

# Planning Commission Training



May 9, 2023



# Required Training

- Each member of the municipality's planning commission shall complete four hours of annual land use training. Utah Code Ann. § 10-9a-302(6)(b).
  - Attend 12 meetings = 1 hour per year
  - Other opportunities
    - [ULCT](#)
    - [UT-APA](#)



# Separation of Powers



# Legislative vs. Administrative

- “Mayor and City Council” vested with all executive and legislative authority. SFMC § 2.04.020
- Planning Commission makes recommendations on legislative actions and decides certain administrative applications
- Delegate some executive authority to Mayor, City Manager, Planning Commission, DRC, or Staff



# Legislative vs. Administrative


- Legislative:
  - Adopt General Plan, ordinances, zone changes, annexations
  - Approved by an adopting ordinance
  - Decision must be “reasonably debatable” or “rational basis”
  
- Administrative:
  - Approve subdivision plat, a conditional use permit, a site plan
  - Factual findings and legal conclusions must be supported by “substantial evidence in the record”



# Public Meeting v. Public Hearing

- Why do we have **public meetings**?
  - Do the public's business in plain sight
- Why do we have public hearings?
  - To hear evidence of how an application meets the law

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**SPANISH FORK**  
PRIDE & PROGRESS

Wednesday, May 3, 2023  
Planning Commission

**Planning Commission Agenda**  
PUBLIC NOTICE is hereby given that the Planning Commission of Spanish Fork, Utah, will hold a meeting at the City Council Chambers at Library Hall, on the second floor, 80 South Main Street, Spanish Fork, Utah, with a work session commencing at 5:00 p.m. and Planning Commission Meeting commencing at 6:00 p.m. on May 3, 2023.  
Planning Commissioners

Todd Mitchell  
John Reidenbach  
Shauna Warnick  
Joseph Earnest  
Michelle Carroll  
Michael Clayson

SPANISH FORK CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. The public is invited to participate in all Spanish Fork City Planning Commission Meetings located at the City Council Chambers at Library Hall, 80 South Main Street, Spanish Fork. If you need special accommodation to participate in the meeting, please contact the Community Development Office at 801-804-4580.

**1. 5:00pm WORK SESSION -No formal actions are taken in a work session.**

**2. 6:00 Agenda Items**

**3. Minutes**

A. April 12, 2023

**4. Preliminary Plat and Zone Change (Public Hearing)**

A. CANYON COURT URBAN. The proposal involves changing the current zone and approving a mixed-use development located at 400 North Spanish Fork Parkway.

B. TRAILS ON MAIN. This proposal involves changing the current zone from R-8 to B-4 and to approve a Preliminary Plat for a Necker Farm Development with 4 multi-family residential buildings on 15.03 acres located at approximately 1527 South Main Street.

**5. Title 15 Amendment (Public Hearing)**

A. TITLE 15 AMENDMENT. The proposal involves adding language for a Mixed-Use Zone.

**6. Annexation**

A. DMC 42 AMENDATION. The proposal involves a request for annexation into the city of approximately 40 acres located at 3800 North 1100 West.

**7. Preliminary Plat**

A. WESTBRIDGE BUSINESS PARK. The proposal involves approval of a Preliminary Plat creating two lots for an industrial parcel at approximately 3700 North 600 West.

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- Clamor: “A loud and confused noise, especially that of people shouting vehemently.”
- Public comment ≠ public clamor
- “Public hearing” means a hearing at which members of the public are provided a **reasonable opportunity to comment** on the subject of the hearing. Utah Code Ann. § 10-9a-103(53).
- To be considered, reasons offered by public must have factual basis in the record. *Davis County v. Clearfield City*, 756 P.2d 704, 712 (Utah Ct. App. 1988).
  - “Indeed, there is almost uniform public clamor when any mental health facility, halfway house, jail or prison is proposed. The public realizes the need for such facilities, but they should always be located somewhere else.... Citizen opposition is a consideration which must be weighed, but cannot be the sole basis for the decision to deny.”



