

**TOOELE CITY PLANNING COMMISSION MINUTES**  
**December 12, 2018**

**Date:** Wednesday, December 12, 2018

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

**Commission Members Present:**

Tony Graf  
Tyson Hamilton  
Bucky Whitehouse  
Melanie Hammer  
Chris Sloan  
Matt Robinson

**Commissioner Members Excused:**

Phil Montano  
Shaunna Bevan

**City Employees Present**

Jim Bolser, Community Development Director  
Andrew Aagard, City Planner  
Paul Hansen, City Engineer  
Roger Baker, City Attorney

**Council Member Present:**

Council Member McCall  
Council Member Gochis

Minutes prepared by Kelly Odermott

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

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Chairman Robinson.

**2. Roll Call**

Tyson Hamilton, Present  
Tony Graf, Present  
Bucky Whitehouse, Present  
Melanie Hammer, Present  
Chris Sloan, Present  
Matt Robinson, Present

Mr. Bolser reminded the Planning Commission that per the bylaws the Commission still needs four confirming votes to pass a motion when the Commission is short of seven members.

3. **Recommendation on a Subdivision Preliminary Plan for the Tooele 10<sup>th</sup> & Main commercial development proposed by M-53 Associates, LLC for the creation of 9 lots, located at approximately 1000 North Main Street on Approximately 36.5 Acres.**

Presented by Andrew Aagard

Mr. Aagard stated M-53 Associates, LLC has submitted this application and is requesting a preliminary subdivision plan. An aerial view was shown on screen. There is an existing 7-11 convenience store and gas station located in the northeast corner and Denny's in the south east corner. Neither of these businesses will be participating in the development. The property is currently zoned general commercial, as are all properties to the north, east, and south. Properties to the south do have some legally nonconforming mobile home subdivisions. To the west are properties that are zoned R1-7. The overall zoning of the surrounding property is general commercial. The application proposes to subdivide 36.9 acres into 9 lots ranging in size from .86 acres to 9.46 acres. Smaller lots are located closer to Main Street, with larger lots located on the western half of the property. The general commercial zone requires a minimum of 3 acre lots but does permit smaller lots if added to an existing general commercial zone. In this case the property has been zoned general commercial for an extended period of time and does comply with the ordinance. The subdivision plat will vacate several utility easements and create new easements for future utilities. The plat will also dedicate 1.958 acres for a right of way as a new public road. That public road will connect Main Street to 200 West. The staff is recommending approval for the subdivision preliminary plat with nine conditions listed in the report. These conditions pertain to traffic study, access management with Utah Department of Transportation(UDOT) road widths, easements and relocation of utilities. These conditions will be satisfied during the final plat and final site plan applications but are included in the preliminary plan to ensure those conditions are properly addressed at those times.

Chairman Robinson asked the Commission if they had any comments or concerns.

Commissioner Sloan asked about the UDOT road approval. Mr. Aagard stated that those accesses will need to be approved by UDOT. There is a corridor access in place for SR36 (Main Street) that dictates what those accesses can be.

**Commissioner Hamilton moved to forward a positive recommendation to the City Council for the Tooele 10<sup>th</sup> and Main Preliminary plan request, by Justin Kimball, representing M-53 Associates, LLC, application P18-825, based on the findings and subject to the conditions listed in the Staff Report dated December 4, 2018.** Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Whitehouse, "Aye," Commissioner Sloan, "Aye," Commissioner Graf, "Aye," Chairman Robinson, "Aye." The motion passes.

