

APPROVED
BRIGHAM CITY PLANNING COMMISSION
BRIGHAM CITY COUNCIL CHAMBERS
November 1, 2011

PRESENT: Barbara Poelman Chairperson
 Larry Jensen Vice Chair
 Lynda Berry Commissioner
 Joan Peterson Commissioner
 Rob Munns Commissioner
 Lynn Duce Commissioner
 Reed Hancey Alternate Commissioner
 Michael Bott Alternate Commissioner

ALSO PRESENT: Mark Bradley City Planner
 Julie Jeppsen Administrative Assistant

EXCUSED: Eve Jones Commissioner

AGENDA

Pledge of Allegiance

Approval of Minutes

Public Comment¹ (*Per Utah Code, will receive input only, no decision can be made*) for items not listed on the agenda.*

Public Hearing² / Application # 3332 / Amend Chapter 29.02 Definitions, Chapter 29.14 Industrial Districts, AND Establish Chapter 29.33 Junk Yards, Self-Service Enclosed Storage Facilities, Self-Service Outside Storage Facilities, Towing and Impound Yards / Brigham City Corporation

Continuation of Application # 3344 / Conditional Use Permit / Addition to Rehabilitation/Treatment Facility / 970 South 1025 West / Catalyst RTC, LLC

Application # 3047 / Conditional Use Permit / Home Occupation, Licensed Family Group Child Care Provider (Daycare up to 16 children) / 343 East 850 North / Tiffanie Padelsky

Discussion

REGULAR MEETING

Regular session opened at 6:00 PM by Barbara Poelman and Larry Jensen led the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion: A motion was made by Joan Peterson to accept the **October 18, 2011** Regular Meeting minutes as written. The motion was seconded by Lynda Berry and passed unanimously.

PUBLIC COMMENT There was no public comment.

Public Hearing / Application # 3332 / Amend Chapter 29.02 Definitions, Chapter 29.14 Industrial Districts, AND Establish Chapter 29.33 Junk Yards, Self-Service Enclosed Storage Facilities, Self-Service Outside Storage Facilities, Towing and Impound Yards / Brigham City Corporation

Mark Bradley presented information to the Commission regarding the application of the City to revise the Chapters as outlined. Mr. Bradley explained the options available to the Commission related to this item and explained section by section each of the changes as appropriate to its Chapter. An overhead projection of the suggested revisions was provided.

Mr. Bradley also reported that as requested he had checked with the state regarding their time requirement for holding onto vehicles pending auction. There is a 30 day notice period that a vehicle must be held before it can go to auction. Sometimes in the more rural areas – like Box Elder County – the date for auction can be out anywhere from 5 weeks to as long as 6 months depending on need.

Larry Jensen pointed out that the Ordinance as written states “unless the state requires a longer duration”. If they have to hold a vehicle longer because the state requires a longer term the Ordinance is really self-policing.

Barbara Poelman brought to the attention of the Commission that Staff, in their notes requested that the word “inoperative” be included in the section regarding vehicles stored in Self Storage Facilities. After discussion, it was determined that the intent of the Ordinance should be to include vehicle storage for those vehicles (including inoperative vehicles) that are kept by customers for future restoration.

Motion: A motion was made by Larry Jensen to open the **Public Hearing** on Application 3332. The motion was seconded by Lynn Duce and passed unanimously.

Public hearing was opened.

Brett Reeder asked that the Commission be cautious when governing his business and allow him to decide how to run his business. There are certain guidelines that are appropriate to require – for instance regarding outside storage – but the more requirements that are placed on him as a business owner is the less employees he has money to hire. We tend to get rid of things in the city that are automotive related

because nobody likes the looks of them, but, nobody thinks about the number of jobs that are lost because of the loss of that business.

Larry Jensen asked Mr. Reeder if there were some specifics that he feels are burdensome and excessive. Brett Reeder indicated that having a time limit for impounded vehicles is not beneficial. No one really intends on governing it or checking on it nor does the City have the capability or knowhow to do so. If his lot is full and he can't bring any more vehicles in then he is self-policed. Racking/stacking not being allowed can also create issues for the business owners as it requires the business to acquire more property to function.

Barbara Poelman asked how often and under what circumstances is he required to keep a vehicle longer than 90 days. Mr. Reeder indicated that it had been seldom, however he feels that it should be up to him as a business owner how long he keeps a vehicle once he owns the vehicle.

The commissioners clarified that the draft currently has a 90 day limitation.

Robb Munns asked what the state requires and how long the longest time is between auctions. Mr. Reeder stated that the very minimum is 30 days, however, they usually are over 90 days. He tries to optimize the use of his yards and stores his own vehicles. Most of his business is towing and impound. He has to maximize use of everything he has otherwise it is lost money which relates to fewer people he can employ.

Reed Hancey asked Mr. Reeder to clarify the purpose of keeping a car for extended periods of time. Mr. Reeder stated that there are many reasons – every situation is different.

Mr. Bradley stated that the 90 days would only apply to storage of impounded vehicles. Personally owned vehicle or vehicles owned by a specific business have no time limit.

