



Twin Falls Planning & Zoning Commission Minutes

Tuesday, August 22, 2017, 6:00 PM

City Council Chambers
305 3rd Ave E
Twin Falls, ID 83301

Members -

City Limits: Tom Frank, Chairman, Kevin Grey, Vice Chairman, Danielle Dawson, Darren Hall, Craig Hawkins, Gerardo "Tato" Muñoz, Ed Musser

Area of Impact: Ryan Higley, Steve Woods

1) Confirmation of Quorum/Call Meeting to Order

Chairman Frank called the meeting to order at 6:00 P.M. He then reviewed the public meeting procedures with the audience, confirmed there was a quorum present and introduced City Staff.

Commissioners Present: Frank, Grey, Hall, Higley, Munoz, Woods

Staff Present: O'Connor, Spendlove, Strickland, Vitek, Wonderlich,

2) Consent Calendar

a) Approval of the Minutes for the following meeting: July 25, 2017

Approval of the Findings of Fact and Conclusions of Law for July 25, 2017 public hearing:

- Eastpark Subdivision No. 3, a ZDA (now Pineford Subd, a ZDA)-Pre Plat
- Bill Riebesel SUP
- Early Day SUP-Denied

Motion:

Commissioner Grey made a motion to approve the consent calendar, as presented.

Commissioner Hall seconded the motion.

Unanimously Approved

3) Items of Consideration

4) Public Hearings

a) Request for a **Special Use Permit** to operate a hookah lounge and indoor dance club with extended hours of operation on property located at 360 Main Avenue North. c/o Adrian Quiroz (app. 2886)

Applicant Presentation:

Adrian Quiroz, the applicant, explained the reason for the request is to open a hookah lounge. He would like to provide a cultural experience, and give people a place to meet new people and dance with friends. The hours he is requesting, are Monday thru Thursday 8pm to 12:30am, Friday and Saturday 8pm to 3:30am. The building will accommodate 137 people. The traffic he anticipates to have Monday thru Thursday on each one of those days is 15 to 20

people. Friday and Saturday, he anticipates having 80 to 100 people. The number of employees would be 4 employees 2 employees serving the hookah to the customers and 2 securities Friday and Saturday. Monday thru Thursday he will have 1 employee serving the customers and 1 security and he will always be present Monday thru Saturday from open to close. There will be no noise and vibration complaints from the surrounding businesses. Next door is Music Magic Events (MME). Their hours are 10 AM to 3 PM Tuesday thru Thursday and Friday 10 AM to 12 PM and Saturday, Sunday and Monday they are closed. His business hours will be from 8 PM and up so there should be no conflict. Across the street is a bar so he will not be doing anything different from what they are doing. To the people in the back they will not be able to hear the noise because he will have the back doors closed at all times. No noise or vibration should be heard in that direction and customers will be entering all in the front entrance. The front entrance will be closed at all times also and will only be open when people are entering and exiting out of the door. There will be no glare or fumes.

He has hired 5 security staff that he has monitoring the outside of the building, they pick up trash and afterword's when he is done he and his wife go out and pick up trash. He has also gotten signatures of support for the neighbors, trying to be proactive. They have been open for about a week and a half until 3:30 am. They have not had any complaints, no police calls and he has even told the neighbors to let him know if he can help them with anything.

Staff Presentation:

Planner I O'Connor reviewed the request and stated in June 2007 this Commission approved SUP #1035 for a Restaurant and Lounge with Extended hours to 1am Monday thru Thursday, and until 3:30am Friday & Saturday at this site. In 2015, a new business moved in advertising itself as a Hookah Lounge. They operated for approximately 7-8 months in this location under the original SUP #1035. Since then Tacos Dos Hermanos has moved in and advertises as operating from 9am to 9pm, well within the allowed hours.

This is a request to operate a Hookah Lounge with extended hours and dancing, an activity classified as "Indoor Recreation" at 360 Main Ave. The Hookah lounge itself does not require an SUP per the CB zone, however, the extended hours and Indoor Recreation do. Since there has been a lapse in some time of the approved use of SUP #1035, the applicant is required to acquire an SUP before operating the Dance Club and operating the sale of product at the Hookah Lounge past 10pm. There is no alcohol proposed at this time.

