



Twin Falls Planning & Zoning Commission Minutes

Tuesday, October 24, 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, Craig Hawkins, Gerardo "Tato" Muñoz, Ed Musser

Area of Impact: Ryan Higley, Steve Woods

1) Confirmation of Quorum/Call Meeting to Order

Members Present: Frank, Grey, Dawson, Munoz, Musser, Woods

Staff Present: Carraway-Johnson, O'Connor, Strickland, Vitek, Wonderlich

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

2) Consideration of Amendments to Agenda

None

3) General Public Input

None

4) Consent Calendar

- a) Approval of minutes from the following meeting: 10-10-17
- b) Approval of Findings of Fact and Conclusion of Law for the following meeting: 10-10-17
 - Legg (SUP)
 - Witherspoon (SUP)
 - Valencia Park (Pre-plat)

Motion:

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

Commissioner Musser seconded the motion.

Unanimously Approved

5) Items of Consideration

None

6) Public Hearings

- a) Request for a **Special Use Permit** to serve alcohol for consumption on site in conjunction with a restaurant on property located at 687 Blue Lakes Boulevard North. c/o Richard Cummings on behalf of Chipotle Mexican Grill (app. 2899)

Applicant Presentation:

Gary Slette, Attorney, representing the applicant, stated this is a request for a special use permit application for the ability to serve beer and wine on premise at the restaurant located

at 687 Blue Lakes Blvd N. There should not be any impacts to the surrounding area, and the reason for the request is that they are located within 300' of a residential property.

Staff Presentation:

Planner I O'Connor reviewed the request and stated the Zoning history of this property is limited to Ordinance #2012, which established the districts we current enforce. The Polk directories indicate Intermountain Gas occupying the property as far back as 1965. Approximately 2 years ago, Intermountain Gas vacated the premises, the building was demolished and the new owner received a building permit to construct a restaurant on the corner. In June of this year, this commission approved a preliminary plat, the TF Caswell subdivision and the City Council approved the final plat in August 2017. As of the date of this report, the final plat is not recorded.

The applicant is requesting a Special Use Permit to serve alcoholic beverages for consumption on site. The SUP is required because the property is adjacent to and within 300' of residential property. The applicant wishes to provide their customers with more beverage options as they do at many other locations across the state and nation.

Comprehensive Plan Compliance:

The 2016 Comprehensive Plan; "Grow With Us" designates this corridor as appropriate for "Mixed Use." This is a broad category, and since the request is tied to a permitted use of a restaurant, there is no change in the primary land use. Therefore, staff determines this request is in compliance with the 2016 comprehensive plan.

Per City Code 10-4-8:

A Special Use Permit is required for the retail sale of alcoholic drinks for consumption on site if within 300' of residential property.

Per City Code 10-11-1 thru 8:

Required improvements include access, landscaping, parking, drainage and storm water, trash enclosure, etc. These required improvements will be evaluated and all applicable code requirements will be enforced at the time of building permit submittal.

Planner I O'Connor stated upon conclusion staff does not anticipate any increase in negative impacts from this request. 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 all State, County, and City licensing requirements for alcoholic sales.

Public Hearing: Opened and Closed Without Comment

Discussion Followed: Without Concerns

Motion:

Commissioner Dawson made a motion to approve the request, as presented, with staff recommendations. Commissioner Musser seconded the motion. All members present voted in favor of the motion.

Approved, As Presented, 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 all State, County, and City licensing requirements for alcoholic sales.
- b) Request for a **Special Use Permit** to construct a 2320 sq. ft. detached accessory building on property located at 3684 North 2700 East in the City's Area of Impact. c/o Jon Powlus (app. 2901)

Applicant Presentation:

Jon Powlus, the applicant stated he is constructing a detached accessory building to store personal items, it exceeds the 1500 sq. ft. allowance requires a special use permit.

Staff Presentation:

Planner I O'Connor reviewed the request and Records indicate this residence was built in 1979, remodeled in 1986, and added on to in 2013. The Zoning was likely set with Ordinance 2012 in 1981. Earlier this year the applicant applied and received a building permit to construct a detached garage that did not exceed 1,500 sf.

This is a request to construct a 2,320 sf-detached garage on property located at 3648 N 2700 E within the City's Area of Impact. In July of this year, the applicant applied for and received a building permit to construct a 1,500 sf-detached garage. The footings and foundation were approved and the structure was partially framed when on August 21, 2017 the applicant submitted a change order to increase the size of the building to 2,320 sf. He was informed of the requirement for a special use permit. If the Special Use Permit is granted the applicant has stated it will be utilized for storage of personal vehicles and property. This size for a detached accessory building is a common request in the SUI zone and is a common land use in this area. As of today, the applicant has asked to increase the size by an additional 40 sq. ft., making the size of the building 2360 sq. ft. Staff does not have an issue with the additional square footage.

