

Fountain Green Planning Commission Meeting
Fountain Green City Hall
October 13, 2022

7:31 p.m.

OFFICIAL MINUTES

Attendance: Bryan Allred, Joseph Papenfuss, Stuart Krukiewicz, Aimee Goble, Shelith Jacobson (substituting for Alyson), Jerime Ivory, Clint Hansen

Excuse: Alyson Strait, Riley Hansen, Tyler Smith

Citizens in Attendance: Rod Hansen

- Bryan calls the meeting to order and asks Heather to read the minutes for the September 8, 2022 Public Hearing. Stuart motions to approve the minutes as read. Aimee seconds the motion and Joseph votes in favor with Jerime and Clint recusing themselves because they were not in attendance at the meeting. To make a quorum, Bryan votes in favor. Heather reads the minutes for the September 8, 2022 regular meeting. Joseph motions to approve the minutes as read. Stuart seconds the motion and Aimee votes in favor with Jerime and Clint recusing themselves because they were not in attendance at the meeting. To make a quorum, Bryan votes in favor.

- Kurtis D Jones has submitted a questionnaire for agreement by the City to allow him to build a storage building on 1.93 acres at 450 South 300 East in the County-assigned "Fountain Green City Buffer Zone". The "Buffer Zone" allows smaller lots than the City submitted in its proposed Buffer Zone and the Planning Commission is not comfortable in making a decision on this issue. The question is whether the Planning Commission is authorized to make the decision and the Commission feels like the Mayor should take up the Buffer Zone issue with the other Mayors at their monthly meeting. The City needs more information regarding the Buffer Zone assigned by the County. Jerime motions to table consideration of the request and send it to the City Council and Mayor for a decision. Stuart seconds the motion and all vote in favor. Heather will get this on the next City Council Agenda.

- Dave and Susannah Conger/contractor Stuart Krukiewicz have submitted an application for a permit to build two additions onto and remodel their existing house on a corner lot at 83 North 600 West, serial #18161, in the Residential Agriculture RA Zone on ~0.96 acre – not in the Federal Emergency Management Agency Special Flood Hazard Area (FEMA SFHA). There is an irrigation line on the south property line. The south addition will measure 76'x22' (1672 sq.ft.) and the west addition will measure 26'x12.5' (325 sq.ft.) with a 26'x23.5' (611 sq.ft.) garage between the existing house and the west addition. There will not be a basement, but slab on grade for the garage and crawl space for the additions. The eave height will be 8' (much less than the 21' maximum) with a 24" eave overhang. There will be a patio on the west/rear of the house without utilities or roof. The setbacks will be 25' on the front/east toward 600 West (meeting the 25' minimum), 129' 1½" on the rear/west (greatly exceeding the 25' minimum), 28' on the north side towards 100 North (exceeding the 25' minimum), and 90' 6" on the south side (greatly exceeding the 12' minimum). The Fire Chief (Todd Robinson) and the Acting Water Master (Greg Johnson) have signed the plans and application; no fees for sewer or water are required. Jerime motions to approve the permit for the Congers to have Stuart build the house additions and garage as described above. Clint seconds the motion and all vote in favor with Stuart recusing himself.

