

TOOELE CITY PLANNING COMMISSION MINUTES

May 22, 2019

Date: Wednesday, May 22, 2019

Place: Tooele City Hall Council Chambers
90 North Main Street, Tooele Utah

Commission Members Present:

Tony Graf
Tyson Hamilton
Melanie Hammer
Shauna Bevan
Phil Montano
Matt Robinson
Ray Smart
Chris Sloan
Bucky Whitehouse

City Employees Present:

Jim Bolser, Community Development Director
Andrew Aagard, City Planner
Paul Hansen, City Engineer
Roger Baker, City Attorney

Council Members Present:

Council Member McCall

Council Members Excused:

Council Member Gochis

Minutes prepared by Kelly Odermott

Chairman Graf called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Bevan.

2. Roll Call

Tyson Hamilton, Present
Tony Graf, Present
Melanie Hammer, Present
Ray Smart, Present
Shauna Bevan, Present
Phil Montano, Present
Matt Robinson, Present

Chris Sloan, Present
Bucky Whitehouse, Present

3. Public Hearing and Recommendation on a Zoning Map Amendment request from the R1-7 Residential zoning district to the MR-8 Multi-Family Residential zoning district for the former Harris Elementary School on 9.42 acres located at 251 North First Street.

Presented by Andrew Aagard

Mr. Aagard stated the property proposed for rezoning is the former Harris Elementary property located west of 1st Street and north of Utah Avenue. Predominate land uses in the area are single-family and some legally non-compliant multi-family residential uses dispersed throughout the area. There are no proposals to raise or deconstruct the former elementary school in favor of new development. The property is zoned R1-7, as are all of the surrounding properties. The request is to change the zoning of the school property to MR-8 Multi-family Residential. The zoning change has been requested to facilitate specific land uses that are not permitted in the R1-7 Residential zoning district. That being said when considering a rezone, the Planning Commission cannot just consider the land use of the property, but must consider all the land uses that are allowable in the MR-8 Multi-Family Residential zone. Mr. Aagard encouraged the Planning Commission to not focus on the particular use being presented for application, but on the zoning consideration for the property and if it is an appropriate land use. There are some significant differences between the R1-7 Residential and the MR-8 Multi-Family Residential zone. The R1-7 is a single-family zone permitting five units per acre and limited to single family and twin style dwellings. The R1-7 prohibits multi-family dwellings, condos, apartments, or townhomes. The MR-8 Multi-Family Residential permits up to eight units per acre and is limited to multi-family style apartments, townhomes, and condos. The public hearing was properly noticed and City staff has not received comments concerning the rezone application.

Chairman Graf asked the Commission if they had any questions or comments.

Chairman Graf asked if the use of the school building is binding, so that the new owner cannot tear down the building. Mr. Aagard stated that he did not have an answer for that question. Mr. Bolser stated that it would not be binding on the property owner, but that is a specific desire of the school district in negotiating the sale with a private party. Chairman Graf asked if not tearing down the school is a covenant that is on the land. Mr. Bolser stated that it is a private arrangement between the parties of the sale. If the current purchasers were to go away and the use of the facility was no longer the desired plan, the City Council would have the option to rescind the Ordinance and return it to the original zoning classification.

Chairman Graf opened the public hearing.

Ms. Becky Harvey asked how the notification of the hearing was sent to the public? From her understanding, notifications were sent to residences 200 feet from the building, however it is primarily residential. How would the public know what the use is if only a select few get the notification? Secondly she understands that it will be a drug rehabilitation. She stated that she

supports that use, but she would like the City to address what is happening with Broadway Street before there is anymore traffic in the area.

Mr. Rasefl Green stated one of his observations is the City has several buildings in the City, the old bowling alley, old hospital, and now the school. He thinks that the school system should have had an out on the property before spending all the money on the other property. This is just making eye sores all over the City This building should be torn down. The bowling alley should have been torn down 20 years ago. The hospital should have been torn down and there is a building next to it that kids are going in. Mr. Green stated that all that is going to be done is create another eyesore. He stated that if it is a drug rehab center that will be put in there, he is against that. He lives on 100 East and stated that there is a lot of foot traffic up and down that street. He has no idea where they live. They are homeless people. He stated that he counts 20 a day. Mr. Green stated he doesn't understand how they will make a school multi-family and make it look nice. He believes that the school should be torn down and residential homes should be put in.

Mr. Jim Littlepase stated he lives directly across the street from the school. He stated that he has noticed in the alley, of 230 North, that there has been countless people going up and down that alley. He stated that since the school closed it has been a freeway of people going back and forth who act like they are intoxicated or do not know what is going on. He stated that he has called the police several times about the pedestrian traffic problem. He asked if the school is going to be torn down, how many apartments will be put in there and what about the traffic issue on 400 North? He stated that there will be more traffic on Utah Avenue and at the crooked intersection of 1st East and Utah Avenue. He stated that he saw it posted on Facebook and there should be more advertisement so that people can show up.

Mr. Austin Barney stated that his biggest concerns was one, he has called the police multiple times in the past week for drug use, alcohol use, and driving unsafely on 1st East. He stated that his property is the back of the school. How will this affect the property values? He stated his family is looking to move and they haven't lived there a year. Mr. Barney stated that it is good that it is a rehabilitation center, but that will attract more of the problem that they are already having. He stated that people do not stay in the center and most can walk out. That will create more traffic. He stated that he has to check his yard for needles and there has been some scary stuff in the yard.

