

**BRIGHAM CITY PLANNING COMMISSION  
BRIGHAM CITY FIRE STATION  
Tuesday, October 15, 2019 6:00 p.m.**

|               |                  |                                              |
|---------------|------------------|----------------------------------------------|
| PRESENT:      | Reed Hancey      | Commissioner                                 |
|               | Bill Frye        | Commissioner                                 |
|               | Scott Mildenhall | Commissioner                                 |
|               | Cindy McConkie   | Commissioner                                 |
|               | Holly Bell       | Commissioner                                 |
|               | Zachary Roberts  | 1 <sup>st</sup> Alternate                    |
|               | Curtis Hoehn     | 2 <sup>nd</sup> Alternate                    |
| ALSO PRESENT: | Mark Bradley     | City Planner                                 |
|               | Paul Larsen      | Community & Economic<br>Development Director |
|               | Christina Boss   | Administrative Assistant                     |
|               | Dave Kovach      | Applicant                                    |
| EXCUSED:      | Dean Lester      | Chair                                        |
|               | Steven Barsuhn   | Vice-Chair                                   |

**AGENDA**

Approval of Minutes

Public Hearing<sup>1</sup> / Application #19-100 / Amend Brigham City Code Title 29 Zoning / Establish Requirements for Medical Cannabis / Brigham City Corporation

Application #19-102 / Conditional Use Permit<sup>1</sup> / Scenic View Townhomes / 800 South and 400 East / Dave Kovach

**REGULAR MEETING**

Mr. Bradley stated that in the absence of a Chair and Vice-Chair, the By-Laws require the members to vote for a Chair. Commissioner Bell made a motion to appoint Commissioner Hancey as the Chair for the meeting. The motion was seconded by Commissioner Frye and passed unanimously.

**APPROVAL OF MINUTES**

Commissioner Roberts made a motion to approve the minutes from the October 1, 2019 meeting. The motion was seconded by Commissioner Hoehn and passed unanimously.

**Public Hearing / Application #19-100 / Amend Brigham City Code Title 29 Zoning / Establish Requirements for Medical Cannabis / Brigham City Corporation**

Mr. Bradley and Mr. Larsen came to the table. Mr. Larsen explained that in the absence of having a code for the location of cannabis production facilities and

pharmacies, Brigham City would follow Utah Code. Utah Code states production facilities are a permitted use in any agricultural or industrial zone, and unless the municipality has designated at least one agricultural and one manufacturing zone where these facilities are allowed, they are allowed in any agricultural or industrial zone in the municipality. Pharmacies are a permitted use in any zone that is not primarily residential.

Mr. Larsen displayed the draft ordinance on the screen. He reviewed the definitions and the special requirements for production establishment and pharmacy. Production facilities cannot be located closer than 600 feet to a residential zone or within 1,000 feet of any community location (public or private school, licensed child-care or preschool, church, library, public playground, and public park). Pharmacies must be located a minimum of 200 feet from community locations and 600 feet from a residential zone. The Utah Department of Agriculture has the authority to waive the proximity requirements up to 20%; however, the intent of the Legislature was for the municipality to follow the proximity requirements. Mr. Larsen stated that the City would be challenged and sued if an attempt was made to increase the proximity; therefore, the City's recommendation is to abide by State requirements.

There was a discussion on the remaining special requirements section of the draft Ordinance which included:

- Production facility will be operated within an enclosed building.
- Air filtrations systems are required to deal with odors.
- Exterior brick materials will be maintained in an unpainted condition to avoid calling attention to the building. Other exterior materials will be painted white, brown or a similar color.
- Pharmacy hours of operation will be 7 days a week from 9 am to 7 pm.
- Utah Code covers pharmacy access and age restrictions for minors.
- Production facility and pharmacy are each limited to one wall sign with a maximum of 20 square feet.

Mr. Larsen explained that the pharmacy and production facilities would be two separate entities. He does not remember seeing any restrictions against collocation and stated that the testing is completed independently and cannot be within the production or pharmacy facilities. Mr. Larsen reviewed the Brigham City potential production and potential pharmacy location maps.

**Motion:** Commissioner Frye made a motion to open the Public Hearing. The motion was seconded by Commissioner Bell and passed unanimously.

