



CITY COUNCIL AGENDA

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 February 17, 2009.**

AGENDA ITEMS:

1. CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:

- a. Pledge

2. 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 be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

3. COUNCIL COMMENTS:

4. PUBLIC HEARING:

- a. *Jason Campbell – Zone Change
- b. *Mark Dallin – Zone Change
- c. *Flood Prevention Ordinance 02-09

5. 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 – January 9-10, 2009; February 3, 2009
- b. *Resolution Utah Valley Consortium of Cities and County (UVCC)

6. NEW BUSINESS:

- a. *Airport Grant FAA Acceptance Letter – Chris Child
- b. Sewer Slip Lining Presentation
- c. Recycling Contract
- d. Fiesta Days Carnival Award of Bid
- e. Board Appointments

ADJOURN:

* Supporting documentation is available on the City's website www.spanishfork.org

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.
- This agenda is also available on the City's webpage at www.spanishfork.org

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.



REPORT TO THE CITY COUNCIL JASON CAMPBELL ZONE CHANGE

Agenda Date: February 17, 2009

Staff Contacts: Dave Anderson, Planning Director

Reviewed By: Development Review Committee, Planning Commission

Request: The applicant, Jason Campbell, is requesting that the zoning of several parcels be changed from Industrial 2 to Commercial 2 and R-1-12.

Zoning: Industrial 2 existing, Commercial 2 and R-1-12 requested

General Plan: General Commercial and Residential

Project Size: Approximately 78.5 Acres

Number of lots: N/A

Location: Approximately 1900 South Arrowhead Trail

Background Discussion

The subject property is currently zoned Industrial 2. The applicant has requested that the zoning be changed to Commercial 2 and R-1-12. A gravel mining operation once occupied the site and staff understands that a construction company is currently using the site as some type of storage facility.

Accompanying the applicant's Zone Change application is a detailed concept plan for the proposed development of the property. However, the applicant has not yet filed an application for Preliminary Plat approval. As such, staff believes it is most appropriate at this point in time to focus on the broader land-use issue. Issues related to the actual development of the property, such as utility design and density, would then be addressed as part of the Preliminary Plat review process.

Development Review Committee

The Development Review Committee reviewed this request in their January 21, 2009 meeting and recommended that it be approved. Minutes from that meeting read as follows:

Jason Campbell Zone Change

Applicant: Jason Campbell

General Plan: General Commercial and Residential 2.5 to 3.5 Units Per Acre

Zoning: Industrial 1 existing, General Commercial and R-1-12 requested

Location: approximately 1800 South 500 West

Mr. Anderson explained the proposal and that the I-2 zoning is far from what the General Plan anticipates for this part of the City. The General Plan matches what the applicant is requesting now. Mr. Anderson expressed that he did not have any reservations approving this proposal. Mr. Banks explained that there was a water line running through the property that would need to be relocated. Discussion was held regarding the intersection on Del Monte and Arrowhead and ingress and egress onto Cal Pac. Mr. Bagley said that there were some SESD power lines that would need to be vacated.



Mr. Baker **moved** to recommend **approval** of the zoning from Industrial-2 to R-1-12 and C-2 in accordance with the map provided by the applicant. Mr. Anderson **seconded** and the motion **passed** all in favor.

Planning Commission

The Planning Commission reviewed this request in their February 4, 2009 meeting and recommended that it be approved. Draft minutes from that meeting read as follows:

Jason Campbell Zone Change

Applicant: Jason Campbell
General Plan: General Commercial and Residential
Zoning: Industrial 2 existing, Commercial 2 and R-1-12 proposed
Location: approximately 1900 South Arrowhead Trail

Mr. Anderson explained the proposal and that the applicant had provided a concept plan. He explained that the property was an old gravel pit and was currently being used as a storage site.

Mr. Robert Mason

Mr. Mason said that he was in attendance to answer questions regarding a conceptual idea. He explained that there would be a lot of mixed uses. Chairman Robins asked where the higher density would be. Mr. Mason explained the placement of the residential densities.

Mr. Leon Abbott

Mr. Abbott said he was for the proposal and would like to see homes put along the front but does not want the hills cut down behind his home. He said he was happy that it would no longer be a garbage dump. He is concerned about dust and when the project will commence. He felt the project would increase the traffic on Cal Pac.

Mr. Mason explained the traffic issues and topography and that construction would be determined by the economy.

Mr. John Warby asked about topography and roads. Mr. Mason explained the right-of-way.

Chairman Robins said his only concern was commercial next to residential.

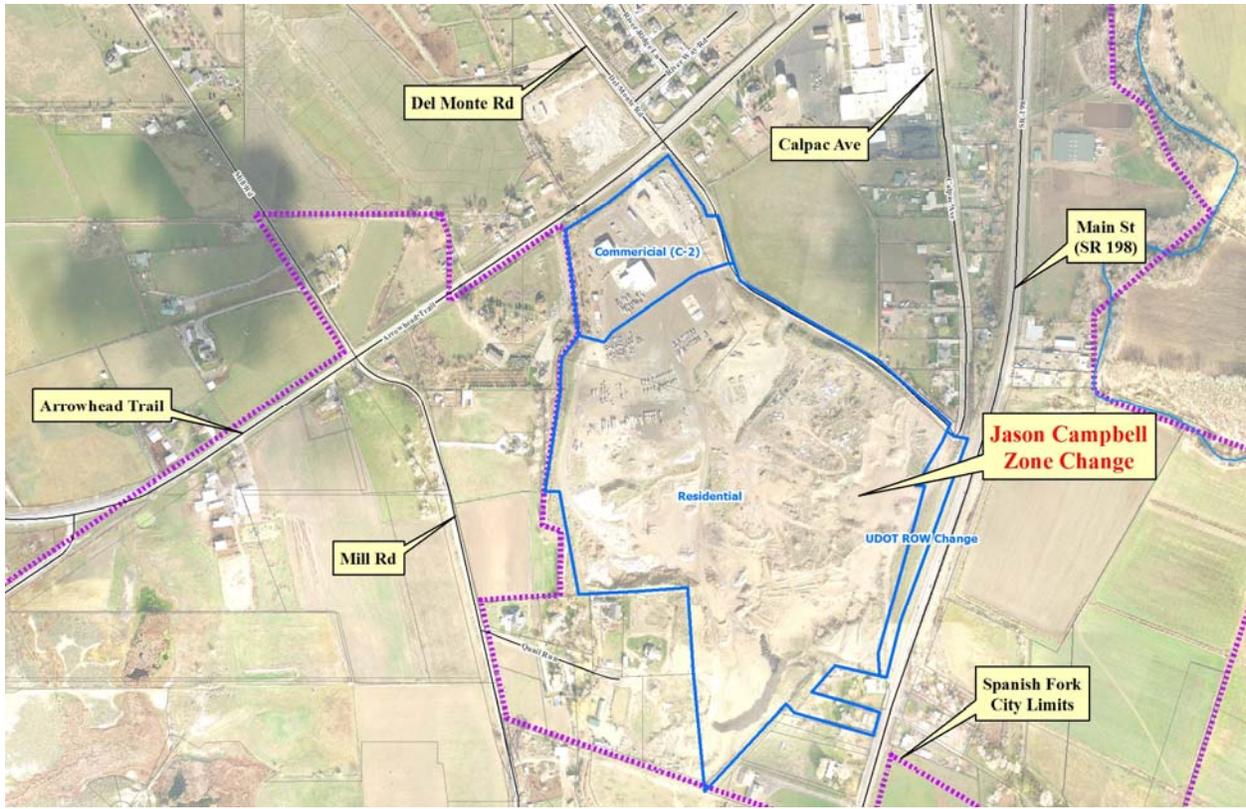
Commissioner Christianson **moved** to **approve** the Jason Campbell Zone Change and the motion passed by a roll call vote. Commissioner Marshall abstained.

