BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, APRIL 15, 2008 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS

PRESENT:	Joan Peterson	Chairperson
	Barbara Poelman	Vice Chairperson
	Lynda Berry	Commissioner
	Paul Fowler	Commissioner
ALSO PRESENT:	Ruth Jensen	City Council Liaison
	Paul Larsen	Economic Development Director (Acting City Planner)
	Jared Johnson	Community Development Manager
	Eliza McGaha	Secretary
EXCUSED:	Roger Handy	Commissioner
	Reese Nielsen	Commissioner
	Deon Dunn	Alternate
	Jeff Leishman	Associate Planner

AGENDA:

WORK SESSION – AGENDA REVIEW

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)*

PUBLIC HEARING [2] / APPLICATION #3013 / SUBDIVISION – PRELIMINARY PLAT / 488 SOUTH 400 WEST / CHAD THOMPSON

APPLICATION #3008 / CONDITIONAL USE PERMIT – GROUPS OF DWELLINGS UNDER ONE OWNERSHIP ON A SINGLE LOT / 410, 420, 430, 440 & 450 WEST 500 SOUTH / CHAD THOMPSON

APPLICATION #3011 / PERMITTED USE APPLICATION – RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY / 360 WEST 900 NORTH / NEIGHBORHOOD NONPROFIT HOUSING CORPORATION

APPLICATION #3012 / PERMITTED USE APPLICATION – RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY / 472 WEST 900 NORTH / NEIGHBORHOOD NONPROFIT HOUSING CORPORATION

DISCUSSION:

REGULAR MEETING:
Ms. Poelman opened the regular meeting at 6:30 p.m. Mr. Fowler led the Pledge of Allegiance.

PUBLIC COMMENT ***(Per Utah Code, will receive input only, no decision can be made):***
There was a question from the audience asking if the item they were concerned about would have a public hearing. Mr. Larsen commented that there is a public hearing on application #3013 but not on the other agenda items. Mr. Fowler clarified that if anyone was in attendance to comment on the other applications, the public comment period would be the time to do so.

Karla McArthur – Ms. McArthur passed out folders of information to the Commissioners. She said the information was based on the conditional use information Jeff Leishman gave them in the previous meeting, which contains all the criteria for all the sections they would like to address.

Brent Wyatt – Mr. Wyatt stated that he lives at 464 South 400 West. He said that as residents, in the area of the proposed conditional use permit for the subdivision, they took the City ordinances and created facts and findings they thought were important for the Commission to review and wanted to share them before any decision was made. Under the standards and criteria he read number A, number 1; *The use applied for at the location proposed is necessary or desirable…* Mr. Wyatt said they, as residents in the area, do not really feel like there is a necessity, at this time, for several reasons. Part of the Brigham City area is already building more than 60 units, south down towards the Flying J area. There are empty rental units in the area and empty homes in the area, which would include nearly a 40-block area. He said for residents in that area, this would not be desirable. If this were in any neighborhood other than low residential, it may be desirable but they live in an area where all there are is single family dwellings. There are some duplexes in that area and he said they needed to make it known that the project is not desirable according to the standards of use for conditional uses. He concluded that they would really like the Commission to take a look at the things that are there because they have spent considerable time, as they were encouraged to do by the Commission, the City Council and by Mr. Leishman, and he encouraged the Commission to do that.

Darlene Wyatt – Ms. Wyatt stated that she lives in the area. She continued on with what Mr. Wyatt was saying. She said they feel this will not contribute to the general well being of the area. They have had at least 40 signatures from residents in the area who felt like this was not something that they would value in the area. She stated that Chad Thompson indicated at the last meeting that he was in it for the long haul. When Mr. Jaggi sold them the property, he told them he was in it for the long haul too and would sell it off as individual single family dwellings. She moved on to A2 of the standards and criteria; *Compatibility of the proposed use with intent, function and policies established in the Brigham City General Plan.* She said at one time they were shown a plan, they could not find it; they looked for hours for it. That area was going to be rezoned to be just low residential instead of high residential. She said they are still looking for that. Under the rules and regulations it says that the maximum spaces will be 20 units. With the measurements that Mr. Hansen, who is their surveyor, showed that in all reality it is only 19.8 houses that can go in there instead of 20. She asked if they are going to go by the exact number, why did they round up instead of round down. She continued by saying Code 29.26.15 said there should be five feet of sidewalk in all areas flooding a development in a parking lot. There is one part of that development that does not have any landscaping at all, by the parking lot. Everything on there has been pushed to the limits, to the exact inch almost. There are some measurements on his plan that indicate that her property or the McArthur's property has shrunk, according to their measurements, which is a concern to them. One of the apartments is almost directly underneath the power lines, within 10-feet or so of the power easement, which they feel is a safety concern. She continued with A3, compatibility with the character of the site and the adjacent properties existing in the proposed development. It is totally different than what is in that area right now. There are not five 4-plexes in any other area of that 40 block area.

Karla McArthur – She stated she gave the Commissioners a copy of 40 blocks, which also shows how many 4-plexes are in that area. She took those 40 blocks because of Main Street being the

dividing line of those. On the standards of criteria and conditional use, it talks about adequate services, parking, loading and garbage collection. She said they could not tell, with the new map, about the garbage sizes. She commented that she talked to three different waste treatment places and has the rules and regulations. She is not sure if the new ones meet it or if there is enough space; they do not have the measurements. She was going to get a fax of the information of what it takes for the dumpster. It does have to be a dumpster. Last time they talked about having individual garbage cans which is against resolution 07-11. Foot traffic in the parking lot is huge. Access to four of the five buildings a guest or bus children must enter a 25-foot driveway because everything is fenced in with a 9-foot drop from the fence. There is no access; one can just walk to the front of an apartment unless one goes through the driveway.

Ms. McArthur said they are concerned about the traffic in the parking lot. Sidewalks are only accessible through the parking stalls or across the driveway. She asked why there were no sidewalks on the east side of the parking lot, to which she commented that she was sure there was not enough space. Walking from one of the back apartments to one of the front apartments on the east side, one would have to go through the parking lot because there are not sidewalks all the way around. The parking stalls do not clearly correspond to the buildings so if each apartment were to have two stalls, some tenants will have to walk across the parking lot to get to their stalls. There are no guest parking stalls. Ms. McArthur stated when they visit their children in apartments, there are areas where guests can park. She stated that by Code 29.26.16, lighting for parking lots, there are a lot of rules and regulations on that and the map they were given does not clarify if it meets all the standards. She asked the Commissioners to look at the code to make sure it complies. The corner parking stalls appear to be smaller than all the other parking stalls and she asked if that was really an issue or not. She handed dumpster regulations to the Commissioners.

Art Huot – He stated he was here to talk about applications 3011 and 3012. Mr. Huot said he owns the property just south of this proposed development and he has a lot of concerns. He said he would like to know when it was rezoned as it was residential only and now they are putting in apartments and a group home for the handicapped. He would like to know when it was rezoned and why he did not get a letter informing him of the rezone. He said he was told in this meeting that it was going to be a 3-month trial period; if they did not like it they would leave. He asked what would be done with the buildings. He said another problem is they have been pushing everything down to 1100 South and asked why they did not push this project down there by the old Indian school. He said this whole ordeal has been hush-hush and has never been opened up to any contractors; this was underneath the table saying I've got this money, put it here. He said he thought that was not right. He asked what type of handicapped personnel was going to be down there. He said this is going to be built right next to an elementary school and he knows a lot of handicapped people that still get out and do things. He said he is worried about the kids and his animals he has on his property and that there will be some harm done. Mr. Huot stated that their plat does not match his plat on the road; they are 7-feet off which needs to be taken care of. There is going to be a lot more traffic and a lot more kids and there is going to be a lot more accidents. He asked why they are pushing this to be down here and why nothing is ever available for any contractor in Brigham City to bid on building homes there, which should be down there, not these apartments or a group home. They should move it down by the Indian school. There are lots of places and lots of areas they can do that, which will be a lot safer and a better place.

