



**PLANNING COMMISSION MINUTES**

**03 MARCH 2016**

<u>Item</u>	<u>Page</u>
1. Kelly Spackman Subdivision Third Amendment.....	2
2. Esplin Anderson Rezone .....	2
3. Code Amendments Title 16.....	7
4. Code Amendments Title 17.....	7

1 **Present:** Jacob Adams, Chris Harrild, Josh Runhaar, Brady Christensen, Rob Smith, Phillip Olsen, Chris  
2 Sands, Lane Parker, Lee Edwards, Megan Izatt

3  
4 **Start Time: 05:31:00**

5  
6 **Smith** welcomed and gave opening remarks

7  
8 **05:33:00**

9  
10 **Agenda**

11  
12 Approved with no changes.

13  
14 **Minutes**

15  
16 Approved with no changes.

17  
18 **05:34:000**

19  
20 **Consent Items**

21  
22 **#1 Kelly Spackman Subdivision Third Amendment (Dustin Ward)**

23  
24 Mr. Dustin Ward is requesting a recommendation of approval to the County Council to add an additional  
25 buildable lot on 52.64 acres of property located at 2977 North 2400 West in Benson (Agricultural (A10)  
26 Zone).

27  
28 *Sands* motioned to recommend approval for the consent agenda to the County Council with the noted  
29 conditions and findings of fact; *Christensen* seconded; **Passed 5, 0.**

30  
31 **05:36:00**

32  
33 **Regular Action Items**

34 **#2 Public Hearing (5:40 PM): Esplin Anderson Rezone (Jeremiah Esplin and Dennis Anderson)**

35  
36 **Adams** reviewed Mr. Jeremiah Esplin and Mr. Dennis Anderson's request for a recommendation of  
37 approval to the County Council for a rezone of 5 acres of property from the Agricultural (A10) zone to  
38 the Commercial (C) zone at 4600 North 400 West, southwest of Smithfield City. This rezone would allow  
39 the applicant to apply for a conditional use permit for an existing business operating on the property. The  
40 only county commercial zones near this property are on Highway 91 and would probably require  
41 annexation into either Smithfield or Hyde Park to provide the public services needed for commercial  
42 development. There are storage units near this property but storage units are no longer allowed within the  
43 Agricultural Zone. There are issues with access for this property. 4600 North is a paved road with 20 feet  
44 of pavement and 2 foot wide gravel shoulders; 400 West is a gravel road of currently unknown (but likely  
45 substandard) width. Staff would recommend a design exception for 4600 north if the properties were  
46 going to remain a residential subdivision however because the intent is to rezone to commercial staff  
47 would not recommend a design exception due to the higher traffic impact. Any access from 4600 North  
48 will require an encroachment permit to install a culvert and fill material as the property is about 3 feet  
49 lower than the road; also the county will not allow 400 West to be paved as the county is not accepting  
50 new paved roads. Access for fire protection and emergency services is adequate however there is no  
51 current water supply for fire protection; a rezone to Commercial will require an adequate water supply.

1 As for utilities and public service provisions, the applicant has approached Smithfield City in the past  
2 about extending utilities to the property but that request has been denied until the property is annexed into  
3 the City. Staff is recommending a denial.  
4

5 **Commission and staff** discussed that the property has been before the Commission in the past due to an  
6 enforcement issue. The previous subdivision application did receive some opposition from neighbors, but  
7 this was focused mainly on the fact a business was operating there, not about the subdivision itself.  
8 Commission and Staff also discussed the possibility of annexation. Cities are not usually willing to jump  
9 parcels to annex and Smithfield City has indicated that annexing this property is not in their interests at  
10 this time.  
11

12 **5:41:00**

13  
14 *Olsen motioned to open the public hearing for the Esplin Anderson Rezone; Sands seconded; Passed 5,*  
15 *0.*  
16

