CITY COUNCIL MEETING

PUBLIC NOTICE is hereby given that the City Council of Spanish Fork, Utah, will hold a regular public meeting in the Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:00 p.m. on June 20, 2006**.

AGENDA ITEMS:

1. **CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:**
   a. Pledge
   b. Spanish Fork Fiesta Days Rodeo Royalty

2. **NEW BUSINESS:**
   a. Sexually Oriented Businesses – Ordinance Revisions

3. **PUBLIC COMMENTS:**
   Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot me made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

4. **CONSENT ITEMS:**
   These items are considered by the City Council to be routine and will be enacted by a single motion. If discussion is desired on any particular consent item, that item may be removed from the consent agenda and considered separately.
   a. Minutes of Spanish Fork City Council Meeting – May 16, 2006
   b. Rodeo Ticket Sales, Western Unlimited Contract
   c. Change Order for Geneva Rock – Richard Nielson

5. **PUBLIC HEARINGS: 6:00 p.m.**
   a. J.P. Hughes - Zone Change Request
   b. Fieldstone - Zone Change
   c. Ivory Homes - Zone Change
   d. North Springs Business Park - Preliminary Plat
   e. Budget Revision FY 2006

6. **ADJOURN TO RDA MEETING:**

7. **NEW BUSINESS: (Continued)**
   a. Budget Revision Adoption FY 2006
   b. Budget Adoption FY 2007
   c. Architect Contract – Police/Court Building
   d. Spanish Fields West – Preliminary Plat
   e. Spanish Highlands – Preliminary Plat
   f. Neighborhood Committees
   g. Staker Parsons Annexation
   h. I-15 Road Closure Presentation

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.

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 Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.

i. Allied Waste Request for Fuel Surcharge

7. OLD BUSINESS:

a. Ordinance 05-06 - Amending Kennel Requirements
b. Resolution 06-11 - Adopting Animal Control Bail Schedule

8. OTHER BUSINESS:

a. Work Session If Needed
b. Executive Session If Needed – To be Announced in the Motion

ADJOURN:

ORDINANCE 06_06

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS *(votes only in case of tie)*		
G. WAYNE ANDERSEN *Councilmember*		
MATTHEW D. BARBER *Councilmember*		
STEVE LEIFSON *Councilmember*		
SETH V. SORENSEN *Councilmember*		
CHRIS C. WADSWORTH *Councilmember*		

I MOVE this ordinance be adopted: Councilmember _____
I SECOND the foregoing motion: Councilmember _____

ORDINANCE 06_06

AN ORDINANCE AMENDING TITLE 5, CHAPTER 28 OF THE SPANISH FORK MUNICIPAL CODE CONCERNING SEXUALLY ORIENTED BUSINESSES

WHEREAS, Spanish Fork City has previously adopted business license regulations concerning sexually oriented businesses, as codified at Title 5, Chapter 28 (the *"Ordinance"*) of the Spanish Fork Municipal Code (the *"Code"*); and

WHEREAS, there is convincing documented evidence that sexually-oriented businesses have a deleterious effect on both the existing businesses around them and residential areas of the City adjacent to them, causing increased crime, urban blight, the downgrading of property values, the downgrading of quality of life, and other harmful effects; and

WHEREAS, the City Council desires to amend the Ordinance to better minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizens of the City,

protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of neighborhoods, and deter the spread of urban blight;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council, as follows:

I.

Spanish Fork Municipal Code, Section 5.28.040 is hereby amended to add or amend the following definitions to read as follows:

5.28.040. Definitions.

"Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

"Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, campact discs, digital video discs, slides or simulated display, or other visual representations which are characterized by their emphasis on the display of specified sexual activities or specified anatomical areas. For purposes of this definition, "principal purpose" means:

1. at least 15% of the commercial establishment's displayed merchandise consists of such items,

2. at least 15% of the wholesale or retail value of the commercial establishment's displayed merchandise consists of such items;

3. the commercial establishment derives at least 15% of its revenues from the sale or rental, for any form of consideration, of such items;

4. the commercial establishment maintains at least 15% of its interior business space for the sale or rental of such items;

5. the commercial establishment regularly features such items and prohibits access by minors to all or part of the premises; or

6. the commercial establishment offers "adult", "xxx", "x-rated", "erotic", "sexual", "sensual", "pornographic", or any other similar type of material; or advertises itself as offering "adult", "xxx", "x-rated", "erotic", "sexual", "sensual", "pornographic", or any other similar type of material on signage visible from a public right of way.

"Adult business" means an adult arcade, adult motion picture theater, adult bookstore, adult video store, or sexual device shop.

"Adult motel" means a motel, hotel, or similar commercial establishment that (a) offers public accommodations for any form of consideration, (b) regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas, (c) advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, and (b) offers a sleeping room for rent for a period of time less than ten hours, or allows a tenant or occupant to sub-rent the sleeping room for a period of less than ten hours.

"Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity.

"Customer" means any person who patronizes any business licensed pursuant to this chapter.

"Nude entertainment business" means a commercial establishment that features live performances characterized by (i) specified sexual activities or (ii) the appearance of persons in a state of nudity.

"Nudity", "nude" or "state of nudity" means the showing of the human male or female genitals, pubic area, anus, or anal cleft or cleavage with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola.

"Outcall services" means services performed by a sexually oriented business employee, including an escort, model or dancer, outside of the premises of the sexually oriented business, that include any specified sexual activity or exposure of specified anatomical areas.

"Semi-nude" or "state of semi-nudity" means a state of dress, other than a state of nudity, in which (a) opaque clothing primarily covers only the genitals, pubic area, anus, anal cleft or cleavage, nipple and areola of the female breast, and portions of the body covered by supporting straps or devices, (b) the opaque clothing covering part of the female breast primarily covers only the nipple and areola and portions of the breast covered by supporting straps or devices, or (c) all or part of the buttocks are exposed.

"Semi-nude entertainment business" means a business that features persons who appear semi-nude in the presence of customers, or a business that holds itself out as such a business. This definition does not apply to any place where persons appearing in a state of semi-nudity do so as part of:

1. a modeling class operated by a college, junior college, or university supported entirely or partly by taxation;

2. a modeling class operated by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

3. a modeling class (i) in which a student must enroll at least three days in advance in order to participate, and (ii) that is operated in a building that has no sign visible from its exterior or other advertising that indicates a semi-nude person is available for viewing.

"Sexual device" means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others, including devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any device primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"Sexual device shop" means a commercial establishment that, as its principal purpose, sells or otherwise provides sexual devices. For purposes of this definition, "principal purpose" means:

1. at least 15% of the commercial establishment's displayed merchandise consists of such items,

2. at least 15% of the wholesale or retail value of the commercial establishment's displayed merchandise consists of such items;

3. the commercial establishment derives at least 15% of its revenues from the sale or rental, for any form of consideration, of such items;

4. the commercial establishment maintains at least 15% of its interior business space for the sale or rental of such items.

"Sexually oriented business" means an adult business, semi-nude entertainment business, adult theater, semi-nude dancing agency, nude entertainment business, a business that provides out-call services, escort services, adult motel, semi-nude dancing bar, a business which advertises itself or otherwise hold itself out to be a sexually oriented business, or similar business.

"Specified anatomical area" means (a) less than completely and opaquely covered buttocks, anus, anal cleft or cleavage, male or female genitals, or female breast, or (b) male genitals in a state of sexual arousal.

"Specified sexual activity" means acts of, or simulation of, masturbation, sexual intercourse, fellatio, cunnilingus, or bestiality, or the manipulation, caressing, or fondling by any person of human genitals or pubic area or the uncovered female nipple or areola.

II.

Spanish Fork Municipal Code, Section 5.28.060 is hereby amended to read as follows:

5.28.060. Location and Zoning Restrictions.

It is unlawful for any sexually oriented business to do business at any location within the City that is not zoned for such business. Sexually oriented businesses licensed under this chapter shall only be allowed in areas zoned for their use pursuant to §§15.3.16.120(B)(2) and 15.3.24.080 of the Spanish Fork Municipal Code.

III.

Spanish Fork Municipal Code, Section 5.28.070 is hereby amended to read as follows:

Section 5.28.070. Business License Required.

(a) It is unlawful for any person to operate a sexually oriented business without first obtaining a sexually oriented business license. The license shall specify the type of business for which it is obtained.

(b) Sexually oriented business licenses will be limited to one for each 8,000 residents of the City of Spanish Fork.

IV.

Spanish Fork Municipal Code, Section 5.28.090(B)(4) is hereby amended to read as follows:

4. Allow, offer, commit or agree to any specified sexual activity.

V.

Spanish Fork Municipal Code, Section 5.28.100(C) is hereby amended to read as follows:

C. Any sexually oriented business not listed in paragraph (B) is expressly prohibited, including, but not limited to, businesses that provide outcall services, semi-nude dancing bars, nude entertainment businesses, escort services, and adult motels.

VI.

Spanish Fork Municipal Code, Section 5.28.110 is hereby amended to read as follows:

5.28.110 Employee Licenses.

It is unlawful for any sexually oriented business to employ an individual, or for any individual to be employed by a sexually oriented business, in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

VII.

Spanish Fork Municipal Code, Section 5.28.120 (I) is hereby amended to read as follows:

I. List all criminal convictions and the disposition of all arrests of the applicant, individual, or other entity, subject to disclosure under this chapter, for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, except minor traffic offenses (any traffic offense designated as a felony, Class A or Class B misdemeanor shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction, and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing court identifying case numbers or docket numbers. Applications for a sexually oriented business or sexually oriented business employee license shall constitute a waiver by the applicant of any protection the applicant may otherwise have against disclosure of any criminal conviction.

VIII.

Spanish Fork Municipal Code, Section 5.28.130 (A) is hereby amended to read as follows:

Section 5.28.130. License Fees.

A. Each applicant for a sexually oriented business or sexually oriented business employee license shall be required to pay regulatory license fees pursuant to the following schedule:

1. Annual sexually oriented business regulatory license fee: $800.

2. Annual license for sexually oriented business employee that provides semi-nude entertainment: $300.

3. Annual license for sexually oriented business employees that do not provide semi-nude entertainment: $100.

IX.

Spanish Fork Municipal Code, Section 5.28.195 is hereby created, to read as follows:

Section 5.28.195. Moving of Business Location.

It is unlawful for any sexually oriented business to relocate or otherwise move its location or area of operation. A sexually oriented business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable City ordinances.

X.

Spanish Fork Municipal Code, Section 5.28.200 is hereby amended to read as follows:

5.28.200. License – Display.

It is unlawful for any sexually oriented business located within the boundaries of the City to fail to display the license granted pursuant to this chapter in a prominent location within the business premises. It is unlawful for any sexually oriented business employee licensed pursuant to this chapter to fail, at any time while engaged in activities licensed under this chapter, to carry the appropriate license on the employee's person, provided, however, that, if the employee is performing in a state of semi-nudity, such license shall be visibly displayed in the same room where the employee is performing. When requested by the police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the City.

XI.

Spanish Fork Municipal Code, Section 5.28.220 is hereby amended to read as follows:

Section 5.28.220. Regulations and Unlawful Activities.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

A. Allow persons under the age of 18 on the licensed premises, except that, in adult businesses that exclude minors from less than all of the business premises, minors shall not be permitted in any area in which, or from which, it is possible to view any material depicting specified sexual activity or specified anatomical areas, but may be permitted in the other areas of the premises.

B. Allow, offer or agree to conduct any outcall services;

C. Allow, offer, or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;

D.– I. [unchanged]

J. Allow, offer or commit any specified sexual activity on the premises of a sexually oriented business;

K. Appear, or allow a sexually oriented business employee or any other person to appear, in a state of nudity in the presence of a customer.

XII.

Spanish Fork Municipal Code, Section 5.28.390 is hereby amended to read as follows:

A. If the license is denied or approved with qualifications, or if a notice of suspension, revocation or citation or a civil fine is imposed, the applicant or licensee may file an appeal with the City Manager, by filing notice with the City Recorder.

B. The appeal must be filed within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, the City Recorder shall schedule a hearing before the City Manager, which hearing shall be held

within 20 days from the date of the appeal, unless such time shall be extended for good cause, provided, however, that such hearing shall not be held more than 35 days after the notice of appeal is filed with the City Recorder.

C. The City Manager shall hold a hearing on the record and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.

D. The burden of proof shall be on the City.

E. After the hearing, the City Manager shall have seven working days, unless such period is extended for good cause, in which to render findings of fact and conclusions of law and make a decision as to the disposition of the appeal. The City shall cause notice of such decision to be filed with the City Recorder and mailed to the applicant or licensee.

F. The applicant or licensee may appeal the decision of the City Manager by filing a notice of appeal and the reasons for such appeal, in writing, within seven days after the filing of notice of the City Manager's decision with the City Recorder and the mailing of such notice to the applicant or licensee. If the City Manager's decision upholds a suspension or revocation, the license shall be immediately suspended.

G. If a notice of appeal is timely filed, as set forth in paragraph F, the City Council shall schedule a public hearing to consider the appeal. The standard by which the Council shall review the decision of the City Manager is whether substantial evidence exists on the record to support the City Manager's decision.

H. An applicant or licensee aggrieved by the Council's decision shall be permitted to have judicial review of such decision pursuant to Rule 65(B), Utah Rules of Civil Procedure, or any other applicable ordinance, statute or rule providing for such review.

XIII.

If any one or more of the provisions of this ordinance shall be contrary to law, then such provisions, or such portions thereof, shall be null and void and shall be deemed separable from the remaining provisions hereof, and shall in no way affect the validity of such other provisions.

Except as amended herein, the provisions of Title 5, Chapter 28 of the Spanish Fork Municipal Code shall remain in full force and effect.

In order to protect the health, safety, and welfare of the residents of Spanish Fork City, this ordinance shall become effective immediately upon passage.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this ___

day of _____, 2006.

_____
JOE L THOMAS, Mayor

ATTEST

_____
KENT R. CLARK, City Recorder

Tentative Minutes
Spanish Fork City Council Meeting
May 17, 2006

Elected Officials Present: Mayor Joe L Thomas, and Councilmembers Matthew D. Barber, G. Wayne Andersen, Steve M. Leifson, Chris C. Wadsworth, Councilmember Seth V. Sorensen was excused.

