

CITY OF LOGAN
ORDINANCE NO. 02-38 Revised

AN ORDINANCE AMENDING THE ZONING MAP OF LOGAN CITY, UTAH

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN,
STATE OF UTAH AS FOLLOWS:

SECTION 1: That certain map or maps entitled "Zoning Map of Logan City, Utah" is hereby amended and the following property is hereby zoned from Single Family Residential (SFR) to Multi-Family High (MFH) as follows:

Tax ID Nos. 02-136-0001 through 0017.

Also identified as "Eagle View Condominiums Rezone," an approximate 4.56 ac. parcel at approx. 500 West 940 South.

SECTION 2: This ordinance shall become effective upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH, THIS 10th
DAY OF July, 2002.

AYES: Kerr, Berg, Ayfer, Allred, S. Thompson
NAYS: None
ABSENT: None

Tom Kerr
Tom Kerr, Chairman

ATTEST:

Lois Price

Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the 10 day of July, 2002.

Tom Kerr
Tom Kerr, Chairman

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 12th day of
July, 2002.

Douglas E. Thompson
Douglas E. Thompson, Mayor



7Memorandum for the Municipal Council workshop on June 19, 2002
PC Docket #02-044 A ZONING AMENDMENT FOR EAGLE
VIEW CONDOMINIUMS

MEMORANDUM TO THE MUNICIPAL COUNCIL

DATE: June 12, 2002
FROM: ✓ John Weber, Planner II
SUBJECT: Eagle View Condominiums, Request for re-zone

SUMMARY...

Project Name: Eagle View Condominiums
Owner: Robert Balling
Proponent: LARRM, LLC.
Project Address: 500 West 940 South Street (Golf Course Road)
Request: Zoning amendment for a 1.17 acre parcel from Single Family Residential to Multi-Family High
Current Zoning: Single Family Residential
Proposed Zoning: Multi-Family High (MFH)
Staff Recommendation: Approve

PROJECT

The proponent is proposing this project to allow approximately an acre of property bordering Gold Course Road to be developed with multi-unit structures. This property was originally part of the Eagle View project, which in 1993 received Planning Commission approval for 64 residential units in 16 structures. 48 of these units were completed, but the approval lapsed before the final 16 units could be constructed. In the 1996 City-wide rezone, the entire Eagle View project was rezoned to Single Family Residential (SFR) which is the current zoning.

In the SFR zone, multi-unit residential structures can not be built under the current Land Development Code. The proponent is requesting the rezone to allow the construction of 2 7-unit buildings, a total of 14 units, which would potentially be allowed on a property of this size in the MFH zone. If the rezone is granted, a Design Review permit for the structures is required from the Planning Commission.

The proponents requested a rezone for only the lots that they intended to be a part of the new development. The Planning Commission recommended that the Council approve a rezone of the entire Eagle View project, including the 48 already built units as well as the yet-to-be built parcels. The Planning Commission's decision was based on the following:

1. The current SFR zoning would only allow single family houses along Golf Course Road. Single family houses would not be compatible with the existing Eagle View condominiums. Multi-unit structures along Golf Course Road would be compatible with the existing Eagle View condominiums.
2. The Planning Commission would review a proposed multi-unit residential project on the property to ensure compliance with the *Logan Design Review Guidelines* and Land Development Code.
3. Including the already built multi-unit residential structures in the MFH zone would more accurately reflect the current land use.

No public comments were received on this proposal. The proponent has met with the owners of the current Eagle View units and has supplied a letter indicating their support of the rezone proposal.

The Planning Commission moved to approve a recommendation for a Zone Change to the Municipal Council on May 23, 2002. (Passed: 5,1)

ATTACHMENTS

Please find the following attached:

1. Staff Report to the Planning Commission, May 16, 2002;
2. Minutes of the May 23 Planning Commission meeting;
3. Memo from proponents regarding Eagle View condominiums' property owner's interest in rezone



Staff Report for the Planning Commission meeting of May 23, 2002

**PC Docket #02-028 Rezone to "MFH" for Eagle View
Condominiums at 500 West 940 South (Golf Course Road);
TID #02-136-0001 through 0016**

REPORT SUMMARY...

