

# TOWN OF CHARLESTON

## Planning Commission Staff Report      Meeting Date: 02/25/2021

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**Issue:** Mr. Kam Brown has requested that the Town reconsider its prohibition of commercial self-storage units within the C-1 Zone and working with Town staff is proposing a text amendment as Ordinance 2021-01

**Submitted By:** Brian A. Preece, MPA, Town Planner

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Staff Recommendation (Motion Ready):

1. Planning Commission recommends to the Town Council that Ordinance 2021-01 be adopted as submitted; or
  2. Planning Commission recommends to the Town Council that Ordinance 2021-01 be adopted with the following changes:
    - a. List changes; or
  3. Planning Commission recommends to the Town Council that Ordinance 2021-01 not be adopted;
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### **BACKGROUND:**

Mr. Brown has petitioned the Town to revise it's the Land Use Ordinance, in particular section 02.0904 C-1 Zone to allow storage units on 5.69 acres owned by the Brown family located at approximately 2400 West 3000 South. Should this ordinance be passed, it would not approve an self-storage facility on the Brown property. Applications for a Conditional Use Permit and Site Plan approval would need to be made for the property and approved by the Town. These applications could run simultaneously.

The Town prohibited additional storage facilities in the C-1 Zone in an effort to keep them from filling the available commercial space and keeping it for other needed uses. It would not be possible, without creating a new zone just for a property, to allow a use just for that property. However, other municipalities have used a method of allowing only a total acreage within a zone to be used for a certain use. If a proposal comes in for additional property to be used for that use, a text amendment could be done to add that acreage to the maximum allowed use. This is only done if the use makes sense for the property being looked at and is not done otherwise. This prevents a use from being able to be done on any property within that zone.

According to the Wasatch County GIS map, the following exists:

Deer Creek Storage:	3.24 acres
Copper Top Storage	2.34 acres

The proposed Brown property would add another: 5.69 acres thus,

Total acres 11.27 acres, the proposed total in the ordinance is 11.5 acres rounded to nearest ½ acre.

Within the proposed ordinance is an unrelated clean-up measure. There is a reference in the C-1 Zone Section 02.0904.02 D that refers to Premises Occupations, which are no longer allowed in the Land Use Ordinance.

### **STANDARD OF REVIEW:**

#### **Utah Code 10-9a-501. Enactment of land use regulation.**

- (1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.
- (2) (a) Except as provided in Subsection [\(2\)\(b\)](#), a legislative body may enact a land use regulation only by ordinance.  
(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.
- (3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.
- (4) (a) A legislative body shall adopt a land use regulation to:
  - (i) create or amend a zoning district under Subsection [10-9a-503\(1\)\(a\)](#); and
  - (ii) designate general uses allowed in each zoning district.  
(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection [\(4\)\(a\)](#), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

#### **Utah Code 10-9a-502. Preparation and adoption of land use regulation.**

- (1) A planning commission shall:
  - (a) provide notice as required by Subsection [10-9a-205\(1\)\(a\)](#) and, if applicable, Subsection [10-9a-205\(4\)](#);
  - (b) hold a public hearing on a proposed land use regulation;
  - (c) if applicable, consider each written objection filed in accordance with Subsection [10-9a-205\(4\)](#) prior to the public hearing; and
  - (d)
    - (i) review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality; and
    - (ii) forward to the legislative body all objections filed in accordance with Subsection [10-9a-205\(4\)](#).

- (2) (a) A legislative body shall consider each proposed land use regulation that the planning commission recommends to the legislative body.
- (b) After providing notice as required by Subsection [10-9a-205\(1\)\(b\)](#) and holding a public meeting, the legislative body may adopt or reject the land use regulation described in Subsection [\(2\)\(a\)](#):
- (i) as proposed by the planning commission; or
  - (ii) after making any revision the legislative body considers appropriate.
- (c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

## **STAFF FINDINGS, CONCLUSIONS & RECOMMENDATIONS:**

### **Findings & Conclusions:**

Staff recommends that the Planning Commission discuss this proposal with Mr. Brown and consider any comments made in the Public Hearing. The recommendation to the Town Council should be based on how the Planning Commission believes this proposal furthers the objectives of the General Plan and what is in the best interest of both the C-1 Zone and for the Town of Charleston as a whole.

