

CLEARFIELD PLANNING COMMISSION MEETING

June 5, 2013

7:00 P.M. - Regular Session

PRESIDING: Nike Peterson Chair

PRESENT: Becky Brooks Commissioner
Randy Butcher Commissioner
Joel Gaerte Commissioner
Ron Jones Commissioner
Norah Baron Commissioner
Keri Benson Commissioner
Timothy Roper Alternate Commissioner
Michael LeBaron Council Liaison

STAFF PRESENT: Brian Brower City Attorney
Valerie Claussen Development Services Manager
Christine Horrocks Building Permit Specialist

VISITORS: Robert Browning, Denise Sly, Violet Edwards, William Mertlich, Thomas Hart

Pledge of Allegiance was led by Chair Peterson.

APPROVAL OF AGENDA

Chair Peterson suggested holding the discussion on items 7 and 8 before item 4. **Commissioner Gaerte moved to approve the agenda with the changes noted. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.**

APPROVAL OF MINUTES FROM MAY 1, 2013 PLANNING COMMISSION WORK MEETING

Commissioner Brooks moved to approve the minutes of the May 1, 2013 work meeting as written. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Gaerte, and Jones. Voting NO: None. Commissioner Butcher abstained from the vote.

APPROVAL OF MINUTES FROM MAY 1, 2013 PLANNING COMMISSION MEETING

Commissioner Brooks moved to approve the minutes of the May 1, 2013 regular Planning Commission meeting as written. Seconded by Commissioner Gaerte. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Gaerte, and Jones. Voting NO: None. Commissioner Butcher abstained from the vote.

APPROVAL OF MINUTES FROM MAY 15, 2013 PLANNING COMMISSION MEETING

Commissioner Benson asked for clarification on page 2 in regard to the number of required parking stalls. Valerie Claussen stated the approval letter that was sent to the applicant stated three parking spaces to be marked for customers and the fourth parking space to be in the rear of the building for employee parking. **Commissioner Baron moved to approve the minutes of the May 15, 2013 special meeting as written. Seconded by Commissioner Brooks. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Gaerte, and Jones. Voting NO: None. Commissioner Butcher abstained from the vote.**

PUBLIC HEARING ON RZN 1304-0007, A REQUEST FOR REZONE FROM C-2 (COMMERCIAL) AND M-1 (MANUFACTURING) TO MU (MIXED USE) FOR APPROXIMATELY 72 ACRES LOCATED AT 1250 SOUTH STATE STREET

Valerie Claussen, Development Services Manager, said the item had been requested to be continued to the July 10, 2013 Planning Commission meeting.

Chair Peterson declared the public hearing open at 7:15 P.M.

PUBLIC COMMENT:

None

CONTINUANCE OF RZN 1304-0007, A REQUEST FOR REZONE FROM C-2 (COMMERCIAL) AND M-1 (MANUFACTURING) TO MU (MIXED USE) FOR APPROXIMATELY 72 ACRES LOCATED AT 1250 SOUTH STATE STREET

Commissioner Butcher moved to continue RZN 1304-0007, to the July 10, 2013 Planning Commission meeting. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

PUBLIC HEARING RZN 1303-0004, A REQUEST FOR REZONE FROM C-2 (COMMERCIAL) TO R-3(P-D) (MULTIPLE-FAMILY RESIDENTIAL WITH A PLANNED DEVELOPMENT OVERLAY) FOR APPROXIMATELY 2.5 ACRES LOCATED AT 850 WEST 1600 SOUTH

Valerie Claussen said the request had been noticed previously for Planning Commission and for City Council. The applicant had made changes that required a new notice.

Chair Peterson declared the public hearing open at 7:17 P.M.

