



**Springville**

**PLANNING COMMISSION  
WORK SESSION  
MAY 14, 2013 – 6:30 PM**

Commissioners in attendance: Craig Huff; Brent Packard; Carl Clyde; Frank Young; Joyce Nolte and Michael Clay

Commissioners excused: Brad Mertz

Staff in attendance: Planner Laura Thompson; Planner Brandon Snyder and Secretary Darlene Gray

Council Representative Excused: Rick Child

**Call to Order:**

CM Huff called the meeting to order at 6:30 PM. He asked if any of the Commissioners had any problems with the agenda.

Planner Thompson indicated that item 3a would need to be moved to 3b. She reported that City Attorney Penrod would need to be in attendance to discuss the proposed amendment to Titles 11 and 14. CM Huff informed the Commissioners that the change of the agenda would have to be made in the motion.

CM Huff asked if there were any questions regarding the meeting minutes. There were none.

Springville City seeking to amend Section 11-4-301, Land Use Matrix pertaining to Residential Uses. CM Huff asked Planner Thompson about accessory apartment in an owner/occupied building. Planner Thompson indicated that would be permitted in the CC zone with the proposed changes.

Planner Thompson added that the ones that were conditional uses; i.e. senior housing, etc., already had specific criteria. She added that the specific criteria would be addressed and then brought back to the Planning Commissioners.

Mike Stewart seeking to amend the Springville City Municipal Code Title 11, §11-7-410; Title 14, §14-5-101 pertaining to required improvements; and Title 14, §14-5-202 pertaining to performance guarantees.

CM Huff indicated that sees that the applicant and staff are quite a bit apart in their proposals. Planner Snyder stated that he understood what both the applicant and the City were trying to achieve, but felt comfortable with what the City was proposing. He indicated that although there were some concerns, the City would like to accommodate Mr. Stewart, but would also like assurances. Planner Snyder reported that City Attorney Penrod and Director Aegerter had been trying to get answers from HUD regarding an option for the City to allow releases for the performance and warrantee bonds as improvements were completed. He stated that currently the City does not have that option. Planner Snyder reported that neither Director Aegerter nor Attorney Penrod had received a response from HUD.

He indicated that the developer had told the City that HUD would honor their requests, but the City would rather have confirmation from HUD. He added that the City had also not heard from HUD regarding a failed inspection. The question would be whether or not the City would have the right to collect on the bonds if something failed and the developer was not in the position to complete the project. Planner Snyder indicated that City Attorney Penrod should be available at about 7:30 pm to address concerns.

CM Packard reported that he had experienced something like this in Provo. He explained that a builder wanted to start building the structures at the same time they were doing the infrastructure improvements. It became a very wet time of year and the sewer work started to slough-off, the roads were muddy. He strongly suggested that when dealing with HUD the City should not accept verbal agreements, but to get everything in writing. He explained that in his prior dealings, Provo City would not take any responsibility and the bank had to go through litigations with HUD. He stated that the developer was doing the same as what Mr. Stewart was asking for. The final outcome was that the project nearly broke the developer and the bank had to finish the project. CM Packard stated that the City needed to be very careful when working with HUD and reiterated that every agreement should be in writing.

Planner Snyder expressed his appreciation for comments made. He stated that was the reason why Director Aegerter and City Attorney Penrod had concerns.

CM Clyde commented that when the roads are not constructed a lot of the dirt, etc. is tracked throughout the other subdivisions. He stated that would be an advantage of paving later, but the minimum requirement should be gravel.

Planner Snyder reviewed page six and indicated that this proposal opens the opportunity for multiple developers and developments. He explained that the way it was written others can just do standard bonding with the City. Planner Snyder stated that page five, item 2b(ii) establishes a time line and protection of improvements, but indicated that the developer was proposing a construction access to avoid some of the mess. He reported that the City Engineer proposed bringing in fill up to the top of the gutter so they could then scrap down and asphalt to top of gutter. He indicated that currently the City was having the same issue with the new Jr. High explaining that they have overfilled but would scrap down.

CM Clyde asked if the Code had been the same for a lot of years. Planner Thompson indicated that it had. CM Nolte asked if there was a precedent to this type of development in Provo or others cities. Planner Snyder stated that this had been discussed and there had been a lot of feedback. He reported that the majority of cities that responded still allow development to be done in this manner, but they also have certain protections in place. In addition, some cities expressed their concerns prior to allowing. Others give this opportunity for certain types of development.