Mr. Reeder stated that the language creates confusion and should be removed. The policing of the 90 day requirement for impounded vehicles is difficult etc.

Michael Bott indicated that he tends to agree with Mr. Reeder. The 90 day time limitation is self-remedying with the size of each lot.

Lynda Berry also discussed the screening that would apply to new applications. Again Mr. Bradley stressed that the existing operations would be grandfathered and that the new regulations would apply only to new applications. He clarified stacking of vehicles, height issues with screening etc.

Lynn Duce addressed the issue of stacking using the example of Crabtree in Riverdale. It seems to be very organized. If similar racking was used, he would not be opposed to inserting language to that effect.

Lynda Berry voiced her opinion that it would not be appropriate on Forest Street.

Dirk Poulson came forward and explained that he has the exact racks, but, is limited on space. He wishes he had purchased more property. Mr. Poulson discussed the Overlay and a Cease and Decist order he received some years ago. In his career in Brigham City he has been towing people in, putting people in hotels and restaurants and generally bringing commerce to Brigham City. In 2002 AAA switched their contract to a service outside the area. His goal is to do business locally. He feels we are cutting off our life support in restricting businesses like his. Automotive is the industry here. Everyone has an automobile. We need to support our local businesses and review what is really going to help our community across the whole window. We need to take everyone's opinion and view into consideration.

Mr. Poulson again stated that his goal is to keep the business here in the community. Barbara Poelman agreed and stated that the City staff and so forth all want that as well.

Robb Munns asked if the racking allowed for more storing of vehicles per acre.

Mr. Poulson explained that with the racking you could store vehicles in a more organized and clean fashion, however, it requires lanes which take up additional space and limit the efficient use of the acreage. The racks hold 6 cars and are 14 feet high.

Lynn Duce asked for clarification regarding the extent of stacking Mr. Poulson utilizes in his business. Mr. Poulson said that he stacks when he is getting vehicles ready to recycle. But he is realistically limited because of the size (one acre) of his property.

Barbara Poelman asked for clarification regarding what parts of the Ordinance he had had a chance to review. Mr. Poulson indicated that he had not had the opportunity to review the Ordinance. He stated that he would like to have an opportunity to review the Ordinance and make appropriate suggestions.

Mr. Bradley provided copies of the Ordinance to several business owners present and explained the process and options involved in moving the item forward. He also explained that the intent was to govern new applications from this point forward. He clarified that these uses have evolved into something that they were not originally intended to be. We have had applications made that have necessitated that the City establish some standards and guidelines.

Brett Reeder expressed concern that the Commission and City are using other larger cities as examples for this Ordinance – he chooses to do business and live in Brigham City. If he wanted to do business and live in West Valley – he would move there. Additionally, he went out to Tremonton 3 weeks ago and applied for 3 new Business Licenses and was provided with them the next day. It was a small town/county atmosphere – he had no requirement to get approvals from their Planning Commission etc. Mr. Reeder said we could have a small town/county atmosphere here or we could have a West Valley City atmosphere here. We need to keep them separate.

Motion: A motion was made by Lynn Duce to continue the Public Hearing on Application # 3332 until November 15th. The motion was seconded by Lynda Berry and passed unanimously.

Lynda Berry had several editorial items that she presented. There was input by other Commissioners. Mr. Bradley gave clarifications and will provide the Commission with whatever they need to enable them to proceed with the Ordinance.

Lynda Berry stated that Brigham City is bound on the South by 1100 South and the West by I-15 and we are therefore somewhat isolated from the main traffic flow. We need an entrance that we can be proud of. If we don't stick to our guns and require what we have in this Ordinance, then we are going to have less people interested in coming into Brigham City.

Motion: A motion was made by Larry Jensen that Application #3332 be continued to the next meeting on November 15th. The motion was seconded by Joan Peterson and passed unanimously.

**Continuation of Application # 3344 / Conditional Use Permit / Addition to
Rehabilitation/Treatment Facility / 970 South 1025 West / Catalyst
RTC, LLC**

Mark Bradley presented information regarding the Catalyst application. Catalyst met with the Mayor, City Attorney and some staff earlier today. In an effort to familiarize those who were not in attendance at the last meeting, Mr. Bradley presented details of the proposed building, access etc. Larry Jensen asked for further clarification regarding the requested access to the property. Mr. Bradley clarified the temporary access which is being suggested by Staff and also the applicant. The proposed temporary access would be an improvement over the existing access. It would be a hard surface to be determined. The applicants prefer that it not be paved. Mr. Bradley outlined staff recommendations which include development of the site, street improvement along the applicant's frontage, resolution of the master plan (roads) etc. Mr. Bradley qualified the term "resolution" and explained the situation with UDOT's approval of a continuous flow intersection that was discussed at the last meeting. Further the Mayor expressed a desire to see improvement of the road extending from existing improved roads to the applicants property. Mr. Bradley discussed the option of allowing the applicants to move forward with use of a Development Agreement outlining future required improvements and conditions.

