



Twin Falls Planning & Zoning Commission Minutes

Tuesday, November 14, 2023, 6:00 PM

203 Main Avenue East
Twin Falls, ID 83301

COUNCIL CHAMBERS

Members -

City Limits: Craig Kelley, Chairperson; Marilu Perez, Vice-Chair; Todd Rambur; Cortney Campbell; Grayson Stone; Robyn Weatherford

Area of Impact: David Detweiler

1) Confirmation of Quorum/Call Meeting to Order

Vice Chair Perez called the meeting to order at 06:01 PM

A quorum was present.

Members present Perez, Rambur, Campbell, Detweiler, Stone and Weatherford

Staff present Spendlove, Strickland, Ebersole, Green, O'Leary, Wells.

2) Conflict of Interest Declaration

3) Consent Calendar

- a) Approval of minutes from the following meeting: October 24, 2023

MOTION: Commissioner Detweiler moved to approve the minutes from October 24, 2023. Commissioner Stone seconded the motion.

Roll call vote showed all members present voted. Approved 6 to 0.

4) Items of Consideration

5) Public Hearings

- a) Request for a Special Use Permit to allow a doctors' office (pregnancy consulting and ultrasound service) on the property located at 1122 10th Avenue East. (PZ23-0054)

Staff Presentation:

Planner Strickland presented the request for a Special Use Permit to allow a doctors' office (pregnancy consulting and ultrasound service) on the property located at 1122 10th Avenue East. (PZ23-0054)

Per City Code 10-13-2-2 The Special Use Permit process requires a public hearing in which interested persons have the opportunity to be heard, with regards to the application.

The Commission shall decide on the request within thirty (30) days after the public hearing. If Conditions of Approval are placed on the permit by the Commission, the Administrator shall issue the permit specifically listing such conditions. Conditions shall be implemented within 6 months, or the permit is void.

If the Commission's decision is appealed within fifteen (15) days of the signing of the Findings of Fact, City Council shall set a hearing date to consider all information,

testimony, and minutes of the previous hearing to reach a decision on the appeal.
Standards Applicable to Special Uses:

- Will, in fact, constitute a special use as established by zoning requirements for the zone involved.
- Will be harmonious with and in accordance with the general objectives or with any specific objective of a comprehensive plan and/or zoning regulations.
- Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- Will not be hazardous or disturbing to existing or future neighboring uses.
- Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

The property has been a residential home historically and was constructed circa 1920 per county records.

On July 18, 2023, staff received a complaint from neighbors that the residence was being used for a birthing center. Code enforcement notified the property owner that a special use permit is required to operate a medical office from this location. On July 26, 2023, after speaking with the property owner, the property owner explained he provides ultrasound services every other week at this location and he also leases the space to Twin Falls Midwifery, who provides services for pregnant women a few days a week at the same location and that they would like to provide birthing services at this location. An application was later submitted asking for a special use permit to operate a medical office with birthing services.

On August 9, 2023, an on-site visit was scheduled to review the application for the land use along with requirements for bringing the building into compliance with the land use code. The tenants were notified that the operation of a medical office would need a special use permit approval but providing birthing services on-site would not be allowed within this zone, regardless of whether or not a special use permit was approved. Planning & Zoning Staff sought for an amended application to move forward with the special use permit request for a medical office only to accommodate the imaging business. It was also explained that building alterations will be required and an Idaho Licensed Architect or Engineer shall submit plans for converting the home, if they get an approved Special Use Permit for a medical office. An

amended special use permit application was submitted to City Staff requesting to operate a pregnancy consulting service and an ultrasound service at this location.

