

TOOELE CITY PLANNING COMMISSION MINUTES

Date: Wednesday, March 11, 2020

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

Commission Members Present:

Shauna Bevan
Melanie Hammer
Tyson Hamilton
Matt Robinson
Chris Sloan
Bucky Whitehouse
Dave McCall

Commission Members Excused:

Nathan Thomas
Ray Smart

City Employees Present:

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

Council Members Present:

Council Member Hansen
Council Member Brady

Minutes prepared by Kelly Odermott

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

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Whitehouse.

2. Roll Call

Matt Robinson, Present
Melanie Hammer, Present
Shauna Bevan, Present
Tyson Hamilton, Present
Chris Sloan, Present
Bucky Whitehouse, Present
Dave McCall, Present

3. **Public Hearing and Decision on a Conditional Use Permit request by FFG MB Stores to permits an “Accessory Drive Through Facility” for Mo’ Bettahs Restaurant at 720 North Main Street in the GC General Commercial Zone.**

Presented by Andrew Aagard

Mr. Aagard stated this is an application for the old Payless shoe store located at the intersection of Main Street and 700 North. Mo’ Bettahs has acquired the property and wishes to convert the building to a Hawaiian barbeque restaurant. Part of the conversion will include an addition of a drive through aisle, which requires a Conditional Use Permit approved by the Planning Commission. The property is zoned GC General Commercial, as are all of the surrounding properties and used as general commercial. The proposed drive through aisle, will enter at the north west corner of the building and will wrap south and east around the southern and western facades of the building. Traffic will then exit off the drive through aisle onto access for 700 North or into the Lucky’s grocery store parking lot. There are other businesses in town where vehicle stacking and drive aisles are located between the building and the public right-of-way. When this occurs the drive thorough aisle and waiting vehicles are the most prominent view. The applicant has considered alternate drive through aisle alternatives, but has decided that this configuration best fits with the business needs. Staff’s concern is the unsightly visual elements that are created by having the drive through aisle so prominently displayed. Staff has proposed a condition that landscape berms, decorative boulders, dense plantings be placed in the landscaping between the drive through aisle and the side walk. This will help screen the vehicle from view. Staff is recommending approval of the Conditional Use Permit with the conditions listed including the additional landscaping.

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

Commissioner McCall asked about the parking on the north side of the building, will the patrons have to walk through the drive through lane to get in the building? He stated that could potentially be a safety hazard. Mr. Aagard stated that the parking provided for the restaurant is north of the building, so customers entering the building will have to cross where vehicles are entering the drive through aisle. That would be a concern if vehicle stacking goes into the parking lot.

Mr. Hansen stated that the Commission is not approving a site plan tonight, but one of the comments from staff to the developer has been that they provide an accessible route for public, that is required for state and federal code. There needs to be a way to get the pedestrian from the sidewalk to the business. A final plan has not been presented to the City. Later in the meeting Mr. Hansen clarified his comment regarding pedestrian access.

Commissioner Hammer asked about the access for pedestrians from the sidewalk, how would this configuration work for a way into the restaurant from the street. Mr. Hansen stated there is no adjoining sidewalk on the east or the north of the building. There has to be an accessible route for ADA access. The developer is looking at options and will be addressed during site plan review.

Chairman Hamilton opened the public hearing.

Mr. Daniel Gonzales addressed the Planning Commission. He represents For Foods Group that is the parent company of Mo' Bettahs. They have a little over 100 units in nine states. They are excited to bring a Mo' Bettahs to Tooele. Mr. Gonzales stated that he has been working closely with the City to meet codes and address the concerns. They are working with a landscape architect to mitigate concerns about visibility and access. They intend to be fully compliant and will have an entry off the north and west ends of the building.

Commissioner Bevan asked about the site plan as to why the drive through aisle curves into the parking lot instead of coming straight on? Mr. Gonzalez stated that the pick-up window needed to be on the southside to meet business needs. The curve has to do with the tree and drainage. Mr. Gonzalez stated that he is not a civil engineer.

