



## Planning Commission Meeting Minutes

November 13, 2024

47 S Main St. Tooele, UT 84074

Council Chambers Room 308

7:00 p.m.

Draft Minutes

### 1. Pledge of Allegiance

Leland Hogan, member of the public, led the group in the Pledge of Allegiance at 7:02pm

### 2. Roll Call

Commissioner Blair Hope called the meeting to order at 7:01pm. Roll call was taken at 7:02, showing Brad Bartholomew, Michael Dow, Curtis Beckstrom, Blair Hope, Toni Scott and Andy Stetz.

### 3. Minutes

#### A. Minutes from the October 2nd, 2024 Meeting

MOTION AND VOTE

Agenda Attachments

1. October 2, 2024 Planning Commission Meeting Minutes Draft.pdf

Commissioner Beckstrom motioned to approve the October 2, 2024, minutes. 2<sup>nd</sup> by Commissioner Scott. All in favor.

Commissioner Hope abstained because he was not in attendance for the October 2, 2024, meeting.

#### B. Minutes from the September 4, 2024 Meeting

MOTION AND VOTE

Agenda Attachments

1. Planning Commission Meeting Minutes September 4, 2024\_DRAFT.pdf

### 4. Election of Vice Chairperson

#### A. Motion to Elect Vice Chairperson for the remainder of 2024

MOTION AND VOTE

Commissioner Beckstrom nominated Commissioner Scott for vice chairperson. Commissioner Scott accepted the nomination. 2<sup>nd</sup> by Commissioner Dow. All in favor. Passed unanimously.

### 5. Conditional Use Permits

#### A. CUP 2024-119; Jo Carpenter is requesting a Conditional Use Permit for a detached Accessory Dwelling Unit (ADU), Trish DuClos

PUBLIC HEARING AND MOTION: CUP 2024-119

Agenda Attachments

1. October 2, 2024 Planning Commission Meeting Minutes Draft.pdf

**CUP 2024-119 is incorrect . The correct CUP for Jo Carpenter is 2024-073**

Per Trish Duclos, Planning Staff, the application for this CUP was originally included in the staff report and notices posted and mailed but was removed prior to the planning commission meeting by mistake. Commissioner Hope requested that because the application was not present for CUP 2024-073 (Commissioner Hope referred to CUP 2024-119, which is incorrect), he moved to table this item. Community Development Director, Rachelle Custer suggested that, because the notices were sent to the neighboring properties, that they hold a public hearing and then table this. Commissioner Hope agreed.

Trish DuClos, Planning Staff, summarized the staff report for CUP 2024-073 ADU for Jo Carpenter. Per Trish, the CUP for the accessory dwelling unit does comply with all code requirements by the county. She said that there was a concern about water because the applicant is in a private improvement district in South Rim. The plan for the ADU was for the water to come from the main house and was approved by engineering. The Hogans who run the water system for this property notified the staff that there is a CC&R in place and the applicant did not get approval for additional water for the proposed ADU. Trish advised that the planning commission could add a condition regarding the water upon approval of the CUP. She also stated that staff does not enforce CC&R's. The property is at 3074 W Ridgeline Road in South Rim. Trish stated that the Hogan's have requested that before approval by the planning commission that the applicant get the water issue in the CC&R figured out.

Commissioner Hope asked the applicant to approach the podium.

Jo Carpenter, the applicant, said that she was looking to build an ADU behind the existing home of her daughter and son-in-law. She stated that she answered all the questions on the application and has spoken to all agencies. Regarding the water, it was her understanding that there is a certain amount of water that is allotted per lot. She has been living at the home on the property for months and said that she won't be using any more water for the ADU than she currently is. Jo said that, per the health department, she will need to put a new minimum size septic tank. She, believes 1,000 gallons septic tank out back with a minimal amount of leach because there is a bathroom and a shower.

Commissioner Hope asked Trish if it was authorized that they have two septic tanks on the lot, to which Trish responded that all agencies approved it and, per the health department, because it is on three acres, they can have up to three septic tanks. Commissioner Beckstrom asked how far away the nearest plug was for the water. Trish said that they didn't need one because the applicant would be pulling the water straight from the main house. There is a hydrant out by the barn that is approximately 60 to 70 feet from the new dwelling if they need a plug. Trish said that they have a line that would run from the back of the main house straight to the ADU that was approved by engineering.

Commissioner Hope asked if there were any other questions. No additional questions.

