



**FARMINGTON CITY
PLANNING COMMISSION**

February 20, 2025



PLANNING COMMISSION MEETING NOTICE AND AGENDA
Thursday February 20, 2025

Notice is given that Farmington City Planning Commission will hold a regular meeting at City Hall 160 South Main, Farmington, Utah. A work session and training will be held at **6:30 PM** prior to the **regular session which will begin at 7:00 PM** in the Council Chambers.

The link to listen to the regular meeting live and to comment electronically can be found on the Farmington City website at farmington.utah.gov. Any emailed comments for the listed public hearings, should be sent to crowe@farmington.utah.gov by 5 p.m. on the day listed above.

SPECIAL EXCEPTION APPLICATIONS – *public hearings (items 1 & 2)*

1. Richard Baggett – Applicant is requesting special exception for additional driveway width for access to a rear yard and/or access for more than three (3) properly designated parking spaces, for the property located at 217 S Glen Ave., in the LR (Large residential) zone. [M-1-24]
2. Gubler – Applicant is requesting a consideration a Special Exception for an adaptive reuse of a building that is eligible for the National Register of Historic places located at 135 South 200 East. The request is to allow an office use in the existing residential building. *[note: this public hearing was left open on PC 01.09.2025]*. [M-6-24]

OTHER BUSINESS

3. City Council Reports, Approval of Minutes, Upcoming Items & Trainings.
 - a. City Council Report 02.18.2025
 - b. Planning Commission Minutes Approval 02.06.2025
 - c. Other

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

CERTIFICATE OF POSTING I hereby certify that the above notice and agenda were posted at Farmington City Hall, the State Public Notice website, the city website www.farmington.utah.gov, the Utah Public Notice website at www.utah.gov/pmn on February 18, 2025. Carly Rowe, Planning Secretary



Farmington City Planning Commission Staff Report February 20, 2025

Item 1: Special Exception – Driveway Width

Public Hearing:	Yes
Application No.:	M-1-25
Property Address:	217 South 25 West (Glen St.)
General Plan Designation:	LDR (Low Density Residential)
Zoning Designation:	LR (Large Residential)
Acreage:	0.35
Property Owner / Applicant:	Richard Baggett

Request: *The applicants are seeking approval for a special exception to exceed the maximum driveway width of 30 feet in 11-32-060 A1.*

Background Information

The applicant is looking to create a 2nd drive access and driveway on the south side of the properties lot frontage along 25 West Street. Farmington City Municipal Code (FMC) 11-32-060 regulates how residential driveways as follows:

11-32-060 A

1 *Residential driveways shall be not more than twenty feet (20') in width when serving as access to two (2) properly designated spaces, or thirty feet (30') in width when serving as access to three (3) properly designated parking spaces as measured at the front or side corner property line. "Properly designated parking spaces" shall include spaces in a garage, carport or on a parking pad located to the side of a dwelling and not located within the front yard or required side corner yard. Tandem parking on a residential driveway leading to a properly designated parking space contributes to the number of parking spaces required for a single- or two-family dwelling. Additional driveway width for access to a rear yard, for more than three (3) properly designated parking spaces, or for multiple-family residential developments, or for a different location of a properly designated parking space than set forth herein, may be reviewed by the planning commission as a special exception. Residential driveways shall be designed at a width which is the minimum necessary to provide adequate access to designated parking spaces.*

2. *Not more than one driveway for each separate street frontage shall be permitted on lots occupied by a one-family or two-family dwelling, except under the following circumstances:*

a. *On lots with at least the minimum width required in the zone, one additional driveway may be permitted providing that the sum of the width of both driveways does not exceed the maximum widths specified in subsection A1 of this section;*

The property is located within the LR zoning district which per FMC 11-11-050 requires a lot width of 95 ft. for corner lots. The property meets and exceeds this width based on the property plat with approximately 125' qualifying it for consideration of a 2nd driveway so long as the sum of both driveways does not exceed the allowed width.

The applicant approached the city months ago to understand if a 2nd driveway was possible and then pursued an excavation permit in order to install the 2nd driveway and create a new curb cut or approach as required by the city.

Based on their understanding of the regulations, staff reviewed and approved a plan showing a new 10 ft. driveway in addition to an existing driveway understood to be 20 ft. in width. An excavation permit was issued by the city, but prior to construction of the driveway or cutting the curb, an appeal was filed which halted the project. The appeal was on the grounds that the proposal was not in compliance with the city's ordinances and that city staff did not have the authority to approve the request.

Farmington City contracts with an outside attorney who fills the role of the Administrative Hearing Officer which functions as the city's Appeal Authority for land use decisions. After holding a hearing and considering the details and process for the initial approval, the Hearing Officer concluded that the initial approval was in fact done in error. In summation, the Hearing Officer decided that there was not enough conclusive information to indicate whether the application actually met city code. A primary point being that the maximum allowed driveway width is 30 ft. as measured at the property line, if this driveway is wider than that it requires that the Planning Commission consider the request as a Special Exception.

In consideration of the concerns expressed by the appellant and following the decision of the Hearing Officer, the applicant has submitted plans with additional details to clarify the requested driveway width and to further detail the design of the driveway demonstrating how the potential impact from storm water is to be managed.

The dedicated street width on 25 West is 60 ft. according to the Meadowbrook Plat "B" Subdivision. Using this information, the property line is indicated partway through the sidewalk. On one-side of the sidewalk, the driveway is just under 20 ft. in width, where on the side of the sidewalk closest to the house the existing driveway is nearly 24'10" in width. While it has been the practice of staff to review the width of a drive where the approach meets the sidewalk, the ordinance indicate that is to be measured 'at the front or side corner property line.' The actual width of the driveway in this case is somewhat unknown being that it is under the sidewalk, but in the spirit of the requirements, it seems appropriate that the Planning Commission determine through the Special Exception process if the new driveway can be allowed.

If the existing driveway is determined to be 24'10" in width, then the additional driveway proposed at 10 ft. in width would make for a total of 34'10". The proposed new driveway would lead to a parking pad (properly designated parking space) on the south side of the home.

Concerns for storm water impacting the side yard and possibly the home on the adjacent lot have been considered under the driveway design. The applicant's plans have been reviewed by city staff and found to be able to mitigate any risks to adjacent property owners.

In considering the Special Exception, FMC 11-3-045 E identifies the standards of review:

11-3-045 E. Approval Standards: The following standards shall apply to the approval of a special exception:

1. Conditions may be imposed as necessary to prevent or minimize adverse effects upon other property or improvements in the vicinity of the special exception, upon the City as a whole, or upon public facilities and services. These conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in the motion authorizing the special exception.

2. The Planning Commission shall not authorize a special exception unless the evidence presented establishes the proposed special exception:

- a. Will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
- b. Will not create unreasonable traffic hazards;
- c. Is located on a lot or parcel of sufficient size to accommodate the special exception.

Suggested Motion

Move that the Planning Commission approve the special exception for a combined driveway width no to exceed 35 ft., subject to all applicable Farmington City development standards and ordinances.

Findings:

1. If the above conditions are followed, then:
 - a. The lot meets and exceeds the minimum lot size allowing for consideration of a 2nd driveway.
 - b. The distance between driveways meets and exceeds the 40 ft. separation requirement per ordinance.
 - c. A typical single car driveway width is 10 – 12 feet, therefore the proposed driveway is designed at a minimum width necessary to provide adequate access to the designated parking space.
 - d. The applicant has designed the driveway to avoid causing detrimental impacts to adjacent properties by managed impacts from storm water.
 - e. The property is of sufficient size to accommodate the special exception.
 - f. The proposed driveway will not create unreasonable traffic hazards per review of city staff.

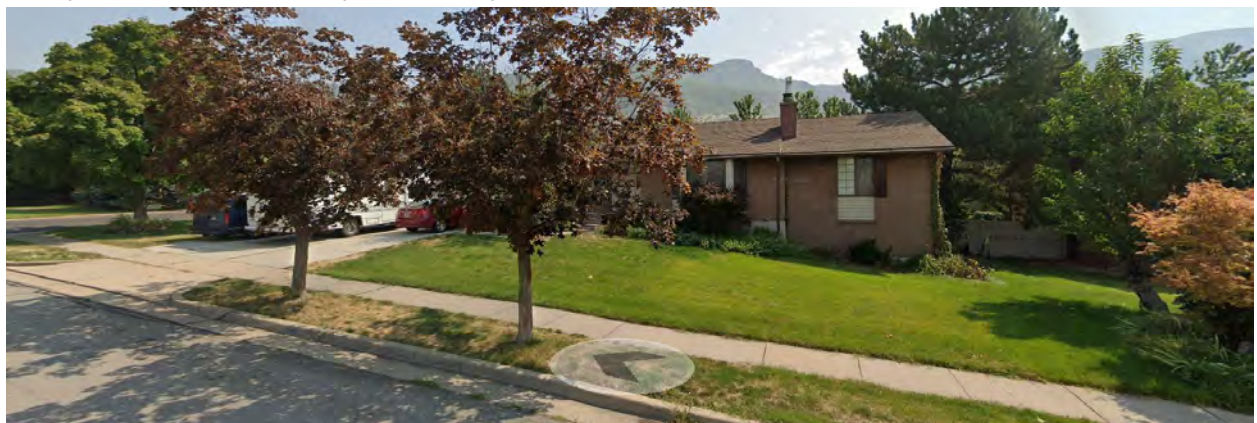
Supplemental Information

1. Vicinity map and Site Photos
2. Original Site Plan
3. Proposed Site Plan and Details

Vicinity Map



Google Street View Image (Looking Northeast)