CM Huff indicated that staff was recommending approval of their recommendation. He asked if the City was doing this to meet the developer half way and did the City really not want to do at all. Planner Snyder stated that the engineering department did not want to do it at all. He stated that this had been time consuming and initially when discussion of the developer's proposal came up, and that the engineers and the planners had not been invited to the meeting. Planner Snyder referred to the list of

concerns on page seven of the staff report. He indicated that safety and protection of the improvements were the two concerns that kept coming up.

CM Nolte asked if this would put a burden on the engineering department. Planner Snyder indicated that it would not increase their work load. He stated that their concern was if something were to go wrong; i.e. footing; elevation; etc. CM Nolte has been counseled about changing an ordinance for the benefit on one.

CM Packard stated that his biggest concern was that the wanted the City to be protected. He added that he would be concerned with any fire or electrical problems that could come back on the City if things go awry. Planner Snyder responded that hopefully the developers would be going through process of posting bond, etc. that would cover the City. He reported that this item would be noticed for the City Council meeting next week Tuesday.

CM Young commented that the risk would be people moving in prior to issuance of a Certificate of Occupancy. Planner Snyder stated that he did not see that happening. He added that the Performance and Completion bonds would not be released until the Cert of Occupancy was issued. He indicated that this project would be completed in phases and would be allowed occupancy on some that were completed. CM Clyde stated that he can see the frustration of home owners who pay a builder, purchase a permit and then cannot move into the home. CM Young referred to item 4; Street Improvements, stating that all the improvements would have to be completed prior to occupation.

CM Clay asked if Director Aegerter had approved staff's recommendation. Planner Snyder indicated that he had and reviewed Director Aegerter's concerns.

CM Packard moved to close the Work Session. CM Clay seconded the motion. CM Huff closed the Work Session at 6:58 PM



**Springville**

**PLANNING COMMISSION  
REGULAR SESSION  
MAY 14, 2013 – 6:30 PM**

Commissioners in attendance: Craig Huff; Brent Packard; Carl Clyde; Frank Young; Michael Clay and Joyce Nolte

Commissioners excused: Brad Mertz

Staff in attendance: Planner Laura Thompson; Planner Brandon Snyder and Secretary Darlene Gray

Council Representative: Rick Child

**Call to Order:**

CM Huff called the meeting to order at 7:00 PM.

**Approval of Agenda**

CM Clyde moved to approve the agenda with the exception of changing item 3a to 3b. CM Clay seconded the motion. The vote to approve the agenda was unanimous.

**Approval of Minutes: April 23, 2013 and April 27, 2013**

CM Huff asked if the Commissioners had the opportunity to review the meeting minutes. CM Clay moved to approve the meeting minutes of the April 23, 2013 and April 27, 2013. CM Clyde seconded the motion. The vote to approve the meeting minutes was unanimous.

**Consent Agenda**

CM Huff reported that there were no Consent Agenda items.

**Legislative Session**

CM Huff indicated that item 3a; Mike Stewart seeking to amend the Springville City Municipal Code, Title 11, Section 11-7-410 and Title 14, Section 14-5-101 pertaining to required improvements would be moved to be the second item; 3b.

Springville City seeking to amend Section 11-4-301, Land Use Matrix pertaining to Residential Uses.

Planner Thompson approached the Commissioners and explained this was a continuation of the overall review of the Land Use Matrix. She reviewed the information in the staff report and indicated that staff was trying to eliminate the number of Conditional Use requirements. If left conditional, she stated that the Commissioners should indicate specific criteria.

CM Huff asked if all the requirements had to be met with windows, etc. Planner Thompson indicated that all requirements had to be met because there were still zoning and building criteria; i.e.; setbacks.

CM Clay stated that it appeared that accessory dwellings were not permitted anywhere except the R1-5 zoning designation. Planner Thompson stated that it had been proposed in other zoning designations, but the City Council denied the proposal. CM Clay asked why it was permitted in the R1-5 zone. Planner Thompson identified that as the Historic District. She added that the Planning Commission had recommended approved, but the City Council denied the recommendation. CM Nolte stated that the discussion was that people purchased in these other neighborhoods for single family dwelling and found there were many basement apartments. She stated that their feeling was that they had purchased their home in that area specific to being single family dwellings. CM Clay reiterated that his question was only regarding the apartments being allowed in the R1-5 zoning and why would this be the right place to allow them. CM Nolte responded because the accessory apartments already existed in this area.

