

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, December 13, 2006**

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

Present from the Planning Division were Doug Wheelwright, Deputy Planning Director Cheri Coffey, Deputy Planning Director; Nick Britton, Principal Planner; Doug Dansie, Principal Planner; Joel Paterson, Planning Programs Supervisor, and Tami Hansen Planning Commission Senior Secretary.

Community Development Director; Louis Zunguze was present.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson McDonough called the meeting to order at 5:47 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 Staff Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were, Frank Algarin, Tim Chambless, Peggy McDonough, Susie McHugh, Prescott Muir, Kathy Scott, and Mary Woodhead. Salt Lake City Staff present were: Doug Wheelwright, Deputy Planning Director; Joel Paterson, Planning Programs Supervisor; Doug Dansie, Senior Planner; and Nick Britton, Principal Planner.

APPROVAL OF MINUTES from Wednesday, October 25, 2006.

(This item was heard at 5:48 p.m.)

Vice Chair Wirthlin noted that on Page 13 of the November 29, 2006 minutes, in reference to the motion made in regards to the language for the Master Plan amendment. Reference to "The City" in the last line means the typical process that would come before the Planning Commission in order to review input and design.

Chairperson McDonough noted that in the City Councils review of these procedures they should also consider audio recordings of the Planning Commission meetings along with the written minutes.

Commissioner Woodhead noted that Lynn Pace, City Attorney, had specifically mentioned that the above language would reflect the traditional City process, where design approvals would be made through the Planning Commission.

Mr. Louis Zunguze noted that the language, "City" included the intentions of the Planning Commission to control the design elements, and was a conformation that the Commission would be handling that aspect of all projects. He noted that it was not a change to the November 29, 2006 minutes, but a clarification.

Commissioner Scott noted that she would like the entire motion typed in full when added to the minutes for reference purposes.

“View Corridors: Views from Downtown to the mountains and major landmarks should also be preserved. Skywalks or other obstructions that would block view corridors are prohibited on Main Street, State Street, South Temple, 200 South, and 300 South, and are discouraged on other streets. **The City Council may consider circumstances that justify an exception to the policy prohibiting and discouraging skywalks or other obstructions, when a finding that a compelling public interest exists through substantial demonstration that:**

1. **All other alternatives for creating a successful link between major developments on both sides of a street have been evaluated and conclusively found not to be feasible or effective; and**
2. **The design of a skywalk is such that it would not substantially impair or impact a view corridor; and**
3. **A skywalk would not materially detract from pedestrian and commercial activity at the street level.**

The City shall have significant design input and final design approval of the skywalk.

Commissioner Woodhead moved to approve the November 29, 2006 minutes, Commissioner Forbis seconded the motion. All voted, “Aye”. The motion passed with changes noted.

REPORT OF THE CHAIR AND VICE CHAIR

(This item was heard at 5:55 p.m.)

Chairperson McDonough noted that on December 7, 2006, she attended a briefing by the City Council regarding the City Creek Project hearings, which was also televised on Chanel 17 for purposes of outreach and public awareness. Property Reserve Inc. (PRI) gave a briefing of their schedule and she reviewed the process of the Planning Commission and the public involvement in the project and noted how there had been extended time limits for groups to come and organize their testimony. She noted that she made clarifications in regards to the Master Plan text vote due to the circumstance that members of the public were under the impression that the Planning Commission had already given approval for the skybridge. She had clarified that only a suggested amended text had been forwarded at this time.

REPORT OF THE DIRECTOR

(This item was heard at 5:57 p.m.)

Chairperson McDonough recognized Ms. Marilyn Lewis as representative Staff. She addressed a Minor Amendment to 410-06-13 relating to the Planned Development for Sorenson Unity Center

Ms. Lewis noted that Salt Lake City had the opportunity to take advantage of new market tax credits in the amount of 2 million dollars for the proposed Sorenson Unity Center and in order to accomplish this task, Staff had to legally describe the area of the ground lease to be used for the Unity Center and not for the Sorenson Multicultural Center. She noted that based on the City Attorney’s interpretation, he had suggested taking the ground lease through a minor subdivision

process. She noted that Staff Doug Wheelwright noted in a memo that a section of the subdivision code states that any lots, parcels, units, or plots, other than immediate or future land lease must go through this process.

