

**TOQUERVILLE CITY**  
**PLANNING COMMISSION MEETING MINUTES**  
**Wednesday-March 21, 2018**  
**Work Meeting 6:30 p.m. - Regular Meeting 7:00 p.m.**  
**Held at 212 N. Toquerville Blvd, Toquerville Utah**



Present: Planning Commission Chair Alex Chamberlain; Commissioners: Rebecca Hansen, Manning Butterworth, Jake Peart, Kris Smedley; Staff: Planning and Zoning Official Mike Vercimak, Recorder Dana McKim; Public: Sara Amodt, Jessica Russo, Amy Erickson, Wayne Olsen, Heather North, Koby Young, Brent Bluth, Lynn Chamberlain, Jacob Howell-Jones and DeMille Representative.

\*Commissioner Greg Turner present via speaker phone and did not vote on any items.

**6:30 PM WORK MEETING:**

Chamberlain called work meeting started at 6:00 p.m.

1. Discussion on Short Term Rentals-Bed and Breakfast and Nightly/Short Term Rentals:  
Chairman Chamberlain gave a brief summary of why the commission decided to revisit the short term rental code. Jessica Russo inquired about the commission what the commission's parameters would be for the implementation of a moratorium. She wanted to know if a moratorium was adopted would applications for all short term rentals be held until code revisions were adopted.

Commissioner Jessica Hansen entered meeting at 6:35 p.m.

Lynn Chamberlain stated a moratorium has not been adopted but was discussed at the last city council meeting. He would rather sequester the Planning Commission and City Council members in a special open public meeting to gather ideas on plausible code revisions. Chair Chamberlain asked if the city council viewed the ordinance revision as an urgent matter. Mayor Chamberlain thought the need for changes weren't necessarily urgent, but the council would like modifications to the code in a timely manner. The council will discuss at their next work meeting the possibility of instituting a moratorium for short term rentals.

Chair Chamberlain read the current proposed changes to the code.

10-17-3B: The maximum number occupants shall be no more than ten per residence.

10-17-3G: Density: The maximum density for Bed and Breakfast establishments shall be no closer than 300 feet from the next establishment, measured from the exterior property boundaries.

10-17-3H: Site Approval, Public Hearing, Annual Review: A site approval and public hearing are required. An annual review period shall be required. Any permit found to be in-active for a period of one year shall be revoked.

10-17-4E: Log: The owner must maintain a log with the following information: 1. Name and number of guests. 2. Number of vehicles with license plate numbers. 3. Date of occupancy. 4.

Written verification that guests have agreed to comply with all applicable City rules and regulation. This log must be available for inspection by a designee of the city during regular business hours.

10-17-4G: Noise: Amplified sound that can be heard outside the residence shall not be allowed between the hours of nine o'clock (9:00) p.m. and nine o'clock (9:00) a.m.

10-17-4K: Annual Review: A mandatory review by the City's Planning Commission of the nightly rental permit granted herein shall be made once a year. Any permit found to be in-active for a period of one year shall be revoked. The Planning Commission may consider special circumstances such as premises remodeling, temporary closure due to owner illness, etc. in making their determination.

10-17-4O: Owner Contact Information and Availability: The owner of a residence where nightly or short-term rentals will occur must maintain current contact information with the city, and the owner must be available twenty-four (24) hrs. per day during any rental period.



Commissioner Hansen would like to discuss the log requirement. She is a bnb owner and in implementing the required log entries she found it to be a little vague and tricky to execute. She hosts foreign guests and finds it difficult to communicate with her patrons, in addition to requiring them to sign a document they may or may not understand. She asked what was the purposes of the log, how it could be modified to foster a hospitable environment while simultaneously maintaining compliance.

Jessica Russo, also a bnb owner, uses a company that pre-evaluates her guests and requires patrons sign an acknowledgment disclaimer which adheres to all local laws or ordinances in effect. She wondered if the company practice would elevate her requirement with the city or if the burden is placed on the company she uses. Russo verifies guest information at the time of their arrival.

There was brief discussion about a reasonable knowledge of law abidance both from city residents and guests to the area within a residential neighborhood. Peart asked a few philosophical questions on what the city's goal was and why regulations were in place. Vercimak believed the rules were in place for safety reasons. Obtaining basic information on patrons would be a reasonable expectation for a business in a residential neighborhood. Hansen stated the information obtained is based on the honesty of the patron. Chair Chamberlain suggested a less restrictive log could be modified.

