

TOOELE CITY PLANNING COMMISSION MINUTES
December 10, 2008

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

Commission Members Present:

Shawn Milne, Chair
Bob Gowans
Phil Montano
Jerald Sagers
John Curwen
Gary Searle
Steve Dale

Commission Members Excused:

Fran Garcia
Ken Spence

City Employees Present:

Rachelle Custer, City Planner
Richard Jorgensen, Land Use Technician
Doug Bayly, Assistant City Attorney
Dave McCall, City Council Representative

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Milne at 7:00 p.m. Chairman Milne excused Commissioners Garcia and Spence from the meeting. Chairman Milne also excused Paul Hansen, Cary Campbell, and Roger Baker from the meeting.

1. **Pledge of Allegiance**

The Pledge of Allegiance was led by Chairman Milne.

2. **PUBLIC HEARING and RECOMMENDATION on an ordinance of the Tooele City Council to vacate a portion of 900 West between 1000 South and Timpie Road.**

Presented by Rachelle Custer

Ms. Custer explained that Tooele City and Tooele School District have an interlocal agreement for Settlement Canyon Elementary School to use Rancho Park. The City and the School District have come to the decision that it would be safer for the students if part of 900 West is vacated and left closed permanently. The Commissioners have a petition

before them to vacate that portion of 900 West Street between 1000 South Street and Timpie Road.

Commissioner Gowans asked if it is the portion of road that has the gates.

Ms. Custer said “yes”. She said that there was some discussions with the district about leaving the gates open at night, but there was some concern for the children’s safety if people get used to the gates open at night they might come through the road in the morning not realizing the road is closed. It is proposed that the road be vacated all together.

Commissioner Curwen asked if the School District will be leaving the gates.

Ms. Custer said that they will be leaving the gates where they are and that area will be used for parking. When there are activities at the soccer field at the park the City will be able to use the parking.

Commissioner Dale asked if their will be stripped angle parking on either side of the road.

Ms. Custer said “yes”.

Commissioner Montano noted the parking is like that now.

Ms. Custer stated that is correct and it is used for overflow parking.

Commissioner Curwen asked if the plan was to not open the gates.

Ms. Custer said that is correct.

Chairman Milne asked if the gates would be open in the summertime.

Ms. Custer stated that was discussed, but the School District has decided to leave them closed.

Commissioner Dale noted that once the road is vacated that the School District would own part of the road.

Ms. Custer said that the City will retain ownership of the road.

Ms. Bayly stated that half of the road will be owned by the School District and half of it will be owned by the City. The City has agreed to lease its half of the road to the School District so they will have possession of it. If for any reason the School District decides not to continue the agreement it would revert back to the City. The City could decide to rededicate the road at that time.

Chairman Milne asked as far as liability is concerned anything that happens on that portion of the road that is vacated would be the responsibility of the School District.

Mr. Bayly said that the way the agreement is set up is that each party is responsible for its own negligence. There is no indemnification either way.

Commissioner Gowans said that in the petition the School District stated that they would like to enhance the recreational options for its students and it would save the taxpayers money, which he agrees with. He asked what it does for the community around that area during school hours; he asked if the park will remain open.

Mr. Bayly said the park is still open for the community. It is not exclusive use by the School District.

Chairman Milne asked if the park is open for the community during school hours how the children are protected from someone in the park that shouldn't be by the children.

Mr. Bayly said that the School District has agreed that there will be adult supervision of the children in the park while they are using the facility.

Chairman Milne asked if the liability falls on the School District during that time and not on the City.

Mr. Bayly said "yes".

Chairman Milne recalled during discussions with the School District something about partitions down the middle of the park.

Mr. Bayly said that was discussed, but the decision was made that it will not be partitioned. He said that there will be a fence built around half of the park, which is meant to keep the children from running into the street.

Commissioner Dale asked where the fencing will be located.

Mr. Bayly stated that the fencing will go around half of the park.

