

**PUBLIC NOTICE**

Notice is Hereby Given that the Tooele City Council will meet in a Business Meeting on Wednesday, October 2, 2019, at the hour of 7:00 p.m. The meeting will be held at the Tooele City Hall Council Room, located at 90 North Main Street, Tooele, Utah.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Mayor's Youth Recognition Awards**
4. **2019-2020 Library Bookmark Art Contest Winners**  
Presented by Bethany Cruz, Program Specialist
5. **Introduction of 2019-2020 Library Teen Advisory Council**  
Presented by Emily Spilker, Program Specialist and Tooele City Library Board
6. **Public Comment Period**
7. **Resolution 2019-70** A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with the Providence at Overlake Phase 3 Subdivision  
Presented by Paul Hansen
8. **Resolution 2019-72** A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with the Home Towne Court Development  
Presented by Paul Hansen
9. **Resolution 2019-71** A Resolution of the Tooele City Council Naming the City Hall South Driveway as "Dunlavy Way"  
Presented by Brad Pratt
10. **Public Hearing and Motion on Ordinance 2019-27** An Ordinance of Tooele City Amending Tooele City Code Sections 7-1-5; Definitions and 7-2-19; Home Occupations Related to Home Based Day Cares and Pre-School Businesses  
Presented by Jim Bolser
11. **Public Hearing and Motion on Ordinance 2019-24** An Ordinance of Tooele City Amending Tooele City Code Chapter 7-14 Residential Zoning Districts Related to Property Frontage Requirements in the In-Fill Zoning Overlay District  
Presented by Jim Bolser
12. **Oristruts Minor Subdivision Plat** by Bear All, LLC, Located at 2400 North 600 East, 1 Lot, 8.8 Acres in the GC General Commercial Zoning District  
Presented by Jim Bolser
13. **Minutes**
14. **Invoices**
15. **Adjourn**

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Michelle Y. Pitt, Tooele City Recorder

Pursuant to the Americans with Disabilities Act, Individuals Needing Special Accommodations Should Notify Michelle Y. Pitt, Tooele City Recorder, at 435-843-2113 or [michellep@tooelecitey.org](mailto:michellep@tooelecitey.org), Prior to the Meeting.

**TOOELE CITY CORPORATION**

**RESOLUTION 2019-70**

**A RESOLUTION OF THE TOOELE CITY COUNCIL ACCEPTING THE COMPLETED PUBLIC IMPROVEMENTS ASSOCIATED WITH THE PROVIDENCE AT OVERLAKE PHASE 3 SUBDIVISION.**

WHEREAS, Tooele City previously approved a subdivision final plat for the Providence at Overlake phase 3 subdivision (the "Subdivision"); and,

WHEREAS, Tooele City Code §7-19-35 requires that public improvements constructed in connection with an approved subdivision be accepted by Resolution of the City Council following verification by the City Engineer or the Director of Public Works that all the public improvements have been satisfactorily completed in accordance with the approved engineering plans and specifications and City standards; and,

WHEREAS, Providence Tooele LLC has provided a proper cash bond agreement with Tooele City for the portion of the Subdivision's public improvements located within existing public rights-of-way, dated April 10, 2019, in the amount of \$10,800.80; and,

WHEREAS, Providence Tooele LLC did not bond for the remainder of the Subdivision's public improvements; and,

WHEREAS, both of the above-referenced bond agreements contain the following language:

*under the Tooele City Code, the Improvements must be completed, inspected, and accepted prior to the issuance of a building permit for the land use approval or prior to the recordation of a subdivision final plat, as the case may be, except that a subdivision final plat may be recorded prior to the completion, inspection, and acceptance of the Improvements where the Applicant has completed an approved bond agreement and provided an associated bond*

; and,

WHEREAS, the required verification that all of the Subdivision's public improvements have been completed has been provided by way of the Certificate of Completion of Public Works, attached as Exhibit A; and,

WHEREAS, prior to recording the Subdivision plat, Providence Tooele LLC must provide additional assurance in the form of a warranty bond in the amount of \$125,940.06:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL as follows:

1. the completed public improvements associated with the Providence at Overlake phase 3 subdivision are hereby accepted, those improvements being reflected in the Bond Agreement dated April 10, 2019, and the Certificate of Completion of Public Works, attached hereto as Exhibit A; and,
2. the one-year warranty period on all accepted public improvements shall begin as of the date of approval of this Resolution.

This Resolution shall become effective immediately on the date of passage, without further publication, by authority of the Tooele City Charter.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.

TOOELE CITY COUNCIL

(For)

(Against)

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ABSTAINING:

\_\_\_\_\_

MAYOR OF TOOELE CITY

(For)

(Against)

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Michelle Y. Pitt  
Tooele City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Evans Baker, Tooele City Attorney

# Exhibit A

## Certificate of Completion of Public Works

TOOELE CITY CORPORATION  
 90 NORTH MAIN  
 TOOELE, UTAH 84074  
 (435) 843-2130



**Certificate of Completion of Public Works**

(Start of One-Year Warranty)

Date: 09/05/2019

Permit No: P18-894	Public Work Elements*	Completed	Not Complete	Not Required
Project Name: Providence at Overlake Phase 3	Culinary Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Secondary Water	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Address: 400 West 1000 North	Sewer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Storm Drain / Pond	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Owner/Developer:	Roads	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Curb & Gutter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Sidewalk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Street Lights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Landscaping	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Other / Comments: See attached inspection report for further detail.			

Note: \*The above Public Work Elements are general in nature. See Public Works for detailed descriptions and comments:

Based upon review of documentation provided by the Developer/Owner, inspection records on file with the Community Development Department and upon site review, the above referenced public improvements for this project have been satisfactorily completed in accordance with the approved construction plans and specifications and Tooele City Standards.

Recommended By	Title	Date
	Civil Inspector	6 Sep 2019
	City Engineer	9-6-19
	Public Works	9/6/19 9.13.2019
	Community Development	9/16/19

Acknowledged and Accepted \_\_\_\_\_ City Council, Chair \_\_\_\_\_ Date

Scheduled Date for End of Warranty Final inspection: 09/03/2020

**Tooele, UT**  
90 N Main St  
Tooele, UT 84074  
<http://tooelecity.org/>

P Case #: P18-894  
Date of Inspection: 09/05/2019  
Inspected By: Clegg, Seth

Address of Inspection: APN: 02-126-0-0034  
400 W 1000 N, Tooele, UT 84074

Owner / Property Manager: \_\_\_\_\_ Occupant / Tenant: \_\_\_\_\_

<b>Building Inspection</b>		
<b>Clearances</b>	<b>Status</b>	<b>Notes</b>
Sewer Lateral		
Water Lateral		
Meter Vault		
Electricity		
Other:		
<b>Building: Subrough</b>	<b>Status</b>	<b>Notes</b>
Excavation		
Footings		
Foundation		
Electrical		
Mechanical		
Plumbing		
SE Conduit		
Other:		
<b>Building: Rough</b>	<b>Status</b>	<b>Notes</b>
Building		
Electrical		
Power to Panel		
Mechanical		
Plumbing		
Gas Line		
Bond Beam		
Weather Resistive Barrier		
Insulation		
Drywall		
Other:		
<b>Building: Final</b>	<b>Status</b>	<b>Notes</b>
Building		
Electrical		
Mechanical		
Plumbing		

**TOOELE CITY CORPORATION**

**RESOLUTION 2019-72**

**A RESOLUTION OF THE TOOELE CITY COUNCIL ACCEPTING THE COMPLETED PUBLIC IMPROVEMENTS ASSOCIATED WITH THE HOME TOWNE COURT DEVELOPMENT.**

WHEREAS, Home Towne Court is an established and fully construction subdivision in which the developer desired to install new one-inch water service lateral lines, meter yokes, and meter vaults (collectively the "Laterals"); and,

WHEREAS, Tooele City Code §7-19-35 requires that public improvements constructed in connection with an approved subdivision be accepted by Resolution of the City Council following verification by the City Engineer or the Director of Public Works that all the public improvements have been satisfactorily completed in accordance with the approved engineering plans and specifications and City standards; and,

WHEREAS, Home Towne Development Company LLC (the Company) has provided a proper cash bond agreement with Tooele City for the Laterals, dated July 10, 2019, in the amount of \$11,040.00; and,

WHEREAS, the required verification that the Laterals have been completed has been provided by way of the Certificate of Completion of Public Works, and the Building Inspection report, both attached as Exhibit A:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL as follows:

1. the Laterals associated with Home Towne Court are hereby accepted, those improvements being reflected in the Certificate of Completion of Public Works (see Exhibit A); and,
2. the one-year warranty period on the Laterals shall begin as of the date of approval of this Resolution.

This Resolution shall become effective immediately on the date of passage, without further publication, by authority of the Tooele City Charter.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.



TOOELE CITY COUNCIL

(For)

(Against)

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ABSTAINING:

\_\_\_\_\_

MAYOR OF TOOELE CITY

(For)

(Against)

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Michelle Y. Pitt  
Tooele City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Evans Baker, Tooele City Attorney

## Exhibit A

### Certificate of Completion of Public Works

**TOOELE CITY CORPORATION**  
**90 NORTH MAIN**  
**TOOELE, UTAH 84074**  
**(435) 843-2130**



***Certificate of Completion of Public Works***

**(Start of One-Year Warranty)**

**Date:** 09/10/2019

Permit No: P19-437		Public Work Elements*	Completed	Not Complete	Not Required
<b>Project Name:</b>	Home Towne Court	Culinary Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Address:</b>	360 West Utah Ave	Secondary Water	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Tooele, UT 84074	Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Storm Drain / Pond	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Roads	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Owner/Developer:</b>	Home Towne Development	Curb & Gutter	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	100 Lake View	Sidewalk	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Stansbury Park, UT 84074	Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Landscaping	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Other / Comments:** Installed six new one inch water meter service lines, meter yokes, and meter vaults.

*Note: \* The above Public Work Elements are general in nature. See Public Works for detailed descriptions and comments:*

**Based upon review of documentation provided by the Developer/Owner, inspection records on file with the Community Development Department and upon site review, the above referenced public improvements for this project have been satisfactorily completed in accordance with the approved construction plans and specifications and Tooele City Standards.**

Recommended By	Title	Date
	Civil Inspector	9/10/2019
	City Engineer	9-12-19
	Public Works	9-11-2019
	Community Development	9/12/19

**Acknowledged and Accepted** \_\_\_\_\_ **City Council, Chair** \_\_\_\_\_ **Date** \_\_\_\_\_

**Scheduled Date for End of Warranty Final inspection:** 09/10/2020

8-28-2020

TOOELE CITY CORPORATION  
90 NORTH MAIN  
TOOELE, UTAH 84074  
(435) 843-2130



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*Certificate of Completion of Public Works*  
(Start of One-Year Warranty)

Permit No: P19-437  
Page 2 of 2

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Permit Type: Building Permit

# Tooele, UT

90 N Main St  
Tooele, UT 84074  
<http://tooelecity.org/>

P Case #: P19-437  
Date of Inspection: 08/28/2019  
Inspected By: Alder, Brad

Address of Inspection: 360 W Utah Ave, Tooele, UT 84074

Owner / Property Manager: \_\_\_\_\_

Occupant / Tenant: \_\_\_\_\_

## Building Inspection

<b>Clearances</b>	<b>Status</b>	<b>Notes</b>
Sewer Lateral		
Water Lateral		
Meter Vault		
Electricity		
Other:	Approved	6 water meter vaults

<b>Building: Subrough</b>	<b>Status</b>	<b>Notes</b>
Excavation		
Footings		
Foundation		
Electrical		
Mechanical		
Plumbing		
SE Conduit		
Other:		

<b>Building: Rough</b>	<b>Status</b>	<b>Notes</b>
Building		
Electrical		
Power to Panel		
Mechanical		
Plumbing		
Gas Line		
Bond Beam		
Weather Resistive Barrier		
Insulation		
Drywall		
Other:		

<b>Building: Final</b>	<b>Status</b>	<b>Notes</b>
Building		
Electrical		
Mechanical		
Plumbing		
Water Meter Box		

Grading / Excavation

Other:

**Status:** Pass

**Comments:**

6 one inch water meter yokes and vaults have been installed in compliance with current Tooele City Standards. Finance Department personnel have inspected and found the vaults to be acceptable. No faults noted.



**Signature:** \_\_\_\_\_

**Date:** 08/26/2019

## **TOOELE CITY CORPORATION**

### **RESOLUTION 2019-71**

#### **A RESOLUTION OF THE TOOELE CITY COUNCIL NAMING THE CITY HALL SOUTH DRIVEWAY AS “DUNLAVY WAY”.**

WHEREAS, Patrick H. Dunlavy served as a Tooele City employee for over 50 years. He started his employment as a member of the Police Department in December of 1967. He was a member of this Department for 12 years, holding the positions of Dispatcher, Chief Dispatcher, and Lieutenant; and,

WHEREAS, Patrick H. Dunlavy was appointed as Parks and Recreation Director in March of 1979 and held that position until August of 1982; and,

WHEREAS, the Tooele City Council appointed Patrick H. Dunlavy as City Recorder in July of 1983 and served in this position until November 16, 2005. During his time as the City Recorder he oversaw the replacement and new construction of the Leigh Pratt Memorial Aquatic Center, the current Tooele City Library, and the current City Hall; and,

WHEREAS, Patrick H. Dunlavy was elected as the Mayor of Tooele City in November of 2005 and served as Tooele City’s Mayor for three consecutive terms for over 12 years through December 31, 2017. Mayor Dunlavy guided Tooele City through the second great recession and housing crisis of 2007-2009. Under his leadership, he helped bring together governments within Tooele County to solve regional disputes, as well as to protect our valley, foothills, and mountains from development of high voltage power lines. His administration oversaw the construction and building of the Skyline Nature Park. During his time as Mayor, he worked with the City Council, Utah State University, and Tooele County School District to create the partnership for the building of the Educational Corridor; and,

WHEREAS, in recognition of The Honorable Mayor Dunlavy’s long and excellent public service, the City Council desires to permanently name the driveway located south of City Hall on the City Hall Site Plan as “Dunlavy Way” and to have erected and maintained an appropriate street sign:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the driveway located south of City Hall on the City Hall Site Plan is hereby permanently named “Dunlavy Way” (see Exhibit A).

BE IT FURTHER RESOLVED BY THE TOOELE CITY COUNCIL that this act may only be rescinded by a super majority vote of the City Council. Any tampering with or removal of this sign without a super majority vote of the City Council will be considered an act of vandalism and prosecuted as such.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this \_\_\_\_ day of \_\_\_\_\_, 2019.