Wayne Olsen suggested the commission proceed with less legislation. He encouraged the commission to speak with him about his nightly/short term rental prior to passing any new laws, specifically a proposed requirement to revoke a business due to an in-active status. Olsen obtained his permit legally and wants to comply with city regulations. He has documentation of his plight and process of his rental

Peart suggested a meeting with the City Council to discuss and revise the city code.

2. Discussion of Master Transportation Plan:

Butterworth stated most of the changes were modified but the document was lacking in a few alterations. He would like LOS C and LOS D clarified and both defined in the glossary. He suggested the addition of a footnote to section 3.1.2. An inquiry about the traffic criteria and the required signaling needed clarification. Butterworth will meet with Mr. Howell after the meeting if he needed more clarification on the modification.

3. Discussion on Flag Lots:

Item not discussed due to time constraints.

**7:00 PM REGULAR MEETING:**

1. The meeting was called to order by Chairman Alex Chamberlain at 7:02 p.m. The Pledge of Allegiance was led by Commissioner Jake Peart. Rebecca Hansen made a declaration regarding item C5. Adam Jowers is her accountant but did not believe there was a conflict.

**A. REVIEW OF MINUTES:**

1. Review and Possible Approval of Planning Commission Meeting Minutes from the Regular Work and Business Meeting on February 21, 2018.

*Commissioner Manning Butterworth made a motion to approve the meeting minutes from February 21, 2018 as written. Motion was seconded by Commissioner Kris Smedley. Motion unanimously passed 5-0. Commissioner Vote: Kris Smedley-aye, Rebecca Hansen-aye, Jake Peart-aye, Alex Chamberlain-aye, Manning Butterworth-aye.*

**B. PUBLIC HEARING:**

*Limit three (3) minutes per person; please address the microphone and state full name and address.*



1. Public input is sought on a Home Occupation Conditional Use Permit Application Submitted by Jessica Russo for a Nail and Aromatouch Therapy Salon, located at 245 West Sunset Avenue in Toquerville, UT 84774. Property Tax ID# T-109. Zoning is MU-20:

Amy Erickson from 283 West Sunset: Supported the application of the proposed use. She lives just up the road from Russo and did not believe the business should be required to improve the roadway. She was unsure where the dedicated city roadway ends on Sunset Avenue. She improved the roadway in front of her home.

Jessica Russo-Applicant of the Home Occupation Conditional Use Permit:  
She recently learned the roadway in front of her road is a private drive and not a part of Sunset Avenue. The curb gutter and sidewalks were improved below her property. The westbound roadway was improved with asphalt and the eastbound roadway is dirt, resulting in only half of the road paved. The proposed improvement would require approximately 400 linear feet of installed material. She was against the road improvement requirement and viewed it as a step in over legislation.

Wayne Olsen from the North end of Toquerville:  
Inquired about who came up with the requirement of the Russos to install curb, gutter, and sidewalk to an existing home. He didn't believe she should be required to do so since it is an existing home and she is not developing her property. He has never heard of a home occupation permit which would require those type of improvements.

Letter submitted by Jerri Moser from 283 West Sunset read by Chair Chamberlain:  
In regards to Jessica Russo running a nail business out of her home, I totally support her. I have known Jessica since she moved here and have complete trust in her and the clientele she would have.  
I do not think it is necessary to require her to make road improvements for this very small business. For a resident to be required to do this is extraneous and financially difficult.  
Several years ago our road had a dirt section from the top of Sunset where the zoning changed from residential to multi-use up to our paved driveway. We privately paid for this dirt section to be paved. If this was a city required paved section I think the city would have put curb and gutter in. Having a few people coming to her residence does not impact the land around her property, nor do I believe it will have an impact on her neighbors.  
I hope that the city will take her type of business and the location into consideration and not require her to make unnecessary changes to the road.

2. Public input is sought on a Home Occupation Conditional Use Permit Application for a Home Office Submitted by Heather North for a Commercial and Residential Cleaning Business located at 460 North Toquerville Boulevard in Toquerville, UT 84774. Property Tax ID# T-96-B-N. Zoning is R-1-12:

There were no public comments.

3. Public input is sought on a Home Occupation Conditional Use Permit Application for a Home Office Submitted by Adam Jowers for a Mobile CPA Business located at 855 South Peachtree Drive in Toquerville, UT 84774. Property Tax ID# T-AHP-A-27. Zoning is R-1-12.

There were no public comments.



