PRESIDING: Timothy Roper Vice-Chair

PRESENT: Kathryn Murray Commissioner
Robert Browning Commissioner
Michael Millard Commissioner
Amy Mabey Commissioner
Michael Britton Alternate Commissioner
Brady Jugler Alternate Commissioner
Nike Peterson Chair
Michael LeBaron Council Liaison

ABSENT: Steve Parkinson Alternate Commissioner

STAFF PRESENT: Brian Brower City Attorney
JJ Allen Assistant City Manager
Spencer Brimley Development Services Manager
Jacob Fordham Assistant City Attorney
Christine Horrocks Building Permits Specialist


The Pledge of Allegiance was led by Commissioner Roper.

APPROVAL OF MINUTES FROM SEPTEMBER 2, 2015 PLANNING COMMISSION MEETING

Brian Brower, City Attorney, requested a change to his comment on page six, line 11 and asked that the sentence state, “Mr. Brower said if it remained residential it would be allowed to be rezoned to multi-family.”

Commissioner Murray moved to approve the minutes of the September 2, 2015 Planning Commission meeting as modified. Seconded by Commissioner Millard. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard and Britton. Voting NO: None. Commissioner Mabey abstained from the vote.
PUBLIC HEARING ON CUP 1507-0008, A REQUEST BY DANIEL THURGOOD ON BEHALF OF VERIZON WIRELESS, FOR A CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS TOWER CONSISTING OF AN ANTENNA MOUNTED TO A MONOPOLE WITH EQUIPMENT BUILDING LOCATED ON SITE. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 680 NORTH MAIN STREET (TIN: 12-094-0024). THE PROPERTY IS APPROXIMATELY 0.61 ACRES IN SIZE.

Commissioner Roper declared the public hearing open at 7:05 p.m.

PUBLIC COMMENT:
None

Commissioner Millard moved to close the public hearing at 7:06 p.m. Seconded by Commissioner Britton. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.

PUBLIC HEARING ON CUP 1509-0001, A REQUEST BY FABIAN REYES, FOR A CONDITIONAL USE PERMIT FOR THE LOCATION OF A CHURCH IN AN EXISTING BUILDING WITHIN THE LAKESIDE SQUARE CENTER. THE ZONING ON THE PROPERTY IS (C-2) COMMERCIAL AND LOCATED AT 399 SOUTH STATE STREET (TIN: 12-003-0283). THE PROPERTY IS APPROXIMATELY 10.691 ACRES.

Commissioner Roper declared the public hearing open at 7:07 p.m.

PUBLIC COMMENT:
None

Commissioner Murray moved to close the public hearing at 7:08 p.m. Seconded by Commissioner Mabey. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.

PUBLIC HEARING ON CUP 1509-0003, A REQUEST BY DAMON PEARSON ON BEHALF OF PEARSON SPECIALTIES LLC, FOR A HOME OCCUPATION LICENSE, WITHIN A HOME GARAGE FOR THE PURPOSE OF SPECIALTY GUN-SMITH. THE PROPERTY IS LOCATED AT 1964 SOUTH 275 EAST (TIN: 12-540-0158)

Commissioner Roper declared the public hearing open at 7:09 p.m.

PUBLIC COMMENT:
None

Commissioner Britton moved to close the public hearing at 7:10 p.m. Seconded by Commissioner Murray. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.
PUBLIC HEARING ON CUP 1509-0004, A REQUEST BY RICHARD HELMCKE ON BEHALF OF HELL MONKEYS CYCLES LLC, FOR A CONDITIONAL USE PERMIT FOR AN AUTO REPAIR BUSINESS SPECIFIC TO MOTORCYCLES. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 325 WEST 1700 SOUTH, SUITES #1 & #2 (TIN: 12-243-0011). THE PROPERTY IS APPROXIMATELY 1.768 ACRES

Commissioner Roper declared the public hearing open at 7:11 p.m.

PUBLIC COMMENT:
Spencer Brimley, Development Services Manager, stated that Commissioner Peterson had met with a business owner adjacent to the new business that was in favor of the proposed use and looked forward to having a new business in the building.

Commissioner Murray moved to close the public hearing at 7:12 p.m. Seconded by Commissioner Mabey. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.

DISCUSSION ON CUP 1507-0008, A REQUEST BY DANIEL THURGOOD ON BEHALF VERIZON WIRELESS, FOR A CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS TOWER CONSISTING OF AN ANTENNA MOUNTED TO A MONOPOLE WITH EQUIPMENT BUILDING LOCATED ON SITE. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 680 NORTH MAIN STREET (TIN: 12-094-0024). THE PROPERTY IS APPROXIMATELY 0.61 ACRES IN SIZE

Spencer Brimley said the request was for a Conditional Use Permit (CUP) and site plan approval. He said the proposal was for an 86 foot tall wireless communications facility for Verizon. Mr. Brimley said the existing towers in the area were at full capacity and Verizon was unable to collocate. He said the monopole was 462 feet from residential use and 600 feet from the existing pole. He said the new pole allowed for collocation and reduced the need for future poles.