4. **Recommendation of a Master Site Plan for the Tooele 10<sup>th</sup> And Main commercial development proposed by M-53 Associates, LLC located at approximately 1000 North Main Street on approximately 18.8 Acres.**

Presented by Andrew Aagard

This is a follow up application to the previous application recommended and is in the same location. This application is proposed site plan and unlike the master site plan this application only involves the eastern 18.8 acres and lots 1, 2, 3, 4, 5, and 7. Lots 6, 8, and 9 are not part of this master site plan application. The proposed development plans, place retail commercial north of the new public road with professional office buildings on the south side. The buildings are oriented around the perimeter of the project and parking areas are generally located at the center. The purpose of a master site plan is to approve a general layout of the development, establishing points of access, general building layout, general landscaping, through roads, etc. Details such as size of the buildings, parking requirements, utilities, and so forth are more closely scrutinized during the final site plan process, stated Mr. Aagard. Multiple points of access are proposed with the development. Access onto 1000 North and Main Street are limited accesses, controlled by UDOT. In terms of limited, it means right in and right out configurations. The development will have access to the new public right away though the center of the project. This will provide access to signalized intersections at SR 36 and 1000 North 200 West. Truck traffic will enter the site from the south on the new public right of way. Extending north through the westside of the building and exiting north through 1000 North. The City is concerned that the truck traffic and would like the truck traffic to stay behind the buildings and not in front of the buildings. There is a condition in the Staff Report to address that. Preliminary landscaping plans have been submitted.

At this point the landscape plan identifies areas of sod, trees, and cobble mulch. It does not provide greater detail. Most of the landscaping is along major roads and buffer areas between streets and parking areas, as well as parking strips. Mr. Aagard stated landscaping plans will be reviewed in greater detail during site plan approval. The southern half of the development has parking strips and some dense landscaping between buildings. As with the site plan there are numerous conditions listed in the Staff Report. These conditions are listed to ensure things are done correctly with the final site plan as the project develops.

Mr. Bolser wanted to make one point for clarification purposes, there are two accesses onto Main Street, the northern one which will line up with the Macey's development across the street is identified as limited access, but the corridor agreement for SR36 does state it is a full movement access. Any adjustments to these accesses will be identified with UDOT and a traffic study.

Chairman Robinson asked the Commission if they had any questions or comments.

Commissioner Graf asked a question in regard to buildings Ret H and Ret J. When talking about the trucks accessing the buildings from the back, how would these buildings access a truck because they do not fall in line with the truck corridor. Mr. Aagard stated that had not been considered. Mr. Aagard stated the City did consider that those buildings would be a business

that would not have a large truck unloading, but it could be possible to have a truck stop in front of the building. Mr. Bolser stated that those pads are intended to be multiple user buildings, so in all likelihood they will have smaller deliveries. The intent behind the condition is to limit the larger trucks which would be utilized by the larger buildings and limit their travel interacting with customer and pedestrian traffic.

Commissioner Sloan had a similar concern about truck traffic. He stated that 200 West is a nice wide street but it is residential and are there concerns about the truck traffic? Mr. Aagard stated that the City anticipates 200 West to be an appropriate avenue for trucks traveling west because of the signalized intersection at 1000 North. Commissioner Sloan asked if the city anticipated anything to be done with the residential traffic on 200 West. Mr. Aagard stated that the traffic study will identify if there are needs for the residential traffic.

**Commissioner Sloan moved to forward a positive recommendation to the Tooele City Redevelopment Board for the Tooele City 10<sup>th</sup> and Main Master Site plan request by Justin Kimball, representing M-53 Associates, LLC, application P18-826, based on the findings and subject to the conditions listed in the Staff Report dated December 3, 2018 .** Chairman Robinson seconded the motion. The vote as follows: Commissioner Hamilton, “Aye,” Commissioner Hammer, “Aye,” Commissioner Whitehouse, “Aye,” Commissioner Sloan, “Aye,” Commissioner Graf, “Aye,” Chairman Robinson, “Aye.” The motion passed.