TOOELE CITY COUNCIL

(For)

(Against)

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ABSTAINING: \_\_\_\_\_

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

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ATTEST:

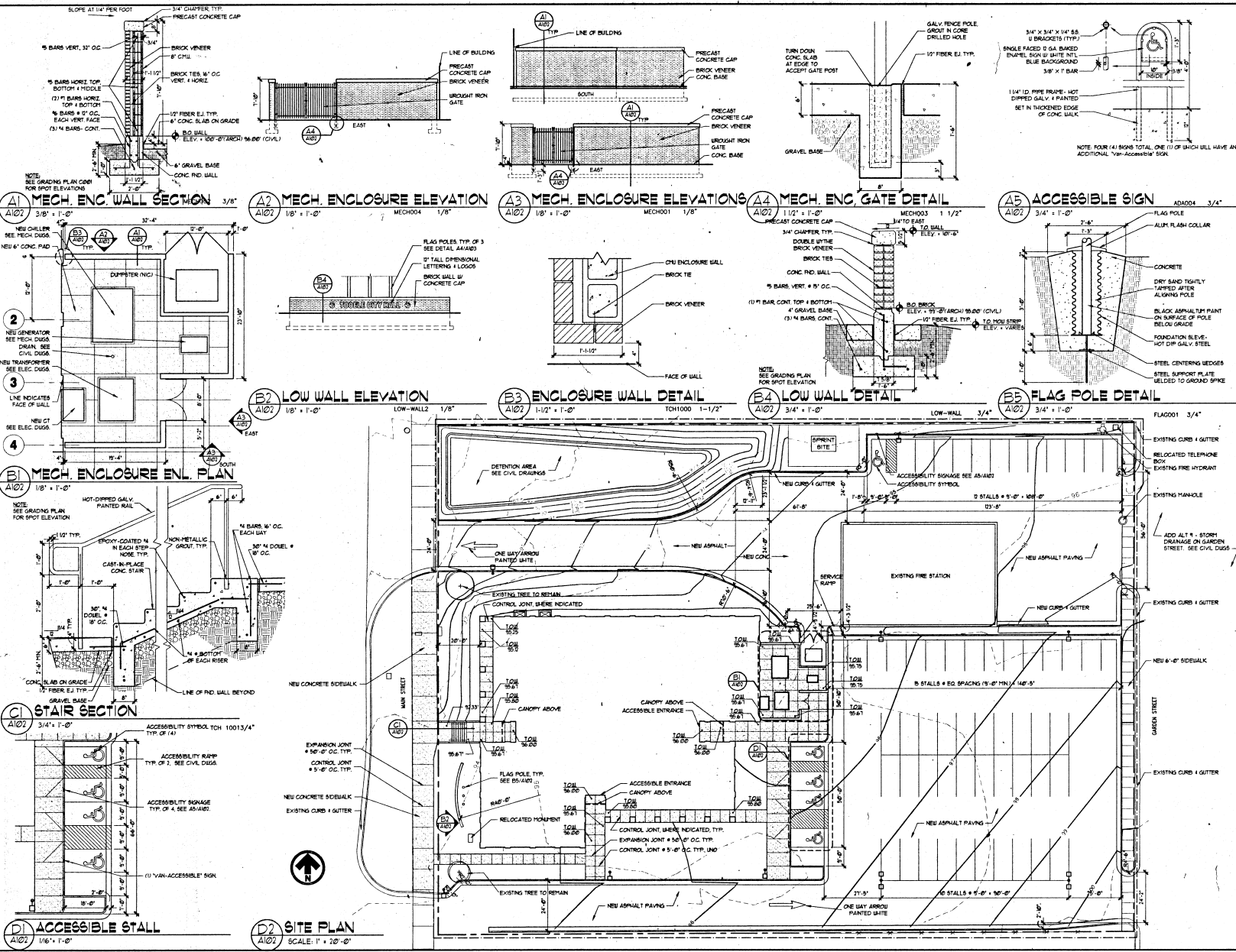
\_\_\_\_\_  
Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Evans Baker, City Attorney

Exhibit A  
City Hall Site Plan



**HART FISHER SMITH & ASSOCIATES**  
 ARCHITECTURE PROGRAMMING

The Judge Building, Suite 410  
 8 East Broadway  
 Salt Lake City, Utah 84111  
 Telephone 801.596.0691  
 Facsimile 801.596.0693

**TOOELE CITY FACILITIES CITY HALL**

- GENERAL NOTES**
1. ALL DIMENSIONS ARE TO INSIDE OF CURB UNLESS NOTED OTHERWISE.
  2. ALL RADII DIMENSIONS ON CORNERS ARE 1'-0" UNLESS NOTED OTHERWISE.
  3. CURB & GUTTER TO BE ASPHALT. TYPE 1" CURB. SEE CIVIL DRAWINGS.
  4. CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL EXISTING LANDSCAPING & SITE IMPROVEMENTS WHICH ARE TO REMAIN FREE FROM DAMAGE DURING CONSTRUCTION BOTH INSIDE AND OUTSIDE THE CONTRACT LIMIT LINE. CONTRACTOR SHALL REPAIR OR REPLACE ANY DAMAGED ITEM OR SITE IMPROVEMENTS AS SPECIFIED. OR IF NOT SPECIFIED, TO MATCH EXISTING ADJACENT CONSTRUCTION.
  5. CONTRACTOR SHALL VERIFY EXACT LOCATION OF ALL UTILITIES & SITE IMPROVEMENTS WHICH ARE AFFECTED BY, OR SAUGHT TO, WITH NEW CONSTRUCTION.
  6. PROVIDE TEMPORARY 6'-0" (MIN) HIGH CHAINLINK FENCE & CONTRACT LIMIT LINE COMPLETE WITH GATES AS REQUIRED. UNLESS NOTED OTHERWISE.
  7. EXISTING ROADS, PARKING, SERVICE DRIVES & SIDEWALKS SHALL REMAIN ACCESSIBLE & BE KEPT CLEAR OF CONSTRUCTION EQUIPMENT, MATERIALS, ETC. & OTHER DEBRIS.
  8. FIRE STATION TO REMAIN OPERATIONAL THROUGHOUT CONSTRUCTION ACTIVITY. SEE CONSTRUCTION PHASING PLAN ON SHEET A102.
  9. SEE SHEET A03 FOR LANDSCAPING IMPROVEMENTS.
  10. FOR ADDITIONAL WORK OUTSIDE OF LIMIT LINES SHOWN SEE CIVIL DGS.



NO.	REVISIONS

**SITE PLAN**

DATE: 2 MARCH 1999  
 DRAWN BY: CRB/MCL  
 CHECKED BY: EUS

HFS PROJECT NO: 980104  
 CLIENT PROJECT NO:  
 SHEET NO:

A102

**TOOELE CITY CORPORATION**

**ORDINANCE 2019-27**

**AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE CHAPTER 7-1-5 AND CHAPTER 7-2-19 REGARDING HOME BASED CHILD DAY CARE AND PRE-SCHOOL BUSINESSES.**

**WHEREAS**, Utah Code § 10-8-84 and § 10-9a-102 authorize cities to enact ordinances, resolution and rules and to enter other forms of land use controls they consider necessary or appropriate for the use and development of land within the municipality to provide for the health, safety, welfare, prosperity, peace and good order, comfort, convenience and aesthetics of the municipality; and,

**WHEREAS**, Tooele City Code § 7-1-5 contains provisions defining the differences between non-residential and residential daycares and establishes the number of children that can be cared for in residential daycares and pre-schools; and,

**WHEREAS**, Tooele City Code § 7-2-19 contains provisions addressing and establishing the approval process for residential daycares and pre-schools; and,

**WHEREAS**, it is proper and appropriate to routinely review the ordinances and provisions of the Tooele City Code for clarity, predictability, relevance, applicability and appropriateness; and,

**WHEREAS**, it is proper and appropriate to revise provisions of the City Code found to be antiquated, to have diminished in applicability and appropriateness, to be unclear or to have diminished relevance, to lead to difficulties in the predictability of the land use application approval process, or to modernize provisions to adapt to changing conditions and federal and state laws; and,

**WHEREAS**, it has been demonstrated to Tooele City that there is a lack of appropriately regulated residential child daycare and pre-school businesses in Tooele City due to the existing ordinance's restrictions on the number of children able to be cared for in a residential setting; and,

**WHEREAS**, it has been determined that the proposed amendments to these chapters will provide greater flexibility, profitability and efficiency to operate and regulate residential child daycare and pre-school businesses and increase the number of appropriately regulated and safe residential child daycare and pre-school businesses in Tooele City; and,

**WHEREAS**, the City Administration recommends amendments to the above-referenced Chapters of the Tooele City Code in order to accomplish the above-state purposes and objectives; and,

**WHEREAS**, more specifically, the City Administration recommends the amendments summarized in the list below and shown in Exhibits A-B:

- **Background Purposes**
  - Respond to input from community and daycare providers regarding needs, frustrations and suggestions to improve residential daycare situations in Tooele City.
  - By providing greater flexibility for residential daycares and pre-schools more businesses will seek to be licensed and properly regulated by Tooele City and the State of Utah.
  
- **Chapter 7-1-5; Definitions**
  - Daycares and pre-schools with more than 17 children will require commercial or non-residential locations.
  - The maximum number of children for residential daycares and pre-schools will be increased to 16.
  
- **Chapter 7-2-19; Home Occupations**
  - Addresses the number of daily vehicular trips.
  - Addresses the number of non-residential employees working at the residential daycare or pre-school.
  - Establishes the difference between permitted daycares and preschools and those requiring a Conditional Use Permit.
  - Establishes approval criteria for daycares and pre-schools requiring a Conditional Use Permit.
    - Vehicle queuing and parking plan.
    - Number of sessions per day for child pre-schools.
    - Proximity to other daycares and pre-schools requiring a Conditional Use Permit.
    - Inclusion of care providers own children into total number of children cared for as part of the business.

**WHEREAS**, The Planning Commission discussed the Staff recommendations during its business meeting of September 11, 2019; and,

**WHEREAS**, The Planning Commission convened a duly noticed public hearing on September 11, 2019 accepted written and verbal comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit C); and,

**WHEREAS**, on \_\_\_\_\_, 2019, the City Council convened a duly-noticed public hearing:

**NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL** that Tooele City Code Chapter 7-1-5 is hereby amended as shown in Exhibit A and 7-2-19 is amended as shown in Exhibit B.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

**IN WITNESS WHEREOF**, this Ordinance is passed by the Tooele City Council this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TOOELE CITY COUNCIL

(For)

(Against)

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ABSTAINING: \_\_\_\_\_

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

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ATTEST:

\_\_\_\_\_  
Michelle Pitt, City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Baker, Tooele City Attorney

## Exhibit A

### Proposed Revisions to Tooele City Code Chapter 7-1-5, Definitions



## 7-1-5 Definitions

**Day Care/Preschool (Commercial)** - A ~~residential or~~ nonresidential facility providing for the care, supervision, and protection of ~~seven (7)~~ seventeen (17) or more children and complying with all the requirements as licensed and monitored by the State of Utah

Department of Human Services. For the purposes of this Code Commercial Day Care includes preschools offering educational programs to ~~seven (7)~~ seventeen (17) or more children at any one time. All Nonresidential Commercial Day Cares and Preschools shall follow all standards for site plan development, including parking, landscaping, building setbacks and so forth as required by the GC General Commercial Zone.

**Day Care/Preschool (Home Occupation)** - The care of children within a dwelling unit that provides care for 4 to ~~8~~ 16 children (including “infant child care” and “family child care” as defined by the Department of Human Services) under 14 years of age and complying with all the requirements as licensed and monitored by the State of Utah Department of Human Services. Home Occupation Day Care/Preschool does not mean care provided to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

## Exhibit B

### Proposed Revisions to Tooele City Code Chapter 7-2-9, Home Occupations

## 7-2-19. Home Occupations

Home occupations are permitted upon compliance with the following:

- (1) shall be carried on entirely within the dwelling unit or accessory building on the premises;
- (2) shall not include the outside storage of goods, materials, or equipment;
- (3) shall not involve any use of any outside yard area about the premises whereupon the dwelling unit or accessory building is located, except for customer parking and except for fenced outdoor areas associated with a home occupation day care;
- (4) shall be customarily incidental to the use of the dwelling for dwelling purposes;
- (5) shall not change the primary character and use of the dwelling unit as a dwelling;
- (6) shall be carried on only by persons residing in the dwelling unit;
- (7) shall have no employees or assistants other than members of the immediate family, and only if such family members reside in the dwelling unit, except as otherwise permitted by this chapter;
- (8) reasonable inventory related to the Home Occupation shall be allowed so long as such inventory is stored entirely within the dwelling unit or accessory building on the premises;
- (9) shall not create a nuisance;
- (10) shall specifically exclude: vehicle repair work, body and fender work, firewood sales, commercial stables, kennels, livestock, auctions, restaurants, nursing homes, funeral houses, welding, musical instrument instruction and practice consisting of more than two persons at a time;
- (11) shall not display signs;
- (12) ~~shall not produce traffic volumes exceeding those produced by the dwelling unit by more than 10 average daily trips or a maximum of 20 trips during any 24-hour period;~~
- ~~(13)~~ shall comply with all Federal, State, and local license and permit requirements;
- ~~(14)~~ ~~13~~ nothing contained in this section shall be construed to supersede or otherwise render inoperative the provisions of the Tooele City Code concerning business licenses.

### (14) Child day care and preschool home occupations:

a. Shall be permitted one non-residential employee at the home.

b. Child care and preschool home occupations involving 7 children or less shall be permitted.

c. Child care and preschool home occupations involving 8 to 16 children shall require a Conditional Use Permit and shall adhere to the following guidelines.

1. A traffic & parking plan shall be submitted, reviewed by the Planning Department and includes acceptable traffic flow, drop-off and turnaround areas.
2. Child preschools shall not include more than two sessions per day.
3. No child day care or preschool requiring a conditional use permit shall be established within 300 feet from property line to property line of another properly licensed child day care or preschool.
4. The total number of students/children shall include the licensee's and any employee's children if they are under the care of the licensee at the time the home occupation is conducted.

## Exhibit C

### Planning Commission Minutes

## TOOELE CITY PLANNING COMMISSION MINUTES

**Date:** Wednesday, September 11, 2019

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

**Commission Members Present:**

Shauna Bevan  
Melanie Hammer  
Tony Graf  
Ray Smart  
Chris Sloan

**Commission Members Excused:**

Phil Montano  
Matt Robinson  
Bucky Whitehouse  
Tyson Hamilton

**City Employees Present:**

Andrew Aagard, City Planner  
Matt Johnson, Assistant City Attorney  
Jim Bolser, Community Development Director  
Paul Hansen, City Engineer

**City Employees Excused:**

Roger Baker, City Attorney

**Council Members Present:**

Council Member McCall

**Council Members Excused:**

Council Member Gochis

Minutes prepared by Kelly Odermott

Chairman Graf called the meeting to order at 7:00 pm.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Smart.

**2. Roll Call**

Chris Sloan, Present  
Melanie Hammer, Present

Shauna Bevan, Present  
Ray Smart, Present  
Tony Graf, Present

Mr. Bolser reminded the Commissioners that even though the Commission does not have a full body present, by their bylaws all actions still need a four member sustaining vote to carrying any motions.

**3. Recommendation on Oristusts Minor Subdivision Plat by Bear All, LLC, located at 2400 North 600 East, 1 Lot 8.8 acres in the General Commercial zoning district.**

Presented by Andrew Aagard

Mr. Aagard stated that the property that is proposed for the subdivision is located directly north of 2400 North and the fish food plant. It is also directly east of 600 East. The property is zoned General Commercial. To the north is research and development and to the east is unincorporated Tooele County with some light industrial zoning and land uses to the south. This subdivision is only for one lot. The owners are taking an existing lot of record and creating a legally platted subdivision parcel. There is no splitting of lots or creating of new lots, it is just the plat of the lot. It is a large parcel of 8.8 acres. There are no issues with lot size or current configuration. The frontage improvements and right-of-way designations have been concluded. The lot meets all the standards for the general commercial zone and staff is recommending approval with the basic housekeeping items listed in the Staff Report.

Chairman Graf asked if there were any comments or questions from the Commission, there were none.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Oristuts Minor Subdivision Request by Bear All, LLC for the purpose of creating 1 lot at 2400 North 600 East, application number P19-533, based on the findings and subject to the conditions listed in the Staff Report dated September 5, 2019.** Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

**4. Public Hearing and Recommendation on a City Code Text Amendment proposed by Tooele City to Chapters 7-1-5; Definitions and 7-2-19; Home Occupations related to home based day cares and pre-school businesses.**

Presented by Andrew Aagard

Mr. Aagard stated that it has been brought to the City administrations attention that there is a considerable lack of licensed daycares in Tooele City. There are a lot of kids that still go to daycare, but do not attend licensed daycares. Some of the feedback to the City is that Tooele City's codes for daycares do not permit for adequate in home daycares. The City staff has been looking at amendments in the City Code to address these concerns. The amendments take

place in two ordinances, 7-1-5 and 7-2-19. Mr. Aagard showed a few slides to show the differences of the current City code and the proposed changes.

The existing code limits daycares and preschools to a maximum of eight children with an approved Conditional Use Permit. The code does not differentiate between a daycare or a preschool. The current code also prohibits employees that do not live in the home and limits the number of vehicle trips per day with a maximum of 20 trips per 24 hours. The proposed language in the code proposes an increased limit of children up to 16 within one daycare. A daycare with 17 or more children is required to locate to a commercial location. Seven children or less would be a permitted use and would not require a Conditional Use Permit. A Conditional Use Permit is required with 8-16 children and would require a public hearing and neighbor notification. The ordinance changes also permit home-based daycares or preschools to allow one employee that does not live in the home. All other types of home occupation businesses will be prohibited from having a nonresident employee. The ordinance amendments require a traffic and parking plan for the City to review how the business will deal with customer parking and traffic. The proposed amendments limit preschools to two sessions per day. The proposed changes also limit daycares within 300 feet of each other. This is to provide separation between the businesses to ensure there are not too many on one block or in a cul-de-sac. The last amendment states that the licensee's children while under the care of the home occupation, shall be counted towards the 16 children allowed.

Chairman Graf asked the Commission if there were any questions or comments.

