



**MINUTES OF THE SPRINGDALE PLANNING COMMISSION REGULAR MEETING ON WEDNESDAY,
APRIL 20, 2022, AT 5:00 PM
AT THE CANYON COMMUNITY CENTER, 126 LION BLVD, SPRINGDALE, UT 84767.**

Meeting convened at 05:00 pm.

MEMBERS PRESENT: Vice-Chair Kyla Topham, Commissioners Tom Kenaston, Pam Inghram, Noel Benson, Adam Hyatt, Pat Campbell, and Susan McPartland from Zion National Park.

EXCUSED: Chair Ric Rioux.

ALSO PRESENT: Director of Community Development Thomas Dansie, Planning Technician Shelly Heaton, Town Clerk Darci Carlson, and Deputy Clerk Aren Emerson recording. See attached sheet for attendees known to have signed into the meeting.

Ms. Topham stated that Mr. Campbell would be a voting member, and the voting order would be reversed for the current meeting.

Approval of the Agenda: Motion made by Noel Benson to approve the agenda. Seconded by Pam Inghram.

Campbell: Aye

Inghram: Aye

Kenaston: Aye

Benson: Aye

Topham: Aye

Motion passed unanimously.

Commission discussion and announcements:

Mr. Dansie announced that the Transient Lodging task force had been working to determine potential changes to implement in the Town and would bring those revisions to the Commission in their work meeting scheduled for May 4th.

A. Action Items

- 1. Public Hearing – Design/Development Review:** Luke Wilson requests a DDR for a commercial building in the VC zone at 358 Zion Park Blvd.

The request was for a small unit with the intended use of transient lodging on the hilltop behind the existing paid parking lot on the property. The Commission had reviewed and denied a proposal in late 2020 for essentially the same development on this property. The denial was due to geologic hazards on that site. Since then, the Town had adopted a geologic hazard ordinance which required a more detailed investigation in areas where development may be at high risk for those hazards. The applicant had produced a detailed analysis that identified risks on the property, such as problem soils, slope failure, rockfall, and landslides. The report also included recommendations for mitigation measures as required by the ordinance. The Town's Geological Hazards Consultant had reviewed the investigation and found that it complied with all procedural requirements of the ordinance. Further, the consultant found that the proposed measures outlined would successfully mitigate the risks of most natural hazards on the site to an acceptable level. However, the consultant concluded that some dangers on the site would remain and could not be mitigated at a cost-effective level. Those hazards included massive landslide movement due to the Springdale landslide adjacent to the site. This presented an above-normal risk on the property. The ordinance stated that development would not be allowed on properties where natural hazards presented

an unreasonable risk to people or property if they could not be mitigated to an acceptable level. The Commission's job was to determine whether the proposed development on the site would place people or property at an unreasonable risk of natural hazards based on the report provided. The Commission was also to determine if the proposed DDR complied with the development standards outlined in the ordinance.

Commission Questions to Staff:

Mr. Benson asked where on the property the height measurement was taken from.

- The building height was measured from the grade immediately below the proposed building.

Public Questions to Staff:

Mary Stults asked if the fact that the proposed development was proposed on a hilltop or ridgeline would affect the Commission's decision.

- In the VC zone, there were no specific standards for the placement of a property relative to hilltop or ridgelines.

Presentation from applicant:

Luke Wilson stated that he had been working for the past year to meet all of the geologic hazard ordinance requirements for this proposal. They had engaged Western Geologic to be the engineering Geologist. He had received Rick Chestnut's conclusions and summaries the day prior and wanted to respond to ensure both sides concurred. He requested that the Commission table the item so that his team could respond to the letter received.

Commission Questions to Applicant:

Mr. Benson asked what new information was on the letter dated 04/19/22 that was not on the letter received on 02/16/22.

- The two letters were not directly in front of him, but he discussed with his team questions they would like clarification on before continuing. The proposed development complied with the ordinance, but he wanted conclusions before proceeding.

Questions by the public to the Applicant:

Diane McDonald asked what the proposed walkway lighting entailed.