The applicant's narrative states they will be providing services for approximately 6 clients per month and an ultrasound service every other week. Staff has clarified that the midwifery schedule seeks allowance for 6-7 appointments per day, 3 days a week. While the ultrasound schedule seeks allowance for 4-5 appointments, 1 day per week. The office hours will be M-F, 9am - 6pm with an emergency contact number for clients needing assistance after hours. The site plan provided is still subject to a final review for compliance. Parking must be provided on-site and, based on the use of the space, will require a minimum of 4 spaces. The alley and all parking and maneuvering areas will need to be hard surfaced and striping will be necessary for the parking. The required improvements to this property will be reviewed on the building permit that is required to change the occupancy classification from a residential home to a medical office.

The property is zoned R-4 with a Professional Office Overlay (PRO). Per City Code 10-4-18, a special use permit is required for a doctor's office in the PRO Overlay. The Comprehensive Plan has this area designated as Neighborhood Commercial. Neighborhood Commercial generally provides services that are small scale and designed to compliment the neighborhood's character. Examples of such uses are offices and small retail stores. The applicant has stated the plan is to keep the character of the residence in tact with the exception of items that would be required for building code compliance. The hours of operation presented are typical for an office, and are scheduled appointments. The change from a residential use to a doctor's office will create a higher volume of trips to and from this location. The additional traffic to the site may cause a disturbance to the neighborhood throughout the day, but is limited to M-F from 9am to 6pm.

As properties with a professional office overlay with a neighborhood commercial designation transition from residential uses to office and small retail services, it will be felt by adjoining properties. The professional office overlay district was intended to provide for professional office use along or near major arterials where increased traffic has impacted residential areas. The property is located within two-hundred (200') feet of Blue Lakes Blvd, an arterial roadway, that generates a heavy amount of traffic throughout the day. The business will bring traffic into the neighborhood, impacting neighboring properties. However, the impact may be alleviated by the proposed appointment-based operation. Providing on-site parking for the additional vehicles coming to the site should also reduce the impact felt by the neighbors.

Approval of this request will require additional improvements to be made to the property and does not preclude the applicant from obtaining the appropriate permits/licenses needed to complete the project. Per City Code 10-13-2-2 should the permit be approved with conditions, if the applicant fails to provide proof of compliance within 6 months of approval, the special use permit shall be void. The Commission may approve the request as presented, approve the request with conditions, deny the request or table the request for additional information. Upon conclusion, staff has reviewed this request and if approved, as presented, staff recommends the following conditions:

1. Subject to site plan amendments as required by Building, Fire, Engineering and Zoning to comply with applicable City Codes and standards.

2. Subject to the applicant/property owner obtaining a building permit to convert the property from a residence to a medical office.

Applicant Presentation:

Marc Davison stated he is the landlord and is joined with the tenant Beth Hartman. He is willing to invest in this property and leave it in better condition than he started with. He feels this service was not offered in this area prior. He and wife offer ultrasound services in the area and wanted to support Beth. Beth was looking for a home not just a building for her clients. The house has been renovated to work for this purpose. He wants to be a good neighbor. Want to meet the main concerns with any issues. He does have an intent to keep this more like a residence. For now he is investing in Beth and the service to the community.

Beth Hartman is the sitting chairperson for the Board of Midwifery. She stated that women remember their experiences in pregnancy and delivery. They have people coming from all over for their services. The price for this service is little compared to a hospital. They are willing to accommodate parking and know it is a concern. They currently cannot provide services to high-risk clients. They can provide ADA parking if needed. They have intentions to submit the plans if approved.

PZ/Questions & Comments: for staff

- Commissioner Detweiler asked if the permit stays with the property or with the applicant.
- Planner Strickland responded that it stays with the property, and it is in effect if they are operating that way. If left for more than a year they would need to get a new permit. If a different business wanted to operate, they would need to get a new permit.
- Commissioner Stone asked if any surrounding properties are being used as commercial.
- Planner Strickland said no, this would be the first on the block if approved.
- Vice Chair Perez asked if there were limitations on what modifications can be made to the property.
- Planner Strickland explained that they could require that the applicants provide parking spaces on-site.
- Vice Chair Perez asked about building restrictions.
- Planner Strickland yes it would need hard surface. The applicant portion of the alley would need to be paved.
- Vice Chair Perez asked if Keegan Ln was not paved.
- Commissioner Rambur asked if parking is allowed in the alley. Is the property big enough to provide parking?
- Planner Strickland stated she would need a better site plan. They would need 4 parking spaces based on square footage of the house.
- Vice Chair Perez asked if the "alley" is Keegan LN.
- Commissioner Stone asked about the traffic counts and why we don't have one.
- Planner Strickland responded that we don't usually require one but based on the appointments stated from the applicant she estimated about 30-35 appointments.
- Commissioner Campbell asked if this is in line with the comprehensive plan.