- “The decision to deny an application for a conditional use permit may not be based solely on adverse public comment.” *Wadsworth v. West Jordan City*, 2000 UT App 49, ¶ 17, citing *Davis County v. Clearfield City*, 756 P.2d 704, 711-12 (Utah Ct. App. 1988).





# Public Clamor: Administrative

- Inquiry is limited to **whether the land use application complies with adopted law** and regulations.
- A **personal opinion** of a staff member, planning commissioner, or city council member is not relevant to whether the land use application complies with the law.
- The **opinions voiced by the public** at a public hearing are **only relevant** to the extent they relate to whether the land use application **complies with the law.**
- Review for “substantial evidence.”
- *Ex parte* communications should be avoided.



# Public Clamor: Legislative

- All **viewpoints encouraged**.
- Goal is to **determine policy**, many voices needed.
- “Public clamor doctrine has no application when a legislative body **acts in a legislative capacity**.” *Harmon City, Inc. v. Draper City*, 2000 UT App 31, ¶ 27, 997 P.2d 321, 328.
- Review for **reasonably debatable** rational basis.
- *Ex parte* communication allowed.



- Motions should be based upon findings
- Include any conditions staff and commissioner/council member find justified and appropriate
- A good starting point: “I move to approve/recommend approval of the application based upon the findings and subject to the conditions listed in the Staff Report” or “. . . the findings listed in the proposed ordinance.”

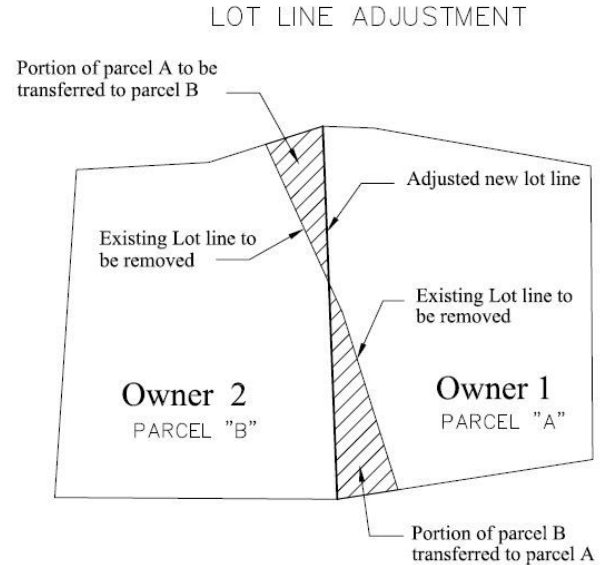


- “Rural Real Property” min. 1,000 acres zoned for agricultural or manufacturing; density not greater than 1 d.u./ac.
  - Clarifies who may protest annexations
- May leave an island or peninsula if reducing size of existing island or peninsula
- City Council may reconsider a vote



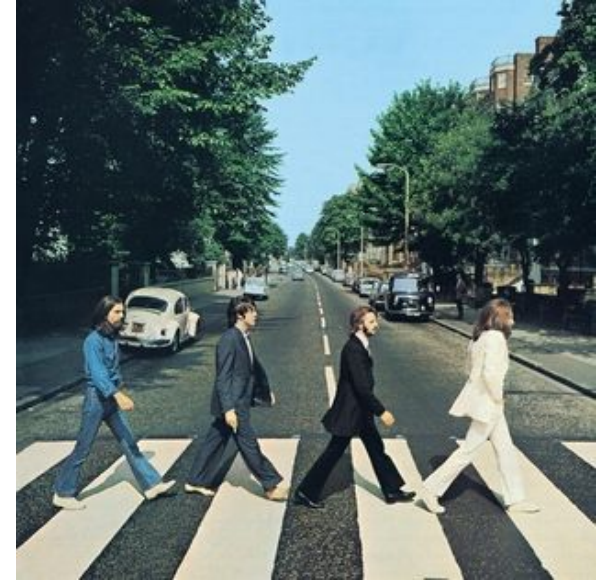
# Legislative Update: HB 406 - Lot Line Adjustment

