

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, August 23, 2006**

Present for the Planning Commission meeting were Tim Chambless, Robert Forbis, Peggy McDonough (Chairperson), Susie McHugh, Prescott Muir, Kathy Scott, Matthew Wirthlin (Vice Chair) and Mary Woodhead. Frank Algarin and Babs De Lay were excused from the meeting.

Present from the Planning Division were Alexander Ikefuna, Planning Director; Cheri Coffey, Deputy Planning Director; Doug Wheelwright, Deputy Planning Director; Sarah Carroll, Principal Planner; Ray McCandless, Principal Planner; Lex Traughber, Principal Planner; and Cindy Rockwood, Planning Commission Secretary. Lynn Pace from the Attorney's Office was also present.

A roll is being kept of all who attended the Planning Commission Meeting. Acting Chairperson McDonough called the meeting to order at 5:52 p.m. Minutes are presented in agenda order and not necessarily as cases were heard by the Planning Commission. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Tim Chambless, Robert Forbis, Susie McHugh, Kathy Scott, Matthew Wirthlin, and Mary Woodhead. Planning Division Staff present were Ray McCandless and Doug Wheelwright.

FIELD TRIP

Petition 480-06-02

The Planning Commissioners present had some questions about the site layout, including the location of the garages and the driveway location.

Petition 490-06-26

The Planning Commissioners present walked the property.

Petition 490-06-22

The Planning Commissioners present visited the site and drove up G Street to see the adjoining lot.

DINNER

During dinner a quorum was present and discussion was held regarding the criteria and standards of subdivision requests. Lynn Pace, City Attorney, noted that the subdivision requirements in state law have been recently changed with new legislation effective on May 1, 2006. He stated that the applicable new legislation can be summarized by stating if the Land Use Authority is satisfied that the use does not materially injure the public interest the request may be approved. He added that the new legislation removed the statement regarding personal or individual injury from the request of subdivision approval. Mr. Pace expanded on the interpretation of private injury and public harm. He added that the analysis for petition 490-06-26 (1455 Perry Avenue) conducted by staff concluded that no public injury would occur.

Mr. Pace also added that the applicant has a right to a decision, and the petition should not be held for the development of communication between interested parties. Mr. Pace included that with the subdivision standards, the applicant is not required to disclose the site design or layout to obtain approval. He stated that the Commission may request such information, but should remain focused on the standards of the subdivision request. He added that if an applicant does disclose what will be placed on the property, they are not bound to it; however, if the applicant offers the site design or layout as a condition for approval, the Commission may include the condition in the motion.

Mr. Pace also addressed the possibility of setting a precedent in the area. He stated that all real property is unique and cannot be compared to another for precedent setting reasons; however, if the request opposes the master plan or general plan statements of the area, then consideration should be made regarding the property and in accordance with the general plans.

Mr. Pace strongly emphasized that if the Commission chooses to deny any requests, the Commission must be very clear in their findings. He stated that if the staff report suggests approval, it should be noted which findings the Commission might disagree with; although if staff suggests denial the Commission may use the findings of staff as support for denying the request.

Mr. Wheelwright added that the Compatible Residential Infill Ordinance has impacted subdivision regulations concerning the maximum lot size regulation, consideration of lot size, shape, and orientation to the street, and architectural design as a part of building permit review.

REGULAR MEETING

APPROVAL OF MINUTES from Wednesday, August 9, 2006.

(This item was heard at 5:52 p.m.)

Commissioner Forbis made a motion to approve the minutes from August 9, 2006, with the noted changes. Commissioner Scott seconded the motion. Commission Forbis, Commissioner Scott, Commissioner Wirthlin, Commission Woodhead, Commissioner Muir, and Commissioner Chambless voted "Aye". Commissioner McHugh abstained. The motion passed.

REPORT OF THE CHAIR AND VICE CHAIR

(This item was heard at 5:54 p.m.)

Acting Chairperson McDonough noted that the Planning Commission was without a Chair and Vice Chair at this time. She indicated that she would be willing to represent the Commission as Chair.

Commissioner Chambless suggested that Commissioner McDonough be voted as Chair, with Commissioner Scott as Vice Chair.

Acting Chairperson McDonough nominated Commissioner Wirthlin as Vice Chair. Commissioner Wirthlin accepted the nomination.

A paper vote was conducted to determine the Chair and Vice Chair positions. Peggy McDonough was voted as Chair. Matthew Wirthlin was voted as Vice Chair with a vote of five to three.

On behalf of the Commission, Chairperson McDonough acknowledged the diligent and dedicated service of Laurie Noda and John Diamond during their tenure of service. Due to the absence of Mr. Diamond and Ms. Noda, the plaques will be delivered to them.

REPORT OF THE DIRECTOR

(This item was heard at 5:58 p.m.)

Mr. Ikefuna requested that the Report of the Director be moved to the end of the meeting. Chairperson McDonough agreed to the request.

