

## TOOELE CITY PLANNING COMMISSION MINUTES

**Date:** Wednesday, February 10, 2021

**Time:** 7:00pm

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

### **Commission Members Present:**

Tyson Hamilton  
Shauna Bevan  
Nathan Thomas  
Dave McCall  
Melanie Hammer  
Chris Sloan  
Paul Smith  
Matt Robinson  
Weston Jensen

### **City Employees Present:**

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

### **Council Members Present:**

Council Member Ed Hansen  
Council Member Maresa Manzione

### **Council Member Excused:**

Minutes prepared by Kelly Odermott

Chairman Hamilton called the meeting to order at 7:00 pm.

#### **1. Pledge of Allegiance**

The Pledge of Allegiance was led by Chairman Hamilton.

#### **2. Roll Call**

Tyson Hamilton, Present  
Shauna Bevan, Present  
Matt Robinson, Present  
Nathan Thomas, Present  
Dave McCall, Present  
Melanie Hammer, Present  
Chris Sloan, Present

3. **Public Hearing and Recommendation on a Land Use Map Amendment Request by Hawthorn House Investments, LLC to Reassign the Land Use Designation for Approximately 7.36 Acres Located at 602 & 603 West Three O'clock from Medium Density Residential to High Density Residential.**

Presented by Andrew Aagard

Mr. Aagard stated this application pertains to two parcels located north and south of 3 O'clock drive and west of SR 36. The property currently bears the zoning of NC Neighborhood Commercial. Zoning to the north, west, and south is R1-7 Residential. Properties on the adjacent side of SR 36 are zoned RR-1 Rural Residential. The application is requesting an amendment to the Land Use Map of the Tooele City General Plan. This application is not a Zoning Map Amendment and does not change the zoning. A Land Use Map Amendment is required before a zoning change can be considered, when the zoning does not comply with the current Land Use Map. Currently the land use of the property is MDR Medium Density Residential. The MDR incorporates the R1-7, R1-8, R1-10 Residential zoning districts and is limited to single family homes and duplexes. The properties are entirely surrounded by the MDR Land Use Designation. The applicant is proposing a change in the Land Use Designation from the MDR to the HDR High Density Residential. The HDR designation incorporates the MR-8, MR-16, and MR-25, Multi-Family Residential zoning districts. These zones permit the construction of townhouses, condominiums, and apartment buildings, as well as some duplexes, but prohibit the construction of single family homes. The applicant has indicated that they would eventually like to have the property rezoned to MR-16 to facilitate multifamily residential development. Originally, an application was submitted about a year and half ago to change the zoning of the properties. The application was withdrawn by the applicant upon hearing the City Council's policy at that time, to not consider multi-family zoning districts, until a water and sewer study were completed. That study is in process of being completed and the City Council now allows the multi-family rezones to come forward. The applicant has submitted the application. At the time of the original application, there was a concept plan demonstrating apartments, however the new application has not had a concept plan submitted. The change in the Land Use Designation does not guarantee one Land Use Designation or a particular MR zoning district at all. The applicant must still go through the process of a Zoning Map Amendment application, which is similar to the Land Use Map Amendment being done currently. This item is a public hearing and notices were sent to all property owners within 200 feet of the subject property, there have been 12 email comments. Those emails were forwarded to the Planning Commissioners.

Chairman Hamilton asked the Commission for further comments, there were none.

Chairman Hamilton added that Tooele City and the Planning Commission does not solicit high density development. This comes about by the developers and property owners.

Chairman Hamilton opened the public hearing.

Email comments received prior to the public hearing for consideration in the public hearing are listed below.

Submitted by Mr. and Mrs. Gary and Janice Allred,

We strongly oppose the redesignation of subject to High Density Residential. We do not want high rise units across the street from us for the following reasons:

1. It would block our beautiful view of the Great Salt Lake that we have enjoyed for over 40 years.
2. It would increase traffic on Three O'Clock and Highway 36. The traffic there has already doubled in the past few years.
3. It would increase water usage that is already low and nearly depleted from our water tank during the summer.
4. It would overpopulate Settlement Canyon Elementary, Tooele Jr. High, and Tooele High.
5. It would be detrimental to the landscape of our beautiful City. That would be one of the first images from the South when entering our city. Not a good impression!

