

FARMINGTON CITY
PLANNING COMMISSION
January 07, 2021
ELECTRONIC MEETING

STUDY SESSION

Present: Chairman Alex Leeman; Vice Chair Rulon Homer; Commissioners Greg Wall, Larry Steinhorst, John David Mortensen, Mike Plaizier, and Erin Christensen. **Staff:** Community Development Director David Petersen, Planning/GIS Specialist Shannon Hansell. **Excused:** Planning/Recording Secretary Carly Rowe.

OPEN SPACE ORDINANCE TRAINING

Community Development **David Petersen** provided training on the Open Space Ordinance, which has gone through several iterations over the years.

REGULAR SESSION

Present: Chairman Alex Leeman; Vice Chair Rulon Homer; Commissioners Greg Wall, Larry Steinhorst, John David Mortensen, Mike Plaizier, and Erin Christensen. **Staff:** Community Development Director David Petersen, Planning/GIS Specialist Shannon Hansell. **Excused:** Planning/Recording Secretary Carly Rowe.

Alex Leeman opened the meeting at 7:02 PM .

Item #1 Minutes

Greg Wall emailed corrections that were updated.

Rulon Homer made the motion to approve the minutes from December 10, 2020. **Greg Wall** seconded the motion. The vote was unanimous, as there was no dissenting vote.

Item #2 City Council Report

Community Development **David Petersen** reported on the January 5, 2021, City Council meeting. He said the major item was the 10-unit Montserrat Townhomes agenda item by Russon Brothers and the white church at 1875 North. After much deliberation, the Council followed the Commission's recommendation to deny the application. **Petersen** expects the applicant to come back with another less dense proposal. The City Council approved the request to combine two lots in East Brentwood Estates in order for the applicant to build a swimming pool.

CONDITIONAL USE APPLICATIONS

Item #3 Troy Benson (Public Hearing) – Request for re-approval of a conditional use permit for a Verizon Tower located at 1175 N 700 W (Shepard Park) in the LS (Large Suburban) zone. (C-17-19)

Planning/GIS Specialist **Shannon Hansell** presented this agenda item. The applicant has requested to place a telecommunications monopole 76 feet in height at Shepard Park, at approximately 1175 North 700 West in the Large Suburban (LS) zone. The monopole will include an array of antennae on top.

Section 11-28-190(e)(2) of the Zoning Ordinance states:

"All types of wireless telecommunication facilities are prohibited in residentially zoned areas except as may be permitted with a conditional use permit upon or within any institutional use, regardless of the zoning designation. These institutional uses include, but are not limited to: churches, well sites, water tanks, city parks, city buildings (fire, police, city hall), public schools, quasi-public schools and similar and compatible uses."

The Planning Commission originally approved the conditional use permit for this tower on October 24, 2019. However, a building permit was not applied for until December 2020, which was not within the 12-month conditional use approval building permit window. Re-noticing the meeting became necessary. **Petersen** said nonresidential uses are shown on the master plan to the south of this area.

Applicant **Troy Benson** with Technology Associates addressed the Commission. He apologized for not getting the building permit in a timely manner. They are switching out a 42 foot 6 inch pole with a 70 foot pole that can accommodate antennas.

Alex Leeman said he likes to start public hearings with a brief overview of what the code says about the agenda item being considered by the Commission. That way, both the Commission and the public can focus on the standards to apply and what the law says. It is also useful to review since there are a few new people on the Commission.

Conditional Use Permits (CUPs) are not discretionary. Under Utah law, the Commission's discretion is very narrow. In Zoning Law, every type of zone has a list of things that are permitted as well as those that are conditionally permitted. The applicant gets to do those that are permitted, as long as they get a building permit. The conditional uses, on the other hand, are items that the City Council approved. Through the conditional use permit process, it can be discovered if there are any negative impacts created by that use that need to be mitigated by applying conditions. For example, in this area, cell phone towers are permitted and the Commission doesn't get to determine if this is a good idea or location for a cell phone tower. That decision has already been made because it is permitted by ordinance. However, the Commission gets to decide if the existence of a cell phone tower creates any kind of a negative impact on surrounding property and then figure out how to mitigate that. Denial is only permitted if no matter what mitigating conditions the Commission comes up with, the negative impact can't be mitigated.

The Commission should first ask if any detrimental impacts are created by this use and what they are. If identified, the Commission must then ask what reasonable conditions can be imposed to handle the detrimental impacts. In Farmington City Ordinance 11-8-050, there are standards and types of impact that should be considered when addressing conditional uses. These include: necessity; compliance with regulations, conditions and ordinances; if it can be adequately serviced by utilities, roads, drainage, and parking; and detrimental impact on surrounding properties, particularly the health, safety, and general welfare of persons residing or working in the vicinity.