- On the side facing the Stone Mountain Condos, it would not be interactive. There would be a basement stairwell lighting around the flooring that would face the North and East. He realized that a bright light would be burdensome to residents and stated that it would be shielded and would not use excessive lights.

The Commission decided to table the item but wanted to allow the public to comment.

Motion made by Noel Benson to open the Public Hearing: Seconded by Tom Kenaston.

Campbell: Aye

Inghram: Aye

Kenaston: Aye

Benson: Aye

Topham: Aye

Motion passed unanimously.

Public Comment: None were made.

Motion to close the Public Hearing made by Pat Campbell. Seconded by Pam Inghram.

Campbell: Aye

Inghram: Aye
Kenaston: Aye
Benson: Aye
Topham: Aye
Motion passed unanimously.

Commission deliberation: Given that the Commission would be tabling the item, they did not enter into Commission deliberation.

Motion made by Noel Benson that the Planning Commission proposes to grant a continuance for the Design Development Review for the hilltop building at 358 Zion Park Boulevard as shown on the approved plans. The applicant has requested time to gather more information regarding the stability of the property. Seconded by Tom Kenaston.

Campbell: Aye
Inghram: Aye
Kenaston: Aye
Benson: Aye
Topham: Aye
Motion passed unanimously.

- 2. Public Hearing – Zone Change:** Andrew Green, representing the Bit and Spur, requests a zone change from FR (Foothill Residential) to VC (Village Commercial) on a 1.28-acre portion of parcel S-161-A-1-A for the purpose of developing employee housing.

The proposal was for a zone change on a 1.28-acre portion of a much larger 20-acre parcel adjacent to the Bit and Spur, from the FR zone to the VC zone to develop six employee housing units. The applicants were previously approved for six other employee housing units on parcel S-BIT-5, the currently zoned VC property behind the Bit and Spur restaurant. They offered to enter into a development agreement with the Town and deed restrict the property they were acquiring, limiting the use of the property and further limiting the existing six units to strictly employee housing. Deed restrictions were both legal and common. They operated similarly to CC&R's in that there were restrictions placed on the deed of a property that limited its use. The enforcement of a deed restriction would be a civil legal action for a breach of contract. Currently, there were other deed restrictions on properties throughout Town. The Commission's job was to determine if the proposed zone change complied with the Town's stated policy for zone changes, which was that the Town, in general, did not change zones. The only instances that zone changes could be allowed were; 1. To more fully promote the objectives of the land use ordinances and General Plan. 2. To correct manifest errors. 3. To accommodate substantial changes in conditions. The Commission needed to use that policy to guide their deliberation and make a recommendation to the Town Council. Zone changes were legislative actions, and as such, the Commission had a great deal of discretion in making a recommendation to the Town Council. If a recommendation for approval were to be made, the Commission should consider what needed to be included in a development agreement.

Commission Questions to Staff:

Ms. Inghram asked about the steps and estimated costs of the civil enforcement in a breach of contract.

- The enforcement steps would typically be outlined in the deed restriction and what would trigger civil enforcement. The costs would be dependent on how quickly the violation was cured.

Mr. Campbell asked for clarification on the footnote in the staff report that had created some confusion.

- Regarding the six units already approved on parcel S-BIT-5, the Town could not currently require a deed restriction on those units. However, through a zone change, since it was a legislative action, the Town could enter into a development agreement that would require the previously approved units to be deed-restricted.

Mr. Benson asked if the portion of the property had already been purchased and subdivided.

- The property had not been subdivided. To Mr. Dansie's knowledge, the property was in the process of being purchased, but the sale was not yet finalized.

Ms. Inghram asked how the subdividing of the property would be able to come before the zone change.

- Rather than subdividing Parcel S-161-A-1-A, it was technically an amendment of the Bit and Spur subdivision to incorporate the 1.28-acre parcel of that property into the S-BIT-5 parcel. Without the zone change, that would result in split zoning on those parcels that, although not expressly prohibited by the Town Code, would present many administrative zoning difficulties.