- "Subdivision amendment" does not include a lot line adjustment between a single lot and an adjoining lot or parcel even if it alters the outside boundary of the subdivision



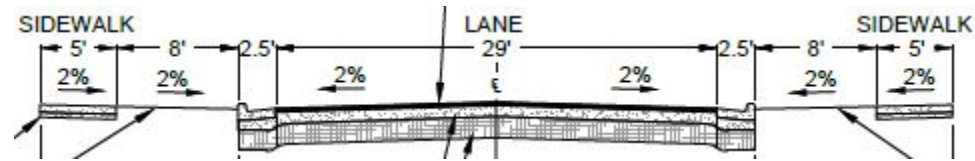
# Legislative Update: HB 406 - Residential Roadway - max. Statewide standard

- “Residential Roadway” - a public local road that:
  - serves primarily to access adjacent residential areas.
  - is designed to accommodate minimal vehicle traffic.
  - has a posted speed limit less than or equal to 25 mph.
  - does not have higher traffic volumes from connecting previously separated areas of the road network.
  - Does not abut high traffic volume lots (e.g., schools, rec. centers, sports complexes, or libraries).
  - Primarily serves traffic within a neighborhood.



# Legislative Update: HB 406 - Residential Roadway

- City may not require installation of pavement on a residential roadway at a width greater than 32 feet, except:
  - Turnarounds
  - Cul-de-sacs
  - Intersections
  - Utility depths
  - Stormwater
  - Planned bike lanes, trails, etc.



- ***Spanish Fork already is in compliance at 29' of pavement for a residential local street***

# Legislative Update: HB 406 - Development Agreements

- If a development agreement restricts an applicant's rights under clearly established state law, the municipality must disclose the rights being waived in the agreement.
- If those rights are not identified, affected provisions in the agreement become unenforceable.





- A temporary land use regulation (moratorium) may not be “stacked” with another or with the “pending ordinance” rule
- If an application was subject to a prior temporary land use regulation it may not be prohibited by another temporary land use regulation.