Submitted by Ms. Kari Shepard,

We cannot allow condos, apartments or townhouses on these lots. That will decrease value of the homes in the area, cause severe traffic congestion, safety & over crowding in the school. Our town is over crowded as is. We cannot keep supporting more people. We have voiced our opinion when we have voted no over & over on these issues.

Vote NO!

Submitted by Ms. Marcy Leakehe

Hello!

I would just like to submit my opposition to any high density housing proposed near 3 o'clock drive. Traffic there is already congested, especially during rush hour. As the South Rim and Stockton area continue to grow, the road will likely need to be expanded, anyways, which will cut in to the amount of space available for high density. Why do we have to cram houses in to every little piece of open space? Most of us moved to Tooele County to avoid that.

Submitted by Ms. Sonja Richardson

I have just been made aware of this rezoning in our area and I have great concern about the following.

Water or lack of.

Traffic, congestion. Highways are NO place for apartments. We have already had 2 bad accidents this week.

Property Value going down

Taxes going up.

PLEASE, before making this an undesirable area, use common sense. This is NOT a place for High Density.

Oh, and thanks for letting us know. Great leadership this community has, NOT!

Submitted by Ms. Jenny Ortiz

I am writing this email to voice my concerns about the rezoning for high density townhouses and or apartment subdivision proposal west of Main Street by 3 o'clock Drive. Tooele has already grown so much and the traffic is outrageous. We have one main road with two lanes both ways, that in itself

is already a problem. building apartment complexes and or town houses on the south end of town is just going to make traffic and crime even worse than it has already gotten.

I vote against the development of more high density housing on the south end of Tooele

Submitted by Mr. Christopher Morse

Hello, my name is Christopher Morse me and my wife live in the Rancho neighborhood on the south west end of tooele city. In the last day me and her became aware of the possible plan to rezone two sections of land that are located by 3 O'clock drive from their current zoning to a high density zoning. First and foremost I wanted to voice our opinions AGAINST this rezoning! I understand as tooele grows so does the need for housing and that's something I'm willing to accept but before a select FEW get to decide what happens in a specific communities neighborhood I think its the right of ALL of that neighborhoods residents to be properly informed of the proposed changes and for studies to be completed that way residents can properly make an educated and fair decision as to what happens in their neighborhoods.

After talking with multipul neighborhoods in just these short hours it seems that many of us never received any sort of notice regarding these proposed changes. How is that right?! When these changes are going to affect us and our families the most.

As the neighborhood currently sits we already get a fair amount of traffic and accidents from main street and many speeding cars and atvs from people thinking our neighborhood is at the end of town so it's fine to do whatever they want. Now your going to add in even more people and kids? Sounds like a tragedy waiting to happen.

As it sits my house hold thinks this high density zoning change is a horrible idea but before any sort of vote should even be considered I think ALL of the settlement neighborhoods residents needs to be informed of the proposed changes and of the results from any studies preformed.

Some studies I think should be considered before any rezoning happens should include

- how would this affect our water resources? Are we able to handle such a increase of people.
- what about waste management? Are our sewer systems able to handle the increased waste, including road gutter systems? I already constantly notice a steady steam of water flowing down the street down 1010 w
- how many more students can settlement elementary handle before we have to start throwing more resources into that
- what will this do to the traffic pattern along main street?
- why was this project originally abandoned in the first place (the 36 or how ever many houses that its available to be built currently why haven't they been built)
- what will do to property values and tax rates?
- how has changes like these affected other neighborhoods? Have they seen an increase in crime?

Ultimately I'd like to see if residents in neighborhoods have actually benefited from areas like this becoming high density housing versus it just making certain individuals more wealthy while it has zero effect on their homes or neighborhoods. If we where to look at stuff like this and the data shows that it mostly doesn't make sense to do high density housing then let's be smart and not do it. Yes build some houses and let the community grow but be smart about the future and actually care about the community and its residents and not just making money.

Submitted by Mr. Michael Neager

Tooele City and County needs affordable quality housing. This project will provide residents with moderate priced housing with apartments, townhomes and / or condominiums. This property has languished under the zoning of neighborhood commercial for many years. For it to prosper to its full potential for moderate income residents of Tooele, it needs to be developed to HRD 16. The property has immediate access to Highway 36 and will not cause traffic issues.