- Kyle Johansen and attorney Jared Anderson have come to again request Final Plat Approval for the proposed Big Springs Estate Subdivision. They have added the signature blocks for Curt Nielson (Public Works Official), Bryan Allred (Planning Commission Chair), and Garrick Wilden of Jones & DeMille Engineering as requested at the last Planning Commission meeting. They have a bid from MKJ for the bond calculation and a template letter of credit for Mr. Johansen at the CC Bank. **QUOTE from Chapter 11.21:** "The amount of the security to be posted by the developer shall be determined by the City Council and shall be equal to 100% of the amount reasonably estimated by the City Engineering Consultant as being necessary to complete remaining on- and-off site improvements as shown on the approved plans." **"Bid proposals are not satisfactory for this purpose."** They also provide an Owner's tax release clearance that was required. Clint is still concerned about the need for a road through the subdivision from 200 to 300 North, but Mr. Anderson quotes State Code 10-9a-209 (referencing 10-9a-801) stating that if a decision made in the City Council meeting is not appealed to District Court within 30 days, it stands! Clint points out that the Subdivision road was not on the City Council Agenda and was therefore an illegal voting procedure. Also, the City Council is not supposed to consider the Subdivision for a vote until the Planning Commission submits a recommendation. (The Report that Bryan read to the City Council July 21, 2022 was considered to be a recommendation from the Planning Commission for the Preliminary Plat Review in spite of the Planning Commission Chair stressing that the Report was not a Recommendation!) Bryan has prepared a Rough Draft of Subdivision Recommendations/Conditions which he read to the City Council last month and now reads to the Planning Commission for their comments. He also reads from the General Plan and a paper, entitled "Points of Interest", which points out that "public clamor" is not a deciding factor for the City in making decisions for the public good. The Commission members make some typographical corrections to the Rough Draft Recommendations and #7 – "STOP signs for the east-west traffic flow on the corners of 200 and 300 North as it encroaches on 600 West" and add a #14 – "800 West on the east edge of Kameron Hansen's properties or as far west as possible in the Subdivision (11.7 A.1 with Table 11.7 & A.7)". The Commission then makes typographical corrections and additions to the "Security Requirements": #1 – "36 months maintenance of Subdivision improvements by the developer before the City adopts responsibility (11.7-B 1)", #3 – change "firm up" to "document" and add "read applicable Ordinances cited above", and reword #4 – add "phases are optional; to be decided by the Developer." Clint motions to approve the recommendations/conditions for the "Big Springs Estate Subdivision" as discussed above. Stuart seconds the motion and all vote in favor except Jerime votes NO on the basis of his objection to the need for a road (#14). Mr. Johansen and Mr. Anderson would like a copy of the Recommendations/Conditions that is to be presented to the City Council. The Commission will present these Recommendations/Conditions at the next City Council meeting. See attached document below.

- Heather presents the letter to the City Council of the Planning Commission members' Term End Report. Bryan reads it to the Commission – there are no changes proposed. Shelith remembers that Joseph had asked to be retired last year and reports that it has been difficult to get volunteers to respond to the letters of invitation that were sent out. Bryan asks Heather to get it on the next City Council Agenda.

- Riley is not present, so Joseph presents the suggested changes to Riley's proposed Subdivision Ordinance that he has compared with the current Chapter 10. For Major Subdivisions, he finishes the sentence for the 3rd bullet with "General Plan." For 1. b., he encourages the Commission to come up with a suggested application fee for the City Council

to consider. The Commission decides that it should be \$500 and non-refundable. On #3 and #3a., the Commission decides that "City" should be changed to "Planning Commission" and "60 days" should be changed to "two scheduled meetings." Also delete "provided by city" from #3a. Between #5 and #6, the Commission notes that they need to add a # for Noticing Requirements and posting on the Public web site (change current Chapter 10.2 F. 2. & add 4.) before the required Public Hearing (current Chapter 10.6 C. 2. & 3.). Change #6a. to "Provide recommendations to the City Council." On #7, the Commission would like someone to check the State Code to determine if we can change "30 days" to "45 days" and add a new sub-section for a. from the current Chapter 10.6 C. 5. for an optional City Council Public Hearing. This would change the current a. and b. sub-sections to b. and c. For #8 a. "Payment of Recording fee", the Commission adds "to the City" and decides that it should be moved to #12 as b. They strongly urge the City to submit the Plat records to the County rather than having the developer submit the Plat records. This will prevent unauthorized changes. The Commission questions the need for #9 and #10, but decides that if more administrative review is needed after #7 and #8, these would still be necessary. For #14, the Commission adds "and verified" to the end of the statement. For #15 a., the Commission changes "2 years" to "3 years". And for #15 b., they decide to change city "superintendent" to "Public Works Officer" and add "roads, and any other improvements" to the end of the list. For Minor Subdivisions, Joseph suggests simplifying "more than 2 resultant lots/parcels, but less than 4" to "3 or 4". On the 3rd bullet, again add "General Plan" to the end of the statement. For #1 b., the Commission suggests that the City Council consider an application fee of a "\$250 non-refundable". For #3 and #3 a., they again change "City" to "Planning Commission" and "60 days" to "two scheduled meetings." Again delete "provided by city" from #3a. Again move the Payment of Recording fee from #5 a. to #9 b. Again check State Code to determine if we can change #7 from "30 days" to "45 days". For #11, again add "and verified" to the end of the statement. For a Simple Subdivision, add "General Plan" to the end of the 3rd bullet. Add #1 b. " Non-refundable Application fee of \$100." For #2, add "no survey is required – measuring by metes and bounds is allowed." Delete #2 d. "Payment of Recording fee" and delete "by the City Attorney" from the end of #3. Also delete #3 c. for surety/bonding requirement and #5 for proof of fee payment and Mayor signature. For #6, again add "and verified" to the end of the statement. The Commission decides to completely eliminate the "Agricultural Subdivision Exemption". Stuart notes that State Code 10-9a-508 allows Exactions and impact fees.

