

**TOOELE CITY PLANNING COMMISSION**  
**April 25, 2007**  
**Minutes**

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

**Commission Members Present:**

Shawn Milne, Chair  
Phillip Montano  
Jerald Sagers  
Bob Gowans  
Ken Spence  
John Curwen  
Gary Searle  
Councilman Scott Wardle

**Commission Member Excused:**

Fran Garcia

**City Employees Present:**

Rachelle Custer, City Planner  
Richard Jorgensen, Land Use Technician  
Cary Campbell, Public Works Director  
Roger Baker, City Attorney  
Paul Hansen, City Engineer

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Milne at 7:02 p.m.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Curwen.

**2. Recommendation on a request from Tooele Associate, L.P., to amend Exhibit B to the Development Agreement for Overlake Project Area, also known as the Development Plan for the Overlake Project Area.**

Presented by Rachelle Custer

Ms. Custer explained that Tooele Associates is requesting an Amendment change to Exhibit B of the Overlake Development Agreement. They are requesting subdivision changes. The City Administration recommends that approval of the

proposed amended Exhibit B be denied for reasons stated in the commissioner's packet.

Bill Perry with Perry Homes, acting for Tooele Associates addressed the commissioners. He would like to discuss the request to amend Exhibit B. There is currently litigation between Tooele Associates, Perry Homes, a number of other parties and the City of Tooele. Tooele Associates has been trying to further the development of Overlake by proceeding to obtain approvals from the Planning Commission and the City Council. In every instance so far they have been "thwarted" in their ability to do so. What they are seeing in this recommendation from the staff is nothing more than a continuation of an obstruction. They have every intention of seeing this litigation through to the very end no matter what the outcome, whether they win or lose. They feel that their constitutional rights have been "trampled" on by the city. Mr. Perry stated that seven months ago they started trying to get these plats to a City Council Hearing.

In respect to Exhibit B, this is only a Concept Plan. This master plan is under constant review and is therefore subject to change and modification. During the history of the Overlake Project the Concept Plan has been amended on at least three different occasions. During each of those amendment processes there was not nearly the rigor shown toward commenting or obstructing the amendments as there has been in this case. Their request to amend Exhibit B, is simply to "jump through a hurdle" imposed by the city administration in order to get this plat before the commissioners and the City Council in order to be heard. The city has provided no constructive input on this Exhibit, they said to propose an amendment to Exhibit B and that is what they are trying to do. They feel this is a good faith effort on their part. He stated that the city has realized tremendous benefits with the Overlake project, the city has gotten acres of free land, and they got a multi million dollar public park facility in the Overlake Golf Course. After the city benefited from this he feels they experienced "buyer's remorse". He doesn't know where the resistance is coming from; they have given the city 99% what they bargained for and have got very little in return. They have done what the city has asked them to do, it is a legitimate proposal. He asks that the commissioners make a positive recommendation on the amendment of Exhibit B.

Commissioner Montano stated that the commissioners have no knowledge of the litigation between Tooele Associates and Tooele City, because they are not involved in that.

Mr. Perry stated that he would like to answer questions, as to the facts surrounding the litigation. He stated that the citizens of Tooele should know why the city is not trying to resolve this and instead of is spending millions of dollars in legal fees.

Commissioner Searle stated that he does not think it appropriate to listen to litigation.

Drew Hall of Tooele Associates addressed the commissioners. He wanted to address two issues. 1) This concept plan was drawn up in 1997, it has to be updated. There is a need for constant change. There is a place for a high school, but they are not sure where. They were going to donate property for a High School but it was turned down. 2) Park issue – they were under the impression that the park impact fees would stay in Overlake. The city had a chance to buy property at \$5,000 an acre for park property. Mr. Hall said that one of the problems the staff had is with the streets that dead-end. He stated that street objections can be addressed as plats come forward. Things move around in a Concept Plan.

Mr. Baker stated that he does not believe that it is appropriate to discuss litigation matters at this meeting. It is an attempt to confuse the issue. As per the city administration recommendation, he stated that the request for Exhibit B is not consistent with the Development Agreement. It is not in the public's best interest to approve Exhibit B. That is their recommendation.

Commissioner Searle commented that in the year 2000 he and his wife were looking at new homes and they looked at Overlake, he remembers seeing a map of Overlake and it was made clear that it was a Concept Plan.

Mr. Milne commented that there is ongoing litigation with Tooele Assoc. and he trusts the staff to make the appropriate recommendations.

Mr. Baker reminded the commissioners that Exhibit B is more than a mere Concept Plan and amending it requires action of the Planning Commission and the City Council.

