

1 CITY OF NORTH SALT LAKE
2 LAND USE APPEAL AUTHORITY
3 ANCHOR LOCATION: CITY HALL
4 10 EAST CENTER STREET, NORTH SALT LAKE
5 APRIL 12, 2023
6

7 FINAL
8

9 Glenn Bronson called the meeting to order at 5:00 p.m.
10

11 STAFF PRESENT: Sherrie Pace, Community Development Director; Glenn Bronson, Appeal
12 Authority/Hearing Officer; Todd Godfrey, City Attorney; Mackenzie Johnson, Planner.
13

14 OTHERS PRESENT: Robert Mansfield, Megan Garrett, Mitchell Barlow & Mansfield; Guy
15 Larsen, Breeze Stringham, Jason Tuttle, Reagan Outdoor Advertising.
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- 17 1. CASE CD2023-011. LAND USE DECISION APPEAL: REAGAN OUTDOOR
18 ADVERTISING IS APPEALING THE ADMINISTRATIVE DECISION BY THE CITY
19 COMMUNITY DEVELOPMENT DIRECTOR IN DENIAL OF A BUILDING PERMIT
20 FOR THE RELOCATION OF AN EXISTING BILLBOARD AT 205 WEST CENTER
21 STREET TO 745 NORTH OVERLAND STREET
22

23 Glenn Bronson disclosed that his daughter interviewed and was offered a position with Mitchell
24 Barlow & Mansfield that had not yet been responded to. He did not feel this was a potential
25 conflict that would interfere with his ability to hear the appeal. There were no objections from
26 anyone present. He then asked that the agenda items be reordered to address Case CD2023-011
27 first.
28

29 Glenn Bronson commented that both parties, the City and Mitchell Barlow & Mansfield,
30 provided briefs and the jurisdictional issue had been raised whether this was something Mr.
31 Bronson should review. He asked that this be addressed as to whether it was a State statute and
32 not a land use ordinance.
33

34 Megan Garrett, Mitchell Barlow & Mansfield, said that in the City's letter of denial it stated this
35 matter could be appealed per City code 10-2-2 which provided a person or entity adversely
36 affected by a decision administering or interpreting land use ordinance may appeal the decision
37 by alleging administrative error or by appealing to the hearing officer. She then said under the
38 Municipal Land Use and Development Act a land use regulation was defined as a legislative
39 decision enacted by law, code, resolution, fee or rule, etc. that governed the use or development
40 of land and extended to State code. Utah's Land Use, Development, and Management Act
41 (LUDMA) allowed a hearing officer to determine the correctness of the land use authority's
42 interpretation and application of the plain meaning of the land use regulation and was not limited
43 to the interpretation of city code provisions.

44 Glenn Bronson asked for the authority and asked if this was cited in the brief. Megan Garrett
45 replied that the authority was LUDMA Utah Code 10-9a-707 subsection 4a. She said it was not
46 part of the appellant's brief, as the jurisdictional issue was raised for the first time in the
47 respondent's brief.

48

49 Glenn Bronson asked City staff to print a copy of the aforementioned LUDMA Code.

50

51 Megan Garrett said that if this matter was not a land use regulation then the City would not have
52 an administrative basis for approving or denying the relocation request in the first place. She
53 explained that it would not be governed by this process and the City would not be able to prevent
54 the relocation.

55

56 Megan Garrett commented that the City invited the appeal, which involved the staff
57 interpretation that the application of the State statute was a land use regulation and that the
58 hearing officer was authorized to rule upon and address the appeal. She said to the extent that if
59 this was not a land use regulation, the City would not have an administrative basis for denying
60 the relocation.

61

62 Glenn Bronson asked Ms. Garrett to clarify her statement. Megan Garrett responded that the City
63 took an administrative approach under LUDMA to deny the relocation request. She said if the
64 City was not interpreting or applying a land use regulation they did not have any administrative
65 process or basis for denying the relocation. They would have to pursue other remedies such as a
66 court proceeding or other method. Ms. Garrett said if Mr. Bronson did not have jurisdiction to
67 hear the appeal, then there was no jurisdiction for the City to prevent the relocation. She
68 mentioned that the City had stated in the denial letter that this was the correct way to proceed
69 with the hearing officer addressing the issue.

70

71 Glenn Bronson asked the appellant if this was determined from the language indicated in the
72 letter. Megan Garrett replied that the letter also included a staff report dated March 30, 2023
73 which cited the 1,500 foot separation distance from city ordinance and cited this as an additional
74 basis for denial.

75

76 Todd Godfrey addressed the jurisdictional issue and clarified that the denial letter did contain the
77 appeal language. He said it was up to Mr. Bronson's discretion whether he thought this invited
78 the appeal or affected his jurisdiction. Mr. Godfrey disagreed that the definition of a land use
79 regulation encompassed the provisions of LUDMA. He said LUDMA was intended to govern
80 city actions on land use applications and the definition of a land use regulation was specific to
81 city ordinances and decisions that were legislative in nature.

82

83 Todd Godfrey spoke on the mile relocation radius on this appeal and said if there was some City
84 ordinance that regulated this position that the argument could not be made that Mr. Bronson
85 lacked jurisdiction. He explained that section 5-13 specifically authorized the City to review a

86 relocation request and to make a decision on this, and that he felt it was properly before the City
87 for decision. He said this was a decision under State code and was not governed by City
88 ordinance. He felt it was unfortunate that there was not an administrative appeal route under the
89 state statute for this question.

90

91 Glenn Bronson asked for clarification and said he thought the City's position was that he did not
92 have jurisdiction to hear the appeal because it was a State statute and not a city land use
93 ordinance. Todd Godfrey replied affirmatively and said there was not an ordinance related to
94 relocation of a billboard in the City code.

