



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 January 5, 2010**.

AGENDA ITEMS:

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

- a. Pledge
- b. Swearing In of Newly Elected Officials

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. ***Isaacson General Plan and Zoning Map Amendments**, located in the vicinity of 885 North 200 East. The proposal would change the General Plan and Zoning Maps to permit commercial uses at 885 North 200 East. (Continued from 12-15-09 Meeting)

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 – December 15, 2009.**
- b. *** Resolution Parks and Recreation – Authorizing the Recreation Director or Their Designee to Enter Into Contracts for the Use of Recreation Facilities and Buildings**

6. NEW BUSINESS:

- a. UDOT I-15 Corridor Update & Presentation
- b. ***Real Estate Contract with PEG Development**
- c. Appointment of City Treasurer and Recorder
- d. Election of Mayor Pro-Tem
- e. Elected Official Committee Assignments
- f. Board Appointments

ADJOURN:

I, Kimberly Robinson, certify that I am the duly appointed, qualified, and acting City Recorder of Spanish Fork City, Utah, and the forgoing City Council agenda was faxed or emailed to the Spanish Fork Press, Spanish Fork News, and Daily Herald. The agenda was also posted at the City Office bulletin board 40 South Main, on the states website, and on the city's website at www.spanishfork.org.

Kimberly Robinson, City Recorder

* Supporting documentation is available on the City's website 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

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 804-4530.



REPORT TO THE CITY COUNCIL ISAACSON ZONE CHANGE AND GENERAL PLAN AMENDMENT

Agenda Date: December 15, 2009

Staff Contacts: Dave Anderson, Community Development Director

Reviewed By: Development Review Committee, Planning Commission

Request: The subject property is currently zoned R-1-6. The applicant has requested that the zoning be changed to Residential Office. The subject property is currently being used as a single-family dwelling with a Home Occupation.

Zoning: R-1-6 existing, Residential Office requested

General Plan: Residential 5.5 to 8 units per acre existing, Residential Office requested

Project Size: 0.3 Acres

Number of lots: 1

Location: 885 North 200 East

Background Discussion

The applicant, Scott Isaacson, is requesting a General Plan Amendment and Zone Change so as to utilize a dwelling on the property as a commercial site and perhaps as a dwelling as well. At present, the applicant resides at the subject property and operates a Home Occupation from that location.

The City has reviewed other proposals to amend the General Plan Map along the 900 North corridor in recent years. In light of discussions related to those proposals, staff has anticipated applying some focus on this area when the City-wide General Plan update is performed next year.

With that said, staff is not averse to acting on this proposal at this time but does suggest that the General Plan Amendment not be considered in an isolated fashion. In staff's view, land-uses found in the surrounding area lend credibility to a proposal to include Residential Office in the vicinity of the subject property.

With this in mind, the Development Review Committee has recommended that the City Council do one of two things. One suggestion is to not act on the proposal at this time but to instead review the entire 900 North corridor between Main Street and 800 East as part of the 2010 General Plan update. A second suggestion would involve changing the General Plan for the northern portion of the block surrounded by 800 North, 900 North, 100 East and 200 East to Residential Office. Perhaps the only option that staff would object to involves changing the General Plan only for the subject property rather than to look at a broader area and the potential impacts and changes that may result.

Development Review Committee

The Development Review Committee reviewed this request in their November 18, 2009 meeting. Minutes from that meeting read as follows:

Isaacson Zone Change and General Plan Amendment

Applicant: Scott Isaacson



General Plan: Residential 5.5 to 8 units per acre existing, Residential Office requested
Zoning: R-1-6 existing, Residential Office requested
Location: 885 North 200 East

The applicant Scott Isaacson explained to the committee that they had purchased the home and were running a home occupation business out of it. He said the block that the home was located on already had some commercial zoning. He explained that if they were granted the R-O zoning that they would continue to run the business as they were running it currently but that they would move out of the home. He said that in the future they might want to live there and run the commercial business.

Mr. Anderson explained that the City Council would be looking at the General Plan in 2010 and that the area of town that this proposal was located in was one of the areas that the City Council was going to study. He said that the commission might not want to take action on this proposal until they studied the entire area in 2010.

Mr. Isaacson said he would still like to move forward with his request.

Mr. Anderson **moved** to recommend that the City Council either **approve** a General Plan Amendment to the portion of the block that was not Professional Office to Professional Office/Residential Office or that they **review** this when they review the General Plan Amendment. Mr. Baker **seconded** and the motion **passed** all in favor.

