



## **CITY COUNCIL AGENDA**

PUBLIC NOTICE is hereby given that the City Council of Spanish Fork, Utah, will hold a regular public meeting in the Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:00 p.m. on September 15, 2009**.

### AGENDA ITEMS:

#### **1. CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:**

- a. Pledge
- b. Scout Recognition
- c. County Fair Presentation

#### **2. PUBLIC COMMENTS:**

Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

#### **3. COUNCIL COMMENTS:**

#### **4. PUBLIC HEARING:**

- a. \* [Proposed Amendment to Title 15, Urban Village Zone](#)
- b. \* [Proposed Amendment to Title 15, Preliminary Plat Approval Process](#)

#### **5. CONSENT ITEMS:**

These items are considered by the City Council to be routine and will be enacted by a single motion. If discussion is desired on any particular consent item, that item may be removed from the consent agenda and considered separately.

- a. \* [Minutes of Spanish Fork City Council Meeting – August 18, 2009](#)
- b. \* [State Division of Forestry Fire Suppression Contract](#)

#### **6. NEW BUSINESS:**

- a. \* [Cancer Awareness](#)
- b. [Joe Harris Land Purchase](#)
- c. \* [Bella Vista, Minimum Lot Size and Width Requirement Waiver Request](#)

### ADJOURN:

\* Supporting documentation is available on the City's website [www.spanishfork.org](http://www.spanishfork.org)

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.
- This agenda is also available on the City's webpage at [www.spanishfork.org](http://www.spanishfork.org)

SPANISH FORK CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. The public is invited to participate in all Spanish Fork City Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.

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# SPANISH FORK

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## MEMORANDUM

**TO:** Spanish Fork City Council  
**FROM:** Dave Anderson, Community Development Director  
**DATE:** September 15, 2009  
**RE:** Proposal to Restore Urban Village Commercial Zone Language

Accompanying this correspondence is a proposed ordinance that pertains to the Urban Village Commercial Zone.

The City Council recently adopted an ordinance that modified the several sections of Title 15, mainly the lists of permitted and conditional uses. That ordinance inadvertently contained language that failed to account for a separate ordinance amendment that was approved a month or two earlier. The ordinance that is attached to this memorandum restores the language to Title 15 so as to match the two most recently approved ordinance amendments.

### Planning Commission

The Planning Commission reviewed this request in their September 2, 2009 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

### Proposed Amendments to Title 15, Urban Village Zone

Applicant: Spanish Fork City  
General Plan: City-wide  
Zoning: City-wide  
Location: City-wide

Mr. Anderson explained that in May of 2009 the Planning Commission and City Council approved verbiage for the Urban Village Zone, and that, during the most recent changes to the permitted and conditional uses in Title 15, the changes made in May of 2009 were erroneously omitted.

Chairman Robins invited public comment. There was none.

Commissioner Christianson **moved to recommend** that the City Council **approve** the proposed amendments to Title 15, Urban Village Zone as proposed. Commissioner Marshall **seconded** and the motion **passed** by a unanimous roll call vote.

Commissioner Stroud **moved to close** public hearings. Commissioner Evans **seconded** and the motion **passed** all in favor at 7:48 p.m.

attachment: proposed ordinance

**ORDINANCE NO. -09**

ROLL CALL

VOTING	YES	NO
MAYOR JOE L. THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this ordinance be adopted: Councilman

I SECOND the foregoing motion: Councilman

ORDINANCE -09

AN ORDINANCE RE-ENACTING CERTAIN STANDARDS  
IN THE URBAN VILLAGE COMMERCIAL ZONE

WHEREAS, Spanish Fork City has adopted a land use title in the municipal code, known as Title 15, which includes zoning and development chapters; and

WHEREAS, the Spanish Fork land use ordinance contains a zone called the C-UV Urban Village Commercial Zone, which allows for compatible residential and commercial uses in the same zone; and

WHEREAS, on the 16<sup>th</sup> day of June, 2009 some of the standards and requirements of the C-UV zone were adopted by the Spanish Fork City Council in Ordinance 10-09; and

WHEREAS, a major overhaul of the permitted uses allowed in the various zones found in Title 15 was adopted by the Spanish Fork City Council on the 4<sup>th</sup> day of August, 2009 in Ordinance 12-09; and

WHEREAS, certain of the new standards in the C-UV zone adopted in June were inadvertently omitted when the August revisions to Title 15 were made; and

WHEREAS, the Planning Commission held a public hearing on Wednesday the 2<sup>nd</sup> day of September, 2009 where public comment was received; and

WHEREAS, a public hearing was held before the Spanish Fork City Council on Tuesday the 15<sup>th</sup> day of September, 2009 where public comment was received;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

**I.**

Spanish Fork City Municipal Code §15.3.16.100 is hereby amended by adding subparagraphs D through L as follows:

**15.3.16.100. C-UV Urban Village Commercial**

This district is intended to provide controlled and compatible settings for a wide range of commercial and residential uses in the same area, uses designed to serve neighborhood, community, and regional needs. Uses may be freestanding or integrated in a center. Developments in this district will be designed towards pedestrians in mind; designs will have the character of an urban village; with high quality materials being used. All site plans and subdivisions will be reviewed by the Planning Commission.

**A. Permitted uses** [Unchanged].

**B. Uses Subject to Conditions (as described in §15.3.24.010)** [Unchanged].

**C. Uses Subject to Conditional Use Permit (see §15.3.08.060)** [Unchanged].

**D. Accessory Buildings and Uses (see §15.3.24.090).**

**E. Site Plan/Design Review/Performance Standards (see §15.4.08.010 et seq.):**

These standards are intended to foster the creation of an urban environment that accommodates growth and is compatible with the existing homes and uses in the area:

1. Outdoor Sales, Display and Storage.

a) The outdoor permanent sales or display of merchandise shall not encroach into

areas of required parking, sidewalks, or landscaping.

2. Lighting. On-site lighting, including parking lot lighting and illuminated signs, shall be located, directed or designed in a manner to prevent glare on adjacent properties and be designed for pedestrians. All lighting should have the same design elements throughout the development.

3. Location of Service Areas. All loading docks and other service activities shall be located away from view of any public street. Exceptions to this requirement may be approved through the site plan process. If such activities are permitted adjacent to a public street, a visual screening design approved by the Planning Department shall be required.

