

TOQUERVILLE CITY
PLANNING COMMISSION MEETING MINUTES
Wednesday - March 20, 2019
Work Meeting 6:30 p.m. - Regular Meeting 7:00 p.m.
Held at 212 N. Toquerville Blvd, Toquerville Utah



Present: Chairman Manning Butterworth; Commissioners: Greg Turner, Rebecca Hansen, Chuck Williams, Alternate PC Joey Campbell; Staff: City Council/Planning Commission Liaison Alex Chamberlain, Planning and Zoning Official Mike Vercimak, Recorder Dana McKim; Public: Anita and Stacey Eaton, Pratt Call, Lynn Chamberlain, Allen Mills, Richard Hoffman, Jimmy Brent Payton, Kirby Proctor, Donna DuCrest, Jerome Gourley, Mary Jo Lloyd, Phillip K Lloyd, Dee Gorder, Karen Gorder, Mary Thayer, Neil MacDonnell, Cindi MacDonnell. Absent: Planning Commissioner Jake Peart.

6:30 PM WORK MEETING:

Chairman Butterworth called the meeting to order at 6:30 p.m.

1. Discussion of proposed Land Use Code changes to Home Occupation Permits:

He asked if the commission had a chance to look at the proposed changes. He noticed all the home occupation uses were changed from a conditional use to a permitted use. Recorder McKim asked if the conditional use in a neighborhood commercial zone needed to be changed. The zone allows a single-family and multi-family dwelling located above commercial spaces as a conditional use. Essentially a residential dwelling could be located above a commercial business or space. The question posed was, if the residential dwellings would be allowed to have a home occupation. Commissioner Hansen asked if home occupations could be allowed in secondary structures. Vercimak didn't believe a home occupation would be allowed in a dwelling above commercial spaces. Butterworth asked if the city attorney will be changing Chapter 2 to modify the business license permit application to no longer require Planning Commission approve licensure. McKim stated Chapter 2 will be changed by the attorney in the near future. The hope is business licenses will be issued at the staff level.

Changes to the home occupation chapter will include submittal, review, and issuance at the Development Staff level. The Planning Commission will still review and recommend to city council all conditional use permits. The commission discussed whether the Planning Commission will review home occupations on a yearly basis. If the commission is not approving the permit, they felt there wasn't a need to review the permit on a yearly basis. Staff will review the home occupation if a complaint or nuisance is validated.

Lynn Chamberlain from Toquerville Boulevard:

He asked if internet based businesses would require a home occupation permit or a business license. An internet based business would not require a conditional use permit, therefore it would not require a Planning Commission review.

Anita Eaton from South Ash Creek Drive:

She asked what type of home-based business would not require a business license. Hansen gave an example of where the business is located in another city, but the home office is located in the home. Eaton didn't believe the example would require a business license. An example of freelancing medical transcriber was discussed and whether a business license would be required.

Butterworth discussed an added condition regarding garage and yard sales. The code doesn't define garage or yard sales. The commission discussed maybe a definition should be added to give clarification at the city council level.

City Code 10-23-8(D) was modified to clarify vehicles used for a home occupation be limited to a maximum gross weight rating of 12,000 pounds and not a one-ton gross weight vehicle. A full ton pickup should be allowed to be used in a home occupation business.

Pursuant to 10-23-8(F) home occupations may be conducted in a garage or other structures on the premise, subject to the following:

1. The garage may not be altered in any way that prevents the parking of vehicles within.
2. Sufficient off-street parking must be available for the vehicles displaced by using the garage to conduct the home occupation.

Vercimak suggested the definition of a home occupation in 10-2-1 could be further clarified to coincide with the definition in Chapter 23.

The commission discussed if a home occupation should continue to be allowed in secondary buildings. If the business becomes a nuisance, the home occupation permit could be revoked. They also discussed the notice to nearby property owners. Vercimak suggested the requirement should be stricken. It would create a discretionary challenge for Development Staff members reviewing the permit. The recorder will ask the city attorney to advise on the section, 10-23-9: Notice to Nearby Property Owners.

7:00 PM REGULAR MEETING:

Chairman Manning Butterworth moved into the regular Planning Commission meeting at 7:00 p.m. Commissioner Chuck Williams led the Pledge of Allegiance. There were no disclosures or conflict declarations from the commission.

A. REVIEW OF MINUTES:

1. Review and Possible Approval of Planning Commission Meeting Minutes from the Work and Regular Business Meeting on February 20, 2019:

Commissioner Rebecca Hansen moved to approve the meeting minutes from February 20, 2019. Commission Chuck Williams seconded the motion. Commission Vote: Manning Butterworth-aye, Joey Campbell-aye, Chuck Williams-aye Rebecca Hansen-aye, Greg Turner-aye. Motion unanimously carried 5-0.

