

**CLEARFIELD PLANNING COMMISSION MEETING**

September 4, 2013

7:00 P.M. - Regular Session

PRESIDING: Nike Peterson Chair

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

ABSENT: Norah Baron Commissioner

STAFF PRESENT: Brian Brower City Attorney  
JJ Allen Assistant City Manager  
Christine Horrocks Building Permits Specialist

VISITORS: Scott Crawley, Robert Browning, Warren Helbach, Kathryn Murray, Con L. Wilcox, Jeri Wilcox, Brian Allred, Beverly Bradley, Blair Wall, Scott Hess, Dale Kimsey, Valerie Claussen – Contract Planner

Pledge of Allegiance was led by Chair Peterson.

APPROVAL OF AGENDA

**Commissioner Butcher moved to approve the agenda as written. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Jones and Roper. Voting NO: None.**

APPROVAL OF MINUTES FROM JULY 10, 2013 PLANNING COMMISSION MEETING

**Commissioner Brooks move to approve the minutes from the July 10, 2013 Planning Commission meeting as written. Seconded by Commissioner Butcher. The motion carried on the following vote: Voting AYE: Commissioners Brooks, Butcher, Jones and Roper. Voting NO: None.** Commissioner Benson did not attend the July 10, 2013 meeting and did not vote on the minutes.

Commissioner Gaerte arrived at 7:03 p.m.

APPROVAL OF MINUTES FROM AUGUST 7, 2013 PLANNING COMMISSION MEETING

Chair Peterson indicated she would not weigh in on the minutes from the August 7, 2013 meeting due to her inability to attend that meeting. **Commissioner Jones moved to approve the minutes of the August 7, 2013 Planning Commission meeting as written. Seconded by Commissioner**

**Brooks. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

DISCUSSION ON SP 1308-0003, SITE PLAN FOR AN ADDITION TO THE SHAW NAPTECH BUILDING LOCATED AT 210 EAST 700 SOUTH

Valerie Claussen, Contract Planner, said the request was for a 3,750 square foot addition to a 314,000 square foot warehouse building. She said the findings for site plan approval could be met, which included any deviation from strict standards. Ms. Claussen said the addition was in the rear of the building and the property was surrounded by industrial.

APPROVAL OF SP 1308-0003, SITE PLAN FOR AN ADDITION TO THE SHAW NAPTECH BUILDING LOCATED AT 210 EAST 700 SOUTH

**Commissioner Butcher moved to approve as conditioned, SP 1308-0003, Site Plan approval for Shaw Naptech building addition, based on the discussion and findings in the staff report. Seconded by Commissioner Jones. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

PUBLIC HEARING AND DISCUSSION FOR GPA 1308-0004, AN AMENDMENT TO THE GENERAL PLAN TO INCLUDE REFERENCES TO THE MIXED USE (MU) ZONE AND OTHER RELATED MINOR MODIFICATIONS

JJ Allen, Assistant City Manager, said in January 2013 the Mixed Use (MU) zone was created; however, before the MU zone could be utilized it must be incorporated in the General Plan. He told the Commissioners the redlined copy of the General Plan indicated the suggested changes. Mr. Allen said changes to pages eleven and thirteen reflected the MU zone and pages 22 and 23 updated the information under Chapter 4, Affordable Housing Element.

Commissioner Brooks said the General Plan looked good. Commissioner Jones said he could not see any draw backs. Commissioners Benson, Roper and Gaerte said they were fine with the changes. Councilmember LeBaron referred to the end of the paragraph on page 11 and asked if substantial was quantifiable. Mr. Allen said the discretion was up to the regulatory body reviewing the project.

**PUBLIC HEARING**

Chair Peterson declared the public hearing open at 7:12 p.m.

**PUBLIC COMMENT:**

Con Wilcox, Clearfield, said it was his understanding the Planning Commission and the City Council would address multi-family dwellings in all zones, not just the mixed-use zone. He said he delayed his project because he was told that clarification to the General Plan would be forthcoming. Mr. Wilcox said he was frustrated with the lack of addressing the language problem

within the other residential areas of the City, specifically his project. He said since 1998 Wilcox Farms had brought 25 businesses to Clearfield City. Mr. Wilcox said in 2010 the General Plan was changed from commercial to residential with the same plans as submitted now. He said he was asking for fair and equitable treatment. Mr. Wilcox said he hoped to hear discussion tonight and in future meetings about the language of the General Plan regarding two family or mixed use projects.

