

# FARMINGTON CITY PLANNING COMMISSION

Thursday, January 13, 2005

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## PLANNING COMMISSION STUDY SESSION/KITCHEN AREA COMMUNITY CENTER

*Present:* Chairman Cory Ritz, Commission Members Keith Klundt, Annie Hedberg, John Montgomery, Cindy Roybal, and Jim Talbot, City Planner David Petersen, and Deputy City Recorder Jeane Chipman. Planning Commission Member Kevin Poff was unable to attend until later in the meeting.

**Chairman Ritz** opened the meeting at 6:10 P.M. The following items were briefly discussed:

- Agenda Item 2a/ Danville Land Investments (Woodside)– Mr. Petersen explained negotiations regarding road alignment through the proposed development area located at approximately 2000 West 800 North. The Utah Transit Authority (UTA) would not allow the originally proposed railroad crossing unless two other crossings were closed at the same time. The Utah Department of Transportation (UDOT) may likely be constructing an interchange to the northeast of the development which may further compound problems. A new alignment was considered which would circumvent problems related to both these issues. Wetland studies had not been completed but were underway. Mr. Petersen also mentioned the Lodder property, which was currently within Kaysville boundaries. If that property owner does not work with Woodside they may not have ideal access.
- Agenda Item 2b/Jim Dixon request for lot split– Mr. Petersen explained the agenda item was a simple lot split request, which staff recommended approving.
- Miscellaneous Agenda Item– Mr. Petersen stated that Robert Steed, new owner of the Brass Comb building, was anxious to receive an audience with the Planning Commission to determine their opinion regarding a second floor addition to his building on Main Street.
- Agenda Items 3 and 4/ The Gardner commercial project and the Neighborhood Mixed Use (NMU) zone text– In discussion of the items, the Planning Commission felt it would be important to discuss the Gardner project prior to the NMU. Several Commission members mentioned they felt it important to let citizens know Commissioners had not come to the meeting with pre-conceived notions or decisions already made. It was also important that residents understand citizen input was meaningful and influential. Several Commission members felt

that the current limits on building size in the NMU draft were unrealistic. Because the study session was an open meeting, David Dixon was in attendance and requested permission to make a comment. Mr. Dixon stated that he had been hired by Gardner to represent the developer and to be the architect for the project. Mr. Dixon stated that previous plans were much too intense for the property. He would rather see commercial entities kept near U.S. 89 and a carefully planned buffer next to Main Street. He felt the project needed to be done right. A discussion ensued regarding building square footage allowances and careful development control. Mr. Dixon announced that the developer would formally request that the Commission delay action on the item. It was stated that public comment must be heard on the application even though no action may be taken. Mr. Dixon also stated the public would be invited to an open house to discuss plans for property use.

- Agenda Item #5/McMullin Homes request for a temporary sales office– Planning Commission members mentioned their desire to see a 24-month limit (or sooner) placed on the conditional use permit.
- Agenda Item #6/Larry Alsup and Cindy Morrow consideration of modification or revocation of conditional use permit– Mr. Petersen had contacted the City Attorney, who rendered a recommendation. Mr. Petersen detailed the recommendation for the Planning Commission and stated that the property owner was in clear violation on at least 3 counts. An outline of the Attorney’s comments would be presented during the regular session. Mr. Petersen also stated that the Historic Preservation Commission had been contacted and would be present in the regular session to give input. It was the Historic Commission’s opinion that the conditional use permit should be revoked.

### **PLANNING COMMISSION REGULAR SESSION/COMMUNITY CENTER**

***Present:*** Chairman Cory Ritz, Commission Members Keith Klundt, Annie Hedberg, John Montgomery, Kevin Poff, Cindy Roybal, and Jim Talbot, City Planner David Petersen, and Deputy City Recorder Jeane Chipman.

**Chairman Ritz** called the meeting to order at 7:10 P.M. **Kevin Poff** offered the invocation. The Chairman and Planning Commission Members welcomed the newest Commission member, Annie Hedberg. Ms. Hedberg replaced out-going member Bart Hill.

### **APPROVAL OF MINUTES**

**John Montgomery** moved that the Planning Commission approve the minutes of the December 2, 2004, Planning Commission Meeting with corrections as noted. **Jim Talbot** seconded the motion. The Commission voted unanimously in favor. **Annie Hedberg** abstained.

**Kevin Poff** moved that the Planning Commission approve the minutes of the November 30, 2004, Planning Commission Meeting. **John Montgomery** seconded the motion. The Commission voted unanimously in favor. **Annie Hedberg** abstained.

**PUBLIC HEARING: DANVILLE LAND INVESTMENTS L.L.C. (WOODSIDE) AND HOWARD KENT REQUEST FOR SCHEMATIC PLAN APPROVAL FOR REMAINING PORTIONS OF THEIR RESPECTIVE SUBDIVISION PROJECTS OUTSIDE THE FIRST PHASE OF THE HUNTER'S CREEK SUBDIVISION LOCATED AT APPROXIMATELY 2000 WEST 800 NORTH AND THE FIRST PHASE OF THE MCKITTRICK PROPERTY LOCATED AT APPROXIMATELY 675 NORTH 1800 WEST. ALTOGETHER BOTH PROJECTS CONSIST OF APPROXIMATELY 335 LOTS ON 243 ACRES IN THE AE AND AA ZONES (S-4-03) AND (S-11-04). (Agenda Item #2a)**