4. Urban Design. Designs for this area should envision a “village character” relating to the heritage of the early residents of the community. Safe and efficient pedestrian circulation is a priority

a) Architectural Character and Materials.

i. A differentiated base will provide human scale through change, contrast, and intricacy in facade form. Scaling elements such as insets and projects serve to break up flat or monotonous facades along with color and a change in materials.

ii. The climate in Spanish Fork City is such that in the summer months shade is preferred, and in the winter months protection from the snow and wind is necessary. By providing the pedestrian with a sidewalk that is enjoyable to use year round, a pedestrian oriented development is encouraged. Therefore, the following will be encouraged

I. Arcades.

II. Awnings and/or marquees.

b) Entrance and Visual Access

i. The intent in this district is to encourage pedestrian activity between the public street/sidewalk and buildings. Sidewalks shall provide continuous, uninterrupted interest to the pedestrian by providing visual interest and/or amenities. The environment will benefit with increased pedestrian activity, this activity will only occur if opportunities are provided that make walking to a destination a preferred and an enjoyable pursuit. The use of blank building facade walls is discouraged. Therefore, all buildings in this district are subject to the following standards:

I. Minimum First Floor Glass. The first floor elevation of a commercial building facing a street shall not have less than forty (40%) percent glass surfaces. All first floor glass shall be a nonreflective. Display windows that are three dimensional and are at least two feet deep are permitted and may be counted toward the 40% glass requirement.

II. Provide at least one (1) operable building entrance per elevation that faces a public street. Buildings that face multiple streets are only required to have one door on either street, if the facades for both streets meet the forty (40%) percent glass requirement.

III The maximum length of any blank wall uninterrupted by windows, doors, art or architectural detailing at the first floor level shall be forty (40) feet.

IV. All building equipment and service areas, including on-grade and roof mechanical equipment and transformers that are readily visible from the public right-of-way, shall be screened from public view.

c) **Public Amenities and Public Art.**

i) Amenities and works of art enhance quality of life as well as visual interest. Public amenities and art encourage pedestrian activity and contribute to the “village” experience. A cohesive, unified lighting and amenity policy will help give the district its own distinctive identity. Therefore, all projects will be required to have public amenities and art that are subject to the following standards:

I. Sidewalks and street lamps installed in the public right of way shall be of the type specified in the city’s construction and development standards. All parking lot lights will be required to match the city’s standards.

II. Park benches will be required within the development.

III. Public art (which may include artists’ work integrated into the design of the building, and landscaping, sculpture, painting, murals, glass, mixed media or work by artisans), that is accessible or directly viewable to the general public shall be included in all projects. The plan to incorporate public art shall be reviewed and approved by the Spanish Fork Arts Council.

IV. All projects will be required to have a minimum of 20% open space and developments with residential units will be required to have 35% open space.

5. **Conditional Use Approval.**

A modification to the urban design/performance provisions of this section may be granted as a conditional use, subject to conformance with the standards and procedures.

**F. Definitions.**

For the purpose of this section, the following terms shall have the following meanings.

“Facade” means the front of a building, or any other “face” of a building on a street or courtyard given special architectural treatment.

**G. Landscaping, Buffering, Walls (see §15.4.16.130).**

Same as the S-C zone requirements.

**H. Signs (see §5.36.101 et seq.).**

All individual developments (not a planned center) must follow the requirements of the C-O zone.

**I. Parking Standards (see §15.4.16.120).**

1. Restrictions on Parking Lots. The following regulations shall apply to parking facilities.

(a). All parking lots adjacent to a public street will be required to have a twenty-five (25) foot landscape setback and a minimum three (3) foot berm, with trees spaced every thirty (30) feet.

**J. Solid Waste Receptacle Areas (see §15.4.16.140).**

**K. Building Height.**

Same as the S-C zones requirements.

1. Height Exceptions: spires, towers, or decorative non-inhabitable elements shall have a maximum height of sixty (60) feet measured from the street grade.

**L. Development Standards.**

1. Projects are allowed a density of 5 to 12 residential units per acre.

2. Projects will be required to have public art integrated and 35% open space area.
3. Projects with a residential component will be required to have at least 30% of the project's total building square footage dedicated to commercial or office uses. The City will require that this ratio be maintained with each phase of the development.
4. Residential units will be required to meet the High Density Residential (R-3) setbacks.
5. Residential units must be designed in a manner to blend with the urban village and not be a separate element of the area.

**II.**

This Ordinance shall take effect 20 days after passage and publication.

DATED this 15<sup>th</sup> day of September, 2009.

\_\_\_\_\_  
JOE L THOMAS, Mayor

ATTEST:

\_\_\_\_\_  
KIMBERLY ROBINSON, City Recorder

# ORDINANCE NO. 17-09

## ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this ordinance be adopted: Councilman

I SECOND the foregoing motion: Councilman

## ORDINANCE 17-09

### AN ORDINANCE RE-ENACTING CERTAIN STANDARDS IN THE URBAN VILLAGE COMMERCIAL ZONE

WHEREAS, Spanish Fork City has adopted a land use title in the municipal code, known as Title 15, which includes zoning and development chapters; and

WHEREAS, the Spanish Fork land use ordinance contains a zone called the C-UV Urban Village Commercial Zone, which allows for compatible residential and commercial uses in the same zone; and

WHEREAS, on the 16<sup>th</sup> day of June, 2009 some of the standards and requirements of the C-UV zone were adopted by the Spanish Fork City Council in Ordinance 10-09; and

WHEREAS, a major overhaul of the permitted uses allowed in the various zones found in Title 15 was adopted by the Spanish Fork City Council on the 4<sup>th</sup> day of August, 2009 in Ordinance 12-09; and

WHEREAS, certain of the new standards in the C-UV zone adopted in June were inadvertently omitted when the August revisions to Title 15 were made; and

WHEREAS, the Planning Commission held a public hearing on Wednesday the 2<sup>nd</sup> day of September, 2009 where public comment was received; and

WHEREAS, a public hearing was held before the Spanish Fork City Council on Tuesday the 15<sup>th</sup> day of September, 2009 where public comment was received;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

**I.**

Spanish Fork City Municipal Code §15.3.16.100 is hereby amended by adding subparagraphs D through L as follows:

**15.3.16.100. C-UV Urban Village Commercial**

This district is intended to provide controlled and compatible settings for a wide range of commercial and residential uses in the same area, uses designed to serve neighborhood, community, and regional needs. Uses may be freestanding or integrated in a center. Developments in this district will be designed towards pedestrians in mind; designs will have the character of an urban village; with high quality materials being used. All site plans and subdivisions will be reviewed by the Planning Commission.