Mr. Brimley said staff recommended approval of the CUP for a 1,560 square foot building and ground lease at approximately 680 North Main Street. He said because it was a new use the applicant was required to obtain an access permit from UDOT prior to final approval of the CUP. Mr. Brimley said fencing should be provided for the entire perimeter of the ground lease equipment and on the site. He said screening may be provided by increased landscaping and vegetation, fencing or other screening fencing material, but not chain link.

Commissioner Mabey asked if wireless towers were typically in commercial zones or manufacturing. Mr. Brimley said it was practical in the C-2 zone. Commissioner Murray asked what kind of screening would be used if chain link was not acceptable. Mr. Brimley said the recommended conditions of approval outlined options of landscaping, fencing or other vegetation. He said the intent was to put the wireless tower in the asphalt area; therefore landscape would not likely be used. Mr. Brimley said staff recommended a solid visual barrier to screen the equipment and that design and architectural features blended with the site.

Commissioner Murray asked what the required height of the fence was. Mr. Brimley said the...
request was for a six foot fence impervious to sight. Commissioner Murray asked if the design of building needed to meet City Code § 11-18, Design Guidelines. Mr. Brimley said there were specific guidelines but the building housed equipment for the wireless facility; it was an accessory building. Brian Brower referred to City Code § 11-11B-12(D)(4) which stated, “Any building elevation facing a street or right of way shall include at least two (2) of the following: brick, stucco, stone or rock.” He said City Code § 11-18, Design Guidelines said there were provisions which would be applicable to the design standards for the building. Commissioner Browning asked if the building could blend with the service station. Mr. Brimley said that was discussed with the applicant and said it could be accomplished.

Nefi Garcia, Verizon, said Dan Thurgood was the applicant but was unable to attend this meeting. He gave a brief history of the wireless tower behind Gordon’s Copy Print. He said because of the change in technology equipment changes were needed and the existing tower was at capacity. Mr. Garcia said the past two years they had explored other solutions. He said it was not a typical cell site as it would serve as a hub for other sites in the area. Mr. Garcia said the building could be built to blend with the surrounding buildings. He said landscaping would be difficult to install in the paved area.

Commissioner Millard asked if the top would be decorated. Mr. Garcia said it wasn’t practical to put a fake tree if it didn’t blend in with the surrounding area. Commissioner Roper spoke to his neighbors and said many people didn’t know there was a tower behind Gordon’s Copy Print. Commissioner Mabey asked about the size of the tower. Mr. Garcia said it was one of the largest facilities; the footprint of the building was bigger than usual. He said Verizon would move its equipment from the existing tower.

Mr. Brimley said the Planning Commission could add conditions to mitigate issues if it desired. Commissioner Browning said the roads around the property were eight feet above the fence and wasn’t sure what a six foot fence accomplished. Mr. Brimley said the fence was a security issue and the City wanted a fence that added to the area. He said a balance was needed for security and a design that blended with community.

Brian Brower said the fencing belonged under the site plan portion of the project. He said there were provisions that were applicable in the City Code on the design of the building. Mr. Brower said from the discussion among the Commissioners additional conditions might be added that included the construction of the building must be in compliance with City Code including architectural design, building materials used, etc. and could be made subject to approval of the City’s Planning and Zoning Administrator to ensure compliance. Mr. Brimley said it was up to the Planning Commission to determine the strength of the language included in the conditions of approval.

Mr. Garcia said the building could be constructed similar to the buildings in the area, but asked if a wrought iron fence could surround the building instead of a fence that was impervious to view. He said there were other issues with a block wall, one was graffiti and another was safety with seeing what was around the corner. Commissioner Murray asked how tall the building would be. Mr. Garcia said it would be eight feet tall.
Mr. Brimley said the City Code stated not chain link. He said the building and fence should be
designed so it met and fit within the community. He said the applicant stated the fence was a
security issue.

The commissioners said there had been many discussions in the past about fencing. Mr. Brower
said most of the previous discussions about fencing were for a fence that was impervious to view
for an outdoor storage use. He quoted City Code § 11-11B-12-C, “Walls or fences may be
required along all property lines which are adjacent to a residential zone or use or public right of
way. The exact location, height and type of materials of the wall or fence shall be approved by
the Planning Commission as part of the site plan approval process.” City Code § 11-18-4-5
referenced chain link and stated “Chainlink fencing shall not be permitted adjacent to a public
right of way or in a required front yard.” Mr. Brower said the current discussion was not on an
outdoor storage use but on an accessory building in the C-2 zone.

