

Planning Commission Minutes September 25, 2023 - 6 PM

1. **ROLL CALL** – The meeting was called to order by Chair Robert Mann. A quorum was present.

PRESENT

Robert Mann, Chair
Chad Ball
Howard Carter
Judy Horne
Keith Macedo
Norm Toering
Bobby Wilson

ABSENT

Gerry Harris

City Employees Present: Melissa McCarville, City Business Manager; Rick Bramall, City Building Inspector; Chris Brackett, City Engineer; Jay Moore, City Attorney; Ernie Penn; Mayor; Bill Hellard, Fire Chief

2. **Approval of Minutes:** The August 28, 2023, minutes were approved as written.

3. **Comments from Citizens:** Phyllis Young, 546 Goose Creek Road said even though the City has been removed from the lawsuit regarding her property, she wanted to go on record about the continuing erosion, rocks and other debris that now washes onto her property. She can no longer brush-hog. She noted that in the Northwest Arkansas Drainage Report, it states that people can't build detention ponds that will cause erosion of land. She said she has tried to talk to the mayor but gets no return call.

Public Hearings:

**4A. Rezoning – From A-1 to R-1 and C-1, Property owned by McDonald Building Group, LLC
Property Location: 229 N. Broyles St., Presented by Engineering Services, Inc.**

Daniel Lazenby of Engineering Services was present and said the owner, Damon McDonald, wishes to rezone and then ask for a lot split for property behind a house on the west side of Broyles and near the power plant facility. The front part would be R-1 and the back portion would be C-1 commercial.

Chad Ball pointed out that the Land Use designation for that area is Medium High Residential. Norm Toering was concerned about C-1 there due to the increasing traffic on Broyles and the great increase during school hours.

Steve Claypool – 221 Broyles lives next door to this property and was concerned what will go in there and will a drive or street be extended over to where multi-family homes are being constructed.

Chad Ball said the entry would be an entry drive to the 2.68 acres.

Melissa McCarville pointed out that the power plant substation to the north will probably always be there as well as the storage building facility, north of the substation.

Keith Macedo, Chad Ball, and other commissioners felt that it would be too open-ended to allow C-1 there. So, Mr. McDonald and Mr. Lazenby were given a break to discuss this zoning privately and would be allowed to return later in the meeting.

After agenda item 4B was finished, Mr. McDonald asked to table his request until next month's meeting.

4B. Preliminary Plat – Wagon Wheel Ph. II, Property owned by DR Horton-NW Arkansas, LLC, Property Location: Grace Lane & Utah Avenue; Presented by Halff Associates

Dustin Higgins, Halff Associates, was present to discuss the proposed plat. The City had no comments regarding this matter.

Chris Brackett read his recommended conditions for approval as follows:

“The Preliminary Plat for the Wagon Wheel Crossing Phase II has been reviewed and it is my opinion that the Planning Commission’s approval should be conditional on the following comments.

1. The fire hydrant locations shown on the plat must be reviewed and approved by the Fire Department.
2. The water and sewer improvements must be reviewed and approved by the City of Fayetteville, the Washington Water Authority, and the Arkansas Department of Health prior to construction plan approval.
3. Parkland Dedication or Payment in lieu of Park Land Conveyance will be required for this subdivision at 0.02 Acres or \$600 per single family unit. This will be 1.04 Acres or \$31,200 for the 52 lots. This developer has 1.5 Acres of Parkland banked from the dedication of Wagon Wheel Park (3.18 Acres total, minus 84 lots in Phase 1.)
4. A completed Grading Permit Application and fee must be submitted prior to final approval of the plans. A preconstruction conference will be required prior to any mass grading on the site. The owner, their engineering consultant, and their contractor responsible for the best management practices will be required to attend this conference.
5. After a final review set of plans and drainage report has been approved by KMS, the applicant should submit to the City one (1) set of full size plans and three (3) sets of half size, and one (1) copy of the final drainage report that have been sealed by the engineer of record for final approval and distribution.
6. This approval of this preliminary plat is effective for a period of one year and thereafter as long as work is actively progressing on the installation of the required improvements.”

Mr. Higgins said he had seen the report and was in agreement with the conditions.

Norm Toering wondered about the detention pond that had been shown on the original plat for phase I dated March 2022. on land now owned by Farmington School. Chris Brackett said that pond was intended to control a lot of water so they could have released the remainder in what would have been Wagon Wheel East. However, this land was sold to the Farmington Public Schools and Chris Brackett said the drainage issues will require a detention pond when the school is built.