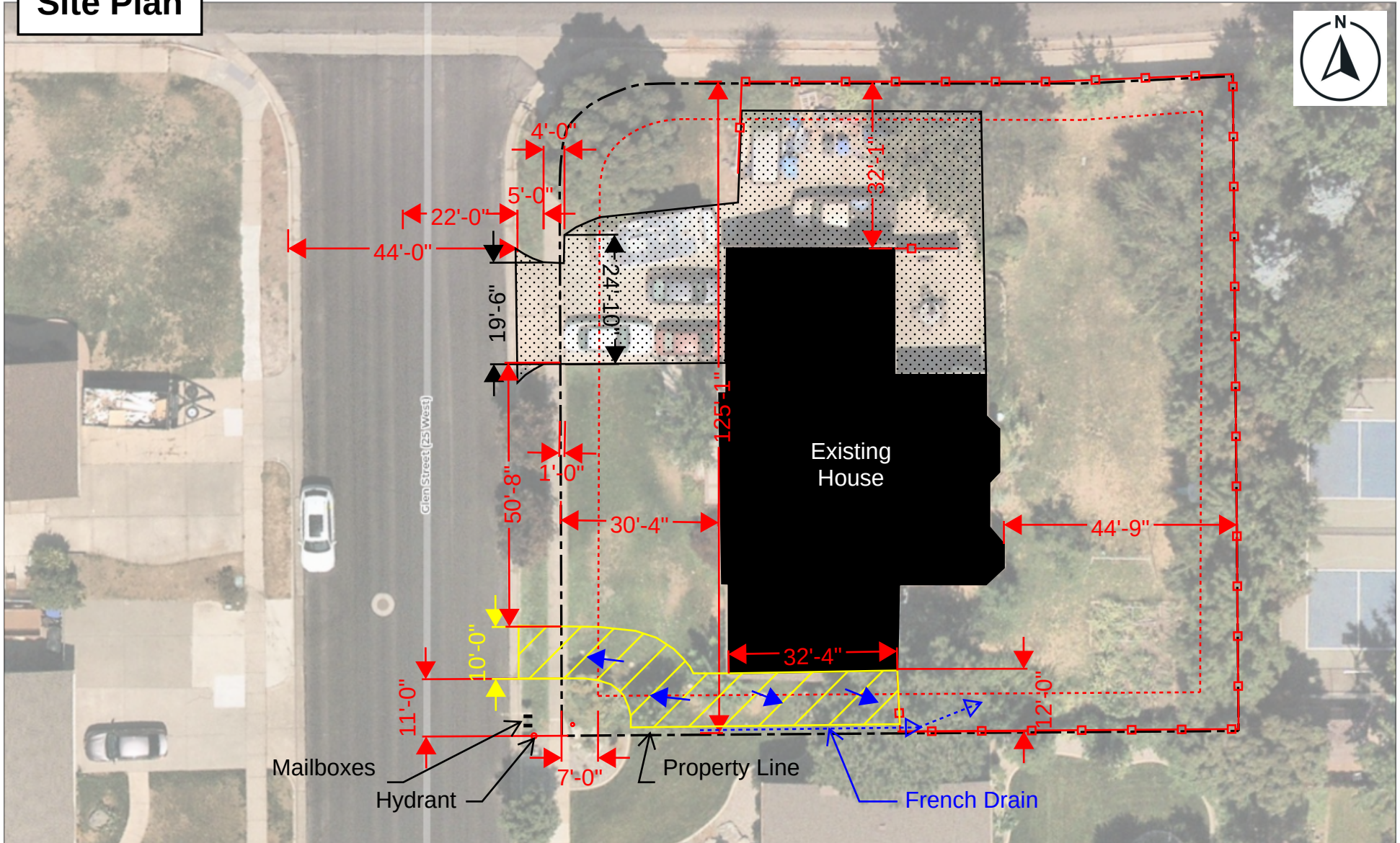
Original Site Plan

217 S. Glenn Dr
Farmington, Utah 84025

Application for Excavation Permit -- 10ft approach & aux parking area



Site Plan



Name: Rick Baggett - Address: 217 S. 25 W.
 Subdivision Name: Meadowbrook Plat B - Lot # 36 - Tax ID #: 07-045-0041
 Phone: 425-346-0580

Scale: 1 in. = 27 ft.

Existing Fencing



Existing Drive /
Flatwork



P.U.E. = 7' Typ.



Proposed Drive
Expansion

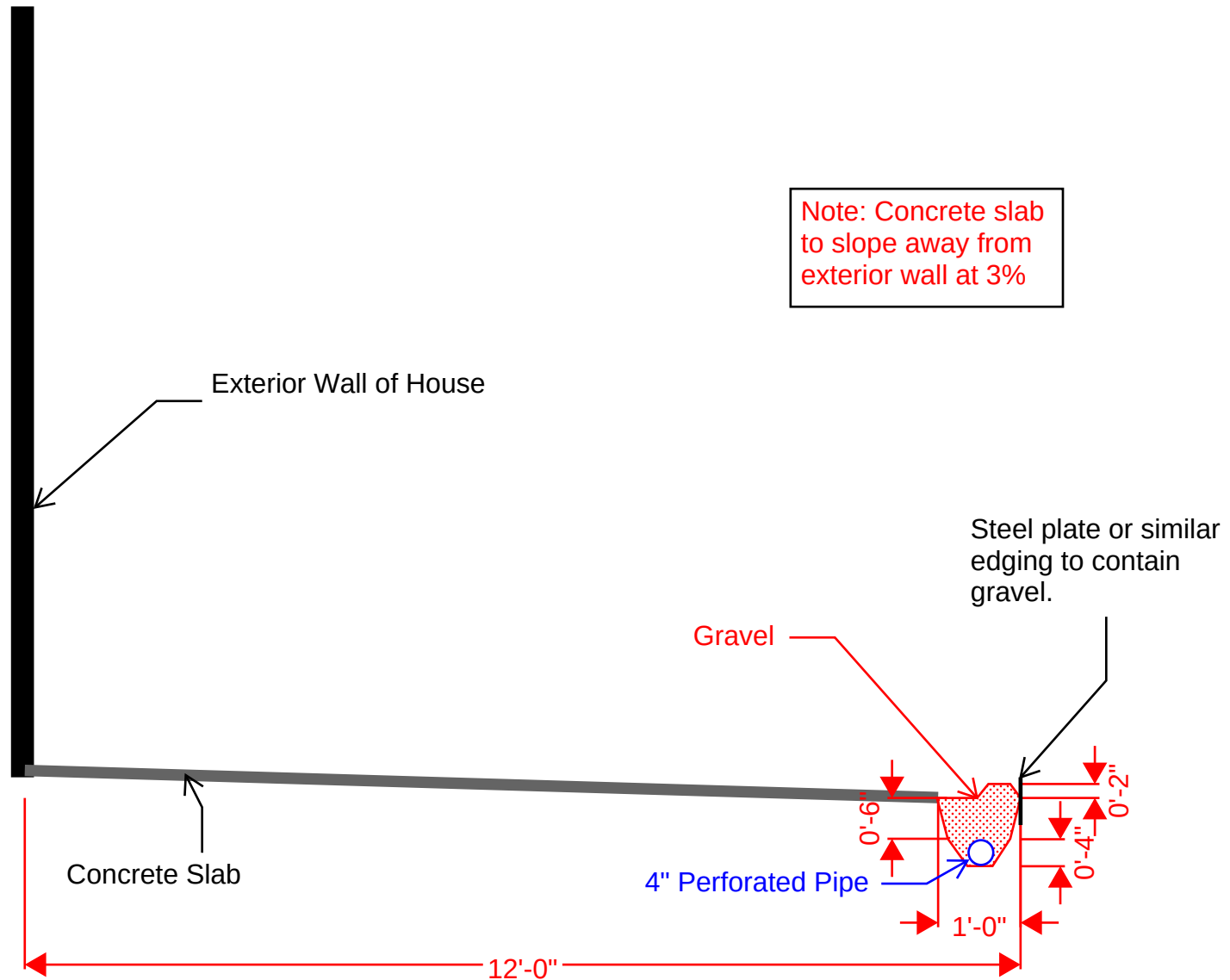
25 West is a 60 ft.
R.O.W.



