



118 Lion Blvd PO Box 187 Springdale UT 84767 * 435-772-3434 fax 435-772-3952

**MINUTES OF THE PLANNING COMMISSION SPECIAL MEETING ON TUESDAY, AUGUST 4, 2015,
AT THE SPRINGDALE TOWN HALL, 118 LION BLVD., SPRINGDALE, UTAH.
THE MEETING BEGAN AT 5:02 PM.**

MEMBERS PRESENT: Chairman Jack Archer, Commissioners Randy Taylor, Joe Pitti, Mike Marriott, Liz West

EXCUSED: Allan Staker and Jack Burns from Zion National Park

ALSO PRESENT: DCD Tom Dansie, Town Attorney Greg Hardman and Town Clerk Darci Carlson recording. Please see attached list for citizens signed in.

Approval of Agenda: Motion made by Joe Pitti to approve the agenda; seconded by Mike Marriott.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.

Commission discussion and announcements: Mr. Pitti mentioned that he has been receiving explicit spam messages on his Springdale Town email account and asked the service provider be contacted to better filter these inappropriate messages. Other Commissioners commented they too have been receiving an excessive amount of spam.

Mr. Dansie announced that next Tuesday, August 11th the final Night Sky Event will feature the internationally acclaimed Dark Rangers. They will conduct a one-hour presentation followed by two hours of star-gazing using their high-powered telescopes.

Mr. Marriott asked about the status of the fiber optic build-out. He commented on the length of time it was taking to complete the project. Mr. Dansie said the project is being done by the private company First Digital. The Town is coordinating utility conflicts but otherwise the project is not the Town's. Mr. Dansie said he assumes they are getting closer to completion.

- Mr. Archer asked about residential installations. Mr. Dansie answered this too was up to First Digital. Residents could reach out to them and ask about service.

Action Items:

Public Hearing – Ordinance Amendment: Changes to several sections of Title 3 and Title 10 regulating formula restaurants and formula delicatessens. The intent of these changes is to remove the prohibition on formula restaurants and formula delicatessens:

Mr. Dansie said this proposed ordinance amendment would remove the prohibition on formula restaurants and formula delicatessens. There were no other changes to the ordinance language. All other regulations would remain.

Mr. Pitti asked about a letter from the Council that would provide further explanation about the settlement. Mr. Dansie said the Town Council and Mayor want to share as much information as possible. They are working with the Town Attorney to draft the letter. They will likely send out the letter prior to the Town Council meeting next week.

- Ms. West asked if the settlement agreement had been signed. Town Attorney Greg Hardman said 'yes' and believed a check had been prepared. The sequence of events in the process is: 1) sign the agreement; 2) repeal the ordinance; 3) pay the settlement; 4) file a stipulated motion to dismiss the case with prejudice. Mr. Hardman indicated this sequence was a bit out-of-order.

The ordinance still needed to be repealed. He believed the stipulated motion had already been submitted. The parties are waiting on the judge to enter the order.

- Mr. Taylor asked if after this time additional details could be made public. Mr. Hardman said the letter would address details to the degree the Town can discuss them. Much has already been discussed in terms of the insurance company directives and changes in case law that was initially favorable but changed in recent years.

Public questions: Betina Lindsay asked if the current ordinance allowed formula restaurants to have a drive-up window. Mr. Dansie said the current ordinance has a prohibition on drive-up windows and this would remain unchanged. This restriction applies to all restaurants not just formula restaurants.

Dianna Dokos asked how the ordinance repeal meshed with the vision and preservation of the Town's unique character. Mr. Hardman said Springdale's zoning and design ordinances are already some of the most restrictive in the state of Utah. They directly protect the uniqueness of the community.

Patsy Chaffins asked if it was possible to replace this ordinance with another that would disallow formula restaurants in the future. Mr. Hardman said an outright prohibition was likely not a legally sustainable option. Other municipalities have such ordinances but they have not been challenged in court. There are communities that allow formula restaurants however they are regulated in some way. For example, some communities have historic preservation zones that disallow formula restaurants in these areas.

- Mr. Pitti said we can't arbitrarily make the downtown commercial zone historic. It currently has a mix of businesses. He said the Town has done everything it can to fight. He noted the small size of the community also provides challenges since it is difficult to place restrictions on an area that is only three miles long.