Mr. Jesse Gilling stated that he lives on 100 East and is connected to the school's property by the alley. With this multi-family the road is very dangerous. He stated that he has had people coming down the alley super-fast that haven't been able to stop and go in the road. He stated that he has called the cops. There are people constantly walking up and down that alley. He stated that there were people doing drugs in the alley the other day when he walked out of his house. He further stated that he is concerned about the drug use, the traffic, and the property values.

Mr. Jeff Patton stated that he lives on 100 East and his backyard borders the back of the school. He stated that he is a little confused at the zoning change request. He stated that the way it was zoned originally, was correct and appropriate. He stated that he doesn't feel multi-use is

appropriate for that neighborhood. If you have seen Utah Avenue or 1st North, they are pretty small streets. It is an element that he feels should not be put upon them. Mr. Patton stated that he has had trespassers in his backyard and had his mail stolen 11 times in 2018. He stated that he feels that either apartments or drug facility, there is no room for it. There are better places that could handle it around town. He stated that he feels the neighborhood can't absorb the zoning change.

Mr. Kevin Hunt stated that he owns the six-plex on the corner of Utah Avenue and 1st Street. He stated that around 1998 there was a 36-unit apartment complex planned for the property. He stated the City had a change of philosophy and took it to a less dense zone. The R1-7 zone. The concern faced here is not so much the single property, but if one property is changed, there will be a precedent for the surrounding properties that would also like to increase density.

Ms. Jamie Hendrickson stated that the zoning should not be changed. She would like to see the building reused. She stated that she does not want apartments in her backyard because it borders her back yard. She further stated that there is a lot of drug traffic in the neighborhood. She stated that she did not know about this the hearing until she received notice in the mail and she was not prepared for the hearing.

Mr. Steve West from Tooele School District stated that he takes care of the property the way it is right now. He stated that he monitors it 24 hours a day, seven days a week. He watches it. He is excited for the opportunity to repurpose the building to get it functional. It is exciting to see that happen. He stated that he monitors to see through seven cameras. He gets calls in the middle of the night if someone breaks in and was surprised that 99% of the time it is teenagers. He is in favor of rezoning to make it a usable space again.

Mr. Richard Olson stated that he lives just north of the property and gets the garbage from the property pavement in rain storms. He is not in favor of a multi-dwelling or a drug rehab. There are too many problems and it is an existing neighborhood. There are small kids. He has his grandkids playing in his backyard. He hates to think he would need to look for drug paraphernalia. Mr. Olson stated that he is not in favor. In the past year with the property taxes going up he wonders if this rezoning is for more property taxes.

Mr. David Gumucio, a real estate agent dealing with the transaction was giving his 2 minutes of speaking time to his client, Tyson Dixon the buyer of the property.

Mr. Tyson Dixon, thanked the Planning Commission for their service and for the comments. He stated that he totally understands the concerns that the community members have. In general humans are concerned with things that we don't understand and we don't read the future. He stated that this is his fifth or sixth hearing in a similar setting. Every single one of them the community members are concerned about the same issues and rightfully so. Typically mental health and treatment programs have a stigma or status that might seem repulsive and attract homelessness and addiction. That is why this facility is being opened. Addiction is a national health crisis and is the leading cause of death for people under 50 years old today. It is a mass issue in Tooele County and there is very little to know resources in Tooele County. This is a specialized contract to Skull Valley Native American Tribe. Mr. Dixon operates programs in Salt

Lake, Davis, and Utah Counties. He is the CEO of Renaissance Ranch and Awakening Behavioral Health. It is a best of state program and nationally accredited. The program has a 33% higher success rate than the national average. The people that we see walking past our homes that don't seem to know where they are, they are our brothers and sisters that are sick with mental health disorders and physical addictions. If they don't have a place to go to rehabilitate, they will die in that state. Mr. Dixon stated that he is living proof that people can change a rebuild communities and families.

Mr. Dixon addressed the home value issue that had been mention in public comments. The company is not going to tear the school down and build apartments. It wouldn't be cost effective or smart. There is a plan for a very full scale remodel, painting and resurfacing the exterior, resurfacing the pavement, and a couple additions and modifications. It should improve the surrounding home values.

Chairman Graf stated that there was a two-minute rule for all public comments and Mr. Dixon had reached his limit for the two individual times. Mr. Baker stated that Mr. Dixon is the applicant, so the Planning Commission is welcome to ask questions and receive as much information as needed to make a decision outside of the rules of the public hearing.

Chairman Graf asked if there were any more public comments, there were none. Chairman Graf closed the public hearing.

Chairman Graf opened back to the Planning Commission for any questions or comments for Mr. Dixon. Commissioner Hammer stated that she would like to invite Mr. Dixon to finish his thoughts and comments before the time ran out in the public hearing.

Mr. Dixon stated that every time this has been done, the clients end up serving the communities, attending local churches, and doing service in the community. He stated that he could almost guarantee there would be less homeless people and addicts. There would be around 100 or so staff members in the location. A detox will take place offsite. This facility will be a longer stay and is for people who want to change their life. The philosophy is founded on the 12 steps of Alcoholics Anonymous and professional motivational enhancement therapy and cognitive behavioral therapy, group support systems, mentorship and creating a community of people helping each other. If people leave or are pushed out the door the facility will arrange transport and make sure they are referred home or a safe place. The structure of the program has high structure and lots of support. These are men and women who have lost their way and need a little bit of help. The program feels that they can and will help everyone make progress on their journey. Mr. Dixon stated that overall there have been minimum problems in the seven homes and the surrounding neighborhoods that they run.

