

TOQUERVILLE CITY
PLANNING COMMISSION MEETING MINUTES
Wednesday – May 16, 2018
Work Meeting 6:30 p.m. - Regular Meeting 7:00 p.m.
Held at 212 N. Toquerville Blvd, Toquerville Utah



Present: Planning Chairperson Alex Chamberlain; Planning Commissioners: Greg Turner, Rebecca Hansen, Manning Butterworth, Jake Peart; City Staff: Mayor Lynn Chamberlain, Councilmember Mike Ruesch, Zoning Official Mike Vercimak, Recorder Dana McKim; Public: Elaine Kist, Steve Kist, Gregg Leiby, Dan James, Brigham Darger, Sherree Olsen, Gary Chaves, Chuck Williams.

6:30 PM WORK MEETING:

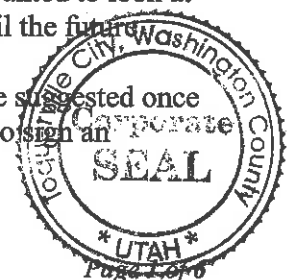
1. Historic District Update:

Commissioner Hansen, under direction of the Planning Commission asked her husband Kevin Hansen, whom is an archeologist to research possible archeological and historical sites in Toquerville. He found a few homes that may have some historical value. To research the archeological information he would need access to ESRI mapping software. Ruesch will look at downloading a free ESRI trial to try and open the file. The archeological map designates interest areas in a hexagon pattern. Each pattern may have more than one site of interest. Hansen believed the information was proprietary and asked how the commission would manage the information. She provided the commission with a list of possible historical locations. Chair Chamberlain asked Mayor Chamberlain if the city council have made a decision on the development of the historic cotton gin area. The mayor replied by saying the owner of the property was yet submit a formal proposal. Mayor Chamberlain suggested the commission create a historical site definition. There was discussion about creating designated historical sites. It was suggested sometimes these classified sites become a burden on the property owner. Hansen wanted to make sure the group was supportive of restoring the buildings, and not declaring property as historical for enforcement reasons. There was discussion of where the existing historical district boundaries are in town. Chair Chamberlain asked the Commission what direction they wanted to pursue in making the historic commission active. Hansen wanted the commission to look at the setbacks on Toquerville Boulevard, and accept the non-conforming properties as legal non-conforming properties. Chair Chamberlain cautioned that thought and reminded the commission to waive setback requirements may infringe on a neighboring property. Peart asked if the commission wanted to preserve the historic district and continue with a commission. Alex Chamberlain thought the purpose of the historic commission would incentivize property owners to improve the property. Peart wanted to make sure the board wouldn't require the property owners to financially commit to improvements because of a historical finding. Turner was in favor of some type of preservation. Chair Chamberlain suggested the historic information may just be the recording of information, and not require action.

2. Accessory Buildings – Guesthouse:

In city code Toquerville has a guesthouse definition which allows the construction of a guest home on a single parcel, but shall not be rented or otherwise used as a separate dwelling unit. Peart asked if the concern of the commission was because guest homes frequently end up as either short term or long term rentals, or if there was more to the issue. Councilmember Ruesch suggested if anyone wanted to look at a multi-dwelling developed area to drive into the Westfield area. He would like to curtail the future construction of detached dwellings on a single parcel in the city.

There was a brief discussion on the definition of single-family zoned property. Someone suggested once a secondary structure building permit is granted, the property owner should be required to sign an



agreement with the city to not rent the dwelling out. Ruesch asked how the city would manage the enforcement of these agreements and uses. Chair Chamberlain believed the concern would come to light when the city received a complaint from a neighbor. Peart agreed. Vercimak recommended the city could limit height requirements on secondary structures to deter casitas or guest homes to be constructed above garage areas. Mayor Chamberlain wanted to make sure the height requirement would still allow for a garage to house a motorhome.

3. Discussion on Flag Lots:

Chair Chamberlain requested this topic to be the first discussion item at the next upcoming planning commission work meeting.

Work meeting adjourned at 7:00 p.m.

7:00 PM REGULAR MEETING:

1. Meeting called to order by Chairperson Alex Chamberlain at 7:00 p.m. Commissioner Rebecca Hansen led the Pledge of Allegiance. Commissioner Rebecca Hansen, owner of Dulce Domum declared her bed and breakfast establishment as a conflict on the agenda for a conditional use permit renewal and will vote on the item.

A. REVIEW OF MINUTES:

1. Review and Possible Approval of Planning Commission Meeting Minutes from the Regular Work and Business Meeting on April 18, 2018.

Chair Chamberlain requested the minutes should reflect Brad Bishop, not Brent Bishop as the self-help representative in attendance on April 18, 2018.