Storm Water Flow
*See details page

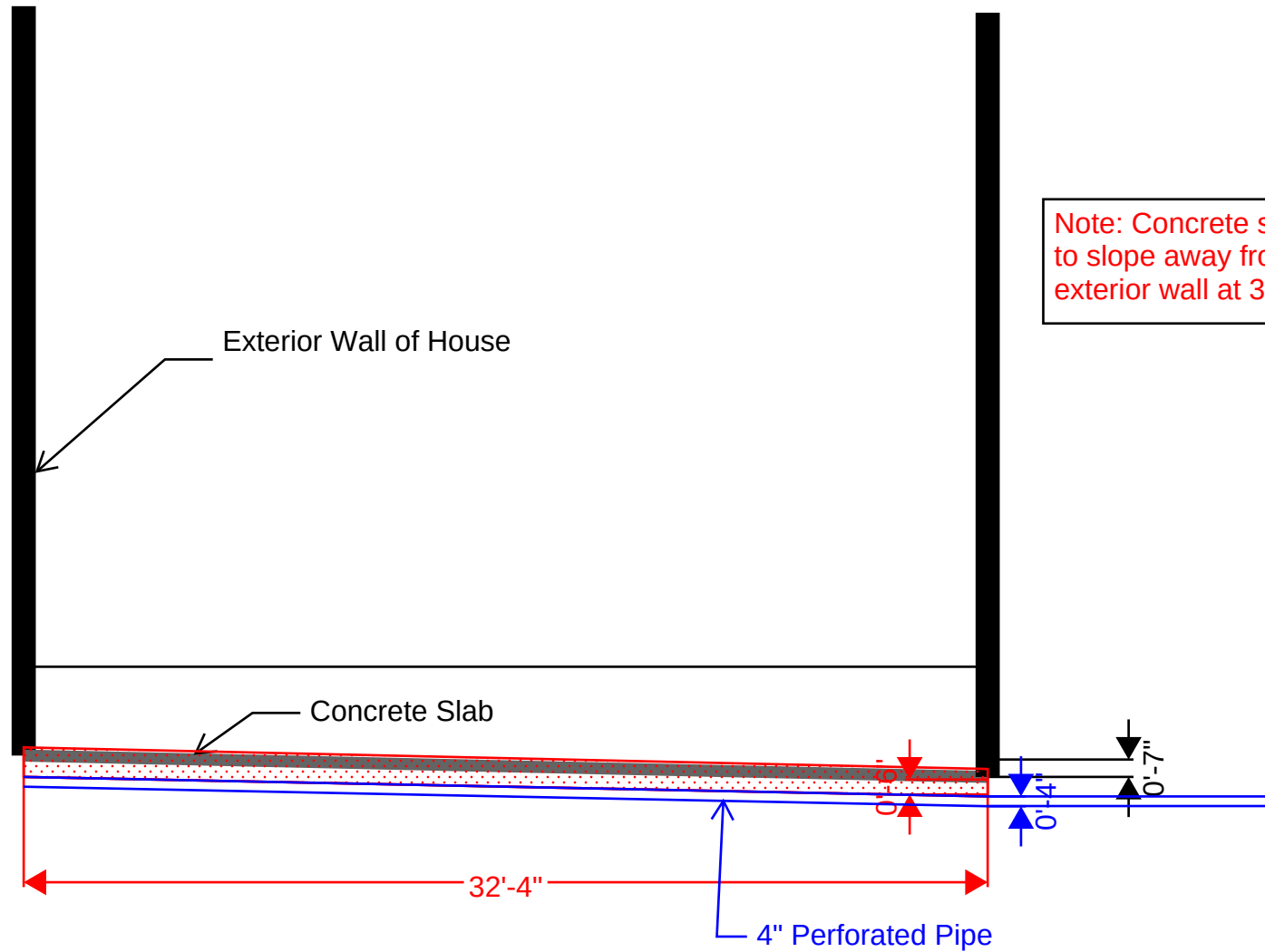
Prepared: 1/28/25

Detail



West Elevation

Detail



South Elevation



Farmington City Planning Commission Staff Report February 20, 2025

Item 2: Special Exception – Adaptive Reuse

Public Hearing:	Yes
Application No.:	M-6-24
Property Address:	135 South 200 East
General Plan Designation:	LDR (Low Density Residential)
Zoning Designation:	OTR (Original Townsite Residential)
Area:	0.53 acres
Number of Lots:	1
Property Owner:	Thomas, Leigh Anne & Rebecca
Applicant:	Lyndee Gubler

Request: Approval for a special exception to accommodate an adaptive reuse of a building that is eligible for the National Register of Historic Places. The request is to allow office use in the existing residential building.

Background Information

The applicant is exploring whether or not to purchase a single-family dwelling to establish an office use in part of the home and possibly convert the entire structure as an office in the future, but the parcel is zoned OTR and “office” is not an allowed use in this zone. However, the dwelling is an historic building, which structure is eligible for the National Register of Historic Places, and when such is the case anywhere in Farmington one may apply for a special exception to change a residence into office space as an “adaptive reuse” so long as the adaptive reuse does not compromise such eligibility (see Section 11-3-045 A. of the Zoning Ordinance)

Section 11-2-020 of the Zoning Ordinance defines an “Adaptive Reuse” in part as follows: “Rehabilitation or renovation of existing building(s) or structure(s) limited to residential and/or office use(s) other than the present use(s);”

In considering a Special Exception, Section 11-3-045 E of the Zoning Ordinance identifies the standards of review as follows:

1. Conditions may be imposed as necessary to prevent or minimize adverse effects upon other property or improvements in the vicinity of the special exception, upon the City as a whole, or upon public facilities and services. These conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in the motion authorizing the special exception.
2. The Planning Commission shall not authorize a special exception unless the evidence presented establishes the proposed special exception:
 - a. Will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 - b. Will not create unreasonable traffic hazards;
 - c. Is located on a lot or parcel of sufficient size to accommodate the special exception.

The minimum parking requirement in Chapter 32 of the Zoning ordinance for office uses is 3 spaces per 1,000 sq. ft. of floor area. If the entire 3,000 sq. ft. (as per Davis County Tax Assessor records) is changed to an office use the ordinance requires 9 parking spaces, the applicant is providing at least 12 spaces. However, initially an office use is only contemplated for the main level of the single-story building (or approx. 1,500 sq. ft.) and the basement will continue as a dwelling. As per this scenario only 7 parking spaces are required (5 for the office and 2 for the resident(s)).

On January 9, 2025, after holding a public hearing, the Planning Commission tabled the Gubler request to allow time for the applicant and/or staff to do the following:

1. Draft a development agreement between the City and the applicant for Commission input to ensure, among other things, the building's continued eligibility for the National Register now and in the future.
2. Prepare two concepts:
 - a. One plan to show part of the building as office, and the remainder as residential (one dwelling unit); and
 - b. The other plan to show all of the building as office.

3. Each plan must meet City standards including a “to scale” drawing, parking, ingress and egress details to the site, conceptual landscape plan, etc.

[Note: in preparation for this Commission meeting, with the recommendation of City staff, the applicant prepared one concept plan (see attached)].

Suggested Motion

Move the Planning Commission approve the special exception for the proposed adaptive reuse subject to all Farmington City development standards and ordinances and subject to the following:

1. The City Council must approve the enclosed development agreement; and
2. City staff shall review and approve a final site plan for the property, including members of the City’s DRC (Development Review Committee) where applicable.
3. The applicant shall
 - a. Save existing significant trees along the street frontage (or replace these trees with species acceptable to City staff); and
 - b. Remove a parking space on the south side of the property to preserve and existing maple tree unless the owner:
 - i. Shows to City staff that the parking space is needed; or
 - ii. Demonstrates that due to age or disease the life of the maple tree is threatened.In the event “i” and/or “ii” occur the owner will provide another tree in the front yard area of the lot, both species and location acceptable to staff.
4. The applicant may expand the office use to the basement in the future.
5. The applicant is encouraged not to create additional parking on the south of the property above what is already existing until such parking is needed.

Findings:

1. The adaptive re-use and development agreement preserves a building which is an historic resource eligible for the National Register of Historic Places. This creates “within the community a healthy, attractive, and pleasant living environment for its residents. This goal is the most significant element underlying the General Plan” (p. 4-2), and the re-use and agreement help preserve the communities “historic heritage”—another principle goal of the General Plan (p. 4-2).