Chairman Hamilton closed the public hearing.

Commissioner Whitehouse motion to approve the Conditional Use Permit Request by Daniel Gonzales, representing FFG MB Stores to authorize the use of "Accessory Drive Through Facility" at 720 North Main Street, application number P20-157, based on the findings and subject to the conditions listed in the Staff Report dated March 3, 2020. Commissioner Hammer seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Whitehouse, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

4. **Recommendation on Subdivision Final Plat request by Garlington Development LLC for England Ridge Subdivision proposed to be located at approximately 810 North 520 East for 87 single-family lots in the R1-7 Residential Zone.**

Presented by Andrew Aagard

Mr. Aagard stated this application for final plat approval proposes to subdivide the 22.3 acres. The property is located east of England Acres Park and 7th street, south of Walden Drive and north of 700 North. There are numerous stub streets terminating at the property boundary that will be utilized for connection and access. Property is currently zoned R1-7 Residential, as are all of the surrounding properties. The subdivision plat proposes to subdivide the parcel into 87 single family residential lots ranging in size from 7,000 square feet up to 13,000 square feet. Each lot within the subdivision meets or exceeds minimum lot requirements for the R1-7 Residential zone for lot size and it conforms with the preliminary plan that has been previously approved. There is a storm water detention basin that will be constructed and landscaped by the development, ultimately being dedicated to Tooele City for maintenance upon City Council approval. Landscaping of the basin will be a drought tolerant buffalo sod and some trees. The development will be improving the eastern half of 700 North street according to the development requirements by Tooele City and all roads within the development will be publicly owned and maintained. Staff has extensively reviewed this application and are recommending approval with the basic housekeeping conditions listed in the Staff Report.

Commissioner Bevan asked about the development of 700 North street, will it be a partial development of the street or will the city develop the other half of the street? Mr. Hansen stated that the development requirements for the street will end at the Middle Canyon Drainage, which is about half way through the England Acres Park, and will remain blocked from 1000 North access. The developer obligation under City code is to complete 30 feet of asphalt, which is more than half. The City has discussed finishing the street, but it is not currently funded.

Commissioner Hammer stated that this is a flood area that has been discussed before and it infrequently floods. How would the homeowners know that there is a note on the plat when they buy property? Mr. Hansen stated that there is a note on the plat, which references each lot which abuts the FEMA channel, and which indicates that they will need to obtain from the City, a flood development permit. The City will be looking at the finish elevations and the model flood elevation. A requirement of the developer was that they had to retain an engineer to model the existing topography and run the Tooele County model flow through the channel to provide the City with flood elevations. There will also be fill placement within the subdivision to protect additional lots. Some of the lots will be raised and each homeowner along that channel should see the flood note in their title report. There may be restrictions on basements depending on where structures placed on the lot(both elevation wise and location).

Commissioner Sloan motion to forward a positive recommendation to the City Council for the England Ridge Final Plat Subdivision Request by Joe Garlington, representing Garlington Development LLC for the purpose of creating 87 single-family residential lots, application P19-935, based on the findings and subject to the conditions listed in the Staff Report dated March, 4, 2020. Commissioner McCall seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Whitehouse, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

5. **Recommendation on a Subdivision Plat Amendment Request for the Loma Vista by Tyler Kukahiko for lots located at 1356 and 1342 East and 420 South in the R1-12 Residential Zone.**
Presented by Andrew Aagard

Mr. Aagard stated this is an application to amend a subdivision plat involving the two existing lots located just east of 1335 East and north of Skyline Drive. The properties are currently zoned R1-12 Residential, as well as all of the surrounding properties. The purpose of the subdivision plat amendment is to vacate the lot lines and resub divide the parcel, thus shifting the lot line between the two homes 1.5 feet to the west. This is a previously approved plat, thus the plat must be amended and approved through the plat amendment approval process. Staff has confirmed through review that the new lot line configuration does not create any non-conformities regarding lot size, building setbacks and public utility easements will shift according to the new lot line configuration. Staff is recommending approval with the basic housekeeping conditions listed in the Staff Report.