Police Input: The Twin Falls Police Department has seen a pattern of negative impacts with establishments, such as hookah lounges, operating past the hours of the normal closing time of the bars in town. There have been three (3) other known hookah lounges in town, with one previously at the location of this request. During its operation from April 2015 to no later than November 2015 (when Tacos Dos Hermanos received their Gas Permit), nine (9) calls for Police response were requested through dispatch. Of those 9 incidents, 8 involved a fight or battery. There were two other hookah lounges in town, which operated between May 2011 and May 2015, requiring 39 direct police response calls, usually involving some sort of disturbance, fight, or other altercation. In response to this trend, the Police Department recommends any SUP for

extended hours be subject to closing by 1:30 AM, the same time as most bars in the area.

Comprehensive Plan Compliance:

The 2016 Comprehensive Plan; “Grow With Us” designates this area as appropriate for “Downtown.” Downtown is defined as supporting and serving a diverse mix of uses from restaurants, retail, civic uses for regional and local activities, and high density residential. A Hookah lounge can be considered “Cultural” in that the activity is commonly practiced in South East Asia, the Middle East and parts of Northern Africa. The Downtown Future Land Use designation specifically calls out Entertainment, Arts, and Cultural activities as categories that should be supported through this designation. Staff has determined this request complies with the 2016 Comprehensive Plan; “Grow With Us”.

Per City Code 10-4-7:

A Special Use Permit is required for any operation that operates outside the normal business hours of 7am to 10pm, and for Indoor Recreation establishments such as a dance club.

Per City Code 10-11-1 thru 8:

Required improvements will be assessed and all applicable code requirements will be enforced at the time of building permit submittal.

The impacts from extended hours in conjunction with a Hookah lounge and dance club presents a conflict, which has historically shown to provide many opportunities for individuals to get into trouble. It is not the establishment itself which is the issue but the hours of operation. According to conversations with the Police Department, individuals who would usually go home after the bars close, end up at locations still open. This provides the opportunity and location for individuals to continue drinking. These impacts are exacerbated by the fact there is residential uses adjoining and very near 360 Main Ave N.

Planner I O’Connor stated upon conclusion should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the business being closed and customers being out of the building by 1:30am.
3. Subject to blocking the street access from Eden Street North into the property.
4. ~~Subject to no operation of the business until COO is issued if determined a change of use.~~ (Staff removed this condition because no building permit is required)

PZ/Questions & Comments:

- Commissioner Grey asked for clarification of the location of the access that is to be closed, as well as where the nearest residential area is located adjacent to the property.
- Planner I O’Connor showed on the overhead the locations.
- Commissioner Munoz asked about alcohol consumption for sale on-site.
- Mr. Quiroz explained he does not plan to do any alcohol or catering.
- Commissioner Munoz asked if their security staff is licensed.

- Mr. Quiroz explained one is licensed and the licensed staff are training the other security staff. He has 3-4 security staff there every Friday and Saturday night.
- Commissioner Munoz asked about any age restrictions.
- Mr. Quiroz explained 18 and older is allowed access into the building and they do ask for ID's to verify age.
- Commissioner Frank clarified with staff that the actual hookah lounge does not require a Special Use Permit. The applicant is asking for extended hours and dancing that is classified as indoor recreation which requires a Special Use Permit.
- Planner I O'Connor concurred and stated that is correct.
- Commissioner Frank asked what the applicants background with this type of business.
- Mr. Quiroz explained that he attended Idaho State University and met several middle eastern students that introduced him to hookah. They have educated him on the hookah and helped him get his product. He has a criminal justice degree and has worked with probation and parole for a year. He has a good understanding of how to keep people in order. He is working to have someone from probation and parole do some training with his staff.
- Commissioner Frank explained the past history or experience with hookah has not been positive. He wants to make sure the applicant understands and wanted to find out what kind of background the applicant has for running this type of business.
- Mr. Quiroz explained he was aware of the bad experience and has been trying to make sure how to proceed without creating problems. He has been open for about a week and a half and has not had any issues. Things have been calm and orderly, he wants the business to be a success.
- Commissioner Hall asked about hours of operation while they have been open.
- Mr. Quiroz explained that they have been open Monday thru Thursday from 8pm to Midnight. On Friday and Saturday they have been from 8pm – 3am. He has not had any complaints from the neighbors and he has informed them.
- Commissioner Munoz asked about the reason for being open past 1:30am.
- Mr. Quiroz so that people that want to continue to hang out, sit back and relax. He stated they have a couple TV's for people to watch and unwind.
- Commissioner Frank explained that the concern is that the people coming to the business after 1:30am most likely are inebriated.
- Commissioner Woods asked if they have been open and have been open until 3am.
- Senior Planner Spendlove clarified the business being open until 3am and people being in the building is not illegal, selling items beyond 10pm is the issues.
- Mr. Quiroz explained they have been open but have not been selling anything after 10pm.

