



HISTORIC BEGINNINGS • 1847

**Farmington City Planning Commission**

**January 23, 2014**



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

DOUG ANDERSON  
JOHN BILTON  
BRIGHAM N. MELLOR  
CORY R. RITZ  
JAMES YOUNG  
CITY COUNCIL

DAVE MILLHEIM  
CITY MANAGER

## **AGENDA** **PLANNING COMMISSION MEETING**

**January 23, 2014**

Public Meeting at the Farmington City Hall, 160 S. Main Street, Farmington, Utah

*Study Session: 6:30 p.m. – Conference Room 3 (2<sup>nd</sup> Floor)*

**Regular Session: 7:00 p.m. – City Council Chambers (2<sup>nd</sup> Floor)**

*(Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to 3 minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed 5 minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the Planning Department prior to noon the day before the meeting.)*

1. Minutes
2. City Council Report

### **SUBDIVISION/ZONE CHANGE APPLICATIONS**

3. Harv Jeppsen – Applicant is requesting recommendation for approval of the Jeppsen Minor Subdivision consisting of 5 lots (2 of which are new) located at 1530 North Main Street in an R Zone. (S-9-13)

### **ZONING TEXT CHANGE APPLICATION**

4. Farmington City (Public Hearing) – Applicant is requesting amendments to the Zoning and Subdivision Ordinances (ZT-9-13 and ZT-8-93) by:
  - a. Clarifying direct access (driveway) standards of building lots in Section 11-32-106(1)(e);
  - b. Modifying correctional/detention facilities, drug or alcohol rehabilitation facilities, etc. as a “not permitted” use in Section 11-18-105;
  - c. Removing all residential uses in the Office Mixed Use District (OMU) in Section 11-18-105;
  - d. Changing the City’s local street cross-section standard in Section 12-7-040;
  - e. Reconsidering PUDs as a conditional use in Section 11-27-030 and appropriate zone districts where PUDs may be allowed and other chapter references related thereto;
  - f. Adding an historic preservation standard in lieu of the 10% common open space requirement for PUDs in 11-27-120(g);
  - g. Amending Sections 11-30-105(7)(e) and 11-32-106(1)(d) regarding driveway slope
  - h. Deleting the word “minimum” in 11-28-070;
  - i. Providing a “rear of dwelling” standard for accessory buildings in 11-11-060(a);
  - j. Amending Section 11-28-230 of the Zoning Ordinance to require performance bonds for demolitions (ZT-9-13);

- k. Striking Section 11-35-103(15) which makes the sale of firearms a prohibited use under Home Occupations.

**OTHER BUSINESS**

5. Miscellaneous, correspondence, etc.
  - a. 1100 West Cross-Section
  - b. Training on David Church article
  - c. Other
  
6. Motion to Adjourn

*Please Note: Planning Commission applications may be tabled by the Commission if: 1. Additional information is needed in order to take action on the item; OR 2. if the Planning Commission feels there are unresolved issues that may need additional attention before the Commission is ready to make a motion. No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commissioners. The Commission may carry over Agenda items, scheduled late in the evening and not heard to the next regularly scheduled meeting.*

Posted January 17, 2014

  
Eric Anderson  
Associate City Planner

**FARMINGTON CITY**  
**PLANNING COMMISSION MEETING**  
January 9, 2014

---

**WORK SESSION**

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

Amy Shumway, a Farmington resident, presented a pedestrian and bike path proposal to the Commissioners for safe access from Farmington Crossing and Oakridge Preserve Trail to Legacy Trail and Farmington Station. Her proposal included three suggestions for access: a tunnel or bridge going under/over I-15, shuttle services and/or continuing Legacy Trail to Shepard Lane.

**David Petersen** gave a brief update on the City Council report. After the last Planning Commission meeting when the Commission gave a recommendation to deny the Cottages at Rigby Road, the City Manager, staff and the developer met together to determine the best solution based on residents' concerns. The developer decided to amend the plan to 67 lots under a conservation subdivision and seek waivers for the open space. This was the plan presented to the City Council. The City Council felt it appropriate for the Planning Commission to review the amended plan, thus the reason it is on the Commission's agenda again.

**Item #3. Jerry Preston – Metes and Bounds Subdivision Approval for Elliot Subdivision**

**David Petersen** explained this property is zoned R-4; its uses include multi-family housing. The applicant has chosen to divide the property into 2 flag lots. Based on the City's ordinances, the applicant has met all standards for the flag lots. Also, the neighbors are in support of the flag lots as they would prefer single-family homes to be built and not multi-family housing.

**Item #4. Ovation Homes – Schematic Plan Approval for the Cottages at Rigby Road Conservation Subdivision**

**Heather Barnum** asked what concerns residents still have with the new plan. Under the new plan, **David Petersen** said the Trails Committee is upset a trail will not be required, but he feels the developer is just listening to the neighboring residents on the issue. **Kent Hinckley** expressed concern that the new plan does not fit under a conservation subdivision as the developer will just be seeking waivers for open space and will not actually be conserving anything. **David Petersen** explained that based on the yield plan, the developer is allowed 67 lots. With a conservation subdivision, he would only be allowed to the 67 lots with 4.8 acres of open space. By removing or waiving the open space, he is able to increase lot sizes to fit the more conventional home styles the community was requesting.

**Item #5. Scott Balling – Preliminary Plat and Preliminary (PUD) Master Plan for Kestrel Bay Estates**

**Eric Anderson** stated with Motion B, the applicant has provided a soils report and proved homes can be built on lots 123 and 124; conditions 3 and 5 can be removed from the motion. **David Petersen** also briefly explained the history and zoning of the area. Part of this property is zoned R-8 and could be used for multi-family housing. Neighbors were a little relieved when this development was proposed, however, there was much discussion regarding continuing 450 South through the development and/or providing an additional access road entering 620 South. Although the Planning Commission recommended adding the access road to 620 South, the City Council voted against it.

---

## **REGULAR SESSION**

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

### **#1. Minutes**

**Mack McDonald** made a motion to approve the Minutes from the December 5, 2013 and December 12, 2013 Planning Commission meetings. **Brad Dutson** seconded the motion which was unanimously approved.

### **#2. City Council Report**

**David Petersen** gave a report from the City Council meeting on December 17, 2013. The City increased the building height for The Avenues at Station Park (also note the name will be changed as “Station Park” is copyrighted) on a 4-1 vote. He also mentioned that Ovation Homes is before the Commission again as their development plans for the Tanner Property drastically changed after the last Planning Commission meeting; City Council felt it appropriate for the Commission to review the amended plan.

## **SUBDIVISION/ZONE CHANGE APPLICATIONS**

### **#3. Jerry Preston (Public Hearing) – Applicant is requesting metes and bounds subdivision approval for the Elliot Subdivision located at approximately 53 South 100 West in an R-4 zone. (S-22-13)**

**Eric Anderson** said the applicant is requesting a simple metes and bounds subdivision. The applicant would like to subdivide the property into two flag lots. Since the property is zoned R-4 and the applicant could build multi-family housing units, neighbors are pleased to see the proposed flag lots. Staff recommends the application for approval.

The applicant was not present to comment.

**Brett Anderson opened the public hearing at 7:12 p.m.**

No comments were received.

**Brett Anderson closed the public hearing at 7:12 p.m.**

Commissioners agreed that the flag lots “fit” the area better than multi-family housing units would and feel it says a lot when the local residents are in favor of the metes and bounds subdivision.

**Brett Anderson** asked if the proposed homes will face 100 West or if they would face each other. **David Petersen** said based on the ordinance, it is determined when the building permits are requested.

***Motion:***

**Brad Dutson** made a motion that the Planning Commission approve the metes and bounds Elliott Subdivision subject to all applicable Farmington City ordinances and development standards. **Heather Barnum** seconded the motion which was unanimously approved.

Findings for Approval:

The property is identified as R-4 on the zoning map, and thus the applicant could propose multi-family housing for this parcel. Having two flag lots is highly preferable to multi-family housing in this area, particularly given the surrounding historic properties and the adjacent Clark Lane Historic District.

**Item #4. Norm Frost/Ovation Homes (Public Hearing) – Applicant is requesting a recommendation for Schematic Plan approval for the proposed Cottages at Rigby Road Conservation Subdivision consisting of 67 lots on 23.5 acres located at approximately 1350 West and 1800 North. The applicant is also requesting a recommendation for an LR Zone designation related thereto. (A-S-13; S-18-13)**

**David Petersen** explained the developer has brought a couple previous proposals. At the last meeting on December 5, 2013, the developer proposed 77 lots with approximately 4 acres of open space, which included a trail along the Haight Creek which would make an approximate ¾ mile loop around the subdivision. The developer was met with a lot of public resistance to having the trail. Additionally, the Planning Commission recommended denial to City Council of the plan as the Commission did not feel the amenities the community would be receiving with the PUD were adequate. The staff and the developer met to address some of the concerns with the plan. The developer revised his plan to a conservation subdivision with 67 lots and has requested a waiver for the open space. He presented the revised plan to the City Council on December 17, 2013; the City Council requested the Planning Commission review the revised plan first.

**David Petersen** walked through some of the revised plan’s changes. He also explained to make for a better subdivision (as home styles now are much wider), staff recommended making the lots wider for most of the development, but including smaller lots in the cul-de-sac area, allowing the developer to still market toward the empty-nester community for that part of the subdivision.

Although it may not be required, the developer is still proposing a landscaped buffer along 1800 N., but until the improvement drawings are submitted for the road, **David Petersen** said there is no way to know the exact width of the buffer at this time. Some residents are still concerned about what the buffer will be and would like to review it, however, at the Preliminary Plat stage, it is not required to have a public hearing. **David Petersen** suggested adding a condition to the motion that

will allow for another public hearing for the Preliminary Plat stage to ensure the public has a chance to review and comment on the proposed buffer. **David Petersen** also added that the City will be determining what future improvement plans will be made to 1800 N. and what will be required of the developer as there is no current precedent for what a developer is required to do on an Important Local Road.

**Kent Hinckley** asked if the development meets all traffic requirements. **David Petersen** said yes. **Heather Barnum** wanted to know where the funds would go that are obtained by the waiver for the open space. **David Petersen** said the funds will be set aside for open space in an area that will benefit the community. An example of this would be the regional park the City will be building.

**George Chipman**, 433 S. 10 W., chairman of the Farmington Trails Committee, requested the Planning Commission approve Alternative Motion B, which allows for the approval of the development and for the trail along Haight Creek. Approval of Motion B would allow the City Council to be the deciding factor on if they want the trail developed or not. He emphasized that based on the City's standard, as listed in the ordinances, the purpose of a conservation subdivision is to preserve the unique areas that have natural features. He recommended the Commission approve the motion with 5 additional proposed conditions which included preserving the Hollow and requiring a trail be built. He also covered three waivers the Trails Committee recommends in order to still preserve the land; the waivers could also be considered as partial waivers. In exchange for the requested waivers, he asked for the following compensation in return:

1. Developer gives to the City an easement over where the trail will be built;
2. The developer builds and pays for the cost of the trail;
3. The trail be of high quality, like using the crusher fines material to build the trail;
4. The developer provides, at his own expense, amenities such as park benches, signage and trash receptacles;
5. The nature trail be given to the community as a gift by allowing open access;
6. The developer meets all requirements of a conservation subdivision, except for the recommended waivers provided.

Losing the beautiful hollow to private ownership would forever exclude community enjoyment.

**Melvin Smith**, 1936 E. 1900 N., Layton, is applicant Brad Frost's attorney. He explained that when negotiations for purchasing the property first took place, they discovered it was located in unincorporated Davis County. He then began discussions with the cities to determine where it would best fit; Farmington wanted and welcomed the opportunity to annex the property into the City boundaries. Mr. Frost found there was a market for the active adult communities. After a couple proposals, he has come up with the current proposal of a more conventional subdivision of 67 larger lots, which is approximately 2.85 units per acre. It was very clear the City was concerned about the improvements along 1800 N. so those improvements will be included in proposals moving forward. As for the open space along the Haight Creek, many residents were upset with the proposed trail. Many people use trails for exercise, however, the proposed Haight Creek trail would be less than 1000 ft. without any possibility of a connection to the north or south and thus decreasing the benefit of having it. He emphasized that although the Master Plan does show a trail along the Haight Creek, the Master Plan is only conceptual and is not binding. **Melvin Smith** said the greatest benefit they could give the City would be to seek a waiver for the open space and allow the City and staff to purchase open space elsewhere; this allows for the whole community to ultimately win.

**Brad Frost**, 534 N. Anita Dr., Kaysville, showed example pictures of the potential landscape buffer that would be along 1800 N. He said they like a meandering sidewalk and would like to give

dimension to the buffer by adding additional width for landscaping features with trees in some areas. He is also open to making the sidewalks wider. As for residents' concern regarding the builder for the west side of the subdivision, they are in negotiations with potential partners. They should have an agreement in place before the City Council meeting on January 21, 2014 and would be happy to disclose the builder's name at that time.