PUBLIC COMMENT:

None

Commissioner Gaerte moved to close the public hearing at 7:18 P.M. Seconded by Commissioner Butcher. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

PUBLIC HEARING FOR CUP 1305-0004, A REQUEST FOR A CONDITIONAL USE PERMIT FOR A RECEPTION CENTER, VILLA MAGNOLIA EVENTOS, IN AN EXISTING COMMERCIAL BUILDING LOCATED AT 395 SOUTH STATE STREET. THE PROPERTY LIES IN THE C-2 (COMMERCIAL) ZONING DISTRICT

Valerie Claussen said the request was for a conditional use permit (CUP) for a reception center in Lakeside Square. She said the site was approximately 7,500 square feet. Ms. Claussen said as conditioned the request met the general standards for CUP approval. She said public comment was received and the concern was addressed with a condition of approval regarding noise and/or music. Ms. Claussen said there was a review of the site for trash enclosures; it was determined there was an acceptable amount available on-site. She said the circulation on and around the site was reviewed and the use did not anticipate traffic past the capacity of adjacent roads. She said there was plenty of parking. She said staff recommended approval as conditioned.

Chair Peterson declared the public hearing open at 7:20 P.M.

PUBLIC COMMENT:

Denise Sly, Clearfield, said she lived on 450 South and on the corner of Lakeside Square. She said there was a lot of traffic on 450 South and that Lakeside Square was used as a thoroughfare. Ms. Sly asked what hours the business was open and how many days a week. Chair Peterson told her the hours were listed as 5:00 p.m. to 12:00 a.m. Chair Peterson asked the applicant to address the days of operation. William Mertlich said it would be used mostly on Saturday evenings. Ms. Sly asked about alcohol consumption. She said Ms. Claussen told her the reception center would not be allowed to sell alcohol. Ms. Sly asked if the City could guarantee more police patrol. She said she cared about Clearfield City.

Violet Edwards, Clearfield, said she saw what goes on the pond every weekend. She said drugs were sold off the end of the dock. Ms. Edwards said the pond was not well maintained and asked if the new business would add more junk to the pond. She would like to see the pond cleaned up.

Commissioner Butcher moved to close the public hearing at 7:34 P.M. Seconded by Commissioner Gaerte. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

Tom Hart, Kier Property Management and Real Estate, clarified the boundaries of Lakeside Square and said security was hired to watch the properties owned by Kier. He stated the building where the drug testing and probation office was located was not owned by Kier. Mr. Hart said Kier thought the reception center was a positive addition to the property. He said Kier was doing what it could to preserve the quality of life in Clearfield City.

Chair Peterson stated there was a condition that referenced the noise level. William Mertlich said he was aware of that concern and would work to keep the noise level down and not bother the neighbors. Mr. Mertlich said he went to a home adjacent to the pond to check the noise level when the music was playing. He said he was willing to give the neighbors a telephone number to call if the music was too loud. He said the doors to the porch would close at 10:00 p.m. Brian Brower, City Attorney, said the noise levels listed in the condition were obtained from the Salt Lake Valley Health Department's noise ordinance. He explained the measuring of the ambient noise level used to then determine the noise level from the source.

Commissioner Butcher asked what days of week the business would operate. Mr. Mertlich said most receptions happened on the weekend, but he was willing to rent the space during the week, but anticipated it would be rented mostly on Saturday. Commissioner Butcher questioned the hours of operation. Mr. Mertlich said he wanted the hours flexible for the needs of his customers.

Chair Peterson said there appeared to be adequate parking. Tom Hart stated there were 495 parking spaces. Commissioner Butcher stated one reason he was on the Planning Commission was to help people like Denise Sly. He said he visited the site and asked about the existing dumpster and enclosure. He said the dumpster was outside the enclosure and the enclosure was full of garbage and the gate appeared to be damaged. Tom Hart said the dumpster enclosure would be cleaned out and the dumpster put inside. Commissioner Butcher mentioned there was a car covered with a tarp on the property. Mr. Hart said the owner of the car was there daily and Kier Management allowed him to park it there. There was discussion that if the car had code enforcement issues, it should not be allowed to remain on the property. Chair Peterson said the removal of the car wasn't a purview of the Planning Commission. Mr. Brower said there were some conditions the Planning Commission could add to the conditional use permit, and he told the commissioners anything they wanted enforced must be a condition of approval. He said those conditions must be reasonably tied to alleviating any detrimental effects or impacts the use would create on the property or surrounding properties.

