

**FARMINGTON CITY
PLANNING COMMISSION MEETING
December 11, 2014**

STUDY SESSION

Present: Commissioners Kris Kaufman, Bret Gallacher, Rebecca Wayment and Alternate Commissioner Karolyn Lehn, Community Development Director David Petersen and Recording Secretary Lara Johnson. Chairman Brett Anderson, Commissioners Heather Barnum and Kent Hinckley, Alternate Commissioners Michael Nilson and Associate City Planner Eric Anderson were excused.

Item #3. Justin Atwater/Pembridge Heathrow Holdings – Schematic Plan Approval for Parkwalk Downs Subdivision

David Petersen said staff does not have any concerns with the Schematic Plan. The applicant is requesting a TDR for 2 additional lots, totaling 4 lots for the subdivision. David Petersen said a resident that lives on 650 West called regarding the Weber Basin secondary water line that will be going to the new subdivision. Currently, the resident that called, and the surrounding residents, do not have access to Weber Basin; with the development of the new subdivision, they would like a line to be extended to them. David Petersen explained that Weber Basin is not the City, but is a separate entity. The City has no authority to grant an extension of a secondary water line to residents.

Item #4. Nick Mingo/Ivory Homes – Final Plat Approval for Farmington Hollow Conservation Subdivision Phase I

David Petersen said this subdivision is now being split into two phases; staff does not have any concerns with the Final Plat.

Item #5. Farmington City – Approval for Text Amendment of the Sign Ordinance for the OTR Zone

David Petersen explained the history of the previous zoning of the OTR Zone and reviewed the ordinance for non-conforming signs within the OTR Zone. He explained Cal Fadel has owned a Farmers Insurance business on State Street since 1982; the insurance company is now requiring updated signs with the new logo, but the City's current non-conforming sign clause within the ordinance restricts it. Amending the ordinance, as proposed in the staff report, would allow Mr. Fadel to replace his sign.

Kris Kaufman asked if there are other businesses located within the OTR Zone that may also qualify for a non-conforming sign. David Petersen said no, but in light of preserving historic homes, the City allows for a professional office within a historic building anywhere in the City as an adaptive reuse as long as structure remains eligible for the National Register for Historic Buildings. These businesses may request a sign, but in most cases it would require a zone text change to do so.

David Petersen added that Mr. Fadel went before the Board of Adjustment for approval, but the ordinance restricts any such change. The City Attorney said the only way to allow him to make changes is to amend the text. David Petersen and staff discussed restrictions that may be placed on the signs, which included the sign cannot be backlit and cannot exceed 12 sq. ft.

REGULAR SESSION

Present: Commissioners Kris Kaufman, Bret Gallacher, Rebecca Wayment and Alternate Commissioner Karolyn Lehn, Community Development Director David Petersen and Recording Secretary Lara Johnson. Chairman Brett Anderson, Commissioners Heather Barnum and Kent Hinckley, Alternate Commissioners Michael Nilson and Associate City Planner Eric Anderson were excused.

#1. Minutes

Karolyn Lehn made a motion to approve the Minutes from the November 11, 2014 Planning Commission meeting. **Rebecca Wayment** seconded the motion which was unanimously approved.

#2. City Council Report

David Petersen gave a report from the City Council meeting on December 2, 2014. Tuscany Grove Schematic Plan was approved, and the Eastridge Estates Final Plat was moved off the agenda as the developer is still working with neighboring property owners on the purchase of abutting pieces of land. The City Council consented to the Station Parkway Cross Section Modification. **David Petersen** also said the Council announced Cabela's Retail Store will be coming to Farmington. **Kris Kaufman** asked the City Council's final vote of the Meadowview Phase II Subdivision. **David Petersen** said the Council approved the Schematic Plan with no open space, no TDR, but with a trail and with increased lot sizes.