Commissioner Robinson motion to forward a positive recommendation to the City council or the Loma Vista Subdivision Plat Amendment Request by Tyler Kukahiko, application number

P19-468, based on the findings and subject to the conditions listed in the Staff Report dated March 5, 2020. Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Whitehouse, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

6. Recommendation on an Annexation Plat and Petition by Robert Smart to annex 4.96 acres of unincorporated Tooele County located at approximately Utah Avenue and Emerald Road into Tooele City

Presented by Andrew Aagard

Mr. Aagard stated that the property proposed to be annexed into Tooele City is located east of Emerald road, west of the Union Pacific Railroad and south of Utah Avenue at approximately 230 North. The surrounding zoning is I Industrial and LI Light Industrial. Tooele County currently has a zoning attached to the property of MD, Manufacturing Distribution. Currently there is not a Tooele City zoning designation attached to the property and that will be assigned by the City Council, if they choose to annex. The property is part of a larger property in which two thirds of the property are already located within Tooele City boundaries. The annexation would bring the remainder of the property into the City.

Commission Bevan asked how the property was split between jurisdictions? Mr. Aagard stated he was not an employee at the time this happened. Commissioner Sloan asked if there is a downside to the annexation? Mr. Aagard stated he was not aware of one.

Mr. Baker gave a brief explanation of the why he believes the land was split between jurisdictions. It involved the annexation of the Army Depot.

Mr. Bolser informed the Planning Commission they can make a recommendation on the zoning district of the lot to the City Council.

Commissioner Hammer motion to forward a positive recommendation to the City Council for the Annexation Petition Request and Annexation Plat by Robert Smart, to annex 4.96 acres into Tooele City, application number P19-924, based on the findings listed in the Staff Report dated February 4, 2020 and make a recommendation to the City Council to zone the property as LI Light Industrial. Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Whitehouse, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

7. Public Hearing and Recommendation on a request by Tooele City for a text amendment to Tooele City Code Chapter 7-19 regarding the acceptance of public improvements.

Presented by Roger Baker

Mr. Baker stated that the process for accepting public improvements is a formality, but not until the public improvements are accepted, do they become owned and maintained by the City and

tax payer funds. Before that acceptance they remain the responsibility and ownership of the developer that built them. It is really important that the improvements are built right and they form the infrastructure and backbone of the City. There are clear standards for the inspectors to inspect them. At the point that the improvements are done and completed to the City satisfaction, the inspection reports are taken to the City Council for those to be accepted by resolution. In Tooele City the legislative branch of Tooele City is the City Council. By charter and state code, the City Council is only to exercise legislative functions. The Mayor has all administrative, executive, and operational functions. There is a strict separation of powers. Over the years there have been some historical anomalies that have crept in because the Tooele City form of government is not the typical form for Utah municipalities. In many municipalities, the legislative and administrative functions are mixed by a single body. Some of the ordinances from that paradigm have crept into Tooele City. This is an example of one of those areas. The acceptance of public improvements is really 100% administrative. The City Council has set the rules for what must be built, how it must be built, and when it must be built. Once those rules are in place, it is then for the Mayor and administrative departments to implement. That is done by monitoring the construction drawings, inspecting the improvements, and accepting them upon completion. The City is now prepared to transition the administrative function away from the City Council and to the Mayor and administrative departments. Rather than going to the City Council for resolution, the improvements will be signed by the Mayor and applicable department heads. Chairman Wardle has asked that the City Council retain a signature on the form and that has been added.

Commissioner Sloan asked what is the purpose of having a City Council signature if this change is being done because it is outside of the purview of the legislative branch? Mr. Baker stated that the staff is satisfied with the 99% shift. Commissioner Hammer asked why is that line needed for the City Council? If this is a shift, then this should be a clean break. Mr. Baker stated that a City Council signature is not required. The Chairman would like a signature and there is a signature.

Chairman Hamilton opened the public hearing. There were no comments. Chairman Hamilton closed the public hearing.

Chairman Hamilton asked if the Commission had any comments, questions or concerns.

