

TOOELE CITY PLANNING COMMISSION MINUTES
August 26, 2009

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

Commission Members Present:

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

Commission Member Excused:

Phil Montano

City Employees Present:

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

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 Chairman Spence.

2. Public Hearing and Recommendation on preliminary plan approval for Sunset Estates phase 5 and 6 a 55 lot single family residential subdivision by Hallmark Homes.

Presented by Rachelle Custer

Ms. Custer explained that the developer, Hallmark Homes, is requesting preliminary plan approval to develop Sunset Estates phases 5 & 6. This development will contain 55 single family lots. The zoning is R 1-8 with a minimum lot size of 8,000 sq ft. Staff recommends approval of the preliminary plat with the condition that Sunset Estates phases 5 and 6 join the North Tooele Special Service District (NTSSD) or comply with the Tooele City double frontage lot standards.

Chairman Spence asked where the double frontage lots are located?

Ms. Custer stated that the double frontage lots will be on 2000 North and 400 West. She said that when Sunset Estates was annexed into the NTSSD this piece of property did not belong to Sunset Estates and therefore it was not included in the annexation.

Commissioner Milne asked if the other phases are in the NTSSD?

Ms. Custer said yes. Phases one through four are in the NTSSD.

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

Tom Nixon with Hallmark Homes addressed the Commission. Mr. Nixon said that five years ago when they developed the other phases of Sunset Estates he felt they were pushed to join the NTSSD. He was not happy about it at the time but it was a condition of the approval. He is still not happy about it but they are willing to join the NTSSD for phases 5 & 6. He stated that on 400 West there does not appear to be any maintenance taking place. He asked if he joins the NTSSD if it will be maintained or will it look like 400 West does now?

Commissioner Dale said that the improvements to the south of the area Mr. Nixon referred to have not been completed by the previous developer. It is still the responsibility of that developer. The area to the north of 2000 N and 400 W is a part of the NTSSD and will be maintained by the district.

Mr. Nixon stated that he has been asked to make improvements, and to the south things have not been improved, that is what he does not agree with.

Mr. Baker indicated that Tooele City has been involved in litigation with Tooele Associates for several years and in June the jury reached a verdict and found that Tooele Associates had breached the development agreement by not constructing the improvements that were required pursuant to the construction drawings on 400 West Phases 1B and 1C. The jury awarded the City damages for those improvements, but the same jury awarded damages to Tooele Associates against the City. Who will pay what has yet to be sorted out in court. Mr. Baker stated that the developer is in no means excused from constructing those improvements. When it is finished the NTSSD will maintain it.

Adam Jacobsen, 365 W 1850 N addressed the Commission. Mr. Jacobsen feels that 2000 North should look the same on both sides all the way down. He feels it is the right thing to do to have this developer join the NTSSD.

Maresa Manzione, 1979 N 120 West. She echoed what Mr. Jacobsen stated. She would also like to see 2000 North look the same.

Commissioner Gowans moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted “Aye”. The public hearing closed at 7:09 p.m.

Commissioner Milne agreed with the citizens that he feels that 2000 N should look the same and should have the same expectation as the prior phases as part of the NTSSD.

Chairman Spence asked if in the Commission’s recommendation they should give the applicant the choice of joining the NTSSD or complying with the Tooele City double frontage lot standards.

Ms. Custer stated that the applicant needs to request to be annexed into the NTSSD. He has not done that at this point. He expressed at this meeting that is his intention.

Mr. Baker indicated that it is the Commission’s discretion which way they would like to make their recommendation.

Commissioner Milne moved to make a positive recommendation to the City Council on preliminary plan approval for Sunset Estates Phases 5 & 6 a 55 lot subdivision consisting of 16.9 acres located at approximately 220 West 2000 North with the condition that Sunset Estates Phases 5 & 6 join the North Tooele Special Service District. Commissioner Searle seconded the motion. All members present voted “Aye”.