The Planning Commission previously approved the planned development conditional use and there were two principal buildings on the site. Ms. Lewis noted that the lease line existed between the two buildings, which typically in this type of situation there would be a required 20 feet between each building and the lot line, but in this case as a planned development the buildings were closer together.

Ms. Lewis noted that the reason the Planning Commission was seeing this again was due to the minor amendment to the original decision.

Commissioner Woodhead made a motion to accept the new interior lease line that is now located 2’8” from the proposed Sorenson Unity Center structure, and 20 feet from the existing Sorenson Multicultural Center structure as a minor adjustment to the previously approved Conditional Use Planned Development for Petition 410-06-13.

Commissioner Algarin seconded the motion.

All in favor voted, “Aye”. The motion passed unanimously.

PUBLIC NOTICE AGENDA

(This item was heard at 6:01 p.m.)

Rocky Mountain Power and Salt Lake City Public Utilities Department—Rocky Mountain Power is requesting that Public Utilities provide an easement for an existing portion of an overhead power line, located on Public Utilities owned property. The approximate address of the subject overhead power line is 657 East 18th Avenue. The zoning is Open Space (OS) abutting Foothill Residential (FR-3). The request is to legitimize an existing overhead power line which does not have an existing easement and to add a new midpoint pole to facilitate upgrading power capacity in the area. The requested easement area is 10 feet wide by 137 feet. Public Utilities staff intends to approve the request as proposed.

Chairperson McDonough noted that there were no comments or questions from the public or Commissioners, and the matters were approved.

PUBLIC HEARING

(This item was heard at 6:15 p.m.)

Petition 410-06-35 — by Glenn Ingersoll for a Planned Development at approximately 1330 South 700 West in an R-1/7000 zoning district within a Transitional Overlay. The request also requires conditional use approval for development on non-residential uses in the Transitional Overlay Zone.

Chairperson McDonough recognized Doug Dansie as Staff Representative.

Mr. Dansie noted this property, along with the residential homes that front 1300 South, are located in a transitional overlay. The zoning to the south of the Parcel is M-1 Industrial. He noted that the transitional overlay was placed on residential properties where the City had acknowledged that there would be a transition from residential use to other uses, whether commercial or industrial. He noted that the applicant had asked to change the use of an existing garage building, located along the west property line, into commercial uses and then to construct a second building along the south property line. The existing building material is cinder block and it has a pitched roof. This building is used as storage for the homes that currently exist in the area. The applicants would like to use the building as a possible woodworking shop or some other commercial activity.

He noted that there was an older home on the lot that would need to be demolished in order to build the second phase of the project. Initially, the project was heard by the Planned Development Sub-Committee, which recommended that the proposed landscaping be done as part of the first phase. The Subcommittee also recommended the a second phase would include changing the layout of the new building, facing the retail to 700 West and moving it closer to the street frontage.

Mr. Dansie noted that most of the setback requirements had been met, some exceptions would be the existing building would be within 20 feet of residential buildings, but the new building would comply with the zoning ordinance. The interior side yards would be 15 feet on the north property line and the interior side yards that abut nonresidential uses would be built to the property line. Staff was supportive of the idea, because the adjacent properties to the south were industrial and the project would be concurrent with the theme of the area.

Mr. Dansie noted that Staff recommendations included the following conditions:

1. The Planning Commission waives the interior side yard in the rear of the property along the north property line to accommodate the existing noncomplying building.
2. The Planning Commission waives the rear yard setback to accommodate the existing noncomplying building and waives the interior side yard on the south property line to accommodate the proposed building.
3. The applicant erects a decorative, solid masonry wall along the portion of the north property line where no wall currently exists. The wall should match the existing wall.
4. The public way improvements must be constructed, or SID waiver signed, on 700 West.
5. If the project is phased, the landscaping is to be included in the first phase.
6. The final landscaping plan approval authority be delegated to the Planning Director or his/her designee.
7. The final design approval of the modifications to the existing structures and the design of the structure proposed as Phase II are delegated to the Planning Director or his/her designee.

The Chair requested the applicant approach the Commission.

Mr. Glen Ingersoll the applicant noted he would like to upgrade the area by demolishing the old home on the property.

