

**FRUITLAND PLANNING COMMISSION
TUESDAY, APRIL 7, 2009
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, April 7, 2009 at 7:00 p.m. with the following in attendance:

Chairperson Leland Bonneville, Derek Bland, Annette Noble, and Theodore Lokey.

Also present were:

*City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr, City Clerk Diane C. Nelson,
Code Enforcement Officer Daniel M. Scholl Jr, Utilities Director Joseph P. Derbyshire, Public Works Director P.
Cooper Townsend, and Councilmember Richard F. Tull.*

Our guests included:

Brian Dennis, Paul Elliott, Nicole Green, Kevin Adams, and Robert Marvel.

Chairperson Bonneville called the meeting to order at 7:00 p.m. and asked for comments or changes to the minutes of March 3, 2009. There being none, Ms. Noble moved to adopt the minutes as written. Mr. Bland seconded and the motion was approved by a three to zero vote. [Mr. Lokey abstained from voting]

There being no Old Business to discuss Mr. Bonneville proceeded on to New Business.

NEW BUSINESS

1. Truck traffic on S. Division Street

- City Manager McDonnell summarized growing concerns regarding through truck traffic causing significant road deterioration on South Division Street from East Main Street to Route 13. Mr. McDonnell highlighted previous discussions and limitations that resulted in only allowing truck traffic on South Division Street from Route 13 to Center Street.
- City Solicitor Mitchell confirmed that the council has the authority to regulate the use of a road as granted in the City Charter, Section FC3-2A (44) and would probably want to review the road use in conjunction with the Comprehensive Plan.
- Public Works Director Townsend discussed both existing and potential sites for placement of signs designating "NO THROUGH TRUCKS" and "NO TRUCKS GREATER THAN TWO AXLES."
- Ms. Noble voiced concerns regarding regulation and enforcement of the restricted truck use.

After discussion, Mr. Lokey moved to recommend to the City Council that truck traffic over two axles be limited on South Division Street, with no dual axles from Center Street to Cedar Lane; Mr. Bland seconded and the motion passed on a three to one vote.

2. Request approval to construct accessory building – Kevin Adams

Mr. Adams presented his request to construct an accessory building that would increase his storage area without limiting any business use of the structure. He stated that he was also considering installing a bathroom, creating additional parking, and renting sections of the building to other tenants for storage and a small scale customized furniture workshop/warehouse. He summarized his history trying to develop the property, both residential and now commercial, and expressed his desire to develop the property to his best advantage within City guidelines.

After discussion, the Planning Commission consensus was that he met the criteria for construction of an accessory building but he was not definite in his plans to proceed in that direction; his other thoughts for development were too vague for the Commission to consider and issue a ruling.

Mr. Adams was referred back to City Staff for further discussion of his proposed project and was encouraged, if necessary, to come back before the Commission at a later time with a more definite, written proposal for the Planning Commission to consider.

3. Paul Elliott – Re-subdivision plat

Paul Elliott, Brian Dennis, and Nicole Green presented the re-subdivision plat that would create a permanent boundary line separating Parcel 2143 from the Cimmaron Court roadbed.

Mr. Elliott summarized his development of Cimmaron Acres that began in 1993 and included a public works agreement that allowed him to postpone curb and guttering until after water and sewer installation some five to eight years hence. Mr. Elliott put in a tar and chip road and the City reserved a lien against Parcel 2143 (the last lot) to ensure funding would be available for curb and guttering; Mr. Elliott would not subdivide parcel 2143 into five separate lots until after installation of water and sewer.

In September 2009, because Mr. Elliott obtained a building permit for a single family home on Parcel 2143, he assumed that he was good to go since it had been sixteen years since he originally started developing the property, water and sewer had still not been installed on Cimmaron Court, and he was not subdividing the parcel as originally planned. Code Enforcement Officer Scholl advised that his department had been unaware of the agreement at the time the permit was issued; Mr. Elliott acknowledged that he had forgotten about the agreement, until reminded, because it had been so long ago.

Mr. Elliott entreated the Planning Commission to release him from the Public Works Agreement since growth patterns had shifted, water and sewer had not been installed in sixteen years, and there was no time limit on the agreement. He could not obtain an occupancy permit and transfer the property until the issue of the Public Works Agreement was resolved.

Solicitor Mitchell and Chairperson Bonneville both confirmed that the Planning Commission had no jurisdiction to rule on the Public Works Agreement; that issue would need to go before the City Council. Solicitor Mitchell summarized three options that could be considered regarding the Public Works Agreement.

- Mr. Elliot could request forbearance and the Council could void the entire agreement; he could sell the house and be done with it.
- Mr. Elliot could asphalt the road after installing curb and guttering and then request a new agreement with the Council significantly postponing installation of water and sewer until some later date.
- Mr. Elliot could post money for all that had to be done per the original agreement.

After Solicitor Mitchell confirmed that the Planning Commission could rule on the boundary line issue, Mr. Bland moved to remove the temporary cul-de-sac definition and create the actual permanent boundary lines as requested; Ms. Noble seconded and the motion carried on a four to zero vote.

Ms. Noble then expressed her hope that the Council would be supportive in allowing the project to move forward particularly since it has been a number of years since the original agreement was enacted and the water and sewer has yet to be installed as originally anticipated.

Solicitor Mitchell clarified that obtaining an occupancy permit to then transfer the lot was still contingent upon the City Council ruling on the Public Works Agreement issue.

General Discussion

Solicitor Mitchell and Utilities Director Derbyshire discussed the status and location of the new middle school project and the available allocation of capacity at the Waste Water Treatment Plant, answering questions posed by Planning Commission members.

With no further business to discuss, Ms. Noble moved to adjourn and Mr. Bland seconded. The motion was approved by a four to zero vote and the meeting adjourned at 8:27 p.m.

Diane C. Nelson

Diane C. Nelson, City Clerk

Approved, May 5, 2009 dcn