

CLEARFIELD PLANNING COMMISSION MEETING

May 7, 2008

7:00 P.M. - Regular Session

PRESIDING:	Victor Olson	Chairman
PRESENT:	Matt Hartvigsen	Commissioner
	Darren Carpenter	Commissioner
	Bill Moore	Commissioner
	Josh Taylor	Commissioner
	Kenneth Jeppesen	Commissioner
	Tyler Gibson	Commissioner
	Doyle Sprague	Council Liaison
STAFF PRESENT:	Brian Brower	City Attorney
	Adam Lenhard	Community Development Director
	Kent Bush	Planning/Zoning Administrator
	Gregg Benson	Planner
	Stacy Reel	Business License/CDBG Coordinator
VISITORS:	Bill DeWaal, Bruce Cook, Kathryn Murray, Tony Hassell, Kent Poll, Rocky Schutjer, Cole Schutjer	

Pledge of Allegiance was led by Chairman Olson.

APPROVAL OF MINUTES FROM APRIL 2, 2008 PLANNING COMMISSION MEETING

Commissioner Hartvigsen moved to approve the minutes of April 2, 2008 as written, seconded by Commissioner Jeppesen. All voting AYE.

CONDITIONAL USE PERMIT FOR REHABILITATION FACILITY LOCATED AT 1190 EAST 1450 SOUTH

Chairman Olson said a public hearing was held at the March 19, 2008 Planning Commission meeting. After the public hearing was closed the commissioner's asked for additional information concerning the definition of a Detention Facility. Brian Brower researched the definition in the city code. Chairman Olson stated the code they are referring to is 11-13-15, Rehabilitation and Detention Facility. Mr. Brower believes the applicants proposed use of the conditional use permit most resembles the definition of a detention facility as contained in the Clearfield City Code. Mr. Hassell stated daycare and preschool facilities do not allow children out of the facility without permission, etc. Commissioner Carpenter asked if these parents could remove their child from their facility. Mr. Hassell said with their permission the person could leave the facility with their parent to go to a doctor's or dentist appointment. Commissioner Carpenter wanted to know if the parents could permanently remove their children from this

program. Mr. Hassell said the parents can not permanently remove their children from this facility. He said all kids in the facility are court ordered and they fall under HUD's Federal Fair Housing Act. He continued to explain this Act to the commissioner's as well as the agencies who review these patients. These children will fall under bi-polar or conduct disorder and that means they have a disability, which means they fall under the disability law. Commissioner Carpenter asked him to show that his facility falls under the Fair Housing Act. Mr. Brower stated he does not believe this facility falls under the Fair Housing Act. There was a discussion on how these individuals get to these facilities and how they are designated as having a disability. Commissioner Taylor told Mr. Hassell the reason why they are not allowing it is because the zoning ordinance does not approve of detention facilities in this zone and the closest we can define this facility, by our definition, is a detention facility no matter who is being detained. Mr. Hassell said the federal law over rules the state and the state law over rules the city and the city is going to have to have a reason to keep him out of there.

Commissioner Jeppesen clarified the city's code and said the state allows each city to define our zones and what conditional uses are allowed. Mr. Hassell said the simple reason is because it is a detention facility by the city code, but you have to review the federal code. Commissioner Carpenter said the Federal Fair Housing Act does not apply to this situation and wanted examples. Mr. Hassell said bi-polar, anger management, conduct disorder, psychotic, these are children with mental problems. He said the legislature set this program up as a 90 day assessment through a bill that has been passed.

Kent Bush said the definition of a daycare is entirely different than what this facility is providing. In this facility they are there for several days or weeks. He also said the state does not dictate to the cities what to put in each of our zones, this is up to the legislative body of the city. However, the state and federal code say you can not zone out certain types of businesses. There are places in the city where a detention facility is allowed, but it does not fall in this zone. If they find a different location where detention facilities are allowed then it would be a different situation. Commissioner Carpenter asked Mr. Bush if this item could be approved. Mr. Bush said this facility is not allowed in the current zone. Commissioner Jeppesen said the key item is these individuals have gone through the judicial process and have been adjudicated, something has occurred that is requiring them to be detained and in his opinion it meets the definition of a detention facility.

Mr. Brower said he has had quite a few years experience prosecuting in the criminal justice system as a prosecutor. He has spent more than a year prosecuting juveniles in the Second Judicial District Court in Ogden and has sent many kids to the O & A facilities. He continued to explain the process of an O & A facility. Mr. Brower does not believe the Fair Housing Act is applicable and he disagrees with the disability law application as well since kids can be sent there without any diagnosis. Also, as he has interpreted the city code the proposed use by the applicant best meets the definition of a detention facility.

