

APPROVED

BRIGHAM CITY PLANNING COMMISSION BRIGHAM CITY COUNCIL CHAMBERS

Tuesday, May 15, 2012 6:00 p.m.

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

ALSO PRESENT: Mark Bradley City Planner
Julie Jeppsen Administrative Assistant

EXCUSED: Eve Jones Commissioner
Lynda Berry Commissioner
Michael Bott Alternate Commissioner

AGENDA

Pledge of Allegiance

Approval of Minutes

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

Continuation of Application # 3382 / Permitted Use Permit / Design Review for Fencing / 1100 South Main / R.C. Brothers

Continuation of Application # 3377 / Conditional Use Permit / Apartments, Office, and Parking Requirement within the Historical Brigham City Downtown / 40 North 100 East / Matt Kartchner

Application # 3394 / Conditional Use Permit / Storage Units - Addition / 91 South 950 West / Scott Bessinger

Discussion:

REGULAR MEETING

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

APPROVAL OF MINUTES

Motion: A motion was made by Lynn Duce to accept the May 1, 2012 Regular Meeting minutes with corrections as noted. The motion was seconded by Larry Jensen and passed unanimously.

PUBLIC COMMENT There was no public comment.

Continuation of Application # 3382 / Permitted Use Permit / Design Review for Fencing / 1100 South Main / R.C. Brothers

Mr. Bradley presented staff recommendations that were provided to the Commissioners. Staff does not support installation of the fence as they feel the overall nature of the area is best served with open access and circulation. However, Staff recognizes that the applicants have a right to install a fence subject to design review and recommends that the Planning Commission move forward with consideration for fencing. Mr. Bradley stated that Staff provided information regarding design guidelines in particular with regard to access, circulation and aesthetics. The applicant has expressed concerns regarding liability as expressed by their insurance company. Mr. Bradley displayed photos including an aerial photo of the site and pointed out access points and traffic circulation as presented with the application. He stated that this is a unique request.

Barbara Poelman asked if any other businesses would be impacted by not being able to use the 1100 South access. Mr. Bradley stated that the old Vesco Motor Sports site and Golden Spike Auto currently have access from 1100 South however they also have alternate access from 450 West which will continue.

Barbara Poelman asked if those businesses had been contacted. Mr. Bradley stated that he was not aware of what contact has been made between R.C. Brothers and the adjoining property owners.

Reed Hancey requested clarification of the alternate access. Mr. Bradley used the overhead display to clarify the different alternate access points.

Mr. Bradley stated that a 4 foot high chain link fence is being proposed by the applicant between their property and the State property with an opening at the east.

A brief reminder of the lease agreement and termination by the State of Utah was discussed. Mr. Bradley clarified that if the access on 1100 South was closed USU would have access to their property from 450 West and Highway 89.

Barbara Poelman requested a status regarding the ongoing negotiations with the State of Utah regarding purchase of the property. Mr. Bradley stated that he was unaware of the current status but that as of the first of the month no agreements were made between Vesco's and the State.

Chuck Vesco came forward and pointed out details of their proposal on the overhead display. He pointed out the access points for the existing properties. Mr. Vesco pointed out how the traffic could flow off of 1100 South onto their property then East through the property to the East end of the fence where there will be an opening on the west side of their building. He stated that his insurance company has instructed them to place no trespassing and no parking signs on the fence.

Joan Peterson requested clarification of the access points and Mr. Vesco again used

the overhead display to point those access points out and the anticipated traffic flow.

Larry Jensen asked for clarification regarding why they are concerned about liability and still allowing access as described by Mr. Vesco. Mr. Vesco explained that there will be no public parking allowed, no trespassing except along an open lane on the north side of their property provided for traffic. Mr. Vesco stated that the only parking that will be allowed on their property will be for private use by their clients for parking of vehicles, RV's etc. that are for sale.

The existing access Right of Way Vesco's have through the State of Utah property from Highway 89 was discussed.

Barbara Poelman requested clarification of the negotiations with the State. Mr. Vesco stated that they have not been able to reach an agreement regarding purchase or lease.

