

**Adopted Minutes  
Spanish Fork City Planning Commission Meeting  
July 2, 1996**

The meeting was called to order at 7:00 pm by Chair Doug Barber.

Commission Members Present: Chair Doug Barber, and Commission Members Clyde A. Swenson, J. Wayne Nelson, David Ludlow, and Brian Phillips. Commissioner Doug Christensen was excused.

Elected Officials Present: Mayor Marie W. Huff.

Staff Members Present: Greg Comstock, City Planner; David A. Oyler, City Manager; Richard J. Heap, Engineer/Public Works Director; and Heather Frost, Deputy Recorder.

Citizens Present: Abraham N. Allan, Kelly Allan, John Allan, Dick Bastian, Susan Bastian, John Dester, Jim Pendray, Carl B. Cleo, Andrew Roe, Wayne Pinder, Allen Young, Morris Simons, Amy Brinkerhoff, David L. Kuhn, Douglas A. Nielson, and John Jesperson.

**Minutes**

A **motion** was made by Mr. Nelson to approve the minutes of the June 18, 1996, meeting of the planning commission. Mr. Ludlow **seconded** the motion, and it **passed** with a unanimous vote.

**Conflict of Interest**

Chair Barber asked the commissioners to review the agenda and disclose any conflict of interest. No conflict of interest was disclosed by the planning commission members.

**Orchard View Heights - Preliminary**

Mr. Heap pointed out the location of the proposed development. He stated the Development Review Committee has reviewed the preliminary. They made some recommended amendments to the plat. He informed the commissioners the only recommendation not completed by the developer is to note the setbacks on lot number nine.

Mr. Nelson made a **motion** to recommend approval of Orchard View Heights - Preliminary subject to the condition the setbacks are noted on lot number nine. The **second** was made by Mr. Ludlow, and the motion **passed** unanimously.

**Country Cove - Preliminary**

Mr. Heap explained 16 feet of the property proposed to be a city street within this development is owned by Mr. Abraham Allan. He said the Development Review Committee recommended Mr. Simons, the developer of this plat, meet with Mr. Allan to discuss the possibility of having the 16 feet of property dedicated to the city as a city street. Mr. Heap said with that recommendation and the condition that the final plat will not be recorded until the property is dedicated, the Development Review Committee recommended approval of the Country Cove Preliminary. Mr. Allan informed the commission he had been contacted by Mr. Simons and they had come to an agreement. Mr. Allan asked questions regarding five year rollback taxes. Mr. Heap said Mr. Allan would have to pay those taxes. Mr. Allan stated he would have to be compensated for those taxes. Mr. Heap reviewed the sidewalk alignment.

Mr. Swenson made a **motion** to recommend approval of Country Cove Preliminary subject to the condition final approval will not take place until such time as the 16-foot strip of property is dedicated to the city for a city street. The **second** was made by Mr. Ludlow, and the motion **passed** unanimously.

## **General Plan - Fine Tuning the General Plan Map**

### **Strawberry Lawsuit Update**

Mr. Nelson inquired about the decision of the Utah Supreme Court regarding the Strawberry lawsuit. Mr. Oyler informed the commission about the Supreme Court ruling. He said the city will try to contact Strawberry and meet with them regarding the ruling. The issue will need to go before the district court again before the matter is final.

The commission and staff discussed plans for the new elementary school and proposed street improvements to service traffic to the new school.

### **Proposal for Manufactured Housing Development**

Mr. Comstock informed the commission of a proposal for a manufactured housing development located at approximately Expressway Lane and Highway 158. He pointed out the location for the proposed development on the zoning map and noted the current zone is M-H Manufactured Homes. Mr. Comstock said he had informed the developer of the planning commission's recommendation to change the zone from manufactured homes to either business park, commercial, or light industrial district. Mr. Comstock said the developer claims the property is better suited for manufactured homes because this property is the site of the old landfill. Mr. Comstock distributed two studies done by different engineering firms indicating their recommendation for land use of the property. The commissioners reviewed the reports. Mr. Comstock then asked the commissioners to consider their recommendation: 1) To not allow residential in this particular area and 2) If a manufactured housing development would be acceptable. Mr. Nelson asked for the city engineer's recommendation regarding land use for the property. Mr. Heap explained the city's engineering staff does not have the expertise to make that determination.

Mr. Allen Young, attorney for the seller, approached the commission. He indicated he

represents the Keller Family Trust, they are the owners of the property. They have found an interested buyer who would like to develop a manufactured home development. Mr. Young expressed the concerns of the Keller family as follows: 1) No one in the Keller family has been notified of this proposed zone change; and 2) The Keller family has owned this property for many years and the city has encouraged residential development. He said because the property is the old city dump, manufactured houses can be placed on the property and adjusted if settling occurs. Mr. Young stated if the recommended zone change is approved, the property owners would allege the city had made the property valueless and would file a takings claim against the city. Mr. Young indicated it would not be feasible to construct commercial or industrial buildings because of the old landfill and settling problems. Mr. Phillips pointed out in the engineering reports the indication of methane gases and the possibility of explosions. He asked if the developer is aware of those facts. Mr. Young answered yes. He said those problems would have to be worked out at the time of development. A gentleman added a manufactured home development would not put a lot of pressure on the ground. Mr. Swenson suggested self storage units. The gentleman said self storage units would put too much pressure on the ground.