Budgetary Impact

There is no immediate budgetary impact anticipated with the proposed Zone Change.

Recommendation

Staff recommends that the proposed Zone Change be approved.





REPORT TO THE CITY COUNCIL MARK DALLIN ZONE CHANGE

Agenda Date: February 17, 2009

Staff Contacts: Dave Anderson, Planning Director

Reviewed By: Development Review Committee, Planning Commission

Request: The applicant, Mark Dallin, is requesting that the In-fill Overlay Zone be approved for a parcel that is currently zoned R-1-6

Zoning: R-1-6 existing, In-fill Overlay requested

General Plan: Residential

Project Size: Approximately .6 Acres

Number of lots: N/A

Location: 300 North 760 East

Background Discussion

In December of 2008, Mr. Dallin applied to have the City's In-fill Overlay zone approved in order to facilitate the construction of two duplexes. Staff understands that while Mr. Dallin would still like to construct two duplex structures, Mr. Dallin has expressed a willingness to proceed with the project if it is approved with one duplex instead of two.

The history of Mr. Dallin's involvement with the subject properties creates something of a unique situation relative to this proposal. Approximately one year ago, Mr. Dallin constructed a duplex on a portion of the property that would be included within the proposed In-fill Overlay Zone. At that time, Mr. Dallin anticipated constructing a second duplex on the subject property. However, the City's adoption of the moratorium on development in the R-1-6 and R-3 Zones prevented Mr. Dallin from moving forward with his plans.

With the adoption of the In-fill Overlay ordinance, the City was again prepared to accept applications for development in the R-1-6 and R-3 zones and Mr. Dallin made application in December of 2008.

Perhaps the most unique element that has been created with this history is the fact that one duplex has already been constructed on the site. In staff's view, certain aspects of the review of this property would be simpler if we were reviewing a vacant site.

One of the fundamental goals of the In-fill Overlay Zone is the desire to require new development to measure up to that what's been constructed in the immediate vicinity. In this case, staff believes the presence of the existing duplex does create practical limitations as to what should sensibly be required on the remainder of the property. In staff's view, any additional structures on this site should be designed so as to conform to the basic elements of the existing duplex. These basic elements include building mass and orientation. In short, any structures built in the In-fill Overlay Zone must conform to that zone's provisions and, in this case, staff believes any new structures should generally conform to the style of the existing duplex.



With that said, the new duplexes must have garages, something the existing duplex does not have. Also, staff believes typical architectural elements should be included with the design of new buildings so as to promote the integration of those structures with the surrounding neighborhood. As staff toured the area surrounding the proposed development, typical architectural elements were identified. Staff recommended that Mr. Dallin modify his initial submittal so as to include some of these typical elements. The elevations attached to this report include the elements staff suggested that Mr. Dallin incorporate.

Given the architectural upgrades to the structures that Mr. Dallin has consented to make and the fact that the site will be completely fenced and landscaped, staff believes this proposal is a notable upgrade from what would have been allowed prior to the adoption of the In-fill Overlay Zone. Staff also understands that what Mr. Dallin is proposing is not everyone's ideal for the subject property. To that point, two letters from concerned neighbors are attached to this report.

There is one remaining change that Mr. Dallin is in the process of making on the proposed layout of the duplexes. In the DRC meeting last week, the need for Mr. Dallin to provide a 15-foot easement along the southern property line was identified. Mr. Dallin has agreed to provide that easement and is redesigning the site so as to move the southernmost building and reconfigure the parking.

All in all, staff believes the proposed development is designed so as to provide for the functional use of the property while allowing it to blend with architectural styles found in the surrounding neighborhood.

Development Review Committee

The Development Review Committee reviewed this request in their January 21, 2009 meeting and recommended that it be approved. Minutes from that meeting read as follows:

Mark Zone Change

Applicant: Mark Dallin

General Plan: Residential 5.5 to 8 Units Per Acre

Zoning: R-1-6 existing, In-fill Overlay requested

Location: approximately 760 East 300 North

Mr. Anderson explained that the proposal was to construct two buildings.

Mr. Bagley explained that the cable TV and phone lines would need to be moved. Mr. Dallin said he had contacted the appropriate parties and was waiting for the lines to be moved.

Mr. Anderson explained this was an In-fill Overlay zone request and explained what the zone allowed. He said that the way the ordinance was written was intended to offer a base line that comes from the surrounding neighborhood and ensure that projects are consistent with what is found in the immediate vicinity.

** Mr. Baker arrived at 10:28 a.m.*

** Mr. Oyler arrived at 10:30 am.*

Mr. Anderson explained the recommendations that staff had given him and explained the changes that had been made which brought the proposed buildings in-sync with what was built in the neighborhood.

Discussion was held regarding Mr. Dallin making changes to the building that already existed to look like the buildings that are to be constructed. Discussion was held regarding parking and cars not being allowed to park in the main driveway due to fire code. Mr. Baker proposed and discussion was held regarding side entry garages, parking not being allowed in the front setback, water retention and a curb, fire codes and vinyl fencing versus a masonry wall so as to be less intrusive.

Mr. Jarvis explained that he felt, due to the impact this proposal would have on the area, that Mr. Dallin should install a fire hydrant on 300 North. Discussion was held regarding where a hydrant could be installed (it was determined that the most appropriate place would be on 800 East and 300 North).

Mr. Thompson explained that if there was not going to be a site plan than some sort of dedication plat would need to be recorded. Mr. Dallin said that there would be three different deeds. Discussion was held regarding a condominium plat. Mr. Bagley explained that a 15-foot easement for an overhead primary line would need to be met.

Mr. Anderson **moved** to **approve** the Mark Dallin Zone Change located at approximately 760 East 300 North with the following findings and subject to the following conditions:

Findings

1. That with the architectural upgrades the project shares elements with the surrounding neighborhood and satisfies the requirements of the ordinance.
2. Project conforms to the physical characteristics of the adjoining properties.
3. That the project may provide new opportunity for home ownership.

Conditions

1. That a fire hydrant be added to the southeast corner of 800 East and 300 North.
2. That the southern most building be moved so as to accommodate a 15-foot power easement on the southern property line.
3. That the driveways to the southernmost building be realigned to accommodate the necessary parking.
4. That a vinyl fence be constructed around the perimeter of the project, six feet where it is not in the front setback.
5. That the driveway be constructed or modified to meet the City's curb requirements.
6. That parking not be allowed on the driveway with appropriate signs installed.
7. That a plat be recorded for the development prior to a building permit being issued for the southernmost building.

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

Planning Commission

Mark Dallin Zone Change

Applicant: Mark Dallin

General Plan: Residential

Zoning: R-1-6 existing, In-fill Overlay proposed

Location: 760 East 300 North

Mr. Anderson explained the proposed Zone Change would take the property to an In-fill Overlay Zone within the same R-1-6 district. He said that Mr. Dallin, the applicant, constructed a

duplex on the northwest corner of the property in 2008 with plans to construct a second duplex adjacent to the first one; however, the City adopted a moratorium regarding multi-family housing before Mr. Dallin received a building permit on the second structure. The result of the moratorium was the adoption of the In-fill Overlay zone. Mr. Anderson explained what he felt the In-fill Overlay Zone was created to accomplish (higher quality of construction and design, projects designed to integrate into the neighborhood, and to provide for opportunities for home ownership).

Commissioner Christianson asked if the existing structure was two levels. Mr. Anderson said they are all one level without basements. Mr. Dallin said the square footage was 925 of living space with two bedrooms.

Mr. Dallin explained that the exterior of the structures would be rock and brick, have nice curb appeal, an brick pillar entry, no parking in the main driveway, and 2-2.5 parking spaces per unit.

Chairman Robins invited public comment.

Carl Johnston

Mr. Johnston said he was in opposition and explained that he felt the proposal created too many homes on a small area. He handed to the Commissioners a copy of the In-fill Overlay zone and explained what he was opposing and why. He then expressed that he felt the proposal was improperly noticed.