Public Hearing: Opened

- Chairman Frank explained that the Commission received a letter from a citizen that will be speaking tonight, and it has been filed with the application.
- Sid Vanderpool, owns 350 Main Avenue North, property adjacent to this location and has video to show of how the previous hookah lounge that was operated in 2015. He also provided video of trash that was left behind after their opening night on August 12, 2017.

The video showed beer cans and bottles left behind in a parking lot. He doesn't want his property value to decrease and he doesn't want people to be afraid to come to his business. He asked for clarification on the number of security staff.

- Ruth Pierce, owns 320 Main Avenue North, explained she is here as a business owner and citizen. She stated she is a City Council member and this if this were to go before the Council she would recues herself from the discussion and from voting. She confirmed the last hookah bar at this location created lots of issues. They had concerns with security so she hired a private security guard because they do work past 5pm during tax season, and their parking lot was trashed. Monday morning after the soft opening her flower pots were full of beer cans, it looked like the parking lot had been cleaned up but not the flower pots. The building next door had a bunch of beer cans too. She is concerned about her building, her neighbors and the parking lots in the area. She would like the applicant to address lighting, security, and drinking in public, it may work but there needs to be a plan for it to work.
- Travis Quast, Times News representative explained they are a 24 hour operation and he is concerned for the safety of his employees and the property. His concern is the where they don't have a liquor license, after 1:30am they have to go outside to drink, and since Ms. Pierce hired security for her parking lot the people just moved over to the Times New parking lot. They had a daily occurrence of having to clean the parking lot. If they are anticipating 80-100 people, there is not adequate parking for that amount of people. They are not allowed to drink inside after 1:30am so they move outside and drink in the parking lots on private property. He explained that they have not had any contact with the applicant to discuss these issues.
- Terry Halbert, asked that the Commission consider the impacts of this business, the plans the City has for this area and whether or not this business is family friendly.
- Barbara Ruth, 351 2nd Avenue North, directly across the alley, she has spoken to the applicant about a problem she had on the first night he opened. He was responsive and even assisted her in getting an old couch taken to the dump. She wanted to clarify that there is an apartment building close to this location that has many refugees the work at dairies that have to be up early for work and having the hookah lounge open until 3:30am may not be the best situation for the people that live in that building. The first night they were open she road he bike home around 10pm after cleaning up at her church and found several people hanging out in the driveway next door to her. When she asked, what they were doing they told her they were visiting the girl that lived there, but she wasn't home. She can also confirm that previously when the hookah lounge was operating there were always broken bottles, used condoms, used tampons and trash left everywhere in the parking lot. She did explain to the applicant that with the color of the building being so dark, with no lights on the back of the building it did make is seem like the opportune place to hide what was going on. She has mixed concerns, if things go the way that they did before, with this age group and the level of responsibility they have.
- Leon Martin, 429 2nd Avenue West, explained he lives in this area of town and his wife and he enjoy walking around in this area. He does appreciate the diversity of this community; however, if this business cannot maintain the area any better than the bar across the street, that has been there for years, he has reservations about letting it operate.

- Maricela Rocha, explained that seeing new activities for the younger crowd, would help keep the kids off the street, and would be better than having the kids going to after parties and doing drugs. She has visited the business at several different times and has seen the security that seems to be good, and they do ask for ID's. She explained that the video showed the previous hookah lounge and that was poorly operated. The applicant has stated they will not be serving alcohol and they want to be a good neighbor, so she thinks this new owner should be given a chance.
- Mathew Marshall, explained it sounds like the business is controlled in the building, but the applicant may not be able to control the outside environment and what happens on other people's property. He would ask that the hours of operation be considered, he thinks 1:30am is late enough.
- Makalah Quiroz, explained that they have communicated with the neighbors to try and prevent the problems that happened previously from the other owners. She would like to try hard to please the neighbors, and she is willing to clean up the properties. They do have security checking around the property regularly and they have told the security staff that if they see anyone drinking on the property that they need to leave.
- Ms. Rocha, explained that after work she has gone to the hookah bar and it is a nice place. He can't control everything that goes on outside of his property, but he is willing to try.
- Kathy Jones, explained she was not aware of what a hookah lounge was until tonight. She personally feels they should not be open after 1:30 am. She has been a Taxi operator in the past and it was difficult. She has had bar owners call her to pick up people that are inebriated, they get in the car and then jump out and leave in their own cars. Having this place open past 1:30am just creates more issues.