17 **Mr. Jeremiah Esplin** I have moved the business and have rented a space in Smithfield. I talked to  
18 Smithfield about annexation and it comes down to land values. The neighbor to the north is not interested  
19 in annexing and I don't have enough land value to have them jump those parcels and annex. However, he  
20 did say in 15 years the plan is to annex this area and have it be commercial. He has nothing against this  
21 and ultimately it is supposed to be commercial. I suggested building a home there so I could use the  
22 property and he said we would end up like Cox Honeyland with a home in the commercial area. We  
23 talked with the fire department and if we have a water storage tank that could be used for fire suppression  
24 that would satisfy them. We've fixed the issue with the road being declined for the fire department and  
25 they approved that. As for the road usage for the subdivision, whatever we need to do we are willing to  
26 do.  
27

28 **Sands** even with moving the business, you would still like to pursue this?  
29

30 **Mr. Esplin** if we can. This is going to be a commercial for sure in the future and we would really like to  
31 use the property because we are already invested here. 4600 North is being used by Paragon, and they  
32 have 1500 employees using that road. So the road won't handle my 15 vehicles a month? However, I'm  
33 not in the road department.  
34

35 **John Forsgren** I talked to Smithfield City on a similar annexation issue but the problem is they can't do  
36 an island. However, part of their master plan and UDOTs master plan is to develop that whole section and  
37 down to Hyde Park/North Logan. None of those roads meet state code, 4600 is already against state code  
38 for the current use. I'm having some similar issues for a project down the road. I'm trying to figure out  
39 how everyone thinks about the development of that area and how they see it working out. When I talked  
40 to Smithfield it seems that the Esplin issue is a temporary issue for the County.  
41

42 **Mr. Esplin** what is required now to move forward with the subdivision process?  
43

44 **Harrild** I have a letter from the road department that I will forward to you. They have concerns with how  
45 soft the shoulders are.  
46

47 **Mr. Esplin** I was just paying attention to that 660 feet in front of the property and I measured 20 feet  
48 wide. I had a friend talk to the road department and he was told that it is 19 to 20 feet all along or  
49 property. It might go down to 16 but that is out of where we were looking at and what we were told is that  
50 it is between 19.5 and 20.  
51

1 **Harrild** that 19.5' includes the shoulder, not just the pavement.  
2  
3 **Mr. Esplin** he talked like that was just the flat part, not including the shoulder.  
4  
5 **Harrild** what I have from the road department submitted in writing is that it is 20 feet with the shoulder.  
6 Once you get down to the north end, its 24 feet and that's right as you coming out of the intersection and  
7 not as big of an issue.  
8  
9 **Runharr** we need to stick to this process.  
10  
11 **Mr. Esplin** how different is the process for a rezone than a conditional use permit?  
12  
13 **Harrild** a rezone looks at the big picture and what the area looks like and what fits. A conditional use  
14 narrows down to the property and we have to look at impacts for the surrounding area of that use.  
15  
16 **Mr. Esplin** so we were talking about visual impact and road usage.  
17  
18 **Harrild** those are the most likely but there might be more but that is a separate process and is very  
19 specific. This rezone would allow multiple different uses where the conditional use permit is for one use.  
20  
21 **Mr. Esplin** with the rezone, where Cache County is not going to be here eventually but going to be  
22 Smithfield City at least to 4<sup>th</sup> West, do we not fit in from the Master Plan like you just said?  
23  
24 **Harrild** from a rezone standpoint there is nowhere in the county identified as potential commercial  
25 zoning.  
26  
27 **Mr. Esplin** right, but in Smithfield City's master plan when this is annexed it is supposed to be  
28 commercial.  
29  
30 **Harrild** right, they might have indicated that.  
31  
32 **Mr. Esplin** that's what he showed me in his office yesterday.  
33  
34 **Harrild** but we aren't looking at what just Smithfield wants but what the County needs.  
35  
36 **Mr. Esplin** but they have a big say?  
37  
38 **Harrild** they are a large influence here and they have a big part in communicating that. But if the  
39 County's roads are currently inadequate we cannot increase use there. Putting a commercial zone out  
40 there isn't a good idea. There is no guarantee that Smithfield will annex this. We have to address it based  
41 on if it fits with what the code identifies and that is very focused on adequate access and public service  
42 utilities. The fire issues are things that you can work around and fix. But if this is an appropriate place for  
43 the county to have a commercial zone is the question, and from what we have seen it doesn't fit here in  
44 that context.  
45  
46 **Mr. Esplin** just for clarification, what is the biggest problem? Utilities, roads, and fire suppression,  
47 right?  
48  
49 **Harrild** correct.  
50  
51 **Mr. Esplin** we can fix the fire issue.