Reed Hancey stated that he is concerned regarding the safety of vehicles that are turning into the property off of 1100 South and allowed to travel through the property on the lane provided. In particular if the property is full of trailers or cars for sale. He suggested that someone might need to be responsible for notification of the public regarding a change in the access to the property.

Mr. Bradley stated that USU would most likely need to notify their student body of the change. Additionally, Mr. Bradley stated that leaving access through the property will establish cross access over time. If the concern is liability, the property should be fenced entirely. If it is a matter of marking the property then USU would prefer that, rather than have a fence.

Lynn Duce stated that the access off of Highway 89 will create a great deal of additional traffic congestion. Mr. Vesco stated that there is an additional access being added behind the school by the gas station. Lynn Duce stated that it is the Commissions responsibility to consider the effects of the application on traffic congestion including the impact that the application will have on the area.

Mr. Vesco stated that he didn't know if there would necessarily be an impact on the traffic.

Barbara Poelman suggested that a traffic study might be appropriate.

Lynn Duce stated that the USU facility is also used for public events such as voting.

Lynn Duce asked Mr. Vesco if he had any plans for mitigation of the traffic impacts created as a result of this application. Mr. Vesco stated that this is the reason they are leaving the lane and access open. He stated that they really aren't changing anything as far as in and out are concerned.

Mr. Bradley requested Mr. Vesco to clarify the easement that they have from the State for access to their property. He additionally sought clarification of the easement location using the overhead display pointing at the access off of US 89 into the parking lot east

of the Vesco building.

Mr. Bradley summarized that typically a site would be reviewed at the time of development and address access management and maintenance, but where they have had the property separate and have had ongoing lease agreements the City Attorney has advised that the Vesco's have a right to put a fence up. If the applicant's concern is a liability issue and they are going to leave a gap in the fence it is not consistent with what the applicants are requesting. As much as the Planning Commission and Staff would prefer not to see the fence the Vesco's have the right to construct it.

Larry Jensen stated that he believes that they have a right to fence the property. He would suggest a 6 foot Vinyl Fence, tan in color so that it matches the surrounding buildings. There should be space slats with at least 50% of the surface area of the fence open to allow for safety and security. The fence should run the entire property length with no breaks. Breaks in the fence would create confusion and traffic flow issues. If a gap is desired on the 1100 South entrance the fence should run up and down 1100 South on both sides so that there is no confusion that might create someone accidentally getting behind the fence and onto the Vesco's property. If the entrance off of 1100 South is desired it should be a straight entrance so that there is no confusion. If the 1100 South entrance is closed there should be something on record requiring appropriate signage and a gate at the road level adequate to alleviate traffic issues and confusion. There should not be any gates in the fence between the Vesco property and the USU property except by the Vesco building on the east side. There should not be crossing back and forth between the properties for safety and traffic control reasons. His purpose in proposing these conditions is to avoid confusion. He realizes that Vesco's are trying to create a route for people to get in however it is confusing. He appreciates their willingness to allow people through, however he feels it should be a straight shot through rather than a maze. Mr. Jensen does believe that The State of Utah has a responsibility in this however the Planning Commission is not in a position to tell the State what to do. If he could, he would tell them to redesign the traffic flow and restripe the lot changing the parking from East and West to North and South.

Lynn Duce stated that the City Engineer recommended cutting the asphalt at the point of the fence and a concrete barrier inserted to increase the longevity of the asphalt.

Mr. Vesco stated that the fence design is most properly accomplished by the fence company and complies with what is legal. He stated that the Planning Commission should not be designing the fence.

Barbara Poelman explained that the Planning Commission has the opportunity to put conditions on the fence and that Mr. Jensen is suggesting some of those conditions.

Mr. Vesco asked what the reasons were.

Barbara Poelman stated aesthetics and other responses were safety and traffic control.

Reed Hancey agreed with Larry Jensen that the property should be closed off to avoid confusion or at a minimum the access limited to a straight shot.

There was discussion regarding the access and traffic flow potential in both scenarios.