**Brett Anderson opened the public hearing at 8:01 p.m.**

**Shaunna Burbidge**, 154 Carrington Ln., Centerville, is the President for Active Planning and is a sub-consultant representing UDOT, UTA and the Salt Lake Regional Council. Recently, the Utah Collaborative Active Transportation Study (UCATS) was completed which looked at alternative modes of transportation across the Wasatch Front. They identified the top 25 key locations for active transportation improvements with the Main St. interchange by Cherry Hill as one of the top corridors. She urged the Commission to reconsider implementation of the trail or to provide adequate improvements along 1800 N. to provide an alternative route to pedestrians and cyclists to avoid that interchange at Cherry Hill. All work done under UCATS' program was completed based on cities' master plans, including using Farmington's approved Master Plan, which showed a trail along the Haight Creek corridor, which served as a key connector for pedestrians and cyclists to get from Main St. down to Shepard Ln. and other of the City's trail network. **Mack McDonald** asked for further clarification on what would be considered "adequate improvements" along 1800 N. **Shaunna Burbidge** stated that although meandering sidewalks are visually appealing, they are not pedestrian friendly for joggers and walkers. She also added a bike lane and/or signage along 1800 N. would also be a welcomed improvement. She suggested using the funds received from the waiver of open space toward the additional 1800 N. improvements. **Heather Barnum** asked staff if that is possible to use those "open space funds" on the suggested improvements. **David Petersen** said yes, any compensation from a waiver does not necessarily have to be money donation, but could also include amenities and/or improvements "in kind."

**Lani Shepard**, 720 Somerset St., asked the Commission to not lose the trail along the Haight Creek; pedestrians and cyclists can use it. She emphasized that trails that are official, maintained and loved protect precious islands of green that we have left in the City. She explained how appreciative she is that bits of open space have been protected through the City's trail system. She fears that if the Haight Creek is not preserved, it will be gone forever.

**Rick Draper**, 29 W. 1340 S., is a resident of Farmington, former Planning Commission member and one of the construction lenders for Ovation Homes. He is pleased with how the project has "morphed" to best fit the needs of the community. Having worked with Ovation Homes for some time, he added that their projects are well received and have added value to the communities they build in. He feels Ovation Homes has worked to adequately meet the need for active adult communities and their project will be a great addition to Farmington.

**Cindy Roybal**, 1267 W. 1875 N., is pleased that the developer has reworked the plan to meet residents' concerns and feels, by doing so, he is gaining a much bigger support system from the neighbors. She said she has been able to serve on the Trails Committee for the last year and is a large supporter of trails, however, feels the previously proposed Haight Creek trail is a trail to nowhere. She felt the community lost the trail 40 years ago when it was sectioned off to private property in Kaysville. Also, the Jeppson property located just south of the subdivision was just approved and the City did not require access to the creek there. She feels the community could benefit more from improvements along 1800 N. as previously suggested. She also requested the Commission invite the community for another public hearing during the Preliminary Plat stage.

**Mike Hoer**, 1873 Bella Vista Dr., was surprised that the new proposal did not include the Haight Creek trail. He feels it was removed based on a very vocal minority group that was against it; a trail brings great value to a neighborhood. He feels that hundreds of residents would be able to enjoy the use of the trail and a trail creates a shared sense of community. His personal residence has trails on 3 sides of it; he feels his home is safer as couples, families, cross-country teams are always using the trail. He is frustrated that the City's ordinances were designed to protect an area's unique natural features and feels the developer is willing to do that if the community would be more supportive. He would like the Commission to find a more win-win situation for the community by preserving the trail and creating a successful subdivision.

**Greg Bell**, 744 Eagle Way, Fruit Heights, explained the great lengths the developer has gone to meet the concerns addressed by the Commission and the public. One of the biggest debates has been over the trail. Although he feels it would have been a beautiful trail, by removing the HOA and the proposed "loop" as previously presented, it is now a trail that leads to nowhere. Ultimately, the revised plan includes all the requests from neighbors and the Commission.

**Darcy Zanger**, 1494 Moss, explained about 8 years ago, Farmington City requested that residents pay for curb and gutter along 1800 N. but was very opposed by the residents. Previously, a comment was made that the developer is responsible for developing the north side of 1800 N and it is yet to be determined how improvements will be made on the south side. She emphasized that residents are still opposed to funding any sort of improvements on the south side. She also suggested the developer include parking along 1800 N. as the LDS meetinghouse parking lot becomes very over-crowded and is not easily accessible with the large amount of cars parked alongside the road.

**Chris Roybal**, 1267 W. 1875 N., said he is pleased with the changes to the plan, including the larger lots and the 1800 N. buffer. He feels the conceptual plans of the buffer would be acceptable and feels it would be a popular walkway within the community. With regards to the 1800 N. improvements, he would ask the City and the developer not compromise the south side of the road. He also added that although it may appear that the City is "losing" the trail, but emphasized the fact that the trail is on private property. He is unsure why others feel it is acceptable to ask for public access to private property.

**Chris McRoberts**, 1417 Haight Creek Dr., Kaysville, emphasized that the proposed trail really leads to nowhere. He is in favor of doing a bike path/walking trail along 1800 N. He would love to see something that would connect over to the west side of Farmington. He thinks it's a great idea to do a trail/path that goes somewhere and have the developer pay for it.

**Bryce Huff**, 780 E. 1475 S., Kaysville, lives along the Haight Creek and has private property to that gully. He added that property owners do not fence this area off, but allow others to explore it freely. He added that he feels the revised proposal "fits" the sense of community that this area already maintains. He has talked with residents of neighboring Ovation Homes' projects; these residents are pleased with the results of the development. His main concern now is who the developer will be for the majority of the homes; he would like to see a condition added to the motion to ensure a builder agreement has been solidified.

**Darlene Elgren**, 1198 Rigby Rd., Kaysville, said her family sold the property where the Ivory Development is now a few years ago. Approximately 6 years ago, the Trails Committee wanted to put a trail along the creek and through her backyard; she said she fought it then and will still fight it now as she feels it is her right to voice her opinion on it. She also added that her father tried adding truckloads of road base along the creek draw in order to get his tractor down in the spring, but was

unsuccessful as it was too wet. She feels it would be a huge expense to maintain the trail if it were to go in.

**Sam Paget**, 1328 W. Sweetwater Ln., expressed a few outstanding concerns residents still have regarding the revised plans for the subdivision, including the sidewalk not being continuous through the cul-de-sac, the monotony of the homes, the east side still having smaller lots and who the developer will be for the majority of the subdivision. Overall, most residents' feel this plan is a great improvement from where it began.

**Craig Gale**, 1447 Brown Ln., said he has been down in the creek bed and noticed that it is not grassed over and that the land has been well maintained and preserved by the property owners. He does like the idea of a bike lane along 1800 N., but feels it could be challenging for bikers as cars may often park in the bike lane. He thanked the developer for working with the community.

**Benjamin Shaw**, 1642 Stayner Dr., appreciates all the changes the developer has made with the subdivision. He also agrees that trails are positive; he feels the buffer along 1800 N. may mitigate the fact that there will not be a trail.

**Collette Renstrom**, 1332 Rigby Rd., Kaysville, would like the City to review the option of having a stop sign, speed bump, or other means to slow traffic around lots 27 and 28. She also expressed concerns regarding Alternative Motion B. She is also hesitant about who the builder will be for the majority of the subdivision. She would like the City to request a copy of the Development Agreement to ensure the character of the development will "fit" the surrounding area.

#### **Brett Anderson closed the public hearing at 9:07 p.m**

**Kent Hinckley** expressed concern that he feels the current application does not fit the intent or requirements of a conservation subdivision. He understands waivers can change things, however, he feels currently there is no conservation in what is being proposed. He feels there is a lot of value in having constrained, open, natural land. He also feels the trail needs to be dealt with as a separate issue on its own. He would also appreciate some effort from the developer to improve 1800 N., including something like a bike lane.

**Karolyn Lehn** asked when the City will be looking at and structuring 1800 N. **David Petersen** said surveying will take place during the next step, the Preliminary Plat and will know how far that road will shift to the south. If the aerials are wrong, which is possible, that ROW may shift to some people's front yards. He is unsure how that will work. He also spoke to the comment regarding curb and gutter on the south side of 1800 N. **David Petersen** said many years ago the City did an SID (Special Improvement District), which includes going to deficient areas within the City. Except for under an SID, there is no way for the City to go back and require a curb and gutter. The City approached the residents to see if they had 50% or more that were willing to put the curb and gutter in on their own properties, but was rejected. He is unsure if a curb and gutter will ever be developed on the south side.

**Brad Dutson** is appreciative of all the work the developer has done to maintain the look and feel of the surrounding community. He is in favor of the buffer along 1800 N. He does like the trail and would be in favor of it if there is a way to make it happen. He asked if there is a way to require no fences be built along the Creek. **David Petersen** said yes, the City can require a no-build zone against things like structures and fences. **Brad Dutson** also added he would like to have a sidewalk on both sides of the cul-de-sac street and something to help slow traffic in the area. **David Petersen** explained the sidewalk is a trade-off, just like the buffer along 1800 N. is a trade-off. The developer

may not be required to provide any sort of buffer along 1800 N., but is including it per the neighbors' request. In order to make the lots best fit along the gas line, it makes more sense to only have one side the cul-de-sac with sidewalk.

**Brett Anderson** asked if a motion could be approved with a designated open space or a non-buildable area, which would protect the constrained land without creating it into a trail. **Mack McDonald** would also like some kind of preservation easement over the Haight Creek and get back to the conservation side of the subdivision.

**Brett Anderson** asked the developer how he would feel preserving the unusable open space of the draw, which may result in less compensation he would be required to pay the City for the waiver for the open space. **Brad Frost** said he is very interested in it; he feels a combination of preserving some of the unusable open space as well as the improvements along 1800 N. would be a good compromise.

**Melvin Smith** asked if an easement is placed over the constrained land, who would own the land. **David Petersen** explained the property owners would still own it, but by regulating it by a "no-build zone," it would preserve it from fences and outbuildings. The other option would be to have a modified conservation easement that would still protect it, but will ensure it is perpetual.

**Mack McDonald** stated he likes the idea of the 1800 N. buffer and road improvements, including a bike lane and parking for the church. He asked if it is possible to see some of these suggestions. **David Petersen** clarified the developer is under no obligation to provide parking for the LDS meetinghouse. He added that the 1800 N. improvements will be shown during the Preliminary Plat stage, including road widths with curb and gutter. It is also appropriate, if the Commission so chooses, to invite the public back for an additional public hearing during the Preliminary Plat to review the 1800 N. buffer. **Brad Frost** said he is open to a lot of the suggestions for 1800 N., but does have concerns with adding extra space for things like a bike lane in addition to larger sidewalks, etc. He explained there is a trade-off; if the road is expanded, lot sizes decrease. He added that these things will be worked out during the Preliminary Plat stage.

With regards to the builder that will be used for the larger portion of the subdivision, **Brad Frost** stated it is not required to share the builders' name. They are willing, however, to disclose the builder once contracts are finalized if the Commission recommends approval to the City Council. **Melvin Smith** also added that a name cannot be disclosed during negotiations, thus the reason why they haven't shared it with the public.

**Brett Anderson** clarified for the public that if the developer chooses to withdraw his PUD application, the Commission and public lose their voice as to what type of houses (including their concerns with the monotony of the styles of homes) can go in, although the ordinances do have a few requirements.

**Heather Barnum** is concerned that accepting a full waiver for all of the open space could jeopardize the overall open feel of the community. She feels including the buffer on 1800 N. and a potential no-build zone over the creek will help maintain that open space feel. She is also supportive of the recommendation to invite the public back for additional comments during the Preliminary Plat hearing. She also added that she agrees with Shaunna Burbridge and UCATS comments regarding the meandering sidewalk. She feels a meandering sidewalk lessens the walkability of it.

In reference to Alternative Motion A Condition 1, **Mack McDonald** asked if the wording needs to be changed from listing a "waiver" to a "partial waiver" for the open space requirement to allow

for the City and staff to work with the developer regarding the no-build zone over the creek. Commissioners and staff discussed requiring a full waiver with just a no-build zone (as the developer would still be selling it off privately with the lots) or by separately identifying the constrained land and requiring a waiver for the rest of the open space. **Melvin Smith** asked for further clarification to ensure the developer may still receiving “credit” (such as adjusted compensation) for the no-build zone toward the overall required open space acreage with the conservation subdivision. **David Petersen** said it may be possible and also added that unconstrained land is higher in developable value than constrained land. **Melvin Smith** suggested adding wording to the motion that would include that the non-buildable area (subject to a negative easement) be adjusted from the required 4.8 acres of open space. **David Petersen** said it gets a little more complicated as in this case the open space will be divided into lots, but the logistics of it will be worked out during Preliminary Plat. He did ensure the developer will receive “credit” for the constrained land.

**Mack McDonald** asked for clarification on Alternative Motion A Condition 5 as he thought the width of the buffer had already been determined. **David Petersen** said it will be determined once the survey is complete so the City will know where the actual ROW is and what it looks like on both sides of the road. The details of the buffer, including landscaping, will be presented during Preliminary Plat.

As for additional concerns, **David Petersen** said that the traffic engineer can look at the use of stop signs to help slow traffic, but he feels it should be a condition at a later phase. It would be appropriate, if the Commission chooses, to add a condition to this motion to invite the public back for another public hearing during Preliminary Plat.