PUBLIC NOTICE AGENDA

(This item was heard at 5:58 p.m.)

Jameson Properties, LLC and Salt Lake City Public Utilities Division—Jameson Properties is requesting that Property Management approve a lease agreement to allow overhead and subsurface encroachments into the public way on both the 200 East and 200 South street frontages, for an existing building which is being remodeled and is approved for condominium conversion, abutting the property located at 169 East 200 South Street. The adjacent property is zoned Central Business District (D-1). Property Management staff intends to approve the lease agreement.

Chairperson McDonough requested comments from the public or Commission regarding the public notice items. Hearing and seeing no request for comment, the above item was approved.

PUBLIC HEARINGS

Petition 480-06-02 – A request by Armen Taroian requesting preliminary condominium approval for a proposed five-unit multi-family development located at approximately 38 West Merrimac Avenue in a Moderate Density Multi-Family Residential (RMF-35) Zoning District.

(This item was heard at 5:59 p.m.)

Chairperson McDonough recognized Ray McCandless as staff representative. Mr. McCandless gave a brief overview of the petition including the compatibility of this proposed development with both zoning requirements and the master plan. It was noted that preliminary condominium plats can be approved administratively; however, concerns raised by the adjacent property owners in the Administrative hearings on April 25, 2006 and May 16, 2006, prompted that this petition be reviewed by the Planning Commission. He stated that the public raised concern with past development and the proposed location of the garages.

Mr. McCandless stated that the approval of this project was recommended provided the inclusion of seven conditions set forth by planning staff as follows:

1. The site (including the park strip) must be irrigated with an automatic sprinkling system.
2. A condominium plat, conforming to the requirements of Chapter 21A.56 - Condominium Approval Procedure of the Salt Lake City Zoning Ordinance, be recorded with the Salt Lake County Recorders Office.
3. The applicant shall comply with all City Department and Division conditions as stated in this Staff Report.
4. The applicant shall show on the final plat an approved trash removal plan for the project.
5. Identification of parking designation of the five units to be identified on the final plat and in the condominium bylaws.
6. The Declaration of Covenants must be approved by the Salt Lake City Attorney for compliance with the State of Utah and Salt Lake City Code requirements. Prior to final plat recording, the Declaration of Covenants shall be executed and recorded.
7. Any future redevelopment activity associated with the properties will require that all inadequate or absent public improvements be installed in accordance with the departmental comments noted in the staff report. Additionally, any future redevelopment will be subject to the requirements of the zoning ordinance.

At this time, Chairperson McDonough requested questions from the Commissioners.

Commissioner Scott inquired about the location of the dumpsters and if any drawings had been submitted to suggest their location. She then asked about the resurfacing of the alley mentioned in the Staff Report, requesting clarification on whether the resurfacing was to occur in the alley or the driveway.

Mr. McCandless stated that there had been no indication on the site plans where the dumpsters would be located, but that it will be addressed as one of the conditions of approval. He also noted that the resurfacing was to occur in the alleyway on the east side of the property.

Commissioner Scott raised a concern regarding the driveway to the north and the possible requirement of a vegetation barrier.

Mr. McCandless responded by stating specific buffering requirements exist when a multi-family zoning district abuts a single-family zoning district, however, because the property to the north is in the same zone, no buffering requirements exist.

The Commissioners and staff discussed the ownership of the baseball stadium, to conclude that it is a city-owned facility.

Commissioner Chambless stated that he did not observe any vehicle access from the baseball stadium north of the property and therefore there would be no city vehicles coming from that side of the property.

As there were no further questions from the Commissioners, Chairperson McDonough requested comments from the applicant, Mr. Armen Taroian.

Mr. Taroian addressed the concerns of Commissioner Scott by stating that the dumpsters will be located to either the east or west side of the development. He stated that currently the alley has access to Richards Street and the public alley and that the development may include closing access to Richards Street and locating the dumpster on that side.

Commissioner Chambless inquired about the history of the property in terms of land use. He also requested information regarding the lighting, the history of the area and stressed the need for proper lighting.

Mr. Taroian stated that he wasn't familiar with the history, but speculated that there was a home which was previously demolished. He added that there were no formal plans for the lighting, but as one of the conditions required by the planning staff included proper street lighting, he would be looking into it. Mr. Taroian understood the Commissioner's concerns regarding the lighting and stated that he was familiar with the need for adequate street lighting, and plans to address the matter.

Commissioner Scott discussed concerns regarding the vegetation barrier between the neighbor's property on the north side and the proposed driveway.

The applicant stated that the intention was to plant trees and other vegetation along the north property line to provide a barrier.

Chairperson McDonough opened the public hearing and requested comments from community council chairs and the public.

Gary Cash, 1414 South Richards Street, the property owner directly to the north, stated that when the baseball stadium was built the area to the south was to eventually going to become a parking lot. The neighbors had hoped that until that parking lot was developed, all of the homes in the area would remain single-family residences.