SUBDIVISION AND REZONE APPLICATION

#3. Justin Atwater/Pembridge Heathrow Holdings (Public Hearing) - Applicant is requesting a recommendation for Schematic Plan approval for the proposed Parkwalk Downs Subdivision consisting of 4 lots on 2 acres located at approximately 520 South 650 West in an AE Zone (S-17-14)

David Petersen said this is two acres located near 500 South and 650 West. He explained 650 West and 500 South are planned to be a minor collector roads with a 66' ROW; however, much of 500 South between 1100 West and 650 West is only 50' in width. Since this street is lacking in ROW, the City is requesting the applicant dedicate an additional 8'. When the property across the street is developed, the City will request the remaining 8' from that property owner so there will be a total of 66' of ROW. **David Petersen** also explained if curb, gutter, park strip and sidewalk were put in during the development, it's elevations may not line up with City improvements in the future. As a result, the City would like the property owners to enter into an extension agreement so the property owners can pay their share of the improvements when it comes time for the improvements to be constructed. Also, the developer is requesting a TDR for 2 lots.

Justin Atwater, 940 Willowmere Dr., Kaysville, explained he is not a traditional developer as he is looking at the property for more personal reasons. He would like a nice place for his parents to live and is looking for a return on investment. He also said he is currently working with the City Manager on the 2 TDR lots.

Kris Kaufman opened the public hearing at 7:24 p.m.

Larry Jung, 302 W. State Street, owns the “L” shaped property at 544 S. 650 W. which is adjacent to the proposed development. He said he has and will continue to maintain livestock on his property. Although he is not opposed to the proposed subdivision, he expressed concern that his livestock will be in the proposed lots’ backyards. He asked if there is any kind of barrier that can be required as there is currently just a chain link fence. He does not want children bothering his livestock or being hurt by trying to pet or feed the animals.

Don Francis, 578 S 650 W., said he lives three lots to the south of the proposed subdivision. Although he would like the properties to maintain 1 acre lots, he was still appreciative the developer was proposing ½ acre lots.

Kris Kaufman closed the public hearing at 7:28 p.m.

Kris Kaufman asked if the Commission can address any concerns regarding a fence or barrier between Mr. Jung’s livestock and the backyards of the proposed lots. **David Petersen** said much of the concerns are a civil matter; however, the Commission can require a note be placed on the Plat to future buyers that the area will be kept agricultural and livestock will be maintained. He explained this has been done in the past. **David Petersen** reviewed the ordinance that stated a 6’ non-climbable chain link fence can be required by the Commission; however, a solid opaque fence or barrier is outside of the Commission’s purview. **David Petersen** added the Commission could add a condition to the motion to address the fence.

Kris Kaufman asked if the applicant is within the permitted lot sizes for the area as per Mr. Francis’ comment. **David Petersen** said yes as per the revised regulations of Chapter 10 of the Zoning Ordinance.

Rebecca Wayment applauded the applicant for maintaining larger lots, but also suggested he consider upgrading the 6’ non-climbable chain link fence to a more solid fence or barrier for future home buyers.

Motion:

Rebecca Wayment made a motion that the Planning Commission recommend that the City Council approve the proposed Schematic Plan for Parkwalk Downs Minor Subdivision subject to all applicable Farmington City ordinances and development standards and the following conditions:

1. Applicant must dedicate 8’ additional feet of ROW along 500 South;
2. The applicant will either fully improve his 650 West and 500 South frontages (i.e. sidewalks, park strip, curb and gutter, asphalt extension, road base and sub grade, etc.) OR enter into an extension agreement with the City until such time that these roads are improved to the subject property;
3. Applicant will need to receive approval for the 2 TDR lots, and any cost related thereto, by the City Council prior to Final Plat approval;
4. Applicant will need to obtain secondary water for the project prior to Final Plat;
5. Applicant will need to address all storm water issues for the project prior to Final Plat;
6. Applicant will need to remove Note 2 on the Plat.
7. Applicant will address the issue of the fence, which will include a 6’ non-climbable chain link fence be installed per the ordinance.

Karolyn Lehn seconded the motion which was unanimously approved.

