



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, SEPTEMBER 6, 2016, AT 5:00 PM
AT THE SPRINGDALE TOWN HALL, 118 LION BLVD., SPRINGDALE, UTAH.**

The meeting convened at 5:00 PM

MEMBERS PRESENT: Chairman Liz West, Jack Burns, Randy Taylor, Scott Taylor, Mike Marriott and Cindy Purcell from Zion National Park.

EXCUSED: Allan Staker, Associate Planner Toni Benevento

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

Approval of Agenda: Motion made by Liz West to approve the agenda: seconded by Scott Taylor.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Marriott: Aye

Motion passed unanimously.

Commission discussion and announcements: Mr. Dansie announced the next Night Sky Event would be held September 22nd and feature Zachary Schierl from Cedar Breaks National Monument. The presentation started at 8:00pm in the Canyon Community Center.

- Mr. Dansie said Ms. Benevento went to the Washington County Mayor's meeting tonight to discuss the adoption of night sky ordinances, recognizing the night sky was a regional county-wide resource.
- The Environmental Dispute Resolution Group from the University of Utah Stegner Center was facilitating a collaborative effort between stakeholders in the Zion Canyon area to discuss issues regarding continued visitation. Danya Rumore had offered to facilitate a workshop process to help the Town look at items in the General Plan which addressed future growth and development. Ms. West felt this was a great idea.
- Mr. Dansie provided an update on the pond. He said the Town had been in contact with the Army Corp of Engineers. They were working through the permit process with the developer but it was more involved than anticipated.

Action Items

Public Hearing: Design/Development Review – Multi-family residential development at 715 Zion Park Boulevard – Kirk Barker: Mr. Marriott recused himself from this application. Rob Bishop was in attendance representing the developer.

Mr. Dansie said this proposal was for a seven-unit apartment complex. The project was reviewed in the July meeting but the Commission wanted more detail on the landscape, lighting, and drainage plan, storm water run-off plans and the flood plain permit. In addition the Commission needed to give sufficient notice to hold a public hearing.

- Neighboring property owners submitted comment letters expressing concern about parking lot lighting and drainage.
- The developer submitted additional information to address the Commission's issues. Mr. Dansie received confirmation the project would be illuminated with shorter bollard-style lights instead of lights on 14' poles. Mr. Bishop confirmed this change.

Public questions: Tracy Glover from Desert Pearl Inn asked to see the new landscape plan. He asked that the Chinese Elms remain as a visual barrier between the Desert Pearl and the apartments.

- Mr. Dansie said based on discussion from their previous meeting the Planning Commission requested all invasive species including the Chinese Elms be removed. The trees along the front of the property were identified as Mulberry trees.
- Mr. Bishop was not familiar with all the trees on the property but would look into it.

Mr. R. Taylor said the landscape plan did not indicate any existing trees would be saved. Mr. Bishop had not reviewed the new landscape plan but would work with the ownership to do what they could to save as many trees as possible.

- Mr. Burns said the Mulberry trees were part of the Town's historic streetscape. Mr. Dansie said that although there were standards for maintaining native vegetation there was no specific requirement in the ordinance that these trees be preserved. The Commission could encourage preservation but could not require it.

Ms. West asked about the chosen colors and if they were compliant with the palette.

- Mr. Dansie said there was a color rendering however the applicant had not brought in physical samples for approval. This needed to happen before a building permit was issued.

Mr. S. Taylor asked about drainage.

- Again Mr. Bishop indicated he had not seen the drainage report and was unfamiliar.
- Mr. Burns asked if it was a point source for potential pollution to the river. This was information that should be clarified.
- Mr. Dansie said according to Town standards a development could not increase the amount or rate of run-off from its pre-development flows; it must be equal-to or less-than. The detention device in the proposal was designed to comply with this standard. The Town engineer would verify the flows. The Town did not have standards related to water discharge from a detention system but as part of the design process the applicant must get a Storm Water Pollution Prevention Plan (SWPPP) from the State Department of Environmental Quality.

Motion made by Liz West to open public hearing; seconded by Randy Taylor.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Motion passed unanimously.

Public comments: Louise Excell, Springdale resident, thanked the Commission for the opportunity to offer comment on this project. She indicated the Commission did a great job and didn't get enough credit for all the work they did.

- Ms. Excell said she was speaking as an individual but knew there were many in Springdale who shared her sentiments regarding the developer's obvious disdain and documented disregard for the requirements placed on their developments by the Town. Of relevance was the developer's violation of the conditions placed on the DDR approval for the Springhill Suites resulting in the destruction of the Springdale pond. Ms. Excell felt the Town staff let everyone down by not stopping the development and requiring the mitigation of damage caused by the developer's reckless actions.
- Concerned residents of Springdale formally addressed the Town Council as early as May 11, 2016. They repeatedly spoke with staff and requested updates. Ms. Excell said because of Springdale's failure to enforce its own conditions of development, citizens approached the Army Corp of Engineers and understood the process was very complex and involved other agencies. With the basin empty there was no habitat for migratory birds and the time for regenerating natural vegetation would be delayed.
- In July Ms. Excell said she and Michelle Bonner submitted a proactive proposal to Ensign Hospitality which was rejected. A copy of the proposal and response was submitted for the record (Attachment #1). Given the developer's blatant violation of conditions from their previous DDR, Ms. Excell wanted to know what assurances could be given to avoid a similar debacle. She

questioned why the Commission would move forward with a sign permit approval when the developer had not corrected the violations of the original DDR agreement.

- Ms. Excell provided excerpts from the Springdale Town code section 10-15-12, 10-4-6 and 10-4-7 which addressed compliance, enforcement and penalties, and remedies (Attachment #2). She asked the Commission to keep in mind that the developer expressly and intentionally violated the conditions of past DDR approvals.

Motion made by Liz West to close public hearing; seconded by Scott Taylor.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Motion passed unanimously.

Commission deliberation: Mr. S. Taylor said after hearing comments from the Desert Pearl he changed his mind about the Chinese Elms being taken out; especially if they provided shade and a buffer.

