

City of Taylorsville
Planning Commission Meeting
Minutes
July 10, 2012
Pre-meeting – 6:00 p.m. - Regular Session – 7:00 p.m.
2600 West Taylorsville Blvd – Council Chambers

Attendance:

Planning Commission

Garl Fink, Chair
 Ted Jensen
 Steven Faurischou
 Anna Barbieri
 Dan Fazzini, Jr.
 Dale Kehl
 Israel Grossman
 Curt Cochran (Alternate)

Community Development Staff

Mark McGrath – Director/Community Development
 Dan Udall – City Planner
 Jean Gallegos – Admin Asst/Recorder
Excused: Michael Meldrum – Principal Planner

PUBLIC: Deborah Perry, Gary Perry, Leslie Howlett, Jeremy Howlett, Debra Carlsen, Carol Terrell Jones, Andrew Terrell, Chela Gale, Bruce Gale, Jessica McCullough

WELCOME: Commissioner Fink assumed duties as Chair, welcomed those present, explained the process to be followed this evening and opened the meeting at 7:00 p.m.

MOTION: Commissioner Faurischou - I will make a motion to move Items #3, #5 and #6 to the Consent Agenda. Commissioner Fink - The public needs to know that the Commission is proposing to move #3, a Conditional Use Permit for an Oversized Accessory Building at 4881 South 3730 West, a Conditional Use Animal Hobby Permit at 5522 South Appian Way and a Conditional Use Animal Hobby Permit at 4761 South Dymock Circle. (No opposition was expressed by those present to move the aforementioned items onto the Consent Agenda).

SECOND: Commissioner Jensen

Commissioner Faurischou repeated the motion, saying that, "I'd like to make a motion that we move Item #3, a Conditional Use for an Oversized Accessory Building at 4881 South 3730 West (File #24C12), Item #5, a Conditional Use Animal Hobby Permit at 5522 South Appian Way (File #26C12) and Item #6, a Conditional Use Animal Hobby Permit at 4761 South Dymock Circle (File #28C12). Move those three items to the Consent Agenda.

SECOND: Commissioner Barbieri

VOTE: All Commissioners present voted in favor.

CONSENT AGENDA

Agenda/File #	Application	Applicants	Action
1. 9H12	Home Occupation – Attorney Office	John Brems 2798 West Matterhorn Drive	Approved with staff recommendations.
3. 24C12	CUP – Oversized Accessory Building	Tony Carlsen 4881 South 3730 West	Approved with staff recommendations.
5. 26C12	CUP – Animal Hobby Permit	Adrienne Bender 5522 South Dymock Circle	Approved with staff recommendations.
6. 28C12	CUP – Animal Hobby Permit	Debra Carlson 4761 South Dymock Circle	Approved with staff recommendations.

Commissioner Fink asked for a motion to approve the Consent Agenda as amended.

MOTION: Commissioner Jensen - I would like to make a motion to approve the Consent Agenda as outlined, consisting of Agenda Items #1, #3, #5 and #6, noting that #5 is actually File #26C12.

SECOND: Commissioner Grossman

VOTE: All Commissioners present voted in favor.

CONDITIONAL USES

2. 13C12 – <u>Leslie Howlett – 5221 South 3600 West</u> – CUP (Backyard Chickens) (Dan Udall/City Planner)
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2.1 **Mr. Udall** presented this item. The applicant has requested a conditional use permit for a backyard chicken use to allow three chickens on his property. The applicant is proposing a 12' x 4' square foot chicken coop to be located in the rear yard of the single-family home. There is a fence that surrounds the rear yard. The chickens are currently located on the property.

Findings of Fact: Staff finds the following findings of facts or reasons regarding File # 13C12:

1. That the applicant is proposing a backyard chicken permit.
2. That the backyard chicken permit is a conditional use.

3. That a maximum of five chickens can be on an 8,798 square foot lot.

Staff recommends approval of File #13C12 with the following conditions:

1. That the use is compliant with all requirements of applicable reviewing agencies.
2. Conditional Use Permit is subject to review upon substantiated and unresolved complaints. Complaints which cannot be resolved by Staff or West Valley Animal Services personnel may be grounds for permit revocation.
3. Property violations (if any) must be resolved prior to issuance of a backyard chicken permit.
4. The applicant needs to apply to all requirements that are applicable under Chapter 8 (animal permit regulations) and Title 13.
5. That only a maximum of five chickens can be on the subject property and all of the chickens should be contained in the required enclosure at all time.
6. That a signed consent to an on-site inspection of all enclosures, coops and surroundings be submitted to Staff.
7. That chickens cannot be slaughtered on the premises.