A classic example is a childcare facility, which is allowed in the basement of a residential home. A negative impact that comes up from that operation is parking and noise. A mitigating condition is asking the owner to stagger start times or to fence the backyard.

Past specific Supreme Court cases address the appropriate consideration of public input that should be considered for conditional uses. It is important to hear from the surrounding property owners what the negative impacts are. The public input is important to discover the facts of the negative impacts, but their opinion on whether or not to allow the use is not appropriate.

Alex Leeman opened the Public Hearing at 7:19 PM.

Alex Leeman closed the Public Hearing at 7:19 PM after no public comments were offered.

Greg Wall said the view for the residences to the west ^{would not be} ~~may~~ be affected. The Highway 89 bridge over Shepherd Lane starts to elevate before the proposed tower, so it cannot be seen from the townhomes to the west. It is also behind a baseball field with tall lights. **Alex Leeman** said this application has a good, compatible use.

MOTION

Rulon Homer made a motion that the Planning Commission approve a conditional use permit for the placement of a 76' monopole wireless telecommunications tower 76' in height on property located at approximately 1175 North 700 West (Shepard Park) with the following conditions:

1. A coverage plan site specific to the application shall be submitted by each company-desiring placement of wireless telecommunications facilities.
2. Any future poles to be located in the area shall require a separate conditional use permit;
3. A building permit shall be submitted for the construction of the monopole, initial antenna array and each additional co-location antenna array, associated ground equipment, and any accessory buildings related thereto;
4. The monopole shall be limited to 76' as proposed in the plans;
5. The monopole shall be fenced with a six (6) foot vinyl coated chain-link fence or other fencing as required or approved by the Planning Commission;
6. There shall be no climbing pegs located on the lower twenty (20) feet of the monopole;
7. All power lines leading to the accessory building and antenna structure shall be underground.

Findings for Approval:

1. The pole would replace an existing 42 foot light pole at the same location.
2. The nearest residential neighborhood is over 200 feet away from the proposed location.
3. The proposed use of the particular location is necessary to provide a service, which will contribute to the general well-being of the community.
4. The proposed use complies with the regulations and conditions in the Farmington City ordinance for such use.
5. The proposed use conforms to the goals, policies, and governing principles of the Comprehensive General Plan for Farmington City.
6. The proposed use is compatible with the character of the site, adjacent properties, surrounding neighborhoods, and other existing and proposed development.
7. Adequate utilities, transportation access, drainage, parking and loading space, lighting, screening, landscaping and open space, fire protection, and safe and convenient pedestrian and vehicular circulation are available.
8. Such use shall not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of the persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity.

Mike Plaizier seconded the motion, which was unanimously approved.

Item #4 Brian and Shawnalyn Palmer (Public Hearing) – Request for approval of a conditional use permit for an accessory dwelling unit (ADU) located at 1289 Alice Lane in the LR-F (Large Residential Foothill) zone. (C-12-20)

Hansell presented this agenda item. The applicant is requesting a conditional use permit to build an ADU as an addition to their home. Their current home is in Burbridge Estates Subdivision and their addition would include a two-car garage, living space and bedrooms, which are to be connected to the current driveway and built as a second level to a walkout basement. It would be on the south side of the home and is within subdivision setbacks of 10 to 12 feet on the sides. They are 13 feet on the south side with the addition.

Applicant **Brian Palmer** addressed the Commission. His in-laws will use the ADU in the future and potentially his own parents or any of his eight children. He has no plans of renting it out to any non-family member in the future.

Alex Leeman opened the Public Hearing at 7:29 PM. He has heard comment that a proposed second dwelling could violate the neighborhood Covenants, Conditions, and Restrictions (CC&Rs). Those are legally a private contractual agreement not enforceable by the City. If this violates the CC&Rs, the Commission can still grant the Conditional Use Permit, and the remaining issues would have to be resolved in court. The Commission cannot consider CC&Rs as a factor in their decision.

Rocky Dutson (1329 N. Alice Lane, Farmington) lives on the property to the north of the Palmers. He understands special use permit language granted to the Packer residence across the street has language that would restrict ADU occupants to relatives and that no rent would be collected, as it would only be for family use. He asked that the same language be used in this case. He does not want the outside of the addition to be stucco, but to instead match the rock of the existing home and hardy board on top of that.

Connie Deianni (1269 Alice Lane, Farmington, Utah) lives to the south of the property. **Hansell** confirmed that she had her list of questions that they will consider. She is concerned with the structural soundness of the lot, as well as the geotechnical soils survey.

Alex Leeman closed the Public Hearing at 7:36 PM.

