbush suggested a motion could be made to approve the impact fees as presented on the handout except for the Parks & Recreation fees which could be evaluated separately. The motion could state a “not more than” or “not-to-exceed” amount in order for the resolution to be adopted tonight.

Mr. Forbush stated the Council needs to decide how much the City wants to pay for parks. Should 62% be paid from impact fees with the remaining coming from the City's General Fund or grants, or should it be less? What kind of parks does the Council want? What kind of amenities? The impact fees listed on Exhibit A are justifiable. Farmington historically has had high impact fees because of the high level of service (parks) that has been provided previously. The fees are phased to increase a little each year.

**Consideration of Accepting “Benefit Analysis Study” for a proposed property exchange between City and North Park Development, LLC. and**

**Consideration of rezoning certain properties located south, west and east of Farmington Pond as follows: from A-F, LR-F, R-4 and R-8 to OTR and LR-F on portions of properties located at approximately 100 West 600 North, 82 West 600 North, 16 West 600 North, 802 North 25 East/Schematic Plan Consideration for Canyon Park Subdivision - North Park Development, LLC.**

These two agenda items are involved with the same development. The exchange of property involves the property referred to as the “Rock Mill” property. Mr. Forbush stated an email had been

received from the City Attorney suggesting the Council approve the rezoning but state the Mayor will not sign the ordinance at this time, but at the completion of the development agreement.

Mr. Haugen expressed concern about storm water not being retained on properties located above the development. He felt those property owners needed to take care of their own storm water instead of allowing it to run across the proposed development area.

**Consideration of Schematic Plan approval for Salt Lake Investment /Farmington City Development known as Spring Creek Subdivisions, Phase 4 & 5/Consideration of Development Agreement between City and North Park Development, LLC.**

Mr. Forbush said this agenda item should be continued until all exhibits are completed for the development agreement.

**Amenti Properties (Ron Martinez - American West Development) 35 acres located at the southeast corner of Burke Lane and 1525 West - Consideration to amend General Plan text to allow for residential uses/Consideration to rezone property from A to TOD**

Mr. Forbush said there are two actions to consider regarding this property. The first is whether to amend the General Plan text to allow for residential use. The Planning Commission recommendation is for denial of this request. The second item for consideration is to rezone the property from A to TOD.

**Amenti Properties (Ron Martinez - American West Development, LC) 15 acres located at southwest corner of Clark Lane and 1100 West Street the triangle piece)**

\_\_\_\_\_ This parcel of land is located across from the Fairgrounds. The developer is requesting a rezone of the 15 acres from Agriculture to Transit Oriented Mix Use, but to first amend the General Plan accordingly. The General Plan shows the area as rural residential. There has been no study done on this site to determine what are the best uses for this property.

**Consideration of request by Developers (Ron Martinez-America West Development) to rezone approximately 64 acres (E & H Land Investment Properties) from "A" (Agriculture) to TOD (Transit Oriented Development)**

\_\_\_\_\_ This piece of property doesn't have any access and there are wetlands located on it. A study of the area needs to be conducted. Apparently, Rich Haws, owner of adjacent property, has signed an agreement with Ron Martinez to allow access through Mr. Haws' property.

**Approval Consideration of Modified Final Plat for Willow Creek Subdivision (Terry Fowler/Haskell Homes)**

F. J. Parker owns property on the east and north side of this subdivision. There is a gap between Mr. Parker's property and the subdivision boundary of about 10' on the north side and 2' on the east side. The developers have drawn a new plat to resolve any problems. The new plat doesn't significantly diminish the lot size.

An issue that needs to be resolved is that the developer has brought in fill dirt to build up his property by 4' which has created a dam on Mr. Parker's property. This will need to be resolved by piping out to Lund Lane or whatever means it takes.

**Charles Evans' Request for Assistance in addressing Shepard Creek concerns**

The City had previously required Mr. Evans to grade back the stream channel to be flattened in case children got in it so they would be able to get out. Mr. Evans is now concerned the bank is eroding away. The Mayor, City Manager and Public Works Director had inspected Mr. Evans' property where the creek is located, and they didn't see a problem with erosion of the bank.

**REGULAR CITY COUNCIL MEETING**

**PRESENT:** Mayor Scott C. Harbertson; Council Members Richard Dutson, Larry W. Haugen, Paula A. Alder, David Hale, and Sidney C. Young; City Manager Max Forbush; City Planner David Petersen; City Recorder Margy Lomax; and Sidney Gibson, a member of the Youth City Council.

Mayor Harbertson called the meeting to order at 7:05 and offered the invocation to the meeting.

The Pledge of Allegiance was led by Adam Garry of Boy Scout Troop 1418.

**Reading and Approval of Minutes of Previous Meeting**

A motion to approve the minutes of the City Council meeting held October 2, 2007, as amended, was made by **Sid Young** and seconded by **Larry Haugen**. The motion passed with Council Members Young, Haugen, Alder and Dutson voting in favor. Council Member Hale abstained from voting as he was absent from the October 2 meeting.

**Trails Award - Vance & Louenda Downs**

Terry Welch, of the Farmington Trails Committee, presented Mr. and Mrs. Downs with the "30 Mile Patch" for hiking. This is the highest award given by the Farmington Trails Committee. Mayor Harbertson offered his congratulations as well.

