

**Adopted Minutes
Spanish Fork City Planning Commission
July 2, 2003**

Agenda review at 6:30 p.m. Emil Pierson covered what was going to be on the agenda: Availability of utilities in new Rees School area; item B.1. accessory buildings and general decline of lot sizes.

The meeting was called to order at 7:00 p.m. by Chair Lewis.

Commission members present: Chairman David E. Lewis, Commissioners Roy L. Johns, Paul Bradford, and Ted Scott, Thora L. Shaw.

Not present: Thad Jensen

Staff Members Present: Emil Pierson, City Planner; Richard J. Heap, City Engineer/Public Works Director; Chris Cope, Secretary.

Citizens Present: L. Kay Heaps, P.O. Box 717 Springville; Jeff Heaps, P.O. Box 717, Springville; Debra and Dan Johnson, 236 South 90 East, Payson; W. Kelly Johnson, 1410 East 400 North, Spanish Fork; Jim Biesinger, 1143 East 800 North, Spanish Fork; Chris Biesinger, 1253 East 800 North, Spanish Fork.

Preliminary Activities

Pledge of Allegiance

The Pledge of Allegiance was led by Chair Lewis.

Minutes

Commissioner Shaw made a **motion** to approve the minutes of the May 7, 2003 meeting of the Spanish Fork Planning Commission with noted changes. Commissioner Bradford **seconded** the motion and the motion **passed** with a unanimous vote.

Commissioner Johns made a **motion** to approve the minutes of the June 4, 2003 meeting of the Spanish Fork Planning Commission with corrections as stated. Commissioner Bradford **seconded**, and the motion **passed** with a unanimous vote.

Commissioner Shaw made a **motion** to move into the Public Hearing portion of Planning Commission meeting. Commissioner Scott **seconded**, and the motion **passed** with a unanimous vote.

Public Hearing-Johnson Rezone 1410 East 400 North (R-R to R-1-12)

Applicant(s) Kelly and Dan Johnson

Mr. Pierson stated that this is a request by the applicants Kelly and Dan Johnson to rezone a property of approximately 4.95 acres from Rural Residential (R-R) to Low Urban Residential (R-1-12). If approved, the applicant is planning to subdivide the property into two lots. This property is shown on the General Plan as Residential 2.5 to 3.5 u/a and the zoning requested follows the General Plan.

The property is 4.95 acres in size and is currently being farmed. Mr. Pierson showed on the diagram the Diamond Fork Apartments, Davencourt Townhomes and Willowbend. As well as the proposed Valley Crest subdivision which will be discussed later, and the new Rees Elementary School. To the north are 400 North and the Beckstrom's property. To the east is property owned by the Bona's and Johnson's that is in care of Wells Brockbank. To the south is more property controlled by Wells and to the west are the railroad tracks and property zoned R-3, "Diamond Fork Apartments."

This property was brought before the Commission in May as an amendment to the General Plan and brought into growth boundaries.

The Development Review Committee reviewed this request at their June 25 meeting. The Development Review Committee recommended approval of changing the zoning from R-R to R-1-12 with no conditions.

Staff reminded the Commission to make two findings

1. That the zone change is consistent with the policies of The General Plan, including any policies of the Capital Improvements Plan; and
2. That consideration had been given to include any conditions necessary to mitigate adverse impacts on adjoining or nearby properties.

Mr. Pierson asked if there were any questions of staff at this time. There were none.

Chair Lewis asked if the Commission had any other questions regarding the rezone.

Commissioner Shaw stated that this is a beautiful piece of property.

Commissioner Bradford stated that it is a big piece of property.

Chair Lewis asked for public comment on the rezone and stated that the subwaiver would be discussed in a minute.

Kelly Johnson stated that there will be no homes built west of the lot toward the railroad tracks.

Chair Lewis asked for any other comments or questions.

Commissioner Bradford made a **motion** that the Johnson Rezone of 4.95 acres at 1410 East 400

North from Rural Residential (R-R) to Low Urban Residential (R-1-12) with the following finding and condition(s):

- That the zone change is consistent with the policies of the General Plan, including any policies of the Capital Improvements Plans; and
- That consideration has been given to include any conditions necessary to mitigate adverse impacts on adjoining or nearby properties.

Chair Lewis stated that the Commission has found that it is consistent with the General Plan and that consideration has been given to any adverse impacts and that none have been found.

Commissioner Johns **seconded** the motion and the motion **passed** with a unanimous vote.

Public Hearing -

Valley Crest/Nebo School Rezone 1450 East 400 North (R-R to R-1-9)

Applicant: L. Kay Heaps, Envision Development

Mr. Pierson recommended that both the rezone and the Preliminary Plat be reviewed together based on the fact that this is a Master Planned Development concept and that the applicant is asking that some concessions be given to the plat. Zoning does make a difference on the size of the home in a Master Planned Development.