Commissioner Robinson asked Mr. Dixon to explain the relationship between the Skull Valley Health Care and the Renaissance Ranch. Mr. Dixon stated that Renaissance Ranch is a contracted company that is partnering with the tribe. The tribe does not have the funds to purchase a location or have the funds for behavioral health and mental health, and medical treatment. Renaissance partners to help arrange services and invest in this property. There will be other areas that will be leased. This space is really attractive because there is anticipation of

a ropes course and horses. Renaissance Ranch would like to have a place where families can gather and positive things can happen. Commissioner Robinson asked when looking at other commercial areas is that Tooele County? Mr. Dixon stated that there is an existing clinic in Skull Valley, with outpatient and medical service performed there. Mr. Dixon stated that they do not want patients to be in a hospital setting for an extended period of time. Research shows that care of patients with different therapeutic elements in a friendly environment factor in to helping someone recover. That is the point of what Renaissance Ranch does.

Commissioner Montano stated that he had several questions. The application is for multi-family residential dwellings, but in reality, it is for a drug rehab. Commissioner Montano stated that he is struggling with what is being presented and what the Commissioners need to decide because he did not want to give an open envelope on what to do. He stated that the Commissioners need to look at the neighborhood and all the people that are there. There is a lot of negative about drug use. Until there is a more extensive plan and looking at what is in the packet, he sees multi-dwellings. Mr. Dixon stated that the school has about 25 classrooms. About five to seven of those will be group and educational locations. The majority will be turned into bedrooms, the large classrooms are 60 feet by 60 feet. This will be in compliance with Utah State Licensing. Nothing is being built or added, but the inside will be different. Commissioner Montano asked if there will be outbuildings? He stated that he thinks there needs to be more detail on what is going to happen to make a decision.

Chairman Graf stated that what is before the Planning Commission is a zoning change. The Planning Commission does not have a specific use to review. There is a school building and there is a request for a zoning change, but the Planning Commission is not voting on the use of the property, but addressing the zoning change. Chairman Graf addressed the Commissioners and reminded them that the vote is solely for the zoning change and not what the projected use is.

Commissioner Robinson stated that his only issue with that is that one of the conditions to be addressed in rendering a decision is the suitability of the uses proposed for that parcel. Chairman Graf stated that, that it is an issue of the decision, and the Commissioners can be concerned with what is in the packet. This is a zoning request and not a determination of the use of the property.

Mr. Bolser stated on the topic of the use itself, should the zoning be approved the uses that are being talked about would be a Conditional Use Permit in the zoning district. During review of the Conditional Use Permit there would be more specifics and a public hearing on the use itself.

Commissioner Sloan had a question for staff; taking into account the potential number of units with the change in the residential units allowed on the 9 acres; theoretically there could be somewhere between 40 and 45 units of R1-7 Residential units and potential 72 units of MR-8 Multi-Family Residential. Mr. Aagard stated that there is usually 20% of the property that goes to public streets and common area. The property would probably be closer to 55 units. Commissioner Sloan stated that are some quirks with this particular area as mentioned in comments. 400 North is pretty heavily travelled. 1st East and Utah Avenue have an offset intersection. In talking about the number of units whether 40 or 55 does staff see potential

issues with the difference in number of units. Mr. Aagard stated that he believed the streets could handle the additional traffic. If the Planning Commission would like to require a traffic study, they have the option to do so. Mr. Bolser stated that one additional note is that there is a specific use for the application and the use requires a MR-8 Multi-Family Residential zone. If that intended use should fall through, the City Council would have the option to revert back to the original zoning. The City Council has issued a policy regarding rezones to multi-family uses and there is some restriction on projects to do infrastructure studies. That would be significant to identify that the use identified during the evening will be the intended use for the property.

Commissioner Smart stated that it has been mentioned during the evening, if the use stated during the meeting is not done then the zone change will go back to the original zoning. If the zoning is changed tonight, it isn't a problem of how many people will fit on to the property per acre. The developers are going to use the existing building and if they don't use the existing building then it the property will be reverted to the original zoning. A lot of this talk, is for not.

Commissioner Sloan motion to forward a positive recommendation to the City Council for the Skull Valley Health Care Zoning Map Amendment Request by Sheila Urias, representing Skull Valley Health Care to reassign the subject properties to the MR-8 Multi-Family Residential zoning district, application number P19-338, based on the following findings listed in the Staff Report dated May 14, 2019. Commissioner Hamilton seconded the motion.

Chairman Graf asked Commissioner Sloan about the recommendation, does it require the use of the existing building? Commissioner Sloan asked Mr. Baker if the Planning Commission has the power to tell a property owner if they must use the existing infrastructure. Mr. Baker stated that he thinks the City Council could condition a MR-8 Multi-Family Residential rezone upon the reuse of the building. If that representation was changed, then the City Council could revert the zoning back to the R1-7. Commissioner Sloan stated that with that he amends the motion to include that. Commissioner Hamilton amended his second motion.

Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Skull Valley Health Care Zoning Map Amendment Request by Sheila Urias, representing Skull Valley Health Care to reassign the subject properties to the MR-8 Multi-Family Residential zoning district, application number P19-338, based on the findings listed in the Staff Report dated May 14, 2019 and based on the use of using the existing building on the subject properties as infrastructure for the project. Commissioner Hamilton seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Nay," Commissioner Robinson, "Nay," Commissioner Montano, "Nay," Chairman Graf, "Nay." The motion does not pass and a negative recommendation will go to the City Council.

Commissioner Sloan stated that he wanted to explain how he was voting. He wants to see what is proposed. He stated that he heard a lot of things from the public and he has a hard time agreeing with some of them. He is concerned about traffic, but not as concerned about increased drug activity.

Commissioner Bevan stated she would like to make a statement for her vote. She voted against the rezone, but has nothing against the building currently on the property. She doesn't think that changing the zoning from a R1-7 to a MR-8 is consistent with the intent and goals of the City's Master Plan. She would rather see it being done in an area that is already zoned that way.

