

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN THAT the Tooele City Planning Commission will meet in a business meeting scheduled for **Wednesday, August 10, 2022** at the hour of 7:00 p.m. The meeting will be held in the City Council Chambers of Tooele City Hall, located at 90 North Main Street, Tooele, Utah.

We encourage anyone interested to join the Planning Commission meeting electronically by logging on to the Tooele City Facebook page, at <https://www.facebook.com/tooelecity>. If you would like to submit a comment for any public hearing item you may email pcpubliccomment@tooelecity.org anytime after the advertisement of this agenda and before the close of the hearing for that item during the meeting. Emails will only be read for public hearing items at the designated points in the meeting.

AGENDA

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Public Hearing and Decision** on a Conditional Use Permit Request by Heygly Gonzales to Operate a Home Based Day Care Business Involving the Care of 8 to 16 Children at 858 North Galena Drive on 0.15 Acres in the R1-7 PUD Residential Zoning District.
4. **Public Hearing and Recommendation** on a Land Use Map Amendment Request by Thrive Development Corporation to Re-Assign the Land Use Designation for 17.3 Acres Located at Approximately 2520 and 2540 North 600 East from the Regional Commercial and Medium Density Residential Land Use Designations to the High Density Residential Land Use Designation.
5. **Public Hearing and Recommendation** on a Zoning Map Amendment request by Thrive Development Corporation to Re-Assign the Zoning for Approximately 17.3 Acres Located at Approximately 2520 and 2540 North 600 East from RC Regional Commercial and R1-7 Residential to the MR-20, MR-16 and MR-12 Multi-Family Residential Zoning Districts.
6. **Public Hearing and Recommendation** on a City Code Text Amendment to Table 7-4-1 and Section 7-11a-13 Regarding Garage Parking in Multi-Family Residential Developments.
7. **City Council Reports**
8. **Review and Approval** of Planning Commission Minutes for the Meeting Held on July 27, 2022.
9. **Adjourn**

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify Andrew Aagard, Tooele City Planner and Zoning Administrator prior to the meeting at (435) 843-2132.

STAFF REPORT

August 4, 2022

To: Tooele City Planning Commission
Business Date: August 10, 2022

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard City Planner / Zoning Administrator

Re: Montessori Daycare – Conditional Use Permit Request

Application No.: P22-863
Applicant: Heygly Gonzales
Project Location: 858 North Galena Drive
Zoning: R1-7 PUD Residential Zone
Acreage: .15 Acres (Approximately 6,534 ft²)
Request: Request for approval of a Conditional Use Permit in the R1-7 PUD Residential zone to authorize the use of “Child Care and Preschool involving 8 to 16 Children” to occur at the property.

BACKGROUND

This application is a request for approval of a Conditional Use Permit for approximately .15 acres located at 858 North Galena Drive. The property is currently zoned R1-7 PUD Residential. The applicant is requesting that a Conditional Use Permit be approved to permit a child day care home occupation involving the care of 8 to 16 children in the home.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Medium Density Residential land use designation for the subject property. The property has been assigned the R1-7 PUD Residential zoning classification, supporting approximately five dwelling units per acre. All surrounding properties are also zoned R1-7 PUD Residential. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

Tooele City Code 7-2-19: Home Occupations, requires home based daycares involving the care of 8 to 16 children to obtain a conditional use permit after a public hearing is held with the Planning Commission. The applicant is proposing to include up to 16 children in her daycare business and therefore is required to obtain the conditional use permit. The ordinance also permits one non-residential employee to work at the home, however, the applicant has indicated that there will not be any additional employees at this time but may include one in the future.

Child Drop-off and Pick-up. One of the main driving factors of the requirement for a conditional use permit for child daycares that involve 8 to 16 children is the potential for traffic disruptions and impacts to the neighboring properties due to vehicle queuing as parents drop off and pick up their children. Driveways, mail boxes, trash removal and so forth could be blocked or a nuisance could be created. Staff has raised this potential issue with the applicant and a traffic plan has been submitted and included in this packet. The applicant has indicated that there are two available parking spaces in the driveway, that there will be a 3 minute time limit for parents to park and pick up or leave their children and that a worker will be at the entrance to the home to expedite the process of receiving and returning children. The applicant has also indicated that there will instructions offered to the parents to never block the access of a neighboring property.

It should also be noted that child daycare businesses do have different traffic patterns than a preschool would have. Preschools often utilize sessions that begin at a specific time. Parents arrive at the same time to drop-off and pick-up their children depending upon the beginning and ending of the session. Daycares are not always session oriented and the child drop-off and pick-up is more dependent upon the schedules of the guardians and thereby, more staggered.

Parking. Two parking spaces are available in the driveway in front of the home's garage. There is also enough space on the lot's frontage to park two vehicles without blocking the home's driveway.

Criteria For Approval. The criteria for review and potential approval of a Conditional Use Permit request is found in Sections 7-5-3(3) and (4) of the Tooele City Code. This section depicts the standard of review for such requests as:

- (3) Procedure. At the public hearing, testimony may be given by the applicant and all other persons either in support of or in opposition to the application. The Planning Commission may take the application under advisement, but shall render its determination within 30 days of the date of the hearing.
- (4) Approval. The Planning Commission shall approve the conditional use application if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Findings of Fact. As a part of the approval or denial of a Conditional Use Permit a finding of fact according to Sections 7-5-4 of the Tooele City Code is required. This section depicts the standard for findings of fact:

Prior to approving or denying a Conditional Use Permit application, the Planning Commission shall make, in the business meeting at which the public hearing is conducted or the permit is approved or denied, a finding of the following facts:

- (1) the reasonably anticipated detrimental effects of the proposed use upon adjacent and nearby persons and properties;
- (2) the evidence identified regarding the identified reasonably anticipated detrimental effects of the proposed use;
- (3) the reasonable conditions imposed, as part of the Conditional Use Permit approval, intended to mitigate the reasonably anticipated detrimental effects of the proposed use;
- (4) the reasons why the imposed conditions are anticipated or hoped to mitigate the reasonably anticipated detrimental effects of the proposed use;
- (5) the evidence, if any, identified regarding the ability of the imposed conditions to mitigate the reasonably anticipated detrimental effects of the proposed use.

In response to the City Code requirement for findings of fact, the following are the staff identified detrimental effects this application, should it be approved, may impose upon adjacent and nearby persons and property :

1. Home occupations involving the care of 8 to 16 children have a potential of vehicle queuing as parents and guardians drop-off or pick-up their children. Vehicle queuing can block mail boxes, driveways or create problems with trash pick up. Vehicle queuing can also impede roadways and prevent adequate vehicle circulation if not controlled or appropriately managed.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Conditional Use Permit submission and has issued a recommendation for approval for the request with the following

proposed conditions to mitigate the anticipated detrimental effects identified in the finds of fact:

1. The applicant shall instruct their clients according to the traffic plan that was provided and shall enforce the traffic plan as needed.

Engineering and Public Works Division Review. The Tooele City Engineering and Public Works Divisions have not issued any comments regarding this conditional use permit application:

Tooele City Fire Department Review. The Tooele City Fire Department has completed their review of the Conditional Use Permit submission and has issued a recommendation for approval for the request with the following comment:

1. The home occupation will be subject to and need to pass a fire inspection prior to operation. This inspection will be conducted in conjunction with the business license approvals.

Noticing. The applicant has expressed their desire to obtain the conditional use permit for the subject property 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 approval of the request for a Conditional Use Permit by Heygly Gonzales, representing the , application number P22-863, subject to the following conditions:

1. That the applicant shall instruct their clients according to the traffic plan that was provided and shall enforce the traffic plan as needed.

This recommendation is based on the following findings:

1. The proposed development plans meet the intent, goals, and objectives of the Tooele City General Plan.
2. The proposed development plans meet the requirements and provisions of the Tooele City Code.
3. 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.
4. The proposed development conforms to the general aesthetic and physical development of the area.
5. The public services in the area are adequate to support the subject development.
6. The findings of fact for this proposed Conditional Use Permit request have been identified and the conditions proposed are intended to mitigate the reasonably anticipated detrimental impacts, as required by Tooele City Code Section 7-5-4.

MODEL MOTIONS

Sample Motion for Approval – “I move we approve the Conditional Use Permit Request by Heygly Gonzales, to authorize the use of a “Child Care and Preschool involving 8 to 16 Children” to occur at 858 N Galena Drive, application number P22-863, based on the findings and subject to the conditions listed in the Staff Report dated August 4, 2022:”

1. List findings of fact and conditions...

Sample Motion for Denial – “I move we deny the Conditional Use Permit Request by Heygly Gonzales, to authorize the use of a “Child Care and Preschool involving 8 to 16 Children” to occur at 858 N Galena Drive, application number P22-863, based on the following findings:”

1. List findings of fact ...

EXHIBIT A

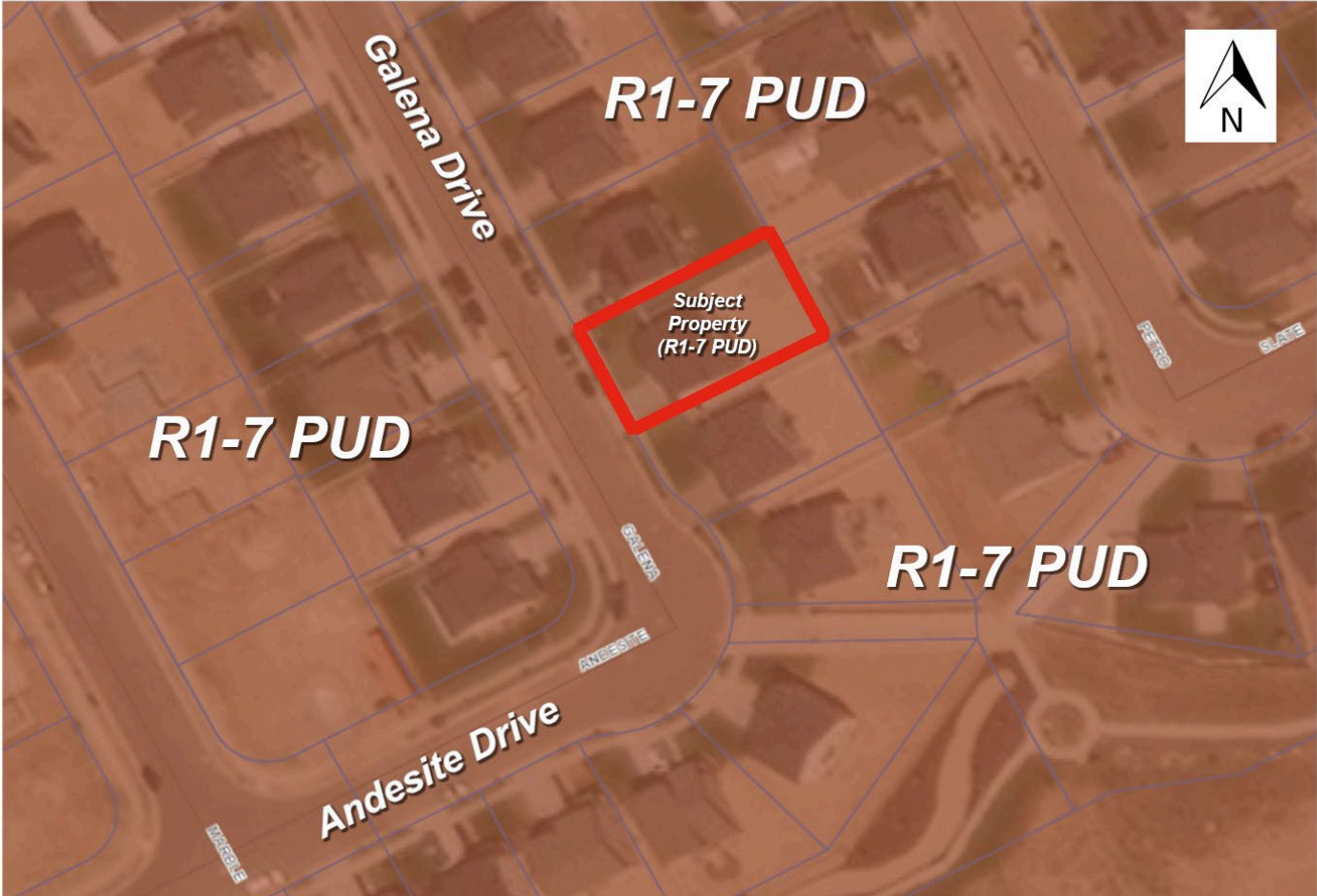
**MAPPING PERTINENT TO THE
MONTESSORI DAYCARE CONDITIONAL USE PERMIT**

Montessori Daycare Conditional Use



Aerial View

Montessori Daycare Conditional Use



Current Zoning

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Conditional Use Permit Application

Community Development Department
 90 North Main Street, Tooele, UT 84074
 (435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the pertinent plans and documents to be reviewed by the City in accordance with the terms of the Tooele City Code. All submitted Conditional Use Permit applications shall be reviewed in accordance with all applicable City ordinances and requirements, are subject to compliance reviews by various City departments, and may be returned to the applicant for revision if the plans are found to be inadequate or inconsistent with the requirements of the City Code. Application submission in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all checklist items be submitted well in advance of any anticipated deadlines.

