

2 The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday,**
3 **September 22, 2020 beginning at 6:00 p.m.** at the Lindon City Center, City Council
4 Chambers, 100 North State Street, Lindon, Utah.

6 **REGULAR SESSION – 6:00 P.M.**

8 Conducting: Sharon Call, Chairperson
9 Invocation: Scott Thompson
10 Pledge of Allegiance: Rob Kallas

12	<u>PRESENT</u>	<u>EXCUSED</u>
	Sharon Call, Chairperson	Renee Tribe, Commissioner
14	Mike Marchbanks, Commissioner	
	Rob Kallas, Commissioner	
16	Steven Johnson, Commissioner	
	Scott Thompson, Commissioner	
18	Jared Schauers, Commissioner	
	Mike Florence, Planning Director	
20	Brian Haws, City Attorney	
	Anders Bake, Associate Planner	
22	Kathryn Moosman, City Recorder	

24 1. **CALL TO ORDER** – The meeting was called to order at 6:00 p.m.

26 2. **APPROVAL OF MINUTES** –The minutes of the regular meeting of the
28 Planning Commission meeting of September 8, 2020 were reviewed.

30 COMMISSIONER MARCHBANKS MOVED TO APPROVE THE MINUTES
32 OF THE REGULAR MEETING OF SEPTEMBER 8, 2020 AS PRESENTED.
COMMISSIONER JOHNSON SECONDED THE MOTION. ALL PRESENT VOTED
IN FAVOR. THE MOTION CARRIED.

34 3. **PUBLIC COMMENT** – Chairperson Call called for comments from any
36 audience member who wishes to address any issue not listed as an agenda item.
There were no public comments.

38 **CURRENT BUSINESS** –

40 4. **Major Subdivision – Country Garden Estates** – approximately 75 N. 500 E.
42 Wayne Ercanbrack requests Major Subdivision approval for an eight-lot single
family home subdivision in the Residential R1-20 zone.

46 Mike Florence, Planning Director, led this agenda item by giving a brief summary
48 stating the applicant, Mr. Ercanbrack, who is in attendance, is seeking preliminary major
subdivision approval for an 8-lot single family home development. He noted the
proposed 8-lot subdivision meets the minimum lot size and infrastructure requirements
50 for the R1-20 zone. The development will be connecting 75 North and 500 East and the

road alignment follows the Lindon City Street Master Plan map. The subdivision will include one existing home which is owned by Mr. Ercanbrack. Mr. Florence stated the Subdivision and lot Requirements are met and in compliance.

Mr. Florence stated the City Engineer is working through any technical issues related to the plat and civil engineering plans and will ensure all engineering related issues are resolved before final approval is granted.

Mr. Florence then presented an Aerial photo, Vicinity map, Lindon City Street Master Plan Map section and the Plat followed by some general discussion.

Chairperson Call stated this subdivision seems pretty straightforward and it appears the lots are really nice and it meets all requirements.

Chairperson Call called for any further comments or discussion from the Commission. Hearing none she called for a motion.

COMMISSIONER MARCHBANKS MOVED TO RECOMMEND APPROVAL OF THE APPLICANT'S REQUEST FOR PRELIMINARY APPROVAL OF THE COUNTRY GARDEN ESTATES PLAT WITH THE FOLLOWING CONDITIONS: 1. THE APPLICANT WILL CONTINUE TO WORK WITH THE CITY STAFF TO MAKE ALL FINAL CORRECTIONS TO THE ENGINEERING DOCUMENTS AND PLAT; 2. THE PLAT WITH LOT LAYOUTS IS APPROVED AS PROVIDED IN THE STAFF REPORT; 3. PRIOR TO PLAT RECORDING, THE APPLICANT WILL PROVIDE STAFF WITH A FINAL PLAT MYLAR TO INCLUDE NOTARIZED SIGNATURES OF OWNER'S CONSENT TO DEDICATION, AND OBTAIN SIGNATURE OF ALL ENTITIES INDICATED ON THE ATTACHED SUBDIVISION PLAT; 4. COMPLETE (OR POST AN ADEQUATE IMPROVEMENT COMPLETION ASSURANCE), WARRANT AND POST REQUIRED WARRANTY ASSURANCE FOR ALL REQUIRED PUBLIC INFRASTRUCTURE IMPROVEMENTS; 5. THE PLANS AND PLAT WILL MEET AND BE CONSTRUCTED AS PER APPLICABLE SPECIFICATIONS AS FOUND IN THE LINDON CITY DEVELOPMENT MANUAL; 6. PRIOR TO FINAL DEVELOPMENT APPROVAL THE APPLICANT SHALL PLACE PERMANENT SURVEY MONUMENTS IN THE SUBDIVISION; 7. ALL ITEMS OF THE STAFF REPORT. COMMISSIONER KALLAS SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER JOHNSON	AYE
COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE

