



SMITHFIELD CITY PLANNING COMMISSION MINUTES April 19, 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, April 19, 2023

The following members were present constituting a quorum:

Members Present: Jamie Anderson, Katie Bell, Brooke Freidenberger, Scott Gibbons, Jasilyn Heaps, Bob Holbrook, Stuart Reis

Members Excused: Brian Higginbotham

City Staff: Councilmember Jon Wells, Councilmember Curtis Wall, Brian Boudrero

Others in Attendance: Jeff Barnes, Shawn & Liz Kirkley, Michelle Anderson, Chris Harrild, Dan Sandstrom, Matt Thompson, Ken Poulsen, Jon Harrop, Ted Stokes, Brett & Alicia Conley, Tami & Brad Kidman, Lazaro Soto, Caralee Stokes, Dallas Nicoll, Greg Price, Dillon Hall, Robert Hansen, Todd & Jennie Orme, Debbie Zilles

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

Consideration of consent agenda and approval of meeting minutes

After consideration by the Commission, Chairman Gibbons declared the minutes from the March 15, 2023 meeting to be approved as submitted.

RESIDENT INPUT - No comments.

AGENDA ITEMS

Discussion and possible vote on the "Home Occupation – Disruptive" Conditional Use Permit request by Alicia Conley to operate Azure Legal Services PLLC at 994 East 190 South. Parcel Number 08-204-0034. Zoned R-1-12 (Single-Family Residential 12,000 Square Feet).

Alecia Conley is requesting approval for a conditional use permit for a home-based business to operate her legal company for estate planning and business law. Ms. Conley plans on 3-5 customers a month (by appointment only), with no overlap. She will not advertise from her home or receive business mail. Her residence has up to four (4) off-street parking spaces that can be used when necessary.

MOTION: Motion by Commissioner Holbrook to **approve** the "Home Occupation – Disruptive" Conditional Use Permit request by Alicia Conley to operate Azure Legal Services PLLC at 994 East 190 South. Parcel Number 08-204-0034. Zoned R-1-12 (Single-Family Residential 12,000 Square Feet). Commissioner Bell seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Discussion and possible vote on the Conditional Use Permit request by North Valley Storage to have storage units on Parcel Number 08-105-0058 located at approximately 200 West 600 South. The parcel is approximately 4.92 acres. Zoned M-1 (Manufacturing).

The Commission did not have any questions for the applicants.

MOTION: Motion by Commissioner Heaps to **approve** the Conditional Use Permit request by North Valley Storage to have storage units on Parcel Number 08-105-0058 located at approximately 200 West 600 South. The parcel is approximately 4.92 acres. Zoned M-1 (Manufacturing). Commissioner Freidenberger seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Discussion and possible vote on the request by Neighborhood Nonprofit Housing Corporation, for approval of the Final Plat for the Smithfield Pointe Subdivision, Phase 4, a (32) lot/unit subdivision located at approximately 540 East 780 North. Zoned MPC (Master Planned Community).

Chairman Gibbons pointed out that this project has been reviewed by the Subdivision Technical Review Committee (STRC).

Chris Harrild confirmed for Commission Freidenberger that this will be the 'sweat equity' program. Completion of the north road (to meet up with 680 North) will likely happen in 2025-2026 due to the development timeline and costs. There will be parking in the garage, driveway, and street for the townhomes. An adjustment was made to the roofline of the townhomes due to the grade.

MOTION: Motion by Commissioner Heaps to **approve** the request by Neighborhood Nonprofit Housing Corporation, for the Final Plat for the Smithfield Pointe Subdivision, Phase 4, a (32) lot/unit subdivision located at approximately 540 East 780 North. Zoned MPC (Master Planned Community). Commissioner Holbrook seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Discussion and possible vote on the request by Visionary Homes for approval of the amended Final Plat for The Village at Fox Meadows PUD, Phase 4, a (9) lot/unit subdivision located at approximately 735 West 600 North. Zoned R-1-10 (PUD) (Single-Family Residential 10,000 Square Feet Planned Unit Development Overlay Zone).

Jon Harrop, from Visionary Homes, explained that this was originally approved as a larger scope; this amendment is dividing the original phase into two separate phases.

