

APPROVED MINUTES

AMERICAN FORK CITY
PLANNING COMMISSION MINUTES
JUNE 8TH 2022
REGULAR SESSION

The American Fork City Planning Commission met in a regular session on June 8th 2022 at the American Fork City Hall, 31 North Church Street, commencing at 7:00 pm.

Present: Chairman Woffinden
Harold Dudley
Christine Anderson
Bruce Frandsen
Jenny Peay
Rodney Martin
David Bird
Chris Christiansen

Absent:

Staff Present:	Patrick O'Brien	Development Services Director
	Ben Hunter	Engineer
	Jeff Mortimer	Engineer
	JJ Hsu	Engineer
	George Schade	Communications Director
	Megan Crowley	Administrative Assistant

Others Present: Doug Farr, Nate Heaps, Jon Gunther, Tyson Williamson

1. Chairman Woffinden led the "Pledge of Allegiance"

John Woffinden: Bruce will not be here so David will be a voting member as an alternate. We will discuss two, three, four, and five together. They will require a separate hearing and a separate vote. So planning if you would take us through these first four please.

- 2. Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat G located in the area of 900 W 480 S, in the TOD Zone.**
- 3. Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat H located in the area of 900 W 480 S, in the TOD Zone.**
- 4. Hearing, review, and action on an amended plat for Lakeshore Landing Block 5 Plat I located in the area of 900 W 480 S, in the TOD Zone.**
- 5. Hearing, review, and action on an amended plat for Lakeshore Landing Block 6 Plat J located in the area of 900 W 480 S, in the TOD Zone.**

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Patrick O'Brien: Those first four items are in relation to an amendment for a plat that was already approved by planning commission. Its in relation to Lakeshore Landings plat 4-6 and varying letter of plat identifiers. Three of the amended plats are for townhomes and one of them is a proposal for an apartment lot. The entire parcel consists of 7.83 acres. As it was approved already, we followed all of the state requirements for amended plats and conducted a thorough review. We did not find any planning issues that needed to be brought to the Planning Commission. So, planning staff would recommend a motion for approval on this.

John Woffinden: Alright thank you, engineering do you have any comments on the four items?

Ben Hunter: No, where all the infrastructure was previously approved and its just amending the plats with some of the layout. They conform to all of the standards and specifications, and we would recommend approval.

John Woffinden: Alright thank you. Any questions from the Commission for either engineering or planning? If not we will open the public hearing.

Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat G located in the area of 900 W 480 S, in the TOD Zone.

Public Hearing Opened

No public comment

Public Hearing Closed

Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat H located in the area of 900 W 480 S, in the TOD Zone.

Public Hearing Opened

No public comment

Public Hearing Closed

Hearing, review, and action on an amended plat for Lakeshore Landing Block 5 Plat I located in the area of 900 W 480 S, in the TOD Zone.

Public Hearing Opened

No public comment

Public Hearing Closed

Hearing, review, and action on an amended plat for Lakeshore Landing Block 6 Plat J located in the area of 900 W 480 S, in the TOD Zone.

Public Hearing Opened

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No public comment

Public Hearing Closed

Christine Anderson motioned to recommend approval of the Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat G located in the area of 900 W 480 S, in the TOD Zone. David Bird seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Jenny Peay	AYE
Rodney Martin	AYE
David Bird	AYE
Chris Christiansen	AYE

The motion passed

Christine Anderson motioned to recommend approval of the Hearing, review, and action on an amended plat for Lakeshore Landing Block 4 Plat H located in the area of 900 W 480 S, in the TOD Zone. Rodney Martin seconded the motion.

Jenny Peay: Are they going to go through engineering on this?

John Woffinden: We did all four of them together.

Jenny Peay: Ok, this was on the last meeting I'm assuming?

John Woffinden: Yeah, we did planning and engineering on all four of them discussed together.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Jenny Peay	AYE
Rodney Martin	AYE
David Bird	AYE
Chris Christiansen	AYE

The motion passed

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Chris Christiansen motioned to recommend approval of the Hearing, review, and action on an amended plat for Lakeshore Landing Block 5 Plat I located in the area of 900 W 480 S, in the TOD Zone. Rodney Martin seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Jenny Peay	AYE
Rodney Martin	AYE
David Bird	AYE
Chris Christiansen	AYE

The motion passed

Chris Christiansen motioned to recommend approval of the Hearing, review, and action on an amended plat for Lakeshore Landing Block 6 Plat J located in the area of 900 W 480 S, in the TOD Zone. David Bird seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Jenny Peay	AYE
Rodney Martin	AYE
David Bird	AYE
Chris Christiansen	AYE

The motion passed

Jenny Peay: I realized I also made a mistake I didn't see the second page of the second part of that motion that said subject to anything in the report. So, I don't know if that needs to be done again.

Patrick O'Brien: I don't think we had anything that we're conditioning. We're writing them on separate timescales so its just in case engineering had anything.

Ben Hunter: We just had the standard conditions that are required.

6. Hearing, review, and action on a site plan for the Shipley Residence, located in the area of 1051 N 700 West Circle, in the R1-12000 zone.

