

## **IN ATTENDANCE**

**Commissioners Present:** Chair Brad Mertz, Genevieve Baker, Frank Young, Karen Ellingson, Michael Farrer, Rod Parker and Kay Heaps

**City Staff:** Josh Yost, Community Development Director  
Laura Thompson, City Planner  
John Penrod, City Attorney  
Heather Bakker, Executive Assistant

## **CALL TO ORDER**

Chair Mertz called the meeting to order at 7:00 p.m.

## **APPROVAL OF THE AGENDA**

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

## **APPROVAL OF THE MINUTES**

*April 13, 2021*

Commissioner Baker moved to approve the April 13, 2021 meeting minutes. Commissioner Heaps seconded the motion. The vote to approve the meeting minutes was unanimous.

## **CONSENT AGENDA**

- 1. Jerry Andersen seeking site plan/conditional use permit approval for Phase 2 of the Foxridge Plaza mixed-use development located at 560 South Main in the CC-Community Commercial Zone.*
- 2. Mike Camberlango seeking a recommendation of final approval for the Saddlebrook Estates Subdivision located in the area of 1162 West Center Street in the R1-10 Single-Family Residential Zone.*

Commissioner Ellingson moved to approve the Consent Agenda. Commissioner Baker seconded the motion. The vote to approve the Consent Agenda was unanimous.

## LEGISLATIVE SESSION:

- 1. Kevin Larsen requesting a Zone Map Amendment to apply the Materials Processing and Storage (MPS) Overlay to the property located at 1838 South State Street, currently located in the Light Industrial Manufacturing (LIM) Zone.***

Director Yost presented. In January 2020, the MPS overlay zone was adopted. The site is owned by Western Paving. The zone was adopted in response to an initiative from the Council. We now have a better idea of the desires of the applicant. The General Plan for the area says it is Industrial Manufacturing. The current zone is LIM. Commissioner Heaps asked what the zoning is in the surrounding area. Director Yost said it is low peninsula residential zoning on the opposite side of Highway 51. There is also A-1, R1-10, R1-8, R1-15 and HC zoning surrounding the property currently. We anticipate a land-use shift due to the new interchange. The interchange project is moving forward due to the State allocating money to fund the complete project with a fully constructed interchange, an overpass over the main rail line and widening of 1600 South. We should see a completed first phase of the project in the next 5 years. Two finalist firms will be interviewed next week for a comprehensive small area plan that is 1200 acres that we are calling the 1600 South area plan. In the next two weeks, we will make a selection. We will wait to make zoning recommendations until those plans are made.

The applicant does not want to establish a commercial Materials Processing or Storage operation on the site. They are primarily looking to have the ability to process materials for their own use on the site for the development of their project as their phase of construction is ongoing. Staff feels that some of this can be accommodated through a land disturbance and SWPPP permits and plans. They are looking for more flexibility and for a longer term to bring unprocessed material from offsite onto the site to process it for their use. Commissioner Young asked what kind of material they would be crushing. Director Yost said asphalt and concrete. Some of the work they want to do falls under the normal course of construction activity and preparation of the site, we feel that we could make a compromise. Their primary purpose is the asphalt and crushing. With the imminent planning process for that area, we want to make sure the direction we go doesn't compromise our ability to make decisions or limit our options in the future. For those reasons, staff recommends the Planning Commission makes a recommendation of denial to the City Council.

Chair Mertz invited the petitioner to speak. Terry Larsen is the owner of the site in question now. He is not looking to open a commercial crushing operation there. Their property has a significant amount of concrete and debris that has been dumped there for years and years. We have to clean it up to make it usable property. We don't want to change the zoning on all of the property, because it may not be the best use for the property. We may crush one or two times a year. We got the stockpiling and stormwater permits and the other permits and the best way to comply with the City was to do the overlay.

Commissioner Parker said you are not bringing in additional materials. Mr. Larsen said yes, we would bring more in and crush what is there and what is brought in, to make it more cost-effective. Ten thousand tons of stockpile is all they would ever have on site. Commissioner Parker asked if the material leaves your site. Mr. Larsen said no, just

right there on our site. We will use it to make road base and structural fill. Our soils report calls for a substantial amount of structural fill. We will bring some material in and use what is on site. It's almost a 10-acre site we are looking to do off the road.