Judy Horne had looked at both the Wagon Wheel property and the adjacent Twin Falls eastern area where they have had flooding issues in the past. She noted that the water flow is complicated and is a mess there. Mr. Higgins agreed. She read from Mr. Higgins’ letter of September 11, 2023 in which he answered city comments. She read the response #9.

“9. Extension of existing ditch is now shown. We may need to do some modifications to the existing ditch which we will know once we are further in design.” She wanted him to show the ditch on the plat and give further specifics. Mr. Higgins showed the ditch on west side of Phase II.

Her second question regarded item 10.

“10. We have shown how we will be routing the drainage from the detention on to the north. We will route it around the northwest corner and discharge it into the existing ditch for the Twin Falls subdivision.” She said the existing ditch in Twin Falls already floods without additional water runoff

and occasionally Clyde Carnes Road floods. She asked if state and federal laws allow them to turn the water onto someone else's property.

Mr. Higgins said that the topography of the north part of their land (over 100 acres) flows through the northwest corner of Wagon Wheel Crossing Phase II. When the Engles Mill subdivision to the north is further built out, their detention pond is going to discharge onto the Phase II property so they are trying to pipe it around homes and to the Twin Falls ditch.

Judy Horne said there is already a lot of erosion of land, and the recent rain showed a debris line that was quite high in the Twin Falls ditch. It appeared to her that the available detention there was not even enough for them, without additional water coming from Wagon Wheel and Engles at the Mill.

Chris Brackett said that in Engles Mill everything that flows south drains into the Twin Falls detention area already. The Wagon Wheel plan is to put an underground pipe with a 90 degree turn at a junction box, that will open up into the Twin Falls ditch.

Norm Toering said that Riverwood (Engles Mill) said they would not put water on other properties, but here, Wagon Wheel is going to put their water and Engles Mill water into the Twin Falls drainage ditch. Mr. Higgins said they had been working with Engles Mill.

Chris Brackett said next month when they re-submit the plat it probably will show an L-shaped detention pond because they are moving the pond east to the revised Phase 4 and they don't want the expense of filling in the previous pond. Norm Toering noted that when he voted "yes" previously, he did not appreciate when the developer changed it up again.

Chad Ball addressed the response #10 in the September 11, 2023 letter from Mr. Higgins. He wanted to know if the Twin Falls drainage ditch would be able to handle the additional water. Chris Brackett said they will have to prove that. Chris Brackett said their engineers will have to prove with their calculations that anywhere they put drainage, it is the right size. It was discussed that maybe the drainage should be routed on their own property and Chris said that they did have room to do that.

Norm Toering said when Engles at the Mill construction was begun, there was increased water flow and when Wagon Wheel's water is added and if it causes damages, they should expect consequences because Twin Falls POA will be "on the hook" for damages. Chris Brackett said that before houses are built there would be 9 acres of land to drain but after building and streets, it would be six acres of drainage. He did not think there would be additional water flow beyond what already flows through there.

Howard Carter presented the idea of a berm to turn water, but Chris Brackett repeated about the water flow that already exists. He said he would not allow Wagon Wheel to discharge more than the six acres previously mentioned.

Judy Horne noted that with all the modern technology available, why couldn't the ditches and detention pond be put on the Wagon Wheel property. She said they have heard repeatedly with previous developments that "everything was going to be fine" and then it was not.

Chad Ball said Lots 136 and 137 are parallel to City land to the east and the school's property. He asked that city staff talk with the schools to see if controlled bus access to Wagon Wheel could be arranged. This would be easier for the buses to get into the subdivision than trying to get out onto Highway 170. Jay Moore said he would work on this issue.

Public Comment

Jerry Marsh, 398 Driftwood, Twin Falls – He said to allow Wagon Wheel developer to channel water onto Twin Falls would be a poor and costly error. He said the drainage system for Twin Falls had been miscalculated when it was developed and as more houses were added, the flooding got worse. About seven years ago a 6” rain caused flood water right to the edge of a home on Claybrook because the culvert and drain system just could not handle the rainfall and Twin Falls was only about 45% developed at that time. He added that a 6” rain would produce 1 million gallons of water. He mentioned other areas of the city with water runoff problems such as Meadowsweet and Goosecreek.

Molly Hillhouse, 509 Waterfalls Court – She is on the POA Board and said she felt that directing the large area of runoff into the Twin Falls drainage system will cause damage. She explained how they have to pay to have the detention area mowed, plus other work. She is concerned it will cause more damage. She also asked if Claybrook or Copperwood streets would be opened into Wagon Wheel. It was noted the current plan does not open those streets.