Mr. Cash stated that there used to be a large home with a barn on the property. He added that when the home was demolished, the neighbors were told that two single-family residences would be built. He also expressed concern regarding the placement of the garages and the proximity of the driveway to his home.

Commissioner Scott asked Mr. Cash if the placement of trees as a barrier would be satisfactory to mitigate the close proximity of the garages.

Mr. Cash replied that if there were trees or bushes planted, it would help.

Commissioner Chambless wanted more information regarding the history of the home.

Mr. Cash stated that it was a large home demolished four years ago. The developers at that time had promised to build two single family homes on the property. He also raised concern about the impact of this development on the value of his home and his desire to talk not only to Mr. Taroian but also to the city regarding his own home and where to turn to in order to get it approved as a historic landmark site.

At this time, as there were no further comments from the public. Chairperson McDonough closed the public hearing and invited Mr. Taroian back to provide a brief response.

Mr. Taroian stated that the intention was always to orient the garages to the north side of the property and that his associates have tried several times to contact Mr. Cash. He added that the land was purchased a year ago as vacant land and that he was never informed of the intentions of any other developer.

Chairperson McDonough reminded the Commission that the hearing is for condominium approval only and not about design or other elements of the development.

Commissioner Scott voiced concern regarding the location of the dumpsters.

Mr. McCandless stated that dumpsters are not necessarily required in a development of this size but would not be allowed in the west corner side yard.

Hearing no further request for public comment, Chairperson McDonough closed the public hearing and gave time to the Commissioners for discussion and a motion.

There was discussion regarding the designation of a property as a historic landmark site. Commissioner Scott inquired which City department an interested party should contact for information. Ms. Coffey responded by stating that anyone interested in pursuing a historical landmark site designation could contact the Planning Division.

Commissioner Wirthlin commented that he appreciated the information that Mr. Cash had provided for the Commission, however, he felt as though the zoning was correct and with support from the master plan, multi-family housing is appropriate. He suggested the Commission not delay a vote on the petition.

There were no further comments from Commission members.

Regarding Petition 480-06-02, Commissioner Wirthlin made a motion based upon the comments of the public, staff presentation, analysis, findings of fact noted in the staff report and on the submitted plans, the Planning Commission approve the preliminary condominium plat located at 38 West Merrimac Avenue with the following conditions:

- 1. The site (including the park strip) must be irrigated with an automatic sprinkling system.**
- 2. A condominium plat, conforming to the requirements of Chapter 21A.56 - Condominium Approval Procedure of the Salt Lake City Zoning Ordinance, be recorded with the Salt Lake County Recorders Office.**
- 3. The applicant shall comply with all City Department and Division conditions as stated in the Staff Report.**
- 4. The applicant shall show on the final plat an approved trash removal plan for the project.**
- 5. Identification of parking designation of the five units need to be identified on the final plat and in the condominium bylaws.**
- 6. The Declaration of Covenants must be approved by the Salt Lake City Attorney for compliance with the State of Utah and Salt Lake City Code requirements. Prior to final plat recording, the Declaration of Covenants shall be executed and recorded.**
- 7. Any future redevelopment activity associated with the properties will require that all inadequate or absent public improvements be installed in accordance with the departmental comments noted in the staff report. Additionally, any future redevelopment will be subject to the requirements of the zoning ordinance.**

Commissioner Scott seconded the motion and suggested the following additional condition:

- 1. The applicant shall plant and maintain a vegetation barrier along the north side of the driveway, as approved by the Planning Director.**

Discussion of the condition

Commissioner Muir asked if the site plan, which indicated a buffer, was enough without the requirement of a condition.

Chairperson McDonough stated that if the concern regarded height, it was probably specific enough to warrant an amendment.

Mr. Ikefuna added that the barrier can be added as a requirement, if deemed necessary by the Planning Commission.

The condition was accepted by Commissioner Wirthlin. All voted "Aye". The motion passed.

Petition 400-06-13 – A text amendment request to the Salt Lake City Zoning Ordinance relative to clarifying the application of steep slope restrictions in the Foothill Residential (FR-1, FR-2, and FR-3) and Foothill Protection (FP) Zoning Districts, adding steep slope and special fencing regulations to the Open Space (OS) Zoning District, refining the definition of a legal lot and revising the building setback from undevelopable areas in the Foothill Zoning Districts from a minimum of ten feet (10') and an average of twenty feet (20') to a minimum of fifteen feet (15').

(This item was heard a 6:34 p.m.)

Chairperson McDonough recognized Ray McCandless as staff representative. Mr. McCandless provided a brief background to the petition. He added that the petition was initiated by the Planning Commission, due to proposed residential development near Kennedy Drive. He shared the history of the parcels that prompted the Planning Commission to initiate the petition. A review of the language for lots approved prior to the 1994 Ordinance requiring a slope no greater than thirty percent was provided by Mr. McCandless.

