

River Heights City

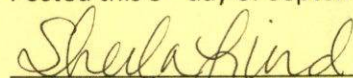
River Heights City PLANNING COMMISSION AGENDA

Tuesday, September 10, 2024

Notice is hereby given that the River Heights Planning Commission will hold its regular meeting beginning at **6:30 p.m.**, anchored from the River Heights City Office Building at 520 S 500 E. Attendance can be in person or through Zoom.

- 6:30 p.m. Pledge of Allegiance
- 6:32 p.m. Adoption of Previous Minutes and Agenda
- 6:35 p.m. Public Comment on Land Use
- 6:40 p.m. Presentation of Changes to the Subdivision Process
- 7:30 p.m. Adjourn

Posted this 5th day of September 2024



Sheila Lind, Recorder

To join the Zoom meeting:
<https://us02web.zoom.us/j/86203914611>

Attachments for this meeting and previous meeting minutes can be found on the State's Public Notice Website (pmn.utah.gov) and at riverheights.org.

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.

River Heights City

River Heights City Planning Commission
Minutes of the Meeting
September 10, 2024

Present: Commission members: Noel Cooley, Chairman
Heather Lehnig
Cindy Schaub
Troy Wakefield
Councilmember Blake Wright
Recorder Sheila Lind
Tech Staff Councilmember Chris Milbank

Excused Commissioner Keenan Ryan

Others Present: Sam Taylor-Landmark Design, Engineer Craig Rasmussen,
Tyler Case, Jamie Saltern, Brent Hadfield,
Councilmembers Lance Pitcher, and Janet Mathews

Motions Made During the Meeting

Motion #1

Commissioner Schaub moved to “approve the minutes of the August 27, 2024, Commission Meeting with corrections, as well as the evening’s agenda.” Commissioner Lehnig seconded the motion, which carried with Cooley, Lehnig, Schaub, and Wakefield in favor. No one opposed. Ryan was absent.

Proceedings of the Meeting

The River Heights City Planning Commission met at 6:30 p.m. in the Ervin R. Crosbie Council Chambers on September 10, 2024.

Pledge of Allegiance

Adoption of Prior Minutes and Agenda: Minutes for the August 27, 2024, Planning Commission Meeting were reviewed.

Commissioner Schaub moved to “approve the minutes of the August 27, 2024, Commission Meeting with corrections, as well as the evening’s agenda.” Commissioner Lehnig seconded the motion, which carried with Cooley, Lehnig, Schaub, and Wakefield in favor. No one opposed. Ryan was absent.

Public Comment on Land Use: Jamie Saltern informed that she didn’t want a big development east of the church which would put extra traffic on her street. Commissioner Cooley explained that the evening’s discussion would revolve around new subdivision code changes per recent legislation in the state code, rather than on a particular development.

44 Presentation of Changes to the Subdivision Process: Commissioner Cooley introduced Sam
45 Taylor and asked him to review the recent state law requirements for the subdivision process and his
46 recommendations for the River Heights Code. Mr. Cooley noted that he and Councilmember Wright
47 had met with Mr. Taylor and Mark Vlasic (both of Landmark Design) three different times to work
48 through the needed changes.

49 Sam Taylor reviewed the basics of the recent senate bill that went into effect in 2023. Smaller
50 communities were given up to December 2024 to put them in place. The primary change in the new
51 legislation required that subdivision applications and approvals must be administrative, rather than
52 legislative. The city would need to form an Administrative Land Use Authority (ALUA) made up of
53 individuals who were not on the City Council or Planning Commission.

54 Engineer Rasmussen asked how the changes would affect an application for a PUD. Mr. Taylor
55 said the legislative body would still make decisions on rezones, but the actual development of a PUD
56 would go through the ALUA.

57 The subdivision process would take two steps which may or may not include a public hearing
58 (State Code didn't require it). There was a desire to state a public hearing was optional rather than
59 not address it in the River Heights code.

