

TOOELE CITY PLANNING COMMISSION  
July 25, 2007  
Minutes

Place: Tooele City Hall Council Chambers  
90 North Main Street, Tooele, Utah

**Commission Members Present:**

Shawn Milne, Chair  
Phil Montano  
Ken Spence  
Steve Dale  
Bob Gowans  
Gary Searle

**Commission Members Excused:**

Fran Garcia  
John Curwen  
Jerald Sagers

**City Employees Present:**

Rachelle Custer, City Planner  
Paul Hansen, Contract City Engineer  
Cary Campbell, Public Works Director

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Milne at 7:00 p.m. Chairman Milne excused Commissioner Garcia, Commissioner Curwen and Commissioner Sagers from the meeting.

Chairman Milne welcomed Steve Dale to the Planning Commission.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Spence.

**2. MOTION on Conditional use permit for drive thru access on proposed project located at 1050 N Main St by Red Hawk Enterprises.**

Presented by Rachelle Custer

Ms. Custer reported that the public hearing on this CUP was held at the last Planning Commission meeting on July 11, 2007. Red Hawk Enterprises is proposing a development at 1050 N Main St (old Koeven's). They are proposing a strip mall with a drive thru for one tenant. The proposed project has been brought to a pre development

meeting. The drive thru is a conditional use in the GC zone. The drive thru would be located on the North end of the property. Staff has approved the parking to be in the front of the building for the following reasons:

1. UDOT is only allowing them one access to the property which is in the middle of the lot due to the proximity of the 1000 N intersection to this parcel. This will make parking in the rear hard to manage with a drive thru.
2. There is a safety concern with the parking being located to the rear of the building and have a solid fence to the East that the parking lot will not be visible and therefore will not be safe for the patrons and employees.
3. This project will also allow for a shared access to the lot immediately South.

Staff recommends approval of the conditional use permit with the following conditions:

1. Solid fence between commercial property and agricultural property to the East.
2. Screen parking lot from Main Street with landscaping.
3. Access is provided to the lot on the corner of 1000 N and Main St.

Chairman Milne stated that this is the same item that was before the Planning Commission at the last meeting. There were some concerns addressed in the last meeting.

Commissioner Montano stated that he does not like this project. He believes that it is in violation to the Gateway concept. The drawing that the commission has is not very detailed. The dimensions for the parking stalls are missing. He does not feel that there is enough room for 21 parking stalls and the beams in the front of the building as shown in the drawing.

Ms. Custer stated that the development requires 45 parking stalls. They are providing 46 parking stalls and the drive thru also counts as one. She also stated that the city doesn't have a requirement for the width of parking stalls.

Commissioner Montano stated that if they allow this developer to put parking in the front in the Gateway it is setting precedence for other developers to do the same. He recalls the Medical Bldg on Main Street had to wait a year to develop so that they could purchase 50 ft in the back to allow for more parking and give a right-of-way to the car wash. The restaurants that are in the Gateway on Main Street also had to face north or south so parking would not be in the front. He would like to see a more detailed map.

Councilman Wardle stated that this type of project is an exception to the Gateway. The staff has found a way for this project to fit on this property. He understands the concerns that Commissioner Montano has. He stated that staff has to maintain the ordinance.

Commissioner Montano stated that he is frustrated with the drawings. He is expressing his views of this project. He doesn't like any part of this project. He is worried about not having enough parking to accommodate this project.

Councilman Wardle stated that Commissioner Montano has a valid concern about the width of parking stalls and if the commission felt that size should be dictated by ordinance then the commission should make a recommendation regarding the width of the parking stalls to the council.

Chairman Milne stated that this is a motion for a CUP for a drive thru. He wanted to recognize the thoughts of Commissioner Montano. He believes that this will be before the commission again for a final site plat review. Ms. Custer stated that this is the last time this will be before the commission. Chairman Milne stated that there were other developers that had to follow the rules of the Gateway.

Councilman Wardle stated that the staff is reticent to make exceptions. They always follow the city ordinances and each project has to be looked at individually.

Chairman Milne stated that the issue before them is the drive thru. If there was no drive thru the building could be split in half and half would face south and the other half would face north. He feels that all developments should be treated equally.

Ms. Custer stated UDOT has to approve the access to the property and the only access they were graded is in the middle of the lot. The city cannot dictate that. The city can't keep someone from developing on their land by not letting them have their access.

