

IN ATTENDANCE

Commissioners Present: Chair Karen Ellingson, Genevieve Baker, Michael Farrer, Ralph Calder and Brett Nelson

Commissioners Excused: Ann Anderson, Rod Parker

City Staff: Josh Yost, Community Development Director
Chris Creer, Assistant City Attorney
Carla Wiese, Planner II/Economic Development Specialist
Heather Goins, Executive Assistant

City Council: Jake Smith

CALL TO ORDER

Chair Ellingson called the meeting to order at 7:01 p.m.

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

March 12, 2024

Commissioner Farrer moved to approve the March 12, 2024 meeting minutes. Commissioner Calder seconded the motion. The vote to approve the meeting minutes was unanimous.

CONSENT AGENDA

No items

ADMINISTRATIVE SESSION

1) Discussion of options to address the Western Paving's request, continued from the March 12th meeting.

1:39 Josh Yost, Community Development Director, presented. Earlier, he sent the Commissioners a memo that summarizes the points of discussion for tonight. There are two questions that came from the last meeting 1- Does the request meet the requirements of the MPS overlay? The answer was no. One issue is the property doesn't have enough frontage and 2- Does it comply with or is it in harmony with the Dry Creek Community Plan? And the consensus was the Commissioners and Staff generally feel that it doesn't comply with the plan.

At the last meeting, the motion to continue was to find a way to do both: grant zoning on a temporary basis AND allow Westen Paving to expand their business and continue operating on their existing property. The latter is not in question.

The fundamental question is what we want the future of the area to look like. We follow the Dry Creek Community Plan as is and deny the request or approve the request and change the plan to allow more heavy industrial growth in the area. Staff and Administration believe meeting both goals is nearly impossible. If we want the Dry Creek Community Plan to have more industrial area, we need to change the plan first.

4:28 There were internal discussions about temporary zoning. There is no theoretical or reason in the State Land Use Development and Management Act that says why we couldn't, but no one on staff has seen it done. We concluded that it is messy, risky and very hard to undo vesting in land uses, even if we intend from the outset to make it temporary. We spent time with our outside legal counsel and their conclusions were that denial is the safest path forward and if we don't want this here in the future, meaning the additional 13 acres, don't allow it. They have never seen a limited duration zone and they don't see any regular or kind of standard mechanism that has been used before to do this. There is nothing that necessarily prohibits doing it, but it is muddled with legal issues. Denial is the safest path forward, if we don't want this here now, don't allow it now.

5:47 We could amend the zoning code to require the use to stop when residential use encroaches within a determined distance. Or set a time or trigger based sunset provision as part of a development agreement.

6:43 Commissioner Nelson confirmed that outside council has advised against this. Director Yost said yes.

6:56 We have evaluated the options and doing either of these would permit expansion of current business and send conflicting signals to other property owners. It invites legal challenges and presents risks to future elected officials. We asked how we will respond to future requests. This matter came up because the original rezone and the overlay were initiated because the applicant was violating by operating their business in violation of Springville City code. They came in after the fact and asked for consideration to accommodate their operation.

8:19 What about the plan? We can re-evaluate if the Planning Commission wants to look at keeping Western Paving and go through a rigorous process by doing a better job of outreach and engagement and do an economic analysis to determine the economic impact to the city. We would want to do some fiscal impact analysis to determine economic impact for different land uses. We did this in the beginning. We didn't compare that against a baseline or current scenario. We can look at the land uses again. We could change to heavy industrial or similar use on SR-51. We could spend money to improve the street, making it more inviting.

10:26 In terms of the plan, we could divide the planning area that has more frontage on 1600 S and area that is related to SR-51 and use the former interurban rail line

corridor as a divider line and change the future land use to that area as industrial use.