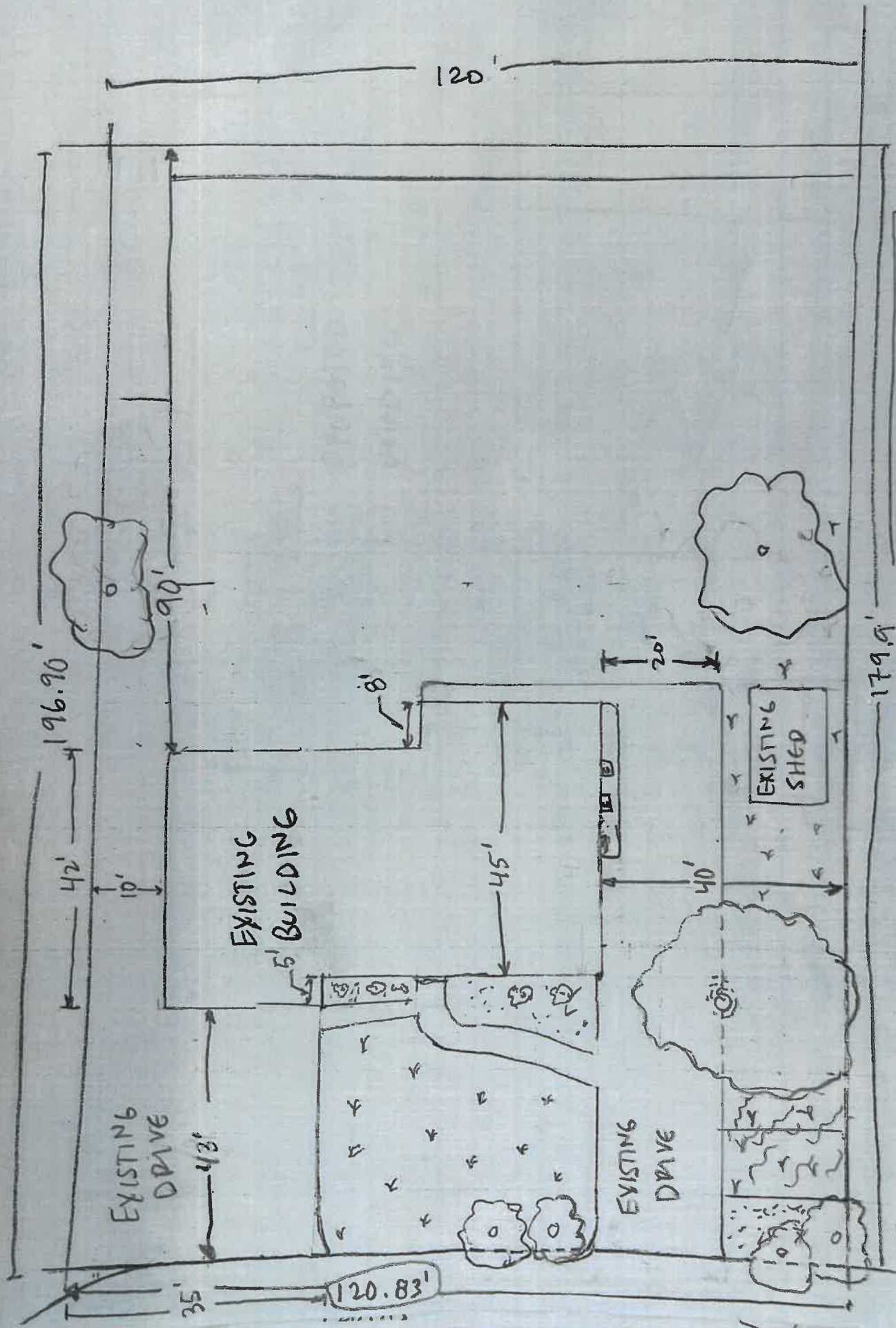
2. It provides an office use which will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
3. The site is located on a State Route (SR-106), and if necessary curb cut modifications are approved by UDOT, vehicles leaving the site will enter traffic moving forward and not backward and will not create unreasonable traffic hazards.
4. The .53-acre site is of sufficient size to accommodate the use allowed by the special exception.
5. The conditions of approval provide for the preservation of significant trees in the front yard.
6. The Planning Commission has the ability to approve less space than required as per Section 11-32-030 H of the Zoning Ordinance, which states:

The Planning Commission may consider and approve a reduction or modification of the standards contained herein for uses proposed in historic structures, providing it can be demonstrated that the standards for such use exceed that which is necessary in the specific case, that congestion on adjacent streets will not be significantly increased, and that by granting such a reduction, the safety and general welfare of the public will not be compromised. For the purpose of this chapter, "historic structure" is defined as a nonresidential building which is over fifty (50) years old and/or which is listed on the National Register of Historic Properties.

Supplemental Information

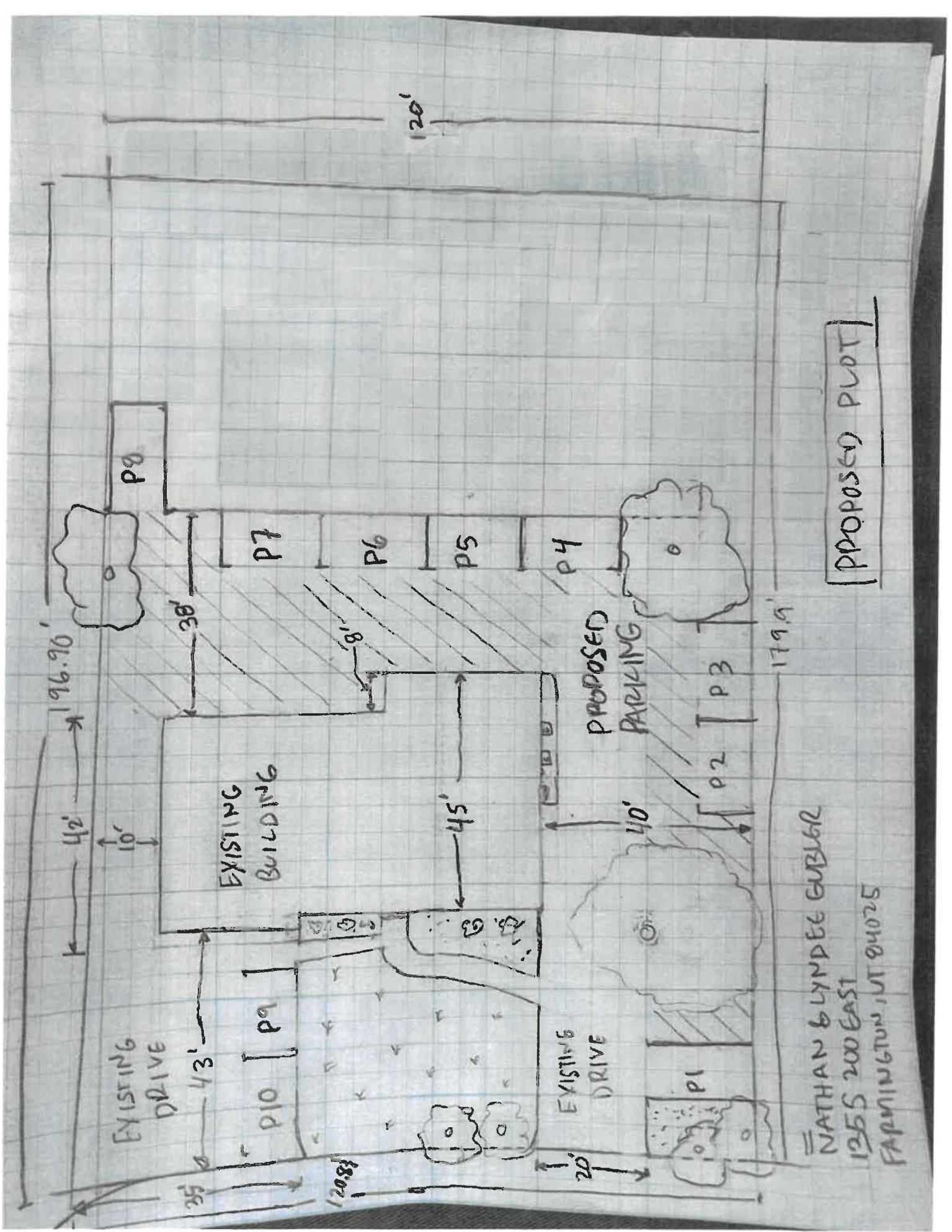
1. Vicinity Map
2. Existing Plot
3. Proposed Conceptual Site Plan
4. Street View Image of the site.
5. Development Agreement





EXISTING PLOT

NATHAN & LYNDEE GUBLER
1355 200 EAST
FARMINGTON UT, 84028



PROPOSED PLOT

NATHAN & LYNDEE GURBLER
1255 200 EAST
FARMINGTON, UT 84025



When Recorded Mail to:
Farmington City Attorney
160 S. Main Street
Farmington, UT 84025

DEVELOPMENT AGREEMENT
FOR THE GUBLER ADAPTIVE REUSE

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into as of the ____ day of _____, 2025, by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the “City,” and _____ hereinafter referred to as “Owner.”

RECITALS

A. Owner owns approximately .53 acres of land located within the City, which property is more particularly described in **Exhibit “A”** attached hereto and by this reference made a part hereof (the “**Property**”).

B. A single-family dwelling now exists on the property, which an Historic Resource pursuant to Chapter 29 of the City Zoning Ordinance and is eligible for the National Register of Historic Places, and the Owner desires to establish an office use within the building as an adaptive reuse (the “**Project**”). Owner has submitted an application for a special exception to the City seeking approval for the adaptive reuse in accordance with the City’s Laws.

C. The Property is presently zoned under the City’s zoning ordinance as Original Townsite Residential (OTR). The Property is subject to all City ordinances and regulations including the provisions of the City’s General Plan, the City’s zoning ordinances, the Building Code, and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively, the “**City’s Laws**”).

