

Tooele City Planning Commission  
February 13, 2008  
Minutes

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

**Commission Members Present:**

Shawn Milne, Chair  
Phil Montano  
Bob Gowans  
Steve Dale

**Commission Members Excused:**

John Curwen  
Jerald Sagers  
Fran Garcia  
Ken Spence  
Gary Searle

**City Employees Present:**

Rachelle Custer, City Planner  
Roger Baker, City Attorney

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Milne 7:25 p.m.

1. **Pledge Of Allegiance**

The Pledge of Allegiance was led by Rachelle Custer.

2. **PUBLIC HEARING and MOTION on Conditional Use Permit for a lunch truck to be located at 324 N Main Street by Andres Herrera.**

Presented by Rachelle Custer

Ms. Custer reported that the applicant is requesting a conditional use permit to park a lunch truck at the GSI Pawn Shop parking lot located at 324 N Main Street. Included with the Commissioner's packet is an agreement from the property owner allowing use of the parking lot and use of the restroom facilities. The applicant has expressed a desire to be to open Sunday thru Saturday from 4pm to 1 am. Ms. Custer has spoken to the applicant and expressed that he will be restricted to GSI hours for restroom availability. GSI hours of operation are Monday thru Saturday 10 am to 6 pm. Staff recommends approval based on the following conditions:

1. Hours of operation are restricted to Monday thru Saturday 10 am to 6 pm.
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 the parking lot and out of the public way.
5. Truck location to not be disruptive to traffic flow in parking lot.

Chairman Milne noted in the agreement that it reads “Andres Herrera agrees to clean up the area rented at the end of each business day as well as any garbage on the property created from this business”. The applicant will be dumping his refuse in the dumpster at GSI. Chairman Milne asked Ms. Custer if the City has any concerns of the applicant dumping his refuse in their dumpster.

Mr. Custer stated that the lunch truck is self-contained. The applicant told her that he will have facilities in the truck for garbage. He will be allowed to use GSI’s dumpster if needed.

Commissioner Dale asked where the lunch truck will be parked outside the hours of operation.

Ms. Custer stated that the lunch truck will be parked at the applicant’s home during that time.

Commissioner Dale stated that from the map included in the packet it appears that the lunch truck will block two parking stalls.

Ms. Custer stated that the lunch truck will be parked up against the fence.

Chairman Milne asked if he will be taking up parking stalls in GSI’s lot.

Ms. Custer stated that the parking lot is big enough that if Mr. Herrera parks up against the fence in between the stalls he shouldn’t obstruct any parking spaces.

Chairman Milne asked if GSI has enough parking spaces for their business if Mr. Herrera has two or three customers at a time?

Ms. Custer stated that GSI has extra parking capabilities along the fence that are not striped out.

Commissioner Dale noted that GSI sometimes uses those parking stalls for vehicles that are for sale. He asked if that fluctuates?

Ms. Custer stated that sometimes they reposes a vehicle due to a title loan. They park the vehicle out front for sale.

Commissioner Montano noted that this same parking issue was brought up in Salt Lake when vendors share parking lots. He asked if there is an Ordinance that states they have to have restroom facilities.

Mr. Custer stated that the City requires anyone who uses a shared property, particularly food vending, that they have an agreement with the property owner to share parking and the restroom facility.

Commissioner Montano asked if GSI is inside the downtown overlay, so they have no parking requirements.

Ms. Custer stated that GSI is outside the downtown overlay. The City's parking table requirements apply from Utah Ave north and from 1<sup>st</sup> South, south.

Commissioner Dale asked if the lunch truck has parking requirements on its own?

Ms. Custer stated that a restaurant is done per seat. They don't have a spelled out parking requirement for this type of situation. They are giving them three stalls. After talking to the applicant that is what they felt was reasonable.

Commissioner Dale asked if the three stalls were in addition to what GSI is required.

Ms. Custer stated that is correct.