11:16 We were asked at the last meeting about other applications we had in this area. Three years ago, we had an application for a property North of Western Paving to apply the MPSO. On April 13, 2021, Staff and the Commission recommended denial to Council for the same rationale as the Western Paving recommendation as was noted in the memo he sent out. We were just starting a plan and we didn't want to limit our future options or preclude future planning decisions by expanding the use or implementing a heavy use in the area which may have been out of character with what the plan might recommend.

Director Yost apologized that the memo didn't come sooner before the meeting, but he has been working on it. There may have been some misunderstanding to the intent. He had Heather add a potential action item on the agenda tonight to provide the Commission the opportunity to take a vote, if desired, tonight. We are not pushing for a vote tonight, just kept the door open.

Commissioners discussed briefly and decided to move the item to a public hearing.

LEGISLATIVE SESSION:

- 2) 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
jyost@springville.org 801-489-2705***

Chair Ellingson asked for a motion to open the public hearing. Commissioner Farrer moved to open the public hearing. Commissioner Calder seconded. The public hearing was opened at 7:18 p.m.

16:34 Dan Sumsion 2120 S State

Mr. Sumsion said they did the zoning the right way years ago and did a lot to meet city standards, which cost a lot of money. This is where we want the forever home of Western Paving and its employees. Officer Willardson came out in January to double check on our zoning. We assured him we were good. We met with John Penrod; he was aware of the direction we were going and said to proceed. This is what started this whole thing. Then we get to the overlay. As far as we can tell, we have looked and there has been no communication with the Dry Creek Community Plan with us. Our major denial is based on the future of the Dry Creek Community Plan, that we just became aware of. It has become very concerning. We were withheld a chance to have part in that design. We feel that we may be forced out. I would like to go back and have more say. The Commissioners said last meeting, let's go back and see if we can have a peaceful resolution for both the city and us. Today he was told, 'In no world does this work.' That was hard to take. This is disturbing. Over the year, the business owners have been red tagged for things that were not in compliance. Yet the city was doing the same things: stockpiling concrete and asphalt while our gates were being locked. The city owns property near I-15 where they have a month-to-month lease with a customer.

They crush. It is ok for the city, but it isn't OK for us. It is a 'do as we say, not as we do' mentality.

24:42 Scott Sumsion 1833 E 200 S

Scott is an employee at Western Paving. In the last meeting, he asked if the city will abide by the same code and ordinance with the overlay. The times he has asked that, the city staff and employees have drawn a blank. He feels that if it is good for us, it is good for the city. And if that is the case, the primary argument against allowing our adjustment to the overlay is it will carve out additional area from the new Dry Creek Community Plan. He proposes that if the city abides by what we must. There will have to be a change in the Dry Creek Plan because it is already closer than 600 feet. Another point is it is characterized that we are expanding. But as an employee, we are trying to move the recycling back and down the hill, so it is away from neighbors. The area we are using is just 250 feet. The other point disallowing this is we will have to keep the operation up on the hill and it will be more visible to the area.

28:02 Brent Sumsion 316 S Aspen Drive Mapleton. Utah

He spoke with a certified wetlands scientist, Ron Kass, a Springville resident. He is very knowledgeable. He spoke about the conditions of the WPI property. Ron referred him to a Fish and Wildlife survey map, showing certified wetlands from the Army Corp of Engineers. It heavily impacts this subdivision in this area. If you are familiar with Army Corp of Engineers restrictions, it makes it complicated to build structures and change the wetlands without a permit. No earthwork can be done beforehand, and it requires mitigation. It is complicated and expensive. This land is heavily impacted with wetlands. This is a reminder that Western Paving is a viable thriving enterprise and provides services here, in the county and in the state. And provides over 200 well-paying jobs with medical and retirement benefits. Provides sales tax to the city as well. Industrial property is some of the most valuable property and it is hard to find. Property taxes are large. We are benefiting from property taxes and revenues. You have a viable thriving business already here and to replace that is not easy. Retail businesses are struggling. Commissioner Rod Parker said he can attest to that. That needs to be considered.