Staff Members Present: David Oyler, City Manager; Dave Anderson, City Planner; Richard Heap, Public Works Director; Junior Baker, City Attorney; Dee Rosenbaum, Public Safety Director; Carl Johnston, Lieutenant; Seth Perrins, Assistant City Manager; Jillane Franjesevic, Accountant; Kent Clark, Recorder; Marlo Smith, Engineering Secretary; Kimberly Robinson, Deputy Recorder

Citizens Present: Lana Creer, Penny Murotake, Louise Abbott, Leon Abbott, Walt Stewart, Ruth Stewart, Richard Banks, James Measom, Shirley Wilson, Carol Wilson, Tad Abbott, Jamie Hathaway, Thad Jensen, Jerry Dunn, Steve Wilson, Carolyn Burningham, Leah Gornell, Troy Eichler, Michael Davis, Kim Pierce, Janet Pierce, Chrissy Ames, Kelli Wignall, Brent Wignall, Kimberly Dewey, Gary Stone, Phillip Whitehead

CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:

The meeting was called to order at 6:00 p.m. by Mayor Thomas.

Pledge

The pledge of allegiance was lead by Mr. Banks.

New Employee Introduction

Mr. Perrins introduced the new employees. Jillane Franjesevic is the new Accountant and Kimberly Robinson is the new Deputy Recorder.

Employee of the 1st Quarter 2006

Mr. Perrins introduced the winner of employee of the 1st quarter for 2006, Marlo Smith. The Mayor and Council presented the award and greeted her on her accomplishment.

Brent Wignall Returning Soldier from Iraq

Mayor Thomas welcomed and introduced the returning soldier from Iraq, Brent Wignall.

Mr. Wignall thanked the city for the emotional and financial support received from the City. He explained Spanish Fork City waives $100 off the City bill for soldiers that are deployed. He expressed how helpful that is in having the burden lifted while they are

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away. He said Spanish Fork City was one of the more generous cities in the State. Mr. Wignall also thanked the Fire, EMT, and Police for the welcome home, and the volunteers that came and supported him.
He felt it was a huge honor to come down Main Street in such a manner and to have support with the flags. It was very impressive and he hopes they are trying to do that with any soldier that comes home.
He was a member of the Charlie Battery out of St. George they left on activation January 21, 2005, and they were in Iraq, June of 2005. They served under three main missions fob defense, security patrol, and artillery, they were on rotation.
They were able to do a lot of good things, they adopted schools and people sent supplies books and desks, the service battery built benches and desks. They received huge support from the community so much they had to tell them they couldn't take anymore supplies.
He was injured on March 31, 2006 during a mission they dropped an artillery round and it smashed his foot. They opted to send him stateside and that's why he was able to come home prior to the others. He arrived in Georgia May 5th and then headed for home.
Mr. Wignall again expressed his gratitude and said he was extremely honored to be honored this night. He is proud to be able to represent Southern Utah's Golden Boys.

Councilman Andersen stated that the Council needs to recognize his service and a standing applause was given.

Mayor Thomas said the Council truly appreciates all those that have served the country.

Mayor Thomas recognized the people from the American legion. Mr. Jensen a state commander headed up the presentation.

Mr. Jensen thanked the Council and stated he represents the veterans. There are over 164,000 veterans in Utah, 9,500 of those are National Guard. Utah has deployed 80 % of the guard which is the highest percent in the nation. Mr. Jensen is part of the honor guard, the largest honor guard in Utah, they represent Spanish Fork, Payson, Springville, and Benjamin.

Mr. Wignall and his wife were presented with the purple heart award with a yellow ribbon. Mr. Jensen presented the award, he then explained that the yellow ribbon meant they were injured in a combat zone. They appreciate Mr. Wignall and his wife.

Mr. Banks a Chaplan oversaw the pinning of the lapel by Mr. Jensen.

Mr. Jensen then turned the time over to Mr. Dunn to proceed with the line up for when soldiers come home.

PUBLIC COMMENTS:

Kim Pierce
Mr. Pierce lives within the proposed Mapleton Bench Annexation area and wants to know what he can do to keep the quality of life they currently have in that area. He is

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requesting that the zoning be kept R-5, and wants to know what he has to do to stop the annexation at a higher density or at least make sure his concerns are considered in the process.

Mr. Anderson said the annexation is currently under review. The properties are proposed to be zoned R-1-12. There will be a public hearing on June 6, 2006. He also noted this annexation is still in the protest period. The R-1-12 is consistent with the general plan for that area. They anticipate bringing staffs recommendation to the Council at the meeting on June 6, 2006.

Mr. Pierce doesn't want the annexation to happen without his concerns being addressed.

Mr. Anderson explained the process of the protest period.

Councilman Andersen asked if the Planning Commission had already held a Public Hearing.

Mr. Baker clarified a Public Hearing was held at the last Planning Commission meeting.

Mr. Pierce asked why no notification for Planning Commission meeting was mailed out.

Mr. Baker clarified that state law does not require mailings just the regular posting notice.

Councilman Wadsworth said anyone can reach the City Council at council@spanishfork.org

Phillip Whitehead
Mr. Whitehead lives by 2550 East Canyon Road, he is concerned about the light on Highway 6 and if it is on schedule to be built.

Mr. Heap stated it is on schedule and will start June 1st. There is major construction so it will take a while but it is estimated to be done by the end of the summer. The north side will remain closed for another year.

Mr. Whitehead asked if there are any plans for an underground sensor so people won't have to wait so long at the light.

Mr. Heap stated it will have to be an automated light because of the highway and the railroad. The light will be coordinated.

Mr. Whitehead stated his concern was the other light on canyon road and Highway 6.

Mr. Heap stated it was temporary at this point.

Janet Pierce

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Ms. Pierce asked if the construction and development standards include a requirement for front yards to be completed, or that a trash pick up or street sweep be a condition.

Mr. Anderson stated he will get her a copy of the standards to review.

CONSENT ITEMS:

Minutes of the Spanish Fork City Council Meeting – March 21, 2006

Councilman Andersen made a **motion** to accept the minutes of March 21, 2006, with the changes. Councilman Wadsworth **seconded** and the motion **passed** all in favor.

NEW BUSINESS:

Strawberry Days Royalty

The event itinerary was given by the Strawberry Days Royalty and everyone was invited to attend.
The Royalty then presented the Council with a strawberry cheesecake.
Information about the events can be found on their website at www.plgrove.org/straw.html.
Mayor Thomas requested a link to Strawberry Days be added to our website.

Amherst Meadows Preliminary Plat

Mr. Anderson explained this property had also been reviewed as the Stone zone change request. It is proposed to be zoned R-1-8 and it does fit the standard subdivision requirements in the R-1-8 zone.
Staff recommended approval subject to the following conditions:

1. That it meet the construction and development standards
2. The ditch on the North side should be shown as piped on the plat
3. The redlines from the electric department be addressed
4. A temporary turnaround be constructed
5. The masonry wall on 2300 East be built.

Councilman Wadsworth asked for clarification on which lots were smaller.

Ms. Dewey explained lots 10, 11, 12, and 13 were 98,000 square feet. The R-1-8 zone allowed them to build on the proposed lot sizes. She also explained that the subdivision to the south was a PUD and that enabled some of the lots to be smaller then the lots in this proposal.

Councilman Barber asked if in the trails plan the sidewalk is required to be larger on 2300 east.

Mr. Heap said it would be a 6 ft sidewalk.

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Councilman Wadsworth asked if the 6 ft sidewalk runs along the subdivision.

Mr. Heap said the sidewalk was planned to be along the subdivision and it will make the planter smaller but it should follow the plan.

Councilman Barber appreciated the layout format put in the packets.

Mr. Anderson stated Mr. Oyler and Mr. Perrins created it.

Councilman Barber made a **motion** to approve the Amherst Meadows Preliminary Plat subject to the five conditions as stated. Councilman Leifson **seconded** and the motion **passed** all in favor.

Resolution 06-08 and 06-09

Mr. Oyler explained the resolutions dealing with the North Airport, and Front Mountain Economic Development areas. He explained certain infrastructure will be outside the boundaries of the EDA such as sewer, roads, etc. This resolution outlines the basic utilities that will go outside the proposed EDA. It authorizes the utilities outside the boundaries to be used.

Mayor Thomas clarified the two companies that were currently involved in these services Spectrum Aeronotical and Vitacost.

Councilman Barber made a **motion** to approve Resolution 06-08 a resolution determining that certain infrastructure and improvements to be publicly owned and located outside the North Airport Economic Development project area, are of benefit to the project area. And 06-09 a resolution determining that certain infrastructure, and improvements to be publicly owned and located outside the Front Mountain Economic Development project area, are of benefit to the project area.
Councilman Wadsworth **seconded** and the motion **passed** by a roll call vote all in favor.

Aircard Service

Mr. Rosenbaum explained that in the past few years the challenges they have received have been growth and technology advancement. In 1998 they obtained a grant to put computers in their patrol vehicles which allowed them to access information right away. The aircards must be in the computers to access the information. There has been much advancement to make the service more useful.

Mr. Rosenbaum stated Mr. Johnston had researched the information and will give a presentation regarding his findings. He reminded the Council if this is implemented it will impact the next years budget, it was submitted in the preliminary budget for next year. They are here tonight to make the Council aware of the advancements and cost impacts.

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Mr. Johnston presented the aircard research.

Cost comparison between Wireless Communication Companies

Companies	**Cingular**	**Sprint**	**T-mobile**	**Verizon**
State Contract #	MA525	MA1150	AR367	MA1146
Monthly Fee for 25 aircards	$49.99 $1,249.75	$49.99 $1,249.75	$29.99 $749.75	$59.99 $1,499.75
Month to Month Contract	Yes	Yes	Yes	Yes
Activation fee	No Fee	No Fee	No Fee	No Fee
Cost of the air cards	No Fee	No Fee	No Fee	No Fee
Cost of the GPS units for 25 aircards	$80 $2,000	Free Free	Not Available Not Available	Not Available Not Available
Free dollar credit for 25 aircards	Not Available Not Available	$100 $2,500	Not Available Not Available	Not Available Not Available

The wireless Internet speed tests were performed in Officer Shepherd's patrol car on 03/27/06 with the car parked in a single location behind the police station.

The Ericsson Card on T-mobile's system performed as follows:

Download speed test from Speakeasy.net: 42 kbps
Upload speed test from Speakeasy.net: 16 kbps

The Sprint Card performed as follows:

Download speed test from Speakeasy.net: 160 kbps (3.8 times faster than T-mobile)
Upload speed test from Speakeasy.net: 46 kbps (2.8 times faster than T-mobile)

Sprint also utilizes a speed boost feature that they tested. The testing they did with the speed boost turned on pushed the upload & download speeds even higher.

The Sprint Card on the Sprint Cell Network operates at approximately twice the radio transmitting power as that of the T-mobile cards.

Information:

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There are **two elements** that determine how successful the patrol cars are able to communicate over the internet.

The First element is the (radio) cell coverage area. In other words, how much of the area that the officers patrol is covered by the wireless cell system.

The Sprint (radio) Cell coverage area of Spanish Fork City and surrounding areas was as good if not a little better than that of the T-mobile network. Generally radio coverage is good in and around the city limits.

The Second element is signal strength. A weak signal can make it difficult for radios to speak or listen to each other. We do have some weak signal area that the officers drive. There are many factors that have an effect on signal strength.

In our low signal areas the T-mobile card will usually drop out, and lose wireless connectivity. In the same low signal areas, communication with the Sprint Card was more reliable and possible than with tests using the T-mobile system. Even in areas where we saw only one or no signal bars we were still able to refresh a web page, although it was slow, it did still work. This is probably due in part to the greater transmitting power of the Sprint Card.

Reasons to switch:

1. Officer Safety.
2. Quicker speeds for return of data of all types.
3. Better coverage in our city.
4. Free air cards worth $2500.00.
5. Two months of free service $2500.00.
6. Free GPS unit worth $4225.00. This will allow dispatchers to dispatch the closest officer to the call. This will be a great supervisor tool to monitor the officers activities.
7. Eliminate some billing problems that we have experienced with T-Mobile
8. Stay current with technology and not use out dated air cards.
9. Time line to receive free GPS units will go away at the end of the month.
10. Stronger signal air card from 8 watts to 16 watts.

Reasons to stay with current service:

1. Lower cost for monthly fee.

The Cingular service is willing to put a GPS antenna in the patrol vehicles to allow for tracking throughout the city. Sprint is offering GPS for free if we sign up. Sprint is also offering a free dollar of credit. The Sprint service is 3.8 times faster then the T-mobile service.

DRAFT

Mr. Johnston explained that the timing is important. The new cards will compress data at a faster speed. With a stronger signal even though weak they can still operate and not lose service and have to reboot the system. He also explained if you were a dispatcher and could see the location of the patrol vehicles you can dispatch the closest vehicle to better serve the community. This offer is only good for a certain amount of time and they need to get the approval to move forward on this project. There will be a significant change to the budget for the next year.
They currently have an understanding of where the cards work and what they need the new service to provide. The change will be approximately $450 a month for the next budget year, when the offer changes we might not be able to get the free GPS cards.

Mr. Rosenbaum explained Mr. Johnston had taken a camera to show the screen at dispatch and how the system worked.

Mr. Johnston stated his concerns with the current service. They are having to argue constantly over billing issues, and how they correct the problems, they also overbill. He stressed that the Council take into account the time spent fixing the problems. The current cards lose connection 10-12 times an hour and have to re-boot. They have assessed late fees due to billing problems, and they currently have a problem being charged for the current cards they are no longer using.

Mayor Thomas suggested waiting for the new T-mobile cards and they will potentially save money.

Mr. Johnston stated the time will still be wasted on billing, and dropped services.

Mr. Johnston stated in his research they feel the cost benefit is there to make the switch. They may pay a little more a month but it will be for the better service.

Mayor Thomas stated he does not like the urgency of this proposal.

Councilman Wadsworth asked what happens when they do a query.

Mr. Johnston stated they would do a multiple inquiry, who owns the vehicle, if it is stolen, etc.

Councilman Wadsworth feels that it is simple text being used and it shouldn’t take much load time for what they need.