- Planner Strickland stated that it is in line with the professional office overlay.
- Commissioner Rambur asked if family and friends would be able to visit this business.
- Planner Strickland responded that the intent is to operate like a doctor's office. Birth would not be an allowed use.

PZ/Questions & Comments: for applicant

- Commissioner Detweiler asked if he is going to leave the garage as a garage.
- Marc Davison responded that he would keep it. They have had to change some things to accommodate parking by removing fences in the back. He would like to keep the integrity of the house as much as possible and to not have it look like a business.
- Vice Chair Perez asked if they were still operating.
- Marc Davison stated that yes, he is for ultrasounds but has closed that during the process. Beth has been seeing less patients also.
- Vice Chair Perez asked what you have done since receiving complaints.
- Marc Davison stated he has talked to neighbors and feels he's approachable, but no one has said anything specific that was an issue. He is aware parking is a problem.
- Commissioner Stone stated that the complaint came in on July 18, 2023. He asked when they started providing services.
- Marc Davison said they opened in August 2023.
- Beth Hartman stated that when they moved in the complaints started.
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- Commissioner Stone asked about the applicants finding additional locations.
- Beth Hartman stated that they have a lot of times. Cost is a big issue.
- Marc Davison stated they have contingency plans and are trying to find the right balance. They don't want the commercial feel.
- Commissioner Detweiler asked for clarification. They monitor a pregnancy to term and then what they get close do they go to a hospital or what.
- Beth Hartman responded that they deliver in a home. The future plan is to grow into a birth center.
- Commissioner Detweiler asked if they would be in their (clients) home when they deliver.
- Beth Hartman stated that yes they would. Having a central location would make it easier not to have to drive all over the county.
- Commissioner Detweiler asked if there was a shared driveway.
- Director Spendlove stated it's the alley.
- Marc Davison stated that is just the backyard.
- Vice Chair Perez asked if the current number of requests and rooms fitting under the governing body of midwifery conditions.
- Beth Hartman stated that they have 6 spots available but can grow to 10 a month.
- Vice Chair Perez asked about the emergency number and care and would that be for additional visits to the center.
- Beth Hartman stated that it depends on what is needed. Sometimes it's here and other times it's at their house.
- Vice Chair Perez questioned the hours on the application and if they need to state 24 hrs. She feels the application doesn't reflect the true hours of operation.

- Beth Hartman said the general rule is if they are further away they need to come to us.
- Vice Chair Perez feels the property needs to accommodate you and the neighbors. She wanted clarification on the overlay and expectations.
- Director Spendlove explained that the overlay allows for hearing for what they want. None of the things are outright permitted but the overlay allows a property owner to ask for something specific.
- Commissioner Stone asked if the overlay is already in place.
- Director Spendlove explained the purpose. Been in place for decades it allows people to ask for specifics.