Mr. R. Taylor was concerned when questions were asked there were no answers. Landscape and drainage plans had not been explained; bollard light detail was not provided. Mr. R. Taylor felt there were a lot of things in the application to firm up and be part of the record.

Ms. West asked about detail on building mounted lights.

- Mr. Dansie said the applicant chose LED lights with a warm color temperature. They could use opaque/frosted glass if the light source was less than 1000 lumens and not visible behind the glass.
- Mr. Burns recommended the developer use amber-colored glass. Mr. Dansie said it was important to separate recommendations from requirements of the ordinance.

Mr. Dansie said a riprap channel was contemplated which required consent and approval of adjacent property owners.

- Mr. S. Taylor said his impression was that questions about drainage had been answered by the applicant. Mr. Dansie confirmed the applicant provided information about the amount of water coming off the property.

Mr. R. Taylor said the Commission needed more documentation including permission regarding the riprap channel, cut sheets for the bollard lighting and an indication on the landscape plan which existing trees would remain. He did not feel there was enough information to justify findings.

- Ms. West said although some information was inconclusive the applicant had met the requirements of the ordinance.

During further discussion about the Mulberry trees Mr. Dansie said although these trees were important historically and culturally to Springdale they were not native; therefore the ordinance did not require that they be preserved.

Motion made by R. Taylor to table until information is presented to the Commission.

There was no second. The motion died.

Motion made by S. Taylor that the Planning Commission approve the proposed DDR for the multi-family residential development at 715 Zion Park Boulevard based on the following findings: the applicant has met the requirements for building size, setbacks, building height, landscape, illumination with consideration that 14' lights poles will no longer be used, parking lot lights will be LED fixtures, colors and materials, unit count, parking requirements, and the flood hazard mitigation has been met. Applicant must provide details on the location of building mounted lights as well as the type of light bulb or illumination used; glass cannot be clear glass; applicant must provide color and material samples to DCD prior to building permit being issued; applicant must submit and receive approval for a flood plain development permit prior to the building permit being issued; applicant to provide clarification of riprap and how they plan to move the excess storm water from the project to the Virgin River. Planning Commission makes the recommendation that the developer keep the remaining Mulberry trees as well as the Chinese Elm

trees; recommend the building mounted lighting fixtures use amber glass instead of flat white; seconded by Liz West:

Burns: Aye

R. Taylor: No

West: Aye

S. Taylor: Aye

Motion passed.

Revisions to previously approved Design/Development Review at 668 Zion Park Boulevard (adding 800 square feet of conference space to the lobby building at the Canyon Ranch Motel redevelopment) – MRW Design Associates – Mr. Dansie said the Planning Commission reviewed and approved this project in a previous meeting. The developer had requested an additional 800 square feet of conference space in the lobby building in addition to a slight shift in location of the lobby building. Tonight's review was confined to issues impacted by the proposed change only. Mr. Dansie said the submitted proposal was in compliance with all standards except for parking; however the applicant sent an updated plan for parking.

Greg Mathis with MRW Design was in attendance. He said this request for conference space was requested by the franchise. It would be a meeting room for people who stay at the hotel. They had provided the needed additional two spaces by shifting a planter.

Mr. Dansie explained the calculations for parking space requirements. Only one space was needed for every 600 square feet of conference facility on the same site as, and in conjunction with, transient lodging.

Mr. Greg Mathis indicated they planned to keep the historic home in the front of the property and work with the Town on some type of visitor center.

Motion made by Liz West to approve the revisions to the previously approved DDR at 668 Zion Park Boulevard adding 800 square feet of conference space to the lobby building at the Canyon Ranch Motel redevelopment; all conditions of the July 19, 2016 approval remain in effect and the applicant has provided a revised site plan showing a total of 75 parking spaces on the property; seconded by Mike Marriott.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Marriott: Aye

Motion passed unanimously.

The Commission took a brief break returning at 6:07pm.

Sign Permit: Springhill Suites, 1141 Canyon Springs Drive – Kirk Barker: Mr. Marriott recused himself from this application. Mr. Dansie said this was a sign application for Springhill Suites. Since the property did not front SR-9 there were provisions in the code which allowed three signs.

- The first proposed sign was an off-premise sign at the corner of Canyon Springs Drive and Desert Springs Drive. The sign measured eight (8) square feet and limited to four (4) feet in height. It was internally illuminated with only the sign copy illuminated. The background was made of painted aluminum.
- The second sign was located on the property itself. It measured forty (40) square feet which was the maximum allowed. It was internally illuminated.
- The third sign was a channel letter building mounted sign. It measured just less than twenty (20) square feet. During the day letters would appear black and at night they would be illuminated and appear white.

Mr. S. Taylor asked about the brightness of the lights. Mr. Dansie said currently the Town did not have specific standards for brightness or intensity of the light source other than it should be the minimum necessary to accomplish the purpose.

- Mr. Bishop apologized but had no information about the lights. They would follow the ordinances in place.
- Ms. West recommended they use warm light and no more than 3000K.

Ms. West asked for clarification regarding comments made by Ms. Excell concerning conditions of an approval not being met. Mr. Dansie said Ms. Excell was referencing code dealing with enforcement and penalties for violations. Per the state law when an application was brought before the Commission and it complied with all applicable land use ordinances, the Town was obligated to approve. The Town ordinance applied but applications should be looked at separately.

Mr. S. Taylor asked if Ms. Excell's comments were relevant.

- Mr. Dansie said comments were extremely relevant in terms of the Town's attitude and desire to take appropriate action for violations of the ordinance. It was relevant to talk about enforcement of the specific infraction she mentioned. Given this sign application was an unrelated land use issue, Mr. Dansie said his understanding of state law was that a municipality was obligated to approve if it met the standards.
- Ms. West said violations would be talked about at a different time.

Mr. Burns asked about detail of the rock work. Mr. Bishop said it would match the Holiday Inn Express and the Hampton Inn stone.