He noted that the slope restrictions for the Foothill Residential (FR-1, FR-2, FR-3) Zoning Districts are the same, however the verbiage is different for the Foothill Preservation (FP) Zone; therefore, staff has created a more consistent verbiage with the proposed ordinance. Staff has also implemented the same standards into the Open Space (OS) Zoning Districts. Mr. McCandless stated that there are three types of subdivisions: (1) subdivisions approved as part of a subdivision plat, (2) subdivision plats approved and recorded by deed, and (3) subdivisions created by deed but not approved through a formal city process. He stated that the new language will apply to all subdivisions, but will clear up the ordinance to read as direct interpretation for the grade regulations. Mr. Wheelwright added that staff has prepared a uniform, comprehensive approach for the new ordinance regulations.

Mr. McCandless read briefly from the draft ordinance and added that any metes and bounds parcels, in legal existence, cannot be developed unless compliance of the thirty percent slope restriction is met. He also stated that the new ordinance reflects a change for subdivisions created by deed but not approved through a formal city process. There will now be a requirement to complete a formal subdivision process and meet the thirty percent slope regulations in order to legitimize the subdivision.

Mr. McCandless also noted that the present ordinance allows for averaging the setback. He added that this has been difficult to administer because house plans are not required at the time of subdivisions; therefore, the new ordinance will require a standard fifteen foot setback.

Mr. Ikefuna provided a brief history of the petition and the slope restrictions. He stated that a developer of residential property on Kennedy Drive was sent to the Planning Office from the Building Permits office due to the existing slope on the property, which exceeded thirty percent. He stated that the developer insisted that the City approved the subdivision and that he should not be required to comply with the thirty percent restrictions. Mr. Ikefuna added that the issue went to the Mayor. Mr. Ikefuna stated that Mr. Wheelwright researched the issue and determined that this petition being discussed today was necessary to resolve the issue of slope restrictions on subdivisions that were previously approved. He added the developer of the Kennedy Drive property had completed a grade change request through the Board of Adjustment, but that it would not occur again if the new ordinance is approved.

Mr. McCandless added that fencing restrictions will be added in the Open Space (OS) Zoning District and that if a thirty percent slope exists on the property, the fencing must comply with the type normally seen in the Foothill Zoning Districts. He concluded by stating that the proposed ordinance further defines a legally existing lots.

At 6:47 p.m., Chairperson McDonough requested comments from the community council chairs and the public.

Susan Loffler, 940 South Donner Way, commended the Planning Commission for the changes that are recommended. She reflected some of her thoughts regarding the density of development in foothill areas and the residents in the surrounding area. She recalled the event of the foothill fire that occurred recently, adding that it was started by development. Ms. Loffler requested that the development in the area be strictly controlled to protect the environment. She suggested that an Architectural Review Board be created in order to allow a property owner to develop the parcel in accordance to the regulations placed at the time of purchase (or within five to ten years), and only to revise standards at that time. Ms. Loffler concluded that if the City does not act wisely and impartially now, the future of the area might be ruined. She stated her support of the petition.

Mr. Ikefuna clarified that lots on Kennedy Drive were not promised to anyone, but that the lots were subdivided in 1976 without slope restrictions. He stated that because of the pre-1994 forty percent slope requirement, the developer had the right to develop the lots according to the law at the time.

Ms. Loffler stated that there is something that the City can do to regulate development. She requested a comprehensive plan be implemented to further guide the development of the area.

At 6:55 p.m., Hearing or seeing no further request to comment, Chairperson McDonough closed the public hearing.

Commissioner Scott requested clarification regarding the former ten foot minimum setback with a twenty foot average. She requested the reasoning regarding the twenty foot average setback requirement.

Mr. McCandless stated that the new proposed setback would be a fifteen foot minimum requirement from the no-build line. Mr. Wheelwright added that the new proposed setback was determined because people would build structures on the no-build line because of the allowance of an average in the existing ordinance. He added that the average could not be determined until a house plan was developed, with potential problems for interpretation through the old ordinance.

Commissioner Chambless asked if the requirements being requested now had existed years before, if the Romney issue would have been altered.

Mr. Wheelwright stated that it would not have made a difference to the Romney property.

Regarding Petition 400-06-13, Commissioner Chambless made a motion that the Planning Commission transmit a positive recommendation to the City Council to adopt the proposed text amendment. The motion was seconded by Commissioner Forbis. All voted "Aye". The motion passed.

Petition 490-06-22 – A request by the property owner, Ferguson Martin, LLC for approval of a two (2) lot subdivision located at approximately 688 "F" Street. The subject property is approximately 0.42 acres in size and is zoned SR-1A (Special Development Pattern Residential District). The applicant proposes Lot 1 to be 0.23 acres and Lot 2 to be 0.19 acres in size.
(This item was heard at 7:00 p.m.)