2.2 **APPLICANT ADDRESS:** Leslie Howlett was present. She thanked Mr. Udall for his help with this application. She advised that they got their chickens a year ago and at that time had talked with several people in the neighborhood that have chickens and none were aware that they needed a permit. Once she found out they needed a permit they went through all the requirements to get one, including moving the coop to the middle of their yard as required. These chickens are pets for her children and in order to have fresh eggs. The chickens go into the coop at night and she cleans out the coop regularly. They did have a rooster at one time, which hatched out from one of the eggs and subsequently moved it to her parent's home in West Jordan. She advised the chickens have names, the rooster is named "Katy Chick" and the other three are named "Pin", "Tracy" and "Red". Commissioner Fink wanted to make sure she was aware of the many different types of diseases that involve chickens and she said that she was very conscious of that fact. One of the complaints was that feces were allowed to remain in the open for excessive amounts of time. She had cleaned up the coop and put the feces/straw in a plastic container until it could go out in the garbage can.

2.3 At this point, Commissioner Fink opened the meeting up to citizen's input regarding this application.

2.4 **SPEAKING:**

- 2.4.1 Carol Terrell Jones (lives next door to the Howlett's). She advised that she has two small dogs, both of which are bred as "killer" dogs (mice, rats, birds, etc.). To them chickens are birds. She has them limited to a small fenced in area and they still sit on the edge of the fenced in area when the chickens are out in the yard. At that time, her dogs will not quit barking because they see the chickens as birds. If the chickens are kept in the pen, there is no problem but when they are out running around the yard it incenses her dogs. That is her only objection to this application.
- 2.4.2 Andrew Terrell said that he has photographs of the way the coop was originally set up. He passed his camera to all Commissioners for them to review the pictures. He added that the feces Mrs .Howlett alluded to as being kept in a plastic bin was actually kept on her back porch. Not only that but the whole yard smells like feces. He added that the coop area has been cleaned up since he had taken the photographs; however, the yard itself is still lacking proper maintenance. It is over run with weeds over 6" high. These chickens are allowed to run free in their yard but his mother's dogs must be confined while the chickens are in the yard due to the constant barking it creates, for which his mother has been turned in to Animal Control twice. Commissioner Fink asked if the fence between the two yards was chain link and Mr. Terrell replied that it was, with metal slats for privacy, however, due to the short height of the dogs, they can walk right up to the fence and see the chickens on the other side.
- 2.4.3 Mr. Jeremy Howlett commented that pets are a great positive influence on children as they grow up, whether dogs or chickens. He felt that his chickens have every bit as much right to roam the yard as do the dogs next door. He advised that he had not complained about the dog barking issue for seven years before finally reporting it to Animal Control. He and his wife are trying their best to maintain their property and did not appreciate someone arbitrarily taking pictures of his yard and felt that was an invasion of his privacy.
- 2.4.4 Jessica McCullough advised that she has known the Howlett's for several years and felt them to be very conscientious people who try to do what is needed to follow the laws. She said that the chickens have been a good thing for their family and that they have done everything they can to comply with the laws after they found out that a permit was needed for the chickens. She felt they should be able to have the chickens and was of the opinion that the chickens would not present a problem to anyone unless they were specifically looking for a reason to make an issue of it.

Commissioner Fink closed the public hearing at this point and turned the time over to the Commission for discussion.

2.5 **DISCUSSION:** Commissioner Fazzini asked Mr. Udall to review the pertinent ordinances regarding proper setbacks and fencing required for the chickens. Mr. Udall added that chicken coops need to be placed at least 15' from the entrance to the structure on the property and needs to be at least 25' from any habitable portion of the structure on a neighboring property. It needs to be at least 3' from the property line (side and rear yards). Commissioner Fink added that chickens are allowed to be loose in the yard if there is a perimeter fence for containment. Commissioner Cochran asked Mr. Udall if there were any specific requirements on the material of the fence itself and Mr. Udall replied that it just needs to provide containment for the chickens. Commissioner Fink said that meant that it needs to have a minimum of 2.5" openings.