95

96 Glenn Bronson stated that section 707 dealt with the scope of review of factual matters. It states
97 that the appeal authority shall determine the correctness of the land use authority's interpretation
98 and application of the plain meaning of the land use regulations. He asked if this was the same
99 type of appeal that was before him today. Mr. Bronson commented that Ms. Garrett argued that
100 this section stated that he had jurisdiction to hear an appeal from land use regulations. Todd
101 Godfrey replied that this was correct, and that the disagreement was about the definition of land
102 use regulations.

103

104 Glenn Bronson spoke on the definition for land use regulations was in 10-9a-103, which states
105 "Land Use Regulation: means a legislative decision enacted by ordinance, law, code, map,
106 resolution, specification or rule that governs the use or development of land" and asked how this
107 did not cover that. Todd Godfrey responded that it did not reference a statute in the definition.
108 He said LUDMA was a restriction on city action and did not establish a land use regulation and
109 State statute itself was not a land use regulation.

110

111 Glenn Bronson said Reagan and their counsel had appealed the City's application of 10-9a-513
112 and attempted to ask for a variance. He said they were asking a hearing officer to issue a
113 variance on a State statute, which was not correct.

114

115 Todd Godfrey said this matter was solely an interpretation of a State statute and the hearing
116 officer did not have jurisdiction on the question.

117

118 Glenn Bronson disposed of the issue regarding the invitation to appeal. He said whatever was in
119 the letter with the invitation to appeal did not change his jurisdiction and caused him some
120 concern whether he does or does not have jurisdiction.

121

122 Megan Garrett commented that the basis of the denial in the March 16 letter was not limited just
123 to State statute and included that the proposed relocation site did not meet City regulations
124 regarding billboard separation of 1,500 feet and the proposed location was 617 feet from existing
125 billboard. She said the denial was also based on City ordinances, which the hearing officer had
126 authority to address. Ms. Garrett said in addition under City Ordinance 10-2-2 it provides for a
127 hearing officer pursuant to Utah Code 10-9a-701 stating that the City hereby establishes an

128 appeal authority consisting of a hearing officer, in accord with the implementing language from
129 LUDMA. Megan Garrett stated that they were there on a LUDMA hearing to hear the appeal.

130
131 Glenn Bronson said that City Ordinance 10-2-2, which was the same as State statute 701 and
132 stated the City established a hearing officer/appeal authority to decide a request for a variance
133 from the terms of a land use ordinance and hear and decide appeals from decisions applying the
134 land use ordinance. He asked with regard to the ordinance if his authority is limited to a land use
135 ordinance.

136
137 Megan Garrett replied that this provision was implementing section 10-9-701 of LUDMA, which
138 clearly and expressly recognized that the hearing officer had the authority to review and address
139 the City's interpretation of land use regulations, which was broader than city ordinances. She
140 said to the extent of exercising any authority under LUDMA or any land use regulation
141 encompassing State law that he would be authorized to review this as the hearing officer.

142
143 Glenn Bronson replied that he derived his authority from city ordinance 10-2-2 as he read it. He
144 said 10-2-2 did not use the term land use regulation and restricted his authority to review of a
145 variance for the terms of or decision applying or interpreting a land use ordinance. Mr. Bronson
146 said this was an appeal of implementation of 10-9a-513, which was not a land use ordinance. He
147 said the first two portions of the decision to deny the permit were interpreting State statute.

148
149 Megan Garrett replied that staff did interpret State statute and the City did not have authority to
150 limit the hearing officer's jurisdiction under LUDMA as it was inconsistent with State code.

151
152 Glenn Bronson commented that he did not believe that LUDMA even required a hearing officer
153 be setup. Megan Garrett responded that LUDMA did require an administrative process.

154
155 Glenn Bronson said that their interpretation was the City had to engage and authorize a hearing
156 officer. Megan Garrett replied that it was 10-9a-701-1a which stated that each municipality
157 adopting a land use ordinance shall establish one or more appeal authorities.

158
159 Glenn Bronson asked about the merits regarding the 205 West Center Street relocation issue.

160
161 Robert Mansfield, Mitchell Barlow & Mansfield, questioned if Mr. Bronson had made a decision
162 regarding jurisdiction. Glenn Bronson requested a short break to review this matter.

163
164 **There was a short recess from 5:30 p.m. to 5:39 p.m.**

165
166 Robert Mansfield stated that after conferring with the City Attorney, the appellant would
167 withdraw their appeal on the 205 West Center Street matter. He then said the City had agreed to
168 work with the appellant on approval for the 209 West Center Street relocation. Todd Godfrey
169 replied affirmatively and said the City was willing to grant approval of the relocation on the 209

170 West Center Street building permit application, with some modification on the relocation site to
171 avoid an additional future relocation request due to the planned expansion of the I-15 bridge over
172 Main Street.

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174

175 2. CASE CD2003-010. LAND USE DECISION APPEAL: REAGAN OUTDOOR
176 ADVERTISING IS APPEALING THE ADMINISTRATIVE DECISION BY THE CITY
177 COMMUNITY DEVELOPMENT DIRECTOR IN DENIAL OF A BUILDING PERMIT
178 FOR THE RELOCATION OF AN EXISTING BILLBOARD AT 209 WEST CENTER
179 STREET TO 505 NORTH MAIN STREET

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181 The City and Reagan Outdoor Advertising determined to continue to work on an agreement
182 related to the building permit for relocation of an existing billboard at 209 West Center Street.

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184 3. ADJOURN

185

186 Glenn Bronson adjourned the meeting at 5:41 p.m.

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188 Approved as directed and reviewed by Administrative Law Judge, Glenn Bronson.

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Wendy Page, City Recorder