34:54 Tim Parker 2310 S State

Mr. Parker is the nearest neighbor to WPI. He believes the best predictor of future behavior is current behavior. They were granted the only MPSO operation in the city. It was granted by the Planning Commission, and it appears they are choosing to ignore zoning laws once again by developing a new track of land that is not permitted to be operated on by WPI. They have been operating there for at least a year. He believes they have violated the operations by processing and storing concrete exceeding the allowed amount and operating well within the 600 feet buffer zone they were graciously given. It is in the City Code that silica, a known carcinogen, must not exit the property boundaries. He can say with certainty that whenever there is a high wind event, this occurs. They made significant changes in their already approved site plan and could do so again. There is no definition of a residence in city code. It is understood that his residence extends to his property lines. I expect that I can use my yard. He believes you should not approve this request as it violates city code. He feels WPI has violated that trust in the past. This body should abide by their decision. He asked what commercial housing or commercial development will locate near a concrete crushing plant. Western Paving's current land use won't be impacted.

39:51 George Bird 869 N 800 E

He is a citizen and a contractor. He worked on some big projects in the state, the data center and was a project manager and the airport. He was the contractor on Western Paving's new building. They put a large investment into their property and made their home into Springville. Springville has other projects they are building. If the State came in and said there was going to be a prison next to the new high school, that would be a slap in the face to that development. Western Paving has just invested their whole home into an area that was designed for what they are going. It is underhanded to knock them out. Springville has the chance to embrace what they already have in the city. That is his vote.

43:11 Skip Dunn Orem Utah

Mr. Dunn has 10 acres along Western Paving's property. There is a long history of people moving dirt in that area. He hasn't been contacted about the Dry Creek Community Plan. He had intentions to build commercial buildings there. He hadn't come to look for permits yet because he wasn't ready. He wants to keep everything positive down there where we can all live together. Nobody likes to see that we produce, but they use it every day as they drive on the roads and fix their water lines. This City is growing, and everyone uses their products. He is very impressed with WPI and what they have done. He hasn't seen anything down there that isn't a positive move. For every problem, there is a solution, let's find one.

45:57 Terry Larson 1800 S Hwy 51

We applied at the same time Dan applied for the overlay and we were denied. We have no problem with what Dan is doing. He would like the overlay to expand to our land if they are allowed to have it. He is aware of the Dry Creek Community Plan and wasn't aware that what he is seeing now is set in cement. He isn't into rewriting the world or changing what Springville City thinks is going to work for them, but he thinks we ought to take a good look at what we are doing down there. He asked to not just do things without taking everybody into consideration. He supports Dan and what he is doing. We about his property and would like the overlay extended to our piece.

48:18 Spencer Peterson Demon Diesel 2050 S State

Mr. Peterson is Dan's next-door neighbor. He hasn't seen any dust. He was made aware of the Dry Creek Community Plan recently. At first, he was OK with them building the freeway and making his property more valuable. He rented a building for 10 years and then paid full market value on appreciated market. You put all this money into something, and then you hear the city wants to do the Dry Creek Community Plan. What bothers him is he can stay but not expand. He has employees that he oversees. He feels handcuffed not being able to expand his business, because the zoning will be residential. We are sitting ducks until this happens. This is not difficult. Just leave the industrial pieces and use the Dry Creek Community Plan. There is a road proposed right through my building. That doesn't make me happy. The path forward he sees is to readjust the Dry Creek development.

52:35 Mont Jensen 2250 S SR-51

Mr. Jensen's business is South of Sumsion's and North of Mr. Parker. He has not seen dust. He has no problem with what Dan is doing. None of us in the area have been made aware of the Dry Creek Community Plan. We didn't get notified and we are upset and up in arms. He bought this property in 2016 with the intention because it was LIM he could run his business from it. That is why he purchased it. No one gave us the chance

to give input into the Dry Creek thing until now. He had problems with overlays and he had a previous business that processed materials. He is not in compliance but is working on it. He will look into the overlay. He put his life and all he had into this property. And it feels like it is being taken away from him and hasn't asked our opinion.