Commissioner Jake Peart made a motion to approve the Planning Commission meeting minutes from April 18, 2018, with the name change modification discussed. The motion was seconded by Commissioner Greg Turner. Motion unanimously passed 5-0. Peart-aye, Hansen-aye, Butterworth-aye, Turner-aye, Chamberlain-aye.

B. PUBLIC FORUM:

Comments from public and public requests for future agenda items.

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

No comments were made.

C. PUBLIC HEARING:

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

Chair Chamberlain proceeded to the public hearing portion of the meeting.

1. Public input is sought on Conditional Use Permit Application submitted by Sherree Olsen for a Bed and Breakfast establishment located at 1065 South Westfield Road in Toquerville, UT 84774. Property Tax ID# T-AHP-A-44-A. Zoning is R-1-20.

Brigham Darger from Old Church Road asked if the Planning Commission had set a density requirement for bed and breakfast establishments. Chair Chamberlain stated currently there is not a density



requirement, but the city council and commission are currently working on the ordinance. Darger would like the boards to consider limiting the number of establishments allowed in residential areas. Councilmember Ruesch encouraged Mr. Darger to stay and listen to business item D3 on the agenda, discussion of bed and breakfast services and nightly/short-term rentals.

Elaine Kist from West Grassy Lane, a neighbor to the applicant was supportive of the bed and breakfast conditional use permit. She divulged to the commission the applicant's husband was recently in an accident and they have three small children. She commended Mrs. Olsen for thinking outside the box to gain more income for their family. The portion of the business is inclusive of the home's footprint and doesn't see any issue with the business being next door to her.

Chair Chamberlain moved out of the public hearing portion of the meeting and onto the business/action items.

D. BUSINESS/ACTION ITEM(S):

1. Discussion and Possible Recommendation on a Conditional Use Permit Submitted by Sheree Olsen for a Bed and Breakfast Establishment Located at 1065 South Westfield Road in Toquerville, UT 84774. Property Tax ID# T-AHP-A-44-A. Zoning is R-1-20.

Commissioner Hansen was supportive of the application. She believed the application was a shining example of why the city allows bed and breakfast establishments in a residential neighborhood. She also thought the application demonstrated the perfect example of balance between the rights of the property owner and the neighbors.

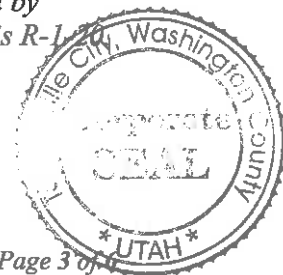
Staff recommendations for the application read by Chair Chamberlain:

Staff discussed off-street parking and it was determined that there was ample parking for the required application. The cooking facilities in the attached casita were also discussed and it was decided that removal or disabling of these facilities would be required as a condition of the permit.

1. Cooking facilities to be disabled or removed in the casita to the satisfaction of the Building Official.
2. Required off-street parking will be available and inspected.
3. The premises will receive an inspection by the Hurricane Valley Fire District and the Toquerville Building Official and any corrections or deficiencies will be corrected.
4. Applicant agrees to abide by all conditions set forth in section 10-17-3 of the Toquerville Code.
5. This permit shall receive an annual review by the Toquerville Planning Commission.
6. This permit shall not be enlarged, expanded or changed otherwise without the express written consent of the City of Toquerville.

Commissioner Hansen recommended approval on a conditional use permit application for a bed and breakfast establishment located 1065 S Westfield Road for Sheree Olsen. The motion was seconded by Commissioner Jake Peart. Motion unanimously carried 5-0. Peart-aye, Hansen-aye, Turner-aye, Chamberlain-aye, Butterworth-aye.

2. Discussion and Possible Action on a Subdivision Lot Line Adjustment Application Submitted by Jonathan Cheney. Consolidation of Property Tax ID# T-TRES-1-1 and T-TRES-1-25. Zoning is R-1-20.



Mike Vercimak spoke on the applicant's behalf, as they were unable to attend the meeting. The staff comments should reflect it is a lot line adjustment and not a lot split. The comment was a typographical error.

The staff recommendations were:

1. Applicant agrees to abandon one (1) set of utility services to the satisfaction of the Public Works Director.
2. A document which clearly sets forth a description of the original parcels, as well as a description of the newly created parcel, will be provided by the applicant for recordation with the Washington County Recorder.

Commissioner Butterworth asked if it would be the responsibility of the applicant to pay for the abandonment of the utility lines. Vercimak advised the commission the applicant would be responsible for the cost and would need to be abandoned by the satisfaction of the Public Works Director, Lance Gubler.