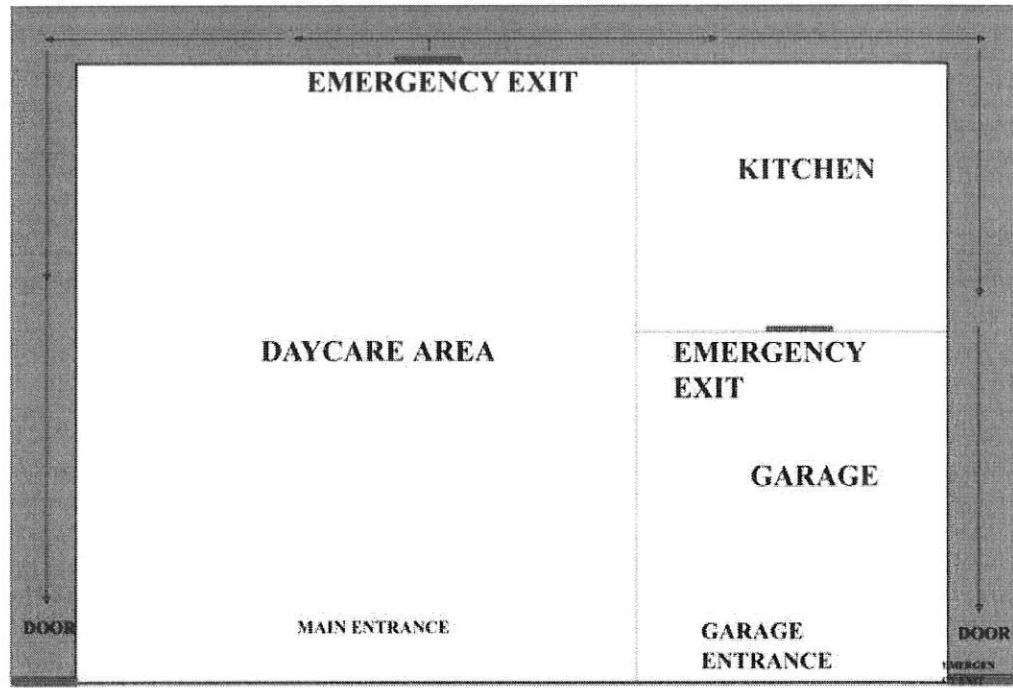
Project Information					
Date of Submission: 7/22/22		Current Zoning:		Parcel #(s): 22-863 20-070-0-6027	
Project Name: Montessori Day Care				Acres: 0.15	
Project Address: 950 N. Galena Dr. Tooele, UT 84074				Units: 1	
Project Description: Day Care. 8-16 children					
Current Use of Property: Resident (Home)					
Property Owner(s): Jack Baudino / Heygly Gonzalez			Applicant(s): Heygly Gonzalez		
Address: 858 N Galena Dr			Address: 858 N Galena Dr		
City: Tooele	State: UT	Zip: 84074	City: Tooele	State: UT	Zip: 84074
Phone: 786-6833105			Phone: 786-6833105		
Contact Person: Heygly Gonzalez			Address: 858 N Galena Dr		
Phone: 783-6833105			City: Tooele	State: UT	Zip: 84074
Cellular: 783-6833105	Fax:		Email: Montessoridaycare04@gmail.com		
Signature of Applicant: 					
Date: 7/22/22					

*The application you are submitting will become a public record pursuant to the provisions of the Utah State Government Records Access and Management Act (GRAMA). You are asked to furnish the information on this form for the purpose of identification and to expedite the processing of your request. This information will be used only so far as necessary for completing the transaction. If you decide not to supply the requested information, you should be aware that your application may take a longer time or may be impossible to complete. If you are an "at-risk government employee" as defined in *Utah Code Ann. § 63-2-302.5*, please inform the city employee accepting this information. Tooele City does not currently share your private, controlled or protected information with any other person or government entity.

** By submitting this application form to the City, the applicant acknowledges that the above list is not exclusive and under no circumstances waives any responsibility or obligation of the Applicant and or his Agents from full compliance with City Master Plans, Code, Rules and or Regulations.

For Office Use Only			
Fee: 150.00 (213)	Received By:	Date Received: 7/22/22	Receipt #: 2220972 464428

MONTESSORI
DAYCARE



DAILY ACTIVITY SCHEDULE

For children 2 years old and older, the provider shall post a daily schedule that includes:

- (a) **Activities** that support children's healthy development; and
- (b) The **times** activities occur including at least **meal, snack, nap or rest, and outdoor play times**.

TIME	ACTIVITY
7:00 am	- Open - Free Play
8:30 am	- Breakfast is closed.
10:00 am	- Morning Snack.
10:15 am	- Structured activities (preschool?)
11:15	- Gross motor play (outside)
11:45	- Clean-up time / wash-up for lunch.
12:00 pm	- Lunchtime. -
12:45 pm	- Story time.
1:00 pm	- Nap / Quiet time.
3:00 pm	- Afternoon Snack.
3:30 pm	- Gross motor play (weather P) (outside.)
5:00 pm	- Clean-up / Free Play.

This form is provided for technical assistance purposes only. Providers may use this form if they choose, but are not required to use this form.

Traffic Plan

MONTESSORI DAYCARE

Children's Safety is our Priority

That is why we have created some rules that must be followed by

Parents and Montessori daycare workers.



RULES

How it works:

- 1 At the time of entry and exit of the children , a worker will be at the entrance of the house to help the parents and speed the process of receiving and returning the children.
- 2 Then two parking spaces of the house could be used by two parents at the same time.
- 3 Parking . The maximum time of used will be 3 minutes each parents will be arrive at the assigned time according tom their assigned schedule whit differences of minutes to facilitate the entire process and avoid a traffic jam
- 4 Never block the access of any neighbor.



Jim Bolser

From: Roger Baker
Sent: Monday, August 1, 2022 9:46 AM
To: Andrew Aagard
Cc: Matthew Johnson; Derrick Larson; Jim Bolser
Subject: RE: Public Comment, Conditional Use Permit, 858 North Galena Drive

Andrew:

You are correct that the City has no role in the enforcement of CC&Rs. This is primarily because CC&Rs are not land use policies imposed by the City Council. Rather, they are contractual covenants entered into by and between the home owners.

Having said this, however, the CUP process of identifying anticipated detrimental effects, and mitigating those effects with conditions, seems similar to the CC&R process of determining material impacts upon the neighborhood, and presumably whether those impacts can be mitigation (i.e., if the impact can be mitigation, they likely are not material impacts). Thus, the concerns raised by Kim are relevant, and the Planning Commission should address them, as if they were anticipated detrimental effects in the CUP context.

One question that should be addressed is whether the "high density" context mentioned by Kim increases the anticipated detrimental effects, and the corresponding mitigating conditions.

The CC&Rs do not prohibit home occupations or home businesses, but require a balancing in light of possible material impacts on the neighborhood.

Since the public process (CUP) and the private process (CC&Rs) are substantially similar, identifying anticipated detrimental effects and mitigating conditions in the CUP context might be considered to have addressed materials impacts and mitigating conditions in the CC&R context, and vice versa.

Ultimately, the Planning Commission will consider only the CUP context. The HOA will have to decide whether and how to enforce its CC&Rs.

I authorize you to forward this email to the Planning Commission as legal advice provided under the Attorney-Client Privilege. Please do not forward to any third parties.

Roger Baker
Tooele City Attorney

PS I have copied Matt and Derrick for their general legal knowledge.

-----Original Message-----

From: Andrew Aagard <AndrewA@TooeleCity.org>
Sent: Monday, August 1, 2022 8:15 AM
To: Roger Baker <RogerB@TooeleCity.org>
Subject: FW: Public Comment, Conditional Use Permit, 858 North Galena Drive

Roger, I have a home based business requesting a CUP to operate a daycare involving 8 to 16 children. Notices were sent out last week. I received the following comment. It appears the development CC&Rs prohibit home occupations involving visitors.

How does it impact the City's role in approving the CUP? We don't enforce CC&Rs, correct?

Thoughts?

Andrew

-----Original Message-----

From: Kim <kpgenti@yahoo.com>

Sent: Sunday, July 31, 2022 3:53 PM

To: Planning Commission Public Comment <pcpubliccomment@TooeleCity.org>

Subject: Public Comment, Conditional Use Permit, 858 North Galena Drive

This request is clearly in violation of the Builder's Covenants that span all phases of development, as transcribed below. Specifically section 2.3 (c) and follows:

"Prohibited home-based occupation or businesses include those that require or encourage multiple clients, customers, patients or others to come to the Lot to conduct business at the same time ... Factors to consider in determining whether a home based business materially impacts the neighborhood are (i) the number of cars parked on the street at different times throughout the day, (ii) the total number of cars that arrive at or depart from a Lot each day, (iii) the level of noise and the frequency of such noise emitted from a house,"

One can presume that 8 to 16 children means 8 to 16 vehicles which will cause disruption and congestion beyond the capacity of a High Density Development. If this were not a High Density area, no such covenant would have been required by the builder. I know of no resident that is not bound by this covenant.

Owner: 435 W Andesite Ln, Kim Gentile

--Public comment with regard to Public Notice by the Tooele Planning commission scheduled for Wednesday, August 10, 2022 at 7:00 P.M.:

Public Hearing on a Conditional Use Permit request by Heygly Gonzales to operate a home based day care business involving the care of 8 to 16 children at 858 North Galena Drive on .15 acres in the R1-7 PUD Residential zoning district.

--Entry # 415639 - Declaration of Covenants, Conditions and Restrictions for Copper Canyon P.U.D. Subdivision, Phase 3 Tooele Utah (Dated July 2 2015) Jerry M. Houghton, Recorder Tooele County Corporation

According to Article II Restrictions on all Lots section 2.3

--No Business or Commercial Uses, Except as provided below, no portion of the Property may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of any Improvements, including the Subdivision Improvements, (b) the use by any Owner of his Lot for a home occupation, (c) the use by any Owner of a home-based business that does not materially impact the neighborhood.

Prohibited home-based occupation or businesses include those that require or encourage multiple clients, customers, patients or others to come to the Lot to conduct business at the same time, or which requires any employees outside of the Owner's immediate family or household to be employed at the Lot on a regular basis, or is inconsistent with City ordinances. Examples of a permitted home-based occupation or business

are: telecommuting, small hair salon operated exclusively by an Owner with no outside employees or contractors, and yard care business, so long as vehicles or trailers used in the business are not parked on the street. Factors to consider in determining whether a home based business materially impacts the neighborhood are (i) the number of cars parked on the street at different times throughout the day, (ii) the total number of cars that arrive at or depart from a Lot each day, (iii) the level of noise and the frequency of such noise emitted from a house, and (iv) noxious odors released from Lot.

STAFF REPORT

August 2, 2022

To: Tooele City Planning Commission
Business Date: August 10, 2022

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Thrive Development – Land Use Map Amendment Request

Application No.: P22-869
Applicant: David Gumucio, representing Thrive Development Corporation
Project Location: Approximately 2520 & 2540 North 600 East
Zoning: GC General Commercial & RD Research and Development Zone
Acreage: Approximately 9.9 Acres (753,588 ft²)
Request: Request for approval of a Land Use Map Amendment to re-assign the land use from Regional Commercial and Medium Density Residential to High Density Residential.

BACKGROUND

This application is a request for approval of a Land Use Map Amendment for approximately 9.9 acres located at approximately 2520 & 2540 North 600 East. The affected portions of the property currently bear the Regional Commercial Land Use Designation and the Medium Density Residential Land Use Designation. The applicant is requesting that 1.4 acres of property be reassigned from Regional Commercial to High Density Residential and that 8.5 acres be reassigned from Medium Density Residential to High Density Residential.

ANALYSIS

General Plan. The Land Use Map of the General Plan calls for the Regional Commercial land use designation for the western 1.4 acres of the subject property and for the Medium Density Residential for the eastern 8.5 acres of the subject property. Properties to the north and south bear similar land use designations but will be slightly different in that the applicant is wishing to expand the High Density Residential land use designation into the Regional Commercial (1.4 acres) and the Medium Density Residential (8.5 acres) areas. Mapping pertinent to the subject request can be found in Exhibit “A” to this report

The properties currently bear three land use designations and the zoning as recently approved by the City Council matches the current land use map (see current zoning map attached to this report). The western most 10 acres (approximately) are currently designated as Regional Commercial. The Regional Commercial land use requires the RC Regional Commercial and the RD Research and Development Zoning districts. Both of these zones encourage larger scale regional commercial uses, office parks, education facilities, research parks, medical uses and so forth. The applicant is requesting to reduce the 10 acres of Regional Commercial to 8.6 acres, thus changing 1.4 acres from Regional Commercial to High Density Residential.

The central 7.4 acres are currently designated as High Density Residential and will remain unchanged.

The eastern 17 acres are currently designated as Medium Density Residential. The applicant is requesting to reduce the Medium Density Residential portion of the properties to 8.5 acres. The remaining 8.5 acres are requested to be re-assigned to the High Density Residential land use designation. If the land use map amendment is approved the 34 acre properties would be divided into the following acreage and land use designations:

- Western 8.6 acres – Regional Commercial.
- Central 17.3 acres – High Density Residential.
- Eastern 8.5 acres – Medium Density Residential.

The High Density Land Use designation requires the MR Multi-Family Residential zones. The MR zones include the MR-8 (eight units per acre) the MR-12 (twelve units per acre) the MR-16 (16 units per acre) and the MR-20 (twenty units per acre). Uses within the MR zones are exclusive to multi-family residential such as town homes, apartments, condominiums or any other 3 attached unit or more dwelling configuration. The MR zones do not permit single-family residential or two family dwellings such as duplexes and twin homes.

The Medium Density Land Use designation is the opposite of the High Density designation in that it is exclusive to single-family residential zones including the R1-7 Residential, the R1-8 Residential and the R1-10 Residential zones. These zones permit only single-family residential homes, two family dwellings such as duplexes and twin homes and accessory dwelling units that are ancillary to the main dwelling. Permitted densities in these zones range from four units per acre to five units per acre.

To reiterate what is being asked for by the applicant. 1.4 acres of property is requested to be changed from Regional Commercial to High Density Residential. 8.5 acres of property is requested to be changed from Medium Density Residential to High Density Residential. The majority of the property will be High Density Residential.