Chair Lewis asked if Mr. Pierson is requesting that they hear items 2.A.2 and 3.3 together.

Mr. Pierson stated that this is correct.

Chair Lewis asked if there are any objections to hearing them together. There were none.

The applicant(s), L. Kay Heaps and Nebo District, is requesting to rezone approximately 25 acres from Rural Residential (R-R) to Standard Urban Residential (R-1-9). At this time, the property has a new elementary school that has been constructed on the northeast side of the property. If approved, the developer would like to construct single family homes on 45 lots (see Valley Crest Preliminary Plat).

The property is 25 acres in size. The General Plan for this property and most of the surrounding properties is Low Urban Residential 2.5 to 3.5 u/a. Currently with the open space and the school included, the preliminary density would actually be 1.3 u/a, well below the 2.5 to 3.5 u/a. This is a kind of clustered development. This designation would provide for the R-1-12 or the R-1-9 zoning designations.

The Development Review Committee reviewed the request at their June 25 meeting. The DRC discussed the subdivision as well as the zoning for this property. The Development Review Committee recommended approval of changing the zoning from R-R to R-1-9 with the following condition(s):

1. That the Troy Hales property be included in the rezone.

Chair Lewis asked if a reason was given as to why the Hales property will be included in the rezone.

Mr. Pierson stated that when staff discussed this they knew that Troy Hales would be coming before the Planning Commission in the future for a rezone. Mr. Hales will also have a few issues to discuss with Richard Heap on utilities. It would almost be a spot zone if it would not be included. Mr. Hales would also be able to subdivide the lots in the future. This is just a way to make sure it was rezoned in an expedited manner. Mr. Hales will bring forth a subdivision in the near future.

Chair Lewis asked if Mr. Hales is present tonight.

Mr. Pierson stated that Mr. Hales is not present but that he did receive a notice. Mr. Hales showed up to the DRC meeting and that is how staff found out about the property. Mr. Hales is the one who requested to be a part of the rezone. The owner of the property to the East of that was also present at DRC, but this property is not within the City and he was told that the City would not be able to help with that.

Mr. Pierson stated that the Applicant(s), L. Kay Heaps, is requesting preliminary plat approval in order to develop a 46-lot subdivision. The property is shown in the General Plan as Residential 2.5 to 3.5 u/a. The property is 25.12 acres in size. To the north is the property not in the city. East of the new Rees school is property owned by Keith Williams that is not in the City boundaries, nor in the growth boundary. South of the proposed project is 400 North and the Johnson Subdivision Waiver and to the west are the railroad tracks along with Davencourt and Willowbend.

Mr. Pierson stated that the applicant, L. Kay Heaps, Envision Development, is proposing 46 total lots. Lot 46 is the Rees grade school property while the other 45 lots are single family lots ranging in size from 8,100 to 18,360 square feet. Most of the lots will be around 8,600 square feet.

There is only one access shown for the project coming from 400 North, but the subdivision will have another access to the north when that property develops. It is outside the growth boundary and is not within the city at this time. The General Plan designated this property as Residential 2.5 to 3.5 units to the acre. The developer is proposing this subdivision at 1.83 u/a, well below the 2.5 u/a shown in the General Plan.

If the developer does not want to do the Master Planned Development (MPD) concept it would be an R-1-12 designation and he would be required to have all of the lots more than 12,000 square feet in size and also have all of the lots 100 feet in width. The developer, on the other hand, has decided to do an MPD and include lots under the 12,000 square feet and is requesting to adjust the rear yard setback from the required 25 feet to 20 feet as well as have an R-1-9 zoning designation.

Mr. Pierson stated that one of the interesting things about this development and gave to it special circumstance is that Nebo School District actually laid out the subdivision. They had planned all of the utilities to make sure that the road will not be ripped out in the future when utilities were stubbed into the lots. The General Plan density prior to May was 3.5 to 5 u/a which would make this an R-1-8 or an R-1-9. Most of the lots would then be much closer in size. That is part of the special issues is that the utilities were stubbed under the old standards of the General Plan.

In order to have the R-1-9 zone and the rear setback reduction for the project the applicant is proposing to upgrade the facades of the homes and have all corner lots be side entry garages (see home pictures in the packet). He is asking for this because although the lots are 8,000 square feet they are not very deep.

The Development Review Committee reviewed this request at their June 25 meeting. The DRC discussed the lot sizes, setbacks, and the utilities.

