

**MINUTES OF THE EAGLE MOUNTAIN PLANNING COMMISSION MEETING**  
**Eagle Mountain City Offices 1650 E Stagecoach Run, Eagle Mountain, UT 84043**  
**Tuesday, August 9, 2005**

Tom Maher called the meeting to order at 6:00 p.m.

**Roll Call**

Tom Maher, Chris Kemp, John Malone, Matt Weir, Michael Hansen

**Others Present**

Kirk Horinek, Todd Moir, Kim Moir, Kathy Selya, Jana Johns, Alonzo Aguayo, Kay Shewfelt

**City Staff**

Planning Director:	Adam Lenhard
City Engineer:	Chris Trusty
City Council Liaison:	David Blackburn
Planning Coordinator:	Jenalee Cheever
UT Co. Sheriffs Department:	Deputy Lomax

**1. Pledge of Allegiance**

Tom Maher led the Commission and audience in the Pledge of Allegiance.

**2. Declaration of Conflicts of Interest**

None

**3. Status Report from City Council**

Mr. Lenhard explained that the following items were on a previous City Council agenda and that the Planning Department will report on their status to the Planning Commission. Mr. Lenhard explained that the City Council had approved that Holiday Oil Convenience Store and Gas Station. Mr. Lenhard explained that the Showdown at Eagle's Gate Plat B subdivision had also been approved by the City Council. Mr. Lenhard explained that the Valley View South Plats A and B is now being submitted to the City Council for a third time and that there was some changes on the lot lines to make them wider.

**4. Development Items**

**A. Learning Together Preschool, Home Business Application – Public Hearing, Action Item**

Mr. Lenhard explained that the applicant wishes to run a preschool out of her home in the Eagle's Gate Subdivision. Mr. Lenhard explained that because she will be dealing with minors, a "Class A" Business License, Background Check, and Public Hearing are required by the new Code. Mr. Lenhard explained that the applicant's proposal is in compliance with the City's Code and Business License Ordinance and that all fees have been paid.

Mr. Lenhard explained that the new Fire Chief had conducted an inspection today and that he had added some additional conditions of approval that were not included on the Staff Report.

Mr. Lenhard explained that the Fire Chief had added the following conditions:

1. That no children under the age of 2 may be allowed in the basement except for the applicants own children.
2. That the maximum number of children at any time in the home is five not including the applicants own children.

Mr. Maher asked Mr. Lenhard if this would become a standard for every home business.

Mr. Lenhard explained that these conditions are based on the ages of the children and the applicant's home according to the fire code.

Tom Maher opened the Public Hearing at 6:07 p.m.

Tom Maher closed the Public Hearing at 6:07 p.m.

**MOTION:** *Mike Hansen moved that the Planning Commission approve the Learning Together Preschool Home Business subject to the following conditions:*

1. *That the business maintains compliance with all City ordinances.*
2. *That background checks may be required for all employees.*
3. *That the following conditions required by the Fire Department are met: that no children under the age of two may be in the basement (except for the applicant's own children), and that the maximum number of children in the home at one time is five (in addition to the applicants own children).*
4. *That the Home Business application may be reviewed and subjected to additional conditions or revoked by the Planning Commission upon future reviews. If a complaint is filed by surrounding property owners the Planning Department will perform an investigation and place the item on the Planning Commission's agenda for additional consideration.*

*John Malone seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

**B. Sunny Patch Preschool, Home Business – Public Hearing, Action Item**

Mr. Lenhard explained that the applicant wishes to run a preschool out of her home in the Eagle's Gate Subdivision. Mr. Lenhard explained that because she will be dealing with minors, a "Class A" Business License, Background Check, and Public Hearing are required by the new Code. Mr. Lenhard explained that the applicant's proposal is in compliance with the City's Code and Business License Ordinance and that all fees have been paid.

Tom Maher asked what happens if the background check comes back with something negative on it.