Motion made by Scott Taylor for the Planning Commission to approve the sign application for the Springhill Suites at 1141 Canyon Springs Drive, Springdale. The motion is based on the following: Sign 'A' meets conditions for the size, height, color, materials, illumination and placement of the sign; Sign 'B' the applicant has met requirements for height, color, materials, illumination and placement of the sign; Sign 'C' the applicant has met requirements for height, color, materials, illumination and placement of the sign, according to Chapter 10-24 of the Town Code. The Planning Commission requests the applicant pay attention to the brightness of the signs to make them the very minimal possible and also the warmth of the sign using 3000K illumination; seconded by Liz West.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Motion passed unanimously.

Sign Permit: Zion Canyon Shell/RallyStop, 962 Zion Park Boulevard – Byron Linford: Mr. Dansie said this proposal was a modification of existing free-standing and building-mounted signage at the Shell Station. He noted the provided mockup used bright red and yellow colors but the applicant had selected colors from the approved palette. The applicant also agreed to change-out the existing ground-mounted, upward directed lighting to top-mounted lighting more in compliance with the ordinance.

Byron Linford and Curtis Maxwell were in attendance. Ms. West thanked them for choosing colors from the approved color palette. Mr. Burns thanked them for using down-directed lighting.

- Mr. Linford said they would use LED lights with a color temperature of 3000K. The free-standing sign would be constructed of natural materials and be see-through. There would not be any additional lighting of the building-mounted sign. Mr. Linford said there was enough light from the canopies and no additional lights were needed.

Mr. Burns asked about the neon 'open' sign.

- Mr. Dansie said businesses could have two window-mounted neon signs limited to 3-1/2 square feet or smaller each.

Mr. S. Taylor said the under-canopy lighting was the brightest in Town. He asked if it could be toned down.

- Mr. Maxwell said safety considerations were a concern. They would talk to their lighting expert to see what could be done.

Mr. Dansie said currently the free-standing sign was likely against the right-of-way. With the SR-9 reconstruction and possible sidewalk installation the property owner may need to adjust the setback. The applicant was aware of the issue and anticipated the sign would have to likely move.

- Mr. R. Taylor noted there were other signs in Town in the right-of-way.
- Ms. West asked if all signs would have to be moved back if not compliant with the setback. Mr. Dansie said UDOT was not planning a wholesale taking of private property to allow for the widening of sidewalks. The area needed for sidewalks would likely come from existing right-of-way.

Motion made by Scott Taylor that the Planning Commission approve the sign application for the Zion Canyon Shell Station at 962 Zion Park Boulevard in accordance with Chapter 10-24 in the Town Code finding the free-standing sign complies with the size, height, color, materials, illumination, and placement; and the building-mounted sign complies with size, height, color, materials, it is not illuminated, and the placement of the sign; if the free-standing sign is to be relocated it should meet the required three (3) foot setback from the public right-of-way; seconded by Liz West.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Marriott: Aye

Motion passed unanimously.

Discussion/Information/Non-Action Items

Discussion of parking structure regulations: Mr. Dansie said the Planning Commission was aware of the on-street parking congestion struggles. The Town was working on a number of solutions including: transit from St. George to Springdale; promotion of bicycles and walking; and encouraging carpooling. The SR-9 project would significantly reduce the amount of on-street parking. The Town Council issued an RFP for a public/private parking structure. As a result, the Town Council asked the Planning Commission to look at the zoning ordinance as it related to the accommodation a parking structure. The Council was sensitive about village atmosphere but recognized the need to provide efficient parking. They asked the Commission to look at revisions that would allow increases in building size, height and landscape percentage but mitigate the bigness and ugliness of parking structures.

Mr. Dansie outlined potential zoning mechanisms to regulate parking structures. He also listed some of the development standards that could be tailored to parking structures.

- Mr. R. Taylor said the impact of parking structures was great so the Town needed as much control as possible.
- The Commission felt an overlay zone was the preferred approach.

Ms. Purcell asked about digging into a hill or putting structures underground. Mr. Dansie said this was an effective method to hide the mass.

- Given the bigger transportation picture, Ms. Purcell recommended there be connectedness to the projects. Mr. Dansie said the whole reason for doing parking was to enhance transportation so this was a good detail to add to the ordinance.

Commissioners discussed size and height issues. Specific development and design criteria could be tailored on a site-by-site basis in an overlay zone.

- Mr. Burns suggested an increase in height was allowed only after all possibilities for subterranean were explored first. Underground parking was not considered a story as per current ordinance.
- Commissioners were not in favor of allowing for an increase in height limit beyond the current maximum allowed.

Mr. Dansie suggested that staff research the ability to create a zone whereby basic development parameters were defined but design standards were considered on a case-by-case basis at the time of application.

Mr. Burns asked if the Town could dictate the need for parking. Structures were expensive to build but were also a moneymaker. Mr. Burns said the Park was looking at visitor capacity so it would be unfortunate for Springdale to have more parking structures than was needed for the visitation.

- Mr. Dansie said an overlay zone gave the Town flexibility whereby standards could be written requiring a parking study be conducted to demonstrate there was a need.

Strategies to promote pedestrian and bicycle transportation: The Commission did not have an opportunity to discuss this agenda item. Ms. West asked Commissioners to reference code section 10-22-13 open air displays for their next discussion.

Consent agenda

Motion made by Randy Taylor to approve the minutes from August 16, 2016; seconded by Scott Taylor.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Marriott: Aye

Motion passed unanimously.

Adjourn

Motion to adjourn at 7:13pm made by Liz West; seconded by Mike Marriott.

Burns: Aye

R. Taylor: Aye

West: Aye

S. Taylor: Aye

Marriott: Aye

Motion passed unanimously.



Darci Carlson, Town Clerk

APPROVAL: _____



DATE: _____

9-20-14



TOWN OF SPRINGDALE

PO Box 187 118 Lion Blvd Springdale UT 84767

ATTENDANCE RECORD

Please sign

Meeting of Planning Commission on 9/6/16

If you'd like to be included on our great e-notice list, please give us your email address. That's the only reason you need to provide that information. Your address will never be sold, though we may have to provide it as public information. If you have provided the information before, you don't need to add it again.

