

APPROVED

BRIGHAM CITY PLANNING COMMISSION BRIGHAM CITY COUNCIL CHAMBERS

Tuesday, January 3, 2012 6:00 p.m.

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

ALSO PRESENT: Mark Bradley City Planner
Julie Jeppsen Administrative Assistant

EXCUSED: Lynn Duce Commissioner
Eve Jones Commissioner
Michael Bott Alternate Commissioner

AGENDA

Pledge of Allegiance

Approval of Minutes

Regular Meeting

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

Public Hearing / Application # 3355 / Amend Chapter 29.13 Commercial Districts, Section 29.13.020 (2) Automobile Sales and Services to include a use category for motorcycle sales and allow as a conditional use in the Central Business District / Myrick Robbins

Public Hearing / Application # 3356 / Amend Chapter 29.13 Commercial Districts, Section 29.13.020 (7) Service Activities use category "Non-Depository Institution" / Utah Cash Advance

Public Hearing / Application # 3357 / Amend Chapter 29.13 Commercial Districts, Section 29.13.020 (6) Sales and Related Services use categories "Pawn Shop" and "Price-Point Retail Establishment" / Brigham City Corporation

Application # 3358 / Design Review / Discovery Grove Park Master Plan / Brigham City Corporation

Application # 3359 / Design Review / John Adams Park Bowery Relocation and New Construction / Brigham City Corporation

Discussion:

Chapter 29.27 Sign Regulations

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

REGULAR MEETING

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

ELECTION OF CHAIR

The planning commission elects the Chair and the Mayor appoints the Vice Chair.

Motion: A motion was made by Joan Peterson to elect Barbara Poelman as the Chairperson for the year 2012. The motion was seconded by Lynda Berry and passed unanimously.

APPROVAL OF MINUTES

Motion: A motion was made by Joan Peterson to accept the December 6, 2011 Regular Meeting Minutes with the corrections as noted. The motion was seconded by Lynda Berry and passed unanimously.

Motion: A motion was made by Lynda Berry to accept the August 2, 2011 Regular Meeting Minutes as written. The motion was seconded by Joan Peterson and passed unanimously.

Motion: A motion was made by Larry Jensen to accept the December 7, 2010 Regular Meeting minutes with the corrections as noted. The motion was seconded by Lynda Berry and passed unanimously.

Motion: A motion was made by Larry Jensen to accept the August 3, 2010 Regular Meeting Minutes as written. The motion was seconded by Rob Munns and passed unanimously.

PUBLIC COMMENT There was no public comment.

Public Hearing / Application # 3355 / Amend Chapter 29.13 Commercial Districts, Section 29.13.020 (2) Automobile Sales and Services to include a use category for motorcycle sales and allow as a conditional use in the Central Business District / Myrick Robbins

Mark Bradley presented details of the application to include motorcycle or scooter sales within an enclosed building as a conditional use in the Central Business District. Staff comments were very supportive of the proposal.

There was discussion related to the specific sites the applicant has in mind, a proposed definition and if there needs to be something in the automobile dealership definition inclusive of motorcycles and scooters.

Myrick Robbins came forward. He presented a handout of conceptual ideas for a store. He explained that his operation is designed as an information gathering spot for motorcycle tours and in addition he buys motorcycles, uses them as rentals for touring and then sells them. He would also carry accessories such as gloves, coats, jackets etc. The inventory is limited to high-end items. These are custom bikes that are fully accessorized. There is no servicing of bikes on the premises. Test driving is limited to off premises and there would not be any starting of engines inside the building. This is a boutique or loft style of store.

There were questions regarding any gathering of tour groups and the required parking etc.

Mr. Robbins explained the process of his business and the tours. His boutique would be open from noon to early evening daily. Tours generally include approximately 6 bikes – 12 participants. They are destination tours to places such as Las Vegas, San Diego etc. Advertising is done by word of mouth, radio and social networking.

There was concern expressed over use of the public right of way for display. Mr. Bradley clarified that any current use of the right of way for display in the Central Business District is grandfathered. Any display by new businesses in the right of way would not be allowed in the Central Business District. Mr. Robbins acknowledged this and agreed.

Motion: A motion was made to open the Public Hearing by Larry Jensen, Reed Hancey seconded the motion and the motion passed unanimously.

The public hearing was opened by Barbara Poelman.

There was no public comment.

Motion: A motion was made by Larry Jensen to close the Public Hearing, Reed Hancey seconded the motion and the motion passed unanimously.

The public hearing was closed by Barbara Poelman.

Larry Jensen stated that he would like to move forward with a motion subject to changes in the definition reflecting that there would be no servicing on premises or displays in public right of way within the Central Business District.