**A. Permitted uses** [Unchanged].

**B. Uses Subject to Conditions (as described in §15.3.24.010)** [Unchanged].

**C. Uses Subject to Conditional Use Permit (see §15.3.08.060)** [Unchanged].

**D. Accessory Buildings and Uses (see §15.3.24.090).**

**E. Site Plan/Design Review/Performance Standards (see §15.4.08.010 et seq.):**

These standards are intended to foster the creation of an urban environment that accommodates growth and is compatible with the existing homes and uses in the area:

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a) The outdoor permanent sales or display of merchandise shall not encroach into

areas of required parking, sidewalks, or landscaping.

2. Lighting. On-site lighting, including parking lot lighting and illuminated signs, shall be located, directed or designed in a manner to prevent glare on adjacent properties and be designed for pedestrians. All lighting should have the same design elements throughout the development.

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II. Provide at least one (1) operable building entrance per elevation that faces a public street. Buildings that face multiple streets are only required to have one door on either street, if the facades for both streets meet the forty (40%) percent glass requirement.

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IV. All projects will be required to have a minimum of 20% open space and developments with residential units will be required to have 35% open space.

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Same as the S-C zone requirements.

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**J. Solid Waste Receptacle Areas (see §15.4.16.140).**

**K. Building Height.**

Same as the S-C zones requirements.

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**L. Development Standards.**

1. Projects are allowed a density of 5 to 12 residential units per acre.

2. Projects will be required to have public art integrated and 35% open space area.
3. Projects with a residential component will be required to have at least 30% of the project's total building square footage dedicated to commercial or office uses. The City will require that this ratio be maintained with each phase of the development.
4. Residential units will be required to meet the High Density Residential (R-3) setbacks.
5. Residential units must be designed in a manner to blend with the urban village and not be a separate element of the area.

**II.**

This Ordinance shall take effect 20 days after passage and publication.

DATED this 15<sup>th</sup> day of September, 2009.

\_\_\_\_\_  
JOE L THOMAS, Mayor

ATTEST:

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KIMBERLY ROBINSON, City Recorder

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# SPANISH FORK

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## MEMORANDUM

**TO:** Spanish Fork City Council  
**FROM:** Dave Anderson, Community Development Director  
**DATE:** September 15, 2009  
**RE:** Proposal to Rescind Public Hearing Requirement

Accompanying this correspondence is a draft copy of a proposed Title 15 Amendment. This draft ordinance has been prepared by the City Attorney. The nature of these changes is fairly simple: Spanish Fork City is proposing to remove the City's requirement to hold a public hearing as part of the Preliminary Plat review process. This change is proposed at this time as the State Code was recently amended to make public hearings for Preliminary Plat approval optional, rather than mandatory.

### **Development Review Committee**

The Development Review Committee has recommended that this ordinance be approved.

### **Planning Commission**

The Planning Commission reviewed this request in their September 2, 2009 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

### **Proposed Amendments to Title 15, Notice Requirements (continued from July 1, 2009)**

Applicant: Spanish Fork City  
General Plan: City-wide  
Zoning: City-wide  
Location: City-wide

Mr. Anderson explained that this proposal was continued from the Planning Commission's July meeting. He said that the State Law requires municipalities to hold public hearings for certain meetings. The State Legislature moved to do away with public hearings for Preliminary Plats and our legal counsel has advised that it is best to change our Municipal Code to mirror the State Code. He said that City staff is concerned about giving neighbors an opportunity to be advised when developments are proposed and will continue with the requirement that developers hold a neighborhood meeting as part of the Preliminary Plat process.

Commissioner Christianson asked if the change was just for non-conforming subdivisions. Mr. Anderson said that public hearings are required for multi-family and non-residential Preliminary Plat applications. If someone has exclusively single-family homes and the development is not a Master Planned Development then a public hearing would not be held.

Commissioner Marshall asked whether a developer making a Zone Change request would require a public hearing. Mr. Anderson said it would. Commissioner Marshall explained that he felt the City needed to come up with a way to clearly outline to the public when their comments can make a difference because the process was very

cumbersome and difficult to understand. He said he felt that during the Zone Change process that comments can make a difference.

Mr. Anderson said (in speaking for City staff) that hard feelings have been created when the public is invited to a meeting and City officials act like there is something they can do when in fact, if the developer is meeting the ordinance, there is nothing the City can legally do to deny the proposal.

Commissioner Evans explained what happened during a public hearing a few years previous and said he did not feel the process was cut-and-dried because what the public had to say at that time made a difference with the developer. He said he felt that bagging the public meeting was a bad idea.

Chairman Robins welcomed public comment.

Kevin Prichett

Mr. Prichett said that he felt that extending the timeframe to a developer in dragging out the process to six months costs the developer money and did not support holding unwarranted public hearings.

Commissioner Cope explained how damaging the process could potentially be to all involved in the development process if public hearings are held.

Commissioner Evans said he felt that public hearings were worth it.

Emily Peterson

Ms. Peterson said that she agreed with Commissioner Evans. She did not feel that streamlining the process was the way to go. She felt that not everything was about money. She felt that people might know what is best in their area and should be able to speak their peace.

Commissioner Christianson explained what he felt the process was and the reason for the proposed change.

Commissioner Cope explained what he felt the process was and the reason for the proposed change.

Chairman Robins explained that he felt that whenever an opportunity was taken away for the public to know what was going on, that is not right. He felt it was useful every time someone left a meeting learning about the City ordinance.

Commissioner Marshall said he felt it was not right to hold a public hearing when the Planning Commission could not deny the proposal.

Steve Maddox

Mr. Maddox explained that as an individual who had made a living as a developer that a public hearing was not the best forum to have educated discussions. He said he felt that neighborhood meetings were much better and were the place where the dialogue should take place.

Discussion was held regarding State Code and public hearings.

Mr. Prichett felt that if a City got the reputation that the development process would take a long time then the developer will look elsewhere.

Commissioner Cope explained the difference between administrative decisions versus legislative decisions.