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1 Patrick O'Brien: The applicant is looking for a site plan approval for an accessory structure on
2 their parcel. The parcel is .74 acres this only concerns the accessory structure at the rear of the
3 primary dwelling. There are no connections from the primary structure to accessory structure. It
4 meets all requirements that we look for through our application. It meets all of the setback
5 requirements. The only thing that we would ask is if it is approved by the Commission and
6 Council when it comes time for permits it needs to be ensured that there is no overhang of the
7 eaves over the PUE and the setback area of the property.

8 John Woffinden: Any questions for Planning?

9 Jenny Peay: On this particular property there is a ten-foot public utility easement running
10 through on the plat, is that going to be abandoned?

11 Ben Hunter: Yeah, it was about a year or two ago that they did a subdivision plat amendment.
12 The PUE that used to run through the middle of the property was vacated as part of that amended
13 plat and was moved. The requirements at the time were a five-foot PUE on the rear. That
14 existing PUE was vacated as part of the public hearing process. The utilities were giving an
15 opportunity to say they can't vacate it and none of them did so that has been vacated.

16 Jenny Peay: Will that reflect on a new plat?

17 Ben Hunter: The new plat that recorded does identify that as being removed. That was carried
18 over that was showing on this plan that erroneous on that.

19 Jenny Peay: What is the distance between the pool to the home?

20 Someone in the audience: Yeah, it's close to 23-24 feet.

21 Patrick O'Brien: Fourteen at the narrow end. Because of the angle of everything it narrows down
22 at is goes across the property.

23 Jenny Peay: I must have different calculations because mine was only showed about six to seven
24 feet.

25 Patrick O'Brien: On page 19 of the packet, its just those calculations in that area just north.

26 Jenny Peay: My concern was where the pool is in the relation to that corner portion of the home.
27 So, it would be the right upper corner of the pool, to the residence. If you calculate the public
28 utility easement that surrounds the property, it's just over that 5-foot easement.

29 Someone in the audience: The pool isn't near any public utilities, is it?

30 Jenny Peay: No, in correlation to the home itself.

31 Patrick O'Brien: Just the actual proximity as a concern?

32 Jenny Peay: Is there any code that has a minimum distance for an accessory structure?

33 Patrick O'Brien: It is for the structures. Cody did this review and I think he checked that so it
34 should be ok. It is something we can look in to. I can take a quick look at the code.

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1 Jenny Peay: I'm just assuming the pool is a structure is that correct? So, if it's considered a
2 structure is there a minimum setback distance that it has to be from the home? On the plat map it
3 has a flood hazard zone X do you know what that is?

4 Ben Hunter: FEMA identifies various flood hazard zones. Zone X is outside of the 100-year
5 flood plane. It's not a flood risk in the way that FEMA designates it as a zone X.

6 Jenny Peay: I have one more question, on the southern property is it the same elevation as that
7 property to the North?

8 Ben Hunter: They do tie in with the elevation of the existing landscaping. One of the things we
9 require them to do, as part of our review, is to confirm that with modifications that they are still
10 tying into any existing property lines. And they are maintaining any of the storm water on their
11 own lot.

12 Jenny Peay: That was my concern was that storm water that goes down and into this retention
13 area.

14 Ben Hunter: That retention areas is what its designed for. In the topography that retention pond is
15 at the low spot in the back yard. By having that retention area there it should capture any runoff
16 that would be produced from that.

17 Jenny Peay: I had a concern that it didn't flood the neighbors on the other side.

18 John Woffinden: Any other questions or concerns?

19 Jenny Peay: I think that's all I have.

20 Patrick O'Brien: I'm just checking that item as it relates to walls. We were looking at a vertical
21 wall that will be above ground not for a pool wall. I don't know if that something you guys want
22 to take into consideration. I'm just trying to see the distance between the pool and the rear of the
23 property for you. Do you know if that still an issue?

24 Jenny Peay: I don't have an issue with the rear of the property in proximity to the main building.

25 Patrick O'Brien: That's what I mean yes, to the rear of the residence.

26 John Woffinden: Ben how close is this to Mitchell Hollow up there? Will that affect the wetlands
27 or anything?

28 Ben Hunter: No, this site sits up quite a significant amount from the hollow that is behind them.
29 The edge of their property line is where it starts to slope down into the hollow area. The water
30 body itself is not close it is downhill quite a bit from where this is. Even though it's a vegetative
31 area, with the drainage on the back side it would slope down to that retention area that they have
32 and not into the hollow area.

33 John Woffinden: I know we've had trouble with Mitchell Hollow in the past. People will infringe
34 into the wetlands I just want to make sure it doesn't add to the problem out there.

35 Ben Hunter: In this area the wetlands start further downhill and further South from this lot.

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1 John Woffinden: Any other questions or concerns? Is the applicant here? Would you step
2 forward sir, state your name for the record, and tell us about your project.

3 Mike Doule: I'm with Shelby homes my homeowner John Shipley is here with us as well if we
4 need to talk to him. It's a detached boat garage and a pool house. Underneath the pool house is a
5 gym/sports facility. It's a recreation area for private use.

6 John Woffinden: Any question for applicant from the Commission?

7 **Public Hearing Opened**

8

9 No Public Comments

10 **Public Hearing Closed**

11

12 Christine Anderson: Patrick were you able to find anything else?

13 Patrick O'Brien: So, I got a measurement. There's nothing else in it that would relate to pools its
14 two walls of structures that they're talking about in the code.