Project Name: Eagle View Condominiums
Proponent: Robert Balling
Owner: LARRM, LLC.
Project Address: 500 West 940 South Street (Golf Course Road)
Request: A Rezone to "MFH" for property located at approximately 509 West 940 South (Golf Course Road)
Current Zoning: SFR (Single Family Residential)
Type of Action: Legislative (rezone)
Staff Recommendation: (left intentionally blank)

PROJECT

The proponent is requesting approval for a rezone of roughly 51,286 square feet of property at approximately 500 West 940 South (Golf Course Road) from Single Family Residential (SFR) to Multi-Family High (MFH). The proposed rezone includes four vacant lots located in the Eagle View development, three bordering Golf Course Road and one on the interior of the property, and requires approval by the Planning Commission and the Municipal Council.

Land use adjoining the subject property

North: SFR: Eagle View four-plex condominiums and mobile home park
East: SFR: Single family homes and mobile home park
West: REC: Driving Range
South: REC: Golf course

History

The subject property was included in the original approval of the Eagle View Cluster Development Project (PC #93-091), approved by the Planning Commission in September 1993. The original project approval included 16 four-plex units to be built on each of the 16 lots shown on the plat map, for a total of 64 units. Twelve four-plex units were built, one each on lots four through 15. At the time of this approval, the property was zoned R3A.

In 1995, the Planning Commission approved a site plan change, changing the lot configurations of lots one, two, and three to allow two eight-plex structures to be built (PC #95-042, PC #95-018). In 1996, a one-year extension of this permit was granted to allow the two eight-plexes to be built. This extension expired on March 9, 1997 without the eight-plexes being constructed.

During this time (while the permit was active) the property in this area was downzoned from R3A to Single Family Residential (SFR) during the 1996 Citywide rezone. In discussing this portion of the City, the findings for the rezone indicated the Council's concern with the predominance of renter-occupied residences and multi-family housing in the general area of 400 South to Golf Course Road, Logan River to 600 West (which includes the area proposed for the downzone). The Council approved the downzone to Single Family Residential in part to address these issues. Taken from the document summarizing the City-wide rezone, a copy of the pertinent finding and issues summary for this portion of the southwest neighborhood are attached to this staff report. Minutes from the Planning Commission hearing regarding zoning in the southwest neighborhood are also included.

In the past couple of years, staff has met with the proponents on several occasions to discuss the project. Because no further extension of time was granted or requested since 1997, and since no building permits have been or are currently active for the proposed eight-plexes, staff does not believe that the development of the three lots along Golf Course Road can be "grandfathered" under the previously issued permits. The existing, built four-plexes are legally-existing, non-conforming. Additionally, due to the amount of time that has passed (five years since the time extension expired), staff does not feel that there are any persuasive "vested rights" arguments.

The rezone request raises several issues that are discussed in detail below. In summary, staff has identified issues that possibly argue for and against the rezone proposal:

Possible issues for:

1. The proposed rezone allowing two seven-unit structures could be considered compatible with the existing four-plexes in the Eagle View site.
2. Through a Design Review permit, the Planning Commission could ensure that a multi-unit project was attractive and enhanced this portion of Golf Course Road.
3. As an infill project, the proposed rezone would provide 14 housing units, compared to seven homes that could be built under current zoning, and address *General Plan* concerns for providing additional housing in Logan.
4. If the project were to contain condominium units, home ownership opportunities could be provided.

Possible issues against:

1. During the 1996 City-wide rezone, the Municipal Council downzoned this area of the City in part to address density concerns.
2. During the 1996 City-wide rezone, the Municipal Council expressed a desire to increase home ownership opportunities in the southwest neighborhood.
3. There are no properties currently zoned Multi-Family High adjacent to this site.

Rezone to MFH (Multi-Family High)

The proponent is requesting a rezone of Lots 1,2,3, and 16 to Multi-Family High (MFH) shown on the plat map to allow for the development of two seven-plex structures along Golf Course Road. The proponent does not intend to develop a building on Lot 16, the interior parcel, but is including Lot 16 in the rezone request in order to have sufficient square footage to construct the two seven-plexes along Golf Course Road. The square footage of Lots 1,2,3, and 16 combined is

approximately 51,200 square feet. The MFH zone allows a maximum of 14 units per acre; if the rezone were approved 14 units could possibly be built on property 51,200 square feet in size if the Planning Commission approved a Design Review permit for the project.