There was confusion of the roads that dead-end. Mr. Baker showed the Commissioners on the map the roads that dead-end, that the staff is referring to in the memo.

Commissioner Searle is opposed to roads that dead-end because they cause too many public safety issues. He asked if the recommendations can be worked on with the staff and presented at a future meeting.

Mr. Hall commented that he can re-do the dead-end streets and present in the future a revised Exhibit B without the dead-end streets. He also stated that this Exhibit was submitted in December, and he just got the city administration recommendation on April 24, 2007.

Mr. Baker stated that it was disingenuous of Mr. Hall to claim that he only received notice of the City's concerns yesterday. He stated that the Mayor sent a letter dated April 16<sup>th</sup> informing Tooele Associates of the issues. Mr. Hall was notified in advance.

Commissioner Montano stated that the issue of dead-end streets has come before them before. It creates too many problems. Which developer will pick up the dead-end road to be re-figured?

**Commissioner Searle moved to table the recommendation to the next Planning Commission meeting held on May 9, 2007 to give Mr. Hall time to fix the suggestions made by staff.** Commissioner Curwen seconded the motion.

The vote was as follows:

Commissioner Milne, no

Commissioner Montano, no

Commissioner Sagers, no

Commissioner Gowans, no

Commissioner Spence, yes

Commissioner Curwen, yes

Commissioner Searle, yes

The motion did not pass.

Commissioner Sagers stated that he felt he has been placed in an awkward position. The Commissioners are being drawn into the litigation aspect of which they know nothing about. He understands how the developer feels and he understands the city.

**Commissioner Searle moved to make a recommendation to the City Council to approve a request from Tooele Associate, L.P, to amend Exhibit B to the Development Agreement for Overlake Project Are also known as the Development Plan for the Overlake Project Area.** Commissioner Curwen seconded the motion. The vote was as follows:

Commissioner Milne, no

Commissioner Montano, no

Commissioner Sagers, no

Commissioner Gowans, no

Ken Spence, no

John Curwen, yes

Gary Searle, yes

The motion did not pass.

**Commissioner Gowans moved to deny a request from Tooele Associate, L.P. to amend Exhibit B to the Development Agreement for Overlake Project Are also known as the Development Plan for the Overlake Project Area as presented by the staff.** Commissioner Sagers seconded the motion. The vote was as follows:

Commissioner Milne, yes

Commissioner Montano, yes

Commissioner Sagers, yes

Commissioner Gowans, yes

Commissioner Spence, yes  
Commissioner Curwen, no  
Commissioner Searle, no

Mr. Baker wanted to clarify that he was not denying that a fax was sent to Mr. Hall yesterday, April 24, 2007. He was simply stating that a letter had been sent to him earlier in the month discussing the same issues.

Mr. Hansen wanted to clarify for the public that this item still goes to City Council; it goes with a negative recommendation.

3. **PUBLIC HEARING and MOTION Conditional Use Permit to allow tents for up to five months in the Wal Mart parking lot to protect large merchandise from weather and to keep lot clean at 99 W 1280 N by Wal Mart Stores.**

Presented by Rachelle Custer

Ms. Custer explained Wal-Mart has a Conditional Use Permit for the outside garden center. They have requested tents be set up in the outside garden center. Staff feels that erecting tents is an expansion to that use and is requiring a Conditional Use Permit. They have requested the tents be up for five months. Because this is beyond the 45 day time frame for a special occasion a conditional use permit is required.

Diamond Rental applied for a building permit for the tents on March 13, 2007. The tents were set up on March 17, 2007. Ms. Custer talked with Patrica Fail with Diamond Rental on March 19, 2007 and informed her because of the length of time a CUP was required. Ms. Custer spoke with Margo at Wal-Mart and asked what the status was on the CUP application on April 6, 2007. Wal-Mart applied for the CUP on April 6, 2007.

Chairman Milne asked who was responsible in obtaining a building permit for the tents. Ms. Custer stated that Diamond Rental erected the tents so they are responsible in obtaining a building permit. Chairman Milne noted that there was almost a three week time span from when the building permit was submitted to set up the tents and the date that the Conditional Use Application was submitted.

Amy Chidester and Margo Davis addressed the commission on behalf of Wal-Mart. They apologized for the miscommunication with Diamond Rental. Ms. Chidester stated that Wal-Mart was not aware that they needed a Conditional Use Permit to set up the tents. They apologized that things were not done in the proper order and they did not comply with the law. As soon as they became aware of the need for a CUP, they were at the city that day to apply.