Commissioner Hammer stated that if we are making the change between branches, then we should make a clean change.

Commissioner Sloan motion to forward a positive recommendation to the City Council for the Public Improvement Approval City Code Text Amendment Request by Tooele City, application P20-133. Commissioner McCall seconded the motion. The vote as follows: Commissioner Hammer, "Nay," Commissioner Sloan, "Nay," Commissioner Whitehouse, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Nay," Commissioner McCall, "Aye," Chairman Hamilton, "Nay." The motion did not pass.

Mr. Baker asked the Commission to elaborate on the Nay votes, while not required it would be helpful.

Commissioner Sloan stated that if the Council is in agreement that this is the right thing to do, he would appreciate an explanation, but part of the reason there are these problems is an ambiguous way of taking some of them on. In this particular case, he would be more than happy to forward a positive recommendation if the grey area was gone. Commissioner Sloan asked for elaboration from the Council as to why the shift is not clear and he would like to have that discussion. As it is presented it doesn't make a lot of sense.

Commissioner Hammer agreed with Commissioner Sloan's comments.
Commissioner Robinson agreed with Commissioner Sloan's comments.
Chairman Hamilton stated that it should be 100% or not at all.

Mr. Baker stated that it is within the Planning Commission's power to make the recommendation that they would prefer to the City Council.

Commissioner Sloan moved to reopen the recommendation.

Commissioner Sloan moved to make a positive recommendation with the change that the City Council signature line be omitted from the ordinance for the Public Improvement Approval City Code Text Amendment Request by Tooele City, application P20-133 Commissioner Hammer seconded the motion. The vote as follows: Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Whitehouse, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner McCall, "Aye," Chairman Hamilton, "Aye." The motion passes.

8. Public Hearing and Recommendation on a request by Tooele City for a text amendment to Tooele City Code Chapter 7-19 regarding the process, procedure, and requirements for approval of subdivision final plat applications.

Presented by Jim Bolser

Mr. Bolser stated that currently in the state of Utah, subdivision plats and approval for subdivisions are identified as an administrative process. The reason being that the subdivision is similar to a Conditional Use Permit, where if the standards established by ordinance are met, there is an obligation to approve it. The difference in that, is that case law in the State of Utah has identified entitlements to a subdivision happen with the preliminary plan, not the final plat. There is still a vested interest, particularly for the City Council and Planning Commission in reviewing and approving the preliminary plat. The preliminary plan according to current City procedures, goes through Planning Commission and City Council. The final plat does the same process, but the final plat being post entitlements is largely a cleanup effort and finalizing everything. Through discussion with the City Council this change would make the final plat process a process to be handled at the staff level. The process wouldn't change, the requirements wouldn't change, the only difference would be the staff would sign off on the final plat and then bring the mylar to the Planning Commission Chair and the City Council Chair for

their signatures rather than to full meetings and votes of both bodies. Those two signatures are required by state law.

Commissioner Sloan asked about the City Council signature and a Planning Commission signature. Mr. Bolser stated that those are both required signatures on a plat for recording.

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

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

Commissioner Robinson motion to forward a positive recommendation to the City Council for the Subdivision Final Plat Approvals City Code Text Amendment Request by Tooele City application number P20-134 based on the Staff Report of the March 11,2020. Commissioner McCall seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Whitehouse, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner McCall, “Aye,” Chairman Hamilton, “Aye.” The motion passes.

9. **Review and Approval of Planning Commission minutes for meeting held February 26, 2020.**

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

Commissioner Hammer moved to approve minutes from the meeting held on February 26, 2020, with the correction. Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner Thomas, “Aye,” Commissioner McCall, Abstain. Chairman Hamilton, “Aye.” The motion passes.

10. **Adjourn**

Chairman Hamilton declared the meeting adjourned at 7:58p.m.

Mr. Baker discussed legal case, Wallingford, Miller, et. al. v. Moab City with the Planning Commission.

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 8th day of April, 2020

Tyson Hamilton, Chairman, Tooele City Planning Commission