Public Hearing: Closed

Closing Statements:

- Mr. Quiroz explained they have invested a lot of money into this business. He has painted the building a dark chocolate color to create a calmer environment. He is trying to make it look nice and improve the downtown. He understands the previous hookah lounge was not operated as it should have been. He is trying to make sure trash is picked up. He has increase the security from 2 to 5 security people. They has also increased the staff, because the business has been doing well. He is also planning to have probation and parole come out and do some security training. He is trying to move forward and not be held responsible for something someone did in the past.
- Commissioner Frank asked what areas are the security keeps an eye on while operating.
- Mr. Quiroz explained that they check out front and behind the building, they were not completely prepared for the day after opening, but they were out there and had everything cleaned up by 8am the next day.
- Commissioner Frank asked if he has a plan to take care of the concerns brought up in the testimony.
- Mr. Quiroz explained they are going to continue cleaning the property the best they can, they will train the security staff. People do come from the other bars in the area but they have been calm and have not had any fights.

Discussions Followed:

- Commissioner Grey asked about alcohol sales and if an SUP would be required.
- Planner I O'Connor explained an SUP is not required to serve alcohol, but the license to sale beer or wine would have to be approved by the City Council.
- Commissioner Higley asked about parking requirements.
- Planner I O'Connor explained they are in a P1 overlay so there are not any off street parking requirements.
- Commissioner Frank asked about security off the property.
- City Attorney Wonderlich explained their authority is limited to the boundaries of their property.
- Commissioner Grey explained he has no issue with the business, but his issue is the hours of operation.
- Commissioner Woods explained he is having issues with supporting the request based on the criteria for approving a Special Use Permit.
- Commissioner Grey explained that the business brought the issues to the area, so it should be his responsibility to clean up.
- Commissioner Frank explained that this is a new business owner, but he is not in support of the extended hours. He would like to give the applicant a chance, possibly the Special Use Permit for extended hours could come back if things go well. The other point he made was that the Special Use Permit can come back through a revocation process.
- Commissioner Woods explained that he would like to see the business operate for a while before extending the hours beyond 1:30 am.
- Commissioner Munoz explained the biggest issue he has is the hours beyond 1:30 am. He says he would like to see the business in operation for a little time, and then if things are going good, the applicant can come back and ask for extended hours. Not all the people that come in after 1:30 am are looking for a place to relax they are looking for a place to continue partying and drink out in their cars. Having security walking around outside will discourage people from doing this but there is no guarantee.
- Commissioner Hall explained that the building has been open for a while but he asked if the building has adequate restrooms.
- Senior Planner Spendlove explained the building department would determine the bathroom requirements.
- Commissioner Munoz asked about clarification on the access closure.
- Senior Planner Spendlove explained it is closure to access on to the property from Eden Street North not building access. He also reviewed the conditions recommended by the citizen and explained which conditions could be addressed by the Commission.
- Commissioner Grey explained if they can operate without any issues until 1:30am then possibly, they could request additional hours later.

Motion:

Commissioner Grey made a motion to approve the request, as presented, with staff recommendations. Commissioner Woods seconded the motion.

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the business being closed and all customers out of the building by 1:30am.
3. Subject to blocking the street access from Eden Street North into the property.