MOTION: Motion by Commissioner Anderson to **approve** the request by Visionary Homes for the amended Final Plat for The Village at Fox Meadows PUD, Phase 4, a (9) lot/unit subdivision located at approximately 735 West 600 North. Zoned R-1-10 (PUD) (Single-Family Residential 10,000 Square Feet Planned Unit Development Overlay Zone). Commissioner Heaps seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Discussion and possible vote on the request by Visionary Homes for approval of the Final Plat for The Village at Fox Meadows MPC, Phase 5, a (61) lot/unit subdivision located at approximately 575 North 600 West. Zoned MPC (Master Planned Community).

Jon Harrop, from Visionary Homes, outlined the road connections between Phase 4, which was just approved, with Phases 3 and 5. There will be five (5) single-family homes on the far east and 56 townhomes. The open space meets what is required.

Commissioner Freidenberger asked about fencing. Mr. Boudrero said would be listed on the construction drawings.

MOTION: Motion by Commissioner Bell to **approve** the request by Visionary Homes for the Final Plat for The Village at Fox Meadows MPC, Phase 5, a (61) lot/unit subdivision located at approximately 575 North 600 West. Zoned MPC (Master Planned Community). Commissioner Friedenberger seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-16, an Ordinance rezoning Parcel Number 08-109-0001 from A-5 (Agricultural 5-Acre) to M-1 (Manufacturing). The parcel is located on the southeast corner of 400 West 600 South and is approximately 4.94 acres. The request was submitted by Visionary Homes.

Mr. Boudrero explained that the property owner of the parcel already zoned M-1 owns a piece to the north and south and would like to swap properties so that the owner of the agricultural land will not be split by the M-1 property. The applicant will submit an amended conditional use permit next month reflecting the change.

6:50 p.m. Public Hearing Opened – No comments.

6:51 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-16

Dallas Nicoll pointed out that the request is from Trueline Contractors, not Visionary Homes. as was indicated on the agenda. The property owner to the south (Mr. Thornley) asked for the parcel swap. Farming is allowable in the M-1 zone.

MOTION: Motion by Commissioner Freidenberger to **forward a recommendation of approval to the City Council for Ordinance 23-16**, an Ordinance rezoning Parcel Number 08-109-0001 from A-5 (Agricultural 5-Acre) to M-1 (Manufacturing). The parcel is located on the southeast corner of 400 West 600 South and is approximately 4.94 acres. Commissioner Reis seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-13, an Ordinance rezoning Parcel Numbers 08-039-0015, 08-089-0004, and 08-089-0003 from A-10 (Agricultural 10-Acre) to R-1-10 (Single Family Residential 10,000 Square Feet). The parcels are located southwest of 440 North 800 West and are approximately 31.55 acres. The request was submitted by Visionary Homes.

Mr. Boudrero advised that a survey was submitted which cleans up all three (3) parcels and clarifies the property lines.

6:53 p.m. Public Hearing Opened – No comments.

6:54 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-13

Jon Harrop, from Visionary Homes, said construction will possibly begin next year depending on numerous factors.

Chairman Gibbons pointed out that this parcel is west of 800 West and is mostly surrounded by County property (except for a small piece to the north which is City-owned and used for Fire Department training). Commissioner Anderson said it is located within the projected growth area approved in the Master Plan, the property has been legally annexed and there should be no reason to deny the request. Commissioner Freidenberger disagreed and does not feel that a rezone should be extended that far west yet, especially because the land is still farmable. Chairman Gibbons noted that the parcel has been purchased by Visionary Homes. Commissioner Bell said whether it is farmable or not is irrelevant because it is the property owner's request to change the zone.

Commissioner Heaps said there was discussion about this area several years ago and there was some reluctance to change to zone, however, with the future LDS Temple and church building, it seems to make sense now because the dynamic of the area has changed.

Commissioner Holbrook said he trusts that Visionary Homes will make the best use of the property, and he would like to see it become a PUD. Mr. Harrop said a PUD can offer some flexibility; however, the base zone must be changed to residential first.