2.4 **MOTION:** Commissioner Kehl - I move that based on the testimony heard this evening and the facts as presented by the Staff, that we approve File #13C12 with recommendations provided by the Staff Report.

SECOND: Commissioner Jensen.

DISCUSSION: Commissioner Jensen added that the Commission had heard from just one of the five neighbors impacted. He just wondered why there was no input from those other neighbors but felt that was a good thing. He did not see how chickens could fly more than two feet off the ground and encouraged the neighbors to work together to make this situation better and suggested they look at getting a solid opaque fence to replace the existing chain link one may help in this regard. He also suggested that perhaps the chickens could be restricted to the other side of the yard out of the vision of the neighbor's dogs. He agreed it is difficult because the applicant does have as much right to have chickens as the other neighbors do to have dogs. He encouraged the applicants to work on maintenance of their yard and added that as a condition. Commissioner Kehl advised that the maintenance of the yard in this case is separate from the use of the chickens and let his motion stand as originally stated.

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Barbieri	AYE	Kehl	AYE
Jensen	AYE	Fazzini	AYE	Fink	Chair
Grossman	AYE	Cochran	Alt		
Motion passes 6 to 0.					

Commissioner Barbieri wanted to make a note that on Condition #5, there is a maximum of five chickens that goes with the size of this yard. She added a plea for everyone in Taylorsville to keep their yards well maintained to maintain good property values.

3. 24C12 – Tony Carlsen – 4881 South 3730 West – CUP for an Oversized Garage - Andrew Jepson-Sullivan/Planning Intern

This Item was approved on the Consent Agenda.

4. 25C12 – Deborah Perry – 5896 South Blake Drive – CUP (Dogs) – Michael Meldrum/Principal Planner

4.1 Mr. McGrath presented this item for Mr. Meldrum. He showed a vicinity map and aerial map of the area in question. The applicant is requesting approval for an Animal Hobby Permit for a third dog. An Animal Hobby Permit (File #43C04) was previously obtained in 2004 by the applicant. The applicant did not know that the third license didn't run with the applicant nor property and subsequently obtained another replacement dog. The third dog listed on that permit is now deceased and a new Animal Hobby Permit is required under Section 8.12.170 of the Taylorsville City Code of Ordinances when a dog listed in the permit dies or is otherwise relocated from the subject property.

Findings of Fact for File #25C12:

1. The use is a conditional use in the R-1-8 zoning district.
2. The rear yard is enclosed with 6-foot high vinyl fencing.
3. The application is a result of a complaint.
4. There are no complaints on file with West Valley Animal Services.

Staff recommends approval of preliminary Conditional Use Application #24C12 with the following conditions:

1. Comply with the requirements of all reviewing agencies.
2. Maintain current vaccinations for the three dogs.
3. Licenses must be obtained for all unlicensed dogs within 30 calendar days of approval.
4. This permit is valid only for the dogs included in this application.
5. West Valley Animal Services will conduct an on-site inspection.
6. The Animal Hobby Permit is subject to review upon substantiated and unresolved complaint.

4.2 **APPLICANT ADDRESS:** Deborah Perry was present to answer questions. She added that all her animals are "rescued animals" and are well behaved and well cared for.

4.3 **SPEAKING:** None. Commissioner Fink closed the public hearing and opened the meeting to the Commission for discussion.

4.4 **DISCUSSION:** None.

MOTION: Commissioner Barbieri - Based on the Findings of Fact stated in the Staff Report, I move for approval of File #25C12 with Staff Recommendations 1 through 6 as previously stated.

SECOND: Commissioner Faurschou

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Barbieri	AYE	Kehl	AYE
Jensen	AYE	Fazzini	AYE	Fink	Chair
Grossman	AYE	Cochran	Alt		
Motion passes 6 to 0.					

5. 26C12 – Adrienne Bender – 5522 South Appian Way – CUP (Backyard Chickens) – Michael Meldrum/Principal Planner

This application was approved on the Consent Agenda.

6. 28C12 – Debra Carlson – 4761 S. Dymock Circle – Animal Hobby Permit (Dogs) – Michael Meldrum/Principal Planner

This application was approved on the Consent Agenda.

