

FARMINGTON CITY
PLANNING COMMISSION MEETING
September 4, 2014

STUDY SESSION

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

Item #3.

Eric Anderson said the applicant is applying for a conditional use, not a temporary use, for a waffle stand located near the Good Spray car wash in the Smith's parking lot. The applicant applied for the permit in July, but was mistakenly overlooked so he is just now appearing before the Planning Commission. **Kent Hinckley** asked if a condition should be added that the applicant re-applies for a conditional use in one year. **Eric Anderson** said yes, it would be good to include it as part of the conditions. As for the other conditions listed on the motion, **Eric Anderson** said they are the same as other conditional uses.

Item #4.

Eric Anderson said this item was made aware to staff by Kris Kaufman. Staff would like this item continued to the next Planning Commission meeting on September 18, 2014 as they are still working with the City attorney and will be discussing the changes with the Planning Commission and City Council members during the meeting.

Item #5.

Eric Anderson said this zone text change was previously discussed last summer and changes were suggested; however, no amendments were actually passed. Staff would like to revisit the item as there have been many non-permitted uses recently before the Commission members, including the proposed ATV rental business.

Eric Anderson reviewed the definition of non-chartered financial institutions. Commissioners were concerned the definition could affect grocery stores that cash checks as part of their services. **Eric Anderson** clarified the exclusion of non-chartered financial institutions, in this circumstance, only applies to the BR zone. He showed the Commissioners where the BR zone is located on a City map. Staff and the Commissioners discussed the "look and feel" they would like to create for downtown Farmington.

The Commissioners and staff also discussed the differences of permitted versus conditional uses, being conditional uses are permitted uses with conditions. **Kent Hinckley** stated he would like some guiding principles to show what kinds of businesses are appropriate for the downtown area in lieu of the Commissioners just picking what businesses they do or don't like.

REGULAR SESSION

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

#1. Minutes

Kent Hinckley made a motion to approve the Minutes from the August 21, 2014 Planning Commission meeting. **Karolyn Lehn** seconded the motion which was unanimously approved.

#2. City Council Report

Eric Anderson gave a report from the City Council meeting on September 2, 2014. City Council approved the zone text change for Chapter 18 of the Zoning Ordinance (The Regulating Plan). The Council also approved the zone change from A to LR for applicant Phil Holland. This change was recommended by the Commission as it matched the surrounding areas (all zoned LR) and would also allow the applicant to move forward with development plans, once the Conservation Subdivision changes occur. Staff has been working with the City Council to help them understand the changes that have been made to the ordinance regarding Conservation Subdivisions so they will understand the proposed amendments when it comes before them at the next City Council meeting.

CONDITIONAL USE AND SITE PLAN APPLICATION

#3. Greg Timothy (Public Hearing) – Applicant is requesting conditional use approval for the proposed Waffle Wagon located at 1358 North Highway 89 in a C (Commercial) Zone. (C-15-14)

Eric Anderson said the applicant applied for the conditional use in July, but was mistakenly overlooked on the schedule to come before the Planning Commission. He said the stand would be located in a C zone. The applicant is requesting a conditional use, not a temporary use, for the food stand as he would like it operational year round. **Eric Anderson** also said that **Kent Hinckley** mentioned in the Study Session adding a date of renewal as a condition to the motion for the conditional use. He reminded the Commissioners to include that as part of the motion.

Brett Anderson opened the public hearing at 7:13 p.m.

No comments were received.

Brett Anderson opened the public hearing at 7:13 p.m.

Brett Anderson said he is comfortable moving forward with the proposed motion. The Commissioners agreed.

