

Planning Commission Minutes
July 24, 2023 - 6 PM

1. **ROLL CALL** – The in-person meeting was called to order by Vice Chair Gerry Harris.
A quorum was present.

PRESENT

Chad Ball
Howard Carter
Gerry Harris, Vice Chair
Judy Horne
Norm Toering
Bobby Wilson

ABSENT

Robert Mann
Keith Macedo

City Employees Present: Mayor Ernie Penn; Melissa McCarville, City Business Manager; Rick Bramall, City Building Inspector; Jay Moore, City Attorney; Captain Pete Oxford, Fire Department; Chris Brackett, City Engineer

2. **Approval of Minutes:** The June 26, 2023 minutes were approved as written.
3. **Comments from Citizens:**

Matt Bates – 455 N. Yona Lane, Goose Creek Subdivision: Mr. Bates had bought his home (Lot 25 in Goose Creek SD) from Riggins Company, thinking he was on a cul de sac. Then E.R. Horton bought out the subdivision and they have put a through street there so he is no longer on a cul de sac and he was very unhappy about that. (Original plat showed a through street, with the cul de sac only being temporary as construction continued in stages.)

Phyllis Young - 546 Goose Creek: Ms. Young stated she was there because of the flooding on her land; and that she keeps coming back because the decisions of the Planning Commission are causing land to be destroyed in Farmington. The other drain pipe that has been installed now causes flooding even when there is only .25 to .5 inch of rain, and it will be a lot worse by the time they finish building all of the houses in Goose Creek Subdivision.

Ms. Young said she would appreciate if some commissioners would come see the damage, even if the City Attorney Jay Moore advises commissioners to stay away. Due to the ongoing lawsuit, she said she doesn't have to know if anyone is on her property. She thought that commissioners would want to see what's going on. She stated that she will be proved right about her property damage, if and when the lawsuit is finished.

Ms. Young also stated she hoped that commissioners would look over the laws, agendas and whatever else is related to water damage, checking very carefully before voting on developments. To approve developments that allow increased water to flow onto adjacent property is not right. She said she now has lots of top soil and rocks so large she can't drive a 4-wheeler there anymore and grass has washed away. It is just mentally and physically draining, Ms. Young said.

She further stated that her property is destroyed, but also all down Goose Creek, residents are having problems too. Again she invited people to see it for themselves, including City Engineer Chris Brackett and Public Works Manager Floyd Shelley who had seen it early in the Goose Creek development and now the land looks totally different. She also stated that she would like to encourage the Mayor to care enough about the citizens to go look, which hasn't happened yet. She would really

appreciate now or in the future to not have this happen to someone else because it is devastating to see your land go down the drain and there is nothing you can do about it.

Public Hearings:

4A. Variance – Decrease in access easement from 60 feet to 20 feet; Owner - Keith Marrs; property located at 44 Old Depot Road as presented by KSDA:

Keith Marrs explained he purchased the property at 44 Old Depot Road, just across the street from another home he is building. He said this property which was very overgrown is unique. The existing house at the back of the lot is sound but will be completely renovated. He would like to split the lot and build a 1,500 sq. ft. brick home with privacy fence in front of the old, existing house. However, he is 68 square feet short of the 10,000 square foot minimum. He asked for a narrower driveway access easement so he could meet the square footage requirement and then save two really nice trees that would have to be taken out if he has to have the wider drive

Vice Chair Harris asked the Commissioners if they had any questions.

Judy Horne stated she didn't see lot split on their application. City Business Manager Melissa McCarville said that the Planning Commission does not approve lot splits. Once the two variances are approved the City Business Manager can approve the lot splits.

Norm Toering asked how the lot would be split. Melissa McCarville stated the City did not receive the survey with the application, but it was determined it would be split from east to west, not north to south.

Mr. Marrs said three of the neighbors that join the property are glad the property has been cleaned up. The options are to finish out the existing house and have the huge lot in front of it, when other lots on the north side of Old Depot have smaller frontage. The houses on both sides of them have a big shop in the back that matches this. Another option would be to allow the variances, save the trees and build a 1,500 square foot house on a slightly smaller lot.

Norm Toering asked if there would be only one shared driveway for both homes. Keith Marrs stated there would be a driveway on one side and another driveway for the other. Keith Marrs said that would be his preference.

Judy Horne asked if the current curved driveway existing on the east side of the property would be straightened when it is the access drive. He said it would be a straight, standard driveway width and would be the only access to the back property. She asked if there would be two entrances into the lot and Mr. Marrs said yes and the two driveways would be separate. She thought it appeared to be a small lot, when split, but Mr. Marrs said it is almost a standard size lot, being 9,815 sq. feet. She asked how this building would be oriented to the old house. Keith Marrs said the houses would both face Old Depot Road and they would put up a privacy fence. Keith Marrs didn't know if he will keep the older house or sell it, but regardless, the owners will know what is going on in front of them; he has to disclose that to them. Judy Horne said she has a problem with it because it appears it will be so crowded and thinks about the neighbors next door and on either side. Keith Marrs said the houses in the front lot will line up with the houses on Old Depot it won't be sitting back farther than any of the other houses.