Commissioner Marshall **moved** to **recommend** that the City Council **approve** the proposed amendments to Title 15, Notice Requirements as proposed. Commissioner Christianson **seconded** and the motion **passed** by a roll call vote. Chairman Robins and Commissioner Evans voted **nay**.

attachment: proposed ordinance

**ORDINANCE NO.**

**ROLL CALL**

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>MAYOR JOE L THOMAS</b> <i>(votes only in case of tie)</i>		
<b>G. WAYNE ANDERSEN</b> <i>Councilmember</i>		
<b>ROD DART</b> <i>Councilmember</i>		
<b>RICHARD M. DAVIS</b> <i>Councilmember</i>		
<b>STEVE LEIFSON</b> <i>Councilmember</i>		
<b>JENS P. NIELSON</b> <i>Councilmember</i>		

I MOVE this ordinance be adopted: \_\_\_\_\_  
I SECOND the foregoing motion: \_\_\_\_\_

**ORDINANCE No.** \_\_\_\_\_

**AN ORDINANCE AMENDING THE NOTICE REQUIREMENTS FOR COMMERCIAL,  
INDUSTRIAL, AND MULTIFAMILY RESIDENTIAL PLATS**

WHEREAS, Spanish Fork City has adopted a land use ordinance in accordance with State Law; and

WHEREAS, in order to comply with State Law, the Spanish Fork Land Use Ordinance mandates notices and public hearings for preliminary plats for industrial, commercial, and multifamily residential projects; and

WHEREAS, State Law also mandates that preliminary plat applications which are in conformance with the City standards must be approved, which makes the necessity of public hearings meaningless; and

WHEREAS, the 2009 Utah State Legislature repealed the requirement to hold public hearing for commercial, industrial, and multifamily residential plats; and

WHEREAS, a public hearing was held before the Spanish Fork Planning Commission on Wednesday the 1st day of July 2009, where public comment was received; and

WHEREAS, public hearing was held before the Spanish Fork City Council on Tuesday the 21st day of July 2009, where additional public comment was received; and

WHEREAS, in order to protect the health, safety, welfare of the residents of the City, and in compliance with Utah State law, it is advisable to repeal the requirements of public hearings for preliminary plats for commercial, industrial, and multifamily residential projects;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

**I.**

Spanish Fork Municipal Code §15.1.04.040(C) is hereby repealed.

**II.**

Spanish Fork Municipal Code §15.1.04.040(B) is hereby amended to read as follows:

**15.1.04.040 Notices.**

- B. Conditional use permits and specific property zone changes shall be posted on the subject property and mailed to all property owners located within 300 feet of the subject property.

**III.**

This ordinance shall become effective twenty days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

JOE L THOMAS, Mayor

ATTEST:

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KIMBERLY ROBINSON, City Recorder

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**Tentative Minutes**  
**Spanish Fork City Council Meeting**  
**August 18, 2009**

Elected Officials Present: Mayor Pro Tem G. Wayne Andersen, Councilmember's Steven M. Leifson, Jens P. Nielson, Richard M. Davis, Rod Dart

Staff Present: Dave Oyler, City Manager; Seth Perrins, Assistant City Manager; Junior Baker City Attorney; Kent Clark, Finance Director; Dave Anderson, City Planner; Kimberly Robinson, Recorder

Citizens Present: Shannon Anderson, John Anderson, Aldon Anderson, Carolyn Anderson, Cary Ludlow Hanks, Karen Payne, Natesa Stephens, Devin Burns, Shauna Michelsen, Adam Wakeland, Jen Allen, Austin Burk, Matt McEwen, Karen Siirola, Creed Stephenson, Wyatt Andersen, Charee Reynolds

**CALL TO ORDER, PLEDGE:**

Mayor Pro tem Andersen called the meeting to order at 6:00 p.m.

Scout Jake Harding led in the pledge of allegiance.

**PUBLIC COMMENT:**

There was no public comment made at this time.

**COUNCIL COMMENTS:**

Councilman Dart welcomed the scouts and the young men from his ward to the meeting. He commented the senior citizens have begun their membership drive to be paid by September 4<sup>th</sup>.

Councilman Davis wanted to say how good and organized the County Fair was. He feels it was a great thing the City of Spanish Fork was able to host.

Councilman Nielson reminded everyone about the Harvest Moon Hurrah. He explained it is a family oriented event with lots of fun activities.

Mayor Pro tem Andersen thanked the Diamond Fork Riding Club for all the work they do to make the Fiesta Days Rodeo a success. They spend hours and hours to make the rodeo run smoothly. The County Fair was a real success, the attendance was tremendous, the exhibits were excellent, and it was really neat to be able to host it here in the City of Spanish Fork. He thanked all those that participated to help make it such a success. He mentioned next week is the Wind Fest, there will be more information coming regarding that event and he invites everyone to come participate.

**CONSENT ITEMS:**

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- a. **Minutes of Spanish Fork City Council Meeting – August 4, 2009**
- b. **Sprint/Nextel Agreement for Justice Center Upgrade**
- c. **Ordinance Requiring Licensed Contractors to Perform Work Authorized by Building Permit**
- d. **Railroad Contract for Electric Line Crossing**
- e. **Rocky Mountain Composite Through the Fence Agreement and Account Credit**
- f. **Airport Lease and Tie Down Rates**

Councilman Leifson made a **Motion** to approve the consent items. Councilman Dart **Seconded** and the motion **Passed** all in favor.

**NEW BUSINESS:**

**Anderson Auto Wrecking Agenda Request**

Mr. Baker explained the history regarding the property annexed into the city a few years ago. There salvage yard is non-conforming and had three years to amortize it to a conforming use. The Andersons would like the opportunity to continue their business for now due to the development falling through. They have worked out an arrangement proposing a three year extension. In that agreement they will keep the weeds cut and items will be moved behind the fence except for the antique equipment for decoration.

Councilman Nielson prefers to make it easier for businesses to stay in business. He just wants to make sure there is no double standard for the weed enforcement they are doing with other businesses in the City.

Mr. Baker stated they have agreed to the same terms that have been asked of the other businesses.

Karen Siirola

Ms. Siirola is the attorney representing the Andersons. She apologized for filing the Court petition prematurely. They are willing to work with the city.

Councilman Davis has no problem with this, they are still doing the same business they have been operating the whole time.

Councilman Davis made a **Motion** to extend the Anderson Auto Wrecking with the following conditions:

Conditions:

1. That they clean up and maintain the weeds
2. That they move the items behind the buildings or the fence
3. That the agreement be extended for three years

The Council directed Junior Baker to draft the contract.

Councilman Leifson **Seconded** and the motion **Passed** all in favor.

95 **FAA Grant for Airport Layout**

96  
97 Councilman Davis explained this is to complete part two of the grant work done by  
98 Armstrong Engineering. They are asking for approval so they can continue with the  
99 grant they have received for the airport.

100  
101 Councilman Davis made a **Motion** to accept the FAA Grant for Airport Layout.  
102 Councilman Nielson **Seconded** and the motion **Passed** all in favor.