Commissioner Robinson stated he vote against the rezone for the same reasons outlined by Commissioner Bevan. He stated that he doesn't like how the rezone feels with the Master Plan and with the surrounding R1-7 properties.

Commissioner Montano stated that he voted no for the same reasons as previously stated.

Chairman Graf stated that his concerns about the application is that he is accustomed for zoning changes to have more information in the packet defining the potential use. He understands that the decision for rezoning is not based on the use of the property, but the potential use helps determine if the rezone is appropriate for the neighborhood. Chairman Graf stated that he thinks in this particular packet of information, he does not have enough information to say that it meets of the conditions that the Planning Commission must address when reviewing rezone applications. Chairman Graf stated he was voting no.

Mr. Bolser stated for the benefit of the public this is the not final decision. It still has to be heard and decided upon by the City Council. There will be a public hearing for that as well the City Council will be provided with the information from this meeting including, minutes, Staff Report, and recommendations. There will not be mailed notifications for that meeting. It is only required to provide written notifications on the first public hearing that is heard. It is anticipated that it will be heard by the City Council in two weeks from tonight, but that agenda has not been finalized. Please refer to the City's website to get notifications of all agendas.

4. **Public Hearing and Decision on a Conditional Use Permit to allow for additional height on a new accessory garage building located at 811 South Coleman Street by H&H Builders, Inc. in the R1-7 Residential zoning district on approximately 1.5 acres**

Presented by Andrew Aagard

Mr. Aagard the property is located east of Coleman Street and north of 900 South, immediately west of Aspen Mobile Home Park. An aerial photograph was shown on the screen. The subject property is zoned R1-7 Residential, as are all of the surrounding properties. Tooele City Code prohibits accessory structures from being taller than 15 feet as measured at the midpoint of roof pitch. However, the code does permit structures taller than 15 feet with Planning Commission approved Conditional Use Permit. The applicant is requesting a Conditional Use Permit to construct an accessory structure that will be 20 feet 4 inches tall. The property itself is large with plenty of space. The staff is not anticipating the building to be obtrusive or out of character in the neighborhood. Staff recommends the Conditional Use Permit be approved with the height of 20 feet 6 inches to facilitate any unforeseen anomalies of the property. This is a public hearing and the item was noticed, not comments were received from the public.

Chairman Graf opened the public hearing.

Mr. Victor Hammond stepped forward to address the Planning Commission. Mr. Hammond is the owner of the property. Mr. Hammond stated that the building is tall and will house a motorhome. The building is tall, but the house peak is 35 feet. The garage will be slightly taller than a typical garage. It will be color matched to the house. The neighbors did stop by and ask about what an accessory building is and if it sells accessories, but they explained it was for personal use and storage.

Chairman Graf closed the public hearing.

Chairman Graf asked the Commission if they had any questions of comments.

Commissioner Robinson motioned to approve the Conditional Use Permit Request by Victor Hammond, representing H&H Builders, Inc. for the increased building height for a detached accessory garage, application number P19-292, based on the findings and subject to the conditions listed in the Staff Report dated May 13, 2019. Commissioner Montano seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passes.

5. Recommendation on a Preliminary Plan Subdivision for Copper Canyon Phases 7-14 by Bach Land & Development, located at approximately 350 West Tooele Boulevard in the R1-7 PUD Residential zoning district for the purpose of creating 249 single-family residential lots.

Presented by Andrew Aagard

Mr. Aagard stated that the property is located south of 1000 North in the Union Pacific corridor and west of 200 West Street. The property is currently zoned R1-7 Residential, as are the properties to the north and southeast. Properties to the northeast are multi-family residential and properties to the south are MR-8, Multi-Family Residential. There is a hodgepodge of zoning in the area. The applicant is proposing to subdivide the 60-acre property into 249 single family residential lots. There will also be a park and some open space. This preliminary plan completes the Copper Canyon Development in regards to preliminary approvals. Each lot in the preliminary plan has been reviewed and is in compliance with development standards of the Copper Canyon PUD and R1-7 Residential design code regarding lot width, lot size, and frontages. This is a preliminary plan and the project will be built out in phases. Each phase will require a final plat subdivision review prior to construction. There will be a central trail system which will eventually connect the existing park to a new 2.5 acre park that will be located in phase 14. The parks and open spaces will be constructed by the developer and then turned over to Tooele City for maintenance. Each phase will construct a portion of the open space and will be required to submit a landscape plan to ensure it meets the requirements of the agreement and meets Tooele City parks approval. There is a need for a ten-foot easement located in the rear of the lots located in phase 7 through 12 along the southeast boundary of the subdivision. The easement ensures that Tooele City will have access to an existing sewer trunk line. The preliminary plan as proposed meets the requirements as set forth by the Tooele City ordinances and staff is recommending approval with the conditions listed in the Staff Report.

Chairman Graf asked the Commission if they had any questions of comments, there were none.

Commissioner Bevan motioned to forward a positive recommendation to the City Council for the Copper Canyon Phases 7-14 Preliminary Plan request by Brian Carlisle, representing Bach Land & Development, LLC for the purpose of creating 249 single family residential lots, application number P18-426, based on the findings and subject to the conditions listed in the Staff Report dated May 14, 2019. Commissioner Robinson seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passes.

6. Recommendation on a Minor Subdivision for Strawberry Water Subdivision by Invictus Title, located at 2371 North 400 East in the GC General Commercial zoning district for the purpose of subdividing one commercial lot into two lots.