Submitted by Ms. Rochelle Wardle

So I want to ask the questions I have concerning the development being proposed near 3 o'clock drive. The notification said medium density housing. What exactly does that mean? Town homes, condos or apartments? Government subsidized or personal purchase? Two story town homes or the huge structures similar to the apartments/condos behind Maceys? I have been in this neighborhood for over 15 years. It is fairly quiet and safe. The view has always been appreciated and I don't want to see my neighborhood go down the drain with higher crime and noise. Not to mention the view tarnished.

If medium density housing consists of single family homes built on a tenth of an acre such as daybreaks community or even low rise single family townhomes that are not intended for rental purposes, I am perfectly fine with this. Rezoning to high density or medium density high rise rental apartments is not desired for our neighborhood!

I would like to know what the intent is for that land and my neighborhood.

Submitted by Mr. Kateni Leakehe

Opposed the proposed rezoning at Tooele 3 O'clock.

Submitted by Sindy Maxfield

It has been brought to my attention that the planning commission is going to try and rezone some property. The

property in question is located west of Main Street and north and south of 3 O'clock drive which consists of 7.36 acres.

As a resident, I cannot believe this city is doing something like this. Clearly, our city does not have the concerns of their residents

in mind. High density housing is something, that as residents, have voted down. Traffic out in Tooele is horrible. We keep hearing

that new roads will be coming. Wouldn't it be a good idea to get roads to handle the traffic that we have now before bringing in more

people? We do not need any more congestion on our roads. Traffic on SR36, makes it extremely difficult when you are trying to get out

of the subdivision. Another huge concern, where will the water come from to supply all of the residents living on the 7.36 acres of property?

Water has been a big concern throughout the years out here in Tooele. This year especially, there will be a big concern for water since we have very little, if any, snow pack.

If we wanted to live in a huge city with high density housing, we would not have chosen Tooele City to be our home. Please care what

Tooele City residents' concerns are. We do not want high density housing in our city.

Submitted by Ms. Hope Stephenson  
One thousand percent opposed!!!!!!

I live on 3 O'clock drive.

Increased traffic congestion. Turning off 3 O'clock during certain hours is already near impossible!

Depletion of my property value!!!!'

Water!!! Where is the water going to come from?

Submitted by Mr. Thomas Stephenson  
I live a couple houses down from the top of 3 O'clock Drive.

I live on the edge of town for a reason. Our quiet, calm and peaceful neighborhood would be ruined by this proposal.

The whole neighborhood's property values will suffer.

I OBJECT!!!!!!!!!!!!!!

Put the apartments further south by the prison  
if needs be.

Submitted by Hayden Farley  
I oppose your idea of rezoning on south side tooele. How do I vote on this? You really want day break of our town? We are simple people, your growth has worsened simple things in this town, including but not limited to taxes, traffic, accidents, Misdemeanor crimes, felony crimes, petty theft, homelessness, etc... if anything you should see how we the loyal citizens oppose this mass growth with how we voted out your peer Milne. Please stop with the shenanigans you saw the statistical data on votes With the high density on the north and the moving of the temple. We are high caliber NO! So please remember you can keep this town as it is ya know the way you would like your kids raised and you were lucky enough to grow up in.

Thanks for reading and I hope the right thing is done here.

If politics and votes even matter anymore mine is NO ON REZONING TO HIGH DENSITY OR ANYTHING IT ALREADY IS.

Below are the comments received during the meeting at the public hearing

Mr. Kevin Park stated he lives on 1220 South. He stated there are a lot of problems of infrastructure in the City and to change this from an MDR to an HDR, instead of getting a small handful of homes to maybe 100 or more family dwellings there. There are problems with water pressure in the

summer. There are power outages on a regular basis in the area. There is an overcrowded school. There are problems getting onto SR36 and there are three times during the day that he will not try to get out and will go down through the neighborhoods. There are many accidents in the area, as commuters are traveling 50 to 60 MPH. There are quite a few apartment buildings west and north of the development. Those apartments have drastically increased the traffic volume in the area. He stated that he understands there is somebody who want to develop the property and encouraged the Commission to leave it at an MDR. He does not recommend an HDR in that area.

Commissioner Sloan stated it was mentioned the unreasonable amount of housing that could be placed there, what is a reasonable amount of housing for that area? Mr. Parks stated that he is okay with MDR, but not HDR. MDR fits within the community and he is comfortable with that level of housing.

