

## CLEARFIELD PLANNING COMMISSION MEETING

November 4, 2009

7:00 P.M. - Regular Session

PRESIDING:	Kenneth Jeppesen	Chairman
PRESENT:	Bill Moore	Commissioner
	Matt Hartvigsen	Commissioner
	Darren Carpenter	Commissioner
	Nike Peterson	Commissioner
	Matt Stones	Commissioner
	Doyle Sprague	Council Liaison
EXCUSED:	Jeff Hogg	Alternate Commissioner
	Ron Jones	Alternate Commissioner
STAFF PRESENT:	Brian Brower	City Attorney
	Adam Lenhard	Community Development Director
	Kent Bush	Planning/Zoning Administrator
	Gregg Benson	Planner
	Christine Horrocks	Building Permits Specialist
VISITORS:	Kenneth E. Rogers, Connie Holt, Ken Wheadon, Kathryn Murray, Barry Burton, Jerel Miller	

Pledge of Allegiance was led by Commissioner Jeppesen.

### APPROVAL OF MINUTES FROM SEPTEMBER 16, 2009 PLANNING COMMISSION MEETING

**Commissioner Peterson moved to approve the minutes of September 16, 2009, as recorded, seconded by Commissioner Moore. ALL Voting AYE**

### ***SCHEDULED ITEMS***

#### SITE PLAN FOR TEMPORARY USE OF A MOBILE OFFICE OR TRAILER FOR NEW HOPE FELLOWSHIP AT 1204 EAST 1450 SOUTH

Jerel Miller said the church has a lease to own agreement. There are no office spaces within the building. They want to use the trailer as temporary offices. Mr. Miller said they are in the process of raising the money. Rooms in the trailer are set aside for counseling, record keeping and computers. The large room will be used as a place for their members to come and relax. Chairman Jeppesen asked the hours of operation. Mr. Miller said they are open 9 a.m. to 12 p.m. Monday through Friday and all day Sunday.

Chairman Jeppesen said in reviewing the ordinance it was determined the applicant will need to get a building permit. Commissioner Hartvigsen asked if the building permit was for the trailer or the expansion of the building. Adam Lenhard referred the Commissioners to section 11-13-14. He said this trailer is temporary in nature. He said staff spoke to the applicant and they understand this is a 12 month period that can be considered at this point. Mr. Lenhard said approval for the trailer will not violate the code. He said if they acquire the land, they will come in to get a building permit to build a new facility.

**Commissioner Hartvigsen moved to approve this request for Site Plan approval for temporary use of a mobile office trailer at 1204 East 1450 South for a maximum period of one year from today, with the understanding that the applicant obtain all required building permits for the renovation or expansion of the main building, seconded by Commissioner Carpenter. All Voting AYE.**

SITE PLAN FOR DAVIS COUNTY SENIOR CENTER AT 42 SOUTH STATE STREET

Kenneth Wheadon, CRSA, said this is an addition to the new Davis County Health Building. The hours of the senior center will be 9 a.m. to 4 p.m. The Senior Center will use the exact materials as the County Health Department building. It will only be one story. Commissioner Carpenter asked if they planned to build the Health Department building first and then build the Senior Center. Mr. Wheadon said they hope to have the buildings constructed simultaneously and are trying to get the drawings approved by January. The infrastructure for the Senior Center is included with the Health Department building. This site plan is for the building portion.

**Commissioner Hartvigsen moved to approve this request for Site Plan approval for the Davis County Senior Center at 42 South State Street, seconded by Commissioner Moore. All Voting AYE.**

Connie Holt from CRSA said three monument signs were approved with the Davis County Health Building and they will be used for both buildings.

***PUBLIC HEARING***

CONSIDER AMENDMENTS TO THE TITLE 11, CHAPTER 3 – ZONING REGULATIONS, DEFINITIONS, AND TITLE 11, CHAPTER 13 – ZONING REGULATIONS, SUPPLEMENTARY REGULATIONS

Chairman Jeppesen declared the public hearing open at 7:16 P.M.