# Legislative Update: HB 406 - Private Landscaping

- May not require bond or deposit for private landscaping

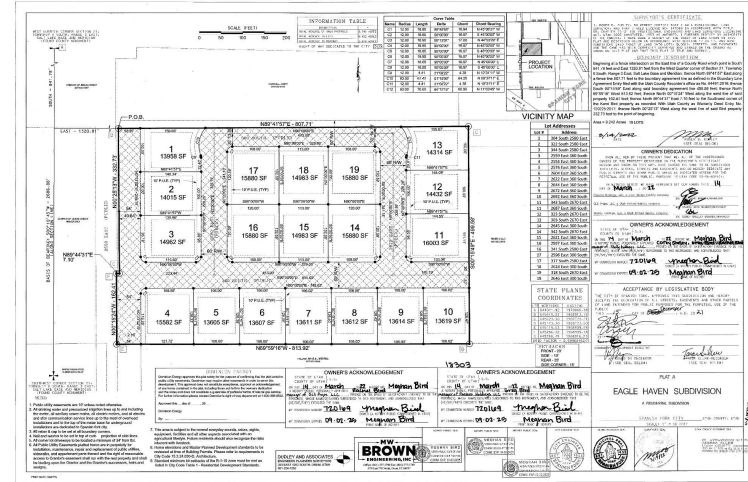


Summit Sotheby's International Realty



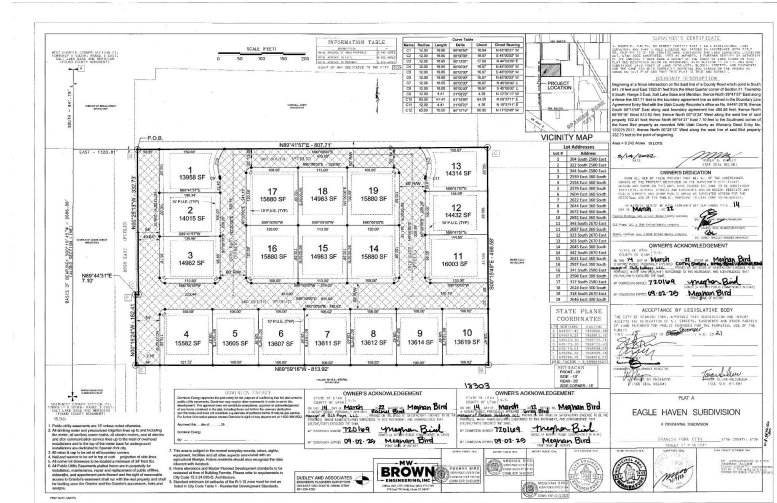
# Legislative Update: SB 174 - Subdivision Administrative Process

- “Administrative Land Use Authority” - staff (DRC), Planning Commission
  - May not be City Council
- Step 1
  - Preliminary plat must be reviewed by ALUA within 15 business days of complete application
  - ALUA may receive public comment and may conduct one public hearing



# Legislative Update: SB 174 - Subdivision Administrative Process

- Step 2
  - Final plat must be reviewed by ALUA within 20 business days
  - “Review Cycle” -
    - Complete application
    - One review
    - City comments
    - Applicant’s re-submission and response
  - May have up to four review cycles



# Legislative Update: SB 174 - Subdivision Administrative Appeals

- Board establishing standards for removing skins from bananas and potatoes
- Individual right to determine what you like and do not like

WHAT IS  
**APPEAL AUTHORITY?**



# Legislative Update: SB 174 - Subdivision Administrative Appeals

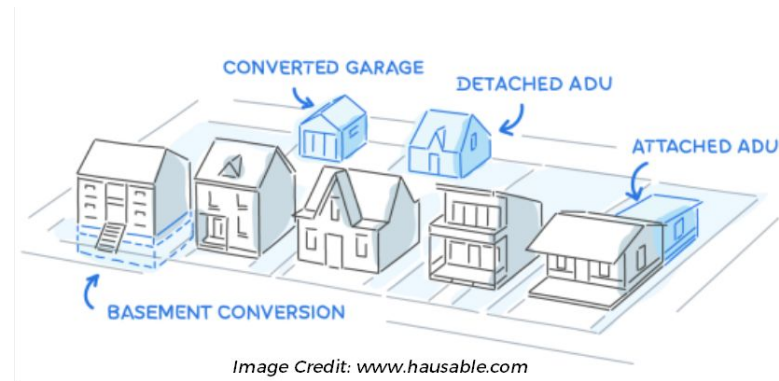
- Appeal of subdivision improvement plans
  - Assemble 3-engineer appeal panel
- Appeal of subdivision ordinance and other disputes
  - Designated Appeal Authority - City Council

WHAT IS  
**APPEAL AUTHORITY?**



# Legislative Update: SB 174 - Internal Accessory Dwelling Units (IADUs)

- Attached garages are part of the primary dwelling for IADUs
- May not regulate/require internal connection between IADU and primary dwelling
- Architectural requirements for IADUs must be consistent with those applied to other single-family dwellings
- May require 1 parking space for an ADU in addition to required spaces for primary dwelling - max. 4 spaces



# Legislative Update: SB 199 - Referendum of Land Use Laws

- “A proposed referendum is **not legally referable** to voters for a municipal land use law, . . . if the land use law was **passed by a unanimous vote** of the local legislative body.”
- “Land use law” - land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance



Charlie Leight, *The Republic*



# Legislative Update: SB 271 - Home Ownership

- Prohibits local government from regulating co-owned residences differently from other residences, e.g., corporation, LLC, partnership, or any combination
- Co-owning a residence is not a crime
- HOAs may have rules



American Homes 4 Rent

- Required disclosures
  - Use of office for *personal benefit*
  - Compensation for *assistance in transactions* involving City
  - Interest in business entity *regulated* by City
  - Interest in business entity *doing business* with municipality
  - Investment creating *conflict of interest* with duties