D. Persons and entities hereafter developing the Property or any portions of the Project thereon shall accomplish such development in accordance with the City’s Laws, and the provisions set forth in this Agreement. This Agreement contains certain requirements and conditions for design and/or development of the Property and the Project. This Agreement is wholly contingent upon the approval of that special exception application.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer hereby agree as follows:

1. Incorporation of Recitals. The above Recitals are hereby incorporated into this Agreement.

2. **Property Affected by this Agreement.** The legal description of the Property contained within the Project boundaries to which the Agreement applies is attached as **Exhibit “A”** and incorporated by reference. Owner expressly agrees to the terms and conditions of this Agreement and acknowledges that this Agreement shall run with the land until its termination.

3. **Compliance with Current City Ordinances.** Unless specifically addressed in this Agreement, the Owner agrees that any development of the Property shall be in compliance with City ordinances in existence on the date of execution of this Agreement. If the City adopts different ordinances in the future, Owner shall have the right, but not the obligation, to elect to submit a development application under such future ordinances, in which event the development application will be governed by such future ordinances.

4. **Compliance with Plans.** Development shall be completed in substantial compliance with Project shown in **Exhibit “C”** including but not limited to details regarding:

a) **Layout, Circulation.** The site plan layout and street pattern shall be as indicated in **Exhibit “C”**.

5. **Architectural Standards.** Owner will follow OTR design guidelines within the Project.

6. **Developer Obligations.** Developer agrees to the following provisions as a condition for being granted the special exception approval sought:

a) **Historic Preservation.** The historic building on the Property will be preserved. It will not be torn down, and if any modifications are done to the historic building, such modifications must maintain its eligibility to remain on the National Historic Registry.

b) **Technical Review.** The Developer will meet all requirements of the City’s DRC (Development Review Committee).

c) **Notification of Restriction.** Owner acknowledges that the obligation undertaken in this section is a restriction of applicant’s rights under clearly established law – i.e., the City cannot normally require the preservation of homes as indicated. However, Owner agrees that it is willing to accept this restriction in exchange for the benefits received from the City through this Agreement.

7. **City Obligations.** City will provide standard municipal services to the Project, provided, however, that the City shall not be required to maintain any privately-owned areas or improvements that are required to be maintained by a private party.

8. **Payment of Fees.** The Developer shall pay to the City all required fees in a timely manner. Fees shall be paid in those amounts which are applicable at the time of payment of all such fees, pursuant to and consistent with standard City procedures and requirements, adopted by City.

9. **Indemnification and Insurance.** Developer hereby agrees to indemnify and hold the City and its officers, employees, representatives, agents and assigns harmless from any and all liability, loss, damage, costs or expenses, including attorneys fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to property of any person which shall occur within the Property or any portion of the Project or occur in connection with any off-site work done for or in connection with the Project or any phase thereof which shall be caused by any acts or omissions of the Developer or its assigns or of any of their agents, contractors, servants, or employees at any time. Developer shall furnish, or cause to be furnished, to the City a satisfactory certificate of insurance from a reputable insurance company evidencing general public liability coverage for the Property and the Project in a single limit of not less than One Million Dollars (\$1,000,000) and naming the City as an additional insured.

10. **Right of Access.** Representatives of the City shall have the reasonable right of access to the Project and any portions thereof during the period of construction to inspect or observe the Project and any work thereon.

11. **Assignment.** The Developer shall not assign this Agreement or any rights or interests herein without prior written approval by the City, which shall not be unreasonably withheld and which is intended to assure the financial capability of the assignee. Any future assignee shall consent in writing to be bound by the terms of this Agreement as a condition precedent to the assignment. The Developer is affirmatively permitted to assign this Agreement to a wholly owned subsidiary under the same parent company.

12. **Homeowner's or Commercial Building Owner's Association.** The Developer warrants and provides assurances that all landscaping not located on a Lot, private drives, and amenities, if any, located within the Project shall be maintained by a private association of homeowners, building owners, or a combination of the two. The association shall either be created for this Project, or it shall be absorbed by another Association. All costs of landscaping, private drive and amenity maintenance, replacement, demolition, cleaning, snow removal, or demolition, shall be borne exclusively by the association. The City shall have no maintenance responsibility in relation to the property owned by the association and shall only plow and maintain public roads that are designated as public on the plat. This section survives termination under Subsection **Error! Reference source not found.** of this Agreement, unless specifically terminated in writing.

13. **Onsite Improvements.** At the time of final plat recordation for the Project, the Developer shall be responsible for the installation and dedication to the City of onsite water, sewer and storm water drainage improvements sufficient for the development of the Project in accordance with City Code.

14. **Legal Rights.** The Developer is represented by counsel and has had an opportunity to receive advice from counsel on this matter. The Developer agrees that any obligation entered into in this Development Agreement that may be construed as a restriction of the Developer's rights under clearly established state law, then its inclusion in this written agreement constitutes adequate disclosure under section 10-9a-532(2)(c)(i) of the Utah Code. The Developer agrees that it will not attempt to void any obligation identified in this

Development Agreement under section 10-9a-532(2)(c)(ii), and agrees to waive any objection to a condition of this Development Agreement pursuant to that subsection of Utah law.

15. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Owner: Gubler

To the City: Farmington City
Attn: City Manager
160 South Main Street
Farmington, Utah 84025

16. Default and Limited Remedies. In the event any party fails to perform its obligations hereunder or to comply with the terms hereof, within sixty (60) days after giving written notice of default, the non-defaulting party shall have the following rights and remedies available at law and in equity, including injunctive relief and specific performance, but excluding the award or recovery of any damages. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights. In addition, the Parties have the following rights in case of default, which are intended to be cumulative:

- a) The right to withhold all further approvals, licenses, permits or other rights associated with the Project or any development described in this Agreement until such default has been cured.
- b) The right to draw upon any security posted or provided in connection with the Project.
- c) The right to terminate this Agreement.

17. Agreement to Run with the Land. This Agreement shall be recorded against the Property as described in **Exhibit "A"** hereto and shall be deemed to run with the land and shall be binding on all successors and assigns of the Developer in the ownership and development of any portion of the Project.

18. Vested Rights. The Parties intend that this Agreement be construed to grant the Owner and Developer all vested rights to develop the Project in fulfillment of the terms and provisions of this Agreement and the laws and ordinances that apply to the Property as of the effective date of this Agreement. The Parties intend that the rights granted to Developer under this Agreement are contractual and in addition to those rights that exist under statute, common law and at equity. If the City adopts different ordinances in the future, Developer shall have the

right, but not the obligation, to elect to submit a development application under such future ordinances, in which event the development application will be governed by such future ordinances. By electing to submit a development application under a new future ordinance, however, Owner and Developer shall not be deemed to have waived its right to submit or process other development applications under the City Code that applies as of the effective date of this Agreement.

19. Amendment. The Parties or their successors in interest, may, by written agreement, choose to amend this Agreement at any time. The amendment of the Agreement relating to any substantial rights or obligations shall require the prior approval of the City Council.

20. Termination. This Agreement shall expire fifteen (15) years from the date of this Agreement, or such time that Developer has recovered the costs specified in this Agreement, whichever comes first.

21. Attorneys' Fees. In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and a reasonable attorneys fee.

22. Entire Agreement. This Agreement together with the Exhibits attached thereto and the documents referenced herein, and all regulatory approvals given by the City for the Property and/or the Project, contain the entire agreement of the parties and supersede any prior promises, representations, warranties or understandings between the parties with respect to the subject matter hereof which are not contained in this Agreement and the regulatory approvals for the Project, including any related conditions.

23. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

24. Non-Liability of City Officials, Employees and Others. No officer, representative, agent, or employee of the City shall be personally liable to the Developer, or any successor-in-interest or assignee of the Developer in the event of any default or breach by the City or for any amount which may become due Developer, or its successors or assigns, for any obligation arising under the terms of this Agreement unless it is established that the officer, representative, agent or employee acted or failed to act due to fraud or malice.

25. Referendum or Challenge. Both Parties understand that any legislative action by the City Council is subject to referral or challenge by individuals or groups of citizens, including zone changes and the approval of associated development agreements. The Developer agrees that the City shall not be found to be in breach of this Agreement if such a referendum or challenge is successful. In such case, this Agreement is void at inception.

26. Ethical Standards. The Developer represents that it has not: (a) provided an illegal gift or payoff to any officer or employee of the City, or former officer or employee of the City, or to any relative or business entity of an officer or employee of the City; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission,

percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in Utah Code Ann. § 10-3-1301 et seq. and 67-16-3 et seq.; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the City or former officer or employee of the City to breach any of the ethical standards set forth in State statute or City ordinances.

27. No Officer or Employee Interest. It is understood and agreed that no officer or employee of the City has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Developer, or any member of any such persons' families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Developer's operations, or authorizes funding or payments to the Developer. This section does not apply to elected offices.

28. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns.

29. Integration. This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

30. No Third-Party Rights. The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The parties hereto alone shall be entitled to enforce or waive any provisions of this Agreement.

