



SMITHFIELD CITY PLANNING COMMISSION MINUTES June 21, 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, June 21, 2023

The following members were present constituting a quorum:

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

Members Excused: Bob Holbrook, Lazaro Soto

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

Others in Attendance: Dan Sundstrom, Todd Orme, Jennie Orme, Bart & Judy King, Tami Midzinski, Lisa Peterson, Kathy Petersen, Robin Karren, Jeannie Prescott, Dave & Theresa Forrester, Chris Morgan, Larry Bradley, Liliana Darrington, Maria Guadarrama, Tyler Gessel, Caralee Stokes, Tayli Nelson, Greg Price, Tami Kidman, Lucy Johnson, Shane Roskelley, Stephanie Smith, Tami Kidman, 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 May 17, 2023 meeting to stand as submitted.

RESIDENT INPUT – Bart King sent an email to the Commission earlier in the week (which was included in the information packet sent to the Commission for review) opposing the conditional-use permit request by Stephanie Smith for a home daycare. He said the business has been operating since May 31st and is a second business, making it commercial, which according to the use matrix chart is not legal. He pointed out that the website indicates that rooms will be available to rent, which is also illegal.

AGENDA ITEMS

Discussion and possible vote on the “Home Child Care or Preschool” Conditional-Use Permit application by Stephanie Smith to operate the Home Sweet Daycare preschool or daycare facility at 253 South 100 West. Parcel Number 08-087-0044. Zoned R-1-10 (Single-Family Residential 10,000 Square Feet).

Stephanie Smith is requesting a conditional use permit to operate a childcare business out of her home. Ms. Smith advised that she has had in-home daycare at her previous house, which has now been purchased by her husband because they are separating. He is also taking over that daycare, so this will be a new business (Home Sweet Daycare #2) with a new EIN (Employee Identification Number). She has purchased this new home and has completed all the applications for State of Utah licensing and appropriate inspections. She is allowed to operate a home

daycare; however, a conditional-use permit is required to increase the number of children (16). She has a large waitlist because there is a shortage of daycares. She outlined the improvements she has made to comply with H.B. 15 “Childcare Amendments”. She will be residing in the home at least 50% of the time and has a direct designee who will be there when she cannot be. There will be three employees; she outlined the parking with the pictures she submitted with her application. Chairman Gibbons cautioned her that she will have to reside at the house at least 50% of the time otherwise the permit will be revoked. Ms. Smith said she is aware of this. Commissioner Higginbotham asked how 50% occupancy is determined – he is concerned that residing and working are different. Mr. Boudrero said they take applicants at their word because it is hard to prove otherwise; however, if there are complaints an investigation will be done.

Ms. Smith has been educated on rental requirements. She understands that she will have to live in the home 100% of the time for a room to be rented. Chairman Gibbons said she will have to register for an Accessory Dwelling Unit (ADU) and meet all appropriate conditions and requirements. She said she will meet all the requirements when she is ready to begin that, for now she is taking down the listing for rental space.

MOTION: Motion by Commissioner Heaps to **approve** the “Home Child Care or Preschool” Conditional-Use Permit application by Stephanie Smith to operate the Home Sweet Daycare #2 preschool or daycare facility at 253 South 100 West. Parcel Number 08-087-0044. 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, Gibbons, Heaps, Higginbotham, Reis

Discussion and possible vote on the Conditional Use Permit request by Shane Roskelley to have a nonconforming building addition at 39 East 200 South. Parcel Number 08-074- 0002. Zoned R-1-10 (Single Family Residential 10,000 Square Feet).

Shane and Julie Roskelley are requesting a building addition over the existing home. The proposal increases the addition beyond the original footprint of the building. A portion of the addition is proposed to be built (cantilevered over the open patio to the north). Mr. Boudrero informed the Commission that the applicant can keep the cantilevered portion and be denied or build the addition only above the existing garage and it can be approved.

Mr. Boudrero explained that the non-conforming use is because the garage does not meet the current setback requirement because it is too close to the property line. The addition can be approved as long as it does not extend outside the existing footprint (foundation walls). The height will have to adhere to the current requirement (not more than 35’).

Commissioner Reis questioned the weight of an addition; Mr. Boudrero confirmed that would be addressed by a building inspector during construction and is outside of the Commission's purview.