Commissioner Browning said it was his opinion that a well-designed building with a wrought
iron fence was better than a block building surrounded by a cinder block wall. Commissioner
Roper asked Mr. Garcia if Verizon had a standard for fencing around the buildings and towers.
Mr. Garcia said wrought iron fences were often used.

Commissioner Murray said a condition should state that the accessory building must be
compatible with the surrounding area and conform to the design standards and should be listed in
both the conditional use permit and the site plan. The following wording was suggested for a
condition of approval, “construction of the building including architectural design, building
materials used, etc. must be in compliance with City’s land use ordinance, design guidelines and
be compatible to surrounding buildings.”

Commissioner Browning asked what the purpose of the screening was. Mr. Brimley said the
fence didn’t provide a visual screen but was for security screening. Mr. Brower suggested
changing condition of approval number three for the site plan from screening to fencing.

Commissioner Jugler arrived at 7:55 p.m. but did not go to the dais.

APPROVAL OF CUP 1507-0008, A REQUEST BY DANIEL THURGOOD ON BEHALF
VERIZON WIRELESS, FOR A CONDITIONAL USE PERMIT FOR A WIRELESS
COMMUNICATIONS TOWER CONSISTING OF AN ANTENNA MOUNTED TO A
MONOPOLE WITH EQUIPMENT BUILDING LOCATED ON SITE. THE ZONING ON THE
PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 680 NORTH MAIN STREET
(TIN: 12-094-0024). THE PROPERTY IS APPROXIMATELY 0.61 ACRES IN SIZE

Commissioner Mabey moved to approve as conditioned CUP 1507-0008, a request by
Daniel Thurgood, on behalf of Verizon Wireless, for a Conditional Use Permit for the
construction of an unmanned communications facility consisting of an antenna mounted to
a new monopole with an equipment building located on site. The zoning on the property is
C-2 (Commercial) and located at 680 North Main Street (TIN: 12-094-0024), based on the
findings and discussion in the Staff Report with the following conditions:
1) This Conditional Use Permit is for a 1,560 square foot building and ground lease for a Verizon Wireless Monopole facility, located at approximately 680 N. Main Street. Submitted Construction Documents shall be in conformance with the plans submitted for CUP-SP 1507-0008.

2) Applicant will be required to obtain access permit from UDOT prior to final approval of the Conditional Use permit.

3) The applicant shall provide proof of having obtained and of having maintained, as may be periodically requested by the City, all applicable local, state, and federal permits.

4) Architectural design and building materials must be in compliance with the City’s Land Use Ordinance § 11-18, Design Guidelines and must be compatible with structures in the surrounding area.

Seconded by Commissioner Millard. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.

APPROVAL OF SP 1507-0008, A REQUEST BY DANIEL THURGOOD ON BEHALF VERIZON WIRELESS, FOR A SITE PLAN APPROVAL FOR THE CONSTRUCTION OF A WIRELESS COMMUNICATIONS FACILITY CONSISTING OF AN ANTENNA MOUNTED TO A MONOPOLE WITH EQUIPMENT BUILDING LOCATED ON SITE. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 680 NORTH MAIN STREET (TIN: 12-094-0024). THE PROPERTY IS APPROXIMATELY 0.61 ACRES IN SIZE

Commissioner Murray moved to approve as conditioned SP 1507-0008, a request by Daniel Thurgood, on behalf of Verizon Wireless, for Site plan approval for the construction of an unmanned communications facility consisting of an antenna mounted to a new monopole with an equipment building located on site. The zoning on the property is C-2 (Commercial) and located at 680 North Main Street (TIN: 12-094-0024), based on the findings and discussion in the Staff Report with the following conditions:

1) The approval of Site Plan 1507-0008 is subject to approval of a Conditional Use Permit 1507-0008 for a wireless communications towers at 680 N. Main Street.

2) Applicant will be required to obtain access permit from UDOT prior to final approval of the site plan.

3) Fencing shall be provided for the entire perimeter of ground lease equipment, and area on the site. Fencing may be in the form of increased landscaping and vegetation, or other screening fencing material, but not chain link.

4) Architectural design and building materials must be in compliance with the City’s Land Use Ordinance § 11-18, Design Guidelines and must be compatible with structures in the surrounding area.

Seconded by Commissioner Britton. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.
DISCUSSION ON CUP 1509-0001, A REQUEST BY FABIAN REYES, FOR A CONDITIONAL USE PERMIT FOR THE LOCATION OF A CHURCH IN AN EXISTING BUILDING WITHIN THE LAKESIDE SQUARE CENTER. THE ZONING ON THE PROPERTY IS (C-2) COMMERCIAL AND LOCATED AT 399 SOUTH STATE STREET (TIN: 12-003-0283). THE PROPERTY IS APPROXIMATELY 10.691 ACRES

Spencer Brimley said the request was for a Conditional Use Permit (CUP) for a church to be located in an existing building. He said the use of the building as a church required the CUP. He said there were no issues with the proposal and parking needs had been accommodated. Mr. Brimley said staff recommended approval and read the conditions of approval.