Spot-zoning and neighborhood compatibility

There are no properties zoned MFH adjacent to this site. Land immediately to the west and south of the project site is zoned Recreational; north and east of the project site the property is zoned SFR. The closest property zoned MFH is approximately 2 blocks away at the Riverwalk Apartments and then 11 blocks away at 100 North and 100 West Street. The existing land use pattern immediately adjacent to the proposed rezone area includes the completed fourplex units of the Eagle View Condominium project. South and west of the property is the golf course, while to the east along Golf Course Road are a trailer park and single family homes.

The issues of spot-zoning and neighborhood compatibility in part depend on the area examined. Allowing two seven-plexes along Golf Course Road would be more easily considered "compatible with the neighborhood" when looking at just the Eagle View properties. This conclusion would be more difficult if the neighborhood was expanded to include the residential areas north and east of the Eagle View site.

From a planning perspective, consideration of spot-zoning also takes into account a community's general plan. In this sense, the purpose of avoiding spot-zoning decisions is to ensure that the goals and policies of a general plan are met and to avoid negative impacts to the public. If a rezone is approved in accordance with the general plan, even if it is only one parcel or creates an "island" zone, it is necessarily not considered spot zoning, as long as the rezone complies with the general plan and is not detrimental to surrounding property owners.

Although there is no statutory reference to spot zoning in Utah state law, the University of Utah Center for Public Policy and Administration's publication *Planning and Zoning Administration in Utah* generally discusses spot-zoning on page 11-13:

Size of the parcel is not the only criterion for designation[as spot-zoning]. The zoning of relatively small areas to provide for the general welfare and not for a specific benefit to one owner, or area, but rather in compliance with a comprehensive land use plan, is not considered spot zoning. Conversely, relatively large areas that are zoned in a manner contrary to the general land use plan, or such that only a few private interests are being single out and given special consideration, may be held to be spot zoning.

The existing SFR zone does not reflect the actual land use of the Eagle View property as four-plex condominiums. One option for consideration could be the rezone of the entire Eagle View property to MFH, rather than just the four lots as the proponent proposes. This option would rezone all 16 lots of the Eagle View project. A result of this option would be to decrease the nonconforming status of the existing buildings, since four-plexes are not allowed in the Single Family Residential zone but may be allowed in the Multi-Family High zone.

1996 City-wide rezone

The 1996 City-wide rezone included a downzone of properties in this area to SFR. In general, according to the minutes of the Council meetings and the findings regarding the downzone, the Council was concerned with two main issues: reducing density and increasing home ownership opportunities in this area. From the minutes, it does not appear that the Council considered zoning for the Eagle View project specifically, even though 48 of the multi-family units in the Eagle View project were constructed. The minutes from the Planning Commission deliberations on the southwest neighborhood (June 19 and June 12, 1995) are also attached.

The proponent could develop this project to be owner-occupied by creating individual lots out of the separate dwelling units (a condominium-type of project) and possibly address the Council's concerns regarding home ownership in the southwest neighborhood. However, the Council concern regarding density in the southwest neighborhood is a serious consideration for this project. If the rezone to MFH were allowed, the proponent could be able to develop 14 units, assuming a Design Review permit was granted, compared to seven units that could be currently allowed under the SFR zone.

General Plan issues

The *Logan General Plan* states that “[o]ne of the critical issues raised during the development of the General Plan centered on the diversity and availability of housing.” (General Plan page 3-37). The *General Plan* also discusses the need for housing that serves “several distinct constituencies”, from upper to lower income families to students and industrial service workers (General Plan pages 3-37 to 3-39). While the *General Plan* discusses the need for affordable housing in greater detail, it also calls for the City to work with “regional service agencies and private developers in providing opportunities for affordable housing for all housing groups.” (General Plan page 3-39).

The *General Plan* includes infill projects as one of the main ways to provide additional housing in Logan. This particular rezone request is an infill project, as it would add additional housing to an already developed area.