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address this issue. No one came forward. Chairman Milne closed the public hearing at 7:08 p.m.

Commissioner Sagers asked who will maintain the asphalt once this agreement is entered into.

Ms. Custer stated that the School District will maintain it as part of their lease agreement.

Mr. Bayly said that they are not required to maintain asphalt. They can use it as they see fit. If the road ever reverts back to the City, in the interlocal agreement, the School District agrees to restore the road to the condition it was when they took it over. If they choose to rip up the asphalt and put in grass they may.

Chairman Milne stated that the School District has the full opportunity to do whatever they wish with the road.

Mr. Bayly stated that there are conditions in the agreement that require City approval to do certain things.

Commissioner Gowans moved to make a favorable recommendation to the City Council on an ordinance of the Tooele City Council to vacate a portion of 900 West between 1000 South and Timpie Road. Commissioner Dale seconded the motion. All members present voted “Aye”.

3. **PUBLIC HEARING and RECOMMENDATION on a general plan amendment to change 20 acres West of Hwy 36 North of 3200 North from MDR to GC and MU-G by Bluewater Co.**

Presented by Rachelle Custer

Ms. Custer stated that she will introduce item #3 and #4 together. She stated that Bluewater Co. has requested a general plan amendment change from medium density residential to general commercial for 15 acres and mixed use general on 5 acres. There is also a rezone request from R1-10 to general commercial on 15 acres and from R1-10 to mixed use general on 5 acres. She stated that the reason for the mixed use request is there is an existing home on a five acre piece and it would allow the home to stay where it is and still be a residence and allow commercial use around it. Staff recommends against the requested general plan amendment and rezone for the following reasons:

1. The current general plan designation (medium-density residential uses) and current zoning designation (R1-10) are an appropriate transition form areas zoned general commercial to the south into areas zoned rural residential and agricultural to the north, as well as medium-density residential uses planned to the west. Commercial development on this property would deprive the City of the opportunity to provide an adequate transition.
2. Were this property to develop with commercial uses, it would result in the further attenuation of Tooele City’s commercial corridor, pulling commercial activity further north away from Tooele City’s commercial and residential cores.
3. Commercial viability (i.e. what will sell today) may be a consideration in planning through a general plan and zoning ordinance, but it is neither the only nor the primary consideration. While Tooele city does not seek to diminish a property’s potential value or commercial viability, neither does

the City promote this consideration above considerations of sound planning, such as those mentioned above.

4. ISO rating for fire insurance rates have a greater impact for commercial with shorter distance allowances than for residential.
5. Commercial uses have the potential of creating a larger demand on infrastructure versus the current residential density.

Chairman Milne asked if the ISO rating affects the City's standing for insurance reasons.

Ms. Custer stated that it affects every home owners insurance.

Chairman Milne asked how it affects home owners insurance. Does it affect the home owners in this development?

Ms. Custer stated that there is an ISO rating citywide based upon proximity of the area that is covered by the volunteer fire department. The farther that resource is stretched the higher everybody's rating becomes and the more it costs.

Commissioner Curwen noted that the UID ISO rating is higher than the City.

Ms. Custer stated that was correct, the farther you get away from the fire station the higher the insurance is.

Commissioner Curwen mentioned that there are two different ratings in Tooele City.

Chairman Milne stated that this would be part of the Cities ISO rating not separate like UID.

Commissioner Curwen stated that was correct.

Ms. Custer stated that the City has an agreement with UID that the depot helps take care of.

Commissioner Montano asked why the City moved the City limits to where they are if the fire rating impacts it so greatly.

Ms. Custer said that it is not a huge impact, but it is something to take into consideration. She said it is her understanding that there are shorter distances allowances in commercial from a fire station than there is in residential. She used as an example that you may be allowed 1 ½ miles in commercial but 2 miles in residential.

Commissioner Montano noted that it has very little impact.