Mr. Anderson **moved** that if they approve the General Plan Amendment that the zone be changed to Residential Office. Mr. Baker **seconded** and the motion **passed** all in favor.

Planning Commission

The Development Review Committee reviewed this request in their December 2, 2009 meeting and recommended that action be postponed until the General Plan is updated in 2010. Minutes from that meeting read as follows:

Isaacson Zone Change and General Plan Amendment

Applicant: Scott Isaacson

General Plan: Residential 5.5 to 8 units per acre existing,
Residential Office requested
Zoning: R-1-6 existing, Residential Office requested
Location: 885 North 200 East

Mr. Anderson explained the proposal and the General Plan. He said that a Home Occupation Business License had been issued for this location but that the applicant would like to use the structure as a commercial use. He explained that this section of the City was one of the sections that the Commission anticipates studying with the General Plan in 2010.

Chairman Christianson asked if there had been any contact with any of the other property owners that the City had included in the General Plan Amendment. Mr. Anderson said no.

Scott Isaacson

Mr. Isaacson said they had purchased the home in August and cleaned it up. He said his wife had a master's degree in oriental medicine. She has 15-25 patients a week with one patient coming every hour. He said that they had looked at the zoning rules. He said he felt the change would not change the nature of the neighborhood and that he had met most of the neighbors and talked with them and feel that they are supportive.

Steve Hogan

Mr. Hogan is concerned about the Zone Change and if his taxes would go up.

Mr. Anderson explained the difference in the C-O and R-O zones.

Mr. Isaacson explained what the difference would be to run the home-based business versus a commercial business.

Discussion was held regarding looking at the bigger picture with the General Plan.

Commissioner Robins asked Mr. Anderson how long he felt the General Plan discussion would last. Mr. Anderson said probably into July of 2010.

Commissioner Evans expressed concern with the precedence of piece-mealing the general plan and not looking at it from a broader view.

Discussion was held regarding a time table for the General Plan amendment change.

Commissioner Cope asked if, in a commercial office zone, you could occupy the residence. Mr. Anderson said you could not live there.

Discussion was held regarding zoning and cross-zoning on the General Plan.

Commissioner Marshall said it pained him to look at only one block of the General Plan.

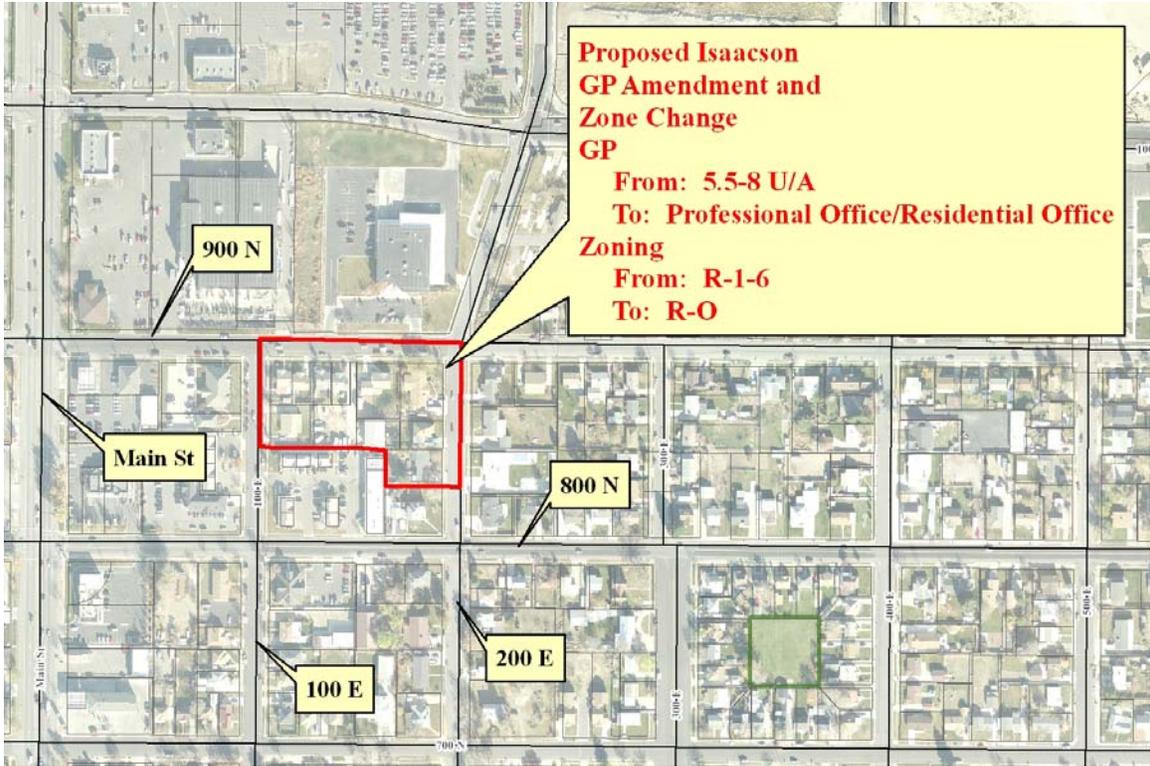
Commissioner Marshall **moved** to recommend to the City Council that they **postpone** taking action until the 2010 General Plan review was complete. Commissioner Evans **seconded** and the motion **passed** by a roll call vote. Commissioner Robins voted **nay** because he felt it was not right to delay property rights based on legislative action. Commissioner Cope voted **nay** because he was not in favor of tabling very many motions.