<u>Eric Jenkins</u>	_____
name	email (not required)
<u>Byron Linford</u>	_____
name	email (not required)
<u>Cindy Powell</u>	_____
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<u>Mark's Maxwell</u>	_____
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<u>Tracy Glover</u>	_____
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<u>Louise Excell</u>	_____
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A Proposal for a Sanctuary at the Big Springdale Pond

July 14, 2016

Presented to Ensign Hospitality

Paul Barker, Founder

Kirk Barker, President and CEO

Lance Poulsen, Vice President, director of operations and COO

You are certainly aware that the Springdale Pond and the perennial springs that supply it have historical and cultural significance for canyon residents. Since the founding of this community, visitors and locals alike have enjoyed a special attachment to the pond and its environs. While we, on behalf of many concerned, understand that the “Big Springdale Spring” and the natural ponds it feeds before it flows into the Virgin River are on your private property, the site of the spring is actually the original 1862 homestead of Albert Petty, the canyon’s first settler, and this spring gives Springdale its name. Initially, this was the sole source of drinking water for Springdale, and for well over one hundred years, the spring and the ponds created by it have fed directly into the Virgin River and have provided an amazing wildlife habitat, right in the center of Springdale. For years it was a beloved venue for birders and others, locals and visitors alike.

The Pond and surrounding wetlands have provided vital wildlife habitat for over a century; in 1965, owners of the land at the time (Harold Bowman, Taylor Burton, Gordon Young, and O.C. Welsh) designated 100 acres of their private property and worked with the Zion Canyon Lions Club to create a bird refuge that proved to be the locus of important bird sightings, some very rare, until recently. As you may know, the 1965 bird refuge designation made the Springdale Pond the very first bird refuge ever in southern Utah. (Pages 5 and 6 include two addenda relating to the 1965 designation of the Springdale Pond and surrounding area as a bird refuge: one is a photograph of the dedication ceremony, and the second is a photocopy of an article that ran in the *Provo Daily Herald*.)

We would like to encourage you and your business partners to honor the previous land owners’ vision for the Big Springdale Pond as a unique and special and environment and re-establish the 1965 designation of a bird refuge. There are many advantages to your business for doing so—from tourism to community good will. The preservation of the Pond and its restoration as a natural habitat will bring recognition and many visitors to your businesses.

For example, the Springdale Pond is nationally and internationally recognized as a prime birding site in Zion Canyon. Below are but a few examples of the recognition of the Pond:

- D.E. McIvor, author of *Birding Utah* (1998), writes “This small pond and the adjacent stretch of the Virgin River constitute a valuable resource for birds in this area.” He continues: “Because most of the water around is fast moving, ponds or lakes are a rarity that can attract some unusual water fowl. This is a very small area, and the layout of the terrain is quickly apparent from a cursory scan from the road. The pond which is the focal point of the birding experiment here is also visible from the paved road that runs behind the Zion Park Inn” (330). In a separate section of *Birding Utah*, McIvor discusses the issue of critical bird habitat that directly relates to the Springdale Pond, Virgin River, and Zion Canyon. Please see the attached addendum on page 7.
- In an address to the Red Cliffs Audubon Society’s Winter Bird Festival, veteran southern Utah birder Marshall Topham said: “Washington County is an area of unusual biodiversity. An impressive variety of plants and animals call Utah’s Dixie home. There are over 100 species of plants and animals found nowhere else in the state. This extraordinary biodiversity has created an environment uniquely its own.” The Winter Bird Festival brings hundreds of birders from all over the west to southern Utah every January; in the past there have been scheduled trips to Springdale and Zion National Park which included a visit to the Pond.
- The Pond is listed in the *Birds of Zion National Park and Vicinity* (1997), a book written by Zion National Park naturalists Roland Wauer and Dennis Carter, and currently sold by the Zion Natural History Association in the park and online.
- Among the birds listed as endangered species, the American peregrine falcon has been spotted at the Pond, and the southwest willow flycatcher’s recovery management plan unit extends from the Zion National Park border to Lake Mead. Threatened species sighted at the Pond are the bald eagle, ferruginous hawk, yellow-billed cuckoo, and Mexican spotted owl (From the Utah Sensitive Species List, March 1997, Utah Division of Wildlife Resources).
- Other incidental citations are included on page 8, below. Also see the addendum with sightings supplied by local resident Tim Killen on page 11.

Not only is the Pond an important cultural, historical, and environmental treasure, but the Pond has been formally recognized by the Town of Springdale and acknowledged by the developers in the 1994 amendment to the settlement agreement between the Town of Springdale, David D. Marriott Group, and Zion Park Resorts. In the “supplemental provisions” in that agreement, provision J, “Wetlands Preservation,” states: ZPR will preserve the wetlands in Parcel 1 and Parcel 2 as shown on the Development Plan attached as Exhibit A” (Settlement Agreement, 1994, page 14).

Likewise, the development agreement recommended by the Town of Springdale Planning and Zoning Commission in July 2015, and subsequently approved by the Town Council the following month, placed a condition requiring that the Pond be preserved. From the minutes of the Springdale Town Planning Commission meeting of July 21, 2015, this is Condition 7: *The pond and spring areas be reasonably cleaned and protected for water quality and quantity and wildlife habitat will be maintained; no large equipment shall be used in the cleaning or maintenance of pond or spring areas to eliminate damage.*

Having said all this, we petitioners recognize that the developers have certain rights to use their property as they see fit; we also understand that it is the intention of the developers to create the optimum setting for guests of the Marriott Springhill Suites and their other developments on the property.

We believe that this situation, which has caused considerable contention and concern for developers, residents, and Town, might yet yield a win-win result for all concerned. Here is what we respectfully propose:

- The developers agree to place the acreage that is crucial to the restoration and continued health and sustainability of the Big Springdale Pond as a natural habitat into a conservation easement. The amount of acreage would be determined by the developers and wildlife and natural resources consultants.
- While the Pond and its environs would be owned by the developers, and the acreage would be available for inclusion in any density formulas required by the Town, the developers would be donating the development rights to an easement holder, which could be the Town of Springdale or another appropriate, willing organizations that typically hold conservation easements in trust, such as The Nature Conservancy or the local land trust, Virgin River Land Preservation Association.