Commissioner Hope opened the public hearing. 2<sup>nd</sup> by Commissioner Bartholomew. All in favor. Passed unanimously.

William Hogan of South Rim stated that the CC&R's for the PUD is recorded on every person's deed in the recorder's office. This CC&R goes with the property. He stated that the applicant had the CC&R when he previously spoke to them. He stated that on 4.1 of the CC&R, that there will be no grading, excavation, building, fence, wall, residence or other structure of any kind, or alteration, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications thereof along with a topographical plan showing the location of all improvements are approved by The Architectural Review Committee and approved by Tooele County in accordance with the building permit requirements. He said that he had not seen anything from the applicant regarding what they plan to do. He also stated that in 4.2 in their covenants it says all lots within the subdivision shall be used only for the construction and occupancy of one single family dwelling. Lots may also be used for the

construction of typical residential amenities, such as a family swimming pool, tennis court, etc. All lots shall be used, improved and devoted exclusively for such single-family residential use. No nonresidential use as outlined by Tooele County ordinance shall be conducted on any such lot and no manufactured homes will be allowed. He said that those are two specific rules that say no to what the applicant proposes. He stated that he didn't have the entire CC&R present with him but said that the applicant is allowed to build a mother-in-law apartment inside the home. He said that if any of the CC&R rules are broken, the Architectural Review Committee or a neighbor can bring civil action against the party in violation as provided by law. He also stated that CC&R's are enforced by neighbors and by the Architectural Review Committee. He said that previously others have reached out regarding the CC&R, and he has said no because they are not allowed. They want to keep the lots as single family and that is why they came up with the CC&R's. He said that the CC&R's could be changed. If the applicant can get enough people, 51% agree with them, then the CC&R can be changed and allow for ADU's. William said that regarding the water, when the Hogan's transferred the water from their ranch to the PUD, it was for approximately 350 lots. The state had them divide up the water per lot and each lot got so much water; the larger lots receiving more water. Most of them don't, but there are several large lots that have gone over their usage. If they do go over, it is expensive, and they must pay for it. He said that the applicants have never gone over their water usage, but his concern is, if another septic tank is needed, then evidently, they think more water will be used. If not, they would just hook up to the existing tank. He said that if they have to, they will take civil action in order for the CC&R to be followed.

Leland Hogan of 1443 Hogan Road stated that others have wanted to build additional dwelling units on their lots and, when asked, they were told no and didn't pursue it further. Some asked when they were building their home if they could have a mother-in-law quarter within their home and they were approved by the committee. He said that internal ADU's meet the CC&R's rules.

Shawn Morris of South Rim is the current resident at 3074 W Ridgeline Road. He said that the proposed ADU is for his mother-in-law so she can live out her last days there. He said that there are all kinds of buildings being built out there all the time. The proposed ADU will not be rented out, it is only for his mother-in-law so she can have privacy. Regarding the water, he said that they are allotted 600,000 gallons per year. He stated that the first year they had horses, and they didn't go over 70,000 gallons. He feels that water needed for the proposed ADU is not even an issue. He said that they take great pride in their community and feels that the ADU will add to the property's value and will improve the look of the property. He stated that he wasn't aware of the CC&R until the day they were closing on the home.

Commissioner Scott motioned to close the public hearing. 2<sup>nd</sup> by Commissioner Dow. All in favor. Passed unanimously.

Commissioner Hope asked the commissioners if there were any further comments. Commissioner Bartholemew asked the staff if this was for an internal ADU, does state law trump the CC&R, and the applicant wouldn't need permission from the CC&R committee since the state law requires every city and county to allow internal ADU's. Per Rachelle Custer, Community Development Director, the state code only requires that internal ADU's are allowed, external ADU's are not required yet. Internal ADU's are allowed without getting approval from the HOA.

Commissioner Scott moved to approve the CUP 2024-073 (Commissioner Scott referred to CUP 2024-119, which is incorrect) with the condition that they secure approval of water and include any other conditions that the staff has suggested; they comply with the ADU codes and that they get the required noticing recorded on the property. 2<sup>nd</sup> by Commissioner Dow. All in favor. Passed unanimously.