***Motion:***

**Mack McDonald** made a motion that the Planning Commission recommend an LR Zone Designation, and schematic plan approval for the Cottages at Rigby Road Conservation Subdivision subject to all applicable Farmington City codes and development standards and the following conditions:

1. The applicant must obtain a waiver of the open space requirement of 4.882 acres pursuant to Section 11-12-065 and pay the City just compensation as determined by the City Manager prior to Final Plat approval;
2. The applicant must obtain a waiver of the 80' buffer requirement pursuant to 11-12-100(b) through a vote of not less than four (4) members of the City Council prior to or concurrent with Schematic Plan approval;
3. The plan must be updated to show a detention basin and if that detention basin is on or partially on County property, written proof of the County approval must be obtained;
4. Applicant will change the name of the subdivision to something that doesn't use “Rigby Road” in its title;
5. Applicant will obtain a survey defining the 1800 N. ROW to help determine the width of the buffer;
6. The property will be subject to a negative easement or no-build zone by deed or other instrument to restrict building construction or modification of constrained land which has been defined as the non-buildable portion west of the ridge as identified and discussed in the minutes and according to the ordinance, the applicant will receive credit toward the open space requirement;
7. A public hearing shall be held during the consideration of Preliminary Plat.

**Kent Hinckley** 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 to 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 objectives of the General Plan.
7. Although the Haight Creek Draw is no longer accessible to the public, a waiver as compensation for the open space requirement will be used to preserve and consolidate open space elsewhere in the city as either a park or trail that is part of a greater system.

**Item #5. Scott Balling (Public Hearing) – Applicant is requesting Preliminary Plat and Preliminary (PUD) Master Plan approval for the Kestrel Bay Estates PUD subdivisions (51 lots) on property on 8.68 acres located at 500 South 200 West in AE & R-8 Zones. (S-5-13)**

**Eric Anderson** said the Planning Commission provides approval for the Preliminary Plat, but only provides recommendation for approval to the City Council for the Preliminary (PUD) Master Plan. Part of this property is zoned as R-8 and could allow for multi-family housing units, however, the applicant is only proposing single-family homes. Previously there was much discussion with the public and the Commission regarding the 450 S. connection, but it has been resolved. Also, conditions 3 and 5 on Alternative Motion B have been met; the soil report has been submitted and the developer has shown that homes can fit on lots 123 and 124.

**Scott Balling**, 1995 N. 100 E., Centerville, said the development will be marketed towards the “empty-nester” community with the smaller yards but larger homes. All landscaping and walkways will be maintained by the HOA. The subdivision will be fully landscaped along the Frontage Rd. The homes will be one level with flat driveways.

**Eric Anderson** stated staff is concerned that there is no buffer along the walkways between lots 219 and 220 and lots 111 and 112; they feel it is too small of a walkway entering the middle common area. **Brad Dutson** asked if the two narrow walkways could look more like the walkway between lots 105 and 106.

**Jason Harris**, 4423 Country Wood Dr., Lehi, representative of Field Stone Homes said he is concerned that he does not want to restrict the building lots by widening those two walkways. The Commissioners proposed adding an additional 2 ½ ft. on either side of the walkways. **Jason Harris** feels that would most likely work.

**Heather Barnum** asked if fences will be allowed within the community. **Jason Harris** said they have not yet determined if that will be the case or not. If fences will be allowed, the HOA will require access to the yards to ensure landscaping is maintained.

**Kent Hinckley** wondered why there is only one sidewalk along 450 S. **Scott Balling** said their main purpose is to provide interior sidewalks through the project away from the street. He explained the Fairways of Oakridge has a similar walkway system and it has been very successful. He does not want to take away from the building pad of the homes by adding sidewalks on both sides of the road.

**Scott Balling** presented the landscaping plans. It was submitted to staff, but has yet to be reviewed. The Commissioners again emphasized they would prefer the two northern walkways to the common area be more open and is not completely backed by privately owned land. **Eric Anderson** said staff has not been able to thoroughly review the landscaping plans, but could be added as a condition that it will be reviewed prior to Final Plat and Final (PUD) Master Plan.

**Brett Anderson opened the public hearing at 10:40 p.m.**

No comments were received.

**Brett Anderson closed the public hearing at 10:40 p.m.**

**Brett Anderson** said he is pleased with the project, especially as the developer has the option to include multi-family housing units within the R-8 zone and is not doing so. **Kent Hinckley** asked the Commissioners if this project was acceptable, including only one side of a sidewalk, based on previous meetings. **Brett Anderson** said yes, it was discussed in depth.

***Motion:***

**Mack McDonald** made a motion that the Planning Commission approve the Kestrel Bay Estates Preliminary Plat and recommend the Preliminary (PUD) Master Plan for approval subject to all applicable Farmington City ordinances and development standards and the following conditions:

1. The City Council approves the requested zone change in those portions of the property that are currently AE to R;
2. Applicant shall receive UDOT approval for drainage requirements and ROW improvements on frontage road prior to consideration by the Planning Commission of Final Plat approval;
3. Applicant will provide proof of approval for land drain installation in Frontage Road ROW;
4. The City Council must approve the Preliminary Plat concurrent with consideration of the Preliminary (PUD) Master Plan;
5. Applicant work with staff to ensure the trail system is widened to include a 5' sidewalk as well as an additional 5' (2 ½' on each side) through lots 219 and 220 and lots 111 and 112;
6. Staff reviews the landscaping plans and the applicant brings it back for approval at Final Plat and Final (PUD) Master Plan.

**Karolyn Lehn** seconded the motion which was unanimously approved.

Findings for Approval:

1. The proposed Preliminary Plat submittal is largely consistent with the City's Master Transportation Plan which is part of the General Plan, through its creation of a 450 South connection to the Frontage Road, although this connection is less than desirable in its staggered alignment.
2. Under its current zoning, this proposed subdivision couldn't have as many single family residences, however it could have 32 multi-family units. The proposed alternative, with approval of the requested zone change would create a preferable development than low density single family residential mixed with a high density multi-family residential component.

3. There is a growing need for “active senior communities” in Farmington, a need that is currently underserved. As the population grows older, there is projected to be a growing demand for this type of housing option.
4. The proposed Preliminary Plat submittal is consistent with all necessary requirements for a Preliminary Plat as found in Chapter 6 of the City’s Subdivision Ordinance.
5. The applicant has been working with the City, County and UDOT to resolve the storm-water issues.

## **ZONING TEXT CHANGE APPLICATION**

### **Item #6. Farmington City (Public Hearing) – Applicant is requesting amendments to the Zoning and Subdivision Ordinances (ZT-9-13 and ZT-8-93) by:**

- A. Clarifying direct access (driveway) standards of building lots in Section 11-32-106(1)(e);
- B. Modifying correctional/detention facilities, drug or alcohol rehabilitation facilities, etc. as a “not permitted” use in Section 11-18-105;
- C. Removing all residential uses in the Office Mixed Use District (OMU) in Section 11-18-105;
- D. Changing the City’s local street cross-section standard in Section 12-7-040;
- E. Reconsidering PUDs as a conditional use in Section 11-27-030 and appropriate zone districts where PUDs may be allowed and other chapter references related thereto;
- F. Adding an historic preservation standard in lieu of the 10% common open space requirement for PUDs in 11-27-120(g);
- G. Amending Sections 11-30-105(7)(e) and 11-32-106(1)(d) regarding driveway slop;
- H. Deleting the word “minimum” in 11-28-070;
- I. Providing a “rear of dwelling” standard for accessory buildings in 11-11-060(a);
- J. Amending Section 11-28-230 of the Zoning Ordinance to require performance bonds for demolitions (ZT-9-13);
- K. Striking Section 11-35-103(15) which makes the sale of firearms a prohibited use under Home Occupations.

David Petersen asked the Commission to continue this item until the January 23, 2014 Planning Commission meeting.

**Brett Anderson opened the public hearing at 10:49 p.m.**

No comments were received.

**Brett Anderson ended the public hearing at 10:49 p.m. but continued it until the Planning Commission meeting on January 23, 2014.**

### ***Motion:***

Mack McDonald made a motion that the Planning Commission continue this item to the Planning Commission meeting on January 23, 2014. Kent Hinckley seconded the motion which was unanimously approved.

## **ADJOURNMENT**

### ***Motion:***

At 10:50 p.m., **Mack McDonald** made a motion to adjourn the meeting which was unanimously approved.

---

**Brett Anderson, Chairman**  
**Farmington City Planning Commission**

**WORK SESSION:** A work session will be held at 6:00 p.m. in Conference Room #3, Second Floor, of the Farmington City Hall, 160 South Main Street. The work session will be to discuss a pedestrian 1-15 crossing proposal and to answer any questions the City Council may have on agenda items. The public is welcome to attend.

## **FARMINGTON CITY COUNCIL MEETING NOTICE AND AGENDA**

Notice is hereby given that the City Council of **Farmington City** will hold a regular City Council meeting on **Tuesday, January 21, 2014, at 7:00 p.m.** The meeting will be held at the Farmington City Hall, 160 South Main Street, Farmington, Utah.

*Meetings of the City Council of Farmington City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.*

The agenda for the meeting shall be as follows:

### **CALL TO ORDER:**

7:00 Roll Call (Opening Comments/Invocation) Pledge of Allegiance

### **REPORTS OF COMMITTEES/MUNICIPAL OFFICERS**

7:05 Executive Summary for Planning Commission held January 9, 2014

7:10 Presentation of Service Awards to Dave Quinley and Ron Karpenko

7:20 Presentation of "Award of Top Shooter"

### **PUBLIC HEARINGS:**

7:25 Preliminary (PUD) Master Plan and Schematic Plan Approval for the Cottages at Rigby Road and an Ordinance Designating the Zone for the Property as LR(PUD) and Annexing said Property into the Corporate Limits of Farmington

7:30 Metes and Bounds Subdivision (Elliot Subdivision)

7:45 Consideration of Schematic Plan Approval for Spring Creek Village and a Zone Change Related Thereto

8:45 Brentwood Estates Schematic Plan

### **PRESENTATION OF PETITIONS AND REQUESTS:**

9:15 Final Plat and Final (PUD) Master Plan for the Chestnut Farms PUD Subdivision

**SUMMARY ACTION:**

9:25 Minute Motion Approving Summary Action List

1. Approval of Minutes from January 7, 2014
2. Appointment of City Council Members to Various Committees

**GOVERNING BODY REPORTS:**

9:30 City Manager Report

1. Police & Fire Monthly Activity Reports for November and December

9:35 Mayor Talbot & City Council Reports

1. City Council Committee Appointments

**ADJOURN**

**CLOSED SESSION**

Minute motion adjourning to closed session, if necessary, for reasons permitted by law.

DATED this 16th day of January, 2014.

**FARMINGTON CITY CORPORATION**

By: Holly Gadd  
Holly Gadd, City Recorder

**\*PLEASE NOTE:** Times listed for each agenda item are estimates only and should not be construed to be binding on the City Council.

*In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting, should notify Holly Gadd, City Recorder, 451-2383 x 205, at least 24 hours prior to the meeting.*



## Planning Commission Staff Report January 23, 2014

---

### Item 5: Jeppsen Minor Subdivision

Public Hearing:	No
Application No.:	S-9-13
Property Address:	1530 North Main Street
General Plan Designation:	LDR (Low Density Residential)
Zoning Designation:	R (Residential)
Area:	1.351 acres
Number of Lots:	5 (2 new lots)
Property Owner:	Harv Jeppsen
Agent:	n/a

Request: *Recommendation for plat approval for a minor subdivision.*

---

### Background Information

Harv Jeppsen owns three un-platted parcels bounded by Main Street on the west, Leonard Lane on the north (a private street), the old Bamburger r.o.w. on the east (which Mr. Jeppsen also owns), and more un-platted property to the south. Existing single-family dwellings occupy two of the three parcels. The minimum lot size for conventional subdivisions in the R zone is 16,000 s.f. The applicant demonstrated that the property can yield 5 such lots, nevertheless, due to the position of the existing homes, Mr. Jeppsen elected to pursue a conservation subdivision enabling him to obtain the five lot total.

In order to obtain this lot size, the ordinance requires that the applicant set aside 10% of the land as open space, per Section 11-12-065. However, 10% of 1.01 net acres results in a small area (only 4413.5 s.f.) with very little utility and so the applicant will be pursuing a waiver of the open space requirement. City Council must approve the waiver by a vote of not less than four (4) members of the Council and the City Manager will determine what just compensation is for the lost open space through negotiations with the applicant.

Section 11-12-100(b) of the Zoning Ordinance states: "Buffer from Road. All new dwellings shall be arranged and located a minimum of eighty (80) feet from all external roads with a functional classification higher than a local street." Main Street is classified as a Minor Collector. In order to have the lots along Main Street, a waiver of this requirement by the City Council is required.

Main Street is a fully improved r.o.w. (i.e. curb, gutter, sidewalk, etc.). Leonard Lane is a private street not fully improved, and regarding streets such as this, one can never discount the possibility of property owners dedicating it in the future as a public r.o.w. In the event that Leonard Lane ever becomes public, creating an extension agreement now could help off-set improvement costs in the future.

The applicant is proposing a flag lot because although there is approximately 125 feet separating the two homes, it is not quite enough to accommodate two conventional lots. Enclosed is Section 12-7-030(10) of the Subdivision ordinance regarding flag lots.

### **Suggested Motion**

Move that the Planning Commission recommend that the City Council approve the enclosed Plat for the Jeppsen Minor subdivision subject to all applicable Farmington City development standards and ordinances and the following conditions:

1. The applicant must obtain a waiver from the City Council for the open space requirement concurrent with final plat approval;
2. The applicant shall enter into an extension agreement prior to recordation of plat for property abutting Leonard Lane in the event this r.o.w. ever becomes public;
3. There must be a fire hydrant located within at least 150' from the nearest corner of the proposed building on the flag lot and proof of this location must be approved to City Staff's satisfaction prior to issuance of a building permit.