Ashley Wyatt – She commented that she is 22-years-old and she is a little nervous about the five 4-plexes that are going to go in because of safety issues. There is no emergency exit; the only exit is the entrance. If there was an emergency such as a fire in the first 4-plex then everyone else is going to be in trouble and they will have to sit and watch the fire and watch all the neighbors go up in flames or if there is another emergency all the cops or paramedics do not care about blocking someone in; they will come in and block someone in and do their job. That is what they are supposed to do. She asked what they are supposed to do if there is an emergency and if they were supposed to wait there

to die. She said she did not understand that. She commented that she also did not understand why they want to put five 4-plexes there, maybe duplexes. She said if one wants to get out of the house, as a college student or newly married, there is no possible way one can afford to live there if they are going to rent them out for $700-$800 per month. One would have to have three or four jobs just to pay for that. She said even if there were two people living there, they would still need to have three or four jobs to cover that payment let alone everything else one would have to pay for. If there is someone who can afford it, there will also be those who have financial problems or multiple families in there that are trying to survive. She said she did not think that is what the gentleman wants; she thought they want someone with a family that can stay there for a long period of time. If they do want that then they will have to lower their prices and realize that Brigham City is a small town and there are not very many people here that can afford a $700-$800 payment. She said that was her biggest concern as a citizen.

Lynn Hankins – He asked how big the holding pond on the west side is. Mr. Johnson clarified that Mr. Hankins was talking about the detention basin, the shallow depression on the west side. He said the design issues could be discussed with the application and asked Ms. Peterson if she wanted it to be addressed at this time. Chairperson Peterson replied to not address it at this time. Mr. Hankins asked who would pay for his flood insurance if there were a malfunction of that detention pond. He lives directly underneath it and he does not like it. He said flood insurance or a lawsuit is an option.

Kent McArthur – He stated that he is an adjacent property owner to application 3008. He said he wanted to continue what some of the neighbors and his wife had talked about. He said he had a little bit of a concern as to what Mr. Hankins was going to be looking at across the street from his home. He will be looking at a 6-foot wall and a 3-foot fence on top of that. Any children playing up there in that area, if they get over that 3-foot wall, the fall down to the sidewalk is a long way down. That is the longest play area and he assumed that children would be throwing things or playing catch along that west area. A taller fence may help with the safety issues and the aesthetics of it.

Steve Brumbaugh – He said he lives around the corner from where the proposed group home will be. He said there are some things that should be addressed that never have been. His big concern is that it has never been clearly stated by the City Council or the Planning Commission as to what type of disabilities these people will have, how many people will be there, what sort of care is going to be given and what sort of supervision is going to be there. His big concern is that he lives there and has three small children. There are seven children across the street. In that neighborhood, on any given day during the summer there are 20 kids playing in that general vicinity. His big concern is with that road and that there is going to be a lot more traffic going through there with a big potential for tragic accidents. He said he did not know what kind of people would be living there, they may be harmless but no one has ever said so; something could happen there. It is built right across the street from a new park that will be put in and is half a walk from the elementary school. None of these things have been addressed and he said he is a little concerned and he would like to have some answers.

Cheryl James – She said she emailed someone the other day about notices that were mailed out; she did not receive one. She was told they were mailed out to homeowners within 300-feet of the property. She said she lives on the corner of 300 West and 500 South. She said it may not be within 300-feet of the apartments and asked who determines the 300-foot area as that could greatly impact more than just the people within 300-feet. She said none of her neighbors immediately around her received one but her neighbor down the street did, who was clearly outside of the 300-foot area. She said she thought her neighbors did not know about this.

Mr. Johnson commented that State law mandates the distances that municipalities are required to sent out when they do public noticing for applications. The way it currently states right now is 300-feet from any part of the perimeter of the property that is being questioned for development. Ms. James commented that may be three houses in each direction. Mr. Johnson restated that State law

mandates what we are required to follow. Ms. James stated that a neighbor two houses over did not get one but someone two blocks over did. She asked if they had to go around to every neighbor and make sure that they knew about this because someone else did not send a notice out that should have been sent. Mr. Johnson said the notifications would be rechecked and verified as the City is required to keep a mailing and listing of everyone they are sent to; it is public record. He explained to Ms. James that she could come into City Hall during business hours to Community Development and request to see that. She said her neighbors right around her did not get notice. Commissioner Poelman commented that the previous City Planner said that if the residences were rentals, those living there would not receive the notification; they go the property owner. Ms. James said she and her neighbor are homeowners and they did not get one. Mr. Johnson said that neighbor notifications do go to the property owner.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:

> **MOTION**: A motion was made by Barbara Poelman to approve the work session minutes of the March 18, 2008 meeting. The motion was seconded by Paul Fowler and passed unanimously.

On line 185, of the March 18, 2008 regular meeting minutes, the word 'of' should be changed to 'or'.

> **MOTION**: A motion was made by Barbara Poelman to approve the regular meeting minutes of the March 18, 2008 meeting, as amended. The motion was seconded by Paul Fowler and passed unanimously.

On line 71, of the April 01, 2008 work session minutes, the word 'is' should be changed to 'if'.

> **MOTION**: A motion was made by Paul Fowler to approve the work session minutes of the April 01, 2008 meeting, as amended. The motion was seconded by Lynda Berry and passed unanimously.

> **MOTION**: A motion was made by Barbara Poelman to approve the regular meeting minutes of the April 01, 2008 meeting. The motion was seconded by Lynda Berry and passed unanimously.

PUBLIC HEARING [2] / APPLICATION #3013 / SUBDIVISION – PRELIMINARY PLAT / 488 SOUTH 400 WEST / CHAD THOMPSON:

Mr. Johnson explained that this is a public hearing. The property owner, Chad Thompson, has made application to subdivide the property to break off an 8,000 square foot parcel, creating a lot one and a lot two. Lot two will be the remaining parcel that will be discussed in the next application, which is for a conditional use permit. He said it is important to remember that these are essentially two different applications; one is a subdivision to just subdivide the property and the other is where the actual use will be discussed; what the property will be used for. This first one is a public hearing for a two lot subdivision.

> **MOTION**: A motion was made by Barbara Poelman to open the public hearing for application #3013. The motion was seconded by Paul Fowler and passed unanimously.

Ms. Peterson invited all those wishing to make a statement to come forward and explained they would each have five minutes to speak.

Brent Wyatt – He stated that according to the standards and criteria used for conditional use, any decisions as a board they make, he said they hoped they would clearly consider the things they had

brought to them this night. One of the things that is important to him, that the Commission know they are aware of, is that all of the things, especially on this particular piece of property, the law indicates that they can go 8,000 square feet and they are going right to the very inch on this particular lot. According to the plot plan designed by Hansen & Associates, some of those figures have actually, according to their property deeds, are different than what is seen on the drawings. He said he is not saying they are right or wrong but according to the plot plan, if they go by the measurements that he has as a property owner, that lot does not really qualify. They are trying to get the maximum amount of opportunities for them with the minimum amount of property. He said he did not know if the Commission had a particular document the City had but he explained that one of the discrepancies was on the very front, next to that lot. It says that the property owned by the McArthurs is 100.10-feet, which is in parentheses but the architect for Hansen & Associates went by and changed the property to 99.40. Mr. Wyatt said that, to him, there must be discrepancies there and they would like the Commission to review them before any decisions are made because they are not willing to give up any of their property even if it is a half-inch.