1  
2 **Runhaar** there is also a philosophical discussion on if this is a compatible use for the area. We've  
3 received information from cities in the past and we have a long history of making land use choices on the  
4 doorsteps of cities and then when they do annex it breaks their pattern and their flow of what they are  
5 trying to do. We've had the issue with trying to drop commercial zones here and there and this is  
6 relatively close but how much is there of a commercial corridor? It's not four blocks wide, in most places  
7 it is 1 maybe 2 blocks wide off that highway (Highway 91). When you look at how much space we are  
8 really talking about until this would be conforming? Annexation is going to be slow but pieces that are  
9 already built, don't annex well. Because there is a new code requirement and issues related to that, a lot of  
10 it is a timing issue. You may not see commercial zoning come that way for the next 25 years. Or it could  
11 be 5 and you'd be fine but looking at the history of how Smithfield has grown, watching all these areas.  
12 If you were next to Nibley your chances of being incorporated sooner are much better. The north end  
13 isn't growing at the same rate.

14  
15 **Mr. Esplin** a lot of these are large acreage pieces and this was a 5 acreage chunk. I believe the farmer  
16 even contacted Chris about this. I've talked to a lot of the farmers around there and the one person that  
17 did have something to say about it and is on the fence he is trying to sell his land and saying that there is a  
18 potential for a commercial zone in this area. I think a lot of the agriculture in this area is starting to go this  
19 direction. The thing that does raise a huge concern in my mind is the storage sheds. They are still zoned  
20 Commercial but just have a CUP?

21  
22 **Runhaar** they are zoned Ag.

23  
24 **Smith** it was a permitted use in the Ag zone at one point.

25  
26 **Runhaar** that partially led to the change in the ordinance.

27  
28 **Mr. Esplin** what would you like to see?

29  
30 **Parker** widen the roads; the roads are the biggest hang up.

31  
32 **Mr. Esplin** the roads are going to be repaired and widen eventually but that's something I can't do.

33  
34 **Parker** at that point you are going to sit on the ground until that happens. I know what that's like. But it  
35 will come around; it's taken me 20 years but maybe in 20 years maybe there will be money in the county  
36 budget to help you.

37  
38 **Mr. Esplin** right, but we can't even maintain the roads we have now.

39  
40 **Parker** that is why it is up for denial now because it is years away.

41  
42 **Mr. Esplin** is there something that we can do with the property?

43  
44 **Smith** this body is limited in that we can look at the application that comes before us but it sounds like  
45 there are some other possibilities there

46  
47 **Mr. Esplin** it comes back to this body? That's why I'm asking you guys.

48  
49 **Harrild** They can't direct you. He cannot pursue the conditional use until the rezone occurs.

50  
51 **Mr. Esplin** That is why we're here; Development Services said to do these steps.

1  
2 **Harrild** the reason you are here is because you built a business without a permit. So in order for you to  
3 continue operating the business you have to rezone. So our direction is not that you should rezone but if  
4 you want to operate the business you have to rezone. So to clarify that there is a distinction. We aren't  
5 coaching you to go through the process and take your time. Our job is to help you fix the problem that is  
6 there; we didn't create that. We are trying to assist you through that. If you want to do something  
7 different that meets the code requirements, you could pursue that and see what use is qualified. Your  
8 current business does not meet the requirements and is not allowed there. It would have to be rezoned for  
9 that current use. There are other uses that are allowed there and you would have to figure out what you  
10 want to do there but we can't guide you on what you might want to do.