Commissioner Gowans stated that he was disturbed that the tents were put up without a building permit. He stated that he and Commissioner Searle were at the

original Planning Commission meeting regarding Wal-Mart and the CUP, the tents showed up a week later. In his opinion there should have been follow on the CUP from that meeting. He feels that there is a traffic congestion issue as well. When you come around the corner there is no view. Protocol was not followed, now they are 43 days into it and it is just being presented.

Chairman Milne concurred with Commissioner Gowans; he was present at the same meeting. He feels that Wal-Mart is in the habit of asking for forgiveness rather than permission. This particular instance may have been an oversight and may have been a miscommunication between Diamond Rental and Wal-Mart, but this seems to be a recurring habit. He reminded the commissioners this is the same thing that happened with the containers in the back of the store. This is one more infraction.

Mr. Campbell stated that today is 43 days that the tents have been up. They can be up for 45 days. Because they want the tents up for five months it does not fall under the Special Events ordinance.

Commissioner Gowans mentioned that rules have to be followed and Wal-Mart needs to be responsible and follow the rules. If the commissioners allow tents at Wal-Mart without proper licensing or permit what protocol will they be setting for other businesses?

Councilman Wardle asked why the Wal-Mart in Tooele has to have their Garden Center in the parking lot. There are many Wal-Mart stores in Salt Lake where they have nothing in the parking lots; the garden center is part of the building. He suggests that they think about reconfiguring the side of their building to include the garden center. Corporate philosophy should be looking in the future. If they could come up with a more permanent solution, they wouldn't have to go through this every year. Councilman Wardle was just making an observation between different Wal-Mart's. Another suggestion would be moving the tents to the middle of the garden center to help with the site line for cars.

Commissioner Montano stated that the CUP for the garden center has already been approved they can't change that, the issue is of the tents.

Mr. Baker stated that Wal-Mart can set up the tents for 45 days as a Special Event without a CUP, as long as they have a permit from the fire department. Because of the length they want, they are required to have a CUP. Mr. Baker also stated that it is the commissioner's job to look at adverse impacts that the tents might have on the surrounding properties. For example, if the tents were moved into the middle would it alleviate the sight problem?

Ms. Davis stated that the tents do not pose a sight problem. You are able to see all views around the tents.

Commissioner Searle stated that as long as people stop at the stop sign their view is not obstructed the tents would be behind them.

Chairman Milne stated that this was a public hearing if anyone would like to address the commission to do so.

Patti Anderson addressed the commission. She and her husband own two acres to the southwest of Wal-Mart. She said that they are trying to sell their property and Wal-Mart is making it hard to do so. First they had the problems with the storage containers and now with the tents. Ms. Anderson asked that Wal-Mart follow the rules just as other property owners are expected to do. They would like their property to be kept as attractive as possible.

Jill McIntyre addressed the commission. She owns the building to the south of Wal-Mart. As they have continued to fill up their bottom rentals on their building, it is becoming a visibility issue for their customers and a traffic issue. She disapproves of the tents because it is a distraction and a hindrance to traffic.

**Commissioner Sagers moved to close the public hearing.** Commissioner Curwen seconded the motion. All members present voted "Aye". The public hearing closed at 8:01 p.m.

Commissioner Searle stated that Wal-Mart has a CUP for the Garden Center, the issue is the tents. Maybe the ordinance needs to be looked at regarding Special Events and the 45 day time frame. If there are substantial legal reasons to not approve the permit, then the Planning Commission should not approve.

Chairman Milne stated that Wal-Mart needs to step up and follow the rules and the ordinance. The adverse impact is the property owners who are trying to sell and the other impact is the visibility to the lower tenants of the building to the south. He agrees with Councilman Wardle's recommendation that Wal-Mart should look into expanding the Garden Center and make it look attractive, with the rod iron fence.

Mr. Baker stated that the persons who addressed the commission have legitimate concerns, but they need to provide evidence such as offers less than appraised value or have an appraiser state that the tents adversely affect the property value. The motion could be tabled in order to give the public time to provide such evidence.

Commissioner Sagers asked if there is a need for the tents. They have been fine without the tents before.

Ms. Davis stated that the tents are used for overstock items such as patio furniture and barbeques. It keeps the garbage inside the tents instead of flying around, and keeps things from getting wet. Mr. Baker raised the issue of the prior conditional

use permit being granted to expand the garden center to the parking lot. If Wal-Mart is using the parking lot to store its overstock items, like lawn furniture and grills, this storage aspect may violate the existing conditional use permit and the matter should be looked into by city staff.

Commissioner Searle would like the issue of the tents handled differently, rather than approving a CUP. If a CUP is allowed than they have no control in the future. He feels that this is an issue that should be looked at every year. If the tents are being used for storage, that is not in line with the Garden Center CUP.