103  
104 **Chamber of Commerce Contract**

105  
106 Mr. Perrins explained the Chamber of Commerce contract and noted the three major  
107 items in the contract. The Chamber has also been working on financial independence  
108 and the contract payments are set to decrease over time. The office space has been  
109 provided here at the City Center guaranteed for two years. He explained there will be  
110 no need to move the Chamber unless the City has a need for the office space.

111  
112 Wyatt Andersen

113 Mr. Andersen is a Board Member of Chamber of Commerce. He would like to remind  
114 the Council the office space is occupied by the Chamber Director who is employed by  
115 the Chamber but also represents the interests of Spanish Fork City. She is here as a  
116 face, name and a contact to get information regarding the City. They have a lot of great  
117 plans but the board is a little worried if in two years they have to pay rent; that will be a  
118 substantial amount of money they were not planning for.

119  
120 Mr. Perrins understands the concern regarding the board. He stated the city's intent is  
121 not to ask them to leave during the term of the contract. The Chamber is doing a  
122 wonderful job working through some difficult times.

123  
124 Mayor Pro Tem Andersen feels comfortable guaranteeing them a three year  
125 occupancy instead of the proposed two years.

126  
127 Mr. Perrins explained the intent of the contract is not to have them move after two  
128 years, it just reserves the right that if the city needed the space they could use it.

129  
130 Councilman Dart stated they are working towards becoming self sufficient, he agrees  
131 the three year change would be fine.

132  
133 Councilman Leifson agreed the three year change for guaranteed office space is fine  
134 with him.

135  
136 Mr. Perrins read the section dealing with serving written notice four (4) months prior to  
137 asking them to move.

138  
139 Creed Stephenson

140 Mr. Stephensen is president of the Chamber. He thanked Wyatt for his comments and  
141 echoes the same, they are grateful to the city for the help they provide. They are glad

142 for Ms. Reynolds they are averaging two (2) to three (3) new members a month. They  
143 would be very pleased with the change to guarantee space for three years.  
144

145 Charee Reynolds

146 Ms. Reynolds expressed her appreciation to everyone she has worked with, they have  
147 been very cooperative. The City and the Chamber are very much intertwined; she  
148 wants to see it go forward. She loves her board members and added the presidency  
149 has been great to work with.

150  
151 Councilman Leifson made a **Motion** to approve the Chamber of Commerce Contract  
152 with the change of three years rent guaranteed instead of two. Councilman Dart  
153 **Seconded** and the motion **Passed** all in favor.

154  
155 **All Terrain Vehicle Ordinance**

156  
157 Mr. Baker explained a few meetings ago they were asked to explore the option of  
158 allowing ATV's on city streets. He added there are several hundred dollars worth of  
159 modifications and state licensing endorsements required in order to make them legal.  
160 He also explained the roads, that by law, the ATV's cannot be driven on which are  
161 Federal and State highways, and city streets with more than one lane in the same  
162 direction. Mr. Baker also stressed that this ordinance will not take effect until  
163 approximately October. Staff recommends this ordinance be adopted.  
164

165 Councilman Dart made a **Motion** to adopt the All Terrain Vehicle Ordinance #15-09.  
166 Councilman Nielson **Seconded** and the motion **Passed** all in favor by a roll call vote.

167  
168 **Purchase of Property for Electric Substation**

169 This item was tabled.  
170

171  
172 **EXECUTIVE SESSION:**

173  
174 Councilman Dart made a **Motion** to adjourn to Executive Session to discuss Potential  
175 Litigation. Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:38  
176 p.m.  
177

178 **ADJOURN:**

179  
180 ADOPTED:

181

182

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Kimberly Robinson, City Recorder

## MEMO

To: Mayor and Council  
From: S. Junior Baker  
Date: 18 August 2009  
Re: State Lands Fire Suppression Contract

On the City Council agenda for September 1 is a contract with the Utah Division of Forestry for fire suppression activities on state lands. This allows our fire equipment and trained personnel to respond to wild land fires on state and federal lands to fight fires. It ties to the State/County contracts for reimbursement, which also allows the City to be compensated for our efforts. State or Federal agencies will respond and fight forest fires, but it takes them a while to mobilize and respond. The local entities can respond much quicker, thus starting fire suppression activities while the fire is still relatively small.

This is a contract in standard form and ties into the State/County contract, which closely mirrors the City/County contract. Therefore, it is listed as a consent item.

Agreement Number: \_\_\_\_\_

**Memorandum of Understanding  
Between the  
Utah Division of Forestry, Fire, and State Lands  
and the**

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This memorandum of understanding is made by and between \_\_\_\_\_, hereinafter referred to as the "Department" or "District" as appropriate, and the State of Utah, Department of Natural Resources, Division of Forestry, Fire and State Lands, hereinafter referred to as "Division" as an addendum to the \_\_\_\_\_ County Cooperative Agreement. "Department" or "District" and "Division" shall hereafter be referred to jointly as "the parties".

**PURPOSE OF THIS Memorandum of Understanding (MOU):** to provide a mechanism for procurement, use and compensation for services provided by the fire department or district outside its jurisdictional area of responsibility to the State of Utah and its cooperators; pursuant to cooperative agreements, operating plans, closest forces agreements and suppression resource needs.

**WITNESSETH:**

WHEREAS it is in the best interest of the State of Utah and it's cooperators to have wildland fires detected and suppressed quickly before they become large and more difficult to control; and

WHEREAS the Department or District may have the capability to respond and suppress fires under the jurisdiction of the Division and/or its cooperators in a more timely and effective basis than any other assets or resources in the state; and

WHEREAS the Department or District represents that it is a duly constituted fire department, fire district, or non-profit association or political subdivision of the State of Utah authorized to provide fire protection within the boundaries of the **map attached** hereto and by reference made a part hereof (Appendix A); and

WHEREAS the Department or District may also have a limited number of units of firefighting equipment that can be made available to the Division for fire suppression work.

NOW THEREFORE, the parties to this agreement do hereby agree as follows:

**THE DIVISION AGREES:**

1. To make available organizational training, and technical assistance and other expertise as available to the Department or District.
2. To provide personnel and wildland firefighting resources inside the incorporated jurisdictional boundary of the Department or District when deemed available by the Division, and when the Department or District has exhausted its own resources or

capabilities and has requested assistance from the Division and / or its cooperators. Payment for the Division's and cooperator resources will be based upon the suppression resources furnished at the actual cost of those resources to the Division.

