

TOOELE CITY PLANNING COMMISSION MINUTES
March 11, 2009

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

Commission Members Present:

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

Commission Member Excused:

Bob Gowans

City Employees Present:

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

Others Present:

Debbie Winn, Chamber of Commerce

Minutes prepared by Elisa Jenkins

The meeting was called to order by Chairman Spence at 7:00 p.m. Chairman Spence excused Commissioner Gowans from the meeting.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Garcia.

2. PUBLIC HEARING and RECOMMENDATION on preliminary plan approval for Brown subdivision. A two lot 5.93 acre subdivision to be located at 375-349 N 1000 West by Phillip Brown.

Presented by Rachelle Custer

Ms. Custer explained that Mr. Brown currently owns a one acre lot and he is re-subdividing this lot to bring into compliance with today's ordinance for a single family residential dwelling. It is only about 60' in width and is re-subdividing to make it 100' in

width. Mr. Brown is taking the lot and making it wider and shorter. There is a 16.5 strip to be dedicated as a public right of way along lot 1. Because of the dedication preliminary and final approval is required. Mr. Brown is requesting a deferral on public improvements for lot 2 until the time it develops. He will be required to construct improvements on lot 1, which is the lot he is building on. He is requesting an exception to constructing public improvement on the west side of 1000 West because they are already developed lots with single family homes. The deferral and exception will be requested of the City Council as part of their subdivision approval. The developer is required to construct all public improvements on lot 1 and to provide water rights for lot 1. Staff recommends approval of the two lot subdivision.

Commissioner Spence noted that the 16.5' strip does not go the full depth of the property.

Ms. Custer indicated that they are dedicating the length of the property on 1000 West so the City has a full road way dedication.

Mr. Baker asked if the Chairman Spence was asking if the dedication is only for lot 1 or if it for both lot 1 and 2.

Chairman Spence stated he just wasn't clear because lot 1 is a partial.

Ms. Custer stated that the strip goes all the way across 1000 West.

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 Garcia seconded the motion. All members present voted "Aye". The public hearing closed at 7:05 p.m.

Commissioner Milne moved to make a favorable recommendation to City Council on preliminary plan approval for Brown subdivision. A two lot 5.93 acre subdivision to be located at 375-349 1000 West. Commissioner Sagers seconded the motion. All members present voted "Aye".

3. **PUBLIC HEARING and RECOMMENDATION on final plat approval for Brown subdivision. A two lot 5.93 acre subdivision to be located at 375-349 N 1000 West by Phillip Brown.**

Ms. Custer indicated that when there is a right-of-way dedication the preliminary and final plat approval must be done this way.

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 7:07 p.m.

Commissioner Milne moved to make a favorable recommendation to the City Council for final plat approval for Brown subdivision. A two lot 5.93 acre subdivision to be located at 375-349 1000 West. Commissioner Sagers seconded the motion. All members present voted “Aye”.

4. PUBLIC HEARING and RECOMMENDATION on an ordinance amending Tooele City Code Title 7 Chapter 19 to allow flag lots for infill development.

Ms. Custer stated that the City has had several requests from people wanting to develop flag lots mostly along the alley ways of 50 West and 150 West. Those lots were originally constructed as large agricultural lots; they have since lost their agricultural zone and animal rights unless they were grandfathered. After speaking to the Planning Commission and the City Council the administration decided that flag lots would make a good infill for those larger lots. It would hopefully clean up the lots and allow them to be used. Water rights will be required, the lots will need to be subdivided, and they will have to follow the same subdivision procedure as any other subdivision. The ordinance is requiring a specific width for the staff and the lot must meet the minimum size required for the zone they are in. Staff feels that the undeveloped portions of these flag lots have a potential of creating a fire hazard and are a nuisance. This ordinance change will allow them to be cleaned up.

Chairman Spence noted that this is a general amendment change but Ms. Custer specifically mentioned 50 West and 150 West. He asked how many lots there were in those areas.

Ms. Custer said that she did not study how many lots there were, she looked at the areas of town where she thought this would be beneficial for infill. She said that this will only be recommended for infill, they are not recommending flag lots for new subdivisions or new developments.

Commissioner Montano stated that these lots already have a home on them, they will be re-subdivided and they will also have to bring in water rights to the City. He asked where they get the water rights.

Ms. Custer stated that there is a policy concerning water rights that was approved by the City Council.

Mr. Baker indicated that the policy approved by the City Council indicates when there is a single residential lot with an existing home and the lot is split into two the new lot can pay a fee in lieu of actually bringing water rights. The fee right now is \$15,000. That fee covers the cost for the City to acquire water rights for the lot. If it is a larger subdivision

than a single lot split with three or more lots they do not allow a fee in lieu of water rights they have to bring water rights. The developer would have to go out and buy them on the market from someone that owns them somewhere else and go to the State Engineers Office and have the nature of use changed to Tooele for municipal use. It does take some time.