31. Recordation. This Agreement shall be recorded by the City against the Property in the office of the Davis County Recorder, State of Utah.

32. Relationship. Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties hereto.

33. Severability. If any portion of this Agreement is held to be unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

34. Governing Law & Venue. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. Any action taken to enforce the provisions of this Agreement shall have exclusive venue in the Second District Court of the State of Utah, Farmington Division.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

**“OWNER”
Gubler**

Gubler

STATE OF UTAH)
 : ss.
COUNTY OF _____)

On this ____ day of _____, 2025, personally appeared before me,
_____ Gubler, who being by me duly sworn, did say that the foregoing instrument was
signed by him.

Notary Public

FARMINGTON CITY

By _____
Brett Anderson, Mayor

Attest:

DeAnn Carlile
City Recorder

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this ____ day of _____, 2025, personally appeared before me, Brett Anderson, who being by me duly sworn, did say that he is the Mayor of Farmington City, a Utah municipal corporation, and that the foregoing instrument was signed on behalf of the City for the purposes therein stated.

Public

_____ Notary

Approved as to Form:

Paul H. Roberts
City Attorney

EXHIBIT “A”

EXHIBIT “B”

**Exhibit “C”
Schematic Site Plan**

CITY COUNCIL MEETING NOTICE AND AGENDA

Notice is given that the Farmington City Council will hold a regular meeting on **Tuesday, February 18th, 2025** at City Hall 160 South Main, Farmington, Utah. A work session will be held at 6:00 pm in Conference Room 3 followed by the regular session at 7:00 pm in the Council Chambers. The link to listen to the regular meeting live and to comment electronically can be found on the Farmington City website www.farmington.utah.gov. If you wish to email a comment for any of the listed public hearings, you may do so to dcarlile@farmington.utah.gov

WORK SESSION – 6:00 p.m.

- CW Heritage Project Discussion
- Discussion of regular session items upon request

REGULAR SESSION – 7:00 p.m.

CALL TO ORDER:

- Invocation – Roger Child, Councilmember
- Pledge of Allegiance – Amy Shumway, Councilmember

PRESENTATIONS:

- Ava Henderson performs a musical number from Annie

PUBLIC HEARING:

- Recommendation for a Zone Text Amendment to Chapter 11-39 regarding Penalty Provisions for Deterioration by Neglect
- Adoption of FY25 Budget Amendment #1 – Municipal Budget

SUMMARY ACTION:

1. Monthly Financial Report
2. Resolution - Main Street (Park Lane – Shepard Lane) Davis County Interlocal Agreement
3. Resolution appointing Scott Behunin as a member of the Planning Commission
4. Approval of Minutes 02.04.25

GOVERNING BODY REPORTS:

- City Manager Report
- Mayor Anderson & City Council Reports

ADJOURN

CLOSED SESSION – Minute motion adjourning to closed session, for reasons permitted by law.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations due to a disability, please contact DeAnn Carlile, City recorder at 801-939-9206 at least 24 hours in advance of the meeting.

I hereby certify that I posted a copy of the foregoing Notice and Agenda at Farmington City Hall, Farmington City website www.farmington.utah.gov and the Utah Public Notice website at www.utah.gov/pmn. Posted on February 13, 2025

**FARMINGTON CITY
PLANNING COMMISSION**

February 04, 2025

WORK SESSION Present: Commissioners (Chair Pro Tempore) Joey Hansen, George “Tony” Kalakis, Kristen Sherlock, and Spencer Klein; Alternate Commissioners Brian Shepard and Scott Behunin. Staff: Community Development Director David Petersen, City Planner/GIS Specialist Shannon Hansell, City Attorney Paul Roberts, and Planning Secretary Carly Rowe. **Excused:** Chair Frank Adams, Vice Chair Tyler Turner, and Assistant Planning Director Lyle Gibson.

City Attorney **Paul Roberts** presented a mandatory training on open meetings, ethics, accepting gifts, and conflicts of interest. Planning Commissioners should tailor their intent to conduct meetings and deliberations openly, not secretly. He explained what constitutes as a meeting. A recent Senate Committee change in 2024 was from “discussing” to “deliberating.” The Commission must not pre-determine any decisions before a meeting. Electronic meetings are now allowed and don’t require an anchor location. Closed meetings are rare for the Planning Commission, but must be properly noticed and recorded. Emergency meetings are also rare for the Commission. An item must not be discussed unless it is on the properly posted agenda, and **Roberts** doesn’t particularly approve of the “miscellaneous” category on the Commission’s running agenda. It would be better if it read Commissioner Reports, etc.

It is not a good idea to require those offering public comment to give their address, as it could hamper public engagement. It may be helpful to know what city they are from, but it is not required. The Planning Commission has a bit longer than 30 days to prepare meeting minutes, which are posted to both the City and State websites within three days of being approved. State law requires disclosure if Commissioners have conflicts of interest. He counseled the Commissioners not to text during public meetings.

Roberts discussed the land use liability court case Springdale Lodging v. Springdale, (2024 UT app 83) that lasted five years. It was a zone change application for 2.5 acres of property in 2019. He said this case shows that cities should allow applicants to be heard as well as advocate for their application.

City Planner/GIS Specialist **Shannon Hansell** has been working on a public notice map tool that will soon be available on the Planning Commission website.

REGULAR SESSION Present: Commissioners (Chair Pro Tempore) Joey Hansen, George “Tony” Kalakis, Kristen Sherlock, and Spencer Klein; Alternate Commissioners Brian Shepard and Scott Behunin. Staff: Community Development Director David Petersen, City Planner/GIS Specialist Shannon Hansell, and Planning Secretary Carly Rowe. **Excused:** Chair Frank Adams, Vice Chair Tyler Turner, and Assistant Planning Director Lyle Gibson.

Chair Pro Tempore **Joey Hansen** opened the meeting at 7:01 pm.

SUBDIVISION APPLICATION – *no public hearing*

Item #1: Matthew Saylor – Applicant is requesting approval of a Subordinate Single Family (SSF) Lot on his property located at 697 S. Shire Lane, on approximately 0.99 acres, in the AE (Agricultural Estates) zone. [Griffin Subdivision amendment to lot 6; to be called Saylor Subdivision, Lots 601-602]. SSF-1-25

Community Development Director **David Petersen** presented this agenda item. This lot is 1 acre across the street from Canyon Creek Elementary. The applicant is proposing to subdivide Lot 6 of the Griffin Subdivision to create two lots: 1) Lot 601 to accommodate an existing single-family dwelling; and 2) Lot 602 for a future for-sale SSF dwelling. The applicant had to split the lots in order to preserve their low interest rate on the mortgage of the existing home.

Lot 6 does not now include a Detached Accessory Dwelling Unit (DADU), nor has the City received plans for an SSF dwelling (or DADU). The City cannot record a subdivision to enable an SSF until the City has issued a certificate of occupancy for the same, unless a deed restriction, acceptable to the City, is recorded concurrent with the newly created vacant lot which states (as per Section 11-28-200 F 7 a. and b. of the Zoning Ordinance):

- a. The owner may establish a DADU thereon so long as both lots are held under one ownership, meet DADU Parcel requirements, and the owner must live on-site in either the DADU or the single-family dwelling; and

- b. Any future SSF on the lot must meet all related requirements, included but not limited to SSF Occupancy standards [see Finding 1 below].

Now, there can be two lots where a DADU is permissible as long as the two properties are under unified ownership. An SSF is a for-sale DADU, which is very unique. Farmington is the only city in the Intermountain West doing this, and they may be the first in the country. The deed restriction will state any unit built will have to follow DADU restrictions (being subordinate to the existing home, and after being built, it has to be owner-occupied for the first two years). That doesn't mean there can't be two owners. It can sit vacant, but once the DADU is built, the deed restriction (for the two years of owner occupancy) kicks in. Writing the deed restriction was more difficult than Staff had first assumed it would be.

MOTION

Kristen Sherlock moved that the Planning Commission approve: 1) the requested plat amendment (lot split) for the current Lot 6 of the Griffin Subdivision; and 2) the deed restriction (enclosed in the Staff Report) for Lot 602, which must be recorded concurrent with the recordation of the final plat for the Saylor Subdivision Plat Amendment—both of which are subject to all applicable Farmington City development standards and ordinances including DADU Parcel compliance.

Findings 1-3:

1. Upon the sale of Lot 602 to an owner different than the owner of Lot 601, the deed restriction ensures that any existing or future SSF dwelling on Lot 602 must be owner occupied for two years from the start of such initial occupancy.
2. Lot 601 and Lot 602 together constitute a DADU parcel and meet all City requirements and standards for the same. A DADU parcel is "a defined area of ground which contains only two lots, each with a dwelling, and which, if combined together as one lot, including the structures thereon, meets the building lot, building placement, building height, parking standards, and other requirements of the underlying zone" (Section 11-28-200 F 2.).
3. The Planning Commission is responsible for subdivision review and approval to enable the creation of an SSF, and City Staff is responsible for SSF site plan/building permit review and approval. Accordingly, this subdivision application for consideration by the Commission does not include a site plan for the SSF.