Ms. Custer stated "yes". It is a point, but not a huge point. The commercial use would be a larger impact on the ISO rating than if it was left as residential.

Commissioner Dale stated that is because the potential loss on a commercial structure is greater than on a residential structure.

Commissioner Curwen noted that it affects the person that owns the business he will have to pay a higher rate.

Ms. Custer stated that it does affect everybody.

Commissioner Montano noted from personal experience that sometimes his jobs have a low liability and sometimes he does a bigger job in Salt Lake that triples the liability just for the exposure. He feels that this is the same thing. Each business in this development will be looked at to see what their liability and exposure is and what their fire insurance would be.

Ms. Custer stated that a commercial development would have a higher rating than a home in this area.

Chairman Milne asked if were fair to say that regular tax paying citizens not in this area being discussed tonight would be affected by the ISO rating if this rezone is approved?

Ms. Custer said that it can affect the rates of whole district serviced by Tooele City Fire Department.

Chairman Milne verified that just like any insurance policy, the many subsidize the few that are impacted in a calamity.

Ms. Custer said that the rates in this area will be higher, but it can affect the ISO rating for everyone serviced by the Volunteer Tooele City Fire Department.

Commissioner Dale said that there is a reason that this is the fourth item of concern and not the number one item of concern.

Ms. Custer said that is correct.

Commissioner Dale would like to echo the concerns expressed by the staff. He said that one complaint they hear is the northward movement of the business district. This rezone would perpetuate that problem to move commercial property to the northern boundary of the City. To allow businesses to develop that far north is contrary to the expressed desires of the public and the City Engineer.

Commissioner Montano respects what Commissioner Dale has said but he disagrees. He feels that to establish a tax base they have to bring businesses into the City. He feels that the reasons the City does not want this commercial development is because they only want businesses to develop in the center of the City. They only want businesses to develop where they want them to.

Chairman Milne said that is why they do zoning.

Commissioner Montano said the City only wants commercial development back into the center of the City. Where do they want businesses to go? It costs a lot of money to redevelop.

Chairman Milne said there is raw land next to Liddard's or the Medical Offices by Liddard's.

Commissioner Montano said the staff notes say that this would take away from the commercial corridor, but he feels if someone puts a nice development on this property it would add to City. It puts pressure on other people to have a good product and provide good service. He recalls when he was in on the construction of the new credit union there was some controversy. The whole plan when building the credit union in that location was so people would have easy access to their money on the way to Salt Lake. That takes the tax base out of Tooele City. He said that they should allow developments on both sides of the road northward to keep the tax base in Tooele City.

Chairman Milne said he disagrees with Commissioner Montano. He said that there is plenty of bare land and plenty of redevelopment possibilities in the commercial zoning within the City. He said that they would be directing where the commercial businesses may be located in Tooele with the staff's suggestion not taking businesses away. He said that he wishes that the Koeven's project were deeper so a large business could go there instead of a strip mall. Should they develop commercial for the sake of commercial? There can be too much competition that doesn't benefit the consumer in the long run. It could create businesses that do not have viability because there are too many offering the same things. Then empty buildings are created.

Commissioner Montano understands what Chairman Milne is saying, but he feels it is not the Commissioners job to set prices for the businesses.

Chairman Milne stated that it is the Commission's job to rezone.

Commissioner Montano said it is the Commissions job to rezone and develop a tax base. He feels that they need to allow property to be developed in this corridor all the way to the end of the City. If they do not allow businesses to develop he feels that they are sending the wrong message.

Chairman Milne said that there is a public relations issue for this property as well. He recalls being in a meeting where citizens from Erda were present where they had to develop a plan for five, ten, and twenty years and possible annexation. In the meeting there were people in Erda who said that there should be a buffer between Tooele City and Erda. He wonders how Erda would feel about pushing a commercial district right upon their city limits.

