



August 13, 2020

**REVIEW OF SITLA PC ZONE APPLICATION IN SPANISH VALLEY**

Dear Commissioners:

At the June 23<sup>rd</sup> commission meeting, it was requested by the board that I address four issues pertaining to the "PC Zone Application" (Hereafter referred to as "Application") submitted by SITLA for their property in San Juan Spanish Valley.

The request was that my analysis be made available to the public for their education as well. With that purpose in mind, I will answer only the issues posed by the Commission and will not go beyond that scope. However, I would encourage the Commission to direct the Planning Commission to conduct a thorough review of San Juan County Spanish Valley Development Ordinances (hereafter referred to as "Ordinance") as soon as possible. It is important to remember that procedurally, the current Ordinance was originally presented as a draft in September 2019 and this draft version was approved by the Commission in November 2019 rather than one of the other, more refined versions that were presented to the Commission for approval. For that reason, serious considerations should be made for directing the Planning Commission to review and revise this Ordinance.

It is important to note that the application from SITLA must be processed through the ordinance as it stands today. Therefore, while the county should review and repair the ordinance, desired revisions cannot factor into the current decision before the Board.

**Summarize the SITLA Application**

The Application is very thorough. SITLA appears to be working directly with Landmark Design, the same company that the County hired to create the ordinance, to ensure absolute

compliance with the ordinance. The Application as provided by SITLA is also accompanied by a Preliminary Community Structure Plan. It appears that SITLA provided this preliminary plan in order to provide the County with as much information about their prospective development plans as they have available. It is important to note that SITLA's *Preliminary* Community Structure Plan cannot be used to combine the PC Zone Plan (Step 1) with the Community Structure Plan (Step 2). The only thing before the County Commission at this time is the PC Zone Plan (Step 1).

**Explain the process, application, and vestiture triggers contained in the Ordinance**

The Spanish Valley Planned Community (PC) District process contains five distinct steps. Each step will be briefly explained as well as any rights of the developer that vest at the respective steps.

1. PC Zone Plan (Rezone)
  - a. This is the step that is currently before the County Commission.
  - b. The PC Zone Plan is essentially a request to rezone property that is not unlike the rezoning process that takes place from residential to commercial or commercial to industrial for example.
  - c. The property covered by this step is the total land area to be rezoned to the PC Zone and in the Application is identified as a Large Planned Community.
  - d. PC Zone Plan is submitted to the Planning Commission for review and recommendation and then adopted by the County Commission.
  - e. PC Zone Plan Application must contain the following information:
    - i. Name of Planned Community;
    - ii. Names, Addresses, and phone numbers of applicant and property owner(s);
    - iii. Map showing PC Zone location, legal boundary description, acreage, scale, and an arrow indicating "north";
    - iv. Land use concept plan accompanied by a table showing the land use district types and acreage of all proposed permitted and conditional uses, the maximum number of dwelling units, Floor Area Ratios, and

the total acreage of open space in the PC Zone and areas (in square footage or acreage) of the various non-residential land uses proposed in the PC Zone;

- v. Map showing existing waterways, major utilities, easements, storm water conveyances, flood boundaries, and other relevant infrastructure; and
- vi. Adjacent parcels, owners, and land uses.

f. Once the PC Zone Plan is approved, it becomes an amendment to the Spanish Valley Area Plan for the area approved and the approved PC Zone Plan **shall confer a vested right to proceed with the development process as established in the Ordinance for all property included within the PC Zone.**

- i. This vestiture includes number of dwelling units and the square footage of nonresidential uses reflected in the approved PC Zone.

## 2. Community Structure Plan (CSP)

- a. This step requires submittal of master plans of major systems and the inclusion of development standards for things like major roadways, infrastructure, open space networks, general location of neighborhoods, etc.
- b. The Planning Commission makes recommendations and the County Commission has **limited authority** to deny approval of the CSP. Note: the table in the ordinance is inconsistent with the body of the ordinance on this subject.
- c. CSPs can be for portions of the PC Zone or the entire PC Zone may be included in one CSP.
- d. The specific requirements for a CSP application are included in the ordinance at 2(B). However, since that is not the step currently before the Commission, and for the sake of brevity, all 13 requirements are not included here.
- e. Disproval of a CSP can only occur under one of the following four circumstances:
  - i. Failure of the proposed CSP to include all of the elements required in the Ordinance;

- ii. Failure of the proposed master circulation system identified in the CSP to adequately serve the communities within the PC Zone;
- iii. Failure of the proposed major infrastructure identified in the CSP to provide adequate service to the communities within the PC Zone; and
- iv. The inclusion of land uses in the CSP not permitted or conditionally permitted in the Ordinance.
- v. When approving a CSP, reasonable conditions may be imposed to mitigate reasonably anticipated detrimental impacts in accordance with the County's Zoning Ordinance. Note: The County Zoning Ordinance does not contemplate PC Zones as adopted in the Spanish Valley Development Ordinance.
- vi. While the language in the CSP section appears to be in error, the only reasonable interpretation of the vesting language in the section is that denying approval of a CSP cannot interfere with the previously vested rights granted during the PC Zone Plan step.