THE MOTION CARRIED UNANIMOUSLY.

- 5. Conditional Use Permit – Brady Anderson** – 278 E. 70 S. Brady Anderson requests conditional use permit approval to breed and sell exotic snakes (boa constrictors and ball pythons) at 278 E. 70 S. in the low density residential R1-20 zone.

Anders Bake, Associate Planner, led this agenda item by giving a brief overview stating the applicant Brady Andersen, who is in attendance, is requesting Conditional Use

2 Permit approval to breed and sell exotic reptiles as a home occupation business at 278
East 70 South, Lindon, in the Residential Single-Family (R1-20) zone.

4 Mr. Bake explained Jeremy and Kara Stone (JSR Inc.) previously had a
conditional use permit for snake breeding and sales at this location. He noted the Stone's
6 filed to transfer their conditional use permit to their current property at 106 South 300
East. He further explained that Lindon City Code regarding wild and exotic animals,
8 6.16.015 requires a conditional use permit but also that potential allowance of wild and/or
exotic animal species and the quantities of said species are subject to approval on a case-
10 by-case basis. He pointed out the snakes that Mr. Andersen raises and breeds are non-
venomous.

12 Mr. Bake noted the Home Occupation requirements in the Lindon City Code
section 17.04.400 states "The purpose and intent of this section is to allow gainful
14 occupations, professions, activities, or uses that are clearly customary, incidental, and
secondary to the residential use of the property and which do not alter the exterior of the
16 property or affect the residential character of the neighborhood."

Mr. Bake then referenced the table that identifies the requirements in section
18 17.04.400 of the Lindon City Code and whether or not the proposed business is in
compliance with these requirements. Mr. Bake also made reference to Lindon City Code
20 6.04.005 Animal Control Definitions that states "Exotic Animal" means an animal of
foreign origin introduced from abroad and commonly domesticated, but not commonly
22 raised within Lindon City. These animals shall include but not be limited to: a. Camel; b.
Emu; c. Peacock; d. Ostrich. For purposes of this ordinance, bees and other animals
24 specifically permitted within this title are not considered exotic animals.

Mr. Bake also made reference to Lindon City Code Section 17.20.060 that
26 provides that a conditional use may be denied when: a. "Under circumstances of the
particular case, the proposed use will be detrimental to the health, safety, or general
28 welfare of persons residing or working in the vicinity, or injurious to property or
improvements in the vicinity, and there is no practical means available to the applicant to
30 effectively mitigate such detrimental effects;" or, b. "The applicant cannot or does not
give the Planning Commission reasonable assurance that conditions-imposed incident to
32 issuance of a conditional use permit will be complied with." 6.16 Wild and Exotic
Animals 6.16.010 – Wild and exotic animals. It is unlawful for any person to sell, offer
34 for sale, barter, give away, keep, own, harbor, or purchase any wild or exotic animal, as
defined by this Title, except for governmental agencies or otherwise as provided for by
36 state or federal regulations or as permitted by issuance of a conditional use permit as
allowed for within this chapter. 6.16.015 - Conditional use required as follows: 1. Wild
38 and exotic animals, as defined in this title, shall only be authorized in Lindon City by
issuance of a conditional use from the Planning Commission. Conditional uses shall be
40 regulated according to Chapters 17.20 through 17.24 of Lindon City Code. 2. The
potential allowance of wild and/or exotic animal species and the quantities of said species
42 are subject to approval on a case-by-case basis. The conditions of approval may be
imposed by the Planning Commission as deemed necessary to protect the public health,
44 safety, and welfare including, but not limited to, increased setbacks, fencing, size and
type of enclosure or structure, etc.