**5. Public Hearing and Decision on a Conditional Use Permit by Eagle Point Homes and Rose Springs Realty to allow Two Faily and Four Family Dwellings on property locates at 555 South 50 West in the MU-G Mixed Use General zoning district on approximately 2.6 acres.**

Presented by Andrew Aagard

Mr. Aagard sated the property is sandwiched between 50 west and SR 36, main street. A photo of the property was shown on screen. A car wash and lube center are north of the property. There is a church to the south. On the east side the properties are public utility, multifamily residential and single family residential. The property is currently zoned MU-G, mixed Use General. The properties to the north, east, and south are the same zone. The properties to the west are R1-7 residential. The property is surrounded by various land uses. The City finds that a two family or four family building would be appropriate. The applicant has submitted a site plan. The site plan demonstrates the possible building layout with two- and four-unit dwellings. The site plan is not being discussed for approval in the meeting but being used as a reference for approval. There will still be for a site plan review. Staff is recommending approval of the Conditional Use Permit, with the two and four family unit dwellings.

Chairman Robinson asked the Commission if they had any comments or questions.

Chairman Robinson asked if the plan was to leave the zoning mixed use. Mr. Aagard stated that in the mixed-use zoning there are some residential uses allowed.

Chairman Robinson opened the public hearing.

Dennis Petersen addressed the Planning Commission. He stated he lives directly across the 50 West from the property. He wanted to ask how many houses are planned and where will they be entering and exiting the property. He further asked if there will be curb and gutters placed for the property. His concern is related to drainage and there have been some issues with water drainage of the residential properties to the west of the property. He further asked if there will be additional meetings to address the property and timeframe expected for the project development.

Chairman Robinson closed the public hearing.

Chairman Robinson stated he didn't know if those issues have been identified yet since the application is related to a Conditional Use Permit. Mr. Aagard stated that the development is still in the beginning process. The development will be required by Ordinance to maintain storm water onsite and the number of houses the development will fall under the standards of HDR, High Density Residential, which is up to 16 units per acre.

Sloan stated that the conceptual plans show two accesses, but these are conceptual and may change as the property goes through the City development process.

Mr. Petersen asked if the dwellings will be owner owned or rentals. Mr. Bolser stated that the ownership of dwellings is always dictated by the developer and owner of the property. Mr. Bolser also addressed the question related to curb and gutter. The property is in the overlay infill district, 50 West does not require curb and gutter, but the development will have to comply with capture of storm water.

Chairman Robinson stated that he didn't know if there would be further meetings related to the development of the property. He also stated the timeframe of the development is up to the developer. Mr. Bolser stated that the questions for the timing of the project would be better addressed by Mr. Aagard in a meeting outside of the public hearing. These are procedural questions which can be addressed by City staff but are outside of the scope of the Planning Commission and the agenda item being addressed.

**Commissioner Hammer moved to approve the Conditional Use permit request by Tray Baldwin, representing eagle point homes and Rose Springs realty, for the purpose of allowing two and four family dwellings, application P18-818, based on the findings and subject to the conditions listed in the Staff Report dated December 5, 2018 .** Commissioner Whitehouse seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Whitehouse, "Aye," Commissioner Sloan, "Aye," Commissioner Graf, "Aye," Chairman Robinson, "Aye." The motion passed.

**6. Public Hearing and Recommendation on Ordinance 2018-17 an ordinance of Tooele City amending Tooele City Code Chapter 5-24 Regarding Telecommunication Rights-of Way.**

Presented by Roger Baker

Mr. Baker stated that this was on the agenda due to a mistake by Mr. Baker. It is not required to be reviewed by the Planning Commission, but he thinks it is a fortuitous mistake because it gives him the opportunity to provide some information that should be of interest to a Planning Commission. The federal government, federal law governs telecommunications because they affect internet commerce and cross state lines. The Utah legislature in 2018 passed a sweeping law that implements some aspects of federal telecommunications law in regard to certain wireless antennas. The wireless industry is moving away from the large wireless towers, sometimes called macro wireless facilities and trying to obtain greater coverage through small wireless antennas which are called small wireless facilities. The state law declares that small wireless antennas are a permitted in all public rights of way. There are some limitations on that, but in addition the state law says that not only are they permitted on City rights of way, but they are permitted on city utility poles. The federal government and the state government have preempted the City's ability to prohibit small wireless antennas from being put on City light poles. Interestingly power poles are except.