The DRC recommended approval of the preliminary plat with the following recommendations:

1. Obtain a storm drain water easement,
2. Make all changes to the Preliminary Plat required by the Engineering Department,
3. Work with Jeff Foster and the Electrical Department to put together the electric design,
4. Rear yard setbacks are adjusted to a minimum of 20 feet,
5. Meet all other zoning requirements for the Standard Urban Residential (R-1-9) zone,
6. Construct all homes with 100% masonry fronts with stone and brick accents,
7. Construct all corner lot homes with side entry garages, with the exception of lots 41 and 42, and,
8. Construct a masonry wall like the ones along Highway 51 and stamped concrete and tree wells with 2" caliper trees along 400 North.

Staff recommends three additional conditions be added:

9. Submit covenants, codes and restrictions for the development to the city,
10. The developer is to sign off on all house plans in the subdivision,
11. The project meets all of the construction and development standards.

Mr. Pierson stated that staff recommends condition 10 due to the fact that even though the developer may plan on developing all of the homes himself that is not always what happens. This is what happened with Woodside being bought out by Salisbury. Another example is Rock Cove which has had 3-4 owners since the original development was approved. We can never know if another subdivision will plan custom homes and then decide to sell a few lots to other developers, like Hubble Homes does with Americraft. Hubble is required to sign off and submit CC&R's.

Chair Lewis asked Mr. Pierson if "developer" means the current developer or a future developer and asked Mr. Pierson to clarify.

Mr. Pierson stated that “developer” means any developer who would be working on the project, whether it is Mr. Hales or someone else who would develop on a lot in Valley Crest in the future.

This would be zoned R-1-12 with no flexibility on setbacks. This subdivision falls under special circumstances because the school district designed the lots and stubbed all utility into the lots under the old General Plan prior to May. The density was 3.5 to 5 units to an acre making lots much closer together. The developer is asking for R-1-9 zoning with 1,300 square foot homes and a waiver in the rear yard setback because the lots are not very deep.

Because lots will sell off to different developers, Mr. Heaps will make sure that the CC&R’s will be met.

Commissioner Bradford asked if there will be sufficient parking around the school.

Mr. Pierson stated that the location should have sufficient parking due to the drop off location and a very large parking lot being adequate for teachers and visitors.

Chair Lewis asked if this is an elementary school.

Mr. Pierson stated that it is.

Commissioner Shaw asked if 400 North is a 66-foot road.

Mr. Heaps stated that yes, this is a minor collector road.

Mr. Pierson suggested to the Commission that they drive through the area to look at it. It has a good view.

Commissioner Bradford asked if there is a fence between the railroad tracks and the property.

Mr. Pierson stated that yes. They are doing same thing here as in the Sunrise Ridge development further down Highway 51 in Springville and the developer is planning a fence.

Chair Lewis asked if the developer wants to comment.

Mr. Heaps stated that in the Sunrise Ridge development in Springville off Highway 51 they have installed a solid privacy vinyl fence all along the lots. It is safe and provides a sound barrier although it was tough to do that and make it attractive to homeowners. This has worked out very well and is appealing. The developer feels that they have a handle on that aspect of Valley Crest because of the development in Springville.

Commissioner Johns asked if on the north end of the development the individual developers would install the fence or if the school will install it.

The developer stated that nothing is planned now and the individual homeowners will plan the

fence on the north end.

Mr. Pierson stated that the school has a chain link fence.

Commissioner Johns asked if the Planning Commission is requiring the developer to put a fence on the north side.

Chair Lewis stated no, this is not a requirement.

Commissioner Johns stated that the Commission could require a fence and that something needs to be done because of small children near the railroad tracks.

Mr. Hales stated that he could put in the CC&R's that a rear fence is required within one year of buying the property. Most homeowners will install a fence anyway.

Chair Lewis asked what the land to the north will be used for.

Commissioner Shaw stated that the Hutching's farm and the Stewart farm are there.

Mr. Pierson stated that it is owned by the Thompson's.

Commissioner Bradford asked if Mr. Johnson, the owner of Statewide Aluminum, owns a piece of the property.

Commissioner Shaw is not aware if he does or not.

Mr. Pierson diagramed the Keith Williams property, Grants property, north of Williams property owned by Warren Johnson.

Chair Lewis asked the developer to go over the question that the developer has on the rear setbacks.

Mr. Heaps stated that he had been contacted by the school district about the development. Stub-ins for utilities are already there and the plans of the lot designs have already been talked about. They would like to have 100-foot deep lots for comfortable size. They will only have 90-foot deep lot on a 90x90 lot. A better size would be 80x100, providing deeper lots. A good portion of the home would not fit on the individual lots. Just an additional 5 feet will enable the developer to do what they wanted.

Chair Lewis asked the Developer to clarify which setback they wanted a variance on.