Catrin Zambella said she was recently in a tourist town in Switzerland where locals didn't want a McDonald's. The community ultimately cooperated and modified signage and building design requirements so all parties could live with it harmoniously.

Mr. Archer said they are relying on the current ordinances to regulate architecture and signage.

Motion made by Mike Marriott to open public hearing; seconded by Jack Archer.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.

Public comments: Stewart Ferber wanted to calm everyone's fears. He said the reality is economics. Larger formula restaurants need to financially sustain themselves. Given the off-season they could likely not justify the investment. He indicated he had no plans to put one in.

Betina Lindsay said a lot of energy and discussion had been put into this issue. She felt the destruction of natural habitat, diminished air quality, noise from tourism, wildlife run over or scared away were larger looming problems. She suggested the road into the Park be closed and made into a walking mall. She also expressed concern about the water and the number of people in the Narrows. People were defecating in that area and drinking water comes out of the canyon. Ms. Lindsay wants to see more land dedicated to green space.

Catrin Zambella said everyone has strong individual and community vision. She felt everyone comes here for the nature. As tourists come, our community is the steward to help them reconnect with nature.

Motion made by Joe Pitti to close public hearing; seconded by Liz West.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.

Mr. Marriott felt there wasn't much to deliberate. The Town is bound by the settlement agreement and we have to repeal the ordinance.

Mr. Taylor said beyond the repeal perhaps they should recommend a six month moratorium on formula restaurants. This would allow them an opportunity to review the ordinances, tighten them up, and help conform to the vision everyone wants to see.

- Mr. Hardman said the Planning Commission is an advisory board and can make any recommendation to the Town Council.
- Mr. Pitti noted they cannot specifically target formula restaurants. It would have to concern all restaurants in general.

Mr. Hardman elaborated and said the Town has three options for a moratorium based on state code. It is actually referred to as a temporary zoning ordinance. These options are: 1) stop all development applications and examine all ordinances and regulations within the commercial zones irrespective if the business classification is a formula or non-formula business; 2) identify a moratorium on ordinances for restaurants which distinguishes a compelling reason why it is enacted; 3) issue a temporary ordinance specific to formula restaurants to explore possibilities of creating an historic district, requiring conditional use permits, or limiting the location and number of these businesses.

These are all options, but not without potential legal challenge. Mr. Hardman went on to say the challenge lies in determining a compelling reason why the moratorium or change is being enacted.

- Mr. Taylor reiterated a moratorium would provide a chance for the Town to review architectural standards and ordinances designed to maintain the vision of the Town. Mr. Hardman said this could be part of the recommendation the Commission makes to the Town Council.

Mr. Archer said during the Town's research they surveyed other tourist areas with similar formula restaurant ordinances but none have been challenged in court. If this legal challenge continued the settlement amount would likely have increased.

Mr. Taylor said restaurants are already a conditional use and asked if the process provides leeway. Mr. Hardman said by law a conditional use permit must be granted if the applicant meets the set standards.

Mr. Pitti said the Commission has looked at the ordinances and standards that promote village character and the conclusion is they are strong. Prohibiting drive-up windows is important since most of the larger formula restaurants have these. Any business coming into Springdale must conform to the ordinances.

Mr. Dansie said the architectural design standards governing size, height, materials, and colors are already restrictive. The Town could be even more restrictive by specifying the architecture be a certain style such as parkitecture or craftsman.

- Ms. West asked if legally they could look at possible architectural changes before more applications were granted. Mr. Hardman said it is important for the Town to look at the ordinance as it is drafted and as it is applied. A municipality must identify the purpose by which they undertook the effort to modify the ordinances. It must be a legally sustainable and defensible position and not a way to accomplish a prohibition.
- Mr. Hardman added that based on research, formula business ordinances that failed in court were facially neutral but as applied discriminated based on the dormant commerce clause.
- Ms. West asked if the General Plan and ordinances were sufficient to back up the integrity of the village atmosphere. Mr. Hardman said it was important to know how the Town defines village atmosphere and how development meets this definition. He noted the Izzy Poco lawsuit argued the Town talks about small businesses and village atmosphere but has some very large hotels. These hotels don't promote village scale and ultimately this became a challenging argument to dispute.
- Mr. Archer said the Town needs to be consistent but careful not to discriminate. He felt the current building standards were good and the Town was going in the right direction.