### **ALTERNATIVES:**

- Planning Commission recommend to the Town Council Mr. Brown's proposed text amendment ordinance as provided by staff, or
- Planning Commission recommend to the Town Council Mr. Brown's proposed text amendment with changes, or
- Planning Commission recommend to the Town Council not to adopt the proposed ordinance as proposed, or
- Postpone making a recommendation to future date, for cause.

### **SUPPORT MATERIALS:**

1. Staff Report
2. Ordinance 2021-01

## **ORDINANCE NO. 2021-01**

### **AN ORDINANCE OF THE TOWN COUNCIL OF CHARLESTON TOWN, UTAH, REVISING SECTION 02.0904 C AND 02.0904 D REGARDING THE C-1 COMMERCIAL ZONE TO ALLOW SELF-STORAGE FACILITIES AND TO CLEAN UP SECTION 02.0904.02 C. 11 TO BE CONSISTENT WITH A PREVIOUS TEXT AMENDMENT.**

**WHEREAS**, Utah Code §10-9a-102 grants the Town Council of the town of Charleston ("Town Council") the authority to enact ordinances that it considers necessary or appropriate for the use and development of land in Charleston Town ("Town"); and

**WHEREAS**, the Town Council has adopted Title 02(Land Use Ordinance) of the Charleston Town Municipal Code ("Town Code"); and

**WHEREAS**, the Town Council desires to enact text amendments that change the regulation of Self-Storage Units and thus desire to make changes within Title 02 that will do so; and

**WHEREAS**, the Town's Planning Commission held a public hearing on February 25, 2021 to review and make a recommendation to the Charleston Town Council concerning the subject text amendments; and

**WHEREAS**, the Town Council finds that the subject text amendments will enhance the public health, safety and welfare, and will promote the goals of the General Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF CHARLESTON TOWN, UTAH:**

**SECTION 1. Repeal.** Town Code § Title 02 Land Use Ordinance Section 02.0904.02 D. Prohibited Uses. Subsection 4 which reads: "4. Commercial storage Units or yards." is hereby repealed and the section is renumbered as follows (strikethrough added for clarification):

**D. Prohibited Uses.** The permitted uses enumerated above shall not be construed to include, either as a main or accessory use, any of the following uses. This list of prohibited uses is not exhaustive, but is intended to be illustrative of the type of uses, which are not allowed:

1. Terminals, including truck or bus terminals, and other distribution facilities.
2. Sand, gravel and other extraction mining.
3. Junk or salvage yards.
- ~~4. Commercial storage units or yards.~~
- ~~5.~~ 4. Liquor stores.
- ~~6.~~ 5. Above ground fuel storage
- ~~7.~~ 6. Sexually Oriented Businesses—See Section 02.1000 Sexually Oriented Businesses
- ~~8.~~ 7. Hotels
- ~~9.~~ 8. Motels
- ~~10.~~ 9. Multi-level Parking Structures
- ~~11.~~ 10. Laundromats
- ~~12.~~ 11. Vacation or Recreation Vehicle Courts

- ~~13.~~ 12. Explosive, flammable or highly combustible material, storage, sales, processing or production.
- ~~14.~~ 13. Asphalt and concrete mixing and similar operations.
- ~~15.~~ 14. Uses which are determined to violate any activity prohibited in the Town's Nuisance abatement ordinance.
- ~~16.~~ 15. Other similar, non-compatible uses not specifically listed above may be prohibited by the Town Council, upon findings that the proposed use is similar in negative impacts to the surrounding area as to those uses listed above.