Chairman Milne stated that the access doesn't necessarily dictate what type of development goes on the property.

Ms. Custer stated that the southern lot is too close to the intersection to have access on 1000 N or Highway 36 unless they purchased farther east.

Commissioner Montano stated that with the bearm in front and with 12 ft parking stalls what happens when they run out of room and landscaping gets changed and they have to cut parking stalls out.

Commissioner Spence stated that 9ft is the industry standard for a parking stall.

Commissioner Searle stated that the Fire Department and the Police Department has to sign off on this project. The developer can't cut parking stalls because city ordinance states that they have to have so many parking stalls. If they don't have a certain number of parking stalls they can't do the project. The commission can't engineer this project. There are experts in the fire department and in public safety to deal with those issues. The commission's only issue is whether to approve the drive thru or not.

Commissioner Dale has a concern for the size of the drive thru. Most businesses have an escape lane so you are not stuck in the drive thru. He asked if there would be enough room to move the building to allow for an escape lane.

Commissioner Searle stated that the only issue for the commission tonight is whether to approve a drive thru or not. The rest of the development should be left up the engineers. He asked Ms. Custer if that is right.

Ms. Custer stated that is correct. The issue before the commission is whether to approve a CUP for a drive thru window and any conditions that they would like to place on the CUP.

**Commissioner Searle moved to approve a Conditional Use Permit for a drive thru window at 1050 N Main St with the following conditions 1) solid fence between commercial property and agricultural property to the East 2) screen parking lot from Main Street with landscaping and 3) access be provided to the lot on the corner to 1000 N and Main St.** Commissioner Spence seconded the motion. The vote was as follows:

Shawn Milne, yes

Phil Montano, no

Ken Spence, yes

Steve Dale, no

Bob Gowans, yes

Gary Searle, yes

3. **PUBLIC HEARING and MOTION on Conditional use permit for 25 foot tall garage to be located at 397 East 500 North by David and Jacqueline Gallegos.**

Presented by Rachelle Custer

Ms. Custer reported that the applicants are requesting a conditional use permit to construct a garage on the back portion of their property. They are requesting to build it 25 ft tall for RV storage in the third bay. In the two car garage there will be storage. This has been reviewed by the Fire Department.

Chairman Milne thanked the applicants for the detailed information concerning this garage. It is helpful to the commission.

Commissioner Searle asked Ms. Custer if this was a flag lot. Ms. Custer stated that it is not considered a flag lot because they have 60 ft of frontage. The garage is setback behind the home.

Ms. Custer stated that staff recommends approval for the conditional use permit.

Chairman Milne stated that this is a public hearing.

Doug Cramer and Margie Cramer addressed the commission. They live in back of the applicant. He has a concern for the garage being so tall. He asked Mr. Gallegos some questions about the garage. He would like to see the garage further from the property line. Ms. Cramer would like to see the easement of three feet from the property line be more. She is concerned that this garage will be too tall and block their view. She has a garden behind the proposed garage that has been there for 10 years that requires full sun that she believes will now be in the shade.

Chairman Milne asked Mr. Cramer to show the Commission how their lot attaches to the Gallegos lot. The lots are offset somewhat. Chairman Milne stated that the commission is concerned for lights that shine on neighbor's property with this type of building.

Commissioner Montano stated that with the primary roof pitch at 9:12 and the garage width of 44 ft it will probably be closer to 23 ft. in height. Mr. Gallegos stated that the maximum would be 25 ft.

Chairman Milne asked Mr. Gallegos to come forward and make an approximate guess to how many ft there are from the front of the proposed garage to the grass. Mr. Gallegos came forward and addressed the issue with Chairman Milne.

**Commissioner Searle moved to close the public hearing.** Commissioner Gowans seconded the motion. All members present voted "Aye". The public hearing closed at 7:40 p.m.

Chairman Milne asked Ms. Custer if the minimum easement for a garage is 3 ft. Ms. Custer stated that is correct.

Chairman Milne asked if the commission can require a larger easement. He suggested that the building be moved forward to allow for a greater setback.

Commissioner Montano stated that code requires a 3 ft easement. The applicant meets all the requirements.

Commissioner Spence stated that the CUP is based on the height of 25 ft. Ms. Custer stated that a 15ft garage is allowable without a CUP.

Chairman Milne stated that given the depth of the lot this is a good location for a garage because it is back behind the house and not an eyesore.