Presented by Andrew Aagard

Mr. Aagard, stated that the property is the Popeyes Chicken property located south of 2400 North and just east of SR 36. Half the property is vacant. The intent is to subdivide the property so that the southern half of the property can be developed. The property is zoned general commercial, as are the properties to the north, south, and west. There is some light industrial zoning to the east. The applicant is proposing to split the 1.56 acre lot into two lots. Lot A will retain the chicken business and lot B will be up for development. Each lot meets or exceeds development standards as required by the general commercial zoning district for lot size, lot width, etc. There will be a 20-foot ingress egress easement on the subdivision plat in favor of lot A. Staff is recommending approval of the minor subdivision approval with the basic housekeeping items.

Chairman Graf asked the Commission if they had any questions of comments, there were none.

Commissioner Hammer motioned to forward a positive recommendation to the City Council for the Strawberry Water Minor Subdivision Request by Brian Bird, representing Invictus Title for the purpose of creating two lots at 2371 N 400 E, application number P18-869, based on the findings and subject to the conditions listed in the Staff Report dated May 13, 2019. Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passes.

7. Recommendation on a Preliminary Plan Subdivision for Buffalo Pass by Land Development LLC, located at 150 West 600 North in the R1-7 Residential zoning district for the purpose of creating 6 single-family residential lots.

Presented by Andrew Aagard

Mr. Aagard stated that the application proposes to subdivide property located north of 600 North and west of 150 West. The zoning of the property is R1-7 residential, as are the properties to the east, west and south. There is some MR-8 Multi-Family Residential to the north. This is a preliminary plan proposal to subdivide an existing one-acre lot into six single family residential lots. The lots range in size from 7,600 square feet up to 8,600 square feet. Each lot in the subdivision conforms with the minimum lot standards as required by the R1-7 Residential zone for lot size, lot width, and frontages. Currently 150 West is an unimproved road the terminates into 670 North. The developer will be installing sidewalk, park strip, curb and gutter and 30 feet of asphalt on the west side. The remaining road improvements to the east will be performed by the by the eastern property when or if that property develops. The developer will also be developing 20 feet of asphalt between the existing 670 North right-of-way and the northern terminus of the subdivision. The preliminary plan as proposed conforms to all applicable codes and development standards as required by Tooele City ordinances. Staff is recommending approval with the basic housekeeping items listed in the Staff Report.

Chairman Graf asked the Commission if they had any questions of comments, there were none.

Commissioner Hamilton motioned to forward a positive recommendation to the City Council for the Buffalo Pass Preliminary Plan request by Adam Nash, representing Land Development LLC for the purpose of creating 6 new single-family lots, application number P18-672, based on the findings and conditions listed in the Staff Report dated May 15, 2019. Commissioner Sloan seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passes.

8. Recommendation on a Preliminary Plan Subdivision for the Buffalo Ridge by Land Development LLC, located at 204 West 600 North in the R1-7 Residential zoning district for the purpose of creating 6 single -family residential lots.

Presented by Andrew Aagard

Mr. Aagard, stated that the application is almost identical to the one just presented. The Buffalo Ridge preliminary plan is proposed for one acre of land west of 200 West and north of 600 North. The property is also zoned R1-7 Residential. There is some MR-8 Multi-Family Residential to the north and some open space to the south. The applicant is proposing to subdivide the one-acre parcel into six single family lots of similar size to the Buffalo Pass subdivision. Each lot meets or exceeds all the lot standards for the lot development. Currently 200 West has asphalt but is largely incomplete. The developer for Buffalo Ridge will be installing sidewalk, park strip, curb and gutter and asphalt up to the current asphalt. The remaining improvement on the eastern side of 200 West will be installed when that property develops. Similar to Buffalo Pass staff is recommending approval with the conditions listed in the Staff report.

Chairman Graf asked the Commission if there were any questions and comments.

Commissioner Hamilton stated he was concerned about the pavement on 200 West, it is a little narrow right there. The developer will be extending it to the existing pavement or will they widen it out to where the road is? Mr. Aagard stated that they will extend it to the curb and gutter to the existing asphalt. There is 25 feet there and they will add asphalt up to the curb and gutter.

Commissioner Robinson moved to forward a positive recommendation to the City Council for the Buffalo Ridge Preliminary Plan Subdivision Request by Adam Nash, representing Land Development LLC, for the purpose of creating six new single family residential lots, application number P18-673, based on the findings and subject to the conditions listed in the Staff Report dated May 15, 2019. Commissioner Hammer seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passed.

Mr. Nash thanked the City for their organization and professionalism.

9. Public Hearing and Recommendation on Ordinance 2019-13, ordinance of the Tooele City Council proposing the adoption of Chapter 7-14a of the Tooele City Code regarding Accessory Dwelling Units.

Presented by Roger Baker

Mr. Baker stated that tonight is the culmination of nine months of work. Mr. Baker recognized that he was presenting it to the Planning Commission for the first time. There is a concept in Utah being called the housing gap. The housing gap has been a concern for the state legislature and at the top of their agenda for two years. The housing gap simply means the gap between the number of available housing units available for purchase or rent and the number of families that want to purchase or rent them. The research from the University of Utah indicates that there are between 40,000 and 50,000 more families than there are housing units for them in the State of Utah. That is a serious concern. One of things the housing gap is doing is driving the price of homes through the roof and the price of rentals as well to the point that they are no longer affordable. It is driving young people from the state because they cannot afford housing. This is by no means only a Utah issue but it is acutely a Utah issue. Policy makers at the state level and in Tooele City have been exploring tools that can be used to help bridge the gap, make more dwelling units available. But also check the rapid increase in housing purchase prices and rents and how to keep housing affordable for the people who need them. Some people have the opinion that the housing gap is the influx of people from other states. There is some of that, but the research shows that it is only about 20% of the pressure on the supply of housing. The remaining 80% of the population that wants housing and cannot find it is from Utah. It is most acutely felt by younger people, but it is not only younger people who feel the issue.

