

TOOELE CITY PLANNING COMMISSION MINUTES
November 12, 2009

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

Commission Members Present:

Ken Spence, Chair
Shawn Milne
Jerald Sagers
Phil Montano
Gary Searle
Fran Garcia

Commission Members Excused:

John Curwen
Bob Gowans
Steve Dale

City Employees Present:

Rachelle Custer, City Planner
Matt Johnson, Assistant City Attorney

Minutes prepared by Elisa Jenkins

Chairman Spence called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Searle.

2. PUBLIC HEARING and MOTION on a conditional use permit for a 24 ft tall 1,800 sq ft detached RV garage to be constructed at 302 N 100 W by Delbert Beebe.

Presented by Rachelle Custer

Ms. Custer explained that Mr. Beebe is requesting to construct a 24 ft tall 1,800 sq ft detached building for vehicle and RV storage on his property at 302 N 100 W. City code requires all accessory structures over 15 ft tall and over 8% lot coverage to have a conditional use permit. The 1,800 sq ft building will require conditional use for 14% lot coverage. Staff recommends approval of the conditional use permit with the following conditions:

1. All lighting placed on the structure face down and not bleed onto neighboring properties.
2. Structure be a minimum of 5 ft from the property line.

Commissioner Montano thanked the applicant for the drawings included in the packet. He reviewed the calculations and everything meets the requirements. He also noted that this is an established neighborhood and the applicant can pick the color for the detached building.

Commissioner Spence noted that this will be a metal building.

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

Commissioner Milne moved to close the public hearing. Commissioner Garcia seconded the motion. All members present voted “Aye”. The public hearing closed at 7:05 p.m.

Chairman Spence moved to approve the conditional use permit to construct a 24 ft tall 1,800 sq ft detached RV building to be located at 302 N 100 W with the following conditions:

- 1. All lighting placed on the structure face down and not trespass onto neighboring properties.**
- 2. Structure be a minimum of 5 ft from the property line.**

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

- 3. PUBLIC HEARING and MOTION on a conditional use permit for an 18 ft tall detached garage to be located at 480 N 200 W by Jake Newkirk.**

Presented by Rachelle Custer

Ms. Custer explained that Mr. Newkirk is requesting to construct an 18 ft tall 1,050 sq ft detached garage on his property at 480 N 200 W. City code requires all accessory structures over 15 ft tall to have a conditional use permit. The structure covers 5% of the lot and does not require conditional use for the lot coverage. Mr. Newkirk is replacing an old garage and grain silo with a new detached garage. Staff recommends approval of the conditional use permit with the condition that all lighting placed on the structure face down and not bleed onto neighboring properties.

Commissioner Montano reviewed the calculations and everything looked good.

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

Commissioner Milne moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted “Aye”. The public hearing closed at 7:07 p.m.

Commissioner Milne moved to approve a conditional use permit to construct a 18ft tall detached garage to be located at 480 N 200 W with the condition that all lighting placed on the structure face down and not trespass onto neighboring properties.

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

4. PUBLIC HEARING and RECOMMENDATION on ordinance 2009-15 an ordinance amending Tooele City code sections 7-5-3 and 7-14-5 regarding the approval of conditional uses.

Presented by Rachelle Custer

Ms. Custer stated that this ordinance clarifies an existing ordinance with some legal clarification. She explained that the City requires the applicant of a conditional use permit to get the names of the property owners within a 200’ radius of the property from the County. This ordinance states that the applicant will pay for any fees associated in obtaining the notices for the conditional use. She also noted that they struck out some vague language regarding approval and denial of a conditional use permit and added number 7-5-3(4) which is more in depth as to what type of items can be looked at for a conditional use permit for approval and at what point a conditional use may be denied. Accessory structures were also added to the ordinance.

Commissioner Spence noted that most changes were for legal clarifications.

Commissioner Montano thought that the applicant of a conditional use permit had to send out notices to those within a 300’ radius not a 200’ radius. He asked why the radius was changed.

Ms. Custer indicated that it has been a 200’ radius in all of her experience. She believes that is per state law. She indicated that the applicant goes to the County to get a plat and the County gives the applicant the names and addresses of those within a 200’ radius of the property. The extra fee is the fee that is paid to the County to get the printout of the property owner’s names and addresses. The City sends the letters but there is no additional cost it is included in the \$75 conditional use fee.

Commissioner Montano feels that a 300’ radius would be more fair.

Ms. Custer indicated that the current code is 200’, but it is something that can be looked at.

Commissioner Montano asked for clarification on number (4).

Ms. Custer explained that if the Commission can impose reasonable conditions to mitigate any adverse impacts they must approve the conditional use permit. If there are impacts that cannot be mitigated with reasonable conditions then the conditional use can be denied.

Commissioner Montano is concerned about the word “reasonable”. He feels that word may be interpreted in many ways.

Mr. Johnson indicated that reasonable may have some gray area. He is concerned if you don’t use the word reasonable then the City could get unreasonable requests for a conditional use. He also understood that this language was used to reflect the current common law.

Commissioner Spence noted that in number (3) the language that was taken out was “After consideration of the evidence the Planning Commission may deny, grant, or grant subject to conditions the conditional use permit”. In number (4) it clarifies the approval.

Mr. Johnson noted that (4) was added to clarify that if the Planning Commission denies a conditional use it has to be because they can not find any reasonable conditions to mitigate it.

Commissioner Sagers asked if there is a definition for “reasonable”.

Mr. Johnson indicated that the term reasonable is used to keep from getting outrageous conditional use applications. He also noted that the term reasonable is used often in the legal profession and there is a potential to have differing opinions. He said that he is open to suggestions but not sure what other word would fit.

Commissioner Montano understands that they get unreasonable applications. He does not have a suggestion for a better word. He is concerned about the gray area. He is concerned if someone challenges this.

Chairman Spence stated that there are times when the verbage is subjective.

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

Commissioner Milne moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted “Aye”. The public hearing closed at 7:20 p.m.

Commissioner Milne stated that there are several members on the Commission to help figure out what is considered reasonable. All the Commission members vary in their opinion; the sampling that is traditionally present at the meetings reflects that they try to provide the very best of what they collectively think is reasonable. He understands that the ordinance has to be broad enough to include everything but not to specific.

Commissioner Milne moved to make a positive recommendation to City Council on ordinance 2009-15 an ordinance amending Tooele City code sections 7-5-3 and 7-15-5 regarding the approval of conditional uses. Chairman Spence seconded the motion. All members present voted “Aye” except for Commissioner Montano who voted “Nay”. Commissioner Montano feels that the word reasonable is too vague.

5. **Review and Approval of Planning Commission minutes for meeting held September 23, 2009.**

Commissioner Milne moved to approve the minutes as presented. Commissioner Sagers seconded the motion. All members present voted “Aye”.

6. **Review and Approval of Planning Commission minutes for meeting held October 28, 2009.**

Commissioner Milne noted one correction on page 3.

Commissioner Milne moved to approve the minutes with the change as noted. Commissioner Sagers seconded the motion. All members present voted “Aye”, except for Commissioner Garcia who abstained because she was not present at the meeting.

7. **Adjourn**

Commissioner Milne moved to adjourn the meeting to a discussion item. Commissioner Sagers seconded the motion. All members present voted “Aye”. The meeting adjourned at 7:25 p.m.

Discussion

1. **Sustainable Development Principles**

Approved this 9th day of December 2009

Chairman Spence