Chad Ball said when we look at the variances, we look at the issues of the lot that causes undue hardship due to the circumstances unique to this lot. The unique hardship to this lot is why we should grant a variance. Keith Marrs stated he can build another home with a 65 foot access drive, but it's ridiculous to have a 65 foot width driveway on a 100 foot width lot. City Business Manager Melissa McCarville stated the purpose of the access easement in the lot split ordinance is for tandem lots and this is what this is; it's to allow deeded access to the back lot all the time and it is protected. Our ordinance requires 60 feet which might be more appropriate out in the county. The drive does not have to be the width of the current easement; however, the Fire Chief would like for it to be 25 feet, not 20 feet. Chad Ball said the code requires a 60 foot minimum width for this type of action and if we grant a variance it needs to be due to undue hardship unique for this lot.

Judy Horne asked how the fire truck would get back to the back house. Vice Chair Gerry Harris asked Fire Captain Pete Oxford to give his input. He said the Fire Department has requested it to be changed to 25 feet because fire trucks are quite wide and are hard to get through in a small area. Norm Toering asked Captain Oxford if 25 feet was adequate space to get a truck back there and Captain Oxford said "yes".

Bobby Wilson asked Mr. Marrs if he could work with the 25 feet instead of 20 feet and Mr. Marrs said yes, it wouldn't be a problem. Bobby Wilson said he is going to vote for this because Mr. Marrs is saving the big, beautiful trees and the variance requests seem minor, considering the improvements he has made in the area and the adjacent owners are happy and there are no public safety issues.

Vice Chair Gerry Harris said since the Fire Department made a request to change to 25 feet we need to have a motion to increase that. Bobby Wilson moved to change to 25 feet instead of the 20 feet requested. Howard Carter seconded the motion. The request to change to 25 feet was approved by unanimous vote, 5-0.

With no further discussion, Vice Chair Harris called for question to approve a variance request to decrease the access easement from 60 feet to 25 feet. Upon roll call vote, Carter, Toering, and Wilson voted "Yes" and Horne and Ball voted "No". Approved by 3 – 2 vote.

4B. Variance – Decrease in minimum lot size in R-1 from 10,000 sq. ft. to 9,815 sq. ft.: Property owned by Keith Marrs; property located at 44 Old Depot Road as presented by KSDA

Keith Marrs said the city ordinance requires 10,000 square feet for R-1 zones. By being allowed to pull back and have the slightly smaller lot allows him to keep two really nice trees, which he wants to do. When he cleaned up the lot, he left every tree possible, took out the scrub vegetation, and now it's a very nice lot. He said the difference would be 185 square feet short on one and 116 square feet over on the other. He said he could move the line if necessary to dead center and be only 34 square feet short but that would take out the trees; he said he'll do whatever the Commission wants done.

Norm Toering said directly behind the property (north edge) are some huge trees and certainly wanted keep them. Keith Marrs said the church owns the property behind this property, and the cell tower is there, so he wants to keep all the trees he can.

There was no public comment. Having no further comments, Vice Chair Harris called for question, and the request was approved 3 - 2 with Judy Horne and Chad Ball voting "No".

4C. Large Scale Development – Revised Plans - Farmington Hills Subdivision - Lots 102 Holdings, Inc. property located at 2 Wilson St. as presented by Engineering Services, Inc.

Brandon Rush with Engineering Services for Lots 102 Holdings said they are asking for a proposed revision to a Large Scale Development approved previously, which would add four small cottage style units at the entrance of the LSD located at the intersection of Wilson and Hunter Street.

Norm Toering stated this Large Scale Development was approved about two years ago, and the city has changed since then. He guaranteed there had been no cottages on the plan when they presented it to the Commission. Mr. Rush agreed. This addition request is new.

Norm Toering also noted that Mr. Rush was talking about **four** cottages, but the plan presented shows **seven** and he was greatly concerned about this disparity. Mr. Rush assured commissioners that although the plat shows seven cottages, only four will be built, if approved. City Engineer Chris Brackett said the developer wanted seven but by the zoning ordinance requirements, they can build only four.

Norm Toering said since this LSD shows "Private Road" all through the plan, can they close it with a private gate and not allow the public to drive through there? Mr. Rush said they are adding an access easement so the public can access it. Mr. Toering then asked whether the City or the development owners maintain the roadway. Mr. Rush said the homeowners will be responsible. Mr. Toering wanted assurance that every person who buys there will clearly understand that it is going to be their responsibility to maintain the road and not the City of Farmington. City Engineer said the plan is for one owner to own all 114 units. This is like apartment complexes that have private drives.

Another concern Mr. Toering had was that he couldn't find a legal definition for "tiny house". So, is a 450 square foot residence a cottage or a "tiny house." He felt it needed to be clarified in case six months from now someone comes to the City and says "I want to build 40 tiny houses." Is this a cottage or a tiny house? Mr. Rush said it is a cottage. Chris Brackett said they cannot build anything else on this property.

