

## IN ATTENDANCE

**Commissioners Present:** Chair Karen Ellingson, Genevieve Baker, Rod Parker, Ann Anderson, Ralph Calder and Brett Nelson

**Commissioners Excused:** Michael Farrer

**City Staff:** Josh Yost, Community Development Director  
Chris Creer, Assistant City Attorney  
Heather Goins, Executive Assistant

**City Council:** Jake Smith

## CALL TO ORDER

Vice Chair Baker called the meeting to order at 7:03 p.m.

## APPROVAL OF THE AGENDA

Commissioner Nelson moved to approve the agenda as written. Commissioner Calder seconded the motion. The vote to approve the agenda was unanimous.

## APPROVAL OF THE MINUTES

*February 13, 2024*

Commissioner Anderson moved to approve the February 13, 2024 meeting minutes. Commissioner Calder seconded the motion. The vote to approve the meeting minutes was unanimous.

## CONSENT AGENDA

*No Items*

## ADMINISTRATIVE SESSION

*No Items*

## LEGISLATIVE SESSION:

- 1) Western Paving Inc. requests an amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.*

Josh Yost, Community Development Director, presented. He showed the area in question for this item.

- 1- Does the request meet the requirements of the Materials Processing and Storage overlay, and
- 2- Does the request comply with the Dry Creek Community Plan which is the adopted plan for the area.

He said he is not addressing whether the existing site is in compliance with adopted operating regulations, if the neighbors are being impacted by the existing use and if the existing use of the company itself good or bad generally. He recognized these are legitimate questions. The perspective of Staff the questions of whether it complies with the requirements of the zone and it complies with the plan are the first questions. If the Planning Commission wants to analyze changing the plan to accommodate this use, then that is where the conversation of the use on its own merits would come into play.

Commissioner Nelson asked why he is not addressing the first questions. Director Yost said it is because we don't have purview here. This is a zoning enforcement issue. Staff perspective is we don't need to discuss whether it is good or bad or impacting until we decide whether it meets the plan or not.

Commissioner Nelson asked if we have no data on that. Director Yost said the Storm Water Protection Coordinator said on 1 or 2 random site visits they were in compliance. We have not gathered substantial data on this nor have we done as good of a job as we could have in monitoring and verifying compliance. Commissioner Calder added that is mostly State regulated. Director Yost agreed.

5:34 This is an objective question as to whether this meets the plan. There is no inherent agenda or opinion on behalf of staff as to the operation itself or the operators of the business.

He gave a history using aerial photos of the property starting in 1993. It starts out as mostly green field. In the past decade, the operations have expanded. In 2019 the MPS overlay was amended. Operation have expanded to the rear of the property in 2023. That additional property is not zoned for materials processing and storage, so the applicant requested a zone map amendment to apply the MPS overlay. The decisions we make will have impacts.

As we view the Dry Creek Plan as a future plan, it comes quickly. The purpose of planning is to prepare for an updated future in terms of the MPS Overlay.

MSPO adopted in Dec 2019  
Zone Map Amended Feb 2020

It was specifically implemented to accommodate a non-permitted use that was already occurring. The applicant then expanded their use as we see in the aerials. The additional property is not zoned for MPS and so the applicant requested a zone map amendment to apply the MPSO.

Does the property meet the requirements for the MPSO.

9:13 The MSPO can only be applied within LIM zone east of 950 W, south of 1600 S and west of SR 51. From a staff perspective, we should remove the MPSO ordinance from the code for reasons you will see later.

The procedure for applying the zone overlay is the same as amending the zoning map. Each parcel shall have frontage on and direct access to a major arterial road. In its current condition it does not comply with the Dry Creek Plan.

Does it comply with the DC Community Plan?  
The plan is adopted policy and vision of the CC.

The future map of the DCAP. (A=Area) The property includes a lot of future land use districts.

DCCP designated subject property as Town Center Place Type  
Allows for a range of uses like a village center core that tapers into residential and the land use district civic uses.