### **Background Information**

The Hunter's Creek Subdivision received schematic plan approval upon annexation of the property into the City. Later, after coming to an agreement with the City regarding off-site road improvements and other considerations, the development received preliminary plat approval. Meanwhile, the McKittrick Subdivision received schematic plan approval as part of a re-zone application. Both projects received schematic plan approval under the premise that the major collector road planned for West Farmington would follow the alignment of 950 North traversing across the UTA railroad tracks, thence in a south easterly direction to the Park Lane interchange as shown on an exhibit accompanying this Staff Report. Now it appears that this alignment may not be immediately feasible for a number of reasons. UTA is reluctant to approve another railroad crossing without the immediate closure of 2 other railroad crossing. This is not possible. At least the railroad crossing north of the Steve Flanders' property must remain open to provide access for properties on West Burke Lane, east of said railroad tracks. Furthermore, the Wasatch Front Regional Council and UDOT are exploring the possibility of constructing a freeway interchange at Shepard Lane and I-15. This may greatly impact all previous agreements and understanding that the City has with the two developers. For these reasons, it was suggested that the City and the developers identify a new alignment for the western major collector sweeping west of the original alignment and crossing the UTA railroad tracks at Burke Lane. The major collector in the vicinity of the railroad crossing must be "built-up" to provide a safe site distance meeting national engineering standards. An improvement agreement should be in place with the City regarding the construction of the major collector and other public improvements in the area

prior to or concurrent with consideration of preliminary plat approval, as was done previously with the Hunter Creek Subdivision.

END OF PACKET MATERIAL.

**Annie Hedberg** declared a conflict of interest and recused herself from discussion of the agenda item.

**Mr. Petersen** reviewed the background information.

### **Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing and invited the applicant to address the Commission members.

**Howard Kent** (developer) stated that the developers had redesigned the subdivision to make a better plan than what had been done originally.

**Garett Seeley** (also representing the developers) felt that the redesign would be an asset to the City and was much improved over what had been submitted previously.

**Lane Sweat** (696 North 875 West) felt there was a concern regarding the increased population in west Farmington which the subdivision represented. The construction of a three-lane collector road in the rural community would have negative safety and environmental impacts. Mr. Sweat complained about the token open space that had been preserved by current developers in the area and said that infrequent spots of weed patches were not an asset to the community. The huge increase of homes on the west side of Farmington was unfair to the residents who had moved there for the rural atmosphere. There were several issues the City should take into consideration before approving such a large subdivision. The development represented poor transportation plans and no real parks or public amenities. Mr. Sweat was in opposition to the subdivision.

**Don Clark** (1774 West Burke Lane) stated that a great many of the children in the west Farmington area were bused to their schools each day. When the road in the area was improved, it was closed down, and no one told the bus drivers. He asked how the City planned to keep the transportation routes open for school children while roads were being improved. The road in question

was the only connection between Kaysville and Farmington. It was a very high traffic area. He wanted the City officials to consider safety and the needs of the citizens in the area.

**Public Hearing Closed**

With no further comments, **Chairman Ritz** closed the public hearing and asked the City Planner to explain the plans for transportation engineering and the conservation ordinances of the City which included open space requirements and plans for parks throughout the City.

**Mr. Petersen** summarized the City's conservation ordinance and some parks and trails planned by the City for the area. He also discussed transportation corridor needs and briefly reviewed road improvements plans for the area in question.

**Motion**

**John Montgomery** moved that the Planning Commission grant schematic plan approval to Danville Land Investments L.L.C. for the remaining portions of the Hunter's Creek Subdivision outside the first phase of the project located at approximately 2000 West 800 North and the first phase of the McKittrick property located at approximately 675 North 1800 West subject to all applicable Farmington City development standards and ordinances and the following:

1. The eighty (80) foot wide road planned for the western portions of the project shall be designed and constructed to meet standards for major collector streets. If necessary, the number of local streets stubbed to this major collector shall be eliminated to reduce traffic conflicts as recommended by the City engineer.
2. The intersection of the major collector at 950 North Street shall be configured in such a way as to accommodate the future Legacy north alignment.
3. An accurate wetland delineation acceptable to the Army Corps of Engineers shall be submitted to the City. The wetlands may impact the number of developable lots in the project.

**Keith Klundt** seconded the motion, which passed by unanimous vote. **Annie Hedberg** abstained.

**John Montgomery** moved that the Planning Commission grant schematic plan approval for portions of the McKittrick Subdivision outside of the first phase of the project located at approximately 675 North 1800 West subject to all applicable Farmington City development standards and ordinances and the following:

1. The eighty (80) foot wide road planned for the western portions of the project shall be designed and constructed to meet standards for major collector streets. If

necessary, the number of local streets stubbed to this major collector shall be eliminated to reduce traffic conflicts as recommended by the City Engineer.

2. An accurate wetland delineation acceptable to the Army Corps of Engineers shall be submitted to the City. The wetlands may impact the number of developable lots in the project.

**Jim Talbot** seconded the motion, which passed by unanimous vote. **Annie Hedberg** abstained.

### **Findings**

1. The applications complied with City ordinances and the General Plan for the area.
2. The road design would provide permanent solutions to transportation needs of the area compliant with State and City requirements.

### **PUBLIC HEARING: JIM DIXON REQUEST FOR APPROVAL FOR A TWO LOT SUBDIVISION (LOT SPLIT) BY METES AND BOUNDS CONSISTING OF 2 ACRES LOCATED AT APPROXIMATELY 1350 WEST 475 SOUTH IN AN AE ZONE (S-24-04) (Agenda Item #2b)**

### **Background Information**

The subject parcel is included as part of a special improvement district (SID) for 475 South Street. The 2 acre parcel is approximately 211 feet in width. Each lot meets the minimum required frontage of 100 feet. When the SID was established, it was anticipated that property owners, such as Jim Dixon, would divide their lots as requested in this application.

END OF PACKET MATERIAL.

**Mr. Petersen** briefly reviewed the agenda item.

### **Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing.

### **Public Hearing Closed**

With no forthcoming comments, **Chairman Ritz** closed the public hearing and asked the Planning Commission for their consideration.

**Motion**

**Jim Montgomery** moved that the Planning Commission approve the subdivision (lot split) by metes and bounds located at approximately 1350 West 475 South subject to all applicable Farmington City development standards and ordinances. **Kevin Poff** seconded the motion, which passed by unanimous vote.