Ricki Tingey – She said she had a wonderful idea. The area right is around the corner from her and she is the only one in her whole area that received one of those letters; she said she did not know why as she lives further than 300-feet away. She said she had a wonderful idea to let Mr. Thompson go ahead and build, but build four or two homes. Take the property on 200 South and Main that was so beautifully torn down from the school and have him build his apartments there. That way, everyone would be satisfied as there would not be an eyesore on Main Street and Mr. Thompson would have his homes. She said it was a thought.

Karla McArthur – She asked that if this lot gets approved and it becomes a problem with the other one in that there is not the space or qualifications, are they able to take this back out and make changes with both properties. She said she knew they were assuming that the other one with all the apartments is going to pass but if it does not, if some of the regulations they suggested are against some of the codes and it does not go by all criteria and conditions, what will happen as far as will they be able to take that and put it back into the apartment area and redivide and try to make decisions there or will this lock it in as only the apartment or as only the home with the house on it.

Mr. Johnson tried to understand her question by clarifying that if they subdivide off lot one and there is not enough area left on lot two to do what they want, the property owner can subdivide or join back together as many times as they want to pay for it. It is not monetarily feasible to do so. If they divided lot one off and there was not enough room left on lot two to put five units, then they may have to reduce. The question was asked that the size of lot one may not be correct. He said we rely on what the professional surveying engineers provide us with and what they gave us on the deeds and report with the fact that it is sufficient. He asked Ms. McArthur if he answered her question and she said he was.

Ms. McArthur commented that she called Hansens and asked why the one corner, which hooks right on to theirs, has a little jot. Most property lines are usually perpendiculars and straights but this one goes around the parking lot and then all of a sudden there is a little angle. She asked why that was and they said they needed that property to make the 8,000 and he said it is down to almost the inch as well as the property for the apartment. The statement she said she would like to make was if she was going to be the owner of that property and buy that home, she would be quite concerned because there is a home on the south side of the property and the apartments are built six feet from the fence and the house is sitting 12 point something, and the regulations state they have to be 18-feet apart and they are 18.78. All the regulations are met but she would like them to look at the conditions and criteria for a conditional use. If the rules meet, there are other issues such as if it meets the property that is adjacent and what does it do. She said to squeeze a little tiny house in where there are numerous homes and have an apartment come in so close and have no privacy is going to make it not as valuable for that lot. She said she thought they needed to take into

consideration whoever lives there is going to have to deal with all the other apartment issues that they also have to deal with.

Ms. Peterson asked if there were any other comments; there were none.

> **MOTION**: A motion was made by Barbara Poelman to close the public hearing for application #3013. The motion was seconded by Lynda Berry and passed unanimously.

Ms. Peterson commented that there seemed to be some concern about the measurements of the lot. Mr. Johnson said that Hansen & Associates prepared the plat. Ms. Poelman asked in regards to the homeowners that are there, if their house was done by a certified engineering firm and as it is different than this one, what was done about it. Mr. Johnson replied that was one of the interesting questions with surveys because you can have a firm that will come from our area or Salt Lake and the way they set up their bearings will be different than a company that may come out of southern Idaho and their surveys may be off just-a-touch. Mr. Fowler commented that the problem with being off just-a-touch, if that is accurate or not in this case, is that there are two different sets of property owners and just-a-touch is a big thing. It may mean there is not enough footage to do it or it may mean there is. Mr. Johnson said he did not know if the adjoining neighbors have had property surveys put in.

Mr. Larsen commented that before a subdivision like this gets final approval from either the City Attorney or ~~etcetera~~ others; one of the requirements on this is that a title report is submitted. A title company will review the legal description and ensure the owner actually owns that description. If there are discrepancies in that description, those will come to light through the title search. If there is a dispute on that line between the neighbors, that becomes a civil issue that needs to be resolved by those two adjoining property owners. Essentially, we will have a document from a title company that will research the title and will tell us if the property owner owns that description or not. Ms. Poelman said it seemed to her that ought to be done before they make a decision as to whether to go forward and have this divided. If there are two people that are seeing it different ways, why would the Commission be the ones to decide. Mr. Larsen replied that they are not the ones that decide, it comes down to a civil issue if there is a discrepancy or a dispute. As long as the owner of property can demonstrate to us that they have title to that description then it is presented on the subdivision plat. The form that we require is a title report and title insurance. Ms. Poelman asked if it would be a good idea to see if this question is ~~mute~~ moot, if the people that own the houses say they do or they do not have something legal that way.

Brent Wyatt came forward and said that he thought they were all aware of the fact that one cannot buy a piece of property in Brigham City or any other city without getting a title search and getting it done and verified. Also, he said in regards to survey companies and surveys; no two surveys are exactly the same. He said he asked them why that was and they said they did not know why but they all start at the same spot. He said it appears that every feasibility that both of these subdivisions are going right down to the very inch to meet the minimum requirement to get the maximum amount of service out of it. Mr. Wyatt said they are not willing to give up a fraction of one of their inches. He voiced appreciation for the Commission being willing to look at it. He said they did have their property surveyed, which was done by Neil Smith Engineering, a reputable company, and is now retired. When it was done, it was done under the City ordinances and all the conveyances that need to be done within the City and met every requirement. They do have title and if a title search was done on their properties they do have those, which is something that has to be done before purchasing a piece of property through any lending institution.

Clint Hansen, Hansen & Associates, came forward. He said if they would look at the subdivision plat, there is a note on the southwest corner, the McArthur property, showing that they are holding that ENESCO survey that was done, originally for this piece, which was also done by DSH last fall, which

is the same exact survey. They did the survey and there are the same numbers on all three. The Brigham City streets and blocks are well monumented now and they do come up with the same answer on their surveys. He said there is a discrepancy between the McArthur and the Wyatt descriptions but it is not on their subdivision.

Lynley Thompson came forward. She said she had a copy, if they would like to have it, of the title that was done in accordance with the City ordinances. Before they applied for this, she said they had to have a report; she had a detailed report with her that she said was done by Fidelity National Title that demonstrates the dimensions and everything done by the engineering company.

Ms. Poelman asked if the developer had any issues with the fire hydrant and sidewalk. The Public Works department said that issue needs to be addressed as he put the sidewalk right next to the curb and gutter without a parking strip there and she asked Mr. Thompson if he had seen that and addressed it. Chad Thompson, developer, came forward. He stated that they have had a few different drafts. There is the first sketch and the parking lot that they are taking into consideration which will be a final draft. Hansen's, Mr. Thompson's engineers, know about that and it is a question they want to address. Ms. Poelman asked if putting in that strip would affect the amount of parking or anything. Mr. Thompson replied that it would not.

Mr. Thompson commented that a lot of things had been addressed here and there is a lot of emotion on both sides. He said he would like the Commission to know that a conditional use permit means to protect people like him that are coming in and trying to meet what the zoning requires. There are conditions set forth by Brigham City that if those conditions are met, then a criterion is given; which is to protect everyone as a property owner not just with this development but homeowners in general. He said he knows there is emotion on both sides and the idea of putting in one or two houses is unfeasible. Losing one apartment for him is unfeasible also. There are just so many things that can be asked of a developer that makes it not feasible. If he was to do one 4-plex and pay this amount for the property, it would not work. It is just the math of the whole situation. Mr. Thompson said he is meeting the conditions set forth by Brigham City and he it trying to do the best job he can. In some instances there has been talk about the driveway safety being only 25-feet. He said he measured the driveway, right here, that comes into Brigham City and it is 25-feet off of Main Street. It has been said that he is doing the minimum. He commented that he is doing the minimum on some setbacks but on others there is more. There is 30-feet in between some of these buildings. He said he is doing a nice vinyl fence.