Commissioner Parker asked how long he anticipates the process to take. Mr. Larsen said if the economy stays good, we'll keep going. For right now, we will start on the first building and see how it goes. It will require 30-50,000 tons of product to do that building. That is a substantial amount of cleanup and a substantial amount of material being brought in. We do it all the time. We do a lot for Staker and Geneva. We do a lot of landfill cleanup.

Commissioner Heaps said that Mr. Larsen mentioned it may take a couple of times for 4-5 days. Mr. Larsen said it depends on how much is in the stockpile. The last time we were there for a week. That took the whole summer to stockpile. Commissioner Heaps said in terms of the actual crushing, maybe 4-5 days or a week or two. Mr. Larsen said a couple of weeks at the most. Commissioner Heaps asked where the crushing is taking place, is that anywhere that is within 1000 feet of a residence. Mr. Larsen said no. It would be down off the hill on the bottom. We have all of the permits with our crushers and have Air Quality Control permits. We are governed by MSHA and Air Quality Control. Commissioner Heaps asked about the dust and vapors. Mr. Larsen said if you don't do it right, it can get nasty. If you are complying with Air Quality Control, then it doesn't get out of control. We comply. If the wind is blowing that day, we don't crush that day. We have been doing it for a long time in a lot of different cities.

Commissioner Heaps asked what the material is going to be used for. Mr. Larsen said mostly for structural fill. Commissioner Heaps asked if they have determined with the structural engineers how much fill you would need. Mr. Larsen said no, not exactly. It is a guess from an excavator's standpoint. We estimate about 30-50,000 tons in the first phase, with 3 or 4 phases. Commissioner Heaps said you don't believe there is enough material on site to make that happen. Mr. Larsen said no. We would have to bring some in. We are not looking to make a mess and create a lot of traffic. We need to get the trash off the site. It is a process we will go through. We will provide resumes and recommendations from other areas we work on. We are good people.

Commissioner Farrer said that you mentioned you have done this type of use all over the area. He asked if you have to bring material in, why can't that be done outside of Springville and then bring the materials in. Mr. Larsen said that we go where the pile is. They are working on a pile of debris now in Ogden. There is a pile of debris here that needs to be taken care of. We will bring more selective material in. It won't become a garbage dump. We turn it into a good useable product. We do it all the time.

Commissioner Parker said the question is why not crush it where it is at and then haul it in. Mr. Larsen said it is too expensive. You have to have a good area.

Commissioner Parker asked if noise pollution is a problem. Mr. Larsen said no. There are hours of operation that we can work in that we follow. Commissioner Parker asked if they have an environmental engineer that comes and checks on this. Mr. Larsen said yes and we have a SWPPP inspector. We want to have a good reputation. It follows us.

Chair Mertz said he mentioned a Conditional Use Permit, but the overlay was a better fit. Mr. Larson said we weren't advised. We were looking to see how we could be legal in

the City and felt this was the best way. This came down when COVID hit and communication was hard to get, so we went that direction because it seemed the best way to go. Commissioner Heaps asked what the smallest amount of material needed to set up the plant and make it work. Mr. Larsen said about 10,000 yards. Commissioner Heaps asked how many yards they have on-site currently. Mr. Larsen said he didn't know. There is not a lot stockpiled now. Recently, they crushed and it took a week to crush 7500 yards. He didn't think there were 2000 yards on the site now. They were working with someone else, but that is not going to work anymore. They want to work with the City. Mr. Yost is welcome to come and see the site. We can provide permitting from MSHA and Air Quality Control. We'll come in and crush for a couple of weeks and then we will be done. If it's windy, we don't run that day. Our Air Quality Control permits are too important to us to lose.

Commissioner Heaps asked what the difference in cost would be taking 1000 yards or less and taking it to another site and letting him crush it for you, vs bringing in the material. Mr. Larsen said that bringing in a crusher and doing it on-site would be about \$3.50-4.00 per ton to do, vs \$8.00 a ton from Jamie Evans. Mr. Larsen's partner said that we don't haul it. Commissioner Heaps asked how long the stockpile would have to sit there before it is crushed. Mr. Larsen said that it depends on how fast we are doing the project. We are going to be selective on what comes in. Commissioner Heaps said you are only going to do it until you get enough to do your buildings and you are done. Mr. Larsen said yes. Commissioner Heaps asked if they are going to haul any off-site. Mr. Larsen said no. Commissioner Heaps asked if they were going to sell it to anyone. Mr. Larsen said no, they need it all. Director Yost said if there is any additional clarification you need on our position on the operation of the temporary nature, we can clarify if that helps.

