CLEARFIELD PLANNING COMMISSION MEETING
September 6, 2017
7:00 P.M. – Regular Session

PRESIDING: Brady Jugler Chair

PRESENT: Kathryn Murray Commissioner
Robert Browning Commissioner
Steve Parkinson Commissioner
Chris Uccardi Commissioner
Mallory Call Alternate Commissioner
Karece Thompson Alternate Commissioner

ABSENT: Ron Jones Commissioner
Michael Britton Commissioner

STAFF PRESENT: Stuart Williams City Attorney
Brie Brass Assistant City Attorney
JJ Allen Assistant City Manager
Spencer Brimley Development Services Manager
James Shoopman Planner
Christine Horrocks Building Permits Specialist

VISITORS: Shiekh Ahmed, Rudy Rowe, Ian McMahan, Judy Ramos, Koral Vasquez

The Pledge of Allegiance was led by Chair Jugler.

APPROVAL OF MINUTES FROM AUGUST 9, 2017 PLANNING COMMISSION MEETING

Commissioner Uccardi moved to approve the minutes of the August 9, 2017 meeting as written. Seconded by Commissioner Murray. The motion carried on the following vote: Voting AYE: Commissioners Thompson, Uccardi, Parkinson, Murray, Call, and Browning. Voting NO: None.

Chair Jugler read the Planning Commission Chair Introduction Statement.

Commissioner Thompson moved to change the order of discussion of the agenda. Seconded by Commissioner Uccardi. The motion carried on the following vote: Voting AYE: Commissioners Thompson, Uccardi, Parkinson, Murray, Call, and Browning. Voting NO: None.
PUBLIC HEARING AND DISCUSSION ON CUP 1708-0006, A REQUEST BY SHIEKH AHMED, TO AMEND A PREVIOUSLY APPROVED CUP FOR ADDITIONAL VEHICLE SALES INVENTORY IN A C-2 ZONE LOCATED AT 245 NORTH MAIN (TIN: 12-020-0012). THE PROPERTY IS APPROXIMATELY 0.302 ACRES.

James Shoopman said vehicle sales were approved by the Planning Commission as a conditional use in August 2015. An amendment to the conditional use permit, which added two additional businesses, was approved by the Planning Commission in February 2016. Utah State Code required vehicle sales businesses to have a dedicated, exclusive entrance and office for vehicle sales thus Mr. Ahmed did not continue with the additional businesses at the location.

The site was reconfigured and provided 17 spaces for inventory, three customer parking spaces and employee parking in the rear of the building. An existing concrete pad at the rear of the building would be removed and a twelve foot drive aisle would be provided. Clearfield City Code § 11-11B-12 required ten percent landscaping. The site currently had 1.7 percent landscaping with the addition of a proposed 3.4 percent, which would increase the landscaping to five percent of the site. The dumpster would be relocated from the line of sight of residential lots.

Mr. Shoopman reviewed the conditions of approval.

Commissioner Uccardi asked who was responsible for the weeds in the sidewalk. Mr. Shoopman said property owners were responsible to maintain the sidewalk and the park strip. Commissioner Parkinson asked what material was beneath the landscaped area in the front of the property. Spencer Brimley, Development Services Manager, said it was not asphalt. Commissioner Parkinson was concerned with maintenance of the landscaped area and said irrigation was required by ordinance. Mr. Shoopman said he had discussed with Mr. Ahmed that the asphalt would be removed and dirt placed in the areas to be landscaped. Commissioner Murray asked how the landscaped areas would be irrigated so the drought resistant plants could be established.

Sheik Ahmed said there was an exterior faucet to be used for irrigation of the landscaping. He said the State of Utah regulations for the auto dealership required a separate entrance for other businesses. He decided the auto dealership would be the only business in the building. Mr. Ahmed said shrubs would be placed in the front and the rear of building.

Commissioner Murray asked about the size of the parking stalls in the rear of the building. Mr. Ahmed said the concrete step would be removed and the length of the stalls and the drive area would meet City requirements. Commissioner Call asked where the shrubs would be planted. Mr. Ahmed said they would be planted in the ground after the concrete and asphalt were removed.