Item #4. Nick Mingo/Ivory Homes – Applicant is requesting a recommendation for Final Plat approval for the proposed Farmington Hollows Conservation Subdivision Phase I consisting of 29 lots on 10.61 acres and Phase II consisting of 18 lots on 8.48 acres located at approximately 1350 West and 1800 North. (S-5-14 & S-12-14)

David Petersen said Ovation Homes previously received Final Plat approval for the proposed Farmington Hollows Conservation Subdivision, but has since sold the western (larger) portion to Ivory Homes. Ivory Homes is now requesting the subdivision be split into two phases. He added that there are not any changes being made to the plans; the applicant is just now showing the order of how they plan to execute it.

Nick Mingo, 978 E Woodoak Lane, Salt Lake City, said the subdivision plans have been split into two phases. Once this is approved, some small road improvements will be immediately made so Ovation Homes can finalize their storm drain.

David Petersen explained the conditions are similar to what was previously approved. Nick Mingo added that there is a small strip of property by lot 201 that needs to have a boundary adjustment from Kaysville to Farmington so the city boundary follows the subdivision line. David Petersen said the City is working to follow-up on the adjustment.

Motion:

Karolyn Lehn made a motion that the Planning Commission recommend that the City Council approve the Final Plat for Farmington Hollows Conservation Subdivision Phase I and II subject to all applicable Farmington City Codes and development standards and the following conditions:

1. Prior to City Council consideration of Final Plat, the applicant shall resolve any remaining storm water issues by either receiving city staff approval for a temporary detention basin or County approval to drain into Haight Creek;
2. Applicant will obtain a dedicated trail easement from Davis County for that portion of the trail that crosses County property;
3. Final improvement drawings for the project shall be reviewed and approved by each member of the Farmington Development Review Committee (DRC);
4. The boundary adjustment between Kaysville and Farmington must be recorded before recordation of Final Plat.

Bret Gallacher seconded the motion which was unanimously approved.

Findings:

1. The proposed development meets all of the standards and requirements of a conservation subdivision in the LR zone such as minimum lot sizes, lot widths, and setbacks.
2. The proposed development is at a density of 2.85 units per acre, which is consistent with the adjacent neighborhoods and the LDR General Plan designation of 4 units per acre.
3. The road layout will mitigate thru traffic and be prohibitive of high speeds.
4. 1800 North Street shall be landscaped and retain its rural character.
5. Larger lots shall be situated on the periphery of the project providing an acceptable transition to adjacent neighborhoods.
6. The overall layout follows the low density residential objective of the General Plan.

7. The Haight Creek Draw is shown on the Master Trails Map as a future trail corridor; the current plan has this trail shown.

ZONE TEXT CHANGE

Item #5. Farmington City (Public Hearing) – Applicant is requesting a recommendation for approval of a Text Amendment of the Sign Ordinance regarding signs for the OTR zone including non-conforming uses therein. (ZT-10-14)

David Petersen said Cal Fadel owns a Farmers Insurance business located on the corner of 200 West and State Street. When Mr. Fadel opened his insurance business in 1982, his location was in a C2 zone, which allowed a person to live onsite in a commercial business. It was later changed to a BR zone which still allowed for a commercial use. In 2003, however, it was zoned to OTR which is residential. Mr. Fadel's use and his sign became non-conforming. He has a monument sign that he would like to upgrade to a newer, smaller, but slightly longer sign that is approximately 12 sq. ft. Mr. Fadel came before the BOA, but, based on the ordinance, Mr. Fadel is not able to modify the sign resulting in the BOA denying his request to upgrade his sign. **David Petersen** said amending the text would allow him to upgrade his sign. He also said the Commissioners, in the Study Session, discussed adding a condition to the motion to restrict the sign from having a back light.

Kris Kaufman opened the public hearing at 7:47 p.m.

Cal Fadel, 184 W. State St., said he has had his sign since he opened his business in 1982. Recently, Farmers changed their logo and are now requiring all agents to update their signs to include the new logo. During the zoning changes, he mistakenly thought he was grandfathered in. When he requested upgrading his sign, he said he was notified he was now a non-conforming use.