Chair Mertz invited Director Yost to the stand. He asked why the MSP overlay was created in the first place. Director Yost said because there was an operation occurring in the City that was not permitted and the City Council expressed to staff that they would like to find a way to create a zone to apply to that property to allow that use to continue. Chair Mertz said it was a zone for that particular area. Director Yost said correct. Chair Mertz said that in Director Yost's presentation, there is an avenue that we could find that would help this situation. Director Yost said to some degree. The reason the applicant is still here tonight asking for the overlay instead of withdrawing the application is because we are not able to commit to a carte blanche approval to continue crushing for years off and on while the buildings get built out. We are comfortable saying that while the site is being worked on, the material is already on-site needs to be processed it makes as much sense to us to bring in the equipment to do that if they can operate according to their permits instead of hauling it off-site. We don't feel that falls within the construction process to bring in a stockpile of material on-site and process it from off-site. We understand that it does create economies for the applicant in the construction process, but it is not something that we feel generally falls within the normal construction process. Director Yost communicated to them that we will not be able to commit to the more open-ended ability they were looking at. They were seeking to process material on the site. And if they want to continue to do that, they would need to get the MPS overlay applied so they would have the right to be able to do that. There is an overlap on what they want to do and what we can permit them to do. It doesn't get them everything they want, so they are here with the ask. Chair Mertz said that Director Yost's point is that applying this overlay, it extends that ability to do this for years. Director Yost said right,

and he doesn't want to impede the area by having this type of operation on the site. At this point the applicant doesn't intend to have a commercial business, but there is no guarantee that they wouldn't change their operational objectives or sell to another owner where the zone would give them the property right to do that operation as long as they met the requirements of the code and obtain a business license. It is not a door we want to push all the way open. Chair Mertz asked if they have crushed in the past. Director Yost said that is correct. That was done as represented to him with material that was taken from their site from excavation cleanup efforts and was done with notice to us and with clearance through their land disturbance permit and with supervision from the SWPPP officer. Chair Mertz asked if a permit was required for that or any type of conditional use. Director Yost said no, they have their land disturbance permit and these activities were conducted as part of that construction project.

Commissioner Baker asked in LIM, are they able to stockpile. Director Yost said no. Either the storage or processing of materials are both things that are provided for only by applying the overlay. Which is why we have continued compliance issues with other properties in the area for one or either of those activities. Commissioner Ellingson asked if we can we meet their needs through a permitting process. Director Yost said the question has been asked if other cities have temporary crushing permits and he hasn't done that research. So, he can't answer but could explore if directed to do so. Commissioner Young asked if an MOU would be better. Director Yost said the question is what is our ability to permit them to do under our code and is it something we can legally permit them to do. Attorney Penrod would be more suited to answer. Commissioner Ellingson asked that if we don't have a permit process in place, that meets their needs, the process would be a policy and code change. Director Yost answered that it would require some amendment to the code that would codify that process and that permit. At the moment, we feel that crushing material that is taken from the site itself as part of demolition or cleanup activities is part of the construction activity on the site. Anything beyond that, we can't make any commitments to. Commissioner Parker said your stance is that it is OK to crush anything that is in the ponds but you are not in agreement with bringing in additional material. Director Yost said that at this point, he can't commit to allowing that.

Chair Mertz asked John Penrod, City Attorney to the podium. Chair Mertz said that in the staff report, it says the property currently generally meets the criteria for the application of this overlay zone. Attorney Penrod said yes. Chair Mertz asked if it is a problem. Attorney Penrod said no. We are looking to rezone this with a different zone. The overlay is a zone. This body's job is to recommend to the City Council if it should be rezoned or not with the overlay. This property has not yet been zoned with the overlay. Commissioner Young said that we would like to wait for the 1600 South corridor study to come back. Attorney Penrod said that is something that Director Yost has said in his presentation. Commissioner Young asked if an MOU would work in this situation. Attorney Penrod said that in his opinion, Director Yost has gone as far as he can go with allowing someone to crush on their property. To bring materials in is beyond the ability to say that is just construction on the property. Director Yost has done all he can to work with the property owners with the ordinance as written.