Chair Jugler declared the public hearing open at 7:24 p.m.

There were no public comments.

**Commissioner Murray moved to close the public hearing at 7:25 p.m. Seconded by Commissioner Call. The motion carried on the following vote: Voting AYE:**
Commissioners Thompson, Uccardi, Parkinson, Murray, Call, and Browning. Voting NO: None.

APPROVAL OF CUP 1708-0006, A REQUEST BY SHIEKH AHMED, TO AMEND A PREVIOUSLY APPROVED CUP FOR ADDITIONAL VEHICLE SALES INVENTORY IN A C-2 ZONE LOCATED AT 245 NORTH MAIN (TIN: 12-020-0012). THE PROPERTY IS APPROXIMATELY 0.302 ACRES.

Commissioner Murray moved to approve CUP 1708-0006, a request by Shiekh Ahmed, to amend a previously approved CUP for additional vehicle sales inventory at 245 North Main (TIN: 12-020-0012), with the following conditions:

1) Striping for vehicle stalls, customer parking designation, and ADA parking and loading designation shall be installed/painted within one (1) month of CUP approval

2) Additional landscaping shall be installed as shown on the submitted site plan as follows:
   a. Within three (3) months of CUP approval
   b. Landscaped areas shall be protected with curbing or correctly installed pavers.
   c. Landscaped areas shall have appropriate weed barrier material and ground cover such as rock or bark mulch.
   d. Shrubs and other plants shall be appropriately sized and spaced to allow adequate coverage and space for growth and shall be drought tolerant
   e. Low lying shrubs/vegetation shall be installed adjacent to streets.
   f. Applicant shall correctly reinstall existing planter pavers surrounding existing landscaped area at northeast corner of lot.

3) Weeds shall be removed from entire site.
4) No vehicle parts shall be stored on site.
5) No vehicle sales inventory shall be parked/stored offsite.
6) No auto repair shall be conducted on site, nor shall vehicles needing repair reside on the lot.
7) 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 Thompson. The motion carried on the following vote: Voting AYE: Commissioners Thompson, Uccardi, Parkinson, Murray, Call, and Browning. Voting NO: None.
APPEAL HEARING AND DISCUSSION ON A REQUEST ALLOWED BY CLEARFIELD CITY CODE § 11-13-17, WHICH REGULATES THE CASTING OR GLARE THAT MAY BE CAUSED BY THE INSTALLATION OF LIGHTS AT ANY LOCATION WITHIN THE CITY. THE ALLEGED VIOLATION IS LOCATED AT 325 WEST 1700 SOUTH #16 (TIN: 12-809-0002). THE PROPERTY IS APPROXIMATELY 0.682 ACRES IN SIZE AND LIES IN THE COMMERCIAL (C-2) ZONING DISTRICT.

Brie Brass, Assistant City Attorney, outlined the procedure for the discussion. The background information would be presented by Spencer Brimley, Development Services Manager. Mr. Rudy Rowe would have fifteen minutes to present facts and information to the Planning Commission. The Planning Commission would be able to ask Mr. Rowe questions. Tender Years Daycare would then have fifteen minutes to present background and information and then the Planning Commission would be able to question Tender Years Daycare (TYD). After the Planning Commission made its determination whether or not the lighting was in violation of City Code, City staff would issue the Findings of Facts for Planning Commission review and approval.

Mr. Brimley said the applicant, Rudy Rowe, requested a determination on lighting as stated in Clearfield City Code § 11-13-17. TYD was established in 1996 and Mr. Rowe purchased the home at 302 West 1800 South in 1996 but did not always live in the home. The lighting on the southern face of TYD was installed in 2012 via a grant from Rocky Mountain Power. In 2016 Mr. Rowe complained to the City about the lighting at TYD and provided photographs that showed the concerns he had with the lighting. Mr. Brimley stated the original approval for TYD did not include lights on the southern end of the building. Staff required TYD make application for approval of the lighting. A determination was made that the lights must be no higher than ten feet and must be shrouded to direct the lights down. TYD complied with the request.