Planner Thompson continued with the presentation explaining that the newest proposal was to permit a single family occupying above the first floor in Community Commercial zone with the criteria that parking would be to the side or rear of the building.

CM Young asked if the amendment to the Ordinance would help control the cabin units in the RV Park. Planner Thompson indicated that it would not. CM Packard asked if that was in litigation. Council Representative and Planner Thompson indicated that it was. CM Huff asked about a unit that had been put in a mobile home park as a caretaker. Planner Thompson stated if a new mobile home park were developed, they would not be allowed. She stated that the caretaker could live in a regular mobile home that would have to be at least 20-feet wide and 40-feet long, so a park model would not qualify.

CM Huff asked how many more sections of the Code would be coming to the Commissioners. Planner Thompson indicated that the next sections would be the Industrial Manufacturing and retail sections.

CM Huff opened the Public Hearing for comment.

### **Public Hearing**

CM Packard moved to close the Public Hearing. CM Clyde seconded the motion. The vote to close the Public Hearing was unanimous.

### **Consideration**

CM Nolte moved to recommend approval to amend 11-4-301, *Land Use Matrix* of Springville City Code, 1991, amending the Residential/Domestic Uses section. CM Clay seconded the motion. The vote to recommend approval to the City Council was unanimous.

Mike Stewart seeking to amend the Springville City Municipal Code Title 11, §11-7-410; Title 14, §14-5-101 pertaining to required improvements; and Title 14, §14-5-202 pertaining to performance guarantees.

Mike Stewart and his Legal Counsel Bruce Baird were present.

Planner Snyder reviewed the staff report indicating that the first review was in March of 2013 when the Planning Commissioners continued the item. He reported that §14-5-202 pertaining to the performance guarantees had been added to the amendment. He explained that footing and foundation work would be completed the same time as the infrastructure. Planner Snyder reviewed the concerns listed in the staff report. He identified the wording of page three of the staff report stating that this had been the latest

wording given to staff by the applicant's legal counsel with changes he would like to see. Planner Snyder explained that staff was not comfortable with the proposed wording. He pointed out staff's recommendation found on page five of the report. Planner Snyder identified concerns as; public safety, access in case of an emergency; and how to protect the infrastructure from damage. He explained that staff attempted to limit the construction to commercial and multi-family and to only allow building permits to be released upon completion of the infrastructure; i.e. fire hydrants tested; appropriate bonds in place. He stated that staff did not feel it was necessary to make any changes to section 11-7-410. He reported that the City has not heard back from HUD regarding releases and whether or not the City could call on any of the bonds. Planner Snyder reported that initially the reaction from the Public Works department was how comfortable they may feel that the infrastructure work was done adequately or if it would need to be redone. He referred to the Jr. High, but indicated that the City did not have any control over School District projects. He added that the City Engineer had concerns with the same issue; protection of the infrastructure.

Planner Snyder reported that this item had been noticed for next Tuesday's City Council meeting. He informed the Commissioners in would include their concerns that had not being fully addressed in his report to the City Council.

CM Young asked what protection there would be for adjacent roads; e.g. mud, if there were no bonds or securities. Planner Snyder explained that currently any development has to file a Storm Water Prevention Protection Plan (SWPPP) and this would be applicable to this site as well. The SWPPP would have to be in place prior to and during infrastructure work. There has to be areas designated for the dumping of concrete or access materials.

CM Huff stated that he felt the City would be protected if the developer brought in road base up to gutters and if mitigation was met. He pointed that the Engineers were still having concerns this infrastructure protection. He commented that the Engineers last resort would be to have the opportunity to inspect the underground improvements prior to asphalt completion. He added that his hope was that bonds would be in place.

CM Packard asked how much fill would be brought into this project. Mr. Stewart responded that three-inches of asphalt would be laid. CM Packard asked if the subdivision needed fill. Mr. Stewart indicated that it did not. He explained that 20 test holes were dug to an average depth of eight to ten feet and reported that there were not issues with the soil. CM Packard asked when the test holes had been done. Mr. Stewart indicated that they had been dug within the last ten months.

CM Clay stated that his concern was that this amendment would cover every development. Planner Snyder stated that this could be limited to commercial development.