SUBDIVISION

7. 4S12 – Brent Overson – 4999 South Meadowview Drive – Three-lot Residential Subdivision. Dan Udall/City Planner

7.1 Mr. Udall presented this item. The applicant is proposing a three-lot residential subdivision at approximately 4999 South Meadow View Drive on the west side of the Jordan River. The subject property is 2.4 acres and the proposed subdivision lots range from .61 to .95 acre. The property is located in the A-2 zone. The A-2 zone requires a minimum of a one acre lot for a single-family home. No lot within the proposed subdivision is at least one acre in size. On July 11, 2012, the City Council is hearing and reviewing the new Development Code and zoning map. City Staff is expecting the City Council to approve the new Development Code and zoning map on that date. The Planning Commission recommended to the City Council that the subject property be zoned R-1-20, which requires a minimum of 20,000 square feet for a single-family home lot. It is expected that the City will approve the subject property to be zoned R-1-20. City Staff requested the applicant not submit a proposed zone change application for the property and to wait until the City Council decision. If the Planning Commission approves the preliminary regular subdivision, it should be contingent to the City Council approving the R-1-20 zone or another zone that is applicable for the subject property.

- The Taylorsville General Plan states regarding the Jordan River "require a minimum 100' no build natural buffer for all developments adjacent to the Jordan River."
- The applicant is proposing a 100' wide open space easement buffer along the Jordan River. A black-coated 6' high aluminum fence is proposed 50' northwest of the Jordan River, extending from the north side to the south side of the development. The single-family home development northeast of the subject property has existing 6' high aluminum fencing 50' away from the Jordan River. The proposed fencing will look the same as the existing fencing to the northeast. The proposed fence will allow this area to remain open and allow citizens to view the Jordan River corridor and its natural vegetation. The fence will be a barrier or separation within the 100' wide open space easement along the river.
- The property owners of Lots 1-3 will be maintaining half of the open space buffer, or the area 50 to 100 feet from the Jordan River. The property owners will be able to remove the natural vegetation on the 50' wide open space buffer northwest of the proposed aluminum fence.
- The 50' wide easement adjacent to the Jordan River will remain in an open space natural state. The applicant or property owner will be allowed to dedicate the 50' wide open space easement adjacent to the Jordan River to a specific entity that has jurisdiction with the Jordan River corridor. The entire 100' wide open space easement is proposed to be an unbuildable area.
- The applicant is proposing a typical cul-de-sac with park strip, curb, gutter and sidewalk along Meadow View Drive that will access the proposed subdivision. The cul-de-sac is also proposed to access two lots located west of the proposed subdivision. The property owners who own these two lots outside of the subject subdivision are proposing to dedicate a small portion of their properties to the subdivision or the cul-de-sac. These two properties west of the subdivision are proposed to be zoned R-1-20 on the new city zoning map. After dedicating property to the subdivision, these lots will be at least 20,000 square feet and meet the new development code requirements. However, the park strips will probably not be planted or maintained until they are developed (both properties are currently vacant).
- The 100-year flood plain is delineated within the proposed cul-de-sac and a portion of the north side of Lot #1. The applicant has stated that a single-family home will not be built within the 100-year flood plain. The applicant is proposing a launch trench or riprap along the southeast side of the 6' high fence. The purpose of the launch trench is to stabilize the river. Letters or comments from all agencies dealing with the open space issues along the river corridor will be provided to City Staff.
 - Lot #3 is proposed to be a deep or flag lot. The applicant is proposing a 20' wide private road that serves Lot #3. The City's Deep Lot Policy states that "deep lots are not required to meet the minimum street frontage required by the applicable zoning district and ordinance. Lot #3 does not meet the minimum street frontage requirements, therefore, in the future; the applicant will be submitting a deep lot application for review by the Planning Commission.
 - Lot #1 is currently 89 feet wide, 20 feet back from the front property line. Within the new development code, the R-1-20 zone requires that cul-de-sac lots need to be 90 feet wide, 20 feet back from the front yard property line. The proposed subdivision will need to meet this regulation or another regulation that meets an applicable zone.
 - The Taylorsville General Plan shows this area to be estate residential. A required 100' wide no-build natural buffer should be provided for all development adjacent to the Jordan River. The applicant is proposing a 100' wide open space easement along the Jordan River and will build no homes within the 100 year flood plain area.