Motion:

Kris Kaufman made a motion that the Planning Commission approve the conditional use subject to all applicable Farmington City ordinances and development standards, and the following conditions;

1. The hours of operation are limited to 10 a.m. to 10 p.m.;
2. The use granted is solely for purposes of food sales, and no other commercial activities of any kind shall be associated with this use permit;
3. Any alterations made to the site to accommodate the use shall be removed and the space shall be converted back to its original conditions upon termination of the food stand;
4. Outdoor lighting, if used, must be subdued. All lighting shall be designed, located and directed to minimize glare, reflection and light pollution into adjoining and nearby lots. Search lights shall not be permitted;
5. The applicant must obtain all other applicable permits for the operation of the conditional use including but not limited to a business license from Farmington City, all health department regulations and all applicable building codes.
6. This conditional use expires one year from the today's Planning Commission meeting, September 4, 2015, and the applicant must seek renewal at that time.

Rebecca Wayment seconded the motion which was unanimously approved.

Findings for Approval:

1. The proposed use of the particular location is necessary and desirable and provides a service which contributes to the general well-being of the community.
2. The proposed use complies with all regulations and conditions in the Farmington City Zoning Ordinance for this particular use.
3. The proposed use conforms to the goals, policies and principles of the Comprehensive General Plan.
4. The proposed use is compatible with the character of the site, adjacent properties, surrounding neighborhoods and other existing neighborhoods.
5. The location provides or will provide adequate utilities, transportation access, drainage, parking and loading space, lighting, screening, landscaping and open space, fire protection, and safe and convenient pedestrian and vehicular circulation.
6. The proposed use is not detrimental to the health, safety and general welfare of persons residing or working in the vicinity.

ZONE TEXT CHANGE

Item #4. Farmington City (Public Hearing) – Applicant is requesting a recommendation for approval of a Text Amendment of Chapters 1 and 6 of the Subdivision Ordinance regarding the approval process of major subdivisions and related chapters where necessary. (ZT-9-14)

Eric Anderson stated this item came up as a result of the Brentwood Estates development. The developer appealed the decision that was made by the Planning Commission which was then heard by the City Council. It was brought to staff's attention by Kris Kaufman that the land use authority was also the appeal body, creating a conflict of interest. The City Attorney recommended amending the ordinance for the appeal process so Preliminary Plat would be approved by City Council with the Planning Commission as the recommending body and that the Final Plat would be approved by the Planning Commission only. This amendment would allow the City Council to be the appeal's body so there would no longer be a conflict of interest.

Kris Kaufman expressed concern that a developer has vesting rights at Preliminary Plat; if a Final Plat process is appealed, it will be less meaningful than if a Preliminary Plat is appealed as you cannot take those vested rights away. **Eric Anderson** agreed; he suggested discussing it with the City Attorney at the next Planning Commission meeting.

Kris Kaufman is still concerned about a conflict of interest with the proposed changes as the City Council is still involved in the approval process during Preliminary Plat. Since the City Council would be the approval body, under the proposed change, the Planning Commission would simply be “rubber-stamping” the Council’s already made decision with Final Plat. **Kris Kaufman** stated he does not feel this solves the problem.

Rebecca Wayment asked how other cities handle the appeal process at the Preliminary and Final Plat stages. **Eric Anderson** said most cities have the process as staff is proposing with City Council approving Preliminary Plat and the Planning Commission approving Final Plat.

Kris Kaufman explained Morgan County has a separate appellate body of individuals that are not involved in the decision making process on any level. Having a separate body for the appeals process ensures there is not a conflict of interest. **Eric Anderson** stated he feels these are concerns that need to be addressed; he will discuss it with the City Attorney prior to the next Planning Commission meeting. **Kris Kaufman** added he feels that an appeal process should be at the most meaningful step in the process and he feels that is at Preliminary Plat. **Eric Anderson** stated that although it may seem Final Plat is just a “rubber-stamp,” but there’s a lot that goes into Final Plat with improvement drawings, review by the DRC, engineering standards and more which is all done prior to review by the Planning Commission. **Eric Anderson** said he does still understand **Kris Kaufman’s** point that rights are vested at Preliminary Plat; he will discuss all concerns with the attorney.

Brett Anderson opened the public hearing at 7:28 p.m.

No comments were received.

Brett Anderson closed the public hearing at 7:28 p.m.