Mrs. Kori Park stated she is not okay with MDR development. Putting 35 new houses in there, there is a problem. There is not the infrastructure. It seems that there is approving and a lot of high density property without the consideration of the infrastructure to take care of that. This is putting the cart before the horse and to some extent that has to be done, but that has been done for too long.

Ms. Sonja Richardson stated she lives on 1220 South and she agrees with the previous statements. Another thing that needs to be thought about is putting apartment building with children and families on a highway. There needs to be safety for the children. Cars going 50 to 60 MPH. There isn't the infrastructure to do this.

Ms. Kalani Masherino stated she lives on 2 O'clock Drive and there is nowhere to turn left when going left on SR 36. The next safe left turn is Vine and Main Street, which means cutting down Coleman and using Vine and Utah Avenue because of the school zones. There is a lot of traffic already through that area. Trying to turn on 3 O'clock, there is a skinny right hand turn and if it is snowy, the driver barely makes the corner. There were two very large accidents on SR 36 in the last week. She strongly discourages the HDR and multi-family housing. Adding 140 apartments, is at least 140 cars and two working adults would be double the amount of cars. She doesn't know how SR 36 could absorb that.

Mr. Parks stated that all the traffic on SR 36, Main Street is a nightmare. The traffic is backed up heading south. Without the infrastructure, to handle this kind of growth.

Ms. Kaleen McQueen stated she moved out to Tooele to get away from the City. Now going back to where she used to live, there is lots of traffic and three and four story buildings everywhere. If she wanted to live in the City, she would move back to Salt Lake City. Most people who come out here like the rural area, and growth will happen, but to let it happen without the infrastructure. She stated that she has sat on the freeway so many times because of the accidents off of I-80. There is one road into and out of Salt Lake and until there is more than one road, she would never support something like this, it is not feasible.

Ms. Becky Harvey asked what is the percentage of rooftops needed to get the infrastructure increased? Commissioner Sloan stated that is above their pay grade. They don't have the answers

to those questions and there are fabulous professionals on the staff. There are several agencies, state, county, local. That is not one that can be answered. Ms. Harvey asked about getting engineering numbers. Commissioner Sloan stated there are several studies that need to be reviewed.

Ms. Parks asked that if this should move forward, how many names would need to be on a petition to get this on referendum? Chairman Hamilton stated that he doesn't have an answer to that and volunteers his time for the position. Ms. Parks stated that is there a way to get that information. Commissioner Robinson stated that the Planning Commission makes recommendations to the City Council and how many votes does it take to get a City Council member in or out. The Planning Commission is just making a recommendation tonight. There will be another meeting on this topic with the City Council. Commissioner Sloan stated the County Clerk and state of Utah determine statutorily how many signatures it takes and then there is the type of action. It is a fairly complicated thing and is not as simple as doing a petition. The County Clerk will have that information.

Chairman Hamilton closed the public hearing.

Mr. Bolser stated there were 12 email comments and 10 of those were received prior to the close of business and the Commission was provided those by email. Two were received between the close of business and the start of this meeting and the Commission was given hard copies of those comments. Since the meeting began, there were no further emails.

Chairman Hamilton asked if there were any more comments from the Commission.

Commissioner McCall stated with this type of development on SR 36 and the proximity to SR 36, in time SR 36 will be widened based on the growth of the City. That would be a four lane road instead of the two lane. By SR-36 turning into a four lane road, that would be a lot of people living extremely close to that road. There can be a barrier and can be done safely. Lot 603 only has one entrance and there is no way to add another entrance, unless there is permission from UDOT; that is concerning. Lot 602 could potentially have two exits one on Coleman, 3 O'clock Drive. It is totally feasible, but close to SR 36. What the citizens said about the traffic, it is hard to get around the area. The congestion, putting the apartments would put an extreme amount and he would prefer not to see that.

Commissioner Sloan asked Mr. Aagard to explain the process for this application. Mr. Aagard stated with the assumption, there is approval tonight and it goes before the City Council, who approves the Land Use Map Amendment. That opens the door to future developments for higher density residential. The parcels would need to go through a Zoning Map Amendment, where the zoning would change. Right now, the property is zoned NC Neighborhood Commercial. That will not change with the Land Use Designation. It would have to go through a Zoning Map Amendment. The same process would be used for Zoning Map Amendment and the City Council could request more information for impacts to infrastructure. If the zoning is changed, there would be another series of applications for subdivision plats. During the plat process, infrastructure is reviewed, for accesses, utilities, and all the necessities to make the development thrive. For a Multi-Family Development there would also be a site plan application for review of the site, buildings, parking, landscaping and

ensure it complies with the City design standards. At a minimum there are four applications to get through an application process in addition to this one or three if it will be an apartment building which are rental units. This is at least a year to get through an approval process. There is a lot of work to be done and a lot of information needs to be obtained. It could be developed as MDR as well.