Councilmember LeBaron said he sent a request to the police chief to have officers patrol the pond Saturday night. Chair Peterson said there were issues being discussed that would not be handled by the Planning Commission. She said some issues that could be addressed were traffic flow on the site and parking. Commissioner Brooks said there could be a problem with the lights from the cars shining in the windows of the residents as patrons left. She asked if there was a way the patrons could enter and exit on State Street only. Commissioner Butcher said he watched the area for some time and noticed the majority exited the property from State Street. He said the pond area and the dock were clean. Commissioner Brooks asked about security on the property. Tom Hart stated Kier contracted for a security company that checked all its properties in Clearfield. Mr. Mertlich would also have security on site. Commissioner Benson asked what the occupancy load was for the building. Mr. Hart said the previous tenant had occupancy of about 100, but he didn't know the exact number. Commissioner Benson asked about alcohol on the premises. She said the narrative stated the Villa Magnolia Eventos Reception Center would not be selling alcohol, but would that stop the patrons from bringing their own alcohol. Mr. Mertlich said the patrons would be allowed to bring alcohol.

Chair Peterson asked if there were any conditions other than the dumpster the Commission wanted addressed. Commissioner Gaerte said the hours of operation for the end of the event should be regulated. He said an end time of 12:00 a.m. would be appropriate. Commissioner Gaerte said the sound levels were the biggest concern. Commissioner Brooks said the traffic should be gone by midnight. Chair Peterson said 450 South was a collector and restated that Commissioner Butcher noted that most of the traffic leaving the site went out via State Street. Ms. Claussen said 450 South was a major collector road and would have higher traffic. She said the construction on 700 South was likely a factor to the current traffic on 450 South. Chair Peterson asked the commissioners if the cessation of activity at 12:00 a.m. for the hours of operation was acceptable. Commissioner Benson requested an additional condition that the deck doors be closed no later than 10:00 p.m. Mr. Brower asked what detrimental impact was alleviated by regulation of the hours of operation. Commissioner Gaerte said setting a time to close the doors ensured there was no external noise that affected the neighboring properties. He said if the patio doors were closed at 10:00 p.m., it would help keep the noise from the neighboring properties. Mr. Mertlich said he wanted the noise level kept down for the neighbors and didn't have a problem with the proposed hours. There was discussion about the building being occupied after 12:00 a.m. but the music would be off. Mr. Mertlich said at midnight when the music was off, the people would go home.

APPROVAL OF CUP 1305-0004, A REQUEST FOR A CONDITIONAL USE PERMIT FOR A RECEPTION CENTER, VILLA MAGNOLIA EVENTOS, IN AN EXISTING COMMERCIAL BUILDING LOCATED AT 395 SOUTH STATE STREET

Commissioner Gaerte moved to approve as conditioned, CUP 1305-0004, a conditional use permit for a reception center, Villa Magnolia Eventos, in the C-2 (Commercial) zoning district located at 395 South State Street based on the findings, discussion and conditions of the staff report and adding three more conditions as follows: 1) The dumpster will be housed in the existing enclosure with that existing enclosure being kept in good repair, 2) The hours of operation will not exceed 12:00 a.m., and 3) The deck or patio doors will be closed at 10:00 p.m.. Seconded by Commissioner Butcher. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

There was a break in the meeting from 8:28 p.m. to 8:37 p.m.

PUBLIC HEARING FOR CUP 1305-0002, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN EMISSION AND INSPECTIONS USE, EL CHAMO, LOCATED AT 1181 SOUTH STATE STREET

Valerie Claussen requested the public hearing be held while waiting for discussion when the applicant was available.

Chair Peterson declared the public hearing open at 8:39 p.m.

PUBLIC COMMENT:

None

Commissioner Butcher moved to close the public hearing at 8:40 p.m. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

PUBLIC HEARING FOR CUP 1304-0011, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN AUTOMOTIVE REPAIR AND OUTDOOR STORAGE USE, JIM'S TIRES, LOCATED AT 1181 SOUTH STATE STREET

Chair Peterson declared the public hearing open at 8:40 p.m.