### **Findings for Approval**

1. Lot dimensions comply with the standards set forth in the Zoning and Subdivision ordinances.
2. All lots front an existing fully improved public r.o.w. (Main Street).
3. The proposed flag lot meets all applicable city standards according to Section 12-7-030(10) of the Zoning Ordinance.
4. The City will receive comparable compensation for lost open space, which enables the creation of the smaller lot size.

### **Supplemental Information**

1. Vicinity/zoning map/existing parcel layout.
2. Proposed subdivision plat.
3. Yield Plan
4. Section 12-7-030 of the Subdivision Ordinance, Flag Lots.

LR-F



NMU

R

S-9-13



LR-F

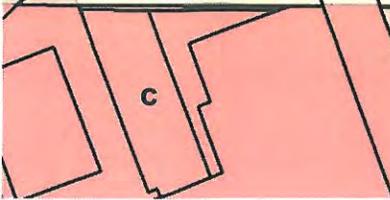
A-F

LR

LR-F

LR

R-4

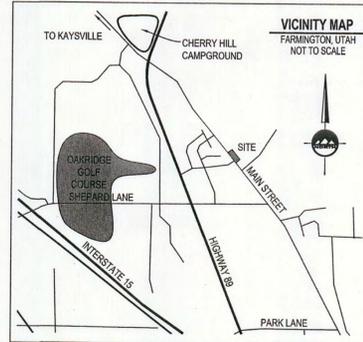
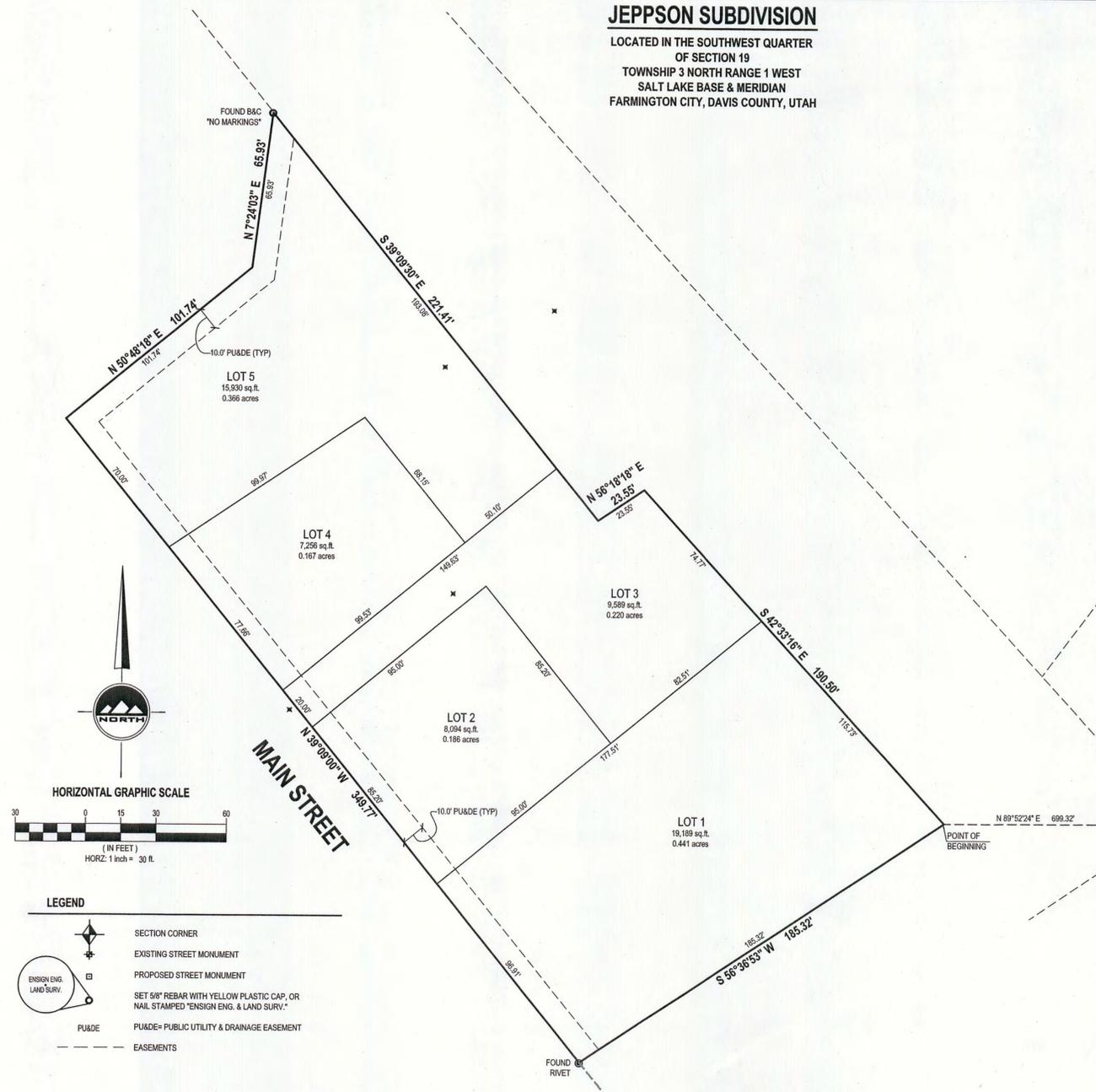


C

R-8

R

**JEPPELSON SUBDIVISION**  
 LOCATED IN THE SOUTHWEST QUARTER  
 OF SECTION 19  
 TOWNSHIP 3 NORTH RANGE 1 WEST  
 SALT LAKE BASE & MERIDIAN  
 FARMINGTON CITY, DAVIS COUNTY, UTAH



- GENERAL NOTES:**
- PROPERTY IS ZONED X-X.
    - A. FRONT YARD SETBACK IS 30'
    - B. REAR YARD SETBACK IS 30'
    - C. SIDE YARD SETBACK IS 20'
    - D. CORNER LOT SIDE YARD SETBACK IS 20' ARTERIAL STREET MINIMUM SIDE YARD AND (STREET) 20'.
  - ALL PUBLIC UTILITY AND DRAINAGE EASEMENTS (PU & DE) ARE 10' FRONT, 10' SIDE.

**NOTE:**  
 UTILITIES SHALL HAVE THE RIGHT TO INSTALL, MAINTAIN, AND OPERATE THEIR EQUIPMENT ABOVE AND BELOW GROUND AND ALL OTHER RELATED FACILITIES WITHIN THE PUBLIC UTILITY EASEMENTS IDENTIFIED ON THIS PLAT MAP AS MAY BE NECESSARY OR DESIRABLE IN PROVIDING UTILITY SERVICES WITHIN AND WITHOUT THE LOTS IDENTIFIED HEREIN, INCLUDING THE RIGHT OF ACCESS TO SUCH FACILITIES AND THE RIGHT TO REQUIRE REMOVAL OF ANY OBSTRUCTIONS INCLUDING STRUCTURES, TREES AND VEGETATION THAT MAY BE PLACED WITHIN THE P.U.E. AT THE LOT OWNER'S EXPENSE, OR THE OWNER TO REMOVE ALL STRUCTURES WITHIN THE P.U.E. OR ANY OTHER OBSTRUCTION WHICH INTERFERES WITH THE USE OF THE P.U.E. WITHOUT THE PRIOR WRITTEN APPROVAL OF THE UTILITIES WITH FACILITIES IN THE P.U.E.

**SURVEYOR'S CERTIFICATE**  
 I, KEITH R. RUSSELL, do hereby certify that I am a Licensed Land Surveyor, and that I hold certificate No. 164398, as prescribed under laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into lots and streets, hereafter to be known as JEPPELSON SUBDIVISION, and that the same has been correctly surveyed and staked on the ground as shown on this plat. I further certify that all lots meet frontage width and area requirements of the applicable zoning ordinances.

**BOUNDARY DESCRIPTION**

**OWNER'S DEDICATION**  
 Known all men by these presents that I/we, the under-signed owner (s) of the above described tract of land, having caused same to be subdivided, hereafter known as the

**JEPPELSON SUBDIVISION**

do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for Public use. In witness whereof I/we have hereunto set our hand (s) this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

By: HNU INVESTMENT COMPANY LLC  
HARV JEPPELSON, MANAGING MEMBER

By: SLEA 459 LLC  
HARV JEPPELSON MANAGING MEMBER

**LIMITED LIABILITY COMPANY ACKNOWLEDGMENT**

STATE OF UTAH \_\_\_\_\_  
 County of Davis \_\_\_\_\_ J.S.S.  
 On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, HARV JEPPELSON, personally appeared before me, the undersigned Notary Public, in and for said County of DAVIS in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the MANAGING MEMBER of HNU INVESTMENT COMPANY LLC, a Limited Liability Company and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Limited Liability Company for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.

MY COMMISSION EXPIRES: \_\_\_\_\_  
 \_\_\_\_\_ RESIDING IN \_\_\_\_\_ COUNTY.

**LIMITED LIABILITY COMPANY ACKNOWLEDGMENT**

STATE OF UTAH \_\_\_\_\_  
 County of Davis \_\_\_\_\_ J.S.S.  
 On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, HARV JEPPELSON, personally appeared before me, the undersigned Notary Public, in and for said County of DAVIS in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the MANAGING MEMBER of SLEA 459 LLC, a Limited Liability Company and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Limited Liability Company for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.

MY COMMISSION EXPIRES: \_\_\_\_\_  
 \_\_\_\_\_ RESIDING IN \_\_\_\_\_ COUNTY.

**DEVELOPER**  
**HARV JEPPELSON**  
**727 LEONARD LANE**  
**FARMINGTON, UT 84025**  
**801-721-8246**

**SURVEY RECORDING DATA**

DATE: \_\_\_\_\_  
 DRAWING No. \_\_\_\_\_

**JEPPELSON SUBDIVISION**

LOCATED IN THE SOUTHWEST QUARTER  
 OF SECTION 19  
 TOWNSHIP 3 NORTH RANGE 1 WEST  
 SALT LAKE BASE & MERIDIAN  
 FARMINGTON CITY, DAVIS COUNTY, UTAH

**DAVIS COUNTY RECORDER**

ENTRY NO. \_\_\_\_\_ FEE \_\_\_\_\_  
 PAID \_\_\_\_\_ FILED FOR RECORD AND  
 RECORDED THIS DAY OF \_\_\_\_\_, 20\_\_\_\_  
 AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF OFFICIAL RECORDS  
 PAGE \_\_\_\_\_

**SHEET 1 OF 1**

PROJECT NUMBER: L2116  
 MANAGER: K.RUSSELL  
 DRAWN BY: A.SHELBY  
 CHECKED BY: K.RUSSELL  
 DATE: 11/7/13

DAVIS COUNTY RECORDER  
 BY \_\_\_\_\_  
 DEPUTY RECORDER

**ENSGN**  
**LAYTON**  
 1485 West Hillfield Rd. Suite 204  
 Layton UT 84041  
 Phone: 801.547.1100  
 Fax: 801.593.8315  
 www.ensgnutah.com

**SALT LAKE CITY**  
 Phone: 801.255.0529

**PLEASANT GROVE**  
 Phone: 801.796.6145

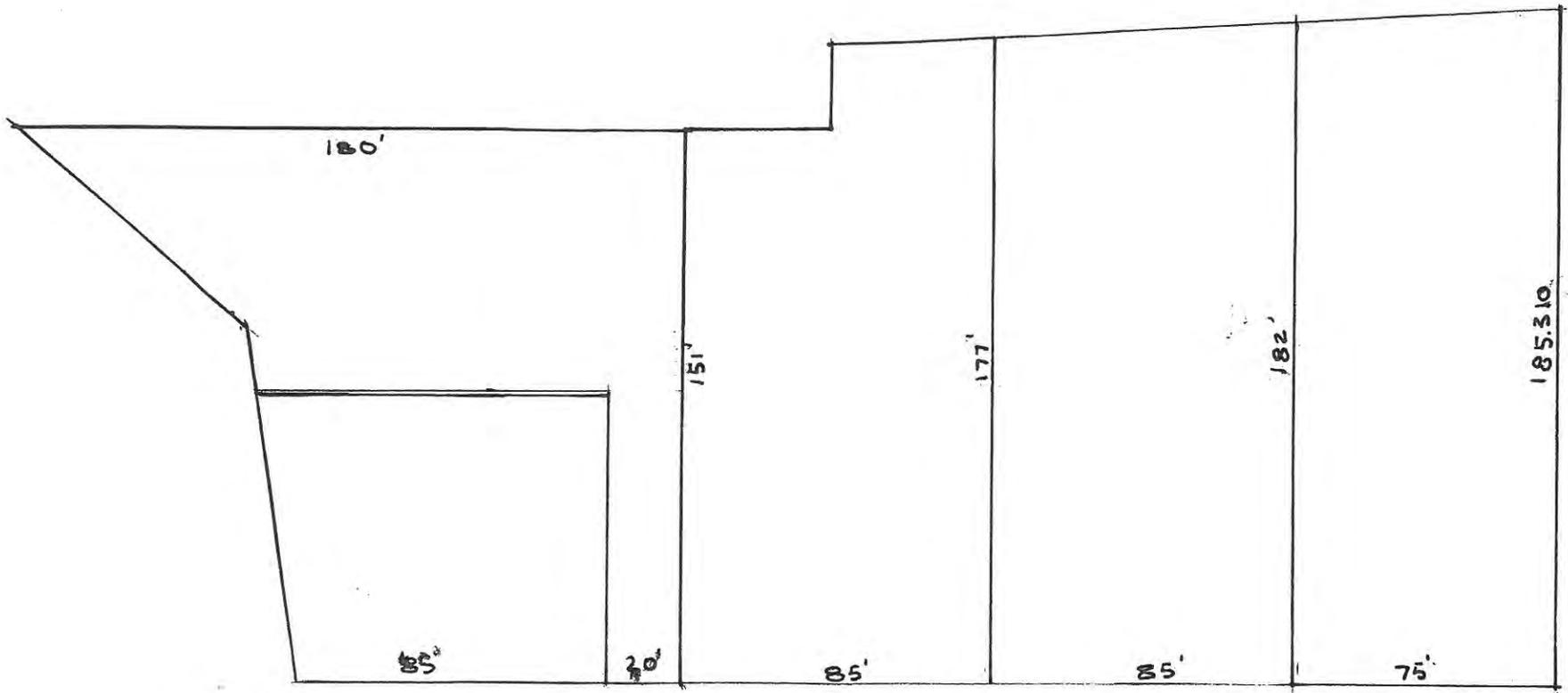
**TOOELE**  
 Phone: 435.843.3590

**CITY ATTORNEY'S APPROVAL**  
 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 BY THE FARMINGTON CITY ATTORNEY.  
 \_\_\_\_\_  
 FARMINGTON CITY ATTORNEY