Mr. Lenhard explained that due to an issue in the past, the City Council had decided that any business that would be dealing with minors would be required to have a background check. Mr. Lenhard explained that if the background check came back with something negative on it then the most the City could do is put people on notice but, that it would not restrict someone from getting a business license.

Tom Maher opened the Public Hearing at 6:11 p.m.

Maria Babin asked if the Fire Chief's conditions would apply to her when she came in to renew her business license for her preschool.

Mr. Maher explained that it would not be retroactive. Mr. Maher explained that the conditions would be determined for new applicants on a case by case basis and the ages of the children and the applicant's home would be factors in determining the conditions of approval.

Tom Maher closed the Public Hearing at 6:13 p.m.

**MOTION:** *John Malone moved that the Planning Commission approve the Learning Together Preschool Home Business subject to the following conditions:*

- 1. That the business maintains compliance with all City ordinances.**
- 2. That background checks may be required for all employees.**
- 3. That the following conditions required by the Fire Department are met: that no children under the age of two may be in the basement (except for the applicant's own children), and that the maximum number of children in the home at one time is five (in addition to the applicants own children).**
- 4. That the Home Business application may be reviewed and subjected to additional conditions or revoked by the Planning Commission upon future reviews. If a complaint is filed by surrounding property owners the Planning Department will perform an investigation and place the item on the Planning Commission's agenda for additional consideration.**

**Chris Kemp seconded the motion. Ayes: 5, Nays: 0. Motion Passed.**

**C. Alonso Aguayo's Karate Studio, Home Business – Public Hearing, Action Item**

Mr. Lenhard explained that the Planning Department has received an application from Mr. Alonso Aguayo to operate a Karate Studio out of his home in the former residence of Mr. Kirk Flora in the Castle Rock subdivision.

Mr. Lenhard explained that residents have complained that children and vehicles have been on their property and blocking their driveways. Mr. Lenhard explained that if this home business is approved then the conditions have to be met. Mr. Lenhard explained that if they are not met then the license can be revoked and the applicant will not be able to operate his business. Mr. Lenhard explained that there are time restrictions and the number of children is limited as well. Mr. Lenhard explained that the Fire Chief had explained that on this home business based upon the ages of the children and the amount of adult supervision that there would be an allowed amount of 12 children per class, up to 24 children per day which would allow for two classes per day. Mr. Lenhard stated that an additional comment had been added and that the following traffic conditions need to be observed by all clients and employees of the business:

1. That no automobiles are to block driveways or mailboxes of the adjacent property owners.
2. No backing up or u-turns are allowed. Drivers would need to continue around the block and drop their children off with the passenger side of the vehicle adjacent to that of the residence.
3. That the drivers shall not honk their horns when they come to pick up their children.
4. Clients shall not enter on to or cross adjacent home owner's property.  
That the Home Business application may be reviewed and subjected to additional conditions, or be revoked by the Planning Commission upon future review.

Mr. Lenhard explained that if a complaint is filed by surrounding property owners the Planning Department will perform an investigation and place the item on the Planning Commission's Agenda for additional consideration. Mr. Lenhard explained that it is Mr. Aguayo's sole responsibility that his clients understand these conditions. Mr. Lenhard explained that these

are the exact same conditions of approval that were put upon Mr. Flora when he was operating the business at this location.

Tom Maher opened the Public Hearing at 6:19 p.m.