Commissioner Scott inquired about the time frame between phase one and phase two.

Mr. Ingersoll noted that it would be approximately five years.

Commissioner Chambless inquired if there were residents on the property.

Mr. Ingersoll noted there were not.

Chairperson McDonough inquired if when the second structure was built, the commercial side doors and windows would face the street.

Mr. Ingersoll noted that would be possible.

Chairperson McDonough opened the meeting for public comment. There were none.

Commissioner Algarin made a motion, based on the comments, analysis and findings regarding Petition 410-06-35 be approved for a conditional use and planned development with the following conditions:

1. **The Planning Commission waives the interior side yard in the rear of the property along the north property line to accommodate the existing noncomplying building.**
2. **The Planning Commission waives the rear yard setback to accommodate the existing noncomplying building and waives the interior side yard on the south property line to accommodate the proposed building.**
3. **The applicant erects a decorative, solid masonry wall along the portion of the north property line where no wall currently exists. The wall should match the existing wall.**
4. **The public way improvements must be constructed, or SID waiver signed, on 700 West.**
5. **If the project is phased, the landscaping is to be included in the first phase.**
6. **The final landscaping plan approval authority be delegated to the Planning Director or his/her designee.**
7. **The final design approval of the modifications to the existing structures and the design of the structure proposed as Phase II are delegated to the Planning Director or his/her designee.**

Also, to include the recommendation of the Planned Development sub-committee, that the office/public portion of the proposed property face 700 West.

The motion was seconded by Commissioner Forbis.

All in favor voted, "Aye". The motion passed unanimously.

Petition 400-06-25 — A request by Jonathan Hodge to vacate a portion of an alley running east-west located between approximately 1420 E. Roosevelt Avenue and 1419 E. Emerson Avenue. The property is located in the R- 1/5,000 (Single Family Residential) Zoning District.

Commissioner McDonough recognized Nick Britton as Staff representative.

Mr. Britton noted that the subject alley was approximately .03 acres in size and was entirely surrounded by single family residences in the R-1/5,000 zone. The portion of the alley was separated when there was a prior vacation in 1981, which was approximately 3 parcels wide.

Mr. Britton noted that the alley served as access to the two adjacent properties including the applicant's property, and the property to the south. The alley has been used mainly for storage and not a thoroughfare. Currently, there is a garage located on the southern property and the applicant is proposing another garage on the northern property. He also noted that both of the adjacent property owners were in support of the petition, and the north/south alley would not be impacted by the closure, and would still be open for public use.

Mr. Britton noted that Staff recommended that the Planning Commission forward a favorable recommendation to the City Council.

There were no comments from the applicant or the public, therefore the Commission went into executive session.

Commissioner Forbis moved that based upon the analysis and findings identified in the Staff Report, the Planning Commission forward a favorable recommendation to the City Council to vacate the subject alley, running east/west between approximately 1420 E. Roosevelt Avenue and 1419 E. Emerson Avenue, subject to the following condition:

- 1. The proposed method of deposition of the alley property shall be consistent with the method of disposition expressed in Section 14.52.020 Method of Disposition and Chapter 2.58 City-Owned Real Property of the Salt Lake City Ordinance.**

Commissioner McHugh seconded the motion.

All in favor voted, "Aye". The motion passed unanimously.

Petition 400-06-31 — A request by First Industrial Development Services, represented by James Merrill, to close 300 South between approximately 5100 West and 5200 West. The property is located in the M-1 (Light Manufacturing) Zoning District.

Chairperson McDonough recognized Nick Britton as Staff Representative.

Mr. Britton noted that the property should be closed, declared as surplus property, and sold in two halves to the two adjacent property owners to the north and south. The applicant currently owns the property to the north and SorTech LLC owns the property to the south. He noted the property is approximately 627 feet in length and 66 feet wide, and is currently unimproved. As of three weeks ago the property was being used as construction access to the property being developed.

Mr. Britton noted that the original request for the closure in 2004, from a different applicant, was approved by the Planning Commission on January 12, 2005 at which time it was forwarded

with a positive recommendation to the City Council. At that time the property owner to the south, objected to the street closure, resulting in a withdrawal of the request by the applicant. The new owner of the north property has come to an agreement with the southern property owner and both are in agreement with the petition.