These properties are isolated and do bear a number of development challenges such access to available water systems and sewer lines. The properties also do not have any immediate access to City rights-of-way. They may be able to access SR-36 but that is a State highway and approvals to access that highway would come directly from the Utah Department of Transportation. Although it may be tempting to discuss these development issues at this time, these issues are not pertinent to the application at hand. In order to change the zoning of the property the Land Use Map must first be changed as the Zoning Map is required by City ordinance to be in compliance with the Land Use Map of the General Plan. Subdivision and utility issues will be reviewed and discussed in detail as the proposed development undergoes subdivision and site plan review.

It should also be emphasized that a change in the land use to a particular use designation does not guarantee a particular zoning. The High Density Residential designation includes four MR zones but does not recommend a particular MR zoning district for the property. That decision, ultimately, comes down to the City Council as to what is best for the City and the proposed location, upon recommendation from the Planning Commission.

Subdivision Layout. A concept plan has not been provided by the applicant at this time.

Criteria For Approval. The criteria for review and potential approval of a Land Use Map Amendment request is found in Section 7-1A-3 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) In considering a proposed amendment to the Tooele City General Plan, 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 General Plan Land Use Map and the goals and policies of the General Plan and its separate elements;
 - (c) Consistency and compatibility with the existing uses of adjacent and nearby properties;
 - (d) Consistency and compatibility with the possible future uses of adjoining and nearby properties as identified by the General Plan;
 - (e) The suitability of the properties for the uses requested viz. a viz. the suitability of the properties for the uses identified by the General Plan; and
 - (f) The overall community benefit of the proposed amendment.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Land Use Map Amendment submission and has issued the following comments:

1. The HDR land use does not guarantee the highest density MR zoning district for any property.
2. The properties currently have very limited access to roads and no access to sewer or water utilities.
3. The MR-8, MR-12, MR-16 and MR-20 zoning districts do comply with the HDR designation of the Land Use Map.

Engineering and Public Works Division Review. The Tooele City Engineering and Public Works Divisions do not typically review Land Use Map and Zoning Map amendments and therefore have not issued any comments regarding this application.

Tooele City Fire Department Review. The Tooele City Fire Department do not typically review Land Use Map and Zoning Map amendments and therefore have not issued any comments regarding this application.

Noticing. The applicant has expressed their desire to reassign the land use designation for the subject property 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 Land Use Map 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 of the proposed application on the character of the surrounding area.
2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.

3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
5. The suitability of the properties for the uses proposed.
6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.
7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.
8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. 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 Thrive Development Land Use Map Amendment request by David Gumucio, representing Thrive Development Corporation reassigning 9.9 acres located at approximately 2520 and 2540 North 600 East to the High Density Land Use designation, application number P22-869, based on the findings and subject to the conditions listed in the Staff Report dated August 2, 2022:”

1. List findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Thrive Development Land Use Map Amendment request by David Gumucio, representing Thrive Development Corporation reassigning 9.9 acres located at approximately 2520 and 2540 North 600 East to the High Density Land Use designation, application number P22-869, based on the following findings:”

1. List findings...

EXHIBIT A

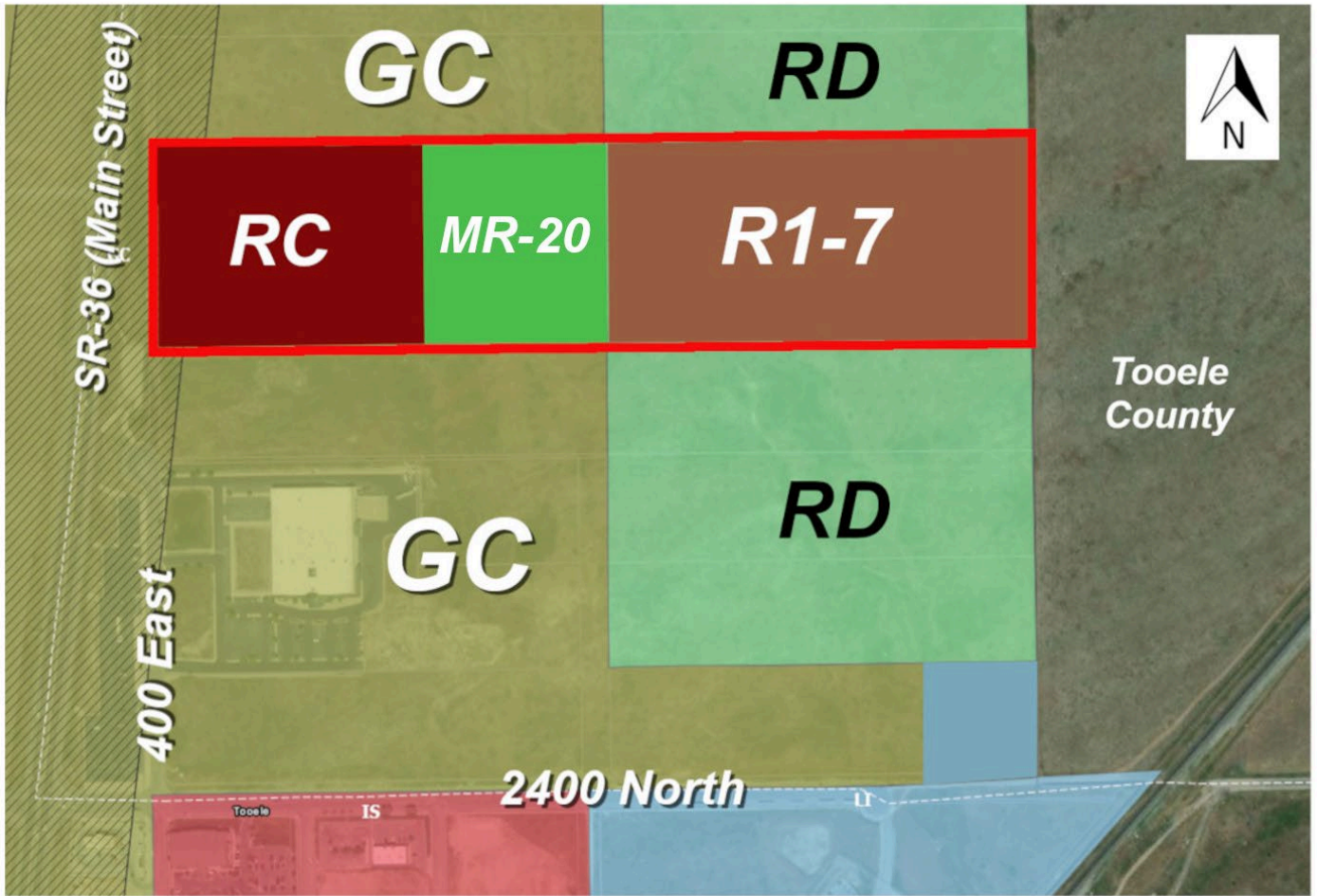
MAPPING PERTINENT TO THE THRIVE DEVELOPMENT LAND USE MAP AMENDMENT

Thrive Development Land Use Map Amendment



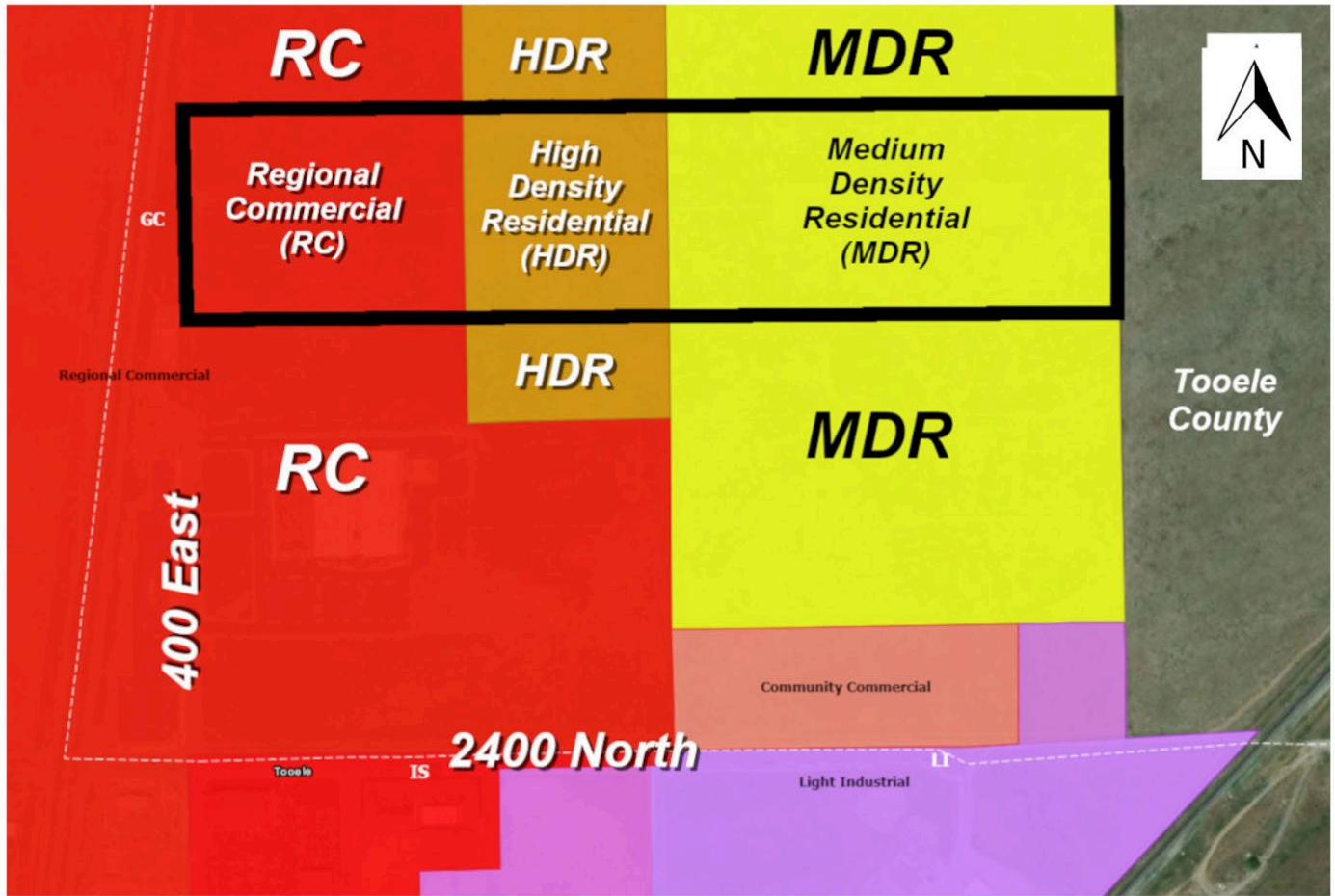
Aerial View

Thrive Development Land Use Map Amendment



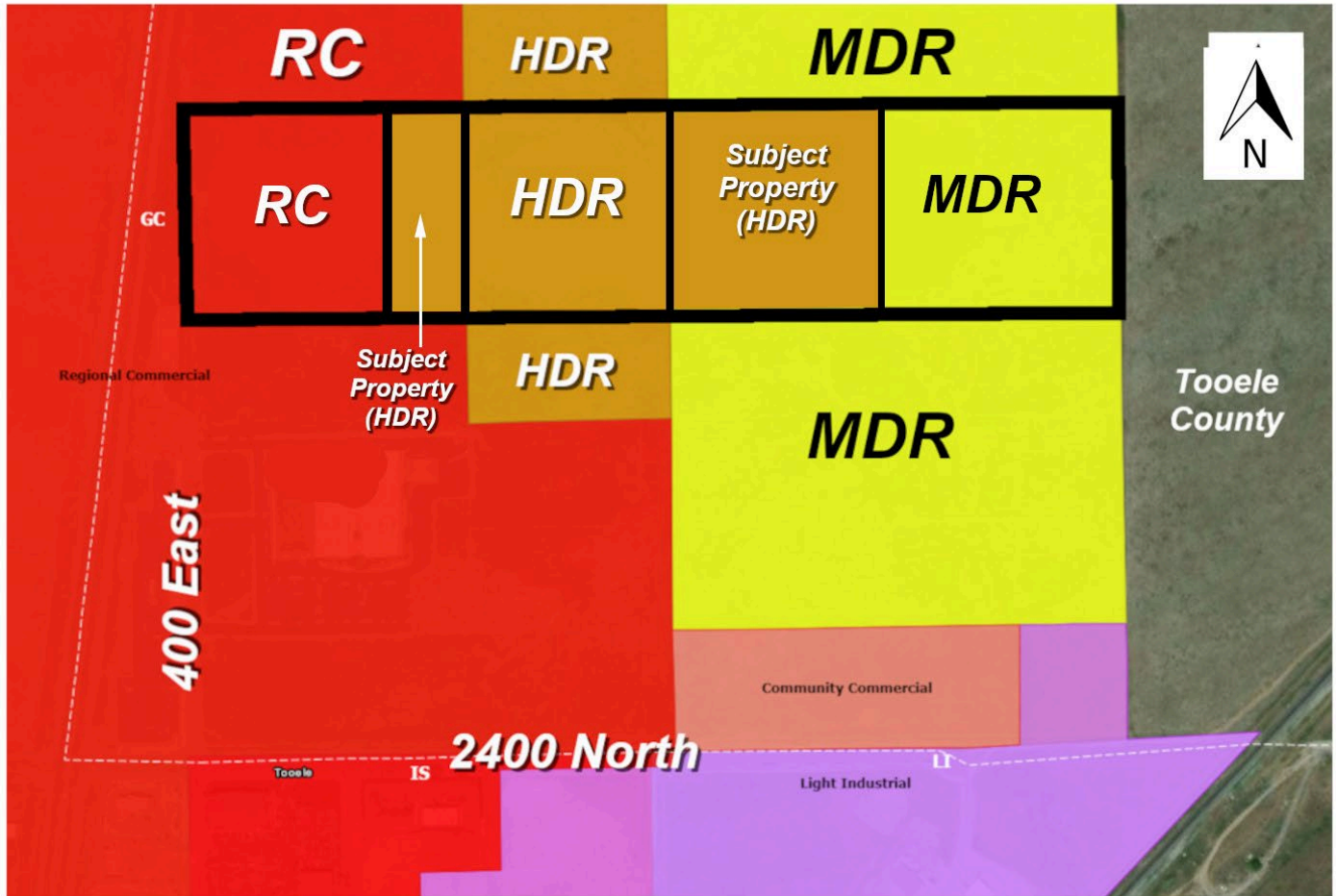
Current Zoning

Thrive Development Land Use Map Amendment



Current Land Use

Thrive Development Land Use Map Amendment



Proposed Land Use

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

**Zoning, General Plan, & Master Plan
Map Amendment Application**

Community Development Department
90 North Main Street, Tooele, UT 84074
(435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the map amendment proposal to be reviewed by the City in accordance with the terms of the Tooele City Code. Once plans for a map amendment proposal are submitted, the plans are subject to compliance reviews by the various city departments and may be returned to the applicant for revision if the plans are found to be inconsistent with the requirements of the City Code and all other applicable City ordinances. All submitted map amendment proposals shall be reviewed in accordance with the Tooele City Code. Submission of a map amendment proposal in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all applications be submitted well in advance of any anticipated deadlines.