Discussion Followed:

- City Attorney Wonderlich clarified that the Commission needs to make sure that everyone, understands the condition #2. Does that mean the business is closed and no one new can come in.
- Commissioner Woods asked what is the rule for a bar.
- City Attorney Wonderlich stated if the intent is that the business has to be closed at 1:30am, the condition provided by staff is a little ambiguous.
- Commissioner Grey explained that he has worked in places that close to new customers at 1:30am but the customers that are already there can finish up and leave when they are done.
- Commissioner Munoz explained the biggest problem he sees is people loitering in the parking lot.
- Commissioner Woods asked if the business closes at 1:30am and people continue to hang around outside is that grounds for revocation.
- City Attorney Wonderlich explained that is the reason for this discussion so that everyone is clear on what the condition means. The hookah lounge over on Filer Avenue the police had multiple issues because they told the police they were not open they just had people visiting us and ongoing problems long after 1:30 am. They claimed they were closed, they weren't selling anything they just has a bunch of friends in the building. If the intent is for the effects to stop the condition needs to say close the business, if the intent is to stop anyone new from entering that condition needs to be stated that way. For clarification, the law for a bar is that the business is closed and all customers are out of the building by 1:30am.

Vote:

All members present voted in favor of the motion.

Approved, With the Following Conditions

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the business being closed and all customers out of the building by 1:30am.
3. Subject to blocking the street access from Eden Street North into the property.

Recess for 5 Minutes

- b) Request for a recommendation to **Vacate** the Garnand Conveyance Plat located at 129 Eastland Drive. c/o Fran Florence on behalf of Gary Garnand (app. 2887)

Applicant Presentation:

Fran Florence, representing the applicant, explained this is a request to vacate the Garnand Conveyance Plat. Several years ago the Conveyance Plat was kind of the trend, rather than full on plats. The benefits may have appeared to be good at the time, however the conditions that were typically placed on the conveyance plat can become a huge disadvantage for the property owner, deeming the property undevelopable. The applicant is requesting that the conveyance plat be vacated so that in the future it can be developed or possibly a building permit may be approved for the property. The conditions for development would then be decided at that time, meeting the current standards. The one item the city does not want to happen is that the dedication of right-of-way go away, and the applicant agrees. Part of the vacation process is to discuss with all of the utility companies the request and to acquire letters from each of them stating they are okay with the vacation. The applicant has received letters from all of the utility companies.

Staff Presentation:

Senior Planner Spendlove reviewed the request and stated this request covers two lots, which are part of the Garnand Conveyance Plat, recorded in March 2008. According to County records the building was constructed in 1978 and has been an office ever since.

This is a request to vacate the previously approved Garnand Conveyance Plat, which contained two Lots. Neither lot has been sold. At this time, the owner wishes to recombine them and sell the property as one parcel. There is no requested change in the use of the land. We have received approval letters from all (except Cable One as of 08-01) interested utility companies (except Cable One as of 08-01-17) and no comments have been received from the applicable political subdivisions.

The vacation of a Plat does not release the property owner of all obligations for improvements to the subject property. Typically, the improvements (Curb, gutter, sidewalk, road widening, sewer and water service), are designed during the platting phase and installed as part of subdivision construction. In this case, no development has occurred and no subdivision construction has taken place. However, these types of improvements may also be required as part of building permit approval per City Code 10-11. The extent of the improvements would depend on the proposed use or development of the property.

Staff has determined since no sale or development of property has taken place since the recording of the conveyance plat, the request to vacate is reasonable. It will facilitate an easier sale of the property for the applicant. Vacating the plat will not release the current or future owner of required improvements should there be redevelopment or a change in use of the development as stated above.

Senior Planner Spendlove stated upon conclusion should the Commission recommend to the City Council, this request be granted as presented, staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the City of Twin Falls keeping the dedicated Easements and the Right of Way directly adjacent to Eastland Dr.
3. Subject to any conditions placed by applicable Utility Companies for vacation approval.

Public Hearing: Opened & Closed Without Comment

Discussions Followed:

- Commissioner Higley asked about the vehicular easement, and if it will stay in place.
- Senior Planner Spendlove explained that this easement was most likely in place prior to the conveyance plat and will remain in place.
- Commissioner Munoz asked if the property could be platted again.
- Senior Planner Spendlove explained yes.

Motion:

Commissioner Higley made a motion to approve the request, as presented. Commissioner Munoz seconded the motion. All members present voted in favor of the motion.

Recommended, As Presented, To the City Council, With the Following Conditions

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.
2. Subject to the City of Twin Falls keeping the dedicated Easements and the Right of Way directly adjacent to Eastland Dr.
3. Subject to any conditions placed by applicable Utility Companies for vacation approval.

5) General Public Input

6) Upcoming Meeting(s)

- a) WS Wednesday, September 6, 2017
PH Tuesday, September 12, 2017

7) Adjournment

Lisa A. Strickland, Administrative Assistant