Budgetary Impact

There is no immediate budgetary impact anticipated with the approval of the General Plan and Zoning Map Amendments.

Recommendation

Staff recommends that the City Council either postpone action on the proposal until the 2010 General Plan review is complete or that the City Council act to change the General Plan designation for the all of the properties on the subject block that don't currently have the Professional Office designation to Professional Office/Residential Office and to change the zoning of the subject property to Residential Office.



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**Tentative Minutes
Spanish Fork City Council Meeting
December 15, 2009**

Elected Officials Present: Mayor Joe L Thomas, Councilman Steve Leifson, G. Wayne Andersen, Rod Dart, Richard M. Davis, Jens P. Nielson

Staff Present: Dave Oyler, City Manager; Kent Clark, Finance Director; Seth Perrins, Assistant City Manager; Junior Baker, City Attorney; Dave Anderson, Economic Development Director; Richard Heap, Public Works Director; Kimberly Robinson, City Recorder

Citizens Present: Leland "Jay" Birch, Namon Bills, Deven Downey, Keir Scoubes, David Simpson, David Grotegut, Leah Butler, Lana Creer Harris, Ann Dart, Tamara Davis, Christina Leifson, Cheryl Leifson, Melanie Andersen, Max Sabey, Karen Sabey, Glen Bradford, Thad Jensen, Carl Empey, Jeff Heaps, Kay Heaps, Rodger Hardy, Grant C. Jensen

CALL TO ORDER, PLEDGE:

Mayor Thomas called the meeting to order and led in the pledge of allegiance at 6:00 p.m.

PUBLIC COMMENT:

A presentation was made by the wives of the current City Council, to Mayor Thomas. They know what a sacrifice it is for his family, and they wanted to express their appreciation for his hard work. He is very much appreciated.

Leland "Jay" Birch, 990 N 400 E.

Mr. Birch has been working with the city on 10th north and the snow removal garbage pickup and mail services. There is no buffer zone for the snow to be able to maintain the sidewalks and he is asking that there be a way to maintain those sidewalks. It is a hazard for snow removal there is no where for it to go and it is destroying the vegetation. He is here tonight because he was told by the staff that the City Council must be the ones to address this issue. He is concerned about the garbage cans being out in the lanes, and about the mail trucks being rear ended.

Richard Heap stated the road was designed by Horrocks Engineers in conjunction with a company hired by the developer.

Mr. Birch is concerned about the cost of the park and if the citizens are going to be taxed in order to pay for it.

Kent Clark explained the North Park construction and the cost differences.

Mayor Thomas noted a land exchange was made for the park.

48 Mr. Clark stated he would be happy to show Mr. Birch all the information regarding North
49 Park.

50
51 Thad Jensen

52 Mr. Jensen passed out a dedication program from 1999 for the Veteran's Memorial
53 Monument. He stated the monument was designed to last until 2012 and is already full.
54 He is asking for some donations to make the needed additions to the monument.

55
56 Mayor Thomas stated if the citizens would like to contribute they can do so through the
57 city office or one of the men serving with the American Legion.

58
59 Glen Bradford

60 Mr. Bradford is with the Department of Utah American Legion. They have had the
61 opportunity to dedicate a Veterans Assisted Living Facility in Ogden. He noted there are
62 additional facilities planned in the State. One planned for Utah County and one in
63 Washington County. He is requesting the city consider helping them find some land for the
64 facility to be located in Spanish Fork. He asked that the Council put the item on the
65 agenda for more explanation and explained the first city to secure the ground will get the
66 facility. He added that there is a potential for 100 jobs to run the facility.