Applies the following land use districts  
Housing: Medium-High, Medium and Medium-Low

Commissioner Nelson asked what the current zoning is. Director Yost said it is LIM. He explained there isn't a LIM or HIM use in this proposed area plan. Office warehouse and manufacturing in closed buildings is not allowed. There is no provision in the plan to permit the requested rezone.

10:30 Does the request comply with the Dry Creek Community Plan? The plan is the adopted policy and vision of the City Council.  
Not included in the general place types  
Not permitted within any land use district  
Incompatible with the proposed plan generally.

#### Alternatives

If interested in accommodating the request, we would have to change the DCCP. The risks are it negatively impacting public trust to make a change in this newly adopted plan so quickly. Also, to private investment of those who are planning to improve their property with the plan.

Staff recommends denial as it doesn't meet the new plan.

16:12 Commissioner Nelson asked about the MSPO removed. Director Yost said we are not doing that tonight. We aren't changing zoning currently. Commissioner Nelson asked if the city can come in and change the zone. Director Yost said zones change all the time, but we can't change the use. Commissioner Nelson said they can continue to do the business they are doing now as a grandfathered use. Director Yost said yes, we can't take away their land use right to use their property in a way that has been approved.

17:59 Vice Chair Baker invited the applicant to speak. Ben Shepherd Vice President of Western Paving spoke. He said that was hard to hear. They have 200 employees. Springville has been our home for business. More than 50 employees are Springville residents. He lives in Mapleton but spends his money at Reams, etc. It's important for the Dry Creek Property to grow, it's valuable. As for us not being compliant with our neighbors, we are willing to have a friendship. He talked about recycling of materials,

and with the interchange project happening, there will be a lot of concrete and asphalt and we will use the aggregate in projects here and all around the area. He wants this to be approved. This is a key to business for us. It was interesting seeing the maps. It looked like improvement and growth.

21:35 Brent Sumsion

He did the proposal for the overlay and his son owns the facility. Western Paving Inc has a lot of infrastructure, development capability, utility adjustments, concrete carbon gutter, slip forming, demolition and volumetric concrete mixing. A lot of that is used to repair the freeway. They added underground electrical. As part of the required improvements, they added the barrier fence and landscaping adjacent to SR 51. They built a shop and office that is a \$3 million improvement and expansion. He showed some photos of the current site. The water table is extremely high on the property. They dug a test hole. The ground water is within inches of the ground's surface. Western Paving needs this additional 14 acres for the enlargement of the business. The nearest facility is in Payson and they charge more money. WPI provides competitive products and services. They provide 200 high paying jobs with insurance and retirement benefits.

Karen arrived at 7:30 p.m.

They pay sales tax on revenues from the material and product sales that help support the city revenues. The additional overlay area enables WPI to move stockpiling further from out of sight of the neighbors and traveling public, which diminishes the noise.

Mr. Sumsion feels industrial zoning is the highest and best use of this land because the heavy clay soil and high-water table is not conducive to residential construction. To build residences, they will need to bring in a lot of topsoil. We are always looking for industrial land in Utah and Salt Lake County. It costs 1.5 million an acre in Salt Lake County. In Utah County, land is .5 billion an acre. Increases the property value and gives property taxes to the city. There are benefits to the city. Western Paving is an asset to the community and he feels the City should support their need for additional property.

Commissioner Nelson moved to open the Public Hearing. Commissioner Parker seconded. The public hearing was opened at 7:37 p.m.

34:30 Tim Parker

2310 S State

Has been a resident for 34 years. He is glad to speak for his household. In past meetings in 2020 he presented a signed petition of 50 signatures in opposition to the MPS operations to the City Council. Since those efforts were met with lack of attention. He feels they would still be opposed to these requests. The Dry Creek Plan is already approved by the City Council. There have been changes in City Council and the Planning Commission. He is bringing this to their attention. MPS codes demands stockpiles cannot exceed 20 feet in height. This is violated almost from the beginning of the approval. The material restrictions have been abused as well. Stored material must not emit dust, dirt, etc. This is an impossible feat. In windy events, it blows into his back yard. There is dust all over their campers. A private street sweeper is sent out. It is grossly inadequate. The silica dust plan needed to be addressed. OSHA's list is long, but it is a carcinogen and can cause tuberculosis. Storage of the finished product said it had to be moved 1000 feet, John Penrod said it can be 600 feet but can be moved back