Commissioner Mabey asked about the signage. Mr. Brimley said the sign requirements had not been discussed with the applicant but they had received a copy of the staff report with the conditions and didn’t have any concerns. He said any signage needed to meet the sign ordinance.

Wendy Contreras was present representing the church and Tom Hart was present representing the Kier Corporation. Mr. Hart said there had been a church at this location in the past. He said there was an existing sign case that could be used.

APPROVAL OF CUP 1509-0001, A REQUEST BY FABIAN REYES, FOR A CONDITIONAL USE PERMIT FOR THE LOCATION OF A CHURCH IN AN EXISTING BUILDING WITHIN THE LAKESIDE SQUARE CENTER. THE ZONING ON THE PROPERTY IS (C-2) COMMERCIAL AND LOCATED AT 399 SOUTH STATE STREET (TIN: 12-003-0283). THE PROPERTY IS APPROXIMATELY 10.691 ACRES

Commissioner Mabey moved to approve as conditioned, CUP 1509-0001, a request by Fabian Reyes for a conditional use permit for the location of a church within the Lakeside Square Center. The zoning on the property is (C-2) Commercial and located at 399 South State Street (TIN 12-003-0283) based on the findings and discussion in the Staff Report with the following conditions:

1) This Conditional Use Permit is for the Eben-ezer Church located at 399 S. State St, in Lakeside Square commercial center.
2) No signs are approved with this application. Separate application will be required for any signage for the use.
3) The applicant shall provide proof of having obtained and of having maintained, as may be periodically requested by the City, all applicable local, state, and federal permits.

Seconded by Commissioner Britton. The motion carried on the following vote: Voting AYE: Commissioners Murray, Browning, Millard, Mabey and Britton. Voting NO: None.
DISCUSSION OF CUP 1509-0003, A REQUEST BY DAMON PEARSON ON BEHALF OF PEARSON SPECIALTIES LLC, FOR A HOME OCCUPATION LICENSE, WITHIN A HOME GARAGE FOR THE PURPOSE OF SPECIALTY GUNSMITHING. THE PROPERTY IS LOCATED AT 1964 SOUTH 275 EAST (TIN: 12-540-0158)

Spencer Brimley said the Conditional Use Permit (CUP) for a home occupation business license was required because the business used the garage. He showed the layout of the garage and the area in the garage that would be used for the business. The North Davis Fire District reviewed the list of chemicals used and provided a letter that stated it had no concerns at this time. Mr. Brimley said the proposal would not change the character of the neighborhood. He said the applicant was looking for another location but requested the use of his garage until then.

Mr. Brimley reviewed the conditions of approval. He said for clarification that the CUP was for gunsmithing only, condition of approval number one included the statement, “Permit does not allow for the manufacturing or reloading of ammunition for commercial purposes.” He said the applicant had received federal permitting. He said staff recommended approval as conditioned.

Commissioner Millard asked if the federal license he had obtained regulated the sales, trades and loans. Mr. Brimley said they would be required to meet local laws. He said the City could be more restrictive but could not be less restrictive than federal regulations. Commissioner Mabey asked if there would be extra security measures taken with the guns in the garage. Mr. Brimley said it had not been discussed, but the applicant could answer the question.

Damon Pearson, applicant, said for security he had multiple gun safes fastened to the concrete floor, electronic security and dogs. Commissioner Millard asked what federal licenses he was required to obtain. Mr. Pearson said he had a Type 07 federal firearms license which was called a manufacturing permit. He said the term manufacturing was defined as maintain firearms. He said the permit allowed him to build firearm receivers from blanks and moldings and then give them a serial number. Commissioner Millard asked if there would be sales, trades, gun loans or shipping out of state. Mr. Pearson said he would ship out of state but was required to go to the customers FFL and any firearm could be shipped to him because he had an FFL.

Commissioner Peterson entered at 8:17 p.m. but did not go to the dais.

Commissioner Millard asked if he had any intention to buy older guns to remanufacture and sell. He said there were other State laws that applied when used firearms were bought and sold. Mr. Pearson said he was aware of the State requirements and he worked on historic firearms. Commissioner Millard asked if he would obtain a license to operate as a secondhand dealer or a pawn shop through consumer protection. Mr. Pearson said for him it was a tangible link to history and his niche was more Russian guns.

Councilmember LeBaron asked if a list of the chemicals used would be submitted to the North Davis Fire District. Mr. Pearson said the list of chemicals was submitted to the Fire District and was approved. Councilmember LeBaron encouraged Mr. Pearson to contact the Department of Environmental Quality to determine if the chemicals used with the home based gunsmithing
business required an annual report.