Chairman Milne has a concern with using the Garden Center CUP for overstock items. The original Garden Center CUP was intended for garden materials. If that is happening the Garden Center CUP needs to be looked at again.

Councilman Wardle reminded the commissioners that everyone must follow the same rules.

**Councilman Sagers moved to deny the Conditional Use Permit to allow tents for up to five months in the Wal-Mart parking lot at 99 W 1280 N because of the following reasons 1) The permits were not obtained before the tents were erected when the original intent was for a duration greater than 45 days i.e. for 5 months 2) The tents are being used for outside storage. 3) The commissioners do not want this as a CUP; this needs to be looked at on a yearly basis.** Commissioner Spence seconded the motion. The vote was as follows:

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

The Conditional Use Permit application is denied at this time.

4. **PUBLIC HEARING and MOTION Conditional Use Permit for an in home dog grooming business at 184 N 200 W by Mijkan Burr.**

Presented by Rachelle Custer

This is a conditional use because customers will be coming to the house. The applicant will schedule only one dog at a time. Customers will be able to park in the driveway for drop off and pick up. Applicant has set up in her home a wash tub and grooming facilities. The Health Department says the groom room can not be in the kitchen, and Ms. Burrs is not in the kitchen. There is a fenced in area in the back where the dogs will be kept. The applicant will not board any animals,

or be keeping them for a long period of time. The staff recommends approval with the conditions as noted on the staff memo.

Commissioner Searle has no problem with this Conditional Use Permit. He doesn't like condition #7 that states "No Employees at home". He would like to take that out of the conditions. He feels that it is a poor policy. There have been problems before with home occupation business and employees at home.

Commissioner Montano questioned one dog at a time. Ms. Burr stated there will be some overlap between appointments, but only one appointment will be made at a time.

Mijkan Burr addressed the commission. She enjoys working with dogs, and she feels that the dogs are more comfortable in a home setting. This is her only source of income.

Chairman Milne believes that condition #7 is a poor policy also. This concern is lingering from January 13, 2007 meeting. He is frustrated with that issue. He would also suggest striking from the conditions.

Mr. Baker stated that there is a Tooele City Ordinance that states home occupation businesses must have no employees. The ordinance is being studied, but that requirement can not be taken out.

Commissioner Searle doesn't want to place a special condition on this applicant when he knows there are other applicants that have employees at home. The law should be enforced.

Councilman Wardle stated that this is a complicated matter, there are distinct questions regarding pre-school and home daycares regarding employees at the home. The commissioners play an advisory role in this matter.

Chairman Milne stated that this is a public hearing. Anyone who wishes to address the commission may do so.

Jody Black addressed the commission. She is an upset neighbor. She doesn't feel that a dog grooming business is an appropriate business to be in the home. It disrupts the ambiance of the neighborhood. She feels this is a total lack of regard for subdivisions. She feels this business would be better in a building that is more suited. There will be more traffic and people coming and going all day long.

Colleen Madsen also addressed the commission. She is a neighbor and a home owner who opposes the Conditional Use Permit. She is concerned about the seven days a week that the applicant will be doing business. She has four reasons she is concerned. 1) She feels that her property value will decrease. 2) Disposal of dog droppings. 3) Noise; barking dogs are an issue for homeowners that do not

have animals. 4) Enforcement; who will be enforcing the guidelines to make sure they are followed. Ms. Madsen stated that Ms. Burr lets her cats run the neighborhood and if she can't take care of her animals, she is extremely concerned about more animals coming to her home. Ms. Madsen has seen people drop their dogs off and pick them up later and assumes she is already doing this business. She feels because of the smell and the barking of dogs, a residential home is not the place for this kind of business. Ms. Madsen feels that a proper building outside a residential neighborhood should be used for this business.

Darrel Bradshaw also addressed the commission. Mr. Bradshaw lives next door to the applicant. He has had many problems with the applicant. He feels that the applicant doesn't clean up after the animals.

**Commissioner Gowans moved to close the public hearing.** Commissioner Sagers seconded the motion. All members present voted "Aye." The public hearing closed at 8:39 p.m.

Commissioner Curwen questioned if the health department has to sign the business license. Ms. Custer stated that the Health Department must approve. The health inspection is left up to the applicant to get.

Ms. Burr stated that she has had a health inspection by the health department but has not yet had a building inspection.