Adam Lenhard said these are the changes reviewed in the last Planning Commission meeting and they were also discussed in a work meeting with the City Council. The changes that were made from last meeting are primarily in Chapter 13. The minimum distances between payday lenders,

pawn shops, tattoo, body piercing, and behavior, drug and alcohol treatment facilities were increased from 1200 feet to 2640 feet, which is about one-half mile. Commissioner Moore asked about the current ones that won't meet the new ordinance. Mr. Lenhard said they would be legal nonconforming uses and they will be able to continue to operate their business. Commissioner Carpenter asked if those establishments were limited to one per 10,000 citizens. He was told yes. Mr. Lenhard said there was discussion on minimum distances for mobile food vendors and no standard was requested by the City Council.

Adam Lenhard said the other notable change is in the definition of the family. He reviewed the following definition.

*FAMILY: The definition of family shall include the following:*

- A. The head of household and all persons related to the head of household by blood, marriage, legal guardianship, or adoption as a parent, child, grandparent or legal guardian, living together as a single housekeeping unit in a dwelling unit. For purposes of this subsection, two (2) or more of the persons must share the relationship of husband and wife, or parent and child, or grandparent and child, or legal guardian and child. Such parent, grandparent or guardian must actually reside in the subject dwelling; or*
- B. Two (2) persons, with or without children, living together as a single housekeeping unit in a dwelling unit; or*
- C. A group of not more than three (3) persons living together as a single housekeeping unit in a dwelling unit.*

Mr. Lenhard said that the city wanted to prevent the situation of a property owner trying to use any portion of the definition of a family to justify turning a single family dwelling into a duplex. The definition presented would not allow an illegal duplex and would refer to zoning and land use interpretations. The definition states what a family is regardless of the type of dwelling.

Commissioner Carpenter asked why the Planning Commission needed to define the family. Adam Lenhard said the courts have, since the inception of zoning, said that one of the basis on which a city can zone is on the preservation of a single family neighborhood. A family must be defined for purposes of zoning. Commissioner Carpenter said there is some emotional attachment to the word family. Commissioner Peterson said the wording in "C" is similar to verbiage in Utah Statutes. She feels that "C" is a better fit.

Commissioner Hartvigsen suggested that "for land use purposes" be added to the definition of the family. There was some discussion about the necessity to include "in-law" as part of the definition. Commissioner Hartvigsen said it needs to be noted on the record that the Planning Commission as a body understood a child to also imply a child-in-law. Commissioner Moore asked Brian Brower if there were any cases when this situation has been tried and what the results were. Mr. Brower said there have been challenges in jurisdictions outside of Clearfield. Typically a challenge to a statute like this would most likely be brought under the Federal Fair Housing Act. The allegation would probably be under a discrimination claim which falls under Title 7 of the Fair Housing Act. There have been some cases similar to this on a more general

level, but not specifically with the definition of the family, that have gone to the U.S. Supreme Court. What is important in land use issues depends on how the court looks at it. Does the ordinance bear reasonable relationship to a legitimate governmental purpose? The U.S. Supreme Court has taken the position that municipalities can impose regulations that are designed to prevent overcrowding and preserve the single family nature of a residential area.

Commissioner Hartvigsen said he feels our definition is definitely related to land use and feels that language accomplishes that purpose. Commissioner Carpenter said his feeling is that we adjust it if need be in the future if required.

Brian Brower said staff recognizes they are not the policy makers and are only making recommendations to the legislative body. He said as City Attorney he can make recommendations to the City Council and they are free to follow or not follow his suggestions. Mr. Brower said the expert legal advice they received suggested not having a specific number. If a number was to be used, it should not be less than five. In reviewing ordinances from other cities there are a lot that are less than five. Commissioner Jeppesen said clamor is a powerful thing and there have been a lot of decisions made against public clamor. He said the Planning Commission should not make a decision based on clamor; the decision needs to be made in what the Commission thinks is the best interest of the city.