What are the benefits for you, the developer? There are many:

- Donation of development rights are eligible for substantial federal tax breaks. In giving up the rights to develop under the process described by the Internal Revenue Service, developer may claim tax deductions.
- Eco-tourism is booming all over the world, and especially in and around U.S. national parks and monuments. A nearby example is worth mentioning. The developers of the

Boulder Mountain Lodge in Boulder, Utah developed their upscale lodge and restaurant next to natural wetlands and a pond where birdlife, including year-round resident, nesting, and migrating species, are present all year. The Boulder Mountain Lodge touts their natural habitat setting in their publicity and birders come from all over the globe to make the lodge their destination. They set up their spotting scopes on their patios, and they blog and post their sightings to birding enthusiasts around the world. Boulder Mountain Lodge, without the benefit of a calling card like Zion National Park at its doorstep, has become a recognized destination for wildlife lovers. This example of responsible development can potentially bring attention to and accolades for the your project.

- The Ponds could continue to give joy and solace to the residents of Springdale as well as Springhill Suites guests. The good will developers could garner within the local community will endure even beyond the busy tourist season.

We who bring this proposal forward would be willing to work with the developers to identify agencies and organizations that can restore the Pond, negotiate the legal issues surrounding conservation easements, and assist developers in maximizing their tax advantages. Many such non-profits and governmental agencies exist who might provide such assistance: the Virgin River Program, The Nature Conservancy, Utah Division of Wildlife Resources, Virgin River Land Preservation Association, National Audubon Society, Land Trust Bird Conservation Initiative, and the Spring Stewardship Institute are some primary resources. We would also be available to help with the positive publicity that could come from a developer, a Town, and involved citizens working together to create a natural habitat treasure in the heart of a bustling urban environment.

You have the good fortune to be stewards of a vital resource; if you see the benefits of the suggestions put forth and would like to proactively achieve them, we offer our support and gratitude, and request that you notify us by **July 31, 2016** of your decision to pursue the rehabilitation of the Springdale Pond or to decline this proposal.

You should know that if you are not interested in our proposal, we will go forward with the campaign to address our concerns with various agencies, in the local and national media, and in vigorous protest of your development.

We sincerely hope to hear from you and we welcome the opportunity to meet with you and discuss this idea more fully.

Sincerely,

Michelle Bonner



Louise Excell



Links for referenced organizations and agencies:

Spring Stewardship Institute: www.springstewardshipinstitute.org

EBird.org: <http://ebird.org/ebird/hotspot/L809171>

Virgin River Land Preservation Association: www.virginriverland.org

Red Cliffs Audubon Society: (<http://www.redcliffsaudubon.org/>)

US Fish and Wildlife Service Fact Sheet on Southwestern Willow Flycatcher:

https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SWWF/CH_Final_Oct05/SWWFC%20Fact%20Sheet%20V3.pdf

Addendum: Zion Canyon Lions Club Archive



Left to Right: Springdale Mayor Austen Excell, Lion Earl Mansor, Lion Dewey Excell, installing the sign designating the Big Springdale Ponds as a registered Bird Sanctuary.

Addendum: From the Provo Daily Herald

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Utahns Offer 100 Acres For Bird Refuge

SPRINGDALE, Utah (UPI)—
Four Washington County men
have offered 100 acres of land
for southern Utah's first bird
refuge.

The area is adjacent to the
Virgin River and has a great
variety of wildlife in addition
to more than 200 kinds of birds.

The Zion Canyon Lions Club
will sponsor the facility.

Men donating the land are
H.I. Bowman, C. Taylor Burton,
O.W. Welch and Gordon Young.

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SAFETY

The Daily Herald, 22 Sep 1965, Wed, Page 4

Addendum: From Roland F. Wauer, Zion National Park naturalist, in *Western Bird Banding*, January 1966

The most productive of these was the Springdale Ponds, at Springdale, just south of the Park's South Entrance. And, in 1965, the Ponds were established as a Bird Refuge. Under the sponsorship of the Springdale Lions Club, the 110 acres are protected from hunting and misuse for the preservation of the many bird-species that frequent the area, especially during spring, summer and fall.

The Refuge, situated at the base of beautiful Zion Canyon, forms a center to an area that offers the birder a number of birds that are not found anywhere else in the state. Southwestern Utah possesses such a variety of habitats that it is not too surprising to find a large number of birds here at the northern edge of their range.

The most outstanding of these is the Black Hawk, found breeding at Springdale in 1962. It had previously been found only as far" north as central Arizona but has now been found nesting several places along the Virgin River. Other birds that extend their range north to southwestern Utah include the Least Bittern, Common Gallinule, Costa's Hummingbird, Ladder-backed Woodpecker, Black Phoebe, Vermilion Flycatcher, Cactus Wren, Phainopepla, Lucy's and Grace's Warblers, Scott's Oriole, Abert's Towhee, and Rufous-crowned and Black-chinned Sparrows.

Addendum: From D. E. McIvor, with significant passages in italics

While the blatant destruction of birds has dwindled, more subtle impacts continue in the present day. Habitat loss is the greatest factor, particularly along the Wasatch front, where urbanization proceeds steadily. *The loss of wetlands is another major concern.* In general, though, this is a positive time in the history of birds and people in Utah. *More people than ever recognize that birds rely on our benevolence and stewardship.* Organizations such as the National Audubon society, Hawk Watch International and the Nature Conservancy are active across the state.

Utah is gaining a reputation as a borders destination. With a diversity of avi-fauna totaling 406 species, found in habitats ranging from alpine tundra to desert canyons, lifetime memories are almost guaranteed. Utah boasts five national parks, more than any other state in the lower 48. Throw in 8 national monuments or recreation areas, along with 48 state parks, and suddenly you face more birding options than one vacation could ever handle.

In the right park at the right time , you are likely to find bald eagles, peregrine and Prague Falcons, chukars, blue grouse, spotted owls, gray and willow flycatchers, eastern western and mountain bluebirds, Townsend solitaires, Swainson's and hermit thrushes , western tanagers, Macgillivray's and Virginia's warblers, lazuli buntings, green-tailed and spotted towhees , Cassin's finches, to name but a few.