15 Jenny Peay: So, the pool wouldn't be considered a structure?

16 Patrick O'Brien: It would be an argument for interpretation. My interpretation is that it would be
17 for the likes of the accessory structure onsite that would be above ground rather than the pool. It
18 calls out for 12 foot, but its closer to the 10, for an above ground structure. I just don't know how
19 the Commission would like to interpret that. From a staff perspective we would look at the pool
20 and an above ground structure being very different from each other unless it was an above
21 ground pool. According to the plans this is dug into the earth.

22 Mike Doule: The pool will go through a different permitting process. I mean we're not
23 necessarily here to approve the pool.

24 Patrick O'Brien: If you put the pool somewhere else will you have to change the dimension of it?

25 Mike Doule: This is more conceptually; we want to have a pool here.

26 John Woffinden: Any other concerns?

27 **Chris Christiansen motioned to recommend approval of the Hearing, review, and action on**
28 **a site plan for the Shipley Residence, located in the area of 1051 N 700 West Circle, in the**
29 **R1-12000 zone. Jenny Peay seconded the motion.**

30

31 **Voting was as follows:**

32

33 **Chairman Woffinden AYE**

34 **Harold Dudley AYE**

35 **Christine Anderson AYE**

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Jenny Peay AYE

Rodney Martin AYE

David Bird AYE

Chris Christiansen AYE

The motion passed

7. Hearing, review, and action on a site plan for the Utah Valley Business Park/American Fork Industrial Flex development, located in the area of 752 East Quality Drive in the Planned Industrial (PI-1) zone.

Patrick O'Brien: This is a site plan application in our PI-1 zone. It's a 4.29-acre development, we are following the requirements of section 17.6.101. No issues on the planning side of things. There are existing structures on site with a demolition plan provided to remove them. Speaking with the applicant there weren't any major planning things, but I know there were quite a lot of engineering issues that they've worked through. This is probably more of a question for Ben.

John Woffinden: Are there any questions for planning at this time?

Ben Hunter: This site had a few complexities that you don't encounter on everything. Per our sensitive land ordinance they're required to identify any existing water rights holders. They are also required to identify high ground water and high liquefaction. It has the pond on site and as part of that review process we are trying to confirm if there are any special hazards, what mitigation measures need to be put in place. A couple things to note there were two water rights holders one of them being the city. There's an old well here and the city received the water right as part of the development. The city has since turned it into municipal use. They are required to cap and abandon any existing wells in place that are not being used. The other water right user is the Vest property to the southeast and they have submitted application to the state water engineer that there is an onsite spring that feeds this pond. They've done some review for the location of the pond to confirm it is fed by the spring or from the other well. Part of the plans include mitigation items to redirect that water from the pond down the ditch. They would reroute the water into the ditch so that water right holder still has access to his water right. To be able to further investigate the pond and the reported spring that is there. That is all part of these plans of work that they need to complete with that. They have hired a few people that have outlined how to do it and verified water rights use. Everything they provided to the city makes sure the water rights users aren't negatively impacted, and any other sensitive lands that may be encountered. Based on what has been provided it conforms to our sensitive lands requirements and confirms the existing spring location will be part of the work they do. If they identify the water source, they will implement the plan and if there are modifications that are necessary, to make sure they comply with current ordinance. That is noted on the plans.

Jenny Peay: I'm assuming the spring and the well are separate is that correct?

Ben Hunter: Correct.

Jenny Peay: If they were to fill in this pond and fill up that well do they divert the water?

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1 Ben Hunter: That's part of the field investigations and any existing wells on site are not in use.
2 They observe that there is no water being pumped out of the well. That's why your question is it
3 from a spring or anything like that. As they propose to fill in the pond all of that would have to
4 be verified based on what's not being used. Then there's the question if there is a spring feeding
5 this pond. If so, they've proposed a mitigation measure to direct the spring water to the ditch
6 where the pond currently goes. Then that water right holder still has access to their water.

7 Jenny Peay: Is there any type of contingency plan, that when the well is rerouted and the spring
8 is detected, if that water dries up, to protect the water rights user.

9 Ben Hunter: It becomes something that isn't anything that the city controls. Whether its natural
10 or due to development part of the plan is that they deliver any water coming from that source into
11 the ditch. From the information given to us the water would still get in the ditch. There's the
12 separate question of what if the spring dries up? The city cannot control that it would have to be
13 between the parties to determine if it was due to development or the spring just dried up. That
14 happens and its outside of the city's regulation. That would then be between to property owner
15 and the water right user.

16 Christine Anderson: But the city's job is to determine that the spring is the source and to not
17 block anything that is also contributing to their water flow?

18 Ben Hunter: Right so it's the developer's responsibility to confirm that information and provide
19 that to the city. Then we can confirm if it is a spring that was identified, and they implement the
20 mitigations to ensure the water still gets to the ditch. The developer has complied with the
21 sensitive land ordinances, making sure they have not negatively impacted that downstream user.

22 Jenny Peay: My concern is this other water user has had water rights on this since the 1950s. If
23 this all of a sudden dries up its fairly obvious that the construction project contributed to that.

24 Ben Hunter: The water right holder has identified this spring in 2018 as the source of their water
25 right. This is part of the documentation that the applicant provided. We've even had our water
26 rights attorney confirmed the information. The first time the spring was identified as a water was
27 in 2018. There isn't an existing water right based on the information the applicant provided to us.