Public Questions to Staff:

Ryan Lee asked if the applicant owned the property at that time.

- Mr. Dansie stated that the sale had not yet been finalized to the best of his knowledge.

Ryan Lee asked if the applicant had received the stated declaration from the property owner with the notarized form that this situation required to request a rezoning.

- The ordinance did not require the property owner's consent to make an application for a rezone.

Presentation from applicant:

Andrew Green, representing the Bit and Spur, stated that he was addressing the mechanics of the proposal. For the past eight months, he worked with Tracy Dutson, members of the Planning Commission, and Town Council to identify a property in town to develop affordable or workforce housing. There was an opportunity to purchase the 1.28 acres, which the owners had wanted to do for a long time with the hopes of adding an overlay zone with a deed restriction and development agreement with the Town to allow for workforce housing on that property. In working with the Town, they sought to identify a mechanism by which the 1.28 acres could become a deed-restricted property for employee housing. The moderate-income overlay zone had additional restrictions based on AMI percentage that would create a financial burden on the applicants. There would be a maximum of six units, which were three additional buildings that would be deed-restricted and recorded through Washington County. Those agreements were enforceable, and he suggested that the Town add caveats like shutting off utilities and having financial penalties placed as a lien against the property. He stated that with the cost of building materials and interest rates rising, the applicants were unwilling to wait for the Town Council to adopt an overlay zone. The property was located behind the Bit and Spur and was not visible from SR9. The Bit and Spur would be primarily affected, along with a few residents from Gifford Park. In talking with those residents, he believed they would be able to work with them in preserving the viewshed and limiting any impacts.

Trish Jennings and Alex Pelton stated that finding housing for their employees was very difficult. They intended to build three small cottage duplexes on the adjacent 1.28 acres of land that they were purchasing. A zone change was requested to develop on that newly acquired land. They wanted to do this for the employees in the community and knew that although this was only a small step, it was a step in the right direction and could be used as an example for the development of a workforce housing zone.

Commission Questions to Applicant:

Ms. Topham asked if the property had been purchased.

- They were under contract, but the applicants would proceed with the sale of the property whether the zone change was approved or denied.

Mr. Benson asked for clarification on why the moderate-income housing overlay zone would not work for the project.

- The moderate-income housing overlay zone had stipulations based on Area Median Income (AMI). It was not appropriate based on what they were trying to accomplish because they would not be able to charge high enough rent.
- Mr. Dansie stated the base requirement of the ordinance was that the rental units be occupied by households whose income was at 115% of AMI. The Town followed the AMI for Washington County.

Mr. Kenaston disclosed that as a member of the housing study group, he was present when the applicant presented the initial concept to staff members. As part of the workgroup, they were considering modifications to the Moderate-Income Housing zone to better address workforce housing or potentially develop a new zone focused on workforce housing. He questioned the sense of urgency.

- Because of the extreme difficulty to get employees and the economic impact of rising interest rates were substantial for the construction costs. Waiting another six months for employee housing was not an option for the applicants.

Viewing Red Hawk Apartments as an example, Mr. Kenaston stated that there was a mechanism in place to address the issue while the housing study group developed a tool that would specifically address workforce housing.

- Being that the current application was a legislative item, the Commission had a great deal of latitude in approving or denying the request for the zone change. The language and conditions the applicants had proposed, such as shutting off utilities and civil litigation, were more appropriate for workforce housing.

Ms. Topham asked about the legalities of shutting off utilities such as water.

- A legal analysis needed to be made.

Mr. Benson asked if the applicants were open to deed restricting S-BIT-5 in addition to the proposed.

- They were open to deed restricting the current six units located on parcel S-BIT-5 but wanted to reserve those six units for their employees.

Concerned if this would set precedence, Mr. Campbell asked what would prevent another developer from coming along and doing the same thing. If someone were to sue, the Town would suffer the burden of paying the legal and attorney fees when they had a responsibility to be good stewards of the citizens' money.