60 Councilmember Milbank pointed out that the new process seemed very quick given the
61 timelines the city had to stick to. Engineer Rasmussen pointed out that the law says they can have up
62 to four meetings with developers. He said the ALUA would generate a list of changes for the
63 developer at the first meeting. The next review cycle wouldn't start again until all those issues were
64 resolved. Mr. Taylor pointed out that the first review was the most important. After that, the city
65 would be limited to corrections geared to protect public health or safety, or to enforce state or
66 federal law.

67 Councilmember Wright stated that he, Commissioner Cooley, Sam Taylor and Mark Vlasic
68 made the decisions on how to incorporate the new legislation into the city's code, however, they
69 were open to suggestions from others. Mr. Cooley explained they had worded the code in a way that
70 a developer would come first to the Planning Commission for them to determine if the development
71 was a suitable fit for the area, based on the intent of the city's PUD ordinance. The Commission
72 would not be able to get into the details. Engineer Rasmussen said the city couldn't require a
73 concept plan to be brought to the Commission. However, the city's code would address it as an
74 option for the developer.

75 Discussion was held on whether the ALUA meetings would be open and advertised to the
76 public. Commissioner Cooley replied that the meetings would be open to the public. The ALUA could
77 take public input but were not required to.

78 Discussion was held on the process. Engineer Rasmussen explained the first thing was to
79 make sure the application was complete with the information requested. If so, the ALUA would meet
80 to discuss and come up with a collective set of comments for the developer within a 15-day period.
81 After the developer had addressed the comments the ALUA would meet again to discuss the
82 amendments.

83 Sam Taylor reviewed the changes to Chapter 11. In the definition section they defined
84 Administrative Land Use Authority (ALUA) as a body consisting of the planning commission chair,
85 zoning administrator, public works director, city engineer, and a professional planner. They discussed
86 whether the planning commission chair would need to be removed from the ALUA (to follow State
87 code). The zoning administrator would need to be replaced since the person who currently held this

88 position was on the City Council. Engineer Rasmussen suggested a member of the ALUA report to the
89 Council and Commission to provide information on how the review was going and to gain additional
90 insight from the legislative body.

91 Sam Taylor explained that they decided to leave the minor subdivision as its own section. The
92 applicant could request a pre-application meeting, but it couldn't be mandated. In the approval
93 process it stated: "The ALUA may conduct a single public hearing and receive public comment as part
94 of this process, although a public hearing is not required and is not recommended." The Commission
95 wanted to strike "is not recommended." Engineer Rasmussen stated that the public will sometimes
96 share valuable information (about the layout of the land or other things) that would be beneficial for
97 the developer to be aware of.

98 Engineer Rasmussen understood that the Planning Commission could be involved in the
99 preliminary plat, but not sign the final plat. Sam Taylor said the final plat requirements were basically
100 left the same as the current city code.

101 Engineer Rasmussen read the States definition of an ALUA. It stated that someone from the
102 Planning Commission could be involved with the preliminary but not the final. Mr. Taylor understood
103 that the Commission wasn't to have anything to do with it at all, but agreed there would be benefits.
104 He said he would investigate it further for clarification.

105 Commissioner Schaub preferred the code to address "business days" so there would be no
106 confusion with calendar days.

107 Engineer Rasmussen said the State law said a subdivision decision could be made in a public
108 meeting or at a staff level. He asked Mr. Taylor's opinion, who replied that some ALUAs allow public
109 comments before their final decision. He suggested it would be up to the city. It was determined
110 that the city engineer, and attorney were considered staff.

111 Councilmember Milbank asked if the developer would be required to reimburse the city for
112 attorney and engineer fees. Engineer Rasmussen suggested they strengthen the developer's
113 requirement to pay for their time, as well as for the public works director's time.

114 Discussion was held on the final checklist. Engineer Rasmussen said the list was what he
115 would use for his reviews. He also discussed the changes to bond requirements.