The *General Plan* describes the Southwest Neighborhood as “an area in transition” with residents the “most concerned about the increase in multiple family residential dwellings and the lack of ownership opportunities in the area.” (General Plan page 3-30). The General Plan states that “[n]eighborhood groups have been interested in seeing an increase in stable residencies in the area...more ownership opportunities. There is concern about the appearance of the neighborhood in terms of general building design and the dominance of multi-family units over the single homes” (General Plan page 3-30). If multi-unit dwellings were built, they would require a Design Review permit that would address the project's appearance and site layout. As mentioned above a multi-unit project could be built as a condominium project to address the home ownership issue.

General Plan Implementation Measure LU-4.1(a) states that “[w]hen considering applications for changes of zone, the City shall consider the appearance and character of the neighborhood and the impact of the proposed change in land use. Emphasis shall be placed on ensuring that

new development or expansion of existing development enhances or improves character in a neighborhood.” (General Plan page 3-31). The proposed change in land use would allow 14 attached units to be built, rather than the seven individual units that could be built under the current SFR zoning. Consideration of the enhancement or improvement in neighborhood character in part depends on the size of the neighborhood under consideration.

Development of the site

Under the current zoning standards of the Land Development Code, seven single family houses on 6000 square foot lots could be built on the property in question. The proponent has indicated that they are not interested in this option. The rezone request would potentially allow up to 14 units to be built; the proponent has indicated that the desired location of the units is along Golf Course Road, leaving Lot 16 as an area of common open space. Although the design of the project is not being reviewed at this point, staff has seen an elevation of a proposed structure that was not unattractive. If the rezone were approved, the proponent would need a Design Review permit prior to receiving a building permit for a seven-plex structure.

Strictly from a development and infill standpoint, an argument can be made that a well-designed, quality multi-unit development in this location is preferable to a series of single family houses along Golf Course Road. Such a development would fit the character of the existing Eagle View development, particularly if the units were owner-occupied, rather than rentals.

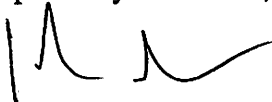
AGENCY AND CITY DEPARTMENT COMMENTS

No comments were received from City or County departments or agencies with specific recommendations for project conditions.

PUBLIC COMMENTS

Notices were mailed to 10 property owners located within three hundred feet of the subject property. At the time the staff report was prepared, no written comments had been received by the Department of Community Development. One phone call had been received by the Department of Community Development, inquiring about the project.

Respectfully submitted,



John W. Weber
Planner II

Report Published: May 16, 2002

This staff report is an analysis of the application based on adopted city documents, standard city development practices, and available information. The report is to be used to review and consider the merits of the application prior to and during the course of the Planning Commission meeting. Additional information may be revealed by participants at the Planning Commission meeting which may modify the staff report and become the Certificate of Decision. The Director of Community Development reserves the right to supplement the material in the report with additional information at the Planning Commission meeting.

1. Backflow shall be required for the irrigation system. No pretreatment will be required at this time.

RECOMMENDED FINDINGS FOR APPROVAL

1. USU LDS Stake Center has been revised and amended by the conditions of project approval to address the issues and concerns raised within the public and administrative records.
2. USU LDS Stake Center has been revised and amended by the conditions of project approval to conform to the requirements of Title 17 of the Logan Municipal Code, the City of Logan Public Works Standards and Specifications, and the requirements of various departments and agencies.
3. USU LDS Stake Center is compatible with existing land uses and zoning.
4. The design permit is issued in conformance with the requirements of Title 17 of the Logan Municipal Code.
5. The street providing access and other infrastructure to the subject property has adequate capacities, or a suitable level of service, for the proposed use.
6. The proposed use provides adequate off-street parking in conformance with Title 17 of the Logan Municipal Code.

[Moved: Mr. Hooper Seconded: Mr. Kerr Passed: 6, 0]
Yea: Kerr, Kartchner, Wickwar, Box, Larson, Hooper Nay:

02-044 *Continued from the May 9th meeting....* **EAGLE VIEW CONDOMINIUMS.** Rezone. LARRM, LLC, applicant/owner, requests a rezone from Single Family Residential (SFR) to the Multi Family High (MFH) zone at approx. 500 West 940 South. TIN#02-136-0001 through 0016.

