

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, MARCH 15, 2011 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

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

ALSO PRESENT: Mark Bradley City Planner
Eliza McGaha Administrative Secretary

EXCUSED: Lynda Berry Commissioner
Eve Jones Commissioner

AGENDA:

Work Session

Regular Meeting

Pledge of Allegiance

Approval of Work Session Minutes and Regular Meeting 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 #3283 / Conditional Use Permit / Brigham Place Apartments / Southwest corner of 800 South and 200 East intersection / Eric Lofthouse

Discussion:

General Plan Map – High Density Residential Areas

Zoning Map – Multiple Residential Districts

Regular Meeting:

Barbara Poelman opened the regular meeting at 6:30 p.m. and Larry Jensen led the Pledge of Allegiance.

Approval of Work Session Minutes and Regular Meeting Minutes:

No minutes were available for approval.

Public Comment (*Per Utah Code, will receive input only, no decision can be made*):

There was no public comment.

Continuation of Application #3283 / Conditional Use Permit / Brigham Place Apartments / Southwest corner of 800 South and 200 East intersection / Eric Lofthouse:

Mr. Bradley displayed a visual map of the area. He pointed out the areas owned by the Brigham Place Apartment (BPA) group and the University of Utah (USU) and explained there is an effort being made to relocate the proposed BPA site north, out of the future USU campus area. A land exchange is

proposed to take place between Orvieto Investments and USU, and USU and the BPA developers. The recorded plat shows an easement recognizing that Fishburn Drive needs to tie into 200 East, and it is proposed to shift the alignment southward to be able to provide the additional area for the two phases BPA would like to do. The applicants have identified 28,878 square feet of green space area; the detention area will count toward that but must meet requirements to be considered usable. The extension of the south parking lot will go onto the terminated easement by Les Schwab and line up with 800 South; it will be a private entrance not a south street.

Regarding the parking that is being used by the Methodist Church, Mr. Bradley said not all of the parking lot property is owned by the church; the north access is part of the apartment project and the south access is owned by the church. He said part of the discussion that was going on when they were looking at trading the land was the possibility of relocating the church parking lot to the area across the street, south of the church, which is owned by USU. Mr. Bradley said it was his understanding that the trade for moving the church parking lot was not going to take place; the BPA project will be built around the parking lot. He commented that the property owner has the right to develop their property even though the church parking lot expanded beyond it due to the existing use that was there many years ago. Mr. Bradley said there should be more discussion between the parties to determine if there is still an option to relocate the church parking lot. The land trade transaction needs to take place as part of the conditional approval as well as the alignment of Fishburn Drive.

Concerning fencing, Mr. Bradley said the applicants are proposing to have six foot tan vinyl fencing along the west property line. There is a general concern with how fencing will be handled with the parking lot right next to the playground area. The poles of the carport will be painted brown and the trim could be painted to match the pole color to have more uniformity with the buildings; the roof will be white.

Ms. Dunn asked if anything had been done regarding the Police Department wanting to hear from the current apartment owner association regarding occupancy of apartments in Brigham City. Mr. Bradley replied they would have a hard time holding up a project to address that. He said Mr. Munns expressed a desire to have an analysis done on the number of apartment buildings in the city. Businesses coming in have a right to develop and construct projects that comply with the zoning which is something the City cannot prevent. Mr. Munns said his desire to see numbers on how many apartments are in town and how many are occupied went along the lines of starting to address the general plan and the zoning but had nothing to do with this project.

Tony Johnson, Travis Taylor, and Stan Roland came forward to represent the application. Ms. Dunn asked the applicants if they liked the new location. Mr. Roland replied he thought it worked now; they were able to get some concessions from the landowners and USU.

Concerning sidewalk, the sidewalk at the northwest and southwest buildings, which runs along the dumpster pad, will end with the end of the parking lot. Ms. Poelman asked if the applicants had addressed the concern regarding emergency equipment and space. Mr. Roland replied they had not but would comply; he said he thought they were already complying with the fire code requirements but will not know until they do a full review with the fire department. Mr. Taylor said the turning radiuses were designed with that in mind.