Councilman Andersen asked if when T-mobile introduces their new card would they offer the GPS capability.

Mr. Johnston stated T-mobile is not planning on offering the GPS. He then explained the video showing the locations of the vehicles within the city using the GPS service.

DRAFT

Councilman Wadsworth asked if the City had received a grant to help pay for the Spillman system.

Mr. Rosenbaum stated a grant was received in the amount of $140,000 for the initial system.

Councilman Wadsworth asked if there will be opportunities to get the grant again.

Mr. Rosenbaum explained it was one time homeland security grant. No grants are currently available at this time for this service. There will be more homeland security money that comes to our area in the future but the funds will potentially go towards new projects.

Councilman Wadsworth asked when the City received funds from the last grant.

Mr. Rosenbaum stated he thought they received the funds in July or August of last year.

Councilman Wadsworth asked if they would be able to pursue the grants and homeland security money.

Mr. Rosenbaum explained there is a committee that votes to assign the funds. The other challenge is the month by month year by year fee. So far the grant money has gone to the one time purchase items, and then the Cities have to maintain them after that.

Mayor Thomas asked if there was a reason for the urgency.

Mr. Johnston explained because Sprint has a proposal available at this time that includes all the services needed.

Mayor Thomas asked if there had been services missed in the past and it ended up causing a problem.

Mr. Johnston stated that every time the service drops they have to use other means of communication and that does cause problems. He added T-mobile has been saying for a year they will have a new high speed card and they have yet to present it.

Mr. Rosenbaum stated they realize that incentives are sales pitches and it will cost the city approximately $5,500 more a year for this upgraded system.

Mr. Johnston said they do not have GPS on the current system but the new system will have the GPS capability.

Councilman Barber asked if there would be any problems if the City were to switch back to the T-mobile service.

Mr. Johnston said he did not think there would be a problem changing services.

DRAFT

Councilman Leifson made a **motion** to accept the proposal made by the police department for the aircard service. Councilman Andersen **seconded** and the motion **passed** by a roll call vote. Councilman Wadsworth voted Nay.

Councilman Wadsworth explained his Nay vote. He came from a telecommunications background, and feels there are quotas the sales representatives must meet, and there will always be incentives coming up in the future. He feels if the department has something that works why change it. If all they need are simple data pulls, he would feel more comfortable with what they are currently paying and they can wait and see what promotions will come in the fall. He feels grants could become available in the future as well.
He thanked Mr. Rosenbaum and Mr. Johnston for their hard work.

The Staker Parsons discussion was postponed.

OTHER BUSINESS

Mr. Baker said that because of the required training on land use Mr. Neil Lindburg who represents Provo City Council is willing to come and do some training on land use. He will be available on Wednesdays.

Councilman Wadsworth stated the last training was great and thinks another training would be valuable.

Mayor Thomas asked if Salem City would be interested in the training.

Mr. Baker stated Salem is also interested in the training.

The Council suggested June 14th for the training meeting.

Mr. Baker will speak to Mr. Lindburg set a date for the training.

Councilman Wadsworth asked the training from the last time be made available.

Mr. Baker stated URMMA was impressed by the last training and asked to use it for their training. The meeting time will be around the normal time as the meeting and go as long as the Council would like.

Mayor Thomas requested that Salem City Council be invited to attend the training.

ADJOURN TO REDEVELOPMENT AGENCY

Councilman Barber made a **motion** to open the RDA meeting at 7:30 p.m. Councilman Wadsworth **seconded** and the motion **passed** by a roll call vote all in favor.

DRAFT

Councilman Barber made a **motion** to adjourn the RDA meeting back to the City Council meeting at 7:35 p.m. Councilman Leifson **seconded** and the motion passed by a roll call vote all in favor.

ADJOURN

Councilman Barber made a **motion** to move to executive session for the purpose of discussing land use, and legal issues at 7:36 p.m. Councilman Wadsworth **seconded** and the motion **passed** all in favor.

_____

Kimberly Robinson, Deputy Recorder

APPROVED:

DRAFT

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	Kent Clark, Claire White, Seth Perrins
Reviewed By:	**Junior Baker**
Subject:	Rodeo Ticket Contract – Western Unlimited

Background Discussion: This will be the 3rd year of contracting with Western Unlimited to sell Rodeo Tickets through their store. We sell the tickets at the city office up until July 5th. We have moved the ticket sale operation to Western Unlimited to eliminate congestions and confusions that arise by having the long lines here in this office. Western Unlimited has been happy to have the ticket sales at their store because of the secondary sales that occur, as long we continue to provide the staffing.

Budgetary Impact: The city reimburses Western Unlimited for the labor of selling rodeo tickets. The city also pays for the additional phone lines added to Western Unlimited during the month of July. We are also expanding our ON-LINE selling operations this year by allowing customers to purchase tickets through Express-Bill Pay. This option was highly utilized last year, but created more work than good because we didn't have a secure sight that they could use to pay their money. This problem will be solved this year.

Alternatives: We could sell them all from the city offices, but this would not decrease the amount of money needed to sell the tickets. We also extensively researched an on-line ticket purchasing and printing package that would have eliminated the need for paper tickets. This option was quite costly, around $30,000 a year, and we feel comfortable that we could contract with someone to create our own system and we would only incur a one time fee of $30,000. We will look further into this option after this year's rodeo.

Recommendation: Continue working with Western Unlimited in selling the rodeo tickets through their store.

Attachments: Attached is the contract between Western Unlimited and the City. The number of tickets under the contract is left blank at this time. At the date we stop selling them at the city office (July 5) and move them to Western Unlimited, we will verify and input those counts into the contract. Both parties will initial the contract by the inputted numbers.

Rodeo Ticket Contract

Come now Spanish Fork City (City) and Western Unlimited (Western) and hereby contract, covenant and agree as follows:

1. The City will allow Western Unlimited to sale its Fiesta Rodeo tickets from it Western Unlimited store located 160 North Main Street, Spanish Fork.

2. The City has provided to Western Unlimited a total of _ _ tickets broken down as follows:

	Arena	Grand Stand
July 20	_____	_____
July 21	_____	_____
July 22	_____	_____
July 24	_____	_____
Total	_____	_____

3. Western Unlimited is responsible to return to the City any unsold tickets, all child stubs, and vouchers, together with cash equivalent to sold tickets. Western Unlimited is to deposit funds collected from ticket sales into the city account at Zions Bank. Deposits should be made daily.

4. Unsold tickets, child stubs and vouchers should be returned to City no later than 3:00pm on the day of the rodeo so the tickets are available at the ticket office at the rodeo arena.

5. Western and City will count tickets prior to moving tickets to Western Unlimited store. As tickets are returned to City, Western and City will recount the tickets returned. On July 20, remaining 20th tickets will be returned at 3:00 PM. On July 21, the remaining 21st tickets will be returned. On July 22, the remaining 22nd and 24th tickets will be returned to the City. A full reconciliation and accounting of the tickets will be made.

6. Western unlimited will be responsible for any lost, mislaid, or stolen tickets based upon their face cash value for an adult ticket. The City and Western will equally share the first 2% loss ticket accountability. Any loss over the 2% will be borne by Western Unlimited alone.

7. Credit card purchases will be processed through the City's credit card machine only.

8. Will Call orders will be filled by Western. City will verify all "will call" orders and return to city office. City will supply envelopes and postage.

9. The City will reimburse Western for the cost of employment of Charles Thorpe from June 7th to July 22nd.

10. City will be responsible for all sales tax being remitted to the Utah State Tax Commission.

11. This document represents the entire agreement between the parties. All prior negotiations, understandings, or agreements are merged herein and superseded hereby.

12. This contract may be amended only by a written document signed by all of the parties hereto.

Dated this _____ day of June, 2006.

Spanish Fork City by:

_____
Joe L Thomas, Mayor

Attest by:

_____
Kent R. Clark

Western Unlimited by:

_____
Ty Tingey

MEMO
SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT

DATE: **June 15, 2006**

TO: **Mayor Thomas and City Council**

FROM: **Richard J. Nielson, Assistant Public Works Director**

RE: **Geneva Rock Change Order**

Geneva Rock currently has the bid for 1" asphalt overlays in Spanish Fork City. Their bid, which was awarded last summer, was to be in effect until June 30, 2006. In May 2006 we gave them a list of streets needing a 1" overlay (these streets are mainly in the new subdivisions and are paid for by the developer) totaling 1,120,736 square feet. The developers have bonded for the 1" overlays, but they will be billed the actual cost of the overlay or have the option to contract for it on their own. Geneva Rock has requested that the City allow them to change the unit price from the current bid price of $0.27 to $0.38 per square foot due to a dramatic increase in the cost of the asphalt binder material (AC 10). This increase would increase the total price of the project by $123,280.96. In an earlier email form Travis Tholstrom (Geneva Rock) he indicated the total change in oil cost was $73,500.00, which equates to an increase of $0.065 per square foot or $0.335 per square foot. I have attached the letter and press release that was sent to me by Geneva Rock for this request. I have also attached a quote received by Nebo School District from Staker Paving on May 24th for a 1" overlay at the ball park parking lot at the price of $0.345 per square foot.

I feel that Geneva Rock is justified in their request for additional compensation due to the substantial increase in the raw materials cost, but not to the extent that they have requested. I recommend that the City Council approve a change in the unit price of 1" overlays to $0.335 per square foot.

CONSTRUCTION INDUSTRY FACING ASPHALT SHORTAGES

June 7, 2006

(Salt Lake City, Utah) The combination of several market forces will likely impact the supply of asphalt during the summer of 2006 and continuing through 2007. Liquid asphalt is a by product of the oil refining process and is a major component of the roads that we drive on daily. While oil refining capacity in the United States and in the Intermountain Area has remained steady over the past several decades, demand for asphalt products has increased dramatically.

These anticipated shortages appear to be caused by a number of factors including Intermountain Area refineries undergoing plant modifications and maintenance work in order to comply with recent EPA regulations (effective June 1, 2006), dealing with low sulfur diesel fuels, and surrounding states drawing from Utah's markets and supply.

In response these shortages, some suppliers of liquid asphalt have begun to allocate and ration supply deliveries of their products. Owners, contractors, specialty contractors and their suppliers are now faced with the fact that some of their projects simply can not be paved this year, and potentially next. Members of the construction team are now looking to farther geographic regions of the country to try and identity future supplies of asphalt products.

All parties involved in the construction process need to recognize the challenges, work together to minimize and share the risks involved, review those contracts currently in place to address these shortages and consider implementing construction material cost escalators in contracts for projects moving forward.

The Associated General Contractors of Utah ("AGC"), with offices in Salt Lake City and St. George, is the state's oldest and largest commercial construction trade association. The AGC was established in 1922 and represents 450 of the states leading commercial, highway, municipal-utility and industrial general contractors, specialty contractors and suppliers of materials or services. AGC members perform the majority of all non-residential construction in Utah.

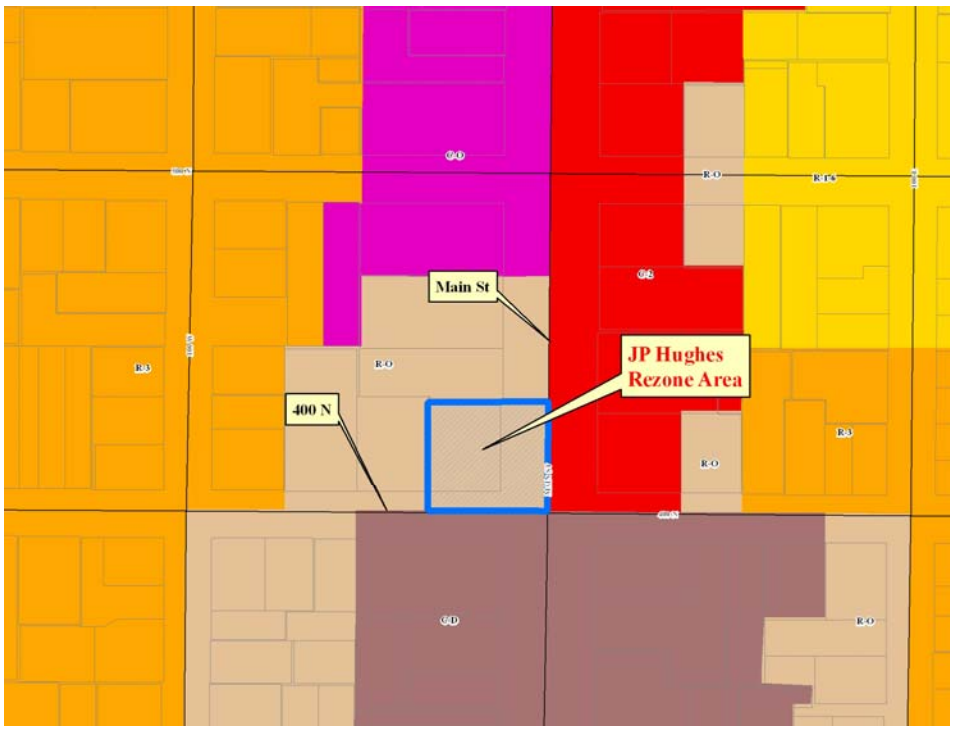
For additional information, please contact Richard J. Thorn, president/CEO of the Associated General Contractors, Utah Chapter at 801-363-2753 or rthorn@agc-utah.org

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**J.P Hughes Zone Change Change**

Background Discussion:

The applicant, J.P. Hughes, is requesting a Zone Change for a parcel located at 415 North Main Street. The current zoning of the property is Residential Office; the applicant has requested that the zoning be changed to Commercial Office. The General Plan designates the property Professional Office/Residential Office.



The General Plan describes the Residential Office and Professional Office Land Uses as follows:

> **Residential Office:** These areas provide for low intensity professional office uses on a scale consistent with residential areas. They typically serve as a transition between more intense

commercial areas and residential land uses. They can also be used in certain areas to allow residential conversions to office use subject to site and architectural review criteria.

Professional Office: These areas provide for general office development. They may serve as a transition between residential and commercial uses, or may be designated as a concentration of similar uses intended as an employment center.