Project Information			
Date of Submission:	7-26-2022	Current Map Designation:	RC/MR20/R1-7
Project Name:	TBD	Proposed Map Designation:	RC/MR20/MR16/MR12/R1-7
Parcel #(s):	02-144-0-0013 & 02-144-0-0016		
Acres:	34.44		
Project Address:	2520 N 400 E AND 2540 N 400 E, TOOELE, UT 84074 : APPROX		
Proposed for Amendment:	<input type="checkbox"/> Ordinance <input type="checkbox"/> General Plan <input checked="" type="checkbox"/> Master Plan: <u>Land Use Element</u>		
Brief Project Summary: An extension of 400 East north of 2400 North. To change the Zoning from Main Street West to East, to commercial development (RC) on the east side of Main Street, followed by High Density Residential (MR-20), followed by High Density Residential (MR-16), followed by High Density Residential (MR-12); followed by Medium Density Residential (R1-7). Continued on Appendix A. Property Owner(s): (02-144-0-0013) Ruth S. Pitt Trustee of the Ruth S. Pitt Family Trust April 8, 1975 Barry Pitt, Trustee, 78 East Williams Lane, Grantsville, UT 84029			
Property Owner(s): (02-144-0-0016) The Estate of Eileen Barnett		Applicant(s): Thrive Development Corporation	
Address:		Address:	
1844 North Blue Peak Drive		7585 S Union Park Ave	
City:	State:	Zip:	City:
Tooele	UT	84074	Salt Lake City
Phone:		Phone:	
Ronald J Barnett and Leanna Fretwell, Co-Trustees		801-948-8800	
Contact Person:		Address:	
David Gumucio		P.O. Box 743	
Phone:	City:	State:	Zip:
435-830-3337	Grantsville	UT	84029
Cellular:	Fax:	Email:	
435-830-3337	866-634-3115	gumby@mstar.net	

*The application you are submitting will become a public record pursuant to the provisions of the Utah State Government Records Access and Management Act (GRAMA). You are asked to furnish the information on this form for the purpose of identification and to expedite the processing of your request. This information will be used only so far as necessary for completing the transaction. If you decide not to supply the requested information, you should be aware that your application may take a longer time or may be impossible to complete. If you are an "at-risk government employee" as defined in *Utah Code Ann.* § 63-2-302.5, please inform the city employee accepting this information. Tooele City does not currently share your private, controlled or protected information with any other person or government entity.

Note to Applicant:

Zoning and map designations are made by ordinance. Any change of zoning or map designation is an amendment the ordinance establishing that map for which the procedures are established by city and state law. Since the procedures must be followed precisely, the time for amending the map may vary from as little as 2½ months to 6 months or more depending on the size and complexity of the application and the timing.

For Office Use Only			
Received By:	Date Received:	Fees:	App. #:
_____	_____	_____	_____

• Fees being waived by Mayor Winn

S
STAFF REPORT
August 3, 2022

To: Tooele City Planning Commission
Business Date: August 10, 2022

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Thrive Development – Zoning Map Amendment Request

Application No.: P22-870
Applicant: David Gumucio, representing Thrive Development Corporation
Project Location: Approximately 2520 & 2540 North 600 East
Zoning: RC Regional Commercial Zone, MR-20 Multi-Family Residential Zone and R1-7 Residential Zone
Acreage: Approximately 17.3 Acres (Approximately 753,588 ft²)
Request: Request for approval of a Zoning Map Amendment in the GC General Commercial zone regarding re-assigning the zoning for approximately 17.3 acres from the RC Regional Commercial, MR-20 Multi-Family Residential and R1-7 Residential to the MR-20 Multi-Family Residential, MR-16 Multi-Family Residential and the MR-12 Multi-Family Residential zones.

BACKGROUND

This application is a request for approval of a Zoning Map Amendment for approximately 17.3 acres located at approximately 2520 & 2540 North 600 East. The property was recently rezoned by the Tooele City Council to RC Regional Commercial, MR-20 Multi-Family Residential and R1-7 Residential. The applicant is requesting that the property be rezoned to MR-20 Multi-Family, MR-16 Multi-Family and MR-12 Multi-Family residential to facilitate a large residential development on the majority of the site.

ANALYSIS

General Plan and Zoning. The current Land Use Map of the General Plan calls for Regional Commercial on the western 10 acres of the properties, High Density Residential on the central 7.4 acres of the properties and Medium Density Residential on the eastern 17 acres of the properties. The properties were recently rezoned by the Tooele City Council in June of 2022 to the RC Regional Commercial, MR-20 Multi-Family Residential and R1-7 Residential exactly as indicated by the Land Use Map. The three zoning designations recently assigned to the properties are identified by the General Plan as a preferred zoning classification for the Regional Commercial, High Density Residential and Medium Density Residential land use designations. Properties to the north are zoned GC General Commercial and RD Research and Development. Properties to the south are zoned GC and RD. Properties to the east are located in unincorporated Tooele County / Erda City. Properties to the west are zoned GC General Commercial. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The recently approved Barnett – Pitt Zoning Map Amendment reassigned the zoning of the 34 acres into three chunks of zones in compliance with the Land Use Map of the General Plan, those chunks of property being described above. The applicant is now requesting a change to the zoning map to reflect the change to the Land Use Map that will be heard on the same meeting agenda.

The proposed zoning change will reduce the 10 acres of RC Regional Commercial to 8.6 acres and shift the limits of the MR-20 zoning westward closer to SR-36. The MR-20 zoning district will then incorporate 8.8 acres of the 34 acre parcel. Immediately east of the proposed MR-20 zoning it is proposed that 4.25 acres of property will be re-assigned to the MR-16 zoning district. East of the MR-16 it is proposed that 4.25 acres will be re-assigned to the MR-12 zoning district. The remaining 8.5 acres on the east side of the properties will remain R1-7 Residential. The proposed zoning change will reduce the single-family residential from 17 acres to 8.5, reduce the RC Regional Commercial zoning from 10 acres to 8.5 and increase the Multi-Family zoning from 7.4 acres to 17.3 acres.

How does this impact development of the site in regards to the potential number of residential units? Staff has made some bulk calculations based upon maximum densities allowed by the zones, gross acreage and considering 20% of the property being used for public infrastructure and roads. Under the current zoning of MR-20 and R1-7 the property could yield approximately 186 multi-family and single-family residential uses. Under the new proposed MR-20, MR-16, MR-12 and R1-7 zoning and using the same bulk calculations the property could yield approximately 265 units. The proposed zoning change, if approved, could produce 79 additional residential units, primarily multi-family residential units, over what the zoning would currently permit. Please keep in mind these numbers do not consider parking requirements, open space requirements, building setback requirements, road alignments, etc, and are strictly a crude estimate. There are many factors beyond acreage and density that determine final unit yield. These numbers are only included in this report to provide the Commission with a clearer understanding of the differences in development between the existing zoning and the proposed zoning.

These properties are isolated and do bear a number of development challenges such access to available water systems and sewer lines. The properties also do not have any immediate access to City rights-of-way. They may be able to access SR-36 but that is a State highway and approvals to access that highway would come directly from the Utah Department of Transportation. Although it may be tempting to discuss these development issues at this time, these issues are not pertinent to the application at hand. In this case the issue at hand is to determine if the zoning as proposed by the applicant is suitable in this location and if it benefits Tooele City as a whole. Subdivision, site plan and utility issues will be reviewed and discussed in detail as the proposed developments undergo subdivision and site plan review once the zoning is in place.

Site Plan Layout. A concept plan has not been provided by the applicant.

Subdivision Layout. A concept plan has not been provided by the applicant.

Criteria For Approval. The criteria for review and potential approval of a Zoning Map 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 Zoning Map Amendment submission and has issued the following comments:

- 1. The proposed zoning map amendment increases the multi-family zoning on the properties from 7.4 acres to 17.3 acres.
- 2. The increase in multi-family zoning could result in potentially 79 additional units over what is currently permitted by the zoning.
- 3. The proposed zoning map amendment would reduce the amount of Regional Commercial zoning by 1.4 acres.

Engineering and Public Works Division Review. The Tooele City Engineering and Public Works Divisions do not typically review Land Use Map and Zoning Map amendments and therefore have not issued any comments regarding this application.

Tooele City Fire Department Review. The Tooele City Fire Department do not typically review Land Use Map and Zoning Map amendments and therefore have not issued any comments regarding this application.

Noticing. The applicant has expressed their desire to rezone the subject property 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 Land Use Map 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 of the proposed application on the character of the surrounding area.
- 2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.
- 3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
- 4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
- 5. The suitability of the properties for the uses proposed.
- 6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.

7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.
8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. 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 Thrive Development Zoning Map Amendment Request by David Gumucio, representing the Thrive Development Corporation for the purpose of reassigning approximately 17.3 acres located at 2520 and 2540 North 600 East to the MR-20, MR-16 and MR-12 Multi-Family Residential Zoning districts, application number P22-870, based on the findings and subject to the conditions listed in the Staff Report dated August 3, 2022:”

1. List findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Thrive Development Zoning Map Amendment Request by David Gumucio, representing the Thrive Development Corporation for the purpose of reassigning approximately 17.3 acres located at 2520 and 2540 North 600 East to the MR-20, MR-16 and MR-12 Multi-Family Residential Zoning districts, application number P22-870, based on the following findings:”