**B. CUP 2024-133; Todd Hinton is requesting a Conditional Use Permit for a detached Accessory Dwelling Unit (ADU), Trish DuClos**

**PUBLIC HEARING AND MOTION: CUP 2024-133**

Agenda Attachments

1. CUP 2024-133\_Staff\_report\_final.pdf

Trish DuClos, planning staff, summarized the staff report for CUP2024-133. This is for a detached ADU located off Droubay Road and is approximately 1,500 square feet. It complies with all county codes and staff have not identified any concerns with the proposed request. Staff recommendation is upon approval, the ADU complies with all codes that are lined out in the staff report and the applicant records the required notice on the ADU.

Commissioner Hope asked the applicant to approach the podium.

**Todd Hinton**, the applicant of 2483 Mountain Glen Road, Pine Canyon stated that he has lived on the property for approximately 10 years and the proposed ADU is for his son who was in an accident approximately 8–9 years ago and is quadriplegic, paralyzed from the chest down. He teaches at Tooele High School and is currently living with him. He said that his son can't do a lot of the activities or required chores daily and needs about 3 hours of help daily to get dressed and get into bed at night. He is 29 years old and needs a separate place where he can raise his family in the future. The existing property is on 5 acres and the proposed ADU is 1,500 square feet with a two-car garage. Access will be from a 2<sup>nd</sup> driveway located off Spring Canyon Road, not Droubay.

Commissioner Hope moved to open the public hearing. 2<sup>nd</sup> by Commissioner Scott. All in favor.

**Thomas Dye** of 2502 Mountain Glenn Road, lives across the street from the applicant and is the secretary on the CC&R committee. Thomas stated that the Architectural Committee has not received anything from the applicant for approval regarding the proposed ADU. He said that he doesn't have a problem with the ADU but the CC&R states only one house per lot. He spoke with the committee about opposing the proposed ADU because it is against the CC&R, but they don't want to hire attorneys, so the committee does prefer that they at least change their CC&R before the proposed ADU goes forward. Thomas said that if they want to supersede it, he said that is fine. They won't oppose it. There are two things that he is concerned about: setbacks and water. The setback on the CC&R states that anything that is an additional building to the house must be 150' from the main road. Per Thomas, this property is off a main road and the proposed setback is only 62'. His request is that the applicant move the setback to 150'. The second concern is where the applicant will be pulling water for the ADU from. He said that they are on a shared well agreement with four homes and the well is on his property. He asked that the applicant would clarify where they would be getting the water for the ADU from. If the applicant does plan on using the shared well, they are entitled to only 1/4 of the well production and can't go over. There are (4) 4" wells in the shared well and there is no room for any more additional wells. Thomas said that they do have a 4" well pump that is 558' deep, and the water level is 400' right now. When they did the perc test on the well, they had 100 gallons per minute, which is a good perfusion well and is there is enough water for the proposed ADU. He said that if the applicant is going to stay in the shared well, he will need to get a bigger pump.

Commissioner Hope closed the public hearing. 2<sup>nd</sup> by Commissioner Scott. All in favor. Passed unanimously.

Commissioner Hope asked the commissioners if there were questions, concerns, discussions. Commissioner Scott asked the applicant about the well and if they would take it off the main house. Todd confirmed that they would. He said that they do not have an additional well on his property, it is just a "T"/junction box that they use. Todd said that his son is currently living with him and doesn't see him using any more water than he is currently.

Todd said that he hadn't turned anything into the Architectural Control Committee yet because he thought he applied for the CUP first and then permits. He didn't know that he was supposed to get approval from the CC&R committee first. He said that regarding the setback, he thought he was going off what the county required and didn't want a long driveway to have to plow or to drive on. Trish stated that staff doesn't enforce any CC&R and doesn't know any CC&R rules. She did say that the applicant had complied with the county codes. Rachelle said that they have brought this an adverse impact, so the committee can place this as a condition. Trish said that she would be concerned about the CC&R rule of 150' setback because fire has codes for buildings that far away and would require turnarounds and make sure that the ADU meets the requirements.

Thomas submitted the well agreement and CC&R to Rachelle and followed up with that when he built his shop two years ago and it went through the architectural committee, he had to follow the rule of 150' setback. Commissioner Scott asked Trish if the CC&R rule for setbacks applies if they come off Mountain Glenn instead of Spring Canyon and Trish said that she can't interpret the CC&R's.

Commissioner Hope stated that there are reasons that there are written, approved, legal CC&R's in place, and they need to be reviewed first before it gets to the planning committee. He doesn't want to be part of any legal action. Commissioner Bartholomew stated that the planning commission approves based off the county regulations, and is not held to the CC&R's, it is between the homeowner and the HOA.