3. To make available such firefighting equipment as can be obtained and is suitable for the use of the Department or District in fire management work through programs such as Federal Excess Property Program (FEPP) by custodial agreement and the terms set forth in the Cooperative Fire Protection Agreement with the Counties through out Utah.
4. To produce, update and distribute a handbook or manual that references rates, procedures and other references associated with this MOU.
5. To provide necessary forms as needed by the Department or District in executing its responsibilities under this agreement to the Division.
6. That the Department or District may refuse to furnish personnel and equipment when requested by the Division if by so doing it would reduce the Department or District resources to a level where they could no longer maintain an adequate level of fire protection on lands within its jurisdictional boundary or service area.
7. The Department or District may purchase wildland firefighting equipment and supplies through the Division's procurement system.
8. To inspect to Department or District's equipment annually or prior to use for mechanical soundness, safety and equipment inventory pursuant to NWCG guidelines and standards. This inspection does not replace the safety inspection required for vehicle license and registration by the State of Utah.

**THE DEPARTMENT OR DISTRICT AGREES:**

1. To provide the Division Area Office with a written report on all known wildland fires in which the Department or District wishes to be reimbursed within 30 days of occurrence along with other documentation related to billing. The report information is required for payment. Note: if a state or federal representative is on-scene, that person may relieve the Department or District of this requirement.
2. The Department or District may be requested to engage in suppression activities outside of the Department or District's jurisdictional boundaries or service area, such as another state or county, provided that, in doing so, would not reduce Department or District's resources to a level where Department or District could no longer maintain an adequate level of fire protection on lands within its own jurisdictional boundary or service area.
3. To maintain and make available for use at the request of the Division, a work force and equipment subject to the provisions of this agreement, the FD manual and the Cooperative Fire Rate Agreement (Finance-100).
4. To accept direction and supervision by the Division or duly authorized representatives or NWCG or equivalent qualified cooperators while engaged in suppression activities at the Division's request. Also, to comply with the National Incident Management System (NIMS) Incident Command System (ICS) for protocol on the incident.
5. To maintain the following documentation on-board all vehicles listed on the Cooperative Fire Rate Agreement:

- A current equipment inventory list
  - Letter of Cooperator verification
  - A copy of the Cooperative Fire Rate Agreement
  - A copy of this MOU
  - Division's Cooperator Manual
  - Pre-use inspection
  - Vehicle registration and proof of vehicle insurance
6. To provide a roster of qualified "red carded" personnel to the Division Area Office prior to each fire season. Each firefighter engaging in direct fire suppression must have a current "red card" in their possession while working under this MOU. Details are found in the Division's Fire Department Manual and Rate Book.
  7. To submit claims for reimbursement to the Division within **thirty (30) days** after release of its work force and/or equipment in the manner and form prescribed by the Division.
  8. To maintain wildland fire training qualifications and equipment standards as set forth by the Division. Personnel requested for structure protection on wildland urban interface or similar fires will be qualified to the level required for their structural firefighting position and basic wildland firefighter.
  9. The Department or District shall provide the following insurance with a carrier authorized to conduct business with the State of Utah:
    - a. Workers' Compensation - Statutory for State of Utah
    - b. Employers' Liability;
      - i. \$100,000 each accident;
      - ii. \$100,000 each employee disease; and
      - iii. \$500,000 each policy limit disease
    - c. Commercial general liability limits of \$1,000,000 per occurrence and general aggregate limit. The policy shall contain a serviceability of interest provision, amount shall include coverage for:
      - i. Bodily injury;
      - ii. Property damage;
      - iii. Prevision liability; and
      - iv. Personal injury.
    - d. Commercial automobile insurance of \$1,000,000 combined single limit for each occurrence for all owned, hired or non-owned vehicles, applicable to claims arising from bodily injury or death or any person or property damage arising out of the ownership, maintenance or use of any vehicle.

- e. Annual Certificate of Insurance shall be provided to the Division as evidence that policies providing the required coverage and limits are in full force and effect.

**IT IS MUTUALLY AGREED:**

1. To the fullest extent permitted by law, the Division, the State of Utah and the Department of Natural Resources and the Department or District mutually agree to defend, indemnify and hold each other and their agents and employees harmless from and against all claims, damages, losses and expenses relating to, arising out of, resulting from, or alleged to have resulted out of any fire suppression activity conducted pursuant to this agreement, except that each party shall bear liability for its own intentional and negligent acts or omissions and the intentional and negligent acts or omissions of its employees or agents.
2. That claims arising from weight and balance, structural modifications and gross vehicle weight of any vehicle subject to this MOU are the sole responsibility of the Department or District to whom the vehicle belongs or possesses by agreement. The Division and its cooperators shall be held harmless by the Department or District whose vehicles are involved for any liabilities, damage, injury or claims that arise from the use and involvement of said equipment in the fighting of fires or other official use as provided for in this MOU. Any vehicles, including FEPP that the Department or District deems not suitable for the purpose of fire suppression shall be taken out of service immediately and removed from the Cooperative Rate Agreement.
3. To pay and reimburse the Department or District for fire suppression services, which include equipment and personnel listed on the Cooperative Rate Agreement, at the rates established by the Division; provided, however, that payment shall be made only for such activities on land outside the Department or District's established jurisdictional boundaries or mandated service area, when requested by the Division. Upon mutual agreement between the County and the Division, the Department or District may receive reimbursement for services for extended attack within their own service area on unincorporated private lands.
4. The Department or District will also be reimbursed for fires on state or federal wildlands within its geographical boundaries or service area, unless as described in #4 below, when the Division requests services. Although, action may occur under closest forces or mutual aid in order to protect the Department or District's jurisdiction or neighboring jurisdictions during initial attack, reimbursement under this MOU should not be assumed.
5. Suppression action taken on state owned land within the incorporated boundaries of a town or city is not eligible for reimbursement under this agreement. All suppression activities in the incorporated towns and cities are the responsibility of the town or city. However, towns and/or cities may request assistance as described in "THE DIVISION AGREES" #2 of this MOU.
6. Resources will be tracked by the local Interagency Fire Center by use of systems such as ROSS or WildCad. Resources covered under this agreement shall comply with ICS/NIMS demobilization procedures and not "self demobilize" from the assigned incident. The Division's duty officer must approve dispatches outside of the local Interagency Fire Center dispatch zone.