55:18 Calvin Crandall 1034 S Main

He is adjoining landowner to the West of WPI. He was aware of the Dry Creek Community Plan. He was involved to an extent on 1600 S and moving South. His property moves to the East. He forgot what Dan was doing in terms of material handling. His land is agriculturally based, and he is OK with WPI. Will the future push Dan out, maybe. It was mentioned earlier that you could put some conditions on this, you are precluding someone from using their property. Is this LIM, and if it fits, I don't know how you can deny WPI from expanding. Either make it fit or deny it. He wished Commissioner Parker was here as he had a development in Oregon and he knows what this is like. I don't have a problem as it stands. It may be an issue in the future as development comes in, but maybe not. We will cross the bridge when we get there. He visited with several people in the last few days and suggested some adjustments on the transitions to provide more of a buffer rather than just housing.

1:00:29 Dan publicly thanked Mr. Crandall. He has the most to gain and most to lose, so we appreciate his kindness. He has been doing this 21 years and the future scares him. He appreciates the property owners standing up. Everyone that stood up said the future plan is to be village mixed. He doesn't know what that means for a bunch of LIM ground. We bought it in 2007. We want to be here; we love this town. We want to be good stewards of this community and would like your help with that.

Commissioner Calder moved to close the Public Hearing. Commissioner Nelson seconded. The public hearing was closed at 8:04 p.m.

Chair Ellingson said the options are to continue, recommend approval or denial. She didn't think anyone was particularly thrilled with the idea of continuing the item again. Commissioner Nelson asked Director Yost to tell where the Dry Creek Community Plan information was communicated. Director Yost said we reached out to property owners in the area and residents. We had participation from people in the neighborhoods to the North of 1600 S and we had a couple of people come from the South end of 51 and we had several different business owners. Representatives of WPI were there. They may not have had the opportunity to engage in the process as much as they would have liked. There was a charette in August of 2020. We are never perfect, and we can do better, but we felt that we did a good job. This has spanned a lot of years, and we may have property owners here today that weren't property owners in the beginning. We never want to come into a meeting where somebody feels like they haven't had the opportunity to participate in a process that affects them and their property and their livelihood. Commissioner Calder asked if all of those meetings are public record. Director Yost said yes.

1:06:20 Commissioner Nelson said whatever the outcome of this evening's recommendation, we need to make sure it is fair across the board. Three things come into play: 1- precedent, 2- strategy with the Dry Creek Community Plan and 3- disallow people from making a request for change when they are already practicing that change on the property. We need to decide those.

1:07:21 Chair Ellingson said there were comments about the buffer zone. She asked Attorney Creer how that works. He said it would be hard to take the buffer away when you have already given it. We would stick with the 600 feet buffer. We can look across the State and see if different answers come from that, but we haven't looked into that. Chair Ellingson asked if it would be advisable for the city to look at adjusting the code if no other use comes in, to say if there's a use it's in place and it has a buffer that no other use will encroach on that buffer. Attorney Creer said to be consistent.

1:08:45 Director Yost said coming to the nuisance question, do you have an answer for that one. Attorney Creer said it hasn't come up yet, but we need to be consistent and come up with answers sooner rather than later.

1:09:33 Commissioner Farrer said he thinks we need to have an opposing view from what was said previously from one of the Commissioners. His concern is the property owners, like Crandall's, and if this would cause him problems. He has been thinking it should be denied. But tonight, he feels more comfortable that we need this business in Springville. Retail businesses are dying on the vine. With a viable business and for us to turn against them, it doesn't make a lot of sense. The city is slow in their projects. He asked what is going to hamper this if WPI is allowed to do this. He is not concerned about it and thinks it should be allowed.