28 Jenny Peay: Has the other water right user been contacted recently?

29 **Bruce Frandsen entered and sat on the stand with the other commissioners.**

30 Ben Hunter: That was one of the things we had the applicant do as well. When you have the
31 applicant come up, they can talk a further about that.

32 Jenny Peay: Just so he's aware that it could be a possibility.

33 Ben Hunter: Correct.

34 John Woffinden: You did say the present water right user has been contacted.

35 Ben Hunter: Correct.

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- 1 John Woffinden: Who is that?
- 2 Ben Hunter: The Vests, I think its Larry that has the water right.
- 3 Rodney Martin: These mitigation measures, or water delivery measures, are only going to be
4 implemented if they determine that, yes there is a spring here.
- 5 Ben Hunter: Correct they continue to provide the conveyance from the source of the water right
6 to the water right user where they are using it on their property. Which the water right user does
7 not own the property where the pond and the reported spring sit.
- 8 Rodney Martin: My concern is 2022 being an extreme drought year following up other drought
9 years. Why don't they just put the measures in just in case?
- 10 Ben Hunter: That would be part of the field investigation to reroute the water from the pond, and
11 to identify where it is. They have proposed to install an underground pipe where the source is,
12 but they don't know where that source is. Once they can bypass the water and do further
13 investigative work where the spring will be coming from that's how they identify where it is, to
14 install the pipe in the right spot.
- 15 Rodney Martin: And there is water there now?
- 16 Ben Hunter: Correct, the pond currently has water.
- 17 Rodney Martin: It has to come from somewhere.
- 18 Ben Hunter: Yes.
- 19 John Woffinden: Part of the investigation is you don't know where the water is really coming
20 from. It could be coming from the wells in the area along with the spring or it could be just the
21 spring.
- 22 Ben Hunter: There are two wells onsite that haven't been used in a while. Unless there was some
23 sort of break in the well pipe that the thing that will determine where the water is coming from.
24 That's part of their proposed plan to try and identify it.
- 25 John Woffinden: Some of these wells have been there for 50 plus years. In some cases, it could
26 be completely rotted out and that could be contributing to the source of the water for downstream
27 too.
- 28 Ben Hunter: Per our sensitive land ordinance it does also address high ground water. Based on
29 their geotechnical report they have high ground water on site, and it has been identified.
- 30 John Woffinden: Once you're underground anything is possible. Any other questions or
31 concerns?
- 32 Christine Anderson: Tonight, are we making a decision on whether or not to recommend
33 construction or just to determine where the water is coming from?

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1 Ben Hunter: So, it would be approval of the site plan. Part of their construction plan includes this
2 due diligence work. In order to complete their work, they need to do some more field
3 investigation.

4 Christine Anderson: Is there a possibility that they could come across a reason that the building
5 should not be built?

6 Ben Hunter: Until they do that field investigation and report back to the city their findings, we
7 would not be able to determine that. If there are further problems, they need to do some
8 modifications to the site in order to accommodate that. They would have to comply with all
9 sensitive land ordinances and city standards as well.

10 Patrick O'Brien: Ben it's worth nothing that there is quite a process after this that applicants need
11 to go through in terms of engineering checklists. And information that needs to be provided to
12 our building division before they can get a permit to build anything. Those are issues that are
13 gone at that point so it wouldn't warrant coming back to amend site plans.

14 Ben Hunter: That is part of the engineering report that identified a notice of interest will be
15 recorded on this property. That's per our sensitive land's ordinance for this specific site, there is
16 multiple sensitive lands items at issue on this site. A notice of interest will be recorded on the
17 property that includes all of their geotechnical reports, their pond modifications, and the water
18 rights research. So, anyone who purchases this property has that information.

19 John Woffinden: Any other questions?

20 David Bird: They cannot begin construction until this information has been provided and
21 approved. So, if we vote in favor of this, we're not allowing them to start construction were just
22 allowing them to continue in the process is that correct?

23 Ben Hunter: As with all site plans, this will go to City Council as well, once they completed their
24 checklist items, they would be allowed to commence the construction. But some of that they
25 can't complete until they've done the pond work. We would be authorizing them once they
26 complete the checklist items to begin construction but one of the first things, they would be
27 doing is the pond investigative work. If there is anything that needs to be modified with their
28 building it would be identified before they're building the building. They could start some
29 construction but not until they find out this information.

30 Patrick O'Brien: Horizontal and vertical construction are different. They're different processes.

31 Bruce Frandsen: Maybe the applicant will have a better feel for it. We've talked about the Vest's
32 water right which comes out of one of those wells. Which is not flowing but they still have the
33 water right. And they can drill a well somewhere else and move that water right into it. How
34 many people have water rights downstream from the pond? I talked to one farmer today who gets
35 water from that pond, and he's not been contacted by anyone.

36 Ben Hunter: Our sensitive lands requires that any water rights holders within a half mile of the
37 site are identified. So, within that radius the city's water right and the Vest's water right were the
38 ones that were identified.