Findings of Fact for File #4S12

1. That the applicant is proposing a three-lot regular subdivision.
2. That the applicant is proposing a 100' wide open space easement along the Jordan River.
3. That the 100-year floodplain is delineated on the northeast side of the property.
4. That property not owned by the property owner is being dedicated to the proposed subdivision.
5. All necessary permits will be required from all applicable agencies.
6. That Lot #3 is considered a deep lot by City policy.

Staff recommends approval of preliminary Conditional Use Application #4S12 with the following conditions:

1. Receive approval from and remain compliant with all applicable reviewing agencies.
2. That any significant subdivision amendments that are proposed after the initial recordation are reviewed and approved by the Planning Commission. The amendment must then be recorded.
3. That the developer bond for street improvements and pay all applicable storm drain fees. That the applicant posts a bond for all required improvements prior to the subdivision being recorded.
4. That two trees are planned in the park strip on Lots 1 and 2. All trees should be the same type and be 2" in caliper.
5. That the project received storm drain approval from the City Engineering Department.
6. That any street lights are installed as required by the City Engineer.
7. That the subdivision is recorded by plat and that the plat complies with City Ordinance 12.16.010.
8. That all street improvements required by City Ordinance will be installed to City standards. This includes street, park strip, curb and gutter.
9. That the subdivision plat is recorded along with any notes on the plat as are required by the Planning Commission.
10. That a 100' wide open space easement adjacent to the Jordan River is recorded against Lots 1, 2, and 3 and not allowing any buildings to be constructed. No buildings should be built in the 100-year flood plain.
11. That the 50' wide open space easement adjacent to the west side of the Jordan River may be deeded to an entity that has jurisdiction with the Jordan River corridor.
12. That approvals in regards to the following: Stabilizing the Jordan River, the 100-year flood plain, wetlands, and any other engineering be obtained from the State of Utah, Salt Lake County, Army Corps of Engineers, Federal Emergency Management Agency, etc., and are reviewed and received by Staff before the subdivision plat is recorded.
13. That all applicable permits in regards to the subdivision are acquired and received by the applicant and the City prior to recording the subdivision plat.
14. That a 6' high lack-coated aluminum fence be provided 50' from the Jordan River along Lots 1, 2 and 3. The fence shall be designed in such a way as to minimize the visual impact from the Jordan River Parkway. The fence shall be installed prior to any building permits being issued for the subdivision.
15. That all native vegetation within the 50' wide easement adjacent to the Jordan River remains in a natural state.
16. That a deep lot application is submitted for the proposed single-family home on Lot 3 before a building permit is issued.
17. That the City Council approves an appropriate zoning designation prior to City Staff approving the final subdivision plat.
18. **[Changed by Motion]** Contingent upon City Council approval **of the R-1-20 zone**, the subdivision will need to meet all City requirements of the future applicable delineated zone.

7.3 **DISCUSSION:** **Commissioner Jensen** asked if the odd shaped properties to the south were all owned by the same person and if that allows access to all properties. **Mr. Overson** advised that he is actually the owner. **Commissioner Jensen** said that he wanted to make sure no one's access was cut off. **Mr. Overson** explained that a portion of that land was purchased from the City of Taylorsville for the express purpose of being open space and it has a no-build zone and a restriction that no structures may be built thereon. Another piece of that land is owned by the State of Utah. **Commissioner Kehl** said that Mr. Udall made a statement that the developer was going to give up a small amount of land for access to some property and he wanted to know what that meant. **Mr. Udall** advised that had to be done in order to make the cul-de-sac work as a public street.

7.4 **APPLICANT ADDRESS:** **Brent Overson** was present and advised that he was representing Bruce and Chela Gale to develop this subdivision. **Mr. Overson** explained who the owners were of the surrounding parcels and that they were present this evening to explain what they propose to dedicate to make this project work.