**Commissioner Spence moved to approve a Conditional Use Permit for an in home dog groom business at 184 N 200 W by Mijkan Burr with the conditions proposed by the staff, and adding the following conditions 1) The hours will be Monday through Friday from 8:00 a.m. – 5:00 p.m. 2) Animal droppings will be cleaned up and disposed of properly. 3) If business becomes a nuisance the permit can be revoked and the owner would not be allowed to continue until resolved.** Commissioner Searle seconded the motion.

The vote was as follows:

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, no  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

Chairman Milne would like to address the neighbors concerns. He asked Mr. Baker what if the business becomes a nuisance, can it be enforced to protect property value in the neighborhood. Mr. Baker responded that if the business becomes a nuisance the permit can be revoked and the business may not be allowed to continue until the nuisance is resolved. This was added to the motion.

5. **PUBLIC HEARING and MOTION Conditional Use Permit for an in home day care to be located at 958 N 1480 E by Shonie Brinkerhoff.**

Presented by Rachelle Custer

This is a request for a Conditional Use Permit for an in home day care. The hours of operation would be from 4:30 a.m. to 6:30 p.m. The applicant has a fenced in rear yard and a walk out basement. Applicant is requesting to care for six children in her home plus her own. Staff recommends approval with the conditions in the staff memo.

Commissioner Searle has a concern of starting the business at 4:30 a.m. He feels that it is too early for an in home, neighborhood business. Commissioner Gowans agrees that 4:30 a.m. is too early. Most day cares open at 6:00 a.m.

Commissioner Sagers commented that they should be flexible with the hours. Usually the parents cannot help what hours they work. Probably not all children will arrive at 4:30 a.m.

Chairman Milne stated for public awareness of the process of a Conditional Use Permit, it runs in perpetuity to the property. If the applicant should move away from this residence, the residence thereafter could then have the same CUP. Multiple people could come as early as 4:30 a.m.

Shonie Brinkerhoff addressed the commission. She stated that some of her clients work four ten hour days. Not all of the children would come at once. The hours of operation would be Monday through Friday. She has had a Health Department inspection and will have the building inspection on Friday April 27, 2007.

Commissioner Montano asked if it would be no more than six children. Ms. Custer stated that the City Ordinance states under seven children for a daycare. Commissioner Searle commented that if the commission sets a precedence at 4:30 where does it end? It would set a standard.

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

**Commissioner Searle moved to close the public hearing.** Commissioner Curwen seconded the motion. All members present voted "Aye." The public hearing closed at 8:56 p.m.

Chairman Milne stated that neighbors of the applicant were sent letters regarding the public hearing; no one came to address any concerns. He asked staff if the letter contained the hours of operating. Ms. Custer stated that it did.

Commissioner Sagers added that the property is in a well developed neighborhood. No one came to address any concerns.

Commissioner Montano is concerned with the time of 4:30 a.m. This could be nuisance to the neighbors.

**Commissioner Curwen moved to approve a Conditional Use Permit for an in home day care to be located at 958 N 1480 E by Shonie Brinkerhoff as originally stated.** Commissioner Sagers seconded the motion. The vote was as follows:

Commissioner Milne, no  
Commissioner Montano, no  
Commissioner Sagers, yes  
Commissioner Gowans, no  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, no  
Motion did not pass.

**Commissioner Searle moved to approve a Conditional Use Permit for an in home day care to be located at 958 N 1480 E by Shonie Brinkerhoff with conditions as stated in staff memo, with one additional condition 1) the hours of operation will be from 6:00 a.m. to 6:30 p.m., Monday through Friday.**

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

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

6. **PUBLIC HEARING and MOTION Conditional Use Permit for mental health provider to be located in an existing building at 312 S Main St by Circle Treatment.**

Presented by Rachelle Custer

Circle Treatment has submitted a conditional use application to open a mental health outpatient clinic at 312 S Main Street. The hours of operation would be Monday through Friday from 9:30 a.m. to 7:00 p.m. There would not be someone in the office at all times it would be on an appointment as need basis. This building has been used for health care in the past. This is the MU-G zoning. Health care is allowed in the zone with a conditional use permit.

Molly Prince, Jan Bennet, and Shannon Smith with Circle Treatment addressed the commission. Ms. Prince stated that Tooele is growing and there is a need for Mental Health Therapy. This would be an out patients clinic. They will provide a variety of different services including depression, anxiety, substance abuse, and sexual abuse. They are also available for family counseling and relationship issues. She would like to answer questions on the sex offenders, and how they are handled. She doesn't know the number of sex offenders that are on probation in Tooele or Grantsville. Those offenders drive to Salt Lake. Each of the therapists will have a work load of about 20 clients. Probably about 1/6 of their cliental will be sexual offenders. All the employees have been trained and approved through the State of Utah, to provide treatment to sexual offenders. They have also all been trained in their respective disciplines to provide a variety of other treatments. There is a need in Tooele for anyone who has been in trouble with the law, to rehabilitate and learn how to be pro-active in the community. Sex offender treatment, required by the state of Utah will include weekly individual sessions as well as weekly group sessions, and skill classes. It is a pretty intense treatment. There has been a concern addressed to Ms. Prince on how these offenders will come and leave the building. There are a set of stairs that lead straight from the parking lot to the group room. They are able to come straight in and straight out.