Development Review Committee

The Development Review Committee reviewed this request in their May 24, 2006 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

J.P. Hughes Zone Change

Mr. Anderson explained they had met with Mr. Hughes' brother regarding the Zone Change. If the zoning was Commercial Office the General Plan would not have to be changed.

Mr. Anderson stated any automotive repair usage will not be allowed and the applicant understands that.

Mr. Baker stated he feels the Zone Change for the property should be fine.

Mr. Baker made a **motion** to approve the zone change for J.P. Hughes located at 415 North Main Street, to Commercial Office subject to the following findings:

1. That they find it consistent with the General Plan.

Mr. Nielson **seconded** and the motion **passed** all in favor.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and made a recommendation that the subject property be zoned Commercial Downtown. Draft minutes from that meeting are currently being prepared and will be presented to the Council in advance of your June 20 meeting.

Two principal differences exist between the Commercial Office and Commercial Downtown districts. First, the Commercial Office district requires a 25-foot front setback whereas the Commercial Downtown district has no minimum front setback and a maximum 10-foot front setback. The second difference has to do with parking. The Commercial Downtown district has no off-street parking requirement. The Commercial Office district does require off-street parking.

The Commercial Office district is consistent with the General Plan whereas the Commercial Downtown district requires a General Plan Amendment. In their June 7, 2006 meeting, the Planning Commission directed staff to prepare a General Plan amendment to designate the subject property Downtown in order to accommodate Commercial Downtown zoning. A public hearing will be held on that proposed amendment in the Commission's July 5, 2006 meeting.

Budgetary Impact:

The budgetary impact of the proposed Zone Change is inconsequential. One potential impact would come with the simple difference in property tax if the properties were developed residentially under the existing Residential Office zoning as opposed to being developed in the Commercial Office district which precludes residential uses. In that case, revenue generated via property tax would likely be greater with the Commercial Office zoning. At

the same time, the Residential Office district allows for more retail uses than does the Commercial Office district. As such, should the property develop to house retail uses, it's conceivable that the revenue generated through sales tax would be greater if the property were to remain zoned Residential Office. All in all, given the size of the property and the variety of uses allowed in each district, staff believes there will likely not be a great disparity between Residential Office and Commercial Office in terms of revenue and cost to the City.

Alternatives:

The City maintains considerable discretion with respect to approving or denying Zone Change requests. Given the General Plan Designation, Professional Office/Residential Office, staff believes that either the Residential Office or Commercial Office zoning districts are appropriate at this location.

Continuing the Zone Change request is another option. As is mentioned above, a General Plan Amendment to change the subject property's designation to Downtown has been initiated. It is anticipated that the proposed amendment will be presented to the Planning Commission on July 5 and the City Council on July 18. Continuing this request may therefore increase the Council's options by making the Commercial Downtown zoning a viable alternative.

Recommendation:

Staff recommends that the City Council approve the proposed J.P. Hughes Zone Change Request, changing the zoning at 415 North Main Street to Commercial Office, based on the following finding:

Finding:

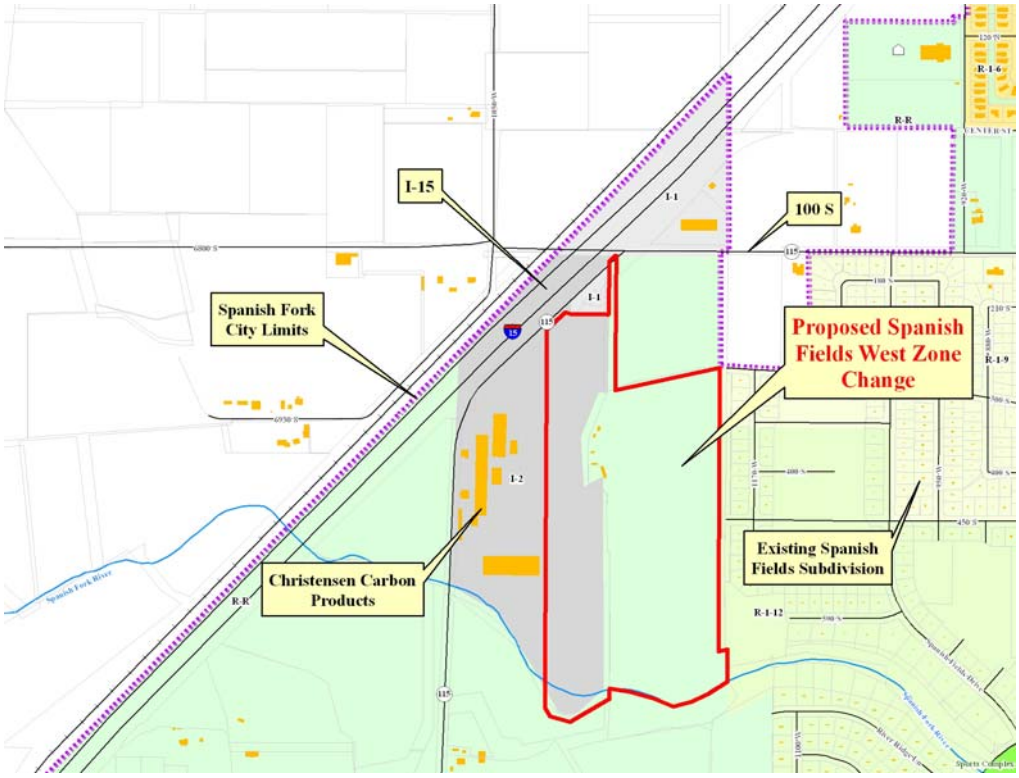
1. That the proposed Zone Change is consistent with the Professional Office General Plan designation.

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**Fieldstone Homes (Spanish Fields West) Zone Change Request**

Background Discussion:

The applicant, Fieldstone Homes, is requesting a Zone Change for a parcel located at 300 South 1400 West. The current zoning of the property is I-2 and Rural Residential; the applicant has requested that the zoning be changed to R-1-12. The General Plan designates the property as Residential 1.5-2.5 units per acre/Residential 2.5 to 3.5 units per acre.



The General Plan designation for this property allows for residential development at densities ranging between 1.5 and 3.5 units per acre. Particularly given the adjacent R-1-12 zoning in the Spanish Fields development, the Development Review Committee felt R-1-12 zoning was the most appropriate for this

property. The requested zoning, R-1-12, allows for a base density of 2.69 units per acre which is consistent with the density range specified in the General Plan.

Development Review Committee

The Development Review Committee reviewed this request in their June 7 meeting and recommended that it be approved. Minutes from that meeting are as follows:

> **Spanish Fields West**
>
> Mr. Anderson said the R-1-9 zone is consistent with the General plan and the other phases of Spanish Fields West.
>
> Mr. Oyler clarified that the trail between phases will not add any bonus density to this section of the development. Discussion was made regarding the type of trails built and where.
>
> Mr. Oyler asked how we know the berm is adequate for flood control. Mr. Heap would like a report from IGES to know the requirements. Mr. Oyler is concerned about the level of the ground and the river seeping into the backyards. Mr. Nielson said they would like written documentation of what the developer will do to prevent flooding.
>
> Mr. Anderson reviewed the bonus density chart and explained the bonus density award calculations. Discussion was made on the point qualifications and what the committee will grant.
>
> Mr. Heap said if the trails are over and above what the subdivision needs, they get the extra bonus density according to the changes.
>
> Mr. Anderson stated given the numbers they will be awarded it will exceed the requested amount of density.
>
> Mr. Oyler asked why the zoning is being changed when the adjacent property to the west is zoned R-1-12, and they can satisfy the density for the R-1-12.
>
> Mr. Thornton said as long as they can meet the density required the zoning wouldn't matter.
>
> Mr. Oyler stated he would rather keep it consistent with the adjacent zoning as long as it meets what they need to do.
>
> Mr. Oyler stated 6-8 months ago they had discussion and agreed to issue permits if they saw substantial pavilion completion he then asked where they were at this point.
>
> Mr. Morrill stated they are at about 90% completion.
>
> Mr. Oyler understood this would be done in the winter months and would be ready for use this spring and summer.
>
> Mr. Thornton discussed the items needed to finish the project, there is some painting to be done it will be finished by the end of the weekend, then finish plumbing by the end of the weekend, and FRP in restrooms, they should be getting the partitions early next week.
>
> Mr. Heap asked if the natural gas had been installed. Mr. Morrill stated they are working on it.
>
> Mr. Oyler asked if the restrooms will be functioning at the end of next week for the holiday use. Mr. Thornton stated the restrooms should be usable by the end of next week.

Mr. Oyler stressed that they want the pavilion completed. Mr. Thornton committed that the restrooms will be completed by next week for Memorial Day. Mr. Thornton said they will have it functioning. His concern is the partitions may take another week or so to be delivered and installed.

Mr. Anderson said the plats should not be recorded until the work is completed.

Mr. Foster stated the electric service distribution line will need to be underground. They will need to work with the Electric Department on getting that installed.

Mr. Thornton clarified they will work with the South Utah Valley Electric Service District to get the section underground. Mr. Foster stated they should meet together with SESD to get it set up.

Mr. Anderson asked for a landscaping plan for the trail system. Mr. Thornton said he would meet with Mr. Anderson to work out the proposal.

Mr. Anderson also asked for a limit of disturbance plan to show where the trees will not be harmed. Mr. Thornton stated he will have some fencing up to avoid the areas that are not to be disturbed.

Mr. Nielson asked regarding the property next to the railroad. Mr. Thornton said they will talk with the railroad or will deed it to Mr. Christianson to deal with the area.

Mr. Oyler asked for fencing along the railroad lots. Mr. Thornton said they had planned to fence that area with the same fencing as in the rest of the development.

Mr. Nielson asked regarding the Westfield ditch and if there have been any communication regarding that area. Mr. Thornton stated he had not met with them yet and will work on getting an agreement for the ditch to be piped. Mr. Nielson said he needs something in writing from the irrigation company allowing the ditch to be piped.

Mr. Anderson made a **motion** to recommend the zone change be approved as an R-1-12 zone subject to the following findings:
1. The property to the east is zoned R-1-12.
2. The zone is consistent with the General Plan and would accommodate the proposed development.

Mr. Oyler **seconded** and the motion **passed** all in favor.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Draft minutes from that meeting are currently being prepared and will be presented to the Council in advance of your June 20 meeting.

Budgetary Impact:

Staff anticipates providing the City Council with a more detailed analysis of the budgetary impact of residential development in the near future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

Alternatives:

The City maintains considerable discretion with respect to approving or denying Zone Change requests. Given the General Plan Designation, Residential 1.5-2.5 units per acre/ Residential 2.5 to 3.5 units per acre, R-1-12

zoning is one of a few zoning designations that would be consistent with the General Plan. Other districts that are consistent with the General Plan are R-1-20 and R-1-15.

Recommendation:

Staff recommends that the City Council approve the proposed Fieldstone Homes Zone Change Request, changing the zoning at 300 South 1400 West to R-1-12, based on the following finding:

Finding:

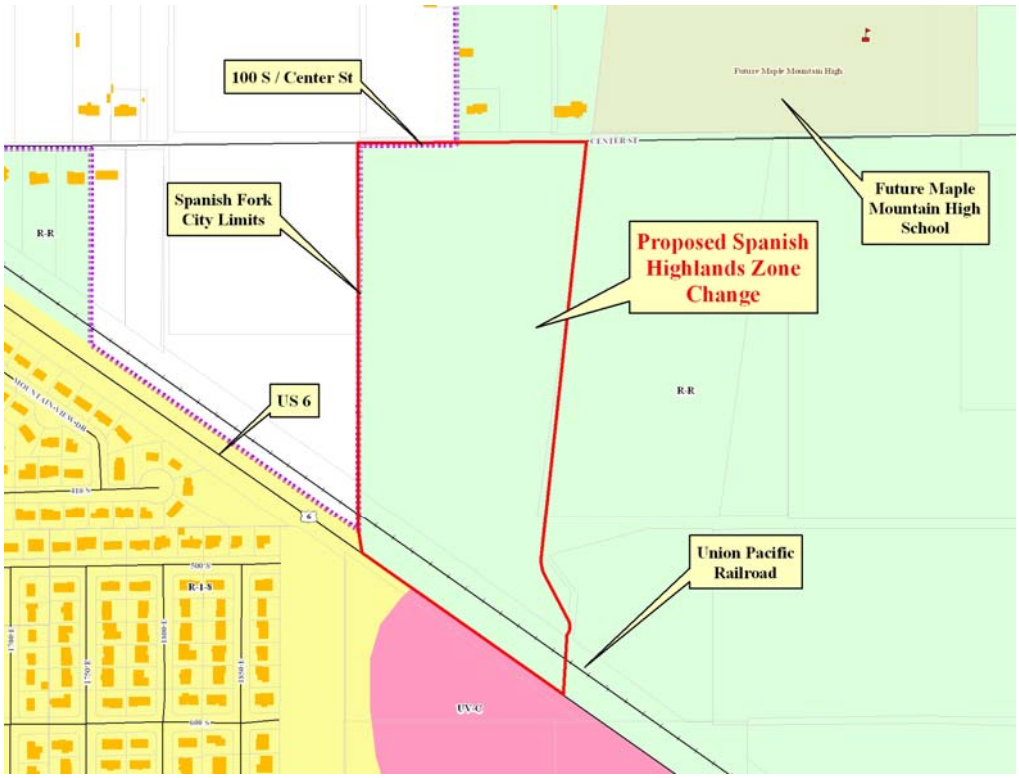
1. The property to the east is zoned R-1-12.
2. The zone is consistent with the General Plan and would accommodate the proposed development.

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**Ivory Homes (Spanish Highlands) Zone Change Request**

Background Discussion:

The applicant, Ivory Homes, is requesting a Zone Change for a parcel located at 2000 East Center Street. The current zoning of the property is Rural Residential; the applicant has requested that the zoning be changed to R-1-12. The General Plan designates the property as Residential 2.5 to 3.5 units per acre.



The General Plan designation for this property allows for residential development at densities ranging between 1.5 and 3.5 units per acre. Given the fact that developments in the area have been zoned R-1-12, the Development Review Committee felt R-1-12 zoning was the most appropriate for this property. The requested zoning, R-1-12 allows for a base density of 2.69 units per acre which is consistent with the density range specified in the General Plan.