Chairperson McDonough invited the applicant representative to the table.

Mr. Jim Pivirrotto with First Industrial noted that they would use the northern property for HK Systems a company relocating from Bountiful, and that this property would provide access for future development needs.

There was no public response for the petition.

Commissioner Muir questioned the statement on Page 6 in the Staff Findings where it indicates that, "No other property owners would be impacted in any way by this closure". He noted that Kern River would be impacted because it owns the property to the east and should be included in the item which states, "Closing and selling the right-of-way will provide the applicant, First Industrial Development Services, Inc., and the adjacent property owner, SorTech, LLC, with the means to better develop the property". The language should include that Kern River Gas could be impacted.

Mr. Britton noted that Kern River Gas accessed their property from 150 South and their development was obscured by the call out box.

Mr. Wheelwright noted that Kern River Gas was notified of the petition both currently and previously, and that they have developed their site so they don't need access from this point.

Commissioner Muir moved that based upon the afore mentioned adjustments to the Staff's findings the Planning Commission recommend that the property be declared surplus and forward a positive recommendation to the City Council to close the street.

Commissioner Chambless seconded the motion.

All in favor voted, "Aye". The motion passed unanimously.

Chairperson McDonough called for a five minute break at 6:33 p.m. to wait for the applicant to arrive for Petition 410-777. The meeting reconvened at 6:40 p.m.

Petition 410-777 — A request by RTTA, LLC for planned development approval for new construction within the Community Shopping (CS) Zoning District at approximately 137 N. Redwood Road. The applicant proposes to construct a retail service establishment / financial institution, a permitted use. The Planning Commission took action to deny this case on June 14, 2006. The Salt Lake City Land Use Appeals Board has remanded the case back to the Planning Commission to reconsider its motion regarding the conditions of denial. Specifically requested is to reconsider and identify that either anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated with the imposition of reasonable conditions or approve the request with or without conditions of approval.

Chairperson McDonough noted that Commissioner Forbis and Commissioner Muir would excuse themselves for this petition.

She recognized Everett Joyce as Staff Representative.

Commissioner Woodhead noted that there were a number of Commissioners that were not part of the Planning Commission when this Petition was first heard and noted that many of the drawings and materials relating to it were not included in the new Staff Report.

Chairperson McDonough advised that the Commissioners hear the Staff presentation to determine if they had enough information to fill the knowledge history gaps.

Mr. Joyce noted that the front portion of the property on Redwood Road would be used for the proposed development, followed by a later development in the back portion of the vacant parcel.

He noted that this proposal was a permitted use and located in the CS Zoning District, which required planned development approval for new construction. The original Staff Report had been attached and delivered to the Commissioners with the current memorandum. The negative recommendations by Staff were given in regards to two criteria, and were the basis for the Planning Commissions denial of the petition in June 2006.

Standard B: The proposed development is in harmony with the general purposes and intent of this Title and is compatible with and implements the planning goals and objectives of the City, including applicable City master plans.

Standard K: The proposed conditional use or, in the case of a planned development, the permitted and conditional uses contained therein, are compatible with the neighborhood surrounding the proposed development and will not have a material net cumulative adverse impact on the neighborhood or the City as a whole.

Mr. Joyce noted that other criteria had not been readdressed in the current memorandum because it originally had a positive finding. He noted that from the site plan shown the Check City business retail would access parking from Gertie Avenue. There was also a project to the south of the parcel that had been previously approved by the Planning Commission for the redevelopment of a service station.

He noted that in the original process of reviewing the plan there were some conditions regarding how the site could be incorporated into the surrounding properties. He noted that as a consideration for approval for the project they would allow access through the crossover easements.

Mr. Joyce noted that the proposed development was not in keeping with the general purpose and intent of the applicable Master Plan. He noted the original conflict was currently an issue because the CS Zoning in the area was designated for a shopping center development; located on the northwest section of Redwood Road and North Temple, to be used as a community shopping center that would service the Northwest and West Salt Lake communities.

He noted that if piecemeal development was allowed to occur, then at some point the shopping center anchors would not be able to be put into place, because of lack of space. There had also been a proposal presented to the northern property for a two-phased development. The first phase would anchor a grocery store that would be located at the north end of the property and

would not affect the subject parcel. In phase two, there would be an incorporation of the subject parcel with a second anchor.