**Planning Commission Report**

\_\_\_\_\_ Kevin Poff gave the Planning Commission report of items that had been considered at their

last meeting. The first item discussed was the request by Roger & Heidi Eggett for a recommendation for Schematic Plan approval for the proposed Rockin' E Ranch Subdivision, consisting of 4 lots on 6.8 acres in an AE zone on property at 612 S. 650 W. There were issues with the alignment of the road. This agenda item was tabled and now the Eggetts have withdrawn their application.

On the SLI & Farmington City item the Planning Commission recommended Schematic Plan approval for the proposed Spring Creek Subdivision Phases 4 & 5, consisting of 16 lots on 10.5 acres in the AE zone on property located at approximately 675 North 1525 West. They felt it was a good deal all the way around.

Rainey Homes requested a recommendation for final approval for Phase 5 of the Miller Meadows Subdivision, consisting of 7 lots on 3.04 acres in the AE zone on property located at Rigby Court & Rigby Drive. This request was right in line and was approved very quickly. The conservation land will not be part of the lots.

Susan White appeared before the Commission requesting a Conditional Use Approval for the operation of a sit-down restaurant in the BR zone on property located at 7 East State Street. She is wanting to open a Mexican restaurant at this location. She anticipates space for sit-down eating arrangement for 30 people with a lot of take out sales.

Woodside Homes requested Conditional Use Approval to locate a temporary sales office in a model home on lot 136 of the Hunters Creek Subdivision (1923 W. 850 N.) in the AE zone. They are planning on moving their sales office from one model home to another. The conditions will stay the same with the understanding they will not operate two sales offices in the model homes.

**Public Hearing: Consideration of Schematic Plan for Nicholl's Nook PUD Subdivision located at approximately 100 West State Street (both sides of 100 West south of State Street)**

The City Planner, David Petersen, addressed the Council stating this development involves two pieces of property located where the greenhouses now sit. It is very similar to the one located southeast of the Fire Station with 1½ story attached units. The Planning Commission is recommending schematic plan approval with the conditions outlined in the September 18, 2007, letter to Mr. Rodney Griffin.

Rod Griffin, developer of the subdivision, addressed the Council. He stated the area has had greenhouses on it for three generations and was first owned by the Nicholls Family. He purchased the property three years ago. He is proposing twin style townhomes in a PUD subdivision. An HOA will maintain all exterior property. The townhomes will be marketed to older couples. He said the shape, size and layout of the Jerry Preston development located next to the Fire Station is almost identical to what is being proposed for this development. There will need to be upgrades in the sewer line on 100 West and he will have to put in a major water line. He plans on doing research to make sure the ground is safe from any contamination caused by the greenhouses. He did not feel

it is a very big issue, but plans to make sure no residual underground storage tanks, etc., exist. He said if he were able to include the strip of property owned by the City in his development, it would make it uniformly based and the land would be better utilized by including it in the development. There would need to be some kind of equitable trade made between the City and the developer for the strip of land. He will be doing boundary line adjustments with two of the neighbors – Cheryl Elliott and Blair Ford.

At 7:30 p.m. Mayor Harbertson opened the meeting to a public hearing.

Dave Parkin spoke stating he owns the apartments located on the west side of 100 west next to the development. He expressed concern about the building height. He hopes the townhomes will not be built too close to his property and that the developer will be sensitive to night lighting directing it away from his property.

Brad Bornemeier, 175 South Main, stated he hopes the developer can swap with the City for the 18' piece of property so it can be included as part of the development.

Max Forbush, 73 South 100 West, commented regarding possible health hazards with the property. He suggested the Department of Environmental Quality should check it for any health risks. He stated there have been cases of residents having cancer within that block.

With no further comments, the public hearing closed at 7:35 p.m.

Sid Young told Mr. Griffin that he wants to make sure an environmental evaluation be done on the site and hoped it would be fairly extensive. He asked that the City be provided with documentation on it.

There are issues on the western portion of the development where there are existing lots with large backyards. It was suggested the western portion could possibly be tabled until staff and developer take a look at it and come up with a master plan for this area to provide the owners with an opportunity to have access to their yards. There are basically three property owners on 200 West who are affected. By doing a master plan it will be possible to determine what opportunities are available for access. It has been the City's standard in many instances to make sure roads are stubbed.

Mr. Griffin stated he has been considering this development for three years and that he had held two meetings with all of the residents in both blocks with 85-95% of owners attending. He gave them the opportunity of reviewing his plans for the two blocks. He stated he is not opposed to working with staff to come up with a win-win situation regarding property owner access to their backyards.

Sid Young stated there is a preference for sidewalks if they can be worked into the development.

Mr. Griffin responded that with this development it would be difficult to utilize the property if sidewalks were installed. It would take up too much of the property. He pointed out that Farmington Station and the development behind the Fire Station do not have sidewalks.

## **Motion**

Rick Dutson moved to grant schematic plan approval for Nicholl's Nook PUD Subdivision located at approximately 100 West State Street with the understanding that the approval is only for the east side of 100 West and subject to all development standards and conditions as set forth in the September 18, 2007, Planning Commission letter to Mr. Griffin, including a soils toxicity study. Mr. Griffin is to work with staff on master planning the western side of the development including a soils condition toxicity study and to work with staff to come up with a resolution regarding setbacks next to neighboring properties and to discuss the possibility of adding sidewalks. The motion was seconded by Sid Young. The motion passed with all Council Members voting in favor.