Commissioner Sloan made comments and opinions to the public, which included comments about traffic, growth, and infrastructure. He proceeded to talk about housing shortages and addressed concerns of tax rates going up. He asked the residents to think long term.

Mr. Parks asked to meet with Commissioner Sloan outside of the meeting.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Hawthorn House Estates Land Use Map Amendment Request by Michael Naeger, representing Hawthorn House Investments, LLC to change the land use map designation to High Density Residential, application number P20-1222, based on the findings and subject to the conditions listed in the Staff Report dated February 2, 2021.** Commissioner Hammer seconded the motion. The vote as follows: Commissioner McCall, “Nay,” Commissioner Robinson, “Nay,” Commissioner Bevan, “Nay,” Commissioner Sloan, “Aye.” Commissioner Thomas, “Aye,” Commissioner Hammer, “Aye” Chairman Hamilton, “Aye.” The motion does pass.

Chairman Hamilton stated this is not a rezone and is just to get the studies needed to do a rezone. It will move to the City Council for their approval.

Mr. Bolser stated this is a recommendation that will still go to the City Council for their own public hearing. That could happen as soon as next week. The City website will have the agendas and it will be in the newspaper. There will not be a mailed notice for that next review. Mr. Bolser stated the agendas are posted on Fridays.

**4. Recommendation on a Minor Subdivision Request by John Hicks to Subdivide 1.21 Acres into Two Lots Located at 428 East 500 North in the R1-7 Residential Zoning District**

Presented by Andrew Aagard

Mr. Aagard stated the subject property is north of 500 North and east of Broadway. There is an existing home and a detached accessory garage on the property. The property is zoned R1-7 Residential, as are all of the surrounding properties. The minor subdivision proposes to subdivide the existing 1.2 acre parcel into two lots. The existing home will remain on lot 2 and will maintain 13,300 square feet in size and lot 1 will be a flag lot and maintain 39,479 square feet. The lot lines are configured to ensure no lot nonconformities are created with the existing home and detached garage. All existing structures will meet the setbacks required by the new lot lines. The flag lot exceeds the minimum requirements for flag lot developments as required by Tooele City. The staff will be 104 feet long and 32 feet wide and will extend from 500 North along the eastern side of the existing home to the flag portion of the lot. The ordinance does require that the staff portion be paved in either concrete or asphalt. Staff is recommending approval with the conditions listed in the Staff Report.

Chairman Hamilton asked the commission if there were any comments or questions, there were none.

**Commissioner Robinson motioned to forward a positive recommendation to the City Council for the Hicks Subdivision Minor Subdivision Request by John Hicks, application number P20-1104, based on the findings and subject to the conditions listed in the Staff Report dated February 4, 2021.** Commissioner Bevan seconded the motion. The vote as follows: Commissioner McCall, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Thomas, "Aye." Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Chairman Hamilton, "Aye." The motion passes.

5. **Decision of a Site Plan Design Review by Belterra Tooele, LLC for a Sherwin Williams Paint Supplies Retail Store Proposed to be Located at 2347 North 400 East on 0.71 Acres in the GC General Commercial Zoning District**