He noted that in the Standard K criteria there was also evidence of an adverse impact on the neighborhood relating back to the issue of providing appropriate neighborhood services at a community level for a shopping center.

Mr. Joyce noted that Staff had identified some conditions that effected Standards B and K.

- 1.** The applicant revise the development plans to include the balance of subject property through revision processes that include:
 - a.** Working with owners and/or developers of adjacent properties to provide a site plan that appropriately interacts with surrounding properties.
 - b.** Developing an internal circulation system integrated with adjacent CS Zoning District properties including:
 - 1.** Crossover easements,
 - 2.** Shared parking, and
 - 3.** Parcel access to Redwood Road.
 - c.** Development of a design solution that reflects potential closure of Gertie Avenue, Harold Street, and Duder Street.
- 2.** Property owner and lessees agree to the redesign and or relocation of buildings and site elements in the future to ensure compatibility with the site layout and architectural design of an overall community shopping center proposal as approved by the Planning Commission.

Mr. Joyce noted that the second condition would relate to the future development of the adjacent properties. This is not a mitigating effect to how the site would be developed. The Planning Commission would need to determine that this condition was reasonable and then would approve this with the assuredness of future development and its relation to the petition.

Vice Chair Wirthlin inquired if Mr. Lynn Pace and Mr. Joyce could discuss the conditional use aspect of the application, and how it would interplay in the Planning Commission's decision.

Mr. Pace noted that the CS Zoning for the area anticipated the development of a large scale community shopping center and required developments of less than 60,000 square feet, to get planned development approval. The planned development was essentially approved under the same standard as a conditional use.

He noted that the Land Use Appeals Board remanded the matter primarily because the record was not clear as to the degree to which the Planning Commission had reviewed the applicable standard, analyzed it, and attempted to asses the compatible and/or incompatible aspects specifically.

Mr. Pace noted that on page 3 of the Staff Report the **Utah Code Ann. 10-9a-507: Conditional Uses**. Utah State law specifically states the following:

2. (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Mr. Pace noted that the process Mr. Joyce had pointed out in the Staff Report was to say which of the factors identified the detrimental consequences of approving the project in the middle of what might be a potentially larger shopping area. He noted that Standards B and K were those factors which had not been met. He noted that the Planning Commission should identify adverse impacts of the proposed use, and potential mitigating factors. If at the end of the hearing the anticipated adverse impacts of this development could be mitigated by a list of factors, then an obligation existed to approve it.

Commissioner Scott noted if the position the Planning Commission proposed in June 2006, was because there was a proposed comprehensive shopping center development plan that was in the process of being developed. She inquired if that development existed.

Mr. Pace noted yes, there was a plan, but the status on the plan would depend on the public input at the meeting.

Commissioner Scott inquired if existence of the plan was an integral part in the decision process.

Mr. Pace noted that it would be one of the factors that should be considered.

Commissioner Woodhead noted that her clarification was that the Planning Commission was being asked for findings on Standards B and K and not the petition as a whole.

Mr. Pace noted that the Planning Commission was to make findings on the petition as a whole, but as noted in the June 2006 Staff Report, the Staff is of the opinion that the development has met all of the other criteria. He noted that there was a list of factors the Commission had been asked to review in determining the impact and what had to be done to mitigate the impact. He noted that when Mr. Joyce reviewed the Staff Report all of the factors had been met, except for B and K.

The Chair invited the applicant to address the Commission.

Mr. Bruce Baird, Counsel for the applicant, noted that he felt the current Staff Report regurgitated the same reasons as the old report for denying the proposal. He noted that Mr. Greg Schmidt had provided a five page memo that was provided to the Planning Commission.

Mr. Baird noted that he felt the right picture of the development was not used in the current Staff Report, but was one from June 2006. He noted that the plan was a permitted use and the conditions listed in the Staff Report from a physical standpoint provided for the same connectivity to any eventual shopping center as any other pad development does. The only issue was that if this plan/building exists, in some way it may interfere with a nonexistent overall plan.

He noted that the developer had made the applicant an offer to buy the property at 2:30 that afternoon.