Brian Shepard seconded the motion, which was unanimous.

Chair Pro Tempore Joey Hansen	X Aye ____Nay
Commissioner Spencer Klein	X Aye ____Nay
Commissioner George Kalakis	X Aye ____Nay
Commissioner Kristen Sherlock	X Aye ____Nay
Commissioner Brian Shepard	X Aye ____Nay
Commissioner Scott Behunin	X Aye ____Nay

Item #2: David Miller – Applicant is requesting approval of an SSF Lot on his property located at 153 Pointe of View Circle, on approximately 4.77 acres, in the LR (Large Residential) zone. [Pointe of View Phase 3 amendment to lot 306; to be called Pointe of View Phase 3 Amended Lot 306, Lots 312 and 313]. SSF-2-25

Petersen presented this agenda item. A great deal of the applicant's 4.77 acres is steep hillside. The applicant is proposing to subdivide Lot 306 of the Point of View Subdivision to create two lots: 1) Lot 312 to accommodate an existing single-family dwelling; and 2) Lot 313 for a future SSF dwelling. Lot 306 does not now include a DADU, nor has the City received plans for an SSF dwelling (or DADU). The City cannot record a subdivision to enable an SSF until the City has issued a certificate of occupancy for the same, unless a deed restriction, acceptable to the City, is recorded concurrent with the newly created vacant lot which states (as per Section 11-28-200 F 7 a. and b. of the Zoning Ordinance):

- a. The owner may establish a DADU thereon so long as both lots are held under one ownership, meet DADU Parcel requirements, and the owner must live on-site in either the DADU or the single-family dwelling; and
- b. Any future SSF on the lot must meet all related requirements, included but not limited to SSF Occupancy standards [see Finding 1 below].

The two-year clock starts at occupancy. The zone text amendment done last year gives the landowner more flexibility.

Applicant **David Miller** (Farmington) said they are not sure yet if they'll house their children in the new unit or keep it for now. The elevation in the rear yard wouldn't allow this to work; therefore, that is why the DADU is in the front. They also own the corner piece that the developer let go to tax sale because it has a pipeline through it.

MOTION

Spencer Klein moved that the Planning Commission approve: 1) the requested plat amendment (lot split) for the current Lot 306 of the Pointe of View Phase 3 subdivision; and 2) the deed restriction (enclosed in the Staff Report) for Lot 313, which must be recorded concurrent with the recordation of the Pointe of View Phase 3 Amended Lot 306 final plat—both of which are subject to all applicable Farmington City development standards and ordinances including DADU Parcel compliance.

Findings 1-3:

1. Upon the sale of Lot 313 to an owner different than the owner of Lot 312, the deed restriction ensures that any existing or future SSF dwelling on Lot 313 must be owner occupied for two years from the start of such initial occupancy.
2. Lot 313 and Lot 312 together constitute a DADU parcel and meet all City requirements and standards for the same. A DADU parcel is "a defined area of ground which contains only two lots, each with a dwelling, and which, if combined together as one lot, including the structures thereon, meets the building lot, building placement, building height, parking standards, and other requirements of the underlying zone" (Section 11-28-200 F 2.).
3. The Planning Commission is responsible for subdivision review and approval to enable the creation of an SSF, and City Staff is responsible for SSF site plan/building permit review and approval. Accordingly, this subdivision application for consideration by the Commission does not include a site plan for the SSF.

Kristen Sherlock seconded the motion, which was unanimous.

Chair Pro Tempore Joey Hansen	X Aye ____Nay
Commissioner Spencer Klein	X Aye ____Nay
Commissioner George Kalakis	X Aye ____Nay
Commissioner Kristen Sherlock	X Aye ____Nay
Commissioner Brian Shepard	X Aye ____Nay
Commissioner Scott Behunin	X Aye ____Nay

Petersen said if the majority of the Miller property had not been more than a 20% slope, the original developer of the Pointe of View subdivision would have likely split the parcel into more lots during the original subdivision process. This helps explain the location of the DADU in the "front" of the house.

ZONE TEXT AMENDMENT – public hearing

Item #3: Farmington City – Applicant is requesting a recommendation for a zone text amendment to Chapter 11-39 regarding penalty provisions for deterioration by neglect (ZT-1-25)

Petersen presented this agenda item. The applicant (Farmington City) requests a zone text amendment to Section 11-39-070 of the Zoning ordinance, which relates to penalty provisions regarding deterioration by neglect. There are several homes on the Landmark Register this may apply to, as they have fallen into disrepair over the years. The Historic

Preservation Commission (HPC) will send a letter to the landowner about the condition, asking for compliance within 30 days. If it is not remedied, penalties can be imposed. Penalties so far have not been handed down within the City.

If it is not remedied, the landowner may be found guilty of a Class C misdemeanor. Farmington typically uses Chapter 6 for enforcement; it is much more user friendly and includes notice, definitions, requirements, warning periods, immediate enforcement, and civil citations. Staff always tries to work with the landowners. The City Attorney recommend that the City Council not be the ones to impose the fine, as their decisions are immediately appealed to court. It is different for Staff, as their decisions are appealed to a third-party administrative legal authority who decides the hearing.

11-39-070: DETERIORATION BY NEGLECT:

An owner of a historic resource listed on the list or the register shall not allow any building to deteriorate by failing to provide ordinary maintenance or repair. The Historic Preservation Commission shall be charged with the following responsibilities regarding deterioration by neglect:

A. Monitoring Of Conditions: The Historic Preservation Commission shall monitor the condition of historic resources to determine if any historic resource is being allowed to deteriorate by neglect. Conditions such as broken windows, doors and exterior openings which allow the elements to enter or otherwise become an attractive nuisance, or the deterioration of a historic resource's structural system, shall constitute failure to provide ordinary maintenance or repair.

B. Failure To Maintain: In the event the Historic Preservation Commission determines there is a failure to provide ordinary maintenance or repair, the Historic Preservation Commission shall notify the owner of the historic resource and set forth the steps which need to be taken to remedy the situation. The owner of the historic resource shall have thirty (30) days to make necessary repairs.

C. Penalty: In the event that the condition is not remedied in thirty (30) days, the Historic Preservation Commission may recommend to the city council that penalty fines be imposed as provided in ~~chapter 38, "Enforcement And Penalties", of this Title 1~~ **"General Provisions", of the City Code of Farmington City.**

Commissioner **Sherlock** asked about how Staff handles these situations if the neglect is due to financial hardship, as 30 days may not be enough in such circumstances. **Petersen** said usually the landowner contacts Staff to ask for additional time to comply, which is usually granted and confirmed in writing. Staff can help some offending landowners apply for grants. If the condition is not remedied within 30 days, the seven-member HPC may opt not to levy penalties if they are satisfied with the progress up to that point. Typical code enforcement can be more painful.

Chair Pro Tempore **Joey Hansen** opened and closed the public hearing, as nobody signed up in person or electronically to address the Commission.

MOTION

Kristen Sherlock moved that the Planning Commission recommend the City Council approve the following zone text amendment to 11-39-070 DETERIORATION BY NEGLECT including items A, B, and C as written in the Staff Report, subject to all applicable Farmington City development standards and ordinances.

Finding 1:

1. The existing penalty provisions for deterioration by neglect have existed for a while, and the more recent provisions in Title 1 are better suited to encourage compliance with the ordinance.

Tony Kalakis seconded the motion, which was unanimous.

Chair Pro Tempore Joey Hansen	X Aye ____ Nay
Commissioner Spencer Klein	X Aye ____ Nay
Commissioner George Kalakis	X Aye ____ Nay
Commissioner Kristen Sherlock	X Aye ____ Nay
Commissioner Brian Shepard	X Aye ____ Nay
Commissioner Scott Behunin	X Aye ____ Nay

OTHER BUSINESS

Item #4: City Council Reports, Approval of Minutes, Upcoming Items & Trainings.

- a. **City Council Report from February 4, 2025** – City Planner/GIS Specialist **Shannon Hansell** has provided the City Council Report, which included an update on the Farmstead, The Ana, Rice Farms IADUs, Miller Meadows Phase 10, and the swearing in of the new Police Chief.
- b. **Planning Commission Minutes Approval from January 23, 2025** – **Kristen Sherlock** motioned to approve the minutes; **Tony Kalakis** seconded. All in favor.

ADJOURNMENT

Kristen Sherlock motioned to adjourn at 7:46 PM.

Chair Pro Tempore Joey Hansen	X Aye ____ Nay
Commissioner Spencer Klein	X Aye ____ Nay
Commissioner George Kalakis	X Aye ____ Nay
Commissioner Kristen Sherlock	X Aye ____ Nay
Commissioner Brian Shepard	X Aye ____ Nay
Commissioner Scott Behunin	X Aye ____ Nay

Frank Adams, Chair



OPEN MEETINGS

FARMINGTON CITY
2025
PAUL ROBERTS
CITY ATTORNEY



TRAINING AGENDA

- ELEMENTS OF A MEETING
- 2024 ANTI-PREDETERMINATION MEETINGS
- CLOSED MEETINGS
- AGENDAS & MINUTES

- ETHICS
- CONFLICT OF INTEREST DISCLOSURES
- LAND USE DECISIONS & LIABILITY

WHY OPMA?