Mr. Traugher reminded the Commission that the proposal he was presenting was heard at the August 9, 2006 Planning Commission meeting as an Issues Only Hearing. He added that a detailed outline of the public comments from the Issues Only Hearing were included in the Staff Report with a response provided by Staff. Mr. Traugher stated that the analysis and findings support the subdivision request and staff recommends the Planning Commission grant approval for the subdivision request, subject to the following conditions:

1. Approval is based upon compliance with Departmental comments as outlined in the staff report.
2. Curb, gutter, sidewalk and a drive approach are required along both of the proposed lots for this project. A plan and profile sheet must be submitted and approved for the design of the new curb, gutter and drive approaches.
3. Prior to installing any public way improvements, a permit to work in the public way must be obtained from Salt Lake City Engineering.

4. A "Notice of Minor Subdivision" shall be recorded prior to deeds creating the proposed lots. The applicant shall provide legal descriptions for both lots prior to recording the "Notice of Minor Subdivision."
5. Prior to recording, the applicant shall apply for a Demolition Permit with City Building Services and Licensing and receive approval for the proposed demolition. A Demolition Permit can only be issued if there is a replacement use approved on the subject property. Because there are no plans that Planning Staff is aware of at this time for a replacement use on the property, the applicant will be required to go before the HAAB (Housing Advisory & Appeals Board) to receive demolition approval.
6. Any future redevelopment activity associated with the properties will require that all inadequate or absent public improvements be installed in accordance with the departmental comments noted in the staff report. Additionally, any future redevelopment will be subject to the requirements of the zoning ordinance.

Chairperson McDonough confirmed that staff had addressed the issues raised at the Issues Only Hearing.

Mr. Traughber stated that the analysis and findings have not been changed, but the staff report has been updated to include the comments made by the public at the Issues Only Hearing.

Chairperson McDonough recognized the applicants, Hugh Ferguson and Scott Martin. Mr. Martin stated that he did not have much information to add, but that he believes the project to be beneficial for the neighborhood. He added that if the subdivision is not approved, there is not much opportunity to enhance the neighborhood.

Commissioner Scott asked about the subdivision and the plans for the property.

Mr. Martin stated that the plans at this time are to develop two, single family homes similar to those found in the Avenues area. He added that the intention is not to create the next four units of the Millo development, but to complete beneficial construction to the area.

Commissioner Muir asked if the parcel to the north, a land-locked parcel, has access off G Street.

Mr. Martin stated that no access easement is on the subject property, and he was unsure of the access for the property.

Mr. Wheelwright stated that research was conducted to determine that the parcel to the north exists as a flag lot development, with access off the top of G Street.

At 7:09 p.m., Chairperson McDonough opened the public hearing for comments from the community council chairs and the public.

Bill Mackie, 685 G Street, requested clarification from the staff report which states that the zoning criteria is met for the construction of twin homes. He expressed concern with the potential of twin homes on the property because of the opportunity for higher density. Mr. Mackie stated that according to the staff report, based on the zoning and the size of the lots only twin homes would be allowed.

Hearing or seeing no additional request for comment, Chairperson McDonough closed the public hearing.

Mr. Wheelwright clarified that the staff report does address specifically the minimum and maximum lot size for the development of single family or duplex residences.

Mr. Traughber stated that proposed lots exceed the maximum lot size for single family dwellings under the Compatible Residential Infill Ordinance; however, the proposed lot sizes do not exceed the maximum lot size for twin home or duplex type development. He added that the Compatible Residential Infill Ordinance established the maximum lot size to prevent the assemblage of lots that could potentially be out of character with the neighborhood. He additionally clarified that three twin or single family homes could not be developed because of the lack of street frontage. Mr. Traughber stated that the applicant could proceed with twin, duplex, or single family home development.

Commissioner Scott expressed appreciation for the amount of information provided by the public and staff at the last meeting and in the packet.

Regarding Petition 490-06-22, Commissioner Scott made a motion that the Planning Commission grant approval for the requested preliminary subdivision at 688 F Street, based on the findings noted in the Staff Report and subject to the following conditions:

1. **Approval is based upon compliance with Departmental comments as outlined in the staff report.**
2. **Curb, gutter, sidewalk and a drive approach are required along both of the proposed lots for this project. A plan and profile sheet must be submitted and approved for the design of the new curb, gutter and drive approaches.**
3. **Prior to installing any public way improvements, a permit to work in the public way must be obtained from Salt Lake City Engineering.**
4. **A "Notice of Minor Subdivision" shall be recorded prior to deeds creating the proposed lots. The applicant shall provide legal descriptions for both lots prior to recording the "Notice of Minor Subdivision."**
5. **Prior to recording, the applicant shall apply for a Demolition Permit with City Building and Licensing Services and receive approval for the proposed demolition. A Demolition Permit can only be issued if there is a replacement use approved on the subject property. Because there are no plans that Planning Staff is aware of at this time for a replacement use on the property, the applicant will be required to go before the HAAB (Housing Advisory & Appeals Board) to receive demolition approval.**
6. **Any future redevelopment activity associated with the properties will require that all inadequate or absent public improvements be installed in accordance with the departmental comments noted in the staff report. Additionally, any future redevelopment will be subject to the requirements of the zoning ordinance.**

The motion was seconded by Commissioner Woodhead. All voted "Aye". The motion passed.

