

TOOELE CITY PLANNING COMMISSION MINUTES
August 13, 2008

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

Commission Members Present:

Shawn Milne, Chair
Phil Montano
Steve Dale
Ken Spence
John Curwen
Gary Searle
Fran Garcia

Commission Members Excused:

Bob Gowans
Jerald Sagers

City Employees Present:

Rachelle Custer, City Planner
Paul Hansen, City Planner
Cary Campbell, Public Works Director
Roger Baker, City Attorney
Councilman McCall, City Council Representative

Others Present:

Debbie Winn, Chamber of Commerce

Minutes prepared by Elisa Jenkins

Chairman Milne excused Commissioners Sagers and Gowans from the meeting.

The meeting was called to order by Chairman Milne at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Dale.

2. PUBLIC HEARING and RECOMMENDATION on ordinance to allow for off site directional signs in all zones.

Presented by Rachelle Custer

Ms. Custer explained that this is an ordinance being proposed under the direction of the City Council that will allow off-site directional signs to be placed in all zones with a

permit. At this time off site directional signs are allowed only in general commercial zones.

Chairman Milne noted that the off-site directional signs as proposed in the ordinance are already allowed under 7-25-12 (6) it says they are not required to have a permit. He asked if that is true.

Ms. Custer stated that is intended for on-site directional signs.

Chairman Milne asked if Ms. Custer could clarify the difference between on-site and off-site directional signs.

Ms. Custer stated that the definition in the ordinance for off-site directional signs means a sign which provides directional assistance to access an establishment conveniently and safely. It would not be located on the premises.

Chairman Milne stated that this applicant is requesting to have signs to direct people to particular homes.

Mr. Campbell used an example Key Bank that has an on site sign stating that the Chamber of Commerce is located upstairs. That is a directional on site sign.

Chairman Milne asked if that does not count the 10% of advertising.

Mr. Campbell stated that was correct.

Chairman Milne asked if they are allowed indefinitely.

Mr. Campbell stated that you might also see directional signs in places showing people where to enter and exit. That is the difference of on site signs opposed to off site which is being proposed.

Commissioner Montano asked if the off site signs are permanent.

Ms. Custer stated “no”. It is stipulated in the ordinance that the signs announce an event which is open to the public and which the duration is less than seven days. Off site directional signs may be placed no sooner than three days prior to the event opening and shall be removed by the sign permit applicant three days after the event closes.

Commissioner Montano asked how it will be enforced that the signs are taken down.

Ms. Custer said they will be required to take out a permit which shows where all the signs will be placed, with a letter from the property owner giving them permission to place the signs. With the permit is a \$25 refundable deposit if the signs are not removed within three days after the event and Tooele City has to remove the signs the City will keep the deposit. If the signs are removed in a timely manner the City will give the deposit back.

Chairman Milne reiterated that the City will enforce the off-site signs through the permit process, which is intended to provide monetary leverage. The applicant will provide a list where the signs are placed and a letter from the property owners allowing signs to be placed on their property. The applicant will also take the signs down within three days of the event.

Ms. Custer stated that was correct.

Mr. Campbell stated that \$25 is probably not enough of an incentive to take the signs down.

Chairman Milne asked if it is worth the City's time to collect the signs for \$25. If it was one or two signs that might be o.k. but what if there were 100 signs? He doesn't feel that is a lot of leverage for an applicant to take down signs. He is looking at this proposed change in regards to political signs and garage sale signs which has been difficult for the City to enforce. It might be less money to the applicant to let the City's employees/staff remove the signs than pay their own employees to remove them.

Ms. Custer stated that staff did discuss that when drafting this ordinance change. The \$25 is what is set by ordinance for snipe signs so that is the same fee that they moved over. They did discuss if it gets out of hand possibly changing the ordinance to a fee per sign.

Chairman Milne stated that in section 7-25-14 (g) is almost the same as what is being proposed tonight except that its not just commercial zones but for all zones. He wondered if it would be easier to manage if it didn't say three days prior to the event, but instead use the wording in section (g) for special community events has a duration no sooner than 10 days prior and still have the three day wrap up period.

Ms. Custer stated that she didn't feel that a directional sign was necessary to be there for ten days. Section (g) for example would be the Arts Festival which would allow signs to be placed up to 10 days prior. A directional sign would not need to be left up that long.

Commissioner Dale asked if Little League Football signs ups would be considered a community event.

Chairman Milne stated that would be considered a special event.