Presented by Andrew Aagard

Mr. Aagard stated this site plan design review pertains to the vacant lot just south of the Popeyes Chicken Restaurant and north of the Tooele Orthopedics Center and lies directly west of 400 East. The property is zoned GC General Commercial, as are the properties to the north, south, and on the adjacent side of SR 36. Properties located to the east are zoned IS Industrial Service. The property is also located within the North Tooele Gateway Overlay. The purpose of the overlay is to ensure enhanced streetscape landscaping, enhanced building architecture, parking lot locations and so forth, too maintain a pleasing aesthetic to the entrance into Tooele City. The Overlay also requires the Planning Commission review the site plan and architecture. Mr. Aagard stated that the proposed building will be 4000 square feet in will be located closer to SR 36 with the parking lot located on the east side of the building. Access will be from 400 East and will include two points of ingress and egress. The northern access will be a shared access with Popeyes Chicken as required by the subdivision plat. The southern access is needed for the truck deliveries of supplies. A 4000 square foot building requires 14 parking stalls and the proposed site includes 14 parking stalls. The landscaping on the site will be a drought tolerant variety. Along SR 36 there is a proposal to hydroseed the area with hillside grasses and wildflower seed as well as shrubs and evergreens trees closer to the highway. Staff advises caution when it comes to seed mixtures. If properly applied and irrigated, the native areas can be aesthetically pleasing, however the seed mixes need water to establish growth. If sufficient water is not applied, the disturbed soils will yield noxious weeds. Irrigation plans demonstrate drip lines to the trees, but no other mechanisms to the seeded areas. Staff recommends that the Commission approve the site plan with the condition of an irrigation system be delivered to the seeded areas at least until established, or change the landscaping plans to cobble free mulch and weed barrier fabric. The landscaping around the parking are trees, cobble over weed barrier fabric. Tooele City does not have architecture standards for commercial development, the Planning Commission is required to review the building exterior. The proposed pan is largely composed of stucco panels consisting of three shades of gray and scoring lines to break up large expanses of material. There is a brick veneer wainscot extending half of the building footprint and a parapet wall for vertical variation in the roof and screens rooftop mechanics. Staff is confident that the site plan as proposed meets or exceeds the standards for commercial

development and is recommending approval of the conditions in the Staff Report, including condition five with the irrigation or cobble mulch.

Chairman Hamilton asked the Commission if there were any comments or questions?

Commissioner Robinson stated if the mulch is chosen by the applicant, that doesn't have to come back to the Commission does it? Mr. Aagard stated he would have them submit revised landscape plans prior to sign off on the plans. Commissioner Bevan asked if the Commission could recommend a preference between the two options? Mr. Aagard stated sure. Commissioner Bevan stated there is a building on Tooele Boulevard that was hydroseed, but not irrigated and it is unsightly. She would hate to have the same thing happen on this building. She would prefer the cobble mulch. Mr. Aagard stated the Planning Commission has the ability to do that. Commissioner Thomas, stated he could go either way. There is always interest in showing the community water wise plants. Unless it is planted in the fall and gets a good snow, it is hard to get going. The building is quite nice.

**Commissioner Bevan motioned to approve the Site Plan Design Review Request by Belterra Tooele, LLC for the proposed Sherwin Williams to be located at 2347 North 400 East, application number P20-1302, based on the findings and subject to the conditions listed in the Staff Report dated February 3, 2021, with the condition of using cobble mulch over the commercial grade weed fabric.** Commissioner McCall seconded the motion. The vote as follows: Commissioner McCall, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Nay," Commissioner Thomas, "Aye," Commissioner Hammer, "Nay," Commissioner Sloan, "Nay," Chairman Hamilton, "Nay." The motion does not pass.

Mr. Baker reminded that when dealing with legislative policy issues, the Commission can use any reason for denial of the request. This item is an administrative matter and if the application complies with the City rules and standards, it must be approved. Commissioner Bevan asked if she should let the applicant choose the ground cover? Mr. Baker stated he is making a general statement of law.

Ms. Devin, a civil engineer on the project stated that as of the afternoon, the landscape architects added sprinklers to the back of the building. They are happy to change, but they are planning on sprinklers. Commissioner Thomas asked if the sprinklers are for seed germination? Ms. Devin stated correct.

Mr. Bolser stated that vote of Nay from the Chairman has effectively denied the application and there would need to be a Commission vote to reconsider and then start again for consideration of the application.

**Commissioner Sloan moved to reconsider the previous motion.** Commissioner Robinson seconded the motion. The vote as follows: Commissioner McCall, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Thomas, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Chairman Hamilton, "Aye." The motion passes.

Commissioner McCall stated he voted against it the last time because of the waste of water. He is a big proponent of xeriscaping and he is welcome to a business choosing.