- Mr. Green stated that it would be great if another applicant wanted to put in deed-restricted workforce housing in Springdale. Applications needed to be considered on a case-by-case basis, but he did not think this would not set precedence.

Mr. Benson asked if the employees were making over 115% of AMI and stated that if not, the moderate-income housing overlay zone would still be an option.

- The employees were not making over 115% AMI, but it was not financially feasible to have the additional restrictions that came with that zone in the current instance.

Questions by the public to the Applicant:

Ryan Lee asked if the applicants were under contract.

- Offer, acceptance, and consideration had been met.

Kathy LaFave asked if the land were to remain undevelopable unless the zone change was approved.

- That was correct; however, the applicants intended on purchasing the property whether the zone change was approved or not.

Roman Bateman asked Andrew Green if the main issue with the zone change was the paperwork.

- Yes, this would take a lot of work to process.

Motion made by Noel Benson to open the Public Hearing. Seconded by Tom Kenaston.

Campbell: Aye

Inghram: Aye

Kenaston: Aye

Benson: Aye

Topham: Aye

Motion passed unanimously.

Public Comment:

David Culver expressed his gratitude to the Commissioners and the owners of the Bit and Spur for their attempt to provide workforce housing to employees in the canyon. He was staying with a friend in Rockville and asked the Commission to consider people like himself looking for housing.

William Bershon was a resident of Rockville and Springdale since 2002. He stated that the median income was ridiculous. He felt that the previous Commissioners had set farcical expectations.

Holly Hamilton was an employee at the Bit and Spur. She had struggled to find permanent housing for herself for years. She felt it was essential for businesses to provide housing for the working class who sustained the community.

Mary Stults felt that it was important for people who work and invest in the Town to be able to live in Springdale and be part of the community. She stated that she provided two rentals for people who work in the community, and she tried to keep them affordable.

Kathy LaFave lived in Springdale for 23 years and raised her children here. She would like to see avenues for her children to be part of the community. She was part of the affordable housing committee while serving on Town Council. She believed that she was instrumental in the approval and development of the Redhawk affordable housing. The Town's approach to zone changes needed to be taken on a case-by-case basis because low and moderate-income housing was needed in the Town. Since it was intended to provide affordable housing to employees, the zone change fully supported the General Plan.

Patricia Vail Blackett acknowledged the need for employee housing in the Town. The zone change was critical because she knew of other developers waiting for the Commission and Council to approve a zone change that would set precedence.

Ron Reber commended Kathy LaFave for her comments. He also applauded the applicants for trying to create housing for the community. He asked if the Town had explored options aside from a zone change because there should be a better way for people to accomplish this.

Betina Lindsey was a 30-year resident of the Town of Springdale. She expressed her support for employee housing and stated that she had multiple workers throughout the Town who had to stay with her since they could not find housing.

Stating that he was not against affordable housing, Ryan Lee expressed concern regarding the zone change. Although his concerns were primarily about the zone change itself, he expressed concern about another piece of property that he owned. A zone change passing would set precedence in the Town and create more issues.

Josh Vanderwerff from Zion Pizza Noodle stressed the need for employee housing and believed this was a battle worth choosing.

Andrew Green had spoken with many people who wished for more housing for employees. He believed this application was a beacon of hope for affordable housing in the community. He commended the applicants for their time and money spent trying to provide that housing.

Cade Campbell was a resident of Hurricane who worked in Springdale since 1996. He stated that there was an urgency in affordable housing for employees as he struggled to find employees willing to commute.

Jeff Brian commended Mr. Dansie for his efforts. He stated that the burden was being placed on the applicants solely. The need for affordable housing was serious as all of the communities nearby were rapidly growing.

Stella Carnegie was a new resident of Springdale. She felt that the applicants were trying to invest in the community and believed the focus should be on that.

Motion to close the Public Hearing made by Pat Campbell. Seconded by Pam Inghram.

Campbell: Aye

Inghram: Aye

Kenaston: Aye

Benson: Aye

Topham: Aye

Motion passed unanimously.