Commissioner Carpenter asked if Adam Lenhard could give background to adding "C" to the definition. Brian Brower said other cities in the state were surveyed and there are not any others that have less than three. Councilmember Sprague asked why this would benefit the residents of the City to change it to three. Adam Lenhard said the most compelling argument that he had heard was in the apartment complexes, where it might be a more common occurrence. As far as he is aware all of the apartment complexes are following the existing ordinance, which would be two unrelated persons and they could have children. He thinks that allowing three could have an impact, but he doesn't know how great that will be. If all three individuals have cars, and depending on their lifestyle, it could have a noticeable impact on a particular residence or street. Others may not have any more impact than a very large family. Adam Lenhard said that "C" was added because it was requested by the Council. He doesn't believe there is a consensus among the City Council on the definition that is before the Planning Commission, only that it was requested after a long discussion and considering multiple sides of the issue.

**PUBLIC COMMENT:**

None

**Commissioner Hartvigsen moved to close the public hearing at 7:58 p.m., seconded by Commissioner Carpenter. All Voting AYE.**

Commissioner Carpenter said in regard to the definition of the family he would recommend "A" and "B" and to strike "C". Commissioner Peterson would like some wording added that states why the Planning Commission is defining family; whether it is for land use purposes or for purposes of the code. She proposed wording that would set the definition of a family apart and

stated that the Planning Commission is not trying to define the term “family” socially, morally or religiously. Brian Brower asked Adam Lenhard if there were other instances in the code that this would be applied outside of residential zoning. Brian Brower said from a legal aspect the additional language would state that the city is trying to regulate the residential zoning.

The Planning Commission took a break while Adam Lenhard looked through the code for additional references to family.

Adam Lenhard said there are multiple references to the term “family”. The majority are in reference to a type of dwelling. There is one instance that will be affected and that is for family memberships to the Aquatic Center. Brian Brower said that the city could adopt a different definition.

The Commissioners recommended adding a statement similar to, “for land use purposes or for purposes of zoning.” Adam Lenhard asked if, “*Family, for the purposes of land use zoning, the definition of family shall include the following:*” would be acceptable. The Commissioners were comfortable with that definition.

Commissioner Hartvigsen asked about the payday lending, pawn, secondhand business. He asked if the term “secondhand business” included pawn shops. Adam Lenhard said it is the exact term used in the state code and it is in reference to a specific type of state license that they have to obtain. It is geared toward pawn shops. The term they use is *pawn* and *secondhand*.

**Commissioner Hartvigsen moved that the Planning Commission recommend approval of the proposed changes to Title 11, Chapter 3: Definitions and Chapter 13: Supplementary Regulations to the City Council with the exception of striking part C of the family definition and that the wording “for the purposes of land use zoning” be included in front of the definition of the family, seconded by Commissioner Carpenter. All Voting AYE.**

Commissioner Carpenter asked when the changes would be presented to the City Council. He was told November 24<sup>th</sup>.

### STAFF REPORTS

Adam Lenhard said there should only be one more public hearing at the next meeting on Title 11. On November 18<sup>th</sup> the meeting will start at 6:00 p.m. in a joint City Council and Planning Commission work session. The meeting will go until 7:30 p.m. The purpose for that meeting is for UTA and the new developer for the UTA site to make a presentation to the Council and Planning Commission. The regular Planning Commission meeting will begin at 7:30 p.m.

Kent Bush had a handout on some training that was given to the Commissioners.

PLANNING COMMISSIONER'S MINUTE

Commissioner Jeppesen – please let staff know if you have a conflict on the 18<sup>th</sup>. He will not be at the meeting and there is a possibility that Commissioner Carpenter may also be absent.

Commissioner Hartvigsen – Nothing

Commissioner Moore – Nothing

Commissioner Carpenter – asked if the mobile food vendor is optional in the C-R zone. Adam said yes.

Commissioner Peterson – Nothing

Commissioner Stones – Nothing

Councilmember Sprague – appreciates the work that has been accomplished. It will be great to have it done.

There being no further business to come before the Planning Commission, **Commissioner Carpenter moved to adjourn at 8:22 p.m.**