Brian Brower said the buying and selling of secondhand firearms required from the State a license for a pawn broker. Mr. Brower said the fact that the pawn license was required from the State did not indicate the home occupation for specialty gunsmithing from Clearfield City gave approval for a pawn business as defined in the City land use ordinance. He said the requirement for licensing from the State did not mean that Clearfield City had approved a land use for a pawn shop or secondhand dealer. Commissioner Millard said the State defined pawn and secondhand business in the same category. Mr. Brower said the City Ordinance did also.

Commissioner Mabey interpreted gunsmithing as gun repair. Mr. Brimley said he had the same interpretation from photos of the applicant’s work. Mr. Pearson was asked if he had walk up customers. He said the majority of his customers were through the mail and walk up customers were referral based.

Mr. Brower read from State Code § 13-32A-102 the definition for pawn and secondhand business. He said even though the City Ordinance was tied closely to the State definition, there might still be room to grant a home occupation to buy and sell items on a limited basis without being considered a pawn shop for land use purposes. Mr. Brower said the Commission might want to consider adding language to the conditions which made it clear that any approval did not allow the sale of any product other than firearms. He said if the Planning Commission determined that buying and selling of secondhand firearms made the business a pawn business, then the Commission would be justified to not allow that portion of the business.

Commissioner Millard disclosed that he was a Police Officer with Salt Lake City and served on the State Pawn Board. He said he provided training across the State for pawn shop dealers, police officers and prosecutors on pawn shop law and rules related to it. Commissioner Millard said he didn’t have a problem with gunsmithing but if he was buying and selling used guns it clearly met the definition of secondhand merchandise.

Mr. Brower read from City Code § 11-3-3 “Pawn and Secondhand Business: Shall have the meaning set forth in Utah Code Annotated title 13, chapter 32a. This definition does not include businesses which acquire secondhand goods or merchandise exclusively by donation, or deal solely with consignment or solely in the purchasing, bartering, exchanging or selling of used motor vehicles or trailers.”

Commissioner Browning stated the City had a moratorium on pawn shops and asked if it also applied to secondhand dealers. Mr. Brower said it included both pawn and secondhand businesses. He asked Mr. Brimley when the application had been received. Mr. Brimley said the application was received prior to the adoption of the ordinance for the temporary land use regulation for pawn shops and secondhand businesses. Mr. Brower said in his opinion the applicant was not subject to the temporary land use regulation because the application was received prior to the regulation.
Commissioner Mabey asked what the application stated was the scope of the business. Mr. Brimley said it said gunsmithing and he didn’t recall it stating the buying and selling of guns.

Mr. Pearson said buying and selling used items was a very small part of his business. He said he bought parts or components to rebuild and make working guns. He was not buying collections. Mr. Pearson said he took for granted that the term gunsmithing was fixing broken guns. He said an example was a customer looking for a specific model of gun but couldn’t find one on the market. The customer would give him the specifications then he bought the pieces and built the gun. Mr. Pearson said the majority of the work he did was specialty gunsmithing. He said customers paid him to work on their guns.

Mr. Brower suggested that a condition could be included that stated the applicant shall not operate as a pawn broker or secondhand business as defined in City Code. He said someone that regularly bought and sold firearms would be a secondhand merchandise dealer. Commissioner Mabey asked how soon he planned to move to another location. Mr. Pearson said he would move in three years.

Commissioner Browning asked if a gun was purchased online and then work was completed to ensure the gun was working properly and some gunsmithing was done, was that a secondhand dealer. Commissioner Millard said some transactions were qualified and some that were not. He said the parts obtained from a certified dealer had trackable documentation which was different than parts purchased from individuals. Commissioner Millard said firearms that qualified came from a certified dealer.

Mr. Pearson said any transaction would be entered into his federal books. Commissioner Millard said he was not concerned with the business to business transactions, but the secondhand guns purchased from individuals. He said Mr. Pearson needed to understand the meaning of pawn shop and secondhand dealer and what he could buy and sell. Commissioner Britton asked if there was a difference if the item that was received from a non-business person was modified significantly or used for parts. Commissioner Millard said it didn’t matter what work was done to the firearm, if it was not purchased from a certified dealer it was considered secondhand.

Mr. Brower said the language of the Conditional Use Permit (CUP) could be specific stating that the business could not operate as a pawn shop or secondhand business dealer. Commissioner Millard said he could give Mr. Pearson resources for education on secondhand businesses.

Commissioner Browning said he liked the condition of approval that stated the business could not operate as a pawnshop or secondhand business as defined in City Code. Commissioner Britton was more inclined to not include the condition about pawns or secondhand businesses.