**PLANNING COMMISSION APPROVAL**  
 RECOMMENDED FOR APPROVAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 BY THE CITY PLANNING COMMISSION APPROVAL  
 \_\_\_\_\_  
 CHAIRMAN, FARMINGTON CITY PLANNING COMMISSION

**CITY ENGINEER'S APPROVAL**  
 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 BY THE FARMINGTON CITY ENGINEER  
 \_\_\_\_\_  
 FARMINGTON CITY ENGINEER

**CITY COUNCIL APPROVAL**  
 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 BY THE FARMINGTON CITY COUNCIL  
 \_\_\_\_\_  
 CITY RECORDER FARMINGTON CITY MAYOR



NORTH

MAIN STREET

YIELD PLAN  
SCALE 1" = 30'

example, phase two would be numbered 201, 202, 203, etc.

(9) Except for group dwellings and planned unit developments, as specifically authorized by this Title and the Zoning Ordinance, not more than one dwelling unit shall occupy any one lot.

(10) Flag lots may be approved by the Planning Commission in any residential zone where, due to unusual parcel dimension, configuration, or topographic conditions, traditional lot design is not feasible. Approval of flag lots shall not be permitted solely on the basis of economic benefit. Such lots shall meet the following criteria:

- (a) The stem of the lot shall be not less than twenty feet (20') in width and shall not exceed one hundred fifty feet (150') in length;
- (b) The stem of the lot shall serve one lot only and shall have direct access to a dedicated and improved street;
- (c) The nearest fire hydrant shall be located no further than one hundred fifty feet (150') from the nearest corner of the proposed building on the lot; and
- (d) The body of the lot shall meet the lot size and dimensional requirements of the applicable zone. The stem area shall not be used in computing lot size. Proposed buildings shall comply with the minimum setbacks required for the zone. Determinations as to which are the front, side, and rear setbacks shall be made by the Zoning Administrator at the time a building permit is requested and shall be based on the orientation of the proposed home on the lot.
- (e) The number of flag lots shall not exceed ten percent (10%) of the total lots in the subdivision unless it is determined by the City that the property could not reasonably be developed otherwise.

(11) On lots with available access only onto a Major Arterial, Minor Arterial or Major Collector Street, a circular drive or some other type of vehicular maneuvering area shall be provided to enable vehicles to enter traffic moving forward rather than backing. The minimum depth of such lots shall be not less than one hundred ten feet (110').

**12-7-040 Streets.**

(1) All streets shall be designated and constructed with the appropriate street classification requirements specified herein:

**STREET CLASSIFICATION**



## Planning Commission Staff Report January 23, 2014

---

### Item 4: Miscellaneous Zoning and Subdivision Ordinance Amendments

Public Hearing:	Yes
Application No.:	ZT-9-13 and ZT-8-93
Property Address:	NA
General Plan Designation:	NA
Zoning Designation:	NA
Area:	NA
Number of Lots:	NA
Applicant:	Farmington City

Request: *Applicant is requesting a recommendation of approval of amendments to the Zoning & Subdivision Ordinances.*

---

#### **Background Information**

The updates to the Zoning Ordinance included with this proposal include a) Clarifying direct access (driveway) standards of building lots in Section 11-32-106(1)(e); b) Modifying correctional/detention facilities, drug or alcohol rehabilitation facilities, etc. as a “not permitted” use in Section 11-18-105; c) Removing all residential uses in the Office Mixed Use (OMU) district in Section 11-18-105; d) Changing the City’s local street cross-section standard in Section 12-7-040; e) Reconsidering PUDs as a conditional use in Section 11-27-030 and appropriate zone districts where PUDs may be allowed and other chapter references related thereto; f) Adding an historic preservation standard in lieu of the 10% common open space requirement for PUDs in 11-27-120(g); g) Amending Sections 11-30-105(7)(e) and 11-32-106(1)(d) regarding driveway slope; h) Deleting the word “minimum” in 11-28-070; i) Providing a “rear of dwelling” standard for accessory buildings in 11-11-060(a); and j) Amending Section 11-28-230 of the Zoning Ordinance to require performance bonds for demolitions (ZT-9-13).

#### **a) Direct access (driveway) standards of building lots in Section 11-32-106(1)(e).**

A “building lot” must have frontage on a public street (Section 11-2-020(55)). Meanwhile, a “lot” is not subject to the same standard (Section 11-2-020(54)). Consequently, Section 11-32-106(1)(e) regarding driveway access should be modified as follows to clearly specify only “building lots” because building lots are the only lot type which require street frontage:

Driveways shall have direct access to a public street for a building lot. Subject to satisfaction of the provisions of Section 11-3-045 of the City Zoning Ordinances and the grant of a special exception, direct access for a building lot may include access over one adjacent building lot ~~in a platted subdivision~~ provided both building lots have full frontage on a public street, an access easement has been recorded acceptable to the City, and the full face of any dwelling unit located on ~~the~~ both building lots fronts or is fully exposed to the public street.

**b) Correctional/detention facilities, drug or alcohol rehabilitation facilities, etc. as a “not permitted” use in Section 11-18-105.**

The aforementioned uses are shown as “Not Permitted” on the use table for the mixed use zones in Chapter 18. Such a designation may or may not be consistent with Federal Law. The City intends to ensure compliance with the law; therefore, it is recommended that the City eliminate these as uses in these zones to allow time for the City to update its ordinances accordingly (see below). In the meantime, the City will defer to federal law if such uses are proposed in the mixed use areas. Note: the entire use table in 11-18-105 is included in the supplementary information to this report.

Civic Uses		RMU	OMU	GMU	TMU	OS
	<del>Correctional/detention facilities, half-way houses, drug or alcohol rehabilitation facilities, facilities for the confinement of the mentally ill, homeless shelters, domestic violence shelters, and other similar facilities including those which require that clients stay overnight or longer.</del>	N	N	N	N	N

**c) Residential uses in the Office Mixed Use District (OMU) in Section 11-18-105.**

The City desires to establish a large 240+ acre business park north of Shepard Creek west of I-15 and east of the UTA tracks for multiple reasons. Several months ago in an effort to prevent residential creep into this area, the City amended its ordinance to disallow most residential uses in the Office Mixed Use (OMU) zone. In the interim, the City has gained a greater understanding of live/work and assisted living facilities due to requests for such uses elsewhere in the community. In order to maintain the future business park as a non-residential area, it is recommended that the City identify these uses as “Not Permitted” or “N” in the OMU zone as follows (note: the entire use table in 11-18-105 is included in the supplementary information to this report):

Residential		RMU	OMU	GMU	TMU	OS
	Artist Studio	P	<del>P</del> N	P	P	N

	Live/work Residential	P	<del>P</del> N	P	P	N
	Residential facilities for the elderly; residential facilities for the handicapped.	P	<del>P</del> N	P	P	N

**d) Local street cross-section standard in Section 12-7-040.**

The Fire Department added portions of Appendix D to Ordinance 2012-22 as part of the 2011 Electrical Code update, or Title 10 of the Farmington City Code. Said ordinance was adopted by the City on June 5, 2012 (see enclosed Appendix D). It is recommended that the City amend its local street cross-section in its development standards by resolution and Section 12-7-040 of the Subdivision Ordinance as follows:

**STREET CLASSIFICATION**

	Major Arterial	Minor Arterial	Major Collector	Minor Collector	Important Local	Local
R-O-W width	106 ft.	100 ft.	80 ft.	66 ft.	60 ft.	<del>55</del> 6 ft.
width to back of curb	86 ft.	65 ft.	57 ft.	42 ft.	37 ft.	<del>32</del> 3 ft.

**e) PUDs as a conditional use in Section 11-27-030 and appropriate zone districts where PUDs may be allowed and other chapter references related thereto.**

Planned Unit Developments are erroneously listed as a conditional use within many districts contained within the Zoning Ordinance because consideration of any permitted or conditional use set forth therein constitutes an administrative act. Meanwhile, the establishment of a PUD is a legislative act (see Section 11-27-080). Accordingly, it is recommended that the City amend sections of the Zoning Ordinance as follows [for entire tables/paragraphs see respective sections in Zoning Ordinance]:

**CHAPTER 10**

**AGRICULTURAL ZONES**

**11-10-020 Schedule of Uses.**

The following table identifies permitted uses by the letter "P" and conditional uses by the letter "C". The letter "X" indicates that the use is not allowed. Uses not listed shall not be allowed except as provided in Section 11-4-105(6):

	<b>AGRICULTURE ZONES</b>
--	--------------------------

USE	AA	AE	A
<del>Planned Unit development</del>	€	€	€

**CHAPTER 11**

**SINGLE-FAMILY RESIDENTIAL ZONES**

**11-11-030 Conditional Uses.**

The following are conditional uses in all single-family residential zones. No other conditional uses are allowed, except as provided by Section 11-4-105(6).

- (a) ~~Condominiums, Planned Unit Developments;~~

**CHAPTER 13**

**MULTIPLE-FAMILY RESIDENTIAL ZONES**

**11-13-030 Conditional Uses.**

The following are conditional uses in multiple-family residential zones. No other conditional uses are allowed, except as provided by Section 11-4-105(6):

- (4) ~~Condominiums, Planned Unit Developments;~~

**CHAPTER 14**

**BUSINESS PARK ZONE (BP)**

**11-14-030 Conditional Uses.**

The following are conditional uses in the BP zone. No other conditional uses are allowed, except as provided by Section 11-4-105(6):

- (7) ~~Planned unit development or condominium, commercial;~~
- ~~(8) Planned unit development or condominium, residential, in areas where such development provides an appropriate transition from non-residential to lower density residential uses;~~

**CHAPTER 15**

**BUSINESS/RESIDENTIAL ZONE (BR)**

**11-15-030 Conditional Uses**

The following are conditional uses in the BR Zone. No other conditional uses are allowed, except as provided by Section 11-4-105(6):

- ~~(15) Planned unit development or condominium, commercial;~~
- ~~(16) Planned unit development or condominium, residential;~~

**CHAPTER 16**

**GENERAL COMMERCIAL ZONE (C)**

**11-16-030 Conditional Uses.**

The following are conditional uses in the C zone. No other conditional uses are allowed, except as provided by Section 11-4-105(6):

- ~~(19) Planned unit development or condominium, commercial;~~
- ~~(20) Planned unit development, apartments or condominium, residential;~~

**CHAPTER 17**

**ORIGINAL TOWNSITE RESIDENTIAL ZONE (OTR)**

**11-17-030 Conditional Uses.**

The following are conditional uses in the OTR Zone. No other conditional uses are allowed, except as provided by Section 11-4-105(6):

- ~~(13) Single family residential planned unit development (PUD)~~

**CHAPTER 19**

**COMMERCIAL MIXED USE (CMU) ZONE**

**11-19-104 Allowable Uses.**

The CMU zone provides for a broad variety of land uses. The purpose of the CMU zone is to provide for a mix of uses rather than a single type of use. The specific uses that will be allowed in an CMU zoned area will depend on the location and character of the property to be zoned, the mix and intensities of the uses proposed, and on the character of the surrounding neighborhoods and land uses, and will be determined through the review and approval of either a Planned Unit Development pursuant to Chapter 27 of this Zoning Ordinance, or as a Planned Center Development pursuant to the conditional use permit process.

Among the uses that may be considered for approval in the CMU zone as part of a Planned Center Development are the following:

- ~~(23) Planned unit development or condominium, commercial;~~
- ~~(24) Planned unit development, residential; (minimum density: six (6) units per acre);~~

**CHAPTER 20**

**NEIGHBORHOOD MIXED USE (NMU) ZONE**

**11-20-040 Allowable Uses.**

The NMU zone provides for a broad variety of land uses. The purpose of the NMU zone is to provide for a mix of uses rather than a single type of use. The specific uses that will be allowed in an NMU zoned area will depend on the location and character of the property to be zoned, the mix and intensities of the uses proposed, and on the character of the surrounding neighborhoods and land uses, and will be determined through the review and approval of either a Planned Unit Development pursuant to Chapter 27 of this Zoning Ordinance, or as a Planned Center Development pursuant to the conditional use permit process.