Kris Kaufman asked when the deadline is for the upgraded sign. **Cal Fadel** said the end of the next year; however, he has already purchased the sign as he did not anticipate it being such a complicated process. **David Petersen** explained the process Mr. Fadel went through with the BOA. After two meetings and talking with the City Attorney, it was determined the BOA had to deny the request based on the BOA's limited authority based on the ordinance.

Kris Kaufman asked Mr. Fadel if the sign has a back light. **Cal Fadel** said yes; however, neighboring residents asked him to previously turn off the back light of his old sign when he opened his business in 1982, and he has never turned the light on since. He does not have any concerns leaving the light off.

Kris Kaufman closed the public hearing at 7:52 p.m.

Kris Kaufman asked if the text amendment change should be amending the power of the Board of Adjustment to allow them discretion to amend a non-conforming sign since the BOA already has power to expand non-conforming uses. He added that he feels standards could be put into place that would allow discretion for sign upgrades that may make a sign "less non-conforming," like the sign is smaller, materials are better, etc. **David Petersen** expressed concern that standards may not be quantifiable. Also, by allowing the BOA to approve a non-conforming sign, it would not be seen by a body like the Planning Commission for approval and the public could not comment as there would also not be a public hearing.

Kris Kaufman added he wants to help Mr. Fadel, but is not in favor of "spot-zoning."

Bret Gallacher likes the idea of having standards, but also feels it is difficult to apply. Standards like size, back light, etc. may be easy to enforce, but aesthetic-type standards, like better materials, could not be specifically defined.

Kris Kaufman suggested having qualitative and quantitative standards which would allow for specifics to be restricted, but would also allow for some discretion in the approval process. **David Petersen** said another standard that may be included is that an applicant cannot upgrade to another type of sign.

David Petersen said staff will draft a revised amendment and will bring it back for the Commission to review. He suggested tabling the item for this meeting.

Motion:

Karolyn Lehn made a motion that the Planning Commission table Item #5 until the next Planning Commission meeting. **Rebecca Wayment** seconded the motion which was unanimously approved.

Item #6. Farmington City – Applicant is requesting a text amendment to Chapters 1 and 6 of the Subdivision Ordinance regarding the approval process for major subdivisions and related chapters where necessary. (ZT-9-14)

David Petersen reviewed the staff report with the Commissioners which included a summary of the changes of the subdivision approval process. He pointed to page 1-9, Section 12-1-070; as requested by the Planning Commission, it now includes a “tolling provision,” which will allow an application deadline to be extended if an application is held up due to a court proceeding.

David Petersen also said that staff was previously asked to confer with the City Attorney as to whether or not the Commission should (or could) add text making the amended process retroactive to existing applications which have been submitted, but not approved. The attorney said that if it involves a procedural action, one usually applies a new ordinance retroactively, but if it deals with a substantive action, such as preliminary plat approval, one does not. For example, if an applicant has received preliminary plat approval but not final plat approval, he does not need to retroactively receive preliminary plat approval again under the new ordinance, but must follow any new process for final plat approval if he has made no such application and/or no such application has been considered by the appropriate approval body. Any language regarding retroactive issues should be placed in the enabling ordinance for the proposed amendments (which enabling ordinance is usually only considered by the City Council), and not as final changes to the actual text of the code.

Bret Gallacher asked for clarification that this text change is a result of the City Council currently being the land use authority and the appeal body. **David Petersen** said yes; there is a conflict of interest. He said the new approval process would include the City Council as the approval body at Preliminary Plat and the Planning Commission as the approval body at Final Plat with City Council as the appellate body.

Kris Kaufman understands the changes, but still feels that if the City Council is involved as a land use authority during the process, then there is still conflict with the Council serving as an appellate body. He proposed the following:

Schematic Plan

Planning Commission Recommends

City Council Approves

Preliminary Plat

Planning Commission Recommends

City Council Approves

Appeals to Independent Entity or District Court

Final Plat

Planning Commission Recommends

City Council Approves

Appeals to Independent Entity or District Court

Kris Kaufman said despite the City Attorney not liking the above proposal, he feels it is the best way to ensure there are not any conflicts of interest. He stated that although the idea of a Hearing Officer was also not supported by the City Attorney, he still feels it may be one of the better options.