Commissioner Curwen stated that staff will still have to be paid to make sure the signs are taken down so he feels the City should keep part of that fee. How will the City know the signs are taken down?

Ms. Custer said that the Code Enforcement Officer will make sure they are taken down as part of his daily rounds.

Chairman Milne asked what the penalty would be if the applicant doesn't provide the City with updated list of where the signs will be placed.

Ms. Custer stated that if the City comes across a sign that is not on the permit they will remove it.

Mr. Campbell said that the City does that all the time. The City will not make any money on this. It is part of a service they do as a City.

Commissioner Dale noted that under the definition section (49) off-site directional sign means a sign which provides directional assistance to access an establishment conveniently and safely. For example for the showcase of homes it is an establishment, not like the example earlier of where the Chamber of Commerce is located.

Ms. Custer stated that establishment needs to be defined. This ordinance does not define establishment.

Commissioner Dale said that the Showcase of Homes could be more of an event than an establishment.

Mr. Baker suggested that in the definition it read an establishment or an event.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address the Commission.

Debbie Winn, with the Chamber of Commerce addressed the Commission. She stated that they are no longer upstairs at Key Bank, they have relocated. Ms. Winn stated that she was at the City Council meeting where the representative from the Showcase of Homes spoke in the Open Forum, asking about the directional signs. The City Council said they were working on the ordinance change. Today she visited a home with the Salt Lake Parade of Homes that is located in Rush Valley. She did see the directional signs which helped her find the home. She wondered how many people would come from Salt Lake to see this home; they told her 685 people had been through the home. She believes an ordinance that might help bring tourists, bring prospective employment, and more people here to live would only do the community good.

Commissioner Garcia moved to close the public hearing. Commissioner Montano seconded the motion. All members present voted "Aye". The public hearing closed at 7:15 p.m.

Chairman Milne stated that he is also aware of the home that Ms. Winn spoke of. He believed that the signs might not be obvious enough. The last thing anyone wants is people driving around residential areas looking for the right home.

Commissioner Montano also noted that he went to the Parade of Homes in Salt Lake and it was hard to follow the directional signs.

Commissioner Garcia moved to make a favorable recommendation on an ordinance to allow for off site directional signs in all zones. Commissioner Curwen seconded the motion. **Commissioner Garcia amended her motion to include the verbage in the definition of off-site directional sign to include establishment or event.** Commissioner Curwen seconded the amendment. All members present voted “Aye”.

3. **PUBLIC HEARING and RECOMMENDATION on final plat approval for Sunset Estates Phase 4 a 13 lot subdivision on 3.62 acres located at approximately 300 West 2200 North by Hallmark Homes.**

Presented by Rachelle Custer

Ms. Custer explained that Sunset Estates phase 4 received a favorable recommendation from Planning Commission on May 9, 2007 and approved by City Council on June 6, 2007. Due to the length of time since the City Council approval the approval has expired. Sunset Estates phase 4 is required to go through the approval process again in order to be recorded. The developer is requesting final plat approval for Sunset Estates phase 4. This is a residential subdivision containing 13 lots. The zoning for the subdivision is R1-10. Staff recommends approval of the final plat for Sunset Estates Phase 4. It has not changed since it was brought before the Commission in May of 2007.

Commissioner Dale said he hoped there has been a change since 2007 originally the developer was showing 400 W wider than an 84’ right of way and an open space dedication parcel “A”. They were under the assumption that this was under the North Tooele Special Service District (NTSSD), but it is not. They were supposed to amend lot one to make it larger due to the open space lot.

Ms. Custer said they have not done that.

Chairman Milne asked if the intent was that they were to emulate the NTSSD.

Mr. Paul Hansen stated that the intent was, when the City spoke to the Commission and Council before, is that 400 W be an entire corridor. Although the interior lots don’t have to come forward it was the intent of the City Council that the 400 W streetscape be consistent and not jog in and out.

Commissioner Dale asked who would maintain that open lot.

Mr. Paul Hansen said that it was the NTSSD and it was his understanding that they were going to join that as well.

Commissioner Dale said that he thought the NTSSD wanted to end that portion at 2200 North.

Mr. Paul Hansen stated that was correct but that the streetscape needed to be consistent. He also believed it was a requirement of the previous approval.

Commissioner Dale stated that there is no signature block to indicate that.

Mr. Baker stated that it is his recollection that the entire preliminary plan for Sunset Estates was annexed into the NTSSD. He assumes that this final plat was part of the preliminary plan so it would have been brought into the district a few years ago. If this was not brought to the attention of the NTSSD, he apologizes.