67
68 **COUNCIL COMMENTS:**

69
70 Councilman Dart attended a Census Bureau open house. He said they emphasized the
71 importance of filling out the brochure citizens will receive in the mail.

72
73 Councilman Leifson commented they held the Parks and Recreation Committee Meeting.
74 They discussed the trail system and ask that if you have dogs they need to be on a leash
75 and cleaned up after. There will also be a dog park built in the future. He thanked all the
76 citizens that have been out helping others to get the snow shoveled, it is very much
77 appreciated. The I-15, UDOT project has announced that the Spanish Fork exits will be
78 included in the construction upgrades.

79
80 Councilman Nielson noted this is the Mayors last meeting, he commented the Mayor does
81 a great job at showing enthusiasm and excitement when working towards something. He
82 also has an open mind which is a great to make things work. He wanted to thank the
83 Mayor for his hard work and he appreciates his service to the community.

84
85 Councilman Davis said the UDOT, I-15 project, including the Spanish Fork exits was like
86 Christmas. He also reminded everyone about the Festival of Lights and to support the city
87 and enjoy the lights. He asked everyone to shop local and help the businesses in Spanish
88 Fork. He thanked the citizens for helping clean up the snow and commended the city staff
89 for their hard work snow plowing. He noted the staff truly have an interest in making
90 Spanish Fork the best it can be. He wants to wish everyone a Merry Christmas and a
91 Happy New Year.

92
93 Councilman Andersen mentioned the I-15 project has been something he has been
94 working on and is excited to see it accomplished. He noted there were many people
95 involved to get this project through. His heart goes out to all those that are suffering due to

96 the economy, but he is grateful for the ability to get the project included. He expressed
97 appreciation to the staff and fellow Council who helped, they had tremendous support
98 from local and state representatives that helped carry the load. Mountainland Association
99 of Governments, Senator's Bennett and Hatch, Congressman Chaffetz, he noted there
100 wasn't many they didn't get involved to help. He appreciates the people of UDOT being
101 open and receptive about Spanish Fork's concerns. They made it a priority to involve the
102 contractors and encouraged them to go as far as they can with the funds available. He
103 wished a Merry Christmas to Spanish Fork and a Happy New Year.

104
105 Mayor Thomas congratulated those that were elected in the last election. He noted the I-
106 15 project is such a big deal. The fact we were able to accomplish it, will help to bring
107 retail and business into the community. After traveling to other countries he stated that we
108 truly live in the greatest place on earth, and there is no place like home. His Holiday Wish
109 is for everyone to enjoy the holidays.

110
111 **CONSENT ITEMS:**

112
113 **a. Minutes of Spanish Fork City Council Meeting – November 10, 2009;**
114 **December 1, 2009**

115
116 Councilman Leifson made a **Motion** to approve the consent items. Councilman Dart
117 **Seconded** and the motion **Passed** all in favor.

118
119 **NEW BUSINESS:**

120
121 **Resolution Authorizing the Issuance and Confirming the sale of up to \$5,000,000, of**
122 **the aggregate principal amount of Electric Revenue Refunding Bonds, Series 2009**
123 **of the City; authorizing the execution and delivery of certain documents relating to**
124 **such bonds; and providing for related matters. Refund from a 5% interest rate to a**
125 **2.75% rate.**

126
127 Kent Clark explained this is an opportunity to refinance some electric Bonds that will save
128 the city over the next few years. The Net Present Value benefit would be \$148,261.30
129 over the remaining life of the debt.

130
131 Carl Empey

132 Mr. Empey explained some background regarding the bonds and the savings available
133 with the change.

134
135 Councilman Andersen made a **Motion** to adopt Resolution 09-12, Resolution Authorizing
136 the Issuance and Confirming the Sale of up to \$5,000,000, of the Aggregate Principal
137 amount of the Electric Revenue Refunding Bonds. Councilman Davis **Seconded** and the
138 motion **Passed** all in favor.

139
140 **Maple Mountain Amended Preliminary Plat, located in the vicinity of 100 North and**
141 **1500 East. The proposed amendment would create a site for an elementary school.**

142
143 Mr. Anderson explained the Nebo School district would like to purchase the property and
144 construct a school. Staff recommends approval subject to the conditions noted in the staff
145 report.

146
147 Councilman Andersen asked about the retention basin included in the park. He is
148 concerned that those be constructed quickly so they will not have water issues in that
149 area.

150
151 Mr. Anderson explained the construction of the park will be completed with either the
152 single family homes or the townhomes.