46 Mr. Bake stated the applicant has provided the information to show how he will
comply with the requirements for a Conditional Use Permit and a Home Occupation
48 business. Mr. Bake indicated the applicant has also provided information including a site

2 plan showing that the proposed business will operate entirely within the accessory
structure on Mr. Andersen's property. A federal license from the U.S Fish and Wildlife
4 services and business description have also been provided and are included in the staff
report. He noted the business description explains that Mr. Andersen plans to have 100 to
6 500 snakes at a time and staff has added a 500-snake limit as a proposed condition of
approval. The business description also outlines the feeding process and where rodents
8 can be purchased.

Mr. Bake stated Staff recommends that the breeding, raising, or storage of live
10 rodents be prohibited as a condition of approval. He indicated that since the public notice
went out, the City has received two calls from residents complaining of odors from the
12 accessory building. It is staffs understanding the snakes are currently being raised at the
building.

Mr. Bake then presented an Aerial Photo, Site Plan and Building elevations,
14 Business description and Copy of his Federal License followed by some general
discussion. He then turned the time over to the applicant for comment.

The applicant, Mr. Anderson addressed the commission at this time. He stated the
18 building was built in 2005 by Jeremy Stone with adequate cameras and bars on the
windows and secure doors with alarms and motion detection and glass break. He
20 explained depending on the reptile and their natural habitat, some prefer live feed, but
they can be trained to eat frozen/thawed rodents but that is not their natural habitat. He
22 noted occasionally he would like to be able to provide live rodents for the health of the
animal. He pointed out that the storage of the rodents would typically be within the first
24 12 hours at the most and then the rodent would be removed as there is no delay in
feeding.

Chairperson Call asked the applicant if he currently has a business relationship
26 with Mr. Stone. Mr. Anderson replied that Mr. Stone has mentored him, but they are not
in business together. He pointed out he is not currently selling any reptiles; his reptiles
28 are pets and he has around 125 reptiles. He noted he has hired an attorney to look into
this issue and he doesn't know yet what the actual results are; if they are considered an
30 exotic animal or not. He was told he did not need a conditional use permit, but once he
found out he needed one he has been going through the process since last September and
32 has applied for a business license; this is not the first time he has tried to resolve this.

City Attorney, Mr. Brian Haws stated there has been communication with Mr.
34 Anderson's Attorney and they have had some discussion on this issue. Mr. Anderson's
attorney stated he took the position that he had the CUP when he purchased the property
36 and he has retained council. He sent a letter stating the city's position is that this CUP no
longer applies on this property. Mr. Haws also expressed to Mr. Anderson's attorney that
38 is not the way the city sees it and then the communication did not continue. He clarified
that Mr. Anderson did not just ignore the issue.

Commissioner Thompson spoke on complaints from neighbors pointing out if Mr.
42 Anderson was not able to safely conduct the business at that point why should he be able
to do it now and what is different. Mr. Anderson pointed out he is not familiar with these
44 alleged complaints. He noted his building has filters so there are no odors associated
with his snakes. He also noted the city has the requirement of cleanings 3 times a week if
46 not more that he complies with. He added snakes don't eat every day and he is not
familiar with any rodents in the field and if so, they would not be his. He pointed out the
48 building is secure and the door is locked so nothing could get out. He made the point that

2 he lives around horses etc. and doesn't complain of odors and he is not sure of these odor complaints.