3. **Public Hearing and Recommendation on final plat approval for Sunset Estates phase 5 a 24 lot single family residential subdivision by Hallmark Homes.**

Presented by Rachelle Custer

Ms. Custer stated that Sunset Estates is requesting final plat approval for phase 5. They have not received final plat for phase 6 at this time. Phase 5 will have some of the NTSSD streetscape as well as street signs and street lights. Staff recommends approval of the final plat with the condition that Sunset Estates join the North Tooele Special Service District or comply with the Tooele City double frontage lot standards.

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 7:12 p.m.

Commissioner Milne moved to make a positive recommendation to the City Council on final plat approval for Sunset Estates Phase 5 a 24 lot subdivision located at approximately 220 West 2000 North with the condition that Sunset Estates phase 5

join the North Tooele Special Service District. Commissioner Sagers seconded the motion. All members present voted “Aye”.

4. **Public Hearing and Motion on conditional use permit for a building expansion to include a new Women’s Center and internal expansion of surgical services at 2055 N Main Street by Mountain West Medical Center.**

Presented by Rachelle Custer

Ms. Custer explained that Mountain West Medical Center is requesting a CUP to construct a 16,000 sq ft addition to house a new Women’s Center. This addition will allow for the surgical services to be expanded by allowing the use of the existing women’s center space. Ms. Custer showed the drawings of the addition to the Commission and the audience. Mountain West Medical Center is providing 9 additional parking spaces. This is a conditional use because it is medical facility. Staff recommends approval of the conditional use permit with the condition that the temporary egress constructed on the West side of the site connecting to 2000 N be paved and that access easements be secured and recorded for the access on lot 2 as well as for the detention facility on lot 2. Ms. Custer stated that there are three lots and they are all owned by the hospital but they are separate lots so they are requiring these recorded documents in the event that the hospital sold a lot the City would be protected. Ms. Custer indicated that hospital administration and the designers are here if the Commission has any questions.

Chairman Spence asked if the additional nine parking spaces will be sufficient?

Ms. Custer stated that the City requires one parking space for every two patient beds. They will add thirteen beds so they will meet the requirement. They are also providing 13-15 parking spaces for staff (along the north property line) in addition to the nine (located immediately west of the entrance).

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 Gowans moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted “Aye”. The public hearing closed at 7:15 p.m.

Commissioner Milne moved to approve a conditional use permit to construct a new Women’s Center addition to the existing hospital at 2055 N Main Street with the conditions that the temporary egress constructed on the west side of the site connecting to 2000 N be paved and that access easements be secured and recorded for the access on lot 2 as well as for the dentition facility on lot 2. Commissioner Sagers seconded the motion. All members present voted “Aye”.

Commissioner Milne thanked the hospital for their continued commitment to the community.

5. Public Hearing and Motion on a conditional use permit for a recycle processing facility to be located at 1500 W Atlas Way by Green Box Recycling.

Presented by Rachelle Custer

Ms. Custer indicated that Green Box Recycling is a new business at the Utah Industrial Depot. They are currently doing recycling collection and would like to start processing. There is a memo in the Commissioners packet that explains what they would like to do in their processing facility. This conditional use permit would allow them to have more than four bins. One thing that has been removed from the applicant's application is mercury containing items. Staff is recommending approval of the conditional use permit with the condition that no hazardous materials, including mercury, be handled at this location.

Mr. Baker stated that City Code prohibits storage and handling disposal of all hazardous waste, including mercury within the City limits.

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 Searle asked the applicant if he will be advertising more? He uses the blue bags to recycle and this business would save trips to Salt Lake.

Mr. Dayne Applegate, the applicant, stated that it depends on how things go at this meeting they are going to have an open house on Friday and try and get the word out. He said that they have a website where people can go to learn how to prepare items and then drop them off at their facility.

Councilman McCall asked if they will have drop off locations in town and if the Mayor is aware of their company because he has been interested in recycling for the City.