Todd Moyer stated that he lived at 7432 Castle Rock Road, next door to Mr. Aguayo. Mr. Moyer explained that when Mr. Flora originally wanted to start his studio he approached the neighbors and told them what his plans were regarding the karate studio. Mr. Moyer stated that Mr. Flora had asked the neighbors about their concerns with having the karate studio in the neighborhood and that he told the neighbors that if they didn't want the studio in the neighborhood then he didn't want to have a studio there that would cause problems with the neighbors. Mr. Moyer explained that he was friends with Mr. Flora and that as problems arose the neighbors went to Mr. Flora and Mr. Flora rectified some of the problems. Mr. Moyer explained that some of the problems were not rectified. Mr. Moyer explained that one of the major issues was the amount of traffic that the karate studio brought to the neighborhood. Mr. Moyer explained that the residents did not go to Mr. Flora with ever little issue mainly because they knew that the karate studio was a short term thing. Mr. Moyer explained that he has spoken with Mr. Aguayo and that he expressed his concerns to him. Mr. Moyer stated that Mr. Aguayo asked for a chance to prove himself. Mr. Moyer explained that he told Mr. Aguayo that he was willing to give him the opportunity to do so. Mr. Moyer explained that within a week of Mr. Aguayo moving in all of the problems started up again so he called Mr. Lenhard. Mr. Moyer stated that Mr. Lenhard sent Mr. Aguayo a letter telling him that in order to operate his business he needed to have a business license. Mr. Moyer explained that Mr. Aguayo continued to operate his business and that another letter was sent to him informing him that he needed to get a business license. Mr. Moyer stated that Mr. Aguayo finally came in and applied for a business license and that at that time he was told that he was to not operate his business until he had received a license. Mr. Moyer stated that Mr. Aguayo told the City that he was only teaching the Boy Scouts and that he was helping them to earn merit badges and it was being done as a service project. Mr. Moyer explained that the boys that were coming and going from Mr. Aguayo's home were from the ages of 6 to 10. Mr. Moyer explained that his wife had casually asked the parents of the students, is he a good teacher, how much does he charge, does he give any deals? And that the parents responded by saying, yeah he is a good teacher, this is how much he charges, no he isn't giving any deals. Mr. Moyer explained that this evidence showed him that Mr. Aguayo was still operating his business without a license and that it was not being done as a service to the boy scouts. Mr. Moyer presented the Commission with a petition that states, "We the undersigned residents of the upper Castle Rock area hereby request that the City of Eagle Mountain Planning Commission deny the request by Alonzo Aguayo for a business license for the operation of his martial arts studio at 7442 Castle Rock Road, we feel that this business has and will continue to increase vehicular and pedestrian traffic, on street parking, trespassing and the potential for property damage, these aspects will negatively impact the feel, appeal and serenity of the neighborhood, each of the undersigned live within 600 feet of the proposed business."

Kimberly Moyer explained that she was Todd Moyer's wife and that she lived on 7432 Castle Rock Road. Mrs. Moyer explained that she has personally talked to three different parents that have come and dropped their kids off, not in an interrogating or threatening way but more along the lines of, so do you like the teacher?, how much are your lessons?, that sort of thing. Mr. Moyer explained that she had one particular instance where she was talking with one of the mothers asking how much the lessons were, looking to see if Mr. Aguayo was giving lessons for free. Mrs. Moyer explained that Mr. Aguayo came quickly over to her and the mother and he said, remember the lessons are free, and the mother said, but I paid you a check, and Mr. Aguayo said well I will just credit you for next month. Mrs. Moyer explained that the parents she had spoken with told her on average the lessons were anywhere from \$65 to \$85 dollars a month. Mrs. Moyer explained that the lessons are not being taught for

free and that it is not associated at all with the Boy Scouts. Mrs. Moyer stated that she had been asked by a resident, Wendy Pendleton, to read a letter.

Tom Maher asked Mrs. Moyer that she submit the letter to Mr. Lenhard.

Kirk Horinek explained that he lived next to Mr. Aguayo also and that his yard was the one that was being driven on. Mr. Horinek explained that he has had to put rocks down so that people will not drive on his mow strips. Mr. Horinek explained that he agreed with all other complaints being made and that this was his biggest concern.