One of the keys to Utah's bird diversity is its proximity to two major flyways. Utah lies on the eastern edge of the Pacific flyway, where numerous species of shorebirds and waterfowl pass through during spring, summer, and fall migration. Often these species turn up in the most improbable places, such as a tiny desert oases surrounded by expanses of salt brush and sage—a world removed the wet pacific shoreline or windswept tundra where they near or over winter. The second fly way is a hawk migration route along the Wasatch Mountain range, one of eight raptor migration corridors identified in the west since the 1970's. Numerous destinations in the state provide “center court seating” for viewing this phenomenon.

No other place in the world can match Utah’s combination of desert canyons and timbered high country, its gamut of species from Mohave desert endemic a to inhabitants of the Hudsonian article zone. And you can explore all of this from a vehicle on a country road or Take a weeks-long backpack trip into wilderness.

Addendum: Notes posted online on various bird sightings at the Springdale Ponds:

May 23rd Awoke early to get an hours birding in before breakfast and went down to Springdale Pond located behind the Switchback Hotel. The pond held plenty of Black Phoebes and Northern Roughwings but nothing else, however just beyond the pond a wooded scrub area faired better with a family of Black capped Chickadees, Bushtit, Ash throated Flycatchers, a fine singing M. Blue Grosbeak and a pair of Summer Tanagers. After breakfast we took the shuttle bus up into the valley (the only vehicle transport allowed) and spent the morning walking and enjoying the fantastic scenery adding House Wren, Yellow Warbler and my only sighting of a Canyon Wren. Mid afternoon was pool time, from which I was excused, so I headed up the Kolob Road which is approx. 15 miles west of Springdale. I was looking for Black chinned sparrow and Grey Vireo but I miss-read the directions and was looking in the wrong type of habitat (these species like scrubby chaparral hillsides). I drove as far as Blue Springs Reservoir

From UK birding<http://www.birdtours.co.uk/tripreports/usa/tour1/sw-tour-04.htm>

By Rich B. Young, posted online:

Photographing this Hooded Merganser led me to a rare one.... Springdale Pond,

November 5, 2009: Notice on the left, a **MEXICAN MALLARD**

PHOTOGRAPHED NOV. 5, 2009, SPRINGDALE POND





U.S. Fish & Wildlife Service

Southwestern Willow Flycatcher

Arizona Ecological Services Field Office

Southwestern Willow Flycatcher

When imagining wondrous arrays of colorful birds, one usually pictures the tropics. However, southwestern riparian habitats, the lush ribbons of vegetation running along our streams and rivers, contain the highest density and diversity of bird species outside tropical rain forests.

Sadly, only a fraction of these desert oases remain unchanged in the United States. As this habitat continues to decline, so too do the birds in our southwest skies. One bird in immediate danger is the southwestern willow flycatcher.

This subspecies of the willow flycatcher is an olive-gray bird with a white throat and yellow-gray rump that measures about 5¾ inches in length. It can be distinguished from other subspecies by its song, a sneezy fitza-bew, its call, a repeated "whit," and by where it lives: widely scattered riparian habitats in the desert Southwest.

The flycatcher reminds observers of a sentinel constantly at attention, whose flitty wing movements resemble salutes and constant tail motions signal a readiness for action. It feeds on insects in lush, multilayered riparian zones by snatching them on the wing or harvesting them from dense vegetation. Its mission to control insects in riparian areas is an essential function benefiting people as well as plant life.

The southwestern willow flycatcher breeds in Arizona, New Mexico, and southern California, plus portions of southern Nevada and Utah, southwest Colorado, and possibly western Texas. It winters in the rain forests of Mexico, Central America and northern South America.



Southwestern Willow Flycatcher
USGS Photograph

The flycatcher is a late spring breeder seen and heard in riparian forests by mid-May. Its nest, a tiny cup about 1¾ inches deep, is made of compact fiber, bark, and grass about three to 15 feet above the ground in trees and thickets. The rim is lined with feathers and the inside is lined with a layer of grass and other plant material.

In late May and early June the flycatcher nests and lays three to four eggs in one-day intervals with the young fledging in early July. There is usually only one brood raised per year, but multiple clutches are not uncommon.

Loss and modification of riparian habitat and nest parasitism by the brown-headed cowbird are key factors in the decline of flycatcher populations. River and stream impoundments, ground water pumping, and overuse of riparian areas have altered up to 90 percent of the flycatcher's historical habitat.

Flood control projects have inadvertently depleted the cottonwood and willow trees the flycatcher uses for nesting. These trees – a vital, defining part of riparian ecosystems – need periodic flooding to reproduce. Flood control efforts have altered this natural cycle in many areas and also made it possible for non-native species to move into streamside habitats.

Exotic species of plants, such as salt cedar (tamarisk) and Russian olive, can take advantage of germinating conditions for much longer than native riparian trees because they flower over much longer periods than do cottonwoods or willows. These plants significantly change the environment and the ability of native animals to live within it. Although flycatchers can thrive in these habitats, there is concern about other effects these exotic plants exert on the ecosystem.

Livestock can also impact the riparian habitat of the flycatcher. These cool and shady streamside habitats are preferred by livestock that consume cottonwood and willow saplings when grass species are not available, depleting the density of vegetation. Since salt cedar is unpalatable to cattle, struggling willow and cottonwood saplings are eaten instead, thereby accelerating the change in habitat.

Another threat is the brown-headed cowbird. This bird lays its eggs in the nests of other species. It removes one or more eggs from the nest and replaces them with its own. The eggs of the cowbird hatch sooner, the young grow faster, and are much larger and more demanding than those of the nesting bird. These young cowbirds then crowd out and starve the other hatchlings. Sometimes flycatchers will abandon their nests and start over, often too late in the season. Cowbird parasitism can greatly reduce the nesting success of the southwestern willow flycatcher. Healthy populations of birds can recover from losses due to nest parasitism, but cowbird parasitism on populations whose numbers are already reduced due to habitat loss can be the final straw.