Mr. Brower said there needed to be a finding that stated if the temporary land use regulation prohibiting any additional pawn shop or secondhand businesses was applicable in this situation. He said the issue was what the application was for, did it include conducting business that would make it a secondhand business or was it just for gunsmithing or the repair of guns.
Commissioner Britton asked what was included in a typical gunsmithing business. Mr. Pearson said the federal firearm license for a base level gunsmith was a Type 01 which was the same as a gun dealer. He said he took for granted that gunsmithing included wheeling and dealing on the side but that was not the majority of his business.

Mr. Brower said the commissioners needed to state the reasons for the decision made. Commissioner Britton said it was his opinion that the business would not become a full-blown pawn shop and that the moratorium had no bearing on the business. Commissioner Mabey said a definition of gunsmithing would be helpful in the decision. It was Commissioner Browning’s opinion that a reasonable definition would include some exchange because there would be buying and selling.

Commissioner Millard said his opinion was that gunsmithing was preparing pieces that didn’t require a manufacturer license to build new guns. It was asking to repair people’s guns. He said the application was not asking for secondhand sales, he wasn’t asking for a dealer’s license, so the license should stick to gunsmithing. Commissioner Millard said he would be in favor of a condition to not allow the business to operate as a pawn shop or secondhand business. He said it was difficult to say that “a little bit” would be allowed.

Commissioner Britton said because the application was made before the moratorium and if it was determined it was a secondhand business, he was fine with it. Mr. Brower agreed with the comments from Commissioner Millard that a determination needed to be made if the request fit the ordinance and if it did that was the answer. He said it was better to decide the interpretation and apply it.

Commissioner Roper asked for opinions from the commissioners. Commissioner Britton said he was fine with the definition even as a secondhand business because of the timing of the application. Commissioner Mabey said her vote was on the other side because of what she interpreted through the definition of gunsmithing. She said she understood the perspective in that was what they intended. Commissioner Millard said the laws were clear and individuals that were gunsmiths and were also selling firearms would have a license for pawn because they do both. He said the Planning Commission needed to look at the Code and follow the Code.

CONSIDERATION OF CUP 1509-0003, A REQUEST BY DAMON PEARSON ON BEHALF OF PEARSON SPECIALTIES LLC, FOR A HOME OCCUPATION LICENSE, WITHIN A HOME GARAGE FOR THE PURPOSE OF SPECIALTY GUN-SMITH. THE PROPERTY IS LOCATED AT 1964 SOUTH 275 EAST (TIN: 12-540-0158)

Commissioner Browning moved to approve as conditioned, CUP 1509-0003, a request by Damon Pearson, on behalf of Pearson Specialties LLC for a Home Occupation License within a home garage for the purpose of specialty gunsmithing. The property is located at 1964 South 275 East (TIN: 12-540-0158), based on the findings and discussion in the Staff Report with the following conditions:

1) This Conditional Use Permit is for a home occupation gunsmithing use including utilization of the home’s attached garage located at 1964 South 275 East.
2) No outdoor storage shall be allowed in conjunction with the proposed use.
3) The business shall operate only between the hours of 8:00AM and 8:00PM.
4) The applicant shall provide proof of having obtained and of having maintained, as may be periodically requested by the City, all applicable local, state, and federal permits.
5) The business shall not operate as a pawn shop or secondhand business as defined in City Code.


Commissioner Britton moved to approve as conditioned, CUP 1509-0003:, a request by Damon Pearson, on behalf of Pearson Specialties LLC for a Home Occupation License within a home garage for the purpose of specialty gunsmithing. The property is located at 1964 South 275 East (TIN: 12-540-0158), based on the findings and discussion in the Staff Report with the following conditions:

1) This Conditional Use Permit is for a home occupation gunsmithing use including utilization of the home’s attached garage located at 1964 South 275 East.
2) No outdoor storage shall be allowed in conjunction with the proposed use.
3) The business shall operate only between the hours of 8:00AM and 8:00PM.
4) The applicant shall provide proof of having obtained and of having maintained, as may be periodically requested by the City, all applicable local, state, and federal permits.


Mr. Brower said the options the Planning Commission had were for a different motion or if the conclusion was that no other motion would carry four votes, then the application could be continued until there were more members of the Commission present. Commissioner Mabey asked if it could be continued to obtain additional information. She said she was stuck on the definition of gunsmithing and what it included.

Commissioner Britton said what if it was based on the fact that the application came in before the temporary land use restriction. He said the definition of gunsmithing was not relevant to the application. Commissioner Millard said the definition of gunsmithing was relevant if sales were a part of the business. Commissioner Roper said he was comfortable with gunsmithing.

Commissioner Britton asked if there wasn’t a definition what should the commissioners use for reference.