STAFF: Staff reviewed the report as written.

PROPONENT: Robert Balling stated this would be a build up area for retired people to use the golf course. This works nicely in this area because who would want to buy a single family home among 4-plexes.

Marty Spicer, developer, clarified the condo conversion option that had been discussed several years ago when the project was started. The condo conversion gave the property owner the option to sell units individually after seven years of ownership. The condo association was in favor of the condo conversion option.

Mr. Kartchner stated the footprint would have to be subdivided in order to sell the units individually.

Mr. Spicer stated the owners would have to go through the correct channels to have the lots separated, but first the developer needs approval for higher density in this area.

Mr. Spicer stated it is a cluster and this is a PUD, his preference is to have all 16 units up zoned.

Mr. Kartchner stated the steps Mr. Balling needs to take to get the project approved. First, rezone; next subdivide; then go through design review.

Mr. Spicer asked if density is grandfathered with the surrounding area.

Mr. Kartchner stated the lots are to be subdivided into 14 lots.

Mr. Kartchner stated lot 16 would remain green space and could not be developed.

Mr. Weber stated if a 4-plex was built on lot 16 it would be subtracted from the total number of units allowed.

Ms. Wickwar stated the wording condominium is misleading.

Mr. Balling stated he does not own the other property. He thinks the other property owners would like the option to sell the 4-plexes as condos.

Mr. Spicer stated the other 12 owners would come forward at the time of requesting a rezone.

Mr. Ward stated we should up zone the whole area.

Ms. Wickwar stated if they become condos they could continue to be zoned Single Family Residential, even as condos.

Mr. Larsen asked why would someone want to buy SFR attached more than a SFR detached.

Mr. Spicer stated the same people who bought from Blackhawk condominiums.

Mr. Kerr stated from a marketing standpoint, a SFR attached home is less expensive than a detached one.

Mr. Balling stated those who buy the condos will be those who have a second home in Tucson, Arizona, they will like the condo association to cut the grass and shovel the walks.

Mr. Spicer stated there is common area tied to lots 1, 2, and 3, and each of these lots would own part of the common area.

PUBLIC: There was no public comment.

COMMISSION: Ms. Wickwar clarified the location of the proposed up zone.

Mr. Ward stated the pink part on the submitted plan is the part the proponent is requesting a rezone.

Ms. Wickwar stated the logical thing to do is to up zone the whole area.

Mr. Kartchner stated the Planning Commission recommends the whole area will be up zoned.

May 23, 2002 Planning Commission Minutes

○ Mr. Kartchner stated the 300 feet for public notice would be expanded when the Council hears the rezone.

Tape 1A

MOTION: Moved to recommend the project to the City Council.

[Moved: Mr. Kartchner Seconded: Mr. Larsen Passed: 5, 1]
Yea: Kartchner, Wickwar, Box, Larsen, Hooper Nay: Kerr

**COLDWELL
BANKER****GOLD KEY
REALTY, INC.**

June 13, 2002

135 SOUTH MAIN
LOGAN, UT 84321
BUS. (435) 753-8824
FAX (435) 755-3009

City of Logan ,Community Development,John Weber

Re: Eagle View Cluster Development

Dear Mr. Weber,

Coldwell Banker Gold Key Realty is the property manager for the Eagle View Cluster Development. I have been asked by the Eagle View Homeowners Association to comment on the pending rezone targeted for this property. My opinion and comments represent only the aspects of managing the common areas and the effect of a rezone on the property, not any of the owners specifically.

The Building owners association meets a at least once a year and has recorded Covenants, Conditions and Restrictions (CCR's), which control the cluster development. These CCR's established a monthly maintenance fee paid by all constructed units, presently 48. Eagle View's CCR's identified 64 units to be constructed and part of the Association paying a monthly assessment. These monthly fees pay for water, landscaping, snow removal, site improvements and maintenance of underground utilities. In addition each building owner owns 4/64th of the common area.