1. List findings...

EXHIBIT A

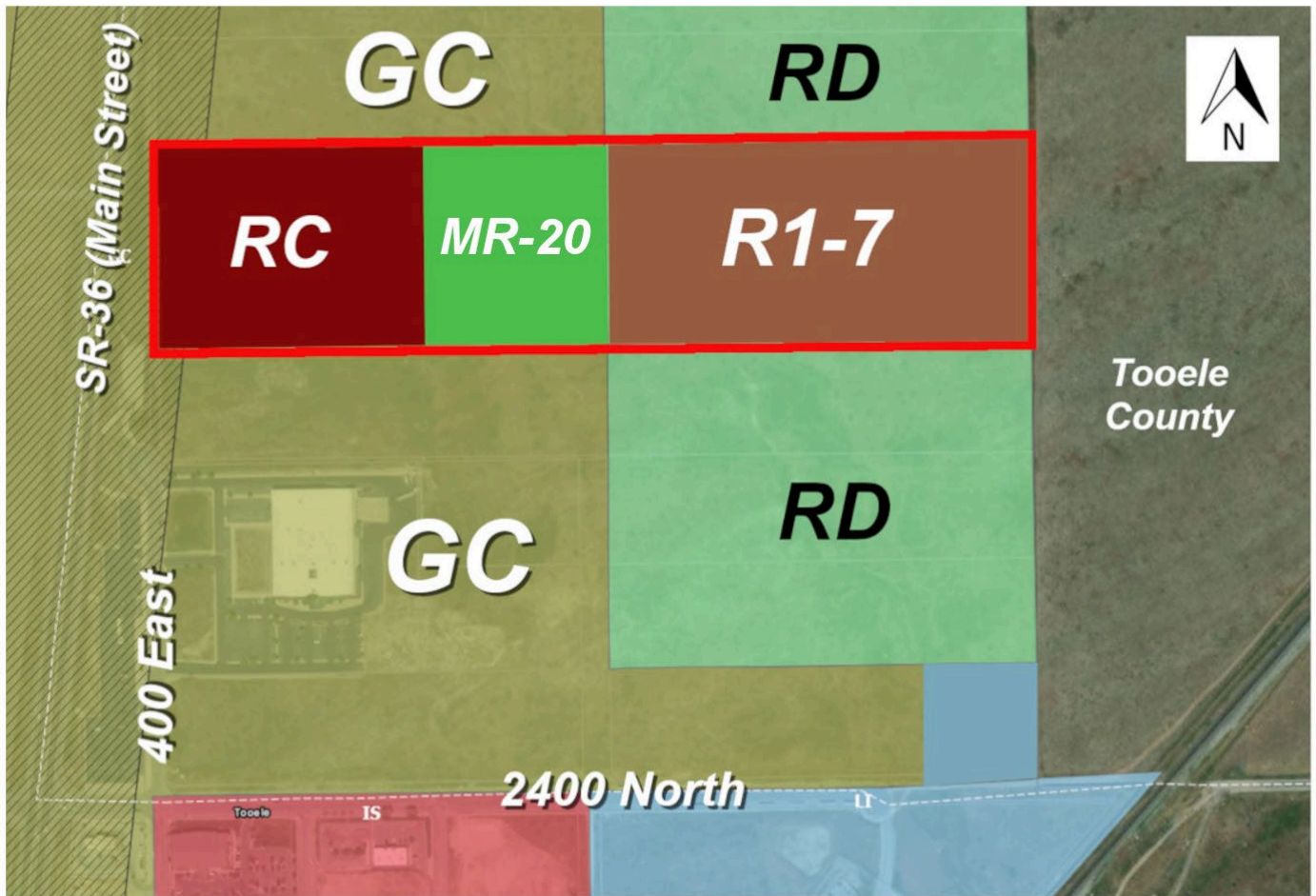
MAPPING PERTINENT TO THE THRIVE DEVELOPMENT ZONING MAP AMENDMENT

Thrive Development Zoning Map Amendment



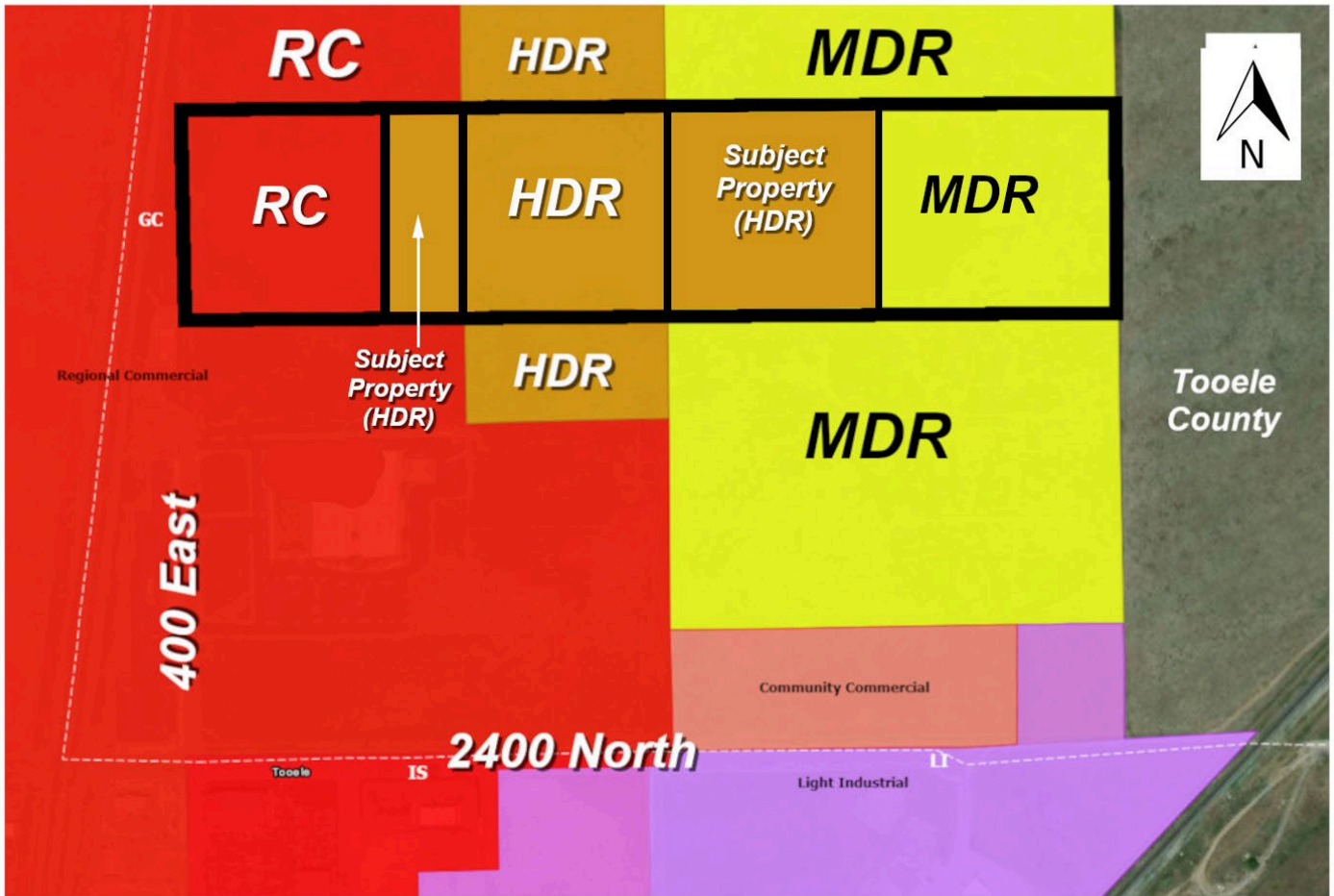
Aerial View

Thrive Development Zoning Map Amendment



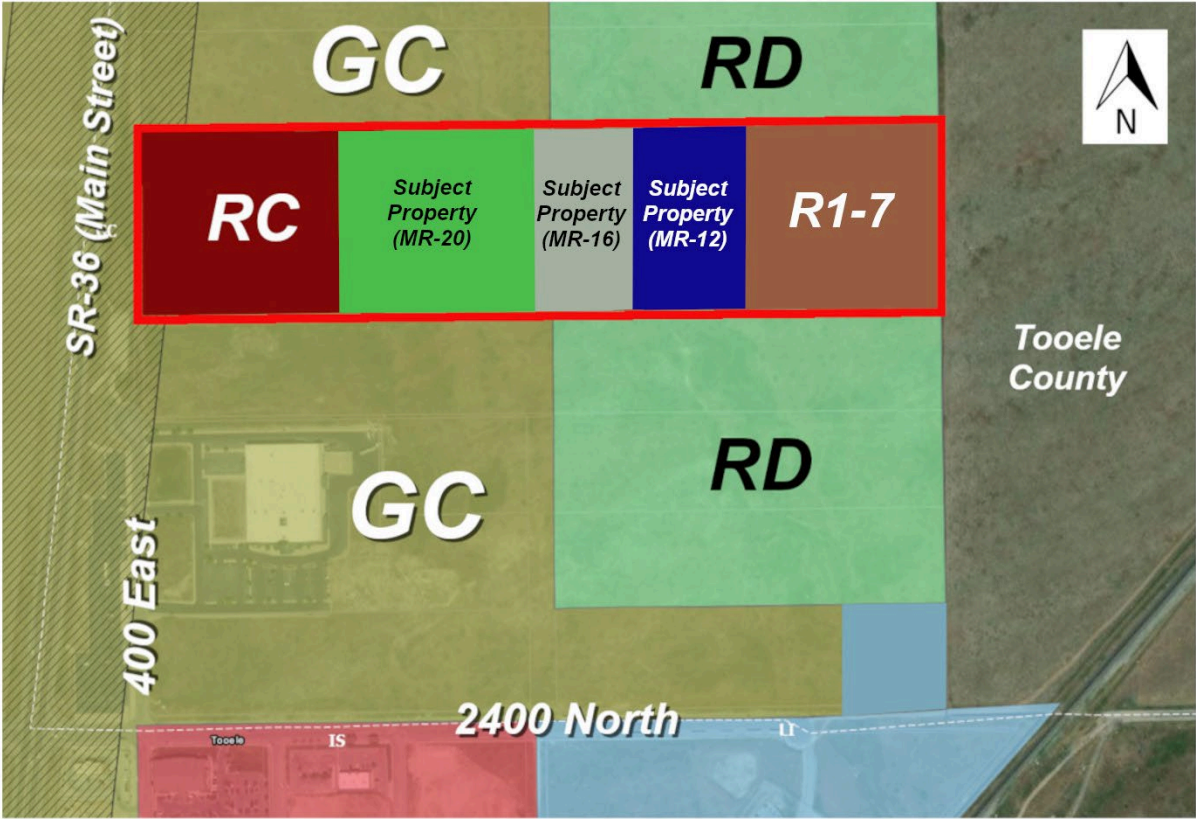
Current Zoning

Thrive Development Zoning Map Amendment



Land Use

Thrive Development Zoning Map Amendment



Proposed Zoning

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Zone Change

Zoning, General Plan, & Master Plan Map Amendment Application

Community Development Department
90 North Main Street, Tooele, UT 84074
(435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the map amendment proposal to be reviewed by the City in accordance with the terms of the Tooele City Code. Once plans for a map amendment proposal are submitted, the plans are subject to compliance reviews by the various city departments and may be returned to the applicant for revision if the plans are found to be inconsistent with the requirements of the City Code and all other applicable City ordinances. All submitted map amendment proposals shall be reviewed in accordance with the Tooele City Code. Submission of a map amendment proposal in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all applications be submitted well in advance of any anticipated deadlines.

Project Information					
Date of Submission:	7-26-2022	Current Map Designation:	RC/MR20/R1-7	Proposed Map Designation:	RC/MR20/MR16/MR12/R1-7
Parcel #(s):	02-144-0-0013 & 02-144-0-0016				
Project Name:	TBD	Acres:	34.44		
Project Address:	2520 N 400 E AND 2540 N 400 E, TOOELE, UT 84074 : APPROX				
Proposed for Amendment:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> General Plan <input type="checkbox"/> Master Plan: <u>ZONING MAP</u>				
Brief Project Summary:	An extension of 400 East north of 2400 North. To change the Zoning from Main Street West to East, to commercial development (RC) on the east side of Main Street, followed by High Density Residential (MR-20), followed by High Density Residential (MR-16), followed by High Density Residential (MR-12); followed by Medium Density Residential (R1-7). Continued on Appendix A. Property Owner(s): (02-144-0-0013) Ruth S. Pitt Trustee pf the Ruth S. Pitt Family Trust April 8, 1975 Barry Pitt, Trustee, 78 East Williams Lane, Grantsville, UT 84029				
Property Owner(s): (02-144-0-0016)	The Estate of Eileen Barnett		Applicant(s):	Thrive Development Corporation <u>JEFF LEE</u>	
Address:	1844 North Blue Peak Drive		Address:	7585 S Union Park Ave	
City:	State:	Zip:	City:	State:	Zip:
Tooele	UT	84074	Salt Lake City	UT	84047
Phone:	Ronald J Barnett and Leanna Fretwell, Co-Trustees		Phone:	801-948-8800	
Contact Person:	David Gumucio		Address:	P.O. Box 743	
Phone:	435-830-3337		City:	State:	Zip:
			Grantsville	UT	84029
Cellular:	Fax:	Email:			
435-830-3337	866-634-3115	gumby@mstar.net			

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For Office Use Only			
Received By:	Date Received:	Fees:	App. #:
<u>[Signature]</u>	<u>[Signature]</u>	<u> </u>	<u> </u>

Fees waived by Mayor Winn

SUBMISSION QUESTIONS AND ANSWERS

ZONING MAP*

1. Present Zoning from Main Street, West to East, is: RC, MR-20 and R1-7.
2. The Proposed Zoning is keeping the RC & MR-20 Zones as designated, and modifying the R1-7 Zone (8.2 acres approx) by tiering the density gradually from the MR-20 Zone to the R1-7 Zone with 2.25 acres MR-16 and 2.0 acres MR-12.
3. The Proposed Zone is in harmony with the current Land Use Map. It is also in harmony with the Tooele City Council's request to gradually "step-down" densities and avoid abrupt density changes. The surrounding area is commercial and undeveloped farm land, with proposed uses being additional commercial and residential in varying densities.
4. The existing uses of the property is dry farming. The proposed change brings the existing use of the property in harmony with the existing Tooele City Land Use Map, General Map/Plan and Master Map/Plan.
5. The Tooele City Council asked us to provide a tiered transition between the approved MR-20 Zone and the approved Medium Density Residential R1-7 Zone. The proposed Zoning fulfills the goals and objectives of Tooele City and their respective Land Use Map(s). It also improves the current land use zones by adding transitional zones of varying density (MR-16 & MR-12) between high density residential zones and medium density residential zones. The proposed zones will also increase commercial development and provide quality and affordable housing in a smart and beautiful development, in an area which is currently undeveloped and "nonperforming" for the city. It will develop infrastructure in the Northeast and Northwest portions of the city that are currently void of water, sewer, gas, communications etc., which will pave the way for controlled sustained growth in these areas for the future. It will increase tax revenues for the City and provide inventory of quality affordable housing which the City is currently lacking. In addition, the Proposed Zones will allow a beautiful and smartly developed commercial and residential community as a "Gateway" to Tooele City.