There were no public comments.

**Motion:** Commissioner Roberts made a motion to close the Public Hearing. The motion was seconded by Commissioner Bell and passed unanimously.

**Motion:** Commissioner Frye made a motion that the Planning Commission, acting as the recommending body to the City Council, forward Application #19-100 with a recommendation for approval subject to the City Attorney review and Staff comments, recommendations and Stipulations, and with the Findings of Fact that: 1) The proposed ordinance establishes requirements for medical cannabis at a local level while at the same time complying with state law; 2) In the case of medical cannabis, as established by state law, certain local regulations cannot be more restrictive than state law; 3) The amendment to Title 29 Zoning allows the City Code to be more aligned with state law; 4) Utah Code, Section 10-9a-528 Cannabis production establishments and medical cannabis pharmacies became effective September 23, 2019; and 5) The legislative body may not make any amendment authorized by this subsection (Utah Code, Section 10-9a-503) unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation.

The motion was seconded by Commissioner Bell and passed unanimously.

**Application #19-102 / Conditional Use Permit / Scenic View Townhomes / 800 South and 400 East / Dave Kovach**

Mr. Bradley returned to the table with the Applicant and displayed the site on the screen. Mr. Bradley stated that the zoning is R-M-15 and that notices were sent out and no inquiries were received. There would be two buildings with eight total units and a playground. The separation between the two buildings is due to a power pole but allows for more open space. The City Engineer and Public Works Director granted a variance on the south unit drive approach due to the power pole obstruction and because the clear view for the driveway is not affected. Building elevations are slightly different for each unit due to the slope.

Mr. Kovach brought an updated elevation drawing which was passed around the table. He stated that the materials on the front of the building would be a wainscot brick and above the garage would be lap siding. The dormer window and gable above the front door would be stucco. The sides and rear would be wainscot brick with stucco above the brick. The colors would be grey or earth tones and both buildings would be identical in building material and color. The plans are for 3 bedroom, 2 ½ bathroom, 1,900 square foot units with 2 car garages. They are slab on grade. Mr. Kovach believes that they will potentially be rental units.

Mr. Bradley stated that the plans show 19-foot wide driveways with a separation of 9 feet between each driveway. The plan includes trees with landscape boulders

at each separation. The City is supportive of rock between the driveways so long as the color is not the same as the concrete color.

Commissioner Roberts suggested that the Applicant consider a tree other than Bur Oak because it produces acorns and can be messy. Also, the Australian Pine would produce large pinecones that would be hard on maintenance equipment. He suggested discussing other options with the landscape architect.

Mr. Kovach will apply for a subdivision plat in the future. He is aware that if he sells one unit, he would have to set up a homeowner's association.

Commissioner Hancey commented on guest parking. Mr. Bradley confirmed that with the project site and the recently approved amendment to City Code allowing multiple family dwellings to have direct parking access from a public street, on street parking would suffice.

**Motion:** Commissioner Bell made a motion that the Planning Commission, acting as the land use authority, approve Application #19-102 subject to Staff comments and Stipulations and with the Findings of Fact that: 1) A Multiple Family Residential Development is allowed in the R-M-15 zoning district subject to conditional use permit approval; 2) The City Council recently approved an amendment to the City Code (Ordinance #19-12) to allow for multiple family dwellings to have direct parking access from a public street subject to certain standards; 3) The recent code amendment to City Code Section 29.26.070 Design Standards for Off-Street Parking and Loading Spaces allows for direct parking access on/off the public street (400 East Street); and 4) Per Utah Code, "a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards." Section 10-9a-507(2)(a).

The motion was seconded by Commissioner Mildenhall and passed unanimously.

## **MOTION TO ADJOURN**

**Motion:** A motion was made by Commissioner Bell to adjourn, seconded by Commissioner McConkie and unanimously carried.

The meeting was adjourned at 7:05 pm.

*This certifies that the regular meeting minutes of October 15, 2019 are a true and accurate copy as approved by the Planning Commission on December 17, 2019.*

Signed: *Sarah-Jane Martin*

*Sarah-Jane Martin, Administrative Assistant*