Mr. Applegate stated that they wanted to start with drop off locations. He stated that the Mayor is aware of this company.

Councilman McCall asked if their prices will be competitive.

Mr. Applegate stated that they will be competitive because they are local.

Adam Jacobsen asked the Commission where you get the blue bags for the City's recycling program?

Commissioner Searle stated that you can buy the blue bags at Wal-Mart. He stated that if you put your recycling in a blue bag and put it in the garbage it will get recycled at the landfill.

Commissioner Milne moved to close the public hearing. Commissioner Garcia seconded the motion. All members present voted “Aye”. The public hearing closed at 7:12 p.m.

Commissioner Milne thanked the applicant for proposing this type of business; it is welcome in this community. This will be a valuable resource.

Commissioner Milne moved to approve a conditional use permit to operate a recycling process center at 1500 W Atlas Way with the condition that no hazardous materials, including mercury, be handled at this location. Commissioner Sagers seconded the motion. All members present voted “Aye”.

6. **Public Hearing on conditional use permit for an in home daycare/preschool to be located at 245 W 700 N by Cozette Newman.**

Presented by Rachelle Custer

Ms. Custer stated that Ms. Newman is requesting a conditional use permit for an in-home day care/preschool to be located in her home at 245 W 700 N. Day care/preschool is allowed as a home occupation with a conditional use permit. A layout of her yard is included with the Commissioner’s packet. Staff recommends approval of the conditional use permit with the following conditions:

1. No more than 8 children at one time.
2. Hours of operation to be between 6:00 a.m. and 6:30 p.m. Monday through Friday.
3. Fenced rear yard be provided for the children.
4. State Residential Child Care Certificate is obtained.
5. Tooele County Health Department Inspection approval.
6. Building Inspection approval.

Chairman Spence asked if a 4’ or 6’ fence is allowed?

Ms. Custer recommended a 6’ fence.

Commissioner Milne asked what kind of fence is required?

Ms. Custer indicated chain link, wood or vinyl. The fence should have cemented posts.

Commissioner Searle thought for safety reasons it should be a 6’ fence.

Commissioner Milne noted that a chain link fence is not permitted in this neighborhood.

Commissioner Gowans asked if this applicant will allow for ADA access for handicap children? He noted that usually if the applicant can not take care of handicap children a letter from them is on file.

Ms. Newman said that she will not be able to take handicap children.

Ms. Custer indicated that the City will get a letter from the applicant regarding handicap children.

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

Ms. Custer read a letter from Patricia McWhorter who was against the daycare because of noise concerns. (This letter is included with the minutes as Exhibit A).

Ms. Custer also received a statement from Sharon Gates who lives next door to the applicant and was also against this conditional use permit for a daycare. (This statement is included with the minutes as Exhibit B).

Commissioner Searle moved to close the public hearing. Commissioner Garcia seconded the motion. All members present voted “Aye”. The public hearing closed at 7:29 p.m.

Commissioner Milne noted that the noise issue has come up before. The Planning Commission may impose conditions on the applicant to mitigate any adverse impact to the neighbors; however it is hard to control noise. A daycare/preschool is an allowed home occupation. He asked Ms. Newman to keep her neighbors concerns in mind.

Chairman Spence noted that the noise issue falls under a different ordinance.

Commissioner Searle moved to approve a conditional use permit for an in-home day care/preschool to be located at 245 W 700 N with the following conditions:

- 1. No more than 8 children at one time.**
- 2. Hours of operation to be between 6:00 a.m. and 6:30 p.m. Monday through Friday.**
- 3. Screened fenced rear yard be provided for the children.**
- 4. State Residential Child Care Certificate is obtained.**
- 5. Tooele County Health Department Inspection approval.**
- 6. Building Inspection approval.**
- 7. A letter from the applicant is provided for handling handicap children.**

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

7. **Public Hearing and Motion on conditional use permit for a 16ft tall 1280 sq ft detached garage to be located at 428 E 500 N by John Hicks.**

Presented by Rachelle Custer

Ms. Custer explained that Mr. Hicks is requesting a conditional use permit to construct a 16 ft all accessory structure at his home located at 428 E 500 N. The accessory structure is allowed up to 15' in height, anything above that requires a conditional use permit. Staff recommends approval of the conditional use permit with the condition that any lighting placed upon the structure is directed down onto the site and not flood onto neighboring properties.