**Public Hearing: Consideration of Schematic Plan for McBride Subdivision consisting of 2 lots on 1.14 acres in an AE zone at approximately 320 South 650 West**

The Planning Commission recommended approval of this agenda item. It is a request for a lot split on 1.14 acres of property. The split will result in two parcels both just over one-half acre each. The existing home will sit on the newly created southern lot leaving the northern lot vacant to be used as a building lot. Both lots have appropriate frontage for the AE zone (100'). Mr. Petersen stated there had been a recommendation to waive the open space requirements because it is only a lot split. Mr. Pat McBride was in attendance at the meeting but did not address the Council.

Mayor Harbertson opened the meeting to a public hearing at 7:55 p.m. With no one wanting to comment, the public hearing was closed.

**Motion**

A motion was made by Paula Alder to grant schematic plan approval for the McBride Subdivision located at approximately 320 South 650 West subject to all applicable Farmington City development standards and conditions as set forth by the Planning Commission including that 30 feet of property along the north property line shall be dedicated to the City as a future right-of-way access for City park property. The motion was seconded by Rick Dutson and passed with a unanimous vote by all Council Members.

**Public Hearing: Consideration of formal action approving Capital Facilities Plan for Storm Drainage, Parks & Recreation, Fire and Police/Consideration of formal action approving the impact fee analysis for the same, setting forth amended impact fees for each**

Max Forbush introduced this agenda item stating that many growth cities across the State have adopted a "Capital Facilities Plan" and recommendations for approving impact fees. The Capital Facilities Plan for Farmington was prepared by Bob Rosenthal & Associates. Copies had been provided to Council Members previously. He stated a tremendous amount of work had been done to make sure the Plan is accurate and the City's needs are met for the next 4-5 years and beyond. Impact fees are a method cities use for financing a part of capital facilities.

Mayor Harbertson added the City has established a high level of service and in order to continue at that level, it is necessary to have impact fees. There are a number of things the City wants to put in place such as a platform truck for the Fire Department, plus a number of other things included in the plan. He then opened the meeting to a public hearing at 8:02 p.m.

**Jerry Preston, of JPC Contracting**, addressed the Council expressing appreciation for their efforts. He said he did not have an issue with the proposed fees for fire safety, storm sewer, and

police, but has a huge issue with the Parks & Recreation impact fees. He said Farmington City is in the category of one of the top five cities for the highest impact fees, but he realizes Farmington does not have the tax base to pay for capital facilities. He credited the City Manager with doing a very good job with very limited resources. A building permit, including all the impact fees, in Farmington costs \$16,500 on the average. He said builders can't continue to add costs onto houses; that the City will be pricing people out of homes with impact fees. He questioned if there weren't some way the fees could be reduced especially the Park Impact Fees from the proposed \$4,000 figure.

**Tom Owens, 700 Rock Mill Lane**, spoke stating he felt the Council should "tax to the max" on new development that it degrades the current quality of life.

With no further comments the public hearing was closed at 8:10 p.m.

Mayor Harbertson stated he knows the fees are high but that there is a high standard in Farmington. Sixty percent of the capital projects would be paid by impact fees with the other 40% being paid through bonds, taxes, or other means.

Mr. Forbush stated it is true Farmington is one of the highest cities in the State for impact fees. It is a balancing act trying to determine how much new property owners should pay and how much existing owners should pay. He believes those creating the impact should pay their fair share. He reminded the Council they cannot set the fees higher than what are listed in the study, but that they can set them at less.

Sid Young stated the Council has agonized over this Capital Facilities spending plan for a long time. He said it is important to try and be fair. The Fire and Police capital facilities are very clearly all needed as well as the storm water drainage, but felt an adjustment could be made to the park impact fee. He felt the study has been prepared very meticulously and carefully.

Mayor Harbertson suggested the Park impact fee could be reduced from \$4,000 down to \$3,000 by removing the combined City/School District project (gym) from the Capital Facilities Plan.

Discussion ensued regarding the Parks impact fee. Mr. Forbush stated that years ago the Parks & Recreation Master Plan identified so many acres of parkland per 1,000 residents as the standard, but the City is now well below that standard. He said it is up to the City Council to decide if the City has enough parks. If items are not listed on the Capital Facilities Plan, impact fees cannot be used to purchase it. The current Parks & Recreation impact fee is \$2,097 per single family dwelling.

## **Motion**

**Sid Young** moved to approve the resolution approving the Capital Facilities Plan for storm drainage, Parks & Recreation, Fire and Police. The motion was seconded by **Larry Haugen** and passed with a unanimous vote by all Council Members.

A motion was then made by **Paula Alder** approving the Ordinance adopting the Impact Fee Analysis Report and establishing the fees for storm water, Parks & Recreation, Police and Fire as listed on Exhibit A of the report and that the Parks & Recreation fee have a cap of \$3,000 for a single-family residence and \$2,000 for a multi-family residence. **Sid Young** seconded the motion.

The motion passed with Council Members Alder, Young, Dutson and Haugen voting in favor and

Council Member David Hale voting against stating he wanted to have more of a higher cap on the Parks & Recreation impact fee.

**Public Hearing: Consideration of Accepting “Benefit Analysis Study” for a proposed property exchange between City and North Park Development, LLC.**

Council Member Larry Haugen recused himself due to a conflict of interest with this agenda item.

City Planner, David Petersen, introduced this agenda item stating the developer has a new schematic plan for the subdivision. The Planning Commission is recommending the development have street trees, a landscape buffer and side treatments along 600 North Street.