153
154 Councilman Leifson made a **Motion** to approve the Maple Mountain Amended Preliminary
155 Plat subject to the applicant meeting all of the conditions of the original approval, the
156 applicant signing an agreement relative to the phasing of improvements in the project and
157 the applicant addressing any Engineering Department concerns prior to a Final Plat being
158 approved. Councilman Dart **Seconded** and the motion **Passed** all in favor by a roll call
159 vote.

160
161 **Pine View Preliminary Plat, located in the vicinity of 2700 East 750 South. The**
162 **proposed plat would create two lots of approximately 12 and 16 acres in size.**

163
164 Mr. Anderson explained the purpose of the plat is to create a site for the location of an
165 elementary school. The site created with this plat would be approximately 12 acres in size.

166
167 Discussion was made regarding SESD and the school.

168
169 Councilman Davis made a **Motion** to approve the proposed Preliminary Plat subject to the
170 applicant completing the SESD buyout as is stipulated in the Envision Annexation
171 Agreement. Councilman Andersen **Seconded** and the motion **Passed** all in favor by a roll
172 call vote.

173
174 **Swenson Addition, located at approximately 3000 North 700 West. The proposal**
175 **involves the City Council's acceptance of an annexation petition for further study.**

176
177 Mr. Anderson explained staff recommends acceptance of this petition for further review.

178
179 Councilman Andersen noted before it is brought to the Council for annexation he asks that
180 the parcel of land be taken out of the agricultural protection zone. He also asked that any
181 other parcels included in the city be removed from the agricultural protection zone as well.
182 He then explained what the agricultural protection zone is.

183
184 Councilman Leifson made a **Motion** to accept the proposed Swenson Addition
185 Annexation for further study. Councilman Dart **Seconded** and the motion **Passed** all in
186 favor by a roll call vote.

187
188 **PUBLIC HEARING:**

189
190 Councilman Davis made a **Motion** to open the public hearing. Councilman Andersen
191 **Seconded** and the motion **Passed** all in favor at 7:09 p.m.

192
193 **American Leadership Academy Zoning Text and Zoning Map Amendments, located**
194 **at 110 South Mill Road. The proposed text amendment would reduce the setback**
195 **requirements in the R-1-15 Zone. The proposed map amendment would change the**
196 **zoning on a portion of the ALA site from R-1-30 to R-1-15.**

197
198 Mr. Anderson explained there has been discussions regarding a building previously built
199 that do not meet the City set-back requirements. The changes proposed involve making
200 the R-1-15 setback requirements match what they have in several other zoning districts.
201 The DRC and Planning Commission have reviewed these changes and both recommend
202 they be approved.

203
204 Councilman Andersen stated he has not liked any of the other changes proposed; he has
205 wanted to protect the area and lot sizes they have there. When this solution came up it
206 seemed to him as being the right thing to do. He encourages the Council to accept these
207 changes and approve them.

208
209 Mr. Baker noted all the other zones have a height of 30 feet not 25 feet, so now would be
210 the time to change that requirement to 30 feet.

211
212 This item was opened for public comment.

213
214 Dave Isaac

215 Mr. Issac said this item passed Planning Commission with one negative vote, he was
216 concerned with making exceptions but feels this needs to be dealt with. He supports the
217 Council with whatever they decide.

218
219 Councilman Andersen made a **Motion** that the proposed American Leadership Academy
220 Zoning Text Amendment and Zone Change be approved based on the following findings:

- 221 1. That the proposed Zone Change is consistent to the General Plan designation for
222 the property.
223 2. That changing the setback requirements for the R-1-15 zone will not create any
224 significant or noteworthy change in how properties in the R-1-15 zone are
225 developed.

226 Councilman Davis **Seconded** and the motion **Passed** all in favor by a roll call vote at 7:19
227 p.m.

228
229 **Jensen General Plan and Zoning Map Amendments, located at 55 East 700 North.**
230 **The proposal would change the General Plan and Zoning Maps to permit a 3,600**
231 **square foot area to be used commercially.**

232
233 Mr. Anderson explained Mr. Jensen would like to utilize a portion of the property as a
234 parking lot for employees or patrons that are involved with a property he owns next door.
235 This would require a lot line adjustment with the adjacent commercial lot. This is
236 acceptable as long as the remaining property, with the home, is conforming. If the parking
237 lot is constructed according to city standards there is no down side to approving what Mr.
238 Jensen wants to do. There would be a 6 ft masonry wall requirement along the residential
239 sides of the parking lot. Provided that City standards are met both the Planning
240 Commission and DRC recommend approval.