Commissioner Dale said that he would agree with Commissioner Montano if Tooele City were lacking commercial property within the main part of the City. This is not a developer bringing something to the City because they have a specific project to be developed. They are bringing this project because residential is not doing well right now so they want to do commercial.

Ms. Custer stated that it is her understanding that the developer did have a commercial buyer come and talk to them and that is what spurred this rezone request.

Commissioner Dale also said that the Commission is planning what the City will look like a long time after the Commissioners are gone. He doesn't feel that they should base the long term of the City on short term economics.

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

Eldon Roberts, 834 Shadow Wood, Murray, UT addressed the Commission. Mr. Roberts stated that he has owned this property for three years and has some struggle getting it going. He said that they were required by the City to build a well and size it twice the size as they needed for the subdivision. They have a well permit and the water now. They had a road system that they liked and then found out that the County is going to relocate the road and the County needs about an acre and a half of their property. They will give up that land so the County can build the road which they are anticipating to build in the summer. Mr. Roberts stated that there are ten acres to the north of their property that is being looked at for commercial property. He does not feel like they would have a "commercial island". He feels like this project would be a residential subdivision surrounded by commercial. He said that when they started this project 3 1/2 years ago they were asked by the City if they would have any Commercial property and they declined, they only wanted residential. Since then things have changed. Someone wanted to buy the house that is on the five acres and to establish a commercial enterprise in the area around it. That is what prompted the rezone. Mr. Roberts stated that anyone who wants to build still has to go through planning and zoning and the Commission could choose to recommend the building or not. He also stated that when they bought the property they paid taxes to the County and he is not sure how much the City gets of those taxes. He also stated that the City Engineer is requiring them to put in a 12" water line instead of an 8" line and they have agreed to that. They have agreed to the well, and two pressure reduction stations. They don't what else they can do to satisfy the City's requirements. They would like to go ahead with their plans.

Brian Cox, 727 W 3460 N, Erda addressed the Commission. Mr. Cox explained that he owns the house that sits on the five acres that has been discussed at this meeting. He is also a partner in this development. He would like to correct a few items that have been discussed at this meeting. Mr. Cox and his partner have been in discussion of what to do with that house they do not feel that to leave the house would be consistent of what they would like to do with the property in leaving it residential. They have had a resident interested in buying the house and moving it. Another option would be to move it

themselves or leave it there and change the zoning to neighborhood commercial and make it into an office building. He also wanted to point out there are two major highways, SR-36 and the east west corridor that will create a tremendous amount of traffic. Most residents don't like to build next to the highways.

Chairman Milne stated that in Stansbury there is a new subdivision with homes right off of SR-36.

Mr. Cox said that is true. He understands that those homes will sell, but they are difficult to sell. The people that he has talked to about building homes do not want to build on busy roads. It doesn't make sense to him to have two major road intersecting and having residential right next to them. His house backs up right on the east/west corridor; he is not excited about that. It makes sense to put commercial on busy roads. He feels that it would be good planning to have a buffer between a busy road and residential.

Chairman Milne asked how far back the frontage road would be.

Mr. Roberts stated that is would be 600' deep.

Chairman Milne asked if the County has discussed traffic flow with the applicants at the intersection.

Mr. Roberts said that they have a traffic study. He has been told that the areas to the north and to the east of their property are going to go commercial.

Chairman Milne asked if they have discussed the traffic flow with Utah Department of Transportation (UDOT).

Mr. Roberts said that the traffic study is not complete yet.

Chairman Milne worries that if there is a traffic light and they end up with an ingress/egress, all the traffic would come out on the frontage road and create a back up. Residential units would utilize the frontage road a lot lower than commercial would.

Mr. Roberts said that they changed from a 60' right-of-way to an 84' right-of-way because that could handle larger trucks.

Commissioner Dale remembered from the original plat that the house would be incorporated into the residential subdivision. He noticed that this is R1-10 minimum, and these lots along the northern boundaries are significantly larger than 10,000 sq ft lots. The lots that are along SR-36 will be larger. A larger lot would be better on SR-36 than smaller lots.