Ms. Benett stated that if the sex offenders have been court ordered to receive treatment the courts have found them safe to be in the community. Ms. Benett has worked with Child and Family Services and is extremely aware of how to keep children safe. She believes that there is a need for this service in Tooele. Each of these women are looking at working about 20 hours a week.

Chairman Milne stated that this is a public hearing.

Cami Ford, is a Parole Officer with Tooele County, she stated that there are currently eighteen sex offenders in Tooele County. Ms. Ford is actively supervising these offenders.

Chairman Milne asked Ms. Ford how the community can be assured of their safety. He read a letter from Dennis Thalmann who could not attend the meeting tonight. (The letter is included as Exhibit A.) The concern for public safety is Mr. Thalmann's concern.

Ms. Ford responded that these sex offenders are court ordered to complete therapy if they don't attend; they are in violation of their probation and could be sent to jail.

Commissioner Searle stated that most sex offenders that attend this therapy are offenders of opportunity not violent offenders.

Ms. Ford gave a letter to each of the commissioners from Robert D. Eckman, he is an Adult Probation and Parole Officer, and he is in favor of approval of the Circle Treatment. (The letter is included with the minutes as Exhibit B).

Karen Madden, she lives directly behind the proposed building, addressed the commission. This building has not been occupied for a year; it used to be a doctor's office. There is an alley right behind the building on 500 West. There are many children around this alley. There is a one-way street behind this building. This alley has so many problems, with graffiti, overgrown bushes and trees and there is a need for constant clean up. This treatment center will bring more traffic in this area. It doesn't matter to her if it is just one offense, she doesn't feel this is good proposition. She is concerned about security. Ms. Madden feels that there could be a more secure area to treat these sex offenders. She also has a worry about her property value decreasing.

Jody Black addressed the commission. She asked the commissioners if they would want these people in their area. Tooele is no longer a small safe town, the future needs to be looked at. Could they have violent offenders in the future? She is also concerned about the bushes in the alley way.

Commissioner Searle stated that children are far more likely to run into a sex offender at the local store than they are ever likely at a treatment center. If people only knew how many offenders they walk by every day, they would not feel safe anywhere. There is a need to protect the citizens. He suggests that the therapists watch the offenders get in their car and start driving.

Chairman Milne wanted to echo what Commissioner Searle stated. There are many registered sex offenders in Tooele. There are several around his home. This type of facility exists in Salt Lake, in Tooele, or somewhere. There is a perception in our society "not here, not in my back yard." He would not want a facility like this in proximity to his home. He feels he should keep an open mind to this situation. It doesn't preclude him from having folks of a worry some nature in this area. This would increase the traffic of these individuals.

Commissioner Searle stated that these people are in our community. Maybe it should be a requirement for the sex offenders to exit to Main Street, which could be part of the conditional use permit. The community should be far more afraid of the offenders that are not going to treatment.

Commissioner Montano stated that these individuals need somewhere to go. This location is zoned for health care. Conditions can be put into the conditional use permit to accommodate concerns.

Ms. Ford reminded the commissioners that not all individuals in treatment are sex offenders. These individuals have been found by the judicial process to be acceptable within the community. They will be at the facility for an hour at a

time for counseling. This is also not an in-patient facility. These individuals will be kept off the roads, because they won't have to drive for treatment.

Councilman Wardle addressed the commission as a concerned citizen. He is a great advocate of treatment. Garden Street is an issue. He suggests that adding a condition that all sex offenders be treated on the same day, so other victims being treated in the facility won't have to be in the building with them. Also he would not want sex offenders being in the same room as children. His hope would be that maybe a different location could be looked at (i.e. separate entrance).

Ms. Prince reaffirmed that sex offenders would never be in the same room as children. She is very aware of her clients, and safety is a big concern. They also work very closely to these individuals' parole officers. If an offender does not show up for therapy, their parole officer is notified immediately. Ms. Prince offered to educate anyone who would like to know more about the services this facility would offer, and answer any questions they may have. She also does not have a problem with watching her clients get in their cars and drive away.

**Commissioner Sagers moved to close the public hearing.** Commissioner Gowans seconded the motion. All members present voted "Aye." The public hearing closed at 9:42 p.m.