Mr. Baird noted again the Utah Code Ann. 10-9a-507 that Mr. Pace had gone over earlier. He referred to Standards B and K. In Standard B, which stated, "The proposed development is in harmony with the general purposes and intent of this Title". He noted that by definition a permitted use is consistent with the Master Plan.

He inquired in what way was the site plan inconsistent with a large scale shopping center, other than the fact that it existed and the larger development does not. He noted that the applicant had not received explanation regarding this matter, and they had waited for months to talk about cross easements.

The applicant/developer had tried to contact Jeoff Meacham and Staff to work through changes in the site plan and had not heard back from either. He referred to Standard K, which states, "The proposed conditional use will not have a material net cumulative adverse impact on the neighborhood or the City as a whole". He stated that the only the net adverse impact has never been proven, only that it might prevent something better in the future.

Mr. Baird noted that the site had partial access and that Staff had never told them how what they had was insufficient. He did not agree with the control of future design development for a design solution reflecting potential closure of Gertie Street. He stated that design could not be dictated by a potential future street closure that the City Council would have to approve.

Mr. Baird noted that the applicants felt that building designs and relocations were proposed to make someone else happy in the future.

Commissioner McHugh inquired about how the applicant responded to the 2:30 p.m. offer, and if it was still on the table.

Mr. Baird noted he felt it was full of contingencies, but yes it was still on the table.

Commissioner Woodhead inquired if Mr. Baird was comfortable going forward with the Staff Report that was given to the Commissioners given that some of the Commissioners were new and had not heard the original case. She wondered if Mr. Baird was comfortable with the Commission making a decision at this meeting, even though he did not believe a correct site plan had been included in the Staff Report.

He noted that he agreed, except he would like to have the correct site plan from the prior Staff Report to be used when making a decision.

Chairperson McDonough noted that the Planning Commission would like clarification on what was the correct site plan.

Mr. Joyce noted that the one contained in the original Staff Report was a concept site plan, which included more than the subject property and looked at providing structures, and how the whole plan would develop.

Commissioner McHugh inquired why Mr. Baird and the applicant were so shocked that the Planning Commission and Staff would want to follow a Master Plan for the area.

Mr. Baird noted that because the parties did not have the legal ability to do it and that he felt Master Plans were fictitious.

Chairperson McDonough asked if there was anyone in the audience that wished to address the Planning Commission.

Mr. David Spatafore noted that he was in opposition of the petition and would like to delay any action until the next Planning Commission meeting to allow negotiations of the property to be reached. He noted that the offer Mr. Baird referred to had two conditions: First, a signed development agreement with the City to develop a minimum of the 150,000 square foot development had been completed. Second, to make sure that the financing is in place. He noted that currently his client owned approximately 85 percent of the property of the development, but his client did not own the subject piece.

Mr. Spatafore noted that an agreement with the City was reached in regards to the parcel owned by Gary Chun (Mad Greek property) on December 8, 2006 to which they responded to on Saturday. He noted that one of the issues raised was there was no plan Mr. Baird and the applicant had seen. Mr. Spatafore noted that until the City had control over the Mad Greek property they had no idea what kind of a property design they could plan.

Alison McFarlane, Salt Lake City's Economic Development Director, spoke in opposition of the petition. She noted a lot of time in the past year had been spent actively trying to attract commercial development to Salt Lake City's Westside. She noted that the community was very desirous to get a place to shop in the area. This development is zoned for community shopping and would fulfill what the community had asked for.

She noted the acquisitions toward this project had been problematic and there had been obstacles, which is where some of the delays have come from. She noted there had been no response to the offer that was put forth that afternoon, and asked the Planning Commission to delay a decision to create additional time and opportunity to bring the community the kind of retail they had asked for and deserved.

Commissioner Scott wondered in regards to the acquisition of the properties, if anyone had ever looked at eminent domain early on.

Ms. McFarlane noted that in the Legislative Session last year, eminent domain was taken away from cities.

Mr. Pace noted that the legislature had modified the rules for the use of eminent domain within redevelopment districts. He noted that the subject parcel was not in a redevelopment area. The City did have eminent domain authority, but for public use such as roadway but, not to allow the City to condemn private property and turn it over to someone else to develop.

Ms. McFarlane noted that this piece of land, with the traffic patterns was very critical in bringing in large retail that would attract smaller retail shortly after.