Motion: A motion was made by Larry Jensen to forward application 3355 to the City Council with a recommendation for approval subject to the staff

recommendations as noted with a change in the ordinance to reflect the addition of scooters and that service and outside displays in the public right-of-way would not be permitted in the Central Business District. With the findings of fact that the amendment to the ordinance under the circumstances of the particular case not be detrimental to the health safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity. The recommended amendment follows a legal process as outlined in the Utah Municipal Code which states the legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the Planning Commission or was first submitted to the Planning Commission for its recommendation. The motion was seconded by Rob Munns.

The motion passed unanimously.

Public Hearing / Application # 3356 / Amend Chapter 29.13 Commercial Districts, Section 29.13.020 (7) Service Activities use category "Non-Depository Institution" / Utah Cash Advance

Mr. Bradley presented the applicants request to revise the distance of separation between businesses of this type.

He explained the circumstances of this particular business specifically how it relocated within the minimum distance requirement of another like business type without realizing there was a conflicting ordinance.

This business was not established under the current ordinance. It is included with the eight like businesses which were preexisting to the ordinance. The intent of the ordinance was to limit any additional businesses and maintain operation of this type from locating in Brigham City. Additions are not allowed unless the population limitation of 1 store to 10,000 people is met.

Larry Jensen suggested that the planning commission should not govern the number of these businesses in town. He felt that the market will adequately govern the number itself. The intent should be to prevent any one of these businesses from creating a monopoly.

Rob Munns stated that this type of business could be perceived to have a negative impact on the citizens. He felt that the original intent of the ordinance was to protect the citizens.

Lynda Berry discussed the arbitrary nature of the limitations with respect to the total number of adults in the community per the 2010 Census.

Angela Shelley came forward. She explained that she is the manager of Utah Cash Advance, they were in the old Kmart plaza and they moved in March of 2011. In December her license renewal was mailed to the old address. In responding to the renewal and in providing her change in address she was told that because they had moved they would be considered a new business and had to complete a new license

application etc. During the process of application for the new license she was told that they were in violation of an ordinance.

There is a business two doors down, Security Finance which is a Finance Company and there is another Pay Day Loan store a mile or so down the road.

She outlined the process of her business and the service they provide to the public.

There was discussion regarding the movement of another Pay Day store into the old Allstate office. Mr. Bradley clarified the position of staff regarding this other store and that it had only changed suite locations within the same building. It was determined that this scenario was acceptable. He also discussed the opinion offered by the City's legal-council when the ordinance was originally written and the limitation of numbers by population. There was additional discussion about the type of business and the desire to spread them throughout the community rather than have them clustered in one area.

Lynda Berry very distinctly recalled that the purpose of the ordinance was to limit the number to what existed at the time. If one were to move out another one could come in and take its place.

Rob Munns discussed his disapproval of clustering of this type of business in one area and wondered if there was a way to eliminate the portion of the ordinance that applies to numbers leaving the portion that applies to location. On the other hand he explained that it seemed wrong to communicate to a business that if they relocate their business within the City they are no longer welcome to do business.

Motion: A motion was made to open the Public Hearing by Larry Jensen, Joan Peterson seconded the motion and the motion passed unanimously.

The public hearing was opened by Barbara Poelman.

There was no public comment.

Motion: A motion was made by Larry Jensen to close the Public Hearing, Joan Peterson seconded the motion and the motion passed unanimously.

The public hearing was closed by Barbara Poelman.

Barbara Poelman led discussion regarding any recollection the commissioners might have of City Council's position when the ordinance was originally passed. Mr. Bradley explained that it had been a unanimous vote etc.

Larry Jensen stated that he would like to see the ordinance changed allowing the use without the restrictions noted with the exception of location within the General Commercial District and not within the Central Business District. He would support a cap of possibly some number like 25.

There was discussion regarding what recommendations the Planning Commission can or cannot make. Mr. Bradley clarified the options available.

Rob Munns accepts Larry Jensen's position however suggested that the market will regulate itself instead of the government trying to regulate it.

Larry Jensen stated that the market will only support what it can bear. Any business will only function as long as they are good to their customers and there is clientele to draw from.

Joan Peterson said that it is kind of ridiculous to have a limit when the limit doesn't really apply as the community already has in excess of what the ordinance will allow.

Barbara Poelman suggested that the numbers would be reduced by attrition through situations like this.

Lynda is not in favor of having these businesses in our community as it can be detrimental to the community. People go into these establishments for help with a utility payment and end up losing their car.

Barbara Poelman gave the example of a refugee she knew and bankruptcy. She explained that the Pay Day stores become predatory towards these people.

Larry Jensen pointed out that even if they were eliminated from Brigham City, the clients would go out and seek them somewhere else - we really aren't in reality helping anyone. If they want one – they will find one.