Ms. Poelman commented that she was asking about the fire hydrant as they are subdividing right now. She asked if he was able to make the needed changes that the Staff required. Mr. Thompson replied that he was.

Ms. Berry asked about the detention pond. Mr. Thompson said that had been engineered by Hansen's and Brigham City got all the calculations on the detention. He said he knew there was some concern about drainage and runoff. He stated that he is now detaining it. As it is right now, when water hits the ground it runs off the road because it is not collected. There is a safety catch, grate and an overflow. The Brigham City Staff has reviewed everything and Mr. Thompson guaranteed that if he was off one little inch, it would not fly. The building was off two inches when the first Hansen concept was taken into consideration. That was taken care of but his point was that a conditional use permit states that the conditions set forth need to be met, and that is what he is doing. Mr. Thompson commented that there is emotion on both sides. This area is zoned R-M-15. He said he hoped Brigham City took into consideration that when they zoned it that way a guy like him may actually want to put something on there that the zoning will allow. There are old houses in the area and this might come up again. The older the houses get the more it is feasible to tear down a house and put two more apartments on it. Mr. Thompson said if this is not what they want then it should not have been done in the first place. He said he thought Brigham City took that into consideration when

they voted it in to begin with, that in the Master Plan it would be a feasible area to have something like this done.

Ms. Peterson asked the Commissioners if they had any more questions or comments on this application. A person in the audience asked if anyone else could still make a comment if they were still in that portion. Ms. Peterson replied that they were not and entertained a motion.

> **MOTION**: A motion was made by Barbara Poelman in regards to application 3013, the Staff recommendation is to approve the subdivision preliminary plat, that it be sent to the Land Use Authority, which is the City Planner who is, at this point, Mr. Paul Larsen; with the stipulations that it does comply with the Staff evaluation in that all of the qualifications have been met and that it is allowed in this area. Based on the findings of fact that the applicant will comply with the Staff evaluation and that such use will 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. The motion was seconded by Lynda Berry.
>
> Barbara Poelman – Aye
> Lynda Berry – Aye
> Paul Fowler – Nay
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> Motion passed 2 to 1.

APPLICATION #3008 / CONDITIONAL USE PERMIT – GROUPS OF DWELLINGS UNDER ONE OWNERSHIP ON A SINGLE LOT / 410, 420, 430, 440 & 450 WEST 500 SOUTH / CHAD THOMPSON:

Chad Thompson is proposing to construct a dwelling group of five 4-plexes to be located on the corner of 500 South and 500 West. These units will be under one ownership on a single lot. The single family residence, as well as those being constructed, will function as part of a dwelling group. The home was subdivided off in the previous application. This project is 20-units with five different buildings.

Ms. Peterson commented that at the previous meeting, the McArthurs were concerned about having an adequate fence between their property and the apartments and she asked Mr. Thompson what he had decided to do on that. Mr. Thompson replied that there is a tree barrier they can see and they have to work both sides of it. He said he met with his landscape architect about it and they thought that would give them a little more security as well, something a little higher but actually would give a barrier to them but still comply. He clarified that they would be adding trees across the back, added to the fence, which would give some height and some obscurity. The trees would be on his side. Ms. Poelman commented that the trees were one inch and would take a long time to grow. The trees are going to be honey locust.

Mr. Fowler asked what the SC plant was designated to be. Mr. Larsen said it was a spring snow crab apple, which is a low grower, spreader but only summer as defined by Mr. Fowler. Ms. Poelman asked if a fir would be more of a barrier. Mr. Thompson said that one thing they are working on to please everyone is there is also an electrical easement in that location. He said they are trying to do both, which kind of hurts them but there is a catch-22 on everything. They are trying to address it and they would like to put in some tall evergreens. Mr. Fowler suggested there are some evergreens that grow about 15-feet, similar to the crab apples, that would be year-round as a sound and sight barrier. Mr. Thompson said it shows their intent that they are trying to work with the City, which is what he is

trying to stress; that they have done everything that has been required such as with the parking and garbage. He said he is more than willing to conform and go the extra mile as long as it is feasible to some point.

Ms. Poelman commented that it seemed to her, after the last meeting, that one dumpster for 20-units was not very much. Mr. Thompson replied that if Econo-Waste were coming once a week it would be fine but where this will be a commercial dumpster it can be picked up more than once a week. They will have a contract with Econo-Waste and it will be a private dumpster. Brigham City picks up the individual cans but that was a concern which he addressed. To do this they will have to pay Econo-Waste, a private collector, separately. Ms. Poelman was concerned about garbage spilling out over the one dumpster. Mr. Thompson replied they will come multiple times a week versus once. Ms. Poelman asked how they would be assured of that. Mr. Thompson said they could get a contract and show them there is a binding contract. He said he pays each time the garbage is dumped.

On the topic of the garbage, Mr. Fowler commented that the reason he voted against the last application was that one of his big issues with this, that has been voiced in this meeting and on previous occasions, is the dump truck safety in regards to backing out, fire, dump truck, trash truck; whatever it is that is coming in there is going to back in and out from that road. A simple solution would be another entrance and exit. Mr. Fowler said that is one of the reasons he did not want to see the other one subdivided off until that was addressed but another way in and out would resolve that; it would resolve the space, the safety and will keep a dump truck from backing up and will take care of all of that. Mr. Thompson said to do that, they would have to come off of 500 West, which is not feasible with the road and safety issues that way and would be worse. The only other way is to come off of 400 West and he would lose an apartment or house, which is not feasible. The house is $90,000 and would create a hardship on his part. He reiterated that he is willing to go the extra mile on some points but to lose that type of an investment is excessive. Mr. Fowler said he had no argument with Mr. Thompson on that; he was not looking at it in terms of dollars. Mr. Fowler said his children walk down 500 South and he does not want a garbage truck backing up there with kids and teenagers going down the road; that is the feeling and he said he thought that was where some of it came from.

Mr. Thompson said they do collect the garbage early in the morning and early morning pick-up could be something that could be addressed. Mr. Fowler said something needed to be addressed there. In the past, Mr. Fowler stated for the record, that he would be opposed to this due to the safety issue because he does not want to hear about it when someone is run over by the garbage truck. Mr. Fowler said he has a CDL and he knows what it is like to drive one of those trucks; one cannot see behind it. It takes one kid and one moment. He said if he heard that lady right when she handed out to the Commission that garbage paper, which was one of the things they recommended; do not back up the garbage truck. Make it so it can pull in, make a right-hand turn. Mr. Thompson said he had a question to address this and he said he was told this is how the City wanted it. He said he wanted a dumpster in this parking lot to be at a certain location (he pointed to a location on the map) so they could come in, pick it up, back up and go forward, which would address it but he was told that was not the case by the City. He said he talked to Jeff Leishman about it. Three dumpsters could be placed at that location. Mr. Fowler asked Mr. Johnson if he knew Mr. Leishman's feelings on that. Mr. Johnson replied that was not a conversation that he had had with Mr. Leishman. Mr. Thompson said he talked with Marty from Hansen's about putting up to three dumpsters in that location which would be easier for the truck to come in, pick up the garbage, do a 360 so he will have kids in the line of sight as he comes in, then back up and then go out. That would widen the parking lot also. Mr. Thompson said they addressed that also with fire vehicles, which is called a hammerhead driveway.

Mr. Fowler said he stated before that he could see Mr. Thompson is doing his part, with what he has to work with, in everyway to work with the City to meet all the criteria. Mr. Thompson asked if it seemed safer to have the truck come in and do a 360. Mr. Fowler said to minimize the backing and

not back out onto the road. Mr. Thompson commented that his wife mentioned they could get a contract with Mantua for what time to get the garbage dumped. If the garbage is being dumped at 6:00 a.m. versus 10:00 a.m. there will not be toddlers or kids running around at 6:00 a.m. They could get a contract and show the City the contracted pickup times. He said he thought that would be the best bet rather than 12:00 p.m. when there are kids playing and would address that safety concern. Mr. Thompson said there are some things he can be flexible on but other things really create a hardship on his part to go the extra mile. Mr. Fowler commented that he heard it in this meeting, he has little kids and they all know they should not be out or walk behind a truck and that's where that concern comes from.

