

MINUTES of the Vernal City PLANNING COMMISSION

Vernal City Council Chambers - 374 East Main Street, Vernal, Utah

July 9, 2019

7:00 pm

Members Present: Chair Joni Crane, Troy Allred, Eric Hunting, Jim Linschoten, Darcy McMickell

Members Excused: Samantha Scott

Alternates Present: Corey Foley and Ben McMickell

Alternates Excused:

Staff Present: Allen Parker, Assistant City Manager; Matt Tate, Building Official; and Sherri Montgomery, Administrative Clerk.

WELCOME AND DESIGNATION OF CHAIR AND MEMBERS: Chair Joni Crane welcomed everyone present to the meeting.

APPROVAL OF MINUTES FROM MAY 14, 2019: Chair Joni Crane asked if there were any changes to the minutes from May 14, 2019. There being no corrections, *Eric Hunting moved to approve the minutes of May 14, 2019 as presented. Ben McMickell seconded the motion. The motion passed with Joni Crane, Troy Allred, Eric Hunting, Jim Linschoten, Darcy McMickell, Corey Foley and Ben McMickell all voting in favor.*

MISCELLANEOUS: Allen Parker reported that Kimball Glazier has resigned from the Planning Commission due to a scheduling conflict. Mr. Parker stated that he has also learned that Adam Ray no longer lives in Vernal and therefore, will have to be removed from the Planning Commission as well. There are now two vacancies on the Planning Commission, one being a member and one being an alternate. Chair Joni Crane expressed that Mr. Ray and Mr. Glazier will be missed as they both brought a great deal of expertise to the Planning Commission.

GENERAL PLAN – ALLEN PARKER: Allen Parker gave an update on the process to move forward with updating the General Plan. Mr. Parker explained that \$15,000 has been approved in the City's budget this fiscal year, as well as another \$15,000 from a grant that awarded to the City from the Community Impact Board (CIB). Mr. Parker explained that now there needs to be a meeting with the Mayor, City Manager, and others to discuss the next phase of the selection process of finding a qualified consulting firm through the Request for Proposals (RFP) method. The Planning Commission has met and held several work sessions to discuss the General Plan, which will be beneficial to the firm hired to help update the General Plan. Chair Joni Crane asked about the trails plan. Mr. Parker stated that the trails plan will not be adopted as an addendum, but instead the format will be reconstructed, so that it fits into the General Plan itself when the entire General Plan is readopted. Ms. Crane asked what the criteria will be for a

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consultant to update the General Plan. Mr. Parker explained that at this time it has not yet been determined.

DISCUSSION ON AMENDING VERNAL CITY CODE FOR MEDICAL CANNABIS – SECTIONS 16.04, 16.20, 16.34, 16.48, 16.50 AND 16.52: Allen Parker explained that the first item under Section 16.04.095 for Carwash, Laundry-Type is only to be renumbered to 16.04.099, so that the new definitions being added for medical cannabis will appear in alphabetical order in the Code to keep it consistent. Mr. Parker stated that all the new definitions being added for medical cannabis come directly from State law. Mr. Parker reviewed the definitions with the Planning Commission. Mr. Parker mentioned that Section 16.04.097 for cannabis production establishment is an important one, and it means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory. Chair Joni Crane asked about a laboratory for testing. Mr. Parker explained that it would fall under a larger heading of cannabis production establishment. For the rest of the Code, it is referred to cannabis production establishments, and that is what will be used in the permitting side of it within the different zones. Mr. Parker mentioned that part of the State Code specifies that all cities and counties must provide for one agricultural zone and one industrial zone for cannabis production establishments if those zones are already established within the Code. The last definition, Section 16.04.373, is for a medical pharmacy for people that have the appropriate medical documentation to buy the products that are prescribed to them.

Mr. Parker explained that Section 16.20.190 regulates the cannabis production establishment by providing a distance of two hundred (200) feet from a residential structure, and Section 16.20.550 regulates the medical cannabis pharmacy by the hours of operation. Ms. Crane asked what the process is for the designation of the zones and who makes those decisions. Mr. Parker explained that the Planning Commission would forward a recommendation to the City Council for their review, and the City Council would approve the final amendment to the Code. Mr. Parker stated that in regards to the medical cannabis pharmacy, he felt that the restriction of hours of operation from 8:00 a.m. to 7:00 p.m. was consistent with most other local pharmacies. Mr. Parker explained that in regards to the cannabis production establishments, the only restriction he found to be consistent with other jurisdictions was to separate the establishments from any residential structure by a distance of two hundred (200) feet. Mr. Parker mentioned that two hundred (200) feet is not that far; however, the more he read information from other states, there could be a strong odor during different phases of production. Mr. Parker explained that the last two items deal with the different zones. It adds cannabis production establishments as a permitted use in the A-1 and I-1 zones. It also adds medical cannabis pharmacies to the C-2 and CP-2 zones; however, this is not required by the State. Mr. Parker stated that these two zones seemed the most logical for a pharmacy in the City; however, this was a starting point for discussion.