Commissioner Jake Peart made a motion to approve the lot line adjustment application submitted by Jonathan Cheney. The motion was seconded by Commissioner Greg Turner. Motion unanimously carried 5-0. Butterworth-aye, Chamberlain-aye, Peart-aye, Turner-aye, Hansen-aye.

3. Discussion and Possible Recommendation of Proposed Changes to Land Management Code Title 10-17-3: Bed and Breakfast Services, and Title 10-17-4: Nightly or Short Term Rentals.

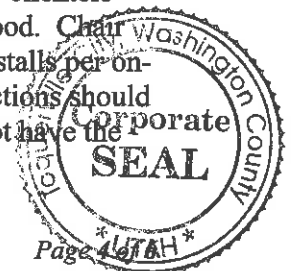
Commissioner Butterworth provided the commission with a proposed draft of title modifications from notations taken from the special city council and planning commission meetings held on May 3, 2018, and May 10, 2018.

The commission discussed the application fee and adding an annual fee to maintain the permit in accordance with administrative costs. Ruesch said a fee cannot be higher than what it costs the city to manage applications. Mayor Chamberlain said the annual fee would cover the annual inspection and record keeping required by the conditional use permit. Vercimak wondered if the county would assess a higher tax rate for bed and breakfast owners since the business is within the primary residence. The commission discussed the pros and cons of an annual fee requirement.

Commissioner Peart spoke about density requirements. He owns a vacation rental in LaVerkin. He stated his property taxes are higher because the home cannot be considered as a primary residential home. He noted his sewer and water rates are also higher. He thought the higher rates would limit the number of applications.

Mayor Chamberlain suggested the owner of the primary residence needed to be modified. The commission decided a natural person needs to be the controlling owner and the permit holder of the business. It was unanimous the owner shall reside in Toquerville. They also decided to add a nightly rental permit shall have an ownership interest of no more than two nightly rentals in the City of Toquerville.

Butterworth and Ruesch discussed parking concerns. Chair Chamberlain and Turner suggested parking should require enough ample off-street parking spaces for both homeowner and guests. Peart suggested no on-street parking should be allowed overnight by guests and residents of the home. Hansen was not comfortable with the on-street parking restriction. Vercimak wanted the commission to know about a neighboring town's struggle to regulate parking concerns. He said a lot of these rentals have clientele who bring in large trailers or toy haulers. To allow on-street parking impacts the neighborhood. Chair Chamberlain suggested they should allow one parking stall per guestroom, and two parking stalls per on-premises owner, and no overnight on-street parking for guests. He didn't feel parking restrictions should be imposed on the property owner. Peart felt differently. Peart thought a business should not have the



same rights as a residential property owner concerning parking. If a business is ran out of a residential home, it shouldn't burden neighbors with limited parking. Turner and Butterworth both thought residential owners should not be restricted from parking on-street.

The commission wanted to remove the modification required to exclude separate outside entrances to the guestrooms. They believed the establishment should be allowed to have separate entrances.

There was a discussion concerning detached short term rentals. Vercimak suggested the commission could deny applications where a single parcel contains multiple dwellings on a single parcel. Mayor Chamberlain would like the historic district to be able to use detached dwellings as short-term rentals, especially state historic designated buildings. Peart thought to exempt the historic district would change the zone of single family residential to multi-family zoned property. Mayor Chamberlain believed these structures have historic value and suggested any new construction wouldn't allow for this use. Vercimak spoke specifically about Turner's property (263 N Toquerville Blvd). The property had an old home on the parcel. A building permit was pulled for a new home to be constructed behind the old home. The city should have required the old structure removed before allowing the new home to be built, or not allowed the new home to be constructed on the same property parcel. In allowing the building permit it created two dwellings on a single parcel. Hansen felt those historical homes should not be removed from the property. The commission discussed the definition of a dwelling unit. A structure containing a bedroom and a bathroom is not a dwelling. Once a kitchen is added, it then becomes a dwelling. The commission discussed if the word permit should be defined. If someone decided to construct ten tuff-sheds in the backyard, would the application be one permit or ten separate permits. Chair Chamberlain suggested a nightly rental permit should be contained under one roof.

The commission unanimously agreed to lower the penalty fees as proposed from an earlier draft. Recorder McKim researched those fees from the quoted earlier draft. A first violation would incur a \$500.00 fine, second violation a \$1500.00 fine, and third violation a \$4000.00 fine. A fourth violation would result in an automatic revocation of the license.