INTENT IS THAT CITIES:

1. TAKE ACTIONS OPENLY
2. CONDUCT DELIBERATION OPENLY



01. MEETINGS



Not a Meeting Unless ALL of following apply:

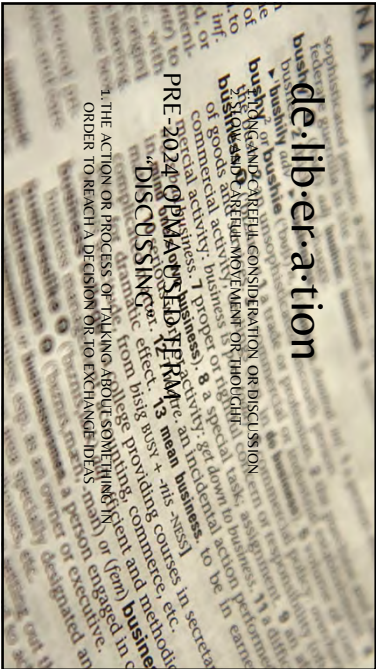
1. A gathering
2. Of a quorum of a public body
3. Convened by an authorized individual, following appropriate processes
4. For express purpose of acting as a public body:
 - a. Receiving public comment about a relevant matter
 - b. Deliberating a relevant matter
 - c. Taking action on relevant matter

de.lib.er·a·tion

PRE-2024 OPMA

DISCUSSION

1. THE ACTION OR PROCESS OF TALKING ABOUT SOMETHING IN ORDER TO REACH A DECISION OR TO EXCHANGE IDEAS



02.

2024 ANTI-PREDETERMINATION



A quorum may not act together *outside of a meeting* in a *conceded and deliberate way* to predetermine an action to be taken by the body



03.
ELECTRONIC
MEETINGS

- Electronic Meetings are permissible, so long as adequate notice is provided to officials and the public.
- New in 2024, if all public body members will be attending remotely, then an anchor location is not needed unless a member of the public requests it, at least 12 hours before the meeting takes place.

04. CLOSED
MEETINGS

Appropriate under certain circumstances:

- Legal Advice
- Real Estate
- Character, professional competence, health
- Litigation
- Security devices/personnel



Recordings kept, except in two circumstances
Discussions in closed sessions should be kept confidential
Items distributed are "protected" under GRAMA

05.
AGENDAS & MINUTES



AGENDAS

- Published 24 hours in advance
- Items not on agenda should not be discussed

MINUTES

- Simple record
- Substance of discussion, summary of comments made by public body members
- Names of people who give comment are required - no other info required under state law
- Pending minutes prepared within 30 days
- Approved minutes posted within 3 business days

INTENTION

OPENLY:
1. CONDUCT DELIBERATIONS
2. TAKE ACTION



CONFLICTS OF
INTEREST

01. DIRECT

You are the applicant, or you own a business is directly regulated by the City

02. INDIRECT

You will receive compensation for assisting an applicant with the transaction

03. ASSOCIATIONAL

You close friend or relative is an applicant, or a party involved in the transaction

04. INVESTMENT

You own stock in a business regulated by the City, or an entity engaging in a transaction with the City



WE ALL HAVE GREAT
RESPONSIBILITIES

The public elect a mayor and council and trust them to make good policy decisions

The council appoint boards and employees and trust them to apply good policy and make good decisions

SELF DEALING LEADS TO BAD POLICY

REMEDY

01. DISCLOSE

For most conflicts of interest, you need only disclose the conflict, following the statutory requirement

But this is often not acceptable to constituents and may derail proceedings

02. RECUSE

Although usually not legally required, it is often good practice to recuse yourself from the matter

This means you have no participation in discussion of the matter

You should get up and walk out of the meeting while that matter is being discussed



GIFTS

RECEIVING GIFTS FROM APPLICANTS OR THOSE SEEKING TO DO BUSINESS WITH THE CITY IS PROBLEMATIC

Receiving one that is offered to influence an action, decision or vote is illegal

Exceptions include:

- campaign contributions
- non-pecuniary gifts worth less than \$50
- Awards for public service awarded publicly

YOUR OFFICE

What is the purpose of your office?

USE OF OFFICE

Officials abuse the public trust when they use that office for their own purposes or aggrandizement

They unlawfully abuse their office if they use that power to:

- Further substantially their own personal economic interest, or
- Secure special privileges for others



AVENUES TO ADDRESS ETHICAL CONCERNS

Your own

- Consult peers
- Consult the Mayor
- Consult City Attorney



Other officials

- Discuss with official
- Report concern to the Mayor
- If an elected official, refer them to the Utah State Political Subdivision Ethics Review Commission

LAND USE LIABILITY

Springdale Lodging v. Springdale
(2024 UT app 83)



ZONE CHANGE

Majestic View sought a zone change for a 2.5 acre property in 2019

Historically, the parcel housed a single home, with zoning as "Valley Residential" since 1992

Majestic View sought a change to "Valley Commercial" - seeking to build a hotel, retail space, rental housing and a welcome center



PLANNING COMMISSION

Planning Commission conducted a hearing, took comments from applicant's engineer and attorney, and asked them questions

Planning Commission unanimously recommended a denial of the application



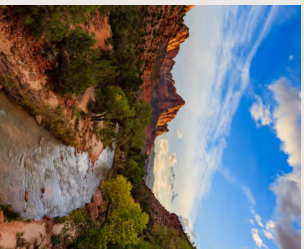
TOWN COUNCIL

30 minutes before Town Council meeting, Majestic View submitted a new concept plan

Council did not review revised concept

CD Director told council they could review the revised plan, or start again with a new zone change application

They tabled the issue so legal counsel could draft findings to deny the request

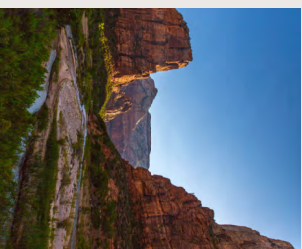


TOWN COUNCIL

At the next meeting, the Council told Majestic View that they would only consider the original concept plan, due to the substantial changes made to it

Majestic View requested that they let them amend their application

MV's attorney claimed they were being treated unfairly and was being denied the right to speak with individual commission or councilmembers



TOWN COUNCIL

At its third meeting, the council voted to deny the application

Majestic View sued

Claim was that Springdale violated MLUDMA and town code because they did not have a "reasonable opportunity to be heard" and refused to consider the revised concept plan



ATTORNEY AFFIDAVIT

MV's attorney submitted an affidavit indicating that the PC's Public Hearing Policy was that developers were not permitted to speak unless spoken to

They were not allowed to converse with the commission or council, adjust their plans or receive specific feedback

He was limited to voicing objections about the process, rather than the merits of the application



SUMMARY JUDGMENT

District Court granted summary judgment to Springdale

Ruled that the land use decision was in the interest of the general welfare and served a legitimate land use purpose

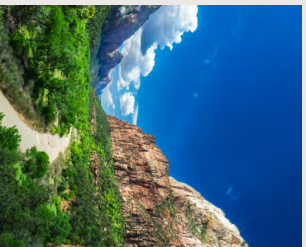
It refused to consider the attorney's affidavit because it considered it to be outside the administrative record



ADMINISTRATIVE V. LEGISLATIVE

The Court of Appeals held that the section excluding evidence not found in the administrative record applies only to administrative decisions, not legislative ones

So they reversed the district court for rejecting the affidavit



PUBLIC HEARINGS

Whether a public hearing complied with MLUDMA and town code is a procedural question

The courts are not as deferential to the land use authority on questions of procedure, even if it is a legislative decision



OPPORTUNITY TO BE HEARD

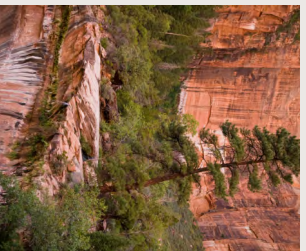
The court noted that the town code provided that at a public hearing, interested parties *and* citizens shall have an opportunity to be heard

It held that an opportunity to be heard includes the ability to advocate during the proceeding, not only to provide information upon request



REVERSED

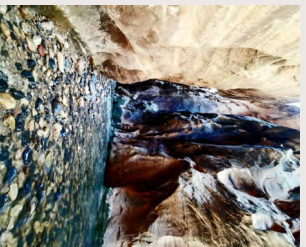
Even though the record demonstrated that the applicant's attorney and engineer addressed the planning commission, the existence of the attorney's affidavit claiming they were restricted created a factual dispute



WASTE OF TIME?

This was a legislative decision - subject to deferential treatment by reviewing courts

Why give the applicant the opportunity to spend 5 years litigating an issue, only to have the court send it back to conduct a proper hearing?



LESSON LEARNED?

What lessons do you take from this case?

ENHANCING NOTICE

[Public Notice Map Tool](#)