Chair Mertz opened the Public Hearing at 7:43 p.m.

Tim Parker, lives within the current overlay, South of Mr. Larsen's property. He brought pictures to show the Commissioners and Staff. The overlay was done poorly in the first place. It was done for one person only. After they admitted they have done this for 12 years. As Mr. Larsen says, experience counts. As you look at the pictures, tell me how much experience 12 years made. Those pictures are of the excavator well within 1000 feet and the dust within 1000 feet of my property and that is what you will see with any crushing operation. The 1600 South overpass was talked about in the same work study as the overlay, so it was well known at the time that this was going to happen. It's nice to know this operation has been approved, but not enforced. He doesn't know if Mr. Larsen's would be enforced if it was granted. It has only been a year a half. My properties were included in the overlay against his wishes. Last time, he brought signatures of 60 people that didn't want the overlay in the first place. He asked if there were any questions. Chair Mertz said that we got your email.

Burl Shelley 2035 S State Street. Across the road from Mr. Larsen's operation. We have lived there 15 years and have redone our home. They have new windows, so it's pretty tight. But when they are crushing, it is so dusty that his wife has to dust every day. We had property in Littlefield, AZ and there was a rock-crushing plant across the river. We had to sell the property because the dust was so bad we couldn't live there. The ground would pound and vibrate. They did it 16 hours a day 6 days a week. So, we moved here and it is going to be just as close and the dust is going to be just as bad. He is opposed to it because of noise and dust. His neighbor Joann Whiting, who was unable to attend tonight, was going to voice her opposition as well.

Suzanne Mertlich 412 N 600 E. She wonders if people have considered the traffic impact. We have a traffic problem here without the infrastructure and hope that is being looked at as well.

Burl Shelley added his concerns about traffic. Coming down State Street, will it create more traffic on the road.

Chair Mertz Commissioner Young moved to close the Public Hearing. Commissioner Parker seconded. The Public Hearing was closed at 7:49 p.m.

Mr. Larsen said he can appreciate what the residents are concerned about. We won't add additional traffic. As far as dust, there is dust when you are not doing it properly. We stopped when it was windy. He can't speak for the other operations that are crushing. Chair Mertz said you crushed on the property for a week in January 2021. He asked so did you crush all that was on the property then. Mr. Larsen said we did all the asphalt that was there. Chair Mertz said that there is material there that you chose not to crush at that time. Mr. Larsen said that we were on a different site and were going to participate with another property owner. We have never crushed on our site. We crushed on another property. Chair Mertz said he is talking about his site. Mr. Larsen said they have never crushed on their site. They crushed what they had on another property. Mr. Larsen said we understand the public and appreciate the concern. We are residents as well. We don't want a crushing manufacturing operation. Chair Mertz said the permits obtained in January were not for you. Mr. Larsen's partner said they were for us. They govern our stockpiling. It adds no more trucks than buying from a local pit and hauling it in.

Chair Mertz asked for discussion. Commissioner Young said he is in line with Staff. We let them crush what they have and then let the 1600 South report come in before we rezone. Commissioner Heaps agrees. Commissioner Baker says that zoning for a specific project is against our practices. Commissioner Young said when you do it right, there isn't a problem. Previously he has done a lot of this at the Geneva site and it wasn't a problem. Commissioner Baker said her concern is if we are going to apply an overlay, we want to make it best for the area and the city and future planning. Commissioner Ellingson said she doesn't want to do it for a temporary need. A permitting process for a temporary use would be worth looking at. Commissioner Farrer said he voted against the Materials Processing Overlay previously and his position hasn't changed.

Commissioner Baker moved to recommend denial of the zone map amendment to apply the Material Processing and Storage Overlay to the property located at 1838 S State Street. Commissioner Heaps seconded.