11  
12 **Mr. Esplin** you are the ones that say yes or no but you can't guide me? Isn't that a contradiction?

13  
14 **Harrild** no it is not; if you wanted to come to the Planning Commission and ask for a specific request that  
15 the code allows you made the determination of what you were going to do. You have to make that  
16 determination and if that works, you can pursue that.

17  
18 **Smith** if people want to talk they need to come up here and then we need to move on with the public  
19 hearing. Thank you for your comments Mr. Esplin. Mr. Forsgren do you have a question you wanted to  
20 ask?

21  
22 **Mr. Forsgren** one question, in your zoning ordinance it talks about the different zones and what is in  
23 there. The list on the board had more information than what is listed there.

24  
25 **Harrild** that was 17.07 which is all the definitions and related items. That also corresponds with 17.09  
26 which is a use chart. The information on the board was put together by Jake and he pulled all the  
27 corresponding information out of the code for this.

28  
29 **06:07:00**

30  
31 *Parker motioned to close the public hearing; Sands seconded; Passed 5, 0.*

32  
33 **White** in the past, the Council has gone along with the requests of cities. In the past if a City has asked  
34 for denial, the Council has typically gone along with that recommendation. I can't guarantee that that will  
35 happen here, but that is the way that we have been going.

36  
37 **Smith** and that is an important thing to note; this body makes a recommendation to the County Council  
38 but is not the final say.

39  
40 **Staff and Commission** discussed roads. For a commercial business to be located here road improvements  
41 would have to occur. However, once again the County is not accepting new roads to be built in the  
42 County. Application was recommended for denial because it does not fit right now.

43  
44 *Parker motioned to recommend denial for the Esplin Anderson Rezone to the County Council with the*  
45 *stated conditions and findings of fact; Olsen seconded; Passed 5, 0.*

46  
47 **06:13:00**

48  
49 **Smith** a rezone is a fairly aggressive land use decision and the Commission does look at the surrounding  
50 cities that could be affected and for this application Smithfield City's recommendation is going to weigh  
51 pretty heavily on that decision.

1  
2 **Harrild** I'm curious if anyone is here for the public hearing for Titles 16 and 17.

3  
4 **Carry Higgly** I'm not sure what the difference between 16 and 17.

5  
6 **Harrild** you issue would be with Title 17.

7  
8 **#3 Public Hearing (6:00 PM): Code Amendments, Title 16**

9  
10 **Harrild** reviewed the amendments to Title 16. The general updates to all subsections are the term Land  
11 Use Authority will be replaced with the more specific land use authority titles such as County Council or  
12 Director of Development Services. I won't focus on grammar changes or other minor changes unless you  
13 have a question. Many things that are now redundant with Title 12 and the Road Manual have been  
14 removed; we use those documents for addressing road issues. Sections .010: Subdivision Layout and  
15 .020 Commencement of Site Development the language has been clarified/updated. .030: Lots has been  
16 updated to reflect the other sections of current County Code. In section .040: Streets the name of the  
17 subsection will be changed to roads and all section of the Road Manual have been removed. Section .060:  
18 Landscaping has been removed and reserved because it conflicts with State Code and also overlaps with  
19 the storm water requirements. .070: Utilities and Easements is not section .060 and has minor changes to  
20 reflect State Code. .080 Storm Drainage Requirements is now section .070 and has been removed due to  
21 being redundant with storm water requirements. .090: Evidence and Availability of Water is now section  
22 .080, and .090 and .100 were combined and renamed to Suitability Requirements for Subdivisions and has  
23 more specifics regarding suitability have been clarified/updated to reflect current code and policy. .110:  
24 Completion of Development Improvements is now section .100 and the language has been  
25 clarified/updated. .120 Improvement Sureties is now section .110. The name of the subsection has been  
26 updated and the language updated to reflect county policy and State code.