Mr. Cox said that he lives one mile off of SR-36, and he can hear the noise from the highway because it does carry. He is under the understanding that they can put in neighborhood commercial in under the current zoning.

Ms. Custer stated that there are a couple of uses that may be allowed in residential areas but not neighborhood commercial.

Mr. Cox said they have to do what works for them and what works for the subdivision and the City. They have had discussions with four major businesses that are interested in this property. They have had discussions about doing a small mall on this property.

Chairman Milne asked if it would be a strip mall or an indoor mall.

Mr. Cox said it would probably be something like the "Gateway" in Salt Lake. The property is not large enough to do an indoor mall. The outdoor walking malls seem to be the trend. They have had a mortuary also look at the property. They have also had discussions about hotels on the property as well. They have had people looking at this property; it is not them wondering what will sell. It makes sense to him to make this property commercial.

Chairman Milne closed the public hearing at 7:53 p.m.

Commissioner Montano asked the applicant if the County has already zoned the property to the north of their property commercial.

Mr. Roberts said it has not been done yet.

Commissioner Montano asked the applicant where they were with drilling the well.

Mr. Roberts said that they have developed all the drawings. They have gone through the state to get the permits that they need, and done the water study. They are ready to start drilling the hole. They are faced with the downside of the real estate market. Their plan would be to start drilling in March.

Chairman Milne asked if it is contingent on the outcome of the meeting.

Mr. Roberts did not want to answer that question. He was so sure that they would be re-zoned after talking to the City and County officials because they did not have any negative feedback. Ms. Custer did mention that she had received some negative repercussions, but they were not concerned because there are seven people on the Planning Commission. They did not anticipate any problems. They have already solicited companies to come and look at this property. If the County goes through with their street it will be a major intersection. He said the state has committed to moving the light on Cimmeron road.

Commissioner Searle said that as the City continues to grow he thinks about the traffic on the roads and the number of car trips people take. He used as an example the gym in Stansbury, which took people off the road who would normally come into Tooele to go to the gym. He said pockets of commercial are not negative because it reduces the demand

on limited resources. He doesn't feel that 20 acres is an island. He feels that it is a significant piece of land that a significant business could be located. Stansbury is now building a grocery store and people will stop driving from Stansbury to go to a grocery store in Tooele. He is not opposed to 20 acres of commercial development.

Commissioner Montano stated that he agrees this is a large enough parcel that a new development would fit nicely.

Commissioner Searle stated that the development will be 600' deep. There are not very many places in Tooele to develop where a business could be 600' deep. Going west on 1000 N will be residential, that is being turned from a commercial core to residential.

Chairman Milne disagreed with that because north of 1000 N has been slated for residential for about a decade.

Commissioner Curwen stated that if there were residential lots down the highway there would be a weed patch because it would create double frontage lots. If it is commercial they could require landscaping and make it look nice.

Commissioner Seale said that if there are commercial businesses they can require nice landscaping of the businesses.

Commissioner Curwen said that where the cement fence is in Stansbury there is a weed patch on the side of the highway.

Chairman Milne stated there are commercial businesses on SR-36 that do not look much better than a weed patch (i.e. Tooele Nursery, Bargain Buddies).

Commissioner Dale said that UDOT would not allow landscaping into their right-of-way. He said whether it is commercial or residential it would be the same.

Commissioner Curwen said the Apollo Burger is nicely landscaped and it is on SR-36.

Ms. Custer stated that they got UDOT approval it just took a long time.

Commissioner Curwen said that if commercial businesses coming into Tooele could end up looking nice.