Per City Code 10-4-2:

A Special use permit is required for any detached accessory building exceeding 1,500 sq. ft. in size.

Per City Code 10-11-1 thru 8:

Required improvements include access, curb & gutter, minimum 50' paved driveway, drainage and storm water, etc. These required improvements will be evaluated and all applicable code requirements will be enforced at the time of building permit submittal.

Planner I O'Connor, stated staff nor the applicant anticipate any negative impacts to surrounding properties. Should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

1. Subject to the site plan amendments a required by Building, Engineering, Fire and Zoning Officials to ensure compliance with applicable City Code requirements and standards.
2. Subject to personal use of the occupants of the main house-no occupancy, business or commercial activity.

Public Hearing: Opened and Closed Without Comment

Discussion Followed: Without Concerns

Motion:

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

Approved, As Presented, With the Following Conditions

1. Subject to the site plan amendments a required by Building, Engineering, Fire and Zoning Officials to ensure compliance with applicable City Code requirements and standards.
2. Subject to personal use of the occupants of the main house-no occupancy, business or commercial activity.

- c) Consideration of the **Revocation of Special Use Permit #1233**, granted to Afrim Hetemi on June 14, 2011 to allow an indoor recreation facility to operate in conjunction with an existing bar and grocery store outside the permitted retail hours of operation on property located at 139 Shoshone Street North. c/o City of Twin Falls (app. 2455)

Staff Presentation:

Planner I O'Connor reviewed the request and stated City Code 10-13-2.3 - Revocation of a Special Use Permit process requires a public hearing to be held in which the permit holder, city staff and/or and aggrieved party may present testimony or other evidence at said public hearing.

City Code Section 10-13-2.3 provides a procedure for revocation of permits. Specifically, 10-13-2.3(A)2 states that a permit can be revoked, "for violation of supplementary conditions, safeguards and/or restriction imposed by the City Council or the Planning & Zoning Commission at the time the permit was granted." A petition for revocation may be initiated by the adoption of a motion by the Commission, City Council or by the filing of a petition by an aggrieved person.

The decision of the zoning body hearing a revocation proceeding **shall be based on the record**. If said zoning body finds substantial evidence on the record that continuance of the use in question will result in a significant adverse impact on the surrounding developments or other affected

parties, and that the permit holder is unable or unwilling to alleviate the adversity, or if said zoning body finds substantial evidence on the record that conditions, safeguards or restrictions imposed by the commission or council have been violated, the zoning body may revoke the permit in question.

The site is zoned CB P-1; Central Business District with P-1 parking overlay and within the Downtown Historic District. Special Use Permit #1233 was granted to Afrim Hetemi on June 14, 2011 to operate an indoor recreation facility to include dancing and pool tables in conjunction with an existing bar and grocery store. The Special Use Permit granted allowed operating with extended hours of operation Wednesday, Friday, and Saturday from 11:00 pm to 3:00 am on property located at 139 Shoshone St N. The permit was granted, subject to the following conditions:

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning Officials to ensure compliance with applicable city code requirements and standards.
2. Subject to compliance with State, County, and City Alcohol licenses and regulations.
3. Subject to this facility being allowed to operate until 3:00 am on Wednesday, Friday, and Saturdays, as presented.
4. Subject to operation of an indoor recreation facility including a dance floor and pool table as presented.

City Staff was approached by the Police Department as part of an on going effort to curb the disturbances and issues stemming from Bumpin' Bernie's operating past permitted hours of operation of 10:00 pm. See attached report from the Twin Falls Police Department for a thorough and detailed analysis of the situation. City Staff has worked collaboratively to attempt to address the issues detailed in the police report through various means. This Commission approved the Consideration of the Initiation for Revocation on September 26, 2017 and this public hearing is the next step in that process. Staff is asking the Commission to act on this request.

Sgt. Kevin Loosli is here to discuss further the Commission's request for more information regarding the Call for Service Analysis. Sgt. Looslie has suggested if the Commission votes to reduce the operating hours - 1:30 am would be consistent with other local bars operating hours.