Ms. Berry asked if there was any danger of the truck hitting any of the cars that are in the parking lot. Mr. Fowler commented that may have been where Mr. Leishman was coming from in trying to say the advantage of the way it is drawn is that the truck can come in and back straight out so it does not have to turn around in the parking lot. The cars are probably safer but Mr. Fowler said his issue was that is great for the parking lot but they still take the truck and back it across the sidewalk into the road.

Ms. Poelman asked about the retaining wall on 500 South and what had been decided. Mr. Thompson replied that they are doing the concrete stacker blocks. It will come up on an angle and is one concern that he met with the Street Division on. They did not want a solid foundation retaining wall there; they wanted it broken up. Ms. Poelman asked what Mr. Thompson's feeling was on the comment that was made that only a 3-foot fence on that retaining wall is quite a drop-off. Mr. Thompson said he would be open to having a 4-foot fence. Going from 3-feet to 4-feet would take a pretty tall kid to climb it and drop-off. Ms. Poelman said she thought they would need an agile child to do it and gave an example of a building in Salt Lake City of a taller wall that a young child went over. Mr. Thompson said that was a concern as it is his property and if a child gets hurt then they will come after him. If the fence went from a 3-foot to a 4 or 5-foot it would make it that much harder. Mr. Thompson commented there is danger and issues in everything in life and that is a good point that was brought up about the garbage truck backing over a small child and how can it be made less of a risk. Mr. Thompson suggested that the garbage be picked up only at 6:00 a.m.

Ms. Poelman asked Mr. Johnson what the Planning Commission was able to do on the height of the retaining wall. Mr. Johnson replied that they have the ability on an item like that to set a condition if they want a 4-foot fence versus a 3-foot fence. Ms. Poelman asked if the gazebo would be finished at the same time. She said they have had property where a wonderful job was going to be done and the construction had begun and then sat there for years. Mr. Fowler asked, to follow along with that, if there was a timeline for completion of this project. Ms. Thompson said there was. Ms. Poelman asked if the gazebo was included in that and once the buildings are finished then everything else including the landscaping, the gazebo and the retaining wall and so forth would all be completed at the same time. Mr. Thompson said that it would.

Mr. Johnson commented that there are going to be two different stipulations in the conditional use permit that will require the applicant to start construction within six months and one year. They have to start within that time frame or they will lose the conditional use permit and have to start over. The finish will be regulated by the National Building Code adopted by the State of Utah. The Building Code is going to say that they have to go through and keep working. At any time that construction stops for a period of six months and the application does not get finished, the permits become null and void and they have to reapply; as long as they can show progress the permits remain valid. Mr. Thompson said it would be to his advantage to finish them because he is taking a loan out on this and paying interest as it is sitting. He said he does not want to stop for six months and be paying interest on the project, not to mention the bank is going to want to see progress. Mr. Thompson said getting it done is to his advantage, not to mention that he will get rental income off of them to pay for it. He assured them it is not to his advantage to have them sit at all. Mr. Fowler commented that he

thought where Ms. Poelman was coming from is that one can drive around town and look at other projects that have not been finished. Mr. Thompson suggested putting a 30-month to 2-year condition on that, he is open to that idea. He said he had every intent, that once he starts on this project, to finish it as fast as he can. There is a great deal of money that will be out on it and he wants to see it done. Ms. Poelman assumed that he understood the people that are living around there. She said she had perfect empathy with them seeing 20-units go into an area they thought was going to be residential. Mr. Thompson said that was a thing he thought about too. He said he knew the Wyatt's had just moved no more than 15-years-ago. He said he did not want to seem like the bad guy that is coming in that wants to put in these townhouses. He said he put a great deal of effort into it. The R-M-15 zoning is what it entails, granted they have emotion in being around them but as he said, Brigham City has set forth the conditions in an R-M-15 zoning and he is meeting those conditions.

Mr. Larsen said to his understanding on a project like this, the key they will want is to be able to get an occupancy permit for residential units here so they can get renters in there that can start to pay rent. In order to do that, one of two things would have to occur; first the improvements would have to be finished. If they are finished then occupancy permits can be granted. If the improvements are not finished and there is a timing issue, then what would be done is have an improvement bond so there is a monetary amount that the bond is submitted for that covers the improvements that are not done. If the time period passes that the bond specifies and the improvements are not done then the bond is called. That is generally the way that is handled. Mr. Thompson said that has been done in other buildings he has seen before. You don't want renters moving in if the parking lot is not finished.

Ms. Poelman asked if Mr. Thompson was getting a manager. Mr. Thompson said they would be the managers. They live in River Heights in the Logan area and will be over here quite a bit. He said he comes over now, twice a week, to maintain the 6-plex he has here. If he got these it would be more than that. They may deduct someone's rent to keep an eye on the project and keep an eye out for things out of the ordinary. He said it would be in their benefit to have someone like that.

Ms. Peterson asked Mr. Thompson if he had seen the Staff comments and if he had any problem with anything on there. Mr. Thompson replied that he had seen them and had no problem with them. He said that it had been surveyed three times and one of them was not Hansen's, it was JNS. There were a lot of issues of the property being surveyed correctly. JNS is a whole different engineering firm than Hansen's and they did the first one.

Ms. Poelman asked Mr. Larsen for clarification that the survey was not something for them to consider in whether this goes forward or not. Mr. Larsen said as long as they can present to us evidence to support the issue that they own the property they say they own, and then disputes on the location of property lines are really private issues that need to be settled civilly.

Ms. Berry asked Mr. Thompson if there were sidewalks that connect all the buildings together. Mr. Thompson replied that there were. In looking at the bigger plan, there is a sidewalk that connects all the buildings together. Mr. Thompson showed where the sidewalks will be.

Ms. Poelman asked if there was anything in the folder that should be addressed and that the people asked to be responded to. She asked Mr. Johnson that in the chart they were given for other multiple dwellings that there was nothing large but asked if it was still in the zoning ordinance. Mr. Johnson stated that was correct. Ms. Poelman wanted everyone to be aware that since it is allowed, they have no other recourse.

Mr. Johnson said there is a map on the wall that shows what it is zoned to allow this use. He commented that he did not have the information that was handed to the Commissioners at the table but some of the comments and concerns from the citizens he wanted to address. The dumpster

issue is correct and they will be required to have a dumpster which has been discussed. They would not be allowed to have 20 individual garbage cans. The question about lighting is the same as one of the Staff comments in that the lighting must comply with that ordinance. The power line issue has been reviewed by the Director of Brigham City Public Power. The easements were put in where they were needed to serve and access their lines. The requirement is, when anyone wants to build next to a power line the Electrical Department goes out and gives a height from the ground and there is an imaginary line with a 15-foot radius that is drawn around those power lines and no building or structure can impede into that. One of the buildings had to be shifted to get off that power easement. If the Commission was to go ahead and make a motion to approve this, he asked that one of the conditions or stipulations would be since there was concern about neighbor notification that they ensure that neighbor notification did get out. Ms. Poelman asked if they should continue this until they have been notified adequately. Mr. Johnson said that was up to them, he just asked that if they approved it, that be a condition placed on it.