Phase two will potentially be located south of phase one. Mr. Jensen said it did not appear that the drive was wide enough to have parking on both sides. Mr. Roland replied the drive aisle was 26 feet wide and the standard is 24 feet. Mr. Johnson said some of phase two would be driven by demand and other things such as the road alignment; it may have a commercial use in lieu of a residential use. Mr. Johnson said everything relative to phase two such as the road alignment issue and who will cover the cost of that road will be addressed in time; for their purposes, they want to be able to move forward due

to time constraints with Utah Housing to get the project going which is why they do not have more answers regarding phase two.

Mr. Duce asked if the applicants could provide the Commission with information to show that the apartments will be occupied once they are built. Mr. Johnson said a market study was completed for the area which showed a need for the project. He said a market study is part of the State application process which is taken into consideration before allocation of tax credits are done for a project. Mr. Johnson said they could get a copy of the market study to the City. Mr. Roland clarified that their particular market study is for affordable apartments in Brigham City, not apartments in general; which would show there is a demand for 72 units of low income housing in Brigham City at this time.

Ms. Dunn asked which type of fencing would be used around the clubhouse and play area; that will separate it from the church parking lot. Mr. Roland said they are not showing a fence there at this time however they do show a six foot vinyl privacy fence all the way across the west side of the property. Mr. Johnson stated, since they are requesting a reduction in parking, they understood the concern to be the Planning Commission wanted them to fence the area to keep people from parking in the area. He said they would rather keep the playground area open. A fenced area accessible to the public could cause potential problems because not everyone can see what is happening and could be an insurance liability. Mr. Johnson said they envision a curb between the church parking lot and the green areas so the transition between the grass area and the asphalt would create a clean open look.

Ms. Poelman asked which wall they would be using for the wall-mounted lighting and noted there were no trees identified in the plan. Mr. Roland said they will choose the walls on the buildings that would best light the parking areas and they will be placed high. Regarding trees, Mr. Roland said the green area is to address the recreation areas and meet the Planning Commission's definition of recreation area. The landscape plan was not updated in time for the meeting. Mr. Taylor said they will work with the planning staff on the tree count and the City forester to make sure the trees are acceptable and meet the requirements.

Mr. Jensen asked if the parking lot in the middle of their development caused them any concern. Mr. Johnson replied that he had some meetings with the folks at the Methodist Church. He said when the request was made for them to consider moving their project to the north location they were willing to accommodate and were ready to put the shovel in the ground and go. That site is rectangular and effectively could accommodate five buildings fairly easily, and now they are trying to fit the project in on a site that is not configured to do so. They need the ability to put five buildings in; three buildings in phase one and two buildings in phase two.

Mr. Johnson said they would need the church parking lot as part of their phase two plan and in order to accommodate that USU was willing to exchange a piece of property immediately south of the church building so the church would have the land necessary for parking. The church's aspect on that was that to go from asphalt to raw land would not help them; they would need that site asphalted. Mr. Johnson said their second phase was going to be adjacent to the road and per City requirement they would have to cover the cost of that road. He said their budget is locked and they had to make sure the university was going to cover the cost of that road as part of the concession for moving the project from the previous location. Mr. Johnson said he was hopeful to get with the university to discuss what can be done to accommodate the interests, needs and concerns of the affected parties.

Concerning fencing, Mr. Duce commented that he thought something should be done to protect the church parking lot from being open to visitors to the apartment complex. Mr. Johnson said there was not only the parking lot but the playground as well. He said if that is what they need to receive the approval that would be fine. Usage of the apartment and church parking lot was discussed and the applicants said they put their extra parking in that area by design to be able to help pick up some additional parking the church could utilize.