City Attorney Jay Moore said there is not a state statute that defines tiny homes and has regulations for them. Therefore, until there's a statute, the City would have to create its own ordinance. He suggested that this could be discussed at a work session because there would be many issues to be considered.

Jill Toering 306 Claybrook Drive stated that the Commission talks all the time about connectivity, and she asked if this private drive connects to anything else. Chris Brackett explained that Lots 102 Holdings has agreed to build a road from Wilson that joins into Farmington Heights Subdivision to the north of this LSD. It will have an access easement so the street can't be closed. All other surrounding properties are now developed so there is no reason to stub out any other connectivity, other than to Farmington Heights. This development request was brought to the City before the City recently passed a connectivity ordinance.

City Attorney Jay Moore asked City Engineer Chris Brackett if the developer can continue to follow the old multi-family housing design standards in place when this LSD was approved, or the new standards since they are asking for a change. That became an interesting question and Jay Moore suggested this could be tabled until an answer was found. Chris Brackett said a lot of the duplexes are already under construction. Also, the cottages would be residences and the City has no design standards for residences, so the City could not tell the developer how or what to build.

Chad Ball was concerned about the parking issues if cottages are built at the entrance and would like Fire Department input, and also wanted to know what authority the Fire Department has on private streets.

Judy Horne noted that each duplex will have a design that we eliminated when we upgraded the Multi-Family Design Standards: these have nothing on the front but a garage door then a long, dark corridor to walk along to the entry door.

Bobby Wilson asked Jay Moore if the Commission could have an amendment about number of cottages so they can't deviate from that, or change and add more duplexes instead of cottages, noting that we have had this happen to us more than once. Chris Brackett said everyone on the staff knows what's going, the owner tried to change it, and this is what has brought us to this point here at the Planning Commission. The City is not going to let them change it again without bringing it back to the Planning Commission.

Chad Ball said that with over a hundred units they do not have a parkland dedication but will pay the fee-in-lieu of park land dedication. Therefore, people will be walking to the park because it is so close. He had big public safety concerns due to the bottleneck at the entry from Wilson if cottages are added. He didn't like that the private drive excludes a lot of the safety issues we would need with a lot of density and there are no amenities. Vice Chair Gerry Harris noted that there are no sidewalks in front of any of the duplexes. Chris Brackett said that should have been addressed by the Commission when this was brought to them the first time.

Judy Horne moved that a 5 foot sidewalk be installed in front of the four cottages located at the entrance to the multi-family development and continue the sidewalk to Wilson Street. Bobby Wilson seconded the motion which was approved 4 - 1 with Norm Toering voting "No".

Chris Brackett read a memo with conditional requirements for approval:

The Revised Large Scale Development Plan for the Farmington Hills Community has been reviewed and it is our 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. Payment in lieu of Park Land Conveyance will be required for this large scale development plan at \$300 per multifamily unit and \$600 per single family unit. This fee will be \$36,500 for the 114 multifamily units and 4 single family units. This fee will be required before any additional building permits are issued for this site.
4. 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.

Public Comments:

Jill Toering 306 Claybrook Drive, said since it has a private road, the City will have no say about parking restrictions, so if cars park on both sides of the road how will the Fire Department be able to get to a fire?

Chris Brackett said the Fire Department reviewed this and made comments and asked for No Parking signs. Jay Moore said that if commissioners vote against these additional four residential units, they may try to put duplexes there.

Chad Ball said with that the potential added density there would be additional safety issues. In this proposed location for cottages, space is very tight and there would be the risk of cars parking in the street or with cars on driveways sticking out into the street. He said the developer was trying to get the highest maximum density they can.

Howard Carter also had concerns about the parking and the hazards. Mr. Moore said that is something the Planning Commission would have to take into consideration. Safety is always number one. Chad Ball said best case scenario for this area is green space. Jay Moore agreed.

Norm Toering was concerned about future issues; he asked what if someone bought the adjacent vacant land and wanted to build a large number of 450 square foot cottages would there be nothing we could do to stop it? Chris Brackett said it is not zoned for cottages, but rather is a future phase of Summerfield Subdivision which is residential.

Vice Chairman Harris called for question to approve the LSD Revision which would allow four cottages at the entrance of the LSD, and with requirement to install 5 foot sidewalk for the four cottages and also, this sidewalk would connect to Wilson Street, and also contingent upon the City Engineer's conditions. Upon roll call the vote was 5 "No" and zero "Yes; the motion failed and the request to add four cottages was denied.

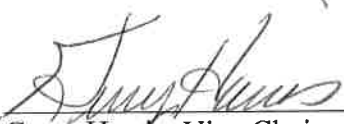
Discussion of Parkland Dedication

Jay Moore has emailed the City of Bentonville to learn about their parkland dedication ratio or money-in-lieu-of, based on how much land is involved. Also, Melissa McCarville sent Jay an informative article from Austin, Texas, on calculation. Therefore, he recommended reviewing this at the next work session to discuss more, and to allow enough time to make a good decision.

Adjournment: Having no further business, Norm Toering moved to adjourn, seconded Chad Ball, motion was approved, and meeting was adjourned.



Judy Horne, Secretary



Gerry Harris, Vice Chair