Carol Dickinson Russell, 524 Utah – She has the last house on Utah, closest to the proposed Phase II and also the City and school properties to the east. She said the City’s current water management plan is not working. Water flows from north and east of them and has eroded property, came up on a storage building, completely covered their back yard, and came within inches of a neighbor’s AC unit. She asked the Commission to refrain from approving Phase II until they solve the water problems with Phase I. She said a drainage ditch now runs east and west up to their property, then takes a sharp right angle turn and overflows. She said it is not fair to property owners who already live adjacent to a new development to get flooded as development continues.

Jill Toering, 306 Claybrook – She reminded that the City has already had to pay money to fix all kinds of flooding problems. She said that Twin Falls POA has to pay to have their detention area brush-hogged. She further mentioned a former owner of the property had installed a gate for Twin Falls and so she knows there is a drop-off of about 3 feet along the fence row. She said that when the High School was being built and before the detention pond was built, they received a large amount of increased runoff.

Larry Angel, 329 Claybrook – He explained the pipe sizes now going into the Twin Falls detention pond area and felt they were inadequate for the amount of water. He was extremely concerned by this additional amount of water that will be added to their system and said insurance would not pay for damages sustained.

Susan Brewster, 305 Claybrook – She stated her home is at the very low point on Claybrook and the detention pond is behind her home. She said when the inevitable flooding rains come, her house will be flooded.

Tom Hobart, 407 Claybrook – He suggested that a new detention pond needs to be built on DR Horton’s property because the water is their problem, not Twin Falls’. He felt that even with the loss of a few lots, the company would be making a lot of money on the subdivision.

Phyllis Young, 546 Goosecreek Road – She has learned that in spite of what the developer’s engineers said, there will be more water and also the runoff from roofs, driveways, and streets will increase the velocity with which the water flows and will create more erosion where the pipe outlet is located.

Chris Brackett re-emphasized his previous remarks: all the Engles Mill area has been draining into Twin Falls already; There will be 6 acres or less that water will come from; There is a large pond at Clyde Carnes Road where other water will drain into. He will look up about the pipe sizes that have been mentioned.

Mr. Higgins, the project's engineer said he can't speak as to how Twin Falls drainage was designed. Generally, storm water control is designed for a 10 year event or a 100 year event. It is true there have been several 500-year flood events recently, but they do not plan for 500 year floods. He said Twin Falls is now turning water at the southeast portion, onto their land.

Jay Moore summarized, saying that long-time residents and new residents are all saying there are drainage issues. He agreed this is a tough issue. If DR Horton meets the current drainage plan the City requires, then they have recourse in court. Voting to approve the subdivision Phase II may cause problems for citizens. It is a tough issue. He did hope that for the Utah Street drainage problem that perhaps it would be improved when the school is built and a detention pond provided.

Chad Ball felt he needed more information from the engineers and moved to table this matter until next meeting when more information could be provided. Judy Horne seconded the motion which passed unanimously.

Keith Macedo asked for a well-defined drainage map to show where all these drainage areas are tied together. Chris Brackett agreed to provide one.

Interested citizens were reminded that since this was tabled, there will be no notification about the October 23d Planning Commission meeting when this will be discussed again. They will have to remember to attend the meeting.

4C. Large Scale Development – Rainsong Townhomes; Property owned by Srinivasa Bandaru & Pavathi Neeramachaneni; Location – West Rainsong Street; Presented by Bates & Associates

Jake Chavez of Bates & Associates said the Large Scale development plan is to build six duplexes.

The City had no comments.

It was noted that an email from Cristy Bartlett, 142 Whitney Lane, opposing this development due to current flooding issues will be made a part of these Minutes, and is attached.

Mr. Chavez agreed to all conditions of City Engineer Chris Brackett's memo as follows:

“The Large Scale Development for the Rainsong Townhomes has been reviewed and it is my opinion that the Planning Commission's approval should be conditional on the following comments.

1. The fire flow, fire hydrant and fire lane locations must be reviewed and approved by the Farmington Fire Department prior to construction plan approval.
2. The water and sewer improvements must be reviewed and approved by the City of Fayetteville Engineering Department and the Arkansas Department of Health prior to construction plan approval.
3. Submit two (2) copies of the filed easement plat prior to construction plan approval. A copy of the proposed easement plat shall be submitted to KMS for review and approval prior to signatures.
4. A sign permit will be required for the construction of any signage for this project.