- **Drew Steadman** (lives in Sandy, Utah) explained that the property being discussed tonight has been owned by his father for many years and after his death it went into a family trust, of which he is the Trustee. He has met with Brent Overson and with everyone else involved and has agreed to dedicate a portion of that property to the road for Taylorsville.
- **Kevin Steadman** (lives in Salem, Utah). He pointed out on the displayed map which property in this particular area he owns. That he is in accord with the proposal being made this evening and will give up some of his land for the cul-de-sac.
- **Mr. Overson** asked to be able to address a couple of things in the Staff Report. He gave a little history of the area. In conferring with agencies involved with approvals, he has been advised that there is no problem with being within the wetlands nor encroachment by the development too close to the river. He intends to work with applicable agencies. He is asking the Commission to approve the subdivision with the idea that Staff will review the report from the Army Corps of Engineers and that he intends to comply with whatever they want him to do. That not all agencies involved give permits and some reply electronically or in memo form but it all conveys the same message as does a permit and he hoped that Staff will accept that in lieu of obtaining permits as they have required. He continued on to discuss the flood plain issues relevant to this proposal. He advised that he intends

to build this project to the standards of the City. He continued on to say that there is a provision in the Staff Report that alludes to a trail. Within the 4800 South Small Area Master Plan it says that "Taylorsville City does not intend to develop a trail along the west edge of the Jordan River between 4800 South and Millrace Park." He advised that most of the property adjacent to the river is privately owned so the ability to do a trail along there is remote, along with the provision in the Small Area Master Plan that says no trail will be built. Then there is a provision in State law that says property cannot be condemned for a trail. The only way a trail could be placed there is if everybody is in agreement. There is already a very nice trail on the east side of the river with easy access to everybody. Therefore, he felt there was no need for that trail on the west side. He then discussed the lot lines on the subdivision plat and adjustments that he intended to make. When the Gale's bought the property they were not aware that there was a quit claim deed to Scott Adams for a portion of the property because it was never recorded. Therefore, Mr. Overson will do a new quit claim deed with Mr. Adams for a little less footage and minor lot line adjustments.

7.5 **DISCUSSION:** Commissioner Fazzini asked what would be involved in installing the retaining wall and what will happen to the existing trees. Mr. Overson replied that as you look at the property, there is an immense amount of vegetation existing and only one really small area where access is allowed to the river's edge. So as far as trees are concerned, there is a great deal of vegetation there. The launch trench will be about 35 to 50 foot long by 15 foot wide. He went on to explain how a launch trench functions. The meander corridor basically says that you cannot develop properties within the corridor of the Jordan River and that would be that portion on both the east and west sides where historically the river has meandered unless you to a launch trench. Commissioner Kehl asked if that was about 15' from the existing river bank now and Mr. Overson countered that it was 35 feet to the eastern edge. Commissioner Kehl then asked what the center footage would be. The northwest edge of the launch trench is 50 feet from the river and that is where the fence will be located. Mr. Overson advised that they do not intend to remove any of the natural vegetation along the river. Commissioner Kehl then asked what was meant by a silt fence. Mr. Overson asked his engineer to put in a silt fence to prevent erosion into the river. Commissioner Kehl asked if that meant just during construction and Mr. Overson replied that was correct. Commissioner Cochran wanted to know if the home owners would be able to landscape all the way up to the fence next to the launch trench and Mr. Overson agreed that was correct. They just can't build any structures there. Commissioner Jensen wondered if they were leaving the option open for a trail because of the 50 feet and Mr. Overson said that was not correct because the Commission has no authority to require a trail. Commissioner Jensen said that the 50 feet space will be left available the same way as was done on the property just north of this with the option of if political minds change, to possibly put a trail along there in that 50 feet. Mr. Overson said that would not happen. There is no ability to do that because two things would have to happen: (1) You would have to condemn the property, which can't be done. Commissioner Jensen said that what he meant was an outright purchase by a private entity to put in a trail there themselves. Mr. Overson said that could be done but it is unlikely at this point. Commissioner Jensen's point is when he is walking down a highway, he likes to use the sidewalk and he cannot imagine going down a street with sidewalks only on one side. The Jordan River is a natural resource that benefits the City of Taylorsville and it is something that can ever happen again and wanted to encourage preserving natural resources. Mr. Overson said that is agreed but that it is not possible under current law. Commissioner Barbieri commented that meant that because it is private property, it would have to be purchased directly from each individual owner voluntarily. Commissioner Jensen said that he just wanted to leave that option open. Commissioner Kehl advised that he did not disagree with Commissioner Jensen but that there is another purpose for that 50 feet without having people going up and down it and that is that there is wild life and birds in there and he could see some value in keeping away from that area. Commissioner Fazzini added that he sat in on the early stages of the formation of the Jordan River Commission and he agrees with all that has been said but felt it was important that the current habitat isn't interfered with by having a trail in there. However, if the law gets reverted to the way it was six or seven years ago then it would be permissible. That condemnation and eminent domain are two different things and he explained the differences as pertains to this issue. Mr. Overson asked that notation about a trail not be included because there is no current authority to do so. It is not in the Staff Recommendation but is included in the analysis portion of the report as saying that a trail system could be installed in the future. Commissioner Fazzini asked Mr. Overson 's opinion as whether one of the owners could put a boat launch off of their property. Mr. Overson said that if they went through the permit process they could but that would require numerous approvals for other agencies. Commissioner Kehl asked Mr. Overson if he was opposed to any of the Staff Recommendations and he replied he had no problems with any of them. Commissioner Fazzini reminded Mr. Overson that he had raised a concern about the language on "permits". Mr. Overson said that was not a problem as long as Staff and the Commissioners understand that every agency involved does not give out permits but issues approval in different channels.