Scott Crawley, Clearfield, apologized for the misinformation he gave at the July Planning Commission meeting. He said he misunderstood the number of housing units and stated facts based on 79 four-plexes not just 79 units. Mr. Crawley read from City Code 11-1-2. He said changing property to the MU zone opens a can of worms. Chair Peterson explained to Mr. Crawley that the MU zone was for properties that were 40 acres or larger and that GPA 1308-0004 was for a General Plan amendment, not a rezoning of any property.

**Commissioner Jones moved to close the public hearing at 7:22 p.m. Seconded by Commission Butcher. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

Chair Peterson asked if the commissioners had questions on the MU zone as described in the General Plan. Commissioner Butcher said he understood the discussion was on the entire General Plan and not specifically Con Wilcox or Wilcox Farms. Mr. Allen said the Wilcox property was zoned A-1 and the application to rezone to R-2 (Residential) was on hold. He said the General Plan amendment would allow properties eligible for MU to seek rezoning for that designation. Mr. Allen said the Wilcox property did not appear to qualify for the MU zone because the MU zone requires at least 40 acres. He said there was nothing in the proposed General Plan amendment that applied to the Wilcox properties. Commissioner Butcher asked what “other related minor modifications” referred to under recommendations. Mr. Allen told him it referred to the Affordable Housing Element. Commissioner Gaerte said his understanding was that the MU zone was in the City Code, but not in the General Plan. Chair Peterson said, yes, the amendment to the General Plan was a housekeeping item.

**RECOMMENDATION FOR GPA 1308-0004, AN AMENDMENT TO THE GENERAL PLAN TO INCLUDE REFERENCES TO THE MIXED USE (MU) ZONE AND OTHER RELATED MINOR MODIFICATIONS**

**Commissioner Jones moved to recommend approval of GPA 1308-0004, an amendment of the General Plan to include references to the Mixed Use (MU) Zone and other related minor modifications. Seconded by Commissioner Roper. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

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

Chair Peterson declared the public hearing open at 7:27 p.m.

PUBLIC COMMENT:

Robert Browning, Clearfield, said he didn't know if he was for or against the rezone. He said he was unable to find information about the project on the City website and he wanted to know more information about the rezone.

**Commissioner Gaerte moved to continue the public hearing for RZN 1304-0007 to the October 2, 2013 Planning Commission Meeting. Seconded by Commissioner Brooks. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

PUBLIC HEARING AND DISCUSSION ON PSP 1307-0001, A REQUEST FOR PRELIMINARY SUBDIVISION PLAT APPROVAL TO SUBDIVIDE 6.91 ACRES INTO 27 LOTS FOR JON'S PARK PHASE 1 AND PHASE 2 LOCATED IN THE VICINITY OF 125 AND 150 NORTH PACIFIC STREET

Chair Peterson declared the public hearing open at 7:31 p.m.

PUBLIC COMMENT:

Warren Helbach, Clearfield, said this was similar to a plan a few years ago. He said his concern was with the green space area adjacent to his property. Mr. Helbach said every year except the last two years his yard flooded and he had to use a sump pump in his yard. He said he had no objections to the subdivision, but he would like his concerns with the green space addressed and to see it maintained. Mr. Helbach wanted the storm water runoff headed in the right direction, not toward his property and into his basement.

**Commissioner Butcher moved to close the public hearing at 7:36 p.m. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

Valerie Claussen, Contract Planner, said she would review both the preliminary and final subdivision approvals. She said the request was consistent with the General Plan and the zoning. Ms. Claussen said the subdivision was reviewed several years ago and although there were deficiencies identified in the current technical review, it was tied to a development agreement that was worked through in 2010. Ms. Claussen said the revised plans showed the detention pond areas with a slope less than thirty percent which assisted with the open space requirement of five percent. She said the open space had limited access from the lots and predominately served as the developments detention space, the technicality of the code was met. Ms. Claussen said there were new City standards and the City has requested some amendments to the development agreement. She said staff recommended approval as conditioned for the preliminary plat.