Darcy McMickell made a comment on the potential odor being a real concern. Ms. McMickell expressed that she had discussed this issue with a company out of Colorado that is ½ mile from one of these types of production establishments, and the company expressed that it was quiet and nothing out of the ordinary; however, there sometimes is an odor when the wind blows. Ms. Crane mentioned that it would depend on the method of production, and there are multiples ways to produce. Mr. Parker reminded the Planning Commission that this would fall under the

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nuisance ordinance. Corey Foley asked if there could only be so many establishments allowed per capita or so many permits issued in a certain mile radius. Mr. Parker stated that under the current State law, there are only seven licenses, maybe nine to be issued statewide. Therefore, there will not be a lot of these establishments in Vernal. Mr. Foley asked if there was a projected location for an establishment in Vernal. Mr. Parker explained that there have been inquiries; however, they are confidential until an application has been made. Eric Hunting asked if State law specifies how far these establishments need to be from schools and religious areas. Mr. Parker answered yes, and other community facilities. Mr. Parker explained that the City's Code is only a supplemental one, and the City and applicant have to meet the restrictions of State law. Ms. McMickell asked for clarification that the Planning Commission needs to only supplement any additional zones from the required A-1 and I-1 zones. Mr. Parker stated yes, the State requires that if a municipality or county has an industrial zone or an agricultural zone, then the City must allow cannabis production establishments in those zones. However, Vernal City could add additional zones such as an RA-1 zone. Mr. Foley asked how the County or Naples City is dealing with this issue. Mr. Parker mentioned that he has not talked to those entities yet; however, they must follow the same State laws. Ms. Crane asked if this ordinance would facilitate the plans of the confidential interested party. Mr. Parker answered yes.

Ms. McMickell mentioned that storage has not been discussed. Mr. Parker explained that it is covered under State law. The establishment has to store it where they grow it, process it, or test it. Ms. McMickell expressed some concern over having a separate storage location. Mr. Parker explained that anything that touches cannabis must be authorized under State law and cannot be produced and sold even in another State where it is legal. Jim Linschoten asked if the medical cannabis pharmacies could sell other regulated medications. Mr. Parker stated that he did not read anything that indicated that they could sell any other products. Mr. Linschoten also brought up the point that all other pharmacies in town stay open until 9:00 p.m.; however, this ordinance is restricting it to 7:00 p.m. Mr. Parker mentioned that it was just a starting point for discussion. Eric Hunting asked if State law permits other local pharmacies to sell cannabis. Mr. Parker stated that he did not think so, but would have to do some research on it. Mr. Allred asked why not allow a medical cannabis pharmacy in the downtown area. Mr. Parker stated that he was just looking at where all the other pharmacies are located in the City. Ms. Crane asked what section of the State Code this topic is addressed, so the Planning Commission can read and review it. Mr. Parker stated that it can be found under House Bill (HB) 3001 "Utah Medical Cannabis Act". Mr. Parker explained that no recommendation needs to be made at this time as this was a starting point for discussion purposes only. There will be a public hearing held at the August meeting. Mr. Parker asked the Planning Commission to review the State Code and have any changes or discussion ready at that time to make a recommendation to the City Council. It was the consensus of the Planning Commission to change the medical cannabis pharmacy hours of operation to 9:00 p.m. to be consistent with all the other pharmacies in the City. There was also a consensus to include in the ordinance the CC-1 zone as a permitted use for a medical cannabis pharmacy.

DISCUSSION ON AMENDING VERNAL CITY CODE FOR ABANDONED SIGNS – SECTIONS 16.04 AND 16.28: Allen Parker explained that this sign ordinance is up for discussion, because City Manager Quinn Bennion wanted the Code to address abandoned signs in the City limits. Mr. Parker stated that he looked at other cities around the nation. There were