*** NOTE: Tooele City's Zoning Map has not been updated to match Tooele City's approved Zones.**

GENERAL PLAN MAP*

1. Present Land Use for the proposed properties is Regional Commercial along Main Street and then heading East, varying degrees of residential from MR-20 to R1-7 Zones.
2. Present land use is farming. Neighboring land use is commercial. Planned neighboring land use is additional commercial and residential in varying forms of density.
3. Commercial and Residential Development in varying forms of density.
4. The proposed land use is in harmony with the surrounding area and with Tooele City's General Plan/Map, Master Plan/Map and Land Use Zone Designations.
5. The Tooele City Council asked us to provide a tiered transition between the approved MR-20 Zone and the approved Medium Density Residential R1-7 Zone. The proposed land use fulfills the goals and objectives of Tooele City by increasing commercial development and providing quality and affordable housing in smart and beautiful development, in an area which is currently undeveloped and "nonperforming" for the city. It will develop infrastructure in the Northeast and Northwest portions of the city that are currently void of water, sewer, gas, communications

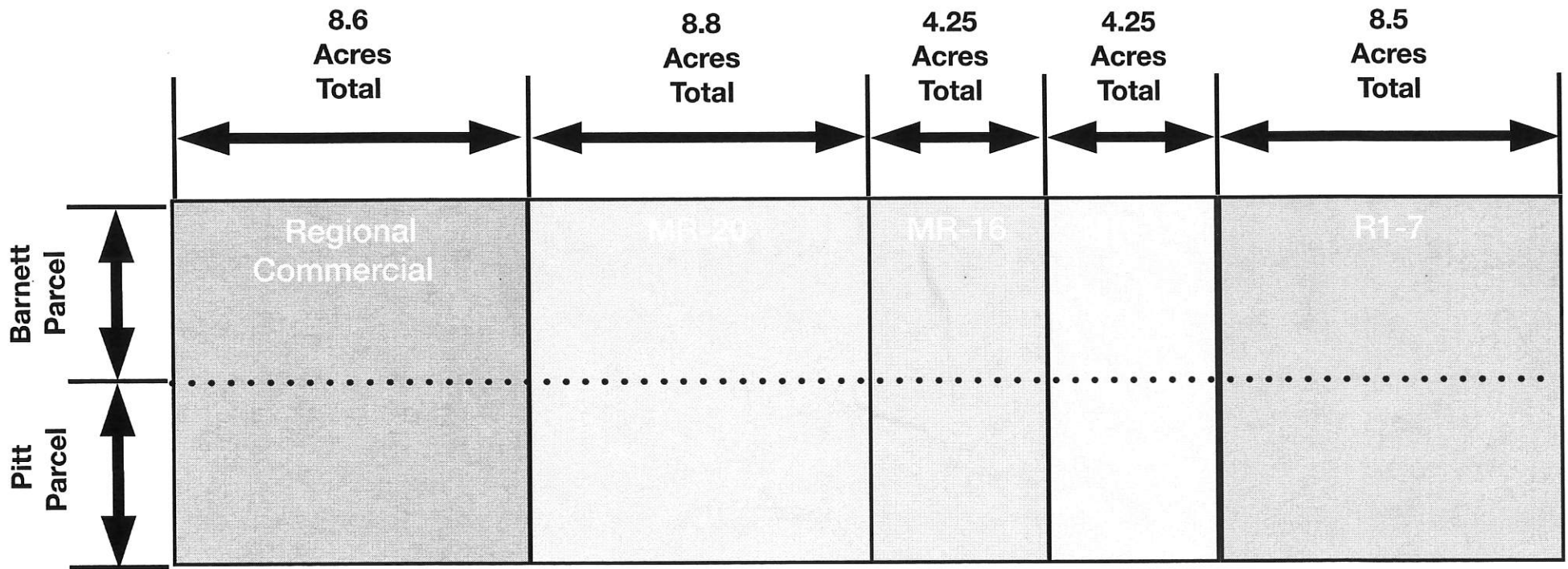
etc., which will pave the way for controlled sustained growth in these areas for the future. It will increase tax revenues for the City and provide a beautiful and smartly developed commercial and residential community "Gateway" to Tooele City.

*** NOTE: Tooele City's General Plan Map has not been update to match Tooele City's approved Land Uses.**

MASTER PLAN MAP*

1. Master Plan Map - Land Use Element
2. Regional Commercial, High Density Residential MR-20, Medium Density Residential RM-8, R1-7, R1-8 and R1-10.
3. The proposed designation of Regional Commercial, High Density Residential MR-20, High Density Residential MR-16, High Density Residential MR-12 and Medium Density Residential R1-7 is within the Master Plan Map limitations and conforms with present and planned land use in the surrounding developed commercial areas, undeveloped areas as well as future land use for the present undeveloped farming areas.
4. Commercial and Residential Development in varying forms of density.
5. The proposed map designations would smooth, tier and step-down the transitions areas between High Density and Medium Density designations. This uniform tiering is a smart way to transition development and reduce "transition shock" between high density designations and lower density designations.
6. The Tooele City Council asked us to provide a tiered transition between the approved MR-20 Zone and the approved Medium Density Residential R1-7 Zone. The proposed designations fulfill the goals and objectives of Tooele City by increasing commercial development and providing quality and affordable housing in smart and beautiful development, in an area which is currently undeveloped and "nonperforming" for the city. It will develop infrastructure in the Northeast and Northwest portions of the city that are currently void of water, sewer, gas, communications etc., which will pave the way for controlled sustained growth in these areas for the future. It will increase tax revenues for the City and provide a beautiful and smartly developed commercial and residential community "Gateway" to Tooele City.

*** NOTE: Tooele City's Master Plan Map has not been updated to match Tooele City's Land Use Designations and the deletion of the MR-25 designation and the creation of the MR-12 Designation.**



Commercial up front with a decrease in housing density from front to back. Smarter and better development with better buffering between each product and zone.

Proposed Zoning

STAFF REPORT

August 4, 2022

To: Tooele City Planning Commission
Business Date: August 10, 2022

From: Planning Division
Community Development Department

Prepared By: Jim Bolser, Director

Re: Garage Parking in Multi-Family Developments – City Code Text Amendment Request

Application No.: P22-912

Applicant: Tooele City

Request: Request for approval of a City Code Text Amendment regarding allowances for garages to qualify for required parking in multi-family residential developments.

BACKGROUND

This application is a request for approval of a City Code Text Amendment regarding garage parking in multi-family residential developments. More specifically, whether and when garage space is eligible to count towards required resident and guest parking within those developments. The City Code, particularly Chapter 7-4, has maintained a long-standing requirement of two parking spaces per unit for resident parking, plus one visitor parking space per four units; effectively creating a parking requirement ratio of 2.25 spaces per unit. Despite the clarity in the requirement, the Code has been less clear on the methods available to applicants for meeting that requirement. Although discuss with applicant had occurred, the question was first raised formally in 2021, resulting in an Administrative Interpretation issued on August 13, 2021. In that interpretation, the Tooele City Zoning Administrator concluded that garages may not count towards required parking under the City Code, noting the occupant penchant to use garage spaces for storage rather than for vehicles and that if townhome driveways are not provided, occupancy and visitor parking would be pushed on-street, undermining the legislative policy behind requiring off-street parking. Where there is no requirement for driveways to be provided in multi-family residential developments, the potential for a proliferation of on-street parking in these developments is high. Where the roads in these developments are typically private, their widths are typically smaller that public streets creating a tight scenario, potentially prohibitive, for public safety response, mounting the safety risks to the residents, the general public, and public safety personnel. These scenarios have played out in Tooele City. The Zoning Administrator's interpretation was not appealed has been consistently implemented since. Despite no appeal, discussions and concerns continued between City staff and applicants continued. Despite the City maintaining belief that the interpretation was and is correct, the City also believes that having a more predictable and understandable public policy in the City Code serves to benefit all involved. To this end, it was determined that the potential for public safety risks during the time necessary to develop, review, and enact revision to the City Code is significant enough that a compelling, countervailing public interest exists making a temporary zoning ordinance a vital step to protect against those risks during this process. As such, a temporary zoning ordinance, Ordinance 2022-11, attached as Exhibit "C" to this report along with a supporting memorandum from the City Attorney, was noticed and advertised on March 18, 2022 and subsequently unanimously adopted by the City Council on April 6, 2022. That temporary ordinance established a regulation that garages do not count towards required parking in multi-family residential developments. By Utah State law,

temporary zoning ordinances cannot establish regulation for a period of time longer than six months from the time the noticing of that ordinance is provided. As such, this prohibition on garage parking counting towards required parking in multi-family residential developments remains in effect through August 18, 2022. If a permanent City Code amendment is not enacted prior to the expiration of the temporary zoning ordinance, that regulation reverts back to the existing terms of the City Code until such time as a permanent text amendment is adopted. This application is intended to address a permanent regulation to address garage parking allowances in multi-family residential developments.

ANALYSIS

Tooele City Code. The City Code provisions related to garages and parking in multi-family residential developments exist in two coinciding chapters. The first is Chapter 7-4 which establishes and addresses parking requirements generally for uses throughout the City. The established requirement of 2.25 parking spaces per unit in multi-family residential developments is integral and central to the question at hand and not proposed to change in terms of the volume of parking required. Through the development of the proposed amendments in this application, it was identified that there are housekeeping efforts that are needed to Table 7-4-1 to correct an errant reference in the notations and a clarification to make a more applicable reference to the type of housing unit versus the number of bedrooms within the unit. The proposed revisions to Table 7-4-1 can be found in Exhibit “A” to this report.

The second chapter, and more pertinent to the amendments at issue in this application, is Chapter 7-11a which addresses the design standards for multi-family residential developments. More specifically, Section 7-11a-13 addresses parking and circulation design standards. In this section contains the bulk of revisions proposed as a part of this application. Primarily, this section is amended to create a new Section 7-11a-13.1 that addresses more specifically standards for scenarios that contain garages in multi-family residential developments. Secondly, there has been developed a graduated program for balancing the need to regulate the parking scenarios provided within the developments for the benefit of residents and visitors, but also the address and ensure public safety against the flexibility and design preferences inherent to applicants building those projects. The proposed Table 7-11a-13.1 establishes a graduated series of steps by which the design of the development determines the method by which garages and driveways can accommodate and count towards the calculated required parking for the individual units within a multi-family residential development. These graduated steps range from no parking at the unit counting towards the requirement, thereby mandating all parking be provided elsewhere within the development, to all parking being provided at the unit, thereby mandating no other parking provided elsewhere in the development freeing up those other areas for amenities or other features. Whichever step is utilized, or combination of steps, is left to the applicant to determine and design into their development plans. Finally, Section 7-11a-13 contains proposed amendments in support of the primary purposes of this application to ensure the best possible outcomes and development projects. The proposed revisions to Section 7-11a-13 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 issued the following comments:

- 1. The proposed City Code text amendment addresses a public safety concern caused by ineffective parking scenarios within multi-family residential developments.
- 2. The proposed City Code text amendment supports the Administrative Interpretation of the Tooele City Zoning Administrator while also providing support to the flexibility and design of applicants.
- 3. The proposed City Code text amendment balances the needs and desires of all involved in applications for multi-family residential developments.
- 4. The proposed City Code text amendment provides clarity, predictability, and understanding in the terms of the City Code.

Tooele City Fire Department Review. The Tooele City Fire Department has completed their review of the City Code Text Amendment request and has issued the following comment:

- 1. The proposed City Code text amendment addresses concerns regarding public safety response within multi-family residential developments and reduces the potential for delays in response to these areas.

Noticing. The applicant 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 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 Garage Parking in Multi-Family Developments City Code Text Amendment Request by Tooele City regarding garage parking in multi-family residential developments, application number P22-912, based on the following findings:”

1. List findings ...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Garage Parking in Multi-Family Developments City Code Text Amendment Request by Tooele City regarding garage parking in multi-family residential developments, application number P22-912, based on the following findings:”

1. List findings ...

EXHIBIT A

**PROPOSED CITY CODE TEXT AMENDMENT
TABLE 7-4-1**

CHAPTER 4. OFF-STREET PARKING REQUIREMENTS.

7-4-4. Number of Parking Spaces.

The number of required off-street parking spaces shall be calculated according to Table 7-4-1, subject to Section 7-4-5 herein.

Table 7-4-1 – Parking Space Requirement Calculations.

Land Use	Parking Requirement
<2 Bedroom Units <u>Apartments</u>	2 spaces per unit
Dwelling, Multi-Family ^{2,4} 2 Bedroom Units <u>Townhouse</u> <u>/ Condominium</u>	2 spaces per unit
3+ Bedroom Units	2 spaces per unit
Dwelling, Visitor Parking ³	1 space for every 4 dwelling units

² ~~Unless otherwise specified in Chapter 16 of this Title~~ As specified in Sections 7-11a-13 and 7-11a-13.1 and Table 7-11a-13.1 of this Title.

EXHIBIT B

**PROPOSED CITY CODE TEXT AMENDMENT
SECTION 7-11a-13**

CHAPTER 11a. DESIGN STANDARDS: MULTI-FAMILY RESIDENTIAL.

7-11a-13. Design Standards: Parking and Internal Circulation – *Apartment Buildings.*

- (1) Parking areas shall be contained within the interior of the Site or under *or within* the buildings. Parking areas shall be no closer to a public right-of-way or exterior road than 20 feet or the setback of the closest building to that same road, whichever is greater.
- (2) Direct access to parking areas shall be from internal roads, not from a public road.
- (3) Parking areas of six or more spaces shall be effectively screened from public streets and Surrounding Property. Screening may be with fencing, berming, or landscaping, which landscaping may be credited to the Common Area landscaping percentage requirements contained in this Chapter.
- (4) The predominant view from the public roads shall be buildings, not parking areas.
- (5) Parking structures, including *garages enclosed parking*, shall utilize materials, colors, and design similar to those of the nearest building.
- (6) Covered parking shall utilize colors and design similar to those of the nearest building.
- (7) At least one required resident parking space per unit shall be provided as a covered or enclosed parking space. ~~Parking provided within an enclosed building may count towards required parking upon provision ensuring that the enclosed parking must be used for primarily parking.~~
- (8) All required parking for residents and visitors shall be provided within the Project, exclusive of roads and rights-of-way, and:
 - (a) resident spaces shall be made available to all residents and their visitors as a part of their residency without *additional* charge or restriction;
 - (b) resident spaces may be assigned for the dedicated use of the tenants of specific units;
 - (c) resident spaces may be restricted from use by non-residents or visitors; and
 - (d) visitor spaces shall be dispersed throughout the Project.
- (9) Rows of parking shall not include more than 12 spaces without a landscaping break of not less than five feet. These breaks are encouraged to include pedestrian pathways where reasonable for access around and through the Project and to buildings.
- (10) Roads on the interior of a Project, whether proposed or intended to be public or private, shall comply with Section 4-8-2 of the Tooele City Code. Standards for private roads shall not be subject to the provisions of Section 7-11a-25 herein.
- (11) A traffic impact study shall be required for all multi-family Projects planned to contain 50 or more units, or as otherwise required by the City Engineer.