Ms. Poelman asked about 3A compatibility of the proposed use with the character of the site, adjacent properties and other existing proposed development. She asked how one made an estimation and if it goes back to the ordinance, and since it is allowed it would meet the character of the site with the other adjacent properties and other existing and proposed development. Mr. Larsen said he did not know how to tell them how to determine that. He said the zoning here is clearly R-M-15 zoning that would be allowed. Ms. Poelman said the units looked like they would be well constructed and attractive other than they will be big and there will be a lot of them.

Mr. Thompson said if they look at these, what he noticed is that people do like the 4-plex look. There are other towns with 20 4-plexes that are three stories high. In essence, he said he is trying to fit the neighborhood by having more of a townhouse look. He said he is trying to do the best job he can in meeting the criteria that is set forth in the R-M-15 zoning. He reiterated that he met with Mr. Leishman many times with the parking, garage issues, easements and the many different issues that have come up. He is complying, and exceeding in some areas, with what is required.

Ms. Poelman asked Mr. Thompson if the was going to address the 5-foot grass around the sidewalk. Mr. Thompson said he was. She asked if there was any sidewalk from the two end units into the parking. Mr. Thompson said there was and they also had a covered porch with lighting. There will be a light pole that will light up the parking lot. Ms. Poelman asked what had been decided on the dumpster. Mr. Larsen replied that it had been raised as an issue and a determination would need to be made as to what the resolution of that is, which could be determined at this meeting. He said that as a Planning Commission, they have a lot of latitude to make those decisions. They need to be reasonable decisions and cannot be arbitrary and capricious. If they have a particular condition they want to apply, there ought to be some rationale stated for why that condition is being applied and what it is addressing. For example, the concern for the dumpster had been raised and if a particular condition is set, state why that condition is being set. If there is a condition related to the height of the fence, state why that is being made so there is a record in case there is ever a question as to why that condition was made so they can go back and show the facts as to why that decision was made. The courts have generally said that in order to protect property owner rights, they cannot impose conditions that are arbitrary or capricious. An example of that would be to say there needs to be 20 street lights, there is no particular reason other than feeling like there ought to be 20; which would be considered arbitrary and capricious. Building codes, zoning codes, fire codes and other ordinances that have specific standards that have to be met are all written and need to be addressed. That is the nature of a conditional use, there is a recognition that not everything that they want applied to this can be articulated in the form of a written ordinance and so based on their review and the input received balanced with the needs and rights of the property owner with the needs and rights with the surrounding area, then they make certain findings to address issues that are raised.

Ms. Berry asked to have the layout of the detention pond explained. Mr. Hansen said the landscaping would be lawn. Mr. Fowler commented that the term detention pond is probably misleading as the majority of the time it is probably dry. They are in all of the new developments now because it is required. They are the big indentations. Ms. Berry said she was worried about children getting into it. Mr. Larsen commented that the best example of a detention pond he could think of nearby would be Central Square on the west side of 100 West. There are two of them, which are dry. There are a number of them that have been seen wet but that usually indicates ground water that seeps into it and keeps water in there regularly or if there are other sources of runoff that go into there. There is a 3 to 1 slope on the detention pond. The depth of the detention pond from the edge is about 4-feet from the highest part. It will not have that much water. Mr. Thompson pointed out how gravelly that area is and will actually absorb quite a bit of water as it does not have a clay bottom. Mr. Hansen said the detention pond will actually have an outlet control structure on it which has a 2.5-inch diameter steel plate with a hole in it that is at the very lowest part of the pond. All the water will go to this box and the hole will slowly let the water out, if it ever fills up, and will go to the storm drain system. There is a sidewalk on the front and does not start to slope until about 7 to 10-feet out. A 3 to 1 slope means that for every 3-feet out, it drops a foot so it is a gradual slope. A car can be recovered from a 6 to 1 slope.

Ms. Peterson asked about the irrigation water that runs through this property. Mr. Thompson said he talked to the landscaper and he said it probably would not be feasible for him to try to do that for a number of different reasons. It would be in his best interest to sell the water rights off of which there are 8-hours. He said if any neighbors wanted it he would be willing to appease them and go that way too.

Ms. Peterson asked if they had any other questions or comments. As there were no more comments, she said the Chair would entertain a motion.

Ms. Poelman commented that she did not know if the three of them should make this decision or if they should just go ahead because they really have no other option as Mr. Thompson had complied. Ms. Peterson said they could set the conditions that were discussed. Mr. Johnson stated that with what he has applied for here, it does comply with the standards of the zoning of the City and they do have the right to go through and based on evidence or certain criteria they have the right to place conditions on it. Ms. Poelman commented that she did not know what conditions, such as with the dumpster location, to put on it. Mr. Johnson suggested they could instruct that as part of a condition he go back and revise that to meet the safety requirements and work it out with Staff. He said a location could be proposed and put back on the applicant to work it out with Staff. Ms. Poelman commented that she did not feel qualified as to where to tell him to place the dumpster.

Mr. Fowler clarified that they could refer that back to Staff as to what the best recommendation is and have the applicant work that out with them as to what the safest recommendation would be. Mr. Johnson said that was correct and they could bring in the City Engineer to look at it. Mr. Thompson commented that another condition could be the time of pick up which he felt would be the most beneficial. There were comments about the beeping noise early in the morning. Ms. Thompson said she thought that 6:00 a.m. was the time their other location in town had their garbage picked up.

Mr. Fowler commented that there has been comment from both sides, with a lot of emotion, and good comment from the neighborhood as well as the applicant. He said he felt that Mr. Thompson had done everything he could to comply with the City ordinances and he appreciated Mr. Thompson's patience. He said he knew that it was not easy for Mr. Thompson to come back and sit there sometimes but Mr. Fowler commended him on that. In regards to the dumpster, truck and emergency equipment in and out of this property, Mr. Fowler said he did not know that either way they could have a perfect answer. He said that he did not like the idea of a truck backing in, however, in looking

at the ordinance and the other things that have been done, he did not know if that, in itself, was enough to say no.

> **MOTION**: A motion was made by Paul Fowler to approve application 3008 with some criteria; one of which is on the size of the trees being increased from 1-inch to something that is more architecturally acceptable such as a 2.5-inch caliber tree; so go up a couple of sizes in the trees. There have been some questions on the fence so the fence size would have to be adjusted from 3-foot to 4-foot. One of the conditions would have to be that this project does in fact start within 6-months and that there is continuous progress of building on the property and that the project is completed within 30-months. They have in front of them many notes and many addendums and corrections; that those corrections are made as per Staff recommendations so we know and they know we have the final corrected copy.

Mr. Thompson clarified that they will not be looking at the parking lot which was a smaller first draft; they have the final copy that the Staff recommends.

> Mr. Fowler continued that before the occupancy permit would be given, the improvements would be finished and in that improvement he stated that it would include the landscaping so they know they will have a finished project when this is over.

Ms. Thompson said they will probably start with the rear and develop forward and she asked if there could be contingency that the landscaping around those buildings are complete because it is not feasible.

> Mr. Fowler continued that based upon what the Thompsons were telling him, the parking lot, curb and gutter would have to be complete, the utilities and that type of improvement in any building that would be standard. Then he would amend what he just said for example, the two back buildings, if they are complete, the landscaping and everything in that area around those buildings would be 100-percent before the occupancy would be granted. If he builds building three and four, the same type of thing.

Mr. Thompson asked about when winter comes and everything is done but he necessarily cannot do lawn because it is December.

> Mr. Fowler commented that he thought Staff knew how to handle that meaning the improvements would be used to say this is deferred till spring or bond or something to that effect. That they are complying with all Staff comments because there are several things that they asked to be required or suggested. They did not talk about in these meetings because Staff made a recommendation that they comply with all of those. Also, repeatedly in this process Mr. Thompson stated that this is a single owner and will continue as a single owner project and that would be one of the conditions that this remains a single owner.