Commissioner Dale is not sure that this is part of that originally. It was 32 acres originally.

Mr. Campbell said that the original agreement was that it would go down to 2200 N and that would be the end of the requirement for the NTSSD.

Mr. Baker said that he would have to look at that. He also stated that the Council is very insistent, he is quite sure, that the entire preliminary plan geographic area was brought into the district. For other areas not under Sunset Estates preliminary plan talked about 2200 N being a dividing line. He believes the entire Sunset Estates is in the NTSSD.

Commissioner Dale stated that it makes the preliminary plan along the west boundary of phase 1 extend beyond 2200 N, west of that boundary.

Mr. Baker said that it sounds like the City has forgotten to get this to the NTSSD. He is not sure that a signature block is required but, they need to get the plat to the NTSSD and get their input.

Ms. Custer said they will double check on that.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward.

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

Mr. Baker told the Commission that he could look at his file and verify that it is in or not in the NTSSD while the Commission is discussing the agenda.

Commissioner Dale doesn't think that this is part of the original 32 acres.

Mr. Baker said that it doesn't have much bearing to the plat and the recommendation of the Commission. He said if it is not the responsibility of the NTSSD then it is the City's responsibility.

Ms. Custer asked if they could place a condition that it be maintained by the developer instead of the NTSSD.

Mr. Baker said if it was exacted to be part of the right of way it is the City's responsibility. He needs to see if they have an agreement with the District.

Mr. Campbell said that the City Council needs to deal with this.

Commissioner Curwen moved to make a favorable recommendation on final plat approval for Sunset Estates Phase 4 a 13 lot subdivision on 3.62 acres located at approximately 300 West and 2200 North. Commissioner Garcia seconded the motion. All members present voted "Aye".

4. PUBLIC HEARING and MOTION on conditional use permit for a mobile food stand to be located at 715 N Main St. by Andres Herrera.

Presented by Rachelle Custer

Ms. Custer explained that Andres Herrera is requesting a conditional use permit to park a lunch truck in front of Vorwaller Mobile Park at 715 N Main Street. Included in the Commissioner's packet is an agreement from the property owner allowing the use of the property and a letter from Family Dollar giving permission for the applicant and customers to use the restroom facilities. Mr. Herrera will only be allowed to operate during Family Dollar's business hours which are Mon – Sat 9 am to 8 pm and Sunday 10 am to 6 pm. Vorwaller Homestead has stated that they may not be set up on the property for more than 3 days in a row. Staff recommends approval of the conditional use application with the following conditions:

1. Hours of operation are restricted to Mon – Sat 9 am – 8 pm; and Sun 10 am – 6pm.
2. Health Department approval to be obtained.
3. Inspection of the vehicle be completed and approved by Tooele City building inspector.
4. Lunch truck to be in out of the public way.
5. Truck location to not be disruptive to traffic flow.

Commissioner Garcia asked if there was another applicant who was going to be using Family Dollar's facilities.

Chairman Milne stated that there was someone who was going to be set up in the Family Dollar's parking lot. This applicant will be next door to the Family Dollar Store. Chairman Milne noted that in the letter from Vorwaller Homestead it states the applicant may be set up "through the month of August", he wondered that if that should be a condition of the CUP as well as the hours?

Ms. Custer stated that they could place a condition to receive a letter from Vorwaller Homestead. It is a month to month type of business to see how it goes.

Chairman Milne stated that the applicant will have to reach an agreement with Vorwaller Homestead on a month to month basis. He asked if the Commission should impose a time restriction.

Mr. Baker said that the Commission may impose a time restriction if that restriction is intended to mitigate an adverse affect to the property or surrounding property that would be caused by letting it go on forever. The Commission has to identify the problem and then they can put a condition (e.g. time restriction) on the CUP.

Commissioner Dale asked if the Vorwaller Homestead would take precedence on the CUP.

Mr. Baker said that any restriction that the property owner puts on is a matter of contract. The property owners could have them vacate the property, but the conditional use would still be allowed.

Ms. Custer stated that this is a month to month contract similar to when the applicant had gone to Check Point.

Councilman McCall suggested that the Vorwaller Homestead has a lot of events going on their property and that may be the reason for a month to month contract.

Ms. Custer stated that the use of the property will need to be negotiated with the property owner on a month to month basis.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address the Commission. No one came forward.