**Findings**

The application met with all Farmington City ordinances and standards and was consistent with previous actions taken by City officials. The application was also consistent with the General Plan for the area.

**AGENDA AMENDMENT**

**John Montgomery** moved that the Planning Commission consider Agenda Item #4 prior to Agenda Item #3. **Jim Talbot** seconded the motion, which passed by unanimous vote.

**PUBLIC HEARING: GARDNER/GUST CHERRY HILL, LLC REQUEST FOR A RECOMMENDATION TO AMEND THE GENERAL PLAN BY REDESIGNATING PROPERTY BETWEEN U.S. 89 AND MAIN STREET SOUTH OF THE CHERRY HILL INTERCHANGE (APPROXIMATELY 28 ACRES) FROM NEIGHBORHOOD MIXED USE (NMU) TO COMMERCIAL MIXED USE (CMU) AND TO FURTHER REZONE THE PROPERTY FROM A, LR, AND LS TO CMU (Z-14-04) (Agenda Item #4)**

**Background Information**

This agenda item was reviewed by the Planning Commission at a public hearing on November 11, 2004. The Planning Commission held a study session to further review the request on November 30, 2004. In addition to written comments received or reviewed at the meetings, the following information was also passed out at one or both of the meetings:

- Property plat map
- Aerial photo
- Schematic plan
- Chapter 11 of the General Plan
- Information from the Ross Consulting Group, "Evaluation of Commercial Uses and Development within the City of Farmington, Utah"
- General land use map to be presented at the Planning Commission meeting
- Letter from Smith's
- Economic development information presented by Bonneville Research

- Traffic impact study prepared by Horrocks Engineers

Except for the new member of the Planning Commission, at the recommendation of the Planning Commission Chairman, this information will not be included again in the packet. The chairman further suggests that any member in need of another copy of the above information should drop by City Offices.

END OF PACKET MATERIAL.

**Mr. Petersen** explained the agenda item. Much of the information had been presented at previous meetings.

### **Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing. He requested that David Dixon, representing the developer, address the Commission prior to hearing from interested community members.

**David Dixon** (1047 North 100 West) stated he had been approached by Mr. Gardner to represent the developer. Mr. Dixon would also be the architect for the project. It was an arrangement which Mr. Dixon had considered very seriously because he felt his reputation was at stake. He had told the developer that the project would have to be totally reconsidered and that there would have to be a completely different approach if Mr. Dixon was to become associated with the venture. The previous submittal had been a very controversial design, opposed by many members of the community. Mr. Dixon felt there would have to be an amenable solution acceptable to both the City officials and the citizens of the area. Mr. Dixon, therefore, on behalf of the applicant formally withdrew the application to amend the General Plan by redesignating property between U.S. 89 and Main Street south of the Cherry Hill Interchange from Neighborhood Mixed Use (NMU) to Commercial Mixed Use (CMU) and to further rezone the property from A., LR, and LS to CMU. He would be recommending that a new application come before the Planning Commission which would call for NMU designation for the property. He knew there were citizens in attendance who wanted to give input regarding any use of the property in question and stated that he and the developer would appreciate any comments the residents would like to offer. Mr. Dixon stated that the CMU designation would be far too intense for the location. All options for use would be open for discussion, including single family residential development in the NMU zone. Every aspect of any potential use would be given thorough consideration. Of major concern was the protection and buffering of adjacent neighboring residential areas. He wanted the project to be beneficial to the City while being fair to the land owners. Mr. Dixon commented that he loved the rural nature of the community and would like to preserve as much of that atmosphere as possible. However, being practical, he was

aware that development has come and would be increasing in the community. He had witnessed a great deal of development over the past 16 years since he had moved to Farmington. It was now the Leonard family's turn to develop their land. Because the Leonards love for Farmington and because they will remain residents of the area, they were especially interested in keeping any project high quality and beneficial to the City. Mr. Dixon also commented that it was very unusual for a parcel of land owned by several different property owners to be considered for development in one cooperative project. The City should take advantage of the situation and carefully plan the entire project so that it can be a beautiful amenity for the entire community. The developer invited citizens to attend an open house regarding uses of the property on January 20<sup>th</sup> from 6 to 8 P.M. in the Community Center. Input from the neighbors would be welcome.

**Keith Lloyd** (1225 South Main, Fruit Heights) stated that he was one of the owners of the Cherry Hill recreational area. There had been quite a bit of confusion regarding the proposed name of the commercial development under consideration. He requested that the name be changed and that all references to Cherry Hill be eliminated, including signs in people's neighborhoods. There was no connection between the Cherry Hill recreation area and the project being proposed.

**Mike Jones** (9535 East, Sandy) stated that he had been retained as legal counsel for the citizen opposed to the change from NMU to CMU. The citizens had organized into a corporation entitled "Citizens for NMU." He stated he was very pleased that the developer had withdrawn the CMU application.

**Dan Anderson** (178 Ridgewood Circle) said he represented citizens in the action group in favor of the NMU designation. He stated that the developer and the City must follow the General Plan for the area. He asked for clarification regarding the formal application withdrawal.

**Mr. Dixon** clarified that both the General Plan amendment request and the rezone request had been withdrawn.

**David Potter** (1745 North Main) said that he and his brother, Richard, were owners of portions of the property in question. They had felt misunderstood and mistreated through the process. He also felt that there was misinformation being promoted and that because of that the neighboring residents were opposed to any development. Property owners had never been invited to any of the meetings held by the neighbors to explain their plans. It was the desire of the Potters to sell the property and move to Malad, Idaho, where they could continue to farm. There was an urgency regarding the sale because of conditions on the property in Idaho. He encouraged the Planning Commission to help citizens get correct information and to move forward

expeditiously. He had been told he would be sued if the property developed in anything other than open space. Mr. Potter felt he had to sell the property because it could not be farmed any longer.