Commissioner Marshall explained that in looking at this ordinance they wanted to improve the products that were being built and asked if it would be better to have the duplex that is there duplicated or allow two and have it look better.

Mr. Johnston said he felt that the main issue was greed and would not like to see a third unit built.

Jan Betts

Ms. Betts said she was completely opposed and explained why. She said she would like a single-family home and not more multi-family units.

Connie Lowe

Ms. Lowe said she was opposed and that her biggest concern was parking. She handed the Commissioners pictures of parking problems. She said she would like a single-family dwelling and not multi-family.

Byron Betts

Mr. Betts asked if the units were all the same size. He is concerned about where the children will play and setbacks. He said he agreed with Mr. Johnston on everything else.

Elizabeth Dallin

Ms. Dallin said she did not feel that anyone would be climbing a six foot vinyl fence. She expressed that she felt the apartments were beautiful; that the outside was as nice as any of the other structures in the area and that the people that would be living there would be widows or newlywed couples. She explained that she felt that the property owner could address the issues neighbors were addressing in the rental agreements.

Gary Freesbee

Mr. Freesbee said he was opposed to the project mainly because his property would be boxed in by apartments. He explained he had lived there for 10 years. He said he did like the covered porches and garages but felt the duplex at the back end of the property would have less visibility from the road and could be a problem.

Mr. Nord explained that there was nothing illegal about what was being discussed and as far as the noticing issue he was not sure what was to be noticed but that the wording was standard operating procedure.

Mr. Anderson explained the notice process and that he would double check what and whom was noticed.

Chairman Robins asked Mr. Anderson to explain why the R-1-6 and R-3 zones were targeted for the In-fill Overlay zone.

Mr. Anderson explained that historically the R-1-6 and R-3 zoning districts were the primary zones that multi-family housing was being built in and was evidence of the evolution of how the City has been zoned. He said City staff recognizes there are problems today from zoning decisions made in the past and were trying to address those issues today. He explained how the zoning ordinance works today.

Commissioner Marshall asked about density.

Discussion was held regarding density and a person's right to build multi-family dwellings by

right versus seeking permission in the In-fill Overlay Zone.

Mr. Dallin said he was thankful for the neighbors that were here and said he planned this out so that property values would not be affected. He feels that crime and violence are everywhere and that there will always be change.

Mr. Johnston asked the Commission to verify whether the issues have actually been changed in the ordinance.

Commissioner Christianson talked through the items that the In-fill Overlay Zone Change required (garages, roof pitch, building materials, landscape etc). He said he felt that the structures should be brick where visible from the street or other properties, and that it would be nice for the Commission to have some kind of checklist to go through to verify that all of the requirements of the In-fill Overlay Zone were being met.

Commissioner Stroud asked if City staff had looked at the existing density on the block and what currently exists.

Mr. Anderson explained the density by viewing aerial photos on the overhead.

Discussion was held regarding parking, ownership and rental agreements.

Commissioner Marshall express that he was feeling torn. He explained that the Commission started the process with good ideas and motives working through the text in several meeting and that now was the time to apply it and he was not sure he was comfortable with it.

Commissioner Huff said he felt that home ownership should carry a lot of weight and had reservations that the three criteria for an approval in the In-fill Overlay Zone were not being met.

Chairman Robins said he agreed that Mr. Dallin's work was very nice but explained he did not feel that duplexes were the right fit. He said he would like to see more creative uses such as a single family home set on an angle with a curved driveway.

Commissioner Huff **moved** to recommend the Zone Change be **denied**. Commissioner Marshall **seconded** and the motion **passed**.

Commissioner Christianson said he felt it was a

better product and voted nay. Commissioner Marshall explained that he felt the proposal met the first two requirements of the In-Fill Overlay ordinance but not the third one (it providing home ownership.)

Mr. Dallin discussed with the Commission the possibility of making the units into condominiums.

Budgetary Impact

There is no immediate budgetary impact anticipated with the proposed Zone Change.

Recommendation

Staff recommends that the proposed Zone Change be approved. The conditions associated with the Council's approval should be tailored so as to apply to the approval of the change to allow one or two duplexes. With that in mind, staff has prepared one set of recommended conditions for the approval of one duplex and another set of conditions for the approval of two duplexes. The proposed findings and conditions of approval read as follows:

Findings

1. That with the architectural upgrades the project shares elements with the surrounding neighborhood and satisfies the requirements of the ordinance.
2. That the project conforms to the physical characteristics of the adjoining properties.
3. That the project may provide new opportunity for home ownership.
4. That the driveway be constructed or modified to meet the City's curb requirements.

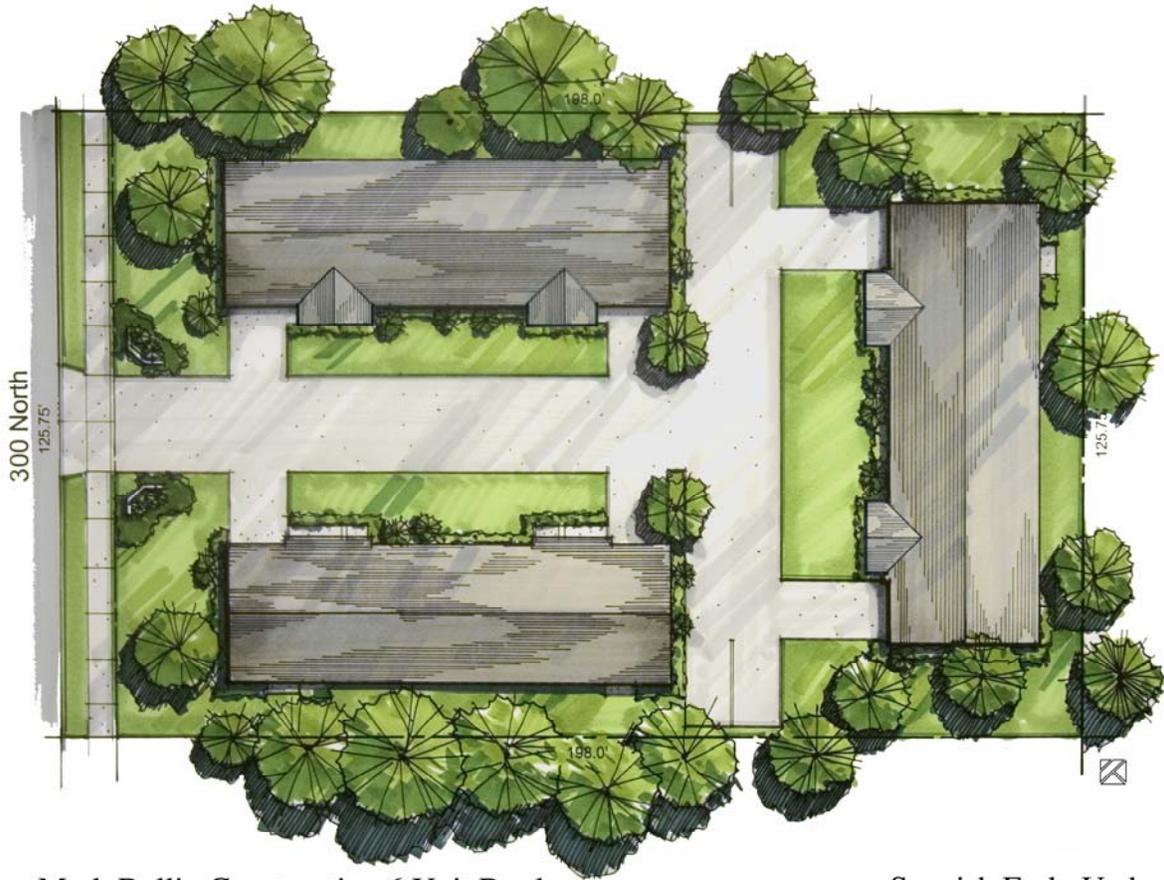
Conditions (one duplex)

1. That parking not be allowed on the driveway and that appropriate signs installed.
2. That a minimum of five 1.5" caliper trees be installed with the development.
3. That a minimum of 18 one gallon shrubs be installed with the development.
4. That the entire parcel that the duplex is constructed on be landscaped prior to the issuance of a certificate of occupancy.