MOTION: Motion by Commissioner Bell to **approve** the Conditional-Use Permit request by Shane Roskelley to have a nonconforming building addition at 39 East 200 South. Parcel Number 08-074- 0002. Zoned R-1-10 (Single-Family Residential 10,000 Square Feet). The addition has to stay within the footprint of the existing structure. Commissioner Freidenberger seconded the motion. **Motion approved (7-0).**

Vote:

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

Discussion and possible vote on the request by Lend LLC for approval of the Final Plat for The Knoll Subdivision, Phase 1, a (25) unit/lot subdivision located at approximately 620 North 510 East. Zoned R-1-12 (Single Family Residential 12,000 Square Feet).

There are 25 single-family lots proposed in Phase 1. This will be the phase that will connect to Smithfield Pointe to the north. Tami Midzinski confirmed that nothing has changed from the preliminary plat.

Chairman Gibbons advised that the proposal has been reviewed by the Subdivision Technical Review Committee (STRC).

MOTION: Motion by Commissioner Bell to **approve** the Final Plat for The Knoll Subdivision, Phase 1, a (25) unit/lot subdivision located at approximately 620 North 510 East. Zoned R-1-12 (Single Family Residential 12,000 Square Feet). Commissioner Heaps seconded the motion. **Motion approved (7-0).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Higginbotham, 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 said the main difference from the original proposal is the location of the twin homes (cluster housing) has been moved to the middle of the development to better integrate housing types, which follows the vision of the Master Planned Community (MPC). A few more parking stalls have also been added near the open space/park. The phases will be completed east to west; Phases 3 and 4 will have bigger lots. The original proposal was for 160 units, this one is 142. The completion time will be dependent on how quickly the homes sell. The market will dictate the timeline.

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

Vote:

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

Introduction and **Public Hearing** for the purpose of discussing Ordinance 23-21, 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.

Dan Sundstrom is requesting a rezone for the Harrison property located at 190 South 1100 East to Master Planned Community (MPC). It is currently being used for agriculture and is zoned R-1-12. The preliminary plan includes 142 units, 70 single-family units, and 72 multi-family units (as previously reviewed and approved). An MPC project requires a preliminary plat to be submitted at the time of the rezone request.

7:23 Public Hearing Opened

Jenny Orme asked that the rezone be denied. There were 84 duplexes proposed with the original request and the Commission felt that it did not fit in with the surrounding area and offered suggestions for different ideas (e.g., senior living). This new plan has (15) 4-plexes and 10 duplexes, which is 80 doors. The surrounding neighbor's concern from the beginning include increased traffic on streets that may not be able to handle it. This type of project has not been done in this small of an area; it seems like it is being crammed in. She asked the Commission to listen to the resident's concerns. At the last meeting, after concerns were expressed, she felt that the residents were chastised by a comment indicating that there would be nice people with good jobs. She said there were no comments about "the people" by the residents at the meeting. She asked that the concerns not be minimized. She is aware that the property will be developed and she is excited for neighbors, her concerns are only that there will be too much density. Schools in the area are already overcrowded.

Todd Orme asked about water. Chairman Gibbons said this was reviewed by the STRC and has met all the applicable requirements. Mr. Orme asked if that was done before or after the approval for Fox Village. Chairman Gibbons said the issue was reviewed at the time of application. Mr. Orme said it was stated that there is a shortage of water at City Council meetings. Chairman Gibbons said the City's new storage will help with future growth. Mr. Orme recommended that this proposal be denied. The notes from the December 2022 City Council meeting approved a change to this property from A-10 to R-1-12 so that homes could be built. It was important enough, that one of the council members stated that the rezone request fits in with the surrounding area and made the area congruent. This request is now to change it from R-1-12 to MPC – which is a bold change and will no longer match the adjacent community. He asked the Commission to consider this information.

Jeannie Prescott lives north of this proposal. She agrees with what has been said. She is not against building in the area, but she is greatly concerned with the proposed density – it seems to be too much for this area. There are no concerns about the type of people who might live here, she is a transplant to the area and has been welcomed in.

She has lived in, and experienced, communities with too much density in a small area. She is concerned with the impact on existing infrastructure, snow removal, and only has two outlets out of the community. Although there is nothing residents can do, she is still greatly concerned about the impact on the local schools. Smithfield does not have enough police officers; she recently spoke to an officer about her concerns with this added density. She would like the Commission to keep the property zoned R-1-12.