**Steve Anderson** appreciated the comments made by those representing the developer. He loved the community and wanted to express his concern regarding existing commercial businesses. He felt that Smith's would be in jeopardy if another grocery store was allowed to move to property so close. The City should be very careful about the impacts on the City's existing revenue sources. It would be important to build the City's tax base.

**Don Leonard** thanked the Planning Commission for the time they had spent reviewing the proposals and for initiating the town meeting held the previous evening. The meeting had been very informative. He encouraged everyone present to attend the open house to be held the following week so that decisions could be made with all the facts in mind.

**Carley Neal** (1454 North 9900 West) said she lived just east of the frontage road adjacent to the property in question. It was her understanding that the street in front of her house would be used for access to the proposed commercial site. She felt the road would be much too small to handle the anticipated traffic. The impact on the neighborhood would be extremely negative.

**Susan Hess** (947 North Main) commented that she appreciated there had been good people who had moved into the neighborhood, and she hoped they could work together and continue in promoting a friendly neighborhood.

**Judy Pierce** (1530 North Main) stated she lived on Main Street across from where the proposed development would take place. She very much appreciated the comments made by Mr. Dixon. She knew that the Leonard family would not move from Farmington, therefore they would be continually interested in the quality of the development.

**Patricia Anderson** (67 North Somerset Street) stated her concern for anything that she believed would negatively affect the integrity of Main Street. She felt there was no need for any further commercial development in the City. Such would seriously impact the health and welfare of the people living in the City.

**Rob Ramage** (466 Hunter East Circle) felt that before any further development was added to the area, the City should fill the empty Kmart building.

### **Public Hearing Closed**

With no further comments, **Chairman Ritz** closed the public hearing. He thanked the

citizens for their input. He also reported that there had been written comments received which had been considered and which would be added to the public record. He felt the citizens should understand that City officials had not approached the agenda item with preconceived ideas either pro or con. They all wanted the best for Farmington.

**PUBLIC HEARING: FARMINGTON CITY REQUEST FOR A RECOMMENDATION REGARDING TEXT FOR THE PROPOSED NEIGHBORHOOD MIXED USE ZONE (NMU) (ZT-8-04) (Agenda Item #3)**

**Mr. Petersen** introduced the agenda item. The Planning Commission had held a study session prior to the regular session. One issue raised in that session was the size of any proposed neighborhood grocery or commercial building.

**Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing.

**David Dixon** (1047 North 100 West) said he had read through the proposed text of the neighborhood mixed use zone. He felt he had had a great deal to do with the existing ordinances in the City because of his work as a past City Council member. He also stated that because of his work as an architect he dealt with zoning ordinances on a daily basis in many different communities. It was his opinion that Farmington's NMU needed to be much more restrictive and include stronger enforcement. He suggested that language should be added to give guidelines regarding such things as the backs of buildings, the use of Farmington rock, appropriate locations for specific uses, the protection of Main Street, increased set backs for buildings near residential uses, percentage of stucco on buildings, landscaping standards, special lighting directives, park benches and other open space amenities, standards for shared parking use, signage design standards, hours of use, and common area maintenance. Mr. Dixon stated he would like to have the opportunity to work with Planning Commission to tighten the ordinance and protect the City.

**Matt Hess** (572 South Woodland Hills, Bountiful) briefly reviewed the history of the current NMU zoning ordinance draft and the many hours the committee members spent in creating the document. He felt that it would be good to have a specific development move forward with the NMU in mind to see if the text was realistic. It would be easier to tell if the document was sound if it were used in real life. He also felt that Mr. Dixon had good points about tightening the language of the ordinance. He suggested the Planning Commission hold off on ordinance approval until the document could be looked at one more time.

**Kathleen Farnes** (672 West Ramsgate Road) said she understood that Farmington needed revenue. However, the City receives plenty of funds from the residents in the large homes in the north end of the City. In her opinion there was ample money to run the City. The citizens

had not asked for a lot. For example, they had not made a big issue of the poor road conditions. If the residents wished to go grocery shopping they could go to Smith's. Other items could be purchased in Kaysville or Bountiful. There was no need to go to Salt Lake City where there were a lot of empty stores. She asked that the Planning Commission work to keep Farmington a wonderful place to live and to think more of the people than the convenience of any kind of store or anything that would detract from the citizens.

**Dan Anderson** (178 Ridgewood Circle) noted there were different opinions about what should happen to the land, even by those who owned it. One owner wanted the process to move forward quickly; another felt the City should wait and see what the developer wanted and then design the ordinance. Mr. Anderson felt the ordinance should be created to fit the needs of the City and then the developer should comply with the ordinance.

**Harv Jeppson** (1717 North Main) said that not all property owners agreed with the guidelines in the NMU zone ordinance. He had done work with the committees involved and reported that the City's consultant had suggested having a development in mind when creating the ordinance.

**Sharon Treu** (931 West Northridge Road) had studied the NMU and wanted to make some suggestions. She said that drive-through services had not been specifically eliminated and should be because of the intense traffic they create.

### **Public Hearing Closed**

With no further comments, **Chairman Ritz** closed the public hearing and asked the Planning Commission for their consideration. The following points were considered:

- Currently, there seemed to be no developable land outside of the property being considered that was appropriate for the NMU. However, there may be other areas considered for the zone as the City develops.
- Some Planning Commission members felt the ordinance may be adequate for the time being and that as it is used it could be tweaked as issues arise. Several members felt that the committees involved in the creation of the ordinance had gone through a great deal of work and such effort and time commitment had been a worthwhile endeavor.
- There were several points, such as the size of buildings and issues raised by Mr.

Dixon, which may be well to reconsider.