4 Commissioner Kallas asked for clarification that Mr. Anderson will have his own business separate from Mr. Stone. Mr. Anderson confirmed that currently this is a hobby.
6 Mr. Haws clarified if Mr. Anderson wants to move beyond a hobby, he would need a business license and provide them to the city on an annual basis. Mr. Anderson stated he
8 is fine with that but he doesn't want any confusion or misunderstandings; he is currently a hobby breeder, but he is happy to set up a business if needed but he will not be selling
10 for some time. Mr. Haws explained the conditional use permit time frames. Mr. Anderson stated he will set up all proper licenses and permits etc. Commissioner Kallas
12 asked Mr. Haws if a person can have 100 snakes. Mr. Haws confirmed that statement but added only with a conditional use permit. There was then some discussion on the
14 numbers of snakes allowed and possible impacts on the use and the neighbors and how to mitigate any issues through the conditions imposed.

16 Chairperson Call expressed her concerns of having two of the same type businesses in the neighborhood and her concerns that it may have a disproportionate
18 impact on the neighbors and if so, how can this can be mitigated.

20 Commissioner Johnson pointed out if this is just a hobby right now, we can see how he handles the hobby and then see if any complaints are received and re-evaluate it at that time.

22 Commissioner Thompson stated this is based on a variety of things and if there are complaints from the same business with similar descriptions this gives the planning
24 commission reason to have pause and to restrict the number of reptiles lower so it doesn't further negatively impact the neighbors, as there have already been complaints
26 received. He would suggest to offer him 150 snakes and go for a period of time and if there are no complaints received and it seems to be functioning properly then we can
28 reevaluate it again at a later time.

30 Commissioner Marchbanks agreed that seems reasonable adding Mr. Anderson appears to be a good operator. He did point out we have had some issues with the Stone business in the past.

32 Commissioner Schauers stated both facilities are being built by someone in this industry who accommodates this type of business and it goes a long way to put to rest
34 the concerns of the neighbors. This was built for this specific reason with safety measures in place and that should put the neighbor's concerns at ease. He added the
36 concerns need to be vetted, and if there is photographic evidence a neighbor could bring to the city that would be better than anecdotal, hearsay, exaggeration, etc. as to have
38 legitimate complaints. Mr. Anderson indicated this is federally regulated and as far as fears and concerns go, these snakes don't go outside, there is no cross breeding and it is
40 a quiet business.

42 Chairperson Call called for any public input at this time. Mr. Bill Fairbanks addressed the commission. Mr. Fairbanks stated first of all, personally he has no
44 concerns with this issue. He explained that Mr. Anderson is a great neighbor and he would do anything for anybody. He feels the thing that would put neighbors most at ease
46 is knowing of the security of the building itself that will keep the animals in the building and keep them secure. He feels if somehow the neighbors could hear about the security
48 of the building more readily it would put them at ease.

2 Chairperson Call again expressed her concerns with the business relationship and
the impact on the neighborhood; she would be in favor of putting limits on it.

4 Commissioner Thompson stated he would not want this to continue to grow until
the applicant proves himself with no complaints; he thinks 150 reptiles is reasonable.

6 Mr. Haws stated he would suggest adding the condition that the applicant obtain
the proper pre-treatment application with Orem City sewer. Mr. Anderson explained
8 why he is requesting the range limit because of the breeding involved and litters being
born so that number will change and there will be a turnover.

10 Chairperson Call re-iterated she wants to keep the numbers low as she does have
concerns for the neighbors, but 150 seems reasonable. She does not want to go any
12 higher than that until we see how things go and this also gives staff the right to come in
and inspect periodically. Mr. Florence clarified the mice are purchased from a third-
14 party vendor. Commissioner Marchbanks stated if we limit the adult snakes to 150
maximum and knowing there will be a turnover with the offspring, he believes this will
16 be better managed.

Commissioner Kallas agreed he doesn't feel comfortable with 500 reptiles and
18 believes we should have a test period first with a smaller number because of the issues
with Mr. Stone. He pointed out to the applicant that Mr. Stone has been your mentor
20 and you have a facility running snakes and you also need the proper permits and it
appears this is falling into the same category as Mr. Stone's business. Mr. Anderson
22 stated he is a completely different business person than Mr. Stone and he wants to be
separate from Mr. Stone. Mr. Haws pointed out they keep very detailed records of the
24 breeding. Mr. Anderson re-iterated he is here because he doesn't want any problems and
wants to be in compliance. There was also some discussion on fencing between Mr.
26 Anderson and Mr. Stone's properties with a vinyl fence to be constructed along the rear
property line where a solid fence does not exist.