7. Radio communications equipment standards under this agreement shall be narrow band (12.5 mhz) compliant. Resources being utilized within a "local area" only must have the capability of communicating by radio with the local Interagency Fire Center via the appropriate radio repeaters as well as communicate with field units on pre-programmed tactical and air to ground frequencies. Resources made available for dispatch outside of the local area shall have the ability to program all radios in the field.
8. Staffing of ordered equipment shall follow the standard staffing identified in the Cooperative Rate Agreement. However, if standard staffing cannot be achieved, a deduction may occur on the invoice or the equipment may be released for failure to comply with the terms of the Cooperative Rate Agreement. Staffing that exceeds the standard staffing identified in the Cooperative Rate Agreement or extra personnel must be approved at the time of the dispatch request.
9. Support and Command vehicles shall only be eligible for compensation if ordered and approved by the Division on a case-by-case basis. Support and Command vehicles must appear on the Department or District's Cooperative Rate Agreement.
10. Payment to the Department or District will be made for services rendered. The Division will not be responsible for distribution of funds to individuals or entities other than the party to this agreement.
11. That the Department or District will be hired and reimbursed as set forth in an Cooperative Rate Agreement (Finance-100) attached hereto as Exhibit B, from the Division.
12. Equipment under Cooperative Fire Rate Agreement will not receive reimbursement for loss, damage or destruction of equipment due to ordinary wear and tear or loss. Damage which occurs as the result of driver / operator negligence or poor maintenance will be the responsibility of the department / district.
13. Replacement of expendable supplies such as, but not limited to foam concentrate, MRE's, backfiring fuses etc. may be replaced by the incident by use of a general message form or use of the Fire Incident Replacement form and approved by the line supervisor or a Division representative.
14. Amendments: This agreement may be modified only by a written amendment signed by the parties. However, if mutually agreed, the parties may enter into specific supplemental, written agreements, subject to appropriate approvals, to accomplish the goals of this agreement and to carry out its terms and conditions.
15. Cancellation: The either party may terminate this agreement by written notice given to the other party, thirty (30) days in advance of the effective date of such termination.
16. Nondiscrimination: The parties' performances under this agreement shall be without discrimination as to race, color, creed, sex, or national origin.
17. Notices: All notices required by this agreement shall be in writing delivered to the person and address specified below or to such other persons or addresses as either party may designate to the other party by written notice.

## DEFINITIONS

Closest Forces:	The use of the closest available appropriate qualified firefighting resources, regardless of agency, for initial attack.
Mutual Aid:	Reciprocal emergency response agreement between jurisdictional neighbors in which assistance is rendered. Traditionally this is done at no cost to the receiving agency.
Cooperator(s):	Cooperator under this agreement means agencies, entities or other stakeholders, other than the parties to this agreement, that agree to work or operate in a cooperative manner under written agreement with the Division toward common objectives such as fire suppression.
Department or District:	Refers to the fire department or fire district that is party to this MOU.
NWCG:	The National Wildfire Coordinating Group (NWCG) is made up of the USDA Forest Service; four Department of the Interior agencies: Bureau of Land Management (BLM), National Park Service (NPS), Bureau of Indian Affairs (BIA), and the Fish and Wildlife Service (FWS); and State Forestry agencies through the National Association of State Foresters. The purpose of NWCG is to coordinate programs of the participating wildfire management agencies so as to avoid wasteful duplication and to provide a means of constructively working together. Its goal is to provide a more effective execution of each agency's fire management program. The group provides a formalized system to agree upon standards of training, equipment, qualifications, and other operational functions.
FEPP:	Federal Excess Personal Property (FEPP) program, Federal property, originally purchased for use by a Federal agency, but no longer needed by that entity, is acquired by the USDA Forest Service for loan to one of the 50 States or the Territories for use in the State's rural or wildland fire protection program. As a result, the equipment stays in service to the United States, protecting lives and property across the nation. The Federal Government retains the title. The property must be returned to Federal Government when no longer used within the fire program.
Independent Action:	Action taken on lands under the protection responsibilities of another agency/entity without the notification and approval, of that agency or entity.

SIGNATURES

Department or District:	Division of Forestry, Fire and State Lands
Address:	Address:
Phone #:	Phone #:
Authorized Agent:	Authorized Agent:
Authorized Signature:	Authorized Signature:
Date:	Date:

County Representative: \_\_\_\_\_

Date: \_\_\_\_\_

List of Appendixes:

- A. Department or District Jurisdictional Boundary Map
- B. Completed Cooperative Rate Agreement

**PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 6~13, 2009  
AS CHILDHOOD CANCER AWARENESS WEEK**

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection report cancer is the leading cause of death by disease among children in the United States. This tragic disease is detected in more than 20,000 of our nation's young people each and every year; and

WHEREAS, the American Cancer Fund for Children, Inc. and sister organization, Kids Cancer Connection, Inc. are dedicated to helping these children and their families; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services and hospital activities to children undergoing cancer treatment at Primary Children's Medical Center; Department of Pediatric Hematology/Oncology in Salt Lake City, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and

WHEREAS, through its uniquely sensitive and comforting Magical Caps for Kids program, the American Cancer Fund for Children and Kids Cancer Connection distributes thousands of beautifully hand made caps and decorated baseball caps to children who want to protect their heads following the trauma of chemotherapy, bone marrow transplants, surgery and/or radiation treatments; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor nationwide Courageous Kid recognition award ceremonies and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer;

NOW THEREFORE, as the Mayor of Spanish Fork City, Utah, I hereby proclaim the week of September 6~13, 2009 as **CHILDHOOD CANCER AWARENESS WEEK**.

I, furthermore, encourage the citizens of Spanish Fork City to support research for the eradication of cancer and encourage donations to worthy causes supporting the elimination of cancer and providing relief for those children suffering from the ravages of cancer.

DATED this 1<sup>st</sup> day of September, 2009

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JOE L THOMAS, Mayor

Attest:

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Kimberly Robinson, City Recorder



## REPORT TO THE CITY COUNCIL BELLA VISTA

**Agenda Date:** September 15, 2009

**Staff Contacts:** Dave Anderson, Community Development Director

**Reviewed By:** Development Review Committee, Planning Commission

**Request:** Steve Maddox is requesting that the City Council grant a waiver relative to the design of the proposed Bella Vista development.

**Zoning:** R-3, R-1-6, and Rural Residential

**General Plan:** Residential 5.5 to 8 units per acre.

**Project Size:** Approximately 26 acres.

**Number of lots:** Not applicable.

**Location:** Approximately 900 North State Road 51.

### Background Discussion

Mr. Steve Maddox has, in recent years, made a few different presentations to the Planning Commission relative to properties that are located between State Road 51 and the railroad tracks at approximately 900 North.