Calls for Service 10/1/2016 through 9/30/2017

Bar	Calls For Service (CFS)	CFS after 1:30am	Fight/Disturbance/Battery CFS	Reports	Percentage of total calls after 1:30am
Bernies	108	52	36	24	48.10%
401	9	0	6	2	0%
402	80	15	8	15	18.75%
513	23	3	3	4	13%
516	90	20	21	20	22.20%
1519	52	2	17	2	3.80%
1532	39	3	12	10	7.70%
1749	48	6	4	8	12.50%
Totals of 7 other bars	341	49	71	61	14.30%

Sgt. Kevin Loosli reviewed the calls for service data with the Commission. He explained the calls for service presented this evening are from October 1, 2016 to September 30, 2017. He also stated this is the only establishment of this type that operates until 3am; therefore, it was difficult to make a true comparison with the data.

Planner I O'Connor stated upon conclusion the commission is tasked to approve revocation of, deny the revocation of, or amend SUP #1233. Staff recommends amending the SUP per the Police Department's request and subject to:

1. Subject to removal of condition #3 of SUP #1233
2. Subject to closing down the establishment to all uses and patrons at 1:30 am, with no patrons allowed within the premises beyond the 1:30 am closing time *—the PD suggested time per normal bar operating hours.*

Applicant Presentation:

Burhan Hetemi, the business owner, stated there have been fights and calls reported so that the problems could be taken care of, before this request was brought to this body, he did not have a way of getting rid of people, he does not own the parking lot. He has since worked with city staff to get No Loitering, sign installed in the parking lot, which has improved the situation. The sign has been up he thinks for about 6 weeks, and since then they have not had any issues.

PZ Questions/Comments:

- Commissioner Grey asked Sgt. Loosli if there is any way to differentiate between filing of the report and what may have actually happened at the business.
Sgt. Loosli explained it is an all-inclusive report.
- Commissioner Frank asked if there are any numbers to corroborate the claim that there have not been any issued over the past several weeks.
- Sgt. Loosli explained the numbers are calculated through September 30, 2017, if the sign was installed approximately 6 weeks ago; there have been 3 calls for service in that time frame. These calls came in after 1:30am.
- Mr. Hetemi confirmed that the last two calls were made by his business and they were prior to the sign being installed. He has been the one that calls in the problems and is willing to do whatever it takes to make things better. He has also signed a contract with Taxi services and they will pay for the cost so that people are not driving drunk.
- Commissioner Grey asked if Mr. Hetemi understands these calls are because of their business operating during these hours.
- Mr. Hetemi explained yes, but he has taken steps to get the No Loitering sign put up so that he can get rid of people hanging around and he has made the majority of the calls to the police about the people in the parking lot.
- Commissioner Hawkins asked what the busiest hours of operation are for the business.
- Mr. Hetemi explained between 12:45am and 3:00am. He advertises that they are open earlier but the problem is that most people think their hours are 12:00am -3:00am because they have been operating this way for 6 years. Customers start showing up when the other bars start closing, which is part of the problem because they have already been drinking, and after these hours, they only serve food, drinks and no alcohol.

- Commissioner Frank asked if the business has ever thought about closing the doors at 1:30am so that these after-hours problems would go away.
- Mr. Hetemi stated that the majority of his business is during the after-hours timeframe and he has never considered closing at 1:30am. The fights are not occurring in the bar, they are occurring outside in the parking lot because they can drink outside and can't drink inside during these hours.

Public Hearing: Opened

- Artem Petrosyan, 766 Alyssa Ave, he is a refugee and has been a resident of Twin Falls for 14 years. He presented a power point presentation showing pictures of the bar and ratings from their customers. He explained he helps manage the business, and there has never been a written complaint about the bar, and no fights in the bar. The customers enjoy the atmosphere; they provide a place for local artists to perform, they try to have one event a month and fund raisers to support their community.
- Rico Chi, 155 2nd Ave N, stated he does case management for Medicaid and his clients come through the parking lot area frequently. There are broke bottles, empty beer cans and trash in the parking lot and he and his wife have had to clean it up. He has asked the business owners to help pick up the trash and clean up the area but it doesn't happen. His clients are disabled, don't see well and are fall risks which causes him concern when they have to travel through a parking lot full of broken glass and trash.
- Nathan Wheeler, Falls Ave Apt. E, felt that he needed to comment about this request, his sister works at Hands On next door and explained that the broken glass is a nuisance to her also and has mentions problems with public urination. At the same time, he is a bit torn because there are not a lot of options for the 21 and older age group to go and have a nightlife. He explained, he thinks the town needs; to have a place like this but there needs to be better control of the people.
- Ms. Totle, explained there were pictures of cans outside the business and they do not serve cans.
- Tim Stastny, owner of Slice downtown, stated they have a business that is needed, the problem is what goes on in the parking lot. Saturday night his son was accosted in this parking lot, policing the place more efficiently seems to be the answer. The people all know this is the location to go after 1:30 am and there was blood and vomit on the back of his door Saturday. The people use the parking lot as a racing area, he understands there are only so many police, the problems are not in the bar, the parking lot is the real issue. The parking lot needs to be controlled better. People know to go there because their business I open late, but people are afraid to park in this area and walk into the business. He doesn't want to see places go out of business, but the messes like blood, vomit and urine nobody can clean up. A discussion about how to police the parking lot better needs to happen. He is getting ready to open another business, there are going to be two more breweries opening downtown and his concern is the impacts this will have on the new businesses and the people that want to come downtown.