Commissioner Montano said that the part he is struggling with is the home already has water rights. He said that someone who wants to develop a flag lot would have to pay for a building permit, impact fees and water rights, which he feels would price someone out of a lot. They could go somewhere else and build for less.

Mr. Baker said that the alternative would be for the City Council to allow residents to buy water rights for new developments through a property tax increase. Property taxes would go to the general fund and it would be used to buy water rights for new developments. The City Council has chosen not to do it that way, it is a policy decision. They have chosen to allow new developments to pay for their water rights. Market forces will effect whether the lot is every built upon.

Commissioner Montano indicated that these lots have been there for a long time and does not consider them to be new developments. He doesn't feel that they should be charged for water rights.

Commissioner Milne said that he respectfully disagrees with Commissioner Montano. He does not want to see the people of Tooele, especially the older residents on fixed incomes, have to pay for new development to come to Tooele. These older residents created this City where people want to live. He said that it is an unfortunate circumstance that people that want to subdivide a large lot to give it to family still have to pay for water rights. He understands that because of the current economics people might not want to pay for water rights to develop right now. He feels it is fair because the flag lots that were used for agricultural reasons are no longer used and have become a nuisance. It is fair that people that want to develop these pieces of property pay to have water.

Commissioner Montano said that most of these lots are at least 50 years old and most of those lots at those times were agricultural lots and had water.

Commissioner Montano asked if those lots had secondary water or culinary water.

Ms. Custer said that they had both.

Councilman McCall stated that Ms. Custer referred to 50 West and 150 West he asked if she was referring to the lots in the back. He asked why they are considered flag lots if they have access from the back.

Ms. Custer said that the public improvements ordinance would require the alley to be fully improved with, water, sewer, curb and gutter, sidewalk, asphalt and in some of those areas that is not done. This would give them another avenue to develop.

Commissioner Montano asked if someone decided to build a home in the middle section of one of the alleys on one of the flag lots are they required to make improvements on their side of the road only.

Ms. Custer said they would have to do curb and gutter across the street according to the ordinance.

Commissioner Montano questioned that if the other side of the street is not developed then they would have to develop the other side as well as their side.

Ms. Custer stated that you would have to put in curb and gutter on the other side. You are only required to put in sidewalk and curb and gutter on your side.

Commissioner Dale noted in paragraph (g) it says “The flag square footage shall be the same or greater than the minimum square footage as required in the underlying zone, exclusive of the staff.” He has seen in other jurisdictions where the flag lot has to be bigger than the standard lot. This would create some separation and would not be obtrusive to the neighbors.

Chairman Spence stated that the flag portion of the lot has to meet whatever the zoning requirements are.

Ms. Custer said that when you take the staff portion out of the existing lot that comes out of the existing lot square footage. They might have to make the existing lot a little longer to maintain the 7,000 – 8,000 sq ft.

Commissioner Milne asked if both lots would have to comply.

Ms. Custer said yes.

Commissioner Dale asked if the non flag lots have to meet the width.

Ms. Custer said yes.

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

Debbie Winn asked where the home that would be built on the flag lot would hook to the sewer and water.

Ms. Custer said they would bring it off the main road and down the staff to the home.

Matt Hilderman, 465 W 670 N, addressed the Commission. He stated that he is a planner with Tooele County. He came to get some information. He asked how the fire department feels about building on the flag lots.

Ms. Custer said that the fire department has reviewed the ordinance. In the ordinance it says that the whole development must meet the fire code. The ordinance also addresses fire hydrants.

Mr. Hilderman asked if it is a private driveway.

Ms. Custer said yes. She will give Mr. Hilderman a copy of the ordinance and any other information that he would like.

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

Chairman Spence moved to make a favorable recommendation to the City Council on an ordinance amending Tooele City Code Title 7 Chapter 19 to allow flag lots for infill development. Commissioner Milne seconded the motion. The vote was as follows:

Ken Spence, Aye
Shawn Milne, Aye
John Curwen, Aye
Fran Garcia, Aye
Jerald Sagers, Nay
Phil Montano, Nay
Gary Searle, Aye

Commissioner Montano indicated that he feels imposing water fees, impact fees, and building permit fees it restricts the building on these lots. He also disagrees with making the developer put curb and gutter across the street on property they do not own. He feels that this makes the lot unbuildable.

Commissioner Sagers would like to see the flag lots developed, but feels that this puts an extra burden on the property owner

5. Review and Approval of meeting minutes for Planning Commission meeting held February 25, 2009.

Chairman Spence gave one change to Mrs. Jenkins.

Commissioner Milne moved to approve the minutes with the correction by Chairman Spence. Chairman Spence seconded the motion. All members voted “Aye” except for Commissioner Garcia who was not present at the meeting.

6. Adjourn

Commissioner Milne moved to adjourn the meeting. Commissioner Sagers seconded the motion. All members present voted “Aye”. The meeting adjourned at 7:28 p.m.

Approved this 25th day of March 2009

Chairman Spence