Kreg Edgmon, Adam Paul and Richard Geisler came forward. Kreg Edgmon explained that in terms of requiring that they tie into the public road they can't make the intersection happen or the Parkers give them access through 950 S or 1000 S due to the greenbelt designation of their property. They have however worked out an agreement with the Parker's that they would have the temporary access easement as outlined by Mr. Bradley. He stressed that this is the right time for their business to

expand. They feel like they have come up with a reasonable option. They really feel that their hands are tied. They can do the curb and gutter and improvement on their side or they can just build a temporary road all the way through until it is determined to be time to move forward on a permanent basis.

Larry Jensen asked for clarification on the existing Deferred Public Improvement Agreement referenced in italics. Mr. Bradley explained that the Parker's have not dedicated their portion of the road, just Catalyst.

To include a time restriction in a Development Agreement may be an issue with the applicants. If there is no movement on the City's end or the other property owner's it could create a situation where the applicant becomes landlocked.

Barbara Poelman stated that it would be dependent upon Parker's or UDOT.

Mark Bradley clarified that the City continues to allow special access arrangements for the property. He confirmed that such a time restriction could potentially put Catalyst in a bad position.

Larry Jensen explained that the City has certain requirements/improvements for businesses. When the applicant purchased the property an exception was granted and is still in place. Because they want to now expand they are requesting further exception. Larry Jensen is hesitant to grant exceptions as the Commission has tried very hard to be consistent and provide adequate traffic improvements and flow in the area.

Mr. Edgmon clarified that they purchased the property under the fair housing act as housing for disabled youth. It was not an exception it was just the access that came with the property when they purchased it. It was however, converted to commercial use this summer and that perhaps could be interpreted as an exception.

A Development Agreement could be used between the parties moving forward. It would have to be approved by the City Council. Originator of the agreement could be their attorney or the City attorney. Either way all would be best served if it was a cooperative effort.

Barbara Poelman noted that this exception is being necessitated because of UDOT's unwillingness to move forward with the 1100 S project.

Mr. Edgmon expressed concern over their lack of options. He reiterated that this is the timing for them to expand in their industry and if they can't work something out that will enable them to do so they may have to leave the area.

Joan Peterson feels that this type of road could constitute an exception as it would serve only their business and not go through to any other users. She agrees with the

concept of utilizing a Development Agreement until such time as UDOT comes on board and those issues can be resolved.

Parkers and Nelsens would need to be bound by the terms of the Development Agreement as well.

The City is in a tough position because normally other projects would not be allowed to move forward without the road being in. This is however, a unique situation.

The sewer and water utility locations were outlined by Mark Bradley. Additionally, information was provided regarding the existing lane including its size, location and use.

The Commission discussed the option of holding money in an escrow account and Mr. Bradley explained that this would be possible in addition to the fact that the document would be recorded against the property.

There was discussion and clarification of the potential sewer, water, roads and accesses. The impact and functionality of a Development Agreement with an Escrow hold was discussed.

It was determined that the Commission would like to review a proposed Development Agreement. Catalyst will have their attorney prepare a preliminary draft Development Agreement for review at the next meeting.

Motion: A motion was made by Larry Jensen to continue Application 3344 to a future meeting on Nov. 15 when they can review a proposed Development Agreement as part of the application. The motion was seconded by Lynn Duce and approved unanimously.

Application # 3047 / Conditional Use Permit / Home Occupation, Licensed Family Group Child Care Provider (Daycare up to 16 children) / 343 East 850 North / Tiffanie Padelsky

Mark Bradley presented information to the Commission including a display of the location. Staff has had positive comments expressing no concerns. Notices were sent out to adjacent property owners and there have been no responses.

Tiffany Padelsky presented her business plan. She would like to increase the number of children to 16. She provided clarification on parking. Drop off and pick-up schedules and other details of the operation. She has made application to the state and will be having her fire inspection tomorrow.

Motion: A motion was made by Lynn Duce to approve Application 3047 subject to obtaining a permit by the State of Utah and with the following Stipulations.

1. Compliance with Chapter 29.06 Uses
2. Compliance with Chapter 29.02 Licensed Family Group Child Care Provider and obtain approval by the State of Utah and a Brigham City Business License prior to operation.
3. Comply with Chapter 29.30 Home Occupations.
4. Comply with Staff Evaluation.

And the following Findings of Fact:

1. A home occupation business for daycare (Licensed Family Group Child Care Provider) is identified as an allowed use as long as the applicants comply with and obtain a State of Utah license for said use and obtain a Brigham City Business license.
2. The Planning Commission may add or modify the Findings of Fact as determined appropriate.

The motion was seconded by Joan Peterson and approved unanimously.

DISCUSSION There was no discussion.

MOTION TO ADJOURN

Motion: A motion was made by Larry Jensen to adjourn. The motion was seconded by Robb Munns and the meeting was adjourned at 8:04 PM.

This certifies that the regular meeting minutes of November 1, 2011 are a true and accurate copy

as approved by the Planning Commission on November 15, 2011.

Signed: _____



Julie A. Jeppsen, Administrative Assistant