Commissioner Dale stated that a larger setback could become a maintenance issue. He asked what Mr. Gallegos plans to do in back of the garage. Mr. Gallegos stated that there is a 6ft cedar fence along the back of the property. He wasn't going to do anything in between the fence and the garage.

Mr. Gallegos addressed the commission. He stated that the Cramer's have trees on the back of their property that are over 25ft which would cover about half the garage. He would like to keep the easement at three feet.

**Commissioner Gowans moved to approve the Conditional Use Permit for 25 foot tall garage to be located at 397 East 500 North by David and Jacqueline Gallegos.**

Commissioner Montano seconded the motion. The vote was as follows:

Shawn Milne, yes  
Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes  
Bob Gowans, yes  
Gary Searle, yes

4. **PUBLIC HEARING and MOTION on Conditional use permit on in-home daycare to be located at 1803 North 80 East by Mackenzie Murdock.**

Presented by Rachelle Custer

Ms. Custer reported that the applicant is requesting a conditional use permit to operate a home day care. The applicant is licensed by the state for eight children. By Tooele City Ordinance applicant may have six children at one time, not including her own. The proposed hours of operation will be Monday through Friday from 6:30 a.m. to 6:30 p.m. She has a fenced in back yard. Health, fire and building inspections have been completed.

Commissioner Gowans asked the applicant if she has regular house lights. The commission requires no additional lighting on the house and no signage on the house. The applicant stated that she has regular house lighting and understands there is to be no signage.

Chairman Milne stated that this is a public hearing. No one came forward to address the issue.

**Commissioner Gowans moved to close the public hearing.** Commissioner Searle seconded the motion. All members present voted "Aye".

**Commissioner Searle moved to approve a Conditional Use Permit for an in-home day care for no more than six children to be located at 1803 North 80 East by Mackenzie Murdock.** Commissioner Spence seconded the motion. The vote was as follows:

Shawn Milne, yes  
Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes

Bob Gowans, yes  
Gary Searle, yes

5. **PUBLIC HEARING and MOTION on Conditional use permit for an in-home daycare/preschool to be located at 126 North 7<sup>th</sup> Street by Kathy Witt.**

Presented by Rachelle Custer

Ms. Custer reported that the applicant is requesting a conditional use permit to operate an in-home daycare/preschool. Hours of operation will be Monday-Friday from 6:00 a.m. to 6:00 p.m. She will have no more than six children in her home at one time. Applicant has had a health and fire inspection and is scheduled for a building inspection. Staff recommends approval of the conditional use permit with the following conditions.

1. Applicant must get a Tooele City Business license
2. Building inspection be completed and approved.
3. Fenced in back yard provided.

Ms. Wit stated that she has had a building inspection and it passed and her back yard is fenced.

Chairman Milne stated that this is a public hearing. No one came forward to address the issue.

**Commissioner Searle moved to close the public hearing.** Commissioner Gowans seconded the motion. All members present voted “Aye”. The public hearing closed at 7:52 p.m.

**Commissioner Spence moved to approve the Conditional Use Permit for an in-home daycare/preschool to be located at 126 North 7<sup>th</sup> Street with the following conditions: 1) No more than six children at one time 2) Applicant must get a Tooele City Business License 3) Building inspection be completed and approved 4) Fenced in back yard be provided 5) Hours of operation will be Monday – Friday from 6:00 a.m. to 6:00 p.m.** Commissioner Gowans seconded the motion. The vote was as follows:

Shawn Milne, yes  
Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes  
Bob Gowans, yes  
Gary Searle, yes

6. **PUBLIC HEARING and MOTION on Conditional use permit for an in-home massage therapy business to be located at 603 East 1370 North by Katrina Sloan.**

Presented by Rachelle Custer

Ms. Custer reported that the applicant is requesting a conditional use permit to operate an in-home massage therapy business. She will have no more than one client in her home at one time. Hours of operation will be Monday thru Saturday 8:30 a.m. to 9:00 p.m. Applicant will accommodate disabled clients by going to their homes. Staff recommends approval of the conditional use permit with the following conditions:

1. Applicant must get a Tooele City Business license
2. Building inspection be completed.

Commissioner Searle has a concern for the late ending time. Usually the commission doesn't allow operating times after 6:00 or 6:30 p.m. He is o.k. with operating on Saturday. Commissioner Searle asked the applicant if she would be willing to change the ending time. The applicant stated that she is o.k. with that.