Max Forbush listed the benefits of the property exchange between the City and North Park Development. The details of the exchange are outlined in a “Property Exchange Agreement” between the City and North Park. Mr. Forbush stated one of the reasons for the exchange is because of the close proximity of Farmington Pond located next to this development. It has been the site for helicopters dipping for water to fight hillside fires. A certain amount of open space is needed in order for this to occur. To have the open space needed, the City is proposing a transfer of building lots from the North Park Development to Howard Kent, who is developing a 158-162 lot subdivision in the west Farmington area. As part of Mr. Kent’s subdivision there is a certain amount allocated for open space. The open space in Mr. Kent’s subdivision would be “transferred” to the North Park Development and, in exchange, additional building lots would be allowed in his subdivision. In doing this, it would leave enough open space around the Pond for the helicopter flyover. The land values between the east-side lots and the west-side lots are spelled out in the Benefits & Analysis Report.

The meeting was opened to a public hearing at 8:50 p.m. There were no public comments so the public hearing was closed.

Mayor Harbertson said because development issues still need to be completed properly, the decision should be continued until the November 20<sup>th</sup> City Council meeting.

**Motion**

**David Hale** moved to continue this agenda item until the November 20<sup>th</sup> City Council meeting. The motion was seconded by **Rick Dutson**. The motion passed by a unanimous vote.

**Public Hearing: Consideration of rezoning certain properties located south, west and east of Farmington Pond as follows: from A-F, LR-F, R-4 and R-8 to OTR and LR-F on portions of properties located at approximately 100 West 600 North, 82 West 600 North, 16 West 600 North, 802 North 25 East /Schematic Plan Consideration for Canyon Park Subdivision - North Park Development, LLC.**

David Petersen referred the Council to his memorandum dated October 12, 2007. The Planning Commission is recommending approval for rezoning the area and to establish findings supporting it. Tom Owens would retain office use for his property.

**Terry Deru, 99 Cove Lane, Layton**, developer of the project, said he doesn't feel like it is his project alone, but feels like it is a community project having had staff, the Mayor and everyone involved up to this point. He expressed appreciation to Mayor Harbertson for his dedication and commitment to finding solutions to problems associated with the project stating that without the Mayor it probably would not have happened. He said there will be two new trail accesses; the Judd and Hansen homes will stay as part of the project; and the Rock Mill Lane will be improved but will remain the same width.

Mayor Harbertson opened the meeting to a public hearing at 8:55 p. m.

**Don Bradshaw, 650 North 90 West**, addressed the Council stating he had appeared before the Planning Commission and at that time was agreeable to the rezoning but now wants his 5-acre piece of property to remain as Agriculture. He said he has no plans for development and foresees lots of problems if it were ever subdivided due to the fact it sits below the dam and does not have access onto 600 North. His second reason for wanting it to remain Agriculture is that he would like to keep open the option to be able to have animals on his property.

**Joe Judd, 108 West 600 North**, stated he appreciates the trail access into the pond. He expressed concern about plans for a stub road at 90 West. He feels there will be an access problem as well as water drainage problems. That location is a major trailhead and he is concerned about public safety. He hopes there will be adequate sidewalks.

**Kevin Poff, 555 North 100 East**, expressed concern regarding how well the development will fit in with the character and nature of downtown. He doesn't feel the development offers enough variety of house types and sizes and doesn't like the fact the homes will not be facing 600 North Street. He felt the developer should keep with his original planning. He agreed with Mr. Bradshaw that his property should remain as Agriculture.

**Joel Anderson, 57 West 600 North**, a builder and developer, said he is in favor of the project and feels it will improve the area and will keep the look of downtown. He did not have any problem with the Bradshaws' property remaining Agriculture.

**John Bradshaw, 259 East 100 North**, requested the Council to leave his family's property as Agriculture. He sees their property as being left as open space and feels it is a treasure the way it is.

**Zach Haugen, 36 West 600 North**, was in agreement with the Bradshaw property remaining with the Agriculture zoning because of the dike located above that property. He feels more research should be done on the spillway.

**Tom Owens**, property owner of the old Mill, said he took back all the bad things he had said in the past about Mr. Hall and Mr. Deru. He expressed concern that if the homes in the project have their backs to 600 North, measures need to be taken to "mask" it so it looks nice as people come around the corner on 600 North. He said he is in favor of the project going forward, but would like his lower four acres of property that presently is zoned R-4 to remain that zoning and requested it be taken out of the rezoning plans. If he were to lose that zoning, it would cost him money. He said he is committed to open space around the old Mill.

**Terry Deru** responded to some of the comments that had been made stating there are two springs on the project site that tie into storm drain. Regarding the homes not facing 600 North, he

said they plan on berming and landscaping with the berm being tapered to existing properties. He

said it is a dangerous situation for traffic to exit onto 600 North and feels there will be more problems if the 90 West road is not stubbed.

**Gary Daniels, 159 West Oakridge Drive**, stated he is an active trail walker and said there will be major problems if a road from the subdivision is to come out on 90 West. He feels there will need to be a light there.

Mayor Harbertson closed the public hearing at 9:25 p.m. and expressed appreciation to Mr. Brady and Mr. Deru for their very good project in a sensitive area of Farmington.

Rick Dutson expressed appreciation to Mayor Harbertson for the huge amount of time to bring the project to this point. He also expressed concerns about the 90 West access suggesting the possibility of a “crash gate” for emergency situations.

Mayor Harbertson stated that as they have gone through the process, his concern was not to have duplexes or twinhomes going around the corner of 600 North. He wanted to eliminate that possibility. He didn't see any problem with Mr. Owens keeping his property out of the rezone.