1:13:35 Commissioner Baker respectfully disagrees. Just because we may not be here then, doesn't mean it doesn't matter. There was a lot that went into the Dry Creek Community Plan. If it were reconsidered, that would be up to the City Council. At the advice from Council, that if it is something that Springville decides they want to re-look at and change, or if they don't want it to be there. Creating temporary zoning is not how zoning is created to work. Instead of making small allowances for one person, it should be re-evaluated. In this case, giving a halfway option is risky. It gets murky later. If we grant the overlay, it then carries on from perpetuity. This is Western Paving's home for the foreseeable future. The zoning we put in place is also for the future. She recommends they deny the overlay application in lieu of giving the City Council the option, they can do the opposite of what we recommend. And if the Council re-looks at the plan and makes the change, there is a 1-year moratorium from reapplying again. Right now, it doesn't fit with the plan. It is kind of capricious to make these concessions for one applicant and not for another for the same reason.

1:18:47 Commissioner Farrer feels it is already murky. He asked about the 1000 or 600 feet and was told with a business license it is 600 feet. And saying we shouldn't make a change for one person and not for another, we do it all the time. Commissioner Baker disagrees. Commissioner Farrer said if we need to make this change here, and a neighbor needs it, we should adjust the plan.

Commissioner Nelson thanked the people for coming out. This plan has been approved by the City Council, if the council looks at this, that is the only way he could in good conscience make a change without looking at the whole plan. Commissioner Baker said that is the proper course. Instead of making decisions on one person, code, plan, etc., if it isn't working, if we make changes, we want to fix the code not just put Band-Aids on things. It is best if we do make a change in the code or the plan if the Council feels that is the best. Commissioner Nelson agrees.

Commissioner Farrer feels if we deny the overlay, we are then approving the plan.

1:22:47 Commissioner Calder said he takes the candidate out of the equation. He has empathy for them. They have put a lot of money into their project. They count on something happening for their business. But there was a decision that was denied to another applicant. We are not the Chamber of Commerce to help people have their businesses succeed. He wants that to happen as he has his own business. We are living in a different place than he grew up in. He thinks we need to look at the integrity of the council and what people are going to be able to count on in the future. As a business grows, it needs more land. And that is why we have overlays and zoning. And once the freeway interchange is done, land will be very expensive. They need to be able to count on how things are working. We have to have integrity and take out the candidate, otherwise it creates bias. Whether the business is successful or not should not be considered. I am not saying we don't affect families; I'm saying that we have to consider this on the merits of what the zoning is.

1:27:30 Commissioner Nelson agrees but takes into account the business. But that is part of our job. We are making decisions and affecting families in the community. Commissioner Calder said he isn't saying we don't affect families; we affect the zoning. Commissioner Nelson wants to make sure our citizens are treated fairly and the city as well. Chair Ellingson said it is important to take into account the plans and why they are in place. If it doesn't comply with the plan in place, should the plan be changed. Is the plan what we want or is it not quite doing what we had envisioned. Rather than pushing it from the other direction, we are making zoning changes that conflict with the plan in place. She agrees with Genevieve and asks is this plan not just our vision but the vision the community has for the way that the community wants to develop. The City Council needs to be a part of that process.

1:30:08 Commissioner Nelson moved to recommend denial of the Western Paving Inc.'s requested 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. This recommendation is made with the master plan in mind. If the City Council decides that we need to reconsider the plan after hearing the same things we have heard, this can be discussed further at a later date.

Commissioner Baker seconded. The vote to approve the Legislative Session item(s) was as follows: Commissioner Farrer votes nay so that can make the master plan be changed. Commissioners Ellingson, Baker, Calder and Nelson voted aye.

Chair Ellingson thanked those from coming out. It helps us to hear from those who are affected by these decisions. We are glad you are here.

Director Yost recognized Commissioners Farrer, Ellingson and Parker for their service on the Planning Commission in all the years they served, as this is their last meeting.

With nothing further to discuss, Commissioner Farrer moved to adjourn the meeting. Commissioner Baker seconded the motion. Chair Ellingson adjourned the meeting at 8:35 p.m.