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1 Bruce Frandsen: I think the state law says any user who has a water right on a source has to be
2 contacted prior to the source being altered. I would guess there are half a dozen or more people
3 who own water in that pond, they own so many acre feet, and are entitled to it every year. I only
4 talked to one farmer today and he's not been contacted. He is outside of the half mile radius, but
5 he still owns water in that pond. How do we as a city make sure that all those downstream water
6 users are not negatively affected. The Vest one is not a big issue because his are in a well that
7 can be moved. They won't be able to abandon that well without his approval because there are
8 two water rights in that well. Maybe the applicant will have a better feel of how many people
9 they are potentially affecting by covering that. I was down there today and walked the site. I did
10 my quick calculations and there are probably 700,000 gallons in that pond right now. I don't
11 know how much is going out, but I've done enough work down there on that end of town and
12 you start digging down and start moving springs. You dig down, you open it up that spring pops
13 up 40 feet away like two years later. We've got a neighbor that one popped in his back yard two
14 years after he moved in, in the Ivory subdivision. He's wondering what he can do about it.

15 Ben Hunter: I could let the applicant talk about they're water rights specialists and attorneys that
16 have been involved in some of the process. Earlier they presented that the Vest's actually
17 identify the source of that water right as the singleton spring in 2018 when the Vest's did an
18 application. The information we have was the source wasn't identified as the well anymore. I can
19 let the applicant respond as it pertains to any other users downstream. We follow our sensitive
20 lands which does require at least the 0.5-mile radius. Whether there is additional research that we
21 need to do to comply on state side. I do know our ordinance requires they have completed.

22 Bruce Frandsen: I think the state has a more extreme requirement and we need to make sure we
23 meet that.

24 John Woffinden: Is the applicant here? If you'd step forward and state your name for the record.

25 Tyson Williamson: We have been working on this with American Fork City for 14 or 15 months.
26 A lot of the questions you brought up are some of our same concerns. We want to own a building
27 that stands the test of time and is not threatened by any underground source of water. We don't
28 want to damage the neighbors. I wanted to add to what Ben said some of the additional sources
29 of water are feeding this man-made pond. The pond was made in 1961 and the wells were
30 drilled, and the pond was created. The main tributaries to the pond are the property to the west,
31 its storm drain feeds through, they have an easement that feeds through the pond. Also, the
32 manufacturing facility to the southwest they also have a storm drain that feeds the pond. in our
33 paperwork, and the construction plan we will move the storm drains into the outer PUE and feed
34 them south and headed to the east. Those waters will feed the pipeline systems that the Vest's
35 have so any water that comes through that the Vest's will receive. Ben mentioned was the
36 singleton spring it did not exist on this site until the Vest's claimed it in 2020. In the
37 documentation we have we records of when that was recorded. Our water engineer is in the
38 opinion that there is no spring on the property. One thing that was asked is about the concept of
39 the flow of water if there is a spring. In the general construction sense, we are worried about the
40 ground water and maybe a spring. The ground water is very high so the actual building will be
41 about 8 feet above the ground water level. We are also using a process recommended by the

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1 Geotech engineer. We will come in and put marabi fabric down and a pea gravel larger to allow
2 the water transfer through that and we will guide it down to the outlet. We've done this on other
3 projects I've had a couple other projects, one in particular where we had a flowing river under
4 the building. Marabi fabric, pea gravel, and more marabi fabric, it creates a structural load that
5 the building can sit on, and any ground water captured in there and moves through the project.
6 We've contrasted buildings of that nature and that was a recommendation of our engineer. We
7 feel very confident that the plan that we have will provide a safe project. Which the building will
8 be a long-standing structure and that any water that is currently flowing will continue to flow
9 through. The water currently leaves our property, goes down through the Vest's and then it is
10 terminated at Utah Valley Drive. We had the Army Core Engineers come and review this project
11 pertaining the wetlands and they found that the water does not continue south of Utah Valley
12 Drive. I'm not sure where the farm is located but that natural flow of water through the Vest's
13 property is terminated down there. Those documents have been submitted. So, the Army Core of
14 Engineers has actually eliminated this from their wetlands because it's not at tributary anymore.
15 Down on Utah Valley Drive the Woodbury's are developing there. They have a large section of
16 wetlands and theirs was also eliminated by the Army Core of Engineers. I'm going to have Doug
17 Farr come up, we hired him he's an attorney that focuses on water rights so he can answer any
18 things that I missed.

19 Doug Farr: I'm a partner at the Buck Halter Law Firm. I wanted to address some background
20 facts. The Vest's water right, originally the point of diversion was a well north of this property.
21 In 2020 after they had sold that property where that well sits, they filed a change application with
22 the state water engineer in 2020. That's what Tyson was referring to when the singleton pond
23 was first referred to as the singleton spring. There's no other record of it being called a spring or
24 being identified as a spring. They submitted that water change application to change the point of
25 diversion, where you get it out of the ground. In 2020 when JD13, who owns the land now had
26 already purchased the land they submitted that change application without any notice to JD13.
27 To change the points of diversion to the pond or the spring. What that does, once it's approved
28 by the state water engineer, is they can get the water out of that pond. Their water right is now
29 connected to that pond. But they can only get it out of that pond if they have a right to it. Since
30 its not on their property the pond is contained wholly and solely on the JD13 property. They need
31 to have an easement, there is no express easement. Through affidavits submitted during our
32 discussions from the Vest's it said they had permissive use of the pond water before the change
33 application was submitted and before JD 13 acquired the property. What that means is there is no
34 adverse easement that's been created for use over a period of time. Crossing someone else's land
35 to access the pond to get water. Because the Vest's have been getting water from this pond from
36 years, for decades. But it was permissive before JD 13 owned the property. Once JD 13 owned
37 the property and discovered that the Vest's had been taking water there previously, they had not
38 granted authority for the Vest's to get the water there. They have come up with a plan to help
39 them get the water. This plan helps the Vest's, it gets them water that they can't access without
40 legal authority to get to the land. There is no adverse ability to own a water right. Its state water
41 so you can't adversely own a water right by use over decades of time. The only way they can get
42 that water right is by doing the change application and also by getting an easement there. This