### **Motion**

A motion was made by **David Hale** to move forward with the rezone as presented except for the Bradshaw and Tom Owens' properties and that the rezoning will be held in abeyance until the Property Exchange Agreement and Development Agreement have been completed and signed and further that the Mayor is not authorized to sign the ordinance until an acceptable form of agreement has been approved by the City Council and signed by the developer. The motion was seconded by **Rick Dutson** and passed with Council Members Hale, Dutson, Alder and Young voting in favor.

Mayor Harbertson read from the proposed ordinance:

*“This ordinance shall take effect at final passage of the City Council, posting, and subject to and after the date of the approval and execution by the parties of that certain property exchange and development agreement for the Canyon Park Conservation Subdivision. In the event that the property exchange and development agreement is not approved by the City Council and signed by the parties, then this ordinance is of no further force and effect and the properties described in Exhibit “A” shall revert back to their prior zoning.”*

### **Motion**

A second motion was made by **David Hale** with a second by **Rick Dutson** to approve the schematic plans for the Canyon Park Conservation Subdivision subject to compliance with all applicable ordinance requirements and the conditions recommended by the Planning Commission contingent upon approval by the City Council and execution by the developers of an appropriate form of property exchange agreement and development agreement incorporating or addressing those provisions. The motion was passed with Council Members Hale, Dutson, Alder and Young voting in favor.

**Public Hearing: Consideration of Schematic Plan approval for Salt Lake Investment /Farmington City Development known as Spring Creek Subdivisions, Phase 4 & 5/**

**Consideration of Development Agreement between City and North Park Development**

**Howard Kent, 261 East 300 South**, developer of Spring Creek, stated he liked the plans for the Canyon Park Subdivision and felt it makes a lot of sense. He is not sure how many lots that he will get to keep from the Property Exchange Agreement. Mr. Kent said the request from Mr. Flanders regarding access to his property was coming as a surprise to him; he is not sure it is feasible. He thought the idea was for Mr. Flanders and the other two property owners to get together and work out access to their property. There are wetlands in the area which have to be respected. He said he has to be made whole on this project. He does not want to go backwards on the number of lots that were originally promised.

Mayor Harbertson opened the public hearing at 9:45 p.m. There being no public comments the hearing was closed.

**Motion**

**David Hale** stated he was pretty confident that Mr. Kent can be made whole with the number of lots in his subdivision and moved to approve schematic plan approval for the Spring Creek Estates subdivision Phases 4 & 5 subject to all applicable Farmington City development standards and ordinances and the conditions as set forth in the Planning Commission memorandum dated October 12, 2007, and contingent upon approval by the City Council and execution by the developers of an appropriate form of property exchange and development agreement. **Sid Young** seconded the motion which was passed with favorable votes by Council Members Hale, Young, Alder and Dutson.

**Rick Dutson** moved to continue consideration of the agreement until the November 20, 2007, City Council Meeting for Development Agreement approval. The motion was seconded by **Paula Alder**. The motion passed with Council Members, Alder, Dutson, Hale and Young voting in favor.

**Public Hearing: (Pertaining to Amenti (Ron Martinez Properties))**

**A. Amenti Properties (Ron Martinez - American West Development) 35 acres located at the southeast corner of Burke Lane and 1525 West**

- 1. Consideration to amend General Plan text to allow for residential uses.**
- 2. Consideration to rezone property (35 acres) from A (Agriculture) to TOD (Transit Oriented Development)**

**B. Amenti Properties (Ron Martinez - American West Development, LC) 15 acres located at southwest corner of Clark Lane and 1100 West Street (the triangle piece).**

- 1. Consideration to amend General (or future) Land Use Plan Map from rural residential density to Transportation Mixed Use.**
- 2. Consideration to rezone property (15 acres) from A (Agriculture) to TOD (Transit Oriented Development)**

\_\_\_\_\_ (Larry Haugen rejoined the other Council Members at this point in the meeting.)

\_\_\_\_\_ David Petersen introduced this agenda item telling the Council it involves two parcels of property – one for 33.2 acres and another across from the Fairgrounds for 15 acres. On the first parcel the Master Plan calls for a Class A Business Park. A TOD zone is an appropriate zone to match, but it does not allow for residential. The application asks for the General Plan to be amended to allow residential development. Access to the development is a key issue. The developer has provided a wetlands delineation report which shows 2+ acres of wetlands on a 64-acre parcel located south of the site.

The south 15-acre parcel at one time had standing water on it all the time, but developer has drained the property, and it appears now that it shows very little wetlands. The Master Plans shows this area as Rural Residential. The developer is asking it be rezoned to TOD. Staff is recommending the Council to not rezone the lower 15 acre-piece until a study has been done to determine what is the best use for it.

Max Forbush stated the City Attorney is recommending tabling action on the 15-acre parcel to allow time for a study to be done to determine the best use for it. The Planning Commission recommended denial of the rezone for both parcels including the General Plan amendment request for the north parcel.

Representatives of American West Development addressed the Council beginning with Craig Cummings, President of Cummings & Associates, 240 South 200 West, Farmington. He introduced key team members of the project who also individually addressed the Council. A power point presentation was also shown. \_\_\_\_\_

\_\_\_\_\_ Matt Betts had performed a broad scale wetlands study of the project area. He stated that since the irrigation water has ceased, the area has dried up. It doesn't have a high water table. A field review with the Corps manager agreed with his delineation report. It will be another three weeks before the Corps will be able to get a letter to them. He believes this area will be really buildable once they have complied with all the U. S. Army Corps of Engineers requirements.