PUBLIC COMMENT:

None

Commissioner Gaerte moved to close the public hearing at 8:41 p.m. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

DISCUSSION ON CUP 1305-0002, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN EMISSION AND INSPECTIONS USE, EL CHAMO, LOCATED AT 1181 SOUTH STATE STREET AND CUP 1304-0011, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN AUTOMOTIVE REPAIR AND OUTDOOR STORAGE USE, JIM'S TIRES, LOCATED AT 1181 SOUTH STATE STREET

Chair Peterson said the neither applicants nor property owners were at the meeting. Valerie Claussen said the businesses at 1181 South State Street were brought forward for compliance issues and notice of violation letters that had been sent to the property. She stated there were four businesses on the site and a notice of violation was sent to the three businesses that created the violations. El Chamo, a safety and emission inspection business, stated it used only one bay and did not perform automobile repair. Staff recommended continuing El Chamo and Jim's Auto but subject to the deficiencies outlined in the review comments being met. Ms. Claussen said not addressed in the staff report was the formal revocation of the business license being recommended to the business license official based on the deficiencies and violations identified. Brian Brower said he had discussion with City management and it was determined that a more aggressive approach was warranted at this point. He said the applications were deficient and the City intended to move forward with appropriate action.

Chair Peterson said it was recommended the Conditional Use Permit associated with El Chamo be continued with date unspecified.

RECOMMENDATION ON CUP 1305-0002, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN EMISSION AND INSPECTIONS USE, EL CHAMO, LOCATED AT 1181 SOUTH STATE STREET

Commissioner Butcher moved to continue CUP 1305-0002, to an unspecified time until the applicant brought more information. Seconded by Commissioner Baron. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

RECOMMENDATION ON CUP 1304-0011, A REQUEST FOR A CONDITIONAL USE PERMIT FOR AN AUTOMOTIVE REPAIR AND OUTDOOR STORAGE USE, JIM'S TIRES, LOCATED AT 1181 SOUTH STATE STREET

Commissioner Jones moved to continue CUP 1304-0011 to an unspecified date. Seconded by Commissioner Gaerte. The motion carried on the following vote: Voting AYE: Commissioners Baron, Benson, Brooks, Butcher, Gaerte, and Jones. Voting NO: None.

STAFF REPORTS

Valerie Claussen said items coming at future meetings were: Wilcox Farms rezoning, Rocket Fuel resubmittal, and Clearfield Station. Ms. Claussen gave an update for Clearfield Station and said the developer wanted to start construction in September or October. She said at the last City Council meeting the Pacific Park plat was approved and a neighborhood meeting was scheduled for next week to get neighbors there to sign the plat. Ms. Claussen said the MIDA municipal service agreement was discussed at City Council meeting. She said a new Impact Fee ordinance was recently approved moving all impact fees to one location in the City ordinance. Ms. Claussen said she needed to take pictures for the ID badges and asked commissioners to see her after the meeting.

PLANNING COMMISSIONERS' MINUTE

Commissioner Butcher – said he abstained from voting on the approval of the minutes because he didn't agree with the motion on Rocket Fuel.

Commissioner Jones – thanked staff and the Commissioners. He said sometimes we think with our hearts but we were tied to the ordinances. Thanks for addressing the items the best they could.

Commissioner Brooks – Nothing

Commissioner Benson – agreed with Commissioner Jones.

Commissioner Gaerte – Nothing

Commissioner Baron – Nothing

Commissioner Roper – Nothing

Commissioner Peterson – said she hoped no one felt apologetic because they took too much time on an item. She appreciated the feedback on the items.

Councilmember LeBaron– Nothing

Brian Brower – commended the commissioners for taking the time to address the issues. He discussed how and when abstaining from a vote could be done appropriately. He mentioned having had similar conversations with other commissioners and councilmembers. He indicated when a vote was called for and all that was heard was ayes and there were no nay votes cast, then the vote was unanimous. If a member wished to abstain from the vote, that member needed to go on record and state he/she was abstaining and the reason why. He suggested the typical reason for abstaining from a vote would be due to a conflict of interest. He said if you couldn't fully support a motion, then a nay vote with an explanation would likely be most appropriate. He indicated that merely remaining silent during a vote did not equate to abstaining from the vote.

There being no further business to come before the Planning Commission, **Commissioner Gaerte moved to adjourn at 9:05 P.M.**