**(a) Allowable Uses**

Among the uses that may be considered for approval as part of a Planned Center Development are the following:

- ~~(20) Planned unit development or condominium, commercial;~~
- ~~(21) Planned unit development or condominium, residential;~~

**CHAPTER 22**

**B ZONE**

**11-22-103 Conditional Uses.**

Uses enumerated hereunder are principal uses. The location of these uses shall be subject to review and approval by the Planning Commission as provided in Chapter 8 and the requirements of this Chapter.

(3) ~~Single family residential planned unit development;~~

## CHAPTER 27

### PLANNED UNIT DEVELOPMENT (PUD)

#### 11-27-030 Combination with Residential Zones.

A Planned Unit Development shall be ~~permitted as a conditional use~~ considered only in the AA, A, AE, LS, S, LR, R, R-2, R-4, and R-8, BP, BR ~~and C~~, OTR (single-family residential only), NMU, CMU, and B (single-family residential only) zones. The provisions of this Chapter shall prevail in cases of conflict between this Chapter and other chapters (the provisions of the Foothill Ordinance shall be more restrictive than this Chapter).

#### **f) Historic preservation standard in lieu of the 10% common open space requirement for PUDs in 11-27-120(g).**

Every Planned Unit Development (PUD) must require a 10% set aside of its net area as open space as per Section 11-27-120(g). Years ago in an effort to provide greater flexibility for infill parcels, particularly for properties containing historic resources, the City reduced the minimum acreage requirement for PUDs from 5 acres for single-family PUDs and 3 acres for multi-family PUDs to zero acres. Consequently, some infill projects are small and the 10% open space requirement does not result in significant area. It is recommended that in lieu of the open space requirement, or portion thereof, that the City is allowed to consider historic preservation as an option at its sole discretion as follows:

(g) Every Planned Unit Development shall provide usable common open space, accessible to all lots or units, of not less than 10 percent of the net area (gross area less constrained or sensitive lands), in single-family Planned Unit Developments (see chart below) and 30 percent in multi-family Planned Unit Developments. (Open space requirements in a mixed single-family, multi-family Planned Unit Development shall be computed as a weighted average.) No streets, driveways, parking areas, yard areas typically used for individual structures or areas with slopes greater than 30 percent, wetlands or other constrained lands may be included in the computation of the required open space unless the Planning Commission determines that certain constrained, i.e., rock outcroppings, etc., qualify as unimproved open space in order to enhance the character and function of open space with the development. Playgrounds, parks, swimming pools and related amenities, tennis courts and similar bona fide recreation buildings and facilities and railway system land may be considered part of the usable common open space. The City, at its sole discretion, may consider preservation of an on-site building or structure eligible, or that may be eligible, for the National Register of Historic Places in lieu of the 10 percent open space requirement or portion thereof.

#### **g) Amending Sections 11-30-105(7)(e) and 11-32-106(1)(d) regarding driveway slope.**

At the October 10, 2013 meeting the Planning Commission mulled over the possibility of granting the Zoning Administrator authority to allow property owners to exceed the 14% slope standard for

driveways but up to a maximum cap. Staff also broached the possibility of including this authority under the administrative variance powers of the Zoning Administrator set forth in Chapter 5 of the Zoning Ordinance. Therewith, the Planning Commission approved a motion to table this item to give time to staff to review other standards as it relates to maximum slopes and to re-evaluate what section this ordinance change should be placed in.

Upon further discussions with the Building Official, staff is worried that whatever the “cap” it will become the new standard — not 14%. For this reason, a cap is not recommended. Moreover, it is also recommended that the Commission not include any amendment to the slope standard as part of Chapter 5 as originally mentioned by staff, because this chapter requires a finding of hardship, and such a hardship can be difficult to establish. Nevertheless, staff recommends the following amendments:

Section 11-30-105(7)(e):

~~Points of access shall be provided to all developed and non-developed areas for emergency fire fighting equipment. Driveways shall not exceed a slope of fourteen percent (14%) and shall have direct access to a public street.~~

11-32-106(1)(d):

Driveways shall not exceed a slope of fourteen percent (14%). The slope shall be the average slope of the two outside edges of the driveway. The points used to calculate the rise of the outside edges shall be established where the elevation of the respective corner of the driveway meets the street right-of-way line and the elevation of the corresponding corner of the driveway enters the a garage, carport, or designated parking space; and the same points must be used to calculate the horizontal distance of the run.

**h) Deleting the word “minimum” in 11-28-070.**

The current 25% coverage ratio often prevents a property owner from constructing a reasonably sized detached building, like a garage, because said coverage area is limited to the minimum required rear yard area determined by a 30 foot setback in residential zones even if the actual rear yard is much larger than the minimum requirement. It is recommended that the City amend this standard as follows for only residential zones:

**11-28-070 Maximum Coverage Area of Accessory Buildings.**

No accessory building or group of such buildings and no parking space in any residential zone shall cover more than twenty-five percent (25%) of the ~~minimum~~ rear yard space.

**i) Providing a “rear of dwelling” standard for accessory buildings in 11-11-060(a).**

The rear yard constitutes that area between the setback of the building and the property line. The ordinance as currently written prevents a property owner from placing an accessory building in the yard formed by an “L” shaped building but still located to the rear of the dwelling. It is recommended the City amend its ordinance as follows:

**11-11-060 Accessory Buildings and Structures.**

(a) Accessory buildings, except those listed in Subsection (b), shall be located ~~in~~ to the rear of the dwelling yard, shall be separated from the main building by a distance in compliance with applicable building codes, shall not encroach on any recorded easement, shall not occupy more than twenty-five percent (25%) of the rear yard, and shall be located at least fifteen (15) feet from any dwelling on an adjacent lot. Such buildings may be located within one (1) foot of the side or rear property line. Accessory buildings shall, without exception, be subordinate in height and area to the main building.

**j) Amending Section 11-28-230 of the Zoning Ordinance to require performance bonds for demolitions (ZT-9-13).**

Recently the City adopted an ordinance regarding demolitions. Now in many circumstances one must have a building permit in hand issued by the City for the replacement building before one is allowed to proceed with the demolition. But this does not prevent one from following through with the construction of the replacement building/structure. At the time the new ordinance was enacted the City contemplated a performance bond to ensure compliance. It is recommended that the City amend its ordinance as follows:

(d) Issuance of Demolition Permit for a Main Building.

(1) Except as otherwise provided in subsection (4) of this section, a demolition permit shall be issued only upon compliance with subsections (2) and (3) of this section, if applicable, and if:

(i) A complete building permit application for a ~~use~~ building to replace ~~replacing the demolished building or structure proposed for demolition~~ has been submitted to the Community Development Department; and in the case of a replacement ~~use~~ building for a dwelling, ~~that is not a multiple family dwelling~~, the building permit must be issued and the City must receive a cash performance bond in a form acceptable to the City equal in amount to the valuation, as determined by the Building Official, of the replacement building; or

**k) Striking Section 11-35-103(15) which makes the sale of firearms a prohibited use under Home Occupations.**

A few weeks ago Erick Carmiol inquired about the possibility of selling firearms under the City's Home Occupation ordinance (see attached home occupation ordinance (Chapter 35) and information from Erick Carmiol). Under the City's current ordinance the "Sale or repair of firearms" is not allowed as a home occupation. Mr. Carmiol provided certain references to the state code stating that no local authority can prevent an individual from selling his firearm (see attached). Do such state code references only refer to the sale of personal property, or do they further allow one to operate a firearm business from one's home? Staff recommends that the Planning Commission table consideration of this item pending further clarification from the City Attorney.

## **Suggested Motion:**

Move that the Planning Commission recommend approval of the proposed amendments to the Zoning and Subdivision Ordinances as set forth in the January 23, 2014 staff report, but table item k. pending further clarification from the City Attorney.

### Findings:

1. The existing Section 11-32-106(1)(e) implies that the lots referenced therein are limited to building lots because building lots are the only lot type which require frontage. The amendment makes clear this distinction.
2. Eliminating correctional facilities, etc. and deferring to federal requirements to guide these land uses will ensure immediate compliance with the law, and provide time to appropriately and deliberately update City ordinances accordingly.
3. The office/business park area will be maintained as a non-residential zone.
4. Consideration of a P.U.D. overlay is a legislative act and may be applied with discretion. As a conditional use one may misconstrue consideration of a PUD as an administrative act which must be approved so long as such requests meet reasonable standards. The proposed amendment resolves this inconsistency within the ordinance.
5. An historic preservation standard in lieu of the open space requirement provides more available options to the property owner while allowing the City to achieve goals set forth in the General Plan.
6. The action ensures flexibility to resolve most conflicts raised when determining driveway slopes;
7. It provides discretion to the Zoning Administrator to ensure that portions of long driveways do not become excessively steep;
8. Chapter 32 remains the primary chapter of the new amendment regarding driveway slopes which reduces the possibility of inadvertent negative ramifications regarding an amendment occurring to one chapter but not the other.
9. The new driveway slope standard is consistent with the building code; and it prevents unreasonable constraints upon the property owner.
10. The new ordinance provides greater flexibility to the property owner regarding accessory building size (but in residential zones only); and placement of thereof for lots with "L" shaped main buildings.
11. The update helps preserve the preservation of City housing stock and neighborhood integrity.

### Supplementary Information

1. Section 11-18-105.
2. Fire Apparatus Code Appendix D
3. Chapter 35—Home Occupation
4. Information from Erick Carmiol related to State firearm laws

### Applicable Ordinances

1. Title 11, Chapter 32 – Off-Street Parking, Loading, and Access
2. Title 15, Chapter 2 – Administration of Regulations

3. Title 11, Chapter 28 – Supplementary and Qualifying Regulations
4. Title 11, Chapter 18—Mixed-Use Districts
5. Title 12, Chapter 6 – Major Subdivisions
6. Title 11, Chapter 27—Planned Unit Development (PUD)
7. Title 11, Chapter 10—Agriculture Zones
8. Title 11, Chapter 11—Single Family Residential Zones
9. Title 11, Chapter 13—Multiple-Family Residential Zones
10. Title 11, Chapter 14—Business Park Zone (BP)
11. Title 11, Chapter 15—Business/Residential Zone (BR)
12. Title 11, Chapter 16—General Commercial Zone (C)
13. Title 11, Chapter 17—Original Townsite Residential Zone (OTR)
14. Title 11, Chapter 19—Commercial Mixed Use (CMU) Zone
15. Title 11, Chapter 20—Neighborhood Mixed Use (NMU) Zone
16. Title 11, Chapter 22—B Zone
17. Title 11, Chapter 30—Foothill Development Standards

Principal	40	10 feet, each side	10 feet, each side
Promenade	50	20 feet, each side	5 feet, each side
Neighborhood	28 to 36	6 to 8 feet, each side	8 to 10 feet, each side
Rail Access	3 to 9	3 to 8 feet, one side	0 to 3 feet
Alley	None	None	None
Pedestrian Walkway	20	10 foot trail	5 feet, each side

**11-18-105 Uses**

- (1) Uses allowed in the TOD area are identified in Table 18.3 – Allowable Land uses. A development parcel may have more than one main building or dwelling, however each main building shall have its own zone lot.
- (2) More than one permitted use may be located on a development parcel and within a building (refer to definitions of mixed use and development parcel).

**Table 18.3 – Allowable Land Uses**

Key to Allowable Uses:

P – Permitted

N – Not Permitted

Restrictions:

- (1) – Drive-up window/drop-off lane allowed only with special use review by the Planning Commission. No additional curb cut shall be added to accommodate the drive-up/drop-off lane.
- (2) – Also see Section 11-18-108(b)(5)(iv) for provisions for buildings over 20,000 square feet.
- (3) – Benches and bus stops are permitted, with development standards as noted in Section 11-18-111

\* Neighborhood Service Establishments: low impact retail and personal service uses such as bakery, bookstore, dry-cleaning, hair styling, pharmacy, art supply/gallery, craft store, photocopy center, corner market (w/ no gas pumps).