Some of the areas that the state and federal law still allow the Cities to govern these facilities were shown on screen. The images showed decorative small wireless antennas and no decorative antennas in boxes. Mr. Baker stated in order to run the antennas, there is often ground equipment. The antennas receive and broadcast signals, but they need to be hooked to a wired power source. There are size limitations on the size of the units. The state law does allow City's to govern the aesthetics of the wireless facilities. If the City does not have an ordinance in place, the companies can put up types of antenna that are not aesthetically pleasing. Tooele City intends to govern the types of facilities that can be used within the City limits to be more aesthetically pleasing. Mr. Baker stated that he will be presenting to City Council in the following week for voting seven ordinances and resolutions that together will implement the program for aesthetic wireless facilities. With the limited leeway that has been left by the state and federal government the City is utilizing their rights to manage the types of wireless facilities that businesses can use to give residents pleasing surroundings. Mr. Baker stated that the City is allowed to limit height, but the facilities can go up to 30 feet on a pole. The facilities cannot be placed on streets that are residential or sub collector streets. Main street will be the main location these will be present.

Mr. Baker stated that the seven items being presented to City Council will consist of the following. The City will manage this as a public utility. The first ordinance is a comprehensive ordinance regulating the activities of the small wireless industry in the rights of way. The second item is a contract, called a franchise agreement, that tells the industry that the City is granting a franchise. The franchise agreement is necessary because federal and state law allow the City to require insurance, require bonding, and other legal mechanisms to protect the City in the event the light poles are damaged, or the right-of-ways are damaged. The third item is a pole attachment agreement. That is a separate agreement that does not give a franchise agreement to come into the rights-of-way but focusing on how the facilities get attached to the poles; to make sure they are attached safely. Also to know that the poles which have these facilities attached are adequate to support the facilities and address damage to poles or abandonment of the facilities. Th fourth item establishes the fees. The fees include franchise license, pole attachment, and the City's review of applications. Those fees are set by state law. For example, the City can only charge 250 per year per pole. The fifth item was brought about by the way the

industry is regulated by the federal and state government which is different enough from other communications industries, that also use the City rights-of-ways. A companion right of way utility ordinance that already exists but needs to be amended to exclude wireless. The new ordinance will cover wireless. The sixth item is for the Council to approve a franchise agreement for those non-wireless facilities that want to use the right of way. The franchise agreement is virtually identical to the wireless franchise agreement but excludes wireless facilities. The reason that the City is doing this at this time, is not that the State law requires it, but that the State law requires that any regulation of the small wireless industry be done on a nondiscriminatory basis. The City cannot treat the wireless industry any different than the non-wireless industry. The best way to do this is to have to franchise agreements, and a companion franchise agreement that are virtually the same but operate in their own industry. The last item is to update the fee schedule for the non-wireless utilities in the rights of way.

Mr. Baker stated that franchising in the utility industry can be confusing. But franchise agreements are just giving the utilities the legal right to use public property to operate their business.

Commissioner Graf asked if other cities have done similar items. Mr. Baker stated he worked most closely with Midvale City. The attorney there has produced the models that Mr. Baker heavily borrowed from. The attorney from Midvale modeled those ordinances and policies from around the country. Mr. Baker stated that this has been a really intimidating process and he had no idea how 248 cities and towns would be able to do this independently.

Commissioner Sloan stated that he appreciated the information.

Mr. Baker stated that an application form is still in the works and will be developed shortly.

Chairman Robinson asked the Commission if they had any comments or questions, there weren't any.