MOTION: Motion by Commissioner Bell to **forward a recommendation of approval to the City Council for Ordinance 23-13**, an Ordinance rezoning Parcel Numbers 08-039-0015, 08-089-0004, and 08-089-0003 from A-10 (Agricultural 10-Acre) to R-1-10 (Single-Family Residential 10,000 Square Feet). The parcels are located southwest of 440 North and 800 West and are approximately 31.55 acres. Commissioner Holbrook seconded the motion. **Motion approved (6-1).**

Vote:

Aye: Anderson, Bell, Gibbons, Heaps, Holbrook, Reis

Nay: Freidenberger

Introduction and **Public Hearing** for the purpose of discussing **Ordinance 23-14**, an Ordinance rezoning Parcel Numbers 08-039-0016, 08-064-0005, 08-066-0014, 08-173-0022, 08-177-0226, 08-177-0227, 08-044-0071, 08-162-0000, 08-142-0001 and 08-171-0099 to I-1 (Institutional). All of these are city-owned parcels and they are located at approximately 440 North 800 West, 450 Upper Canyon Road, 550 South 1000 East, 600 North Main, 590 North 130 East, 590 Wasatch Boulevard, and 250 East 600 South.

Mr. Boudrero explained that this is a housekeeping item to change City-owned properties to I-1 (Institutional).

7:02 p.m. Public Hearing Opened – No comments.

7:03 p.m. Public Hearing Closed

Discussion and possible vote on **Ordinance 23-14**

MOTION: Motion by Chairman Gibbons to **forward a recommendation of approval to the City Council for Ordinance 23-14**, an Ordinance rezoning Parcel Numbers 08-039-0016, 08-064-0005, 08-066-0014, 08-173-0022, 08-177-0226, 08-177-0227, 08-044-0071, 08-162-0000, 08-142-0001 and 08-171-0099 to I-1 (Institutional). All of these are city-owned parcels and they are located at approximately 440 North 800 West, 450 Upper Canyon Road, 550 South 1000 East, 600 North Main, 590 North 130 East, 590 Wasatch Boulevard, and 250 East 600 South. Commissioner Heaps seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Discussion and possible vote on the request by Dan Sundstrom for approval of the Preliminary Plat for the Bench Outlook Subdivision, a (142) lot/unit subdivision located at approximately 200 South 1000 East.

Dan Sundstrom explained that this project has been redesigned to move the trails to allow for more open space and five 5-plexes have been removed. Some of the single-family lots have been made bigger so that the property lines match up with the neighboring community, and more parking has been added. The townhomes will have walkout basements. An HOA will be created to maintain the area. A variety of homes will be available. A traffic impact study (TIS) was completed and has been reviewed by the City.

Commissioner Bell noted that there were some concerns expressed by citizens at the City Council meeting about the difficulty of accessing the rear sidewalk with a fence, especially concerning snow removal requirements. Mr. Sundstrom said a sidewalk is required, however, there will be an option to have the HOA take care of snow removal for an additional fee.

Mr. Sundstrom said that there will still be a playground area and pickleball courts. He also confirmed for Commissioner Heaps that an HOA will be required on the internal lots, however, the owners of the perimeter lots can opt-in.

Commissioner Anderson pointed out that there is a trade-off between less housing and more open space because of the expense of maintenance (especially water consumption). Chairman Gibbons encouraged Mr. Sundstrom to consider drought-resistant landscaping.

MOTION: Motion by Commissioner Anderson to **approve** the request by Dan Sundstrom for approval of the Preliminary Plat for the Bench Outlook Subdivision, a (142) lot/unit subdivision located at approximately 200 South 1000 East. Commissioner Heaps seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-05, an Ordinance rezoning Cache County Parcel Number 08-048-0012 from R-1-12 (Single Family Residential 12,000 Square Feet) to MPC (Master Planned Community). The parcel is located east of 200 South 1000 East and is approximately 34.36 acres. The request was submitted by Dan Sundstrom.

7:17 p.m. Public Hearing Opened

Elizabeth Kirkley said the process of having a plan reviewed before consideration for the zone change seems backward. Chairman Gibbons said this is how legal counsel has advised that it be done. Ms. Kirkley thinks this area should remain single-family homes. The City should do studies and due diligence on infrastructure and services. Chairman Gibbons pointed out that projects are reviewed by City staff to ensure that all requirements are met.

Dillon Hall is the Smithfield Ridges HOA president and said the control of that HOA was turned over to the homeowners, which has been a point of issue for them. He said fencing and snow removal, which is a homeowner's responsibility, can become difficult,

especially if the fencing is along the entire road. The homeowners in his area want the HOA to take care of snow removal, so he contacted the City asking them to provide some type of documentation of a written agreement obligating the HOA to pay for those services and there was nothing. They are now conflicted as to how to provide/pay for the services. He shared his situation to provide some context to the concern. One thing that may solve the problem is for the City to require the developer to obligate the HOA to take care of the external roads around a development, especially if fencing is a barrier.