to 1000 feet if there is a violation. He wants that to happen as he feels they have not met that requirement. His observation of buffer violations using SAT images, Chair Ellingson interrupted and said we can't make action on anything about the use. He said OK. Every inch of the property is filled with crushed concrete. He has many pictures and videos of this. It is on the North side of his property. Area now falls under the DCP and there is no sewer. We want to make this commercial area as is planned. The water table, his house has been there 100 years. WPI covered a spring that has been there forever and dug in wetlands.

Phil Hansen  
2325 S State

South of WP on the East side. He is here tonight to find out some details. Mr. Yost was helpful with his comments. He opposed the zoning overlay 3 years ago. He is not here to cause any harm or damage to the Sumsion's. They are good people and he doesn't want them to see any hardship on their business. He doesn't want his property to be devalued. He has health concerns and property devaluation. He has a layman's knowledge of crushing. He hauled from the crusher as a child. The silica is definitely a consideration for health. The older people that aren't here are from that area. He doesn't want to see their business not grow. But the Chamber of Commerce should visit the plant. Water usage. When seen, then we can make an unbiased opinion of the business. The dust that comes up at night, He has photos of dust clouds coming from there. He doesn't want his and his neighbors property. He'd like more clarification on the overlay ordinance. What is the dust doing to the farm animals? The crushed concrete is a great way to recycle it. He would like a happy result for everyone. This shouldn't be a rushed decision. He would like to submit some of his concerns.

Daniel Sumsion  
2120 S State

Western Paving was established by his grandfather in 1964. He has been glad to take over in the last 20 years. There are many projects that he is proud of. We love being in this town. We are happy to do show and tell for any that would love to come down and show our operation. There is very little dust and noise coming from it. The law and ordinance is 600 feet from a residence. It is 1000 ft without a business license and 600 feet with a business license and we have one. More out of sight out of mind. Please come see how we run. This is an asset to the DC Community. A lot of materials are coming from Grantsville Ut and are getting more expensive.

Commissioner Calder asked if they have a dust plan with the state. He said yes. The city and the state does the air quality inspections. We recently built a track out that rivals any he had ever seen. At the request of the Springville Waste Water manager, we built a nice track out. Commissioner Anderson asked before the dirt was moved, it was on top of the hill closer to the road. It is off a shelf. Ann just wanted to make sure it was originally off the highway. He said we have zoning to operate there. We put water in everything. The ponds are used for irrigation. We love our neighbors over there. Commissioner Calder asked if it is wetlands. We have documentation that it isn't. Commissioner Baker asked if there are contingency plans if there are homes are there. He imagines there is a day that we are not welcome and we will look at it then.

Commissioner Parker said that there was an operation in Portland that was in the center of homes and you couldn't hear it operating from their backyards. We are on the UDOT

procurement plan, one of 4. We are one of 2 contractors that can show up on I-15 and have lanes open at 5 am. The public doesn't notice it happens. Being further away makes it more difficult.

Scott Sumsion  
1833 E 200 S

He asked why the city supports green waste recycling. He feels it is obvious that the leaders have deemed that a valuable resource. It is valuable to the community. It doesn't come without some issues. It is a significant cost to the city and doesn't bring in a lot of money. With City roads around, you can economically get it recycled and re-used. He did some checking and the green waste is 1000 feet from residences. Not something we can speak to. We feel like with the development of the Dry Creek community, will the city respect the same 1000 feet buffer zone from our established zoning, with ongoing development. If the City is confident, we can be a good neighbor. As has been noted the 2 residential recycling can co-exist peacefully.

Commissioner Baker moved to close the Public Hearing. Commissioner Anderson seconded. The public hearing was closed at 8:08 p.m.