What is being done to bring our flycatchers back? The southwestern willow flycatcher was listed as 'endangered' by the U.S. Fish and Wildlife Service on February 17, 1995. California and New Mexico also classify the southwestern willow flycatcher as endangered and Arizona recognizes it as a species "of special concern." State and Federal laws, including the Migratory Bird Treaty Act and the Endangered Species Act, prevent "take" of the flycatcher, which is defined as hunting, trapping, wounding, harassing or otherwise harming the species.



Southwestern Willow Flycatcher in habitat
USCS Photograph

The destruction of tropical rain forests where the flycatcher winters makes the conservation of breeding habitats in the southwest United States even more urgent. Interestingly enough, the survival of riparian ecosystems may depend on the flycatcher as well.

"Studies have shown that predation on insects by birds actually results in the improved health of trees and forests," said Bill Howe, nongame migratory bird coordinator for the Fish and Wildlife Service's Southwest Region. "The southwestern willow flycatcher and other insectivorous birds in riparian woodlands consume huge numbers of insects per day, including mass quantities of mosquitoes."

By controlling insect populations, flycatchers keep humans comfortable and contribute to the health of southwest riparian systems as well. To save the southwestern willow flycatcher, we must save these beautiful desert riparian ecosystems and the wondrous array of life within them.

U.S. Fish & Wildlife Service
<http://www.fws.gov>

January 2004

**Addendum: A resident's list of wildlife seen at Springdale Pond, before it was drained.
(provided by Tim Killen):**

Birds			Mammals
American Avocet	Gray Vireo	Red-naped Sapsucker	Mule Deer
American Coot	Great Blue Heron	Red-tailed Hawk	Beaver
American Crow	Great-tailed Grackle	Red-winged Blackbird	Muskrat
American Dipper	Green Heron	Ring-necked Duck	Raccoon
American Goldfinch	Green-tailed Towhee	Rock Dove	Gray Fox
American Kestrel	Green-winged Teal	Rock Wren	Coyote
American Redstart	Hairy Woodpecker	Rose-breasted Grosbeak	Striped Skunk
American Robin	Hermit Thrush	Rufous Hummingbird	Spotted Skunk
American Widgeon	Hooded Merganser	Rufous-crowned Sparrow	
Ash-throated Flycatcher	Horned Grebe	Ruby-crowned Kinglet	small mammals (e.g. squirrels, chipmunks, rabbits)
Bald Eagle	House Finch	Ruddy Duck	
Barn Swallow	House Sparrow	Sage Sparrow	
Belted Kingfisher	House Wren	Say's Phoebe	
Bewick's Wren	Indigo Bunting	Scott's Oriole	Amphibians
Black Phoebe	Juniper Titmouse	Sharp-shinned Hawk	
Black-capped Chickadee	Lark Sparrow	Snowy Egret	Toads
Black-chinned	Lazuli Bunting	Song Sparrow	
Hummingbird	Lesser Goldfinch	Sora	
Black-chinned Sparrow	Lincoln's Sparrow	Spotted Sandpiper	
Black-headed Grosbeak	Lewis' Woodpecker	Spotted Towhee	
Black-necked Stilt	Long-billed Dowitcher	Starling	
Black-throated Grey	Lucy's Warbler	Summer Tanager	
Warbler	MacGillivray's Warbler	Townsend's Solitaire	
Black-throated Sparrow	Mallard	Townsend's Warbler	
Blue Grosbeak	Marsh Wren	Turkey Vulture	
Blue-grey Gnatcatcher	Merlin	Varied Thrush	
Brewer's Blackbird	Mountain Chickadee	Vesper Sparrow	
Broad-tailed Hummingbird	Mourning Dove	Violet-green Swallow	
Brown Creeper	Nashville Warbler	Virginia's Warbler	
Brown-headed Cowbird	Northern Flicker	Warbling Vireo	
Bufflehead	Northern Harrier	Western Bluebird	
Bullock's Oriole Bushtit	Northern Mockingbird	Western Kingbird	
Canada Goose	Northern Pygmy-Owl	Western Meadowlark	
Canvasback	Northern Pintail	Western Sandpiper	
Canyon Wren	Northern Rough-winged	Western Scrub Jay	
Cedar Waxwing	Swallow	Western Tanager	
Chipping Sparrow	Northern Shoveler	Western Wood Pewee	
Cinnamon Teal	Northern Waterthrush	White-breasted Nuthatch	
Common Goldeneye	Orange Crowned Warbler	White-crowned Sparrow	
Common Merganser	Osprey	Wild Turkey	
Common Raven	Phainopepla	Wilson's Snipe	
Common Yellowthroat	Pied-billed Grebe	Wilson's Warbler	
Cooper's Hawk	Pine Siskin	Winter Wren	
Dark-eyed Junco	Pinyon Jay	Wood Duck	
Downy Woodpecker	Plumbeous Vireo	Yellow Warbler	
Dusky Flycatcher	Red Crossbill	Yellow-breasted Chat	
Eared Grebe	Red-breasted Nuthatch	Yellow-rumped Warbler	
Eurasian Collard Dove	Redhead		
Evening Grosbeak			
Gadwall			

Louise Excell

From: Kirk Barker <kirk@ensignhospitality.com>
Sent: Thursday, July 14, 2016 8:50 AM
To: Louise Excell
Cc: paul@ensignhospitality.com; lance@ensignhospitality.com; cori@ensignhospitality.com; Michelle
Subject: Re: Springdale Pond

We have received your proposal. Ironically, sans your interference the pond would at this point already have been cleaned up and beautified. We are in process of obtaining the necessary permits and will complete the project when they have been obtained.

Regards,

Kirk Barker / CEO
kirk@ensignhospitality.com / 801-502-9120

Ensign Hospitality
Office: 801-433-9074 / Fax: 801-596-7900
560 East 500 South, Suite 200 Salt Lake City, UT 84102
www.ensignhospitality.com



On Jul 13, 2016, at 1:13 PM, Louise Excell [REDACTED] wrote:

To Ensign Hospitality:

Attached is a proposal to restore and protect the spring and pond on your property which has been destroyed by your recent construction efforts. We respectfully ask you to consider the proposal and respond to us as soon as possible.