Jennie Orme is concerned that an HOA could be amended and turned over to the homeowners and questioned who would oversee that the affordable housing would not turn into rentals.

Ted Stokes has sent in previous objections about this proposal. He believes that it lacks compatibility with the surrounding area. The site is bordered by single-family housing. Compatibility is subjective and has not been adequately defined in the Code. The majority of condensed housing in the last three years has become VRBOs and/or rental properties, which is not the goal. He suggests that the City cut down on condensed housing approvals until it passes a statute that controls landlord-tenant issues. HOAs are insufficient because they can be amended. At the last meeting, the Commission uniformly took a position that they could not take into consideration the overwhelming problem that condensed housing in this area would bring to Sunrise Elementary. The Commission said it was out of their control and they were not allowed to consider it. The question was brought before Senator Chris Wilson during a Q&A session and he said a local governing body should consider this issue. Mr. Stokes has searched every applicable code, and administrative and judicial law related to this issue. He found nothing restricting a governing body from considering school deficiency in their deliberations.

Tami Kidman thanked the Commission for their service. The surrounding homeowners pay a lot of money in property taxes. She has nothing against townhomes, she grew up in a mobile home and thinks they are great for starter homes. Many homeowners have invested money into this area and have trusted that the area would remain single-family homes. This proposed community will not fit in. An MPC should take all of these things into consideration. She teaches school and expressed the problems with overcrowded classrooms. Children need a place to live and also need a place to be educated. She encouraged the Commission to be mindful of the bigger picture.

Caralee Stokes thinks this is wrong. She agrees with the comments that have been expressed. Condensing housing and making more money is pure greed and there are a hundred reasons why it should not be approved. She is tired of not trusting what is going on in the City. She has been told to attend meetings and voice her concerns, but she has been and does not feel like it is doing any good and no one is listening. She does not know what else to say to convince the Commission to not let developers do whatever they want. Citizens have rights too.

Greg Price lives south of this proposed development and asked about storm detention. Chairman Gibbons said this issue is considered by the Engineering Department when projects are reviewed in the STRC process. Mr. Boudrero said he could contact staff for specific information.

7:35 p.m. Public Hearing Closed

Discussion and possible vote on <u>Ordinance 23-05</u>
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Commissioner Heaps noted that the process can be confusing, however, the format is based on what legal counsel has recommended. She pointed out that a plat can be approved, but that does not necessarily mean a rezone will be approved (they are separate actions). Studies for projects are done by outside firms and reviewed by City staff, there are times when the City will request specific studies. The concern about snow removal/fencing is good information for the Commission to evaluate. There was some discussion about the inconvenience of the situation and the requirement that sidewalks be cleared of snow.

Chairman Gibbons explained that the STRC is comprised of the Commission Chairman and city staff from multiple departments to review projects for adherence to all code requirements.

Commissioner Heaps asked about HOAs. Mr. Boudrero said the City initially has the developer sign a development agreement for each final phase which includes how this will be done and in what phases amenities are put in. The City requires them to set up an HOA if needed. A City would rarely create an ordinance that requires a property owner to do something they do not want to do with their property. Chairman Gibbons noted that HOAs are private entities and the state has required criteria. Mr. Boudrero said HOAs can be set up in several different ways.

Commissioner Heaps shared her personal experience with a development behind her home that was approved years ago. In her opinion, it has been a positive experience. Nearby property values do not decrease. She would be happy to share her experience with anyone interested.

Mr. Boudrero said the Commission can take into consideration concerns about school issues, however, they need to remember that schools are entities of the state, and local cities cannot and do not dictate school boundaries. When a property is annexed, it is reviewed by the school district. Cache County School District has been aware of this annexation for over a decade, although not the specific density. He answered Commissioner Anderson that he is not aware of the specific assumptions that are taken into consideration by a school district during annexations.

Chairman Gibbons pointed out that the difference between what is being proposed in the MPC versus an R-1-12 zone will be 30 units. Any development of this property will have an impact on the schools. Commissioner Bell agreed and noted that this should not be an unforeseen impact.

Commissioner Holbrook said the MPC offers a variety of housing types and will not be another cookie-cutter subdivision.

Commissioner Bell said the MPC option is doing what it was designed to do from a planning standpoint.

Commissioner Heaps pointed out that in reference to the comment about the developer being “greedy”, Utah is a property rights state and owners have the right to request to use the property as they would like to. The City does not have the discretion to deny a proposal if it meets all the Code requirements.