Mr. Heaps stated that it would be the rear setback and that they would like a change from 25-foot to a 20-foot setback. Some lots will require a special variance, but not all of them. If it follows the pattern similar to the Sunrise Ridge subdivision in Springville, ten or fewer lots will be affected. With R-1-9 zoning this allows for a little bit bigger home. The Springville subdivision

has 1,100 square foot homes, and here the R-1-9 zoning would allow for 1,300 square foot homes.

Commissioner Johns asked if there are different styles of homes shown in the packet.

Mr. Heaps stated that yes, they had taken pictures of all the styles of homes in Springville to allow the Commission to get a feel for the different styles. Since then they have built more styles.

Chair Lewis asked if these will be the actual homes that were built.

Mr. Heaps stated that these are the same homes that were built in Springville.

Commissioner Johns asked whether or not the homes will all be same pattern.

Developer stated that the CC&R's never allow same house plans to be built next to each other.

Chair Lewis asked if the builders will be using the developer's plans or other plans?

Mr. Heaps stated that both types will be built and must meet CC&R's.

Commissioner Johns stated that he sees same types of homes built side by side.

Mr. Heaps suggested that the Commission drive thru the Sunset Ridge development in Springville and look at the styles of the homes. That is one of the things the school district liked about the developer, and in fact one of the superintendent's sons bought one of his homes.

Chair Lewis asked if there will be minimum square footage requirements in the CC&R's and read from the CC&R's “. . . ground floor area exclusive of the garage area or main porch area shall not be less than 1,100 square feet for a one story dwelling . . . ” Chair Lewis asked if the developer had just stated it would be a 1,300 square foot area.

Mr. Hales stated that he submitted this project prior to meeting with the Development Review Committee and was hoping to do an R-1-8 zone with 1,100-1,200 square foot homes but since that time the plans have changed and he will submit new CC&R's

Mr. Pierson stated that normal procedure is that staff will take care of reviewing the CC&R's before the final plat is recorded.

Chair Lewis read further from the CC&R's “. . . That in the case of the split level two story dwelling, the total finished living area the combined level from the third level up may not be less than 1,200 square feet.”

Mr. Heaps stated that two stories are 1,000 square feet.

Mr. Pierson will make sure that the overall size would be 1,300 square feet on a split level home.

Chair Lewis stated that so the homeowner is not confused on what the ordinance says and the CC&R's require, to clarify that.

Mr. Heaps will ensure if the revised CC&R's are submitted before any lots are sold. He also agreed to comply with the additional three conditions.

Commissioner Johns asked Mr. Heaps if he has had any experience with sound going up and over the wall from the railroad tracks?

Mr. Heaps stated that the train is loud with no option but to sound the horn at crossings. It is loud.

Commissioner Johns asked if the sound will be pushed back this way from the wall.

Mr. Heaps said yes, but even on the freeway where there are the 12 and 15 foot walls the sound barrier helps a little but you can still hear it.

Commissioner Johns asked if the walls are 6 feet.

Mr. Heaps stated that yes, they are 6 foot privacy fences.

Chair Lewis asked if there were any public comments.

Chris Biesinger-1253 East 800 North, Spanish Fork-asked what the proposed completion date is.

Mr. Heaps stated it would be 12-18 months for all of the homes to be completed. They will start Sometime in August after final approval from the City.

Commissioner Shaw stated that she is concerned with having one road in and out. Seeing the width of the road caused a change of mind over any traffic problem.

Commissioner Shaw is still concerned with children crossing the tracks and the school even being there in that location.

Chair Lewis stated that if there is a motion to approve the rezone there are two conditions and they must be stated.

Commissioner Johns made a **motion** to Approve rezoning the property located at 1450 East 400 North known as the Valley Crest/Nebo School Rezone from Rural Residential to Standard Urban Residential (R-1-9) with the following findings and condition(s):

1. That the zone change is consistent with the policies of the General Plan, including any policies of the Capital Improvements Plan; and
2. That consideration has been given to include any conditions necessary to mitigate adverse impacts on adjoining or nearby properties.

Commissioner Shaw **seconded** the motion and the motion **passed** with a unanimous vote.

Commissioner Shaw made a **motion** to approve the Valley Crest Preliminary Plat located at 1450 East 400 North subject to the following conditions:

1. Obtain a storm drain water easement,
2. Make all changes to the Preliminary Plat required by the Engineering Department,
3. Work with Jeff Foster and the Electrical Department to put together the electric design,
4. Rear yard setbacks are adjusted to a minimum of 20-feet,
5. Meet all other zoning requirements for the Standard Urban Residential (R-1-9) zone,
6. Construct all homes with 100% masonry fronts with stone and brick accents,
7. Construct all corner lot homes with side entry garages, with the exception of lots 41 and 42, and,
8. Construct a masonry wall like the ones along Highway 51 and stamped concrete and tree wells with 2" caliper trees along 400 North.
9. Submit covenants, codes and restrictions for the development to the city,
10. The developer is to sign off on all house plans in the subdivision,
11. The project meets all of the construction and development standards.