Public Hearing: Opened

- Janet Hawkins stated that the alley is not Keegan. When the applicant purchased the property, they knew it was residential and she doesn't know why they would want to make it commercial. Main concern as homeowners is the increase in traffic and parking. Several times the applicants have had to move from the alley. She wants the area to stay residential. 10-13-2.2 8th bullet on the bottom (Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares) she doesn't think they can make the parking to accommodate the people.
- Jane George is a 52 year resident. She was a development realtor in the past. She feels the main concerns are traffic and safety issues. She feels that Keegan is worse because of the plating of parcels surrounding it. She feels the roads have not kept up with the growth.
- Dorothy Dallman had traffic concerns. She didn't like that the business is already operating and is concerned that they will continue if they are denied.
- Ilene Campbell feels like the concept is good but not in this location. She will have to replace the power pole if it's damaged by any vehicles. The alley is too narrow for more than one vehicle to drive through at a time.
- Alisha McMurtry is a patient of the midwifery clinic. She only goes during the day and hasn't seen the traffic issues that are any different compared to anywhere else in Twin.
- Steve West was talking about the zone and overlay and where he doesn't feel that this meets the requirements for that zone. He feels that this is one more encroachment in this town that he feels is a historic town. He would like to deny this to preserve the neighborhood. He feels that property values will fall.
- Clayton Bailey doesn't like the location. This is a residential area not a business. He agrees that the alley is narrow. He doesn't like that they have been running without approval.
- Carol Robertson commented on the amount of children and dogs in the alley. She agrees that the alley is narrow. She would like to know more about the operation but doesn't think this is the right location for it.
- Samantha Mauch is an associate principal for Lincoln Elementary. She feels a medical facility should not be in residential area. She doesn't like the number of visitors coming around. Parking is a problem causing people to park in front of her house. She had no previous conversations with the property owner or business owner. She feels the number of clients is not a "light" traffic. She would like to have this permit denied.

- George Haney talked about when this area was built that most people didn't even have 1 car. He feels there isn't enough room with how many vehicles there are with the residents. He stated that "we trust you to maintain the planning and zoning".
- Connie Smith addressed Director Spendlove about Blue Lakes BLVD. Her family has been here since 1950. She explained that the reason for the overlay is because it was originally HWY 93, and the overlay was for the expansion of the city. However, it is no longer HWY 93 because it was rerouted on to Pole Line RD. Business coming into town comes from Addison. From Addison north on Blue Lake is the only "commercially" zoned area. Blue Lakes BLVD to Kimberly RD is no longer officially HWY 93, it is simply a subsidiary. She feels this is a historic area and that the city needs to recode the entire area with no commercial overlays because the streets don't accommodate.
- Jordan is new to the area and loves the growth potential. She stated that there are other commercial businesses along the road. She feels this home does have potential for business and can be met in ways to accommodate everyone.
- Mike Blaine had brought some pictures in for the commission. He said he loves the idea but not the location. He feels is too high traffic for such a narrow street. He is concerned for the safety of the children.
- Delayney stated that she is a student that works with the midwives. She feels this house was a blessing when they found it. They overlay was perfect for the business they have. She knows the alley is narrow but feels like a lot of other local businesses have the same problem. She feels growth is hard because of the unusual size of the city.
- Maggie Bailey stated that you lose the ability for a close neighborhood when there is a business. Did not have any previous conversations with the property owner or business owner.
- Lynn Battington stated that the problem is traffic and is a problem everywhere. If not a birthing center it will be a residence, an Airbnb or a rental and that would still have traffic.
- Darla Page said she has been to the home for not a business meeting. It doesn't look like a business. The house is large and it will probably be used for large gatherings. She feels that cautious mothers who are driving there are better than any other business.
- Marc Davison stated that he understands the traffic issue and hadn't realized it was such an issue before. He feels like the business isn't really causing more issues than a family living there. He could put up signage for parking and encourage correct parking. He feels it comes down to the value of the service in the area vs traffic issues.
- Beth Hartman stated that the parking is no more than it would be for any other thing. Having this property as a business raises neighborhood property value. She stated that other property owners are parking on the street and not their own driveways.
- Commissioner Stone asked about the photos provided and wanted the time and dates for those.
- Director Spendlove explained that they can ask for clarification if it was one day or multiple days. Director Spendlove talked with the neighbor and stated that the pictures ranged from July 18th up to yesterday.
- Commissioner Campbell asked if when they move in if they need a permit. She wanted to know if they were cited then why they are still in business.
- Director Spendlove explained how the Notice of Violation with Code Enforcement

works. They were cited for a violation on August 9 detailing the issue and process to get a SUP. He is limited on what he can do with land use issues. Would cite with a misdemeanor if it continued. They are here because they have a right to ask.