CM Huff asked if the Engineer still had concerns. Planner Snyder stated that the Engineer relied on the Public Works Inspector who worked for another city who had a Code similar to this one. He stated that the Engineer's main concern would be with bonding; if the City would be able to sign on the release of bonds and if the City could call in the bonds. CM Huff asked if the City Attorney had any other issues. Planner Snyder indicated that he had discussed all concerns with Director Aegerter and Legal Counsel Penrod and he had presented their feedback.

CM Clyde stated that he could see some advantages to the amendment regarding getting the improvements done and if some of the improvements are delayed (asphalt), there could be some advantages to working on the commercial building prior to site work being done.

CM Nolte stated that the motivator is time and asked how much time they had. She asked if it depended on the size of project or what. Planner Snyder indicated those questions could be addressed by the applicant.

CM Huff verified that if the development was being filled with road base, all underground work had to be completed prior to any construction. If the developer wanted to start construction of anything else, they would have to pave and not drive heavy equipment over the pavement. CM Young commented that there could be no vertical construction; footing and foundation. CM Huff stated that he felt the Ordinance prohibits that and they would have to know the sewer level prior to building.

CM Clyde referred to page five, item 2(b)(ii) regarding the water line systems and asked if Planner Snyder was referring to item 2(a)(ii) of the current Code. He stated that addressed flood control and retention and asked if the developer did not have to do that. Planner Snyder stated that it was an assumption from the City Engineer that the piping would already be in place. CM Clyde stated that the piping for the retention had been listed but the flood control had been omitted. He asked how the flood control water would be carried out of the area. Planner Snyder indicated that would be covered by the SWPPP. CM Clyde asked if the SWPPP actually covered detentions, silt fences, etc. Planner Snyder indicated that they were covered by the SWPPP. He explained that the plan was prepared prior to building permit issuance and it was reviewed by the City's SWPPP Inspector. CM Clyde stated that it seemed advantageous to have something regarding flood control.

Planner Snyder recommended that the applicant present his proposal prior to hold the Public Hearing section of the meeting.

CM Huff asked Legal Counsel Penrod to approach the Commissioners prior to the applicant.

Legal Counsel Penrod apologized for being late. Planner Snyder reviewed the concerns regarding a confirmation from HUD so the City could sign off prior to any bond releases and the option to collect on any bonds. Legal Counsel Penrod explained that the biggest concern was not knowing if HUD would allow that. He reported that the City received assurances from CBRB out of Denver and that the City had to give approvals on public improvements before the warrantee releases. He reiterated that the biggest concern was that the City has not received anything from HUD. He added that he wanted to make sure the City was protected. He reiterated that assurances were received from the applicant but not from HUD.

CM Packard explained that he has had experiences with HUD and stated that the City should not take a third party's assurance, but should get a written letter from HUD. Legal Counsel Penrod stated that he and Director Aegerter had been trying to get that from the Denver office. He stated that a requirement was that the City would have to sign-off on when it involved any bonding from a government agency.

CM Huff invited Mr. Stewart to approach. Mr. Baird approached the Commissioners and expressed his appreciation to Legal Counsel Penrod and staff. He reported that he had been working with and has had

a number of meetings with the Fire Marshall, police chief, just about everyone except the street sweeper. He stated that the developer wants everything to be done correctly. He indicated that the document would not give any right to do anything prior to approval. He stated that the Ordinance outlined how things were really done in the City. He added that there were some HUD requirements that conflicted with City's requirements. Mr. Baird stated that the HUD inspections and bonding requirements were much more detailed and he promised Legal Counsel Penrod and Director Aegerter that the City would be protected. He added that he understood CM Packard's concerns, but reassured him that the City Attorney, City Council and Engineer would sign off on specific issues. He reported that there would be a \$10,000 per pay, per violation SWPPP fine. He indicated that the primary reason for a detention basin was because there was no hard surface down as yet. He reported that the underground work would be installed prior to any road base and added that HUD would not sign off until the City signs off. Mr. Baird stated that the developer would comply with both HUD and City inspections.

Mr. Baird explained that Mr. Stewart's plan was to provide a narrow crossing for heavy equipment with the road being filled curb-to-curb. He explained that equipment would cross the road in a way that would cause minimal damage to anything. Mr. Baird added that HUD would not accept Temporary Certificates of Occupancy.

CM Huff asked if the City Council had approved the Development Agreement. Legal Counsel Penrod indicated that they had.