Commissioner Heaps agreed that compatibility is subjective but needs to be taken into consideration when reviewing projects. Commissioner Bell said if compatibility is “the same thing” there would be nothing but single-family housing everywhere. She said citizens believe that landlord-tenant issues are quite high. Mr. Boudrero did not have specific statistics on the percentage of rentals or complaints.

Commissioner Freidenberger asked if it is legal for a City to demand owner-occupation. Mr. Boudrero said there are ways to set ordinances and assist HOAs. Chairman Gibbons said the City does not have anything in the Code regarding short-term rentals. Commissioner Anderson said the City needs to be careful what it asks for, if a homeowner wants to sell their home and the only person that has money to purchase it is a rental company, then the homeowner should be allowed to make that decision. The Commission needs to be careful about what kind of “can of worms” could be opened by trying to legislate these types of decisions.

Chairman Anderson said there is a VRBO near his home and it has never been a problem. When he purchased his home, it was one of the first built and he had people who said that they did not want to have that area developed. Growth should be carefully considered but it is also inevitable. This property has been annexed for years and it is reasonable to believe that it would eventually be developed. He advised that the Commission does not always have to “like” a project but must abide by the requirements and ordinances that are set in place. There can be risks associated with denying something that meets all the requirements.

MOTION: Motion by Commissioner Bell to **forward a recommendation of approval to the City Council for Ordinance 23-05**, an Ordinance rezoning Cache County Parcel Number 08-048-0012 from R-1-12 (Single-Family Residential 12,000 Square Feet) to MPC (Master Planned Community). The parcel is located east of 200 South 1000 East and is approximately 34.36 acres. Commissioner Anderson seconded the motion.
Motion approved (7-0).

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Public Hearing for the purpose of discussing Ordinance 23-12, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”, Chapter 17.88 “Planned Unit Developments”, Section 17.88.100 “Blank”.

8:05 p.m. Public Hearing Opened – No comments

8:06 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-12

MOTION: Motion by Chairman Gibbons to **forward a recommendation of approval to the City Council for Ordinance 23-12**, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”, Chapter 17.88 “Planned Unit Developments”, Section 17.88.100 “Blank”. Commissioner Reis seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Public Hearing for the purpose of discussing Ordinance 23-10, an Ordinance amending the Smithfield City Municipal Code Title 17 “Zoning Regulations”, Chapter 17.81 “Master Planned Community (MPC) Zone”, Sections 17.81.050 “Development Standards”, 17.81.090 “Landscaping” and 17.81.100 “Density Bonuses”.

8:07 p.m. Public Hearing Opened

Jon Wells would like to see better clarification of housing types in Section 17.81.050, especially cluster homes.

Dan Sundstrom agreed with Mr. Wells. If things are not well-defined it is difficult to put together a plan, which requires time and money to do so.

8:09 p.m. Public Hearing Closed

Discussion and possible vote on Ordinance 23-10

Commissioner Freidenberger asked if cluster homes have private alleys, which can sometimes be sloppy and not well maintained. Chairman Gibbons said there are ordinances related to alleys.

The Commission agreed that it would be beneficial to have better definitions. Mr. Boudrero was asked to have specific definitions (especially cluster homes) for review at the next meeting. It will be beneficial to have the definitions either listed in the MPC ordinance or a reference to where the definitions are located in the Code.

Commissioner Freidenberger asked if owner/tenant issues should be added to the MPC ordinance; Chairman Gibbons said the Commission needs to be cautious about how much of what property owners can do with their property should be codified. Commissioner Anderson agreed with the need to be careful about what should be legislated. Chairman Gibbons said it is incumbent on landlords to manage tenant issues, not the City. Commissioner Bell agreed and pointed out that the City can address complaints about enforcement issues.

MOTION: Motion by Chairman Gibbons to **continue the discussion to the next meeting**, with definitions that will be provided and reviewed. Commissioner Bell seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Holbrook, Reis

Other

Mr. Boudrero reviewed the email sent to Commission members explaining the difference between administrative and legislative decisions. State Code requires approval if it meets the minimum requirements. Rezones are legislative decisions; the Commission provides recommendations to the City Council.

Members were asked to email Mr. Boudrero about their training hours.

Commissioner Anderson was welcomed.

MEETING ADJOURNED at 8:23 p.m.

Minutes submitted by Debbie Zilles

Scott Gibbons, Chairman