

**TOOELE CITY PLANNING COMMISSION MINUTES**  
**February 13, 2013**

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

**Commission Members Present:**

Matt Robinson, Chair  
John Curwen  
Chris Sloan  
Melanie Hammer  
Steve Dale  
Tom Poyner

**Commission Member Excused:**

Phil Montano

**City Employees Present:**

Rachelle Custer, City Planner  
Roger Baker, City Attorney  
Paul Hansen, City Engineer  
Jim Bolser, Community Development and Public Works Director  
Councilman Brad Pratt  
Councilwoman Winn

Minutes prepared by Elisa Jenkins

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

1. **Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Hammer.

2. **Roll Call**

John Curwen, Present  
Matt Robinson, Present  
Phil Montano, Excused  
Chris Sloan, Present  
Steve Dale, Present  
Melanie Hammer, Present  
Tom Poyner, Present

3. **The Cove at Overlake site plan extension extending the site plan approval for a period of eight months to expire on October 31, 2013.**

Ms. Custer informed the Commission that Sheldon Birch has resigned as a member of the Planning Commission. She thanked him for his service.

Ms. Custer said that on October 13, 2009 an agreement was reached with Castlewood Development in regards to Lots 602 & 603 of the Overlake Estates Phase 1G subdivision for the development of 132 high density residential units. The site plan was approved on March 2, 2011. A one year extension was granted on February 8, 2012. The developer has been working with HUD on establishing funding and has been unsuccessful. The developer has decided to go with conventional funding which has delayed the project. He has requested an eight month extension with some date deadlines that are included in the literature that the Commission has. Staff is recommending an eight month extension with the following conditions:

1. One eight month extension to expire on October 31, 2013.
2. No more extensions will be granted.
3. Extension approval be conditioned upon the City Council approving an amendment to the existing settlement agreement for the 8-month extension. It is anticipated that the amendment will be presented to the City Council on February 20, 2013.

Chairman Robinson called for questions and comments from the Commission.

Commissioner Hammer asked when it changed from a request from a one year extension to an eight month extension.

Ms. Custer said that the original agreement stated that the City would grant a one year extension if they asked for it, which they did. They are now asking for an eight month extension. The City has granted one, one year extension.

Melanie Hammer recalled this being discussed in the Planning Commission meeting on February 8, 2012. She said that in that meeting she had asked if the developer can ask for an additional one year extension or if that one would be the last. She stated that in the minutes of that meeting Mr. Baker stated that "the agreement states that they get one, one year extension". She said that in the staff recommendations of this extension it says no more extensions will be granted, which she thought is what it stated the last time. She asked if this will really be the last extension.

Ms. Custer said that the one, one year extension was in the development agreement. This is why the development agreement will need to be amended by City Council. This is also the reason why staff is recommending that this be the last extension, that way they cannot come back and ask for another one. She stated that if the Planning Commission does not grant an extension, the developer has to re-submit the site plan application for approval.

Commissioner Dale noted that then the process would start over.

Ms. Custer stated that it starts the site plan approval process again but if they do not change any of the drawings it would be a fairly simple process.

Commissioner Poyner noted that there are some water rights tied into the agreement.

Ms. Custer stated that is part of the development agreement not the site plan.

Commissioner Poyner asked if the extension is not granted if the water issue would have to be readdressed.

Ms. Custer said that the water issue is addressed in the development agreement. The site plan only approves the site design and the layout of the building. If the Planning Commission does not approve an extension, the developer would have to submit a new application and fees to go through the review process again. It does not have any bearing on the development agreement.

Commissioner Dale asked if they do not build the units if the development agreement would still be in effect.

Ms. Custer said that the development agreement has some provisions as to when it would expire. It states in the proposed amendments to the development agreement that if any of the dates are missed they would lose their benefits.

Commissioner Dale noted that the development agreement is not in effect forever.

Ms. Custer said yes, at some point it would go away if it does not get constructed.

Mr. Baker commented on Commissioner Hammer's question. He said that what is stated in the minutes on February 8, 2012, is correct. The settlement agreement has development provisions and only one extension is allowed. Additional extensions may only be granted by amending the development agreement which will be taken to the City Council next week. Their amendment of the settlement agreement would be meaningless if the Planning Commission did not approve an extension of the site plan. The other side is if the Planning Commission grants the approval of a site plan extension and the Council does not agree to amend the development agreement it would be futile. It will take both bodies working together to make this happen. He said that the City is willing to entertain this extension only if the City gets something back. They wanted more certainty to the development of this project. The dates have been incorporated into an amendment, if the project doesn't achieve the deadlines the site project will expire as well as the benefits under the settlement agreement. The owner could resubmit the site plan application which they could obtain approval for that application under the City's normal land use ordinances without an exemption to the water rights requirement.