Commissioner Montano commented that he has been in situations before where businesses did not have enough parking due to employees. He wants to make sure there is enough parking for both businesses and the employees.

Ms. Custer noted that the current City Ordinance takes employees in to account.

Chairman Milne noted that water usage should be considered.

Ms. Custer stated that the truck itself is self contained and won't require any additional water. The only water they will be using is the restroom facilities.

Mr. Baker stated that GSI might consider recouping water rights.

Commissioner Montano stated that employees have to be able to wash their hands.

Ms. Custer stated that the Health Department will require restroom facilities for the applicant and his customers.

Commissioner Dale asked how many employees the applicant plans to have.

Ms. Custer stated that there will only be one employee.

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 Gowans moved to close the public hearing.** Commissioner Dale seconded the motion. All members present voted “Aye”. The public hearing closed at 7:35 p.m.

**Commissioner Dale moved to approve a Conditional Use Permit for a lunch truck to be located at 324 N Main Street by Andres Herrera with the following conditions:**

1. **Hours of operation are restricted to Monday thru Saturday 10 am to 6 pm**
2. **Health Department approval to be obtained.**
3. **Inspection of vehicle be completed and approved by Tooele City building inspector.**
4. **Lunch truck to be in the parking lot and out of public way.**
5. **Truck location to not be disruptive to traffic flow in parking lot.**

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

3. **Review and Approval of Planning Commission minutes for meeting held January 23, 2008.**

Chairman Milne noted on page 7, paragraph 9 should read; Chairman Milne stated that there is an Ordinance that prohibits people from parking on the sidewalk and or park strip. Commissioner Gowans noted that on page 5, Kip Martin should be changed to Kip Mautner.

**Commissioner Gowans moved to approve the minutes with the changes stated above.** Commissioner Montano seconded the motion. All members present voted “Aye”.

**Commissioner Dale moved to adjourn the meeting to the discussion item.** Commissioner Gowans seconded the motion. All members present voted “Aye”. The meeting adjourned at 7:45 p.m.

### **Discussion Item: Double Frontage Lots**

Councilman Wardle stated that the vision of the Double Frontage Lots ordinance came from the Planning Commission. There is a concern about future developments with double frontage lots. Roger, Rachelle, Paul and Cary have worked diligently on several different drafts trying to resolve this issue. This solution didn't come easy because they had to balance market forces with what a government's job is. The administration has been very supportive in this

Ordinance. Future developments with double frontage lots will be at the cost of the developers, and home owners associations not taxpayers.

Councilman Wardle wanted to present this Ordinance to the Commission for feedback before the staff brings it back for a final draft. There are four sections to the Ordinance the first one is the definition. The second is the design standard. He stated that municipalities that use concrete, block or pre fabricated panels with a texture surface are the easiest to maintain and provide the nicest look for the City. They also want to make sure they have the anti-graffiti spray so they are easy to clean up. In the park strip there will be trees a minimum of every 35 ft, with a sprinkler system. They will be maintained by a home owners association (HOA). The HOA articles shall provide for a minimum HOA existence of thirty years.

Commissioner Gowans commented that the up front fees will be paid by the developer.

Councilman Wardle stated that there will be a bonding agreement in place. These are public improvements that will need to be done.

Ms. Custer stated that the staff is working on a list of materials that they will select from that will be part of the final ordinance.

Commissioner Montano agrees that double frontage lots are hard to maintain. He commented that to maintain and enforce double frontage lots is hard. He is also concerned that creating an HOA will drive the housing prices up in Tooele.

Councilman Wardle stated that was a discussion that was had when drafting this ordinance. It came down to raising taxes so the City could maintain or create special service districts either way they would drive a price somewhere. The concern was that they didn't place upon the taxpayers the burden of future development.

Commissioner Montano said that Tooele has been operating on the same tax rate for twenty years.