Closing Statement

Mr. Hetemi explained he does agree, policing the outside and the parking lot is the issue, they try to do their best, they can do better at cleaning and apologizes to the businesses that spoke for the

people's behavior. He is willing to help regulate the area better; they call the police when they have trouble. He wants the businesses to be successful.

Discussion Followed:

- Planner I O'Connor reviewed the options for the Commission to consider when discussing this item: approve the request for revocation, deny the request for revocation, or amend the Special Use Permit #1233 per the request.
- Commissioner Woods explained on his way here tonight he came with a different mindset and after hearing testimony and listening to all of the views, he has changed his mind. He is not within the age range for this business, but he does believe people need an outlet for things to do. The idea of telling the town that businesses close at 1:30am is archaic. He does think the business is a target for nightlife, an outlet for people to socialize and it does bring people for many reasons. In his opinion, he would recommend that the business owner work with the police, the neighbors and the URA to make the area safer, and postpone a decision for a few months.
- Commissioner Munoz explained another option is to table the item. The location is a focal point after 1:30 am because it is the only place open after the other bars close. Being open during this time attracts the undesirables to this location.
- Commissioner Grey the data presented tonight was implied to be occurring at this establishment and it is undoubtedly this is the establishments fault because they are open after 1:30am. They have the only place open and the people hanging out are making a mess, the business needs to recognize because they are the only business open at this time of this type, they are responsible for cleaning it up. The issues are not coming from the businesses that are closed during this time.
- Commissioner Woods stated there needs to be some communication with URA and possibly installing better lighting. The owner does need to clean up.
- Commissioner Frank stated when you talk about safety, taking control of the situation is essential, this is not beneficial for the community and it is impacting the neighbors. He explained to this extent if the doors closed at 1:30am the people would not be coming to this location to hang out.
- Commissioner Grey explained they are trying to have a nightlife in the downtown area, with two new breweries planned for this area.
- Commissioner Frank explained he has not seen any business owners take control of the situation for the businesses that have tried to stay open past 1:30am. He thinks that because statistically there are less problems with businesses that close at 1:30am.
- Commissioner Woods explained the numbers don't show the situation they only show numbers. He hates to see Twin Falls be the town that closes at 1:30am.
- Commissioner Munoz explained he sees the issues happening after 1:30am and he doesn't like the mentality we are going to close at 1:30. We granted this time with the SUP, which caused problems indirectly.
- Commissioner Grey stated he would be ok with tabling the item.
- Commissioner Munoz explained if we want numbers presented differently, the Commission needs to explain what they want to see.

- Commissioner Dawson it seems they want it to be open and safe which is why they are calling the police department when there are issues in the parking lot. The calls that are made are counted against this business, because they are the only ones open at this time, however it may be that the parking lot needs to be policed more to make it safer, so that the business can operate. She thinks cutting the hours back, is the wrong message to send, when the neighbors are not advocating for the hours to change, they are advocating for the parking area to be safer.
- Commissioner Munoz explained they need to step up on the clean up after hours, but he would like to see a progress report in a few months.
- Commissioner Musser explained he is skeptical that the signage would be effective in the long term.
- Commissioner Grey explained he expects the owner to do something.
- Commissioner Woods the owner needs to understand that this is threat to their business and they need to take a lead in changing the environment.
- Commissioner Grey explained that he is afraid of the impacts of closing at 1:30am and wonders if it would be counter productive.
- Commissioner Musser explained that most towns nightlife closes between 1:00am or 2:00am so he is not convinced 3am is necessary. It is just standard in most places.
- Commissioner Hawkins stated would be willing to look at it a little closer in the future.

Motion:

Commissioner Grey made a motion to table the request for further information, until December 12, 2017. Commissioner Munoz seconded the motion. All members present voted in favor of the motion.

Motion To Table Until December 12, 2017 Approved

7) Upcoming Meeting(s)

- November 14, 2017 Public Hearing
- November 28, 2017 Public Hearing

8) Adjournment

Chairman Frank adjourned the meeting at 7:21 pm