**Commissioner Robinson motioned to approve the Site Plan Design Review Request by Belterra Tooele, LLC for the proposed Sherwin Williams to be located at 2347 North 400 East, application number P20-1302, based on the findings and subject to the conditions listed in the Staff Report dated February 3, 2021.** Commissioner McCall seconded the motion. The vote as follows: Commissioner McCall, “Aye,” Commissioner Bevan, “Aye,” Commissioner Robinson, “Aye,” Commissioner Thomas, “Aye,” Commissioner Hammer, “Aye,” Commissioner Sloan, “Aye,” Chairman Hamilton, “Aye.” The motion passes

**6. Public Hearing and Recommendation on a City Code Text Amendment to Section 7-2-8 ad Table 3 of Chapter 7-14 of the Tooele City Code Regarding Building Heights for Religious Facilities in Residential Zoning Districts**

Presented by Jim Bolser

Mr. Bolser stated this is a unique proposal and technically the City does not have to do this. Staff’s basic mode of operation when new applications are made or new projects are announced as coming to town, the staff instantly starts diving into the code to determine what regulations may be in play. On the 19<sup>th</sup> of January, The Church of Jesus Christ of Latter-Day Saints announced the location of the Deseret Peak Temple inside of Tooele City boundaries. The staff looked at the City Code to see what may apply to such a facility within the City. The one item that came up as a possible difficulty, is building height. There is a federal law and companion Utah State law that effectively eliminate this issue for consideration of the facility. The Federal Law is the Religious Land Use and Institutionalized Persons Act (RLUIPA) in the United States Code. The Act builds upon the guarantees and protections from the United States Constitution for the exercise and freedom of religion. Basically, that law says particular to local regulation, that any regulation that would effectively restrict the exercise ad freedom of religion would be none applicable. Similarly, the State of Utah has a similar and companion law on the books, the Utah Religious Land Use Act (URLUA) and it basically says the same thing as the federal law. There are federal and state law that state the City would not be able to impose a restriction on a facility, which would restrict the exercise of religion. Technically the City does not have to do this. It is staff’s position and would be a good idea to be transparent. The City staff is proposing a text amendment to the City Code which would allow for churches and religious facilities to exceed building height requirements. Mr. Bolser stated the text amendment state that church and religious facilities in residential zoning districts that have more than 50,000 square feet of usable floor area may be erected to a height greater than the district height but shall not exceed 75 feet in height for the occupiable spaces, subject to Section 7-2-9. The 75 feet in height is tied to Section 7-2-9. Section 7-2-9 states that architectural features such as steeples and chimneys which are not occupiable space are allowed to exceed building height. Mr. Bolser stated the question maybe why this is specified at 75 feet of height, if RLUIPA and URLUA are specify the imposing of local land use actions are limited to only to those, where there is countervailing public interest for health, safety, and general welfare. The 50,000 square feet is established for a balance of horizontal and vertical construction. The 75 feet is a discussion point for public safety. The equipment and apparatus for the Fire Department and neighboring jurisdictions that may be asked to assist, would not have the capability to actively fight a public safety hazard above that the 75 feet. The second

piece of this is adding a notation to a table in Section 7-14, residential zones and regulations within them. The addition of the notation, would add to the maximum and minimum building heights for the reference back to Section 7-2-8.

Chairman Hamilton opened the public hearing. There were no comments. Chairman Hamilton closed the public hearing.

**Commissioner Sloan motioned to forward a positive recommendation to the City Council for the Religious Facilities Building heights City Code Text Amendment Request by Tooele City as presented to the Commission this evening, application number P21-68, based on the findings and conditions listed in the Staff Report dated February 4, 2021.** Commissioner Sloan seconded the motion. The vote as follows: Commissioner McCall, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Thomas, "Aye." Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Chairman Hamilton, "Aye." The motion passes.

**7. City Council Reports.**

Presented by Council Member Manzione

Council Member Manzione stated there is nothing to report that pertains to the Planning Commission. The Council did approve an interlocal agreement with the Tooele County School District for shared use of facilities.

**8. Review and Approval of the Planning Commission Minutes for Meeting Held on January 27, 2021.**

**Commissioner Bevan motioned to approve the minutes.** Commissioner McCall seconded the motion. The vote as follows: Commissioner McCall, "Aye," Commissioner Bevan, "Aye," Commissioner Robinson, "Aye," Commissioner Thomas, "Aye," Commissioner Hammer, "Aye," Commissioner Sloan, "Aye," Chairman Hamilton, "Aye." The motion passes.

**9. Adjourn**

Chairman Hamilton declared the meeting adjourned at 8:22 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 24th day of February, 2021

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Tyson Hamilton, Chairman, Tooele City Planning Commission