Chairman Milne asked if that is a benefit or a detriment that they haven't had to raise taxes.

Commissioner Montano said that the budget is stretched very thin.

Chairman Milne stated that if they raise taxes to get the extra benefits they would be passing on the costs uniformly to citizens that might not benefit to where those taxes are spent. HOA costs directly go to benefit the citizens of the development.

Commissioner Montano said that the cost of an HOA for these double frontage lots, could price Tooele out of the market.

Councilman Wardle noted that is a valid concern. Fortunately, Tooele is still extremely affordable compared to the Wasatch front. This would be minimal cost. He looked extremely close at the development of 4600 W and 7800 S in South Jordan. This development has a vinyl fence and they have gone to this type of masonry wall. This development looks very nice. This is the smallest amount of cost and still maintains the benefit they are trying to accrue. He doesn't think this will stop growth. They are trying to do everything possible to minimize double frontage lots.

Commissioner Montano also noted that with this ordinance, it doesn't matter how many lots a subdivision is there will be a HOA fee associated with it. That is his concern. How will it be enforced?

Councilman Wardle replied under number 4, provision c it states that it will be enforced through bonding. This is not a perfect solution. This is the best of the worst solution.

Mr. Baker stated that this is not an ideal solution, but after months of months of deliberation it is the best solution they could come up with.

Councilman Wardle stated that it is the best solution without raising taxes. If the City took this over and took over the maintenance on all future double frontage lots, it would cost the City approximately \$20,000 per year. That is a greater cost, than what homeowners that join a HOA would pay. He believes that people would be willing to pay that cost to keep their area looking nice.

Commissioner Dale said that a home with a double frontage lot would have a higher property value than if it was fronting a major street. He also feels that people that have double frontage lots would much rather have a nice masonry wall and trees and attractive park strip than weeds. This would help their property value. It is a great benefit to the City to have some uniformity. There is an additional cost to the developer, but once it is spread out between all of the lots the cost is very minimal. Commissioner Dale stated as a municipality along the Wasatch front, Tooele is probably one of the only ones that do not have these types of requirements. He would like to see some options in areas where there are special service districts or the opportunity to joint a special service district. He would like to see options in those areas to have grass, trees and additional landscaping instead of the concrete.

Mr. Baker stated that they don't anticipate a number of service districts to maintain these types of items. The North Tooele Special Service District came about through a very contentious process. They had to form a second district for the Copper Canyon subdivision. They face very significant legal hurdles of how to get any money out of the district. The ability to tax does not yet exist and cannot exist without an election. Though it might be a better long term solution the hurdles to get there are too significant.

Commissioner Dale stated that he was not proposing additional districts, within those areas (i.e., Overlake, Copper Canyon, Sunset), but where there are already districts to provide maintenance he would like to see if there were options that would allow other provisions. There will be larger phases that are already part of the district and areas that would be in their best interest to annex into the special service district. If there were provisions to allow other alternatives he feels that would be beneficial.

Councilman Wardle asked for clarification for the special service districts for Overlake and Sunset estates. Are they currently part of the PUD or a DA?

Mr. Baker stated that they each have DA that dictates their own standards for these types of improvements. In reference to Commissioner Dales question whether this ordinance should allow for existing districts to maintain such improvements that are constructed within the districts boundary. Mr. Baker said that is a good suggestion.

Councilman Wardle stated that this ordinance protects the City if someone wants to annex in the future. You can implement an HOA when they join the district but you can't always start an HOA if there not. If anyone on the east side of town wanted a district the electoral process would take care of that naturally.

Commissioner Dale stated that there is nothing in the ordinance that allows for the provision of special service districts. In the North Tooele Special Service District which does snow removal, cuts grass, prunes trees as well as other things, the cost on a \$200,000 home is about \$30 per year. The cost to simply plow snow and water trees would be minimal.

Councilman Wardle said that he believes that this ordinance will dictate more quality homes in Tooele.