Mr. Thompson said this will be an LLC so the City will be able to see that it is one single owner.

> Mr. Fowler also said he would also throw it back to Staff to look at the trees in the property line indicated in the SC and evaluate it or perhaps an evergreen would be a better choice there. One landscape change because there are things like ~~south alpine birch~~ sub alpine fir that would grow to about 15-feet tall and would work under the power lines as a barrier, possibly. He said he would also put in there that they need to verify, so contingent to, to make sure that the mailings did in fact go out to who they were supposed to go out to properly so that needs to take place. Stipulations, that it comply with Chapter 29.06 Uses, that it comply with the Staff evaluation and under these findings of fact that such use will 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. Such use is found to be in compliance with Chapter 29.06 Uses, such use is in compliance with the Brigham City General Plan. The motion was seconded by Lynda Berry and passed unanimously.

There was a question from the audience asking why application 3008 was not open for discussion. Ms. Peterson replied that it was not a public hearing.

APPLICATION #3011 / PERMITTED USE APPLICATION – RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY / 360 WEST 900 NORTH / NEIGHBORHOOD NONPROFIT HOUSING CORPORATION:

Mr. Johnson explained that this is a request from Neighborhood Nonprofit Housing Corporation to build a residential facility for persons with a disability in the Discovery Grove Subdivision lot number 2. It is important to remember that this is a permitted use that is mandated by the Federal Fair Housing Act, State Law and the Brigham City Code. There have been questions that have been brought up and Mr. Johnson suggested that the applicant come up and explain this project, which will probably answer a lot of the questions.

Kim Datwyler, Director of Neighborhood Nonprofit Housing Corporation, and Harold Woodruff, architect on the project, came forward. Ms. Datwyler said she would address the questions that were brought up by the residents and then Mr. Woodruff would handle the architectural questions. Ms. Datwyler addressed the question of what type of people will be residing in this project. She said this project is housing specifically for very low income individuals with developmental disabilities. When an application is submitted, the population that will be served must be identified. These people will have developmental disabilities; they may or may not have physical. They will not be mentally ill and will not be substance abusers, sex offenders, juvenile delinquents. They do background checks and do not live in HUD projects if they have a criminal background.

This is for anyone that makes less than 50 percent of the area median income, which would generally be people with a disability that is so limiting that they do not work. The disabilities that are being addressed are cerebral palsy, traumatic brain injury or Down syndrome; developmental disabilities. There is a great program through the schools where they take the kids and have created a good opportunity in the community. There are a lot of kids, that are getting the training through high school and 4-years post high school, that are being placed in jobs. They do not make a lot so there is no place they can afford to live and they are not quite able to be independent so they end up living at home.

Ms. Datwyler said she had letters from parents saying their child could be independent if they could find some place for them. There is nothing that is affordable so that they feel safe in letting them go and what will happen to them when their parents die? This is to help members of the Brigham City community. The waiting list is from people who live in Brigham City that would like their kids to have an opportunity to live independently. Ms. Datwyler said it is called a spectrum of disability. With developmental disabilities there are some that can function fairly well and they can be seen working at places around town such as Kent's and Kentucky Fried Chicken. Then there are those who are fairly severely disabled that need to be in a group home setting. This is a spectrum of housing to address that need.

Ms. Datwyler explained that the type of supervision that will be given will be 24-hour, seven days a week. The agency that will provide supportive service is called TURN. They are recognized statewide for working with people with disabilities. She said they have their annual report if anyone would like to look at it. That is what they do; they take clients and allow them to age in place so they can move out of their parent's homes and be independent and as they get older they may move into a group home setting and they care for them. There will be more than one person there 24-hours a day taking care of the residents. They will all have locked entries. Ms. Datwyler said they are concerned about the residents being safe as well as the traffic. They will not be adding to the traffic because their residents will not drive so the parking that will be provided will be for the families that come to visit and for the workers.

Mr. Fowler asked if there was a bus service or shuttle for the residents. Ms. Datwyler replied that is one of the services that TURN provides, including job assisted training; they also take them to and from work. There would be a van for those that would need that service. The group home can house six residents and the residential facility can house fifteen residents. Going by HUD's occupancy standards, there could be two people in bedrooms. Ms. Datwyler explained it will not generally happen but if there is a person with a disability that is limited by this income, they generally are not functioning at a capacity to have a family so they are not married. If every single one of the residents were married there could be up to thirty residents. They do not put two nonrelated people in the same units. Ms. Datwyler said they have a similar property to this in Providence, which was built several years ago strictly for people with physical disabilities. Generally, they are a little higher functioning and they were all made two-bedroom expecting they would be helping some families. Out of the 22-units they have two that are occupied by a married couple. Generally it is a single individual that will be found in this circumstance.

Mr. Fowler asked how many staff members there would be. Ms. Datwyler said there will probably be two staff members in the group home alone. She said to think of it as assisted living; they are there around the clock. Ms. Datwyler said this was not her specialty and she would have to ask TURN how many employees they will have onsite at any given time. Ms. Poelman clarified that they are building the home for someone else to use and manage. Ms. Datwyler confirmed that and added they wrote the application, received the funding and they are working to build the property and they will be responsible for it for the next 40 years with HUD. She said her agency does not do supportive services which his why they partnered with TURN. They could not submit an application until they could show HUD they would be providing a level of service for these clients that they could be safe and independent, hence TURN's involvement.

Ms. Poelman asked Mr. Woodruff, the architect, if the buildings were like a nursing home with a hallway and rooms off to the side. Mr. Woodruff replied that the larger building is very similar to a senior housing project where there is a central corridor and apartments off the central corridor. Each apartment has its own door entry lock system. There are two stories. The east end is the lobby and a community room where they can hold functions or parties. Typically, meals are not provided; these people are such that every apartment has its own kitchen, bathroom, living room and bedroom and they fix their own meals. The group home is similar to a single level, single family home. The 'T' part

next to the parking lot is an entry and a living room; the kitchen and dining room are toward the back of the property. There is a central corridor with three bedrooms off each side and bathrooms; each two bedroom will share one bathroom.

Ms. Poelman said a Deborah Maple was suggested to be used in the landscaping, in the smaller area, which is similar to a Schwedler Maple and is a concern because it is only 5-feet and usually 10-feet is needed. She said she could attest to that because the City put Schwedler Maples in front of her house which were not even 5-feet and they have lifted up the sidewalk. Mr. Woodruff said they could change them to be Hedge Maples which are on the City's selected plant list. Ms. Poelman asked about the Flowering Pear, which does not seem to be too damaging. Mr. Woodruff asked if the Flowering Pear was on the selected list. Mr. Larsen said the list is specified by the width of the park strip. Mr. Fowler commented that there are Ornamental Pears that fit the criteria.

Ms. Peterson asked the applicant if she was familiar with the Staff comments. Mr. Woodruff said they had and commented that the fences meet the City ordinance. They had already discussed changing the trees. Both of the buildings have fire alarm systems; the larger building is fire sprinkled. The smaller building is not because the State Amendments to the International Building Code treat the group home the same as a single family residence and there is an exception so that it does not need to be fire sprinkled. He presented a copy of the State amendment. Mr. Woodruff commented that he is obligated to meet the International Building Code with State Amendments. He said if the owner wished to do more, they could but the State Amendments treat it as a single family home. Mr. Johnson affirmed that, according to the Building Code, the smaller group would be classified as an R4 occupancy that has less than sixteen occupants and, due to those criteria, it is regulated the same as an R3, which is a single family dwelling and does not require a fire sprinkling system.