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1 would bypass that by directing the water to the Vest's property. We've done a very thorough
2 investigation. We got Bill Laughlin involved from Laughlin Water Associates as an engineer.
3 I'm open to other questions if there's other thing I haven't addressed.

4 John Woffinden: Any other questions?

5 Bruce Frandsen: So, you don't think there's a prescriptive easement in place where they used the
6 water for 17 or 18 years and they now have a legal right to it.

7 Doug Farr: A prescriptive easement would take 20 years and it has to be adverse use, meaning
8 you don't have permission. And they said they had permission to use the water from the prior
9 landowner. There's no way to get a prescriptive easement when you have permission.

10 Bruce Frandsen: The discharge doesn't go into the singleton slew into the lake?

11 Doug Farr: No, it is rerouted to the Vest property, and it goes to Utah Valley Drive.

12 Bruce Frandsen: Is there a pond at the other end where all the water is collecting at the other
13 end?

14 John Woffinden: Where is the water going?

15 Doug Farr: That is part of the engineering they will have to answer.

16 Ben Hunter: Correct, so as it crosses Utah Valley Drive its piped and then it comes back out at
17 new Woodbury office building on the west side of 860 east. It continues down and I don't
18 remember if it flows through the detention pond the city has down by the RV area and then goes
19 down to I-15 or if that detention is just a backup. I do think it continues down, but it becomes
20 piped at that point. There's a little bit that's still open along the Woodbury office building and
21 then it continues south from there.

22 Bruce Frandsen: Then it goes under I-15 where it gets picked up and is running down.

23 Ben Hunter: The various developments across the formerly owned Vest's properties they were
24 required to install storm drain piping so the water can continue to be conveyed down there. Some
25 of the more recent developments have put it in a storm drain system and rerouted it slightly but it
26 still all comes down into that general area we talked about.

27 Bruce Frandsen: I think it dumps into singleton slew. It goes all the way to the lake which a
28 number of people have rights out of that slew. They have right to the water in that pond. I think
29 we need to make sure that that water gets to all of those people. Let's not reduce the amount
30 going out. I would say there has to be a spring there because today there is no storm drains coming
31 off of these two adjacent properties to the west but there's water going out the other side. There
32 is a source there somewhere, there's obviously something. It could be just ground water. And
33 there are a number of ponds out there that you dig a hole ten feet deep and the next morning you
34 come out and you have 8 feet of water. But you don't have water running out, it doesn't leave. It
35 will fill that up the ground water level and it stops, but it doesn't push water out of that pond.

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1 Doug Farr: That's the same thing that happened here that's why historically they would dam it
2 up. They would build up the pressure so they could have it flow east to where they're building
3 the apartments and into the Vest's property. There is no evidence of a spring it's a manmade
4 pond it was dug in 1961. The ground water levels are high there which is why the building is
5 being elevated to avoid the ground water. There also are these two wells that are on two sides of
6 this pond that are old that could also be leaking water into that pond. That's why through the
7 proposal those wells will be terminated. There is only one water right associated with the pond
8 and that's the water right that Vest's changed in 2020. That just changed the point of diversion.
9 Notably there is no storage right associated with that water right to force JD 13 to store it in a
10 pond. The proposal is to find the source of the spring, capture that spring and divert the water
11 east so it can then hit the Vest's irrigation system and fulfill any water rights they have with that.
12 The state water engineer has done an adjudication on this area, and no one filed a water right
13 including the Vest's relating to the singleton pond because that happened in 2018. The Vests
14 have done that for other water rights and for other areas, so they know the process. I think what
15 happened was they've been using the water for a long time and didn't have a water right
16 associated with it, so they switched one of their water rights to the pond. But they don't have a
17 right to access it. So, this is a solution that helps everyone. It gets the water that's solely on my
18 client's property to the Vests. My client wants to put it somewhere too. So it benefits both, the
19 water is gone so we can build the structure and the Vests and any other downstream users have
20 the water.

21 John Woffinden: When do they expect to drain the pond and start checking if there is a spring in
22 the bottom of it.

23 Doug Farr: Once we get approval that work will start soon. That's an important part of this
24 project is investigating. And we've worked closely with the city to make sure we can.

25 John Woffinden: You're going to close two wells on the property according to state law?

26 Doug Farr: That's right.

27 Bruce Frandsen: Adjudication has been completed on that? Have we got final letters?

28 Doug Farr: No final letters for some reason there's been a delay there.

29 Bruce Frandsen: I know I'm waiting for about 30 myself.

30 Doug Farr: The claim deadline has passed.

31 Christine Anderson: Bruce are you concerned with other people you know that use that water or
32 are we saying that we only need to worry about the ones that have a legal claim to that water?
33 Maybe other people are using it. I'm just trying to understand how other people are affected.