241
242 This item was opened for public comment.

243
244 There was no public comment given at this time.

245
246 Councilman Davis asked about the easement on the Oil Spout property.

247
248 Grant Jensen

249 Mr. Jensen owns the property, when he bought it he insisted on an easement to his
250 property on the Oil Spout Property. He intends to keep the property residential and noted
251 he does own the easement.

252
253 Councilman Davis asked about the ground water and expressed concerns about the
254 neighbors.

255
256 Mr. Jensen stated he would probably have to put a sump pump in, which he would do
257 because he does not want to impact the neighbors.

258
259 Councilman Leifson made a **Motion** to approve the Jensen General Plan and Zoning Map
260 Amendments from R-1-6 to C-2. Councilman Davis **Seconded** and the motion **Passed** all
261 in favor by a roll call vote at 7:34 p.m.

262
263 **Isaacson General Plan and Zoning Map Amendments, located in the vicinity of 885**
264 **North 200 East. The proposal would change the General Plan and Zoning Maps to**
265 **permit commercial uses at 885 North 200 East.**

266
267 Mr. Anderson explained the Isaacson's have a home occupation business license for
268 acupuncture at the proposed location. He then noted the home is largely surrounded by
269 other Commercial Office Uses. The Isaacson's are looking to change the zoning so they
270 can have a business at that location. The DRC reviewed the proposal and with the pattern
271 of zoning in the General Plan it makes sense to change the General Plan for the entire
272 block. The City is due in 2010 to update the General Plan. One option is to postpone
273 action until the General Plan update, another is to take action on the land use. The
274 Planning Commission recommended postponing action on this item.

275
276 Councilman Leifson made sure the city wasn't creating a hardship on the owners by
277 postponing this item.

278
279 **Peterson Spanish Cove, In-Fill Overlay and Preliminary Plat Approval, located at**
280 **245 North 300 East. The proposal would approve the application of the In-Fill**
281 **Overlay Zone and a Preliminary Plat to permit the construction of two twin home**
282 **structures.**

283
284 Mr. Anderson explained the proposal for the In-fill overlay and Preliminary Plat approval.
285 He noted there were a few details that still need to be worked out. It is staff's
286 recommendation that the proposed plat and In-fill overlay be approved.

287
288 This item was opened for public comment.

289
290 There was no public comment made at this time.

291
292 Councilman Davis noted at the Planning Commission public comment it was requested to
293 add a street light or yard light so people walking could see the cars.

294
295 Mr. Anderson stated that the light was already being discussed with the property owner.

296
297 Councilman Davis made a **Motion** to approve the In-Fill Overlay for Peterson Spanish
298 Cove proposed project, located at 245 North 300 East subject to the following findings:
299 Findings

- 300 1. That the number of units is within the density range found in the General Plan.
301 2. That the proposed design meets the requirements of the In-Fill Overlay Zone.
302 3. That the proposed architecture is superior to what is found in other twin home
303 projects in the City.
304 4. That the development would not have an adverse impact on the surrounding
305 properties.

306 Councilman Andersen **Seconded** and the motion **Passed** by a roll call vote all in favor.
307

308 Councilman Davis made a **Motion** to approve the proposed Peterson Spanish Cove
309 Preliminary Plat subject to the following conditions:

310 Conditions

- 311 1. That the applicant submit a more detailed landscaping plan with the final plat
312 submittal.
313 2. That the applicant meet the City Construction and development standards.
314 3. That the applicant meet any engineering and Electrical Department conditions with
315 the Final Plat submittal.

316 Councilman Nielson **Seconded** and the motion **Passed** all in favor by a roll call vote at
317 7:57 p.m.
318

319 Councilman Leifson made a **Motion** to close the public hearing. Councilman Davis
320 **Seconded** and the motion **Passed** all in favor by a roll call vote at 7:58 p.m.
321

322 Councilman Leifson made a **Motion** to continue the decision for the Isaacson General
323 Plan and Zone Change. Councilman Andersen **Seconded** and the motion **Passed** all in
324 favor.
325

326 **EXECUTIVE SESSION:**
327

328 Councilman Dart made a **Motion** to adjourn to executive session to discuss a real
329 property transaction. Councilman Davis **Seconded** and the motion **Passed** all in favor by
330 a roll call vote at 7:59 p.m.
331