7-11a-13.1. Design Standards: Parking – Townhouses, Condominiums.

- (1) Townhouses and condominiums shall provide the number of off-street parking spaces required by Section 7-4-4 and Table 7-4-1 of this Title.
- (2) Fully-enclosed garages of minimum dimension of 22 feet deep and 10 feet wide per garage space may count toward required off-street parking, as shown in Table 7-11a-13.1, below.
- (3) Driveways of minimum dimension of 20 feet long and 10 feet wide each may count toward required off-street parking, as shown in Table 7-11a-13.1, below.
- (4) Off-street parking spaces, including garages and driveways, associated with one unit shall not count toward the off-street parking spaces required for another unit.
- (5) Where a driveway is provided for a unit, a pedestrian walkway between the driveway and the unit primary entrance shall be provided.

Table 7-11a-13.1

<u>Garage Space Scenario</u>	<u>Garage Space Counting Toward Parking</u>
<u>One-car garage without driveway</u>	<u>0 parking spaces</u>
<u>One-car garage with one-car driveway</u>	<u>1 parking space</u>
<u>Two-car garage without driveway</u>	<u>1 parking space</u>
<u>Two-car garage with one-car driveway</u>	<u>2 parking spaces</u>
<u>Two-car garage with two-car driveway</u>	<u>3 parking spaces (i.e. 2 for unit + 1 visitor)</u>

EXHIBIT C

ORDINANCE 2022-11

TOOELE CITY CORPORATION

ORDINANCE 2022-11

AN ORDINANCE OF TOOELE CITY ENACTING A TEMPORARY ZONING ORDINANCE REGARDING GARAGE PARKING IN MULTI-FAMILY RESIDENTIAL DEVELOPMENTS.

WHEREAS, Utah Constitution, Article XI, Section 5 directly confers upon Utah's charter cities, including Tooele City, "the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law"; and,

WHEREAS, Utah Code Section 10-8-84 enables Tooele City to "pass all ordinances and rules, and make all regulations . . . as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city"; and,

WHEREAS, Utah Code Section 10-9a-505 enables Tooele City to "enact an ordinance establishing a temporary zoning regulation," without prior Planning Commission recommendation or public hearings, upon the City Council finding a "compelling, countervailing public interest" in doing so, with "temporary" meaning not to exceed six months; and,

WHEREAS, the Utah Supreme Court case of *Western Land Equities v. Logan City* (1980) identified and established a common law principle called the Pending Ordinance Rule, which provides that a land use or development "application for a permitted use cannot be refused **unless a prohibiting ordinance is pending at the time of application**"; further, "if a city...has initiated proceedings to amend its zoning ordinances, a landowner who subsequently makes application for a permit is not entitled to rely on the original zoning designation" (emphasis added); and,

WHEREAS, like UCA Section 10-9a-504, the Pending Ordinance Rule requires a legislative finding of a compelling, countervailing public interest; and,

WHEREAS, *Western Land Equities* also established Utah's vested development rights rule that, except for the Pending Ordinance Rule, a land use application establishes the date on which development rights vest, as well as the set of land use ordinances applicable to the approved land use; and,

WHEREAS, *Western Land Equities* recognizes the unfairness and the threat to the public interest where the announcement of a future zoning ordinance change would trigger a race to file and vest land use applications prior to the municipality's ability to follow the established lengthy process for amending land use ordinances, thus subverting and undermining the very public policies supporting the need for the zoning ordinance amendment; and,

WHEREAS, Tooele City Code Section 7-4-4, referring to Table 7-4-1, requires two off-street parking spaces for all dwellings, including detached single-family dwellings, attached single-family dwellings (e.g., townhouses, duplexes), condominiums, and apartments; and,

WHEREAS, on August 13, 2021, the Tooele City Zoning Administrator issued an administrative interpretation stating that, in a townhouse development, garages may not count toward off-street parking requirements, noting the occupant penchant to use garage space for storage rather than for vehicles, and that if townhouse driveways were not provided, occupant and visitor parking would be pushed on-street, undermining the legislative policy behind requiring off-street parking; and,

WHEREAS, the Zoning Administrator's administrative interpretation was not appealed pursuant to the administrative appeals procedure identified in the City Code (i.e., first to the Director of Community Development under TCC Section 1-27-4, then to the Administrative Hearing Officer under TCC Section 1-27-5 and Chapter 1-28); and,

WHEREAS, though no formal administrative appeals of the Zoning Administrator's administrative interpretation have been submitted pursuant to City Code procedures, other developers have complained about the administrative interpretation, which interpretation is the basis of the City's practice to not count garage space toward off-street parking requirements for townhouse developments; and,

WHEREAS, the City Administration and the City Council believe that the Zoning Administrator's administrative interpretation is correct, and further believes that the City Code should be amended to provide more predictable and understandable legislative language in support of that interpretation; and,

WHEREAS, were the City to allow townhouse developments to count garage space as off-street parking space, without adequate driveway lengths to provide off-street parking, and were occupants to use garages for storage, which is typical, off-street parking would of necessity be pushed on-street, with no other area for off-street parking; and,

WHEREAS, because townhouses are typically narrow structures on small narrow lots, the number of drive/garage access from the street are proportionately much higher than in single-family subdivisions, and the increased number of drive/garage accesses dramatically decreases the amount of on-street parking available to the public; and,

WHEREAS, streets within townhouse developments are often private streets, for internal traffic circulation, and thus can be narrower than public streets, as narrow as 26 feet under the International Fire Code, and with cars parked on both sides of the street due to insufficient off-street parking, the street becomes impassable to many emergency response vehicles (i.e., ambulances, fire trucks), impassable for two-way vehicle traffic,

and difficult even for one-way vehicle traffic, further exacerbating the public safety risks of predominant on-street parking; and,

WHEREAS, Tooele City has prior experience with precisely this scenario, including with The Fields of Overlake townhomes and West Pointe Meadows townhomes, in which garages are used for storage, no other (or insufficient) off-street parking spaces were provided, and both occupant and visitor parking are pushed onto the street; and,

WHEREAS, TCC Section 10-3-6 provides that "(1) It shall be unlawful to park a vehicle on any public right-of-way: (a) when snow is falling upon that vehicle; or, (b) when snow or ice have accumulated in any amount on the right-of-way upon which that vehicle is parked." This legislatively-enacted regulation is necessary to allow adequate snow plowing, to reduce the risk of snow plows striking and damaging parked vehicles, to avoid injury to snow plow drivers and damage to snow plows, to remove snow from public streets sufficiently to allow safe vehicle travel, to allow safe emergency vehicle access including police vehicles, ambulances, and large fire apparatus, to preserve the full public street travel way for its intended purpose of traffic circulation, to allow safe garbage removal by large garbage trucks, to minimize stacking of deep snow against vehicles parked on the street in a way that the vehicles cannot move, among other things; and,

WHEREAS, TCC 10-3-6 recognizes the public safety risk of on-street parking in winter by providing, "Any vehicle parked in violation of this Section may be removed at the discretion of the Tooele City Police Department for creating public safety risks and for obstructing the City's snow removal efforts"; and,

WHEREAS, while on-street parking is not prohibited during non-winter seasons, pushing *all* or nearly all occupant and visitor parking onto the street creates a real safety risk for children and other pedestrians crossing the street from between parked vehicles, reducing and confusing driver visibility of the roadway and of crossing children and other pedestrians, increasing risks for children and others riding bicycles in the roadway as required by State of Utah transportation regulations, among other dangers; and,

WHEREAS, developers have suggested that imposing a recorded covenant prohibiting storage of personal property in townhouse garages, and enforcing the covenant through a homeowner's association, would mitigate the City's on-street parking concerns. The City Administration and City Council believe, however, that the covenant would be ignored due in part to the lack of storage space inside small townhouse units, and would be practically and politically impossible to enforce, for the following reasons, among others:

- the covenant contradicts the normal, typical, popular, accepted, and expected resident behavior of using garages for personal property storage;
- enforcement of the covenant would be very unpopular with residents, creating contention and community division among the association board members and their neighbors;
- the covenant would be no more enforceable than a recorded covenant against sneezing, or waving to neighbors, or children playing in the yard; and,

WHEREAS, all of the above considerations and findings serve to support a finding of a compelling, countervailing public interest to require off-street parking other than garage space in townhouse developments and to disallow garage space to count toward off-street parking requirements; and,

WHEREAS, the City Administration avers that, when enacting its off-street parking regulations, the City Council intended for townhouse developments to provide off-street parking in addition to garage space, as with all single-family dwellings, though the Code does not specify minimum driveway lengths for townhouse developments; and,

WHEREAS, the City Administration recommends that the City Code be amended to disallow developers and their design professionals from counting garage space toward off-street parking requirements; and,

WHEREAS, following approval of this Ordinance and the temporary zoning regulation proposed herein, the City Council will have a maximum of six months to discuss and determine its legislative policy regarding counting garage space toward off-street parking requirements in townhouse, condominium, and other attached single-family dwelling developments; and,

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

1. This Ordinance 2022-11 is hereby approved; and,
2. The temporary zoning ordinance enumerated and described in this Ordinance 2022-11 is hereby temporarily enacted; and,
3. This Ordinance 2022-11 and the temporary zoning regulation are effectively immediately, as authorized by the Tooele City Charter; and,
4. For the duration of this temporary zoning regulation, all townhouse, condominium, and other attached single-family and multi-family developments shall provide the minimum required off-street parking spaces without considering garage space; and,
5. This Ordinance 2022-11 shall be in effect until a land use regulation is enacted following the regular Planning Commission, City Council, and public hearing and notice processes required by the Utah Code and the Tooele City Code, but in no event for longer than six months; and,
6. The City Administration, including planning staff, are hereby instructed to prepare draft City Code language on the subject of this Ordinance 2022-11 for consideration by the City Council; and,

7. Should a new land use regulation governing garage parking not be enacted within the six-month period referenced above, the existing City Code provisions will govern; and,
8. This Ordinance 2022-11 and its temporary zoning regulation shall have binding application upon all land use applications submitted after the date on which proceedings began to amend the City Code regarding garage parking, that date being March 18, 2022; and,
9. As required by Utah Code Section 10-9a-504 and *Western Land Equities*, the City Council hereby makes a finding of compelling, countervailing public interest in disallowing garage parking to count toward required off-street parking spaces due to the reasonably foreseeable risks to the public health and safety of occupant and visitor parking being located on the public streets, those risks being more fully described at length in the recitals above, which recitals are hereby incorporated into this finding; and,
10. Similarly, the City Council hereby finds that failing to approve this Ordinance 2022-11 and enact this temporary zoning ordinance, a residential parking crisis would result, as early as the next approved townhouse development in the vicinity of that development, with the crisis compounding with the proliferation of townhouses developments with inadequate off-street parking.
11. Nothing in this Ordinance 2022-11 shall be considered to eliminate or reduce the current visitor parking requirements of the City Code, and nothing shall allow dwelling unit driveways and garage space to be counted as visitor parking space.

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.

IN WITNESS WHEREOF, this Ordinance is approved by the Tooele City Council this 6th day of April, 2022.

TOOELE CITY COUNCIL

(For)

(Against)

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

[Handwritten signature]

(If the mayor approves this ordinance, the City Council passes this ordinance with the Mayor's approval. If the Mayor disapproves this ordinance, the City Council passes the ordinance over the Mayor's disapproval by a super-majority vote (at least 4). If the Mayor neither approves nor disapproves of this ordinance by signature, this ordinance becomes effective without the Mayor's approval or disapproval. UCA 10-3-704(11).)

ATTEST:

[Handwritten signature]
Michelle Y. Pitt, City Recorder



Approved as to Form:

[Handwritten signature]
Roger Evans Baker, City Attorney

**Tooele City Planning Commission
Business Meeting Minutes**

Date: Wednesday, March 23, 2022

Time: 7:00 p.m.

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

Commission Members Present:

Melanie Hammer

Nathan Thomas

Chris Sloan

Matt Robinson

Tyson Hamilton

Weston Jensen

Paul Smith

Alison Dunn

Commission Members Excused:

Melodi Gochis

City Council Members Present:

Maresa Manzione

City Council Members Excused:

Ed Hansen

City Employees Present:

Andrew Aagard, City Planner

Jim Bolser, Community Development Director

Paul Hansen, Tooele Engineer

Roger Baker, Tooele City Attorney

Minutes prepared by Katherin Yei

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

1. Pledge of Allegiance

The Pledge of Allegiance was led by Chairman Thomas.

2. Roll Call

Melanie Hammer, Present

Nathan Thomas, Present

Chris Sloan, Present

Matt Robinson, Present

6. Discussion on Ordinance 2022-11 An Ordinance of Tooele City Enacting a Temporary Zoning Ordinance Regarding Garage Parking in Multi-Family Residential Developments

Mr. Baker indicated his purpose of introducing the Commission to a temporary zoning ordinance regarding garage parking being counted for minimum required off-street parking in residential areas. There is a legal doctrine called the pending ordinance rule. Once a temporary zoning ordinance is put in place, all developments have to follow the it until it ends at six months or a new rule takes effect. If there is an important enough reason, compelling and countervailing, the City Council can impose a temporary zoning ordinance without the Planning Commission's recommendation and with public hearings. This is to help prevent a rush of applications to vest in the current regulations while new regulations are being formulated and are going through the regular process for enacting new land use ordinances.

The Planning Commission asked the following questions:

What is the difference between the temporary ordinance and a moratorium?

Does the new rule have to mirror the temporary ordinance?