Commissioner Gowans asked what the ability of the City is legally to have and maintain an HOA? In the ordinance it states that it has to be maintained for at least thirty years. He asked what is the penalty if they don't?

Mr. Baker said that the City can require as a condition of the subdivision approval that they create an HOA. They can also require the written document that creates it that it apply for a life of at least thirty years. They have very little ability to enforce it. This is not a perfect solution.

Councilman Wardle stated that with the original idea for this was for the City to take maintain the double frontage lots. He and Mr. Baker attended a conference in August and this idea bridged the political gap, it would not have come forward in the original form.

Commissioner Montano asked if no cinderblock was allowed.

Councilman Wardle said that is the intent.

Commissioner Montano said that it would be easier to go forward that with this to say that the concrete needs to be earth tone.

Chairman Milne said that there are some earth tones that are pink.

Councilman Wardle said 90<sup>th</sup> South in West Jordan is what prompted that part of the ordinance. They have a fuchsia wall that is earth tone. That is a concern.

Mr. Baker said that they do include in the ordinance that the concrete color should be of earth tone colors, then they give examples of acceptable colors and colors that are not acceptable.

Commissioner Montano said that when an ordinance is written he worries that sometimes they are too vague. He would like to make sure that every thing is defined clearly in the ordinance.

Councilman Wardle stated that under section number 2(d)(ii), they want to have some design variety so they can give the developers some choices. They want to allow for flexibility that the market might dictate but no so flexible that they can make the pillars higher than 20 ft.

Commissioner Montano asked if gates would be allowed on the double frontage lot?

Mr. Baker said that he feels gates should be prohibited.

Commissioner Montano said that the issue of a gate has been brought up before. It needs to be clear.

Councilman Wardle said that the minimum that they can do in the parks strip is stamped concrete. If the HOA chooses to have grass instead that is their discretion. They have to have a sidewalk.

Mr. Baker stated that the ordinance states that stamped concrete is required they don't have the option on double frontage lots of something else.

Ms. Custer stated the reason that stamped concrete was decided for this ordinance is if the HOA is ever abolished and the City had to maintain it would be easier for the City.

Commissioner Gowans asked if trees were mandatory. Mr. Baker said "yes".

Commissioner Montano wanted to verify for his understanding that there will be a park strip that will be stamped concrete and trees, a sidewalk and then the fence against the property. This will be the least amount of maintenance for whoever gets stuck with it.

Councilman Wardle said that is what they are trying to do.

Commissioner Dale said the under (2)(a)(i) where it talk about earth-tone colors, he likes the intent of that but he believes there will always be different interpretations of what those colors would be. He stated that the color should be subject to the approval of someone in the City to define the color.

Mr. Baker said that he has done everything he can to remove discretion from this ordinance. It is best to define the colors or the parameters in the ordinance itself.

Commissioner Dale asked what if a developer comes in with his interpretation of a color that looks pink but is defined as an earth-tone color.

Councilman Wardle said that the Commission would not let a developer get away with that.

Commissioner Dale asked if the Ordinance does not let the developer get away with that as it is written.

Councilman Wardle said that it does.

Mr. Baker said that it hard to define color. He is open to suggestion on how to tighten up the language. He also said that it is hard to be rigid and flexible at the same time.

Commissioner Dale said that someone needs to be able to interpret what a certain color is.

Mr. Baker said that is a fine distinction of enforcement and discretion. The City administration will enforce this. Part of the enforcement authority will decide whether a color is the wrong color or not. That is different than discretion where someone wants to add colors that are not in the ordinance. There is a little vagueness.

Commissioner Dale asked if there was a way to protect the City and add to the ordinance, that final determination to whether this is an approved color is solely up to the discretion of the City.

Mr. Baker replied that can be added.