Mr. Aguayo explained that mostly all of the complaints being made by the neighbors were complaints of things that the previous owner had done. Mr. Aguayo explained that he had witnesses that could tell the Commission that the students never played on other people's yards, that the parents didn't block peoples driveways and that none of the complaints were coming from his business that they were all complaints coming from the previous owners business. Mr. Aguayo stated that there had been complaints from the mail lady and that the mail lady told some neighbors that if cars were parked in front of the mailboxes that she would not deliver the mail. Mr. Aguayo said that cars were parking in front of mailboxes but it was when the previous owner lived in the home and that there had not been any complaints from the mail lady since he had moved in. Mr. Aguayo explained that his classes were held from 6:30p.m. to 8:30 p.m. and that there is no mail delivery at that time so therefore there is nothing to complain about. Mr. Aguayo explained that he has sent a letter to all parents of his students explaining the rules and guidelines that they need to follow in order to attend his classes.

Tom Maher asked Mr. Aguayo when he had moved into his home.

Mr. Aguayo stated that he moved in July 1<sup>st</sup> and that he started classes that Thursday, the 7<sup>th</sup> of July and that he applied for a business license on the 18<sup>th</sup> or 19<sup>th</sup> of July.

Mr. Aguayo stated that he had received a letter from the City informing him that he needed to get a business license so he called Mr. Lenhard to get things taken care of. Mr. Aguayo told Mr. Lenhard that he had several classes of students and that he told Mr. Lenhard that the student's parents had already paid for the month so that he was just going to finish the month out of classes and then he would not hold any more classes.

Mr. Maher asked Mr. Aguayo how many students he currently had.

Mr. Aguayo stated that he had eight students.

Mr. Maher asked what the restrictions were on how many students Mr. Aguayo was allowed to have.

Mr. Lenhard stated that it is allowed for 24 students per day with only 12 students at a time.

Mr. Kemp asked if these were the same restrictions that Kirk Flora had when he was operating the business.

Mr. Lenhard stated that Mr. Aguayo would have the same restrictions as Mr. Flora did.

Mr. Aguayo explained that since his property only went to where the sidewalk starts he should have no responsibility as to where cars park.

Mr. Lenhard stated that he disagreed. Mr. Lenhard stated that the purpose of allowing a home business is to derive some type of economic benefit out of a business ran out of their home. Mr. Lenhard explained that there are a lot of residents in Eagle Mountain City who

have a home business and that the City supports that, but the line is drawn when a home business changes the character of a residential area and turns it into something different. Mr. Lenhard explained that that is clearly defined by having increased traffic, which would not normally be caused by residential demand.

Mr. Aguayo stated that besides giving the residents a letter, what else can he do to stop the students and parents from breaking the rules because eventually in the end they will make their own decisions.

Mr. Maher explained to Mr. Aguayo that when you put a business in a neighborhood the responsibility for making sure the students and their parents to follow the rules is the business owner's responsibility. Mr. Maher explained that if they can't be controlled the license will be revoked. Mr. Maher explained that Mr. Aguayo needs to control his students and make them obey the rules or he will lose his license.

Mr. Maher explained that parking in the street is allowed and that he at least needs to ask the students and their parents that they don't park in front of the mailboxes.

Mr. Lenhard suggested that Mr. Aguayo encourage his students to walk or ride a bicycle. Mr. Lenhard also suggested that the students drive one way through the street so that they do not have to make a u-turn or have to turn in his driveway, backup and then drive back down the street.

Mr. Malone asked if it was illegal to park in front of a mailbox. Deputy Lomax said that it was not illegal but that property owners do have a right to access their property and their mailbox as well.

Kathy Selya explained that she was the parent who parked in front of the mailbox last week and that the only reason why she parked there was because there was another car in front of her and she did not have any other place to park. Mrs. Selya explained that this resident, whose mailbox she parked in front of came and interrogated her and asked her some personal questions that she did not have any right to ask. Mrs. Selya explained that the paper that Mr. Selya had given to the students spelled out the rules clearly and that she abided by these rules and that she has never seen anyone break them. Mrs. Selya explained that Mr. Selya was a good teacher and that she and her son support him in his business efforts.