Mr. Stewart approached the Commissioners: He referred to the photographs of the Jr. High and indicated that the footing and foundation work could be going on while the infrastructure was being done, but that was because the development falls under the residential code. He referred to the BYU buildings and stated they were all vertically done and the paving was done at the last. He reported that they use track-hoes.

CM Packard stated that in that area the water table could go up and down by many feet. He reported that the City had been in a dry cycle for the last two years and asked if Mr. Stewart would be prepared for a wet winter and with heavy equipment, he hoped they had prepared because equipment could get bogged down. He stated that there was heavy oil and black soil in the area. He stated that the site should be prepared so emergency equipment could get in and out. Mr. Stewart responded reporting that he did two similar projects in Pleasant Grove and found water at three-feet. He reported that he has had this property for six-years; a Geo-tech report was done six-years ago; and approximately ten holes were dug. He stated that HUD required two test holes per building and not just on the site as a whole. Mr. Stewart reported that the water was down, but indicated it was in the fall. He stated that he anticipated that the loan would close in late July or August and added that he would want to start in August. He stated that all the public roads would be asphalted. Mr. Stewart indicated that they would be working internally and not putting in the parking lot until the building was completed. He stated that he would like to be sure the asphalt done before winter.

CM Clay asked if Mr. Stewart was prepared to tear up the road base. Mr. Stewart stated that whenever there was a need to cross, they would do it perpendicular to public right-of-ways. He indicated that they would only cross three bridges. CM Clay indicated that he would be concerned with unprotected road base that could get polluted and then the City has to come and redo the road at their expense. He also expressed concern for the next applicant. Mr. Stewart stated that he could not speak for other

developers, but added that the City had power to red tag a project. At that point, the work stops and the issue(s) are corrected. He stated that he would hope that he could come back in five, ten or twenty years and the project would still look good.

CM Huff thanked Mr. Stewart. .

### **Public Hearing**

CM Huff opened the Public Hearing. With no one wanting to speak, CM Packard moved to close the Public Hearing. CM Young seconded the motion. The vote to close the Public Hearing was unanimous.

### **Consideration:**

CM Clyde stated that at first his thought was why change something that's working; why do work that messes up improvements. He thought this should be a win – win situation for the City and the contractor. He stated that the contractor wouldn't want to damage infrastructure because they would have to repair it. He indicated that he could see a big benefit to protect the City's interest and also give the contractor the ability to get the building done first.

CM Clay stated that his concern was an additional point of conflict.

CM Young stated that he seconded CM Clyde's comments adding that sometimes the order in which things are done make sense.

CM Packard stated that his concerns had been answered and he was okay with the amendment.

CM Nolte stated that she had some concerns, but after listening to Mr. Baird and the builder, she was okay with the amendment; just as long as the two concerns had been answered.

CM Huff indicated that he was prepared to say 'no'. He indicated that Planner Snyder did a good job explaining everything. He stated that it was a good thing that everyone had the opportunity to voice their concerns. He expressed appreciation to the developer and his attorney for their forthrightness. He also expressed appreciation to CM Clay for reminding everyone that this would affect the whole city and not just one developer. He added that protection of the City fell on Legal Counsel Penrod.

CM Packard asked Council Representative Child to carry the concerns regarding the amendment being applied to the entire City to the City Council.

With no further discussion, CM Young moved to recommend approval of the staff proposed amending City Code sections 14-5-101 and 14-5-202 with the condition that Temporary Occupancy not be allowed and that the collection of bonds be described in the Development Agreement. CM Packard asked if Commissioner Young would like to add wording addressing the City having the opportunity to sign off on any releases of bonds and the City having the opportunity to collect on the bonds that are in place. Legal Counsel Penrod indicated that he would add the correct wording.

With the motion made to amend the motion; CM Clyde seconded the motion to amend. With the original motion made, CM Packard seconded the motion. The vote was as follows:

CM Packard – Aye  
CM Young – Aye  
CM Nolte – Aye  
CM Huff – Aye  
CM Clyde – Aye  
CM Clay – Nay

CM Clay chose to state no reason for his ‘nay’ vote.

**Administrative Session**

Nothing

CM Huff expressed his appreciation to staff.

With nothing further to discuss, CM Packard moved to close the Work Session. CM Young seconded the motion. The vote to close the Work Session was unanimous. CM Huff closed the Work Session at 8:25 PM.