34 Bruce Frandsen: Downstream users would need to have a water right that began at the pond.
35 Every time you put a dam in, you have to file with the state that that's a new diversion point.
36 That we're going to change it from going south to going west. Downstream they may put in a
37 dam and file a claim at that point. As long as the water gets there it's really not affected here. The
38 more I hear about it the more reasonable it sounds. It has been adjudicated and that has taken

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1 since statehood to finally get American Fork and Lehi adjudicated in the last 12 months. That
2 means a judge has actually stamped it saying we really own that. Up until then we've all just
3 thought we owned it. I think if it's been adjudicated the Vests are the only ones with a valid
4 diligence claim on that pond.

5 John Woffinden: I did this type of work for 30 years and you guys are very well prepared.

6 Tyson Williamson: We have a very wonderful contractor that will do it and he has done lots of
7 these too. Bruce I'm glad you and Doug clarified my statement on Quality Drive. I'm glad to
8 hear it passed through. The whole purpose of the site is for a flex industrial building. It will have
9 some local companies within as well as warehousing and some light manufacturing. It will be a
10 great addition to the city and that product particularly is in high demand in the city.

11 David Bird: Part of this is that you would put a water collection system underneath the building
12 that will have your barrier and your pea gravel. Assuming that God is kind, and this drought ends
13 and the water levels rise what's the capacity of that drainage system? I'm just thinking in terms
14 of that area becoming saturated.

15 Tyson Williamson: Our footings will go down and we will put a drain line on the footings. So,
16 any water that captures in the vertical walls and the footing will pull off the building. We will
17 route it down to what we call "The Burrito." So, the marabi material will wrap it so it will
18 connect in there and push into the storm drain system which feeds down into the Vest's and goes
19 south towards the lake. As far as capacity that outlet diameter I think is 18 inches. But it will
20 actually have its own retention so it will percolate through. So, we will capture on the south side
21 of the site in the existing footprint of the pond and then flow out. So, it will take time to flow
22 through, but we are getting it off the structure and diverting it out of the site.

23 David Bird: Do you anticipate that will be adequate even if water levels rise?

24 Tyson Williamson: Yeah, IGS reviewed it when the water was higher. As we started this whole
25 process the neighbors to the east hadn't installed their system, so the water levels were higher, so
26 we were evaluating it at that point. Since they've installed their storm sewer system, which
27 connects onto the site, its drained quite a bit. Which if you saw it today there is probably 10-12
28 inches in the pond right now.

29 Bruce Frandsen: But it could be 3 or 4 feet deep in the middle. It's probably 2-2.5 feet below
30 ground level.

31 Tyson Williamson: I think we're coming up another 3 or 4 feet from the existing ground level.
32 So, the water has come down a lot because it is based on the outlet. So, we will build it up and
33 get the water off the sides.

34 David Bird: Is this building ground level or does it go underground? How deep is the foundation
35 on that?

36 Tyson Williamson: The footing will go down below the frost line

37 David Bird: What about the basement? Does it have a basement?

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Tyson Williamson: No, it's slab on grade. So, if you were to drive out there today, we are going to bring the pad of the building up an additional two feet and the footing will go down below the frost line. The finished floor will be about 8 feet from the pond level right now.

Public Hearing Opened

No public comments

Public Hearing Closed

David Bird motioned to recommend approval of the Hearing, review, and action on a site plan for the Utah Valley Business Park/American Fork Industrial Flex development, located in the area of 752 East Quality Drive in the Planned Industrial (PI-1) zone. Christine Anderson seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Bruce Frandsen	Abstain
Jenny Peay	AYE
Rodney Martin	AYE
Chris Christiansen	AYE

The motion passed

8. Hearing, review, and action on a proposed land use map amendment for the American Fork Townhomes Project from Design Commercial to Planned Community, located in the area of 400 S 860 E.

9. Hearing, review, and action on a proposed zone change for the American Fork Townhomes Project from the General Commercial (GC-2) zone, to the Planned Community (PC) zone, located in the area of 400 S 860 E.

Patrick O'Brien: From the applicant's perspective they have submitted a zone change request to go from the GC-2 planned parcel to a planned community. The existing site has a non-conforming land use with the current code. The existing zoning is split on the site as well. There are two exhibits I included in my report that highlight that issue where the north part of the property is zoned in the GC-1. The southern two thirds are zoned as planned community. The applicant wants to bring it all to that planned community land use. The existing zoning is all of GC, the applicant is looking to that from GC to planned community. From a staff perspective there are no issues with that. We understand the area surrounding that is planned community so

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we can just extend the use, so we are not creating an island of zoning. It will also conform more to the majority of the land use designation that exists there.

John Woffinden: Any questions for planning on these two items?

Christine Anderson: Which one is GC in the picture?

Patrick O'Brien: It's the top and the planned community is the bottom. All of the surrounding area is planned community. This is one of those issues we are finding throughout the community as well. Some of them have been brought to our attention by applicants, some by property owners. A lot more of them are going out trying to find them. As our staffing picks up we will be able to get back up to speed on this and get all of our land use and zoning in conformity.