Commissioner Bevan asked how a session is defined? Mr. Aagard stated that the difference between the daycare and a preschool is in a daycare people drop their children off on their way to work and come back at the end of the work day. In a preschool, classes can be two hours long and have multiple sessions. Drop off and pick up could happen four times a day. It would come down to classes. Commissioner Bevan asked if a licensee could still have four sessions if they had two classes running concurrently? Mr. Bolser stated yes. Commissioner Bevan asked if the providers are already doing it that way, will they be able to continue doing it that way? Mr. Aagard stated yes.

Commissioner Sloan asked if it is 16 children per session or is it 16 total per day? Mr. Aagard stated that the ordinance does not differentiate between them. Commissioner Sloan asked about the residential daycares and preschools up to eight children require a Conditional Use Permit, but there is seven children and below is legal. How is that determined? Mr. Aagard stated that up to eight is how the code is currently written. Under the new code, one to seven children will be legal and eight children to 16 children will be allowable with a Conditional Use Permit.

Commissioner Hammer asked with the 300 feet between businesses, will there be any allowances for back door neighbors that are on opposite streets? Mr. Aagard stated that when the code was written the vision is a 300 square foot bubble for no other similar businesses. That would be for traffic purposes, but could also be for noise. Mr. Aagard stated that he would recommend to hold to the offset of 300 feet.

Chairman Graf stated that if there is an allowance for the furthest point of property line or nearest point of property line. Mr. Aagard stated that it is limited to the closest property line.

Chairman Graf asked if there were any further comments or questions, there were none.

Chairman Graf opened the public hearing.

Ms. Terry Farnwoth stated that she has been involved in childcare for over 30 years in both private and public care. She stated that there has been a lot of concern about the amount of younger age children in need of care. There are a lot of calls to watch younger children, infants and toddlers. She stated that she does not take infants because of her transportation of older children to school. Having the second person, who does not live in the house, would allow her to keep the families she cares for now as they increase their families. Having one caregiver and adding another caregiver gives an extra security measure for the children and allows for more care of the children. She wanted to comment about the 300 foot bubble between businesses. She stated that she has run a daycare next door to another daycare for several years. There have been no issues with traffic.

Commissioner Hammer asked with Ms. Farnwoth's experience; is there a certain limit for infants and toddlers in each operation? Ms. Farnwoth stated that the State regulates the number. Daycares are only allowed two children under the age of two for one caregiver. Even with 16 that would be four under the age of two.

Ms. Randi Gardiner stated she has run an in-home daycare for three years. She stated that she would love to have a second caregiver, but she would need to have more kids to supplement the income. She gave some examples of times a second caregiver would be helpful. The second caregiver would help with the safety of the children. She stated that she is a mother of five and would like to see if the kids that are over ten years old and self-sufficient could be excluded from the ratios. She has children that are 10 and 13 and are not part of the daycare, but are in the home while she operates business. In the state ratios children four and under count in the ratios. She also mentioned that the drop offs and pickups rarely overlap. She rarely has two sets of parents at her home at one time.

Commissioner Sloan asked if Ms. Gardiner knows what the ratios are for other municipalities in regards to business owners own children. Ms. Gardiner stated that Tooele County follows the State ratios.

Chairman Graf closed the public hearing.

Chairman Graf asked the Commission if there were any comments or questions, there were none.

Mr. Aagard stated that the ordinance is written in a way that may be interpreted so that the licensee's own children that are not in need of childcare may be excluded. The ordinance is written that if the child is participating with the daycare, then they would count. It is not



specifically written that way, but could be interpreted in the licensees favor. Mr. Bolser stated that he was involved in the last time the ordinance was amended. The interpretation presented by Mr. Aagard was the intent of the language at the time it was written.

Commissioner Sloan stated interpretation could be scary from a legal standpoint, is there not a way to tighten up the language to not need the interpretation. Mr. Aagard stated that one of the duties of having an ordinance that is slightly vague is to the ability for interpretation. Mr. Bolser stated that Mr. Aagard is on the right track with the comments he has made. State law has established through case law that anytime there is an ambiguity in an ordinance, it must be interpreted in favor of the applicant. From a legal standpoint if an interpretation has to be made, the City would need to interpret just as it has been outlined. If the ordinance was to be more specific the Planning Commission would have to make a recommendation for a specific age. An example he gave was any children under age "X" do count. In doing that, it puts limitations on children who may not be prepared to be left alone or a younger child who may be prepared to be left alone.

Commissioner Hammer asked how the ordinance differs from the state. Mr. Aagard stated that the ordinance is based on state ratios, six to eight children per caregiver. That is what is written in the code. Commissioner Hammer stated she still has questions about the 300 feet. There are different scenarios that come into play. Mr. Aagard stated that he did take the language from another jurisdiction. It is just to make sure there is space between daycares. Commissioner Hammer stated that in a preschool situation, she can see where there are traffic issues. In a daycare situation, rarely are parents there at the same time.

Commissioner Sloan stated that the 300 foot rule could place a home daycare at least two blocks from each other in his previous neighborhood. Potentially there would be four blocks without another daycare. He stated he is not sure of the solution and he is struggling with the 300 feet. Mr. Aagard stated that there could be other ways to write that, 200 linear feet on the same street. Mr. Bolser added that findings from courts in terms of measurements that those stated are minimums from closest to closest. That is a very safe practice to follow. The reason that it is typical to see a bubble distance as opposed to a street distance is that there could be roads that are horseshoes. A daycare could be directly adjacent on two different streets. Mr. Bolser recommended that the Commission stick to a universal standard of measurement and the City Code follow the bubble distance.

Chairman Graf asked if this passes City Council and put into code; if there are two applicants that apply within a 300 foot bubble, who would receive the permit? Is it based on first in time? Mr. Bolser stated that case law has determined it is first in time.

Mr. Bolser stated that there was a comment made about the proposal going to City Council. It is tentatively scheduled for the next work session meeting. In three weeks, the proposal may be going to City Council for a public hearing and potential decision, but Mr. Bolser encouraged the public to watch the agendas for a specific date of the hearing.

Commissioner Sloan stated that he has concerns about the bubble and the code maybe limited opportunities. He stated that the overriding amendments is that the health and safety and the additional caregiver in the business.

Chairman Graf stated that he agreed that there is a need for daycares and a benefit to the City.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Home Based Day Care and Pre-School City Code Text Amendment Request by Tooele City Corporation, application number P19-670, based on the findings and conditions that the amendment satisfies the findings of fact in the Staff Report September 4, 2019, specifically the amendment positively affects the health and safety of the public and adds benefit to the public.**

Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

**5. Public Hearing and Recommendation on a City Code Text Amendment proposed by Tooele City to Chapters 7-14 Residential Zoning Districts related to property frontage requirements in the In-Fill Zoning Overlay District.**

Mr. Bolser stated that the City has taken efforts to promote and encourage growth from within. The City is taking steps to deal with some of the more historic lots that lay out a little differently than newer developments. The City has historical lots that are long and narrow, particularly near the core area of the community, which present difficulties in the zoning classifications and subdividing the lots. The idea was brought to staff last spring to look at an allowance for reduced frontage requirements in the In-Fill area. This is an overlay to the zone.

Mr. Bolser showed an analysis presentation of what the change in the text amendment would do for the In-Fill area. In the In-Fill there are 2911 total parcels. The majority are residential and 98% of those are zoned R1-7 Residential. The text amendment only applies to the residential lots. The City looked at percentages to determine at what percentage of adjustment to the frontage requirements that the majority of lots that do not fall within current requirements would meet frontage requirements. Based on analysis, if the City drops to 80% of the current lot requirements in In-Fill Area A, the City will allow up to 93% of the currently undevelopable lots, to be developed in accordance with frontage requirements. Similarly, if the City drops to 90% of the current lot requirements in In-Fill Area B, the City will allow more than 82% of the currently undevelopable lots to be developed. Knowing we cannot fix every situation; this creates a quantity of properties that are addressed that the staff believes this proposal adequately addresses the issue.

Commissioner Smart stated that this change makes sense.

Chairman Graf opened the public hearing, there were no comments. Chairman Graf closed the public hearing.

**Commissioner Bevan motioned to forward a positive recommendation to the City Council for the In-Fill Property Frontage Requirements City Code Text Amendment Request by Tooele City**

regarding property frontage requirements in the Infill Zoning Overlay district, application number P19-659, based on the following findings, that the text amendment will be in the benefit of the master plan and general plan and health and safety to the public.

Commissioner Smart seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

6. **Review and Approval of Planning Commission minutes for meeting held August 28, 2019.**

Chairman Graf asked the Commission if there were any comments or questions.

**Commissioner Hammer moved to approve minutes from the meeting held on August 28, 2019 as amended.** Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

7. **Adjourn**

Commissioner Bevan adjourned. The meeting adjourned at 8:01p.m.

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this 25th day of September, 2019

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Tony Graf, Chairman, Tooele City Planning Commission

**STAFF REPORT**

September 4, 2019

**To:** Tooele City Planning Commission  
Business Date: September 11, 2019

**From:** Planning Division  
Community Development Department

**Prepared By:** Andrew Aagard, City Planner / Zoning Administrator

**Re: Home Occupation Day Cares & Preschools – City Code Text Amendment Request**

Application No.: P19-670

Applicant: Tooele City Corporation

Request: Request for approval of a City Code Text Amendment regarding revisions to the definitions of residential and non-residential child day care and pre-school businesses and the regulations of operating a home-based child day care and pre-school business.

**BACKGROUND**

This application is a request for approval of a City Code Text Amendment to Chapter 7-1-5; Definitions and Chapter 7-2-19; Home Occupations. The City is requesting that a City Code Text Amendment be approved to allow changes to home-based child day care and pre-school businesses, how they are defined, the number of children associated with the business, the number of care providers associated with the business and the qualifications for approval of these home-based businesses.

It has come to Tooele City's attention that there is a shortage of properly provided child daycare in the Tooele City area. This leads to a concern that there are children be taken to unlicensed and unregulated and possibly unsafe daycare conditions. It is the intent of this proposed City Code Text Amendment to provide an environment where home-based child daycare businesses can thrive, are licensed, properly inspected and plentiful enough to fill the growing need in the Tooele area.

The proposed amendments are fairly straightforward and take place in two ordinances. The first amendment is proposed in the definitions section of Title 7, 7-1-5 and proposes to change the definitions of a commercial daycare to only a non-residential facility providing care for more than 17 children. All commercial daycares, including those permitted in residential zoning districts will be required to meet all standards for commercial development.

The other change in the definitions section proposes changing the maximum number of children in a home-based child day care or pre-school from 8 children to 16.

The remaining City Code Text Amendments are proposed in the City's Home Occupations ordinance found in section 2-19 of Title 7. The proposed amendments strike section 12 that limits the number of vehicular trips associated with home-occupations to 20 per day. This section is being removed because it is in direct conflict with the proposed amendments.

Section 14 is new language being proposed exclusively for child day care and pre-school businesses being operated in the home. Those change are as follows:

1. May have one employee that does not live in the home.
2. Day cares and pre-schools with 7 or less children shall be considered a permitted use.

3. Day cares and pre-schools involving 8 to 16 children shall require a conditional use permit and will be subject to the following criteria:
  - a. Must submit a traffic and parking plan demonstrating customer parking, pick-up and drop-off locations, vehicle queuing areas and so forth.
  - b. Child pre-schools shall not include more than two sessions per day.
  - c. Child care businesses requiring a conditional use permit may not be located closer than 300 feet to any other licensed day care or pre-school business.
  - d. The total number of children shall include the licensee's and employee's children if they are under the care of those individuals during business hours.

## **ANALYSIS**

*Criteria For Approval.* The criteria for review and potential approval of a City Code Text Amendment request is found in Section 7-1A-7 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) No amendment to the Zoning Ordinance or Zoning Districts Map may be recommended by the Planning Commission or approved by the City Council unless such amendment or conditions thereto are consistent with the General Plan. In considering a Zoning Ordinance or Zoning Districts Map amendment, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
  - (a) The effect of the proposed amendment on the character of the surrounding area.
  - (b) Consistency with the goals and policies of the General Plan and the General Plan Land Use Map.
  - (c) Consistency and compatibility with the General Plan Land Use Map for adjoining and nearby properties.
  - (d) The suitability of the properties for the uses proposed viz. a. viz. the suitability of the properties for the uses identified by the General Plan.
  - (e) Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
  - (f) The overall community benefit of the proposed amendment.

## **REVIEWS**

*Planning Division Review.* The Tooele City Planning Division has completed their review of the City Code Text Amendment request and has issued the following comments:

1. The proposed City Code Text Amendment is intended to create flexibility in the provision of quality licensed and regulated home based day care and pre-school businesses.
2. The proposed City Code Text amendment is intended to provide specific criteria to ensure these home based day cares and pre-school businesses will not create traffic, safety or other impacts to the character of the residential neighborhoods.
3. There are home-based day cares currently operating in Tooele City with 16 children and have done so continuously for years without any issues requiring intervention by Tooele City.
4. Tooele City needs more professional home-based day cares that are safe and properly regulated. By relaxing the restrictions and allowing a little more activity at the home it is anticipated more care providers will seek to operate their businesses with the necessary permits and approvals and thus provide better day care services for the residents of

- Tooele City and County.
5. The State of Utah requires one caregiver for every 6 – 8 children in a day care or pre-school.

*Noticing.* The City has expressed their desire to amend the terms of the City Code and do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission carefully weigh this request for a City Code Text Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision with the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions:

Potential topics for findings that the Commission should consider in rendering a decision:

1. The effect the text amendment may have on potential applications regarding the character of the neighborhood or surrounding areas.
2. The degree to which the proposed text amendment may effect the health, safety and general welfare of the general public or residents of adjacent properties.
3. The suitability of the proposed text amendment on properties which may utilize its provisions for a potential home occupation business.
4. The overall community benefit of the proposed amendment.
5. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

### **MODEL MOTIONS**

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Home Based Day Care and Pre-school City Code Text Amendments Request by Tooele City Corporation, application number P19-670, based on the findings and conditions:”

1. List findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Home Based Day Care and Pre-school City Code Text Amendments Request by Tooele City Corporation, application number P19-670, based on the findings and conditions:”

1. List findings...

**EXHIBIT A**

**HOME BASED DAY CARES & PRE-SCHOOLS  
CITY CODE TEXT AMENDMENT  
PROPOSED REVISIONS TO CITY CODE  
TITLE 7 CHAPTER 1 SECTION 5  
TITLE 7 CHAPTER 2 SECTION 19**

## 7-1-5 Definitions

**Day Care/Preschool (Commercial)** - A ~~residential or~~ nonresidential facility providing for the care, supervision, and protection of ~~seven (7)~~ seventeen (17) or more children and complying with all the requirements as licensed and monitored by the State of Utah Department of Human Services. For the purposes of this Code Commercial Day Care includes preschools offering educational programs to ~~seven (7)~~ seventeen (17) or more children at any one time. All Nonresidential Commercial Day Cares and Preschools shall follow all standards for site plan development, including parking, landscaping, building setbacks and so forth as required by the GC General Commercial Zone.

**Day Care/Preschool (Home Occupation)** - The care of children within a dwelling unit that provides care for 4 to ~~8~~ 16 children (including “infant child care” and “family child care” as defined by the Department of Human Services) under 14 years of age and complying with all the requirements as licensed and monitored by the State of Utah Department of Human Services. Home Occupation Day Care/Preschool does not mean care provided to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

## 7-2-19. Home Occupations

Home occupations are permitted upon compliance with the following:

- (1) shall be carried on entirely within the dwelling unit or accessory building on the premises;
  - (2) shall not include the outside storage of goods, materials, or equipment;
  - (3) shall not involve any use of any outside yard area about the premises whereupon the dwelling unit or accessory building is located, except for customer parking and except for fenced outdoor areas associated with a home occupation day care;
  - (4) shall be customarily incidental to the use of the dwelling for dwelling purposes;
  - (5) shall not change the primary character and use of the dwelling unit as a dwelling;
  - (6) shall be carried on only by persons residing in the dwelling unit;
  - (7) shall have no employees or assistants other than members of the immediate family, and only if such family members reside in the dwelling unit, except as otherwise permitted by this chapter;
  - (8) reasonable inventory related to the Home Occupation shall be allowed so long as such inventory is stored entirely within the dwelling unit or accessory building on the premises;
  - (9) shall not create a nuisance;
  - (10) shall specifically exclude: vehicle repair work, body and fender work, firewood sales, commercial stables, kennels, livestock, auctions, restaurants, nursing homes, funeral houses, welding, musical instrument instruction and practice consisting of more than two persons at a time;
  - (11) shall not display signs;
  - ~~(12) shall not produce traffic volumes exceeding those produced by the dwelling unit by more than 10 average daily trips or a maximum of 20 trips during any 24-hour period;~~
  - ~~(13)~~ (12) shall comply with all Federal, State, and local license and permit requirements;
  - ~~(14)~~ (13) nothing contained in this section shall be construed to supersede or otherwise render inoperative the provisions of the Tooele City Code concerning business licenses.
- (14) Child day care and preschool home occupations:
- a. Shall be permitted one non-residential employee at the home.
  - b. Child care and preschool home occupations involving 7 children or less shall be permitted.



c. Child care and preschool home occupations involving 8 to 16 children shall require a Conditional Use Permit and shall adhere to the following guidelines.