Ted Stokes said in a previous meeting it was mentioned that the concerns with schools could not be considered, but that was corrected by Mr. Boudrero. The impact on the school system needs to be considered even though the school district will make those decisions. There was a comment at the last meeting by a Commissioner concerned about the City being sued if the proposal was denied. He agrees with this concept when a plat is being considered; however, rezones are different. For a lawsuit to be successful, the decision would need to be arbitrary, capricious, or illegal. The only standard the courts apply in Utah to determine whether a rezone is appropriately denied or approved is that it is reasonably debated. He said the Commission is a legislative body acting under the delegation of the City Council. This is a legislative recommendation to the City Council who makes the ultimate decision. Zoning should not be approved due to the concern that the City might be sued. He appreciated Commissioner Heaps comment at the last meeting about not degrading people; however, he did not hear anyone say before the Commission that they were judging people on their demographic, color of their skin, or income level. The comment was offensive to residents who were in attendance voicing concerns. The worry is not about the people who might move in, but about this area not being compatible with high-density housing. Under the guise that Commissioners are appointed by the City Council, there should be consideration given to the reasons the City Council denied the rezone.

Lacy Peterson said the glaring red flag with this application is that water is not a plentiful resource. This area has a unique ecosystem and drilling more wells will not find more water. Natural streams are drying up and things are changing. The City needs to step back and do research on how much water there is and possibly consider some aquifer recharge. There is a lot of clay soil in this area. More homework should be done before something of this scale is considered. She also feels like this request goes against the Master Plan which is in place to protect residents. She is not against growth but recommends following the General Plan.

Lucy Johnson thanked the Commission for their service. She recommended denial of the request. She has lived in high-density housing and enjoyed the experience; however, this much density will impact the schools and Sunrise Elementary is already maxed out. She lives on 1000 East 300 South and the traffic is already a challenge. 600 South and 300 South have school zones – increased traffic will make those areas worse. The MPC is a great idea to integrate housing types; however, she is very concerned about the existing infrastructure.

Tami Kidman is grateful to live in Smithfield and believes that people should be taken care of. She understands the need for growth and more housing but not everything has to be high-density housing. She is speaking broadly and not only to this area. She teaches 4th grade at Birch Creek Elementary and spoke of the challenges of growth and running out of space for classrooms. Bonds for new schools have to be voted on by

taxpayers and take time to build. There is an obligation to take care of people. Not every rezone should be for high-density housing.

Robin Karren agrees with what has been shared. She likes the idea of having single-family homes on this property. Her home faces this property and she also owns another property to the south of this proposal so she is affected in different ways. She asked why there is a Master Plan in place if it is not followed. Single-family homes would help blend the neighborhoods. She urged the Commission to follow the Master Plan.

Caralee Stokes agrees with all the comments that have been shared. She does not know what else to say. She would like the Commission to consider the resident's input. It would be wrong to pass this rezone. She would like to have faith that the right decision will be made. This is a community of people who care of one another. She would like to see everyone come together to make the right decision, and would like the Commission to carefully consider its decision and not worry about being sued. She would like to see the City slow down and think before decisions are made.

Liliana Darrington works as a custodian at USU and has never felt like she has been treated less because of her job, skin color, or accent. The resident's concerns are not about the type of people who will live here, but making sure that kids are safe and able to get a good education.

Chris Morgan opposed the rezone and would like to see the property kept as R-1-12. He appreciates the agenda and information being put online so that residents are informed about what is happening.

7:53 Public Hearing Closed

Discussion and possible vote on Ordinance 23-21.

Commissioner Heaps said many people referenced her comment from the last meeting. It is heartwarming to see the community's support for a wide variety of people. She clarified that her comment addressed comments that were contained in emails sent to the Commission complaining about increased crime as a result of high-density housing. Her comments were not meant to be accusatory but to address a broader scope.