Chairman Milne stated that the commission usually limits daycares to Monday-Friday. But with this type of business there is only one client at a time and less traffic, the Monday-Saturday is appropriate.

Chairman Milne stated that this is a public hearing. No one came forward to address the issue.

**Commissioner Searle moved to close the public hearing.** Commissioner Dale seconded the motion. All members present voted "Aye". The public hearing closed at 7:56 p.m.

**Commissioner Searle moved to approve the Conditional Use Permit for an in-home massage therapy business to be located at 603 East 1370 North. With the following conditions 1) Hours of operation be Monday-Saturday from 8:30 a.m.– 6:30 p.m. 2) Applicant must get a Tooele City Business license 3) Building inspection be completed and 4) No outside signage.** Commissioner Montano seconded the motion.

The vote was as follows:

Shawn Milne, yes  
Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes  
Bob Gowans, yes  
Gary Searle, yes

7. **PUBLIC HEARING and Recommendation for preliminary plan approval on Tooele Commercial Park Phase 4. Vacating and amending lot 306 of the Tooele Commercial Park Phase 3. Creating a 4 lot subdivision at 1200 West 1200 South by Titan Development**

Presented by Rachelle Custer

Ms. Custer reported that the developer is requesting to establish a 4 lot subdivision on this light industrial piece of property. The property includes existing lot 306 in phase 3. This will vacate the easements on the existing lot 306 and add that lot to an additional 11 acres. The remainder is one large parcel. The parcel will be subdivided into 4 lots ranging in size from 2 acres to 3 acres. Due to the size of the development staff is recommending approval of the preliminary plan and final plat concurrently.

Chairman Milne asked for clarification of where this property is. Ms. Custer stated that it is in the Tooele City Commercial Park. This is where the road is finished. It is south of Utah State.

Chairman Milne stated that this is a public hearing. No one came forward to address the issue.

**Commissioner Gowans moved to close the public hearing.** Commissioner Searle seconded the motion. All members present voted “Aye.” The public hearing closed at 8:00 p.m.

**Commissioner Searle moved to make a favorable recommendation to the City Council on the preliminary plan of Tooele Commercial Park Phase 4 as described in agenda item #7.** Commissioner Gowans seconded the motion. The vote was as follows:  
Shawn Milne, yes  
Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes  
Bob Gowans, yes  
Gary Searle, yes

8. **PUBLIC HEARING and Recommendation on final plat approval for Tooele Commercial Park Phase 4. Vacating and amending lot 306 of the Tooele Commercial Park Phase 3. Creating a 4 lot subdivision at 1200 West 1200 South by Titan Development.**

Chairman Milne stated that this is a public hearing. No one came forward to address the issue.

**Commissioner Gowans moved to close the public hearing.** Commissioner Spence seconded the motion. All members present voted “Aye.” The public hearing closed at 8:01 p.m.

**Commissioner Searle moved to make a favorable recommendation to the City Council on final plat approval for Tooele Commercial Park Phase 4 as described in agenda item #8.** Commissioner Dale seconded the motion. The vote was as follows:  
Shawn Milne, yes

Phil Montano, yes  
Ken Spence, yes  
Steve Dale, yes  
Bob Gowans, yes  
Gary Searle, yes

9. **Review and Approval of Planning Commission minutes for meeting held July 11, 2007.**

**Commissioner Searle moved to approve the minutes of the Planning Commission meeting held July 11, 2007.** Commissioner Spence seconded the motion. All members present voted “Aye”. Commissioner Gowans and Commissioner Dale abstained because they were not in attendance at the meeting.

Chairman Milne stated that the commission received a rebuttal from Maria Ugarte for a Conditional Use Permit for an in-home daycare dated July 13, 2007. Ms. Custer stated that Ms. Ugarte wanted the commission to have the rebuttal so they could read it and she could comment about the neighbors.

Chairman Milne recalled that Ms. Ugarte was not in attendance at the June 13, 2007 Planning Commission meeting when her CUP was presented to the commission. The neighbors complained about the dog at her home and various other issues. Chairman Milne stated that when the applicant is not in attendance you can’t ask questions and makes it difficult for the commission. He stated that if she re-submits her CUP he hopes that she is in attendance.

**Commissioner Gowans moved to adjourn the meeting.** Commissioner Searle seconded the motion. All members present voted “Aye.” The meeting adjourned at 8:06 p.m. to a discussion item.

Approved this 8<sup>th</sup> day of August 2007

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Shawn Milne, Chairman