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. REPORTS

1. Planning Chair, Manning Butterworth:
Expressed thanks to McKim and Vercimak on the home occupation revisions. Substantial progress was made and believed an ordinance will be presented at the next meeting.
2. Commissioners:
No report was given.
3. Zoning Official, Mike Vercimak:
No report was given.

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

D. 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 Permit application submitted by Alejandro Trujillo for the on-line sales of clothing and jewelry located at 746 S Peachtree Drive. Tax ID # T-138-C-3. Property is zoned R-1-12:

There were no comments.

2. Public input is sought on a Home Occupation Permit application submitted by Anita and Stacy Eaton for the assembly and sales of powered parachutes, parts, and accessories at 290 South Ash Creek Drive, Tax ID # T-ACP-13. Current zoning is R-1-20:

Commissioner Williams asked Mr. Eaton if test running engines will occur at the home address. Eaton replied the engines will not be tested at 290 South Ash Creek Drive. The permit will not require welding or the storage of extra fuels at the home.

3. Public input is sought on a Livestock Conditional Use Permit submitted by Donna DuCrest for the keeping of 24 chickens at 1632 South Ash Creek Drive, Tax ID # T-TEA-D-8. Current zoning is R-1-20:

Neil MacDonnell, a nearby property owner of the applicant stated the chickens are not a problem and would support the issuance of a livestock permit.

Jim Payton, also a direct neighbor has no problem with the chickens. The coop was moved from the front of the property to behind the home.

Manning Butterworth read a letter submitted by James Peterson from 1714 South Ash Creek Drive: We feel that the proposed permit to allow 24 chickens on their property violates the residential atmosphere of the intended residents located in the area. The noise pollution alone deters any change of having a normal setting for homeowners. We ourselves used to have chickens on an acre piece of property in Woods Cross, UT, which allowed us to have 4 per ½ acre in the city. We had no roosters, just the commotion from the laying hens brought out complaints from the neighbors. In the best interest of all the residents in the area, we feel it would not be best to allow the chickens in this area.

Mary Jo Lloyd from South Chaparell Drive:

Mr. Lloyd wanted to know if DuCrest would be selling the eggs as a business. She thought 24 chickens would produce a lot of eggs. DuCrest uses the eggs primarily as a main food source. In Lloyd's youth, she raised chickens to buy school clothes. She also knows first-hand, the smell chickens cause when they are confined. DuCrest stated the smell is not a problem and the chickens were moved to behind the residence. The roosters were removed from the brood and the chickens are housed in a netted enclosure.

Richard Hoffman from S Chaparell Drive:

Mr. Hoffman just moved to the area from Hurricane. He has no problem with the chickens. They are well cared for.

Chairman Butterworth read a letter from Timothy and Magdalena Mahoney at 1608 South Ashcreek Drive:

We are writing to express our objection to the proposed permit. We are not opposed to people keeping chickens but we feel that the number should be limited to what reasonably be expected to provide for one's family and feel that a maximum of 6-8 chickens would be appropriate. 24 chickens are more than could reasonably provide for a single family and would only be useful for commercial purposes. We do not feel that commercial livestock operations should happen in a residential neighborhood. Furthermore, 24 chickens would produce an excess of noise, waste, and odors that would interfere with our peaceful enjoyment of our property.

Cindi MacDonnell from 1656 South Ash Creek Drive:

Mrs. MacDonnell has lived next door to DuCrest and has never smelled odors from the chickens. She has a swamp cooler and believed if the smell was a problem she would have noticed it. The chickens cannot be heard from her home.

The chairman moved out of the public hearing into the business action items.

E. BUSINESS/ACTION ITEM(S):

1. Discussion and possible approval of on a Home Occupation Permit application and business license submitted by Alejandro Trujillo for the on-line sales of clothing and jewelry located at 746 S Peachtree Drive Toquerville Boulevard, Tax ID # T-138-C-3. Property is zoned R-1-12:

Staff recommendations were read into the record:

1. An inspection be performed by the Hurricane Valley Fire District and any concerns that are found are corrected and addressed.
2. The Applicant agrees to abide by all provisions in section 23 of the Toquerville code, which section governs the operations of a Home Occupation.
3. The Applicant agrees to obtain any and all licenses required for the operation of this business including all local, state and federal permits.
4. The Applicant agrees not to enlarge, expand or change otherwise this permit or the parameters of this permit without express written consent from the City of Toquerville.
5. This permit shall receive an annual review by the Toquerville Planning Commission or other authorized body.

Commissioner Turner asked about the storage of materials onsite. He asked if the product would include a bedroom full or a garage full. Vercimak stated the application requires an inspection to be performed by the Hurricane Valley Fire District. The applicant stated he travels in Mexico and the items are brought back on an airplane. Mr. Trujillo stated the items would take a small space in an extra bedroom.

