TOOELE CITY PLANNING COMMISSION
July 11, 2007
Minutes

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

Commission Members Present:
Shawn Milne, Chair
Phil Montano
Ken Spence
John Curwen
Jerald Sagers
Gary Searle

Commission Members Excused:
Fran Garcia
Bob Gowans

City Employees Present:
Rachelle Custer, City Planner
Cary Campbell, Public Works Director
Roger Baker, City Attorney
Paul Hansen, Contract City Engineer

Minutes prepared by Elisa Jenkins

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

1. **Pledge of Allegiance**

The Pledge of Allegiance was led by Chairman Milne.

2. **PUBLIC HEARING and Motion on Conditional use permit for a 20 foot tall barn to be constructed at 782 West 200 South by Randy Gochis**.

Presented by Rachelle Custer

Ms. Custer stated that Mr. Gochis has requested to construct a 20 foot tall pole barn on his property. Tooele City ordinance allows for a maximum 15 foot tall accessory building it may be taller with approval from Tooele City Planning Commission. Staff recommends approval of the conditional use permit with the condition that if he shelters animals in the barn, the barn is to be 30 ft from the property line if he only shelters hay it is o.k. as is.

Chairman Milne stated that Doug and Sydney McKinney submitted a letter to the commission because they could not be here tonight voicing a complaint about the proposed barn. The letter is included in the minutes as Exhibit A. The McKinney's live next door to Mr. Gochis.

Chairman Milne stated that this is a public hearing.

Mr. Randy Gochis addressed the commission. He stated that he is trying to build a barn. He was not aware before today that the barn has to be 30 ft from the property line. He asked why he was not told until today and he asked to see the ordinance stating he has to be 30 ft from the property line. He wants to follow procedure. He bought this lot with the intent to build a barn and have horses. He is not sure why his neighbors are choosing now to complain.

Mr. Custer stated that there is a City ordinance that states if he shelters animals the structure has to be 30 ft from the property line. If he only shelters hay he the plans are o.k. as submitted. Mr. Custer stated that it had just come to her attention that Mr. Gochis intends to shelter animals in the barn, she thought that his only intent was to shelter hay.

Mr. Gochis asked when this ordinance came into effect. Mr. Custer stated that she believes it was 1999. Mr. Gochis stated that many of his neighbors have built barns right on their property line. Commissioner Searle stated they probably did not receive a building permit. The commission is only aware of what is brought before them.

Commissioner Searle asked what the application for the CUP stated Mr. Gochis would shelter in the barn. Ms. Custer stated that the CUP application states that Mr. Gochis will shelter hay and horses in the barn.

Chairman Milne asked if this is a multi-step process. It is only the height of the barn that the commission may address in the CUP. Mrs. Custer stated that if the barn were 15ft high this would not be in front of the commission.

Chairman Milne sees two issues: The height of the barn and the 30 ft easement.

Mr. Baker stated that the commission does not have the ability to change the easement. They only have the ability to allow a 20 ft barn instead of 15ft barn.

Commissioner Montano asked Mr. Gochis if he had a building permit when he started building.

Mr. Gochis said that he was not aware he needed a building permit. As soon as he was made aware that he needed a building permit he stopped the building process and made application.

Commissioner Searle stated that the letter from the McKinney states that they have papers stating that buildings are to only be built at the rear of the property.

Commissioner Searle stated that the City can not enforce that; it is similar to CC&R's of a subdivision. The commission can not grant a variance for the 30 ft setback.

Mr. Baker stated that a variance can only be granted if the hardship is not self imposed.

Chairman Milne asked if Mr. Gochis did corals that were separate if he could get around the 30 ft set back. Ms. Custer stated that any animal shelter has to be 30 ft from the property line. Commissioner Searle added that any restricted enclosure has to comply with the 30ft setback.

Mr. Baker stated that the barn must comply with the setbacks.

Chairman Milne was trying not to place a hardship on the applicant. He stopped construction as soon as he was made aware that he needed a building permit.

Mr. Custer stated that he could build the barn for sheltering hay and build a separate building to shelter animals.

Commissioner Montano stated that he drove by the applicant's home and there are many barns and homes the size that Mr. Gochis is requesting. He feels that is would be a good fit for the area. To the peak of the barn is 19' 6", the drawing did not state that. He is o.k. with the height of the barn. The commission is bound by the law as far as the 30 ft setback goes.