Ryan Hales addressed the Council regarding transportation issues. He said they are not opposed to a transportation corridor coming through the property. He showed examples of different roadway alignments and stated they have looked at a trail system through the project.

Paul Bringham gave a background on Stantec Consulting Company. He said their primary responsibility is to look at the best land use for the property and to come up with some concept plans. He gave examples of TOD projects from other cities his company has done. He had taken a map and drawn a one-half mile radius line from the commuter rail station. Their property is located within that area. He stated the railroad crossing automatically creates a buffer. He said the shape, size and existing utilities on the site are not conducive to rural residential use. He thinks the property should be rezoned to a TOD zone with flexible uses.

Fred Babcock of Babcock & Associates, 52 Exchange Place, Salt Lake City, said his major contribution happens after the rezoning – how the project lays out – how it reacts to the market. He gave examples of work they have for other cities such as the South Jordan Town Center; Draper Peaks; the Gateway and a Heber City development.

Robert McConnell, Parr, Waddoups, et al, stated they would like the rezoning in order to go out and “test the market”. The rezoning is just the first step for the project. They will be coming before the City Council on many occasions through the development process. He showed the Council a Land Use Development Flow Chart.

Mayor Harbertson opened the meeting to a public hearing at 10:40 p.m.

**Kent Sulser**, Davis County Economic Development Property Manager, addressed the Council stating he is not opposed to the request for rezoning and feels the one-half mile radius from the commuter rail station will be enhanced. Davis County’s Fairpark property is located across the street from this property. He stated a study is being completed on the County’s 57 acre parcel and should be completed the end of November.

There being no further public comment, the public hearing was closed at 10:43 p.m.

Sid Young questioned the developers regarding master planning the property asking how does that come together, how is it implemented?

Craig Cummings responded stating it will take the cooperation of the City, the County and the stakeholders. He reported that Ron Martinez and Rich Haws have partnered to work together on their properties. He said they don’t know at this point how much office space is going to be successful and won’t know until they go to the market. They need anchor stores for a shopping center and office park.

Paul Bringham stated that with the Bingham project they held stakeholder meetings once a week where the plans gradually evolved.

Mayor Harbertson stated the goal of the City has always been to have a class “A” business park in that area. The General Plan calls for a TOD zone there and the text of the TOD zone states that it has to be mixed use development.

Rick Dutson stated that at the time the Taxing Entity Committee approved the RDA Project area, it was promised to them that development in this area would include a road to the north thus enabling unencumbered property to be developed for taxable purposes.

Kent Sulser agreed stating that the road to the north is very much needed in order to have restaurants and shopping around the business park to make it work.

Craig Cummings said Farmington is a cross roads that it is a tremendous opportunity for Farmington. There is no other piece of ground like this along the Wasatch Front. \_\_\_\_\_

Rick Dutson said he is supportive about moving forward on the rezone but is concerned about the housing issue.

Sid Young felt it would be better for the Council to see a little bit of detail such as a schematic plan, to have something on paper to look at before deciding the zoning issue.

Craig Cummings stated they cannot bring detail to the Council until they see what the market will do. At the time they come back to the Council, if the Council doesn’t like it at that time, then

they will go out and find something else to bring back.

David Petersen stated it would be good to be able to keep Davis County residents in the County to work. This would alleviate a lot of congestion on the roads. He said residential development is an easy market and encouraged the Council not to amend the General Plan to allow for residential housing. The area was master planned for a business park and should remain that.

### **Motion**

**Rick Dutson** moved to rezone the 35 acres of property located at the southeast corner of Burke Lane and 1525 West from A (Agriculture) to TOD (Transit Oriented Development). The motion was seconded by **David Hale**. A point of clarification was made by David Petersen stating the acreage was actually 33.3 acres and not 35. Rick Dutson thereupon changed his motion to rezoning approximately 33.3 acres. Mr. Hale agreed with the change in the motion and the motion passed with an unanimous vote by all Council Members. No motion came forth regarding the General Plan amendment, therefore, it was denied for lack of a motion.

Mayor Harbertson stated that on the 15-acre triangle piece of property he felt the City needs to do its due diligence in finding out the best uses for this property. Mr. Cummings offered their assistance. Davis County will also be included in the planning study process.

Mr. Forbush stated the Council should consider tabling this item to allow time for a study to be done and then it can be addressed again in the near future. Otherwise, if it is denied, the developer would not be able to come back for one year.

Ron Martinez asked for a time frame for the study to be completed on the corner property and stated they would be happy to work with the City on it.

### **Motion**

**David Hale** moved to table amending the General Land Use Plan Map from rural residential density to Transportation Mixed Use and also to table rezoning the 15-acre corner property from A to TOD until after review of the Davis County plans for their Fairpark property and after receiving input from Ron Martinez' people and then at that point set a date. The motion was seconded by **Rick Dutson** and was voted on unanimously by all Council Members. A study also needs to be performed.

**Consideration of request by Developers (Ron Martinez - America West Development) to rezone approximately 64 acres (E & H Land Investment Properties) from "A" (Agriculture) to TOD (Transit Oriented Development)**

### **Motion**

Discussion had taken place for this agenda item along with the previous agenda item so there was no further discussion before the motion by **David Hale** moving to adopt the ordinance as enclosed in the City Council packet to rezone approximately 64 acres from "A" (Agriculture) to "TOD" (Transit Oriented Development). The motion was seconded by **Larry Haugen** and the motion passed with all Council Members voting in favor.