Chair Lewis asked Commissioner Shaw to clarify the location of the masonry wall under condition 8.

Commissioner Shaw restated condition eight. She stated that the location of the wall would set apart the property from the railroad tracks.

Mr. Pierson stated that no, the entire wall is located on 400 North and is required by ordinance and would affect the two lots only.

Chair Lewis asked that condition be reworded to state "Construct a masonry wall along 400 North like the ones along Highway 51."

Commissioner Bradford requested wording to include that the cement wall should not impair traffic from being seen on 400 North. A 6-foot high wall will impede the view.

Mr. Pierson stated that the wall will match setbacks on homes and similar to Rock Cove. If the home is setback 25 feet, the wall will start 25 feet back.

Commissioner Scott **seconded** the motion with the revision to Condition 8 to read:

8. Construct a masonry wall along 400 North like the ones along Highway 51,

and the motion **passed** with a unanimous vote.

2B Zoning Ordinance Amendment. Section 17.04.050 Non-conforming

Staff would like to make the following changes in Title 17 -Zoning Ordinance.

Current Ordinance

(A)(1) A nonconforming building may not be reconstructed or structurally altered during its life to an extent in the aggregate of 50% of the fair market value of the building, with the exception of accessory buildings which are nonconforming base on set backs, which accessory buildings can be reconstructed or structurally altered in its original location so long as the nonconforming portion is not enlarged.

The DRC reviewed this request at their June 25 meeting and recommended approval as written.

Staff recommended change to the Ordinance be citywide. Currently, if a building is non conforming for any reason, if the reconstruction is more than 50% or by act of nature, it cannot be restructured and must be rebuilt. Currently the structure is required to be 5 feet from the prop lines. Under this change the structure can now be restructured at same 5 feet. The problem has been older homes that share property lines with accessory buildings.

If a building has a 2-foot setback it could be rebuilt exactly as is, but cannot have an addition or be extended longer than 2 feet. The new section must meet current setbacks. This will take care of current issues. If it was a home that needed to be restructured we would have the opportunity to try to make it fit to the lot as best as we can. Giving opportunity to meet setbacks and work with the resident to meet setbacks or go to the Board of Adjustment if they tried to make the building fit as best as they can and it won't work.

Chair Lewis asked for public comment. There was none.

Commissioner Shaw made a **motion** that the Planning Commission give a positive recommendation to the City Council on the amendments to the Zoning Ordinance Title 17.04.050. Commissioner Bradford **seconded** and the motion **passed** with a unanimous vote.

Commissioner Bradford made a **motion** to move out of Public Hearing. Commissioner Scott **seconded** and the motion **passed** with a unanimous vote.

Chair Lewis stated that the Public Hearing portion of the meeting is closed.

Staff Report: Desert Storm Preliminary Plat 800 North & Highway 51 (R-1-6)

Applicant(s): Jim Biesinger

Mr. Pierson stated that the applicant, Jim Biesinger, is requesting preliminary plat approval in order to develop a subdivision at 800 N Highway 51. The property is shown in the General Plan as Residential 5 to 8 u/a and commercial office. The property is 5.524 acres in size and is currently vacant and used for grazing. To the east is Highway 51 and property zoned R-1-6 owned by Dr. Robinson. To the south is Sunset Pond, a Townhouse PUD which is zoned R-1-6. To the north is property zoned for commercial office and to the west is property owned by Jim

Biesinger and his family.

The applicant is proposing 10 total lots of which nine lots are planned for single family homes. (See map) Lot 10 is planned as open space and part of it is non-buildable. Lots 1-9 range in size from 8,000 to 14,835 square feet in size. The R-1-6 zone requires that the lots be 6,000 square feet in size. The developer is proposing lots much larger in size.

There is only one access into the cul-de-sac shown for the project coming from 800 North. The General Plan designates this property as Residential 5 to 8 units to the acre. The developer is proposing this subdivision at .55 u/a, well below the 5 u/a shown in the General Plan.

The Development Review Committee (DRC) reviewed this request at their June 4 meeting and it was tabled at that time. The item was on the July 2 meeting. The DRC discussed the following issues: the new lot layout, the masonry wall, landscaping and utilities on Highway 51.

The DRC recommended the following conditions:

1. Install from the beginning of lot 1 to the end of lot 4 a masonry wall, stamped concrete, grates, and tree wells with 2" caliper trees along Highway 51,
2. Receive approval of the electrical design and layout from Jeff Foster of the Electrical Department, and
3. Finalize the utility review by complying with and working with the utility department.