Commissioner Searle asked the applicant if the accessory structure will sit equal with his home which is 47' back from the property line?

The applicant stated "yes".

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 7:35 p.m.

Chairman Spence moved to approve the conditional use permit to construct a 16 ft tall 1,280 sq ft garage to be located at 428 E 500 N with the condition that any lighting placed upon the structure be directed down onto the site and not flood onto neighboring properties. Commissioner Milne seconded the motion. All members present voted "Aye".

8. **Public Hearing on conditional use permit for a 24 ft tall 2,352 sq ft building to be located at 481 N Broadway by Travis Hollien.**

Presented by

Ms. Custer stated that Mr. and Mrs. Hollien are requesting a conditional use permit to construct a 24 ft tall 2,352 sq ft accessory structure at their home located at 481 N Broadway. The accessory structure is allowed up to 15 ft in height and up to 8% lot coverage. The structure will occupy 9.5% of the lot. The total lot coverage allowance is 35% with the accessory structure the total lot coverage on this lot will be 17.15%. Staff recommends approval of the conditional use permit with the condition that any lighting placed upon the structure is directed down onto the site and not flood onto neighboring properties.

Commissioner Milne asked the applicant if this structure will be on the outside of his fenced area on his property?

The applicant stated the fence the Commissioner Milne is referring to will be taken down.

Commissioner Milne asked if the structure will be put on the empty parcel in the back of the lot.

The applicant stated “yes”.

Ms. Baker asked Ms. Custer if she knows what is on the surrounding property so they can make sure the structure will be at least 6’ away from any structures?

Ms. Custer stated that she believes it to be residential but she does not know the proximity of the homes to the applicants property line.

Mr. Baker noted that it would be hard to access whether there are adverse impacts on the height and size if the surrounding area is not known.

The applicant stated that he will not be any closer than 6’ from the property line. He might adjust it out to 10’. The lot behind him is vacant. The house to the south of his sits about equal to his from the road.

Commissioner Curwen noted that the surrounding property owners did not come to the public hearing.

Ms. Custer indicated that they notified all property owners within a 200’ radius.

Mr. Cary Campbell asked the applicant the purpose of the height for this accessory building?

The applicant stated it is for RV storage.

Mr. Paul Hansen tried to locate the property on Google Earth to show the Commissioners where the property was located. He left the meeting to find an aerial view of the property.

Commissioner Milne moved to table this item until after agenda item 9 while an aerial view of the property is found. Commissioner Searle seconded the motion. All members present voted “Aye”.

The Commission continued to discuss this item after they discussed item 9.

Mr. Hansen showed an aerial view of this property on the overhead screen for the Commission and the audience. (A copy is included with the minutes as Exhibit C).

Ms. Custer noted that there are not any structures near the proposed building.

Mr. Hansen asked the applicant if the aerial photo represents all current structures?

The applicant stated that the aerial photo does represent all current structures. He will also be landscaping and making the street look much nicer.

Commissioner Milne asked the applicant if he is considering a second drive approach.

The applicant stated “no”, his drive approach is sufficient.

Commissioner Spence asked Ms. Custer if they are addressing the height issue and the lot coverage.

Ms. Custer said not total lot coverage just the lot coverage of the building itself and the height of the building.

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 Gowans seconded the motion. All members present voted “Aye”. The public hearing closed at 7:57 p.m.

Commissioner Milne moved to approve the conditional use permit to construct a 24 ft tall 2,352 sq ft accessory building at 481 N Broadway with the condition that any lighting placed upon the structure be directed down onto the site and not flood onto neighboring properties. Commissioner Garcia seconded the motion. All members present voted “Aye”.