Commissioner Butcher commented about the open space, slope and detention ponds that were addressed by the City Engineer. Ms. Claussen stated the technical review of the improvements plans was completed and the plans met engineering standards and had an overflow path as well. Chair Peterson asked where the overflow was located. Ms. Claussen said in Phase 1 between lots 106 and 107 was a 20 foot public utility and drainage easement. She said there was no compromise on the standards for water detention. Commissioner Brooks asked if Mr. Helbach's concerns were addressed. Ms. Claussen said Mr. Helbach may want to talk to the developer and the engineer before the plat was recorded.

Blair Wall, representing the developer, said the project had been planned for some time. He said it had been his experience that many issues were resolved when the roads and the detention pond were installed. Mr. Wall said they would be happy to talk to the homeowner about his concerns. Commissioner Butcher asked once the subdivision was completed and turned over to the home owners association (HOA), what would be done to assure Mr. Helbach that the issues of not only water, but also weed control were addressed. Mr. Wall said he couldn't give an answer without more information. Ms. Claussen said one option would be for the applicant, the City Engineer and the neighbor to meet before the plat was approved and recorded. Chair Peterson recommended the addition of a condition of approval to hold a meeting with the neighbors, the developer and City Engineer before the plat recordation.

Chair Peterson was concerned about the creation of an HOA and the codes, covenants and restrictions (CC&R's). She said the HOA and CC&R's would need to be recorded prior to issuance of any building permits. Ms. Claussen asked if she was requesting the amended development agreement include the HOA requirements. Mr. Allen stated on page three of the development agreement, item "j" said, "The Developer shall establish a homeowners' association to provide for the ownership and maintenance of open space Parcels A and B." It was determined to add to condition number two that no building permits shall be issued for the project until verification of a recorded HOA declaration and CC&Rs.

APPROVAL OF PSP 1307-0001, A REQUEST FOR PRELIMINARY SUBDIVISION PLAT APPROVAL TO SUBDIVIDE 6.91 ACRES INTO 27 LOTS FOR JON'S PARK PHASE 1 AND PHASE 2 LOCATED IN THE VICINITY OF 125 AND 150 NORTH PACIFIC STREET

**Commissioner Butcher moved to approve with conditions PSP 1307-0001, Preliminary Subdivision Plat known as Jon's Park, Phase One and Two based on the discussion and findings in the staff report with the conditions of approval one thru five adding to the end of condition two that no building permits will be issued until the HOA declarations and CC&R's are recorded and condition number five added that prior to final plat recordation applicant will meet with staff, City Engineer and any concerned residents. Seconded by Commissioner Gaerte. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

PUBLIC HEARING AND DISCUSSION ON FSP 1307-0004, A REQUEST FOR FINAL SUBDIVISION PLAT TO SUBDIVIDE 6.91 ACRES INTO 27 LOTS FOR JON'S PARK PHASE 1 AND PHASE 2 LOCATED IN THE VICINITY OF 125 AND 150 NORTH PACIFIC STREET

Chair Peterson declared the public hearing open at 7:59 p.m.

PUBLIC COMMENT:

None

**Commissioner Gaerte moved to close the public hearing at 8:00 p.m. Seconded by Commissioner Brooks. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

RECOMMENDATION FOR FSP 1307-0004, A REQUEST FOR FINAL SUBDIVISION PLAT TO SUBDIVIDE 6.91 ACRES INTO 27 LOTS FOR JON'S PARK PHASE 1 AND PHASE 2 LOCATED IN THE VICINITY OF 125 AND 150 NORTH PACIFIC STREET

**Commissioner Jones moved to recommend to the City Council approval of FSP 1307-0004, a Final Subdivision Plat know as Jon's Park Phase One and Two, based on the discussion and findings provided in the staff report. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

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

JJ Allen said staff wanted to separate enforcement from the current application for a conditional use permit (CUP). He said there were compliance issues with the property which were in the process of being resolved. Mr. Allen said through code enforcement efforts it was determined that El Chamo had not received the required CUP to operate an emissions and inspection business in the C-2 zone. Mr. Allen said the conditions of approval were reviewed and recommendation was made to remove condition number eight. He said staff would monitor the business and the property and if a problem was detected, the CUP would be brought back before the Planning Commission.