- There was a balance and a fairness issue that needed to be considered. The rights of property owners, the marketability of future commercial developments, the need for the City to increase tax based revenues, and the desires of current residents to maintain the quality of life in Farmington all needed to be carefully weighed.
- Several Commission members commented that they were cautious about appearing as if they were crafting an ordinance to reflect the requirements and requests of one developer. All City ordinances had to take into consideration the eventual impact on the entire City. Ordinances had to be flexible enough to be fair and allow necessary development while protecting existing citizens and maintaining the quality of life in the City.
- Some Commission members felt it was difficult to evaluate the new ordinance in an academic way. It was much easier to critic the language of the ordinance when there was a real development in mind.
- The language of the NMU may not be totally realistic, especially when considering some of the building size limitations.
- Having a large parcel of land with several different property owners involved developed by one developer had definite advantages. When piecemeal, unplanned development comes to a city, it is often not the best of circumstances.
- Ms. Roybal commented that when the ordinance was created, the committee (of which she was a member) seemed to be made up of a majority of residents from one residential area, even though the ordinance would impact the entire 89 corridor.
- Mr. Petersen suggested that any further consideration of the zoning ordinance should likely involve the City's consultant from Bear West.
- A date specific should be included in any motion to table consideration of the zoning text.
- The City Council would like to be able to review the NMU zone on or before February 16<sup>th</sup>.

**Motion**

**Jim Talbot** moved that the Planning Commission postpone taking final action on the Neighborhood Mixed Use Zone text for 4 weeks and that within the next 2 weeks, staff and the City consultant should meet with the developer and other interested parties to prepare information for the review of the Planning Commission members. It is planned that the Planning Commission will consider the NMU for final approval on February 10, 2005. **John Montgomery** seconded the motion.

In discussion of the motion, **Ms. Roybal** was interested in identifying the original committee membership to obtain their input. She also felt that it would make sense to consider information given by David Dixon.

**Mr. Talbot** also felt that the committee members who had spent a great deal of time considering all the issues should be consulted in any revisions.

**John Montgomery** seconded the motion as proposed, which passed by unanimous vote.

It was decided by consensus that David Petersen, David Dixon, Jim Talbot, Cindy Roybal and the City consultant would review the contents of the ordinance and present a report to the full Planning Commission during the miscellaneous portion of the meeting on January 27<sup>th</sup>. It was also decided that the Planning Commission would consider the NMU at a special study session one hour prior to the regular meeting scheduled for February 10<sup>th</sup>.

**PUBLIC HEARING: BRUCE MCMULLIN/MCMULLIN HOMES REQUEST FOR CONDITIONAL USE AND SITE PLAN APPROVAL TO ESTABLISH A TEMPORARY SALES OFFICE IN A MODEL HOME LOCATED AT 153 SOUTH 1225 WEST IN AN AE ZONE (TU-4-04) (Agenda Item #5)**

**Background Information**

Section 11-28-120(h)(1)(iii) states in part, "A temporary office for the sale or lease of property in a major subdivision or planned unit development (PUD) may be used until the last lot or unit in the development is sold."

END OF PACKET MATERIAL.

**Mr. Petersen** reported that in the discussion during the study session Commission members suggested condition #5 be amended to read: ". . . until the last lot of Lots 401 through 422 of the Farmington Greens P.U.D. Plat 4 are sold or 24 months, whichever comes first."

**Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing.

**Public Hearing Closed**

With no forthcoming comments, **Chairman Ritz** closed the public hearing and turned the item to the Planning Commission.

**Motion**

**Keith Klundt** moved that the Planning Commission grant conditional use and site plan approval to establish a temporary office in a model home located at 153 South 1225 West subject to compliance with all applicable ordinance requirements and development standards and the following conditions:

1. Permanent signs are prohibited. The size and location of signs shall be in compliance with applicable provisions of the Sign Ordinance for the zone in which the use will be conducted. All signs shall be removed when the activity ends.
2. No loudspeakers or other amplifying sound devices shall be used in conjunction with the temporary use.
3. Outdoor lighting, if used, shall be subdued. All lighting shall be designed, located, and directed so as to eliminate glare and minimize reflection of light into neighboring properties. Searchlights shall not be permitted.
4. The conduct of temporary uses in residential zones shall be limited to the hours between 8:00 A.M. and 8:00 P.M.
5. The temporary office in the model home may exist up to and until the last lot of Lots 401 through 422 of the Farmington Greens PUD Plat 4 are sold or 24 months, whichever comes first..
6. If the office is located in the area of the home intended for a garage, any alterations made to accommodate the office shall be removed, and the space shall be converted to function as a garage upon termination of the temporary office.

**Cindy Roybal** seconded the motion, which passed by unanimous vote.

**Findings**

The application was compliant with all City ordinances and standards and was consistent with the General Plan. The motion was consistent with actions taken in the past with similar requests.

**PUBLIC HEARING: LARRY ALSUP AND CINDY MORROW/REVOCATION OR MODIFICATION OF A CONDITIONAL USE PERMIT (Agenda Item #6)**

**Background Information** The following information is verbatim from the Staff Report dated January 13, 2005:

On June 24, 2004, the Planning Commission approved a Conditional Use/Site Plan Application from Larry Alsup and Cindy Morrow to construct an attached garage located at 139 East 400 North (see enclosed letter dated July 2, 2004). It appears that the applicants are in violation of the conditional use approval on a number of counts including, but not limited to the following:

1. *Demolition of a Historic Home.* The site plan approved by the Planning Commission showed an existing home located in the southeast part of the property. Apparently, the home was constructed in 1861. The applicant demolished this home in violation of the site plan and without receiving a demolition permit from the City.

It appears that the applicant was trying to modify the historic home without a building permit and thereafter, decided to demolish the home, also without a permit. Previously, Larry Alsup also started remodeling the historic barn on the property without a building permit. He commenced construction of a swimming pool without a permit, and he demolished additions to the historic home without a permit.