Mr. Baker stated a frequent strategy to combat the housing gap is to simply zone everything high density residential and build 30 plus units to the acre. Just because you can build many units does not mean that those units can be afforded. There are a lot of variables like land cost, rising construction costs, and market demand. If the demand is there, the developer will price it

where the demand is. Home prices and apartment rents are priced not at what can be afforded, but at what the market will pay. Besides that, the concern in Tooele is not just to build structures, but to build community. A strategy that is showing a lot of promise and excitement is the concept of an accessory dwelling unit.

Mr. Baker stated that accessory dwelling units are frightening to many people. Many cities prohibit them. Mr. Aagard explained that an Accessory Dwelling Unit, ADU can come in all shapes and sizes. There are internal ADU's which are basement apartments or apartments in the attic. There are attached dwelling units where a owner's is expanding the footprint of the home, commonly known as mother-in-law apartments. Then there are detached ADU's, where you would construct a smaller home on the same property. Mr. Aagard showed some pictures demonstrating what ADU's can look like. Mr. Aagard showed a slide on the screen demonstrating how a lot in Tooele City's code standards would work with an ADU. The example demonstrated a lot size of 7,000 square feet, the minimum for the R1-7 Residential zone, with setbacks and parking. An ADU can work on a lot as small as 7,000 square feet, if the circumstances are right with the existing home. As lots get larger there is more space with ADU.

Mr. Baker stated that the Planning Commission had in their packet the draft ordinance describing the housing gap, what an ADU is, and a list of 20 benefits that can be realized the allowability of ADU's. Mr. Baker stated that he thinks that it is really important to understand why this can be good for the community. It is land use policy and those policy's should work and serve a purpose. Mr. Baker stated that he wanted to point out a few of the benefits listed in the ordinance. Sometimes an ADU is considered objectionable to a neighborhood, but he is proposing that they should be welcomed in a neighborhood. The most obvious benefit is the ability to rent an ADU and it creates an income stream for the property owner. There are many property owners who wouldn't mind having a secondary income stream. That secondary income stream can be vital at any stage of the property owner's life. Mr. Baker gave the example of an older couple who owns a house and doesn't want to maintain the property. The choice currently is to move or live with it. With an ADU it is entirely feasible to live in an ADU and rent out the primary home who will pay and cover costs. It goes to aging in place, where an owner is not forced to move because they have grown out of a life stage.

Mr. Baker stated that some people worry that the ADU's will detract from property values. Mr. Baker stated that in fact it is the opposite, they enhance property values because there is added square footage that is appraised and capable of generating income. There are neighborhood benefits as well. Mr. Baker stated in a single-family neighborhood and someone wants to build a 25 unit per acre multi-family dwelling. The neighbors have objections and fear as demonstrated in previous meetings of the Planning Commission. An ADU gives an opportunity for gently density or gentle infill. Taking the large unit and dividing it up throughout the neighborhood. There are societal benefits to the tenant and the neighbor for having these.

Mr. Baker stated that he wanted to review the three-page ordinance proposing to allow ADU's in Tooele City. He stated that he will not go through every section of the proposed ordinance but will review some items that may be of interest to the Planning Commission. The proposal is proposing that the ADU's be allowed in all of the single family zoning districts and none of the multi-family zoning districts. Even though that it has been demonstrated that it can work on a

7,000 square foot lot, the proposal proposes a minimum lot size of 8,500 square feet for a detached ADU. This gives a little more room, but will also ease the fears of some. For a basement apartment since there is no additional footprint a 7,000 square footage would be adequate. The proposal for ADU's does include a minimum size and maximum sizes to ensure that it is a livable space, but not a second primary dwelling. In section 11 it outlines that the ADU's be no smaller than 400 square feet for internal and attached and no smaller than 800 square foot for detached. The proposal for maximum is 1,200 square feet for attached and detached. There is no maximum dwelling size for a basement apartment because it is determined by the foundation. Height is an important issue and suggesting that it be governed by the zoning district and the height of the primary dwelling, which ever is less. If the zoning district allows for a 30-foot-tall house and the house is 20 feet high than the 20 feet is the maximum height for the ADU. It cannot be taller than the main house.

Mr. Baker stated that parking is one of the biggest concerns of the neighbors and it has been a concern of the City Council. In listening to the concerns, the proposal is a simple formula. One bedroom, one parking stall, two bedrooms, two additional parking stalls. An ADU cannot have more than two bedrooms. It is not the ideal formula, but it is the best recommendation the city feels.

Mr. Baker wanted to mention impact fees, water rights, storm water fees, and other associated fees. There is no perfect balance or perfect answer. The proposal has attempted to balance the affordability of an ADU with cost of the impact to the City. The general tax payer should not have to subsidize the ADU's. The proposal suggests in relation to impact fees be half of those for the primary dwelling. Primarily because the units are smaller, partly because they will not be watering the grass. The main policy is to incentivize the affordability of the unit without creating a high cost to the City. With regards to water right, water rights have already been provided to the property, so there is no suggestion of additional water rights for the property. There will be a few more people living on the property, but there is no way to individualize a fee based on the occupancy of the home. With regards to the street light utility fee and the storm drain utility fee, they have already been paid by the property owner, so there will be no additional requirement.