- Vice Chair Perez was clarifying the difference between a home-based business and a business. With this being a business what do they need to do different because of that.
- Director Spendlove gave the definition and example for a home occupation. He stated that this is a commercial business and commercial property. You have to get a building permit to modify the house into a commercial building and you have to follow those regulations. He explained that the zoning needs to be done first then move to the commercial building permit. They do need to meet all the requirements to get the permit.
- Vice Chair Perez asked about restrictions on the hours allowed.
- Director Spendlove answered that with a special use permit, applicants must declare their hours. You can take that into consideration.
- Commissioner Rambur asked about the hours being 9-6. He asked if the overlay limit. Can you have a 24-hour office.
- Director Spendlove stated it was listed they would have normal hours, but you can alter that case by case. The commission has the ability to do that. He clarified from the Engineering standpoint that 10th AVE E is 30' in width from curb to curb, but the right-of-way is 60'. This causes vehicles to slow down but also, causes issues if two vehicles need to pass each other. If the city had a plan or needed to do something the fix would be to remove parking on one side of the road. Another option could be making 10th AVE E a one way to the west.
- Vice Chair Perez asked what could be done here to help if they wanted to move this forward.
- Director Spendlove responded that you can mitigate the increase from residential to single family home. Offices generate more traffic on average. If you wanted to list a condition you could have the city engineer look at this and provide alternatives. He went on to explain that Blue Lakes BLVD is owned by the State and not the city. We co-own intersections but not the road. We are limited on making improvements.
- Commissioner Rambur asked between Addison and Kimberly RD on the east side, how many businesses are there that are a block in or a block east or are they all on Blue Lakes.
- Director Spendlove did not have an exact number. He feels most are on Blue Lakes. He didn't look at that information to bring in.
- Director Spendlove asked the commission to make sure to go through the list.

Public Hearing: Closed

Discussions Followed:

- Commissioner Campbell stated that she never wants to deny property owner rights. The commission has a list of things to go through and she has 4 that she has concerns with. She listed 2 of her concerns:
"Will not be hazardous or disturbing to existing or future neighboring uses". She feels that the traffic issues are not something she can see past.

#7 - "Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors" – The excessive production of traffic. When the overlay was placed it was a different time.

- Commissioner Stone feels this has underlying issues as far as traffic. He agrees with Commissioner Campbell.
- Commissioner Weatherford stated she agrees with Commissioner Campbell – she is not convinced this is the right place with the traffic issues.
- Vice Chair Perez reminded everyone to focus on the traffic from this specific business.
- Commissioner Campbell stated that if this were a home and not employees traveling there every day it would be different. The hours are not really 9-6 with emergencies.
- Vice Chair Perez reminded about the overlay that this can be a business.
- Commissioner Stone listed the allowed uses with the overlay. He likes the idea of the business but not the overlay there.
- Commissioner Detweiler commented about the traffic afterhours. He does not like the idea of commercial in a residential. He feels there is a lot of opposition and would vote no. He doesn't feel they could accommodate the parking requirement with the size of the lot.
- Vice Chair Perez stated that they could condition the parking if needed. Need more information if that is the issue. Asked Director Spendlove if they can ask for more information.
- Director Spendlove answered if they need more information and that is all they need then yes, but if you have other issues, you can't get past then it doesn't matter.
- Commissioner Rambur talked about strangers being around and you can have that with Airbnb. There are a lot of business on Blue Lakes and it works on the west side. Doesn't feel it fits all the items for the standards.
- Commissioner Stone agrees with Commissioner Rambur and added that he feels like the overlay is more useful on the main road. Citing #4, #7, and #8 he feels that this isn't a good fit.
- Commissioner Rambur said that the word harmonious is used and he doesn't feel this meets that definition.
- Vice Chair Perez commented that parking on the street decreases speed. She feels this specific road is too congested for an increase in traffic. Would like to find conditions to allow use if possible.
Parking – could we require a certain number of spaces on property.
- Commissioner Stone feels changing the road is a disservice to the neighborhood.
- Commissioner Detweiler said that to the south of the house if they could make a spot to turn around and park, he might feel different. The alley is the concern.
- Commissioner Campbell stated she has issues with the fact that they are still running after being cited.