Commissioner Gaerte said he thought a CUP was tied to a parcel, but condition number one stated the CUP pertained only to El Chamo. Brian Brower, City Attorney, stated Utah Code indicated that a variance runs with the land, but it wasn't so clear on a CUP and Clearfield City land use ordinance did not specifically address the subject. He had discussed the issue with two other land use attorneys and they agreed the issue was not clear either statutorily or in case law in Utah. Commissioner Brooks asked Mr. Brower if the businesses needed to be addressed separately. Mr. Brower said the CUP, if approved, would be issued to the applicant.

Chair Peterson said the Planning Commission needed to determine how many parking stalls

would be required for the business. Dale Kimsey stood up and stated he represented Jim's Tires and that discussion of parking requirements on the site should be held later in the meeting, when addressing the Jim's Tires conditional use permit. Chair Peterson told Mr. Kimsey he was out of order. She said there was a bit of overlap with the two items and told him he was welcome to speak during the discussion on Jim's Tires. Mr. Brower advised Mr. Kimsey changes were recommended for the language that addressed the parking requirements. Mr. Brower told him to do as the Chair requested and sit down. Chair Peterson said there was a unique situation on the parcel, where there were four businesses operating on the site. Chair Peterson asked the commissioners what was the appropriate number of parking stalls for all businesses.

Commissioner Butcher had been to the site and stated the parking was not clearly marked for the different businesses. He said two parking spaces were marked with signs for El Chamo and one of those was ADA. He said he was satisfied with the parking for El Chamo but he still had questions with the entire site. Commissioner Butcher said there were more than 18 cars parked and he could not distinguish the ones for sale from the ones for repair. Chair Peterson asked the commissioners what they thought was the appropriate number of parking spaces; there was a suggestion of eight to eighteen. Mr. Allen wanted to clarify the parking requirement was a minimum of eight to eighteen (depending on the intensity of the use) and it could be higher than eighteen. The parking would be for customers and employees. Commissioner Brooks said on Sunday afternoon there were about thirty cars on the property. She didn't know which cars were for sale or which ones were being repaired. Commissioner Brooks said adjustments needed to be made to the number of customer parking spaces. After some discussion the commissioners determined to redact a few sentences from condition number four and to eliminate condition number eight.

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

**Commissioner Butcher moved to approve as conditioned CUP 1305-0002, a conditional use permit for an emission and inspections use, El Chamo, located at 1181 South State Street which property lies in the C-2 zoning district, based on the findings and discussion in the staff report with the modification to condition of approval four to state: "A minimum of two stalls shall be marked as parking for El Chamo. Parking stalls shall meet the minimum dimensions of City Code. The stalls shall be paved and signed appropriately. The parking lot shall be striped in a manner consistent with the site plan approval of May 2009 and Clearfield City Code. At least one stall shall be ADA compliant." And condition number eight would be eliminated. Seconded by Commissioner Gaerte.** Commissioner Benson had a question on the motion and asked if another part of condition number four should be removed. Commissioners discussed the changes and expressed a desire to change the reference from the parking "lot" to the parking "stalls" and to remove the reference to the site plan approval of May 2009. **Commissioner Benson then moved to amend Commissioner Butcher's original motion by striking the words, "The site plan approval of May 2009" and changing the sentence to read, "The parking stalls shall be striped in a manner consistent with Clearfield City Code." Seconded by Commissioner Jones. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO:**

**None. Once the motion was amended Chair Peterson called for a vote on the motion as amended. The amended motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

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

JJ Allen stated Jim's Tires was located on the same parcel as El Chamo. He said the request was for a conditional use permit with associated outdoor storage for an automobile repair business. Mr. Allen said the business involved tire sales and installation but also included some automobile repair. He said the proposed outdoor storage was more or less the square footage currently being used. Mr. Allen said the outdoor storage included storing tires and inoperable vehicles awaiting repair. He told the commissioners they needed to determine what type of fencing should be required. He said permitting the use and the outdoor storage were the significant items in the report.