Mr. Pierson stated that this is a special development in that the developer is clustering the property, but easily meeting the requirements of the R-1-6. The property is 5.5 acres in size and also has a considerably lower density of .55 u/a with the ten lots. The development is also given special consideration due to large size lots. The developer will talk about trimming down the larger lots of 13-14,000 square feet when he comes in to do his final plat.

There is only one access coming off of 800 North. When this was brought before the DRC on June 4 it had a few lots on the northeast corner of the property that accessed Highway 51. Development Review Committee talked with Mr. Biesinger and he willingly changed to the current plan.

Chair Lewis asked for clarification.

Mr. Pierson stated that there were some other lots located on the northeast corner, and came off the back like a flag lot. The frontage was on 51 Highway. DRC thought utilities would be really crowded and a little difficult to run them back there. Mr. Biesinger went back under extraordinary circumstances and redesigned the development and attached the conditions recommended by DRC.

DRC gave a very positive recommendation. This development will be very beneficial to the developer and to the city as far as the layout of utilities.

Chair Lewis asked if the DRC recommendation regarding the masonry wall being made of stamped concrete is according to ordinances.

Mr. Pierson stated that it is according to ordinances.

Chair Lewis asked for clarification on the DRC recommendations. Condition one states the masonry wall and stamped concrete, etc. Chair Lewis asked if this is according to the ordinance.

Mr. Pierson stated that is correct.

Mr. Biesinger stated that a little east of the highway we initially looked at stamped concrete but later reviewed it and decided on grass because there is so much of it.

Mr. Pierson stated that the City Council can waive that requirement.

Chair Lewis asked if the DRC had discussed grass in that area.

Mr. Pierson stated that Mr. Biesinger was told that he could choose to bring that requirement before the City Council.

Chair Lewis asked if the DRC has any recommendation one way or the other regarding grass.

Mr. Pierson stated that they did not and that this was the staff's recommendation. Mr. Pierson had made the motion and staff asked Mr. Biesinger what he would like to do.

Mr. Pierson also stated that the City Council can waive that requirement if Mr. Biesinger chooses to keep the grass. Mr. Biesinger wanted this condition and probably wanted to stay away from creating a homeowner association that would have to take care of the area. If you look at the plat, you can actually see a gap of 15 feet from where the road way will be located to where the property lines are. The wall will actually be out by the sidewalk and there will be 15 feet of dead area from the road to the individual's backyard. Mr. Biesinger discussed this with UDOT and he can extend the fences all the way to the wall if they maintain and take care of the 15 foot area.

Chair Lewis asked Mr. Biesinger if he had anything else to address to the Commission

Commissioner Johns asked why Mr. Biesinger chose the name Desert Storm.

Mr. Biesinger stated that in January 1991 he picked up a horse and named it after Operation Desert Shield. When the name changed to Desert Storm, he changed the name of the horse as well.

Mr. Biesinger stated that when the original plat was submitted to Development Review Committee it showed lots 5 & 6 to be truncated. These areas (indicating the rear of lots 5 & 6) tend to become weedy. He will keep this area. Although there is not really access to this area he may sell it off later, before he dies, when the property to the north becomes commercial.

Mr. Biesinger also stated that there is a 15-foot drop off from the roadway where it is wetland. Chris Biesinger built a 12-foot retaining wall three feet below the road. So there is 15 feet of drop to the wetlands that he cannot do anything with. The strip of property between Mr. Biesinger's residence and the lots will be an access to lot 10. Mr. Biesinger also stated that the truncated lots are not shown here because he received the new plans from the surveyor late Thursday and did not have chance to proof them prior to Planning Commission. He will make the adjustments. The fence line will be 15 feet off the property line.

Chair Lewis asked if the fence will be 15 feet to East.

Mr. Biesinger stated that yes, the fence will be 15 feet to the east towards Highway 51. He met with UDOT and discussed the plans for Highway 51. The road, starting at 400 North and ending in Springville, dovetails and is a feeder into Springville. There is a sharp drop-off on the west side towards Highway 6 between 400 and 800 North. Proposed turn lanes will be added by UDOT at Expressway Lane. Highway 51 will be developed with a curb, gutter, sidewalk, planting strip, and a preferably stamped concrete wall, by Mr. Biesinger.

Commissioner Johns asked if it will have a fence on the north.

Mr. Biesinger stated that there will be a vinyl coated chain link fence.

Commissioner Johns asked what will be on the South end of the development.

Mr. Biesinger stated that on the south is a square up of 800 North for traffic purposes. He will bring a fence down to where there is a 300-foot visual, 6 feet in, and a 3-foot fence around the corner to where the radius starts to give privacy. It will match 3 feet on either side and will be a steel picket fence.

Chair Lewis stated that he has concerns about how wide the concrete strip is.