Tom Maher closed Public Hearing closed at 6:55 p.m.

Mike Hansen explained that his major concern is the increase in traffic and that if Mr. Aguayo is willing to comply with the standards then he does not have a problem with the business.

Matt Weir explained that as long as the conditions of the home business are being met then he is okay with the business. Mr. Weir stated that he was concerned with future problems arising.

Mr. Lenhard stated that there is now a code enforcement officer who can be contacted at any time if there are problems with the conditions not being met. Mr. Lenhard explained that any of the officers out in Eagle Mountain have the power to stop the owner from doing business.

**MOTION:** *Michael Hansen moved that the Planning Commission approve Alonso Aguayo's Karate Studio Home Business subject to the following conditions:*

- 1. That the business maintains compliance with all of the standards outlined in the City's zoning ordinance. That inspections will be required by the Fire and Building Departments.**
- 2. That background checks will be required for all employees.**
- 3. That the Home Business application may be reviewed and subjected to additional conditions, or be revoked by the Planning Commission upon future reviews. If a complaint is filed by surrounding property owners the Planning Department will perform an investigation and place the item on the Planning Commission's agenda for additional consideration.**

**John Malone seconded the motion. Ayes: 5, Nays: 0. Motion Passed.**

**D. O'Fallon's Bluff (R-6, N-4) Plat B, Final Plat – Action Item**

Mr. Lenhard explained that O'Fallon's Bluff B is located along Golden Eagle Road. Mr. Lenhard explained that there are seven conditions of approval. Mr. Lenhard explained that this neighborhood would have to pay a fee-in-lieu prior to recordation for the neighborhood park. Mr. Lenhard explained that the reason for this was because the topography is barely suitable to build a home on let alone to build a park on. Mr. Lenhard explained that the City Engineer would determine the balance of the SID payments due and this subdivision would need to dedicate open space coming up on to the hill side. Mr. Lenhard explained that the further up you go there is an area called the Lakeview Community open space that is identified on The Ranches Master Development Plan and that they were required to dedicate a certain amount of acreage to the City and so with the platting of these subdivisions the City would require that the applicant deed over the remainder of their property that is un-buildable up on the hillside. Mr. Lenhard stated that the driveways have to be 22' according to the current Code's standard. Mr. Lenhard explained that 12% would also be the maximum allowable driveway slope and that the water rights would have to be turned over prior to recordation. Mr. Lenhard explained that the vest pockets would need to be 8 feet wide and the side walk would have to be 6 feet wide. Mr. Lenhard explained that there would also need to be a blow off valve at the end of Golden Eagle Road.

Mr. Weir asked if the dedicated open space would have a dedicated access point.

Mr. Lenhard stated that there are trails throughout the subdivisions and that there were some trail corridors that had been preserved.

**MOTION: Matt Weir moved that the Planning Commission recommends approval of the O'Fallon's Bluff B Final Plat to the City Council subject to the following conditions:**

- 1. FEE-IN-LIEU. That the Neighborhood Park fee-in-lieu is paid prior to recordation.**
- 2. SID PAYMENTS. That the City Engineer determines the balance of the SID payments due. This subdivision should pay the balance of the SID payments for acreage up to the "Lakeview Community Open Space."**
- 3. DRIVEWAYS. That a note on the plat shows that the driveway length is 22' and that the driveways are actually shown on the plat. That a notice is recorded with each plat that 12% is the maximum allowable driveway slope.**
- 4. WATER RIGHTS. That the larger lot sizes will require more water rights. That water rights are identified and turned over to the City.**
- 5. VEST POCKETS. That the vest pockets are eight feet wide, and that the sidewalk is 6 feet wide (integrated without park strip, Type A curb and gutter). That the travel lane is 14 feet.**
- 6. BLOWOFF. That there is a blow off valve at the end of Golden Eagle Road.**
- 7. CC&R'S, ENGINEERING AND BUILDING COMMENTS. That all of the comments referenced in that section of the Staff Report are completed.**

**Chris Kemp seconded the motion. Ayes: 5, Nays: 0. Motion Passed.**

**E. O'Fallon's Bluff (R-6, N-4) Plat C, Final Plat – Action Item**

Mr. Lenhard explained that the O'Fallon's Bluff C will extend Butterfield Road from its existing location and connect it to the intersection of James Street and Ranches Parkway.