Conditions (two duplexes)

1. That a fire hydrant be added to the southeast corner of 800 East and 300 North.
2. That the southern most building be moved so as to accommodate a 15-foot power easement on the southern property line.
3. That the driveways to the southernmost building be realigned to accommodate the necessary parking.
4. That a vinyl fence be constructed around the perimeter of the project, six feet where it is not in the front setback.
5. That the driveway be constructed or modified to meet the City's curb requirements.
6. That parking not be allowed on the driveway and that appropriate signs installed.
7. That a plat be recorded for the development prior to a building permit being issued for the southernmost building.
8. That a minimum of ten 1.5" caliper trees be installed with the development.
9. That a minimum of 36 one gallon shrubs be installed with the development.
10. That the entire site be landscaped prior to the issuance of a certificate of occupancy for any of the new dwellings.





Mark Dallin Construction 6 Unit Duplex
Presentation: Kinatelder Inc.

Spanish Fork, Utah







To Whom it May Concern: Jan. 26, 2007

This letter is in regards to the anticipated zone change at 760 E. 300 N.

Statistics prove high density housing generates more crime & domestic violence.

Developers are guilty of building multiple housing units, then selling them & leaving the problems to someone else.

Our neighborhood is already saturated with 4-plexes & 2-plexes so we are aware of the problems they bring.

We suggest you make some zoning changes in restrictive covenant areas & other areas of Spanish Fork. Spread these problems around!

As you can see, we are opposed to this overlay zone change -

Sincerely,
Sterling & DeLenn
Anderson



January 27, 2009

Spanish Fork Planning Commission and City Council Members
40 South Main
Spanish Fork, UT 84660

Re: Request for zone change to property owned by
Mark Dallin located at approximately 760 East 300 North

In regards to the above mentioned parcel of property, I have real concerns about a zone change to include the In-Fill Overlay Zone. (I-F)

As the new I-F zone states "this district is intended to provide flexibility in development standards for 'small' residential parcels that are difficult to develop". First, this piece of property was not a small parcel to begin with. Approximately 125' wide x 198' deep = 24,750 sq.ft.

Second, the I-F zone states "the proposed development promotes 'the historic character' of the neighborhood". Our neighborhood is made up of older single family dwellings on larger lots.

Thirdly, the I-F zone states that these developments will "provide new opportunities for home ownership". As a rule, duplexes are rental properties. Very few are owner occupied.

On those three requirements alone, the zone change does not follow the guidelines established in the I-F overlay zone.

Let me now bring your attention to the Spanish Fork City Municipal Code 15.3.16.035 adopted by the City Council. There are only two (out of five) zones that the I-F overlay can be applied in; that of R-1-6 and R-3. If this In-Fill Overlay is such a "great" idea, then why doesn't it apply to zones R-1-8, R-1-9, and R-1-12? By allowing this In-Fill Overlay to only be applied in two zones, doesn't that create "spot zoning" and aren't there laws prohibiting such practices?

This ordinance also states that these zones will:

1. "protect single family residence property values." When have multi-family rentals ever increased the surrounding home owners' property value?

As stated in this ordinance it says:

2. these zones will "provide opportunities for the development of single family dwellings" and "promote the development of owner-occupied dwellings." The proposed zone change DOES NOT fulfill those requirements!

It is my opinion that this request for a zone change does not meet the existing criteria set forth by the ordinances already in place. Please consider those of us who own homes and live in this neighborhood by not passing this proposed zone change.

I feel very strong about this issue and had I not committed six months ago to a commitment that requires me to be out of town, I would be presenting this in person at the February 4, 2009 meeting.

Thank you for taking a closer look at this issue.

Respectfully submitted,

Kandy Johnston

291 North 700 East

801-798-9223

ORDINANCE NO. _____

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this ordinance be adopted: _____

I SECOND the foregoing motion: _____

ORDINANCE _____

FLOOD DAMAGE PREVENTION ORDINANCE

WHEREAS, flooding has occurred in the past within Spanish Fork City and will certainly occur in the future; that flooding is likely to result in substantial injury or destruction of property; and

WHEREAS, Spanish Fork City participates in the National Flood Insurance Program, which requires participating communities to adopt floodplain management regulations that meet or exceed the minimum standards of 44 CFR; and

WHEREAS, in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance be adopted; and

WHEREAS, rivers and streams are among the most active landforms on earth and they tend to move laterally due to erosive forces. Areas of special hazard exist along reaches of open channels that convey floodwaters through Spanish Fork City. A FIRM defines only flood hazard areas for conditions that existed at the time the hydraulic model to define those hazards was developed. Bank erosion and lateral channel movement can create special hazards for nearby structures, as evidenced by the flood damage in Washington County, Utah in January 2005. In addition, the areas adjacent to open channels typically can convey significant floodwater during a flood event; and

WHEREAS, it is appropriate to implement requirements for special erosion hazard areas to protect existing and future structures; and

WHEREAS, The flood hazard areas of rivers and streams are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage; and

WHEREAS, It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Insure that potential buyers are notified that property is in a flood area; and

WHEREAS, In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;

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

I.

Spanish Fork Municipal Code §15.1.04.020 is amended by adding the following definitions:

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of Shallow Flooding - means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet as well as a shaded X zone on a community's FIRM with a one percent chance or greater annual chance of flooding to an average depth of less than one foot where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Erosion Hazard is land that is adjacent to or within 200 feet of the centerline of the Spanish Fork River or within 100 feet of any other open channel facility that conveys runoff water located within the corporate limits of City.

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AE, AH, AO, or A1-99.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Critical Feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change in improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated Building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of

the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing Construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM effective before that date. "Existing construction" may also be referred to as "existing structures."

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - means an official map of City, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

Flood-prone Area means any land area susceptible to being inundated by water from any source (see definition of flood or flooding).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Proofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior or;
- b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area of a building (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

Mean Sea Level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 (NAVD 88) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after

December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle, Trailer, or Motorhome means a vehicle, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or be permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of

construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the City building official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Water Surface Elevation means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88) (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Spanish Fork Municipal Code §15.4.20 is hereby created as follows:

PART 4 DEVELOPMENT

CHAPTER 20. Flood Damage Prevention

15.4.20.010. Warning and Disclaimer of Liability

15.4.20.020. General Provisions

15.4.20.030. Administration

15.4.20.040. Provisions for Flood Hazard Reduction

15.4.20.050. Penalties for Violation

15.4.20.010. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

15.4.20.020. General Provisions.

A. The ordinance shall apply to all areas with defined flood hazards within the jurisdiction of City.

B. The flood hazard areas for the purposes of this ordinance are those flood hazard areas in City that are identified by the current Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto and any accompanying scientific and engineering Flood Insurance Study Report are hereby adopted by reference and declared to be a part of this ordinance.

C. Preliminary plat approval, site plan approval, or a building permit shall be required to ensure conformance with the provisions of this ordinance.

D. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

E. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

15.4.20.030. Administration.

A. The Spanish Fork City Engineer or his/her appointee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

B. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding from both surface and groundwater as well as from flood-related erosion.
3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
4. Review permits for proposed development to assure that all necessary City permits have been obtained.
5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Engineer's office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with §030(B) the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of §050.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within City.

C. Application for a preliminary plat, site plan, or building permit within a special floodplain hazard area shall be presented to the Floodplain Administrator on forms

furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the construction of fences, and the location of the foregoing in relation to areas of special flood hazard and areas of special erosion hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
3. A certificate from a licensed professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of §050(B)(2);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. A bank stability/erosion hazard analysis performed by a licensed professional engineer, including site photographs, that evaluates potential flood-related erosion hazards and identifies appropriate erosion hazard mitigation measures to protect any structural improvements proposed in the area of special erosion hazard.

