



SMITHFIELD CITY PLANNING COMMISSION MINUTES November 15, 2023

The Planning Commission of Smithfield City met in the City Council Chambers
96 South Main, Smithfield, Utah at 6:30 p.m. on Wednesday, November 15, 2023

The following members were present constituting a quorum:

Members Present: Jamie Anderson, Katie Bell, Brooke Freidenberger, Brian Higginbotham, Bob Holbrook, Stuart Reis, Lazaro Soto

Alternates Present: James Marshall, Chris Olsen

City Staff: Councilmember Sue Hyer, Councilmember Jon Wells, Brian Boudrero, Kenzie Nelson

Others in Attendance: Andrew Lillywhite, Todd Orme, Aspen Hansen Madison Ramsey, Michelle Anderson Janet Hillyard, Lee & Lupe Helms, Dixie Neugebauer, Caralee Stokes, Debbie Zilles

6:30 p.m. Meeting called to order by Chairman Anderson

Welcome/Pledge of Allegiance by Chairman Anderson

Consideration of consent agenda and approval of meeting minutes

After consideration by the Commission, Chairman Anderson declared the minutes from the October 18, 2023 meeting to stand as submitted.

RESIDENT INPUT – No public comments.

AGENDA ITEMS

Discussion and possible vote on the request by Andrew Lillywhite for approval of the Final Plat for the Roger Cantwell Subdivision, a (2) lot/unit subdivision located at 490 West 300 North. Zoned RA-1 (Residential Agricultural 1-Acre).

Andrew Lillywhite and Roger Cantwell are requesting approval of a final plat for a minor subdivision, located approximately 248 North and 500 West. The subdivision creates two individual properties that are zoned as Residential Agriculture (RA-1).

Mr. Lillywhite explained that it is currently an L-shaped property which is just over two (2) acres that they would like to subdivide. 500 West will be widened. They have met all applicable codes and requirements, however, are hoping for an exception to having to put in a curb, gutter, and sidewalk along 300 North as there are already existing homes on that road. Mr. Lillywhite was told that the City Council could consider waiving a requirement or making an exception, but the Planning Commission could not.

MOTION: Motion by Commissioner Higginbotham to **approve** the request by Andrew Lillywhite for approval of the Final Plat for the Roger Cantwell Subdivision, a two (2) lot/unit subdivision located at 490 West 300 North. Zoned RA-1 (Residential Agricultural 1-Acre). Commissioner Bell seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Holbrook, Higginbotham, Reis, Soto

Discussion and possible vote on the “Home Child Care or Preschool” Conditional-Use Permit Application by Aspen Hansen to operate Lil’ Guppies Home Daycare at 368 East 400 South. Parcel Number 08-157-0009. Zoned R-1-10 (Single Family Residential 10,000 Square Feet).

Aspen Hansen is requesting approval for a conditional use permit for a home-based preschool business. She would like to operate her childcare business out of the home she lives in. Aspen has met all of the city codes that apply to child care and is working to produce the state inspections and licenses. She has a written letter of approval from the homeowner for the proposed business. She lives in the residence and is proposing to care for approximately 8 up to 18 children in the future. The state only allows 16 maximum children if they have a full license and she has been informed. Her residence consists of three total off-street parking spaces and the surrounding streets have room for loading and drop-off.

Ms. Hansen shared some pictures of the inside of the home and improvements in the basement of the home where she will be running the daycare. Her father is the owner of the home. She is currently working on getting her state license; all the required inspections have been done. She is hoping to have it ready to go by the end of December.

Mr. Boudrero clarified for Commissioner Holbrook that a license and Conditional Use Permit is required because of the request for 16 children (which is the maximum amount allowed). Ms. Hansen said her mother would be helping with the daycare.

Commissioner Higginbotham asked about open space, Ms. Hansen said there is a backyard that will be utilized as weather permits. During inclement weather, they will have an area inside to use.

Mr. Boudrero pointed out that the business license will not be issued until the state license is received – which is in progress.

MOTION: Motion by Commissioner Bell to **approve** the “Home Child Care or Preschool” Conditional Use Permit Application by Aspen Hansen to operate Lil’ Guppies Home Daycare at 368 East 400 South. Parcel Number 08-157-0009. Zoned R-1-10 (Single-Family Residential 10,000 Square Feet). Commissioner Freidenberger seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Holbrook, Higginbotham, Reis, Soto

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-30, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”; amending Chapter 17.120 “Use Matrix Table”, Section 17.120.010 “Use Allowance Matrix”.

Mr. Boudrero explained that this ordinance will add "Esthetician/Microblading," to the Use Allowance Matrix. It will be added as a conditional use to the Community Commercial and Mixed-Use zones and a permitted use to the Central Business District, General Commercial, and Gateway zones.