UNFINISHED BUSINESS

(This item was heard at 7:27 p.m.)

Petition No. 490-06-26 – A request by Gary Nordhoff to amend the Federal Heights Subdivision by subdividing the property located at approximately 1455 East Perry Avenue into two lots to facilitate the demolition of the existing building and the construction of two new single-family homes in a Single Family Residential (R-1/5000) Zoning District.

(This item was heard at 7:27 p.m.)

Chairperson McDonough recognized Sarah Carroll and Doug Wheelwright as Planning Staff, with Lynn Pace representing the City Attorney's office. Mr. Pace raised the attention of the Commissioners to the recent change in the state subdivision law; namely Senate Bill 127, enacted on May 1, 2006. He stated that the change applicable for this petition is in Section 10-9a-609: The criteria for changing or vacating a subdivision plat. Mr. Pace stated that the two factors for a subdivision amendment are: (1) good cause, and (2) no material injury to the public interest. He added that it had changed from the previous requirements which were (1) good cause, and (2) no material injury to the public interest or any person. Therefore, state law has shifted the criteria to note that injury to any one person is not enough to deny the subdivision, but that there must be material injury to the public. Mr. Pace clarified that the staff report, in finding F, is not required to include the verbiage "or any person". He also stated that there are additional City requirements for approval of a subdivision request; but they are only in addition to the state standard. Mr. Pace confirmed that the requirements are imposed upon the city by the state legislature.

Mr. Pace also raised the attention of the Commission to the fact that the noticing requirements for a public hearing were not necessary in the amended agenda and that the previous public hearing was closed; therefore the Commission may not re-open the public hearing at this time.

Mr. Wheelwright stated that participation in the public hearing was identified in the staff report. He added that new material was distributed at the beginning of the meeting, including a letter from the community

council, with an unsigned draft of a letter from the applicant of the petition. Additionally, a signed letter was distributed from the applicant.

Mr. Wheelwright stated that a meeting was held on August 21, 2006, with Councilmember Eric Jergensen, the applicant, some City staff, and other members of the neighborhood. Mr. Wheelwright noted that members of the Planning Division were not present at the meeting and cannot present any first-hand information. He stated that Councilmember Jergensen brokered a compromise with the applicant and the neighborhood, which is represented in the signed letter from the applicant.

Mr. Wheelwright stated that the letter from the applicant is information that the applicant is willing to commit to in order to reach a compromise. He added that attached to the letter are concept site plans that attempt to delineate which yards are side yards and rear yards and the approximate building area. He added that the letter addresses the Compatible Residential Infill Ordinance requirements, which will be considered during the building permit application process. Mr. Wheelwright suggested that the Planning Commission review the items in the letter submitted by the applicant, and consider them as potential conditions of approval. Mr. Wheelwright concluded by stating that the applicant had agreed to the commitments made in the letter, but was not compelled by staff to offer the conditions listed in the letter. Mr. Wheelwright stated that the conditions will be met during the final plat process, and due to the amendment, a re-platting will be required for the portion of the Federal Heights plat. Staff is comfortable in recommending approval of the subdivision request.

Commissioner Chambless requested clarification regarding the staff recommendation; considering that no member of Planning Staff was at the meeting on August 21, 2006. He asked if Planning Staff had walked the subject property prior to the recommendation.

Mr. Wheelwright stated that no member of Planning Staff was at the meeting held on August 21, 2006. He added that he had walked the site during the Planning Commission field trip held prior to the meeting. Mr. Ikefuna added that he and Mr. Traugher walked the property as well.

Commissioner Chambless requested a clear definition for Compatible Residential Infill.

Mr. Wheelwright stated that three aspects relate to Compatible Residential Infill with relation to this case. (1) The Compatible Residential Infill Regulations modify the subdivision zoning requirements to establish a maximum lot size. He stated that the intent of the maximum lot size was to prevent assemblage of parcels to create parcels large enough to build monster homes. He added that consideration of lot size, shapes, and frontages are details to be considered for subdivision approval and subdivision amendment approval. (2) Mr. Wheelwright stated that Compatible Land Use is set by the zoning code and the master plan. (3) He stated that Architectural Compatibility is ensured through a site plan review process created through the Compatible Residential Infill Ordinance and is completed at the Building Permit Counter.