Mr. Woodruff continued to explain that as far as electrical requirements, he had a letter for both the group home and the apartment building outlining their requirements. In regards to the other engineering requirements, he said they thought it was a great idea to pilot the roof downspouts into the drainage system. All the work that is done in the street, either on the drive approach or the street, he said would certainly be done in conformance with the City requirements. In regards to changing some pipe sizes, Mr. Woodruff said that was fine. He said he did not see anything else that was an issue. Mr. Woodruff commented that as this property was purchased and improved from the City, he thought the fire hydrants would be part of that. Ms. Datwyler clarified that it was purchased as a developed lot with sidewalk and curb and gutter.

Mr. Fowler asked Mr. Johnson for clarification as this is permitted use, their purpose was to look over the site plan. Mr. Johnson replied that he was correct and asked to address some of the concerns voiced by citizens. In regards to rezoning of the property, Mr. Johnson said the property did not get rezoned; it is still zoned as R-1-8. In the zoning code, *29.29 Residential Facilities For Elderly Persons And Persons With A Disability*, an applicant has the right to request a reasonable accommodation. The applicant did apply for reasonable accommodation to the City and the City granted reasonable accommodation as stated in the memo Mr. Johnson gave to the Commission. It was also mentioned that this was a 3-month trial; that is not the case. There is a 40-year commitment and guarantee on this. If for some reason this project was to go into any other use, Mr. Johnson said it was his understanding that Neighborhood Nonprofit would have to pay back the grant. Ms. Datwyler commented that it is not called a grant but rather a capital advance and if she ever does not comply with who she is supposed to be renting to, she will pay back 2.2 million; which is a pretty big reason to comply. Mr. Johnson reiterated that it is not a 3-month trial, rather a long term commitment which is also stipulated by Brigham City ordinance which stipulates 30-years and HUD is mandating 40-years.

Mr. Johnson continued by addressing the comment that there were no deals made for any contractors on the property. He said the City did approach a contractor and asked if they wanted to

partnership on the development for this property. The contractor turned it down because by the time the roads are put in and as the City is keeping all that property on the south side of the road for a park, there will not be enough property in there for the contractor to break even as they are talking about over $300,000 in improvements. He said the type of individuals that will be living there and the types of disabilities they will have had already been addressed as well as traffic concerns. The applicant had stated that the individuals living there will more than likely not have their own vehicles which will not impose huge traffic loads on those streets. The vehicular traffic coming off of 500 West will use that road; it is a public dedicated road. The speed limit will be the same as through other residential neighborhoods.

Mr. Larsen commented that there was a question about the plat being in error, that there is an offset or something on the road. Mr. Johnson replied that as far as the error on the plats, they had met with the adjoining property owner and, to his understanding, that had been resolved and the difference taken care of. He said 450 West, right now, dead ends and if it was ever to go out and tie into SR-13 it does have a slight skew to it so it lines up with the road directly on the north side of SR-13 that goes into 450 West; in the cul-de-sac over by the old golf course on the North Point half.

Councilmember Jensen reminded Staff of a public comment. Mr. Larsen replied that he recalled the issue was regarding a rezone and why there was no public notice. He stated there was no rezone; the use is a permitted use within the R-1-8 zone so there was no public notice of a rezone because there was none. Mr. Fowler commented that earlier, as a Planning Commission, they had that explained to them about the Federal and State laws regarding this. He asked if Staff would recap that so that the people in the audience could understand. Mr. Larsen replied that there are a number of laws that come into play with these applications such as the Federal Fair Housing Act and subsequent amendments, the Americans with Disabilities Act and the Utah State Code. They all have certain mandates. A lot of questions that come up with these facilities indicate the degree to which handicapped people have been discriminated against, in the past, in their availability for housing. As a result of that, a lot of those laws came about; particularly the Fair Housing Act. Those laws mandate that in any zone that allows dwellings, residential facilities for persons with a disability must be allowed; there are definitions of what that means. Those facilities must be allowed as permitted uses in those zones. In addition to that, because of the nature of the population that would use that housing, it is reasonable to expect that in some cases accommodations may need to be made that would not have to be made in order to accommodate other kinds of housing. That is what is referred to as reasonable accommodation. Mr. Larsen said, to his recollection, the intent, in a lot of cases, is that the policy of the City is to try and disperse these types of uses throughout the city. There are a number of these uses throughout the city in various locations. The same could be said of simple multifamily housing, there is not a policy to concentrate that housing in any one area of the city. The General Plan dictates areas of disbursement.

Mr. Fowler asked if the building architecture, in regards to the outside veneers and quality of building construction, was typical of that neighborhood. Mr. Woodruff replied that it will be brick and painted fiber cement siding which is much superior to a vinyl product.

Ms. Berry asked, in regards to reasonable accommodation, if anywhere that is zoned anything could be in jeopardy of running into the same situation. Mr. Larsen replied that reasonable accommodation is on a case by case basis. An accommodation that is needed in one case may not be the same accommodation that is needed in another. He explained that in terms of residential facilities for persons with a disability than, yes, it would be. Any zone including commercial, residential and agricultural zones where dwellings are allowed must allow residential facilities for persons with a disability and residential facilities for elderly persons; which is a different category but with similar protections.

Ms. Peterson asked Mr. Larsen to which authority these applications should be forwarded to if they are recommended for approval. Mr. Larsen replied that they would not be forwarded as they are a permitted use. Ms. Berry asked if letters regarding the permitting and reasonable accommodation were sent to the neighborhood. Mr. Larsen replied they were not but he believed that neighbor notification was sent out regarding the permitted use. Mr. Johnson stated that neighbor notification was sent out informing the neighbors that these applications were on the agenda, which is actually above and beyond what Staff is required to do. Staff does not have to do that because it is a permitted use. The notifications went out prior to the previous meeting to give the neighbors a chance to come in and discuss it with Staff.

MOTION: A motion was made by Barbara Poelman to approve application 3011, residential facility for persons with a disability, the east facility, based on the Staff recommendation of approval and the stipulations that it comply with Chapter 29.06 Uses and that it comply with the Staff evaluations and may they also consider the tree change. Findings of fact; such use will 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 such use is found to be in compliance with Chapter 29.06 Uses and such use is in compliance with the Brigham City General Plan.

Discussion: Mr. Fowler commented the he thought something should be mentioned about the property discrepancy being resolved. Ms. Peterson said she thought it had been indicated that issue had been resolved. Mr. Fowler said he thought something needed to be added to make sure that had been resolved and mentioned that engineering would probably have it. Mr. Larsen commented that this is a recorded subdivision so there is nothing they are doing that changes the property description, alignments or any of that. He said Staff could certainly follow-up and look into the question of the alignment. Ms. Poelman clarified that could be done without being part of the motion and Mr. Larsen agreed.

The motion was seconded by Paul Fowler and passed unanimously.

APPLICATION #3012 / PERMITTED USE APPLICATION – RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY / 472 WEST 900 NORTH / NEIGHBORHOOD NONPROFIT HOUSING CORPORATION:

MOTION: A motion was made by Barbara Poelman to approve application 3012, the west facility for a residential facility for persons with a disability, a group home on the Discovery Grove Subdivision, lot number one. Based on the Staff recommendation of approval and with the stipulations that it comply with Chapter 29.06 Uses and comply with the Staff evaluation; based on the findings of fact that such use will 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 such use is found to be in compliance with Chapter 29.06 Uses and such use is in compliance with the Brigham City General Plan. The motion was seconded by Lynda Berry and passed unanimously.

DISCUSSION:

MOTION: A motion was made by Barbara Poelman to adjourn. The motion was seconded by Paul Fowler and passed unanimously.

The meeting adjourned at 8:49 p.m.

This certifies that the regular meeting minutes of April 15, 2008 are a true and accurate copy as approved by the Planning Commission on May 06, 2008.

Signed: _____

Jeffery R. Leishman, Secretary