6:46 p.m. Public Hearing Opened

6:47 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-30.

MOTION: Motion by Commissioner Freidenberger to **forward a recommendation of approval to the City Council** for Ordinance 23-30, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”; amending Chapter 17.120 “Use Matrix Table”, Section 17.120.010 “Use Allowance Matrix”. Commissioner Holbrook seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Heaps, Holbrook, Higginbotham, Reis, Soto

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-31, an Ordinance amending the Smithfield City Municipal Code Title 16 “Subdivision Regulations”, Chapter 16.05 “Concept Plan”, Sections 16.050.010 “Purpose”, 16.05.020 “Application and Fees”, 16.05.030 “Concept Plan Submittal”, 16.05.040 “Subdivision Technical Review Committee”, Chapter 16.12 “Final Plats”, Sections 16.12.010 “Purpose”, 16.12.020 “Filing Deadline, Application, and Fees”, 16.12.030 “Preparation and Required Information”, 16.12.040 “Review by the City Engineer”, 16.12.050 “Planning Commission Action”, 16.12.070 “Review by the City Council”, 16.12.080 “Recording of the Final Plat”, 16.12.090 “Expiration of Final Approval”, Chapter 16.04 “General Provisions”, Sections 16.04.030 “Definitions”, 16.04.050 “General Responsibilities”, Chapter 16.07 “Major Subdivisions”, Sections 16.07.010 “Purpose”, 16.07.030 “Preliminary Plat”, 16.07.040 “Final Plat”, 16.07.050 “Improvements”, Chapter 16.06 “Minor Subdivisions”, Sections 16.06.040 “Procedure”, 16.06.050 “Approval of the Minor Subdivision”, 16.06.060 “Disapproval by the City Council”, 16.06.070 “Required Improvements”, 16.06.080 “Recording of Plat or Filing of Record Survey”, Chapter 16.09 “Preliminary Plats”, Sections 16.09.010 “Purpose”, 16.09.020 “Application and Fees”, 16.09.030 “Preliminary Plat Required Information”, and 16.09.040 “Approval of Preliminary Plat”.

- The new subdivision review changes required by the State, for single-family, twin-home, and town-home subdivisions. Revisions and modifications have been made to the existing code, to implement the required review process. The

proposed review process will eliminate the need for a concept plan in addition to the requirement for the STRC (Subdivision Technical Review Committee) meeting.

- The changes required in this ordinance are entirely **administrative** and must be implemented by 02/01/2024. They only reflect modifications in the review of subdivisions that do not need to be rezoned.
- Cities must appoint an "**Administrative Land Use Authority**," for review and approval of preliminary and final subdivision plats. This ordinance is proposing that the following positions be chosen for said authority: The City Engineer, City Planning Manager, City Manager, Public Works Director, and an appointed member of the City Fire Department.
- No definitive changes to the required standards of preliminary and final plats have been prescribed. Only the process of review has been altered efficiency.
- Cities must create and publish application forms, requirements, fees, checklists, documentation, and details for plan submittal both preliminary and final plats. All the required information is posted and placed on the city website.
- Cities must adopt and implement a new "review cycle" process. This includes **complete** application submittal, complete review, and response to developer and developer reply. Each subdivision application (preliminary and final) can only go through this review cycle **(4) four** times before approval or denial.
- The city must identify specific changes to the documents found in the code and the applicant must comply with each requirement, failure to comply negates the review process. The City will have **15 business days** to review preliminary plats and **20 business days** for final plats. If reviews are not responded to, the city has an additional 20 business days to review.
- Failure by a city to correct an issue in the application means it waives its rights to require the developer to correct the issue unless it is federal or state law or is a specific public health safety. If the applicant makes any material or substantial changes to the application above the issued requirements and if the city desires, the (4) four-cycle process begins again.
- As long as the city meets the timely review of all submittals and notifies the applicant of any deficiencies in the documentation, the city is not required to approve a plat, that doesn't meet the ordinance. All applications, plats, and fees will start over after the (4) four cycles.

Mr. Boudrero reminded the Commission that this mandate is for subdivisions that meet all requirements. Any requests for change and/or any rezones or overlays will go through the regular process. This change is only for simple administrative decisions. Public comment can be received at any time on any item. These requests will be posted online and residents can call with questions or concerns.

6:50 p.m. Public Hearing Opened

Caralee Stokes said it can be hard to find the information before public hearings, and often the information is hard to understand. She would like information to be easier to understand, the public deserves to have more detail on items.

Lee Helms said it seems like this is giving the City an avenue to approve developments without public input. This is taking away the freedom to voice opinions and help protect the community.