116 Commissioner Schaub brought up recordation, defined as public notification, which she felt
117 was important. Title companies offer title insurance, but they wouldn't insure if the property wasn't
118 recorded.

119 They discussed design standards which mainly stayed the same except for replacing Planning
120 Commission with ALUA. They asked Engineer Rasmussen to review 11-7-3:C. Right-of-Way Width,
121 which he agreed to.

122 Jamie Saltern asked who would be on the ALUA. Sam Taylor reviewed that it would be the
123 commission chair, city attorney, city engineer, public works director, and a professional planner. Ms.
124 Saltern asked if citizens could be on the board. She was told the board needed to consist of trained
125 professionals and not be part of the administrative body. Commissioner Cooley reiterated the
126 importance of having professional people on the board.

127 Councilmember Mathews asked who would be over hiring the planner. She was told it would
128 be the city council or the mayor with advice and consent of the council.

129 Commissioner Milbank reiterated that they needed to strengthen the language requiring the
applicant to pay for the professional's time spent reviewing their development. Engineer Rasmussen
suggested a large application fee which would be drawn down by the time spent at meetings.

132 Charges above the application fee would be billed separately. Mr. Rasmussen noted there would also
133 be a review of construction drawings and inspections which should be included in the fees to be
134 passed along. He pointed out that with the State's changes more professionals would be involved
135 and should be paid for by the developer. The League argued with the legislature, on behalf of cities,
136 that this needed to be included as an option. Councilmember Wright brought up that with the
137 limited time the city must process a development there wouldn't be the leverage of holding things up
138 if the developer owed the city money for professional fees. The law didn't allow the process to stop.
139 They discussed requiring a large upfront application fee to help with this.

140 Sam Taylor discussed the RPUD section of the code. Commissioner Cooley brought up a
141 change that he didn't see included in the draft. He wanted it to be clear that the property would
142 need to be rezoned before an application could be submitted. They discussed who would determine
143 if the application was complete. They agreed it could be the chairman of the ALUA.

144 It was brought up that the new legislation didn't include PUDs, but the city wanted to keep
145 the processes the same for all developments, so they would all go through the ALUA.

146 Sam Taylor agreed to take the changes discussed back to Mark Vlasic. After they worked
147 through the changes, they would meet again with Commissioner Cooley and Councilmember Wright.
148 Mr. Cooley suggested the Planning Commission have another reading of the draft during the first
149 meeting of October. He noted this would give the commissioners time to read through it thoroughly.

150 The micro education code was scheduled to be addressed at their next meeting in two weeks.

151 The meeting was adjourned at 8:12 p.m.

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Noel Cooley, Commission Chair


Sheila Lind, Recorder

River Heights City
Updating the Subdivision Ordinance to Comply with SB 174
Summary by Landmark Design
7/30/2024

1) INTRODUCTION

SB 174 changes three areas of the Land Use, Development, and Management Act:

1. It modifies the Internal Accessory Dwelling Unit (IADU) provisions enacted in HB 82 (2021).
2. It establishes a penalty for cities and counties who fail to comply with MIHP reporting requirements.
3. **It creates a new process that all municipalities and counties must follow for subdividing residential lots.**

4.

2) OVERVIEW OF THE REQUIRED ORDINANCE CHANGES

1. The changes contained in SB 174 went into effect on May 4, 2023. Changes must be made to one or two family dwelling and townhome residential subdivisions in order to meet the new statutes (although the changes might also be applied to other types of subdivisions if deemed desirable or appropriate).
2. A primary change contained in the new legislation requires that subdivision applications and approvals must be administrative. This is intended to remove discretion in the decision-making process: if the application meets the requirements, it must be approved, which in turn reinforces the administrative nature of such applications.
3. Ordinance changes for communities with a population greater than 5,000 were required to be completed by February 1, 2024. **Smaller communities (including River Heights) must have changes complete by December 31, 2024.**