Commissioner Chambless requested additional information regarding the history and character of the neighborhood and its relation to Compatible Residential Infill.

Mr. Wheelwright responded that the history and character of the neighborhood is generally considered with the master plan and zoning of the area, namely the Compatible Land Use consideration. He added that inherent in subdivision approval is an allowance for an amendment.

Commissioner Woodhead requested clarification regarding the proposed conditions, and whether or not a new property owner would be bound by the conditions offered by the present property owner.

Mr. Pace stated that the subdivision approval of the Planning Commission would be subject to the conditions listed in the staff report and the conditions identified in the letter from the applicant. He added that some of the conditions carry over to the actual development of the property and would remain binding with the property, regardless of the owner. Mr. Pace confirmed that the letter of intent presented is intended to be a commitment, joined with the conditions of approval for the initial development of the proposed lots.

Chairperson McDonough invited the applicant to address the Commission and to confirm the commitments listed in the letter of intent.

Commissioner Wirthlin expressed appreciation for the letter of intent and requested confirmation regarding its purpose.

Mr. Norhoff stated that the letter of intent is a commitment on his part, and the items listed in the letter are things he is willing to have as part of the final subdivision and plat process. He added that the commitments stated in the letter to the City, the Planning Commission, and the neighborhood will be represented on the final plat.

Commissioner Wirthlin expressed appreciation for all involved with the process.

Commissioner Scott requested information regarding the address of the property, considering that it should be on Sigsbee Avenue.

Mr. Nordhoff stated that he had spoken with the Engineering Division who stated that they would be willing to change the address of the home, once it is certified to Sigsbee Avenue.

At 7:44 p.m., Chairperson McDonough stated that the information given to the Commissioners prior to the meeting expressing opposition to the proposed subdivision amendment would be included in the record. She noted that the public should take into consideration the small amount of time the Commissioners might have to read material given the day of the meeting, and encouraged the material be submitted sooner.

Commissioner Forbis stated for the record his surprise and dismay regarding the lack of an ordinance regarding the importance and character of the trees in the city.

Commissioner McHugh expressed concern regarding the retaining wall on the property and its proximity to some of the trees on the property.

Mr. Pace stated that general rules do exist for the development of property, including that the developer cannot damage the property of a neighbor; therefore, whoever owns the retaining wall is responsible for taking care of it, including not damaging it when removing the trees. He added in regards to the concern about the trees, the only option to prohibit tree removal is to change the ordinance.

Commissioner Muir stated that he was opposed to the petition because it imposes a significant change to the neighborhood. He reflected on a prior decision made by the Commission regarding a proposed subdivision on Country Club Drive, which was turned down. He added that even though the proposed Country Club subdivision met the requirements of the ordinance, the community viewed it as a transformation of the neighborhood that was not welcome. He added that the City is coping with growth, with some loss of character as a result. He recalled in the prior public hearing that the request constituted an encroachment on the character of the Federal Heights neighborhood. Commissioner Muir referenced the following findings from the staff report representing his opposition:

A. The amendments will be in the best interest of the City.

F. The amendment does not materially injure the public and there is good cause for the amendment.

He stated that the subdivision request is not in the best interest of the City, and could transform the neighborhood. In addition, he expressed opposition to the proposal because it constitutes a transformation of the underlying pattern of the neighborhood. He also stated that the proposal does not reflect the size and shape of the lots in the surrounding neighborhood, more importantly the neighborhood immediately adjacent to the east.

Commissioner Scott expressed respect for Commissioner Muir's viewpoint but based on the cited findings above, she supports the staff recommendation. She stated that even though it is a difficult parcel of land, it is not unique. She added that ironically, the existing home is out of character from the area. She added that Mr. Nordhoff has a difficult challenge to overcome to match the existing neighborhood. Commissioner Scott acknowledged appreciation for the letters about trees and the information that was included from the neighbors, and noted that the letter from Ms. Fisher was very informative.

Commissioner Wirthlin also expressed support for the petition as the proposed subdivision supports compatible lots in the area. He noted that quite a bit of charmed diversity exists in the area and that the lot sizes are compatible with the area. He added that the letter of intent from the developer is an important

factor to consider regarding a decision. Commissioner Wirthlin stated that based on the cited findings above, he does support the subdivision request.

