

TOQUERVILLE CITY
SPECIAL PLANNING COMMISSION MEETING AGENDA
Wednesday-September 26, 2018

Work Meeting 6:30 p.m. - Regular Meeting 7:00 p.m.
Held at 212 N. Toquerville Blvd, Toquerville Utah



Present: Planning Chair: Manning Butterworth; Planning Commissioners: Greg Turner, Rebecca Hansen, Jake Peart, Chuck Williams, Alternate PC Joey Campbell, Staff: Public Works Director Lance Gubler, Zoning Official Mike Vercimak, Public: Jessica Russo, Lynn Chamberlain, Bruce Wallace, Russ Larsen, Cindy Larsen, Wayne Olson, John Manning, Chris Butterworth, Delos Elison, Brigham Darger.

6:30 PM WORK MEETING:

Meeting called to order by Chair Butterworth at 6:30 p.m.

1. Discussion on Short-Term Rentals-Bed and Breakfast and Nightly/Short-Term Rentals:

Turner asked if the newly adopted regulations will apply to the existing short-term rental businesses, or will they have a grandfathered use indefinitely or until the yearly renewal. Turner also asked if the application fee would be established by the city fee schedule and what the amount would be charged.

Butterworth suggested a few grammatical changes should be changed in the ordinance in the preamble description. He also directed the commission to 10-17-3(f)(2) and suggested to modify the language to describe a natural person principal holding a controlling interest of at least 51% of the entity shall have a primary residence within the city, rather than "be a primary resident of the city". He wasn't sure what a primary resident was but knew what a primary residence holder included. Peart suggested parking requirements should be further clarified to include there shall be no overnight on-street parking and add the phrase, "by guests or residents" to clear up any confusion or misinterpretation.

Bruce Wallace from 1167 S Westfield Road had a comment about the proposed ordinance change and the suggested wording revision from the Planning Commission regarding a primary residence. He presumed if the phrasing was changed from a primary resident, rather than residence, the resident could live somewhere else the majority of the time and suggested the original version would be a better option for the city.

2. Discussion on Proposed Recreation Resort Zone:

Vercimak wanted the commission to know he believed at the upcoming Development Staff meeting the group will hear a proposal of a resort type application for the Anderson Junction area.

Toquerville does not have a current zone for such a development. The applicant could either ask for an amendment to a current zone or adopt a resort type zone. Butterworth asked if it would be advantageous to ask a developer's input about the creation of a new zone. Vercimak did not believe it would be. He welcomed the Planning Commissioners to provide feedback to the proposed resort zone draft. A minimum acreage will need to be determined for the zone criteria. Peart asked if the city had a planned unit development overlay for the city. Vercimak replied by saying yes and explained what a P.D.O was. He advocated the commission would need to create basic standards for a resort zone before an approval or denial of an application occurred. Hansen offered to research resort zones and will provide email feedback to the commission and the zoning official. Peart suggested seeking out successful cities with resort zones.



The work meeting was closed at 6:51 p.m.

7:00 PM REGULAR MEETING:

The special meeting was called to order by Chairman Manning Butterworth at 7:00 p.m. The Pledge of Allegiance was led by Rebecca Hansen. There were no disclosures or declaration conflicts from any commission members.

A. REVIEW OF MINUTES:

1. Review and Possible Approval of Planning Commission Meeting Minutes from the Regular Work and Business Meeting on August 29, 2018.

Chair Butterworth noted a few corrections from the meeting minutes taken on August 29, 2018. On page two, the word concurrently, which is stated twice in the document, should be replaced by the term consecutively. On page three item #3 under section C, the Commissioner who made the motion should be modified from Commissioner Jessica Hansen to Commissioner Rebecca Hansen.

Commissioner Chuck Williams made a motion to approve the August 29, 2018 Planning Commission meeting minutes with the suggested changes pointed out by Chair Butterworth. Motion was seconded by Commissioner Jake Peart. There was no further discussion. Motion unanimously passed 5-0. Vote: Greg Turner-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Jake Peart-aye, Chuck Williams-aye.