In August 2017 Mr. Rowe met with City staff and discussed the violation of the lights on TYD and contended that there was a casting or glaring into his home. He then made the request for the Planning Commission’s evaluation of the alleged lighting violation. Photographs of the lights were reviewed by the commissioners. Mr. Brimley reviewed three alternatives for the decision.

Chair Jugler asked if City Code § 11-13-17B could be read. Mr. Brimley read from the code, “Glare: All lights shall be so designed, located, shielded and directed so as to prevent the casting or glare or direct light from artificial illumination upon surrounding property and public roadways.”

Commissioner Call asked if a part of the definition was violated then the ordinance would be violated. Mr. Brimley said that was his understanding.

Rudy Rowe, complainant, said the problem had existed for approximately one year. He basically wanted the light off his property. He said the operative word was “shall” which meant zero tolerance for casting and glare. The lights were insidiously bright and reflected off the building. He said the lights were still casting and he would recommend lower wattage light bulbs. The lights penetrated through the closed blinds and he navigated through the house with the lights off.
Judy Ramos, director at Tender Years Daycare, said she was not director in 2012 when the lights were installed. It was her opinion that the owners and the previous director installed the lights due to the crime at the building. She had copies of 50 police reports. Recently there was an attempted break in on the van and back door with the lights on. Ms. Ramos had a report from the lighting technician stating the lumens were the lowest passing LED lights. The lights were compliant with Dark Sky and the EPA. A letter from the electrical contractor stated the lights were lowered, the shroud installed and 20 watt LED lights were installed. TYD was open Monday through Friday 5:00 a.m. to 7:00 p.m. Ms. Ramos stated garbage and debris were found in the mini bus which they assumed was from students at the Job Corps. She said the lighting was necessary for the safety of staff, children, and the parents.

Commissioner Thompson said he worked for Job Corps and the students weren’t allowed to leave the center and asked when the situation with the bus occurred. Ms. Ramos said vandalism occurred on weekends and evenings. Chair Jugler asked if there were any cameras or surveillance equipment. Ms. Ramos said there were not any cameras outside the building.

Mr. Brimley stated the police reports were provided to City staff and ten of the incidents were related to theft, damage or violation of the property. The other reports were for suspicion or unrelated to any damage to the property.

Chair Jugler stated the role of the Planning Commission was to determine if the lights were compliant with City Code.

Commissioner Parkinson asked how many foot candles were allowed to cross property lines. Mr. Brimley said Clearfield City Code did not regulate lumens or foot candles; however, TYD had an electrician measure foot candles. Commissioner Parkinson asked what the distance was from the TYD building to Mr. Rowe’s property. Mr. Brimley said it was approximately 20 to 25 feet.

Commissioner Parkinson said a 30 watt model projects light 50 feet pointed down with a shield. It appeared the light was reflecting off the metal and white concrete wall. He said direct light was not a problem and said the wattage of the light needed to be reduced.

Commissioner Browning said there were three elements in the regulation: casting, glare and direct light. His opinion was that the problem was glare and suggested that something like non-reflective paint on the wall would reduce glare.

Judy Ramos said the vans were parked behind the building to help with the glare. Commissioner Murray commented that one light was out. Ms. Ramos said the light would be replaced after the Planning Commission’s determination. The plan was to place a film on the bulb that reduced the glare.

Chair Jugler said according to Google the definition of cast was: “to cause light or shadow to appear on a surface.” Commissioner Call said the definition of glare was: “to have any sun or electric lights shine with a strong or dazzling light.” She said the lights were strong and when she took pictures there was a casting of a shadow on the fence without the flash on her phone and the
refraction of the light on the applicant’s home. Her opinion was that the lights did not comply with City Code.

Commissioner Murray said there were two vans parked by the lights which stopped the glare and she didn’t see any reflective light and it was her opinion the lights were in compliance.