Mr. Richard Heap stated that it will be 6 feet.

Chair Lewis asked how wide it is in Hearthstone.

Mr. Heap stated that it is 8.5 feet.

Mr. Pierson stated that black line on the diagram represents how the fence would be. On the northeast end of Lot 4 the wall will end. The curb, gutter and sidewalk will go to the end of property.

Chair Lewis asked what the piece of land north along Highway 51 would be.

Mr. Pierson stated that light industrial or commercial will be better for access from Highway 51.

Chair Lewis asked if there are any plans in the future for development on the northeast.

Mr. Pierson stated that staff discussed access to the property and the difficulty in utilizing it in the way it is configured.

Chair Lewis asked if there are any provisions for the recommendations for making that area into non-buildable lots and to make them buildable only if it is accessible from the highway.

Mr. Pierson stated that the Commission can make this a condition but would need to think about it taking away the value for Mr. Biesinger. If nothing happens with the property in a reasonable amount of time Mr. Biesinger can do something with it and have an option.

Mr. Biesinger said that if he still has an option to do something with it in the future it will give him an opportunity for future development..

Chair Lewis asked if this needs to be a provision.

Mr. Heap stated that it is all part of the bigger lot.

Mr. Biesinger stated that if he were to do anything with the triangular piece of land later he would have to come back and make provisions.

Chair Lewis asked the Commissioner if they understood that information. They did.

Commissioner Bradford asked if this property is zoned R-1-6 at the present.

Mr. Biesinger stated yes.

Commissioner Shaw asked Mr. Biesinger if a waiver from UDOT that will add 15 more feet on lots 1-4 be useful to him.

Mr. Biesinger stated yes and that it would make it buildable within the property line.

Chair Lewis stated that it is really not a public hearing and asked if there was anyone who had any further comment or questions. There were none.

Commissioner Johns made a **motion** to approve Desert Storm Preliminary Plat located at 800 North and Highway 51 subject to the following conditions:

1. Install a masonry wall that matches the one for Whispering Willows, stamped concrete and landscaping along Highway 51 (lots 1-4),
2. Submit covenants, codes, and restrictions for the development to the city,
3. The developer is to sign off on all house plans in the subdivision,
4. The development is required to meet all of the construction and development standards of the city.

Mr. Pierson stated that the developer does not want CC&R's and that the development originally

was very different from how it is now.

Chair Lewis stated that they would strike condition two for CC&R's and add the other three conditions recommended by the Development Review Committee.

Mr. Biesinger stated that the city has sufficient ordinances to cover this without worrying about CC&R's.

Commissioner Johns made a motion to omit condition 2 and add the three others recommended by DRC.

Chair Lewis stated that in review, the Commission wants to keep recommendations, omitting condition 2, add the three others recommended by the Development Review Committee.

Commissioner Shaw stated that approving this is almost a duplication of the condition regarding the masonry wall between the set recommended in the agenda and the set recommended by DRC.

Commissioner Johns made a **motion** to eliminate conditions 1 and 2 from staff recommendation and accept the three conditions from the DRC and moved to approve Desert Storm Preliminary Plat located at 800 North and Highway 51 subject to the following condition(s):

1. The developer is to sign off on all house plans in the subdivision,
2. The development is required to meet all of the construction and development standards, of the city,
3. Install from the beginning of lot 1 to the end of lot 4 a masonry wall, stamped concrete, grates, and tree wells with 2" caliper trees along Highway 51,
4. Receive approval of the electrical design and layout from Jeff Foster of the Electrical Department, and
5. Finalize the utility review by complying with and working with the utility department.

Commissioner Bradford **seconded** and the motion **passed** with a unanimous vote.

Staff Report: Johnson Subdivision Waiver 1450 East 400 North Zoned R-1-12

Applicant(s): Kelly Johnson

Staff did not recommend combining the rezone and the subwaiver due to the type of development, there are only two lots, and it is not a Planned Unit Development.

The applicant(s), Kelly Johnson, is requesting Subdivision Waiver in order to develop a single family lot in the Low Urban Residential (R-1-12) zoning district. Currently, the property is one lot and the applicant is requesting to subdivide to construct another single family home on another lot.

The property is 4.95 acres in size. The original lot will be 4.51 acres and lot one will be 18,749 square feet. The setbacks for the subdivision will be 25 feet in the front. Side setbacks at 10-feet

and rear setbacks at 25-feet. The existing single home will remain on lot one.

The DRC reviewed this request at their June 25 meeting where the item was tabled to receive input from the Public Works Director on the private ditch on the east side of the property. Staff will provide minutes from the July 2 DRC meeting at this Planning Commission meeting. A masonry wall with stamped concrete and tree wells along with curb, gutter and sidewalk will be required along 400 North.