Commission deliberation:

Ms. McPartland stated that workforce housing promoted the General Plan, and the Town should capitalize on this small opportunity. She asked if there was a way to avoid setting a precedence by taking these applications on a case-by-case basis.

The Commissioners agreed that workforce housing and employee housing needed to be part of the future of Springdale. The priority was to protect Springdale's current residents and follow the guidelines outlined in the General Plan. The General Plan promoted workforce housing, but not in a zone change.

Mr. Kenaston added that if this were approved and did not work out as intended, there would be nothing to repeal, negatively affecting the Town. He expressed his support for affordable housing but was troubled by the process.

Motion made by Tom Kenaston that the Planning Commission recommends denial of the proposed zone change from Foothill Residential (FR) to Village Commercial (VR) on a 1.28 acres portion of parcel S-161-A-1-A as presented in the applicant's submittal.

This motion is based on the following findings:

1. The Springdale General Plan encourages the Town to promote additional employee housing and offers discretionary business incentives, including density bonuses, to facilitate workforce housing development. Specific language can be found in the housing section of the General Plan. While this project fulfills the General Plan's goal of encouraging employee housing, other aspects of the proposed zone change override these strategies.

2. The General Plan cautions on the use of zone changes, especially if it changes from Residential to Commercial uses. These strategies and objectives can be found in Objective 3.2.1 and Strategy 3.1.1.B. As Objective 3.2.1 states to avoid rezoning properties from Residential to Commercial to the greatest extent possible.

3. The only current option for the Town to provide density bonuses for employee housing is through a zone change to either the Moderate-Income Housing zone or a Commercial zone that is regulated by a development agreement.

4. As to zone changes, amendments should not be made to the zoning map except to more fully promote the objectives and purposes of this title of the General Plan to correct manifest errors, or accommodate substantial changes in conditions that are not contemplated in the General Plan. While the General Plan encourages employee housing, it also discourages the Town from changing the Residential zones to Commercial zones to the greatest extent possible.

The Commission finds that using a zone change to the VC zone, even when regulated by a development agreement, is not the appropriate tool to facilitate employee housing. The Town code specifically contemplates employee housing as being developed under the Moderate-Income Housing Overlay zone and not the VC zone. Therefore, since there is another path identified in the ordinance to facilitate the development of employee housing, the Commission finds the zone change does not promote the objectives and purposes of the land use ordinance, nor does this support the General Plan goal of not rezoning Residential property to Commercial to the greatest extent possible. Seconded by Noel Benson.

Campbell: Ave

Inghram: Ave

Kenaston: Ave

Benson: Ave

Topham: Ave

Motion passed unanimously.

3. **DDR Revision:** Andy Green requests a modification to the previously approved DDR for an employee housing building at 1212 Zion Park Boulevard.

This was a request for a revision to the previously approved DDR. As proposed, the current location of the building would preclude access to the adjacent parcel that the applicants were in the process of acquiring. They proposed moving the building back to preserve access and flexibility for potential future development on the adjacent property. Mr. Dansie noted there was an issue with the setback. To make the proposal work, it needed to be contingent on the applicants acquiring the property and modifying the lot line in a plat amendment to eliminate the setback issues.

Andrew Green stated that the modification was to preserve the viewshed of the residents of Gifford Park and accommodate the six additional units proposed from the previous agenda item. They did not want to preclude the option of more workforce housing on that parcel if an overlay zone became applicable to that property. The applicants were not in a position to wait in the event of this agenda item being tabled because they needed workforce housing.

The Commission discussed tabling the current item until the property was acquired and the plat amendment created to proceed in order.

Mr. Benson asked for clarification that the applicants needed to acquire the land and tie it to the parcel.

- Since the applicants were adjoining a non-subdivided parcel to a subdivided parcel, a plat amendment needed to be created, or the building would violate the setback. The Commission could add that the plat amendment was needed before a certificate of occupancy was issued.

If the zone change was denied, Mr. Benson asked about the ramifications, if the subdivision plat amendment was approved.

- It would present administrative difficulties, but the Town would need to identify those ramifications.