The proposed rezone would maintain the center island as open green space which I support as good for the Eagle View complex and its residents.

I understand the rezone would allow the initial construction of 64 units to be completed. There would not be a negative effect on the Eagle View development by building on lots 1,2 and 3. The owners had previously voted to allow two 8-plex units on those lots and preserve the center open green space. The rezone will also help reduce the higher monthly assessment fees on the existing 48 units. Additional unit site improvements could more likely be expected.

In closing, I do see a rezone back to the high-density zone as originally platted for this cluster development as the logical and beneficial decision for Eagle View. Residential homes on Eagle View lots 1,2,3, & 16 would not work.

Sincerely,


Roger Welsh
Coldwell Banker Gold Key Realty, Owner, Associate Broker

(Civil)

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 26th day of June A.D. 2002
personally appeared before me Mandie Simpson who being first duly sworn,
deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement
NOTICE OF PUBLIC HEARING FOR PURPOSES OF REZONING PROPERTY

a copy of which is hereto attached, was published in said
newspaper for ONE (1) issue
commencing June 26, 2002 and
ending June 26, 2002

Signed *Mandie Simpson*

Subscribed and sworn to before me the day and year
above written.

Signed *Cynthia K. Fulton*
Notary Public.

My Commission expires 9-7 2003.

NOTICE OF PUBLIC HEARING FOR PURPOSES OF REZONING PROPERTY
The Logan Municipal Council will hold a public hearing to consider the following rezone:
Eagle View Condominiums. Larrm, LLC, applicant/owner, requests rezone from Single Family Residential (SFR) to Multi-Family High (MFH) zone at approx. 500 West 940 South, TIN #02-136-0001 through 0016.
A public hearing will be held before the Logan Municipal Council on Wednesday, July 10, 2002, not before 6:15 p.m. in the Council Chambers at 255 North Main Street, Logan, Utah.
Lois Price, Recorder
Publication Date: June 26, 2002



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(Civil)

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss.

On this 2nd day of August, A.D. 2002,
personally appeared before me Mandie Simpson who being first duly sworn,
deposes and says that she is the chief clerk of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan, City, Cache County Utah, and that the advertisement

LEGAL NOTICE

a copy of which is hereto attached, was published in said
newspaper for ONE (1) issue
commencing August 2, 2002 and
ending August 2, 2002

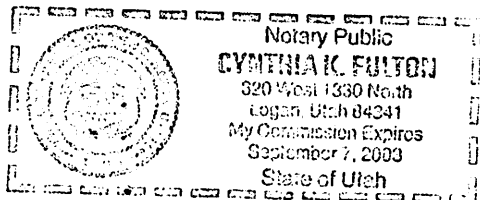
Signed *Mandie Simpson*

Subscribed and sworn to before me, the day and year

above written.

Signed *Cynthia K. Sulta*
Notary Public.

My Commission expires 9-7-2003



LEGAL NOTICE
SUMMARIES OF ORDINANCES amending the Logan Municipal Code, 1989, passed by the Logan Municipal Council are as follows:
ORD. 02-38: An ordinance amending the zoning map of Logan City, Utah, was passed July 10, 2002 and approved July 12, 2002 rezoning 4.56 acres of approx 1500

West 940 South from Single Family Residential (SFR) to Multi-Family High (MPH) for Tax ID Nos. 02-136-0001 through 0017. Also identified as the "Eagle View Condominiums Rezone."
ORD. 02-31: An ordinance amending Section 9.12.300 "Drinking liquor in public places violation" was adopted and approved July 10, 2002 and amended to read as follows: "Any person who shall drink any intoxicating liquor in any street or alley, public place, street, restaurant, hotel lobby or parlor, in or upon any passenger coach, street car or other vehicle commonly used for the transportation of passengers or in any public gathering of any kind, unless otherwise allowed by law, shall be deemed guilty of a misdemeanor. The penalty provisions

are found in Chapter 1.16 of the Code.
These ordinances are effective immediately upon publication.
Full texts of the ordinance may be reviewed at the Office of the Logan City Recorder, City Hall, 255 North Main during regular business hours.
Lois Price, Recorder
Publication Date: August 2, 2002