332 **ADJOURN:**
333

334 ADOPTED:
335
336

Kimberly Robinson, City Recorder

RESOLUTION 10-01

ROLL CALL

| VOTING | YES | NO |
|---|------------|-----------|
| MAYOR G. WAYNE ANDERSEN (votes only in case of tie) | | |
| STEVE LEIFSON City Councilman | | |
| ROD DART City Councilman | | |
| RICHARD M. DAVIS City Councilman | | |
| KEIR A. SCUBES City Councilman | | |
| JENS P. NIELSON City Councilman | | |

I MOVE this resolution be adopted: _____
City Councilperson

I SECOND the foregoing motion: _____
City Councilperson

RESOLUTION 10-01

A RESOLUTION AUTHORIZING THE RECREATION DIRECTOR OR THEIR DESIGNEE TO ENTER INTO CONTRACTS FOR THE USE OF RECREATION FACILITIES AND BUILDINGS

WHEREAS, Spanish Fork City has created a recreation department, which is in charge of all recreation facilities, buildings, and grounds within the City; and

WHEREAS, there are numerous facilities, buildings, and grounds which are rented out for use by the public, and which help offset the costs of owning and operating the facilities, buildings, and grounds; and

WHEREAS, the City uses form contracts with users of facilities, buildings, and grounds which are rented out; and

WHEREAS, the contracts are form contracts prepared by the City and agreed to by the user based upon rates established by the Council; and

WHEREAS, time is of the essence in executing the contracts in order for the user to have timely access to the facilities, buildings, and grounds; and

WHEREAS, taking the time to obtain Mayor and City Council approval for the form contracts causes the City to lose revenue opportunities and the opportunity of residents to use the facilities;

NOW THEREFORE, be it resolved by the Spanish Fork City Council as follows:

1. The City Recreation Director or his/her designee is hereby authorized to sign rental contracts for the use of City facilities, buildings, and grounds, which have been authorized by the Council for rental use by the Council.
2. The City Recreation Director or his/her designee are authorized to fill in the blanks on the form contracts.
3. The form contracts used and for which this resolution is effective are attached hereto as exhibits.
4. This resolution is effective immediately upon passage.

DATED this 5th of January, 2010.

G. WAYNE ANDERSEN, Mayor

Attest:

KIM ROBINSON, City Recorder

REAL ESTATE PURCHASE AGREEMENT

COME NOW the parties hereto, Spanish Fork City (City) and P.E.G. Development, LLC (PEG), and in consideration of the mutual promises made herein, hereby contract, covenant and agree as follows:

1. City owns two parcels of real property in Spanish Fork City adjacent to property owned by PEG, and more particularly described as follows (the Property):

PARCEL ONE

BEGINNING AT A POINT WHICH IS LOCATED SOUTH 123.43 FEET AND EAST 2057.42 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE S50°27'12"E 305.13 FEET; THENCE S49°38'46"E 0.69 FEET; THENCE N88°09'00"W 1.66 FEET; THENCE S50°29'00"E 70.60 FEET; THENCE S49°38'46"E 56.59 FEET; THENCE S36°37'35"W 221.88 FEET; THENCE N48°04'57"W 382.93 FEET; THENCE N23°19'18"E 216.14 FEET TO THE POINT OF BEGINNING.
CONTAINING: 2.00 ACRES

TOGETHER WITH A 10 FOOT PUBLIC UTILITY EASEMENT LOCATED ALONG AND PARALLEL TO ALL DESCRIBED PROPERTY LINES.

PARCEL TWO

BEGINNING AT A POINT WHICH IS LOCATED NORTH 127.46 FEET AND EAST 1198.09 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 2, EAST SALT LAKE BASE AND MERIDIAN; THENCE N89°38'20"E 21.16 FEET; THENCE N37°21'33"E 15.85 FEET; THENCE S70°13'13"E 20.86 FEET; THENCE S87°38'20"E 231.05 FEET; THENCE S48°05'00"E 363.83 FEET; THENCE S41°55'00"W 3.00 FEET; THENCE ALONG THE ARC OF A 525.00 FOOT RADIUS CURVE TO THE LEFT 282.23 FEET (CHORD BEARS: N65°39'46"W 278.85 FEET); THENCE N81°03'49"W 38.67 FEET; THENCE ALONG THE ARC OF A 475.00 FOOT RADIUS CURVE TO THE RIGHT 268.62 FEET (CHORD BEARS: N64°51'46"W 265.06 FEET); THENCE N48°39'42"W 23.65 FEET TO THE POINT OF BEGINNING.
CONTAINING: 0.87 ACRES