Commissioner Hansen moved to close the public hearing. Commissioner Dale seconded the motion. All members present voted “Aye”. The public hearing closed at 7:32 p.m.

Commissioner Spence moved to approve a conditional use permit for Tacos Jalisco lunch truck to be located at 715 N Main Street, with the following conditions:

- 1. Hours of operation are restricted to Mon – Sat 9 am – 8 pm; and Sun 10 am – 6pm.**
- 2. Health Department approval to be obtained.**
- 3. Inspection of the vehicle be completed and approved by Tooele City building inspector.**
- 4. Lunch truck to be in out of the public way.**
- 5. Truck location to not be disruptive to traffic flow.**

Commissioner Searle seconded the motion. All members present voted “Aye”.

5. PUBLIC HEARING and MOTION on conditional use permit for rug sales to be located at 715 N Main St. by Chris Marquis.

Presented by Rachelle Custer

Ms. Custer explained that Mr. Marquis is requesting a conditional use permit to sell rugs in front of Vorwaller Mobile home Park at 715 N Main Street. Included is an agreement from the property owner allowing the use of the property and a letter from Family Dollar giving permission for the applicant and customers to use the restroom facilities. This will also be on a month to month basis. Mr. Marquis will only be allowed to operate during Family Dollar's business hours. Vorwaller Homestead has stated that he may not be set up for more than three days in a row. He will set up for a few days at a time and then be gone for weeks or months at a time as he travels with this business. Staff recommends approval of the conditional use application with the following conditions:

1. Hours of operation are restricted to Mon – Sat 9am – 8 pm and Sun 10 am – 6 pm.
2. Inspection to be completed by Tooele City building inspector.
3. Sales area to be in out of the public way.
4. Sales to not be disruptive to traffic flow.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address this issue.

Chris Marquis, owner of the business addressed the Commission. Mr. Marquis stated that he will be selling flags as well as rugs. He will sell for a few days and then take items down and move on. He stated that it will be up to the Vorwaller Homestead to when he will be allowed to sell.

Commissioner Dale moved to close the public hearing. Commissioner Garcia seconded the motion. All members present voted "Aye". The public hearing closed at 7:36 p.m.

Commissioner Garcia moved to approve a conditional use permit for Chris Marquis rug and flag sales to be located at 715 N Main Street with the following conditions:

1. **Hours of operation are restricted to Mon – Sat 9am – 8 pm and Sun 10 am – 6 pm.**
2. **Inspection to be completed by Tooele City building inspector.**
3. **Sales area to be in out of the public way.**
4. **Sales to not be disruptive to traffic flow.**

Commissioner Curwen seconded the motion. All members present voted "Aye".

6. **PUBLIC HEARING and MOTION on conditional use permit for a 980 sq ft 21 ft tall detached garage to be located at 341 Gold Dust Court by Eli Stagg.**

Presented by Rachelle Custer

Ms. Custer explained that Mr. Stagg is the applicant and Mr. Aagard the homeowner and he is requesting a conditional use permit to construct a 980 sq ft 21 ft tall detached garage at 341 Gold Dust Court. The garage will cover 5% of the lot code allows 8% coverage. The total lot coverage will be 15% with the garage and the house, code allows maximum 35% lot coverage. The garage will be 21 ft tall, code allows for 15 ft without a conditional use permit. Staff recommends approval of the conditional use permit to allow for a 21 ft tall garage.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address the Commission. No one came forward.

Commissioner Curwen moved to close the public hearing. Commissioner Dale seconded the motion. All members present voted “Aye”. The public hearing closed at 7:40 p.m.

Commissioner Dale moved to approve a conditional use permit for a 21 ft tall 980 sq ft detached garage to be located at 341 Gold Dust Ct by Eli Stagg. Commissioner Spence seconded the motion. All members present voted “Aye”.

Jerry Harward, 381 Boothill Circle, addressed the Commission. He asked if there was a requirement on the garage to be built to look like the home. He also wanted to make sure the garage wasn't going to be used for living.

Mr. Campbell stated those are questions for the building and planning department. He said that the intent is not to have residents living in the detached garage.

Mr. Baker said that the detached garage would not be allowed to be used as a second residence. It would also not be allowed to be used as a business.