MOTION: Commissioner Detweiler moved to approve the request for a Special Use Permit to allow a doctors' office (pregnancy consulting and ultrasound service) on the property located at 1122 10th Avenue East. (PZ23-0054) Commissioner Stone seconded the motion.

Roll call vote showed all members present voted. Declined 0 to 6.

- b) Request for a Zoning Title Amendment of City Code 10-12-4-2(J)&(N), to modify financial responsibility of street sign and luminaire installation for new development. (PZ23-0069)

Staff Presentation:

Director Spendlove presented the request for a Zoning Title Amendment of City Code 10-12-4-2(J)&(N), to modify financial responsibility of street sign and luminaire installation for new development. (PZ23-0069)

Per City Code 10-14-4 thru 7. Amendments to the Zoning Title are required to go through a public hearing process at both the Planning and Zoning Commission and the City Council.

The commission shall make a recommendation on the proposed amendments. They may recommend the amendment be granted, recommend a modification of the amendment , or recommend the amendment be denied. The commission shall ensure that any favorable recommendations for amendments are in accordance with a comprehensive plan and established goals and objectives.

After an additional Public Hearing with the City Council, they shall make a final determination. If the amendment is approved, such amendment shall be made a part of the title upon the preparation and passage of an ordinance.

N/A

N/A

The Commission may recommend approval of the proposed amendment, recommend approval with modifications, or recommend denial.

The Planning & Zoning Commission recommendation is then sent forward to the City Council for a final decision.

Applicant Presentation:

PZ/Questions & Comments: to staff

Vice Chair Perez asked if the County adopts the same code as the city or if they can choose not to.

Director Spendlove answered that they adopt the current codes.

Commissioner Stone asked if it is just the cost of materials.

Director Spendlove replied that it is materials and installation.

Commissioner Detweiler asked if right now the city is paying for all that.

Director Spendlove said that new subdivisions are paid for by the city at time of development and would like to change that to be the developer's responsibility. He has reached out to let people know what is going on.

Public Hearing: Opened and closed without comment

Discussions Followed:

Commissioner Rambur commented that he understands that his property taxes pay for these

things and asked if the city would continue to maintain them.
Director Spendlove replied that yes, the city takes care of those things.
Commissioner Rambur asked if the development pays for infrastructure.
Director Spendlove responded that they will now be paying for all of it.
Commissioner Stone asked if they will still be required to put it in.
Director Spendlove responded that yes they have to put it in and the money will go somewhere else to be used.
Commissioner Detweiler not out of line for the city to want to step away from paying it.
Vice Chair Perez commented that it is in line with other developers and feels it's fine for the developers to pay for it.
Commissioner Rambur asked if certain lighting is required.
Director Spendlove responded that yes it's determined by the city engineer.
Vice Chair Perez feels if developers felt this would be a problem they had time to respond.

MOTION: Commissioner Campbell moved to recommend approval for the request for a Zoning Title Amendment of City Code 10-12-4-2(J)&(N), to modify financial responsibility of street sign and luminaire installation for new development. (PZ23-0069). Commissioner Detweiler seconded the motion.

Roll call vote showed all members present voted. Approved 6 to 0.

6) Upcoming Meeting(s)

a) Tuesday, November 28, 2023

7) Adjournment

The meeting adjourned at 08:37 PM Commission

Jody Green, Planning Technician