2. City is desirous of selling the Property upon the terms and conditions set forth herein.

3. PEG will pay the sum of \$360,000.00 for the Property. City will retain any water rights associated with the Property. The entire purchase price is due at closing. Each party shall be responsible for their own closing costs. No real estate commissions are due upon the sale.
4. The closing will take place on or before March 31, 2010. Possession shall be transferred at the time of closing.
5. The title to the property being conveyed shall be pursuant to a warranty deed and shall be vested in the name of P.E.G. Development, LLC.
6. The parties agree to locate a mutually acceptable title insurance company to provide a commitment for standard coverage title insurance in the amount of the purchase price. The policy shall insure that PEG shall be the fee simple owner of good and marketable title free and clear of all liens and encumbrances and subject to the standard exceptions as shown on the title policy. Each party shall have 10 days after receipt of the commitment of title insurance and all relevant documents to notify the other in writing of any objections to the title. If no objection is made, all items shall be deemed permitted. If any exceptions to title are made, the other party shall have until closing to cure such exception. If exceptions are unable to be cured, the party so excepting may choose to void this agreement or to proceed with the exceptions. If voided, all obligations of the parties shall cease and this agreement shall be void without further recourse to the parties hereto.
7. PEG has heretofore investigated the property and determined that it is suitable for its purposes. PEG therefore accepts the property "as is."
8. The sale is conditional upon PEG proceeding with retail development on Parcel 1 of the Property. A development agreement shall be negotiated and executed concurrent with the

closing. A preliminary plat for the development of the Property, together with the adjacent property owned by PEG, shall be submitted within 120 days of execution of the development agreement. A building permit for a minimum 10,000 square foot building, for retail use, shall be applied and paid for within 120 days of preliminary plat approval. Construction shall commence within 90 days of the application date for a building permit.

9. In the event PEG fails to meet any of the deadline commitments in paragraph 8, it shall, upon demand from City, reconvey the Property to City by warranty deed, free and clear of any liens. In such event, City will have suffered damages, the extent of which are difficult, if not impossible, to ascertain, and shall, therefore, be entitled to liquidated damages. City shall refund the purchase price, less closing costs incurred by City, less liquidated damages in the amount of \$2,500.00 per month, or portion thereof, from the date of closing to the date of reconveyance.

10. City warrants and represents as follows:

- A. That no person or entity claiming under, by, or through City has any option or contract to purchase any or all of the property to be sold or any interest therein.
- B. The property will be free and clear of any mechanics liens resulting from work performed on or with respect to the property prior to such conveyance.
- C. City has not received written notice from any governmental body claiming any current violations of any hazardous material law, or requiring compliance with hazardous material law, or demanding payment or contribution for environmental damage or injury to natural resources. For this purpose, hazardous material law means any State or Federal statute applicable to the property relating to the installation, use, storage, release, generation, discharge, disposal, treatment,

handling, or transportation of hazardous materials.

- D. City, nor to its knowledge any previous owner, tenant, or occupant of the property, has engaged in or permitted operations or activities upon or allowed any use or occupancy of the property for the purpose or in any way involving the handling, manufacturing, treatment, storage, use, generation, release, discharge, refining, dumping, or disposal of any hazardous materials, except for agricultural fertilization. For purposes of this sub-paragraph, City's knowledge is based upon the personal knowledge of Richard Heap, the City Engineer.
- E. In the event, at any time prior to closing, that any party learns that any of the aforesaid representations and warranties are no longer valid, such party shall immediately notify the other in writing. The party so notified shall then have the option to proceed with this agreement subject to the changed conditions, or to void this agreement and have no further obligation to the other party.
11. This document represents the entire agreement between the parties. All prior negotiations, representations, commitments, or understandings are merged herein and superceded hereby. This agreement may only be amended by a written agreement entered into between the parties.
12. Time is of the essence of this agreement. In case either party shall fail to perform the requirements of this agreement, at the time performance is required, the other party may, at its election, terminate the agreement.
13. The obligations of the parties to this agreement shall survive the closing and shall not be merged into or become a part of any of the documents executed and delivered at closing.

14. If any action, suit, or proceeding is brought by a party with respect to a matter governed by this agreement, all costs and expenses of the prevailing party in such action, suit, or proceeding, including reasonable attorneys fees, shall be paid by the non-prevailing party.
15. All risk of loss or damage to the property shall be borne by the seller until possession exchanges.

DATED this ____ day of January, 2010.

SPANISH FORK CITY by:

G. WAYNE ANDERSEN, Mayor

Attest:

KIMBERLY ROBINSON, Recorder

P.E.G. Development, LLC by:

CAMERON S. GUNTER, Manager