**Approval Consideration of Modified Final Plat for Willow Creek Subdivision (Terry Fowler/ Haskell Homes)**

Final approvals were given on this subdivision some time ago. Since then the boundary line between the subdivision and Mr. F. J. Parker's property to the north and east has come into dispute. The developers of Willow Creek are willing to reduce the perimeter size of the subdivision and quit-claim 10 feet on the north and 2 feet on the east sides of their subdivision

to Mr. Parker to settle the dispute. The proposed modified final plat was provided to the Council.

Additionally, there is an issue of water drainage in that developers have raised the level of their ground leaving Mr. Parker's land approximately 4' lower. Developer was instructed to work with the City Engineer to resolve the water drainage problem.

**Motion**

**Rick Dutson** made a motion to approve the modified final plat for Willow Creek Subdivision (TerryFowler/Haskell Homes) by reducing the perimeter size of the subdivision but not significantly affecting any of the lots. **Larry Haugen** seconded the motion. The motion passed with all Council Members voting in favor.

**Charles Evans' Request for Assistance in addressing Shepard Creek concerns**

Mr. Evans appeared before the Council. He feels the City has "taken" property from him because as part of the building permit process he was required to regrade and slope approximately 500' of the Shepard Creek stream channel along his property at 1951 Ranch Road in west Farmington. The City required this action as a safety precaution in case a child fell into the Creek it would be easier to get.

Mr. Evans provided a copy to the Council of a letter he had prepared and then read aloud from that letter regarding erosion problems and trespassing. He also read a couple of paragraphs from a letter prepared by his attorney, Adam L. Crayk, of Stowell Law, addressing the question of whether the actions taken by Farmington City directing Mr. Evans to modify the stream bed on his property constitutes a "taking" as defined in the Constitution of the United States. (Copies of this letter were also provided to the Council.) He also had engineering reports from an engineer he had hired to review the situation.

Mr. Evans is concerned about his liability because since the stream bed has been modified, children have been coming to his property to catch frogs and are continually passing through his back yard. He is concerned about safety issues. Prior to the modification there was an old barbed wire fence on the property. There is a bridge on the south end.

Mayor Harbertson and Max Forbush had made a site visit to Mr. Evans' property. He questioned Mr. Evans as to what he would like the City to do to rectify the situation – did he want a fence? Fill material? Mr. Evans stated he would need to talk to his engineer. He didn't feel there was any ideal solution because of the way it was regraded. He said he will follow the recommendations of his engineer. He stated he does not want to go to court, but feels he has a strong case for wrongful taking.

Mr. Forbush suggested the City Engineer visit the site and study the issue and that the City

Attorney and Mr. Evans' attorney work out a solution to the problem.

**UTA's request for Waiver of Transportation Impact Fee and monthly Storm Water Utility Fees.**

UTA wants the City to waive the Transportation Impact fee because they feel with the construction of the Frontrunner Commuter Rail line, it will relieve the overall transportation system of automobiles and feel the fee would be punitive.

They are also requesting a waiver of the storm water utility fee in that they are detaining the onsite runoff as well as 1.75 acre feet from UDOT and then releasing the outflow at a low regulated level.

Mr. Forbush read an email from Todd Godfrey, City Attorney, regarding UTA's request. Mr. Godfrey stated he did not see that UTA had provided a technical or legal basis to justify granting their request. There is a procedure which needs to be followed before the Council can grant a waiver. UTA would need to provide more technical information.

**Motion**

A motion was made by **Larry Haugen** to deny UTA's request for a waiver of the Transportation Impact fee and the monthly storm water utility fee but to allow them to apply for credits to reduce the monthly storm water utility fee. **Paula Alder** seconded the motion which passed with a unanimous vote. The transportation fee was reduced, but not waived to \$5,403 based upon a revised interpretation of the land use.

**Minute motion approving Summary Action list**

\_\_\_\_\_The following items were approved by motion from **Larry Haugen** and seconded by **Paula Alder** with a unanimous vote in the affirmative by all Council Members:

- 16-1. Ratification of approvals of Construction Bond Agreements.
- 16-2. Authorization to waive building permit fees for Children's Justice Center Expansion.
- 16-3. Assign Mayor Harbertson, Council Member Hale, Max Forbush, Todd Godfrey & Jared Hall to meet with Historic Preservation Committee representatives to review proposed changes to Chapter 39 (Historic Buildings & Sites) of Title 11.
- 16-4. Approval of David Petersen's recommendation to issue a partial refund of a site plan review fee and associated professional services deposit to James Kennard.

**Betterment Agreements for UTA Commuter Rail Station Platform with UTA and Lagoon Corporation**

\_\_\_\_\_Mayor Harbertson stated Lagoon Corporation is going to be paying \$385,000 for the betterments to the Commuter Rail Station platform. Lagoon will pay the City the money and then the City will forward it on to UTA. UTA needs approval on the agreements so they can begin the work. It is important to have the agreements approved and signed as quickly as possible. The design has

been approved by UTA. It was suggested a short City Council meeting be held on November 6 to approve the agreements if they would be ready at that time.

### **Trail Alignment Issues with Larry Elliott (Kaysville City) & Fruit Heights City**

\_\_\_\_\_ A trail connecting northwest Farmington City adjacent to Kaysville City along the boundary of Larry Elliott's property is planned. Mr. Elliott was concerned that the trail not encroach onto his property. The issues surrounding this have now been resolved by plans to put fill dirt on Mr. Elliott's property so the trail can remain on City property.