1. A traffic & parking plan shall be submitted, reviewed by the Planning Department and includes acceptable traffic flow, drop-off and turnaround areas.
2. Child preschools shall not include more than two sessions per day.
3. No child day care or preschool requiring a conditional use permit shall be established within 300 feet from property line to property line of another properly licensed child day care or preschool.
4. The total number of students/children shall include the licensee's and any employee's children if they are under the care of the licensee at the time the home occupation is conducted.

**TOOELE CITY CORPORATION**

**ORDINANCE 2019-24**

**AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE CHAPTER 7-14 REGARDING PROPERTY FRONTAGE REQUIREMENTS IN THE IN-FILL ZONING OVERLAY DISTRICT.**

**WHEREAS**, Utah Code §10-8-84 and §10-9a-102 authorize cities to enact ordinances, resolutions, and rules and to enter other forms of land use controls they consider necessary or appropriate for the use and development of land within the municipality to provide for the health, safety, welfare, prosperity, peace, and good order, comfort, convenience, and aesthetics of the municipality; and,

**WHEREAS**, Tooele City Code Chapter 7-14 contains provisions addressing the residential zoning districts and the uses of land within those districts; and,

**WHEREAS**, Tooele City Code Chapter 7-14 contains provisions establishing the In-Fill Overlay special purpose zoning district applicable in addition to the underlying base zoning district; and,

**WHEREAS**, Tooele City Code Chapter 7-14, specifically Table 5, contains provisions establishing development related provisions applicable to properties within the boundaries of the In-Fill Overlay zoning district; and,

**WHEREAS**, the provisions of the Tooele City Code regarding the In-Fill Overlay zoning district were first enacted by City Council Ordinance 2015-25 on December 16, 2015; and,

**WHEREAS**, the establishment of the In-Fill Overlay zoning district was intended to encourage development of vacant and underutilized parcels of residential land that have resisted development or redevelopment due to various considerations including geography, cost, and market disadvantages; and,

**WHEREAS**, the purpose of the In-Fill Overlay zoning district was to encourage development and redevelopment of underutilized residential properties, more efficient utilization of existing public infrastructure (e.g. water, sewer, and roads), and more efficient utilization of public services (e.g. fire and police services); and,

**WHEREAS**, the provisions of the In-Fill Overlay zoning district enacted under Ordinance 2015-25 included provisions governing setbacks, lot coverage, and water rights conveyance requirements; and,

**WHEREAS**, the provisions of the In-Fill Overlay zoning district were amended by City Council Ordinance 2017-27 on November 1, 2017 to include provisions regarding street improvements; and,

**WHEREAS**, on September 11, 2019, the Planning Commission convened a duly noticed public

hearing, accepted public comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit B); and,

**WHEREAS**, on \_\_\_\_\_, 2019, the City Council convened a duly-advertised public hearing:

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TOOELE CITY** that Tooele City Code Chapter 7-14 Table 5 is hereby amended as shown in Exhibit A.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF TOOELE CITY, STATE OF UTAH, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

TOOELE CITY COUNCIL

(For)

(Against)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ABSTAINING: \_\_\_\_\_

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

\_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Michelle Pitt, City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Baker, City Attorney

**EXHIBIT A**

**COMPLETE PROPOSED TEXT AMENDMENT**

**TABLE 5  
IN-FILL OVERLAY DISTRICT DEVELOPMENT STANDARDS**

<b>Development Standard</b>	<b>Geographic Area A</b>	<b>Geographic Area B</b>	<b>Nonconforming Lot/Parcel</b>
Minimum Front Yard Setback	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Garage Setback	25 feet	25 feet	25 feet
<u>Minimum Lot Width at Front Setback (all residential uses in residential zones)</u>	<u>May reduce to 80% of underlying zoning district</u>	<u>May reduce to 90% of underlying zoning district</u>	<u>Per underlying zoning district</u>
Minimum Rear Yard Setback (interior lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Rear Yard Setback (corner lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Side Yard Setback (interior lot)	May reduce to 65% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 80% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 90% of underlying zoning district, or to 5 feet, whichever is greater, or to historic foundation line
Minimum Side Yard Setback (corner lot)	May reduce to 65% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 80% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 90% of underlying zoning district, or to 5 feet, whichever is greater, or to historic foundation line
Total Lot Coverage (all buildings)	May increase to 135% of underlying zoning district	May increase to 120% of underlying zoning district	May increase to 110% of underlying zoning district
Roadway Improvements Required	As required by Tooele City Code	As required by Tooele City Code	As required by Tooele City Code
Water Rights (payment of fee in lieu of conveyance)	Pay 50% of the fee-in-lieu established by the City	Pay 75% of the fee-in-lieu established by the City	Pay 100% of the fee-in-lieu established by the City

**EXHIBIT B**

**PLANNING COMMISSION MINUTES**

## TOOELE CITY PLANNING COMMISSION MINUTES

**Date:** Wednesday, September 11, 2019

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

**Commission Members Present:**

Shauna Bevan  
Melanie Hammer  
Tony Graf  
Ray Smart  
Chris Sloan

**Commission Members Excused:**

Phil Montano  
Matt Robinson  
Bucky Whitehouse  
Tyson Hamilton

**City Employees Present:**

Andrew Aagard, City Planner  
Matt Johnson, Assistant City Attorney  
Jim Bolser, Community Development Director  
Paul Hansen, City Engineer

**City Employees Excused:**

Roger Baker, City Attorney

**Council Members Present:**

Council Member McCall

**Council Members Excused:**

Council Member Gochis

Minutes prepared by Kelly Odermott

Chairman Graf called the meeting to order at 7:00 pm.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Smart.

**2. Roll Call**

Chris Sloan, Present  
Melanie Hammer, Present



Shauna Bevan, Present  
Ray Smart, Present  
Tony Graf, Present

Mr. Bolser reminded the Commissioners that even though the Commission does not have a full body present, by their bylaws all actions still need a four member sustaining vote to carrying any motions.

**3. Recommendation on Oristusts Minor Subdivision Plat by Bear All, LLC, located at 2400 North 600 East, 1 Lot 8.8 acres in the General Commercial zoning district.**

Presented by Andrew Aagard

Mr. Aagard stated that the property that is proposed for the subdivision is located directly north of 2400 North and the fish food plant. It is also directly east of 600 East. The property is zoned General Commercial. To the north is research and development and to the east is unincorporated Tooele County with some light industrial zoning and land uses to the south. This subdivision is only for one lot. The owners are taking an existing lot of record and creating a legally platted subdivision parcel. There is no splitting of lots or creating of new lots, it is just the plat of the lot. It is a large parcel of 8.8 acres. There are no issues with lot size or current configuration. The frontage improvements and right-of-way designations have been concluded. The lot meets all the standards for the general commercial zone and staff is recommending approval with the basic housekeeping items listed in the Staff Report.

Chairman Graf asked if there were any comments or questions from the Commission, there were none.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Oristuts Minor Subdivision Request by Bear All, LLC for the purpose of creating 1 lot at 2400 North 600 East, application number P19-533, based on the findings and subject to the conditions listed in the Staff Report dated September 5, 2019.** Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

**4. Public Hearing and Recommendation on a City Code Text Amendment proposed by Tooele City to Chapters 7-1-5; Definitions and 7-2-19; Home Occupations related to home based day cares and pre-school businesses.**

Presented by Andrew Aagard

Mr. Aagard stated that it has been brought to the City administrations attention that there is a considerable lack of licensed daycares in Tooele City. There are a lot of kids that still go to daycare, but do not attend licensed daycares. Some of the feedback to the City is that Tooele City's codes for daycares do not permit for adequate in home daycares. The City staff has been looking at amendments in the City Code to address these concerns. The amendments take

place in two ordinances, 7-1-5 and 7-2-19. Mr. Aagard showed a few slides to show the differences of the current City code and the proposed changes.

The existing code limits daycares and preschools to a maximum of eight children with an approved Conditional Use Permit. The code does not differentiate between a daycare or a preschool. The current code also prohibits employees that do not live in the home and limits the number of vehicle trips per day with a maximum of 20 trips per 24 hours. The proposed language in the code proposes an increased limit of children up to 16 within one daycare. A daycare with 17 or more children is required to locate to a commercial location. Seven children or less would be a permitted use and would not require a Conditional Use Permit. A Conditional Use Permit is required with 8-16 children and would require a public hearing and neighbor notification. The ordinance changes also permit home-based daycares or preschools to allow one employee that does not live in the home. All other types of home occupation businesses will be prohibited from having a nonresident employee. The ordinance amendments require a traffic and parking plan for the City to review how the business will deal with customer parking and traffic. The proposed amendments limit preschools to two sessions per day. The proposed changes also limit daycares within 300 feet of each other. This is to provide separation between the businesses to ensure there are not too many on one block or in a cul-de-sac. The last amendment states that the licensee's children while under the care of the home occupation, shall be counted towards the 16 children allowed.

Chairman Graf asked the Commission if there were any questions or comments.

Commissioner Bevan asked how a session is defined? Mr. Aagard stated that the difference between the daycare and a preschool is in a daycare people drop their children off on their way to work and come back at the end of the work day. In a preschool, classes can be two hours long and have multiple sessions. Drop off and pick up could happen four times a day. It would come down to classes. Commissioner Bevan asked if a licensee could still have four sessions if they had two classes running concurrently? Mr. Bolser stated yes. Commissioner Bevan asked if the providers are already doing it that way, will they be able to continue doing it that way? Mr. Aagard stated yes.

Commissioner Sloan asked if it is 16 children per session or is it 16 total per day? Mr. Aagard stated that the ordinance does not differentiate between them. Commissioner Sloan asked about the residential daycares and preschools up to eight children require a Conditional Use Permit, but there is seven children and below is legal. How is that determined? Mr. Aagard stated that up to eight is how the code is currently written. Under the new code, one to seven children will be legal and eight children to 16 children will be allowable with a Conditional Use Permit.

Commissioner Hammer asked with the 300 feet between businesses, will there be any allowances for back door neighbors that are on opposite streets? Mr. Aagard stated that when the code was written the vision is a 300 square foot bubble for no other similar businesses. That would be for traffic purposes, but could also be for noise. Mr. Aagard stated that he would recommend to hold to the offset of 300 feet.

Chairman Graf stated that if there is an allowance for the furthest point of property line or nearest point of property line. Mr. Aagard stated that it is limited to the closest property line.

Chairman Graf asked if there were any further comments or questions, there were none.

Chairman Graf opened the public hearing.

Ms. Terry Farnwoth stated that she has been involved in childcare for over 30 years in both private and public care. She stated that there has been a lot of concern about the amount of younger age children in need of care. There are a lot of calls to watch younger children, infants and toddlers. She stated that she does not take infants because of her transportation of older children to school. Having the second person, who does not live in the house, would allow her to keep the families she cares for now as they increase their families. Having one caregiver and adding another caregiver gives an extra security measure for the children and allows for more care of the children. She wanted to comment about the 300 foot bubble between businesses. She stated that she has run a daycare next door to another daycare for several years. There have been no issues with traffic.

Commissioner Hammer asked with Ms. Farnwoth's experience; is there a certain limit for infants and toddlers in each operation? Ms. Farnwoth stated that the State regulates the number. Daycares are only allowed two children under the age of two for one caregiver. Even with 16 that would be four under the age of two.

Ms. Randi Gardiner stated she has run an in-home daycare for three years. She stated that she would love to have a second caregiver, but she would need to have more kids to supplement the income. She gave some examples of times a second caregiver would be helpful. The second caregiver would help with the safety of the children. She stated that she is a mother of five and would like to see if the kids that are over ten years old and self-sufficient could be excluded from the ratios. She has children that are 10 and 13 and are not part of the daycare, but are in the home while she operates business. In the state ratios children four and under count in the ratios. She also mentioned that the drop offs and pickups rarely overlap. She rarely has two sets of parents at her home at one time.

Commissioner Sloan asked if Ms. Gardiner knows what the ratios are for other municipalities in regards to business owners own children. Ms. Gardiner stated that Tooele County follows the State ratios.

Chairman Graf closed the public hearing.

Chairman Graf asked the Commission if there were any comments or questions, there were none.

Mr. Aagard stated that the ordinance is written in a way that may be interpreted so that the licensee's own children that are not in need of childcare may be excluded. The ordinance is written that if the child is participating with the daycare, then they would count. It is not

specifically written that way, but could be interpreted in the licensees favor. Mr. Bolser stated that he was involved in the last time the ordinance was amended. The interpretation presented by Mr. Aagard was the intent of the language at the time it was written.

Commissioner Sloan stated interpretation could be scary from a legal standpoint, is there not a way to tighten up the language to not need the interpretation. Mr. Aagard stated that one of the duties of having an ordinance that is slightly vague is to the ability for interpretation. Mr. Bolser stated that Mr. Aagard is on the right track with the comments he has made. State law has established through case law that anytime there is an ambiguity in an ordinance, it must be interpreted in favor of the applicant. From a legal standpoint if an interpretation has to be made, the City would need to interpret just as it has been outlined. If the ordinance was to be more specific the Planning Commission would have to make a recommendation for a specific age. An example he gave was any children under age "X" do count. In doing that, it puts limitations on children who may not be prepared to be left alone or a younger child who may be prepared to be left alone.

Commissioner Hammer asked how the ordinance differs from the state. Mr. Aagard stated that the ordinance is based on state ratios, six to eight children per caregiver. That is what is written in the code. Commissioner Hammer stated she still has questions about the 300 feet. There are different scenarios that come into play. Mr. Aagard stated that he did take the language from another jurisdiction. It is just to make sure there is space between daycares. Commissioner Hammer stated that in a preschool situation, she can see where there are traffic issues. In a daycare situation, rarely are parents there at the same time.

Commissioner Sloan stated that the 300 foot rule could place a home daycare at least two blocks from each other in his previous neighborhood. Potentially there would be four blocks without another daycare. He stated he is not sure of the solution and he is struggling with the 300 feet. Mr. Aagard stated that there could be other ways to write that, 200 linear feet on the same street. Mr. Bolser added that findings from courts in terms of measurements that those stated are minimums from closest to closest. That is a very safe practice to follow. The reason that it is typical to see a bubble distance as opposed to a street distance is that there could be roads that are horseshoes. A daycare could be directly adjacent on two different streets. Mr. Bolser recommended that the Commission stick to a universal standard of measurement and the City Code follow the bubble distance.

Chairman Graf asked if this passes City Council and put into code; if there are two applicants that apply within a 300 foot bubble, who would receive the permit? Is it based on first in time? Mr. Bolser stated that case law has determined it is first in time.

Mr. Bolser stated that there was a comment made about the proposal going to City Council. It is tentatively scheduled for the next work session meeting. In three weeks, the proposal may be going to City Council for a public hearing and potential decision, but Mr. Bolser encouraged the public to watch the agendas for a specific date of the hearing.

Commissioner Sloan stated that he has concerns about the bubble and the code maybe limited opportunities. He stated that the overriding amendments is that the health and safety and the additional caregiver in the business.

Chairman Graf stated that he agreed that there is a need for daycares and a benefit to the City.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Home Based Day Care and Pre-School City Code Text Amendment Request by Tooele City Corporation, application number P19-670, based on the findings and conditions that the amendment satisfies the findings of fact in the Staff Report September 4, 2019, specifically the amendment positively affects the health and safety of the public and adds benefit to the public.**

Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

**5. Public Hearing and Recommendation on a City Code Text Amendment proposed by Tooele City to Chapters 7-14 Residential Zoning Districts related to property frontage requirements in the In-Fill Zoning Overlay District.**

Mr. Bolser stated that the City has taken efforts to promote and encourage growth from within. The City is taking steps to deal with some of the more historic lots that lay out a little differently than newer developments. The City has historical lots that are long and narrow, particularly near the core area of the community, which present difficulties in the zoning classifications and subdividing the lots. The idea was brought to staff last spring to look at an allowance for reduced frontage requirements in the In-Fill area. This is an overlay to the zone.