Mr. Jim Pendray approached the commission. He is a developer interested in property adjacent to the above discussed property. He would also like to develop manufactured homes on the property. He indicated the property he is interested in has some wetlands. Mr. Pendray stated a manufactured housing development would increase the number of affordable homes in the city. A representative of the developer informed the commission large industrial or commercial buildings would have to install pile foundations. He said the cost to do that would make construction of a large building not economically feasible.

Mr. Jim Duncan, Realtor for seller, said this property has been listed for several years. He feels if the zone is changed the property owners will not be able to sell the property.

Commissioner Ludlow informed those present of the public notification process taken by the city during the past 18 months in regards to the general plan. He expressed his vexation at Mr. Young's threat to sue the city before a decision has been made regarding the property. Mr. Ludlow asked the developers if they plan for private or public streets. The Keller property owners were unsure. Mr. Pendray informed the commission his development would have private streets. Mr. Ludlow informed the commission of a development in Lehi where streets settled and the city is now responsible to repair the damage because they are public streets.

Mr. Young answered Mr. Ludlow's concerns with the following information: 1) The Keller family does not live in the area and had not received notification of the proposed zone change; and 2) If the economic viability of the property is destroyed, the owners will have a claim against the city.

Discussion took place regarding the developers request to reconsider the commissions recommendation.

\*Note: Mr. Ludlow was excused from the meeting at 8:10 pm.

Mr. Swenson suggested the planning commission meet and go look at the property before they make a determination. Mr. Nelson expressed concerns with the engineering reports done for the developer. Mr. Oyler said the city will most likely have to have a study done before the property is developed to ensure there is no risk involved in the development.

Mr. Phillips made a **motion** to recommend the zones for the Keller property and the Larson property...

Mr. Abraham Allan reiterated the importance of providing low income housing within the city.

Mr. Phillips continued his **motion** to recommend the Keller property and the Larson property be zoned R-2, which would allow a manufactured home development subject to conditions, and would also allow densities of five to eight units per acre. Discussion took place regarding Mr. Pendray's proposed development and whether it would be feasible with this zone change recommendation. Mr. Comstock said the structures would have to be approved by the building officials, but as a development, it would be possible. Mr. Nelson **seconded** the motion, and the motion **passed** with a **majority** vote of 3:1; with Mr. Phillips, Mr. Nelson, and Mr. Barber voting in favor, and Mr. Swenson voting opposed.

### **Proposal for Multi-Family Planned Residential Development**

Mr. Comstock informed the commission of a proposal for a multi-family planned residential development at approximately 400 North and US Highway 6. He explained the current recommendation for the use of this piece of property is residential (R-2) or office. The developers are requesting a higher density. After some discussion, the commission agreed to recommend an R-3 zone, which is the highest density zone anywhere in the city with the new general plan and zoning ordinance.

\*Note: Doug Nielson, Dick Bastian, Susan Bastian, and John Dester left the meeting.

### **Miscellaneous Items**

Mr. David Kuhn asked the commission to reconsider their recommendation for the area near his home at 100 West 200 South. Mr. Kuhn would like to build a multi-family unit on his property. Mr. Comstock said he would look at the property and present a recommendation.

The commissioners reviewed the process for the planning commission public hearing which will be held July 16. They discussed the legal requirements for notifying people of the hearing. Mr. Oyler and Mr. Comstock will meet with the City Attorney to discuss notification requirements. Addition discussion took place regarding the public hearing.

Mr. Doug Nielson, 3585 North University Avenue, Provo, returned to the meeting and

approached the commission regarding his client's, Mr. John Jespersen's, proposal for a multi-family planned residential development. Mr. Nielson stated after leaving the meeting he was informed the new R-3 zone would allow a range of densities. Mr. Comstock informed Mr. Nielson he was correct. He said depending upon the master plan for the development, in the R-3 district, up to twelve units per acre would be allowed. Mr. Nielson stated his objection to a range of densities. He informed the commission a 13 lot 4-plex subdivision plat has been turned into the engineering department. He said the owner of the property intends to proceed with the proposal. He said this type of subdivision is allowed under the current zoning and any attempt to down zone the property would be considered a taking by the owner. He informed the commission the owner would proceed with legal action against the city.

Mr. Comstock informed Mr. Nielson the R-3 zoning district which the commission had agreed to earlier in the meeting is the highest zoning in the entire city. He said any property currently zoned R-3 will see a reduction in density. He informed Mr. Nielson with the new zoning and general plan, there will be somewhat lower densities city wide.

The commissioners wrapped up their discussion on plans for the public hearing.

### **Adjournment**

Mr. Nelson made a **motion** to adjourn the meeting at 9:20 pm. The **second** was made by Mr. Phillips, and the motion **passed** with a unanimous vote.