Mr. Baker addressed the Planning Commission. The Council cannot declare a moratorium on their own rules, but they can change their rules. The pending ordinance doctrine allows the rules to change immediately without going through the regular process. It is temporary and for a period of up to 6 months. At 6 months, the ordinance will revert to previous or they need to have adopted something new. The new rule does not have to mirror the temporary ordinance. Any change has to go through the regular process. The current rules require two parking spaces for a single-family dwelling, which is usually accomplished by a driveway long and wide enough for two cars, and require garages with minimum dimensions. The concern is garages are often used for storage, and whether to count the garage apart of the minimum required off-street parking spaces. City Hall has received many complaints regarding on-street parking. Some townhouse developments do not have driveways or other off-street parking, and because of the higher densities more of the street frontage is used for drive approached, reducing the amount of on-street parking, forcing parking to spill over into neighboring developments. On-street parking during snow events is a violation of the City Code because it prevents safe and adequate snow plowing. In the opinion of the City Administration, this rises to the level of a compelling, countervailing public interest. The ordinance being presented is for a maximum six-month period, allowing garage space to not be included in off street parking. Anything proposed as a new permanent regulation will come back for further discussion and recommendations.

The Planning Commission shared their personal experience, expressing the need for the ordinance. They asked the following questions about the current requirements:

Does the City require the driveway to be long enough and wide enough to fit two cars?

What are the requirements for residential areas?

Is six months a realistic timeline to get the new ordinance in place?

Mr. Baker addressed the Planning Commission concerns. The process will include looking at the off-street parking requirements for single family, townhomes, and apartments. The requirement for single-family detached housing is 25 feet, requiring a two-car garage, and a 20-foot depth

between house and street, which required a driveway that accommodates two cars. The City does require setbacks in driveways and garages, requiring two spaces, and requiring off street parking. There are no extensions to the 6-month maximum. City staff must work efficiently to bring something forward before the temporary regulation reverts back to the current rule. The six months started with a public notice published on Friday, March 18th.

The Planning Commission shared their support.

7. City Council Reports

Council Member Manzione presented a brief overview of the City Council’s meeting. The City Council wanted to hear a discussion and the opinions of the Commission regarding the annexation change. The Mayor is starting ‘Monday with the Mayor’, a presentation and discussion for the community. The meetings will be held the first Monday of every month in person or on Facebook live.

8. Review and Approval of Planning Commission Minutes for the Meeting Held on March 9, 2022.

There were no changes to the minutes

Commissioner Hamilton motion to approve the Planning Commission minutes from March 9, 2022. Chairman Robinson seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Thomas, “Aye”, Chairman Robinson, “Aye,” Commissioner Hamilton, “Aye”, Commissioner Sloan, “Aye”, Commissioner Jensen, “Aye”. and Commissioner Smith, “Aye”. The motion passed.

9. Adjourn

Chairman Robinson adjourned the meeting at 8:07 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 ____ day of April, 2022

Matt Robinson, Tooele City Planning Commission Chair

MEMORANDUM

To: City Council
cc: Mayor, Planning Commission

From: Roger Evans Baker, City Attorney

Date: March 18, 2022

Re: Temporary Zoning Ordinance

This question has arisen: *Whether the City Code allows or prohibits garage space to count toward the minimum off-street parking requirements for townhouses and other dwellings?*

When zoning laws are in question, the City Code provides for a Zoning Administrator (ZA) to make administrative interpretations of those laws. The ZA has made an interpretation that garage space in a townhouse without a driveway does not count toward off-street parking requirements. Developers argue that the City Code does not clearly disallow garage space counting toward off-street parking requirements. With this argument, they decline to design driveways into their townhouse projects. Without driveways, the only off-street parking is in garages. But most occupants use garage space for personal property storage, parking their cars in the driveway. Where townhouses have no driveways, the City expects most if not all cars to park on the street, subverting the off-street parking requirement.

The Tooele City Administration believes that allowing garage space to count toward off-street parking, while at the same time there are no driveways, is guaranteed to create a parking crisis, where most if not all resident and visitor parking will be pushed onto the street for lack of off-street parking spaces. This would violate winter parking ordinances, would make effective snow plowing impossible, and would create a host of serious public safety risks, including accidents and injuries involving snow plows, cars, and pedestrians.

Utah Code allows cities to enact temporary zoning ordinances, without Planning Commission recommendation or public hearings, upon a finding of a compelling, countervailing public interest. The City Administration has published notice of the commencement of proceedings to amend the City Code regarding garage parking and off-street parking requirements, and has drafted Ordinance 2022-11. If approved by the City Council, the temporary zoning ordinance would be in place for up to six months, during which time a permanent zoning ordinance would be prepared and brought to the Commission and Council for public hearings and votes. Under the temporary zoning ordinance, all development applications filed after March 18, 2022, would have to comply with the temporary zoning ordinance and provide two off-street parking spaces per dwelling, not including garage space.

The City Administration looks forward to supporting the City Council in the Council's policy discussions and decisions on the important question of garage parking. Ordinance 2022-11 is attached.

**Tooele City Planning Commission
Business Meeting Minutes**

Date: Wednesday, July 27, 2022

Time: 7:00 p.m.

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

Commission Members Present:

Melanie Hammer

Matt Robinson

Tyson Hamilton

Weston Jensen

Paul Smith

Alison Dunn

Commission Members Excused:

Melodi Gochis

Chris Sloan

City Council Members Present:

Ed Hansen

City Council Members Excused:

Maresa Manzione

City Employees Present:

Andrew Aagard, City Planner

Jim Bolser, Community Development Director

Paul Hansen, Tooele Engineer

Roger Baker, Tooele City Attorney

Minutes prepared by Katherin Yei

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

Melanie Hammer, Present

Matt Robinson, Present

Tyson Hamilton, Present

Weston Jensen, Present

Paul Smith, Present

Alison Dunn, Present
Melodi Gochis, Excused
Chris Sloan, Excused

3. Public Hearing and Decision on Zoning Map Amendment Request by Tooele Industrial Land Holdings, LLC and GB Tooele Land Holdings, LLC, to Reassign the Zoning for Approximately 167 Acres Located at Approximately 2000 North 1400 West From the RR-5 Residential and GC General Commercial zoning districts to the LI Light Industrial and I Industrial zoning districts. (Continued and revised from July 13, 2022 Planning Commission meeting)

Mr. Aagard presented information on a zoning map amendment that was previously discussed in the last Planning Commission meeting. It was tabled to allow the applicant to be more in line with the Land Use Map. The property is located North of SR-112. The property is zoned RR-5 and GC, General Commercial. The Land Use Map plan identified it as LI, Light Industrial and I, Industrial.

The public hearing is open.

Brant Boardman followed up with the Planning Commission. The R1-7 piece will have an application to be rezoned so there is not residential in the middle of the Industrial.

The public hearing was closed.

Commissioner Smith shared his reasoning behind a nay vote.

Commissioner Hamilton motioned to forward an appositive recommendation Zoning Map Amendment Request by Tooele Industrial Land Holdings, LLC and GB Tooele Land Holdings, LLC, to Reassign the Zoning for Approximately 167 Acres Located at Approximately 2000 North 1400 West From the RR-5 Residential and GC General Commercial zoning districts to the LI Light Industrial and I Industrial zoning districts based on the findings and conditions listed in the staff report.

Chairman Jensen seconded the motion. The vote was as follows:

Commissioner Hammer, "Aye", Commissioner Dunn, "Aye", Chairman Robinson, "Aye" Commissioner Hamilton, "Aye", Commissioner Jensen, "Aye", and Commissioner Smith, "Nay". The motion passed.

4. Public Hearing and Decision on a Conditional Use Permit request by Scott Mommer of Lars Andersen & Associates to authorize the use of "Heavy Equipment Sales and Rental" as an accessory use to an established retail use for property located at 222 East 2400 North in the existing Home Depot store on 11.36 acres in the GC General Commercial Zoning district.

Mr. Aagard presented information on a Conditional Use Permit for the Home Depot property. It is zoned the GC, General Commercial. The applicant wishes to operate a heavy equipment

business in the area. The rental area will be operated out of the southwest area of the store, occupying 18 spots. One concern the staff has is the loss of available parking. There are 420 parking stalls. The applicant has provided parking information, with it showing there is ample parking. A site plan has been submitted. There will still be 353 parking stalls still available. Notices have been sent to property owners within 200 feet.

The Planning Commission had the following questions:

With the places they put stuff into the parking lot, does that increase sale space and the amount of parking?

Mr. Aagard addressed the Planning Commission. The enclosure would need more parking. The parking requirement is calculated one space per 300 feet of retail space.

The public hearing was open. No one came forward. The public hearing was closed.

The Planning Commission shared the following concerns:

There does not feel like there is excess parking stalls when arriving at Home Depot. The seasonal merchandise does not always stay in the designated area or go away by the date they project.

Commissioner Jensen motioned to approve a Conditional Use Permit request by Scott Mommer of Lars Andersen & Associates to authorize the use of “Heavy Equipment Sales and Rental” as an accessory use to an established retail use for property located at 222 East 2400 North in the existing Home Depot store on 11.36 acres in the GC General Commercial Zoning district based on the findings and conditions listed in the staff report.

Chairman Robinson seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Dunn, “Aye”, Chairman Robinson, “Aye”
Commissioner Hamilton, “Aye”, Commissioner Jensen, “Aye”, and Commissioner Smith, “Aye”. The motion passed.

5. Public Hearing and Decision on a Conditional Use Permit request by Austin Horrocks representing Volusol to authorize the use of “Chemical Manufacture and Storage” for property located at 1735 West I Avenue on 1.91 acres in the Industrial Zoning district

Mr. Aagard presented information on a Conditional Use Permit for the property located in the Peterson Industrial Depot. The property is I, Industrial with the PID Industrial zoning district. The applicant is requesting a Conditional Use Permit for chemical manufacturing storage. The applicant has also submitted a fire safety design, which has been discussed with the Fire Chief, whom is recommending approval. There will be two, 1600-gallon storage tanks on the outside of the building. Notices were sent within 200 feet of the property. Staff is recommending approval with the conditions listed in the staff report.

The public hearing was opened. No one came forward. The public hearing was closed.

Scott Horrocks addressed the Commission. They are existing business and operate out of West Valley. They use Summit for a Fire Suppression.

Commissioner Jensen addressed the applicant. They appreciation the information regarding the Fire Suppression, but they are not approving they fire information.

Commissioner Hamilton motioned to approve a Conditional Use Permit request by Austin Horrocks representing Volusol to authorize the use of “Chemical Manufacture and Storage” for property located at 1735 West I Avenue on 1.91 acres in the Industrial Zoning district based on the findings and conditions listed in the staff report.

Commissioner Hammer seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Dunn, “Aye”, Chairman Robinson, “Aye”
Commissioner Hamilton, “Aye”, Commissioner Jensen, “Aye”, and Commissioner Smith, “Nay”. The motion passed.

6. Recommendation on a Subdivision Plat Amendment request by Lex Apartments, LLC, to subdivide lot 102 of the existing Lexington at Overlake Subdivision Plat located at approximately 1202 North Franks Drive in the MR-16 Multi-Family Residential Zone on 10.6 acres.

Mr. Aagard presented a subdivision plat amendment of the Lexington Green apartments. The property is currently zoned MR-16. They are looking to subdivide lot 102 into two lots. Both lots will have ample access. The application meets or exceeds the requirements.

Chairman Robinson motioned to forward a positive recommendation on a Subdivision Plat Amendment request by Lex Apartments, LLC, to subdivide lot 102 of the existing Lexington at Overlake Subdivision Plat located at approximately 1202 North Franks Drive in the MR-16 Multi-Family Residential Zone on 10.6 acres based on the findings and conditions listed in the staff report.

Commissioner Hamilton seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Dunn, “Aye”, Chairman Robinson, “Aye”
Commissioner Hamilton, “Aye”, Commissioner Jensen, “Aye”, and Commissioner Smith, “Aye”. The motion passed.

7. Recommendation on a Preliminary Subdivision Plan request by Hallmark Homes to subdivide approximately 4.6 acres located at the north west corner of 2000 North Berra Boulevard into 36 individual town house lots, limited common areas and common areas in the MR-8 Multi-Family Residential Zoning district.

Mr. Aagard presented a preliminary subdivision plan involving the 4.6 parcel located near 2000 North. It is zoned MR-8. The applicant is requesting to subdivide the property for a townhouse development creating 36 lots. There are no lot-size restrictions in MR-8. The subdivision plan suggests common areas to be built for storm basins and amenities. The plan meets or exceeds requirements.

Chairman Jensen motioned to forward a positive recommendation a Preliminary Subdivision Plan request by Hallmark Homes to subdivide approximately 4.6 acres located

at the north west corner of 2000 North Berra Boulevard into 36 individual town house lots, limited common areas and common areas in the MR-8 Multi-Family Residential Zoning district based on the findings and conditions listed in the staff report.

Commissioner Dunn seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Dunn, “Aye”, Chairman Robinson, “Aye”
Commissioner Hamilton, “Aye”, Commissioner Jensen, “Aye”, and Commissioner Smith, “Nay”. The motion passed.

8. City Council Reports

Council Member Hansen shared the following information from the City Council Meeting:

The McKellar Lane rezone with the six-units that are non-conforming was tabled, requesting that the applicant brings the property up to code and change the property line to meet requirements.

9. Review and Approval of Planning Commission Minutes for the Business Meeting Held on July 13, 2022.

There were no changes to the minutes.

Commissioner Hammer motioned to approve the minutes.

Commissioner Smith seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Dunn, “Aye”, Chairman Robinson, “Aye”
Commissioner Hamilton, “Aye”, Commissioner Jensen, “Aye”, and Commissioner Smith, “Aye”. The motion passed.

10. Adjourn

Chairman Robinson adjourned the meeting at 7:28 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 ____ day of August, 2022

Matt Robinson, Tooele City Planning Commission Chair