5. Payment in lieu of Park Land Conveyance will be required for this subdivision at \$500 per multifamily unit. This fee will be \$3,600 for the 12 multi-family units.
6. A Flood Plain Development permit will be required for this project prior to construction plan approval. All structures must be a minimum of two (2) foot above the 100-year water surface elevation from the pending detailed flood study.
7. A completed Grading Permit Application and fee must be submitted to the City prior to final approval of the construction plans. A preconstruction conference will be required prior to any grading on the site. The owner, their engineering consultant, and the contractor responsible for the best management practices will be required to attend this conference.
8. After a final review set of plans and drainage report have been approved by KMS, the applicant shall submit to the City one (1) set of the full-size plans and two (3) sets of the half-size plans and one (1) copy of the final drainage report that have been sealed by the engineer of record for final approval and distribution.
9. This approval of this large scale development is effective for a period of one year and thereafter as long as work is actively progressing on the installation of the required improvements.

The following comments can be addressed in the construction plan submittal.

1. The pending 100-year Flood Plain does not appear to be correctly shown on your plat. Correct the Flood Plain and add the Floodway to your drawing. Contact James Geurtz, PE with EDA if you have any issues with the pending flood study.
2. The minimum finished floor elevation for each building must be determined from the highest flood elevation on any part of the building. Several of the minimum FFEs are low and need to be adjusted up.”

Norm Toering noted that the entire area floods and there are erosion problems and there has been major flooding at Peachtree Village located to the east of this property. Mr. Chavez indicated they knew about the flooding and owner will pay for flood insurance. They will have to submit to the Flood Plain Administrator a Flood Certificate for each building pad and check it before they can build on the pad.

With the overriding concern about flooding since the land is in the flood plain, the buildings will be built up 2 feet above flood plain. Also, the driveways will have to be raised and will have a slope.

Chad Ball was concerned about the private drive into this development, thinking it was a very small area for dozens of cars to park. At first, it was determined that the spaces will meet the size requirement for parking area on the driveway. Mr. Chavez also noted there will be a garage for one car, and one car can park on the driveway plus there will be two spaces for overflow parking. However, after lengthy discussion it was remembered that the newly revised Multi-Family Ordinance requires TWO parking spaces, plus the garage parking. So this plan does not meet the new ordinance requirements. Finally, it was decided that they will either have to 1) redo the proposed layout or 2) ask for a variance on the parking issue.

It was decided by commissioners that the required sidewalk *will* be required even though there is a sidewalk on the other side of the street. It was noted that the driveways can't be so short that cars parked in the driveway stick out onto the sidewalk.

Keith Macedo asked that the numbering of the units be changed to meet standard number – reading left to right, so A is on the far left, and the letters proceed to the right. He asked if Farmington might

codify the numbering system to match what the County requires and consider this at next month's meeting.

Chad Ball moved to table this agenda item 4C. until next meeting on ~~November 27, 2023~~ ^{October 23, 2023}. Upon roll call vote, motion passed unanimously.

4D. Final Plat – Summerfield Subdivision Ph II; Owner: Craig Young DRP Holdings; Location – West end of Wilson St, West of Summerfield Ph 1; Presented by Jorgensen & Associates

Charles Zardin of Jorgensen & Associates was present to discuss the final plat. He had no comments and City had no comments.

Chris Brackett read a memo with conditions for approval as follows:

“The Final Plat for the Summerfield Subdivision Phase II has been reviewed and it is our opinion that the Planning Commission’s approval should be conditional on the following comments.

1. On April 27, 2020 the Planning Commission approved Summerfield Subdivision Phase I with the following condition: “The Developer and City Staff have come to an agreement for the required offsite improvements for this development. This agreement is only binding if the Planning Commission agrees to the offsite improvements as follows.

- f. The City (Planning Commission) agrees to waive the payment in lieu of parkland dedication for this development.

Due to this condition of Phase I, there will be no requirement for parkland dedication for this development.

2. All public improvements must be completed, and a Final Inspection scheduled. All punch list items must be completed and accepted prior to final approval of the final plat.
3. A one-year Maintenance Bond to the City of Farmington for all public improvements except for the water and sanitary sewer improvements must be provided prior to the signatures on the Final Plat. The engineer must submit an itemized cost of these improvements for approval prior to obtaining the bond.
4. If the sidewalk construction is to be delayed until the home construction, then the developer shall provide an escrow account in accordance with Ordinance 9.20.03(a.). The engineer shall provide a cost estimate for the construction of the sidewalk for approval.
5. If the installation of the Street Lights has not been completed at the time of Final Plat signatures, then the developer shall provide the paid invoice from the electric company for these lights.
6. Provide one original and 6 copies of the recorded plat to the City.”

Public Comment

Freda Wilson – 14015 Mule Deer Circle, Fayetteville explained that her family owns 13 acres of land north of Phase III that is landlocked. Phase III is supposed to give them an easement into their land. It was discussed that the Planning Commission does not have control over an issue like this. However, Chad Ball asked that Mrs. Wilson be notified when Phase III is presented. If other efforts fail, Jay Moore said they could file a civil lawsuit.