Commissioner Uccardi said the problem was the reflection off the wall and asked how the problem could be rectified.

Commissioner Call said her opinion was the location or height of the light was an issue but agreed the height was needed for security. She said the lights and the wattage needed to be lowered.

Commissioner Browning said when he walked the area the light was dim. The picture didn’t reflect what he saw. He said the business needed the lights for security and the neighbor needed darkness. The street light by his house was brighter than what he saw.

Commissioner Uccardi said if the Commission determined there was direct light, casting or glare, then there was a violation of the code. He said there was a glare on Mr. Rowe’s windows.

Chair Jugler asked the commissioners if there was casting or glare. Commissioner Browning said from his observation there was no casting, glare or direct light. Commissioner Murray agreed. Commissioner Parkinson believed the lights met the definition of the ordinance because TYD did what was needed to prevent the casting or glare but the concrete wall and the material of the light shield caused the problem. His choice was Alternate B that the light should be kept at ten feet and the wattage of the bulb decreased. Chair Jugler said the color of the light would a relevant concern.

Commissioner Thompson asked if TYD had considered obtaining a motion light with a security camera. He also suggested the height of the lights be lower. He expressed his opinion that there was glare and casting. Commissioner Uccardi suggested the wattage of the bulb be reduced or the light fixture lowered. Commissioner Call recommended that the height of the light fixture and the bulb wattage be changed. Commissioner Browning commented some commissioners saw a problem, others didn’t.

Stuart Williams, City Attorney, gave the commissioners another alternative. He told the commissioners if there wasn’t a clear solution the burden make a determination should be put on staff.

Commissioner Parkinson said he trusted staff’s judgment and the decision should be given to staff for resolution.

Ms. Brass said the Planning Commission must determine if Tender Years Daycare was in violation or not.
DETERMINATION ON A REQUEST ALLOWED BY CLEARFIELD CITY CODE 11-13-17, WHICH REGULATES THE CASTING OR GLARE THAT MAY BE CAUSED BY THE INSTALLATION OF LIGHTS AT ANY LOCATION WITHIN THE CITY. THE ALLEGED VIOLATION IS LOCATED AT 325 WEST 1700 SOUTH #16 (TIN: 12-809-0002). THE PROPERTY IS APPROXIMATELY 0.682 ACRES IN SIZE AND LIES IN THE COMMERCIAL (C-2) ZONING DISTRICT.

Commissioner Uccardi moved that after careful consideration of the information presented and currently known to the Planning Commission, the Planning Commission reaches the following well-reasoned and articulated determination: The Planning Commission disagrees with the Zoning Administrator’s March 2017 determination that TYD is not in violation of Clearfield City Code § 11-13-17. Seconded by Commissioner Call. The motion carried on the following vote: Voting AYE: Commissioners Uccardi, Call, Thompson, and Parkinson. Voting NO: Commissioners Murray and Browning.

Planning Commission directed Ms. Brass to prepare formal Findings of Facts on its determination.

STAFF COMMUNICATIONS

Spencer Brimley said Commissioner Thompson would attend Planners Day at the Utah League of Cities and Towns meeting. Brie Brass attended the LUAU training. He appreciated the discussion during the meeting and encouraged the commissioners to go to the LUAU website for better understanding on land use. Mr. Brimley said the Community Development office would relocate to the first floor.

PLANNING COMMISSIONERS’ MINUTE

Commissioner Thompson – Nothing
Commissioner Uccardi – Nothing
Commissioner Parkinson – Nothing
Commissioner Murray – Said she would not be to the November meeting.
Commissioner Call – Said she would not be at the November meeting.
Commissioner Browning – Suggested that businesses be recognized by the Planning Commission because they went above and beyond and a difference was made which made Clearfield a better community.

Chair Jugler – Appreciated the discussion during the meeting and thanked staff for its hard work.

There being no further business to come before the Planning Commission, Commissioner Murray moved to adjourn at 8:40 P.M. Seconded by Commissioner Uccardi.