Jennifer Pearson said the Merriam-Webster definition of gunsmith was one who designs, makes, or repairs small firearms. Commissioner Roper said the question was whether gunsmithing included sales of firearms. Ms. Pearson said in reference to secondhand firearms that they were not buying firearms and then selling them for a profit. She said they were buying the components and parts for historical firearms were especially difficult to obtain from a manufacturing plant.
She said some of the firearms would be secondhand but that was not the purpose of the
gunsmithing in the first place.

Commissioner Millard said that was a part of the educational part because historic also had a
definition. He said to make something and sell it was okay but that was not a secondhand deal.
He said the point of the pawn shop was the need to track and locate items that were possibly
stolen. Commissioner Millard said Mr. Pearson needed to be sure the guns he was buying used
weren’t stolen property. Ms. Pearson asked if it could be a condition that the serial numbers of
any purchased components would be run through the database. Commission Millard said part of
the pawn and secondhand dealer license was the ability to access the database to make sure you
were not purchasing stolen property. Commissioner Britton asked if the fifth condition of the first
motion precluded sale of dealer purchased material or just firearms purchased from an individual.
When Commissioner Millard said it was only the guns purchased from individuals,
Commissioner Britton said it wasn’t as restrictive as he first thought and he would be inclined to
go with the first motion. Commissioner Murray asked if there was a way for Mr. Pearson to not
be a pawn shop or secondhand business. Commissioner Millard said he would need to deal only
with licensed dealers and wouldn’t be able to deal with individuals.

APPROVAL OF CUP 1509-0003, A REQUEST BY DAMON PEARSON, ON BEHALF OF
PEARSON SPECIALTIES LLC FOR A HOME OCCUPATION LICENSE, WITHIN A HOME
GARAGE FOR THE PURPOSE OF SPECIALTY GUN-SMITH. THE PROPERTY IS
LOCATED AT 1964 SOUTH 275 EAST (TIN: 12-540-0158)

Commissioner Britton moved to approve as conditioned, CUP 1509-0003:, a request by
Damon Pearson, on behalf of Pearson Specialties LLC for a Home Occupation License
within a home garage for the purpose of specialty gunsmithing. The property is located at
1964 South 275 East (TIN: 12-540-0158), based on the findings and discussion in the Staff
Report with the following conditions:

1) This Conditional Use Permit is for a home occupation gunsmithing use including
utilization of the home’s attached garage located at 1964 South 275 East.
2) No outdoor storage shall be allowed in conjunction with the proposed use.
3) The business shall operate only between the hours of 8:00AM and 8:00PM.
4) The applicant shall provide proof of having obtained and of having maintained, as
may be periodically requested by the City, all applicable local, state, and federal
permits.
5) The business shall not operate as a pawn shop or secondhand business as defined in
City Code.

Seconded by Commissioner Millard. The motion carried on the following vote: Voting
AYE: Commissioners Millard, Mabey, Murray, Britton and Browning. Voting NO: None.
DISCUSSION ON CUP 1509-0004, A REQUEST BY RICHARD HELMCKE ON BEHALF OF HELL MONKEYS CYCLES LLC, FOR A CONDITIONAL USE PERMIT FOR AN AUTO REPAIR BUSINESS SPECIFIC TO MOTORCYCLES. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 325 WEST 1700 SOUTH SUITES #1 & #2 (TIN: 12-243-0011). THE PROPERTY IS APPROXIMATELY 1.768 ACRES

Spencer Brimley said Hell Monkey Cycles LLC would occupy suites one and two of an existing building. He said the business was required to have six parking stalls. He said the site plan as presented had four parking spaces on the north which appeared to be an impediment to traffic flow. He said City staff requested the business provide six stalls on the east side of the property and not allow the parking stalls on the north side to be used. Mr. Brimley said with the parking requirements of the other businesses occupying the building, staff determined that there were adequate spaces for each business.

Mr. Brimley reviewed the conditions of approval and explained the changes for clarification that were made after the staff report was sent to the commissioners. He said there was potential for customers to use the north area for staging and drop off. He said it was preferable that parking spaces were kept together and not spread around the site. Mr. Brimley asked that there not be striping for stalls on the north side of the building. He said there were parking challenges in the area and hoped the property owner would resolve the issue with assignments for the parking stalls.

Richard Helmcke, owner of Hell Monkey Cycles, LLC, said there was one handicapped parking space for all the tenants. He said he couldn’t guarantee his customers wouldn’t park on the north side. Mr. Helmcke said he would like to paint parking stalls for motorcycles.

A current Google earth map was viewed that showed cars parked in the north area and it appeared there was adequate area for parking and traffic flow. After discussion it was determined that the applicant could paint three parking stalls on the north side of the building.

Mr. Brower wanted clarification that the CUP was for motorcycle repair and if Mr. Helmcke wanted to sell vehicles he would need an additional CUP. Mr. Helmcke said he understood. Mr. Brimley encouraged the commissioners to have language in the conditions that gave staff the authority to approve where the stalls would be marked.