Todd Orme asked who the reference to the Planning Manager is. Mr. Boudrero said he is the Planning Manager. Mr. Orme agrees with the previous comments that this seems to be taking away some of the freedoms and rights of the residents. He thinks public input is important and strongly disagrees with this change.

James Marshall pointed out that if an applicant complies with all the codes and requirements and does not require any mitigation, it should not have to have any changes due to public input.

Kenneth Bell agrees with Mr. Marshall's comment. If a subdivision meets all the requirements and the owner is already doing what is required in the Code, it should not have to go through the entire Planning Commission/City Council process. If changes need to be made, they should be made as the Code is developed and/or changed.

Chris Olsen pointed out that this is a mandate from the State legislature. There could be consequences if this is not followed. Mr. Boudrero said this information is included in the annotated Code. Mr. Olsen agreed that it is worthy to have a summary of information; Mr. Boudrero said that is always available on the website before the meeting. Residents are always encouraged to contact the City with any questions or concerns regarding projects and/or proposals.

7:00 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-31.

Mr. Boudrero explained that staff reports include ordinances, which are written via State Code, which he agrees can be confusing. He includes a summary to better understand what is being proposed. The ordinance and full report are included in the packets that are distributed and posted online. He reiterated that this is a mandate that cities adopt and implement a new "review cycle" process. The City is not required to approve a plat that does not meet the ordinances.

Mr. Boudrero outlined the cycle system for Commissioner Higginbotham. Proposals are required to be fully complete upon application and must address any concerns that the Administrative Land Use Authority may have. If the project does not comply with everything, it can be denied. He again assured the Commission and the public that the information is put on the City website for anyone to review and comment.

At Commissioner Freidenberger's request, Mr. Boudrero explained the difference between legislative and administrative decisions. Legislative items such as zone changes, annexations, Code changes, etc. will still have to go through the Planning Commission/City Council process. This will only shorten the amount of time it will take for a project that meets everything required, this is not circumventing the system at all. If, after the 4 cycles of review, it still does not meet all the requirements, the applicant will have to begin all over by re-submitting an application and paying the fees again.

Mr. Boudrero said the City has to have this implemented by February 2024.

The change from one year to 18 months on page 8; 16.07.040 Final Plat, was to bring it in line to match the wording in other ordinances.

Commissioner Freidenberger asked what would happen if a project were denied. Mr. Boudrero said an applicant could appeal the decision to the Utah Property Rights Ombudsman, which could result in an expensive legal battle.

Commissioner Higginbotham said the legislature decided to try and help better streamline the process and with rights associated with property ownership. The City has to follow what is in the Code and cannot selectively add amenities that are not required. This process makes sense for projects that follow all the rules. If there are things the Commission does not agree with, it is important to begin a discussion about possibly changing the Code. Public comment is important with any proposal, he asked if there would be a schedule as to when items would be posted online for review. In the spirit of trying to honor the concerns of the public, it would be good to have specific dates when these are added. Mr. Boudrero said it may be difficult to have specific days, that is something they can look at but subdivisions come in at different times and some withdraw before the process begins. He also encouraged citizens to sign up for the communication system the City has (flyers were available). Citizens can also call in and get information on how to get signed up.

Commissioner Freidenberger asked how citizens can better learn about Codes and ordinances. Mr. Boudrero said he is always willing to take calls and discuss items with citizens at any time. He also encouraged residents to contact their elected City Council members with questions and concerns.

Chairman Anderson said Land Use Authority projects can be listed similarly to other public meetings that are listed on the City's website. He would like, in the spirit of transparency, to make finding the information as easy as possible for residents.

Commissioner Bell said this new format will actually make it easier for public comments to be addressed. As it is now, the public can make comments at the meeting but there is no back-and-forth dialogue. This process will give citizens the ability to address concerns sooner and talk to someone who can answer questions.

Commissioner Reis asked how many of these applications the City is receiving. Mr. Boudrero said it depends but it can be as often as 1 or 2 per month. This review cycle is already in place, this proposal will just streamline the time process – there will still be deadline dates that will be required.

Commissioner Higginbotham asked about the wording under 16.12.030 Preparation and Required Information item G on page 5 "*The city must approve all proposed dumpster locations.*" Mr. Boudrero said this could be for a single-family townhome subdivision that may want a dumpster rather than individual garbage cans. This requirement is determined on a case-by-case basis. It is included to cover any possible scenario. Commissioner Higginbotham asked why it has to be a standalone item and cannot be included under Section B. Mr. Boudrero said that change can be made. He explained that the mailbox location is separate because USPS designates where mailboxes will be located.