George Chipman had prepared a draft letter to Mr. Todd Stevenson, Fruit Heights City Mayor, seeking his permission for the trail connection. The Council was in agreement that Mr. Chipman should finalize his letter and send it to Mayor Stevenson. Also, Mr. Chipman is going to accompany Walt Hokanson, Public Works Director, on Thursday to the trail site to mark an exact location for the 100 yards of connecting trail.

### **Transportation Master Plan Consultants Discussion**

\_\_\_\_\_ Discussion was held as to who should be hired to perform a Transportation Master Plan study for the City. The Governing Body felt comfortable with hiring Tim Taylor of WCEC Engineers who performed the Legacy North to Legacy Highway Connection evaluation for the City. The City Manager had spoken to Mr. Taylor about doing the work, but Mr. Taylor stated his company is not large enough to handle all of it. He would need assistance from another engineering firm. Horrocks Engineers and CRS Engineers were suggested, but the Council felt an outside firm that had not had a previous working relationship with the City should be considered instead.

Ryan Hales, who had addressed the Council earlier in the meeting regarding transportation issues for the Amenti Properties, offered to help Mr. Taylor find a firm he would be comfortable working with. Mr. Forbush was asked to bring a proposal to the next City Council meeting.

### **"Meet the Candidates Night" Format Discussion**

\_\_\_\_\_ A short discussion was held regarding the format for "Meet the Candidates Night" to be held October 23. Suggestions of individuals who might be able to participate as moderator for the event were given to the City Recorder. She is to arrange for a moderator and to gather questions from the audience that night to be asked of the candidates. The time frame for the evening will be 1½ hours.

### **Consideration of Pat Moffat Proposal**

Pat Moffat, of The Boyer Company, had sent a letter to the City regarding filling in the ditch which runs through their Farmington Ranches Phase 8 subdivision. They are willing to front the costs of installing a main water line to service Mr. Wayne Freckleton's property on 1525 West and Glover Lane. The City would only be responsible to reimburse The Boyer Company for the cost of the water line if and when both the U.S. Army Corps of Engineers and the State Engineer's Office Wildlife Resources give permission to fill in the ditch. The Boyer Company is proposing a Reimbursement Agreement between them and the City.

Mr. Forbush stated the issue is to get water to the Freckleton property. A 10" culinary water line would be run down 1525 West and then a connection would be made at the end of the 10" line to service the Wayne Freckleton property. An agreement needs to be reached with Mr. Freckleton that

if he gives the City his water right, the City will give him a free water connection, free impact fee and run the line. The Council felt there was no basis for running the water line all the way to Glover Lane, but only run to the corner of Mr. Freckleton's property. If he wants it further, he would need to pay the City for it.

### **Mayor Harbertson's Report - Speed Signs**

Mayor Harbertson reported on the speed signs which show motorists how fast they are going. The signs are too heavy to be moved from one strategic location to another. The Police Chief has the first sign and it "weighs a ton" plus solar panels will need to be installed on the back to keep the batteries charged. The sign requires a 3" pole with a foundation. Once the sign is installed, it will be permanent. The Police Chief had suggested to the Mayor to take the money budgeted for the sign and instead purchasing another speed trailer which would be mobile and easily moved to different locations around the City. The Council felt placing the speed signs in permanent strategic locations such as downhill slopes would be more beneficial and that a sign should be purchased each year for 10 years and instructed the City Manager to let the Police Chief know of their decision.

### **1075 West Signal Project**

Mayor Harbertson reported Cory Pope of UDOT said the Federal Highway Administration (FHWA) will not pay for the traffic signal project at 1075 West and Shepard Lane as had been proposed. The warrants for such a signal have not been met and the FHWA will not accept a signalized project.

Mr. Forbush stated a meeting was going to be held with the Wasatch Front Regional Council on Thursday to look at alternatives as to what the City can do. Should the City improve the intersection and get it ready for a signal some day? Should the City see if the money can be used on another project? What are the alternatives? He explained the Wasatch Front Regional Council is the allocating agency so he did not know how much say the City will have. The traffic engineers are saying the east/west stop signs should be pulled and just let the traffic flow. They said it doesn't warrant a four-way stop.

Mayor Harbertson said if the City is allowed to use the grant money for another project one other one could be a sidewalk project on Main Street from Park Lane to Shepard Lane to improve safety there.

Mr. Forbush will bring information back to the Council after attending the meeting.

### **City Council Reports**

It was reported the Public Works Department will place campaign signs in support of "Opinion Question #1" on locations of City property designated for political signs. Opinion Question #1 deals with raising taxes to be used for corridor preservation.

### **Miscellaneous Items - Brian Crockett Issue**

Max Forbush reported he had met with Brian Crockett who is offering a solution to the problems on North Bella Vista Drive. The Crocketts are willing to grant an easement (20' wide and 32' deep) for a hammerhead turnaround at the southeast end of their property. They are asking the existing right of way be narrowed to the current size of the street or less and that the property between

the back of curb to the west be vacated and deeded to them. They are also requesting a street light be installed at the north end of Bella Vista Drive. It will cost about \$2,000 for the street light and \$1,000 for the paving. The Council was in agreement with the plans and Mr. Forbush will have an agreement prepared for formal approval by the Council.

There being no further business to be discussed and upon motion by **David Hale** the meeting was adjourned at 1:05 a.m.

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Margy Lomax, City Recorder