3) DETAILED PROVISIONS OF THE REQUIRED ORDINANCE CHANGES

1. They apply to one or two-family dwellings and townhome subdivisions (although they may be applied to other types of development at the discretion of the community).
2. Decisions must be administrative.
3. The municipality must designate an Administrative Land Use Authority (ALUA) to review subdivision applications. The designated ALUA may not include members of the legislative body (town or city council).
4. The Planning Commission and City Council are excluded from the final plat approval process (they **cannot** review the final application).
5. A two-step Administrative Subdivision Process is required as follows:

- a. **Preliminary Subdivision Application Review** - the ALUA (typically municipal staff or planning commissioners) must review the subdivision application within **15 business days** from the date a complete application has been received. The ALUA may conduct a single public hearing and receive public comment as part of this process, although a **public hearing is not required and is not recommended** (see Q&A section that follows). If the preliminary application complies with applicable local regulations, it shall be approved and proceed to Final Subdivision review.
 - b. **Final Subdivision Application Review** - municipalities must complete this review within **20 business days**.
 - c. A review cycle is not considered complete until the applicant has adequately addressed all of the redlines identified by the municipality. Municipalities may only add new redlines after the first review cycle in response to changes made by the applicant or if a correction is necessary to protect public health or safety, or to enforce state or federal law.
6. The review cycle is capped.
- a. A maximum of four review cycles is permitted between Preliminary and Final Approval. Legal staff should verify that the ordinance meets the intent of this provision.
7. SB 174 establishes two distinct appeal processes that may be requested by the applicant once the four review cycles have been exhausted and the 20-day Final review period has passed.
- a. For disputes regarding public improvements or engineering standards, the municipality is required to assemble a three-person panel that will meet within 10 days of receiving a request from the applicant. This panel of experts shall include:
 - i. One licensed engineer designated by the municipality.
 - ii. One licensed engineer designated by the land use applicant.
 - iii. One licensed engineer, agreed upon, and designated by the two designated engineers.
 - b. For all other disputes, the municipality shall refer to the designated appeal authority upon request by the applicant.
 - c. Members appointed to the panel may not have an interest in the application. The applicant must pay 50% of the total cost of the panel and the municipality's published appeal fee. The municipality pays the other 50%. The panel's decision is final, unless the municipality or applicant petition for district court review within 30 days once the final written appeal decision has been issued.

4) FREQUENTLY ASKED QUESTIONS

Q1: Can local communities still retain an informal concept plan step?

An informal concept plan review can be retained if it is requested or agreed to by the applicant. However, it cannot be a requirement and it is probably best not to offer the option.

- Q2: A Planned Unit Development (PUD) is typically processed with a subdivision. As such, can a PUD still require a concept plan?**
A concept plan for the PUD portions of a land use approval can be required. However, it will be important to distinguish between the PUD and subdivision processes in such cases. It is recommended that the legislative process for the PUD process is completed prior to considering the subdivision application in such cases.
- Q3: If the City Council cannot approve a final plat what happens in small towns where the City Council is the only staff for reviewing applications?**
It will be necessary to train and educate a Planning Commissioner to fill that role.
- Q4: How does a City Council accept a right-of-way street dedication if they don't approve the final plat?**
There is no legal requirement for the City or Town Council to accept a right-of-way dedication according to Utah law. A City's acceptance of dedicated streets is demonstrated on a recorded plat, bearing the approval of the City or Town by the Mayor.
- Q5: Are the four review cycles for both preliminary and final (total of 8) or four total?**
A maximum of four review cycles are allowed for the final plat.
- Q6: What happens after 4 cycles are complete? Does the city then issue a formal approval or denial?**
The City should issue an approval or denial. If decisions are not made in a timely manner, the applicant can request that the appeal panel is convened as spelled out in the legislation.
- Q7: If the same subdivision includes several housing types, how does that affect the review process? For example, what about a mixed-use project that includes single-family, townhouse, apartment, retail, commercial.**
If an applicant insists on a subdivision that mixes uses in a single plat, prevailing legal opinion indicates the ordinances changes do not apply to such applications. However, River heights has the prerogative to apply the required changes to a wider range of projects beyond the required one and two-family and townhome residences (this may be an easier process for some smaller communities).
- Q8: In our City, there is a three-step process from Preliminary, Design and Engineering and then final plat. Design and engineering is reviewed by a Development Review Committee meeting (staff, utility providers etc.) Can we still have that middle phase?**