Mr. Baker stated that he and Mr. Aagard studied ten ordinances from other City's in preparation of this ordinance. They were not selected at random or based on similar size or population, they were selected because they were put up as models to be looked at in trainings they attended. Many of those ordinances were much more restricted and Mr. Baker stated he believed unnecessarily restrictive. For example, those ordinances require that an ADU obtain a business license, be registered with the City as a special application of ADU, and pay fees for both. The City does not require a homeowner to register as a home or get a business license. This is another dwelling, not a business, and not a threat that needs to be registered in a book. The proposal is suggesting that when a building permit is obtained for the ADU, there be a notation that it is for an ADU to track how many are being built. The City does not want to create regulatory hurdles. Many ordinances require that a deed restriction be recorded against the lot to require only property owners or their immediate family members live any dwelling on the property. It serves no purpose. Mr. Baker stated that the staff put in at the beginning of the ordinance the purpose of the policy and the purpose of the policy is intended for property

ownership to rent one of the units to someone. That is what the City wants to create and incentivize. The City does not want to have an ownership policy.

Mr. Baker stated that it was a pleasure to bring this to the Planning Commission and hope that it will help all people in the community. It is not intended to create low to moderate income housing. This is to create housing that people can afford.

Chairman Graf asked the Commission if they had any comments or questions.

Commissioner Hammer stated that she thinks that this is a great concept. That being said, her neighbors directly across the street have working cars that they use. Two are in the driveway and three are in the street. In Looking at the impact that an ADU would have on their property would put on the neighborhood with two additional cars. Where do all these cars go? What are some other ideas that other communities had on parking, restrictions? Mr. Baker stated that it is impractical to forbid on street parking. The street is there, it is public and it will be parked on. Unfortunately, not every property owner is a model property owner and he can't resolve those. Commissioner Hammer asked how would this be regulated? Mr. Baker stated that there wouldn't be any regulation. Some people have more vehicles than parking spaces. Commissioner Hammer asked if it was a condition of the rental that they couldn't have more than two vehicles? Mr. Baker stated that a property owner could put more parking on their lot if they can accommodate it. What is in the proposal is a minimum. Commissioner Sloan stated that in the proposal parking is not allowed within the setbacks in the front or the side yard. Mr. Baker stated that there is no parking on the front lawn. Commissioner Sloan stated that there has to be an actual parking spot.

Chairman Graf asked about the detached ADU is the square foot limitation from the ground up or on the off chance they build a basement? How is that addressed or is it addressed? Mr. Baker stated that it is the footprint of the building, but it is limited to two bedrooms. Most people probably wouldn't pay for a three story ADU. The limitation on bedrooms is intended to be a limitation on the market and construction. Chairman Graf stated that this is a good addition and a creative way to address the problem that the Planning Commission sees every meeting and where do people go and what's affordable. He thanked the staff for their hard work.

Commissioner Sloan stated that he has been working on the housing gap from the state perspective for about the same amount of time. This is one of the outside the box parts of the a much larger puzzle. Something must be done. Commissioner Sloan stated that from his standpoint it is brilliant. A typical duplex will have two tenants in and usually neither has the incentive beyond possession to maintain the property. On the other hand, this has the homeowner onsite. These historically look like the slides that were presented earlier on the screen. They look beautiful because it benefits the property owner, it benefits the neighborhood. Commissioner Sloan stated that he is really excited about this and he thinks this is a great step.

Mr. Baker asked Commissioner Sloan if he has reviewed other city's in his studies in terms of how restrictive or permissive, they are? Commissioner Sloan stated that most have been more

restrictive that he in ways of property rights activist doesn't care for. Commissioner Sloan stated that outside of a meth lab in your house, your house is your house. A property owner has the right to quiet enjoyment and the right to do with it what they desire. Unless there is an adverse impact to the neighborhood there really shouldn't be regulation or restriction. This policy is achievable and doesn't put an owner's burden on the neighborhood. It doesn't put the owner's regulatory burden on the government to track. The City's code enforcement has enough to do and this will not add to their work. In some cases, this will lighten the burden for those who need it the most. Commissioner Sloan mentioned that he has six children. Four of them own homes in Tooele County, one is in Texas and one cannot afford to buy a house in Tooele with a great job. Commissioner Sloan stated the reality is that on his property he has the advantage of this because he has a full basement that is not being used. The aging in place becomes more attractive. There is very little downside to what this is doing and frankly he applauds the change. It has been a joy to go the Housing Gap Coalition at the Chamber for the last six months and he looks at the list of City's that are in danger of having legislature restrictions. Commissioner Sloan stated that Tooele City is starting to lead out on these things. Commissioner Sloan stated that there has been arguing about affordable housing and the need for it in the City. The City is doing things proactively.

Mr. Baker stated that this ordinance addresses more topics than any other ordinances that he has seen in the state. It addresses them simply without imposing unnecessary owner's regulations, while at the same time protecting the City's interest.

Commissioner Montano stated that he would like to make a comment. He read this ordinance and had to read it again because he looked at the water rights, impact fees, where everything is reduced and he couldn't find much more ways that the City can encourage this. It is all 100% workable. Commissioner Montano stated that he thinks this is fabulous and unbelievable.

Commissioner Bevan stated that she has a daughter living in an attic in Provo and this makes it affordable.

Commissioner Hamilton stated that his childhood home had an apartment in the basement. It was affordable and easy. He encourages this completely.

Commissioner Sloan stated that there has been the conversation of where the kids will go. Everything is a step in life and this is step. There are people of fixed incomes that don't have the ability to keep paying increasing property taxes and they are forced to relocate. Then there is the issue of replacing property that is affordable and that is difficult. This gives people an option of moving into the ADU. Rental rates in this county are astronomical. It takes care of the mortgage or property taxes.

Chairman Graf opened the public hearing.