Chairperson McDonough inquired what would be detrimental effects of the project that could not be substantially mitigated.

Ms. McFarlane noted that she heard the property was to become a check cashing center, which would be unfortunate because there are so many in the area already.

Mr. Zunguze noted that the City would like to see whatever is developed coordinated with the proposed larger community shoppers Center. He noted that Planning Commissions existed for the purpose of long range planning and that the Master Plans were part of that. He noted that the City spoke clearly through the Master Plan of 1995 about what the City would like to see in the area. They did not want a development that was piecemeal, but a coordinated development, and if it could be done with the City's long range thinking in the area that would be for the better. He noted to the Commissioners that this development, as well as other developments in the area, needed to be methodical and deliberate and they should not take any premature action that might endanger the area and future developments.

Commissioner McHugh inquired how the developers in the area were supposed to coordinate.

Mr. Zunguze noted that there could be a contractual agreement where either they sell each other property and meet the requirements of the City; or another option would be if both were going to develop; the City would give conditions on what they expected them to do. He urged the Commission to not take hurried action.

Commissioner Chambless inquired in regards to a time frame, what Mr. Zunguze would suggest to make this happen.

Mr. Zunguze noted that the City Council had been taking part in this deliberation, and efforts had been made to try and purchase property, and noted that there should be enough time to work some of these issues out.

Vasilios Priskos noted that he had assembled fourteen properties together in the subject area, and had sold them to the developer. One of the issues that he looked at was the minimum lot size and the minimum frontage of the lot. He noted that if this development were to develop, then the fourteen other parcels could be allowed under the same conditions, which would not lead to a community level shopping center.

Mr. Baird noted that there was no credible basis for believing that the location of the property would in anyway inhibit the creation of an anchor tenant. Mr. Spatifore had never mentioned why he chose to negotiate with everyone other than his clients. He noted that there was nothing that stopped the developer from negotiating with his client the day after the Planning Commission approved the petition.

He noted that Mr. Zunguze took a break during the meeting and left to counsel with the opponent; and made his comments after that.

Commissioner Algarin inquired if what Mr. Baird was implying was that his clients would not sell the property.

Mr. Baird said his comments did not reflect that, but they should not be using the Planning Commission as a negotiating tool.

Greg Schmidt, Corporate Counsel, noted that the developer previously had the property under contract and chose not to close on it.

Chairperson McDonough closed the public portion of the hearing.

Commissioner Woodhead inquired if the elements that the Commission was supposed to consider were to look at the goals of the Master Plan, and adverse impact on the neighborhood as a whole. She noted that Mr. Baird had cited some case laws that involved looking at what other property owners were doing. She inquired if he was suggesting that the Commission could not follow what the ordinance said.

Mr. Baird noted that it was more subtle than that, the Commissioners could look at the effects of a development on a master plan, but could not condition the development approval on the wishes of the other neighbors. He noted that even if the Commissioners identified some harm in that regard they could only impose conditions that were supported by law.

Mr. Zunguze clarified that this was not the first time that the City had been involved in a development of an area, as well as what the City would like to see in the area. The City's long term objective was to see a development that was coordinated, and the Staff at this point was not satisfied with what the applicant had proposed.

Commissioner Scott noted that she felt there was poor communication between the developers and the petitioner, and that in June 2006 when the Commission was deliberating on this petition, there were some detrimental effects that could not be mitigated if there was not some communication, because this was a planned development. She noted that without time to read the Staff Report thoroughly and the five page memorandum from Mr. Greg Schmidt, she did not feel she could vote.

Commissioner McHugh noted she concurred with Commissioner Scott.

Commissioner Woodhead noted that she felt it would be inappropriate to extend the vote, only to allow the negotiations to continue. She felt that would affect the leverage among the parties. She also noted that she felt the current Staff Report was missing pieces and that there were unanswered legal questions.

Commissioner Wirthlin noted that he would like more input from Mr. Pace in regards to the legal arguments put forth by Mr. Baird. He noted that he would not be voting in favor of tabling the motion to give any party an upper hand, but simply to thoroughly review what was before the Commission.

Commissioner Woodhead noted that if the Commission did vote to table the petition that it should be only until the next meeting on January 10, 2007.