Mr. Bolser showed an analysis presentation of what the change in the text amendment would do for the In-Fill area. In the In-Fill there are 2911 total parcels. The majority are residential and 98% of those are zoned R1-7 Residential. The text amendment only applies to the residential lots. The City looked at percentages to determine at what percentage of adjustment to the frontage requirements that the majority of lots that do not fall within current requirements would meet frontage requirements. Based on analysis, if the City drops to 80% of the current lot requirements in In-Fill Area A, the City will allow up to 93% of the currently undevelopable lots, to be developed in accordance with frontage requirements. Similarly, if the City drops to 90% of the current lot requirements in In-Fill Area B, the City will allow more than 82% of the currently undevelopable lots to be developed. Knowing we cannot fix every situation; this creates a quantity of properties that are addressed that the staff believes this proposal adequately addresses the issue.

Commissioner Smart stated that this change makes sense.

Chairman Graf opened the public hearing, there were no comments. Chairman Graf closed the public hearing.

**Commissioner Bevan motioned to forward a positive recommendation to the City Council for the In-Fill Property Frontage Requirements City Code Text Amendment Request by Tooele City**

regarding property frontage requirements in the Infill Zoning Overlay district, application number P19-659, based on the following findings, that the text amendment will be in the benefit of the master plan and general plan and health and safety to the public.

Commissioner Smart seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

6. **Review and Approval of Planning Commission minutes for meeting held August 28, 2019.**

Chairman Graf asked the Commission if there were any comments or questions.

**Commissioner Hammer moved to approve minutes from the meeting held on August 28, 2019 as amended.** Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Bevan, "Aye," Commissioner Sloan, "Aye," Commissioner Smart, "Aye," Chairman Graf, "Aye." The motion passes.

7. **Adjourn**

Commissioner Bevan adjourned. The meeting adjourned at 8:01p.m.

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this 25th day of September, 2019

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Tony Graf, Chairman, Tooele City Planning Commission

**STAFF REPORT**

September 5, 2019

**To:** Tooele City Planning Commission  
Business Date: September 11, 2019

**From:** Planning Division  
Community Development Department

**Prepared By:** Jim Bolser, Director

**Re: In-Fill Property Frontage Requirements – City Code Text Amendment Request**

Application No.: P19-659  
Applicant: Tooele City  
Zoning: In-Fill Zoning Overlay District Zone  
Request: Request for approval of a City Code Text Amendment in the In-Fill Zoning Overlay district regarding the regulations governing frontage requirements.

**BACKGROUND**

This application is a request for approval of a City Code Text Amendment regarding regulations governing property frontage requirements for lots in the In-Fill Zoning Overlay district. The City is requesting that a City Code text amendment be approved to allow for the reduction of frontage requirements for properties within the overlay district. Over the past few years the City Council has adopted regulations that established reductions to certain developmental requirements to encourage the development and redevelopment of properties in the heart of the community rather than on the periphery of the community.

**ANALYSIS**

*Text Amendment Analysis.* By the very nature of the properties in the central heart of the community, the dimensions of properties do not lend cleanly to standardized dimensions for properties. As an example, around the time when the City was settled, properties were measured in rods as a standard practice unit of measurement. One rod is equivalent to approximately 16.5 feet. One of the characterizing facets of the In-Fill Overlay district is properties that are somewhat narrow, many being non-conformingly narrow, but deep as they extend through the blocks. These properties have experienced somewhat difficult roads to dividing their depths to facilitate development because of their widths, as division of the property would potentially create undevelopable lots that are too narrow. If you were to take what became somewhat standard historical properties sizes measured in rods, convert the measurement to feet, and divide them in half multiple times the breakdown comes to a little more than 48 feet, which falls below the minimum 60-foot frontage requirement in the R1-7 zoning district which is the predominant zoning classification in the areas covered by the In-Fill Overlay district. For this reason, this proposed City Code text amendment is intended to bridge the gap between the layout of the historically established properties and the current system of property regulations in order to more encourage and facilitate development on the interior of the community. The proposed text amendment can be found in Exhibit "A" to this report. Mapping pertinent to the In-Fill Zoning Overlay can be found in Exhibit "B" to this report.

*Criteria For Approval.* The criteria for review and potential approval of a City Code Text Amendment request is found in Section 7-1A-7 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) No amendment to the Zoning Ordinance or Zoning Districts Map may be recommended by the Planning Commission or approved by the City Council unless such amendment or conditions thereto are consistent with the General Plan. In considering a Zoning Ordinance or Zoning Districts Map amendment, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
  - (a) The effect of the proposed amendment on the character of the surrounding area.
  - (b) Consistency with the goals and policies of the General Plan and the General Plan Land Use Map.
  - (c) Consistency and compatibility with the General Plan Land Use Map for adjoining and nearby properties.
  - (d) The suitability of the properties for the uses proposed viz. a. viz. the suitability of the properties for the uses identified by the General Plan.
  - (e) Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
  - (f) The overall community benefit of the proposed amendment.

## **REVIEWS**

*Planning Division Review.* The Tooele City Planning Division has completed their review of the City Code Text Amendment request and has expressed support for the proposal.

*Engineering Review.* The Tooele City Engineering Division has completed their review of the City Code Text Amendment request and has expressed support for the proposal.

*Noticing.* The applicant has expressed their desire to amend certain terms of the Tooele City Code and do so in a manner which is compliant with the City Code and Utah State Code requirements. As such, notice has been properly issued in the manner outlined in the City and State Codes.

## **STAFF RECOMMENDATION**

Staff recommends the Planning Commission carefully weigh this request for a City Code Text Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision in the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions.

Potential topics for findings that the Commission should consider in rendering a decision:

1. The effect the text amendment may have on potential applications regarding the character of the surrounding areas.
2. The degree to which the proposed text amendment may effect a potential application's consistency with the intent, goals, and objectives of any applicable master plan.
3. The degree to which the proposed text amendment may effect a potential application's consistency with the intent, goals, and objectives of the Tooele City General Plan.
4. The degree to which the proposed text amendment is consistent with the requirements and



- provisions of the Tooele City Code.
5. The suitability of the proposed text amendment on properties which may utilize its provisions for potential development applications.
  6. The degree to which the proposed text amendment may effect an application's impact on the health, safety, and general welfare of the general public or the residents of adjacent properties.
  7. The degree to which the proposed text amendment may effect an application's impact on the general aesthetic and physical development of the area.
  8. The degree to which the proposed text amendment may effect the uses or potential uses for adjoining and nearby properties.
  9. The overall community benefit of the proposed amendment.
  10. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

### **MODEL MOTIONS**

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the In-Fill Property Frontage Requirements City Code Text Amendment Request by Tooele City regarding property frontage requirements in the In-Fill Zoning Overlay district, application number P19-659, based on the following findings:”

1. List findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the In-Fill Property Frontage Requirements City Code Text Amendment Request by Tooele City regarding property frontage requirements in the In-Fill Zoning Overlay district, application number P19-659, based on the following findings:”

1. List findings...

**EXHIBIT A**

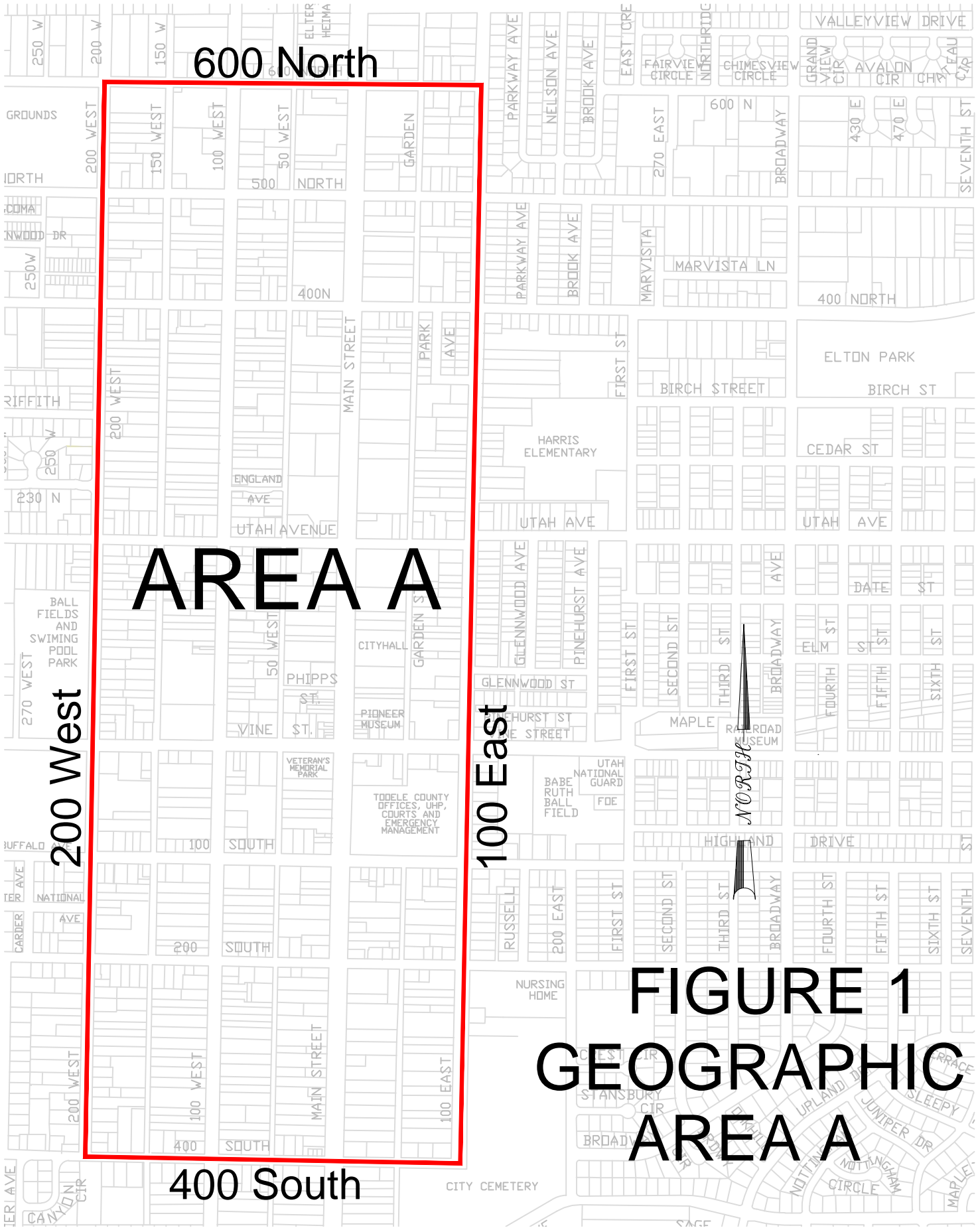
**PROPOSED CITY CODE TEXT AMENDMENT**

**TABLE 5  
IN-FILL OVERLAY DISTRICT DEVELOPMENT STANDARDS**

<b>Development Standard</b>	<b>Geographic Area A</b>	<b>Geographic Area B</b>	<b>Nonconforming Lot/Parcel</b>
Minimum Front Yard Setback	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Garage Setback	25 feet	25 feet	25 feet
<i><u>Minimum Lot Width at Front Setback (all residential uses in residential zones)</u></i>	<i><u>May reduce to 80% of underlying zoning district</u></i>	<i><u>May reduce to 90% of underlying zoning district</u></i>	<i><u>Per underlying zoning district</u></i>
Minimum Rear Yard Setback (interior lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Rear Yard Setback (corner lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Minimum Side Yard Setback (interior lot)	May reduce to 65% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 80% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 90% of underlying zoning district, or to 5 feet, whichever is greater, or to historic foundation line
Minimum Side Yard Setback (corner lot)	May reduce to 65% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 80% of underlying zoning district, or to 5 feet, whichever is greater	May reduce to 90% of underlying zoning district, or to 5 feet, whichever is greater, or to historic foundation line
Total Lot Coverage (all buildings)	May increase to 135% of underlying zoning district	May increase to 120% of underlying zoning district	May increase to 110% of underlying zoning district
Roadway Improvements Required	As required by Tooele City Code	As required by Tooele City Code	As required by Tooele City Code
Water Rights (payment of fee in lieu of conveyance)	Pay 50% of the fee-in-lieu established by the City	Pay 75% of the fee-in-lieu established by the City	Pay 100% of the fee-in-lieu established by the City