9. Public Hearing and Motion on conditional use permit for accessory outdoor sales to be located at 1118 N Main Street by Headquarter Wholesale.

Presented by Rachelle Custer

Ms. Custer stated that this location is the old Sonic Building. She stated that Headquarter Wholesale would like to lease the space to have gift shop. The reason for the conditional use permit is because they would like to put display racks outside the building. She stated that primary sales will be in the building but they would like to display around the building. Staff recommends approval of the conditional use with the condition that the outdoor display does not interfere with traffic or any of the accessible routes.

Chairman Spence asked if the old outside menu signs will be taken down.

Ms. Custer indicated that the applicant is not anticipating remodeling or changing anything.

Commissioner Searle indicated that this sounds like an outside flea market.

Councilman McCall agreed with Commissioner Searle. He also stated that there is not much room in the inside of the building.

Commissioner Searle stated that there are ordinances in the Gateway for landscaping, signage, and monument signs. This business sounds like it will have items hanging everywhere.

Commissioner Milne's concern was that there is not much room inside the building and asked where they would store the items that were outside the building at night and in the winter? This type of business would not reflect well in the Gateway Overlay of the City.

Commissioner Searle indicated that he does not think there are reasonable accommodations for this type of business at this location.

Ms. Custer stated that in order for this business to be allowed for outside sales it has to be accessory and incidental to what is sold inside.

Mr. Baker indicated that they may not get to the issue of a conditional use permit if it does not qualify for the definition of outdoor sales.

Ms. Custer stated that they have to sell the same items inside as they have outside.

Commissioner Milne noted that Sears has outdoor sales.

Mr. Baker stated that Sears is a good example of outdoor sales. The principle sales take place inside the building and there are a few items outside. If it is reversed where most of the sales activity takes place outside and a few items inside it might not qualify for accessory sales.

Commissioner Searle recalled this same discussion with some of the tire stores.

Commissioner Gowans echoed what Commissioner Searle said.

Commissioner Searle feels like this might look like Vorwaller trailer park with blankets and flags hanging on lines except this will be there everyday.

Mr. Campbell stated that if business was approved the first thing the building department would do is make them gut out the cooking facilities inside the building.

Commissioner Searle is opposed to this aesthetically.

Chairman Spence indicated that this building is designed for a drive through.

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

Robert Childs, 70 E 1100 N, addressed the Commission. He is the President of Tooele RV right across the street from this location. He is against this conditional use permit. He is concerned that people will park in his parking lot because there will be no where else to park at this business. He would like to see something done with this lot, but not this type of business.

Commissioner Searle also noted that the conditional use permit stays with the property.

Commissioner Garcia agreed that this type of business does not belong in the Gateway.

Commissioner Milne noted that an anchor business that is looking to move into Tooele would be more acceptable to a vacated Sonic than this type of business in the Gateway area.

Ms. Manzoine addressed the Commission. She indicated that she would not like to see this type of business at this location.

Commissioner Searle moved to close the public hearing. Commissioner Sagers seconded the motion. All members present voted "Aye". The public hearing closed at 7:50 p.m.

Mr. Baker suggested to the Commission that they not deny a conditional use permit on appearance but because it does not appear to meet the definition of an accessory outdoor sales business.

Commissioner Milne moved to decline the conditional use permit for accessory outdoor sales to be located at 1118 Main Street because it lacks the definition of accessory outdoor sales. Commissioner Searle seconded the motion. All members present voted "Aye".

10. Review and Approval of Planning Commission minutes for meeting held August 12, 2009.

Commissioner Milne moved to approve the minutes as presented. Commissioner Searle seconded the motion. All members present voted "Aye".

Commissioner Milne moved to adjourn the meeting. Commissioner Garcia seconded the motion. All members present voted "Aye". The meeting adjourned at 8:00 p.m.

Approved this 9th day of September 2009

Chairman Spence