Development Review Committee

The Development Review Committee reviewed this request in their June 7, 2006 meeting and recommended that it be approved.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Draft minutes from that meeting are currently being prepared and will be presented to the Council in advance of your June 20 meeting.

Budgetary Impact:

Staff anticipates providing the City Council and City Council with a more detailed analysis of the budgetary impact of residential development in the near future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

Alternatives:

The City maintains considerable discretion with respect to approving or denying Zone Change requests. Given the General Plan Designation, Residential 2.5 to 3.5 units per acre, R-1-12 zoning is the zoning designation that would be most consistent with the General Plan.

Recommendation:

Staff recommends that the City Council approve the proposed Ivory Homes Zone Change Request, changing the zoning at 300 South 1400 West to R-1-12, based on the following finding:

Finding:

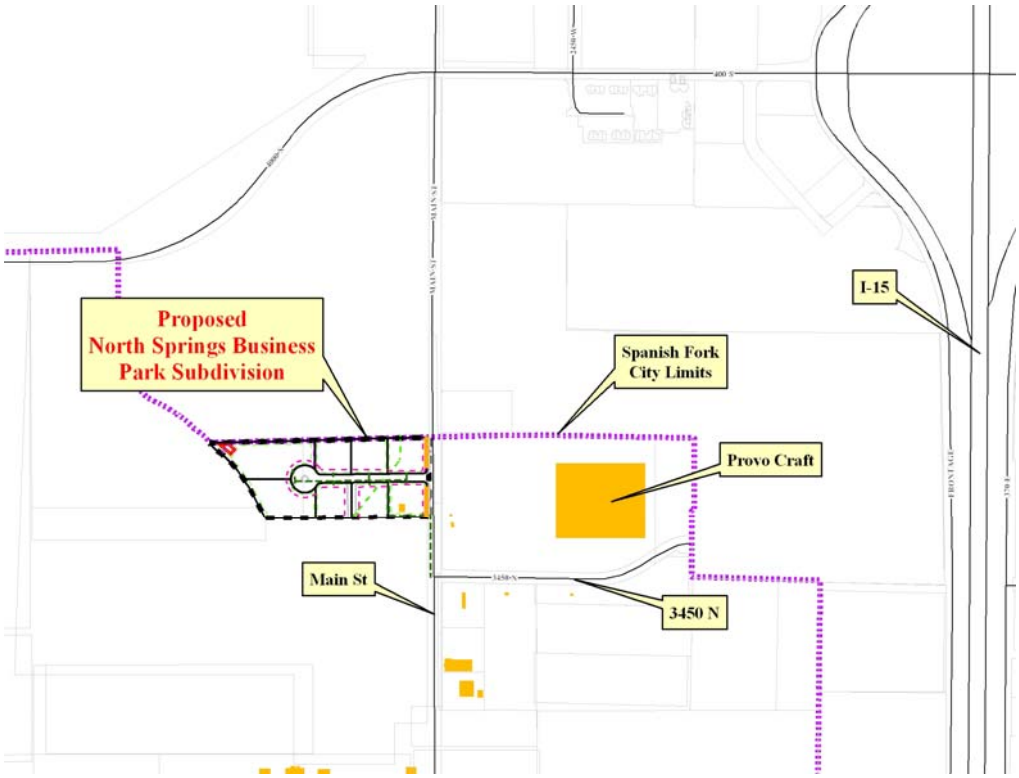
1. That the proposed Zone Change is consistent with the General Plan designation.

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**North Springs Business Park Preliminary Plat Approval Request**

Background Discussion:

The applicant, Lynn Rindlisbacher, is requesting Preliminary Plat approval for a 9.3-acre parcel located at 3450 North Main Street. The zoning of the property is I-1. The General Plan designates the property as Light Industrial.



Details

The proposed Preliminary Plat would facilitate the development of eight industrial lots which range in size from just under one acre to almost two acres.

Development Review Committee

The Development Review Committee reviewed this request in their May 17, 2006 meeting and recommended that it be approved. Minutes from the May 31 meeting are as follows:

North Springs Business Park

Mr. Anderson explained the eight lot industrial subdivision to be zoned I-1. Concern regarding the length of the cul-de-sac was brought up. The code states they can be no longer than 400 ft. and this proposal shows 600 feet.

Mr. Heap stated they cannot allow longer then 400 feet for a dead end street, the water drainage was also discussed.

Mr. Nielson stated they do have a sewer lift station and the water drainage issues have been discussed.

Cul-de-sac requirements were discussed.

Mr. Rosenbaum stated that public safety does not like cul-de-sacs because they cause problems with getting the emergency equipment in and out they would rather have the road continue through.

Hydrant placement, firelines, and the length of the driveways were discussed.

Potential wetlands on the property were discussed, and the irrigation to the next parcel.

Mr. Heap said with this development there will need to be something in writing stating what the owner plans to do with the ditch.

Mr. Nielson stated the City may notify the applicant it is within wetlands areas, but that the city is not obligated to enforce the wetlands, they just must inform the owner it is a wetland area.

Mr. Anderson said he feels the sidewalks are important to install.

Mr. Nielson clarified the sewer within the subdivision and the storm drainage will be private. Also the private road will be dedicated as a public utility easement.

Mr. Baum stated there will have to be curb and gutter built to help with the storm drainage issues.

Mr. Heap said the CC&R's will need to be submitted.

Mr. Nielson made a **motion** to recommend approval of the North Springs Business Park Preliminary Plat subject to the following conditions:

1. That the private road be stubbed to the south property line.
2. That the access road be in the middle of the project between lots 2 and 3.
3. That the sewer onsite and lift system are privately owned and maintained.
4. That the storm drainage is privately owned and maintained.
5. That the private roads be dedicated as public utility easements, plus the standard 10 ft. easement.
6. That the private roads be dedicated as emergency access to the south.
7. That the applicant contact the Army Corps of Engineers to work out any wetlands issues.

Mr. Foster **seconded** and the motion **passed**. Mr. Anderson voted Nay.

Mr. Oyler explained the Development Review Committee is an advisory board to the City Council and the City Council is an advisory board to the City Council so at this point nothing is approved only recommended.

Mr. Anderson explained why he voted Nay. He feels the streets should be accessible by the public and for emergency access and that sidewalks need to be included.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Draft minutes from that meeting are currently being prepared and will be presented to the Council in advance of your June 20 meeting.

Budgetary Impact:

The development of this property with commercial and industrial uses will in all likelihood result in an increase in revenue for the City. Property taxes will increase with the development of the lots and sales tax may be generated by some or all of the businesses that might eventually be located in this development. Generally speaking, commercial and industrial developments generate more revenue than expenses for municipalities.

Alternatives:

The proposed Preliminary Plat is consistent with the City's standards for developments in the I-1 zone. The applicant has proposed private streets which are neither expressly precluded or allowed in the City's ordinances or construction standards. Given the developments conformity with the City's standards the Development Review Committee recommended that it be approved in its current form.

Recommendation:

Staff recommends that the City Council approve the proposed Preliminary Plat for the North Springs Business Park subject to the following conditions:

Conditions:

1. That the private road be stubbed to the south property line.
2. That the access road be in the middle of the project between lots 2 and 3.
3. That the sewer onsite and lift system are privately owned and maintained.
4. That the storm drainage is privately owned and maintained.
5. That the private roads be dedicated as public utility easements, plus the standard 10 ft. easement.
6. That the private roads be dedicated as emergency access to the south.
7. That the applicant contact the Army Corps of Engineers to work out any wetlands issues.

TABLE OF ARTICLES

1.1 INITIAL INFORMATION

1.2 RESPONSIBILITIES OF THE PARTIES

1.3 TERMS AND CONDITIONS

1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

1.5 COMPENSATION

AGREEMENT made as of the Fourteenth day of June in the year Two Thousand Six

BETWEEN the Architect's client identified as the Owner:

City of Spanish Fork, Utah
40 South Main Street
Spanish Fork, Utah 84660

and the Architect:

Edwards & Daniels Architects Inc.
111 E. Broadway, Suite 200
Salt Lake City, Utah 84111

For the following Project:

Spanish Fork Police Station and Court Building

Spanish Fork City is a growing community in South Utah Valley which is in need of a new Police Station and Court Facility. It is anticipated that the Police Facility will be built to include approximately 28,000 s.f. and house 60-65 police officers plus support staff and facilities, including an evidence room and file storage facilities. Spanish Fork City is a progressive community and all new facilities will facilitate new technology including broadband and computer networking.

The Court Facility will house the Fourth District Court of the State of Utah. The Court Facility will be designed to house two court rooms with all support facilities. It is anticipated that the Court Facility will include about 30,000 square feet with the present project having the ability to expand.

The Owner and Architect agree as follows:

ARTICLE 1.1 INITIAL INFORMATION

§ 1.1.1 This Agreement is based on the following information and assumptions.

§ 1.1.2 PROJECT PARAMETERS

§ 1.1.2.1 The objective or use is:

Design for a new Police Station and District Court Facility.

§ 1.1.2.2 The physical parameters are:

A site has not been determined at this time.

§ 1.1.2.3 The Owner's Program is:

The Architect shall meet with representatives of the City and, specifically, with representatives of the police Department to develop a list of space needs for a new Police Station. Similarly, the Architect will meet with representatives of the City and representatives of the State Administrative Office of the Courts to develop a list of space needs for a new District Court Facility.

§ 1.1.2.4 The legal parameters are:

Not available at this time.

§ 1.1.2.5 The financial parameters are as follows.

.1 Amount of the Owner's overall budget for the Project, including the Architect's compensation, is: $14,000,000.00

.2 Amount of the Owner's budget for the Cost of the Work, excluding the Architect's compensation, is: $13,310,000.00

§ 1.1.2.6 The time parameters are:

To Be Determined

§ 1.1.2.7 The proposed procurement or delivery method for the Project is:

Competitive Bid

§ 1.1.2.8 Other parameters are:

To Be Determined

§ 1.1.3 PROJECT TEAM

§ 1.1.3.1 The Owner's Designated Representative is:

(List name, address and other information.)

Richard J. Heap, PE
Public Work Director
City of Spanish Fork
40 South Main Street
Spanish Fork, Utah 84660

§ 1.1.3.2 The persons or entities, in addition to the Owner's Designated Representative, who are required to review the Architect's submittals to the Owner are:

Paul Platt with the State Administrative Office of the Court

§ 1.1.3.3 The Owner's other consultants and contractors are:

None

§ 1.1.3.4 The Architect's Designated Representative is:

John B. Shuttleworth, Principal
Edwards & Daniels Architects, Inc.
111 E. Broadway, Suite 200
Salt Lake City, Utah 84111

§ 1.1.3.5 The consultants retained at the Architect's expense are:

Structural Engineering: ABS Engineering, 310 S. Main Street, #300, SLC, UT 84101
Mechanical Engineering: Spectrum Engineers, 175 S. Main, SLC, UT 84101
Electrical Engineering: To be determined.
Civil Engineering: Dominion Engineering, 5684 South Green Street, Murray, UT 84123
Landscape Architecture: Dominion Engineering, 5684 South Green Street, Murray, UT 84123
Cost Estimating: Construction Control Corp., 460 South 400 East, SLC, UT 84111

§ 1.1.4 Other important initial information is:

None

§ 1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201 current as of the date of this Agreement, or as follows:

§ 1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the Owner and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and, in that event, the Owner and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Section 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

§ 1.2.1 The Owner and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

§ 1.2.2 OWNER

§ 1.2.2.1 Unless otherwise provided under this Agreement, the Owner shall provide full information in a timely manner regarding requirements for and limitations on the Project. The Owner shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 1.2.2.2 The Owner shall periodically update the budget for the Project, including that portion allocated for the Cost of the Work. The Owner shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of the Architect to a corresponding change in the Project scope and quality.

§ 1.2.2.3 The Owner's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or the Owner's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 1.2.2.4 The Owner shall furnish the services of consultants other than those designated in Section 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 1.2.2.5 Unless otherwise provided in this Agreement, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 1.2.2.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 1.2.2.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 1.2.3 ARCHITECT

§ 1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4.

§ 1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Section 1.1.2.6 and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

§ 1.2.3.3 The Architect's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

§ 1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner.

§ 1.2.3.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.2.3.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

§ 1.2.3.7 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

§ 1.3.1 COST OF THE WORK

§ 1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

§ 1.3.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner.

§ 1.3.2 INSTRUMENTS OF SERVICE

§ 1.3.2.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

§ 1.3.2.2 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the Owner shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the Owner's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 1.3.2.3 Except for the licenses granted in Section 1.3.2.2, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 1.3.2.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the Owner obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 1.3.2.4 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

§ 1.3.3 CHANGE IN SERVICES

§ 1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are affected as described in Section 1.3.3.2. In the absence of mutual agreement in writing, the Architect shall notify the Owner prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide those services. Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Section 1.5.2, and to any Reimbursable Expenses described in Section 1.3.9.2 and Section 1.5.5.

§ 1.3.3.2 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation:

.1 change in the instructions or approvals given by the Owner that necessitate revisions in Instruments of Service;
.2 enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;
.3 decisions of the Owner not rendered in a timely manner;
.4 significant change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget, or procurement method;
.5 failure of performance on the part of the Owner or the Owner's consultants or contractors;
.6 preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto;
.7 change in the information contained in Article 1.1.

§ 1.3.4 MEDIATION

§ 1.3.4.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

§ 1.3.4.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 1.3.4.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and the Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Section 1.3.8.

§ 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the principal place of business of the Owner, unless otherwise provided in Section 1.4.2.

§ 1.3.7.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

§ 1.3.7.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

§ 1.3.7.4 To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of

the date of this Agreement. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 1.3.7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

§ 1.3.7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 1.3.7.8 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 1.3.7.9 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 1.3.8 TERMINATION OR SUSPENSION

§ 1.3.8.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the Owner. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 1.3.8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 1.3.8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 1.3.8.4 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 1.3.8.5 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 1.3.8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 1.3.8.7.