**C. BUSINESS/ACTION ITEM(S):**

1. Discussion and Possible Recommendation on the Final Draft of the Master Transportation Plan:

Jacob Howell gave a brief overview of the Master Transportation Plan. Chamberlain believed the plan will position the city in a favorable situation to approach UDOT for future transportation plans. The plan substantiates future roadway construction with the data to back up the transportation needs. Butterworth thought the document provided baseline information which will need updating in the future.

Peart asked the commission a few questions. The document stated Toquerville is a bed and breakfast community and wanted clarification if they believed the city was as such. He asked if the by-pass road is a positive for the community and how the bicyclist path will be purchased.

Hansen thought the bicyclist path could be funded through rap tax and transient state room tax money. She believed the by-pass road would be created by UDOT and the road would create revenue for the area. She thought the adoption of the plan will increase the opportunity to apply for grant money, which could result in improvements to Toquerville. Peart asked if the plan will assist Toquerville in receiving grant money. Howell believed it would. Chamberlain thought grants could be obtained, if they desired to do so, if the plan was adopted. Hansen was in support of the plan and for the creation of the bypass road which will foster the creation of industry and revenue for the city. Lynn Chamberlain and Jessica Russo requested to speak on the item. The chair will allow public comment for 90 seconds. The public hearing was advertised some time ago and the time for public comment should have been during that meeting.

Lynn Chamberlain from Toquerville Blvd:

Thanked Jones and DeMille for the plan, the commission for their review, and specifically Manning Butterworth for his hard work in the proposed revisions and detailed overlook of the plan.

Jessica Russo from Sunset Ave:

She is a Hurricane Valley Tourism representative and would like to see future rap tax money for bike path trails and future events in Toquerville.

***Motion to recommend approval of the final draft of the Master Transportation Plan with Commissioner Butterworth's proposed changes from the work meeting. Motion was seconded by Commissioner Jake Peart. Motion unanimously passed 5-0. Peart-aye, Hansen-aye, Smedley-aye, Chamberlain-aye, Butterworth-aye.***

2. Discussion and Possible Recommendation of a Final Plat Application for Ash Creek Overlook Subdivision submitted by Brent Bluth from Self-Help Homes. Subdivision will create 16 lots located on Property Tax ID# T-138-A-2-A and T-138-C. Zoning is R-1-12.

Staff recommendations were read:

The subdivision is located at approximately 780 Westfield Road and is part of the original Almond Heights Subdivision.

This subdivision received preliminary plat on June 8, 2017.

Construction drawings were approved on March 2, 2018.

The final plat application has been reviewed and is complete. The paper plat has been reviewed by Alpha Engineering and need a few simple corrections.

Staff recommends this application be approved with the following conditions:

1. A plat map that is acceptable to the City Engineer and City Surveyor is completed.



2. A current title report is prepared prior to recording.

**Commissioner Jake Peart made a motion to recommend the Final Plat application for the Ash Creek Overlook Subdivision submitted by Brent Bluth from Self-Help Homes. Subdivision will create 16 lots located on Property Tax ID# T-138-A-2-A and T-138-C. Zoning of R-1-12. Motion was seconded by Commissioner Manning Butterworth. Motion unanimously passed 5-0. Peart-aye, Hansen-aye, Smedley-aye, Chamberlain-aye, Butterworth-aye.**

3. Discussion and Possible Action on a Home Occupation Conditional Use Permit Application Submitted by Jessica Russo for a Nail and Aromatouch Therapy Salon, located at 245 West Sunset Avenue in Toquerville, UT 84774. Property Tax ID# T-109. Zoning is MU-20:

Commissioner Butterworth inquired about the ventilation and the road improvement requirement prior to approval of the permit or if the recommendations made by staff would need to be met before the applicant opened the business. Vercimak clarified the question by stating the conditions would need to be done prior to conducting business.

Chair Chamberlain read the staff review:

A review of this application was made at the March 6, 2018 staff meeting.

The Building Official stated that the nail salon would need to be ventilated as per the International Building Code.

This business will require an inspection by the Hurricane Valley Fire District.

The road improvements on the south side of Sunset Avenue will need to be completed to the west property line.

Staff recommends this application be approved with the following conditions:

1. The nail salon shall be ventilated in accordance with the International Building Code.
2. The premises shall receive an inspection by the Hurricane Valley Fire District and any deficiencies must be corrected.
3. The improvements to the south side of Sunset Avenue shall be made in accordance with the requirements of the Public Works Department.
4. The applicant agrees to abide by all requirements set forth in section 10-23-8 of the City of Toquerville code regulating home occupations.
5. Applicant agrees to obtain all local, state, and federal licenses required to operate this business.
6. This permit cannot be enlarged, expanded or changed otherwise without express written consent from the City of Toquerville.
7. This permit shall receive an annual review by the Toquerville Planning Commission.