**MOTION: Mike Hansen moved that the Planning Commission recommend approval of the O'Fallon's Bluff C Final Plat to the City Council subject to the following conditions:**

- 1. FEE-IN-LIEU. That the Neighborhood Park fee-in-lieu is paid prior to recordation.**
- 2. SID PAYMENTS. That the City Engineer determines the balance of the SID payments due. This subdivision should pay the balance of the SID payments for acreage up to the "Lakeview Community Open Space."**
- 3. WATER RIGHTS. That the larger lot sizes will require more water rights. That water rights are identified and turned over to the City.**
- 4. TRAILS & FIRE ACCESS. That this corridor is 20' in width to allow for a utility easement, pedestrian corridor, and fire brush truck access. This corridor should be xeriscaped.**
- 5. DRIVEWAYS. That a note on the plat shows that the driveway length is 22' and that the driveways are actually shown on the plat. That a notice is recorded with each plat that 12% is the maximum allowable driveway slope.**
- 6. DROP MANHOLES. That drop manholes are not permitted.**
- 7. CC&R'S, ENGINEERING AND BUILDING COMMENTS. That all of the comments referenced in that section of the Staff Report are completed.**

**Matt Weir seconded the motion. Ayes: 5, Nays: 0. Motion Passed.**

**F. O'Fallon's Bluff (R-6, N-4) Plat D, Final Plat – Action Item**

Mr. Lenhard explained that O'Fallon's Bluff D is located at the end of Wyatt Earp Avenue. Mr. Lenhard explained that the open space parcel A in Plat D needs to be labeled as Public Open Space that is dedicated to Eagle Mountain City. Mr. Lenhard stated that the park fee-in-lieu needs to be paid prior to recordation. Mr. Lenhard explained that the larger lots would require more water rights and that the water rights need to be identified and turned over to the City. Mr. Lenhard explained that the City Engineer would determine the SID payment for the acreage up to the Lakeview Community Open Space. Mr. Lenhard explained that when it comes time for this project to start pulling building permits, if the builders are going to want to have access from the cul-de-sac then the code will have to be amended by then. Mr. Lenhard explained that the code currently only allows driveway access from the alleyways.

The developer asked how the open space would be labeled.

Mr. Lenhard explained that the Ranches HOA guidelines require fencing whenever any lots are adjacent to the open space and that there would be some lots that would have to have an open rail fence.

The developer asked if there were any fencing requirements in regards to two lots that had access issues.

Mr. Lenhard explained that those lots would be able to build a fence along his property line and that there should not be any restrictions.

Mr. Malone stated that he was concerned about having homes being built on lots 301, 302 and 303.

Mr. Kemp asked if topography lines were required when obtaining a building permit.



Mr. Lenhard stated that they are and that the contours and the slope of the lot are inspected.

Mr. Kemp recommended that topography lines be required on anything that drainage and or the slope could be a potential concern.

Mr. Lenhard asked if this is something that Mr. Kemp would like to add to the conditions of approval.

Mr. Kemp stated that he would like to see topography lines at least on the steep lots to prevent problems in the future.

Mr. Lenhard explained that there is a note on the plat that states that any required retaining walls must be installed by the developer or the homeowner.

Mr. Trusty explained that the conditions for building permits included that a grading plan be submitted. Mr. Trusty stated that notes have been added to the plat that retaining walls will be required, so that potential homeowners are aware of the issue and that the slope requirements on driveways are a maximum of 12%.