APPROVAL OF CUP 1509-0004, A REQUEST BY RICHARD HELMCKE ON BEHALF OF HELL MONKEYS CYCLES LLC, FOR A CONDITIONAL USE PERMIT FOR AN AUTO REPAIR BUSINESS SPECIFIC TO MOTORCYCLES. THE ZONING ON THE PROPERTY IS C-2 (COMMERCIAL) AND LOCATED AT 325 WEST 1700 SOUTH, SUITES #1 & #2 (TIN: 12-243-0011). THE PROPERTY IS APPROXIMATELY 1.768 ACRES

Commissioner Millard moved to approve as conditioned, CUP 1509-0004: A request by Richard Helmcke, on behalf of Hell Monkeys Cycles LLC for a Conditional Use Permit for an auto repair business specific to motorcycles. The zoning on the property is C-2 (commercial) and located at 325 W Antelope Dr. (1700 S) suites #1 & #2, based on the
findings and discussion in the Staff Report with the following conditions as presented in the power point presentation:

1) This Conditional Use Permit is for an automotive or motorcycle repair business for Hell Monkey’s Auto Repair located at 325 W. 1700 S., Suites #1 & #2.

2) Absolutely no automotive or motorcycle repair services shall be conducted outside of the building’s service bays.

3) The site shall be maintained in a neat and orderly manner and have no abandoned or leaking automotive parts except in a closed container for disposal.

4) An oil separator is necessary for any floor drains; it shall be cleaned and in proper working order verified by the Public Works Department. It may be necessary to install a cap on top of the sewer line.

5) Keeping of hazardous liquids and rags used to clean up spills shall be kept in accordance with North Davis Fire District’s standards.

6) Damaged or inoperable vehicles or motorcycles shall not be stored on-site overnight. Keeping of inoperable vehicles or motorcycles overnight inside suites #1 & #2 is acceptable.

7) There shall be no overflow parking offsite (on the surrounding lots, on the street, or otherwise).

8) Parking for the use shall be striped and identified with signage so as to distinguish it from other uses located in the building. Property owner shall provide applicant and City with information related to the designation of parking for each use located in the building. Site circulation must be designed in such a manner that on site traffic flow is not impeded.

9) A minimum of six (6) parking stalls shall be delineated and designed for the site and shown on submitted construction drawings with the dimensions of 9’x20’. A minimum of one parking stall must meet ADA standards.

10) For this Conditional Use Permit to be in full force and effect, the Conditions of Approval shall be acknowledged and accepted in writing by both the tenant/business owner and the property owner.

11) Proposed signage must meet Title 11, Chapter 15 standards. Signs are not included as a part of this Conditional Use permit. Separate review and approval will be required.

12) The applicant shall provide proof of having obtained and of having maintained, as may be periodically requested by the City, all applicable local, state, and federal permits.

13) No more than three parking stalls shall be designated on the north side of the property and the design will be approved by staff.

Seconded by Commissioner Britton. The motion carried on the following vote: Voting AYE: Commissioners Browning, Millard, Mabey and Britton. Voting NO: Commissioner Murray.
STAFF REPORTS

Spencer Brimley said City Council established an ordinance which enacted a temporary land use regulation regarding pawn and secondhand businesses and it would be discussed at the Planning Commission meeting in November.

Brian Brower thanked the commissioners for the opportunity to work with them and stated it was his last meeting. He said it was a privilege and honor working with them. He said Planning Commission had difficult decisions to make.

PLANNING COMMISSIONERS’ MINUTE

Councilmember LeBaron – apologized for coming in and out during the meeting. He thanked Mr. Brower and the commissioners for their service.

Commissioner Britton – said we had an all American meeting tonight. There was Freedom of Speech with Verizon Wireless, Freedom of Religion with Eben-ezer’s church, the Right to Keep and Bear Arms with Pearson’s Specialties and Hell Monkey on top of that, you can’t beat it.

Commissioner Mabey – thanked Mr. Brower for all the guidance he had given the commissioners. She said the new City Planner, Spencer Brimley, had stepped up and kept the commissioners informed.

Commissioner Millard – thanked Mr. Brower for his work as City Attorney and said the City was lucky to have him as a judge.

Commissioner Browning – said he enjoyed working with Mr. Brower and hoped to never see him in his future capacity.

Commissioner Murray – asked to be excused for the November meeting. She wished Mr. Brower good luck.

Commissioner Roper – asked if a Conditional Use Permit for a church could be handled administratively. He appreciated the opportunity to Chair the meeting. He said it was a humbling experience.

There being no further business to come before the Planning Commission, Commissioner Mabey moved to adjourn at 10:16 P.M. Seconded by Commissioner Murray.