Commissioner Sloan asked if it is the Planning Commission's job to only deal with the site plan extension.

Mr. Baker said that it is. He said that the underlying policy issues are similar if not the same. One of the questions should be is if there is a benefit to the City to granting this extension and what is the benefit? A benefit could include the investment in the community of additional

construction, and additional housing. He said that it is very useful for staff and the developer to know what must happen by the dates and what the consequence will be if they do not happen.

Commissioner Hammer asked what the date is for the lien occupancy.

Mr. Baker said that the staff agreed with Mr. Rasmussen that occupancy is difficult to predict and that is not what the staff is most concerned about. They are concerned about getting the project built. They established an additional date in which all of the buildings must be completed by, which if he remembers right, is December 31, 2017. The City can hold a deadline for the construction of building. He noted that the site plan is only extended for eight months, and he said that if one or more buildings are not completed by the December 31, 2017 date they would not get any more benefits under the settlement agreement and they would have to comply with all City ordinances.

Commissioner Dale understands that the buildings need to be completed by December 2017. He feels that there is a conflict with the completion of private site improvement of November 30, 2013. He thinks that it would be difficult to complete the private site improvements because they attach or connect to the buildings. He asked if it is further defined somewhere as to what those improvements are.

Mr. Baker said they have attempted to draft around every contingency. He said that that deadline would apply to the onsite landscaping and sidewalks even if they have to leave a hole in the middle where the building would go up. He told Mr. Rasmussen if they need to finesse that in the amendment a little bit he would be open to suggestions.

Mr. Rasmussen, 6740 S 1300 East, Salt Lake City addressed the Commission. He said that he thought the site improvements would be underground utilities. He said that they do not typically landscape until the building is complete. He said that the dates of completion were their suggestion and he feels that they can deal with the dates that are set. He would like to talk with Mr. Baker about the improvements.

Commissioner Dale said it would be difficult but nice to see some landscaping completed instead of an empty lot.

Chairman Robinson asked Mr. Baker if the improvements are addressed with the site plan that they are approving.

Mr. Baker said that the deadline dates for the completion of various items are in the amended settlement agreement for the Council to consider. The Planning Commission needs to look at the overall approval of the whole project.

Mr. Rasmussen said the site plan has not changed since the Planning Commission approved it last year. He said that he can work out the details with Mr. Baker; their biggest concern is the water continues with this project. They are motivated by that and to get the project built as quickly as possible.

Commissioner Dale thought that some perimeter landscaping and street lighting should be completed by November 30, 2013.

Mr. Baker said that the above ground improvements will be completed with the various buildings as the project is completed. He said that they shouldn't have any problems deciding what the site improvements are.

**Commissioner Sloan moved to approve the request from Castlewood Development for an eight month extension on site plan approval for the Cove at Overlake with the following conditions:**

- 1. One eight month extension to expire on October 31, 2013.**
- 2. No more extensions will be granted.**
- 3. Extension approval be conditioned upon the City Council approving an amendment to the existing settlement agreement for the 8-month extension. It is anticipated that the amendment will be presented to the City Council on February 20, 2013.**
- 4. The agreement of the definitions of the completion of private site improvements.**

Commissioner Dale seconded the motion. The vote was as follows: Commissioner Curwen, "Aye", Commissioner Sloan, "Aye", Commissioner Hammer, "Aye", Commissioner Dale, "Aye", Commissioner Poyner, "Aye", and Chairman Robinson, "Aye".

- 4. Review and Approval of Planning Commission minutes from meeting held January 23, 2013.**

**Commissioner Hammer moved to approve the minutes for January 23, 2013 as presented.**

Chairman Robinson seconded the motion. The vote was as follows: Commissioner Curwen, "Aye", Commissioner Sloan, "Aye", Commissioner Hammer, "Aye", Commissioner Dale, "Aye", Commissioner Poyner, "Aye", and Chairman Robinson, "Aye".

- 5. Adjourn**

**Commissioner Dale moved to adjourn the meeting.** Commissioner Curwen seconded the motion. The vote was as follows: Commissioner Curwen, "Aye", Commissioner Sloan, "Aye", Commissioner Hammer, "Aye", Commissioner Dale, "Aye", Commissioner Poyner, "Aye", and Chairman Robinson, "Aye". The meeting adjourned at 7:19 p.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 27<sup>th</sup> day of February 2013

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Chairman Matt Robinson