Ms. Custer also stated that the applicant does not have curb, gutter and sidewalk in front of his home, which will need to be addressed. A Deferral Agreement may be made that says when the rest of the neighbors put in curb, gutter and sidewalk that Mr. Gochis will pay his share for the improvements as well. Mr. Gochis said that he verbally agreed to a Deferral Agreement when they built their house.

Commissioner Searle stated that it is a concern that there is not sidewalk on this street because more and more kids are walking on this road.

Commissioner Sagers moved to close the public hearing. Commissioner Montano seconded the motion. All members present voted "Aye". The public hearing closed at 7:25 p.m.

Mr. Baker stated that the ordinance requires a CUP if the building exceeds 15 feet in height. If the higher height has an adverse affect on the adjoining properties the commission needs to look at that issue. Mr. Baker sees two adverse impacts from the McKinney's letter. The first is the view. This could be an adverse impact and could be a reasonable reason to move the barn. The commission needs to look at this as though construction had not yet begun. The second is the decrease in property value. This is harder to prove. The McKinney's said they had realtors tell them that their property value would decrease; this would not be sufficient evidence to move the barn.

Commissioner Montano stated that he recalls previous discussion on blocking someone's view. If a resident would like to keep their view they should purchase the adjoining property. He can't see that as a legitimate reason to move the barn.

Commissioner Searle also stated that taking away one evening a year from the fireworks is not an adverse impact. This type of property can be anticipated to have barns and horses on it.

Chairman Milne stated that it is speculative on the McKinney's part on the re-sale of their home. That can not be considered an adverse impact.

Mr. Baker stated that the commission can also decide what is considered an adverse impact. The discussion that the commission has had is very appropriate. This is the beauty of a CUP every situation is different and has to be looked at individually.

Commissioner Sagers stated that the McKinney's should have known that this is horse property and anticipated the building of a barn.

Commissioner Spence also stated that this is the intended use for property in this area. It is horse property. He also feels that blocking someone's view is not and adverse impact.

Mr. Gochis stated that he wanted to build this barn in 1999. He wants to be a good neighbor but he has reasons for not wanting the barn and the rear of his property. He stated that he approached Mr. McKinney regarding the placement of his barn and Mr. McKinney replied that it was his property and to put it wherever he wanted.

Chairman Milne stated that it is unfortunate that the McKinney's could not be at the meeting to respond. He stated that the commission has to vote only on the 20ft height of the barn. They don't have the authority to change the 30 ft setback.

Commissioner Searle moved to approve the Conditional Use Permit for a 20 foot tall barn to be constructed at 782 West 200 South by Randy Gochis, taking into consideration the view of the neighbors and the re-sale of their property were not considered be adverse impacts. Commissioner Sagers seconded the motion. The vote was as follows:
Shawn Milne, yes
Phil Montano, yes
Ken Spence, yes
John Curwen, yes
Jerald Sagers, yes
Gary Searle, yes

3. **PUBLIC HEARING and Motion on Conditional use permit for a drive thru use on a proposed project at 1050 N Main Street by Red Hawk Enterprises**.

Presented by Rachelle Custer

Ms. Custer stated that 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 applicant is proposing an eight unit strip mall with a drive thru located on the North end of the property. Staff recommends approval of the conditional use permit.

Chairman Milne stated that it would be nice to see something done with this vacant lot.

Chairman Milne stated that this is a public hearing.

Melanie Hammer addressed the commission. She feels that Tooele has enough strip malls. There are many vacancies in other strip malls around Tooele.

Commissioner Searle stated that the only issue before the commission tonight is a drive-thru located on the property. They are allowed to build a strip mall.

Cindy McInnes addressed the commission. Her mother owns the property behind the proposed strip mall. There are animals on the property. She has a concern about people being able to get to the animals. She would like to see a solid fence along the back of the proposed property.

Nate Kiser one of the developers's for Red Hawk Enterprises addressed the commission. He stated that they will address the issue of a fence. They are not to that point yet.

Commissioner Spence moved to close the public hearing. Commissioner Searle seconded the motion. All members present voted "Aye". The public hearing closed at 7:47 p.m.

Ms. Custer stated that the commission is only approving a drive-thru tonight.

Mr. Baker stated that fencing could be a condition to the conditional use permit. The commission should be very specific on what type of fence so the applicant would know what is expected.

Mr. Campbell stated that as a staff they are still looking at this strip mall. A final site plan has not yet been determined

Mr. Baker stated that the developments and parking in the Gateway are looked at on a site-by-site basis. Because of the site size parking would be impractical behind the building.