Chair Mertz called for a roll call vote:

Farrer - aye

Young - aye

Parker - aye

Mertz - aye

Baker - aye

Heaps - aye

Ellingson - aye

The vote for the motion of denial passed unanimously.

## ***2. Springville City seeking to amend Springville City Code Section 11-4-301 Land Use Matrix pertaining to Tobacco Specialty Businesses.***

Laura Thompson, City Planner, presented. This is a text amendment to our Land Use Matrix pertaining to Tobacco Specialty Businesses. Springville City currently has two. The City Council has had some citizen outcry and we wanted staff to look at where they are going, that could be more suitable for this type of use, specifically in gateway areas. Currently, they are listed in our general retail use, so they can go anywhere where general retail is allowed. State laws require distance requirements of 1000 feet from a community location, 600 feet from another retail tobacco specialty business, 600 feet for property used for or zoned for agricultural or residential use. It does limit a lot of areas in our commercial zoning. But there are areas where they can potentially go. We currently have one near Wal-Mart and in the former Stouffers Thrift Store. We are proposing they are allowed only in LIM zones. They would still have to follow those laws for the State distance requirements. Chair Mertz asked if those in place are grandfathered. Ms. Thompson said yes.

Commissioner Young asked if those distances are State law. Planner Thompson said yes, but we can make it more restrictive. Commissioner Heaps asked what is considered a community building. Planner Thompson said like a park, a public gathering area, school, etc. Commissioner Farrer asked if it would be conditional in the LIM. Planner Thompson said it would be permitted. The conditions are outlined by State law. Commissioner Heaps asked to see the map of zoning throughout the city. Commissioner Baker asked if there are sufficient areas that are undeveloped that they

could have a shop in LIM. That we are not limiting them to a place where they can go. Planner Thompson showed the zoning in the City and all the LIM available. Commissioner Baker said it is a lot. Commissioner Ellingson said the General Plan calls for the area just North of the creek to be residential. Planner Thompson said that is BP and HIM zoning. She doesn't think that is correct because of the floodplain in that area.

Chair Mertz opened the Public Hearing at 8:00 p.m.

Commissioner Farrer moved to close the Public Hearing. Commissioner Baker seconded. Chair Mertz closed the Public Hearing at 8:00 p.m.

Commissioner Young wants to increase the distance between stores to 1000 feet. Planner Thompson said anything down Main Street would be based on the State laws in place. Chair Mertz says 1000 feet across the board.

Commissioner Young moved to recommend approval to amend Springville City code Section 11-4-301 Land Use Matrix allowing retail tobacco specialty businesses in the L-IM Light Industrial Manufacturing zone changing the distances between retail shops to 1000 feet and changing the distance from property used or zoned for agricultural use or residential use to 1000 feet. Commissioner Parker seconded. The vote to approve the legislative item was unanimous.

## **ADMINISTRATIVE SESSION**

### ***No Items***

Chair Mertz said there is a meeting on the trails tonight and asked Director Yost for an update. Director Yost said he is not directly involved with this. This is the second of their public process meetings. They will move forward to develop a program, recommendations, facility recommendations and Impact Fee Study that goes along with it. It is planned for presentation in September. Chair Mertz asked if that will come to Planning Commission. Director Yost said that he will ask Bradley Neel to come before the Planning Commission.

Commissioner Baker asked if we wanted to have the permitting process looked at to be adjusted to accommodate changes in building and construction, specifically related to that, would we look at that or the City Council. Director Yost said that you could ask us to look at the issue and bring something back to you. If you can clarify exactly what you are looking for. As the applicant mentioned, with their land disturbance permit they are allowed to do construction on the property. There is essentially an allowance to store material and process that material to some degree. Commissioner Baker asked if it was because of an indeterminant amount of time. Director Yost said yes and bringing unprocessed materials from off-site onto the site and stockpiling them prior to processing. We couldn't permit anything beyond processing the material that is taken from the site for reuse on the site. Chair Mertz said we have been through this agenda item so we don't want to open it back up. Commissioner Baker responded this is not as a rezoning, but as a permitting issue. Chair Mertz said that the City is equipped for that.

With nothing further to discuss, Commissioner Farrer moved to adjourn the meeting. Commissioner Young seconded the motion. Chair Mertz adjourned the meeting at 8:09 p.m.