Ted Shigley and Jason Holmes came forward and stated they were representatives of the trustees from Aldersgate United Methodist Church. Pastor David Hiester also came forward. Mr. Shigley said they have occupied their current location, including the parking lot, since 1986. He said a member of their church donated two lots to the church. Two years ago they had asked a realtor to make a proposal to the owners to purchase the rest of the parking lot but there was no response to the offer. Mr. Shigley said the first proposal from Tony Johnson was for the church to release their two lots to the development group and, in trade, Mr. Johnson proposed to obtain from USU the lot on 850 South, directly south of the church, and pave it for the church's parking area. They had not heard from Mr. Johnson since the offer was made and at the previous Planning Commission meeting they heard that the proposal was no longer a reasonable offer. Mr. Shigley said they talked with USU and their comment was they thought Mr. Johnson had asked USU to donate the land which was something the university could not do. Mr. Shigley said, with only those two lots, they do not have enough parking area to meet code; they need 42 spaces to meet code for the size of their chapel.

Ms. Dunn asked if the church had meetings/activities on days other than Sunday when the parking lot would be used. Pr. Hiester replied they have organizations using their church building and things going on every day and evening of the week; Saturday would be the day with the least usage but there is usage on that day as well. Pr. Hiester said he wanted it to be understood that designs/plans/layouts would have been considerably different if the conversations had begun together. He said he is disappointed they did not have the opportunity to have USU, the church, and the affordable housing group around the table deciding how to work it out. Pr. Hiester recognized they have little leveraging power with owning only two lots and they will lose two-thirds of their present parking to the proposed development. He said they have a worshipping community of 100 – 125 people on the weekend and throughout the week there are different things going on. Pr. Hiester commented that he understood the interests of the parties involved. Phase one is what has them interested because that is when they will lose the north drive of the parking lot and he recognized that they do not own the portion they will be losing.

Pr. Hiester commented that they would have been placed in a different position if they had time to figure it out; however, they were not privy to conversations other than the one with Tony Johnson on January 7th. They did not hear about the outcome of that conversation until the Planning Commission meeting two weeks ago. Pr. Hiester recommended another delay to give parties the opportunity to get together and hash things out. He said they would like to see the USU campus expand and agreed that there is a need for affordable housing. Pr. Hiester stated he would like to figure out a way to make this amenable for all parties and have good relationships in the future. Regardless of the outcome, Pr. Hiester said he would like to see some form of their parking protected and would like to be assured that there will be no ramifications of the fact that they cannot address the insufficient parking; he would like to make sure it is okay and accepted including the general impact the additional parking on the street will have.

Mr. Shigley expressed concern regarding infringement on their parking area because they need that parking space. Currently there are 31 parking spaces and they need 42. Pr. Hiester said the only place they park on the street is on the east side of the street in front of the church; he noted that parking on both sides of the street creates a hazard. Mr. Holmes asked what mediations would be done with the traffic impact or if additional stop signs would be required if the parking is not resolved and stays as it currently is. Pr. Hiester said he was concerned with people parking in their parking lot due to convenience. He said he wanted to protect their interest and seemed they would need something more than landscaping in place.

Norman Fukui, representing the Bank of Utah, came forward and stated the bank is concerned with protecting their ATM located on their most eastern drive-thru lane. He said they would be in favor of the six foot vinyl privacy fence that had been discussed. Mr. Fukui said the bank was concerned with

maintaining the privacy of the ATM. They had not seen the plan for the proposed apartments but had concerns with the possibility of three stories of windows facing the ATM. There is an awning over the ATM lane but it would still be visible from the apartment windows.

Mr. Roland said the land swap for the church parking lot went away because it became too expensive and the university became uninterested and said they would give the BPA developers more land on the side. Concerning windows on the west side of the property, Mr. Roland said he believed they were planned for that side. There may be two sides of the buildings that do not have windows on the end. Mr. Roland said they would look at it and see what they could do.

Mr. Roland said discussions with USU had more to do with the road alignment. Before the road alignment was moved south there was talk, regarding moving the parking and possibly purchasing the land from the church or trading them for land on the other side, which became cumbersome and it was easier to move forward with what they already had control of. Mr. Johnson said the university is going to purchase that land from Thomas Development and the university will retain the portion of the property that will be phase two; BPA will have the option to purchase the portion for phase two. Mr. Johnson said there was some conversation that the university may put in a parking lot south of the development which may have a shared parking arrangement but that would be a ways from the church and would not work. He said there was some discussion regarding shared parking to the south which is all driven by cost. Mr. Johnson said he talked with Dale Huffaker from the university and updated him with the conversations he had with the church and Mr. Johnson said he would like to sit down and talk about it so the land south could be made available.