Chairman Milne stated that without a final site plan, he finds this hard to approve. He realizes as a small business owner they would like to know if they can move forward with

their project. The parking may or may not be an issue depending on the layout of the building. He would like to see the entire site plan before he is comfortable approving.

Commissioner Spence recommended to table until they see a final site plan.

Councilman Wardle stated that the commission should look at the practicality of the plan. This site cannot be accessed from the back only the front.

Commissioner Montano stated that he remembers a strip mall proposal on the Vorwaller property. They didn't approve because of the parking in the front. Commissioner Searle stated that it was more than a parking issue. Fire trucks could not get into the property if they needed to.

Chairman Milne stated that the final site plan should include a fence on the back property.

Commissioner Searle stated that with this property this is the way the building would have to face and how the parking would have to be. There would have to be parking in the front.

Chairman Milne asked why there is not a final site plan. Ms. Custer stated that the developer is waiting for permission to parking in front of the building.

Mr. Campbell stated that the staff needs to time to work on the final site plan with the developer. If they can't make it work they will bring back to planning commission.

Commissioner Searle stated that parking in the front can work if there is proper landscaping to screen the cars from Main Street.

Commissioner Montano stated that the commission is setting criteria in the Gateway. What will happen when other property owners want to do the same thing?

Chairman Milne stated that they don't know how this will adversely impact the neighbors because they don't have a final site plan. What if they change the building orientation? He is apprehensive to approve this.

Commissioner Curwen asked what building is to the north. Ms. Custer stated that there is a building currently to the north, the back of a building will face this development.

Commissioner Spence asked if they will be keeping the same general footprint. Mr. Campbell stated that is something that will have to be worked out the staff.

Jason Chong addressed the commission he also represents Red Hawk Enterprises. He stated that UDOT only granted access to enter one way. This is the most practical building orientation for this development.

Commissioner Searle stated that he would recommend a vinyl fence to be placed at the rear of the property. Chairman Milne stated that he would recommend a cinderblock fence. The animals are controlled by a barb wire fence. The property owner is more concerned about people getting to the animals than animals getting to the people.

Commissioner Montano stated that he is against voting on something that may or may not happen. The commission would be setting precedence. He is opposed to this.

Chairman Milne suggested approving a CUP for the drive-thru with a condition that the building layout would stay as it is. If the building layout does not stay how it is than there would be no CUP. UDOT has told the developer where the drive approach would be.

Councilman Wardle asked Mr. Campbell how long it would take the staff to assess the practicality of this plan. Mr. Campbell said that he doesn't want to put a time table on it. Staff needs time to come up with something practical.

Mr. Kiser understands that they need to meet with the city and staff to go over final site plan. They will discuss the issues mentioned tonight.

Commissioner Sagers moved to table approving a CUP for a drive thru use on a proposed project at 1050 N Main St. by Red Hawk Enterprises until further plans can be submitted to the city and the staff and the developer can meet to discuss the project further. Commissioner Montano seconded the motion. The vote was as follows:
Shawn Milne, yes
Phil Montano, yes
Ken Spence, yes
John Curwen, yes
Jerald Sagers, yes
Gary Searle, yes

4. <u>Motion 20 ft front setback for proposed Marios Tires to be located at 60 North 50 West by Wind River Construction.</u>

Presented by Rachelle Custer

Ms. Custer stated that the developer is requesting a 20 ft setback on the above mentioned development. The zone requires a 30 ft setback or a 20 ft setback with planning commission approval. The developer would like to put the building closer to the street to allow for more room between the building and the residential neighbors to the West. Staff recommends approval of the setback.

Kyle Christensen addressed the commission. He stated that they are trying to be good neighbors and move everything forward. They are also concerned about water and this will help with their landscaping.

Commissioner Curwen stated that this is a good proposal.

Commissioner Montano sees no problem with approving this proposal.

Commissioner Sagers moved to approve a 20 ft setback for proposed Marios Tires to be located at 60 North 50 West. Commissioner Spence seconded the motion. The vote was as follows:
Shawn Milne, yes
Phil Montano, yes
Ken Spence, yes
John Curwen, yes
Jerald Sagers, yes
Gary Searle, yes

5. Review and Approval of Planning Commission minutes for meeting held June 27, 2007.

Commissioner Spence moved to approve the minutes of the Planning Commission meeting held June 27, 2007. Commissioner Sagers seconded the motion. All members present voted "Aye."

The meeting adjourned at 8:25 p.m. to the discussion item.

Approved this 25th day of July 2007

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Shawn Milne, Chairman