Mr. Vesco stated that he would take the recommendations under advisement.

Larry Jensen again stated that if they are going to allow Utah State to use the access they need to have a straight shot access. If there are conditions or recommendations placed on the fence and Vesco's chose to move forward with its construction those conditions and recommendations will have to be adhered to.

Mr. Vesco left the meeting and stated that his attorney would be in touch with the City.

As Mr. Vesco was leaving he was asked to stay and told by Mr. Bradley and Mr. Jensen that the Planning Commission was not finished addressing the item. Mr. Vesco stated that he was finished with the discussion and made a reference to suing the City on his way out of the meeting.

Mr. Bradley provided the options of making a motion, continuing or tabling the item to the commissioners.

Larry Jensen expressed concern if Mr. Vesco was offended. The other Commissioner's expressed the same.

Reed Hancey stated that he feels that the Commission should offer a motion approving the application with conditions. He stated that it is then up to the applicant regarding whether or not they move forward with the project.

Larry Jensen agreed.

Joan Peterson agreed.

Lynn Duce agreed.

Motion: A motion was made by Larry Jensen to approve the application subject to the following conditions:

1. The fence must be a 6 foot vinyl fence, tan in color to match the buildings.
2. The fence will have space slats with at least 50% of the surface area open for safety and security.
3. The fence will run the entire length of the property from Highway 89 to 450 West to avoid confusion and enhance traffic flow.
4. If the property owner choses to leave a gap in the fence both sides of the gap must be fenced from the property line on the South to the edge of the parking on the North to avoid confusion.
5. If the property owner choses to leave an entrance on 1100 South and allow entrance to Utah State the entrance must be a straight entry and fenced on both sides as noted to avoid confusion.
6. If the property owner chooses not to leave the entry on 1100 South

- they must place the appropriate reflective barricades in accordance with City standards and UDOT requirements so that no vehicles will turn in and find a gate and need to turn back into traffic.
7. No gates will be allowed on the property on the South side with the exception of the 30 foot area between the building on the east side of the property and Highway 89.
 8. In the event that the owners should desire to open a gap in the future they must have the fence between the South border of the property and the North edge of the parking prior to creating the gap to avoid confusion.
 9. Subject to all Staff comments, particularly the Engineering requirement that a concrete strip be installed at the base of the fence.

With the findings of fact that the property owner has a right to construct a fence, that this application is the result of the State of Utah terminating a long term lease with the Property Owner, that this application does not endanger the health safety and welfare of people residing or doing business in the vicinity.

Joan Peterson seconded the motion.

There was discussion regarding the concrete strip and concern for altering drainage. It was clarified that the concrete strip would be flush with the asphalt and not affect the drainage. It was further discussed that the Planning Commission could require a 5 foot landscape strip per zoning ordinance where a separation in the parking lot is being created.

Mr. Jensen stated that he feels that until such time as there is other development, such as a building, landscaping should not be required.

Reed Hancey stated that he feels the application as proposed is undesirable and would not be in the best interest of the community.

The motion passed unanimously.

Continuation of Application # 3377 / Conditional Use Permit / Apartments, Office, and Parking Requirement within the Historical Brigham City Downtown / 40 North 100 East / Matt Kartchner

Mr. Bradley outlined the changes made on the plans to access the proposed west residential unit with the addition of a new entrance and termination of the west residential entrance as it currently exists which would traverse through the future office portion of the building. Mr. Bradley displayed an aerial photograph of the property and surrounding properties. The property owner on the south and the applicant have reached an agreement regarding cross access and removal of the fence. The document has been signed but needs to be notarized and recorded. There are some corrections that need to be made on the document prior to recording. Mr. Bradley outlined the existing agreements for snow removal and ingress/egress between property owners to the south. As far as the property on the north, Mr. Bradley is not

aware of the current arrangements. Mr. Bradley further reviewed the Staff comments as submitted to the Commissioners:

1. In speaking with Don Peart, south property owner, he is in support of removing the fence between his parking lot and the applicants' property parking lot and to allow access across his property. He is a little concerned about how much traffic could traverse his property over time. It was explained to him that he will need to have the agreement notarized.
2. Mr. Peart mentioned that he only owns half of the 100 East Street driveway access. The other half belongs to the Professional Center. He has access from the Professional Center drive approach off of Forest Street based on an agreement for snow removal. They use the same snow removal business and generally pile the snow along his east property line. The joint drive approach/access at 100 East is a mutual agreement between the two properties (Peart/Professional Center HOA). He is not aware of any particular recorded agreement for that specific access.
3. Someone has staked and painted what appears to be the north property line of the applicants' property through the driveway. The stake does not represent a marking from a license surveyor. The distance between the staked/painted line and the edge of the stairs and gas meter on the north side of the building is shy of 12 ft (11'10").
4. Ryan Lamborn, north property owner, came into the office inquiring about the status of the project after the driveway was staked and painted. He feels the demarcated line is anywhere between 6 – 12 inches on his property. After visiting with him there is clearly conflict between property owners. He explained that he has provided the applicants with three options to consider regarding the driveway. Purchase his property, enter into a lease agreement, or purchase an easement. Ryan went and marked where he feels the property line is and that line is 11' 2" from the stairs and gas meter.
5. The City Attorney feels both property owners have a historic right of use of the driveway for ingress and egress access. Then he advised that they enter into an agreement to resolve the dispute or have it settled in court and let the judge make the ruling.
6. The access drive issue on the north of the building needs to be resolved, and the Planning Commission needs to know what the resolution will be.

Larry Jensen requested clarification regarding parking and the access agreement with the south neighbor and asked if there is any arrangement for shared parking. Mr. Bradley stated he is not aware of any agreement for shared parking. Larry Jensen inquired if the south property owner meets parking current parking standards. Mr. Bradley has not calculated the neighbors parking situation. Generally, parking has been light with the exception of one day a week per the property owner.

Mr. Bradley suggested holding off on specifically assigning the number of parking stalls required as they are currently in the process of working with the Power Department to consider options for the power pole and other items (i.e. dumpster, ADA Parking) which could impact the total number of sites available. Mr. Bradley stated that approval cannot include parking on the City lot however, some on-street parking can be recognized for day use of clients coming to an office.

Reed Hancey requested clarification regarding the driveway on the north. Mr. Bradley stated that configuration of the properties has remained the same and there is historical shared access. The City Attorneys have recommended that the Commission not approve a fence in the existing access as it would disturb the historical right of access

and impact the existing non-conforming drive width.

Dave Mickelsen and Matt Kartchner came forward. Regarding the access on the north driveway they suggested a one way access. There was a disagreement between property owners regarding the actual property line and now they have come to an agreement with Ryan Lamborne, the property owner to the north for an access easement that would benefit both properties.

Lynn Duce asked for clarification of the width of the drive. Mr. Kartchner pointed out the property lines on the overhead photos. Mr. Bradley pointed out that the access has been used as is for many years.

Barbara Poelman requested clarification of the available parking. Matt Kartchner pointed out the available parking.

Lynn Duce asked about garbage. An enclosed dumpster will be provided as shown on the site plan.

Larry Jensen stated that he approves of the separation of the residential units from the commercial uses.

Dave Mickelsen stated that their intent is to preserve the exterior of the building as much as possible. He outlined their plans for painting areas of the building (i.e. trim, not bricks).

Dave Mickelsen and Matt Kartchner discussed the brick and masonry and their desire to maintain the historical value of the buildings as much as possible. They were advised by Larry Douglas, a former City employee who worked with the Historic Preservation Commission, to not try to stain or color the bricks. It is best to leave them natural and repair the deteriorating grout as needed by a brick mason.

There was discussion about the requirements for trees. They will comply with the conditions of the City Forester.

Lynn Duce asked for clarification of the north entrance and if there will be a handicap ramp. Larry Jensen helped to clarify the location using reference to the overhead pictures and indicated that this might not be in compliance with current codes. Dave Mickelsen stated that there are several items that will need to be done to bring the building in compliance with the building code. They are willing to work with the City Building Official to resolve any issues as they move forward.