**PUBLIC COMMENT:**

Dale Kimsey said he represented Scott Hart with Jim's Tires and Jim's Cars. He said he noticed the parking was a big issue and stated the businesses on the property were closed on Sunday. Mr. Kimsey said the employees of a nearby restaurant, El Burrito, were allowed to park there on Sunday. He said there was a need for about seven parking stalls for employees and five parking stalls for customers which included parking for El Chamo. Mr. Kimsey said one of the alternative actions was to continue the matter. He said that might be the best to provide time to meet with staff and discuss the issues. Mr. Kimsey said another issue he had a concern with was the impermeable surface requirement. He disagreed with staff stating the surface had to be impermeable. He said storage was on a hard surface. Mr. Kimsey questioned why the awning would need to be removed and why slats in the chain link fence would be a requirement when the fence was not viewable to the public. He said there may be more work required prior to the approval of the conditional use permit.

Brian Allred, property owner, said he gave permission for the employees of El Burrito to park on the property on the weekends.

Commissioner Brooks asked if the prior violations had been addressed. JJ Allen said enforcement and land use needed to be kept separate, but he reported the applicant had provided confirmation that many of the items had been resolved. He continued there were ongoing items that would be monitored and said they were making a good faith effort.

Chair Peterson reviewed the conditions of approval. She said outdoor storage was not a permitted use in the C-2 zone and therefore any outdoor storage was an ancillary use and was limited in use. Mr. Brower and Mr. Allen made reference to City Code § 11-13-12 for the surface of the outdoor storage area and fencing requirements. Brian Allred said he was okay with the vehicles stored in the back on a paved surface with a screened fence, and he said he didn't want a six foot fence in the front. Chair Peterson asked Mr. Kimsey if he represented Mr. Hart on the item and he said he

did. Chair Peterson asked if it was his client's desire to continue the discussion of the CUP at a future meeting. Mr. Kimsey said he came to that conclusion earlier. After some discussion it was determined to have the applicant return with a detailed site plan showing property lines, parking spaces, fences, outdoor storage and layout of the entire site.

**Commissioner Gaerte moved to continue CUP 1304-0011, to a future date unspecified at this time. Seconded by Commissioner Benson. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

REVIEW OF APPEAL AUTHORITY FINDINGS, CONCLUSIONS, AND DETERMINATION FOR VAR 1307-0005, A VARIANCE FOR 329 NORTH MAIN

Brian Brower, City Attorney, said the findings, conclusions and determination needed approval from the Appeal Authority.

APPROVAL OF APPEAL AUTHORITY FINDINGS, CONCLUSIONS, AND DETERMINATION FOR VAR 1307-0005, A VARIANCE FOR 329 NORTH MAIN

**Commissioner Gaerte moved to approve the Appeal Authority's findings, conclusions, and determination for VAR 1307-0005 a variance for 329 North Main. Seconded by Commissioner Butcher. The motion carried on the following vote: Voting AYE: Commissioners Benson, Brooks, Butcher, Gaerte, Jones and Roper. Voting NO: None.**

STAFF REPORTS

JJ Allen thanked Valerie Claussen for returning to help with the meeting. He also introduced Scott Hess, the new Development Services Manager.

PLANNING COMMISSIONERS' MINUTE

Commissioner Butcher – said welcome back for one meeting to Valerie Claussen. He said he appreciated everybody's work.

Commissioner Brooks – said ditto and welcome to Scott Hess.

Commissioner Jones – welcomed Scott Hess and told him he had some big shoes to fill. He said it was good to see Valerie Claussen.

Brian Brower –said he appreciated Valerie Claussen's continued willingness to support City Staff and welcomed Scott Hess.

Councilmember LeBaron – said Valerie Claussen was missed and he was glad for her future. He said as a citizen he approved of the action taken with the variance.

Commissioner Benson – said it was good to see Valerie Claussen and welcomed Scott Hess. She also thanked staff for sending the information in a timely manner.

Commissioner Roper – said ditto and said he had good conversations in the community about the work of the Planning Commission.

Commissioner Gaerte – agreed with the previous comments.

Chair Peterson – said mega dittos all around. She asked staff to add to a future agenda discussion on the definitions of uses in C-2 zone and possibly creation of a definition for safety inspections and emissions testing. She was concerned that information on the City’s website was not readily accessible to the public. She also wanted to look at the subdivision ordinance and how homeowners associations (HOA) were treated.

There being no further business to come before the Planning Commission, **Commissioner Butcher moved to adjourn at 9:33 P.M.**