Andrew Green stated that this was more complicated than anticipated. He wanted to proceed with the zone change to Town Council, and either have the current agenda item approved with caveats or have the discussion tabled until they can get a subdivision plat amendment.

Motion made by Pam Inghram that the Commission approves the requested modification to the DDR for six housing units at 1212 Zion Park Boulevard as presented in the application reviewed at the Commission meeting held on April 20, 2022. The requested changes are splitting the building into two-three plex units and relocating the two new buildings from the initially approved location. Other aspects of the development, such as landscape, building materials, colors, outdoor lighting, etc., remain subject to original approvals and conditions. The following were conditions for this approval:

- 1. Property owners must complete the process to acquire the property adjacent to S-BIT-5 as shown in the application.**
- 2. The applicants' request to change the subdivision plat amendment must be approved and completed.**
- 3. Building on the units that would be in the current setback could not begin until the above conditions were met.**

Mr. Dansie clarified that although the original request had the buildings split up into two-three plex units, the current request was to keep the building as a one-six plex unit but move and rotate that building.

Motion withdrawn.

Motion made by Pam Inghram to table the discussion on this item. Seconded by Pat Campbell.

Campbell: Aye

Inghram: Aye

Kenaston: Aye

Benson: No

Topham: Aye

Motion passed 4:1.

- 4. DDR Revision:** Stew Ferber requests a modification to the previously approved DDR for employee housing buildings at 5 West Temple Drive.

This was another modification to a DDR for employee housing. The currently approved development was for ten employee housing units, four of which were already constructed in the four-plex unit. The remaining were to be built into three-two plex units. The requested change was for one-duplex unit and one-four plex unit with walk-out basements to each of those units. The proposed walkout units would contain a berm around the buildings so that from adjacent properties, they would continue to appear as single-story units.

Mr. Benson asked, when previously approved, if any restrictions had been considered on the property.

- The property was developed under a development agreement between the Town and the owner, which included a deed restriction stating the building was only to be used for ten employee housing units.

Motion made by Pam Inghram that the Commission approves the requested modification to the existing DDR for employee housing at 5 West Temple as presented in the application and reviewed at the Commission meeting on April 20, 2022. The approved modifications to the DDR are as follows:

- 1. Combining the remaining six units into a four-plex and duplex unit.**
- 2. Adding a walkout basement to the six units.**
- 3. Altering the site grading. All other aspects of the development (landscape, building materials, colors, outdoor lighting, etc.) remain subject to original approval and conditions.**

4. The addition of a landscaped berm around the buildings to screen the walkout basement from view from adjacent properties.

The motion is based on the following findings:

1. Building Size is in compliance. The four-plex measures 5,180 square feet. The duplex measures 2,604 square feet. The max allowed in the CC zone is 8,500 square feet.
2. Building Height is in compliance. The buildings measure approximately 25 feet in height from the bottom of the walkout basement to the top of the roof. The maximum building height in the CC zone is 26 feet.
3. Grading plan is in compliance. The applicant has submitted a grading plan which shows that the proposed grading does not encroach on any slopes of 30% or greater. Seconded by Noel Benson.

Campbell: Ave

Inghram: Ave

Kenaston: Ave

Benson: Ave

Topham: Ave

Motion passed unanimously.

B. Consent Agenda

Motion by Pam Inghram to approve the consent agenda. Seconded by Tom Kenaston.

Campbell: Ave

Inghram: Ave

Kenaston: Ave

Benson: Ave

Topham: Ave

Motion passed unanimously.

C. Adjourn

Motion to adjourn at 08:21 pm made by Tom Kenaston Seconded by Noel Benson.

Campbell: Ave

Inghram: Ave

Kenaston: Ave

Benson: Ave

Topham: Ave

Motion passed unanimously.

Aren Emerson, Deputy Clerk

APPROVAL: _____ **DATE:** _____

A recording of the public meeting is available by contacting the Town Clerk's Office. Please call 435-772-3434 or via email at springdale@springdale.utah.gov for more information.