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some cities using the 120 day deadline to remove an abandoned sign, some cities that used 30 days, and some even allowed up to a year. Mr. Parker explained that Section 16.28.090 for removal and repair of signs is already in the Code. This section does not address abandoned signs, just legal signs. Mr. Parker explained that Section 16.04.497 has been added to define abandoned signs. The Commission briefly discussed many of the current closed businesses in the City that still have old signs up. Ben McMickell asked if just the abandoned sign needs removed or the entire post. Mr. Parker explained that in the new added Section 16.28.095, it would require the removal of the entire sign, including the sign face, supporting structure, structural trim and the safe termination of any associated utilities. Chair Joni Crane suggested making a clarification between a single business use and a multi-tenant business use sign. The Planning Commission agreed that there are ways to make a sign easily adaptable to change without tearing down the entire structure, including a white face or turning it over. Ms. Crane asked the difference between an old abandoned sign and an antique sign, such as a sign on a historical building. Mr. Parker stated that if something is just painted on a building like a mural, it is not really a sign as per the Code. Ms. Crane asked if she owned a building, could she let a business paint their logo on it for advertisement. Mr. Parker explained that the City can regulate that instance, because it is off premises advertising that is defined in the Code. As per the Supreme Court, that is not a free speech issue. Jim Linschoten asked about the billboard signs down the street and across from Wood Auto that have not had anything on them for well over a year. Mr. Parker explained that would be a Naples City issue. Mr. Linschoten asked if it would be an issue if it was in Vernal City. Mr. Parker explained that there are two factors there. Naples City asked for an exemption on the portion of Highway 40 that goes through Naples to be removed from the dinosaur diamond historic byway, so that Naples City could have off premises signs on there. In the late 1960's, the Lady Bird Johnson Act was put into place. This act prohibited new billboards from being erected on certain highways. Billboards that were in place at the time were allowed to remain and obtained "grandfathered" status. Mr. Linschoten asked if vacant and empty billboard signs could be charged and tore down. Mr. Parker answered yes.

Ms. Crane asked if there could be a warning method process of notifying owners to remove the signs. Mr. Parker explained that there would be a process developed just like the nuisance ordinance where the City would give the owner time to be in compliance, before action is taken. There is a criminal misdemeanor penalty for violating any of the City's Title 16 ordinances. Mr. Parker added that repeat daily violations throughout the Code, create a new violation every day. The process for removing abandoned signs is in Section 16.28.095. Ms. Crane asked about the signs on wheels. Mr. Parker stated that he has not found good representative Code from any other jurisdiction. If it is a vehicle, it is not a sign. Eric Hunting referred to Section 16.28.095 (A) removal of abandoned signs and asked if there is a sign on a pole that is underground and cemented in, can you just remove the top sign portion or do you have to remove the entire pole. Mr. Parker explained that according to the Code, an owner would need to remove the entire sign face, supporting structure, structural trim and the safe termination of any associated utilities. Mr. Hunting stated that a new business might want to place their sign on the top of the pole. Mr. Parker explained that example is addressed under Section 16.04.497 regarding a business that is temporarily suspended due to change in ownership and shall not be deemed to be an abandoned sign. Corey Foley mentioned that he does not agree with that concept. Mr. Hunting mentioned having a sign on Highway 40 where he took the top sign off; however, the pole still had power and lights and asked if he should have taken the entire pole down. Mr. Parker explained that the

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way this ordinance is written, yes. The Planning Commission briefly discussed using the sign to advertise for sale, placing a skin over it, etc. to get around it being an abandoned sign with an old business name on it. Mr. Parker explained that this ordinance is talking about truly abandoned signs and not signs that will be reused in the future. The Planning Commission briefly discussed the expense of tearing down the entire pole, and the consensus was to not make an owner tear out the pole, but to cover it up with a for rent, for sale or advertise that a new business is coming. Mr. Parker explained that the Code states that as long as you bring the sign into conformance, then it is not an abandoned sign. Mr. Foley brought up the point of businesses moving somewhere else in town and leaving an old sign up causing emergency vehicles issues with finding the new business location. Mr. Parker explained that it is the property owner's responsibility to take the old business sign down, and it cannot be the business owner's responsibility. Mr. Parker stated that multi-tenant signs definitely need to be addressed when a business has been relocated or closed. The consensus of the Planning Commission was to include language to cover a portion of an abandoned sign where a business has moved. The owner of the building should receive notification from the City recognizing that there is a business on their sign that no longer exists at that location, and they have 120 days to get into compliance or the City may send someone to remove it at the expense of the property owner. The Planning Commission discussed banner signs after an event has ended on the fence by the school, and Mr. Parker explained that the school district is in charge of removing those banners from the fence. The Planning Commission also briefly discussed how this ordinance affects yard sale signs and political signs. Mr. Parker explained that these types of signs would fall under abandoned signs. However, the City has a nuisance ordinance that would get those types of signs taken down quicker. Mr. Parker reported that this ordinance will also hold a public hearing at the August meeting with a cleaned up ordinance for recommendation to the City Council. Mr. Parker added that the Planning Commission could still make changes to both ordinances at the August meeting. At that point, if there are still big issues of concern that need to be addressed, the ordinances could be tabled. The Planning Commission discussed if 120 days was too much time to give an owner of the sign to return to conformance. The consensus was that 120 days was a fair amount of time.

ADJOURN: There being no further business, *Corey Foley moved to adjourn. Jim Linschoten seconded the motion. The motion passed with a unanimous vote, and the meeting was adjourned.*

Joni Crane, Planning Commission Chair