Hansell defined ADU. Before May of 2020, a secondary dwelling unit was defined as an attached dwelling unit that could be rented to anybody, as long as the primary residence was owner-occupied. An ADU unit was a detached unit that was only owner-occupied. The ADU definition was changed to combine both definitions of accessory and secondary. It now includes attached or detached and both are available to rent for anybody so long as one of the units on the property is owner-occupied. It was an attempt to address the moderate housing plan that the City is attempting to implement and was put in place a year before. It is meant to increase housing options.

Petersen said there are some restrictions built into the ADU ordinance. The ADU must be subordinate in height to the main dwelling unit. An attached ADU still has to meet standards for the home such as heights and setbacks. In about 2001, the ADU that **Dutson** mentioned previously was the City's first detached ADU. At the time, it was in the ordinance that it could not be rented out and should be for family use only. When SB 34 came out, the State started clamping down on affordable housing. There is a penalty associated that if a City does not have an affordable housing plan, the State will withhold transportation funds. Between 2003 and 2018, the City only approved 14 ADU permits, which is less than one a year. He suspects there are more illegal basement apartments. In 2019, five were issued. In 2020, three were issued. The pace is picking up.

Alex Leeman said neighbors don't want a proliferation of renters. He noted that in order to have a second rental on the property, the owner has to live on site. This will help rein in problems with renters. He would like the applicant to address Deianni's list, some items of which will be addressed during a building permit approval process including retaining walls and geotechnical studies. They are fair questions, but some that may not be able to be addressed during the conditional use process.

Greg Wall addressed the 10-foot utility easement on Deianni's side, which should not affect this application as there is a 13 foot setback. The May change to the City ordinance would supersede any previous special use clause for who can rent an ADU.

Applicant **Brian Palmer** addressed the Commission, saying there is no way to do the roof with bar tile without it looking like an addition. He has the only house in the neighborhood with bar tile. The slightly sloped flat roof with a membrane is the only way to do it so it looks like it is matching. The second garage is set back a foot from the original garage. He would like to have the whole front in rock with hardy board on the back side, depending on cost. He never planned on stucco. The Deianni's sit higher than him on the south side slope. The home would essentially be the retaining wall, and his dirt would be leveled out to match the Deianni's with no dug out area. There would be steps from the south side

door going down due to the slope and for safety. He will plan the landscaping element, including the walkway to the front door where the soil has settled. There are not plans to have a driveway accessing the back of the property. Alex Leeman said this would not be a traffic hazard.

MOTION

Greg Wall made a motion that the Planning Commission grant approval for the Palmer ADU, subject to all applicable Farmington City ordinances and development standards, and the condition that any drainage or geotechnical requirements be determined by the Building Official and Storm Water Official. This includes Findings for Approval 1-2, Supplementary information 1-2 (including the vicinity map and site plan and elevation), and an additional condition that exterior materials of the home do not include stucco and include the siding and stone to match the home.

Finding for Approval:

1. The addition provides more housing opportunity in Farmington.
2. The conditional use permit complies with Farmington City's General Plan and Zoning Ordinance.

Rulon Homer seconded the motion, which was unanimously approved.

Item #5 Don and Amy Poulton (Public Hearing) – Request for approval of a conditional use permit for a pole barn to be built in a conservancy lot, located at 541 W Rigby Road in the AE (Agricultural Estates) zone. (C-13-20)

Commissioner **Erin Christensen** recused herself, as she has a conflict of interest with this agenda item. **Hansell** presented this agenda item. The applicant is requesting a conditional use permit to construct an equestrian facility (pole barn) and to install a fence on a conservancy lot in Miller Meadows subdivision. The conservancy lot has an easement stating that the requested use of the lot must be approved by a conditional use. If not for the easement, the use is permitted and would not need a conditional use or even a public hearing. They plan to use the conservancy lot for a barn, corral and pasture for horses or any Class B animal. The applicant also proposes a fruit orchard for the remaining section of the property. A conservancy lot is intended as a sort of estate lot for a conservation subdivision. This is one of the last conservancy lots left in the City. Conservancy lots cannot be subdivided. The barn meets the setback requirements.

Dave Rees (1588 Willowcreek Circle, Farmington, Utah) represents the applicant. Applicant **Don Polton** (65 East 1600 South, Farmington, Utah) also addressed the Commission. He purchased the lot a few months ago in preparation for retirement and to keep horses. He would like to build a home someday. Portions of the property are being used for a community garden, which he told the group they can continue to use for another handful of years. He may use that area as a family garden in the future. It is suggested to have trees between the horse fence and homes. The orchard will be fruit trees. The barn could be moved to the north and west if needed at the request of the neighbors. There would be 10 to 20 feet between the fence and the property line. The barn will be 30 feet from the property line. More details will follow if the CUP is granted. The barn will have steel siding. The applicant said he will haul off manure or turn it under in order to mitigate smells.