**EXHIBIT B**

**MAPPING PERTINENT TO THE  
IN-FILL PROPERTY FRONTAGE REQUIREMENTS CITY CODE TEXT AMENDMENT**



600 North

AREA A

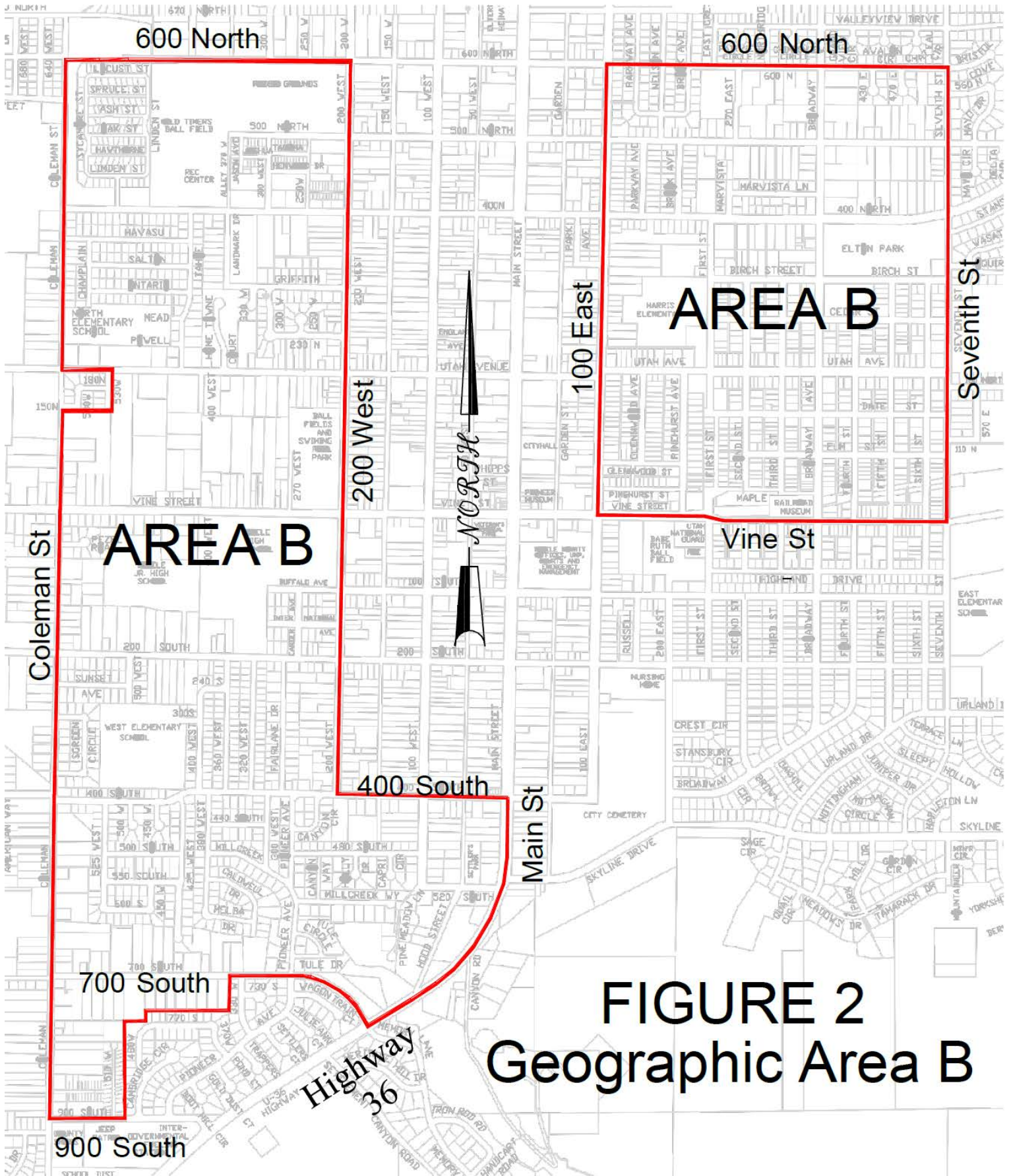
200 West

100 East

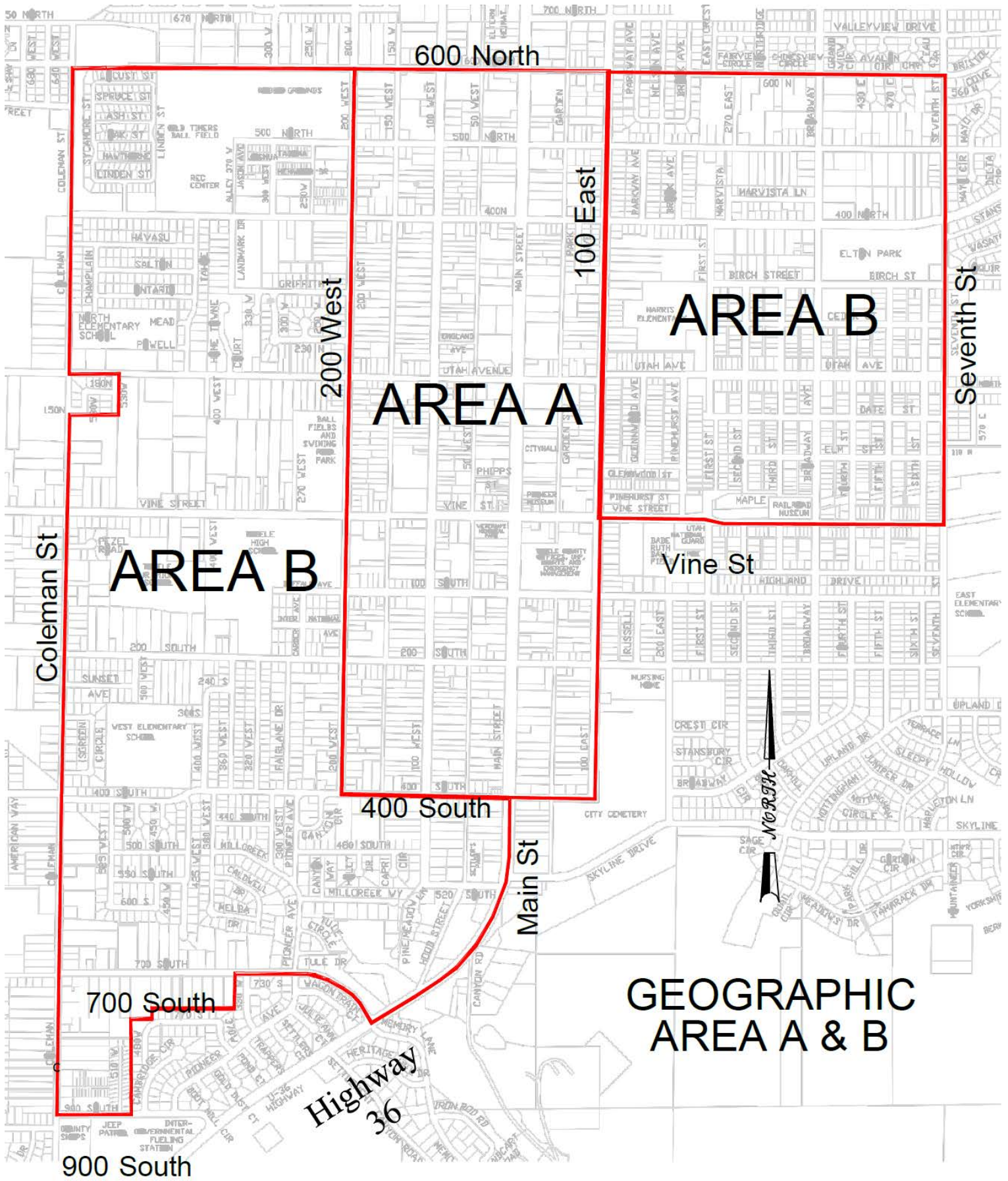
400 South

NORTH

FIGURE 1  
GEOGRAPHIC  
AREA A



**FIGURE 2**  
**Geographic Area B**



**STAFF REPORT**

September 5, 2019

**To:** Tooele City Planning Commission  
Business Date: September 11, 2019

**From:** Planning Division  
Community Development Department

**Prepared By:** Andrew Aagard, City Planner / Zoning Administrator

**Re: Oristruts Minor Subdivision – Minor Subdivision Request**

Application No.: P19-533  
Applicant: Bear All, LLC  
Project Location: Approximately 2400 North 600 East  
Zoning: GC General Commercial Zone  
Acreage: 8.81 Acres (Approximately 383,763.6 ft<sup>2</sup>)  
Request: Request for approval of a Minor Subdivision in the GC General Commercial zone regarding the creation of 1 commercial lot.

**BACKGROUND**

This application is a request for approval of a Minor Subdivision for approximately 8.81 acres located at approximately 2400 North 600 East. The property is currently zoned GC General Commercial. The applicant is requesting that a Minor Subdivision be approved to create one legally platted lot.

**ANALYSIS**

*General Plan and Zoning.* The Land Use Map of the General Plan calls for the Commercial land use designation for the subject property. The property has been assigned the GC General Commercial zoning classification. The purpose of the GC to encourage the establishment of a wide variety of retail commercial uses, service commercial activities, entertainment and other services and activities meeting the needs of the residents of the City. The General Commercial District (GC) allows and encourages that retail and service businesses and related uses be grouped together into commercial centers. The uses and activities allowed in this District should enhance employment opportunities, provide for commercial activities and services required by residents of the city and surrounding areas, encourage the efficient use of land, enhance property values and add to the overall strength of the city's tax base. The GC General Commercial zoning designation is identified by the General Plan as a preferred zoning classification for the Commercial land use designation. Properties to the north are zoned RR-5 Residential. To the west property is located in unincorporated Tooele County. To the south property is zoned LI Light Industrial and to the east property is zoned GC. Mapping pertinent to the subject request can be found in Exhibit "A" to this report.

*Subdivision Layout.* The subdivision is for 1 lot and proposes to turn an existing lot of record into a platted subdivision lot. The lot itself far exceeds ordinance requirements for lot size, lot width and lot frontages. Necessary public improvements are already in place and no road dedication is required.



*Criteria For Approval.* The procedure for approval or denial of a Subdivision Preliminary Plat (Minor Subdivision) request, as well as the information required to be submitted for review as a complete application is found in Sections 7-19-10 and 11 of the Tooele City Code.

## **REVIEWS**

*Planning Division Review.* The Tooele City Planning Division has completed their review of the Minor Subdivision submission and has issued a recommendation for approval for the request.

*Engineering Review.* The Tooele City Engineering and Public Works Divisions have completed their reviews of the Minor Subdivision submission and have issued a recommendation for approval for the request.

*Noticing.* Subdivisions do not require a public hearing and therefore do not require noticing.

## **STAFF RECOMMENDATION**

Staff recommends approval of the request for a Minor Subdivision by Bear All, LLC, application number P19-533, subject to the following conditions:

1. That all requirements of the Tooele City Engineering and Public Works Divisions shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
2. That all requirements of the Tooele City Building Division shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
3. That all requirements of the Tooele City Fire Department shall be satisfied throughout the development of the site and the construction of all buildings on the site.
4. That all requirements of the geotechnical report shall be satisfied throughout the development of the site and the construction of all buildings on the site.

This recommendation is based on the following findings:

1. The proposed development plans meet the intent, goals, and objectives of the Master Plan.
2. The proposed development plans meet the intent, goals, and objectives of the Tooele City General Plan.
3. The proposed development plans meet the requirements and provisions of the Tooele City Code.
4. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
5. The proposed development conforms to the general aesthetic and physical development of the area.
6. The public services in the area are adequate to support the subject development.
7. The proposed subdivision meets or exceeds all Tooele City ordinances and standards for development including lot size, lot width and lot frontages.

## **MODEL MOTIONS**

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the

City Council for the Oristruts Minor Subdivision Minor Subdivision Request by Bear All, LLC for the purpose of creating 1 lot at 2400 North 600 East, application number P19-533, based on the findings and subject to the conditions listed in the Staff Report dated September 5, 2019:”

1. List findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Oristruts Minor Subdivision Minor Subdivision Request by Bear All, LLC for the purpose of creating 1 lot at 2400 North 600 East, application number P19-533, based on the following findings:”

1. List findings...

**EXHIBIT A**

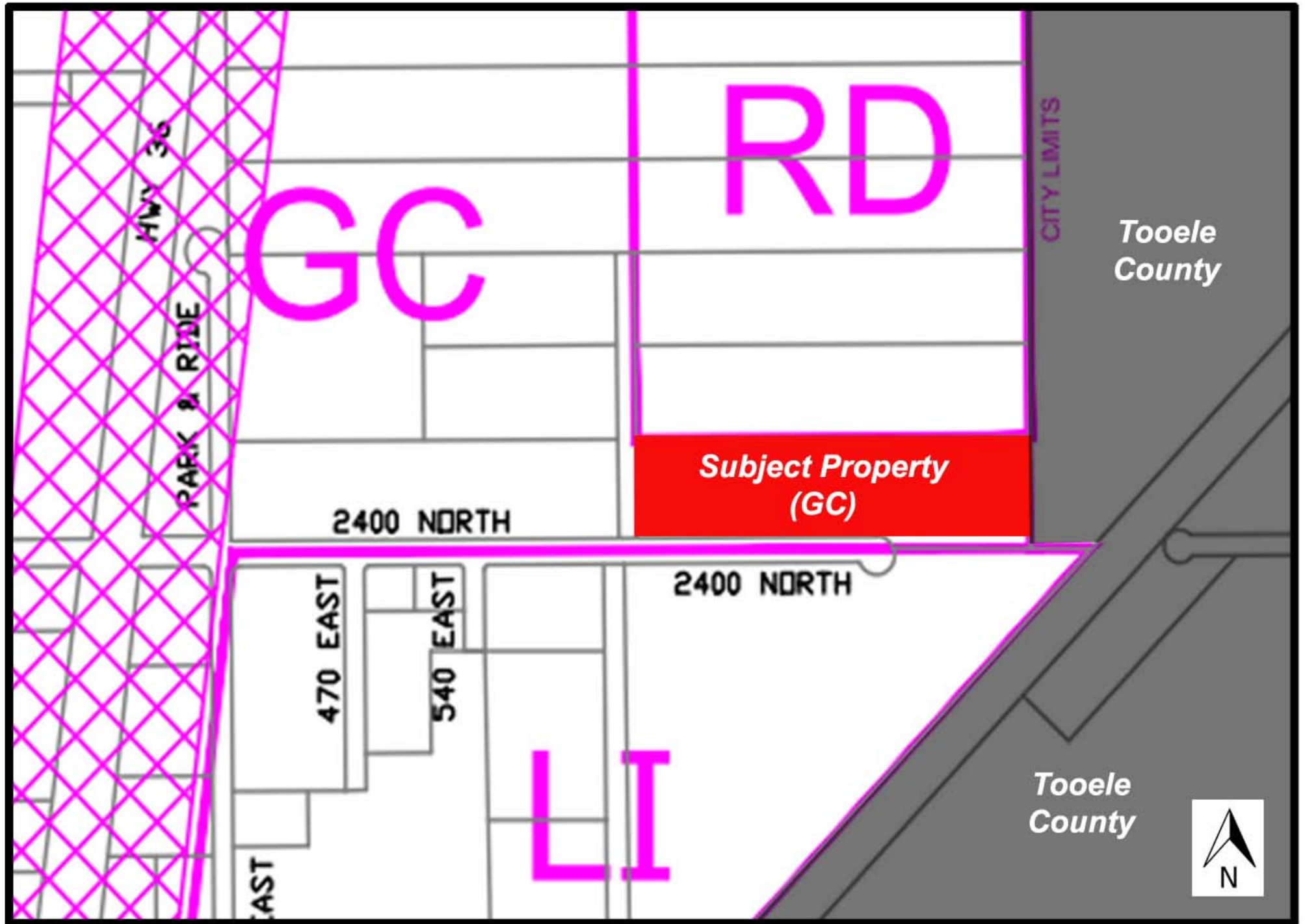
**MAPPING PERTINENT TO THE ORISTRUTS MINOR SUBDIVISION MINOR  
SUBDIVISION**

# Oristuts Minor Subdivision



**Aerial View**

**Oristuts Minor Subdivision**



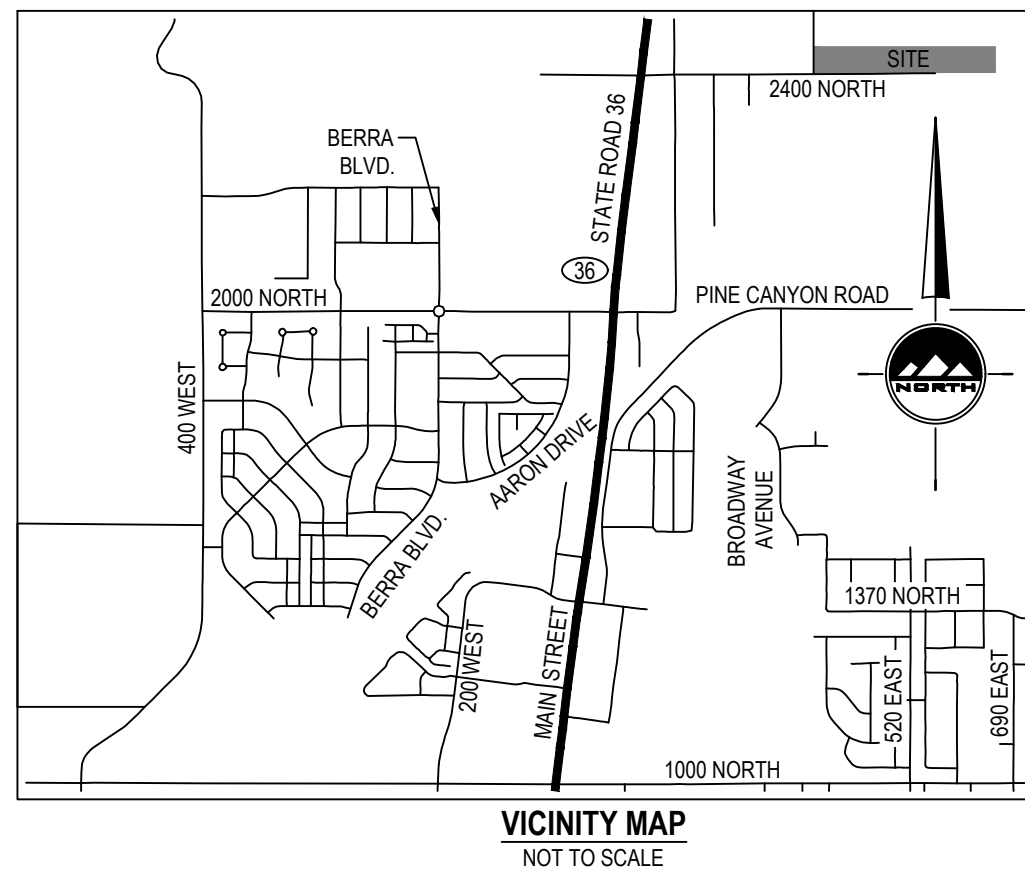
**Current Zoning**

**EXHIBIT B**

**PROPOSED DEVELOPMENT PLANS  
APPLICANT SUBMITTED INFORMATION**

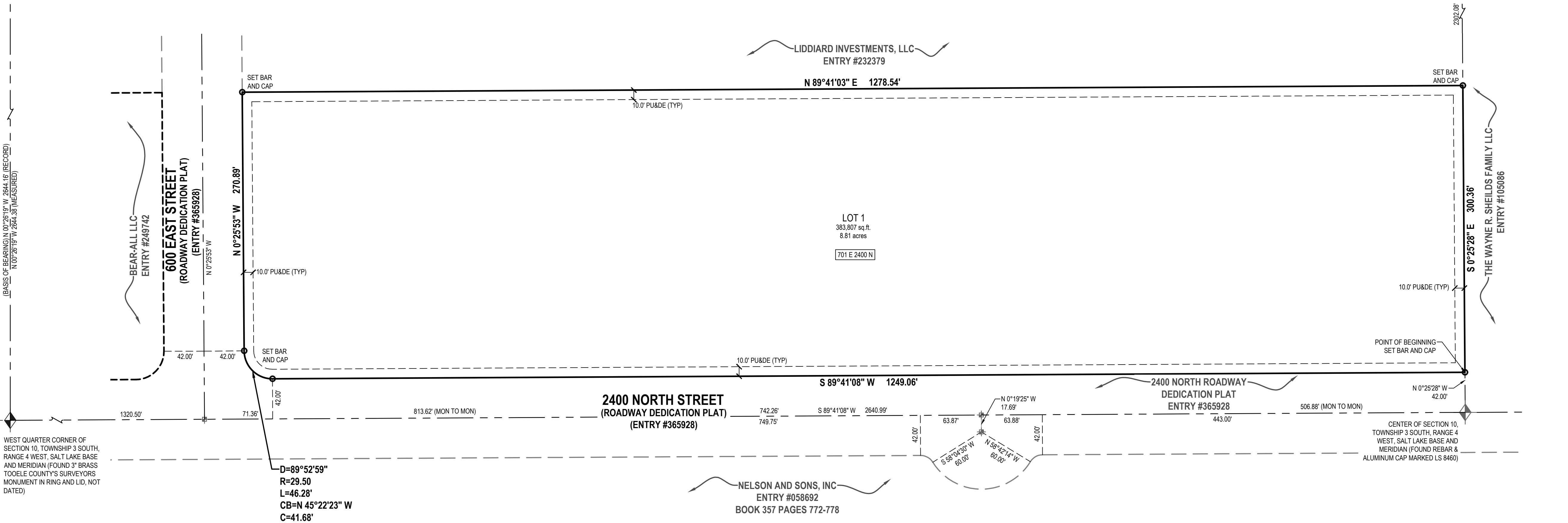
# FINAL PLAT ORISTRUTS MINOR SUBDIVISION

LOCATED IN THE SOUTH HALF OF SOUTH HALF OF THE  
NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 3  
SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN,  
TOOELE CITY, TOOELE COUNTY, UTAH