Mr. Pitti asked if there was a natural freeze when they are working on amending an ordinance. Mr. Hardman explained that if proceedings have been initiated to change an ordinance and someone submits an application, the Town can ask them to wait until the change is finished.

- Mr. Dansie clarified further and said the application is held only if the regulation being drafted would prohibit what is being applied for. Otherwise the Town cannot withhold action.

Mr. Taylor asked if someone could challenge our building size ordinance. Mr. Hardman said if the size ties to something non-discriminating then it is sustainable. If it is designed to target outside business interests then it becomes problematic.

Mr. Marriott said currently in Town there is a functioning drive-up window. He questioned if this was an issue. Mr. Dansie said the regulation about drive-up windows applies specifically to restaurants.

- Mr. Hardman said most regulations dealing with drive-up windows deal with concerns over litter and traffic. The current ordinance regulating drive-up windows does not distinguish between the types of restaurants so it is sustainable.
- Mr. Pitti suggested the Town proactively approach Zions Bank and ask them to close their drive-up window in support of the community.
- Mr. Dansie felt this plan of action was good. The Town would talk to the bank in a cooperative manner and ask if they would help the Town achieve its goals of reducing traffic congestion, litter and promoting a pedestrian scale by removing their drive-up window. The Commission could then follow-up by changing the ordinance to not allow drive-up windows of any kind.

Mr. Marriott suggested the Commission look again at the architectural ordinances during upcoming work meetings and tighten up where they felt compelled to do so.

Motion made by Mike Marriott to recommend the Town Council approve the ordinance amendment to several sections of Title 3 and Title 10 regulating formula restaurants and formula delicatessens. The intent of these changes is to remove the prohibition on formula restaurants and formula delicatessens. The recommendation is based on findings the Town has entered into a settlement agreement to do so; seconded by Jack Archer.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.

Development Agreement Proposal: Conceptual Development Agreement Plan impacting the following properties: 21 West Temple Drive, 479 Zion Park Boulevard, 792 Zion Park Boulevard, and 1516 Zion Park Boulevard: Mr. Dansie said this proposed development agreement was first discussed by the Commission in June. At that time the Planning Commission expressed concerns how the agreement might impact residential properties adjacent to the commercial properties. Mr. Dansie summarized the proposed development agreement provisions. It would restrict development on 21 W. Temple Drive to ten employee housing units rather than a forty-four unit hotel. In exchange for this, the applicant would receive the following incentives: 1) A 24 unit increase at the Montclair; 2) A 24 unit increase at La Quinta; 3) The front portion of the Zion Canyon Campground would be allowed to develop a future hotel as allowed by current ordinances.

Stewart Ferber was in attendance to answer questions. He said the agreement allows nothing more than what he could do now. Using the Montclair as an example, although the agreement would allow more units, he would stay with the current building size, density and landscape. He could chose to tear down the structures and build three bedroom suites that didn't alter the existing unit count. He prefers to cater to families rather than big groups and does not want to build larger accommodations. For the La Quinta he was only asking for an additional 15 units because 9 are still available to him. This allows him to build one more 24-unit building identical to those already existing. For the campground he was asking to preserve the campground and not build on this section of the property.

Mr. Ferber can do the proposed development and more following the current ordinances but he listened to the comments and wanted to find a solution that worked for everyone. He may never make these proposed changes but wanted to preserve the right to do so in the future. In his opinion it was a pretty fair deal for both sides. He also noted there was a lack of negative emails and response from the public.

Mr. Archer asked if Mr. Ferber discussed the issue with the Cope family. They own the property behind the Montclair. Mr. Ferber spoke to Darren Cope who was initially angry about the deal but they talked it through. Darren Cope indicated his mother did not have a problem with the proposed agreement. Mr. Ferber said he and Mr. Cope discussed pursuing a zone change which would change the Cope property from Village Residential to Village Commercial. This would allow them to build four rental units in the future. They recognized this request would need to go before the Planning Commission and Town Council for consideration and approval.