Sincerely,
Louise Excell and Michelle Larsen Bonner
<A Proposal for a Sanctuary at the Big Springdale Pond latest.pdf>

TO: Springdale Planning and Zoning Commission
RE: Applications for a Design/Development Review for a multi-family residential development at 715 Zion Park Boulevard and a Sign Permit for Springhill Suites, 1141 Canyon Springs Drive
DATE: September 6, 2016

Thank you for the opportunity to submit comments at the public hearing regarding the application for a design development review for 715 Zion Park Boulevard submitted by Kirk Barker.

I am speaking as an individual, although I know that there are many, many concerned citizens in Springdale who share my sentiments regarding this developer's obvious disdain and documented disregard for the requirements placed on his developments by the Town of Springdale. Of relevant concern to me tonight is the developers' violation of the conditions of their design/development review approval for the Springhill Suites which has resulted in the destruction of a cultural, historical, and environmental treasure in our community.

The Planning and Zoning Commission and the Town Council tried to protect the Springdale Pond by placing conditions on the property's development, conditions that were totally disregarded by the developers. Unfortunately, the town staff let you and the citizens of Springdale down by not stopping the development in its tracks and requiring the mitigation of the damage that resulted from their reckless actions.

I and other citizens submitted our first formal complaint to the Town of Springdale at a public meeting on May 11, 2016; we have subsequently spoken at meetings, met with town staff, and begged to be informed, at a minimum, of the Town's efforts to correct its errors regarding the pond's desecration. We hear nothing, but observe that Mr. Barker continues to come before you and get approval for yet more phases of the project in question and those adjoining it.

Because of Springdale's failure to enforce its own conditions for development, citizens found it necessary to contact the Army Corp of Engineers and the Utah Division of Water Resources to force the developers to comply with federal and state standards. A conversation last week with the Army Corps advises us that the process is long and surprisingly complex, and nothing can happen at the pond site for some time. That, at least, may stop the developers from further damaging a fragile ecosystem; the downside is that the migratory bird season is beginning and the dozens of species who have found food and shelter at the pond will be forced to travel to other locations for sustenance to take them on their amazing journeys. Also, the time for much native vegetation to replenish and prepare for a new growing season will be past.

In mid-July, Michelle Bonner and I, with input from other concerned citizens, presented Mr. Barker and the other members of Ensign Hospitality with a proposal for saving the pond. I am submitting that proposal to you tonight, so you can see that we have tried to work with the developers in the most proactive way. In spite of our offer to work with the developers, our efforts were rejected out of hand. I am also including Kirk Barker's response to us.

So here is my question to you: Given these developers' blatant violations of the conditions of previous design/development review approvals, what are you going to do to ensure the citizens of Springdale that you will not expose us to a similar debacle to that of the Springhill Suites approval?

And secondly, why would you go forward with approval of a sign permit for Springhill Suites when they have still not corrected the violations of their original design/development agreement. For your reference, I am submitting several excerpts from the Springdale Town Code:

Chapter 15: Design Development Review

10-15-12: COMPLIANCE WITH APPROVAL REQUIRED:

It shall be unlawful for the owner of a building, structure, or sign which has received design/development review approval to deviate from the requirements, conditions, and stipulations of the design/development review approval. Any project which deviates from the design/development review approval is hereby declared a nuisance, and is subject to penalty and abatement pursuant to sections 4-3-6 and 4-3-7 of this code, and the owner of such project is guilty of a class B misdemeanor. (Ord. 2005-07, 10-12-2005)

Chapter 4: Enforcement and Penalties

10-4-6: PENALTIES:

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this title shall be guilty of a class C misdemeanor, and subject to penalty as provided in section 1-4-1 of this code. Such person, firm or corporation violating this title shall be deemed to be guilty for a separate offense for each and every day during which any portion of any violation of any provision of this title is permitted or continued by such person, firm or corporation and shall be punished as herein stated and provided. (Ord. 12-000, 12-28-1992; amd. 2001 Code)

10-4-7: REMEDIES:

All remedies concerning this title shall be cumulative and not exclusive. Conviction and punishment of any person hereunder shall not relieve such persons from the responsibility of correcting prohibited conditions, or removing prohibited buildings, structures, signs or improvements, and shall not prevent the enforced correction or removal thereof. (Ord. 12-000, 12-28-1992)

Again, I thank you for allowing a private citizen to have input, given that the Town of Springdale seems to privilege businessmen's profit over quality of life these days.

Louise Excell



Citizens' Concerns
Presented to Town of Springdale and Ensign Hospitality
May 11, 2016

- Permits required through Town, State, and Federal organizations:
 - Compliance with Town's Condition #7 for protection of the Pond which requires no use of no heavy equipment (*The pond and spring areas be reasonably cleaned and protected for water quality and quantity and wildlife habitat will be maintained; no large equipment shall be used in the cleaning or maintenance of pond or spring areas to eliminate damage.*)
 - Required Permits from Town
 - Excavation and fill approval
 - Grading approval
 - Storm water drainage plan
 - Environmental Protection Agency (EPA) Clean Water Act (Waters of the United States, Section 404). Virgin River is designated "wild and scenic" and pond is in the 100-year flood plain.
 - U.S. Army Corp of Engineers (USACE) permit is required when:
 - Tributaries and all waters adjacent to defined as "Waters of the U.S." (i.e. Virgin River) are affected;
 - An "Aquatic Habitat" permit is required if the provision of life cycle dependent aquatic habitat for species located in a water is affected;
 - Changing wetlands to upland or dry land condition requires a permit.
 - Utah Division of Water Resources
 - Utah State Division of Water Rights
 - Downstream water rights
 - Department of Water Quality (DWQ)
 - Surface water quality, storm water run-off, sediment contamination
 - Department of Environmental Quality (DEQ)
 - Discharge of water into the river;
 - Department of Natural Resources (DNR)
 - Department of Fish and Wildlife
- Historic Significance of Springs and Ponds
 - Springdale's namesake
 - Significant habitat for birds, other species
 - Designated as a bird refuge 1964-5
 - Impact of bird nesting at this time of year
 - Destruction of wildlife (mammal) habitat and destruction of native vegetation