Eric Anderson and staff discussed the difference between tabling the item compared to continuing this item until the next Planning Commission meeting on September 18, 2014. If the item is tabled, **Eric Anderson** said it would need to be re-noticed; however, there is not enough time for it to be listed in the paper to make it on the next Planning Commission schedule.

After discussing it, the Commissioners are comfortable continuing the item so it can still be discussed at the next Planning Commission meeting when the Commission is to meet with the City Council and the City Attorney. The Commissioners felt that when the change appears before the City Council, the notice will give any concerned residents an opportunity to still voice their opinions.

Brett Anderson re-opened the public hearing at 7:34 p.m.

No comments were received.

Brett Anderson ended the public hearing at 7:34 p.m. for this meeting, but continued it until the next Planning Commission meeting on September 18, 2014.

Motion:

Kent Hinckley made a motion that the Planning Commission continued the item until the next Planning Commission meeting on September 18, 2014. **Karolyn Lehn** seconded the motion which was unanimously approved.

OTHER BUSINESS

Item #5. Miscellaneous: A) Zone Text Change of Permitted and Conditional Uses in the BR Zone (Discussion Only)

Eric Anderson asked the Commissioners to continue the discussion regarding the permitted and conditional uses that took place in the Study Session.

The Commissioners discussed some of the uses, but felt they cannot think of all businesses that may want to come to downtown. **Brett Anderson** suggested taking out all permitted uses, except those that are neighborhood uses, and listing all others as conditional use. **Eric Anderson** also suggested leaving it up to the developer to request a zone text change for a potential use that was not currently listed; doing so would give the Commissioners the opportunity to decide if it is a use they feel comfortable adding to the Ordinance. **Rebecca Wayment** worried that leaving uses up to zone text changes would cause frustrations for developers as it would simply depend on the current Commissioners' preferences.

The Commissioners and **Eric Anderson** struggled with the best language to use for permitted and conditional uses within the zone. **Eric Anderson** stated as a Commission, it's important to keep leverage to say no, but it's also important to attract businesses you want. **Brett Anderson** preferred having a general statement as a list is meant to be exclusive. **Kris Kaufman** suggested having specific instructions to future Planning Commission members as to how to determine what uses to allow, then the business could still come in for the zone text change. This would still allow the Commission leverage to say no. **Kent Hinckley** prefers the flexibility, but also likes the idea of approving uses on a case by case basis. **Rebecca Wayment** asked if there is any flexibility within conditional uses, i.e. a Commission cannot find appropriate conditions for a conditional use so it is not approved. **Eric Anderson** said that if it is a conditional use, the law is now interpreted to require approval of the use with conditions.

Brett Anderson asked to see how other cities list uses within their zones, whether it is broad or specifically listed. **Eric Anderson** said he will look into and let the Commission know.

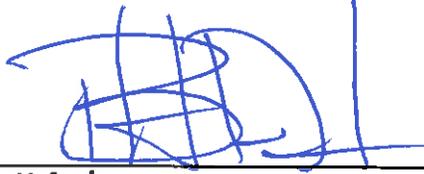
The Commissioners discussed conditional uses and how Utah law regulates them. It was the Commission's understanding conditional uses used to be "nice to have," but it was up to the City to grant them if they were a good fit. **Kris Kaufman** stated it was his understanding that the State now interprets conditional uses as permitted uses with conditions. **Eric Anderson** agreed with **Kris Kaufman** as there have been many cases when a conditional use has been denied and the City was later sued and lost.

Eric Anderson asked the Commissioners to think about the "look and feel" they would like for the BR zone; the discussion will continue at the next Planning Commission meeting.

ADJOURNMENT

Motion:

At 8:15 p.m., **Rebecca Wayment** made a motion to adjourn the meeting which was unanimously approved.

A handwritten signature in blue ink, appearing to be 'Brett Anderson', written over a horizontal line.

Brett Anderson
Chairman, Farmington City Planning Commission