27  
28 **Staff and Commission** discussed water and dry lots. Water is typically overseen by the State and the  
29 County does not control that.

30  
31 **06:29:00**

32  
33 *Sands* motioned to open the public hearing for Code Amendments to Title 16; **Christensen** seconded;  
34 **Passed 5, 0.**

35  
36 **Commission** members had a question regarding 16.04.121 which is now 16.04.10 regarding some  
37 notations for insurance purposes.

38  
39 **06:31:00**

40  
41 *Sands* motioned to close the public hearing; **Parker** seconded; **Passed 5, 0**

42  
43 *Sands* motioned to recommend approval to the County Council for code amendments to Title 16 as noted  
44 in the discussion; **Christensen** seconded; **Passed 5, 0.**

45  
46 **06:32:00**

47  
48 **#4 Public Hearing (6:30PM): Code Amendments, Title 17**

49  
50 **Harrild** reviewed the Code Amendments to Title 17. The general updates that are applicable to all the  
51 sections are the term "land use" replaces references to "zoning" when describing the ordinance as a

1 reflection of State Code. 17.02 Administration the main changes are under section B. One major change is  
2 that one non-resident employee may work in the residence if it can be demonstrated by the applicant that  
3 potential impacts due to the increase are non-existent; a minor variance is required as specified in  
4 §17.02.060. This allows a review at the administrative level to look at the application and intent. In  
5 section 17.06 Uses the existing code does not make a distinction between those use permitted by right  
6 requiring no permit, and those uses that are permitted and require a permit. This subsection has been  
7 updated to include that distinction. This means the use has been updated to reflect a 'P' for permitted and  
8 a 'ZC' for needing a zoning clearance. For Conditional Uses the language was cleaned up to be more in  
9 line with state code. The code has been cleaned up to reflect what needs to happen so the County doesn't  
10 get in trouble with how uses are handled. 17.09: Use Chart was discussed. Single family homes have to  
11 have a zoning clearance as do accessory apartments, seasonal cabins, and residential living facilities.  
12 Accessory apartments will now be handled as part of the zoning clearance process.

13  
14 **Staff and Commission** discussed 17.07.1200 Home Based Business. The language regarding outside  
15 sales was removed. There were questions regarding a home daycare. Staff will clarify the age  
16 requirements for home daycares and preschools. For Home Based Business the new section 4 shall be  
17 Minor Service Provision: Typically includes professional services where client meetings may occur at the  
18 home. In section 1500 Residential Facility for Elderly Persons was removed due to a change in State  
19 code.

20  
21 In section .040 of 17.07 appeal authority was added and approval was clarified. Earthquake Fault was  
22 removed as it is presently addressed under the definition for Geologic Hazard.

23  
24 **07:01:00**

25  
26 *Sands motioned to open the public hearing for Code Amendments for Title 17; Parker seconded; Passed*  
27 *5, 0.*

28  
29 **Carry Higgly** I was just wondering about this process because we are looking at having a home based  
30 business and our daughter would come to work for us.

31  
32 **Sands** and these changes will allow for that.

33  
34 **Smith** we can't make a decision without an application in front of us but please talk to staff about this.

35  
36 **Harrild** we have been contacted. This will go to Council next and they will hold a public hearing there  
37 probably in about 3 weeks.

38  
39 **Ms. Higgly** thank you.

40  
41 **07:02:00**

42  
43 *Olsen motioned to close the public hearing; Sands seconded; Passed 5, 0.*

44  
45 **Staff and Commission** discussed 17.07.150. If family is taking another family member into their house  
46 they don't require anything to be able to do that. This is for a single-family dwelling in which more than  
47 one unrelated person with a disability resides.

48  
49 *Sands motioned to recommend approval to the County Council for the code amendments Title 17 as*  
50 *amended noted in the discussion; Parker seconded; Passed 5, 0.*



1 **Runhaar** Just a point of interest Leslie Larson termed out for the Planning Commission and has been  
2 replaced by Nolan Gunnell.

3

4 **07:11:00**

DRAFT