Commissioner Higginbotham noted that the future use of the property is coded as Medium-Density – which is inclusive of multiple types of zones. Mr. Boudrero explained that this is base density that allows for 3-5 units/acre. Medium-High Density allows for 6-10 units/acre. The number of units being proposed conforms to the Master Plan/Future Land Use. Commissioner Bell asked about the density allowed in R-1-12 (which fits into Medium Density) and many more units are going in with MPC versus R-1-12. Chairman Gibbons said an R-1-12 would allow between 96-103 units and this proposal is for 142 units. Mr. Boudrero said after using net acreage, the base density would allow for 153 units (in the MPC).

Commissioner Bell likes that an MPC development brings in open/green space, extra parking, and trails. It seems to be a positive way to add extra density. The difference

between the MPC zone and the R-1-12 zone in this location is less than 40 units, with extra amenities.

Commissioner Reis noted that in the years he has served on the Commission, there have never been so many residents consistently attending meetings opposing a specific development.

Commissioner Heaps said the comments have created good considerations to discuss. She asked what a Traffic Impact Study (TIS) includes. Mr. Boudrero said a civil engineering company completes the study which includes traffic counts during different times and days and considers many variables to determine road usage. Chairman Gibbons said a TIS done by Alliance Engineering was included in the packet. It determined that this project did not exceed road specifications.

Chairman Gibbons said within an R-1-12 development there could be 96-103 units versus the 142 proposed which includes 5 acres of open space, which the R-1-12 would not have. Last November the County passed an open space bond. One of the purposes of an MPC is to have open areas. Residential zones have no requirements for parks or trails. Although many people have concerns about school overcrowding, he has not heard of any specific numbers on specific school loads and what the capacity is. The School District has not commented on, or expressed concern with, this project. He said a few letters have been received complaining that there may be conflicts of interest because Commissioners live close to and/or are friends with the developer. He assured the public that there are no conflicts of interest and no Commission members have any financial interest in this project and that is not an appropriate concern. He explained that this project is also in his backyard and impacts him as much as any of the residents who spoke tonight. Commissioners understand and appreciate the concerns, but also have to consider the fact that landowners have the right to develop their property. He noted that even though someone may vote differently than someone else, it does not mean it is right or wrong. The Commission tries to do what is best for the City, even if some people do not agree. The members have been considering this project for weeks. It is not a quick decision made only this evening. He encouraged residents to become involved in City decisions and consider serving on the Commission someday.

In reference to the concerns about water, Commissioner Bell said she is not being insensitive to the concerns; however, the City Engineer has always indicated there is enough water. Chairman Gibbons noted that projects are always reviewed by the STRC which takes into account water models that are submitted.

Commissioner Heaps said one of the benefits of MPC is the idea of different housing types. Most neighborhoods go through cycles as residents age, this will provide multiple types of housing for many different segments of the population.

Commissioner Higginbotham noted that with respect to lawsuits related to being arbitrary, capricious, or illegal; MPC zones have been approved in other areas and residents have had similar concerns in the northeast and northwest locations. These type of developments need to be allowed in all applicable areas and should not be denied just because more residents come to the meeting to voice concerns.

Commissioner Anderson noted that the Master Plan was approved in 2017 before the MPC ordinance was approved. He was involved in developing the Plan and noted that a developer can still use a PUD, which is somewhat similar to an MPC. The Transportation Master Plan was part of the process and roads were identified – 1000 East (Hillside Drive) is defined as a minor collector, and 300 South, and 600 South are major collectors. These were concerns that were considered years ago and are contained within the Master Plan so it is not fair to say that these issues have not been considered or being followed.

MOTION: Motion by Commissioner Bell to **forward a recommendation for approval to the City Council** for Ordinance 23-21, 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. Commissioner Heaps seconded the motion. **Motion approved (6-1).**

Vote:

Aye: Anderson, Bell, Freidenberger, Gibbons, Heaps, Higginbotham

Nay: Reis

Continued discussion and possible vote on 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”.

A summary of the changes includes:

§17.81 Master Plan Community (MPC) Zone

Mr. Boudrero reviewed the proposed changes including:

- The housing type definitions are changing to include twin homes, cluster homes, and single-family detached in the single-family home category. Tri-plex, four-plex, and five-plex homes will be categorized in the multi-family type definitions.
- Developers will have to include three (3) housing types, two (2) of which will have to be a single-family type.
- All dwellings cannot include more than five (5) individual units.
- The side yard setbacks (in the setback table) for multi-family structures have been changed to 10’ and 20’ respectively. The accessory structure requirement in the same section has been modified to read “detached” instead of “attached”.
- The word “dwelling” is inserted into the parking requirement table and the resident type in the table has been simplified to “single-family” and “multi-family”.
- The required landscape plan must be prepared by a landscape designer or landscape architect.