**SECTION 2. Repeal.** Town Code § Title 02 Land Use Ordinance Section 02.0904.02 C. 11. Use Requirements of the Charleston Town Code is hereby revised to remove the words "and Premises Occupation Conditional Use Permits", to read (strikethrough added for clarification):

11. Bed and Breakfast Establishments. ~~and Premise Occupation Conditional Use Permits.~~

**SECTION 3. Revision** Town Code § Title 02 Land Use Ordinance Section 02.0904.02 C. Conditional Uses is hereby revised to add Self Storage Units as a Conditional Use and shall read as follows (strikethrough added for clarification):

C. **Conditional Uses.** The following uses and structures are permitted in the C-1 Commercial Zone only after a Conditional Use Permit has been issued, and subject to the terms and conditions thereof:

1. Marketing, telemarketing, and advertising services.
2. Auto, electronic and other repair establishments.
3. Convenience Stores, except that no convenience store shall be allowed within ¼ mile measured in a straight line from main entrance to main entrance of another convenience store.
4. Manufacturing, processing, and fabricating establishments, except those in which explosives or other highly dangerous materials are used or fabricated.
5. Fuel pumps and underground fuel storage
6. Pawn Shops noting that no pawn shop shall be allowed within one mile measured in a straight line from main entrance to main entrance of another of another Pawn Shop, Cigarette, Smoke or Vape shop.
7. Cigarette, Smoke or Vape Shops, noting that no Cigarette, Smoke or Vape shop shall be allowed within one mile measured in a straight line from main entrance to main entrance of another of another Cigarette, Smoke, Vape shop or Pawn Shop.
8. Off Premises Beer Retailer. Applicable provisions of the Utah alcoholic beverage control act pertaining to off premises beer retailer licenses as set forth at Utah Code Annotated section 32B-7-101 et seq., as currently adopted and as hereinafter amended are adopted. An off Premises Beer Retailer License from Charleston Town may be issued to an eligible person for a qualifying location, with the following exceptions:
  - a. Location Restrictions: A Charleston off premises beer retailer license will not be issued to any person where the premises would be located within three hundred feet (300') of a community location, such as a public or private

school, church, public library, public playground or park as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of a public or private school, church, public library, public playground or park.

The location of a Charleston Town off premises beer retailer licensee may not be established within one hundred feet (100') of any community location, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground or park.

b. Hours: A Charleston Town off premises beer retailer licensee may only sell beer between the hours of seven o'clock (7:00) A.M. and one o'clock (1:00) A.M.

9. Drive-up Windows situated so that they do not create a traffic flow problem on the lot they serve, neighboring lots, or public streets.

10. Car washes situated so that they do not:

- a. Create ice build-up or traffic flow problem on the lot they serve, neighboring lots, or public streets.
- b. Emit nuisance noise issues to neighboring lots.
- c. Time of operation restrictions may be imposed as part of the conditional use approval.

11. Bed and Breakfast establishments and Premise Occupation Conditional Use Permits.

12. Self-Storage facilities under the following conditions:

- a. Maximum of 11.5 total acres of Self Storage Facilities allowed in C-1 Zone;
- b. Proposed self-storage facility is at least 2 acres but no more than 6 acres;
- c. No storage is allowed outside of enclosed buildings;
- d. Perimeter landscape requirements and site obscuring fencing for self-storage facilities shall be determined with the conditional use permit application with the Planning Commission and recommended to the Town Council for final approval;
- e. Time of operation restrictions may be imposed as part of the conditional use approval; and
- f. Other reasonable conditions as deemed necessary.

~~12.~~ 13. Other similar and compatible uses. Other similar uses not specifically listed above may be approved by the Town Council, with the issuance of a conditional use permit, upon findings that the proposed use most closely fits within one of the listed categories, and that any expected impacts will be no greater than that of other uses listed.

~~13.~~ 14. Violations of reasonable conditions imposed may be cause, after a duly noticed hearing, for the Town Council to revoke any conditional use permit.

**SECTION 4. Severability.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

**SECTION 5. Effective Date.** This Ordinance shall become effective immediately upon publication or posting as required by law.

**[SIGNATURE PAGE FOLLOWS]**

PASSED AND ADOPTED Town by the Council of Charleston Town, Utah, this  
4th day of March, 2021 by the following vote:

	YES	NO	ABSENT
Council Member Jim Brown	<b>X</b>		
Council Member Vaughn Rasband	<b>X</b>		
Council Member Darrell Nish			<b>X</b>
Council Member Scott Solum	<b>X</b>		
Mayor Brenda Kozlowski	<b>X</b>		

By: \_\_\_\_\_  
Town Mayor

Attest: \_\_\_\_\_  
Town Clerk

Seal:

Approved as to form:

\_\_\_\_\_  
Town Attorney