Rachelle said if the commission committee approves the conditional use permit, then the applicant will go to the architectural review committee to get their sign off before the county will issue the building permit. The Architectural Control Board would not approve it because the setback doesn't meet their CC&R. Commissioner Bartholomew asked it if they would negotiate with the applicant. Rachelle said that is a possibility, but that is when the planning commission requires the Architectural Control Board's approval. Trish said the only way that a CUP can be denied is if it has adverse or negative impacts that can't be mitigated or is against county codes. She also said that they can put conditions on the CUP. Per Rachelle, the control board is bringing this to the planning commission as an adverse impact to their development because they have CC&R's. She said that the planning commission can put a condition to mitigate that adverse impact.

Commissioner Dow asked the staff if the planning commission did approve the CUP, and the applicant went to the architectural committee, and settled on an agreement with the setbacks, do they have to come back to the planning commission because they already approved the CUP. Per Trish, they do not, they would just need to submit a new site plan with any changes made.

Commissioner Scott moved to approve CUP 2024-133 with the two staff recommendations and the two additional conditions. First, the applicant get approval from their architectural control board. Second being that they verify and confirm the water that is allocated. Third, they meet all the county codes. Fourth, that they record all the required notices. 2<sup>nd</sup> by Commissioner Beckstrom. All in favor. Passed unanimously.

## 6. Rezones

### A. REZ 2024-122 Charles Akerlow is requesting a rezone from MU-40 to M-G, Trish DuClos

PUBLIC HEARING AND MOTION: REZ 2024-122

Agenda Attachments

1. REZ 2024-122\_Staff Report\_Final.pdf

Trish DuClos, with Planning Staff, summarized the staff report for Rezone 2024-122. This is part of the Inland Port area. To get proper approvals and building permits they must rezone. They want this property to be developed and eventually be commercial and industrial. The property is located off Burmester Rd, south of the I-80 exit. There is not a minimum lot size for the MG zone.

Commissioner Hope moved to open public hearing. 2<sup>nd</sup> by Commissioner Scott. All in favor. Passed unanimously.

Commissioner Hope asked if there was any discussion. Trish said that the only concern she has had from people in the area, is the construction and the dust. She hasn't had anyone oppose the rezone. Commissioner Bartholomew asked if Burmester was a county road and if we receive enough fees to improve the road. Per Trish, they are making improvements to part of Burmester Road. Commissioner Hope asked if mitigation fees could be added as a condition. Commissioner Stetz requested to comment on this. He said that he was familiar with Charles Akerlow along with Zenith Bolinder, stating that he is smart and professional. He

said that this would bring in a lot of local jobs. Rachelle pulled up the staff report and showed the property requesting to rezone. Commissioner Dow discussed the traffic study that was done and said that with the number of vehicles that would be traveling on Burmester. He asked if the traffic study was only for the subject property or if it included the surrounding purple area that is zoned MG. Rachelle referenced page 3 of the staff report for REZ 2024-122 and said that all the purple would go through the yellow to access Burmester. The purple was taken into consideration and is included in the report. The average daily trips for this report is the yellow but the impact on the roads the purple was taken into consideration. Trish stated that there is clear notation on the staff recommendation because the traffic study says that they will use Higley Road, and staff has made it perfectly clear that they cannot access those off Higley. Signs that state no heavy trucks are posted, and the speed limit has been lowered.

Commissioner Scott moved to approve for favorable recommendation to the counsel for Rezone 2024-122 with the staff recommendations with emphasis on no heavy trucks using Higley. 2<sup>nd</sup> by Commissioner Dow. All in favor. Passed unanimously.

#### **7. Discussion item**

Rachelle stated that Commissioner Elton asked that the clean set of policies and procedures be put in their packet for review to ensure that all the recommended changes are reflected. Per Trish, the motion was for, if a planning commissioner wanted to place items on the agenda, the current four or more person planning commission signature to be changed to a two-person signature. Trish stated that through the minutes and audio from the last motion made, it was four. If they want to make the change from a four person to a two person signature, it will need to be brought back through because it has been approved and motioned. The planning commission said to leave as is.

Commissioner Hope said that the discussion item is complete.

#### **8. Planning Commission Comments**

Commissioner Hope abstained from the October 2, 2024, minutes because he was not in attendance.

#### **9. Adjournment**

Commissioner Scott motioned to adjourn at 8:01pm.