Commissioner Gowans said there needs to be some wiggle room. You can put conditions upon the developer as long as you're not trying to run them out of business. The City needs to allow some choice to the developer. He says this is a good draft ordinance. This ordinance addresses some problems that the City is having with double frontage lots.

Councilman Wardle stated by not dictating everything they allow for a variety in within the City. The City is trying to strike a balance with the developers.

Councilman McCall recalls in a meeting that he attended that the administration would try to make sure that the fence that is put up by the developers match each other.

Ms. Custer said that they will ask the developers to look at that but they won't require that because they want some individualism between the subdivisions.

Mr. Baker said that if they have done their job right that any wall that goes up will be consistent with any other wall that goes up.

Commissioner Montano said that the size of the trees that are planted in the park strip should be addressed in the ordinance.

Ms. Custer said that is a park strip tree ordinance that will be referenced and they will have to be planted according to that ordinance.

Commissioner Montano asked if a cage is required to be around the tree? His concern is that it is addressed specifically so no one can question it.

Councilman Wardle said that 2(a)(iv) addresses the metal grate that will go around the tree.

Mr. Baker said that the ordinance requires a 2" caliper tree.

Councilman Wardle continued to say that not only does this ordinance address the grates around the trees but it allows for market forces so if the grates change in the future they won't have to re-write the ordinance.

Commissioner Dale said that he has found with a minimum of a 2" caliper tree if it is properly maintained and watered for two years, once it is established typically they will do just fine, even if it is never watered again. If the developer is bonded for at least two years from when the trees go in they should do just fine.

Mr. Baker said there is a cross-reference for the tree bonding in this ordinance.

Commissioner Montano wanted to clarify that gates will not be allowed through the fence.

Mr. Baker said that his recommendation would be not to allow gates, it destroys the visual effect and purpose of the wall.

Councilman Wardle said that the purpose of gates before was for maintenance but the maintenance issue is being dealt with this ordinance. There will be no gates on the double frontage lot side of the property.

Mr. Baker said that this ordinance is in statute format, he will bring it back as an ordinance that states why they are doing it. He has written notes on the comments tonight and he will address those. Councilman Wardle and Mr. Baker discussed before the meeting if this will only be for residential or if it will apply to commercial as well. He would like to see it addressed for residential only.

Councilman Wardle said that commercial developments should be dealt with separately.

Commissioner Dale commented that this ordinance requires double frontage lots they have to have the textured color concrete, they have to have the masonry wall and it doesn't allow for any variations. He agrees with that. He lives in a situation where there is something else and a different entity that addresses maintenance, this doesn't address those situations where there are existing special service districts, or the ability to annex into an adjacent special service district to allow for flexibility. The special service district would have to accept the annexation as well.

Mr. Baker stated that they could add that the design guidelines for those developments that are incorporated into a special service district can meet the guidelines that already exist within that district.

Ms. Custer commented that part of the intent was not only low maintenance but low water usage as well.

Mr. Baker stated that for an existing district they don't want to impose a drastic different standard.

Commissioner Montano noted on the second page that it states the wall shall not contain cinderblock, but on the first page it says the wall shall be masonry block.

Councilman Wardle said that if you read further on it will be defined. It will be chosen from a list of wall material types, the list being on file with the Public Works Department.

Mr. Baker stated that what may at first looked like an inconsistency is actually establishing a general rule of the masonry block, but cinderblock is not one of those allowed materials.

Councilman Wardle said that they have a list of blocks they can use, so they have variety with boundaries.

Mr. Baker said that administratively they will develop a list of approved wall materials.

Commissioner Montano asked if the walls will be solid or if rod iron fencing will be allowed?

Mr. Baker said that they want solid walls. You have to do something on the double frontage lots that isolate them from the fast track of the arterial.

Councilman Wardle thanked the Commissioners. They will work on the issues that they have been raised at this meeting.

Chairman Milne thanked the City Staff and Councilman Wardle.

Approved this 20<sup>th</sup> day of February 2008

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Chairman Milne