Mr. Bradley asked for clarification of removal of the slats in the breezeway. Matt Kartchner stated that the slats cover a window on the building.

Larry Jensen asked Matt Kartchner if they had considered cutting additional windows into the building. Mr. Kartchner stated that Kaia Landon has been approached regarding the preservation of the building. History of the buildings was discussed. Their desire is to comply with the guidelines for a historical building.

Barbara Poelman made an inquiry regarding façade grants and Mr. Bradley provided some brief information.

Larry Jensen stated that they are concerned with headlights and control so that they do not bother the neighbors to the east and if a privacy fence would be the best way to accomplish this.

Vance Lamborne came forward and stated that historically there was a street light that operated for years and years on the east side of the property and lights have not been an issue.

Matt Kartchner stated that there is a chain link fence between the properties and it is slatted. Barbara Poelman asked if it was in good condition and Mr. Kartchner indicated that it is in good repair.

Ryan Lamborne came forward and stated that he is the owner of the property to the north. They have come to an agreement and will be formalizing that agreement shortly.

MOTION: A motion was made by Lynn Duce that the Planning commission acting as land use authority approve application 3377, Conditional Use Permit for Apartments, Office, and Parking Requirement within the Historical Brigham City Downtown with inclusion of the following items:

1. That consideration should be given to planting of trees in front of on the west side of the building on the main road in compliance with list of trees provided by the Shade Tree Commission as approved by the City Forester.
2. That any work completed should be subject to applicable Building Codes.
3. That the agreements for access be formalized between the property owner to the north for shared cross access and with the property owner to the south regarding the right of way access. Both agreements should be property notarized and recorded.

With findings of fact that a conditional use permit shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards. That such use with the noted stipulations 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.

Larry Jensen seconded the motion.

4. Joan Peterson stated that it is necessary for the applicants to maintain a privacy fence on the east side of the property.
5. Barbara Poelman stated that the parking should be maximized to the extent possible.

6. Mr. Bradley suggested that the motion clarify that the applicants comply with the updated plans that have been submitted.
7. The item #1 above should also be a requirement and the number of trees specified. Barbara Poelman stated that they should also specify the size of the trees. The Commissioners stated that there should be at least one tree.
8. Access agreements should be executed and recorded.
9. It should also be noted that there is some on street parking available during the day. Residents are to be instructed to park in the rear and off street at night. Additionally, parking on the City site is not included in the parking available for this property.

The changes were accepted by Lunn Duce and Larry Jensen as part of the motion.

The motion passed unanimously.

Application # 3394 / Conditional Use Permit / Storage Units - Addition / 91 South 950 West / Scott Bessinger

Mr. Bradley presented the application to expand the number of storage units. Concern was expressed by Public Power with regard to a prescriptive easement and access to the power pole. The property line was discussed. There is a minimum clearance for fire which is met per plans. The staff comments were reviewed.

The Commission would like Mr. Bradley to clarify the easement, public power issues, width of drives and access.

The applicant was not present.

MOTION: A motion was made by Larry Jensen to continue the application until such time that applicant can attend and items mentioned can be addressed as noted. The motion was seconded by Lynn Duce.

The motions passed unanimously.

DISCUSSION

Weed Control by the pipeline was discussed. Mr. Bradley is waiting to hear back from companies.

New projects are in the works and were briefly discussed.

Mr. Bradley updated the status of discussions regarding the safety issues on the corner of 200 South and Main.

Discovery Park parking was discussed. Larry Jensen would like to know what the resolution was.

MOTION TO ADJOURN

Motion: A motion was made by Lynn Duce to adjourn. The motion was seconded by Joan Peterson and the meeting was adjourned at 8:00 PM.

This certifies that the regular meeting minutes of May 15, 2012 are a true and accurate copy as approved by the Planning Commission on June 5, 2012.

Signed: Julie A. Jeppsen

Julie A. Jeppsen, Administrative Assistant