- Jerime motions to adjourn the meeting. Stuart seconds the motion and all vote in favor. The meeting adjourns at 11:30 pm.

Attached document noted above.

October 13, 2022

Fountain Green City
Planning Commission

Fountain Green City Council and Mayor

The Fountain Green City Planning & Zoning Commission hereby submits the Preliminary Plat for the "Big Springs Estates Subdivision" (as received) to the City Council for their review, with the following recommendations and conditions substantiated by the existing ordinances as herein noted.

The challenges to procedure may include violations of self-imposed procedural requirements as well as of State-imposed requirements. The Utah courts have consistently required a city or town to follow its own Ordinances when regulating land uses, and the State Code now specifically requires it. 10-9a-509. (2) A municipality is bound by the terms and standards of applicable land use Ordinances and shall comply with mandatory provision of those Ordinances. Utah League of Cities and Towns. 2021

RECOMMENDATIONS/CONDITIONS

- (1) Water/sewer laterals and electrical power junction boxes are to be stubbed into the property line and or appropriate easements. (10.2 G.2.) (10.6 B.2.) (11.17 B.)
- (2) Verify that the water and sewer systems are adequate to support the subdivision without any negative residual effects to the rest of the community's present and future infrastructure by the City Engineer Consultant (Consulting Engineer Jones and DeMille). Laterals are an extension of the system. (11.3 E.)
- (3) Require the payment of all impact fees prior to final plat approval (10.2 G.2.)
- (4) Require that all utilities, water, sewer, electrical, etc. are to be underground. (11.17)
- (5) All improvements are to be in place (water, sewer, power) prior to the issuing of a building permit. (10.6 B. 2. & 3.) (10.2 G.2.)
- (6) Resurface 200 North and 300 North after all lateral cuts have been made, backfilled and patched, from its farthest west point to where it intersects with 600 West with 2" of blacktop, removing as needed the existing road surface 20' back from the west edge of 600 West to accomplish a tapered fit in elevation of the 2" resurface to the existing elevation of the road surface on 600 West (Exaction 10.2 E. & 10.6 C.4.)
- (7) Require a STOP sign on the southwest and northeast corners of 200 and 300 North for east-west traffic flow as it encroaches 600 West (Exaction 10.2 E. & 10.6 C.4.)
- (8) Signature blocks for Planning and Zoning acceptance and City Engineer Consultant verification. (10.6 C.7. p) 3), 4), 5), & 7))
- (9) Security in place prior to final plat approval. (11.19) Developer to post appropriate bonding, commensurate with Ch. 11.23 Form of Assurance.
- (10) Adoption of final plat based on City receiving an Owners tax release clearance. (10.6 C.8.)
- (11) A permit is required for a Major Subdivision (11.28 B.3.)
- (12) Planning and Zoning Commission recommends that the Developer's Engineer prepare cost estimates for the City to assess bonding/security amounts and that they be reviewed by the City Engineer Consultant (Jones & DeMille) all at the expense of the Developer.
- (13) Letter to Rocky Mountain Power referencing Ch. 11.17 be complied with the plans to provide power to the Subdivision.
- (14) "800 West" to be put in on the east edge of Kameron Hansen's properties or as far west in the Subdivision as possible with 66' width. (11.7 A.1. with Table 11.7 & A.7.)
- (15) Planning and Zoning Commission suggests that these recommendations and any other, if and when adopted, be made part of the recorded subdivision plat.
- (16) The length of time before the City takes over maintenance of the Subdivision improvement is 36 months. (11.7 B.1.) Security from the Developer insuring his responsibility to maintain the improvements until the City adopts them is required. (11.21 & 11.23)
- (17) The City Council needs a way to document any recommendations they make BEFORE approving the plat OR moving forward with it – read applicable Ordinances cited above.
- (18) A Letter of contractual agreement on all approved phases by the City Council from the Developer is suggested. Phases are optional – to be decided by the Developer.

Six of the nine Planning Commission members were in attendance for this discussion and in making the recommendations. One of the Planning Commission members in attendance voted against these recommendations on the basis of his objection to the need for a road (#14) (see minutes for the Planning Commission meeting held October 13, 2022). Shelith Jacobson (substituting for City Council representative to the Planning Commission Alyson Strait) and Rod Hansen were also in attendance. Both are members of the current City Council.

Heather Papenfuss
Planning Commission Secretary