Ms. Laney Riegal stated that she is very excited for the ADU and she plans to exercise and take full advantage of this ordinance. She stated that hers will probably be an ultra-modern garage with an accessory dwelling on top. She did ask if a property owner can still go for a Conditional Use Permit for a garage and then an ADU on top? That will most likely be taller than the current

home. With Conditional Use Permit a property owner should be able to do that. Secondly is there going to be a higher taxable rate than there is from a garage or shed structure. If a property owner is generating an income from something that is just supposed to be a residence, wouldn't the property owner need to pay more? Is the City going to tax people for the square footage of the living space of the ADU? Ms. Riegal stated that there is a tax for the primary square footage would that same rate apply for the ADU or would it be at the rate of the garage?

Mr. Baker stated that he researched that issue and that he assumed that it would be taxed at the living space rate. Commissioner Sloan stated that she is focusing on how the notice is broken down. A property owner is taxed on the split of the value. The tax is broken out on land and living space but the total tax is the same. At the end of the day the tax is on the value of the parcel. The living space will be taxed the same way as living space, but that is a guess. Ms. Riegal stated that she is happy about this. The 8,500 square feet of a lot is equivalent of .195 of a lot and not a very big lot. She asked the Planning Commission to imagine the lots that would qualify for an ADU, lots off 1000 North, Loma Vista, East Bench and a number of them in Overlake. If the City were to tell all those people who purchased a home in a single-family development that they can now rent out their basement there may be some backlash. How can the City change something that was already purchased in a single family neighborhood? Now saying that a mother-in-law unit can be rented there may be some people opposing the policy.

Commissioner Hamilton commented that when a property owner is renting a space on their property, they will be really careful who it is rented too. That is an easy way to combat that.

Commissioner Sloan stated that even with the 8,500 square feet some of the homes may not be conducive to a unit, there still needs to parking.

Mr. Baker stated that one of the objectives of the ordinance is to recognize that illegal basement apartments are everywhere. This is a way to legitimize it and make it legal and make it safe. A building permit will be required for new ones. This ordinance is a balancing act, as is every public policy. Every public policy will offend people on the right of it and on the left of it. The best the staff can do is present a professional policy to the policy recommending group and the policy makers and invite them to make the best policy they can for the community. At least it will be a level playing field. The neighbor that is complaining about a property owner having an ADU also gets to have an ADU. Mr. Baker stated that one thing he did not touch on is lot coverage limitations. Every lot in the City now can have a maximum percentage of that lot covered with buildings, house, shed. That rule will stay the same. An accessory dwelling unit will be adding to the lot coverage, but will still need to come under that cap. If there is a small lot with a huge house, they will not get an ADU because there is no room. From that point of view the policy will self regulate.

Mr. Baker wanted to address Conditional Use Permits very briefly, from the City perspective it is a bad idea. Many City's require Conditional Use Permits, but imagine what that does. This is a new policy and is not well understood. It will take time for people to live with it and see the benefits. If a property owner is the first person in the neighborhood to take advantage of it, then that owner will stand in this room and confront all of their neighbors. Mr. Baker stated that in his opinion that is extremely divisive, negative and poor public policy. This policy is

preloaded with conditions so that there are not neighbors attacking neighbors over what conditions can be. The City has preloaded all the conditions that will spare neighborhoods the divisiveness of neighbors saying not in my backyard.

Commissioner Hammer asked about the CC&R's in Overlake state that a property owner cannot rent out to non-family members. How would that be affected? Mr. Baker stated that the City does not trump a CC&R. They are a contract negotiated between the property owners and the property owners buy into that. That was established by the developer. That contract is binding on the property unless it is amended by the parties to the contract. The City cannot affect the private contracts.

Chairman Graf closed the public hearing.

Chairman Graf asked about the legality, is an ADU considered a separate residence? Mr. Baker stated that yes, but not a separate property. This ordinance specifically prohibits an assessor unit being subdivided from the primary unit. Chairman Graf stated the reason for his question is that a cohabitant for domestic violence states that the parties reside in the same residence, so would an ADU be considered the same residence? Mr. Baker stated no it is a separate residence on the same property.

Commissioner Montano stated that the ordinance lists the address requirements to make the ADU a B residence on the property.

Chairman Graf asked the Commission if there were any final comments or questions, there were none.

Commissioner Sloan moved to forward with a positive recommendation to the City Council Ordinance 2019-13, an ordinance of Tooele City Council proposing the portion of Tooele City code regarding accessory dwelling units. Commissioner Bevan seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano, "Aye," Chairman Graf, "Aye." The motion passed.

10. Review and Approval of Planning Commission minutes for meeting held May 8, 2019.

Commissioner Sloan wanted to clarify two items. Under item 3, he made a comment about his vote and he would like to strike the last sentence due to it already being included. He also wanted to make a comment about Commissioner Montano's comments. "There was a difficult situation, but the Planning Commission has let out 600 permits for homes." To make it clear the Planning Commission does not issue building permits, but approved subdivisions for 600 permits.

Commissioner Hammer stated there was a name missing in Item 3. Mr. Johnson should have been placed there.

Mr. Bolser stated that under the title the date is incorrect.

Commissioner Bevan stated that her name was misspelled, in a couple of places.

Commissioner Hammer moved to approve minutes from the meeting held on May 8, 2019, with the requested changes. Chairman Bevan seconded the motion. The vote as follows: Commissioner Hamilton, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Montano "aye," Chairman Graf, "Aye." The motion passed.

11. **Adjourn**

Commissioner Hammer move to adjourn the meeting. The meeting adjourned at 9:17p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Approved this 12th day of June, 2019

Tony Graf, Chairman, Tooele City Planning Commission