6. A geotechnical report that includes: at least one measurement of the ambient groundwater surface elevation on the site of proposed development collected between May 1 and May 31 (unless otherwise approved by the Floodplain Administrator); an engineer's estimate of the maximum anticipated groundwater elevation anticipated on the site during periods of flooding on the Spanish Fork River, referencing nearby base flood elevations on the current FIRM and all other available sources; and an engineer's recommendation with regard to the lowest elevation(s) that the lowest floor(s) (including basement) of all new and substantially improved structures should be constructed to be protected from flooding from groundwater and groundwater that could be influenced by surface water during periods of flooding.

7. A grading permit shall be obtained from the Floodplain Administrator before any excavation or fill work that could modify the flood hazards defined on the community's FIRM is completed in the area of special erosion hazard area.

8. Maintain record of all such information in accordance with §040(B)(1).

D. Approval or denial of a preliminary plat, site plan, or any permit required by City shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood and/or erosion damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The safety of access to the property in times of flood for ordinary and emergency vehicles;
5. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
6. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
7. The necessity to the facility of a waterfront location, where applicable;
8. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
9. The relationship of the proposed use to the comprehensive general plan for that area

15.4.20.040.Provisions For Flood Hazard Reduction.

A. General Standards.

1. In all areas of special flood hazards the following provisions are required for all new construction or substantial improvements:
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - f. All new construction shall be required to connect to City's sanitary sewer system.
 - g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - h. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special flood hazard shall be constructed in a position or direction contrary to the direction of flowing water.
2. In all areas of special erosion hazards the following provisions are required for all new construction or substantial improvements:

- a. No new construction or substantial improvements shall be designed or constructed until a licensed professional engineer certifies that no erosion hazard exists on the reach of open channel adjacent to or upstream from the proposed site for a distance of at least 150 feet or until any potential erosion hazard is mitigated by measures designed by a registered professional engineer and accepted by the Floodplain Administrator.
 - b. All permanent structures shall be set back a minimum of 60 feet from the top of bank of the nearest open channel that conveys runoff water.
 - c. No excavation or fill that could modify the flood hazards defined on the FIRM shall be performed without applying for and receiving a grading permit from the Floodplain Administrator.
 - d. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special erosion hazard shall be constructed in a position or direction contrary to the direction of flowing water.
3. In all areas of special flood hazard, all areas of special erosion hazard, and areas with potentially high groundwater levels, the following provisions are required for all new construction or substantial improvements:
- a. As part of the building or development permit process, a geotechnical report shall be completed that includes a licensed professional engineer's recommendation with regard to the lowest elevation(s) that the lowest floor(s) (including basement) of all new and substantially improved structures should be constructed to be protected from flooding from groundwater and groundwater that could be influenced by surface water during periods of flooding, in accordance with §040(C)(6).

B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) §030(B); (ii) §040(B)(8); or (iii) §050((C)(3), the following provisions are required:

1. Residential Construction - new construction or substantial improvement of any residential structure shall have the lowest floor (including basement), elevated a

minimum of two feet above the base flood elevation. A licensed professional engineer or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in §040(C)(1), is satisfied.

2. Nonresidential Construction - new construction or substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated a minimum of two feet above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
3. Enclosures - new construction or substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement

must either be certified by a licensed professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - i. The lowest floor of the manufactured home is at least two feet above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. Recreational vehicles, trailers, or motor homes placed on sites within Zones A1-30, AH, and AE on the community's FIRM must meet one of the following criteria:
 - a. Be on the site for fewer than 30 consecutive days,
 - b. Be fully licensed and ready for highway use, or
 - c. Meet the permit requirements of §040(C)(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle, trailer, or motor home is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. Standards for Subdivision Proposals.

1. All subdivision proposals shall be consistent with this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of §030(C); §040(C); and the provisions of §050 of this ordinance.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development (including the placement of manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to §030(B), or §040(B)(8) of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards from both surface water and groundwater.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. Standards for Areas of Shallow Flooding

1. Located within the areas of special flood hazard established in §030(B), are areas designated as shallow flooding (AO and AH Zones). These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
 - a. All new construction or substantial improvements of residential structures shall have the lowest floor (including basement) elevated at least two feet above the base flood level.
 - b. All new construction or substantial improvements of non-residential structures;
 - i. Have the lowest floor (including basement) elevated at least two feet above the base flood level.
 - ii. Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
 - c. A licensed professional engineer shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in §040(C)(5) and §040(C)(6), are satisfied.
 - d. Require within Zones AH or AO adequate drainage paths around structures on sloping ground, to guide flood waters around and away from proposed structures.

2. City's FIRM may also identify areas of shallow flooding hazards with an average depth less than 1 foot deep (shaded Zone X), as established in §030(B). These areas may be between the flood hazard boundaries defined for the 1- and 0.2-percent-chance-annual-flood or associated with base flood depths less than 1 foot where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity may be evident. Such flooding is generally characterized by sheet flow; therefore the following provisions apply:

- a. All new construction or substantial improvements of residential and non-residential structures;
 - i. All new construction or substantial improvements have the lowest floor (including basement) elevated above the estimated depth of the base flood and above the highest groundwater level that is anticipated to occur during periods of flooding.
 - ii. Require within shaded X Zones positive ground slopes away from structures and adequate drainage paths around structures on sloping ground to guide flood water around and away from proposed structures.
 - iii. A registered professional engineer shall submit certification to the Floodplain Administrator that the standards of this Section, as proposed in §040(C)(5) and §040(C)(6) are satisfied.

E. Floodways

Floodways (located within areas of special flood hazard established in §030(B)) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If §050(A)(7) above is satisfied, all new construction or substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

F. Standards for Areas of Special Erosion Hazard

In order to prevent damage to structures in areas subject to special erosion hazards, the following provisions shall apply:

1. No structural development will be allowed to be constructed in an area of special erosion hazard unless the potential erosion hazards have been evaluated and mitigated and buildings meet minimum setback requirements in accordance with §050(A)(2).
2. No excavation or fill that could modify flood hazard boundaries defined on the FIRM shall be performed in areas of special erosion hazard without a grading permit, in accordance with §050(C)(7).
3. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special flood hazard or special erosion hazard shall be constructed in a position

or direction contrary to the direction of flowing water to create additional flooding and erosion hazards.

15.4.20.050. Penalties for Violaton.

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

B. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a class B misdemeanor. In addition to any fine, a violater shall pay all costs and expenses involved in the case.

C. Nothing herein contained shall prevent City from taking such other lawful action as is necessary to prevent or remedy any violation.

III.

This ordinance shall become effective twenty days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this _____ day of February 2009.

JOE L THOMAS, Mayor

ATTEST:

Kimberly Robinson, City Recorder

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Spanish Fork.

- e. Continue to develop the City's library system.
- f. Continue to offer and develop the services provided by SFCN.

3. Proactively promote the development of regional infrastructure.

- a. Continue the City's involvement with SUMWA relative to the development of a regional wastewater treatment facility.
- b. Continue to advocate for improvements to Interstate 15.
- c. Advocate the City's interests as part of the Provo to Nebo Corridor Study.
- d. Work with water storage and delivery agencies to help guarantee the long term availability of a suitable water supply.
- e. Work with the Utah Transit Authority to promote the development of additional transit facilities in Spanish Fork.
- f. Support UMPA's work to secure adequate power resources.

4. Encourage the development of basic amenities and other facilities at the Spanish Fork/Springville Municipal Airport.

- a. Review the Airport Board's plans for the development of a pilots lounge, restaurant and any other ancillary facilities that may have been contemplated.
- b. Review the Airport Boards plans for the construction of additional hanger space, taxiways or runway.