Mr. Kemp asked if potential lot buyers are being informed that their lots are in an extremely rocky area.

The developer stated that they are being informed and that all lot buyers so far are aware of the issue.

**MOTION:** *John Malone moved that the Planning Commission recommend approval of the O'Fallon's Bluff D Final Plat to the City Council subject to the following conditions:*

- 1. OPEN SPACE PARCELS.** *That open space parcel A in Plat D is labeled as "Public Open Space dedicated to Eagle Mountain City" and maintained by the HOA.*
- 2. FEE-IN-LIEU.** *That the Neighborhood Park fee-in-lieu is paid prior to recordation.*
- 3. SID PAYMENTS.** *That the City Engineer determines the balance of the SID payments due. This subdivision should pay the balance of the SID payments for acreage up to the "Lakeview Community Open Space".*
- 4. DRIVEWAYS.** *That a note on the plat shows that the driveway length is 22' and that the driveways are actually shown on the plat. That a notice is recorded with each plat that 12% is the maximum allowable driveway slope.*
- 5. WATER RIGHTS.** *That the larger lot sizes will require more water rights. That water rights are identified and turned over to the City.*

*Chris Kemp seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

**G. O'Fallon's Bluff (R-6, N-4) Plat E, Final Plat – Action Item**

Mr. Lenhard explained that O'Fallon's Bluff E is located at the end of O'Fallon's Way, north of the Eagle Top subdivision. Mr. Lenhard explained at the end of O'Fallon's Way there is a cut slope with a minimum of 3 to 1 with erosion control and that the water services need to connect to a minimum of a 6" main. Mr. Lenhard explained that the existing sewer lateral in lot 308 needs to be capped.

**MOTION:** *Matt Weir moved that the Planning Commission recommend approval of the O'Fallon's Bluff E Final Plat to the City Council subject to the following conditions:*

- 1. FEE-IN-LIEU.** *That the Neighborhood Park fee-in-lieu is paid prior to recordation.*
- 2. SID PAYMENTS.** *That the City Engineer determines the balance of the SID payments due. This subdivision should pay the balance of the SID payments for acreage up to the "Lakeview Community Open Space".*

3. **DRIVEWAYS.** *That a note on the plat shows that the driveway length is 22' and that the driveways are actually shown on the plat. That a notice is recorded with each plat that 12% is the maximum allowable driveway slope.*
4. **WATER RIGHTS.** *That the larger lot sizes will require more water rights. That water rights are identified and turned over to the City.*
5. **O'FALLON'S WAY.** *That there is a cut slope at the end of O'Fallon's Way with a minimum cut slope of 3:1 with erosion control.*
6. **CC&Rs, ENGINEERING AND BUILDING COMMENTS.** *That all of the comments referenced in that section of the Staff Report are completed.*
7. **WATER SERVICES.** *That water services must connect to a minimum 6" main. That the existing unused sewer lateral in lot 308 be capped.*

*Chris Kemp seconded the motion. Ayes: 5, Nays: 0. Motion passed.*

**H. Mt. Airey Plat C, Final Plat – Action Item**

Mr. Lenhard explained that the Mt. Airey Plat C subdivision is located north of Anthem on the Green and that it consists of nine lots. Mr. Lenhard explained that the setbacks recommended for this subdivision is 12' for front yard, 15' for rear yard, 5' on each side yard and 12' for the front and corner side of corner lots. Mr. Lenhard stated that staff had recommended that some of the lots be straightened out so that there is a better building pad so that the houses do not have to be pushed so far back. Mr. Lenhard stated that this is not shown as a condition of approval but that it is a recommendation from staff and that lots 6,3 and 4 are the lots being recommended to straighten.

Mr. Lenhard reviewed the conditions of approval with the Planning Commission.