§ 1.3.8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 1.3.9 PAYMENTS TO THE ARCHITECT

§ 1.3.9.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

§ 1.3.9.2 Reimbursable Expenses are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

.1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
.2 fees paid for securing approval of authorities having jurisdiction over the Project;
.3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
.4 expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
.5 renderings, models and mock-ups requested by the Owner;
.6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants;
.7 reimbursable expenses as designated in Section 1.5.5;
.8 other similar direct Project-related expenditures.

§ 1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

§ 1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

§ 1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect. This Agreement comprises the documents listed below.

§ 1.4.1.1 Standard Form of Agreement Between Owner and Architect, AIA Document B141-1997.

§ 1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, or as follows:

(List other documents, if any, delineating Architect's scope of services.)

§ 1.4.1.3 Other documents as follows:
(List other documents, if any, forming part of the Agreement.)

§ 1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

ARTICLE 1.5 COMPENSATION

§ 1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:

5.75% x the Cost of Construction. The Cost of Construction shall be identified based on the estimated Cost of Construction agreed to by both parties at the conclusion of the Phase One Pre-Design Services at which time the fee shall become a fixed amount not to exceed $690.000.

§ 1.5.2 If the services of the Architect are changed as described in Section 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Section 1.5.2, in an equitable manner.
(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

Hourly. See Exhibit A attached.

§ 1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of One Point One (1.1) times the amounts billed to the Architect for such services.

§ 1.5.4 For Reimbursable Expenses as described in Section 1.3.9.2, and any other items included in Section 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of One Point One (1.1) times the expenses incurred by the Architect, and the Architect's employees and consultants.

§ 1.5.5 Other Reimbursable Expenses, if any, are as follows:

§ 1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices.

§ 1.5.7 An initial payment of Zero Dollars and Zero Cents ($ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

§ 1.5.8 Payments are due and payable Thirty (30) days from the date of the Architect's invoice. Amounts unpaid Forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of interest agreed upon.)

per annum

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 1.5.9 If the services covered by this Agreement have not been completed within Thirty-six (36) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Section 1.5.2.

This Agreement entered into as of the day and year first written above.

OWNER	ARCHITECT
(Signature)	*(Signature)*
	John B. Shuttleworth, Principal
(Printed name and title)	*(Printed name and title)*

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ARTICLE 2.1 PROJECT ADMINISTRATION SERVICES

§ 2.1.1 The Architect shall manage the Architect's services and administer the Project. The Architect shall consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 2.1.2 When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the Owner, design services furnished by the Architect, completion of documentation provided by the Architect, commencement of construction and Substantial Completion of the Work.

§ 2.1.3 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

§ 2.1.4 Upon request of the Owner, the Architect shall make a presentation to explain the design of the Project to representatives of the Owner.

§ 2.1.5 The Architect shall submit design documents to the Owner at intervals appropriate to the design process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on approvals received from the Owner in the further development of the design.

§ 2.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

§ 2.1.7.1 When the Project requirements have been sufficiently identified, the Architect shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 2.1.7.2 Evaluations of the Owner's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 2.1.7.3 In preparing estimates of the Cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the Owner and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.

§ 2.1.7.4 If bidding or negotiation has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

§ 2.1.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

.1 give written approval of an increase in the budget for the Cost of the Work;
.2 authorize rebidding or renegotiating of the Project within a reasonable time;
.3 terminate in accordance with Section 1.3.8.5; or
.4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

§ 2.1.7.6 If the Owner chooses to proceed under Section 2.1.7.5.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under this Section 2.1.7. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 2.2 SUPPORTING SERVICES

§ 2.2.1 Unless specifically designated in Section 2.8.3, the services in this Article 2.2 shall be provided by the Owner or the Owner's consultants and contractors.

§ 2.2.1.1 The Owner shall furnish a program setting forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

§ 2.2.1.2 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 2.2.1.3 The Owner shall furnish services of geotechnical engineers which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous

materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

§ 2.3.1 The Architect shall provide a preliminary evaluation of the information furnished by the Owner under this Agreement, including the Owner's program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the Owner of any other information or consultant services that may be reasonably needed for the Project.

§ 2.3.2 The Architect shall provide a preliminary evaluation of the Owner's site for the Project based on the information provided by the Owner of site conditions, and the Owner's program, schedule and budget for the Cost of the Work.

§ 2.3.3 The Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

ARTICLE 2.4 DESIGN SERVICES

§ 2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering services.

§ 2.4.2 SCHEMATIC DESIGN DOCUMENTS

§ 2.4.2.1 The Architect shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the Architect's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.4.3 DESIGN DEVELOPMENT DOCUMENTS

§ 2.4.3.1 The Architect shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

§ 2.4.4 CONSTRUCTION DOCUMENTS

§ 2.4.4.1 The Architect shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

§ 2.4.4.2 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the Owner and the Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

§ 2.5.1 The Architect shall assist the Owner in obtaining either competitive bids or negotiated proposals and shall assist the Owner in awarding and preparing contracts for construction.

§ 2.5.2 The Architect shall assist the Owner in establishing a list of prospective bidders or contractors.

§ 2.5.3 The Architect shall assist the Owner in bid validation or proposal evaluation and determination of the successful bid or proposal, if any. If requested by the Owner, the Architect shall notify all prospective bidders or contractors of the bid or proposal results.

§ 2.5.4 COMPETITIVE BIDDING

§ 2.5.4.1 Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.4.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.4.3 If requested by the Owner, the Architect shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

§ 2.5.4.4 The Architect shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.4.5 The Architect shall participate in or, at the Owner's direction, shall organize and conduct a pre-bid conference for prospective bidders.

§ 2.5.4.6 The Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

§ 2.5.4.7 The Architect shall participate in or, at the Owner's direction, shall organize and conduct the opening of the bids. The Architect shall subsequently document and distribute the bidding results, as directed by the Owner.

§ 2.5.5 NEGOTIATED PROPOSALS

§ 2.5.5.1 Proposal Documents shall consist of proposal requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.5.2 If requested by the Owner, the Architect shall arrange for procuring the reproduction of Proposal Documents for distribution to prospective contractors. The Owner shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.5.3 If requested by the Owner, the Architect shall organize and participate in selection interviews with prospective contractors.

§ 2.5.5.4 The Architect shall consider requests for substitutions, if permitted by the Proposal Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 2.5.5.5 If requested by the Owner, the Architect shall assist the Owner during negotiations with prospective contractors. The Architect shall subsequently prepare a summary report of the negotiation results, as directed by the Owner.

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

§ 2.6.1 GENERAL ADMINISTRATION

§ 2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

§ 2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services in accordance with Section 2.8.2 when Contract Administration Services extend 60 days after the date of Substantial Completion of the Work.

§ 2.6.1.3 The Architect shall be a representative of and shall advise and consult with the Owner during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment.

§ 2.6.1.4 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

§ 2.6.1.5 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the Architect and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

§ 2.6.1.6 If deemed appropriate by the Architect, the Architect shall on the Owner's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.

§ 2.6.1.7 The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.1.8 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

§ 2.6.1.9 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.2 EVALUATIONS OF THE WORK

§ 2.6.2.1 The Architect, as a representative of the Owner, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the Owner and the Architect in Article 2.8, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the

Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.2.2 The Architect shall report to the Owner known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

§ 2.6.2.4 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

§ 2.6.2.5 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

§ 2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 2.6.3.3 The Architect shall maintain a record of the Contractor's Applications for Payment.

§ 2.6.4 SUBMITTALS

§ 2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities,

or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.4.2 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 2.6.5 CHANGES IN THE WORK

§ 2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 2.8.2.

§ 2.6.5.2 The Architect shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

§ 2.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

§ 2.6.5.4 The Architect shall maintain records relative to changes in the Work.

§ 2.6.6 PROJECT COMPLETION

§ 2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 2.6.6.2 The Architect's inspection shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

§ 2.6.6.4 The Architect shall receive from the Contractor and forward to the Owner: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens.

ARTICLE 2.7 FACILITY OPERATION SERVICES

§ 2.7.1 The Architect shall meet with the Owner or the Owner's Designated Representative promptly after Substantial Completion to review the need for facility operation services.

§ 2.7.2 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the Owner and the Owner's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the Owner.

ARTICLE 2.8 SCHEDULE OF SERVICES

§ 2.8.1 Design and Contract Administration Services beyond the following limits shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

.1 up to Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.

.2 up to One per Week (1) visits to the site by the Architect over the duration of the Project during construction.

.3 up to Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.

.4 up to Two (2) inspections for any portion of the Work to determine final completion.

§ 2.8.2 The following Design and Contract Administration Services shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

.1 review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;

.2 responses to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service;

.4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;

.5 evaluation of an extensive number of claims submitted by the Owner's consultants, the Contractor or others in connection with the Work;

.6 evaluation of substitutions proposed by the Owner's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;

.7 preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; or

.8 Contract Administration Services provided 60 days after the date of Substantial Completion of the Work.

§ 2.8.3 The Architect shall furnish or provide the following services only if specifically designated:

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.1 Programming	Architect	
.2 Land Survey Services	Owner	
.3 Geotechnical Services	Owner	
.4 Space Schematics/Flow Diagrams	Architect	
.5 Existing Facilities Surveys	Not Provided	
.6 Economic Feasibility Studies	Not Provided	
.7 Site Analysis and Selection	Owner	
.8 Environmental Studies and Reports	Owner	
.9 Owner-Supplied Data Coordination	Architect	
.10 Schedule Development and Monitoring	Architect/Owner	
.11 Civil Design	Architect	
.12 Landscape Design	Architect	
.13 Interior Design	Architect	
.14 Special Bidding or Negotiation	Not Provided	
.15 Value Analysis	Not Provided	
.16 Detailed Cost Estimating	Architect	
.17 On-Site Project Representation	Architect	
.18 Construction Management	Not Provided	
.19 Start-up Assistance	Not Provided	
.20 Record Drawings	Architect	
.21 Post-Contract Evaluation	Not Provided	
.22 Tenant-Related Services	Not Provided	
.23		
.24		
.25		

Description of Services.
(Insert descriptions of the services designated.)

ARTICLE 2.9 MODIFICATIONS
§ 2.9.1 Modifications to this Standard Form of Architect's Services: Design and Contract Administration, if any, are as follows:

By its execution, this Standard Form of Architect's Services: Design and Contract Administration and modifications hereto are incorporated into the Standard Form of Agreement Between the Owner and Architect, AIA Document B141-1997, that was entered into by the parties as of the date: June 14, 2006

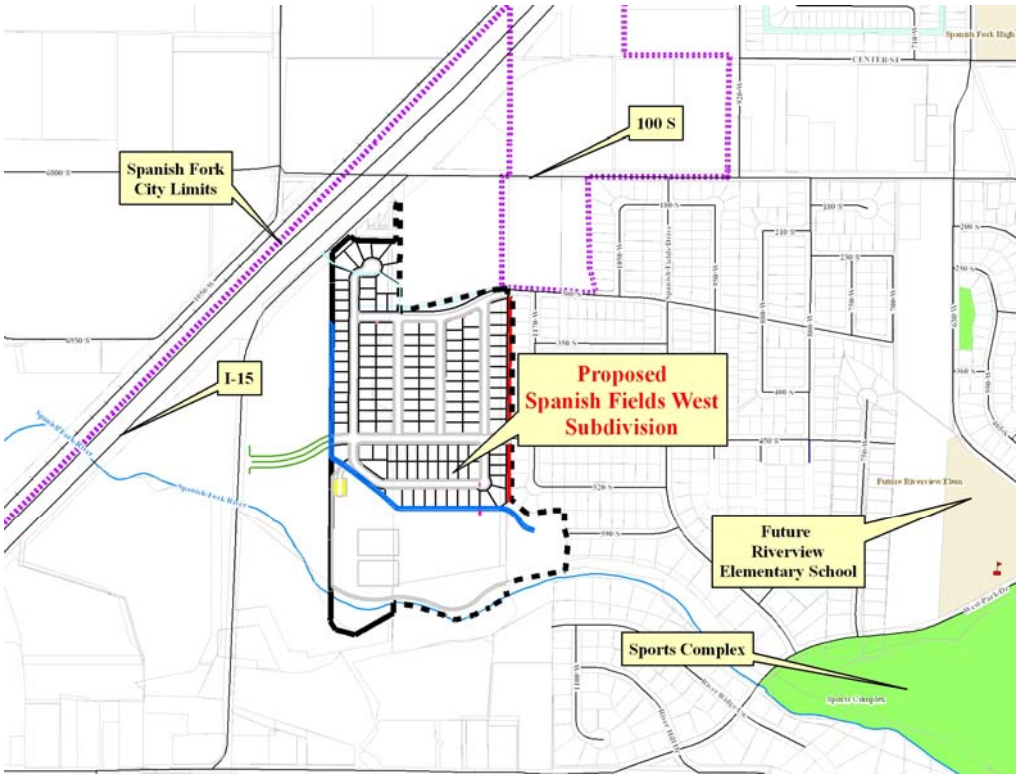
OWNER	ARCHITECT
(Signature)	*(Signature)*
	John B. Shuttleworth, Principal
(Printed name and title)	*(Printed name and title)*

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 7, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**Spanish Fields West Preliminary Plat Approval Request**

Background Discussion:

The applicant, Fieldstone Homes, is requesting Preliminary Plat approval for a 48.43-acre parcel located at 300 South 1400 West. The proposed zoning of the property is R-1-12. The General Plan designates the property as Residential 1.5-2.5 units per acre/Residential 2.5 to 3.5 units per acre.



Details

The proposed Preliminary Plat is a Master Planned Development that contains 139 lots for a density of 2.69 units per acre. Lot sizes range from some 5,500 square feet to over 12,000 square feet. The vast majority of the lots in the proposed development are approximately 6,000 square feet in size. The proposed plat contains 32% open space.