B. REPORTS:

1. Zoning Official, Mike Vercimak:
No report was given.

2. City Council/Planning Commission Liaison, Alex Chamberlain:
No report was given.

C. PUBLIC HEARING:

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

1. Ordinance 2018.XX - An ordinance revising and restating in its entirety Sections 3 and 4 of Chapter 17 of Title 10 as well as amending Chapter 3 of Title 4, and Chapters 2, 9, 10, 12 and 22 of Title 10 of the Toquerville City Code for the purpose of eliminating the concept of bed and breakfast transient lodging use and bring their regulation under the umbrella of amended and expanded regulations regarding the nightly rental of dwellings within the city.

Delos Elison from North Hillside Drive:

He wanted to know what the fee was to set up a bed and breakfast. The commission told Mr. Elison under the old ordinance a bed and breakfast application was \$250.00 and a short-term nightly rental, aka a vacation rental application, was \$1000.00.

Elison asked if the application was a source of income for the city. Butterworth stated the application fee was derived by the city to cover the costs of the application.

Elison inquired how many bed and breakfast establishments were in Toquerville. Hansen believed the number was around twenty, but some of them are not consistently active. He then asked how many of these establishments have been active without paying the application fee.

Turner believed all the licensed businesses have paid the fees. He wondered how the city finds



out about the unlicensed businesses. Turner said it was a good question. Due to recent state legislation changes, the state prohibits the ability of cities to solely search out these businesses that do not have active business licenses via the internet. Mr. Elison also questioned how these businesses are located in single-family residential areas and knows of multiple families living in the home. Butterworth suggested that inquiry would be best asked at a city council meeting. Elison wanted to make sure enforcement measures were in place and wondered how the city will address violations. Hansen suggested citizens notify the city by a written complaint of possible violations and the city can investigate and enforce those violations. Elison was in support of these establishments but believed enforcement would be essential to keep these businesses in check.

Brig Darger from Old Church Road:

He asked if bed and breakfast establishments were changed to nightly rentals and if the city would keep a map of where these businesses are located throughout the city. He had a concern the city would be saturated with these types of businesses. He suggested the city should institute a separation requirement. He did like the requirement that owners of these establishments would be required to have a primary residence in Toquerville.

Lance Gubler from Mesa View Drive:

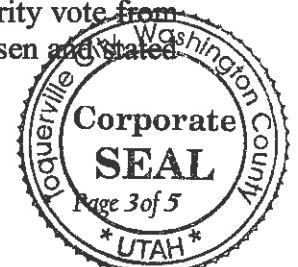
His biggest concern was once these businesses are established and full services are run to secondary dwellings, how the city will enforce them from not becoming apartments or duplexes. He was concerned the allowance would turn single-family residential zoned properties into multiple-family zoned property.

Jessica Russo from Sunset Avenue:

Russo knew there was some talk in the past about setting density requirements. She asked if the ordinance included any type of saturation regulation. Butterworth stated when the council and commission discussed density requirements it was agreed to require the owner have a primary residence in Toquerville. The owner is limited to owning only two establishments per property. Russo asked if two establishments could be on the same property parcel. Peart answered by saying if there were two establishments they would have to be on separate parcels, as the city does not want to create illegal non-conforming properties. Russo voiced concern regarding the lack of density requirements because it could create neighborhoods of nightly rentals. She suggested the city should invoke a moratorium on the number of licenses issued by the city for nightly rentals.

Wayne Olsen from Old Church Road:

He asked if the city is combining vacation rentals, and bed and breakfast rentals as the same use as a nightly rental? They would have the same guidelines? The commission answered yes. Butterworth stated any rental period less than thirty days would be a nightly rental. He asked why the density requirements were taken out of the ordinance, since historically in the past there was a great concern to regulate them. Butterworth stated the city council and planning commission agreed to the recommendation. Hansen reaffirmed to Olsen, the council and commission met with the legal counsel and there was no fair way to limit to these establishments in the community. They discussed in great length the process of obtaining a majority vote from the neighbors in the 300-foot notification area, and it was....Olsen interrupted Hansen and stated



the reason it was not adopted was because he believed to do so was illegal to require a majority of the property owners agree to the use. He then said the requirement did not bother him and he was fine. He asked the commission to clarify the parking requirement. The new ordinance stated no overnight on-street parking will be permitted by owners or guests. He asked if the new requirements would apply to the current permit holders. Butterworth answered Olsen by informing him any existing permit holders would follow the rules that were required when the application was filed. Olsen briefly notified the commission of a current permit holder not following the parking requirement. Vercimak believed once the city council passes the new ordinance all nightly rentals will fall under the new requirements. They briefly discussed the process of enforcing illegal rentals. He suggested the city should pursue business where they are conducting their services under the radar. Vercimak gave a brief explanation of the state law restricting cities to investigate rental businesses solely through an internet search. The city will need to obtain a complaint from a citizen.