Commissioner Parker said it is more conducive to where the crusher has been moved and there is sound barrier put in, with or without the ordinance change. It is more out of sight from the public. Rick has a property and water runs freely. There is agriculture next to it with a couple of cows. If this is allowed to be changed, the problem will take care of itself down the road. By the time we get homes and businesses in there. Commissioner Nelson asked how far out these plans will come about. Director Yost said he met with a developer and architect planner that is working with the property owner to the West and are waiting for the plan to be adopted so we can get the zoning on board. It is as imminent as getting the zoning on the ground and construction can advance. Commissioner Parker said they are putting in the new interchange. It will be in 2027 now. Nicklecade has come down and they are working on the frontage road alignments.

Commissioner Baker said regardless of if it is good or bad, her concern is how it will affect the City Council's approved plan. Any overlay we approve would be able to stay there. In moving it down the hill, it moves away from residences and SR 51 but it is moving it into the plan map. Medium high housing, housing medium and med-low. That is people having houses right up next to that. Thinking of Ironton and the quarry and there are signs saying this is happening. This isn't the vision for the area when the City Council approved.

Commissioner Anderson said this is the best use for that property. She used to own a home by the railroad tracks and she knew that there would be train noise. Like that example, those that choose to live there will know what they are choosing to live by.

Commissioner Nelson asked if the requirement is 1000 feet or 600 feet. Director Yost said it is 600 with a business license. Zoning code says 1000 feet without a business license.

Chair Ellingson asked if the buffer zone is OK when there are homes there. Commissioner Baker said they wouldn't be able to build a home within the 600 ft.

Commissioner Calder said we have made a commitment to the landowners. What we are doing is putting something into a plan that was already approved. We have changed our minds and you have purchased the property. That is his concern. He likes to see business thrive. When we change the plan, is the liability for that. Mr. Chris Creer, sitting in for Attorney John Penrod, said there is always liability. They can make the argument.

Commissioner Parker said that is a valid point, the other side is they already have a permit. Having it sit higher will cause more of a problem. Commissioner Calder said it was lower before. Commissioner Nelson said it wasn't utilized for this. Commissioner Calder said he knows. The concrete chunks that we hauled in and buried. Commissioner Parker said where it is now, is where they have been crushing.

Chair Ellingson asked the Commissioners: Is it better or not better to fulfill this request? Commissioner Parker said they are looking at a business. They can move it back up on top where the wind can get to it easier. Commissioner Baker said there is nothing stopping them to work below and expand up on top. Allowing the overlay allows them to work anywhere. There is also the issue of frontage. They will have to move things up through the upper portion. Commissioner Calder says if it is moved off the hill, the hill could be built up again. Recycled concrete is valuable and is an asset to the city and the state. His concern is opening the overlay up to where we have committed to others.

They talked about what the overlay does to the property.

Chair Ellingson said there are good arguments either way. The trust in our community and a plan is what is important to her.

1:22:11 Commissioner Nelson said 4 years ago the City Council approved the overlay for the 8 acres and since a lot of money has been invested to make it look nice. He feels they have been good corporate citizens and appreciates that they make it look nice. His question if the interchange is finished in 2027 and Director Yost has been meeting with people, is there a way we could grant a temporary fix so they can continue since they have invested and for now continue business. There could be some trigger points where they would need to dial back.

Director Yost argues that if I am looking to develop my property that is adjacent, and the City changed the zoning on the property to a heavy industrial use, that would affect my calculus in deciding whether and how I wanted to develop adjacent to that property and whether I was willing so continue to rely on the City's plan to make further capital investments. 1:24:55 Commissioner Nelson said so the risk is trust. Director Yost said it is one business owner to continue to operate, they had no backing to expand the business and now a plan has been adopted that would reasonably believe the City Council would rule against it. We want them to be successful in their business. But as far as having a temp use, it is not applicable. They are either 45 or 90 days and they are never for a use that is done in the zone. It is a legal right. We can't think of any way to say hey, now you are done and we are going to push you back. The person running the business at the time wasn't inclined to apply, and once a land use right is given. We don't intend to take away their right to operate there.

