

TOQUERVILLE PLANNING COMMISSION MINUTES
6:30 P.M. Work Meeting, 7:00 P.M. Regular Meeting Wednesday, April 22, 2015
Held at 212 N. Toquerville Blvd, Toquerville Utah

ATTENDANCE: Planning Commission (PC) Members: Chair Keen Ellsworth, Vice-Chair Jerome Gourley, and Alex Chamberlain, Zoning/Staff Administrator Mike Vercimak, City Recorder Renee Garner. Others: Rebecca Goodman.

6:33 PM WORK MEETING: Chair Keen Ellsworth welcomed everyone. David Hawkins was excused, questions regarding possible attendance of Mike Ruesch and Lonnie Christensen. They had not notified anyone of their intentions and did not attend.

2. Chair wanted to first review home occupation and conditional use permits for the month of April, 2015 as that was a short discussion topic. Permits for review: Steve Gilbert of Diamond "G" Ranch and Rodeos/ conditional use; Doug Hendrickson of Hendrickson Auto Body Repair/ conditional use; Steve Thayer/ livestock conditional use; Lonnie Christensen of Manx Inc/ home occupation; Ned Snow of Toquerville Auto/ home occupation, and Lynn Olds of Lynn Olds Construction/ conditional use, which was held over from last month due to a trailer parked long term in front of the property. Commission talked about the trailer, it was there today again but it was believed to have been moved and no longer a long term issue. Renee asked that the Commission also note all the businesses that had not been renewed for 2015 all at once to expedite filing those as no longer current instead of waiting for their months of review. Businesses that do not pay for a current business license are immediately taken from the business list but in the past, Renee had waited for the month of the permit review to remove them from the current permit list. Those that are expired businesses are: Russ Wrangle of Toquerville Pottery/ home occupation; Conor Jensen of Spit Shine Window Washing/ home occupation; Doug Hanrahan of Futures Unlimited/ home occupation; Renee Garner of Renee Layne Design/ home occupation; and Sebastian Clinger (Glasgow) of Toquerville Mercantile/ no current permit due to years of lack of use.

1. Chair reviewed agenda item, noting that the short term rental ordinance draft that allowed a resident to rent a second property as a short term rental had been taken by City Council as an action item at their last meeting. On legal advisement they returned it to planning commission and asked us to make a ruling. Chair mentioned that council felt the commission was holding this too long but Chair Keen had defended the commission stating that taking time was an effort to discourage haste and pass bad law. A letter from Chief Kuhlmann of the Hurricane Valley Fire District was reviewed. According to this letter, short term rentals and bed and breakfast (B&B) businesses should be required to meet the same requirements under IFC as other residential occupancies containing sleeping units where the occupants are primarily transient in nature. They would require automatic suppression (sprinklers), and alarm systems. Chief Kuhlmann is waiting on final code interpretation from the Chief Deputy at the Utah State Fire Marshall's office and will let us know.

Chair Ellsworth remarked that those B&Bs already approved by the city could face revocation of their permits and licenses by the fire district if this is the final position. Jerome asked about the chief deputy's likely findings but all agreed that we'd have to wait and see.

Mike suggested that they could add language to the ordinance draft stating that the businesses must comply with Utah state and local code. Keen asked for a preliminary opinion from members. Jerome voiced no, and Alex stated yes.

Chair discussed property rights; an individual's versus his neighborhood. Alex thought that since we couldn't enforce rules we should allow them. He mentioned that Hurricane City just passed theirs in order to legislate, manage, and collect taxes. Keen remarked that was the same argument for legalizing illicit drug use. He opined that Colorado didn't seem to be regulating marijuana very well yet. Jerome thought it would be simpler to enforce if they were not allowed rather than the complicated process of regulation.

Mike stated that this discussion goes to the heart of the commission's duty to protect the property rights of the majority and not give in to the squeaky wheel. He read the first paragraph of the residential R-1 zoning code definitions 10-10A-1, which states:

"... The R-1 district regulations are intended to ensure adequate light, air, open space for each dwelling, commensurate with single-family occupancy, and, to maintain the desirable residential qualities of such sites by establishing appropriate site development standards. Certain nonresidential uses may be permitted as conditional uses, and where approved, are intended to blend harmoniously with the residential character of the district."

Mike brought up the Sand Hollow home going in with six built in beds in six bedrooms. That's the property that got the fire department concerned about this topic. He remarked that when violations occurred in these businesses there was no time to catch them due to the transient nature of the occupants.

Chair dismissed the Work Meeting and convened the Regular Meeting.

7:00 PM REGULAR MEETING: 1. The Pledge of Allegiance was given by Alex Chamberlain. 2. Chair asked PC for any disclosures or declarations of conflict with agenda items. None were given.

A. REVIEW OF MINUTES: Minutes of the March 18, 2015, PC meeting were reviewed and discussed. Chair called for a motion. **Motion** by Alex Chamberlain to approve the minutes was second Jerome Gourley. Chair: Minutes were approved unanimously by Jerome Gourley, Alex Chamberlain, and Keen Ellsworth.