Accompanying this report is a binder that describes Mr. Maddox's most recent presentation.

The request that is presented to the City Council at this time is unlike any request staff has presented before. At this time, the applicant is not requesting that a Zone Change or Preliminary Plat be approved. The specific request before the Council at this time involves having the City Council grant a waiver from the minimum lot size and width requirements. The Master Planned Development section of the Zoning Ordinance permits the City Council to waive the minimum lot size requirement for Master Planned Developments. The language in the ordinance that pertains to this request reads as follows:

5. Minimum lot size and width - Single family lots shall be a minimum of 6,000 square feet, with a minimum of 50 feet of frontage; twin home lots shall be a minimum of 4,000 square feet each, with a minimum of 40 feet of frontage each. The Council may grant a waiver of this requirement based on superior design. The Council has the absolute discretion in approving a request for such a waiver.

Mr. Maddox is requesting that the minimum lot size for this development be 4,000 square feet and that the minimum width be 40 feet.

Should the City Council grant a waiver of the minimum lot size requirement, staff anticipates that Mr. Maddox would proceed and present Zone Change and Preliminary Plat applications

for the Bella Vista development in a matter of a few weeks.

### Development Review Committee

The Development Review Committee reviewed this proposal in their August 26, 2009 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

Mr. Anderson explained that he felt a Zoning Text Amendment needed to be straightened out before a public hearing is held before the Planning Commission for the Zone Change and Preliminary Plat. He said that on the agenda today there was an amendment to change the text on the master planned development portion of the zoning ordinance that outlines minimum lot size. He explained that the motivation behind the change to the code was that single-family detached homes, if designed appropriately, could be more desirable to the City than multi-family homes.

Discussion was held regarding whether or not the City Council would grant a waiver to decrease the minimum lot size to 4,000 square feet with 40-foot frontages, and what makes this proposal a superior design. Mr. Maddox explained why he felt his proposal was superior (3-acre park, willingness to work diligently with the utility department to ensure that the utilities fit, landscape and fencing package, common maintenance, and the use of stone, stucco and concrete mason-rite siding on the exteriors of the homes)

Discussion was held regarding parking, how to make the utilities fit, landscaping and a concept plan for the park.

Mr. Baker **moved to recommend** to the Planning Commission **approval** of a waiver for 40-foot frontages and 4,000 square foot lots based on the fact that this is a superior design due to the following findings:

### Findings

1. That the project consists of single-family detached homes as opposed to attached units.

2. That utilities and driveways will be designed in an integrated fashion.
3. That the developer will be installing landscaping.
4. That the HOA will maintain landscaping, fencing, all common areas and front yards.
5. That a three-acre park meeting the City's standard amenities will be installed.
6. That there will be mason on the exterior of the homes.
7. That there will be planter strips on both sides of road.

Mr. Peterson **seconded** and the motion **passed** all in favor.

### Planning Commission

#### Bella Vista

Applicant: Steve Maddox

General Plan: Residential 5.5 to 8 units per acre

Zoning: R-3, R-1-6 and Rural Residential

Location: approximately 900 North State Road 51

Mr. Anderson explained the location of the proposal and the previous names that had been attached to potential developments. He said in order for the proposal to be approved that a Zone Change would need to be approved for. He gave background on the uniqueness of the property. He explained that lots in a Master Planned Development could not be smaller than 6,000 square feet unless, and according to the Master Planned Ordinance section of the Municipal code 'The Council may grant a waiver of this requirement based on superior design. The Council has the absolute discretion in approving a request for such a waiver'. Mr. Anderson explained what the Development Review Committee's recommendation was.

Discussion was held regarding whether or not the waiver process required a public hearing and the language in the Master Planned Development involving the waiver.

Commissioner Marshall asked about the recommendation from the Development Review Committee and what was being asked of the

Planning Commission for this proposal, after an approval or a recommendation of the waiver. Commissioner Marshall explained that he felt that the waiver process should require a public hearing.

Mr. Maddox explained that he was familiar enough with the development process and was comfortable with how the process was being handled. He presented his proposed concept plan and explained the proposal.

Commissioner Evans asked for clarification on the lot size. Mr. Maddox referred him to a page in the binder of his proposal.

Chairman Robins asked for clarification on the exterior of the buildings. Mr. Maddox said all of the exterior would be made of masonry materials with the exception of the vinyl soffit and fascia.

Commissioner Stroud asked for the width of the property between the proposed structures and the railroad tracks. Mr. Maddox addressed the question.

Commissioner Marshall asked about moving the road that was proposed to run adjacent to the railroad tracks. Mr. Christensen explained that the road could not be moved because of a gas line easement.

Commissioner Christianson asked about the park and what phase it would be constructed in and the HOA. Mr. Maddox explained that he had successfully managed 18 HOA's and what his phasing plan was involving the park.

Commissioner Marshall asked if the park could be moved somewhere else in the project whether Mr. Maddox would consider moving it. Mr. Maddox said that they had considered the option of moving the park but that there was not a City park in this area of town and he felt that the current placement of the park was in the best interest of the City.

Commissioner Marshall said that he felt having a park was an incentive to approve the proposal to have some lot sizes that would be smaller than 6,000 square feet, but without the park he was not sure he would support it.

Commissioner Evans asked Mr. Maddox if the park would be a public park or a park maintained by the HOA for only the residents that belonged to the HOA. Mr. Maddox said he felt the park should be a public park.

Commissioner Marshall said he could see no point in the 60-foot wide roads and said he would like to see them be 54 feet.

Commissioner Evans said he liked the park and that the proposal was better because of it.

Chairman Robins said out of all of the proposals Mr. Maddox had proposed for the property that he liked this project and commended Mr. Maddox for his patience.

Commissioner Christianson expressed that he did not want to see the park left unfinished or not constructed.

Commissioner Evans **moved to recommend** to the City Council that they **grant the waiver** subject to the following findings and condition:

### Findings

1. That the project consists of single-family detached homes as opposed to town homes or twin homes.
2. That utilities and driveways will be designed in an integrated fashion as part of the plotting process.
3. That the developer will be responsible to install all of the landscaping.
4. That the HOA will maintain landscaping, fencing, all common areas and front yards.
5. That a three-acre park, meeting the City's standard amenities, will be installed.
6. That there will be masonry on the exterior of the homes.
7. That the streets will be built to City standards.

### Condition

1. That the City Council agrees that the park stays and Expressway Lane does not go through the development.

Commissioner Marshall **seconded** and the motion **passed** by a roll call vote.  
Commissioner Christensen voted **nay**.