With regards to the subdivision approval process as proposed in the staff report, **Kris Kaufman** explained the City Council would be approving all big decisions at Preliminary Plat with the Planning Commission as a “rubber stamp” at Final Plat. Under the proposed process, if the Planning Commission does anything other than “rubber stamp” a development and an applicant appeals, the City Council then becomes the “rubber stamp.”

David Petersen said the approval process used to have City Council involved as the final approving body at Final Plat. It was the first time they would see the plans; however, they had no previous involvement in the public process so the ordinance was amended per their request. Going back to that would be challenging for the City Council because they too like to receive direct input from the public, their constituents. **Kris Kaufman** said he understood; however, he feels now having a different decision maker at each phase in the process, as proposed in the staff report, does not work. He suggested always having the Planning Commission recommend and the City Council approve at each level.

Bret Gallacher asked why the City Attorney was not supportive of a hearing officer. **Kris Kaufman** said the City Attorney explained it was hard to find good ones. He said the City Attorney had seen a lot of bad decisions from a hearing officer and that it was too much power to give one person. **Kris Kaufman** added that he sees the value in an administrative appeal, like to the City Council, prior to appeal to court, but he still feels it needs to be to a separate entity.

Rebecca Wayment asked for clarification on the approval process, specifically if the City Council can come up with their own plans or if the Council just approves or denies the Planning Commission’s recommendations. **David Petersen** said the City Council can modify the Planning Commission’s recommendations within reason. **Kris Kaufman** asked how to determine when that line has been crossed as he feels a cul-de-sac that was turned into a road, like Brentwood Estates, should have been sent back for Planning Commission approval. **Rebecca Wayment** agreed; she feels when the public comes and participates in a public hearing, a recommendation is passed on, then suddenly another plan is submitted, it is not appropriate and is not fair to the public.

David Petersen suggested tabling the item; the City Council is having a Study Session on Jan. 6, 2015 for a general training and the Planning Commission is invited to attend. He suggested instead of having a Study Session, it may be appropriate to have a Joint Session and the Planning Commission and City Council can discuss it together while the City Attorney is in attendance.

David Petersen and the Commissioners discussed more ideas on how to ensure the land use authority is not conflicted with the appellate body. **Kris Kaufman** suggested having the five City Council members be the approving body with the Mayor as the appeals body. **David Petersen** and the Commissioners felt this was a good suggestion to be considered as a possible solution. The Commissioners felt it best to table the item and discuss it more in depth with the City Council.

Motion:

Rebecca Wayment made a motion that the Planning Commission table Item #6 until the Joint Session on January 6, 2015 to discuss the item with the City Council and with the City Attorney, and to also review the proposed changes from the Joint Session during the Planning Commission meeting on January 8, 2015, if necessary. **Bret Gallacher** seconded the motion which was unanimously approved.

OTHER BUSINESS

Item #7A. 2015 Planning Commission Meeting Calendar

The Commissioners and staff reviewed and approved the 2015 Planning Commission meeting calendar. The updated calendar will be posted at the beginning of the New Year.

Item #7B. Planning Commission Elections

Motion:

Karolyn Lehn nominated Rebecca Wayment as the new Planning Commission Chair. **Bret Gallacher** seconded the motion which was unanimously approved.

Karolyn Lehn nominated Brett Anderson as the new Planning Commission Vice-Chair. **Rebecca Wayment** seconded the motion which was unanimously approved.

Karolyn Lehn nominated Kent Hinckley as the new Planning Commission representative for the Board of Adjustment. **Bret Gallacher** seconded the motion which was unanimously approved.

ADJOURNMENT

Motion:

At 9:20 p.m., **Rebecca Wayment** made a motion to adjourn the meeting which was unanimously approved.



Kris Kaufman
Farmington City Planning Commission