Mr. Bradley noted that City staff was unaware that the church had not been a part of the joint discussions regarding the parking and he would like to see the three groups be able to discuss it but was reluctant to have that hold up the application. Mr. Jensen suggested, as a condition of approval, that there be at least one meeting between the university, the developer, and the church to discuss alternatives to parking and property alignment. Mr. Munns commented that he thought a meeting between the university, developer, and the church would be ineffective because of the lateness of the timing and wanted it known that he felt all parties should have been included prior to coming to the Planning Commission. Pr. Hiester seemed agreeable to the meeting in order to have the opportunity to entertain some options.

The discussion revolved around the church's parking lot and how the Commission felt it would have been better to involve all affected entities in the discussion effort prior to the application getting to this point. Mr. Roland explained that they were asked by the City and the university to relocate their previously approved project to a different location which is a difficult lot to fit the project into.

Ben Jones came forward and commented that he did not know if Pr. Hiester had an opportunity to talk figures with the university and asked if it would be practical for them to get the lot to the south. Mr. Jones said he thought it would not be very costly to pave a parking lot equivalent to what they currently have, probably less than \$10,000. He said that is something they could have discussed had they had the opportunity to meet early on in the process. That discussion could have opened the door to getting the developer what they wanted and the church the parking they need because when that area grows the parking situation will become worse.

Mr. Bradley clarified that the developers other site did have less problems but they did not have an approved set of plans ready for that project to go. He said he liked the suggested idea that one of the conditions of approval should be that they are required to sit down and talk to see what the viable options really are which would satisfy the concerns. Mr. Bradley said he was willing to attend that meeting.

Motion: A motion was made by Larry Jensen to approve application #3283 with conditions; the conditions being that they comply with the staff comments as noted in the document as well as any that may be added to that with further investigation; that they must facilitate a meeting between the neighboring church and Utah State University with a member of the City planning staff to determine what options are available to resolve the parking concerns of the church and the future phases of the project; with the stipulations that they comply with Chapter 29.06 Uses; comply with staff comments; that it is subject to City Council general plan amendment, rezoning of the property and the determination of the alignment of Fishburn into 200 East; subject to the land trade between the Brigham Place Apartment group, Orvieto Investment, and Utah State University; with the findings of fact that a multiple family dwelling project requires a conditional use permit, the relocation of the project improves the future development of the Utah State Brigham City Campus, and Brigham City's future development desires; that such use with the noted conditions and 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 and with the hope that all three respective property owners can achieve their glass half full. The motion was seconded by Joan Peterson.

Discussion: Ms. Dunn asked if the motion should include the issue of fencing if the parking lot remains where it is, where it should be located and what type it should be. Mr. Jensen said he did not hear a desire from the developer or the church and did hear they did not want it to look like it is separated and wanted it to be inclusive. Mr. Munns commented that the fence would probably outweigh the look of it being closed off and may deter visitors from parking there. It could also deter people from walking from the apartments to the church. Ms. Poelman commented it had been mentioned that less fencing would make it appear more aesthetic. Mr. Jensen brought up the developers comment that if the parking lot was to be fenced it would have to have a setback so cars do not bump the fence which would reduce parking capacity. Mr. Bradley said he liked the idea of an open fence, wrought iron being the most aesthetic, but there is a concern with cost. He said if the Planning Commission felt there needed to be a fence it should be included in the motion.

Mr. Jensen amended his motion to include the requirement for a fence to be negotiated by the City staff. The fencing should be consistent with the property but still provides some openness. Mr. Duce said it should have some input from the church community as well; Mr. Jensen was in agreement. Mr. Jensen said the intent is that the fence is something that is agreed upon by the City staff.