Chairman Mann called for question to approve the Final Plat of Summerfield II, conditional upon conditions set by the City Engineer. Upon roll call vote, the Final Plat was approved unanimously.

4E. Final Plat Replat – Farmington Heights Ph. II; Owned by Ben Young, Lots 102 Holdings, LLC; Location – 15 W Chickasaw Rd.; Presented by Engineering Services, Inc.

Daniel Lazenby was present to answer any questions regarding the Final Plat which would provide additional access into the Farmington Heights Subdivision located at intersection of North Hunter and Wilson, since there were over 25 units and they had to change the entry from 3 lots to 2 lots. Main access is onto Wilson, but the plan finally agreed to is a connection into Phase 5 of Summerfield Subdivision. (The first plan to go north through Cedar Heights could not be worked out.)

City Engineer Brackett read a memo outlining conditions for approval.

“The Farmington Heights Final Plat Replat has been reviewed and it is our opinion that the Planning Commission’s approval should be conditional on the following comments.

1. The road improvements shown on this plat do not agree with the approved plans for the Farmington Hill Community LSD. The improvements from the Farmington Hills Community LSD must be completed and accepted by the City prior to signatures on the revised plat.
2. Any modifications to the water and sewer improvements must be reviewed and approved by the City of Fayetteville, the Washington Water Authority, and the Arkansas Department of Health. These modifications must be completed and accepted by the proper authority prior to signatures on the revised plat.”

Keith Macedo asked if the residents of Mojave have been notified of this change. That is in process.

Public Comment – None.

Chairman Mann called the question to approve the Final Plat for Farmington Heights Ph. II, subject to conditions set forth by City Engineer Brackett. Upon roll call vote, motion passed unanimously.

F. Public Hearing for Ordinance for Parkland Dedication – Sarah Geurtz

Sarah Geurtz was present to answer any questions, but there were no comments or questions.

Robert Mann called the question to forward the proposed ordinance to the City Council for consideration at their next meeting. Upon roll call vote, motion passed unanimously.

Sarah Geurtz and the Commission were thanked for their long hours of work on this proposal.

G. Public Hearing for Park Plan

Hal Henson – 11651 E. Creek thanked the Commission for what they had done, but said there are now lots of homes south of Highway 62 and these taxpayers deserve a park in the southern part of the city. It was noted that this need has been discussed in the meetings and is discussed in the Park Plan. He felt that the dollars developers pay to avoid having to develop parks is easy for them and the losers are the citizens of the City.

Keith Macedo said that a fee change for payment in lieu of a park has been raised as follows:
Single family – formerly \$600 and proposed is \$900. Multi-Family – formerly \$300 per unit and now is \$600 per unit.

Email from Cristy Bartlett, 142 Whitney Lane, opposing Large Scale Development of Multi-Family housing on Rainsong due to current flooding issues

From: Cris Bartlett <cbartl004@gmail.com>

Sent: Monday, September 25, 2023 10:45 AM

To: deanmann21@aol.com; Melissa McCarville <mellissamccarville@cityoffarmington-ar.gov>

Subject: Adjacent Property Owner Comments-Rainsong Townhomes-9/25/23 Planning Commission Meeting

Good morning,

I am unable to attend tonight's meeting due to work commitments. In light of this, I would like to register my concerns as noted below:

1. My property continues to experience degradation due to lack of sufficient infrastructure to manage storm runoff.
 1. The drainage ditch running along the NW and N of my property fosters erosion and no efforts have been made to address this despite communicating these concerns numerous times.
 2. Significant flooding of my backyard continues beginning from the SE corner and then increases as the creek overflows.
 3. My entire fence line is undermined.
 4. My property is sinking; it would take at least 2 dump truck loads of topsoil to restore my property to its original grade.
 5. Repairing the fence and regrading the property is not practical until the drainage issues are resolved.
 6. All dirt and debris from other homes on Whitney Ln. flow towards my property and leads to unsightly mud buildup.
2. I do not oppose the development in general but have significant concerns that the hardscaping involved and lack of City infrastructure improvements will further damage my property.

Respectfully,

Cristy Bartlett
142 Whitney Ln., Farmington, AR
(479) 466-2928

Robert Mann called the question to forward the proposed Park Plan to the City Council for consideration at their next meeting. Upon roll call vote, motion passed unanimously.

Bobby Wilson moved to adjourn, seconded by Norm Toering and meeting was adjourned.



Judy Horne, Secretary



Robert Mann, Chairman