Jessica Russo from Sunset Ave:

Spoke about her personal business with air bnb. She was required to show her business license to the company and wondered if air bnb would take a business off their site if the business owner did not provide an active business license from the city. She asked if someone from the city was in charge of code enforcement. Mayor Chamberlain stated the city does not have someone at this point. Russo asked if the city could assign an individual to enforce possible unlicensed businesses. She asked if current establishment would have to follow the new ordinance upon the yearly renewal. Vercimak believed the new ordinance would be new requirements for the permit holders. Attorney Heath Snow will be asked this question at the city council meeting. There was a discussion about how a conditional use permit runs with the land and not the permit holder. All new establishments would not be conditional use permits, but would be a special type of permit issued by the city. Butterworth wanted Russo to know the commission is not legally trained to answer her question, but they will inquire with the city attorney how the current permits will be administered.

Lynn Chamberlain from Toquerville Blvd and speaking as the Mayor:

The goal of the new ordinance was to gain understanding and create simplicity. He understood the ordinance was a complex issue. He aspires to establish a standard operating procedure for staff to follow for the enforcement of future violations regarding these special permits.

Jessica Russo had a concern if the new regulations are passed her business wouldn't conform to the new requirements because it is a detached dwelling, and was approved at the time she submitted her application.

Wayne Olsen spoke about past Commissioner, Jerome Gourley who stated in a past Planning Commission meeting that he didn't have a big concern about implementing a density requirement because he believed a well ran businesses would survive and others would be eliminated by their competition.

Jessica Russo agreed with the statement made that the well ran business will remain, but wondered if there was a cap placed on the number of business licenses issued by the city, it would help preserve community neighborhoods. She knew of different towns and cities in the



area that have placed a cap for the number of available bed and breakfast business licenses available. Rockville allows for a total of eight licenses in their town. She suggested Toquerville should institute a cap and explained the benefits of such a requirement.

Wayne Olsen thanked the commission for all of their hard work on the ordinance.

D. BUSINESS/ACTION ITEM(S):

1. Discussion and possible recommendation on Ordinance 2018.XX - An ordinance revising and restating in its entirety Sections 3 and 4 of Chapter 17 of Title 10 as well as amending Chapter 3 of Title 4, and Chapters 2, 9, 10, 12 and 22 of Title 10 of the Toquerville City Code for the purpose of eliminating the concept of bed and breakfast transient lodging use and bring their regulation under the umbrella of amended and expanded regulations regarding the nightly rental of dwellings within the city.

Commissioner Rebecca Hansen made a motion to recommend approval of Ordinance 2018.XX, known as the nightly rental with the proposed changes stated from the work meeting discussion. Motion was seconded by Commissioner Jake Peart. Motion unanimously passed 5-0. Vote: Greg Turner-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Jake Peart-aye, Chuck Williams-aye.

E. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:

1. Home Occupation Use Permit at 31 S Ash Creek Drive-Twirl & Swirl~Stefanie Ericksen
2. Home Occupation Use Permit at 390 N Toquerville Boulevard-Alliance Business Partners~Sandra Lenois
3. Bed and Breakfast Conditional Use Permit at 2 Willow Lane- Zion’s Edge~Jim and TyAnn Clark
4. Bed and Breakfast Conditional Use Permit at 234 N Toquerville Boulevard-The Boulevard House~Mark and DeAnn Jeppson

Commissioner Greg Turner made a motion to approve the permits listed on the agenda, E1, E2, E3, and E4. Motion was seconded by Commissioner Chuck Williams. Motion unanimously carried 5-0. Vote: Chuck Williams-aye, Jake Peart-aye, Greg Turner-aye, Rebecca Hansen-aye, Manning Butterworth-aye.

F. ADJOURN:

The meeting was adjourned by Chair Butterworth at 7:35 p.m.

Manning Butterworth
Planning Commissioner – Manning Butterworth

10/19/2018
Date

Attest:

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