Chamberlain asked where in the code the road would need to be improved prior to commencing business activity. Russo responded by answering in code 10-21-7 (10) which states: The installation of curbs, gutters, sidewalks and improvements of streets to centerline, if street is already improved



with asphalt or centerline, plus ten feet (10') where the street is not improved with asphalt, as approved by the city in accordance with its ordinances and specifications, shall be required on any existing or proposed street adjoining a lot on which a building permit application for construction is made. Street improvements are required for new home construction or remodel for change of use or commercial use. Such curbs, gutters, sidewalks and street improvements shall be required as a condition of obtaining a building permit. The city may require a property owner to make an equivalent payment for the labor and materials necessary to install curb, gutter, sidewalk and asphalt, as calculated by the city engineer, in lieu of requiring the property owner to install the requisite improvements. Any required dedication of property for such improvements shall be conveyed to the city by quitclaim deed for immediate installation or for such future time as it becomes prudent for the city to install the said improvements.

Commissioner Hansen would like to bring a point of discussion. The purpose is to build a road for greater growth and now the commission just recommended the adoption of the Master Transportation Plan which plans for Sunset Ave to be one of the main connector roads to the proposed bypass road she believed Sunset Ave would be one of the roads that would be reconstructed. She wondered if the road improvements would be torn out for new construction.

Vercimak stated the code recited code concerning obtaining a building permit. The application is for a home occupation, located in chapter 10-23. The Planning Commission may, upon application, and upon review in a public meeting where notice to nearby property owners have been given pursuant to section 10-23-9 of this chapter, may issue a home occupation permit, which shall state the home occupation allowed, the conditions attached thereto, if any, and any time limitations imposed thereon. The home occupation permit shall not be issued unless the Planning Commission is satisfied that the applicant has or will meet all of the conditions set forth in section 10-20-3 of this title and those listed in section 10-23-8 of this chapter, and that the applicant has agreed in writing to comply with all said conditions.

In chapter 10-20-6: ADDITIONAL CONDITIONS: The city council shall impose such requirements and conditions as are required by law and any additional conditions as may be necessary to ensure compliance with the requirements, standards or conditions of this chapter and the other provisions of this title. The violation of any condition, safeguard or commitment of record by the applicant shall be sufficient grounds for revocation of conditional use approval. Conditions imposed by the city council may include, but are not limited to: I-Street dedications and improvements.

These are some of the recommendations made by staff and the planning commission may require or omit these recommendations. Butterworth asked why the staff recommended the street improvement. Vercimak stated a conditional use permit is asking for a special permission, and in doing so, the city would like the street completed. He explained the situation to Mr. Cottam who was on the council when this ordinance was adopted and agreed with Vercimak. Chamberlain thought the requirement was a heavy burden for a nail salon. Hansen agreed with his statement. Peart thought the improvements could be deferred at the time when the city decides to improve the roadway in it's entirety.

7:46 Councilmember Mike Ruesch entered meeting.

Russo thought the piece in front of her property is jointly owned. Russo passed an email to be read by Chair Chamberlain. Mr. Cottam stated in his email the road improvements would be required when a building permit is pulled, not for existing structures. The spirit of the law was not derived to make home occupation applicants to be burdened by this expense.

There was discussion of who is responsible for frontage during development. The application may meet the criteria for a deferral agreement.

Vercimak explained to the commission, the ordinance simply stated the road improvements may be imposed as a condition. There was discussion how deferral agreements are executed and granted.

Councilmember Ruesch stated the road was improved and the property owner chose not to improve



the front of their property. Russo and her neighbor believed the roadway in front of her home was privately owned and wasn't owned by the city. Ruesch had to pay for road improvements when his house was built. How deferral agreements are executed was discussed. Butterworth thought a deferral agreement would be appropriate in conjunction with her application. Russo thought if a developer came in and started development of larger parcels adjacent to her the cost of the improvements would be at a lower cost. She obtained quotes to install the improvements and they were around \$30-35,000.00. Discussion of drainage concerns briefly ensued. The county website showed the end of Sunset Ave ended at what people refer to as, "The Powerline Road." Russo would like to withdraw her application. There was brief discussion on the city's responsibility to upkeep the road if was a designated street and the reasons for curb, gutter, and sidewalk are installed.