Bonus Density

The applicant has not requested a particularly large density bonus. The base density of 2.69 units per acre allows for the development of 130 lots and the applicant has requested 139 lots. The following calculations relative to bonus density have been prepared and reviewed by the Development Review Committee:

Project Name:	**Spanish Fields West, Master Planned Development**			
Total Acres	**48.4**			
R-1-12 Zoning Base Density	**2.69**	**U/A**	**130.01**	**Units**

Density Bonus	**Percent Allowed**	**Actual Given**	**Units**	**Running Total**	**Items provided**
Active recreation	***10%***	**5%**	6.50	136.5	installation of pedestrian / equestrian trail along river
Common buildings	***10%***	**0%**	0.00	136.5	
Fencing	***5%***	**2%**	2.73	139.2	fencing along west boundary
Front setback variation	***3%***	**3%**	4.18	143.4	setback variation in 5' increments
Garage - three car	***3%***	**0%**	0.00	143.4	
Garage - setback	***3%***	**0%**	0.00	143.4	
Open space	***5%***	**5%**	7.17	150.6	park dedication of 4.31 Acres
Landscaping	***7%***	**0%**	0.00	150.6	
Lot size variation	***3%***	**0%**	0.00	150.6	
Materials on front façade	***5%***	**0%**	0.00	150.6	
Mixture of housing types	***5%***	**0%**	0.00	150.6	
Off-setting lots	***3%***	**0%**	0.00	150.6	
Roof pitch start 6/12	***3%***	**1%**	1.51	152.1	homes to have a minimum of 6:12 roof pitch
Home sizes	***7%***	**4%**	6.08	158.2	1920 s.f. for rambler and 1440 s.f. for main floor of 2 story
		Total Units		**158**	

Total Acres	**48.4**		
Development in ROW (Acres)	**12.584**	**26%**	
Total Developable Acres	**35.816**		
Zoning (R-1-12) (square feet)	**12,000**	(sq. ft. based on proposed zone)	
Total Lots/Units - straight zoning		**130.01**	**Units**
U/A - straight zoning		**2.69**	

Development Review Committee

The Development Review Committee reviewed this request in their June 7 meeting and recommended that it be approved. Minutes from that meeting are as follows:

Spanish Fields West

Mr. Anderson said a neighborhood meeting had been held to discuss this proposed project.

Mr. Thornton stated the biggest concern was traffic. They explained the reasons for the roads and traffic, they explained the building plans they expect approximately 15 homes a month. They have three adjacent property owners who attended the neighborhood meeting.

Mr. Christensen had concern over the industrial use and proposed residential use of the neighboring properties. He would like as tall of a wall on the property line.

Mr. Thornton explained they plan to build a berm and install a 6-foot fence. They would like to see something more solid that cannot be climbed or broken.

Mr. Thornton stated they might even build something on 450 South that can be taken out at a later date.

Mr. Neilson asked that a gate be installed for fire safety reasons to access the industrial property.

Mr. Thornton said Mr. Christensen would like something tall and cannot burn or be damaged and possibly sound proof.

Mr. Jorgensen explained that there had been issues with no fire protection and palettes being stacked on the property.

Mr. Oyler explained that the code does not require the developer to put the fence up. It will be up to them to work with them.

Mr. Thornton stated they have planned and budgeted for the type of fencing he described and not something that Mr. Christensen is requesting.

Mr. Baker explained that this is something the City cannot force them to do but it shows that they are aware of the situation.

Mr. Thornton stated that Mr. Christensen said he would have no problem with them having the berm partially on his property.

Mr. Oyler stated that they will have to work with Mr. Christensen on the fencing design.

Mr. Thornton stated that they can use the railroad crossing for the access to install the infrastructure. They would then move the access for construction of the buildings.

Mr. Oyler stated that they would need to be sure to sign the crossing with stop signs on both sides.

Mr. Thornton stated they can make that work for the installation of the infrastructure.

Mr. Oyler stated that the minutes need to be made available for the Planning Commission meeting tonight.

Mr. Thornton stated that they asked some questions regarding where the utilities will be hooked onto and what the plans were for the park.

Mr. Oyler stated that the Recreation Committee met Monday night and discussed the area he advised that they speak with the Recreation Department.

Mr. Thornton stated at the meeting that they explained the trails system and there was positive feedback.

Mr. Oyler explained that the Recreation Committee can recommend the use of the property but in the future the Council could change what they decide to do with the area. He suggests the comments of the Recreation Committee be read to the Planning Commission tonight.

Mr. Thornton explained a woman asked the difference in the R-1-12 zoning and asked if there would be multi-family housing in the area. Of course, they do not plan to have any multi-family. Church and school sites were also discussed for the area.

Mr. Oyler explained that many residents do not understand how the Master Planned Development option works. This subject came up last night. Residents want to know what can go on this property.

Mr. Baker explained that with a Master Plan Development they can have multi-family housing but they cannot exceed the density allowed.

Mr. Oyler reflected on last night's discussion where the people wanted to know what they plan to do on the property.

Mr. Baker made a **motion** to approve Spanish Fields West Preliminary Plat located at 300 South 1400 West subject to the following condition(s):

1. That it meet the conditions previously imposed.
2. That the infrastructure construction access will go across the railroad access. This is subject to resolving any potential access problems with the existing railroad crossing.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Draft minutes from that meeting are currently being prepared and will be presented to the Council in advance of your June 20 meeting.

Budgetary Impact:

Staff anticipates providing the City Council with a more detailed analysis of the financial impact of residential development in the near future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

Alternatives:

As the proposed Preliminary Plat is consistent with the City's standards for Master Planned Developments in the R-1-12 zone, there are not many options that the City may pursue to require modifications. Given the fact that the applicant has requested Master Development Plan approval, the manner in which points are allocated for bonus density may be regulated. In some cases, this will impact the number of units in a development and therefore the development's design. In the case of Spanish Fields West, the applicant has requested little bonus density which limits the City's ability to influence the design or other aspects of the project.

Recommendation:

Staff recommends that the City Council approve the proposed Preliminary Plat for Spanish Fields West based on the following findings and subject to the following conditions:

Findings:

1. That the proposed Preliminary Plat meets the City's standards for Master Planned Developments in the R-1-12 zone.
2. That the proposed features warrant the requested bonus density.

Conditions:

1. That the trail along the west boundary of the open space and the river be built.
2. That the area on the south be dedicated to the City.

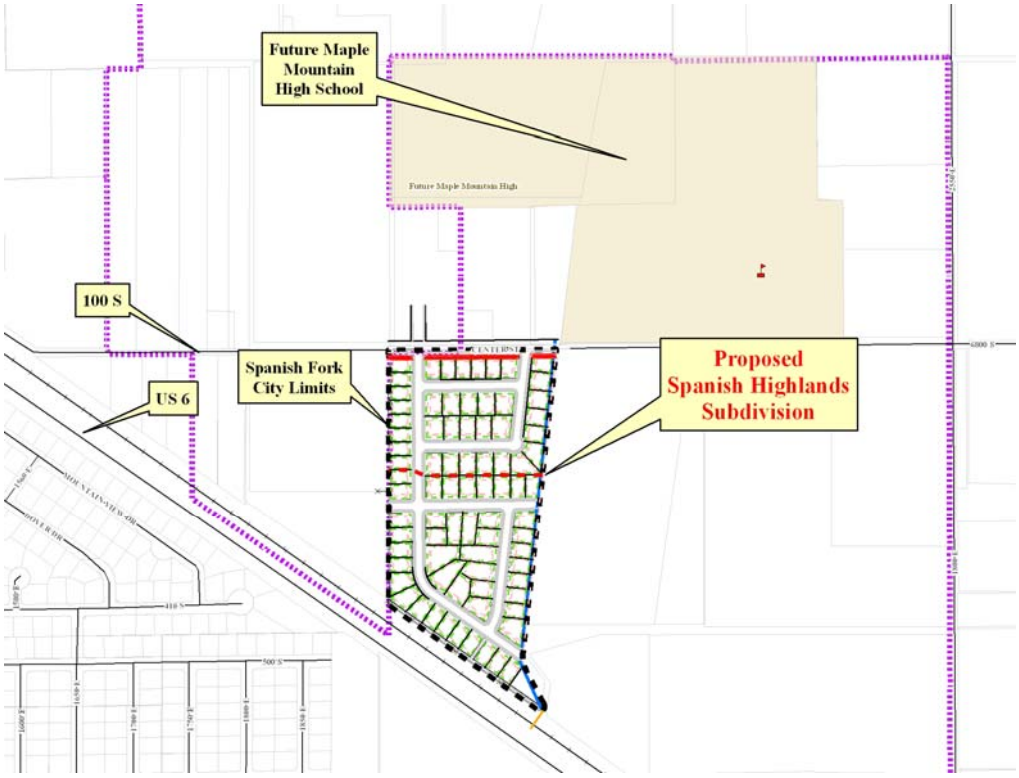
3. Written approval from Westfield irrigation be submitted allowing the piping of the ditch.
4. That the east boundary trail be constructed as approved as in the original Preliminary Plat for Spanish Fields.
5. That they work with SESD for the construction and relocation of the powerlines.
6. That they do the study on the river for the armory of the river and flood control.

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	**Dave Anderson, Planning Director**
Reviewed By:	**Development Review Committee and Planning Commission**
Subject:	**Spanish Highlands Preliminary Plat Approval Request**

Background Discussion:

The applicant, Ivory Homes, is requesting Preliminary Plat approval for a 23.25-acre parcel located at 2000 East Center Street. The proposed zoning of the property is R-1-12. The General Plan designates the property as Residential 2.5 to 3.5 units per acre.



Details

The proposed Preliminary Plat is a Master Planned Development that contains 80 building lots for a density of 3.44 units per acre. Lot sizes range from some 7,200 square feet to over 16,000 square feet. The proposed plat contains some land that would be dedicated as open space for a trail adjacent to the railroad.

Bonus Density

The applicant has requested density bonus of 19 lots. The base density in the R-1-12 zone of 2.69 units per acre allows for the development of 62 lots. The Development Review Committee reviewed the applicant's proposal on bonus density and, after making revisions, concluded that the plat be may be approved based on the bonus density calculation provided below:

Project Name:	**Spanish Highlands, Master Planned Development**			
Total Acres	**23.25**			
Low End Density	**2.5**	**U/A**	**62.45**	**Units**
High End Density	**3.5**	**U/A**	**0.0**	**Units**

Density Bonus	Percent Allowed	Actual Given	Units	Running Total	Items Provided
Active recreation	***10%***	**5%**	3.12	65.6	installation of pedestrian trail along Railroad
Common buildings	***10%***	**0%**	0.00	65.6	
Fencing	***5%***	**0%**	0.00	65.6	
Front setback variation	***3%***	**2%**	1.31	66.9	setback variation in 5' increments
Garage - three car	***3%***	**0%**	0.00	66.9	
Garage - setback	***3%***	**0%**	0.00	66.9	
Open space	***5%***	**5%**	3.34	70.2	$60,000 payment in lieu
Landscaping	***7%***	**1%**	0.70	70.9	Allowance for front yard landscaping
Lot size variation	***3%***	**0%**	0.00	70.9	
Materials on front façade	***5%***	**3%**	2.13	73.1	brick and stone as major material on front elevation
Mixture of housing types	***5%***	**0%**	0.00	73.1	
Off-setting lots	***3%***	**2%**	1.46	74.5	majority of lots are offsetting
Roof pitch start 6/12	***3%***	**1%**	0.75	75.3	minimum roof pitch of 6/12 throughout the development
Home sizes	***7%***	**0%**	0.00	75.3	minimum of 1,800 Rambler, 1,320 Main 2 story
Miscellaneous	***7%***	**7%**	5.27	80.5	100 South masonry wall, street trees throughout the development, upgraded side and rear materials
		Total Units		**81**	

Without MPD				
Total Acres	**23.25**			
Development in ROW (Acres)	**6.045**		**26%**	
Total Developable Acres	**17.205**			
Zoning (R-1) (square feet)	**12,000**	(sq. ft. based on proposed zone)		
Total Lots/Units - straight zoning		**62.45**	**Units**	
U/A - straight zoning		**2.69**		

Development Review Committee

The Development Review Committee reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Minutes from that meeting are as follows:

Spanish Highlands

Mr. Anderson stated he had not received the minutes of the neighborhood meeting.

Mr. Mackay explained the concerns from the meeting were where the utilities and the collector streets. The biggest concern was the collector street on 100 South. Mr. Pierce and his wife were concerned that R-1-12 can go to a Master Planned Development. They also do not want this to be a collector street. He does not like the look of the wall.

Mr. Thompson explained there will be 14-foot planter, 10-foot trail and then the wall, he feels it will not be bad to look at and that it will address Mr. Pierce's concerns.

Mr. Baker made a **motion** to approve Spanish Highlands Preliminary Plat located at 2000 East Center Street subject to the following conditions:

1. That it be zoned R-1-12.
2. That the electrical be brought to the project from the west along 100 south.
3. That it meet the construction and development standards.
4. That the major collector be constructed according to City Standards.
5. That the trail be installed and allow for the bonus density as shown previously in the matrix.

Mr. Anderson **seconded** and the motion **passed** all in favor.

Planning Commission

The Planning Commission reviewed this request in their June 7, 2006 meeting and recommended that it be approved. Draft minutes from that meeting are currently being prepared and will be presented to the City Council in advance of your June 20 meeting.

Budgetary Impact:

Staff anticipates providing the City Council with a more detailed analysis of the monetary impact of residential development in the near future but, for purposes of this report, simply notes that the long term cost to serve residential development generally exceeds anticipated revenue.

Alternatives:

The proposed Preliminary Plat is consistent with the City's standards for Master Planned Developments in the R-1-12 zone, there are not many options that the City may pursue to require modifications. Given the fact that the applicant has requested Master Development Plan approval, the manner in which points are allocated for bonus density may be regulated. In this case, the applicant has request a bonus density of 19 lots which represents a 30 percent increase. As noted above, the Development Review Committee found that the proposed features warrant the request bonus density. Even so, that is something that the City Council may be inclined to disagree with which may result in changes to the number of allowed units. Should the Council choose to modify the manner in which points for bonus density are allocated, staff recommends that the Council make a significant effort to do so based on the manner in which points have been allocated to projects that have been previously approved by the City. That is to say, staff believes it is very important to maintain consistency from one development proposal to another when points are allocated for bonus density.