Members of the Historic Commission have since indicated that a negative recommendation for the new home would have been provided by the Commission if they knew that the historic older home was to be demolished.

2. *The Wall.* The existing wall, which is over four (4) feet in height, illustrated on the approved site plan is in violation of the Zoning Ordinance because it projects into the required front yard area of the lot. If the new wall had truly been an existing wall, it probably would have been determined to be a non-conforming structure by the Zoning Administrator.
3. *The Garage.* Regarding garage placement in the OTR Zone, Section 11-17-050(4), of the Zoning Ordinance, states:
  - (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.”

Farmington City received a letter from the applicant dated January 3, 2005. The first sentence of the second paragraph states “We’d like you to consider that the OTR was originally created for properties that the homes would be sitting in the front of the lot.” The issue set forth in this sentence is not an OTR issue, but an issue which pertains to the entire Zoning Ordinance. Most required front yard setback distances for any zone are no greater than thirty (30) feet. Nevertheless, required setbacks are a minimum requirement, not a maximum requirement and large deep lots exist in all zones of the City. Therefore, the ultimate placement of the home beyond the required setback is at the discretion of the property owner so long as all other setback standards are met.

The next issues raised in the January 3, 2005, letter states that “The historic, two-story rock barn should be considered the main structure and focal point of the property.” The old barn does not serve as a main building. A main building, as defined by the Zoning Ordinance, is defined as “The principal buildings housing the principal use upon the lot; also includes all of the appendages to a principal building constructed as an architectural and integral part thereof.” (Section 11-2-020(12).)

The principal building on the lot is the single-family home, now under construction. The barn is a large building primarily used for storage and wood shop type uses. Such uses are not allowed by themselves in a detached building in a residential area unless they occupy an accessory building to a main building, or are located within a main building where, in both cases, a permitted or a conditional use allowed in the zone is housed in the main building.

The fourth paragraph of the January 3, 2005 letter states, “The present plans of the residence clearly shows that the pillars, which are five (5) feet in front of the garage

support the floor of the home above the garage. This is in compliance with our special use permit.” Based on this information, one may suppose that:

- A. An attached garage with living space over the top which projects from the front plain of the building towards the front property line does not encroach into the front yard of a building lot.

And

- B. An attached garage with no living space over the top under similar circumstances does encroach into the front yard of a building lot.

In the past when issuing a building permit, Farmington City has considered a garage under both scenarios A and B as an encroachment into the front yard of a building lot.

The Farmington City zoning Administrator has elected not to provide a determination regarding the applicant’s assertion until more information is gathered and until he better understands past precedence.

END OF PACKET MATERIAL.

**Mr. Petersen** explained the agenda item. He reviewed the violations as observed by City staff and stated that he had reviewed the agenda item with the City attorney since the packet had been put together. The packet was sent prior to review by the Attorney in order to give the Planning Commission time to review and perhaps visit the property. Mr. Petersen read the outline as presented by the Attorney as follows:

I. Ordinance interpretation:

- 1. If living space exists in a second story above the garage, is the garage still a garage? Yes, it is still a garage.
  - a. The zoning ordinance defines a dwelling in part as: “Any building or portion thereof which is designed for use for residential purposes.”
  - b. 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. Therefore a garage is not a dwelling nor is a dwelling a garage. Furthermore, living space above a garage does not mean that the garage then becomes a dwelling.

- c. Past precedence by the City has been to interpret a garage as any building housing vehicles whether living space is above such area or not.
  - d. Section 11-17-050 anticipates that a garage may be attached to the dwelling.
- 2. Is the garage located in the front yard?– yes.
  - 3. Does the property owner need a conditional use permit?– yes.

II. Violations:

- 1. The property owner violated the conditional use permit by not constructing according to the site plan. The garage encroaches 9 to 16 feet (or more) into the front yard. Meanwhile the approved site plan shows the garage is even with the main building and not encroaching into the front yard.
- 2. The builder violated the site plan and the building permit.
- 3. The builder violated City ordinances by demolishing the old home without a demolition permit. The home was constructed in 1861.
- 4. Demolition of the historic home is in violation of the approved site plan which is part of the conditional use permit.

III. Remedies:

- 1. Sustain the conditional permit as granted (the garage must be reconstructed to comply with the original site plan). Findings for this decision include but are not limited to that this action is in accordance with City ordinances.
- 2. Revoke the conditional use permit for the garage, site plan, and building permit. The applicant may come back to the Planning Commission and reapply for all necessary permits.
- 3. Provide a “time to cure.” The Planning Commission could allow a time specific for the property owner to comply with either a decision to sustain or revoke the conditional use permit.
- 4. Modify the conditional use permit by giving the property owner time to bring the

dwelling, garage, and site plan into compliance with City ordinances.

### **Public Hearing**

**Chairman Ritz** opened the meeting to a public hearing and invited Ms. Morrow and Mr. Alsup to address the Commission members.

**Cindy Morrow** (12 North 200 East) addressed the Planning Commission. She rehearsed how she had purchased an historic home in Centerville and had cared for the building and for the history that it represented. When she and Larry Alsup found an historic building in Farmington, they knew they would like to purchase the property and preserve it. They had added up the costs of what it would take to improve all the property, including a swimming pool, new fence, restoration of the barn and the old house plus build a new home on the land. They had worked for years to get the financing needed for the improvements. Ms. Morrow stated they felt betrayed by Farmington and was no longer sure she wanted to live in the City. Every time they tried to get something done, they felt they had had a door shut in their faces. She and Mr. Alsup were trying to make the downtown area better.