Commissioner Turner moved to approve the home occupation permit with staff recommendations and passes a fire safety inspection. Commissioner Campbell seconded the motion. Commissioner vote: Joey Campbell-aye, Manning Butterworth-aye, Chuck Williams-aye, Greg Turner-aye, Rebecca Hansen-aye. Motion unanimously carried 5-0.

2. Discussion and possible approval of on a Home Occupation Permit application and business license submitted by Anita and Stacy Eaton for the assembly and sales of powered parachutes,

parts, and accessories at 290 South Ash Creek Drive, Tax ID # T-ACP-13. Current zoning is R-1-20:

Commissioner Chuck Williams moved to approve the home occupation permit and business license with staff recommendations.

Chairman Butterworth read the staff recommendations:

1. The Applicant agrees to abide by all conditions set forth in section 23 of the Toquerville City code, which section governs the operation of Home Occupations.
2. The Applicant agrees to obtain all local, state and federal licenses required for the legal operation of the business.
3. The Applicant agrees not to produce more than one (1) unit at a time and not to warehouse an inventory of completed units.
4. The Applicant agrees not to enlarge, expand or change otherwise this permit or the parameters of this permit without express written consent from the City of Toquerville.
5. This permit shall receive an annual review by the Toquerville Planning Commission.

Commissioner Greg Turner seconded the motion. Commission vote: Joey Campbell-aye, Manning Butterworth-aye, Chuck Williams-aye, Greg Turner-aye, Rebecca Hansen-aye. Motion unanimously carried 5-0.

3. Discussion and possible approval of a Livestock Conditional Use Permit submitted by Donna DuCrest for the keeping of 24 chickens at 1632 South Ash Creek Drive, Tax ID # T-TEA-D-8. Current zoning is R-1-20:

Chairman Butterworth read the staff recommendations:

1. The applicant agrees to abide by all conditions set forth in section 5-1-4 of the Toquerville Code which specifically regulates the keeping of livestock within the City.
2. This permit shall not be enlarged, expanded or changed otherwise without express written consent from the City of Toquerville.
3. This permit shall receive an annual review by the Toquerville Planning Commission or other authorized body.

Hansen stated the application appears to follow code and staff reviewed the requirements. The opposition is based on the position they are unaware the chickens have been in place at the location for quite some time. A complaint was received by the city regarding the chickens. The coop was relocated to meet code requirements and the roosters were removed from the brood. DuCrest has housed chickens on the property for the past seven years. The city encouraged DuCrest to apply for a livestock conditional use permit to be in conformance with the city requirements. Hansen asked about 5-1-4 and thought the commission should revisit the code to allow for more 5 chickens per 500 square feet. The maximum number of chickens allowed on a parcel is 50. She would like to lower that requirement. Turner doesn't seem to have a problem with the application. The opposition letters were written like they were unaware the chickens were onsite. No other complaints were filed with the city regarding odor or noise.

Commissioner Greg Turner moved to approve the Livestock Conditional Use Permit with staff recommendations. Commissioner Rebecca Hansen seconded the motion. Commission vote: Manning Butterworth-aye, Greg Turner-aye, Chuck Williams-aye, Joey Campbell-aye. Rebecca Hansen-aye. Motion unanimously carried 5-0.

F. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:

1. Livestock Conditional Use Permit at 124 North Ash Creek Drive~Layne and Renee Garner for the keeping of chickens and ducks.
2. Livestock Conditional Use Permit at 1520 S Cane Circle~David Missal for the keeping of chickens.
3. Livestock Conditional Use Permit at 112 North Ash Creek Drive~Steve Thayer for the keeping of chickens.
4. Conditional Use Permit at 40 West Berry Lane for an automotive repair shop/Toquerville Auto~Ned Snow/Doug Hendrickson.
5. Conditional Use Permit at 1015 S Mulberry Drive for a bed and breakfast establishment/Valentine Bed and Breakfast~James and Deborah Valentine.
6. Home Occupation Permit for a home office located at 1276 South Rainbow Bridge/Mike Backus~Maxim Electric Inc.

No complaints were filed with the city regarding the renewal permits. Hansen would like in the future the number of animals to be provided to the commission for the renewal of all livestock permits.

Commissioner Rebecca Hansen moved to approve the renewal permits as listed on the agenda. Commissioner Chuck Williams seconded the motion. Commission vote: Joey Campbell-aye, Rebecca Hansen-aye, Chuck Williams-aye, Manning Butterworth-aye, Greg Turner-aye. Motion unanimously carried 5-0.

G. ADJOURN:

Chairman Butterworth adjourned the meeting at 7:30 p.m.

Planning Chair – Manning Butterworth

Date

Attest:

Toquerville City Recorder – Dana M. McKim