B. PUBLIC FORUM: Vice-Chair asked for comments on any subject.

1. Rebecca Goodman voiced appreciation of the information today's discussion gave to bed and breakfasts and vacation (short term) rentals. She is interested in opening a B&B and thought she would go ahead after hearing comments. She spoke to concerns for what she felt was deterioration of the downtown area. She felt that an overlay zone allowing vacation rentals would encourage galleries and other businesses to locate on Toquerville Blvd and revitalize the community with more foot traffic.

C. ACTION ITEMS: Chair Keen Ellsworth asked to do the HOCUPs first.

2. Item: Review and possible Approval of Home Occupation & Conditional Use Permit(s) for the month of April, 2015. Chair reviewed information on the home occupation and/or conditional use permits. Steve Gilbert of Diamond "G" Ranch and Rodeos/ conditional use; Doug Hendrickson of Hendrickson Auto Body Repair/ conditional use; Steve Thayer/ livestock conditional use; Lonnie Christensen of Manx Inc/ home occupation; Ned Snow of Toquerville Auto/ home occupation, and Lynn Olds of Lynn Olds Construction/ conditional use. Steve Gilbert, Doug Hendrickson, Lonnie Christensen, and Lynn Olds, are current and have paid for their 2015 Business Licenses. Steve Thayer continues to his livestock permit under conditions. Chair asked for a motion.

Motion was given by Jerome Gourley to approve the annual review of the April Home Occupations/ Conditional Use Permits that were in compliance and/or had current business licensing with all conditions continued: Steve Gilbert of Diamond "G" Ranch and Rodeos/ conditional use; Doug Hendrickson of Hendrickson Auto Body Repair/ conditional use; Steve Thayer/ livestock conditional use; Lonnie Christensen of Manx Inc/ home occupation; Ned Snow of Toquerville Auto/ home occupation, and Lynn Olds of Lynn Olds Construction/ conditional use. Lynn Olds Construction had been held over from March and is now included in this list to approve. Second was by Alex Chamberlain. Chair called for a vote after which he stated that the Home Occupation/ Conditional Use permits listed for annual review passed unanimously by Jerome Gourley, Alex Chamberlain, and Keen Ellsworth.

The Commission acknowledged a request by city staff and noted the list of businesses now no longer current due to non-renewal of their business licenses. These businesses will no longer be listed for review by the commission or on the list of current businesses: Russ Wrangle of Toquerville Pottery/ home occupation; Conor Jensen of Spit Shine Window Washing/ home occupation; Doug Hanrahan of Futures Unlimited/ home occupation; Renee Garner of Renee Layne Design/ home occupation; and Sebastian Clinger (Glasgow) of Toquerville Mercantile/ no current permit due to lack of use.

1. Item: possible recommendation to Council for approval to amend Title 10 by ordinance (2015.XX), previously designated #ORD.2014.07 on short term leases or rentals of properties in residential, agricultural and other zones. The short term rental ordinance would allow a resident to rent a second property as a short term rental. Chair recommended voting for or against. If it's going to pass, he recommended amending with items to protect the city and the residents. He asked again for an informal vote. Jerome said no, Alex, yes. Chair said he would be the tie breaker; he's belabored over it and can't think of a way to change it enough to cover all concerns, i.e., parking, number of occupants, fire suppression, penalties of enforcement. Mike thought they might like to recommend that if council wanted to court short term rentals they should create a zone where allowed away from current development or overlay in downtown for commercial growth. Chair recommended denial, however if the council wanted to pass something, pass this ordinance with a zone designated for it and then use it as a permitted use with regulations of lot size in order to meet parking, etc.

Chair called for a motion.

Motion was given by Alex Chamberlain to deny as written and recommend to council that if inclined to move forward with vacation rentals then we strongly encourage them to use an ordinance such as this one but only in a zone created especially to allow short term rentals. Chair asked for comments. Jerome reiterated the motion for clarification. Keen remarked that it would require larger lots to facilitate parking. He opined that downtown circumstances change and are changing. And overlay zone with conditions would work. Mike expressed concern on the motion. He stated if you create a zone you don't need an ordinance. He recommended segregating short term rentals from residential areas. After some discussion about regulation Alex withdrew his motion.

Chair called for a new motion.

Motion was given by Alex Chamberlain to approve ordinance (2015.XX), on short term leases or rentals of properties in residential, agricultural and other zones recommending it to council with the following changes; "prohibit" changed to "allow" in first paragraph, and adding lines d and e to paragraph 4: d. "no more than two (2) occupants per bedroom, and e. owner must comply with all applicable laws, rules, and regulations". Motion was second by Jerome Gourley. Chair called for comments. Each member reiterated the motion for clarification. There was discussion on affordable housing and how to facilitate that in a presentable way. Chair called for a vote. Alex Chamberlain and Jerome Gourley, Aye, Keen Ellsworth, Nay. Chair: Ordinance #ORD.2015.XX, allowing short term leases or rentals of properties was passed.

ADJOURNMENT: Chair Ellsworth declared the meeting adjourned.

Minutes of the Toquerville Planning Commission meeting of April 22, 2015, will be presented for review and approval in the May meeting.

Approved: _____
Chair Keen Ellsworth

Date: 5/28/15

Attested: _____
Renee S. Garner, City Recorder