Chairman Milne stated that they have been told the Midvalley Highway is coming but anything between now and when it is actually done is speculation. It is the same thing with the property than may be rezoned to commercial by the County. He agrees that it could be a good buffer. Overall this just does not sit right with him. He agrees with the staff recommendations. He is not encouraged to create another large commercial zone further away from the center of the City. There is plenty of commercial space that is raw or able to be redeveloped downtown. He sees this as a detraction to the general plan. He

does not want to take away the opportunity of these developers to make money. He encourages commercial to be more in the downtown area of Tooele.

Commissioner Sagers stated that when he first saw this proposal he was against it. But, as he has traveled by the property several times and looked at the property he feels more in favor of a commercial zone. He would like to see something decent to look at. He knows some of the residents in Erda and he knows that they are in negotiations of developing commercial as well. He also stated that these developers have the water and a proposal. Having a nice hotel or mall and some restaurants would be a positive move for Tooele and it would help to bring back some of the tax base.

Commissioner Montano said that before this develops the developer will have to put in the 12" water line and the well which helps with the infrastructure of the City.

Commissioner Dale stated that the potential of development close to Erda is hampered by lack of a water and sewer system. A hotel could not run on a septic tank. He feels that it would be a long time before it is developed.

Commissioner Sagers stated that they already have the water that is not an issue.

Mr. Cox stated that the County is looking at a sewer system.

Chairman Milne feels that they are straying from the City's general plan. There is a lot of land that has been rezoned on SR-112 on the way to Granstville to allow for commercial and light industrial in anticipation of the Miller Sports Park. He feels that is where the tourism industry (i.e. hotels, restaurants) will grow.

Commissioner Gowans stated that he is a big advocate of private property rights. He said that Midvalley Highway has taken a while to show itself, but so has 1000 North. The applicant stated that he has water, but the well has not been put in yet. The applicant has paper water rights. Paper water rights are great but if it is not wet it is not usable. He does have a concern that the water is not there, that could cause a problem. Tooele County is looking at a lot of different types of developments to go along the frontage from Stansbury to Cimmeron Way. He feels that people should have the ability to develop their property. He feels with commercial they have a little more control of what it looks like.

Chairman Milne called for a recommendation from the Commission.

Commissioner Sagers moved to make a favorable recommendation to the City Council on a general plan change from Medium Density Residential to General Commercial and Mixed Use General on 20 acres located West of Hwy 36 North of 3200 N. Commissioner Montano seconded the motion. The vote was as follows:

Shawn Milne, Nay
Bob Gowans, Aye

Phil Montano, Aye
Jerald Sagers, Aye
John Curwen, Aye
Gary Searle, Aye
Steve Dale, Nay

4. **PUBLIC HEARING and RECOMMENDATION on a rezone request on 20 acres West of Hwy 36 North of 3200 N to change 15 acres zoned Ra-10 to General Commercial and 5 acres zoned R1-10 to Mixed Use General by Bluewater Co.**

Chairman Milne stated that this is a public hearing if anyone would like to come forward and address the Commission. No one came forward. Chairman Milne closed the public hearing at 8:20 p.m.

Commissioner Sagers moved to make a favorable recommendation on a rezone request on 20 acres West of Hwy 36 North of 3200 North to change 15 acres zoned R1-10 to General Commercial and 5 acres zoned R1-10 to Mixed Use General.

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

Shawn Milne, Nay
Bob Gowans, Aye
Phil Montano, Aye
Jerald Sagers, Aye
John Curwen, Aye
Gary Searle, Aye
Steve Dale, Nay

5. **Review and Approval of Planning Commission minutes for meeting held November 12, 2008.**

Commissioner Gowans moved to approve the Planning Commission minutes as presented. Commissioner Curwen seconded the motion. All members present voted “Aye” except Commissioner Dale who abstained because he was not present at the meeting.

Commissioner Searle moved to adjourn the meeting to a discussion item.

Commissioner Montano seconded the motion. All members present voted “Aye”. The meeting adjourned at 8:23 p.m.

Approved this 14th day of January 2009

Chairman Milne

Discussion

1. **Residential table of uses.**

There were no minutes taken on the discussion item.