NORTH QUARTER CORNER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN (FOUND 3" BRASS TOOELE COUNTY'S SURVEYORS MONUMENT, DATED 1980)

NORTHWEST CORNER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN (FOUND 3" BRASS TOOELE COUNTY'S SURVEYORS MONUMENT, DATED 1986)



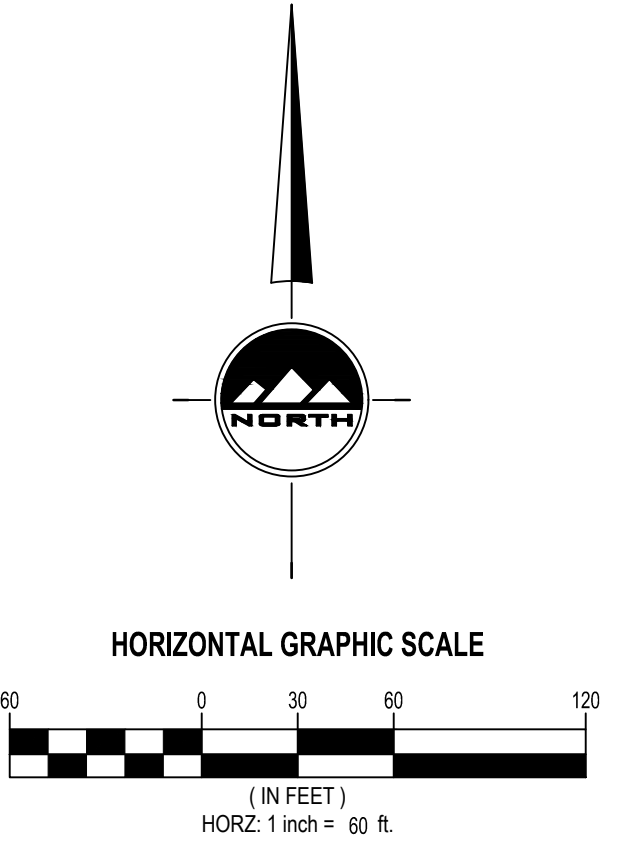
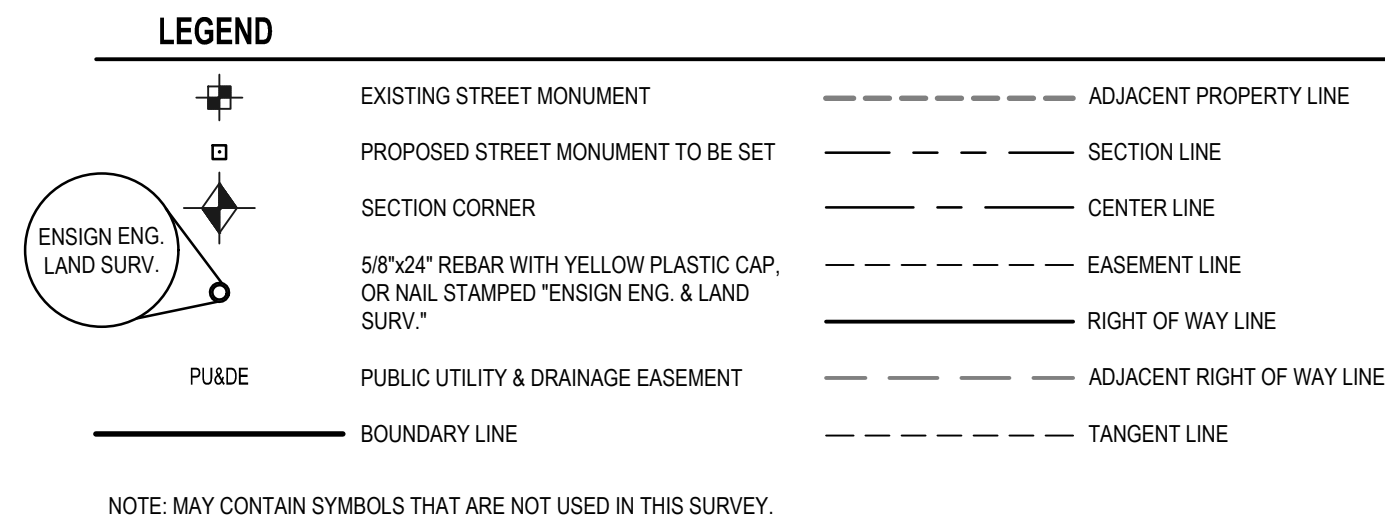
WEST QUARTER CORNER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN (FOUND 3" BRASS TOOELE COUNTY'S SURVEYORS MONUMENT IN RING AND LID, NOT DATED)

CENTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN (FOUND REBAR & ALUMINUM CAP MARKED LS 8460)

**DOMINION ENERGY**  
DOMINION APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS. DOMINION MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE ABROGATION OR WAIVER OF ANY OTHER EXISTING RIGHTS, OBLIGATIONS, OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE, APPROVAL, OR ACKNOWLEDGMENT OF ANY TERMS CONTAINED IN THE PLAT, INCLUDING THOSE SET FORTH IN THE OWNERS DEDICATION AND THE NOTES AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION RIGHT-OF-WAY DEPARTMENT AT 1-800-366-8532.

**NOTE**  
ROAD IMPROVEMENT MUST BE INSTALLED, PRIOR TO ANY FURTHER DEVELOPMENT

**ROCKY MOUNTAIN POWER COMPANY**  
1. PURSUANT TO UTAH CODE ANN. § 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF UTILITY FACILITIES A PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED THEREIN.  
2. PURSUANT TO UTAH CODE ANN. § 17-27A-803(4)(C)(III) ROCKY MOUNTAIN POWER ACCEPTS DELIVERY OF THE PUE AS DESCRIBED IN THIS PLAT AND APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT AFFECT ANY RIGHT THAT ROCKY MOUNTAIN POWER HAS UNDER.  
(1) A RECORDED EASEMENT OR RIGHT-OF-WAY  
(2) THE LAW APPLICABLE TO PRESCRIPTIVE RIGHTS  
(3) TITLE 94, CHAPTER 8A, DAMAGE TO UNDERGROUND UTILITY FACILITIES OR  
(4) ANY OTHER PROVISION OF LAW.



APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_  
DOMINION ENERGY  
BY \_\_\_\_\_  
TITLE - \_\_\_\_\_

**TOOELE CITY COUNCIL**  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_ BY THE TOOELE CITY COUNCIL.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTEST: CITY RECORDER

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
**ROCKY MOUNTAIN POWER**  
BY \_\_\_\_\_  
TITLE - \_\_\_\_\_

**DEVELOPER**  
BEAR ALL LLC  
2133 LAKE LINE DRIVE  
SLC, UT, 84109  
ALAN COHEN  
801-201-2927

**SHEET 1 OF 1**  
PROJECT NUMBER: T1200B  
MANAGER: D. KINSMAN  
DRAWN BY: C. CHILD  
CHECKED BY: D. KINSMAN  
DATE: 8/12/2019

**TOOELE COUNTY TREASURER APPROVAL**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE TOOELE COUNTY TREASURER.  
TOOELE COUNTY TREASURER

**CITY ATTORNEY'S APPROVAL**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE CITY ATTORNEY  
TOOELE CITY ATTORNEY

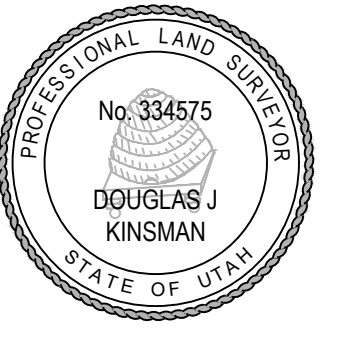
**CITY ENGINEER'S APPROVAL**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE CITY ENGINEER  
TOOELE CITY ENGINEER

**COMMUNITY DEVELOPMENT APPROVAL**  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE COMMUNITY DEVELOPMENT  
TOOELE CITY COMMUNITY DEVELOPMENT

**PLANNING COMMISSION APPROVAL**  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
BY THE TOOELE CITY PLANNING COMMISSION.  
CHAIRMAN TOOELE CITY PLANNING COMMISSION

**SURVEYOR'S CERTIFICATE**  
I, Douglas J Kinsman do hereby certify that I am a Professional Land Surveyor, and that I hold certificate No. 334575 as prescribed under laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into a lot, together with easement, hereafter to be known as ORISTRUTS MINOR SUBDIVISION, and that the same has been correctly surveyed, staked, and monumented on the ground as shown on this plat. I further certify that all lots meet frontage width and area requirements of the applicable zoning ordinances.

**BOUNDARY DESCRIPTION**  
A parcel of land, situate in the Northwest Quarter of Section 10, Township 3 South, Range 5 West, Salt Lake Base and Meridian, said parcel also located in Tooele, Utah, more particularly described as follows:  
Beginning at a point on the north line of 2400 North Street, said point being North 0°25'28" West 42.00 feet along the Quarter Section line from the found monument representing the Center of Section 10, Township 3 South, Range 4 West, Salt Lake Base and Meridian, and running:  
thence South 89°41'08" West 1249.06 feet along the north line of said 2400 North Street;  
thence Northwesterly 46.25 feet along the arc of a 29.50-foot radius tangent curve to the right (center bears North 0°18'52" West and the long chord bears North 45°22'23" West 41.68 feet with a central angle of 69°52'59") to the east line of 600 East Street;  
thence North 0°25'53" West 270.89 feet along said east line;  
thence North 89°41'03" East 1278.54, to the Quarter Section Line;  
thence South 0°25'28" East 300.36 feet along said Quarter Section Line, to the point of beginning.  
Contains 383,807 square feet or 8.81 acres, 1 lot.



Date  
Douglas J Kinsman  
License no. 334575

**OWNER'S DEDICATION AND CONSENT TO RECORD**  
Know all men by these present that the undersigned are the owner(s) of the hereon described tract of land and hereby cause the same to be divided into a lot, together with easements as set forth hereafter to be known as:

## ORISTRUTS MINOR SUBDIVISION

The undersigned owner(s) hereby convey to Tooele City and to any and all public utility companies providing service to the hereon described tract a perpetual, non-exclusive easement over the public utility and drainage easements shown on this plat, the same to be used for drainage and for the installation, maintenance and operation of public utility service lines and facilities.

In witness whereof I / we have hereunto set my / our hand this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_

By: Bear All, LLC  
Alan Cohen (Managing Director)

By: \_\_\_\_\_

**LIMITED LIABILITY COMPANY ACKNOWLEDGMENT**

STATE OF UTAH  
County of Tooele  
J.S.S.  
On the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_  
personally appeared before me, the undersigned Notary Public, in and for said County of \_\_\_\_\_ in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the \_\_\_\_\_ a Limited Liability Company and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Limited Liability Company for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.  
Notary's Full Name & Commission Number \_\_\_\_\_  
My Commission Expires \_\_\_\_\_ A Notary Public Commissioned in Utah \_\_\_\_\_

## FINAL PLAT ORISTRUTS MINOR SUBDIVISION

LOCATED IN THE SOUTH HALF OF SOUTH HALF OF THE  
NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 3  
SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN,  
TOOELE CITY, TOOELE COUNTY, UTAH

**TOOELE COUNTY RECORDER**  
RECORDED # \_\_\_\_\_  
STATE OF UTAH, COUNTY OF TOOELE, RECORDED AND FILED AT THE  
REQUEST OF: \_\_\_\_\_  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_  
FEES \_\_\_\_\_ TOOELE COUNTY RECORDER

**Tooele City Council  
Work Session Meeting Minutes**

Date: Wednesday, September 18, 2019  
Time: 5:00 p.m.  
Place: Tooele City Hall, Large Conference Room  
90 North Main St., Tooele, Utah

**City Council Members Present:**

Steve Pruden  
Scott Wardle  
Dave McCall  
Brad Pratt  
Melodi Gochis

**City Employees Present:**

Mayor Debbie Winn  
Roger Baker, City Attorney  
Glenn Caldwell, Finance Director  
Michelle Pitt, Recorder  
Jim Bolser, Community Development Director  
Steve Evans, Public Works Director  
Paul Hansen, City Engineer  
Darwin Cook, Parks and Recreation Director  
Ron Kirby, Police Chief

Minutes prepared by Michelle Pitt

**1. Open Meeting**

Chairman Pruden called the meeting to order at 5:00 p.m.

**2. Roll Call**

Steve Pruden, Present  
Scott Wardle, Present  
Brad Pratt, Present  
Dave McCall, Present  
Melodi Gochis, Present

**3. Discussion:**

- Potential Development Plan for the Lexington Greens Project  
Presented by Jim Bolser



Mr. Bolser had provided to the Council the concept plan for this project prior to this meeting. He explained that there was a portion of the project already under the approval process. He and other members of City staff had met with the developers to discuss their plan for the development of another portion of the property. There are elements of that portion that may classify as a single-family dwelling because developers are proposing a specific housing type for an older resident community. The units would be duplexes or twin homes for those 55 and older. Mr. Bolser added that in order to accomplish this type of overall project, it would need a PUD. The current zoning classification is MR-16, which is 16 units per acre over all. Their proposed plan was for only 11 units per acre. Mr. Bolser stated that this type of project would provide a variety of housing within their plan. The applicant is requesting feedback from the Council to see if they would be open to this type of development of housing before the time and effort is expended towards the development of a PUD.

Chairman Pruden agreed that this type of development would require a PUD. Council Member Wardle said that one problem was that the City has other residential areas that are built for older citizens, but if the development gets sold, the use goes away. Mr. Bolser stated that that would be one of the benefits of having a PUD in effect, so that the City could apply those specific terms to the zoning for this area. Mr. Bolser went on to say that the vast majority of the development, would be privately owned, which meant that the City would not maintain the areas.

Mr. Baker stated that without the PUD, the zoning wouldn't allow single-family dwellings because they're not allowed in the MR-16 zoning district. The plan shows a four acre park. Mr. Bolser stated that the plan showed the park although the park is not a part of the area of the project that would have the PUD. It is a part of the prior project that is already under development approval and ready for construction. The developer has also already been approved a Conditional Use Permit that made it so that the park would be privately owned and maintained.

The Council indicated that this plan was better in this location than other development plans they've seen Berra Boulevard. Council Member McCall added that the Planning Commission liked the layout because someone could go in as a young person, then transition to the older living area. Council Member Gochis said that the North Tooele City Special Service District is interested in this development, but the developer did not want to bring it in to their service district.

The Council was generally in favor, as long as it was as a PUD.

- Oristruts Minor Subdivision Plat by Bear All, LLC, Located at 2400 North 600 East, 1 Lot, 8.8 Acres in the GC General Commercial Zoning District  
Presented by Jim Bolser

Mr. Bolser stated that this subdivision is unique in that it is not creating anything. It is an existing parcel, and the owners would like to record a subdivision plat to formally establish the lot. Mr. Bolser added that this is sometimes done for financing purposes, or to solidify property records.

Mr. Baker asked if public improvements needed to be put in. Mr. Bolser answered that there weren't any plans for additional public improvements, and the City is not requiring any at this time.