5. Evaluate opportunities to improve the city's curb appeal.

- a. Review the streetscape on State Roads 51, 89 and 198, as well as Highway 6 and Interstate 15.
- b. Review the appearance of the Airport, particularly from the perspective of airport patrons.
- c. Utilize the city's branding campaign to help create a distinct positive image of the City.

Branding Update

Mr. Perrins gave an update on the branding campaign.

6. Appropriately coordinate the business development effort with the Chamber of Commerce.

- a. Define Spanish Fork City's relationship with the Spanish Fork/Salem Chamber of Commerce.
- b. Assist the Chambers development so as to be confident in their capacity to play a functional role in promoting Spanish Fork City.

7. Encourage the development and retention of a trained and competitive workforce.

- a. Support the enhancement of programs that are offered at the MATC campus or other technical colleges in the county and state.
- b. Work with the NEBO School District and key businesses to facilitate the creation of programs that will develop skilled employees.

8. Support and stimulate the growth of entrepreneurs and start up companies.

- a. Explore opportunities to develop an incubation center.
- b. Develop a mentoring program for local business.

9. Streamline the development review process for business applications.

- a. Coordinate a multi-department effort to ensure that accurate information is provided to prospective companies in a timely fashion.
- b. Arrange for a face-to-face meeting between key city personnel and business representatives at the commencement of the development review process.
- c. Discover ways to reduce the time required to review applications for business development.

10. Continue to facilitate the development of a diverse retail base.

- a. Review the city's zoning map and zoning code to ensure that locations for potential retail development are appropriately preserved.
- b. Utilize EDA, RDA and CDA tools to invest in developments on the basis of that developments performance in generating tax revenue.

- c. Assist in the assembly of parcels to accommodate users of large tracts of land.
- d. Evaluate opportunities to enhance commerce within the city's main street corridor through the central business district.
- e. Coordinate with EDC Utah's efforts at RECON.

11. Enhance useable industrial and business park space.

- a. Increase the City's Code Enforcement effort within the industrial areas.
- b. Update the city's zoning code to create a harmonious array of allowed uses.
- c. Update the city's zoning map to protect and preserve properties for light industrial and business park development.
- d. Target key areas and initiate the annexation of those areas that will advance the city's effort to attract business development.
- e. Continue to utilize the opportunities that are offered via the EDA, RDA, and CDA tools to develop infrastructure and to otherwise ready properties for development.
- f. Assist in the assembly of parcels to accommodate users of large tracts of land.

12. Develop a program to solicit visits from targeted industries.

- a. Coordinate with EDCUtah to identify a set of targeted industries.
- b. Develop functional working relationships with professional site selectors.
- c. Utilize the city's branding campaign as the impetus for a targeted advertising campaign.
- d. Personally invite company leaders and site selectors to visit Spanish Fork City.
- e. Develop a hosting agenda for visiting dignitaries.
- f. Maintain and follow-up program to keep prospects warm.

13. Measure Spanish Fork's opportunities as compared with other cities in the region; learn from other's successes and failures.

- a. Develop a schedule for regular interviews with staff and officials from the other jurisdictions to become educated about their economic development efforts.

2009 Planning Department
Economic Development Program
2009 Tasks, 2010 Report

1. Meet with each key business at least once in 2009.
2. Develop database of business information.
3. Meet with staff or city officials from six communities.
4. Revamp City's permitted and conditional uses list.
5. Amend Zoning map to revise industrial and business park zones.
6. Send site visit invitation to 100 companies and site selectors.
7. Initiate one annexation of non-residential properties.
8. Develop program kick off branding campaign and cut loose.
9. Collaborate with the Chamber of Commerce to define roles and develop a program to measure progress.
10. Update Business License Program.
11. Participate in EDCUtah's RECON program.
12. Streamline development review process.
13. Continue review and respond to EDCUtah projects.

Mayor Thomas commented he feels we need to get more out of EDCUtah and get them more involved with us.

DINNER

The Council took a break for dinner at 5:00 p.m.
The meeting was called back to order at 6:18 p.m.

FINANCE

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167 Mr. Clark gave a presentation on the finances.
168 Cash Reserves
169 North Park Project
170 He explained the North Park improvements.
171 Discussion was made regarding the non-taxable funds that could become taxable.
172 Debt Service
173 Water Revenue Bonds
174 Property Tax
175 Sales Tax
176 Utility Rate Comparisons
177 Impact Fees
178 Assumptions
179
180 Mayor Thomas would like some statement in the utility bill communicating that the city is taking
181 steps towards better managing the budget.
182
183 Mr. Oyler reminded that the City will still function with the services, they are working to be
184 precautionary on the staff positions and labor costs.
185
186 **PUBLIC SAFETY**
187
188 Mr. Rosenbaum gave a presentation regarding the public safety.
189 He then reviewed the Police organization chart, and programs.
190 Code Enforcement
191 Drug Enforcement
192 School Resource Officer
193
194 Mayor Thomas stated he would like a letter to be written to send to the business owners stating
195 they passed the compliance check.
196
197 Dare Program
198 Mr. Rosenbaum explained that the program involves 9 elementary schools and serves 30 fifth
199 grade classes.
200
201 Pedestrian Crosswalk Enforcement/Study
202 Crossing Guards
203 Traffic School
204 Internet Safety Program
205
206 Mayor Thomas asked that the program be videotaped and made available in segments on our
207 website.
208
209 Disposal of Prescription Drugs
210 Teens against Graffiti
211 State Retirement COLA Resolution
212 Animal Control
213 Ambulance Report
214 Discussion was made regarding charges for a voluntary ambulance call.
215
216 Mayor Thomas asked the public safety department to look into using volunteers for issues like
217 items being stolen from the cemetery.
218
219 **ADJOURN**
220
221 The meeting was adjourned at 9:00 p.m.

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SATURDAY JANUARY 10, 2009

The meeting was called to order at 8:10 a.m.

PARKS AND RECREATION

Mr. Robinson gave a presentation regarding the Parks and Recreation department.

New Office

New Employees

Parks Master Plan

Existing and Planned Parks

Special Events

Kite Festival

Councilman Andersen would encourage them to continue the event, it was such a positive thing for the community.

Mayor Thomas agreed.

Councilman Leifson would like to see it keep going, but they should look at ways to have it pay for itself, he is in favor of something like a \$5 charge per car.

Mayor Thomas thinks if the City spent a little towards the program it is worth the loss to the city to help the citizens enjoy it.

Councilman Andersen feels we will get the sponsors and if we charge for the parking we can cover most of our costs. He feels it is a big enough event and there is enough to it we need to get into it and work at it to make it great. We need to commit ourselves and make it work.

Mayor Thomas stated the city should commit \$10,000-\$15,000 towards the event.

Councilman Davis feels he is not sure we should charge for parking.

Councilman Nielson prefers to keep it free, the big picture the money is worth the expense, if we do charge for parking we should charge a dollar or two and make it nominal.

Councilman Dart agrees with Councilman Nielson and Councilman Davis at most they charge \$2.50 it is a great event.

The Council agreed to move forward and present the event again, their preference is not to charge for parking and if they have to it should be a nominal fee.

Special Events 2009

Securing Rodeo Line-up

Planning Fiesta Days

Promoting Fairgrounds

Liaison with County and County Fair

Raising \$\$ for reduced Kite Festival

Securing new Carnival Contract

Ribbon Cuttings for 2nd Phase of Sports Park & Trail

New Proposals for events to raise economic stimulus

Nebo School District

- Impact of Maple Mountain High School

- 277 - Aquatic Center
- 278 - Swenson Park Parking Lot
- 279 - Balancing the Scale

280
281 ALA
282 Golf Course

283 Mr. Robinson explained they have been approached to run the snack bar privately by
284 some retired restaurant owners.

285
286 The Council agreed they would like a proposal regarding someone else running the snack
287 bar.