***Commissioner Jake Peart made a motion to approve the HOCUP for Jessica Russo for a Nail and Aromatouch Therapy Salon, located at 245 West Sunset Avenue in Toquerville, UT with staff recommendations with an exception of the road improvement requirement be issued a deferral agreement as such time the city decides to improve the roadway and the property owner is responsible for the road improvement. Motion was seconded by Commissioner Manning Butterworth. Motion carried 4-1 abstention. Peart-aye, Smedley-aye, Butterworth-aye, Chamberlain-aye, Hansen-abstained.***

Russo would like to withdraw the application.

4. Discussion and Possible Action on a Home Occupation Conditional Use Permit Application for a Home Office Submitted by Heather North for a Commercial and Residential Cleaning Business located at 460 North Toquerville Boulevard in Toquerville, UT 84774. Property Tax ID# T-96-B-N. Zoning is R-1-12:

Staff recommendations read by Commissioner Peart:

Staff recommends this application be approved with the following conditions:

1. Applicant agrees to abide by all regulations set forth in section 10-23-8 of the Toquerville City Code governing home occupations.
2. Applicant agrees to obtain all required local, state and federal licenses required for the operation of the business.
3. This permit shall not be enlarged, expanded or changed otherwise without express written consent of the City of Toquerville.
4. This permit shall receive an annual review by the Toquerville Planning Commission.

***Commissioner Jake Peart made a motion to approve the permit with staff recommendations. Motion was seconded by Commissioner Manning Butterworth. Motion unanimously carried 5-0. Peart-aye, Smedley-aye, Butterworth-aye, Chamberlain-aye, Hansen-aye.***

5. Discussion and Possible Action on a Home Occupation Conditional Use Permit Application for a Home Office Submitted by Adam Jowers for a Mobile CPA Business located at 855 South Peachtree Drive in Toquerville, UT 84774. Property Tax ID# T-AHP-A-27. Zoning is R-1-12:



Chair Chamberlain read the staff recommendations:

Staff recommends this application be approved with the following conditions:

1. The applicant agrees to abide by all provisions of section 10-23-8 of the Toquerville City code regulating home businesses.
2. The applicant agrees to obtain all required local, state and federal licenses required for the operation of this business.
3. This permit shall not be enlarged, expanded, or changed otherwise without express written consent of the City of Toquerville.
4. This permit shall receive an annual review from the Toquerville Planning Commission.

*Commissioner Jake Peart made a motion to approve the permit with staff recommendations. Motion was seconded by Commissioner Manning Butterworth. Motion unanimously carried 5-0. Peart-aye, Smedley-aye, Butterworth-aye, Chamberlain-aye, Hansen-aye.*

**D. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:**

1. Conditional Use Permit: Diamond G Ranch and Rodeo at 1091 S Toquerville Blvd - Steve & Cyndi Gilbert
2. Conditional Use Livestock Permit: 112 N Ash Creek Drive - Steve Thayer
3. Conditional Use Livestock Permit: 124 N Ash Creek Drive - Layne & Renee Garner
4. Conditional Use Permit: Toquerville Auto at 40 Berry Lane - Ned Snow
5. ~~Conditional Use Livestock Permit: 124 N Ash Creek Drive - Layne & Renee Garner~~
6. Conditional Use Permit: Valentine Bed & Breakfast at 1015 S Mulberry Drive - James & Deborah Valentine

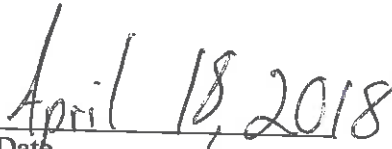
All businesses hold current business licenses and no complaints have been received by the City. Applications have not been inspected by the building inspector and may be approved contingent on their inspection.

*Commissioner Rebecca Hansen made a motion to approve the conditional use permits contingent on the yearly inspection. Motion seconded by Commissioner Peart. Motion unanimously carried 5-0. Peart-aye, Smedley-aye, Butterworth-aye, Chamberlain-aye, Hansen-aye.*

**E. ADJOURN:**

Chair Chamberlain adjourned meeting at 8:11 p.m.

  
\_\_\_\_\_  
Planning Commissioner – Alex Chamberlain

  
\_\_\_\_\_  
Date

Attest:

  
\_\_\_\_\_  
Toquerville City Recorder – Dana M. McKim