The request in the application was to eliminate the mile as this applicant would lose her business without the change. Mr. Bradley explained that according to the City Attorney's, grandfathering would stay in place in terms of the population to store ratio however the mile rule would remain applicable.

Motion: A motion was made by Reed Hancey that regarding Application 3356 all language regarding the distance and population restriction be eliminated from the ordinance. That changes to the ordinance standards should not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. The recommended amendment follows the legal process as outlined by The Utah Municipal Code, which states, "[t]he legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation . (Utah Code, Section 10-9a-503(2)). The motion was seconded by Rob Munns.

The initial vote was 4 – 1 in favor of the motion.

As required, Barbara Poelman canvassed the members as follows:

Lynda Berry - Nay

Rob Munns - Aye

Larry Jensen - Aye

Joan Peterson - Aye

Reed Hancey – Aye

The motion carried 4 – 1.

**Public Hearing / Application # 3357 / Amend Chapter 29.13 Commercial Districts,
Section 29.13.020 (6) Sales and Related Services use categories
“Pawn Shop” and “Price-Point Retail Establishment” / Brigham City
Corporation**

Mr. Bradley presented the applicants request to amend the Chapter to remove the separation distance between pawn shops and reduce the number of uses allowed per resident in Brigham City. Currently there are no Pawn Shops operating in the City further this use would not be allowed in the Central Business District. There is a Pawn Shop in the Central Business District that has been in use in the past however, they are currently not operating. The City Attorney’s felt that because of the use itself, Pawn Shops should have restrictions as to distance. Other communities limit the location of these operations to various degrees. The police department is in support of the change in restriction as proposed and as consistent with other communities. Police involvement has actually changed quite a bit with technology and reports that are required by the state. There are several businesses that fall into the category of Price-Point Retail Establishments such as Family Dollar, Dollar Tree, Deseret Industries etc. These types of uses should not be restricted where they are retail stores and provide sales tax to the city. The State has adopted an exception that government cannot regulate the transactions. It does not preclude a local government from enacting zoning ordinances that restrict areas for these uses.

Reed Hancey would like to see the restriction.

Rob Munns wondered how we draw the line as to what businesses we impose these distance restrictions on and what businesses we don’t. Additionally he was concerned with showing bias.

Barbara Poelman countered with a thought that perhaps there should be some sort of bias in order to keep the community at a certain level.

Mr. Bradley clarified that some cities are restricting the numbers etc. of these uses because they are running into problems.

Motion: A motion was made to open the Public Hearing by Larry Jensen, Rob Munns seconded the motion and the motion passed unanimously.

The public hearing was opened by Barbara Poelman.

There was no public comment.

Motion: A motion was made by Joan Peterson to close the Public Hearing, Lynda Berry seconded the motion and the motion passed unanimously.

The public hearing was closed by Barbara Poelman.

Barbara Poelman reiterated the proposal outlined in the application and stated that the two uses should be separate. Mr. Bradley clarified that they could be addressed in the same motion but should be identified separately.

Larry Jensen said that we talked about wiping out restrictions regarding Price Point Retail Establishments.

There was discussion regarding Pawn Shops in General Commercial Districts and what restrictions if any etc. should be imposed.

Motion: A motion was made by Joan Peterson that Application 3357 be forwarded to the City Council with the following recommendations. That under Pawn Shops that 1000 feet be substituted for 5280 feet for location of Pawn Shops and eliminate the population or number per residents requirement for Pawn Shops. That for Price Point Retail establishments all restrictions be eliminated. With the findings of fact that the changes to the ordinance standards should not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. The recommended amendment follows the legal process as outlined by The Utah Municipal Code, which states, "[t]he legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation . (Utah Code, Section 10-9a-503(2)). The motion was seconded by Larry Jensen.

The motion passed unanimously.

Application # 3358 / Design Review / Discovery Grove Park Master Plan / Brigham City Corporation

Mr. Bradley presented the proposed site plan for a park north and adjacent to Discovery Elementary School. The plans for this year's budget season include 2 junior size soccer fields, a tot lot, restrooms, a bowery and striping for the parking area. There are future plans for a basketball court.

Larry Jensen asked for clarification regarding a discrepancy on the maps reflecting neighbors and for information regarding fencing and gating between the city park and the school.

Mark Bradley explained that sometimes the maps are not completely current. The owners of the properties surrounding the park are accurate with the exception of Hillam – who has not owned the property for some years.

Regarding the fencing, Mr. Bradley stated that the schools prefer to have fencing around their play areas. Jared Johnson indicated that there was no formal agreement between the City and the School District. The City does not have a problem with a fence, opening or a gate. Typically it is the school district that makes the decision regarding what they want to do with their property. It is currently fenced now – 6 foot chain link.