**7. Public Hearing and Recommendation on a Zoning Map Amendment request by Eagle Point Homes and Rose Springs Realty to assign the PUD overlay designation for 2.6 acres currently assigned the MU-G Mixed Use General zoning District and creating PUD provisions. Located at 555 South 50 West.**

Mr. Bolser state that there is nothing to present on this item at this time and requested the Commission table this item to a future meeting.

**Commissioner Sloan tabled the item for a future planning and zoning meeting.** Commissioner Graf seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Whitehouse, "Aye," Commissioner Sloan, "Aye," Commissioner Graf, "Aye," Chairman Robinson, "Aye."

The motion passed.



**8. Setting Dates, Time and Place for regular Planning Commission meetings for the 2019 calendar year.**

Presented by Jim Bolser

Mr. Bolser addressed the Commission. This is a yearly item that must be done to be in compliance with state law and in accordance with the Planning Commission bylaws. The Planning Commission is obligated to vote on when meetings will held and where they will held. The guidelines do not specify the need for specific dates and times, but the Commission must establish a regular schedule per calendar year. There was a calendar in the packet for consideration. The standard schedule is to meet the second and fourth Wednesdays of every month in the City Council Chambers of City Hall at 90 North Main, Tooele City, UT 84074. There is one date projected for next year that is in direct conflict with a state and City observed holiday, July 24<sup>th</sup>. That date was left off the regular schedule. Also, as has been done in prior years, the second meeting meetings, but it is typical to have the holidays off with the caveat that if business warrants the City may ask the Commission to meet.

Chairman Robinson asked the Commission if they had any comments or questions, there weren't any.

**Commissioner Hamilton to accept the proposed plan for the meeting schedule for 2019.**

Commissioner Hammer seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Whitehouse, "Aye," Commissioner Sloan, "Aye," Commissioner Graf, "Aye," Chairman Robinson, "Aye." The motion passed.

**9. Nomination and Election of Planning Commission Chair and Vice-Chair for the 2019 calendar year.**

Presented by Jim Bolser

Mr. Bolser stated that it was time for the Planning Commission to determine a Chairman and Vice Chairman for the following year. This year the Commission has six options. According to the bylaws the chairman cannot serve for more than two consecutive years at a time. Chairman Robinson is not eligible for Chairman since he has completed two years as Chairman. Commissioner Whitehouse is an alternate and therefore not eligible for Chairman. There are two options for voting, which are a silent vote or open nomination.

Chairman Robinson asked the Commission how they would like to vote. It was decided that the Commission would openly nominate.

Mr. Bolser accepted nominations for Chairman. Commissioner Hammer nominated Commissioner Graf for Chairman 2019. With no further nominations, the nominations were closed, and Mr. Bolser asked Commissioner Graf if he was willing to serve as Chairman for the 2019. Commissioner Graf accepted. Mt. Bolser stated that with only one nomination offered and that Commissioner Graf accepting there is no need to vote so Commissioner Graf is the Planning Commission Chairman for 2019.



Mr. Bolser opened nominations for Vice Chairman. Commissioner Hammer nominated Commissioner Sloan. With no further nominations, Mr. Bolser closed the nominations and asked Commissioner Sloan if he was willing to serve as Vice Chairman. Commissioner Sloan accepted. Mr. Bolser stated that with only one nomination offered and that Commissioner Sloan accepting there is no need to vote so Commissioner Sloan is the Planning Commission Vice Chair for 2019.

**10. Review and Approval of Planning Commission minutes for meeting held November 28, 2018.**

Chairman Robinson asked the Commission if they had any questions or concerns.

**Chairman Hammer moved to approve minutes from the meeting held on November 28, 2018.**

Commissioner Hamilton seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Whitehouse, "Aye," Commissioner Sloan, "Aye," Commissioner Graf, "Aye," Chairman Robinson, "Aye." The motion passed.

**11. Adjourn**

Commissioner Sloan move to adjourn the meeting. The meeting adjourned at 7:45p.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 9th day of January, 2019

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Matt Robinson, Chairman, Tooele City Planning Commission