28
Mr. Florence then read the suggested added conditions to the commission as
30 follows:

- 32 1. Limit the number of adult reptiles to a maximum of 150 on the premises with
an unlimited number of offspring that may remain on the property for a
maximum of 6 months.
- 34 2. Secure the appropriate pretreatment approvals from Orem City.

36 Chairperson Call clarified at this time the commission has to be careful to protect
the neighbors but also protect the applicant's rights and what he is trying to do. She
38 added Conditional Use Permits are complaint driven and if any complaints are received
it will be looked at again and the permit can be pulled if the issues are not mitigated.
40 Mr. Anderson stated he would be happy to mitigate any issues with neighbors; he wants
to be a good neighbor and has no problem in resolving any issues.

42 Chairperson Call called for any further comments or discussion from the
Commission. Hearing none she called for a motion.

44
COMMISSIONER THOMPSON MOVED TO APPROVE THE APPLICANT'S
46 REQUEST FOR A CONDITIONAL USE PERMIT TO BREED AND SELL EXOTIC
REPTILES AT 278 EAST 70 SOUTH, IN THE RESIDENTIAL SINGLE-FAMILY
48 (R1-20) ZONE, WITH THE FOLLOWING CONDITIONS: 1. AN ACTIVE LINDON

2 CITY HOME OCCUPATION BUSINESS LICENSE IS MAINTAINED AND ALL
HOME OCCUPATION REGULATIONS WILL BE CONTINUALLY MET; 2. THE
4 APPLICANT WILL CONTINUALLY MAINTAIN ALL APPLICABLE FEDERAL
AND STATE LICENSES AND PROVIDE YEARLY COPIES OF LICENSE AND
6 INSPECTION REPORTS TO THE CITY; 3. THE HOME OCCUPATION IS
ALLOWED IN THE ACCESSORY BUILDING ONLY AND WILL CONTINUALLY
8 MEET ALL APPLICABLE BUILDING AND FIRE CODES AND REGULATIONS; 4.
THE APPLICANT WILL MAINTAIN A SAFE AND SECURE FACILITY TO
10 PREVENT REPTILES FROM ESCAPING AND TO DISCOURAGE UNLAWFUL
ENTRY; 5. TO REDUCE ODOR COMPLAINTS AND TO MAINTAIN A CLEAN
12 FACILITY THE ACCESSORY BUILDING WILL BE CLEANED AT A MINIMUM
THREE TIMES PER WEEK WITH SPOT CLEANING AS NEEDED. EXHAUST AND
14 VENTING SYSTEMS WILL BE REGULARLY MAINTAINED TO REDUCE ANY
ODORS; 6. NO ONSITE RAISING, STORAGE OR BREEDING OF LIVE RODENTS,
16 RABBITS OR OTHER SIMILAR RETILE FOOD SOURCES. THE APPLICANT
WILL PURCHASE DECEASED FROZEN RODENTS FROM A THIRD-PARTY
18 VENDOR; 7. THE HOME OCCUPATION BUSINESS OPERATION WILL BE
CONDUCTED SEPARATELY AND ENTIRELY WITHIN THE ACCESSORY
20 STRUCTURE SHOWN IN THIS REPORT AT 278 EAST 70 SOUTH. NO OTHER
RESIDENCES OR RESIDENTIAL PROPERTIES WILL BE USED FOR THE
22 BUSINESS OPERATION; 8. THE MAXIMUM TOTAL NUMBER OF REPTILES
THAT CAN BE ON THE PROPERTY WILL BE LIMITED TO 150 ADULT SNAKES
24 AND AN UNLIMITED NUMBER OF OFFPRING THAT MAY REMAIN ON THE
PROPERTY FOR A MAXIMUM OF 6 MONTHS; 9. CITY STAFF BE ALLOWED TO
26 INSPECT THE PROPERTY, WITH REASONABLE NOTICE, TO ENSURE
COMPLIANCE WITH THE CONDITIONS IMPOSED BY THE PLANNING
28 COMMISSION; 10. A VINYL FENCE WILL BE CONSTRUCTED ALONG THE
REAR PROPERTY LINE WHERE A SOLID FENCE DOES NOT EXIST; 11.
30 SECURE THE APPROPRIATE PRETREATMENT APPROVALS FROM OREM
CITY; AND 12. ALL ITEMS OF THE STAFF REPORT. COMMISSIONER
32 MARCHBANKS SECONDED THE MOTION. THE VOTE WAS RECORDED AS
FOLLOWS:

34 CHAIRPERSON CALL	AYE
COMMISSIONER KALLAS	AYE
36 COMMISSIONER MARCHBANKS	AYE
COMMISSIONER JOHNSON	AYE
38 COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE
40 THE MOTION CARRIED UNANIMOUSLY.	

42 **6. R2 Overlay and Accessory Apartment Ordinance Amendment – Lindon**
City. Lindon City requests a recommendation to the city council to amend Title
44 17.46 and amend sections pertaining to the R2 Overlay and Accessory
46 Apartments.

Mr. Florence explained at the planning commission meeting on September 8, 2020
48 the commission requested that City staff get a legal opinion on ordinance section

2 17.46.010 which states the following: Neighborhood organizations, home owners
4 associations, and/or private citizens shall not be permitted to restrict the placement and
6 construction of R2 Overlay projects in specific neighborhoods and subdivisions through
the use and implementation of Conditions, Covenants, and Restrictions and/or other types
of restrictive legal documents.

8 Mr. Florence indicated that such practices undermine Lindon City's ability to
10 provide for the housing needs of its citizens and prohibit attainment of established zoning
requirements and General Plan goals. He added as City staff reviewed the legal
requirements of this ordinance the direction that the City would like to proceed with is to
remove section 17.46.010 from the city code.

12 Mr. Florence said he wants to make sure the commission is comfortable with the
14 districts as this would open up six more districts. There was then some general discussion
regarding the number districts.

16 Mr. Florence then presented for discussion the September 8, 2020 staff report,
Draft 17.46; the Ordinance change, the Current R2 Overlay Map, the Proposed R2
Overlay Map and the map showing vacant properties.

18 Following some additional discussion, the commission was in agreement to
20 recommend to the city council approval to amend Title 17.46 and also to amend sections
pertaining to the R2 Overlay and Accessory Apartments.

22 Chairperson Call called for any further comments or discussion from the
Commission. Hearing none she called for a motion.

24 COMMISSIONER KALLAS MOVED TO RECOMMEND APPROVAL TO
26 THE CITY COUNCIL ORDINANCE AMENDMENT 2020-14-O AS PRESENTED BY
STAFF WITH CHANGES AS DISCUSSED. COMMISSIONER MARCHBANKS
SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

28 CHAIRPERSON CALL	AYE
COMMISSIONER KALLAS	AYE
30 COMMISSIONER MARCHBANKS	AYE
COMMISSIONER JOHNSON	AYE
32 COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE
34 THE MOTION CARRIED UNANIMOUSLY.	

- 36 7. **New Business: Reports by Commissioners** – Chairperson Call called for any
38 new business or reports from the Commissioners.

40 Chairperson Call asked Mr. Florence to summarize the concept review that was
before the city council last night. Mr. Florence gave an update on the Norton Property
concept plan that was presented followed by discussion. Commissioner Marchbanks
42 spoke on infill areas and how we can be more flexible.

44 Chairperson Call called for any further comments or discussion from the
commission, hearing none she moved on to the next agenda item.

- 46 8. **Planning Director Report** –
48 • General City updates

2 Chairperson Call called for any further comments or discussion. Hearing none she
called for a motion to adjourn.

4 **ADJOURN** –

6
8 COMMISSIONER KALLAS MADE A MOTION TO ADJOURN THE
MEETING AT 8:17 PM. COMMISSIONER SCHAUERS SECONDED THE MOTION.
10 ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

12 Approved – October 13, 2020

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Sharon Call, Chairperson

18

Michael Florence, Planning Director