288
289 Fairgrounds
290 Parks and Trails
291 Pioneer Cemetery
292 North Park

293
294 Amphitheater
295 Trails
296 Cemetery
297 Gun Club
298 Water Park
299 Concessions

- 300 - Public comments from having Concessions operated by City again.
- 301 - Financial Report
- 302 - Plan of Action

303
304 Councilman Andersen thinks the hamburger quality could be better, and there are some local
305 people that could supply some fresher stuff that would taste better.

306
307 Councilman Nielson stated he has had some feedback that the concessions should be open for
308 certain items at different times.

309
310 Recreation
311 Online Registration

312
313 **PUBLIC WORKS**

314
315 Mr. Heap gave a presentation on the Public Works department.

316 Project Update
317 2550 East Pump House
318 PI pond at Golf Course
319 Metering – Automated
320 Sewer Main replacement – bidding in February
321 Sewer Lining – bidding in February
322 Sterling Dr/Canyon Dr. rebuild-bid in April, start construction July 1.
323 Mt. High Credit Union Parking Area

324
325 Discussion was made regarding fees for the levy costs.

326
327 Building Inspection
328 Customer Service
329 Strawberry Water

330 Mr. Heap stated they are working with the irrigation companies to let Spanish Fork City
331 become the delivery agent.

332

333 Councilman Andersen asked that there be a change in Title 15 so that someone does not feel
334 entitled to the lot square footage.

335
336 **EXECUTIVE SESSION**

337
338 The Council opened the executive session at 11:49 a.m.
339 Councilman Andersen made a **Motion** to adjourn back to the regular meeting at 12:29 p.m.
340 Councilman Leifson **Seconded** and the motion **Passed** all in favor.

341
342 The meeting was called to order at 1:00 p.m.

343
344 **BROADBAND**

345
346 Mr. Bowcut gave a presentation regarding the Broadband.
347 Online Registration
348 SFCN Rate Increase Proposal
349 Spanish Fork 17
350 Over 725 Archived Programs this year
351 Over 52 Public Service Announcements were produced last year promoting city concerns
352 and special events
353 Char'Ree sold over \$72,000 in advertising contracts. In December alone we sold, filmed,
354 edited and broadcast 36 commercials for the Chamber of Commerce
355 Planned System Improvements
356 Additional High Definition
357 - Add 8 channels already this year
358 - Would like to add ESPN2, ESPN News, Disney, Toon Disney and ABC Family
359 before July
360 - Add to HD Basic without raising the price
361 High Definition Channels
362 - Our HD is the only real HD
363 - Dish Network, Direct TV and Comcast all compress their HD Channels
364 - They put more channels in the same space but lose quality
365 - They can only offer squishy HD
366 - SFCN is pure 100% HD. Nothing is better
367 Higher Speed Internet
368 - Utilizes current plant infrastructure
369 - Speeds and Capabilities compete with fiber to the home
370 - SFCN will be the fastest
371 - 55 mbps for \$55
372 - Better price and better speed than broadweave (iProvo), Utopia or Comcast
373 - Technology finally available
374 Possible Future System Improvements
375 Digital Spanish Language Tier
376 Video on Demand
377 Telephone Service

378
379 Mayor Thomas does not feel SFCN was competitive in the past and as long as the competition
380 is fair for the phones he is for it.

381
382 Councilman Leifson feels this is minimum exposure to try this for the citizens, to save them
383 money every month.

384
385 Mr. Oyler stated by saving the citizens money it benefits the community in offering the service.

386
387 Councilman Nielson is concerned that government should be used to benefit the community, the

388 original plan was to offer something that was not currently being offered.

389

390 The Mayor stated he is for this because he feels government is about infrastructure and
391 everyone needs a phone the same as they need water, power etc.

392

393 The Council agreed that they should move forward with this project.

394

395 Discussion was made regarding the Fairgrounds Committee.

396

397 Councilman Andersen explained the set up of the committee; he also suggested that the
398 committee consist of Dave Oyler, Steven Money, and G. Wayne Andersen for Spanish Fork City
399 representation.

400

401 Councilman Leifson stated those individuals have been involved with the fairgrounds and he
402 would support them serving on the board.

403

404 Mayor Thomas feels the economic development committee should be dissolved and they can
405 move forward with a new approach.

406

407 The Council directed that when legal makes the change to the committee's ordinance they can
408 repeal the economic development committee.

409

410 Discussion was made and the list reviewed for the Boards and Committees.

411

412 **LEGAL**

413

414 Mr. Baker gave a review and presentation for the legal department.
415 E-mail and Open Meetings

416

417 **ADJOURN**

418

419 Councilman Andersen made a **Motion** to adjourn the meeting. Councilman Dart **Seconded** and
420 the motion **Passed** all in favor at 3:33 p.m.

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Tentative Minutes
Spanish Fork City Council Meeting
February 3, 2009

Elected Officials Present: Mayor Joe L Thomas, Councilmember's Rod Dart, Richard M. Davis, G. Wayne Andersen, Jens P. Nielson, Steven Leifson

Staff Present: Dave Oyler, City Manager; Kent Clark, Finance Director; Seth Perrins, Assistant City Manager; Junior Baker, City Attorney; Dave Anderson, City Planner; John Bowcut, IS Director; Chris Thompson, Assistant Public Works Director; Kimberly Robinson, City Recorder

Citizens Present: Rick Dean, Jen Allen, Adam Wakeland, Brent Seamons, Austin Seamons, Tracy Norr, Nancy Dean, MaryKate Christensen, Rodger Hardy, Tyler Nelson, Brad Keller, Maria Gertsch, Lori Robinson, Clayton Robinson, Kaylene Moyle, Dianne Orton, Arnold Orton, Chad Argyle, Carson Patey, Johnathan Cook, Taylor Winkel, Lana Creer Harris

CALL TO ORDER, PLEDGE:

Mayor Pro Tem Andersen called the meeting to order at 6:00 p.m.

Scout Austin Seamans led in the pledge of allegiance.

Award – Certified Municipal Clerk

Councilman Andersen stated we in Spanish Fork City are very fortunate to have the people on staff that work for us that we have. It is exciting when some of our staff have an opportunity to be recognized.

Tracy Norr

Ms. Norr is a member of the UMCA board and is here representing IIMC. She explained the purpose and information regarding the program. She then presented Ms. Robinson with her award and stated she was the youngest in the State to get her CMC designation.

Recognition

Mr. Perrins stated Kimberly has been working hard, it is an award that is very well deserved and Spanish Fork City will take credit for her being the youngest Certified Municipal Clerk in the State.

Mr. Perrins noted the Cemetery Sexton, Hank Moore has retired and they would like to thank him for his service. He added that we greatly appreciate his service and he expressed the cities gratitude for all his years of service, he truly has done a wonderful job for us and anyone that has gone to the cemetery would agree.

Employee of the Quarter

50 Mr. Perrins explained this is a recognition that the employees have to earn. He stated it
51 is with pleasure they recognize the employee of the quarter, Tyler Jacobson. He has
52 been with Spanish Fork City for 1 ½ years working as the accountant and has done
53 everything he has been asked to do and does a great job at it.

54

55 **PUBLIC COMMENTS:**

56

57 Brad Keller

58 Mr. Keller stated Olivia's at the Primrose welcomes everyone to come try the food and
59 let them know what you think.

60

61 Mayor Pro Tem Andersen encourages all to stay in town, shop in town, and support
62 local.

63

64 Pat Parkinson

65 Ms. Parkinson said the citizen watch sign up is not on the website, she would like to
66 know where to sign up.

67

68 Mr. Perrins stated you must type in www.spanishfork.org/news and it takes you to the
69 site where you can sign up.

70

71 **COUNCIL COMMENTS:**

72

73 Councilman Dart reported it is Library lover's month and they will forgive overdue
74 charges on late books returned the first two weeks of February.