7.6 **SPEAKING:** None came forward. At this point, Commissioner Fink closed the public hearing and open the meeting up to discussion by the Commission.

7.7 **DISCUSSION:** Commissioner Barbieri asked how it would work if the Commission included a recommendation that this be left open for a trail, pond or park, etc. She was aware that by law it cannot be done now, however, if it were included would that make it more likely that it would happen if the law changes. Commissioner Jensen suggested she review Item #11. He felt that is what leaves it open for a possible future use for the public for a trail, open space or wild life habitat, etc. Commissioner Barbieri then wondered if that were left out, then the Commission is telling the owners that they cannot deed the property. Commissioner Jensen suggested leaving #11 in for clarity. Commissioner Fink advised that by leaving that in there it leaves it open in the event something did come through there the property could be deeded for that use. Commissioner Fazzini gave his opinion that there are two ways this is going to end up in the hands of the City or a public entity – one is if the eminent domain law is changed, in which case this language does not need to be included and the second one is if the three owners wanted to voluntarily turn it over individually, which would then need to be subdivided. It is an advantage to all concerned to leave that language in because it leaves it open either way. Commissioner Barbieri added that according to the plat, wouldn't it already be subdivided. Commissioner Fazzini advised that was not the case. They own that property, so they could restrict use and access to it within that 50 feet. If it is given over to the City it becomes a public right-of-way. Mr. Overson interjected that he has no problem with the language included in the Staff Report. Commissioner Kehl asked a question about #18 wherein the Staff write-up says that this should be made contingent upon approval of the new Code which goes before the City Council tomorrow. Does the language contingent upon City Council approval of the subdivision qualify that or is there a need to put in that it is contingent on the change being to allow it at R-1-20. Mr. McGrath agreed that condition should be a little more specific. It should say contingent upon City Council approval of the R-1-20 zoning designation.

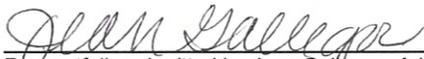
MOTION: Commissioner Fazzini - (8:23.10). Based on the above stated Findings of Fact and testimony heard this evening, I recommend approval of File #4S12 with the 18 conditions listed in the Staff Report but modifying #18 condition to be contingent upon City Council approval of the R-1-20 Zone for the affected properties.
SECOND: Commissioner Jensen seconded the motion and thanked the Commissioners and Staff for including #11.
Commissioner Fink restated the motion as follows: The motion is to approve File #4S12, changing Staff Condition #18 to add, "with the approval of the R-1-20 zone."

VOTE					
Commissioner	Vote	Commissioner	Vote	Commissioner	Vote
Faurschou	AYE	Barbieri	AYE	Kehl	AYE
Jensen	AYE	Fazzini	AYE	Fink	Chair
Grossman	AYE	Cochran	Alt		
Motion passes 6 to 0.					

CITY COUNCIL MEETING DISCUSSION: Discussed in pre-meeting

OTHER BUSINESS Talked about the upcoming schedule in the pre-meeting and the new Code being approved by the City Council on July 11, 2012.

ADJOURNMENT: By motion of Commissioner Barbieri and second by Commissioner Fazzini, the meeting was adjourned at 8:06 p.m. 20:06:49



Respectfully submitted by Jean Gallegos, Administrative Assistant/Recorder for the Planning Commission

Approved in meeting held on August 21, 2012