### 3. Development Agreement

- a. Creates a legal contract between San Juan County and the owner(s)/developer(s) of the subject property. Details the obligations of both parties, specifying the standards and conditions that will govern the development and describe the vested interests of the parties. The language of this section presupposes that full vesting has already taken place.

### 4. Project Plan and/or Subdivision Plat

- a. Outlines the character and nature of the design of improvements within the specific project or subdivision. *Contains substantial detail.*
- b. Shows the uses of individual properties and parcels
- c. Must be approved by County staff before being submitted to the Planning Commission for approval.
- d. Preliminary and Final plats must be submitted and approved according the San Juan County Code requirements.

- e. Preliminary and final plats must conform to the applicable CSP standards from Step 2 as well as all project specific standards proposed and approved by the Planning Commission in connection with the final plat.
5. Site Plan Review
- a. This step may be done concurrently with Step 4.
  - b. All Ordinance requirements shall be met in preparing the Site Plan applications and in designing and constructing the development
  - c. Building permits may not be obtained and work cannot begin on the site prior to the Site Plan approval
  - d. Site Plan approval is provided by County Staff.

**Options available to the County when processing the Application under the Ordinance**

As long as this PC Zone Application (application for rezone) complies with the six requirements set forth on page 20 of the Ordinance, the County **cannot** deny the rezone application. **See section below for analysis of the Application.**

It is also important to note that the proposed uses in SITLA's Application appear to match the current zones (other than they will now be in a PC zone), and that they are entitled to the use and approval at this stage. *See* Utah Code Ann. §17-27a-508.

Furthermore, much of the property involved in the proposed PC Zone is already zoned PC and therefore nothing will change on that portion of SITLA property, and SITLA is already entitled to present use in those areas as the land is currently zoned. Also, as SITLA's PC Zone Plan Application appears to incorporate the existing zoning currently in place on the areas of its property not zoned as PC, the County would not have grounds to deny proposed development under the existing zoning as their proposal appears to already contemplate entitled uses. However, by adding the property not currently zoned PC to the PC Zone may give the County more influence and participation in the process than if SITLA were to simply proceed with development in the zones as they presently exist.

Does the Application satisfy the first step of the process set forth in the Ordinance?

The Application does satisfy the requirements of the first step of the Ordinance. SITLA submitted the Application for PC Zone (essentially a simple rezone request) to the Planning Commission. The Planning Commission made a recommendation to the County Commission and that is where we presently find ourselves.

The six requirements of the PC Zone application are all met as follows:

1. The name of the planned community:
  - a. Spanish Valley (Cover Page)
2. Name, addresses, and phone numbers of the applicant and property owner(s):
  - a. School Institutional Trust Lands Administration
  - b. 675 East 500 South, Suite 500, Salt Lake City, Utah 84102
  - c. (801)538-5100
  - d. (Bottom Left of Table of Contents Page)
3. Map showing PC Zone location, legal boundary description, acreage, scale, and north arrow:
  - a. Page 6 of the Application Titled 2.0 Legal Description and including Figure 5 and Figure 7 (page 10)
4. Land use concept plan accompanied by a table showing the land use district types and acreage of all proposed permitted and conditional uses, the maximum number of dwelling units, Floor Area Ratios, and the total acreage of open space in the PC Zone and areas (in square footage or acreage) of the various non-residential land uses proposed in the PC Zone:
  - a. Contained in 3.0 Zoning and Land Use from pages 7 through 20 including Figures 10 and 11.
5. Map showing existing waterways, major utilities, easements, storm water conveyances, flood boundaries, and other relevant infrastructure:
  - a. Figure 16 (page 30), discussion of Pack Creek drainage in Section 1.0 (pages 1-2) and Figures 1-3.

- b. Figure 15 (page 29) and discussion in Section 5.0 (pages 27-28).
  - c. Section 4.0 (page 21) and figures 12-14 (pages 22-26).
6. Adjacent parcels, owners, and land uses:
- a. Figures 6 (page 9), Figure 9 (page 13) and Figure 17. Discussion on Page 12.

### CONCLUSION

It is my legal opinion and analysis that the PC Zone Application, as supplemented by SITLA on July 31, 2020 meets the requirements for this step in the process under the San Juan County Ordinances.

Sincerely,



Kendall Laws  
San Juan County Attorney