Recommendation:

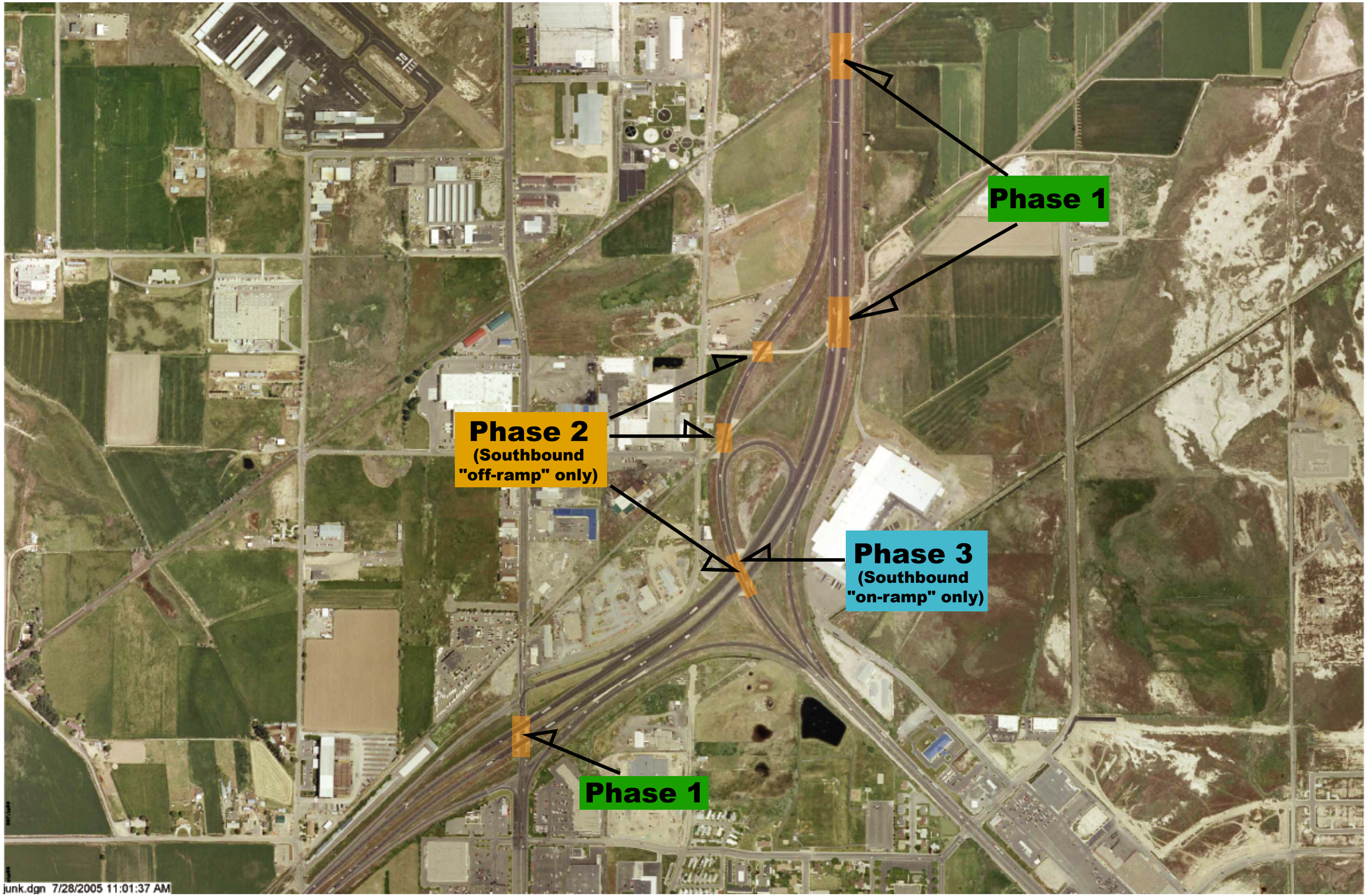
Staff recommends that the City Council approve the proposed Preliminary Plat for Spanish Highlands based on the following findings and subject to the following condition:

Findings:

1. That the proposed Preliminary Plat conforms to the City's standards for Master Planned Developments in the R-1-12 zone.
2. That the proposed features warrant the requested density bonus.

Condition:

1. That the requirements of the City Engineer and Electrical Department be satisfied prior to plat recordation.


Phase 1
Phase 2
(Southbound
"off-ramp" only)
Phase 3
(Southbound
"on-ramp" only)
Phase 1
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ORDINANCE 05-06

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS *(votes only in case of tie)*		
G. WAYNE ANDERSEN *Councilmember*		
MATTHEW D. BARBER *Councilmember*		
STEVE LEIFSON *Councilmember*		
SETH V. SORENSEN *Councilmember*		
CHRIS C. WADSWORTH *Councilmember*		

I MOVE this ordinance be adopted: _____
I SECOND the foregoing motion: _____

ORDINANCE NO. 05-06

ORDINANCE AMENDING THE MUNICIPAL CODE CONCERNING KENNEL PERMITS

WHEREAS, Spanish Fork City recognizes that pets contribute favorably to the quality of life; and

WHEREAS, Spanish Fork wishes to encourage responsible pet ownership; and

WHEREAS, Spanish Fork recognizes that responsible ownership depends less on the number of pets than on the care and attention given those pets; and

WHEREAS Spanish Fork ordinances currently provide regulations, and associated penalties as needed, for neat and sanitary conditions of animal living areas; handling of sick, diseased or disabled animals; disposal of animals; cruelty to animals; excessive noise caused by animals; animals running at large; impound of animals; detentions of animals; intraseizure of animals; animal bites; defecation and urination; quarantine of animals; licensing and registration

of animals; revocation of licenses; female dogs/cats in heat running at large; threatening animals; rabies control and vaccination; and various other animal control and enforcement issues; and

WHEREAS, the previous issues are far more dependent on responsible pet ownership than on the number of pets owned; and

WHEREAS, residents have communicated a request to the Spanish Fork City Council to modify current animal regulations to permit the maintenance of up to four dogs and cats, or a combination thereof; and

WHEREAS, residents recognize that law enforcement receives numerous complaints regarding residents who maintain excessive dogs and cats in residential areas and residents wish to help remedy these problems through improved ordinances and through encouraging responsible pet ownership;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

I.

Spanish Fork City Municipal Code §6.04.010 is hereby amended to repeal the definition of "Kennel" and to create two new definitions of "Commercial Kennel" and Residential Kennel" as follows:

6.04.010. Definitions.

"Commercial Kennel" means any premises wherein any person or entity engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats. Commercial Kennels must be located in Industrial Zones, pursuant to the requirements of Title 15.

"Residential Kennel" means any premises located within a residential zone where more than two dogs or cats, or combination thereof, are raised, kept, housed, or boarded. Residential kennels may be permitted for a maximum of four animals.

II.

Spanish Fork City Municipal Code §6.08.010(D) is hereby amended to read as follows:

6.08.010. Licensing.

D. Removal of Collar and Registration Tag. It is unlawful for any person other than the owner, a veterinarian, or an animal control officer, to remove the collar from any dog to which collar has been attached the metallic registration tag herein required, or to remove said metallic registration tag from the collar to which it has been attached.

III.

Spanish Fork City Municipal Code §§6.16.010, .020, and .030 are hereby amended to read as follows:

6.16.010 Allowable Number of Dogs and Cats

Except as otherwise provided in this chapter, no more than two (2) dogs or cats, or combination thereof, which are three (3) months of age or older shall be kept at any residence or commercial establishment at any time. This provision shall not apply to permitted commercial or residential kennels, grooming parlors, or veterinary clinics.

6.16.020 Residential and Commercial Kennel Permits.

(1) Permit required. No person shall operate or maintain a residential or commercial kennel without first obtaining a permit from the division of animal control. Commercial kennels must also maintain a current business license pursuant to the requirements of Title 5.

(2) Application. All applications for permits to operate or maintain a commercial or residential kennel, shall be submitted in writing upon printed forms provided for such purposes by the city. The application shall first be referred to the city animal control officer. Upon approval, the city shall issue the permit upon payment of the fee herein provided.

(3) Before a commercial kennel permit can be issued the following conditions concerning the location of the kennel must be met.

a. The location where the dogs or cats are kept, raised, housed, or boarded must be 200 feet away from any neighboring house, and;

b. Must be 150 feet from any road.

(4) The following minimum standards shall be complied with to obtain and maintain a residential or commercial kennel permit.

a. Enclosure must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an appropriate material as required by the specific breed of animal and also to permit proper cleaning and disinfecting.

b. Adequate ventilation shall be maintained and an appropriate temperature provided as required by the specific breed of animal housed therein.

c. Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or tops of cages.

d. Runs shall provide an adequate exercise area and protection from the weather.

e. All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

f. The food shall be free of contamination, palatable and of sufficient nutritive value as to meet the normal daily requirements for the condition and size of the animal.

g. Fresh water is to be available at all times. Water vessels shall be mounted or secured in a manner that prevents tipping and be of the removable type.

(5) Holders of existing commercial kennel permits which do not meet the distance requirements required in this chapter shall be exempt from the distance requirements for their existing animals. As animals die, are sold, given away, or are otherwise removed from the property, they may not be replaced unless all of the conditions of this chapter are met.

(6) After a residential kennel permit has been issued, the person or persons responsible for operation of the residential kennel shall submit to the animal control officer within thirty (30) days a proof of spay or neuter of any dog or cat beyond two (2) in number that are kept at the residential kennel. This proof shall come in the form of verification by a licensed veterinarian. Failure to submit this proof of spay/neuter within thirty (30) days will result in the immediate forfeiture of the residential kennel license and associated fees. As dogs and cats residing at the residential kennel die, are sold, given away, or are otherwise removed from the property, and other dogs or cats are obtained, no more than two (2) such animals may remain intact at any time. All others must be spayed or neutered and proof of such shall be submitted to the animal control officer within thirty (30) days of acquisition of the animal(s) or the residential kennel license shall be forfeited.

(7) All dogs and cats residing at a residential kennel must be kept current with licenses and vaccinations as required by other sections of this title or the residential kennel license and associated fees will be forfeited.

(8) Persons currently housing more than two (2) dogs or cats, or combination thereof, which are three (3) months of age or older at the time of passage of the residential kennel regulations shall have three (3) months to apply for a residential kennel permit or reduce the number of dogs and cats to be in accordance with other sections of this title.

(9) The city shall have the power to revoke residential or commercial kennel permits in the event that the permit holder is convicted of any violation of the provisions of this title.

6.16.030. Fees.

Any person conducting, operating or maintaining a residential or commercial kennel shall pay to the city for the privilege of conducting, operating or maintaining such kennel an annual permit fee of twenty-five dollars ($25.00) for each calendar year.

IV.

This ordinance shall become effective July 1, 2006.

PASSED AND ORDERED PUBLISHED BY THE SPANISH FORK CITY COUNCIL OF SPANISH FORK, UTAH, this 20th day of June, 2006.

_____
JOE L THOMAS, Mayor

ATTEST:

_____
KENT R. CLARK, City Recorder

REDEVELOPMENT AGENCY MEETING

PUBLIC NOTICE is hereby given that the Redevelopment Agency of Spanish Fork, Utah, will hold a public meeting in the City Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:30 p.m. on June 20, 2006**

AGENDA ITEMS:

1. **CALL TO ORDER & ROLL CALL**

2. **PUBLIC HEARING:**
   a. Fiscal Year 2006 Budget Revision

3. **NEW BUSINESS:**
   a. Fiscal Year 2007 Budget Adoption
   b. Agreement for Development of Land (ADL) with Young Living Essential Oils

4. **OTHER BUSINESS**

ADJOURN:

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.

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 Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.

SPANISH FORK CITY
Staff Report to City Council

Agenda Date:	**June 20, 2006**
Staff Contacts:	Dave Oyler, Kent Clark,
Reviewed By:	**Dave Oyler**
Subject:	Fuel Surcharges – Garbage Collection contract with Allied Waste (BFI)

Background Discussion: The city re-bid the garbage collection contract last year. The new BFI bid did not have an option to add a "fuel surcharge". They are now requesting to add 6% to the rate they charge us. In a prior contract (prior to last year), the city did allow BFI to bill us an additional fuel charge. It was approved by the prior council to amend the old contract. When we re-bid the services last summer, that fuel surcharge went a way because they were awarded a new contract at a higher rate. Now that fuel prices are higher, they are requesting an "adder" for the higher cost of fuel. There is nothing in the current contract to allow an adder. Any modification or amendment to the current contract would require a written agreement and be approved by both parties.

Budgetary Impact: **They want to raise the rates by the following: These are the cost they charge us to collect the waste from each can, each month. Collection only.**

1st can: from $ 3.15 to $ 3.31 up $ .16
2nd can: from $ 1.40 to $ 1.47 up $ .07

Alternatives: Accept or reject the proposal.

Recommendation: Council preference.

Attachments: See letter from Allied Waste (BFI).

ALLIED WASTE SERVICES

June 12, 2006

Rec'd.
6-16-06

Mr. Kent Clark
Finance Director
40 South Main Street
Spanish Fork, Utah 84660

Dear Mr. Clark,

As we have worked through the process of implementing fuel surcharges with all of our municipal and commercial contracts, we have determined the following. Most entities would prefer a fixed increase vs. the monthly fluctuation of the previously described surcharge. We anticipate implementing this increase on July 1st of this year.

With this in mind, we are now requesting a rate change of 6%. This number is in line with the transportation CPI indices. We feel the transportation index more closely reflects the actual impacts upon our business. I have included a few copies for your review. We feel this increase will help us to cope with the ever-increasing pressures that oil costs are placing upon our industry.

Our current fuel expense is now more than 30% higher than the 1st quarter of 2005 and more than 70% higher than the first quarter of 2004. We have tried to be patient and "wait out" the increases, but at this time we feel it necessary to ask for a sharing of the increased costs

This change will affect your rates as follows:

1st Containers	current	$ 3.15	new	$ 3.31
Add'l Containers	current	$ 1.40	new	$ 1.47

Your rates will still be amongst the lowest, if not the lowest, in Utah County. AWS is excited about our new management team and expects to continue our improved services over the upcoming years.

We look forward to discussing this with you, the Mayor, and City Council on June 20th. Please contact me regarding this or any other questions you may have.

Sincerely,

Gordon Raymond
Allied Waste

675 S Gladiola Dr
Salt Lake City, UT 84104
801.972.4234 / FAX 801.972.3817
www.disposal.com