Mr. Jensen amended the motion to include a fence that is of materials consistent with the other fencing on the property, generally designed to be open and lower in height than six feet but at least a minimum of three feet, giving some ability to the developer to make it look aesthetically pleasing. Ms. Peterson was in agreement. Mr. Munns wanted to make sure the church understands that it will require the possibility of something in front of the parking stalls so cars will not hit the fence.

There was an agreement from the church representatives that said they understood.

The motion passed unanimously.

Discussion:

General Plan Map – High Density Residential Areas/Zoning Map – Multiple Residential Districts:

Mr. Jensen said the inconsistencies between the general plan and zoning need to be addressed and resolved to make the two consistent with each other; then in moving forward they should be changed in sync with each other so they will remain consistent. Ms. Poelman asked if a percentage limit could be written into the general plan if the State requirement for low income housing has been met or exceeded and, if not, she asked what the point would be for making all the changes. Mr. Bradley did not have an answer for Ms. Poelman's question but said the general plan requires each city to allow for moderate income housing which is based off of the county and should have the same mean or not less than 80 percent of the median income range. That is one of the reasons Brigham City has been pointed out as one of the communities that subsidized housing is allowed, because of the range through the county.

Mr. Jensen commented that he thought the reason there was so much pressure on getting this done is because there are a lot of people who own rental property that feel the types of housing projects coming in will drive down their occupancy and earnings. Mr. Jensen said his opinion has changed over the past two or three years giving him a little different perspective on that. He explained that two of his daughters live in Salt Lake City, both of which are employed; one as a school teacher and the other as a chef and both make modest wages. It has been almost impossible for them to find affordable housing in Salt Lake City and the housing they have found, that is affordable, is housing that most people would turn their noses up at and walk away from.

Brigham City is experiencing opportunities for properties to be built that have garages for safety, yards, and nicer things; Mr. Jensen suggested they be allowed to build as many as the market will allow because it is only fair for those who do their best and cannot afford anything more. Landlords should not be protected in such a way that they do not have to invest in their property or improve their property. If it requires the existing landlords to go in and bulldoze their apartments and build something that is more attractive and nicer then so be it. Mr. Jensen said when he was first married he lived in apartments in town and when he drives by those apartments now they still have the same broken windows and the yards are still unmaintained.

Mr. Jensen said his point was that they should not go to extraordinary efforts to protect landlords; new apartments will create competition and existing landlords will need to make improvements to their properties in order to be competitive. Mr. Munns and Mr. Duce voiced agreement with Mr. Jensen. Mr. Munns added he thought government subsidized housing was a double-edged sword in that people living there may not have an incentive to earn more. Mr. Jensen commented that was something the City could not do anything about and said that was the reason he was not in a hurry to lower the densities just to stop the building of apartments. Mr. Jensen said there should be a boundary at a certain percentage due to the numbers fire and police protection can accommodate. Mr. Jensen also commented that the City could pass some policies that could possibly tax multiple family dwellings at a slightly higher rate or something that could help offset that.

Ms. Poelman commented that she understood that with low-income housing they can use so many units at a certain price and then they can start renting out the other units at a higher price; they also may sell them individually in the future after a certain number of years. Ms. Poelman said her point was that these projects give the community the impression that all of the units will be leased at a lower rate to all the residents which is really not the case. Mr. Duce said with this development and others it may force them to rent more of them at a lower rate to have them occupied rather than have them sit empty and not make any money. Mr. Jensen said there will come a time when the supply and demand lines

will cross and people will quit building apartments because there will not be demand at the level they can pay for them and make money on them. Ms. Poelman suggested they take the discussion item home, read it several times, and come back with thoughts that can be discussed.

Motion: A motion was made by Rob Munns to adjourn. The motion was seconded by Lynn Duce and passed unanimously.

The meeting adjourned at 8:38 p.m.

This certifies that the regular meeting minutes of March 15, 2011 are a true and accurate copy as approved by the Planning Commission on May 03, 2011.

Signed: _____
Eliza McGaha, Administrative Assistant