		Mixed-use Districts				
		RMU	OMU	GMU	TMU	OS
<b>Residential</b>						
	Low-density residential – single-family detached min. of 5,000 sq. ft. lot size	P	N	N	N	N
	Medium-density residential – single-family small lots and attached units or townhomes/condominiums	P	N	P	P	N

	limited to duplexes, triplexes, four-plexes, five-plexes, or six-plexes.					
	High-density residential – Condominium and apartment style	N	N	P	P	N
	Artist Studio	P	P	P	P	N
	Live/work Residential	P	P	P	P	N
	Residential facilities for the elderly; residential facilities for the handicapped	P	P	P	P	N
<b>Commercial</b>		<b>RMU</b>	<b>OMU</b>	<b>GMU</b>	<b>TMU</b>	<b>OS</b>
	Business, professional offices, outpatient medical facilities	P	P	P	P	N
	Entertainment	N	N	P	P	N
	Financial institutions (with the exception of non-depository institutions)	P	P	P	P	N
	Fitness and recreation facilities	P	P	P	P	N
	Hospitals, inpatient medical facilities	N	P	P	P	N
	Lodging, limited to hotel, motel	N	P	P	P	N
	Lodging - bed and breakfast	P	N	P	P	N
	Neighborhood service establishments*	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	N
	Restaurant – fast food	P <sup>1</sup>	P	P	P <sup>1</sup>	N
	Restaurant – traditional sit-down	P	P	P	P	N
	Retail and Wholesale sales individual tenant use:					

	- Up to 5,000 sq. ft.	P	P	P	P	N
	- Greater than 5,000 sq. ft. and up to 20,000 sq. ft.	N	P	P	P	N
	- Greater than 20,000 sq. ft.	N	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	N
	Vehicle Service/convenience store (including gasoline sales but no auto repair)	N	P	P	P	N
	Accessory buildings that do not in aggregate have a footprint greater than 25% of the main building(s) on a development parcel	P	P	P	P	N
	Parking structure	N	P	P	P	N
<b>Civic Uses</b>		<b>RMU</b>	<b>OMU</b>	<b>GMU</b>	<b>TMU</b>	<b>OS</b>
	Service and fraternal clubs and organizations, and religious institutions	P	P	P	P	N
	Correctional/detention facilities, half-way houses, drug or alcohol rehabilitation facilities, facilities for the treatment or confinement of the mentally ill, homeless shelters, domestic violence shelters, and other similar facilities including those which may allow or require that clients stay overnight or longer	N	N	N	N	N
	Government – point of service (e.g. Library)	P	P	P	P	N
	Government – no point of service; no offices dealing directly or on a limited basis with the public (e.g. public works yards, etc.)	N	N	N	N	N

Parks and Open Space	P	P	P	P	P
Schools: - Preschool, daycare - Primary, secondary, colleges, and vocational	P <sup>1</sup> P	P P	P P	P P	N N
Transit and related transportation facilities – (not including benches and bus stop signs)	N	P <sup>3</sup>	P <sup>3</sup>	P <sup>3</sup>	N

**11-18-106 Building Form & Site Envelope Standards**

The following regulations and standards establish the parameters that guide the form of building within the mixed-use districts of this chapter, including the site envelope for building placement. They direct and control the building envelope and site in regard to configuration, orientation, function, and features that define and shape the public realm. The technique of the standards is to use private buildings to define and shape the public space in a manner that promotes walkability and provides functional connections between the public space and the private buildings. The standards are designed to use a minimum level of control to meet this goal.

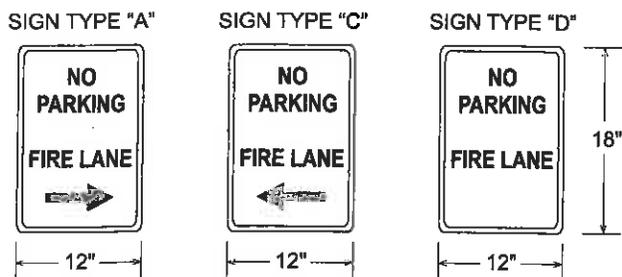
The Regulating Plan identifies six street types, including pedestrian walkways. Alleys are not identified on the regulating plan. The building form and site envelope standards are identified for each mixed-use district and the street types within. Standards for street types shall apply to all lots that front that street. Lots may be either a recorded building lot or a zone lot as defined in Section 11-18-103. A development parcel may have more than one zone lot. Standards will apply to the primary building on each zone lot. Lots that front more than one street shall follow the standards for the primary street, as determined by the street hierarchy. Standards for the arterial roads shall only apply to lots that directly abut Park Lane at grade and shall not apply to those portions of Park Lane and its access streets that are raised on an embankment. Lots that are adjacent to an embankment shall also have frontage on another street and will conform to the standards of the next nearest street type. These standards shall address building height, siting of the building on the lot, and other elements. Character examples may be provided to depict the context of the type and form of desirable development only, and not the actual design or architectural style of buildings. Exceptions to the standards of this section for large footprint commercial buildings over 20,000 ft<sup>2</sup> are detailed in Section 11-18-107.

- (1) Height:
  - (a) The height of the principal building is measured in stories, with the maximum height indicated in feet for the RMU and OS districts.

**D103.5 Fire apparatus access road gates.** Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 20 feet (6096 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one *person*.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be *approved by the fire code official*.
6. Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools or when a key box containing the key(s) to the lock is installed at the gate location.
7. Locking device specifications shall be submitted for approval by the *fire code official*.
8. Electric gate operators, where provided, shall be *listed* in accordance with UL 325.
9. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200.

**D103.6 Signs.** Where required by the *fire code official*, fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.



**FIGURE D103.6**  
**FIRE LANE SIGNS**

**D103.6.1 Roads 20 to 26 feet in width.** Fire lane signs as specified in Section D103.6 shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide (6096 to 7925 mm).

**D103.6.2 Roads more than 26 feet in width.** Fire lane signs as specified in Section D103.6 shall be posted on one side of fire apparatus access roads more than 26 feet wide (7925 mm) and less than 32 feet wide (9754 mm).

## SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

**D104.1 Buildings exceeding three stories or 30 feet in height.** Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have at least two means of fire apparatus access for each structure.

**D104.2 Buildings exceeding 62,000 square feet in area.** Buildings or facilities having a gross *building area* of more than 62,000 square feet (5760 m<sup>2</sup>) shall be provided with two separate and *approved* fire apparatus access roads.

**Exception:** Projects having a gross *building area* of up to 124,000 square feet (11 520 m<sup>2</sup>) that have a single *approved* fire apparatus access road when all buildings are equipped throughout with *approved automatic sprinkler systems*.

**D104.3 Remoteness.** Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.

## SECTION D105 AERIAL FIRE APPARATUS ACCESS ROADS

**D105.1 Where required.** Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater.

**D105.2 Width.** Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm), exclusive of shoulders, in the immediate vicinity of the building or portion thereof.

**D105.3 Proximity to building.** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the *fire code official*.

**D105.4 Obstructions.** Overhead utility and power lines shall not be located over the aerial fire apparatus access road or between the aerial fire apparatus road and the building. Other obstructions shall be permitted to be placed with the approval of the *fire code official*.

# APPENDIX D

## FIRE APPARATUS ACCESS ROADS

*The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.*

### SECTION D101 GENERAL

**D101.1 Scope.** Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

### SECTION D102 REQUIRED ACCESS

**D102.1 Access and loading.** Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other *approved* driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34 050 kg).

### SECTION D103 MINIMUM SPECIFICATIONS

**D103.1 Access road width with a hydrant.** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

**D103.2 Grade.** Fire apparatus access roads shall not exceed 10 percent in grade.

**Exception:** Grades steeper than 10 percent as *approved* by the fire chief.

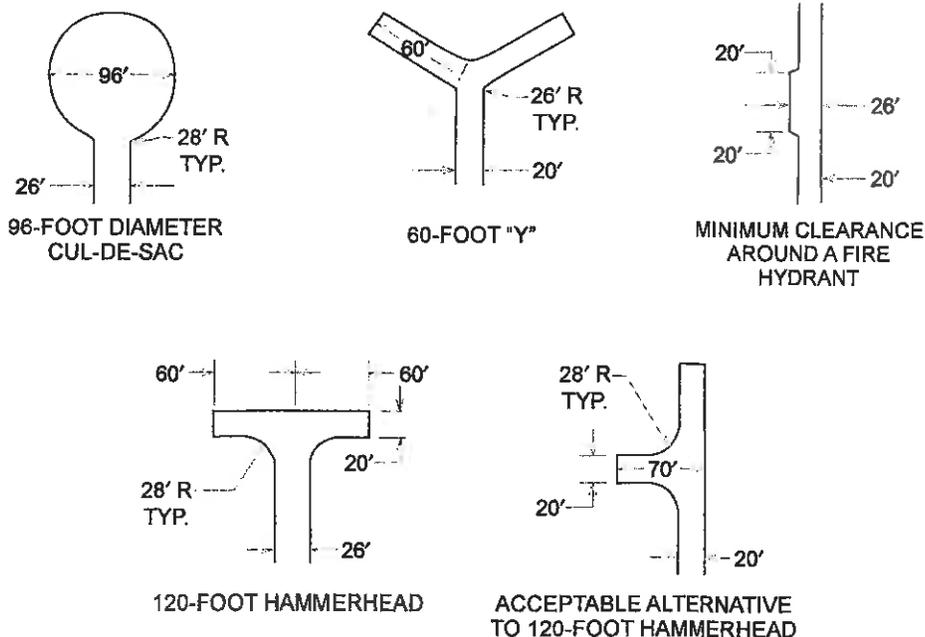
**D103.3 Turning radius.** The minimum turning radius shall be determined by the *fire code official*.

**D103.4 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

**TABLE D103.4  
REQUIREMENTS FOR DEAD-END  
FIRE APPARATUS ACCESS ROADS**

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	

For SI: 1 foot = 304.8 mm.



For SI: 1 foot = 304.8 mm.

**FIGURE D103.1  
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**

## CHAPTER 35

### HOME OCCUPATION

11-35-101	<b>Purpose.</b>
11-35-102	<b>License Required.</b>
11-35-103	<b>Conditions.</b>
11-35-104	<b>Conditional Uses.</b>
11-35-105	<b>Exemptions.</b>
11-35-106	<b>Revocation.</b>
11-35-107	<b>Appeal.</b>

#### 11-35-101 Purpose.

(1) It is the purpose of this Chapter to establish guidelines, conditions, and requirements for limited non-agricultural business activities in residential and agricultural zones. For the purpose of this Chapter, "home occupation" is defined as an occupation or profession in which the associated activity or use is clearly incidental and secondary to the residential use of a dwelling unit, there is no alteration to the exterior of the dwelling unit to accommodate the occupation or profession, and such occupation or profession does not adversely affect the residential character of the surrounding neighborhood. A home occupation should be conducted in such a way that neighbors or passers-by would not, under normal circumstances, be aware of its existence.

(2) It is recognized that home occupation may be desirable to reduce "start up" costs for small businesses and to provide gainful employment within the community. However, if a home occupation grows to the point, or is conducted in such a manner, that the conditions of this Chapter are not met, the home occupation shall cease and any continuing business shall be moved to an appropriate location in a commercial zone.

#### 11-35-102 License Required.

It shall be unlawful for any person or entity to engage in a home occupation in any agricultural or residential zone without first obtaining a home occupation business license to do so from the City Recorder. The procedure to be followed and applicable fees for a home occupation business license are set forth in the Business Licensing Regulations, Title 4, Farmington City Code.

#### 11-35-103 Conditions.

Each home occupation shall comply with all of the following conditions:

(1) Only family members related by blood, marriage, or adoption who are bona fide residents of the dwelling unit shall be employed on said premises except that one (1) additional person may be employed as a secretary, computer operator, apprentice, or helper where there are no more than five (5) family members actively engaged in the home occupation.

(2) No exterior architectural or structural modifications shall be made to any dwelling unit to accommodate a commercial use in the dwelling.

(3) Electrical or mechanical equipment which creates visible or audible interference in radio or television receivers, or causes fluctuations in line voltage outside the dwelling units, or uses which create noise, smell, sound, light, or vibration not normally associated with residential use, shall be prohibited.

(4) There shall be no display or sale of goods, wares, or merchandise upon said premises other than those produced upon the premises. Where the home occupation involves the sale of products, such products shall generally be delivered directly to the customer.

(5) One sign advertising the business may be permitted but shall be limited to one (1) square foot in area and shall be attached to the front face of the building or may be displayed in a window.

(6) The home occupation shall not generate substantially greater vehicular traffic than commonly associated with residential activities in the neighborhood in which it is located.

(7) The home occupation shall not create a hazard by using flammable materials, explosives or other dangerous or hazardous materials, or by keeping, raising or storing animals which are capable of inflicting harm or discomfort or endangering the health and safety of any person.

(8) The home occupation shall not create a demand for municipal services or community facilities in excess of those usually and customarily provided for residential uses.

(9) Not more than twenty-five percent (25%) of the floor area of a dwelling may be devoted to a home occupation, and/or storage of materials, equipment, or stock in trade associated with the occupation, except as provided in Section 11-35-104 below .

(10) The home occupation shall be conducted entirely within the dwelling and shall be clearly incidental, secondary and compatible to the residential use of the dwelling. The home occupation shall not occupy or use any accessory building, yard space, or activity outside the main building, or an attached garage to the extent that vehicle parking is displaced, unless approved by the Planning Commission as provided in Section 11-35-104 below.

(11) A foster home, child day care center, or preschool shall not have more than eight (8) children at one time except as provided in Section 11-35-104 below.

(12) Music, dancing teachers, or tutors shall be limited to not more than eight (8) pupils at one time except as provided in Section 11-35-104 below.

(13) The size of vehicles used in conjunction with a home occupation shall not exceed one (1) ton rated capacity. Off-street parking, in compliance with the provisions of this Title, shall be provided for all business and private vehicles associated with a residential property.

(14) There shall be complete conformity with all City and State codes, including business license regulations. Depending on the type of business, periodic inspections may be made as required by these codes or as deemed necessary or desirable by the City.

(15) The following uses, among others, shall not be allowed as home occupations:

- (a) Barber shops and beauty salons except for a barber or beautician who has no assistants and sells no products except their skilled services;
- (b) Kennels or animal hospitals;
- (c) Commercial stables;
- (d) Restaurants;
- (e) Sale or repair of firearms;
- (f) Repair shops or service establishments, except for the repair of electrical appliances, typewriters, televisions, cameras, or other similar small items.