7. **PUBLIC HEARING and MOTION on conditional use permit for an in-home daycare to be located at 588 Park Hill Drive by Jennifer Gardner.**

Presented by Rachelle Custer

Ms. Custer explained that Ms. Gardner is requesting a conditional use permit for an in-home day care to be located in her home at 588 Park Hill Dr. Day care is allowed as a home occupation with a conditional use permit. Included in the Commissioner's packet is a layout of her home. Staff recommends approval of the conditional use permit with the following conditions:

1. No more than 6 children at one time.
2. Hours of operation to be between 6 am and 6:30 pm Monday thru Friday.
3. Fenced rear yard be provided for the children.

4. State Residential Child Care Certificate is obtained.
5. Tooele County Health Department Inspectional approval.
6. Building Inspection approval.
7. Fire Inspection approval.

Chairman Milne noted that the applicant asked for different hours and asked if she was notified of the allowed times.

Ms. Custer stated that she has spoken to the applicant about the hours and number of children.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address the Commission.

Keith Morgan, 5624 Inverness, addressed the Commission. Mr. Morgan stated that he was President of a condominium association in California. He does not feel like this should be allowed in a residential neighborhood. The commercialization could have a negative impact on the surrounding property owners. Traffic through the neighborhood and parking could decrease values. He is opposed to this.

Commissioner Garcia stated that this does not make this commercial. It stays residential. The residents are the only ones that can work in the home; they can not bring outside people in to work.

Ms. Custer stated only residents within the home may work in the home occupation.

Chairman Milne stated that they usually require off street parking.

Commissioner Dale also noted that there is no signage allowed.

Chairman Milne stated that part of the intent with the hours of operation is to not interfere with the other residents in the neighborhood.

Commissioner Dale wanted to clarify with Mr. Baker that this CUP would only be specific to this applicant.

Mr. Baker said that it would not be specific to the applicant it would be specific to the property. The approval runs with the property not the owner.

Chairman Milne stated that if the applicant sells their home the new owner would have to get a business license.

Mr. Baker said that was correct. The conditions of this CUP would continue to exist.

Commissioner Garcia moved to close the public hearing. Commissioner Curwen seconded the motion. All members present voted “Aye”. The public hearing closed at 7:48 p.m.

Mr. Baker stated that decreased property value is an adverse impact that the Commission can consider when imposing conditions on an allowed use. The Commission can impose conditions which are intended to preserve property values. There must be evidence that it causes an adverse impact and the conditions would have to be tailored to alleviate adverse conditions. The Commission does not have before them tonight evidence the law requires in order to impose those kinds of conditions. There are conditions that have been identified by the Commission that mitigate other concerns.

Commissioner Garcia said that she has a home occupation business two doors down from her and it doesn't affect the neighborhood at all. She doesn't see any problems.

Mr. Baker also stated that a homeowners association has different powers than a City does. They would have the authority under their own CC&R's that would prohibit a use that the Commission would have to allow.

Commissioner Garcia moved to approve a conditional use permit for an in-home day care to be located at 588 Park Hill Dr with the following conditions:

1. **No more than 6 children at one time.**
2. **Hours of operation to be between 6 am and 6:30 pm Monday thru Friday.**
3. **Fenced rear yard be provided for the children.**
4. **State Residential Child Care Certificate is obtained.**
5. **Tooele County Health Department Inspectional approval.**
6. **Building Inspection approval.**
7. **Fire Inspection approval.**

Commissioner Dale seconded the motion. All members present voted “Aye”.

8. **Review and Approval of Planning Commission minutes for meeting held July 9, 2008.**

Commissioner Curwen moved to approve the Planning Commission minutes for the meeting held July 9, 2008 as presented. Commissioner Dale seconded the motion. All members present voted “Aye” except for Commissioner Garcia and Spence who did not attend the meeting.

Mr. Baker stated that he looked at the Sunset Estates preliminary plan. The plat the Commission has before them is not included in this plan and is not included in the NTSSD. It is separate. If there is maintenance by the NTSSD it would be made by some other arrangement that they negotiated with the City.

Commissioner Dale said that the previous three phases have been approved with the

NTSSD.

Mr. Baker stated that 2200 N is the northern boundary of the district.

Mr. Campbell said that they need to make sure that is brought to the City Council's attention.

9. Adjourn

Commissioner Curwen moved to adjourn the meeting. Commissioner Garcia seconded the motion. All members present voted "Aye". The meeting adjourned at 7:55 p.m.

Discussion Item

1. Article from the Salt Lake Tribune – Councilman's involvement with subdivision forces revote.

No minutes were taken on the Discussion item.

Approved this 27th day of August 2008

Chairman Milne