John Woffinden: Get everything up to date and it will change again. Any questions for planning on this one? Engineering any concerns or questions?

Ben Hunter: All that we have identified is if the zone change is approved then both 400 South and 860 East are identified as minor collectors. This intersection is identified as a signal or intersection application. It will be a big enough intersection that we will probably need to do something. It would be required that they convey to the city if it is approved, any of the right of way for those collectors and any auxiliary lines for that collection. That was the only comment that we had.

John Woffinden: Any questions or concerns for engineering? Is the applicant here? State your name for the record.

Mark Hampton: We are preparing to submit our site plan for approval. Because of the zone mix up, we are looking to clear it up. We can do our traffic studies with engineering, and dedicating the lanes needed for the intersection. We just want to clean this up and make it continuous with the other uses in the neighborhood. It's an eyesore and we would like to clean it up. Any questions that I can answer?

Hearing, review, and action on a proposed land use map amendment for the American Fork Townhomes Project from Design Commercial to Planned Community, located in the area of 400 S 860 E.

Public Hearing Opened

No public comment.

Public Hearing Closed

Hearing, review, and action on a proposed zone change for the American Fork Townhomes Project from the General Commercial (GC-2) zone, to the Planned Community (PC) zone, located in the area of 400 S 860 E.

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Public Hearing Opened

No public comment.

Public Hearing Closed

Rodney Martin motioned to recommend approval of the Hearing, review, and action on a proposed land use map amendment for the American Fork Townhomes Project from Design Commercial to Planned Community, located in the area of 400 S 860 E. Chris Christiansen seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Bruce Frandsen	AYE
Jenny Peay	AYE
Rodney Martin	AYE
Chris Christiansen	AYE

The motion passed

Jenny Peay motioned to recommend approval of the Hearing, review, and action on a proposed zone change for the American Fork Townhomes Project from the General Commercial (GC-2) zone, to the Planned Community (PC) zone, located in the area of 400 S 860 E. Rodney Martin seconded the motion.

Voting was as follows:

Chairman Woffinden	AYE
Harold Dudley	AYE
Christine Anderson	AYE
Bruce Frandsen	AYE
Jenny Peay	AYE
Rodney Martin	AYE
Chris Christiansen	AYE

The motion passed

10. Other Business

Patrick O'Brien: We have Jeff and JJ two of our project engineers who we haven't introduced yet.

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1 Jeff and JJ both got up and introduced themselves.

2 John Woffinden: There is no Planning Commission meeting on July 6th. It is the 4th of July week.
3 Our only meeting in July will be on the 20th.

4 11. Site plan Committee Report

5 Patrick O'Brien: We have a number of projects that will be coming down the line to you guys. A
6 mix of our regular things and some major new developments on an economic side of things.
7 Hopefully we will be attracting new business, hopefully around the Automall Drive area. An
8 international firm that we hope will be relocating. And another development that may require
9 some minor site plan stuff. That will go into our regular shopping area here in the city. That's all-
10 in terms of big projects and we have a really heavy workload right now. Our application numbers
11 are up 20 %, matching building permits. We're starting to catch up on that. We're trying to get as
12 many things through our system as we can and get items on our upcoming agenda. Anyone that
13 is going to be at our meeting on the 22nd book a lot of time, we've got 13 items on that agenda.
14 We will have the annexation agreement that was due to be on tonight's agenda on the next
15 meeting. There was an issue related to needing to update the land use on the southern portion and
16 annexing in. We also have Beck Hillside Estates requesting to re-present to the planning
17 commission so that's also on our agenda.

18 John Woffinden: Have they changed anything since the last time they were here.

19 Patrick O'Brien: I haven't seen anything since they received comments from us. They were
20 notified about all of their zoning issues and where they don't meet code. They were also
21 informed of their outstanding invoices. We have the land use map updates, some code text
22 amendments on our next meeting as well. We do have one item on our agenda that we don't see
23 very often it's for someone's residence they're looking to place a shed on their property that's in
24 excess of 1000 square feet. They need planning commission approval for that. If you have
25 questions the applicant will be here and can talk about the use of it, its location, and materials
26 being used.

27 12. Review and action on the minutes of the May 18, 2022 Planning Commission 28 Regular Session

29

30 Christine Anderson moved to approve minutes May 18, 2022 Planning Commission Regular
31 Session. Chris Christiansen seconded the motion.

32

33 Voting was as follows:

34

35	Chairman Woffinden	AYE
36	Harold Dudley	AYE
37	Christine Anderson	Abstain
38	Bruce Frandsen	AYE
39	Jenny Peay	Abstain

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1 **Rodney Martin** **AYE**
2 **Chris Christiansen** **AYE**
3 **The motion passed**
4

5 **13. Adjournment**

6 **Christine Anderson moved to adjourn the meeting. Rodney Martin seconded the motion.**

7 **Voting was as follows:**

8
9 **Chairman Woffinden** **AYE**
10 **Harold Dudley** **AYE**
11 **Christine Anderson** **AYE**
12 **Bruce Frandsen** **AYE**
13 **Jenny Peay** **AYE**
14 **Rodney Martin** **AYE**
15 **David Bird** **AYE**
16 **Chris Christiansen** **AYE**
17 **The motion**

18
19 **The meeting was adjourned at 8:21 p.m.**