**Larry Alsup** stated he had bought the property before it was zoned OTR. It had been zoned for multi-family dwellings, and when he asked what could be done he was told he could develop the property for a 12-plex. He decided not to do that. He wanted to save the old stuff. When he asked the City Inspector, he was told that the barn could only be used for its original intended purpose. He was also told that before he did anything he had to get a building permit. Citizens used to hold town meetings in the barn. Karlyn Hinmen (local long-time resident) told Mr. Alsup historic stories about the property. He found out from Ms. Hinmen that the house had been remodeled so many times it was no longer considered truly historic. When he bought the lot it was covered with 50 years worth of trash. He decided he would clean it up and save the property. He came before the Planning Commission and stated his intentions to save the old buildings. The City Inspector had told him he had proceeded without a building permit. He did not understand why he needed a building permit to repair the barn. The barn had to be repaired because the roof and the walls were falling down. Then he was told that he could not bring the barn up to code because historic codes had not been adopted. He decided to build to historic codes and the Inspector placed a "stop work" order on the construction. He was told he could get a building permit if he agreed to build to historic codes and get an engineer to write a letter stating the codes were being met. The cost would be double.

Mr. Alsup said he approached the City Manager and asked if the City would like to have the house, but was turned down. He approached Larry Haugen (member of the City Council and the Historic Preservation Commission) and Mr. Haugen said it was not really a historic house and the Historic Preservation Commission did not want it. Mr. Alsup told the Historic Commission they were welcome to any part of the house. Mr. Alsup said that he had received a

demolition permit signed by the City Planner. Mr. Alsup was also told he had been remodeling without a permit which was not true. He did not think he was out of compliance with City requirements. The “stop work” order came two weeks before Christmas and put himself and six other men out of work. It was costing him \$600 a day because of the “stop work” order. He was just trying to save the old stuff. The situation was all about a “look” which would be consistent with what other people had decided the OTR should be. The house sits 150 feet off the road, and no one will even see it.

**Alysa Revell** (Farmington Historic Preservation Commission) stated she and the Historic Commission felt the situation represented a clear cut case. The historic house no longer existed. She felt this contractor knowingly worked without a permit. With the house removed, the garage and house does not comply with the OTR zone requirements. The OTR zone is clear that all new construction be compatible with the surrounding structures. Since the City requires all other builders to comply with the law, this builder should be treated the same.

**David Allen** (property owner on Main Street, current resident at 601 South 150 East) stated he did not have all the facts. He related a past experience with Farmington City. Regarding Mr. Alsup’s application, Mr. Allen thought that it looked like there was a habit of Mr. Alsup wanting to do things according to his own rules. Mr. Alsup made the decision to go forward and incur the costs of the improvements. What ever decisions he made, he should pay for. There needed to be better organization in the City so that people are clear what is required. People do need to follow the law.

**Paul Hayward** (1663 West 1410 North) was a member of the Farmington City Board of Adjustment, and he related his involvement regarding Mr. Allen’s dealings with the City. The City must require citizens to comply with the law. If people do not understand, then the process must be improved. But if everything is clear, then the process must be followed.

**Mr. Alsup** stated that when the City Planner said he was in violation he asked for a copy of the conditional use permit. There never was a conditional use permit issued. The City failed to issue the permit. He did receive a letter from Mr. Petersen telling him that before he could get a building permit he must get conditional use approval. He wondered how he could comply with a conditional use permit when one did not exist. He felt that he had done everything in good faith. He felt that he and Ms. Morrow were the ones that were trying to save old stuff and build a nice house.

### **Public Hearing Closed**

With no further comments, **Chairman Ritz** closed the public hearing.

**Mr. Petersen** stated that on one task Mr. Alsup proceeded with a building permit when

the staff stated he did not.

When asked, **Mr. Petersen** itemized the dates of approval and amendment for the OTR zone. He also stated that the newly constructed fence was in violation of not only the current OTR zone by the previous zone of the property. Although the old home was not on any official historic registry because it had been remodeled several times, it was considered a valuable historic structure and could accurately be called an historic building because it had been constructed in the 1800s.

**Chairman Ritz** stated that the correct course of action would have been to come to the City for a demolition permit.

**Mr. Petersen** confirmed the statement and said that the process would have included a seven to ten day waiting period during which the Department of Public Health and the Farmington City Building Department would have inspected the building, the Historic Commission would have documented the house, and the structure would have been surveyed for any records or salvageable items.

**Mr. Poff** asked if the preservation of the old home had been a condition for the building permit required for the new house.

**Mr. Petersen** stated the preservation of the old home was part of the site plan which was part of the conditional use permit. Moreover, the Historic Preservation Commission stated that if they had known the old home was going to be demolished, they would not have recommend the approval of the house.

**Ms. Hedberg** stated that builders are always required to build to exact specifications of the site plan. She asked why the house was up to 16 feet off the specifications of the site plan.

**Mr. Petersen** stated that was the case and that the building was in violation of the site plan. The construction should have been “red tagged” for that reason alone.

**Mr. Alsup** stated that the garage did not deviate from the site plan. The Planning Commission needed to look at the site. The house was at an angle to the garage. The construction had been done to all the architects measurements. By the time the pillars on the home are built, there will be a negligible 4 foot difference from the site plan design. In deed, there had been a mistake. Mr. Alsup asked how it could be remedied. When he approached the City officials, he said he had been told the Planning Commission would have to resolve the problem. He also understood that the City was going to vacate 15 feet of right-of-way to all the people along the street. If the city was to vacate that property, then the fence would be in compliance. Mr. Alsup

said the fence was needed because of the swimming pool. He had tried to comply with all the rules. There was an existing fence on nearby property that went 10 feet further than his newly constructed fence.

**Mr. Petersen** said the violation with the fence can be remedied. The fence had not been noticed until City staff visited the site to see what had happened with the demolition of the old home. He had no knowledge about the vacation of the street right-of-way. Mr. Petersen explained the purpose of

the “stop work” order. The process is used to allow time to resolve problems. City officials stop work when they find there are violations.

**Mr. Alsup** stated that he had asked if he needed a permit to construct the wall and the City Planner told him he did not.