**Commissioner Spence moved to approve the Conditional Use Permit for mental health provider to be located in an existing building at 312 S Main Street by Circle Treatment with the following conditions 1) Individuals exit onto Main Street 2) Sex offenders be chaperoned to their car and 3) All sex offenders be treated on the same day of the week.** Commissioner Montano seconded the motion. The vote was as follows.

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

Commissioner Searle was concerned with sex offenders being at the building in the evening. He would like to add to the motion that sex offenders do not come in the evening. Ms. Prince stated that there are some group sessions held in the evening because of the individual's jobs. Group sessions are needed in the evenings. It was not added to the motion.

A short recess was taken from 9:45 p.m. – 9:55 p.m.

7. **PUBLIC HEARING and Recommendation on a general plan change to allow a zoning change from Rural Residential to Industrial on 234.73 acres located from approximately 1500 West**

**to SR112 and from approximately 500 North to 1000 North by Clegg family.**

Presented by Rachelle Custer

The Clegg's own a majority of this property. The Clegg family has requested the general plan be changed on the property at the above mentioned location. Letters have been sent out to all neighbors that are affected by this recommendation. 1000 North is master planned to go through part of this property. Easements and right of way for 1000 North will need to be handled before any developing could occur. Her understanding from the Clegg family is that they are only asking for a general plan change at this time. The general plan to the East of this property is Rural Residential, to the West is Industrial, to the North is Industrial, to the South is Rural Residential. There has been some discussion with staff, and they have not come up with a concrete recommendation on whether this should be changed to Industrial or not. Ms. Custer would like to see this issue tabled until staff can come to a consensus recommendation on this proposal. Ms. Custer stated that they would like to get feedback from the neighbors on this recommendation.

Bruce Clegg addressed the commission. He has talked with the staff several times, they have indicated that this would be a good mix. Mr. Clegg is surrounded on three sides by industrial or light industrial. He feels that an Industrial option would fit on their property, they are only requesting a general plan change to have the option of changing the zoning if desired in the future.

Mr. Baker recommended that if this is tabled that it be brought back as soon as possible, it may not be realistic to have a date set as to when it will be re-presented. He suggests that staff look at the long term interest of this property.

Chairman Milne stated that this is a public hearing.

Carl Smith addressed the commission. He owns property, by the Clegg's property. (The shaded part on the map given to the commissioners). He asked the commissioners to remember the year and a half it took to get his property approved, at first it was zoned RR-5, he wanted light industry. He was given a commercial designation. Due to that commercial designation, with the pre-tense this was a commercial setting the cost in being zoned a commercial setting was far higher than if it would have been light industrial. He has made a big investment in his property being zoned commercial. The commissioners view was at that time the corridor was going to be a gateway for the community. He asks that the city wait to see what will happen before they give the corridor away. He has nothing against the Clegg family. He asks that the commissioners continue with the original plan.

Jack Tomlin addressed the commission. He and Mr. Smith are the only two frontage owners of that property. The Bolinders were blocked out for 10 years.

In 1996, 1700 acres were given to light industry projects that included factories and cement. For 10 years it was re-zoned to rural residential. Then it has been rezoned to heavy industrial for them to continue with the gravel pit. He is opposed to making this property industrial. The property to the East is owned by Larry Miller, he is sure that it will be zoned commercial. He feels that the commissioners should stick with the master plan from 1996 to keep it a commercial friendly zone.

**Commissioner Curwen moved to close the public hearing.** Commissioner Searle seconded the motion. All members present voted "Aye". The public hearing closed at 10:09 p.m.

**Commissioner Searle moved to table agenda item #7 to the May 23, 2007 Planning Commission meeting.** Commissioner Spence seconded the motion.

The vote was as follows.

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

8. **PUBLIC HEARING and Recommendation on a general plan change to allow a zoning change from Medium Density Residential to Rural Residential on 108 acres located from approximately Commander Boulevard to the southern city limits and from SR 36 to the western city limits.**

Presented by Rachelle Custer

Mr. Arbshay has requested a general plan change from medium density residential to rural residential to allow a zoning change from OS to RR1. He would like to develop an equestrian subdivision on this property. This is a general plan change, not a re-zone at this time. Staff feels that this is an appropriate use for the property.

Chairman Milne stated that this was 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 10:12 p.m.

Councilman Wardle wanted to express that Mr. Arbshay has been a wonderful developer to work with.

**Commissioner Searle moved to recommend a general plan change to allow a zoning change from Medium Density Residential to Rural Residential on 108 acres located from approximately Commander Boulevard to the southern city limits and from SR36 to the western city limits.** Commissioner Gowans seconded the motion. The vote was as follows.