Mr. Hassell said with this new diagnostic center psychiatric treatment starts immediately. The

diagnostics have already been done and when it is presented the individuals are placed in the proper facilities or treatment. Mr. Brower said the first time this item was addressed to the Planning Commission the staff had a recommendation of approval, however as the meeting went on the Planning Commission requested additional information as to the appropriate classification of this proposed use and once that was completed the recommendation from the staff had changed.

Kent Bush said it was presented as a rehabilitation facility and that is what is noted on the application. A rehabilitation facility is allowed in this zone as a conditional use. If it would have been determined then that it was a detention facility we would have not gone forward with it. Commissioner Taylor asked Mr. Brower to explain the differences between the terms rehab facility and a detention facility as defined by the city code. He stated a rehab facility is a place where people receive treatment such as alcoholism, mental illness, substance abuse on a voluntary basis or in place of confinement and a detention facility is where convicted offenders are ordered to be there by the court. Based on all these findings this facility most resembles a detention facility.

Mr. Hassell said based off of the Utah State Code they are not classified as a detention facility. Commissioner Gibson said they are not saying it is not a good facility or it does not have its place, however, according to the city code it more closely resembles a detention facility. Chairman Olson said this facility has been referred to as an O & A, Diagnostic Center and a Detention Facility. Commissioner Jeppesen called for a motion.

Commissioner Hartvigsen said if the city's definition for a rehabilitation facility matched what Mr. Hassell is calling a detention facility then it would not be considered a conditional use in that zone anyway. Since these individuals are being held in the facility, have gone through the judicial process or have been adjudicated, there by court order and there to be observed and assessed and being detained as a result of the court order, it most closely resembles the city's definition a detention facility. These individuals are not there to be treated, therefore, it does not meet the definition of a rehab facility. Detention facilities are not allowed in the C-2 zone, even as a conditional use, therefore, he moved to deny this request for a conditional use permit for what the staff report calls a rehab facility but he thinks it is a detention facility. Seconded by Commissioner Jeppesen. All Voting AYE.

SITE PLAN APPROVAL FOR A COMMUNICATIONS ANTENNA & EQUIPMENT AT 1360 EAST 700 SOUTH

Cole Schutjer, representative for T-Mobile, explained the location of the pole, which is located at J.P.'s Chevron on 700 South. He said there are two existing carriers located on this pole and they would like to locate between these carriers. There will be a 10' X 20' pad on the ground that will be fenced in and locked, which will store their equipment. Commissioner Carpenter asked if they own the pole. Mr. Schutjer said it is owned by Crown Castle.

Commissioner Jeppesen moved to approve this request for Site Plan Approval for a Communications Antenna and Equipment at 1360 East 700 South. Seconded by Commissioner Moore. All Voting AYE.

SITE PLAN APPROVAL FOR AN ADDITION TO BUILDING A-16, SECTION F, FREEPORT CENTER

Bruce Cook, Freeport Center, said they will be doing some remodeling for their tenant located at this building. He said they would like to clean up the front of this building since it was built in 1974. In addition they will be painting the whole building. Commissioner Gibson asked if the entrance will be closed off during construction and is there an alternate entrance. Mr. Cook said there are two entrances and one will always be open. Commissioner Gibson asked if they are both handicap accessible. Mr. Cook said the employee entrance is not handicap accessible, therefore if a visitor came they would have to make some type of accommodations.

Commissioner Jeppesen moved to approve this request for Site Plan Approval for an addition to Building A-16, Section F, Freeport Center. Seconded by Commissioner Carpenter. All Voting AYE.

PRESENTATION OF DOWNTOWN REDEVELOPMENT PROJECT

Adam Lenhard, Community Development Director gave a presentation on the Downtown Redevelopment Project located across the street from the city building.

PLANNING COMMISSIONER'S MINUTE

Chairman Olson - Commissioner Hoggan has resigned. Kent Bush said 9 people have shown interest and the City Council will be doing interviews. Chairman Olson wanted to express his appreciation to the entire commission while he was in the hospital last month.

Commissioner Hartvigsen - nothing

Commissioner Moore – glad to see Chairman Olson back.

Commissioner Carpenter – glad to see Chairman Olson back. He also asked if there is a status on Mr. Kennedy's proposal. Kent Bush said they are in the process of drafting a development agreement and the property also needs to be subdivided.

Commissioner Taylor - nothing

Commissioner Jeppesen – good to have Chairman Olson back and Commissioner Hartvigsen did

a great job filling in as chairman.

Commissioner Gibson - nothing

Councilmember Sprague – most of the commissioner’s are aware of the Youth City Council, however, there are so many youth that have shown interest and wanted to know how the commissioner’s felt about having the youth attend some Planning Commission meetings. The commissioner’s said they would be okay with the youth attending and sitting by them at the meetings.

Staff – Kent Bush said the next meeting they will have a public hearing to receive comment on the General Plan.

There being no further business to come before the Planning Commission, **Commissioner Jeppesen moved to adjourn at 8:16 P.M.**