75

76 Councilman Leifson reported they had an S.U.V.P.S. meeting this week, he is
77 impressed and the individuals involved work very hard. He also went to the legislature
78 and was able to meet with them, it was a neat experience. He stated that anyone
79 interested in going should go see the process in action.

80

81 Councilman Davis attended the day at the legislature with the youth council and they
82 had a great program. He thanked Becky Otteson and Brad Stone for taking the youth
83 council at that time. He reported North Star also gave a presentation last week
84 regarding the branding and it went well.

85

86 Councilman Andersen explained what they did up at the legislature. He stated one of
87 the big items on the agenda is transportation, and the biggest item deals with I-15, the I-
88 15 reconstruction would start in American Fork and end north of Spanish Fork. When
89 UDOT pulled all the projects off the table they hoped for a chance to get them to
90 reconstruct the interchanges. He would like citizens to help encourage them to address
91 our interchange. They were able to meet with several representatives and were very
92 attentive and supportive of the information they were given, it is our hope we can voice
93 an opinion and have them listen to try to get this north interchange taken care of.

94

95 Councilman Leifson stated the e-mail addresses will be available on the website and he
96 encourages everyone can to write and help show the importance of this project getting
97 done.

98

99 **CONSENT ITEMS:**

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Minutes of Spanish Fork City Council Meeting – December 16, 2008

Councilman Dart made a **Motion** to approve the consent items. Councilman Leifson **Seconded** and the motion **Passed** all in favor.

NEW BUSINESS:

Spanish Fork/Springville Airport FAA 2009 Grant Application

Mr. Thompson recommended this item be tabled until next time so the new airport manager can come and present it.

Councilman Davis made a **Motion** to table this item until the next council meeting two weeks from today. Councilman Nielson **Seconded** and the motion **Passed** all in favor.

SFCN Rate Change

Mr. Bowcut gave a presentation regarding the rate changes.

SFCN Cable Television Rate Increase Proposal

Basic - \$8 to \$9.52

Expanded Basic - \$37.99 to \$41.44

Digital Basic – \$44.56 to \$48.37

HBO/Cinemax - \$16 to \$17

Full Package - \$78.83 to \$84.83

-Now Includes HD Basic

HD Basic, Stars/Encore. Showtime stay the same.

Mr. Bowcut stated again that these cost increases are the costs the channels charge us they are not increases through the City.

Councilman Neilson made a **Motion** to approve the rate increase as presented tonight. Councilman Davis **Seconded** and the motion **Passed** all in favor.

Sewer Slip Lining Presentation

This item was moved to the next meeting.

ADJOURN:

Councilman Leifson made a **Motion** to adjourn to Executive Session for Potential Litigation. Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:27 p.m.

ADOPTED:

Kimberly Robinson, City Recorder

RESOLUTION NO. 09-03

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>		
G. WAYNE ANDERSEN <i>Councilmember</i>		
ROD DART <i>Councilmember</i>		
RICHARD M. DAVIS <i>Councilmember</i>		
STEVE LEIFSON <i>Councilmember</i>		
JENS P. NIELSON <i>Councilmember</i>		

I MOVE this resolution be adopted: _____

I SECOND the foregoing motion: _____

Resolution No. 09-03

A RESOLUTION AUTHORIZING THE USE OF SPANISH FORK CITY'S 2009 ALLOCATION OF HOME FUNDS AND COMMUNITY HOUSING DEVELOPMENT ORGANIZATION TO ASSIST IN THE DEVELOPMENT OF AFFORDABLE HOUSING PROJECTS LOCATED IN UTAH COUNTY.

WHEREAS, The Utah Valley Consortium of Cities and County ("UVCCC") receives an annual formula allocation of HOME funds from the Department of Housing and Urban Development for the purpose of addressing homelessness and expanding the supply of affordable housing; and

WHEREAS, UVCCC receives an annual allocation of Community Housing Development Organization (CHDO) funds for the purpose of addressing homelessness and expanding the supply of affordable housing; and

WHEREAS, Spanish Fork City is a member of the UVCCC and is eligible to receive as its share of 2009 HOME funds the approximate sum of \$50,025.00, and as it's share of CHDO funds of approximately \$7503.75; and,

WHEREAS, HOME funds from each member of UVCCC will be needed to cover the costs of all proposed projects.

NOW, THEREFORE, be it resolved that the City Council of Spanish Fork City authorizes the City's share of the 2008 HOME Funding Matrix in the amount of \$50,025.00 and its share of CHDO funds in the sum of \$7503.75 to be used in the development of any of the following project(s):

- Center for Women & Children in Crisis \$ 86,213
- Rural Housing Development Corporation \$300,000
- Housing Authority of Utah County - Rehabs \$ 75,000
- Housing Authority of Utah County - REAP \$150,000
- Housing Services of Utah Valley \$300,000
- Habitat for Humanity \$169,556

Passed by the City Council of Spanish Fork City this 17th day of February 2009. This resolution becomes effective on the day following the date of adoption.

Joe L Thomas, Mayor

ATTEST:

Kimberly Robinson, City Recorder

GRANT AGREEMENT

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Federal Aviation
Administration

Part I - Offer

Date of Offer: February XX, 2009
Airport: Spanish Fork-Springville
Project Number: 3-49-0034-17
Contract Number: DOT-FA09NM-1029
DUNS Number: 073105488

To: Cities of Spanish Fork and Springville, Utah
(herein called the "Sponsor")

From: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

Whereas, the Sponsor has submitted to the FAA a Project Application dated **February 3, 2009** for a grant of Federal funds for a project at or associated with the Spanish Fork-Springville, which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

Whereas, the FAA has approved a project for the Airport (herein called the "Project") consisting of the following:

Conduct Airport Master Plan Study (Phase I),

all as more particularly described in the Project Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act", and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 95.00 per centum thereof.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

Conditions

1. The maximum obligation of the United States payable under this offer shall be \$48,693. For the purpose of any future grant amendments, which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

\$48,693 for planning
\$0 for airport development and noise program implementation
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The sponsor shall carry out and complete the Project without undue delay and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before February 20, 2009, or such subsequent date as may be prescribed in writing by the FAA.
7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

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8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

Special Conditions

9. The sponsor will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the “Current FAA Advisory Circulars Required For Use In AIP Funded and PFC Approved Projects,” dated March 21, 2007, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
10. It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
11. In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - a. may not be increased for a planning project;
 - b. may be increased by not more than 15 percent for development projects;
 - c. may be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.
12. The FAA, in tendering this Offer on behalf of the United States, recognizes the existence of an Agency relationship between the Sponsor, as principal, and the State of Utah, Division of Aeronautics, as agent. The Sponsor agrees that it will not amend, modify, or terminate said Agency Agreement without prior written approval of the FAA or its designated representative.
13. **TRAFFICKING IN PERSONS:**
 - a. **Provisions applicable to a recipient that is a private entity.**
 1. You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 49 CFR Part 29.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity--

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either--
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 49 CFR Part 29.

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

14. The sponsor agrees to monitor progress on the work to be accomplished by this grant. For consultant services, the Sponsor agrees to make payment only for work that has been satisfactorily completed. It is understood by and between the parties hereto that the approximate value of the final project documentation is ten percent (10%) of the total value of the engineering services contract, and that amount will not be paid to the Engineer until acceptable final project documentation is provided.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

DRAFT

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

Manager, Denver Airports District Office

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this _____ day of _____, 2009.

CITY OF SPANISH FORK, UTAH

(SEAL)

Sponsor's Designated Official Representative

Attest: _____ Title: _____

Title: _____

Certificate of Sponsor's Attorney

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Utah. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____, 2009.

Signature of Sponsor's Attorney

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this _____ day of _____, 2009.

CITY OF SPRINGVILLE, UTAH

(SEAL)

Sponsor's Designated Official Representative

Attest: _____ Title: _____

Title: _____

Certificate of Sponsor's Attorney

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Utah. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____, 2009.

Signature of Sponsor's Attorney