**MOTION:** *Mike Hansen moved that the Planning Commission approves the Mt. Airey C Final Plat subject to the following conditions:*

1. **FEE-IN-LIEU.** *That the Neighborhood Park fee-in-lieu is paid prior to recordation.*
2. **ADDRESSES.** *That addresses are added to the plat.*
3. **PLAT LANGUAGE.** *That the Acknowledgement and Owner's Dedication language is amended.*
4. **LANDSCAPE PLAN.** *That street trees are added to the Landscape Plan along Mt. Airey Drive. That the responsibility to provide fencing and street trees is clarified on the Landscape Plan. That if they are public improvements, they are included in the bond.*
5. **SID PAYMENTS.** *That the City Engineer determines the balance of the SID payments due, and that they payment is made prior to recordation.*
6. **SIGNATURE BLOCKS.** *That the Planning Commission Signature Block is removed.*
7. **WATER RIGHTS.** *That water rights are identified and turned over to the city.*
8. **RETAINING WALLS.** *That a note is added to the plat stating any required retaining walls must be installed by the developer or homeowner.*
9. **LATERALS.** *That water laterals are shown on the plans.*
10. *That a note is added on the plans to ensure that sedimentation control devices (straw bales) are in place prior to construction.*
11. *That there are no utility conflicts.*

*Chris Kemp seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

**I. Disposal of Public Property, Mt. Airey Drive – Action Item**

Mr. Lenhard explained that Mr. Dan Ford, a representative of the Mt. Airey Plat B property owner, and the Sage Group, property owners of Mt. Airey E, have submitted a formal letter of application requesting that the City dispose of two small parts of the Mt. Airey Drive right-of-way. Mr. Lenhard explained that when Mt. Airey was first designed, a guard house was

proposed at the entrance to the subdivision and the right-of-way was enlarged to allow for the construction of such a facility. Mr. Lenhard explained that the roadway was not enlarged to accommodate a guard house, and it is no longer considered to be an amenity that the developer will provide for this subdivision, and the adjacent land owners would like to take that part of the City-owned right-of-way and include it in their lots.

Mr. Lenhard explained that this item would be a two step process, the first being that the Planning Commission classify the property that is being proposed for disposal as either significant or insignificant. Mr. Lenhard explained that the second process would be that the Planning Commission make a recommendation on the actual disposal of the property, answering with either a yes or no. Mr. Lenhard explained that staff recommends that this disposal meets the criteria for insignificant real property.

**MOTION:** *Mike Hansen moved that the Planning Commission classifies the area of the Mt. Airey Plat A right-of-way described in this application as "Insignificant," for the purpose of disposing of property owned by the City, based upon the criteria contained in Ordinance O 11-2003.*

*John Malone seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

Mr. Lenhard explained that the land is subject to the SID as developable property and that the assessments are paid as required by the bond covenants. Mr. Lenhard explained that the processing fee would be determined by the City Council as the fee for the processing of the application as required by the consolidated fee schedule. Mr. Lenhard explained that all easements required by the City Engineer are provided. Mr. Lenhard explained that the land cost would be determined by the city council.

Mr. Maher asked that a condition be added that the land cost be very minimal.

**MOTION:** *John Malone moved that the Planning Commission recommend to the City Council that the area of the Mt. Airey Plat A right-of-way described in this application is disposed of, subject to the following conditions:*

- 1. SID PAYMENTS. That the land is subject to the SID as developable property and that these assessments are paid as required by the bond covenants.*
- 2. PROCESSING FEE. That the Applicant pays the costs determined by the City Council as the fee for the processing of the application as required by the Consolidated Fee Schedule.*
- 3. EASEMENTS. That all easements required by the City Engineer are provided.*
- 4. LAND COST. That the price to be paid for the land be at a minimal cost but enough to cover the City's expenses for reviewing the application.*

*Mike Hansen seconded the motion. Ayes: 5, Nays: 0. Motion Passed.*

**5. Other Business**

None

**6. Adjournment**

The meeting adjourned at 7:40 p.m.