Mr. Pierson told the Commission to notice the number of improvements due to the construction of the Rees school. The applicants have been very patient for more than three years to wait to develop. The Development Review Committee did discuss this today and in the June 25 DRC. The irrigation ditch feeds Tom Beckstrom's property to the north and the Johnson's. It will be left.

Chair Lewis stated that the conditions being recommended are that a ditch on the east side of the property be let go and the electrical be approved. The wall will be built at a future time. Chair Lewis asked if the applicants understand the conditions.

The applicants stated that they do.

Commissioner Johns asked if it will have to be included in the motion that the wall be constructed at a later date.

Mr. Pierson stated that it will need to be included.

Commissioner Shaw made **motion** to approve the Kelly Johnson Subdivision Waiver subject to following condition(s):

1. The ditch on the east side of the property is to be piped or abandoned in the future when the remaining portion of the property is developed,
2. The electrical design and layout is to be approved by Jeff Foster of the Electrical Department, and
3. A lien in lieu of the masonry wall is to be granted.

Commissioner Scott **seconded** and the motion **passed** unanimously.

Chair Lewis thanked applicants for waiting.

Staff Report: Appeal to remove a condition on the Heritage Cove Preliminary Plat.

Location 1450 South 2300 East

Applicant(s): M. T. Merrill Construction

Mr. Pierson stated that M. T. Merrill Construction is requesting that condition number ten from the Heritage Cove preliminary plat be removed. Condition ten states:

10. Lot 1 and 31 will have no access onto 2300 East. Driveways from these lots must be

located on the east property line.

The applicant is requesting this condition be removed because in the process of constructing the home at the southeast corner of 1450 South 2300 East the house plans got flipped and the driveway is now located on the west side of lot one. The approved plot plan shows the driveway on the east side of the lot.

The diagram of the actual plat is not included. When the house plan came to Mr. Pierson, he noted that the driveway was in the wrong place. He then called either M. T. Merrill or Joe Carrick, and received a new plan that was flipped with the driveway in the new location. To explain building permit procedure, a partial permit allows footings and foundation to be done while staff reviews the plans. M. T. Merrill went ahead and started construction with the original plan. They did not have the new approved plans on site.

The project was red-tagged one week before the final inspection. They are now here to get approval to correct the error. Mike Merrill was red-tagged on June. This is not Mike's own home, but a model home. Mr. Heap and Mr. Pierson have worked with M. T. Merrill to fix the situation.

Mr. Pierson stated that as the City Planer, he recommends that the Planning Commission make a recommendation to the City Council to amend the condition as listed:

10. The wall on lots 1 and 31 be moved back a minimum of 25 feet and be "wrapped" to the homes but leaving enough room for a pedestrian gate. No concrete and no parking will be permitted on the west side of lot 1 and 31 and parking of vehicles will not be permitted and disclosure of this requirement be recorded on these lots.

The wall has been backed up to front of home to prevent a blind on the traffic. The developer is willing to move the wall back not to impede traffic and provide a walkway. To help the developer staff will allow this. It is a benefit to the City regarding the blind corner issue. It is a bad circumstance but will be beneficial.

Commissioner Shaw stated that she drove out in evening facing west and it was difficult to determine if there was traffic coming. The home is beautiful and she can see no way to modify it to move the garage.

Chair Lewis stated that it seems reasonable. The biggest concern is traffic and moving the wall is the best solution available.

Commissioner Shaw stated that this is true not only for the home but for all traffic. The walls are 6 feet and this will help.

Chair Lewis sees no problems.

Commissioner Bradford made a **motion** to approve the M. T. Merrill request to amend condition number ten of the Heritage Cove Preliminary Plat as listed:

10. The wall on lots 1 and 31 be moved back a minimum of 25 feet and be "wrapped"

to the homes but leaving enough room for a pedestrian gate. No concrete and no parking will be permitted on the west side of lot 1 and 31 and parking of vehicles will not be permitted and a disclosure of this requirement be recorded on these lots.

Commissioner Johns **seconded** the motion and the **motion** passed with a unanimous vote. Mr. Pierson informed Mr. Merrill that City Council is two weeks from last night at 6:00 p.m. If the Planning Commission recommended denial, it would go to the Board of Adjustment. At that point the developer would have to ask for a waiver as a self-created hardship and the Board would have to deny. Then the developer would have to enclose it and add a detached garage.

Commissioner Johns asked why M. T. Merrill didn't catch the mistake.

Mr. Merrill stated that they did not know the plans on site were incorrect.

Mr. Heap stated that they have changed the requirements on partial permits to catch footing and foundation problems.

Commissioner Bradford made a **motion** to adjourn. Commissioner Scott **seconded** and the motion **passed** with a unanimous vote. The meeting adjourned at 8:00 p.m.