Design and engineering should not be designated as separate steps in the approval process for affected applications. Instead, they should be integrated and merged with the preliminary or final review phase.

Q9: Can a small city hire a consultant or engineering firm to review and comment on the subdivision and bill the developer for the reviews.

If your fee schedule supports that and if the charges are reasonable, yes.

Q10: Will the ALUA be subject to Open and Public Meetings Act (OPMA) requirements? Can they simply review the plat and sign it when it is done?

Unclear – legal opinion tends to suggest that the ALUA is subject to OPMA requirements.

Q11: Is there a requirement for an application checklist?

Answer: Yes – see section 604.2(3)(b) of the required amendments.

Q12: Since the subdivisions are administrative and NOT legislative decisions, is a public hearing advised?

Answer: A public hearing is not required, and legal opinion favors NOT holding one.

5) **FOUR-STEP PROCESS CHECKLIST**

Step One

Review current ordinance to determine what may need to be modified or updated

1. Review and Update subdivision process. Designate an administrative land use authority.

- a. Designate an Administrative Land Use Authority (ALUA) for preliminary plats in the revised subdivision ordinance. This can be staff, the planning commission or a subset of the Planning Commission. The structure will vary by jurisdiction, since it is a local policy decision.
- b. Options to consider:
 - i. Preliminary plat reviewed by staff, or
 - ii. DRC or Planning Commission reviews the preliminary plat as part of a public meeting or as part of a public hearing . If a public hearing is preferred, we will need to carefully consider what the hearing will add to this process (public hearings are generally appropriate for legislative decisions, not administrative decisions such as this).
- c. Whichever way the jurisdiction proceeds, the ALUA for both the Preliminary and Final Reviews must be designated.
- d. Final applications cannot be reviewed by Council or Planning Commission.

e. A logical designation of a Final Application is for staff to review and manage the review, and the Mayor signs the final plat, which also dedicates any potential streets. Whatever is decided, the ALUA must be designated in the ordinance.

2. Remove any mandates for a concept plan review.

A concept plan review cannot be mandated, although it can be optional, strongly encouraged and agreed to by the applicant. Since these are administrative approvals, they have no regulatory value. If a concept plan is prepared, it may or may not be incorporated into the preliminary plat as part of that process, although it should be labeled something else if it is included (Conceptual Preliminary Plan, for example). An applicant may request a pre-application meeting and it is then the prerogative of the city to grant one. However, a pre-application meeting can not be required.

3. Define a Complete Application.

Make sure we have clearly defined what a “complete” application is composed of, including wichecklists for both planning and engineering.

Step Two

Review process schedule requirements

Preliminary and Final plats review are the only “steps” allowed within the new subdivision process. The following describe the requirements for meeting process and timing requirements.

1. Review of Preliminary Plat

To be completed within 15 business days of receiving a Complete Application. As mentioned previously, it is important to assure you have a clear submission checklist for review before the application can proceed.

2. Review of Final Plat

To be completed within 20 days of receiving the complete application.

3. Capped Review Cycle

A maximum of 4 review cycles permitted as part of the Final Subdivision review process (between the Preliminary Subdivision review and approval and Final Subdivision decision, only four revisions are permitted).

4. Agreed upon changes

Applicants must respond to required changes. If they disagree with the required changes, they must submit their issues in writing to the city.