Alex Leeman opened the Public Hearing at 8:17 PM.

Terry Remington (492 W. Miller Way) owns the home in the southeast corner near the barn. She bought her lot because she understood there would never be anything behind her lot impacting her views. A 25 foot tall barn could impact her view. The eight residents of Miller Meadows expected open space. She suggested the applicant put the barn behind his own home. She is worried about dirt being dragged out on to the sidewalk and street as well as smells, rotting hay, rats, mice, etc.

Angela Henderson (668 South Daniel Drive, Farmington, Utah) is on the southeast corner. She wanted to know how far from her backyard fence this would be. **Leeman** said 10 to 20 feet. **Henderson** is worried about the smells from horses and cows.

Pete Zeigler (628 South Daniel Drive, Farmington, Utah) is on the northeast end. He does not have a fence on the west side of his property as not to obstruct his sunset view.

Brandon Harden (644 South Daniel Drive, Farmington, Utah) is next to Pete and Angela. The barn will be right behind his house. He opposes the whole prospect of the land owner having animals there but not living there immediately.

Alex Leeman closed the Public Hearing at 8:26 PM. He said the document titled "Conservation Easement" controls and governs this property and was recorded in 2007 in the County Recorder's Office. This defines the rights and restrictions for this property. It specifically allows fencing, pasture land, Class B animals, and pasture land. The City can't control what realtors tell people when property is being sold. This lot is allowed to have a barn on it. The Commission only has the power to try to mitigate negative impacts to surrounding property owners.

Polton said the corral would just be uncovered dirt and where they would ride the horses. The pasture would be field grasses to help get rid of the current weeds. The strip between the fences would include trees. They could put bark in there or continue to spray for weeds. The corral fence would probably be a steel four-panel rail horse fence similar to the south side of Glover across the street from Farmington High School.

Alex Leeman said he heard the biggest worry is smell, which is incidental to large animals. He feels it is appropriate to set in place conditions that would help mitigate that. He said the animal ordinance requires keeping things clean sanitation wise. **Rulon Homer** said the issue is the amount of fertilizer that you allow to accumulate before it is spread out and turned under. **Petersen** said he has been employed by the City for 26 years, and only received two complaints about animal smell in that time. The maximum height allowed in that area is 25 feet. Surrounding houses are 18 to 22 feet high. The barn must be set back 50 feet from the home.

Alex Leeman said he liked the 10 to 20 feet border that prevents horses from being right up against residential lots, which gives him comfort. **Greg Wall** said enforcement of conditions can be difficult. **John David Mortensen** said it sounds like the barn and Class B animals are permissible. He can sympathize with the surrounding property owners dealing with smells and loss of a view, and he would like to know if the barn can be moved more to the west to ease the impact to those homes on the east side.

The applicant said he is open to moving the barn to the west by about 20 feet, which would still give 20 feet between the barn and fence. The property line to the barn would then be 50 feet. The applicant is also willing to do a gravel driveway. **Alex Leeman** said 50 feet is an ample buffer that would ease the impact on the property to the east.

MOTION

John David Mortensen made a motion that the Planning Commission grant approval for the Miller Meadows Subdivision conservancy lot as per the easement, subject to all applicable Farmington City ordinances and development standards, and the condition that the barn be no greater than 25 feet in height, and the applicant must follow the site plan. This includes Finding for Approval 1, as well as Supplementary Information 1-4 (including the vicinity map, site plan and barn elevations, applicant narrative, and Conservation Easement, Lot 220 Miller Meadows Subdivision), and an added condition that the east side of the barn be 50 feet from the east side property line.

Finding for Approval:

1. If not for the note on the easement, the applicant's proposal is a permitted use for the land under the zoning ordinance and conservation subdivision standards.

Greg Wall seconded the motion, which was unanimously approved.

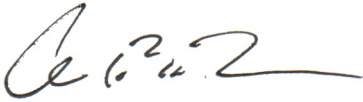
OTHER BUSINESS

Item #6 Miscellaneous, Correspondence, etc.

Petersen said an upcoming February Commission meeting would be a joint study session with the City Council for annual ethics training from the City attorney. Online or recorded training will be available if Commissioners miss the meeting.

ADJOURNMENT

Rulon Homer made a motion to adjourn at 8:47 PM. **Erin Christensen** seconded the motion, which was unanimously approved.

A handwritten signature in black ink, appearing to read 'A. Leeman', is written above a horizontal line.

Alex Leeman, Chairman