Lynda Berry wanted to know why the grass would be permanently marked in lieu of having temporary markings which would allow for other uses outside of the junior soccer fields discussed. She also inquired as to why the fields were side by side.

Jared Johnson clarified that this was a request directly from the recreation department. Soccer is one of the most difficult sports to facilitate and the need was for these junior fields. He also discussed the possibility of using temporary markers to facilitate an adult size field. With regard to configuration, again this was the request of the recreation department.

Larry Jensen asked for clarification regarding the parking with a possibility of 50 cars and the fact that there are not that many parking stalls available per the site plan. He is concerned.

There was considerable discussion about parking alternatives including other on street parking, parking at the school, the extension of 450 West etc. After discussion the overall feeling was that there was not adequate parking available and a motion should only be entertained subject to a parking review to determine how many soccer fields the available parking could support.

Motion: A motion was made by Larry Jensen that the Planning Commission acting as the land use authority approve Application 3358 with the stipulation that the City departments review and make adjustments to support the number of parking stalls that are available. With the findings of fact that such use will not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. Such use is in compliance with Chapter 29.12 Residential and Multiple Residential Districts where Public Parks are a permitted use in the R-1-8 district. Such use is in compliance with the Brigham City General Plan. Such use is in compliance with the recorded subdivision plat. The motion was seconded by Joan Peterson.

The motion passed unanimously.

Application # 3359 / Design Review / John Adams Park Bowery Relocation and New Construction / Brigham City Corporation

Mark Bradley presented the site plan etc. regarding the City's application to relocate and construct a new bowery at John Adams Park.

There was discussion regarding existing hazards and the improvements this proposal offers. In particular location of the bowery and curb and gutter limiting driving up to the

bowery were discussed. It was also suggested that adding an additional bowery by the north east bathrooms in the future would be beneficial.

Jared Johnson gave particulars on the project and explained that Restrooms will be winterized and locked up in the evening. Larry Jensen suggested that they be closed during school hours. Mr. Johnson also discussed orientation of the doors and that it was changed to allow better monitoring. He also provided details regarding specifics of construction.

Concern was expressed over the steep walkway that exists. The new location helps to alleviate some of that issue and there will eventually be a sidewalk down to the bowery.

Lynda Berry asked several questions about fencing, parking and site layout.

Jared Johnson clarified that there is fencing and that no overnight parking should be allowed.

Barbara Poelman expressed her approval of projects such as this and asked for some clarification regarding funding.

Jared Johnson explained funding and the use of impact fees for projects such as this. and that the City Council will be very restrictive with the budget.

There was discussion regarding impact fees. Jared explained the requirements for use of impact fees. Rob Munns explained that an impact fee reflects how much impact there will be on the existing community. There is a misconception that impact fees are one in the same with building permits.

Motion: A motion was made by Rob Munns that application 3359 be approved With the findings of fact that such use will not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. Such use is in compliance with Chapter 29.12 Residential and Multiple Residential Districts where Public Parks are a permitted use in the R-1-8 district. Such use is in compliance with the Brigham City General Plan. The motion was seconded by Joan Peterson.

The motion passed unanimously.

DISCUSSION

Chapter 29.27 Sign Regulations

Mr. Bradley presented how the sign regulations work based on lot frontage or building frontage. Based on the frontage, a maximum cumulative sign area is permitted. Some communities allow signage based on a percentage of the front, side, and rear walls of a building.

There was discussion about calculation etc. Off premises signs are currently allowed to be included in the calculation of total area of a sign. Lynda Berry asked that in terms of a group sign if there was a requirement for participating businesses to be part of an association to take ultimate advantage (for example Ricardo's and the other businesses in the building) for calculation.

Mr. Bradley clarified the calculation process of including frontage or the linear building footage as the governing maximum for signage regarding each business.

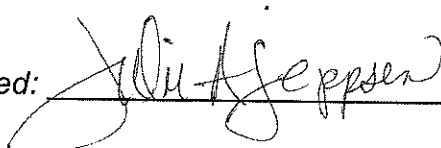
There was discussion of the applicable ordinance etc. what process would be best for these business owners to proceed. It was determined that they should approach the city with specifics and then if it they are not within the current guideline make application for a change in the ordinance.

MOTION TO ADJOURN

Motion: A motion was made by Rob Munns to adjourn. The motion was seconded by Joan Peterson.

The meeting was adjourned at 8:24 PM by Barbara Poelman.

This certifies that the regular meeting minutes of January 3, 2012 are a true and accurate copy as approved by the Planning Commission on February 7, 2012.

Signed: 

Julie A. Jeppsen, Administrative Assistant