Director Yost said we would not take the additional acres. He would like to have the zone taken away. Should have taken the available zones that would have conflicted with the Dry Creek plan. He has no animosity toward this business.

Commissioner Baker said this zone becomes solely to their business. Commissioner Nelson asked what is North. Director Yost said it is a hodgepodge.

Commissioner Parker said he understands all the comments. They already have the 8 acres, and the crushing operation will continue. It won't change much moving it to 13 acres. Commissioner Nelson asked what the lower part would be used for.

The owner said parking trucks and cows on it, like before. Commissioner Nelson asked if storage would be allowed there. Director Yost said no. MPS are unique to the overlay. Commissioner Calder said nothing on there now is on permitted property. He said they are. The zoning officer said we are not in compliance. He had a meeting with John Penrod. It sparks the conversation of moving it off the hill. He is in support of Dry Creek master development. But no one came to communicate any of this to us. We have put our life savings into this business. There is a road that goes through our property. We were here in 2007 and that was before the Dry Creek Plan.

1:35:44 Chair Ellingson asked where there is a plan, a road goes through. What process does the city do in that instance. Director Yost this particular road wouldn't be built by the city. Because of our desire to work with property owners, we don't use eminent domain.

Director Yost said we have funding that we have been delaying for the 1200 W road. The Railroad crossing needs to be closed before we can do that.

Commissioner Anderson is looking at someone who has put their life savings into it and is better off there than closer to the highway.

Commissioner Nelson said you have talked to Chris Creer about a temporary fix. It is tough to see us take their opportunity out.

Director Yost understands but we are not taking anyone's opportunity. Commissioner Nelson from a hearts and minds perspective, it is a compelling argument. But if I had a business, I would want the zoning to be in place before investing in it. John Penrod said we would have to bring in outside Council to spend time and work on something. If there is an inclination to accommodate the request, then we need to modify the plan and do the due diligence.

Commissioner Baker asked if this would be continued.

Director Yost said you can continue it, or make a recommendation that the City Council deny it, or make a recommendation to approve the requested zone map amendment with direction to Council you want it as a temporary use. If you continue the item, we want some clear direction to staff of what you want done before bringing it back.

1:42:16 Chair Ellingson asked if they would have to wait a certain time period before bringing the request back. Director Yost said yes. 1:50:46 11-7-103(2) It is one year



unless the Planning and Zoning Review Committee finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration within the one-year time period.

Chair Ellingson said we have 3 options: recommend approval, recommend denial, or continue.

Commissioner Parker moved to table the item to do a work session to work with them. Commissioner Nelson said without direction of the Commission until a meeting with staff, that we can come to an agreement that makes sense.

Director Yost said that is different than the motion that was just made. Commissioner Parker said the intent is to keep the integrity of the City and the zoning ordinance intact and keep their operations working. Both parties are happy.

Commissioner Parker withdrew his motion.

1:54:22 Commissioner Parker moved to recommend continuing the review of the zoning change for Western Paving Concrete and have a working session with staff in order for us be able to help the city maintain the Integrity of the Dry Creek development and also to allow Western Paving to expand their business and continue to operate on their existing property. Commissioner Calder seconded.

Nelson aye  
Calder aye  
Baker nay  
Ellingson aye  
Parker aye  
Anderson aye

Director Yost said to continue it to the 26<sup>th</sup>. And not push it off any more.

Commissioner Calder asked if they could modify their request. Director Yost said they can modify the request but wouldn't accomplish what you are stating. They would have to amend the business license code or the zoning regulations to add additional regulations. Commissioner Calder wondered if it was better to withdraw the application. Director Yost said that is their prerogative. Some have done that as they have never gone to Council.

Commissioner Baker wants to know the info on those who were denied and why. Director Yost said he would get all the relative information.

With nothing further to discuss, Commissioner Anderson moved to adjourn the meeting. Commissioner Nelson seconded the motion. Chair Ellingson adjourned the meeting at 9:04 p.m.