**Mr. Petersen** replied he did not have a recollection of a conversation regarding the wall. He reminded the Planning Commission they needed to consider the frame work presented earlier in the meeting, which directed that the site plan had been violated.

When asked, **Larry Haugen** reported he felt the statements made by Mr. Alsup regarding the preservation of the old home were not accurate. He said he had met with Mr. Alsup 2 or 3 times and had discussed the barn and the old house. He knew the house had been offered to the City Manager, but the reason the City Manager did not accept the offer was because the house could not be moved. It would have fallen apart. Mr. Haugen stated that the Farmington Historic Preservation Commission worked hard to save as many old homes as possible. He hated to see any of the homes of historic nature destroyed.

The Planning Commission members and the City Planner reviewed the options as had been presented.

**Mr. Alsup** commented that perhaps the OTR ordinance should be amended. It was his understanding that by definition of the ordinance any house should come out past the garage. His construction was clearly in compliance with ordinance.

**Mr. Petersen** reported ordinances should not be amended in order to comply with one situation in the City.

**Chairman Ritz** stated that the OTR ordinance had been created after a great deal of work and input by City officials and residents. He was not inclined to amend the ordinance. Doing so would have broad and possibly negative ramifications on the entire City.

**Mr. Montgomery** asked if in the spirit of cooperation there was some way to let the builder continue with the new home construction and allow the applicant time to come back to the Planning Commission with resolutions to the violation. It was his opinion that work on the garage should stop until an acceptable resolution could be found.

**Mr. Alsup** stated that if construction was not allowed to move forward, he and Ms. Morrow would lose everything they have.

**Mr. Klundt** remembered the meeting when the Alsup/Morrow request had originally been considered for conditional use approval. Mr. Klundt had been excited about the original plans for the property and looked forward to the improvements on the historic structures. He wanted to find some remedy to the violations for the well-being of the applicant, but there also had to be a way to have the project be beneficial to neighboring citizens and the entire community.

**Mr. Montgomery** felt strongly that there must be adherence to the law. There is an appeal process. He felt the construction of the home could continue but that there must be a cure for the garage and the screening lost because of the destruction of the old home.

**Mr. Alsup** stated it was not his intent to violate the site plan. The difference between the location of the garage and the site plan design was negligible. The ordinance was merely a “look.” He felt the City should not be allowed to tell people how to live their lives. He and Ms. Morrow were trying to be good citizens and save the old stuff of the City. He had planned to have the house in the Parade of Homes, but that would not be possible at this point. Work had already been stopped for one month, so there were 5 framers that were out of work. He wondered how they would feed their families.

**Mr. Montgomery** reminded Mr. Alsup that he had the right to appeal any decision of the Planning Commission. He also reminded Mr. Alsup that it was not the Planning Commission that had been in violation of the law.

### **Motion**

**John Montgomery** moved that the Planning Commission sustain the existing permit with all its requirements, and that the applicant be asked to come back with acceptable and satisfactory resolution to the screening issues created by the demolition of the old home and that the applicant comply with site plan for garage. Mr. Montgomery further moved that the applicant be required to return to the Planning Commission with acceptable remedies on or before February 24, 2005, otherwise the Planning Commission will take appropriate actions. Mr. Montgomery further moved that the “stop work” order remain in place for the garage and that no approval for occupancy for the dwelling shall be issued until the garage is brought into

compliance. **Keith Klundt** seconded the motion.

In discussion of the motion, **Mr. Montgomery** noted that the site plan had to be followed exactly in order to comply with City ordinance. However, modifications to the site plan in accordance with City Ordinances may be acceptable to the Planning Commission, and such modifications could be presented prior to or on the February 24, 2005, Planning Commission meeting.

A vote was taken. The motion passed by unanimous approval.

### **Findings**

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

## **CITY COUNCIL REPORT AND MISCELLANEOUS**

### **Citizen comment on Agenda Item #5**

Because a citizen had signed the comment register after the agenda item started, the Planning Commission was unaware he wanted to give input. Chairman Ritz allowed the comment during the Miscellaneous portion of the agenda.

Paul Hayward wished to comment on Agenda Item #5. He was concerned that 24 months for the temporary sales office was too long. He was also concerned with unsightly signage and that the builder be required to bond for any improvements needed to restore the sales office to a livable home ready for sale.

### **Brass Comb building additions**

Robert Steed was invited to address the Planning Commission. He presented changes in the plan to renovate the Brass Comb building. He asked for permission to add a second story and showed pictures of the design. The Planning Commission and Mr. Steed discussed the value of saving historic Farmington buildings.

Mr. Petersen stated he would want to check the plans with a qualified architect to makes

sure the project was done in good taste and was done so that it would stand the test of time for quality.

**Motion**

**Cindy Roybal** moved that the Planning Commission approve the second story addition subject to review and acceptance by the City Planner and a qualified architect and that the item be delegated to the City Planner. **John Montgomery** seconded the motion.

In discussion of the motion, Mr Montgomery asked if this action implied a change in the site plan, to which Mr. Petersen responded the site plan would be changed only with regards to the footprint of the building.

The vote was unanimous in favor.

**Findings**

The approval represented a minor change in the site plan. It would involve a slight deviation in the scale of the building. The second story would not surpass the height restrictions of the applicable ordinance.

**Certified Community Planner Seminar**

Mr. Petersen invited members of the Planning Commission to attend the Certified Community Planner Seminar. Information had been included in the packet. The City Offices would need to know if any of the members wished to attend.

**City Council actions**

At their last meeting, the City Council tabled consideration of the Salmon request to amend the zoning text regarding reconstruction of non-conforming structures.

**ADJOURNMENT**

**John Montgomery** moved that the Planning Commission adjourn at 10:55 P.M.

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*Cory Ritz, Chairman*  
*Farmington City Planning Commission*