Mr. Boudrero confirmed for Chairman Bell that the decisions that will be made are strictly administrative and are based on the requirements in the Code. This is not a loss of freedom for anyone who wants to comment on a project. If there are parts of the Code that citizens do not agree with, he suggested they contact members of the City Council, which is the decision-making body for making changes to the Code.

MOTION: Motion by Commissioner Bell to **forward a recommendation of approval to the City Council** for Ordinance 23-31, an Ordinance amending the Smithfield City Municipal Code Title 16 “Subdivision Regulations”, Chapter 16.05 “Concept Plan”, Sections 16.050.010 “Purpose”, 16.05.020 “Application and Fees”, 16.05.030 “Concept Plan Submittal”, 16.05.040 “Subdivision Technical Review Committee”, Chapter 16.12 “Final Plats”, Sections 16.12.010 “Purpose”, 16.12.020 “Filing Deadline, Application, and Fees”, 16.12.030 “Preparation and Required Information”, 16.12.040 “Review by the City Engineer”, 16.12.050 “Planning Commission Action”, 16.12.070 “Review by the City Council”, 16.12.080 “Recording of the Final Plat”, 16.12.090 “Expiration of Final Approval”, Chapter 16.04 “General Provisions”, Sections 16.04.030 “Definitions”, 16.04.050 “General Responsibilities”, Chapter 16.07 “Major Subdivisions”, Sections 16.07.010 “Purpose”, 16.07.030 “Preliminary Plat”, 16.07.040 “Final Plat”, 16.07.050 “Improvements”, Chapter 16.06 “Minor Subdivisions”, Sections 16.06.040 “Procedure”, 16.06.050 “Approval of the Minor Subdivision”, 16.06.060 “Disapproval by the City Council”, 16.06.070 “Required Improvements”, 16.06.080 “Recording of Plat or Filing of Record Survey”, Chapter 16.09 “Preliminary Plats”, Sections 16.09.010 “Purpose”, 16.09.020 “Application and Fees”, 16.09.030 “Preliminary Plat Required Information”, and 16.09.040 “Approval of Preliminary Plat” with the change of the dumpster location verbiage as previously discussed. Commissioner Holbrook seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Heaps, Holbrook, Higginbotham, Reis, Soto

Introduction and Public Hearing on Ordinance 23-33, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”; amending Chapter 17.92 “Accessory Dwelling Unit”, Section 17.92.020 “Conditions”.

The change in wording includes:

6. *The owner(s) of the residence shall occupy at least one (1) of the units on the lot; except for bona fide temporary absences of two (2) years or less for activities such as:*
- a. *A temporary job assignment, sabbatical, or voluntary service.*
 - b. *The owner is placed in a hospital, nursing home, assisted living facility, or other similar facility.*
 - c. *City staff will require written documentation verifying the temporary absence.*
 - d. *The owner(s) shall apply for a continuance of their accessory dwelling unit permit during their absence by notifying the Planning Department in writing. They shall*

include in the request their anticipated length of absence and estimated return date, a forwarding address, phone number, and email address where they may be contacted by the city, and the names, phone numbers, and email addresses of those who will act in their stead as the “surrogate” owners of the property in their absence.

7:45 p.m. Public Hearing Opened

Jon Wells suggested changing the term “accessory apartment” to “assessor dwelling unit” for consistency within the ordinance

7:46 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-33.

Mr. Boudrero explained that adding the excerpt 17.92.020 6. “...*except for bona fide temporary absences of two (2) years or less for activities such as ...*” will require documented proof of such absence.

Commissioner Higginbotham suggested changing it to three (3) years for obligations that may last longer than two (e.g., LDS Temple President, Mission President, etc.).

Commissioner Freidenberger asked if someone could rent out the main home if they also have an accessory dwelling unit that is rented out and they leave for a temporary absence. Mr. Boudrero said they can allow someone to stay in and/or rent the main home during the allowed absence. They would have to provide the City with the proper paperwork and a local emergency contact for the property. This will help properties be maintained and things taken care of during short absences – as proposed.

MOTION: Motion by Commissioner Bell to **forward a recommendation of approval to the City Council** for Ordinance 23-33, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”; amending Chapter 17.92 “Accessory Dwelling Unit”, Section 17.92.020 “Conditions”. Commissioner Freidenberger seconded the motion, with a wording change to “dwelling unit” in Section B and the change from two (2) years to three (3) years in Section A-6.

Motion approved (7-0).

Vote:

Aye: Anderson, Bell, Heaps, Holbrook, Higginbotham, Reis, Soto

OTHER

MEETING ADJOURNED at 7:54 p.m.

Minutes submitted by Debbie Zilles

Planning Commission Chairman