It was decided to bring this matter back to the Council on the 2<sup>nd</sup> of October.

- City Code Text Amendment Proposed by Tooele City to Sections 7-1-5; Definitions and 7-2-19; Home Occupations Related to Home Based Day Cares and Pre-School Businesses  
Presented by Jim Bolser

Mr. Bolser stated that the proposed text amendment in the City Code for preschools and day cares is the same as when it was brought to the Council at the September 4<sup>th</sup> meeting. The amendments have gone through the Planning Commission and are being forwarded with a unanimous positive recommendation.

Council Member Wardle indicated that the Council would like to see the draft Planning Commission minutes.

It was decided to put this matter on the October 2<sup>nd</sup> meeting.

- City Code Text Amendment Proposed by Tooele City to Chapter 7-14 Residential Zoning Districts Related to Property Frontage Requirements in the In-Fill Zoning Overlay District  
Presented by Jim Bolser

Mr. Bolser stated that this was a proposed text amendment which was presented at a prior meeting. The Planning Commission heard this matter and forwarded it with a positive recommendation.

- Ordinance 2019-25 An Ordinance of Tooele City Repealing Tooele City code Chapter 5-10 Regarding Pawnbrokers  
Presented by Matt Johnson

Mr. Johnson said that this section of the City Code regarding pawnbrokers was enacted by the City in 1983 and hasn't been changed since. The State legislature has enacted a more comprehensive policy regarding pawnbrokers, and part of the State Code says that the City can't enact additional laws. The City is preempted by what the State Code says. The proposed Ordinance is that the City repeal this section of the Code.

- Ordinance 2019-26 An Ordinance of Tooele City Amending Tooele City Code Title 5 to Locate Business Licensing Functions in the Community Development Department  
Presented by Roger Baker

Mr. Baker stated that the amendments to Title 5 are an ongoing effort. With the relocation of business licensing from the Recorder's Office to the Community Development Department, it has caused that this Title be amended. Lisa Carpenter, Business License Official, went through the Code and highlighted areas in the Code that she suggested amending. Mr. Baker indicated that he also went through the Code. He said that the many references to the Recorder's Office need to be amended. He suggested referring to the "department", and then defining the department as Community Development in the definition section. An appeal refers to the Director, rather than naming a specific department.

It was decided that this will be brought back to the Council for consideration at a later meeting.

- Resolution 2019-69 A Resolution of the Tooele City Council Approving an Agreement with Celtic Bank Corporation for the Exchange of Land Presented by Roger Baker

Mr. Baker said that in 2011, the City purchased a five acre lot in Pine Canyon in the Murray Flats subdivision. At that time the City, with the cooperation of the owner, went through a condemnation process. The court gave the City a deed for the five acre lot. The City paid the owner for the property, who is Celtic Bank. The City acquired an easement and right-of-way along with the lot. The City's intention is to locate a well on this lot, and to utilize the Kennecott water rights for Tooele City development in the future. Celtic Bank would now like to re-subdivide. Celtic Bank is asking the City to give them their lot back, they will subdivide, and deed a smaller lot back to the City. The difference is about ½ of an acre. Because the lot will be smaller, Celtic Bank will pay the City \$30,000, which is the market value of the difference in the sizes of the lot. Mr. Baker further explained that if the City doesn't use the lot to develop a well, Celtic Bank is asking for a right of first refusal to purchase it. The \$30,000 will go back in to the water fund or water impact fee fund because that's the fund that was used to purchase the lot.

- Resolution 2019-68 A Resolution of the Tooele City Council Approving a Contract with Christensen & Griffith for the Construction of the Snow Plow Salt Rack Project Presented by Steve Evans

Mr. Evans stated that the snow plow salt rack project was bid out. Christensen and Griffith was the low bid at \$92,400.00. The current rack was built with telephone and railroad ties and is not structurally sound. It has been a huge concern with the City and OSHA. The Christensen and Griffith contract says that it will be complete by October 31<sup>st</sup>. That date needs to be amended to December 31<sup>st</sup>. Mr. Evans added that the contract does not include a contingency amount so if more funds are needed, it will have to be brought back as a change order before the Council.

- Resolution 2019-66 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule to Add a Golf Course Pavilion Rental Fee Presented by Darwin Cook

Mr. Cook said that this matter was brought to the Council at an earlier meeting. Because of discussions in that earlier meeting, the rental fee changed from \$2.00 per chair to \$1.00 per chair

for all who rent the facility. There is no longer a provision of an additional fee for those who do and do not use the golf course's kitchen. The rental for the pavilion will be \$200.00. Mr. Cook said that this fee is in line with other cities' golf course rentals. He added that the pavilion was built with PAR tax monies.

- Elton Park Walk Path  
Presented by Darwin Cook

This project is utilizing PAR tax, and Mr. Cook stated that he was bringing the matter to the Council tonight because the irrigation system is going in at Elton Park now. Mr. Cook stated that he will bring other PAR tax projects to the Council on October 16<sup>th</sup>. Mr. Cook went on to say on the north and south sides there are sidewalks, but on the west and east sides there are not. This project would complete the entire walking path around the park.

Mr. Hansen said that if it is integral to the curb and gutter, then the City's policy is to go 6 feet rather than the proposed 5 feet. Chairman Pruden suggested that the bid documents indicate that this project not go over \$50,000. Once the contract has been determined, it will be brought back to the Council for approval.

- Parades  
Presented by Chairman Steve Pruden

Chairman Pruden stated that since there are two more parades this year, the Homecoming and Christmas parades, he thought it would be a good time to discuss the candy distribution issue. He asked if the no throwing of candy policy applied to the Homecoming and Christmas parades. The Mayor said that it did not because those parades are not City parades. Chairman Pruden asked if the Council would be okay to throw candy at these parades.

Council Member Pratt said that the two parades have a different parade route than the 4<sup>th</sup> of July parade. The Chamber parade continues to go down Main Street, but the Homecoming parade does not. He felt that in the 4<sup>th</sup> of July parade, there were spotters on the street keeping people back, but it created a danger having people on the street. Parades in itself create danger. Throwing candy is not the issue, the issue is keeping people back. The median is scary. He felt that candy being thrown at the Homecoming and Chamber parades are okay.

The Mayor said that the 4 of July has a lot more citizens attend compared to the Homecoming and Christmas parades. She felt that the City should not impose restrictions since they were not the City's parades. The Homecoming parade is the high school's and the Christmas parade is the Chamber's. Council Member Wardle asked if the 4<sup>th</sup> of July was the Bit N Spur's parade, or the City's. The Mayor answered that it is the City's parade. The Mayor said she met with the Bit N Spur today to talk about that very thing. The Bit N Spur has a couple of volunteers at the beginning of the parade to help direct participants and in return the City gives them \$500. The City has the Grand Marshal, the Bit N Spur has the Grand Marshal of the rodeo. The Mayor said she will talk with the Bit N Spur to make sure they understand that their Grand Marshal is not the Grand Marshal of the parade.

It was mentioned that there weren't any horses in the 4<sup>th</sup> of July parade this year. The Bit N Spur were concerned that the horses would get spooked, especially in the area where the road narrows. The Mayor would like to try, at next year's 4<sup>th</sup> of July parade, to have a parade director at the beginning of the median, to send one entry on the right side, and one to the left, directing the entrants to stay as close as they can to the median. After this is explained to the Bit N Spur, they may bring the horses back in the parade. She added that there is a lot to discuss on how this will work, but she would like to try it. It will also help with keeping spectators back off the road. After the turn on Utah Avenue the entries will go back to one line.

Council Member Wardle stated that there were people throwing candy at the 4<sup>th</sup> of July parade, and said they were told by City staff that they could throw it. He felt that walking back and forth to the vehicles to get more candy was more dangerous than throwing it from the vehicle. He suggested painting a line along Main that spectators can't cross. Council Member McCall said that barricades with tape could prevent people from running out.

Council Member Pratt added that since they were walking on the street, their entry became spread out because they were going back and forth to the vehicle for more candy. It created large gaps in the parade.

The Mayor suggested that these next two parades happen without any restrictions. She would like to research some ideas, see what other cities do, and then have this matter brought back to the Council. The Mayor said that the Council could pass an Ordinance saying that all parades be done a certain way. Council Member Wardle said that if the City was going to make rules, they needed to be enforceable. An Ordinance is a way to enforce the rules, rather than having it just be an office policy. The Mayor said that this year, when everyone picked up their parade packets, they signed a paper saying that they would not throw candy. Chief Kirby asked who was going to enforce it. The Mayor said nobody because it is too difficult to kick out an entry during the parade. The City wanted to try it to see how many would comply, and what issues there would be. Mr. Baker said that when the City makes the policy, the President of the Utah Local Governments Trust would be willing to come and discuss this issue with the Council.

It was suggested that if governmental leaders are campaigning, and are a current Council Member, they should be in a separate area so there is a separation.

- Resolution 2019-71 A Resolution of the Tooele City Council Naming the City Hall South Driveway as "Dunlavy Way"  
Presented by Brad Pratt

Council Member Pratt stated that this Resolution was partially written in 2018 when the Council decided to place the Dunlavy Way sign on the driveway next to City Hall. Over events that have happened, with the sign going down, then back up, it was discovered that the Resolution was never voted on. Back then, the City couldn't make the driveway a street because it doesn't qualify as a street. It was suggested that the Council bring the Resolution back for a vote to place the sign. Council Member Pratt added that one of the reasons for the sign was because of Mr. Dunlavy's 50 years of service, and as a present to Mayor Patrick Dunlavy.

#### **4. Close Meeting to Discuss Litigation, Property Acquisition, and Personnel**

**Council Member Pratt moved to close the meeting.** Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall “Aye,” Council Member Wardle “Aye,” Council Member Pratt “Aye,” Council Member Gochis “Aye,” and Chairman Pruden “Aye.”

The meeting closed at 6:04 p.m.

Those in attendance during the closed session: Mayor Winn, Paul Hansen, Michelle Pitt, Jim Bolser, Steve Evans, Glenn Caldwell, Roger Baker, Chief Ron Kirby, Darwin Cook, Council Member Wardle, Council Member Pratt, Council Member McCall, Council Member Gochis, and Chairman Pruden.

No minutes were taken on the closed meetings.

#### **5. Adjourn**

**Council Member Pratt moved to close the meeting.** Council Member McCall seconded the motion. The vote was as follows: Council Member McCall “Aye,” Council Member Wardle “Aye,” Council Member Pratt “Aye,” Council Member Gochis “Aye,” and Chairman Pruden “Aye.”

The meeting adjourned at 6:51 p.m.

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this 2nd day of October, 2019

---

Steven Pruden, Tooele City Council Chairman

**Tooele City Council  
Business Meeting Minutes**

**Date:** Wednesday, September 18, 2019

**Time:** 7:00 p.m.

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

**City Council Members Present:**

Brad Pratt

Dave McCall

Melodi Gochis

Scott Wardle

Steve Pruden

**City Employees Present:**

Jim Bolser, Community Development Director

Chief Ron Kirby, Police Department

Roger Baker, City Attorney

Glenn Caldwell, Finance Director

Steve Evans, Public Works Director

Darwin Cook, Parks Department Director

Paul Hansen, City Engineer

Michelle Pitt, City Recorder

Cylee Pressley, Deputy Recorder

**City Employees Excused:**

Minutes prepared by Kelly Odermott

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

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Deputy Recorder, Cylee Pressley.

**2. Roll Call**

Steve Pruden, Present

Scott Wardle, Present

Dave McCall, Present

Brad Pratt, Present

Melodi Gochis, Present

3. **Mayor's Youth Recognition Awards**

Presented by Mayor Winn, Council Member Pratt, and Police Chief Ron Kirby.

Mayor Winn welcomed visitors for the Mayor's Youth Awards and introduced Tooele City Police Chief Ron Kirby and thanked him for his collaboration. Council Member Pratt highlighted Communities That Care Programs including Second Step, QPR, and Guiding Good Choices.

Council Member Pratt, Chief Kirby, and the Mayor then presented the Mayor's Youth Recognition Awards to the following students:

- Lizzy Morales
- Katelin Chipman
- Joclyn Skoglund

4. **Public Comment Period.**

Chairman Pruden invited comments from the public, there were none.

Chairman Pruden closed the public comment period.

5. **Ordinance 2019-25 An Ordinance of Tooele City Repealing Tooele City Code Chapter 5-10 Regarding Pawnbrokers**

Presented by Matt Johnson

Mr. Johnson stated that this particular ordinance came about on a review of the current city code regulating pawnbrokers. This code was passed in 1983 and hasn't been substantially amended since that time. In reviewing the code, the City looked at the state code to see if the state code preemptively mitigated the City code. state code is comprehensive and restricts City's from passing any code that is more restrictive than the state code. The City does have some provisions that are more restrictive. On the review of each section of the current City code, it appears that the state code is preemptive of the code and it is proposed that it be repealed.

Chairman Pruden asked if there were questions or comments from Council, there were none.

**Council Member McCall motioned to approve Ordinance 2019-25.** Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

6. **Resolution 2019-69 A Resolution of the Tooele City Council Approving an Agreement with Celtic Bank Corporation for the Exchange of Land**



Presented by Roger Baker

Mr. Baker stated that in 2011 Tooele City purchased from Celtic Bank a 5.2 acre lot in Pine Canyon for the purpose of preserving land on which a well could be drilled using the Kennecott water rights. The City still holds the lot for that purpose today. The subdivision from which the lot was purchased has since been vacated. The owner now wishes to subdivide the land again and would reconfigure the lots around the City lot. Celtic Bank has asked the City to deed the lot to Celtic Bank and then Celtic bank will deed back a new lot that will be 4.7 acres. The Bank is proposing to compensate the City for the difference in acreage of the lots at today's land prices. The City has written an agreement that mostly provides instructions to an escrow agent to the process of which documents will be recorded and in what order. Mr. Baker described the order of the documents and how they will go through the escrow agent. Mr. Baker stated that the new plat will grant access with easement and right-of-way. The agreement does give Celtic Bank the first right of refusal in the event that the City decides to not develop a well on the property, but to sell it for development purposes. The contract was negotiated amicably. There is one clarification in the agreement to make sure the City is listing the correct lot number of the new lot.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

**Council Member Pratt motioned to approve Resolution 2019-69.** Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

7. **Resolution 2019-66 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule to Add a Golf Course Pavilion Rental Fee**

Presented by Darwin Cook

Mr. Cook stated that in March a contract was approved to build a pavilion at the Golf Course. That has been completed. It was administered through the P.A.R. tax fund. It is a beautiful pavilion and it is ready for public use. This resolution proposes a charge of \$200 per day, plus a \$50 dollar per hour after 9:00pm and \$1 per chair rental.

Chairman Pruden asked the Council if there were any questions, there were none.

**Council Member Gochis motioned to approve Resolution 2019-66.** Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

8. **Resolution 2019-68 A Resolution of Tooele City Council Approving a Contract with Christensen & Griffith for the Construction of the Snow Plow Rack Project**

Presented by Steve Evans

Mr. Evans stated that there were some safety concerns with the old snow plow rack. Christensen & Griffith came in at the low bid of \$92,400. There is one item that needs to be changed on the item is the completed date needs to be December 31, 2019.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

**Council Member Wardle motioned to approve Resolution 2019-68 with the amendment of the construction to be completed by December 31, 2019.** Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

9. **Minutes**

Chairman Pruden asked if the Council if there were any comments or questions, there were none.

**Council Member Gochis motioned to approve minutes from the City Council September 4, 2019.** Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

10. **Approval of Invoices**

Presented by Michelle Pitt

An invoice in the amount of \$24,545.84, to Ken Garff American Fork for an animal control pickup.

An invoice in the amount of \$47,400, to L.N. Curtis for Baron CFS Breathing Air Compressor.

An invoice in the amounts of \$31,579.24, to MSL Mountainland Supply for water meters and water meter supplies.

An invoice in the amount of \$136,728, to Ken Garff West Valley Ford for a truck and three police vehicles.

An invoice in the amount of \$24,545.84, to Ken Garff American Fork for a police vehicle.

An invoice in the amount of \$32,569, to Ken Garff West Valley for a parks department vehicle.

**Council Member Pratt motioned to approve invoices.** Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

## 11. Adjourn

**Council Member Gochis moved to adjourn the City Council meeting.** Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Council Member Wardle, "Aye," Chairman Pruden, "Aye." The motion passed.

The meeting adjourned at 7:27 p.m.

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this 2nd day of October, 2019

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Steve Pruden, Tooele City Council Chair