Mr. Archer said the provisions in the development agreement may not come to fruition. He also recognized that Mr. Ferber was good at working with the Town. He said people don't want traffic signals in Town, but identified Lion Boulevard and SR-9 and Juniper Lane and SR-9 as problem areas. In lieu of traffic signals Mr. Archer said round-a-bouts might be a way to deal with the traffic issues and still fit with the village atmosphere. Mr. Ferber has a piece of property at the campground that could be used for this purpose. This idea would have to be explored by UDOT but Mr. Ferber said he would be open to it. Mr. Ferber said even a four-way stop would be an improvement.

- Mr. Pitti mentioned there would likely be issues with setbacks.

Mr. Ferber reiterated the 10-12 acres of campground land would remain and not develop into a hotel.

- Mr. Taylor asked if he would build houses on the property. Mr. Ferber said he made a promise to his father that he would not. He also had a deed restriction in place with his heirs.
- Mr. Pitti said the deed restriction was an important component. The campground offered an affordable lodging choice not available anywhere else in Town. It would be a detriment to lose. He asked if deed restrictions could be imposed on the property.
- Mr. Dansie said recording deed restrictions is a mechanism they could use to memorialize the terms of the agreement.

Mr. Pitti said Mr. Ferber could increase his lodging properties by 168 units, yet this agreement proposes 106 units. If the intent of the community is to see fewer hotels units as judged by the surveys and public input, this agreement proposes far less. The Town also receives a trail easement and employee housing. Based on input there did not appear to be a lot of opposition. Mr. Pitti said it was a win-win and felt it was a good deal, especially if they attach deed restrictions to the properties.

Mr. Marriott said his concerns were put to ease. Ten units on the West Temple property seem better but traffic was still a consideration.

- Mr. Ferber said he has about 75-80 employees and most commute. He plans to build right away and will likely propose one or two single-story buildings containing 500-600 square foot units. These units are walkable to his properties. He does not charge his employees for housing so he has full control of what goes on in the units.

Mr. Archer asked about the extent of the grading on West Temple. Mr. Ferber answered it would be reduced about 90% from the previous proposal. Grading will meet fire code. They will build on grade.

- Ms. West asked if the employee housing at the Montclair would come down. Mr. Ferber answered he would build one new unit attached to the buildings. Since this facility closes during the winter he wants someone to live on the property year-round.

Mr. Dansie said he was an advocate of round-a-bouts. During a recent meeting with UDOT they laid out a round-a-bout at Juniper Lane. But, given the amount of traffic, size of vehicles, right-of-way and other constraints, it does not work. He recommended the commission add language that talked about intersection improvements but not be specific to what type these would be.

Mr. Dansie said with the reconstruction of SR-9 next year, a new striping plan contemplates a center turn lane for Lion Boulevard.

Motion made by Joe Pitti to approve the proposed conceptual development agreement plan for the following properties: 21 West Temple Drive, 479 Zion Park Boulevard, 792 Zion Park Boulevard, 1516 Zion Park Boulevard. The motion is based on the following findings: 1) public feedback in the form of letters and meeting attendance at the DDR regarding the 21 West Temple project encouraged the Town to work with the developer to come up with an alternative solution to this potential high visual impact lot; 2) the applicant has done his due diligence in working with the Town to come up with an alternative plan; 3) the applicant met with the Town and discussed options of increased density in exchange for less density on the West Temple lot which supports the General plan strategies of 3.3 Land Use and Zoning; 3.3.2.c to develop proposals for linked open spaces through the uses of trails and other pedestrian connections; 5.3.1.a to promote density, coverage or other bonuses as incentives for businesses to provide quality employee housing; 5.3.2.b to ensure that units provided as employee housing remain for use by employees through necessary and appropriate legal means which can be done in the form of deed restrictions. With the following conditions: 1) deed restrictions be recorded on the related properties that limits the uses of what is proposed on the subject properties; 2) applicant will work with the Town and UDOT on intersection improvements; seconded by Liz West.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.

Motion to adjourn made by Mike Marriott; seconded by Liz West.

Taylor: Aye

Archer: Aye

Pitti: Aye

West: Aye

Marriott: Aye

Motion passed unanimously.



Darci Carlson, Town Clerk

APPROVAL: _____

DATE: _____

8-18-15