Regarding Petition 490-06-26, Commissioner Scott made a motion that the Planning Commission grant preliminary approval for the requested two lot subdivision amendment of the Federal Heights subdivision plat for property located at approximately 1455 East Perry Avenue based on the findings listed in the staff report, with the approval being subject to the following conditions:

1. **Compliance with departmental comments as outlined in the staff report.**
2. **Repair of the damaged sidewalk panels as required by Engineering and extension of the sidewalk (if required), prior to recording of the final plat.**
3. **Final subdivision approval and final plat recordation prior to the issuance of a certificate of occupancy.**

Conditions offered by the applicant (Mr. Nordhoff) through a letter to Mr. Zunguze dated August 23, 2006, to be filed with the final plat and considered as conditions of approval:

4. **A soils study will be conducted on the site to incorporate findings into the footing design and construction activity.**
5. **The applicant will take all reasonable precautions to preserve existing trees – especially those on neighboring properties.**
6. **The applicant shall use building materials consistent with other homes in the neighborhood.**
7. **The applicant agrees to develop the two lots proposed for the subdivision amendment within the parameters of the buildable area as identified in the conceptual site plans, with the understanding that the final detailed plans to be prepared for the building permit process will be modified, as necessary, from the conceptual drawings to demonstrate full compliance with all applicable City Development regulations including the R-1-5000 base and Compatible Residential Infill requirements.**
8. **Adjustment to the conditions offered by the applicant shall be allowed to be adjusted if unforeseen circumstances arise, and where recommended under the direction of the Community Development Director.**

The motion was seconded by Commissioner Forbis. Commissioner Forbis, Commissioner McHugh, Commissioner Scott, Commissioner Wirthlin, and Commissioner Woodhead voted “Aye”. Commissioner Muir and Commissioner Chambless were opposed. The motion passed.

REPORT OF THE DIRECTOR

(This item was heard at 8:01 p.m.)

Mr. Ikefuna raised the attention of the Commissioners to two upcoming training sessions. One is being held by the Utah American Planning Association and another being held by the Utah League of Cities. He stated that if any members wanted to attend, to contact the Planning Commission Secretary.

Mr. Ikefuna proposed that a retreat be held in the near future in order to bring the new Commissioners up to date with the procedures and for discussion of planning issues. He stated that proposed dates will be emailed to determine the best date for a majority of the Commission.

Mr. Ikefuna stated that a memorandum had been prepared and sent in the packets for the Northwest Quadrant Master Plan Committee with a request for the Commission to ratify the Citizens Advisory Committee. He stated that there were two groups where more than one person was nominated to participate; however, the Planning Commission is the deciding body to determine the final person to represent each group.

Ms. Coffey clarified that the Planning Commission is ratifying the list of members for the Advisory Committee because of the request of the Planning Commission to be more involved in long-range planning. She provided a brief history of the master plan process and stated that the Planning Commission will be the driving force of master plan development as a new state of formality is being presented. Ms. Coffey added that the City Council and the Mayor's Office were part of the process to submit names; however, the Planning Commission is the final approving body.

Commissioner Forbis raised attention to Ms. Betsy Herrman as an invested candidate, as she is Vice Chair of the Jordan River Natural Areas Forum. Mr. Ikefuna also stated that Ms. Herrman is the recommendation of staff because of previous work with staff.

Commissioner Wirthlin made a motion that Betsy Herrman be the representative from U.S. Fish and Wildlife Services. The motion was seconded by Commissioner Chambless. All voted "Aye". The motion passed.

Commissioner Forbis made a motion that Mark Heilesen be the representative from the Utah Chapter Sierra Club. All voted "Aye". The motion passed.

Commissioner Woodhead asked if additional community council representation will be offered to community councils affected by the master plan.

Mr. Ikefuna stated that a meeting will be held with all of the community councils in the area to determine their representation for the Northwest Quadrant Master Plan. He added that the opportunity to be represented will be offered to the community councils.

Ms. Coffey added that the community councils may have various weighted jurisdiction because of the affect that each might or might not have as a result of the master plan because some might be further removed from the parties that are literally affected.

Commissioner Muir noted that members of the business community or major property owners were not represented on the list of committee members.

Mr. Ikefuna stated that there are about 250 property owners in the area. He stated that staff has considered inviting the larger property owners, but decided that the property owners can agree on one person to represent all of them.

Commissioner Muir stated that the environmental community seems well represented; however, representation from the City Economic Development Division would be helpful.

Commission Muir made a motion for staff to identify an appropriate candidate to represent economic development in the Northwest Quadrant of the City. Commissioner Scott seconded the motion. All voted "Aye". The motion passed.

Commissioner Scott and Commissioner Chambless noted the West Side Development Initiative Book presented to the Commission at the last meeting took a great deal of work and research to create. They suggested that the person who developed the book be included as a participant in the committee.

Mr. Ikefuna stated that the staff member (Ana Ferreyra-Valdemoros) who completed the research was an intern from the University of Utah. He stated that she had recently been removed from employment in order to sort out some issues regarding her immigration papers. It was noted by the Commission that she did a great job.

Chairperson McDonough requested the ratification for the Retreat Notes from June 7, 2006.

Commissioner Wirthlin made a motion to ratify the notes from the Planning Commission Retreat on Jun 7, 2006. The motion was seconded by Commissioner Chambless. Commissioner Chambless, Commissioner Forbis, Commissioner McDonough, Commissioner Scott, and Commissioner Wirthlin voted "Aye". The motion passed.