5. Lot line adjustments.

Changes made in HB406 and SB174 removed the requirement to record a plat amendment.

Step Three

Review engineering standards (Engineering Staff)

1. Codified Engineering standards

Review and verify that engineering standards are codified, that a public hearing was held before the Planning Commission, and the standards were subsequently adopted by the legislative body (City Council).

2. Bonding for Private Landscaping

Companion Bill HB406 Section 10-9a-604.5 eliminates landscaping bonding (effective May 2023).

- a. Update the enforcement processes to include any fines, liens, and court requirements for meeting obligations (if required).
- b. Update the bonding language (if required).

3. Update Road Standards (Engineering Staff)

HB406 Section 10-9a-508 requires that municipalities with road width standards that are greater than 32' wide for residential streets (defined as residential use and 25 mph roads) review those ordinances for compliance with the new standards. Wider roads can be allowed under certain conditions (see new code for details).

Step Four

Add the new appeal process

Requires two distinct appeal processes once the four review cycles have been exhausted and 20 days have passed. The appeal process must be added to the subdivision ordinance.

1. For disputes relating to public improvement or engineering standards, the municipality shall assemble a three-person panel meeting within 10 days of receiving a request from the applicant.
 - a. The panel of expert must include:
 - i. One licensed engineer designated by the municipality.
 - ii. One licensed engineer designated by the land use applicant.
 - iii. One licensed engineer, agreed upon, and designated by the two designated engineers.
 - b. Members appointed to the panel may not have an interest in the application in question.
 - c. The applicant must pay 50% of the total cost of the panel and the municipality's published appeal fee. The municipality pays the other 50%.

- d. The panel's decision is final, unless the municipality or applicant petition for district court review within 30 days after the final written decision is issued.
2. For all other disputes, the municipality shall refer the Q to the designated appeal authority at the applicant's request.

6) KEY QUESTIONS TO ANSWERED PRIOR TO COMPLETING REVISIONS

- a. Should the changes be limited to one or two-family dwelling and townhome residential subdivisions, or should they apply to other types of subdivisions as well?
 - i. If yes, what other types should fall under these changes? All
- b. What should comprise the designated Administrative Land Use Authority (ALUA) membership for Preliminary Subdivision reviews? DRC – less CC rep is common.
- c. What is the composition of the designated Administrative Land Use Authority (ALUA) for Final Subdivision reviews? DRC– less CC/PC rep is common. Chair of DRC and mayor could also be an option in communities where the mayor is not a member of the CC.
- d. What is the maximum number of permitted review cycles for the final subdivision application? (Four).
- e. How should the appeal process for public improvement and engineering standards be incorporated into the current ordinance?
- f. The current ordinance requires submission of a concept plan prior to preliminary plan in some cases. Will the city permit a pre-application meeting or presentation of concept plan prior to submission of the Preliminary Subdivision Application? (need to be aware that concept plans can not be a requirement of the code).
- g.
- h. Has the city defined what comprises a “complete” application? If so, is there a form or checklist for the applicant use? Are the requirements complete and sufficient as is, or are adjustments required? (should make sure the has defined what a “complete” application is with checklists for both planning and engineering requirements in order for the application to be accepted).
- i. Changes made in HB406 and SB174 removed the requirement to record a plat amendment. No longer required – see final plat requirements.

- j. Does the city have engineering staff available to review subdivision engineering standards? Were the standards adopted with a public hearing held before the Planning Commission and subsequent adoption by the legislative body (City Council) as required?
- k. Does the city require landscaping bonding for private properties?
- l. Has the city engineer reviewed road standards to ensure HB406 Section 10-9a-508 are met, which require municipalities with road widths greater than 32' for residential roads (defined as residential use and 25 mph roads) to review those ordinances for compliance with these new standards. Wider roads can be allowed under certain conditions (see new code for details).