- The density bonus table has been modified and the option for “off-site infrastructure” has been removed completely and the percentages have been changed to meet the existing 50% total.

Mr. Boudrero asked the Commission to keep in mind this ordinance can be continually changed as necessary. The changes being proposed are the result of discussions from the last few months.

Commissioner Higginbotham asked about the rationale for the base density change in 17.81.050 DEVELOPMENT STANDARDS: *No single lot may contain in excess of ~~six~~ (6) five (5) dwelling units in the primary structure on that lot.* Chairman Gibbons said this change was wrapped into the updated requirement: *Housing Types: Developers are encouraged to provide a mix of housing types in an MPC. Such types may include, but are not limited to, single-family detached, ~~single-family attached~~, twin homes, cluster homes, and multi-family ~~duplex/triplex/~~ (tri-plex four-plex, five-plex ~~six-plex~~, etc.).*
1. Developers are required to have at least ~~two~~ three (3) types of housing, ~~one~~ two (2) of which must be single-family detached. Single-family detached housing must make up at least forty percent (40%) of the total housing units in the project but shall not make up more than sixty percent (60%) of the total housing units in an MPC. After review, it seemed like having two (2) types of homes was not the intent of the ordinance and a 6-plex was too large.

Commissioner Higginbotham asked about the reason for the change of multi-family side setbacks from 8’ to 10’ and the side street setback from 12’ to 20’. Mr. Boudrero said this change will allow for more room between single-family and multi-family buildings. Commissioner Freidenberger said this is similar to the setbacks in a PUD and makes sense. Mr. Boudrero said this change will allow for an integrated neighborhood and still allow for room.

Commissioner Freidenberger noted that this issue was first discussed a few months ago, and the Commission has tried to incorporate a % of certain homes that should be included. Chairman Gibbons said the change from requiring 2 to 3 types of housing might help. Commissioner Higginbotham said she would almost prefer 4 types. Chairman Gibbons felt that 3 types would be sufficient.

Commissioner Heaps would prefer to see a 4-plex as the maximum type of housing (rather than a 5-plex) and better integration of the various types.

Chairman Gibbons noted that 40% must be traditional single-family housing (as noted in 17.181.050 C-1) but cannot make up more than 60%. A lot of it will depend on the way a project is designed, which the Commission can review.

Commissioner Higginbotham appreciates the idea of integrating housing within an MPC, but also noted the importance of ensuring that it fits with the surrounding areas. He appreciates the idea of putting in single-family homes across from other single-family homes but recommended caution about too much standardization. Chairman Gibbons agreed that it is not the Commission’s purview to design projects. Mr. Boudrero said there is a need to find a balance, but being too stringent may make it too difficult to use.

MOTION: Motion by Commissioner Gibbons to **forward a recommendation for approval to the City Council** for 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”. Commissioner Freidenberger seconded the motion. **Motion approved (7-0).**

Vote:

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

Chairman Gibbons reminded the Commissioners of the annual training requirement.

Commissioner Higginbotham was asked to help work on an ordinance for residents to be able to apply for a new statewide rebate program if they comply with certain water-wise landscaping requirements. (A grant will allow Utah residents to receive up to \$3 per square foot when they replace grass with water-efficient landscaping). A draft ordinance was initially reviewed at the last meeting and has been reviewed by Commissioner Higginbotham and Mr. Boudrero. Three (3) changes need to be made for Smithfield residents to be able to apply for the funding. The main changes need to include:

- No lawn in park strips less than 8’ in width in new developments.
- No more than 50% of the front or side yard landscaped area(s) in new residential developments is lawn. Lawn limitations do not apply to small residential lots with less than 250 SF of landscaped area.
- In new commercial, industrial, institutional, and multi-family development common landscaped areas shall not exceed 20% of the total landscaped area outside of active recreation areas.

Mr. Boudrero will put together an ordinance, with this information for review at the next meeting.

MEETING ADJOURNED at 9:10 p.m.

Minutes submitted by Debbie Zilles

Scott Gibbons, Chairman