**11-35-104 Conditional Uses.**

(1) The following home occupations may be allowed only upon approval of a conditional use application by the Planning Commission and issuance of a Conditional Use Permit:

- (a) Uses in which over eight (8) but not more than sixteen (16) individuals (including any natural, adopted, or foster members of the operator's household) are cared for or receive instruction in the home at any one time. Such uses may include dance instruction, aerobics classes, music lessons, preschools, child day care, crafts classes, and other similar uses. For all such uses, the Farmington City Building Official shall inspect the facilities to ensure compliance with the requirements of the Uniform Building Codes.

Preschool and child day care uses shall submit documentation within thirty (30) days of approval that all Utah State Department of Social Services requirements have been met. The entire yard, or minimum outside area required by the State Social Services, shall be fenced;

- (b) Uses where the applicant proposes to use more than twenty-five (25%) of the dwelling in connection with the business;
- (c) Any use where outside storage, use of an accessory building, or exclusive use of an attached garage is anticipated or requested in conjunction with the home occupation;

(2) In evaluating a home occupation conditional use, the Planning Commission shall apply the review standards contained in Chapter 8 of this Title and, if applicable, site development standards contained in Chapter 7.

**11-35-105 Exemptions.**

- (1) The following uses are exempt from the provisions of this Chapter:
  - (a) Sale of goods or services by City residents age 18 or under;

- (a) Temporary home occupations such as garage sales, yard sales, or craft boutiques that occur not more than four (4) times a year with each event lasting not more than seventy-two (72) hours;
- (b) Promotional meetings for the purpose of taking orders for merchandise, by invitation only, which occur not more than once each month;
- (c) Community/neighborhood fund raisers which are sponsored and/or approved by the City;
- (e) Other exemptions as specifically approved in writing by the City Council.

**11-35-106 Revocation.**

Violation of, or failure to comply with, the requirements of this Chapter may result in revocation by the Farmington City Council of the home occupation business license. Any activity presenting an immediate threat to the health, safety and welfare of the neighboring residents may be ordered terminated immediately by the Mayor under the powers given him to act in an emergency.

**11-35-107 Appeal.**

Any person or entity denied a home occupation business license shall have the right to appeal such denial to the City Council if a written request for an appeal is made to the City within thirty (30) days of the denial.

Chapter 35 Amended, 12/8/93, Ord. 93-44  
11-35-104(1)(a) Amended, 12/6/95, Ord. 95-49  
11-35-103(11) and 11-35-104(1)(a) Amended, 9/4/02, Ord. 2002-36  
Amended 11-35-103 (15)(d) 4/19/06 Ordinance 2006-28  
Amended 11-35-103(12), 5/18/10, Ordinance 2010-21  
Amended 11-35-103(15), 6/5/12, Ordinance 2012-19

**Title 76**

**Chapter 10**

**Section 500**

**Utah Criminal Code**

**Offenses Against Public Health, Safety, Welfare, and Morals**

**Uniform law.**

---

76-10-500. Uniform law.

(1) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. Except as specifically provided by state law, a citizen of the United States or a lawfully admitted alien shall not be:

(a) prohibited from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at his place of residence, property, business, or in any vehicle lawfully in his possession or lawfully under his control; or

(b) required to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(2) This part is uniformly applicable throughout this state and in all its political subdivisions and municipalities. All authority to regulate firearms shall be reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities. Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.

---

Enacted by Chapter 5, 1999 General Session

Pursuant to Utah Code Ann. § 76-10-500(2), adopted in 1999, “[u]nless specifically authorized by the Legislature by statute, a local authority or state entity may not enact or enforce any ordinance, regulation, or rule pertaining to firearms.” Section 78B-4-511 reiterates this policy, stating that “all authority to regulate firearms is reserved to the state through the Legislature.”

Section 53-5a-102, adopted in 2004, also elaborates upon this policy. It provides, in part:

(2) Except as specifically provided by state law, a local authority or state entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm at the individual’s place of residence, property, business, or in any vehicle lawfully in the individual’s possession or lawfully under the individual’s control; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm.

(3) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is uniformly applicable throughout this state and in all its political subdivisions and municipalities.

- (4) All authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local authorities or state entities.
- (5) Unless specifically authorized by the Legislature by statute, a local authority or state entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy pertaining to firearms that in any way inhibits or restricts the possession or use of firearms on either public or private property.
- (6) As used in this section:
- (a) "firearm" has the same meaning as defined in Subsection 76-10-501(9); and
- (b) "local authority or state entity" includes public school districts, public schools, and state institutions of higher education.
- (7) Nothing in this section restricts or expands private property rights.

ERICK CARMIOI  
(801) 512-6604

THE PLANNING COMMISSION  
ONE ATTORNEY'S VIEW

BY DAVID L. CHURCH

One of the most important required committees in Utah municipalities is the planning commission. Membership of planning commissions consists, by in large, of dedicated volunteers who perform this service out of love for their community and interest in the subject. However, for some reason some planning commissions and planning commissioners are continually in dispute with their city or town council or with the land owners who have to deal with them. This is unfortunate and in my view is a product of misunderstanding the role of the planning commission and its members.

Every Utah municipality is required to pass an ordinance establishing a planning commission<sup>1</sup>. The ordinance is required to define the number and terms of the members of the planning commission and alternate members if any. This can and does change from city to city. There is no required number on a planning commission nor a magic or best number. In theory a planning commission could consist of one or fifty. In addition the ordinance must indicate the mode of appointment. This implies that perhaps someone other than the mayor (or the city manager in the city manager optional form of government) could be given the right to appoint planning commission members by the ordinance. I do not believe this would be a proper interpretation. Mayors or city managers, depending on the form of government in the city, clearly have the statutory authority to appoint, with the advice and consent of councils, persons to the city commissions including the planning commission.<sup>2</sup> To be consistent with the other provisions of the Utah Municipal Code, the mode of appointment of planning commissioners in the ordinance would have to be limited to things other than the power of appointment. The ordinance must also contain the procedures for filling vacancies and removal from office. This has been an overlooked provision in most ordinances and the source of some contention and even law suits. The best practice is to make this section fairly specific and have definite standards of conduct and attendance for commission members. Without these specifics it may be difficult to remove members from a commission prior to the expiration of their term in office.

The ordinance should also detail the authority of the planning commission. Every planning commission is required, by state law, to have a role in the municipality's establishment of its basic land use control policy. This authority given by state law cannot be taken from the planning commission by the city or town council. This minimum role consists of making recommendations to the city or town council for a general plan and amendments to the general plan and recommendations to the city or town council land use ordinances, zoning maps, official maps, and amendments. The planning commission must also be involved in making recommendations on proposed subdivision plats.

---

<sup>1</sup> Utah Code 10-9a-301

<sup>2</sup> Utah Code sections 10-3-809(2)(h), 10-3-1219(d), and 10-9-1226(2)(7)

No other powers or duties need be given to the planning commission by the city or town and the planning commission does not have any other inherent powers. Many commissions try to involve themselves in matters such as business licensing, animal regulations and nuisance enforcement. This is appropriate only of the city or town ordinances specifically delegate these responsibilities to them.

The city and town land use ordinances, which the planning commission has made recommendations on, must identify a land use authority and an appeal authority for every land use decision applying the adopted city or town land use ordinances.<sup>3</sup> The planning commission may be designated in the land use ordinances as the land use authority in the city for making land use decisions or they may be designated as the appeal authority for appeals from land use decisions, but the planning commission cannot be the deciding authority and the appeal authority on the same issues. For example if the planning commission is given by the city or town ordinance the authority to review and approve site plans then some other person or body must be given the authority to appeal the decisions of the planning commission on site plans.

The ordinance setting up the planning commission should also establish the details of how the commission operates and the rules of procedure of the planning commission. The ordinance may also fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended. This section of state law should be read to say that planning commissioners may be reimbursed for their services but it is not paid employment.

It is not uncommon for members of a planning commission to get “cross wise” with the city or town council. This is understandable since the primary purpose of the planning commission is to make reasoned recommendations to the council about the general plan and the land use ordinances, but the city or town council is under no obligation to take the recommendations of the planning commission. It is not a rare occurrence for members of a planning commission to become invested in their recommendations. These recommendations are the product of long public processes and hard decision making. It can appear disrespectful to the process and the efforts of the planning commission when the council ignores the recommendations of the planning commission and goes off on its own. There is no solution to this source of conflict. Decisions regarding the general plan and the adoption of land use ordinances are legislative acts that are intended to be made by elected policy makers and not by appointed commissioners. Council members should respect the recommendation of the planning commissions, but in the end they need to vote for their own constituents according to their own consciences.

It is also not uncommon for city and town councils to become frustrated with their own planning commissions. This is generally not because of any recommendation made by the planning commission, but when the commission is acting as a land use authority and granting or denying permits and approvals. The principle source of this frustration is

---

<sup>3</sup> Utah Code section 10-9a-302.

a planning commission's attempt to exercise discretion in granting or denying these permits. Utah law is very clear that a landowner is entitled to approval of a land use application if the application complies with the city or town's ordinance.<sup>4</sup> It is specifically stated in Utah law that a land use authority cannot impose any requirement on an applicant for a land use permit that is not specifically expressed in either state law or local ordinances.<sup>5</sup> In addition the law states that if a proposed subdivision, with limited exceptions, complies with the city or town ordinances, it must be approved.<sup>6</sup> What this means is that the planning commission, when acting as a land use authority, has very little discretion on whether or not to grant or deny the permit. If the land owner's application complies with the ordinances, the commission (or any other appointed land use authority) must approve it, and if it does not comply then the planning commission must deny the application. This is regardless of whether or not the planning commission, or the public, thinks that the application is a good or bad idea. In addition if the city or town ordinances are ambiguous they must be interpreted by the city or town in favor of the land owner.<sup>7</sup> When a planning commission ignores the law and approves (or denies) a land use application in violation of the city or town ordinances it creates trouble and unnecessary conflict for the city or town council. This, no matter how well intentioned, is never in the public interest.

There are, I believe, some basic rules for members of a planning commission to follow that will help the planning process and avoid conflict between the planning commissions and the city or town councils.

First, planning commissioners must understand and appreciate the dual role that they may play. When they are making a recommendation on a general plan or on a land use ordinance they are a part of the political, legislative process. They have broad discretion in what their recommendation can be. They can listen to the public even if it is just uneducated clamor. When the planning commission is acting as a land use authority it has little discretion. The land owner's application either complies with the ordinances or it does not. An individual planning commissioner's opinion of the merits of a proposed land use application is not relevant to the process. Any individual commissioner's opinion, and any of the public's comments and concerns, are relevant only to the extent that they speak to issue of compliance with the existing law.

Second, planning commissioners must understand that the planning commission is intended to shape policy not make policy. It is not a representative body and has no constituency. Commissioners do not represent neighborhoods or points of view. The role is not to act as a gate keeper. Their role is to be experts in planning and the local ordinances. They are to make reasoned recommendations and apply the ordinances as written. If a planning commissioner wants to be a policy maker he or she just needs to

---

<sup>4</sup> Utah Code section 10-9a-509(1)(a)

<sup>5</sup> Utah Code section 10-9a-509(1)(e)

<sup>6</sup> Utah Code section 10-9a-603(2)

<sup>7</sup> *Brown v. Sandy City Bd. of Adjustment*, 957 P.2d 207, 210 (Utah Ct. App. 1998) and *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct.App.1995).

put their names on a ballot and win an election. Until they do so they should not attempt to make policy. They should be content with just shaping policy and administering the ordinances as written.

Third, planning commissioners should respect the public process and the due process rights of the land owners. All meetings of the planning commission must comply with the Utah Open and Public Meetings Act.<sup>8</sup> This means that both decisions and deliberations of a planning commission must be public. A public hearing is required by law for many of the things that a planning commission may be involved in and can be held by many planning commissions on other matters as a matter or routine. The purpose of a public hearing is to receive information from, and give information to the public. It is not to seek the public's approval or permission to do something. In my opinion it is never appropriate to poll the members of the public in attendance at a meeting to see what they think. The people in attendance at any meeting are not necessarily representative of the residents of the city or town as a whole. They are at the meeting because they have a position that is so strongly held that they will leave their TV's and come to a meeting. While what they say matters, the volume and number of repetitions does not. A public hearing should be a time that the planning commission listens and learns. It is not a time to convince or argue with the public. Procedural due process requires that an applicant for any permit be given notice of any meeting regarding his or her application; the right to be heard; and a fair hearing or decision. Utah law requires that the applicant be given specific notice of the date, time and place of any meeting where the application is being considered and also be given copies of any staff reports regarding the application at least three days before the meeting or hearing.<sup>9</sup>

Lastly, it is important to remember that being on a planning commission is about public service. One of the primary roles of a planning commission is to help the landowner accomplish with his land what the landowner desires in a manner consistent with the city's plans and ordinances. Many planning commissioners seem to enjoy frustrating the plans of the landowner. They take delight in telling people no—instead of how. Some planning commissioners feel that it is their role to force an applicant to do what the commissioner would do if the commissioner owned the property. These attitudes do not serve the public.

A planning commission fulfills its purpose when it acts in a manner supportive of the policy and policy makers. It is not intended to be adversarial to the council. It is not a check or balance to the council. It is not there to slow growth or frustrate land owners. It is there to add professionalism, fairness and common sense to the planning and land use control process. It only serves this valuable function when it works within the constraints of the law and without regard to public prejudice and the clamor of the crowd.

---

<sup>8</sup> Utah Code sections 52-4-1 et. seq

<sup>9</sup> Utah Code sections 10-9a-202.