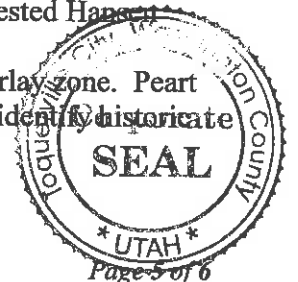
There were no changes to the site approval, public hearing, or annual review requirements. It was agreed to maintain a logging requirement. It will be the permit owner's responsibility to provide upon request of a city official, the name and phone number of the renters. Mike Vercimak suggested the commission modify the license/permit requirement. Under current code in residential zones, bed and breakfasts are a conditional use permit, and nightly short-term rentals are not. He suggested short term rentals would no longer be conditional use permits. The use would no longer run with the land. He suggested once changes to the chapter occur, the commission will need to review the rest of the code and how it relates or references the use. Butterworth asked Vercimak to draft the license/permit requirement for the commission. Vercimak agreed to do so. The commission agreed to maintain health requirements.

There was brief discussion regarding notification requirements. Property owners within a 300 foot of the application will receive notice via a public hearing. The applicant will need to obtain a 75 percent approval from those owners. Permit holders of a nightly rental will be excluded from the 75% approval calculation. Title 10-23-9 defines the radius notification from the outside property perimeter.

Signage requirements will need to be cross-referenced to 10-22-7 which sets forth the regulations of signs in a residential zone. The code will need to be modified to exclude bed and breakfast terminology, and change it to reflect nightly short-term rental signage. There was a brief discussion about lit signs.

Mayor Chamberlain would prefer signs to not be illuminated. Commissioner Hansen spoke about her sign and the obstacles she has faced with addressing confusion in her neighborhood. They discussed the difference between a monument sign, an address marker, nameplates, and a bnb sign. They also discussed the different sign size requirements in relation to lot sizes. Chamberlain suggested Hansen could provide a modification to the sign ordinance and it could be a future agenda item.

Commissioner Turner asked if the commission wanted to discuss a possible historic overlay zone. Peart didn't believe the historic district should have different requirements. He would like to identify historic properties and not a broad zone. No decision was reached.



The commission agreed noise requirements should be the same as the long-term residents of Toquerville. Vercimak enlightened the members how noise complaints and citations slip through enforcement cracks. Violators are cited and the permit owner is never notified. Nuisance complaints are brought to light when neighboring property owners come to city council meetings. It was doubtful law enforcement is aware whether or not the premise is a vacation rental when responding to violations. Incidents are not usually tracked by location, but usually by a name file. Premise files would need to be maintained through the Sheriff's Department. Butterworth asked if the citizens could be educated when a complaint is filed with the sheriff's department from a local citizen, they should also contact the city. Chamberlain suggested that process could be included the notification letter when the applicant submits a short term rental permit. Ruesch would like the information put on the website. Vercimak suggested a phone number and contact number should be posted visibly from a window at the premise to contact the property owner when a complaint handled, either by law enforcement or a concerned neighbor. A revised draft of the document will be prepared by Manning Butterworth for discussion and possible recommendation at the next planning commission meeting. They hope the draft will then be ready to forward it to city council meeting in July.

Commissioner Jake Peart made a motion to table this item until next month with Commissioner Butterworth's revisions. The motion was seconded by Rebecca Hansen. Motion unanimously passed 5-0. Peart-aye, Hansen-aye, Chamberlain-aye, Turner-aye, Butterworth-aye.

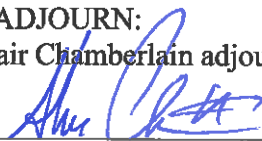
E. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:

1. Home Occupation Conditional Use Permit of Kay's Glass at 230 S Ash Creek Drive for Kay Mitchell.
2. Home Occupation Conditional Use Permit for Cheney Construction at 73 E Kolob Circle for Natalie & Jon Cheney.
3. Home Occupation Conditional Use Permit for Guns and Diamonds at 48 W Old Church Road for Randy & Jane Scott.
4. Home Occupation Conditional Use Permit of Lannister Construction at 460 N Toquerville Blvd for Todd Young.
5. Home Occupation Conditional Use Permit of Bjarnson Construction at 1563 Ash Creek Drive for Leif Bjarnson.
6. Conditional Use Permit of Eagle's Nest Bed & Breakfast at 238 N Hillside Drive for Margie Evans.
7. Conditional Use Permit of Dulce Domum Bed & Breakfast at 457 South Westfield Road for Rebecca Hansen.

Commissioner Greg Turner made a motion to approve the listed conditional use permits contingent upon the bed and breakfast establishments pass their yearly inspection by the building inspector. The motion was seconded by Commissioner Jake Peart. Motion unanimously carried 5-0. Hansen-aye, Chamberlain-aye, Turner-aye, Peart-aye, Butterworth-aye.

F. ADJOURN:

Chair Chamberlain adjourned the meeting at 8:58 p.m.



Planning Commissioner – Alex Chamberlain

June 20th, 2018

Date

Attest:



Toquerville City Recorder – Dana M. McKim