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

9. **PUBLIC HEARING and Recommendation on amended plat to vacate and re-subdivide Deer Hollow Phase 6, lots 602, 603, 604, and 605 located at Elk Hollow Loop and Deer Hollow Road by Steve Hamilton.**

Presented by Rachelle Custer

Ms. Custer stated that Mr. Hamilton has submitted an amended plat to change some easements and property lines for the above mentioned lots in Deer Hollow. The original plat had a cul de sac. By taking out the cul de sac and putting in a straight road the property lines have changed on the above mentioned lots. Staff recommends approval of Deer Hollow phase 6 amended plat.

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 10:16 p.m.

**Commissioner Gowans moved to recommend an amended plat to vacate and re-subdivide Deer Hollow Phase 6, lots 602, 603, 604, and 605 located at Elk Hollow Loop and Deer Hollow Road by Steve Hamilton.** Commissioner Sagers seconded the motion. The vote was as follows.

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

10. **PUBLIC HEARING and Recommendation on amended plat Hometowne Court PUD to correct building locations by Hometown Development.**

Presented by Rachelle Custer

Ms. Custer stated that Hometowne Court is requesting to amend the plat. She stated that the PUD is already in. Staff recommends approval.

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

**Commissioner Sagers moved to close the public hearing.** Commissioner Searle seconded the motion. All members present voted “Aye.” The public hearing closed at 10:19 p.m.

Commissioner Searle stated the deeds need to re-record. He has worked on this with the county Attorney and the recorder regarding this.

**Commissioner Searle moved to recommend and amend plat Hometowne Court PUD to correct building locations by Hometowne Development.**

Commissioner Sagers seconded the motion. The vote was as follows.

- Commissioner Milne, yes
- Commissioner Montano, yes
- Commissioner Sagers, yes
- Commissioner Gowans, yes
- Commissioner Spence, yes
- Commissioner Curwen, yes
- Commissioner Searle, yes

11. **PUBLIC HEARING and Recommendation on preliminary plan for Hawthorne House subdivision, a two lot 7.45 acre subdivision at Three O Clock Drive and Main Street by Michael Naeger.**

Presented by Rachelle Custer

Ms. Custer stated Three O’ Clock Drive has not been dedicated to Tooele City. This subdivision will create a lot on either side of Three O’ Clock Drive and will dedicate Three O; Clock Drive to Tooele City. Staff recommends approval of the preliminary plan for Hawthorne House subdivisions.

Michael Naeger addressed the commission, he represent Hawthorne House subdivision. He stated that this would establish a right of way for Three O’ Clock Drive.

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

**Commissioner Spence moved to close the public hearing.** Commissioner Searle seconded the motion. All members present voted “Aye”. The public hearing closed at 10:24 p.m.

**Commissioner Searle moved to recommend a preliminary plan for Hawthorne House subdivision, a two lot 7.45 acre subdivision at Three O. Clock Drive and Main Street by Michael Naeger.** Commissioner Spence seconded the motion. The vote was as follows.

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

12. **MOTION to allow a 20 ft setback for Tower Center D by New Concepts**

Presented by Rachelle Custer

New Concepts is requesting they be allowed a 20 ft setback for their development at 1280 N and 30 W. This is in a General Commercial zone and is not in the Gateway Overlay. This would allow for more parking and more retail space. New Concepts have been very good to work with, the owner has done everything that has been asked of him. Staff recommends approval of the proposed setback.

Mr. Baker inquired about the legal provision allowing the reduced setback. Ms. Custer stated that the code allows for a reduced 20 ft front setback with Planning Commission approval.

**Commissioner Sagers moved to allow a 20 ft setback for Tower Center D by New Concepts.** Commissioner Searle seconded the motion. The vote was as follows:

Commissioner Milne, yes  
Commissioner Montano, yes  
Commissioner Sagers, yes  
Commissioner Gowans, yes  
Commissioner Spence, yes  
Commissioner Curwen, yes  
Commissioner Searle, yes

13. **Review and Approval of Planning Commission minutes for meeting held April 11, 2007**

Commissioner Gowans noted that his name was spelled wrong.

**Commissioner Spence moved to approve the minutes with the one change as noted.** Commissioner Sagers seconded the motion. All members present voted "Aye."

**Commissioner Curwen moved to adjourn the meeting.** Commissioner Sagers seconded the motion. All members present voted "Aye". The meeting adjourned at 10:29 p.m.

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Approved by Shawn Milne, Chair

This 9<sup>th</sup> day of May 2007