Commissioner Chambless made a motion to table the matter regarding Petition 410-777 with for future consideration on January 10, 2007 in order to give the Planning Commission additional time to review the amount of material given, seek feedback from legal counsel, and to receive additional drawings that are appropriate and related.

Commissioner Woodhead Seconded the Motion.

All in favor to table the motion voted, "Aye". The motion to table the petition passed unanimously.

Commissioner Muir and Commission Forbis returned to the meeting.

UNFINISHED BUSINESS – ISSUES ONLY HEARING

The Planning Commission will continue to discuss and receive public comment regarding aspects of the City Creek Center development proposed by Property Reserve, Inc. and The Taubman Company.

Chairperson McDonough recognized Mr. Joel Paterson as Staff representative. She noted that the purpose of the Issues Only Hearing was for the Commissioners to work toward organizing a process that the City Creek project developers would be able to use as a guide for the upcoming agendas.

Mr. Paterson noted that the petitions that had been submitted by the applicant that needed to be acted upon were:

1. A Planned Development Petition: The D-1 district requires planned development review when there is more than one building per parcel.
2. Conditional use request for additional building height and mid-block locations.
 - a. Parking structure on Social Hall Avenue, which in some areas would exceed 100 feet in height.
3. Pending the City Council's decision on accepting the Master Plan Amendment language, the Planning Commission will review designs for the skybridge and make a decision.

Mr. Paterson noted that as Staff and the Planning Commission received more detailed designs there would be more petitions for their consideration such as Urban Design issues which are required by the D-1 zoning District standards (40% and 60% glass along street front).

Chairperson McDonough inquired about how often the DRT meeting was held with the project team.

Mr. Paterson noted that as plans were made available they were reviewed. He also noted the meetings were very flexible and could be scheduled very quickly. The applicants had been meeting on a regular basis with the City's Transportation Division as well.

Commissioner Muir inquired what type of interdependence was seen between the petitions. He also inquired if Staff was prepared to forward and formulate recommendations.

Mr. Paterson noted that Staff did need additional material to review before proceeding and also that they were looking for recommendations from the Commission. If additional, necessary information was needed, Staff and the applicant would work to provide that.

Louise Zunguze noted that the public was continuously encouraged to comment on the project, and suggested that the Commissioners get a sense from the Developers as to what stage they were in, and what they would be ready to show the Planning Commission at the next meeting.

Chairperson McDonough invited the applicant to the table. She noted that she was aware that 30% of the schematic designs would be completed by the next week. She inquired when 100% of the design would be available.

Mr. Mark Gibbons (President of PRI) noted that the schematic designs for substantial portions of the project would include primarily retail portions of the project. Schematic design schedules for residential and parking were still in the process of being completed. He noted that in March designs for most portions of the project would be completed and available.

Chairperson McDonough inquired if that would entail the exterior of the blocks.

Mr. Gibbons noted that elevations would be included and most would be located along South Temple, which would be residentially oriented. He noted that Nordstrom would be designing its own plans for their store on West Temple. He noted that along 100 South on Block 76 (Crossroads Mall Block) the frontage that was available was designated as a future expansion sight for a residential tower. On Block 75 (ZCMI Block) on 100 South would be another anchor store, which would be designing its own plans. Along the State Street frontage there would be a design proposed for the replacement of parking structures that would be taken down around the Beneficial Tower. He noted that the remaining sections along Main Street would be completed and produced concurrently with the 100% schematic design in early March.

Commissioner Scott inquired if there would be preliminary drawings of the streetscape that the Developers could provide the Commissioners.

Mr. Gibbons noted that the anchor stores would be developing their own sites; however, those plans showing the ingress and egress to the stores had been developed. The developers could show plans for that, but as far as materials used, that was really part of the stores own design process and they would be the applicants representing their own stores.

Chairperson McDonough noted that as a timeline, the Commissioners were trying to view the project as a whole, and not piecemeal. She noted that she would like to see Nordstrom and other department anchors have schedules that the developers should require that would include the same type of schematic processes.

Mr. Gibbons noted that Nordstrom's design schedule would come from designing the store from the inside out, not with the outside facades. He noted that it would be sometime before they could come before the Planning Commission with that information. Macey's would have the ZCMI historic façade placed on the storefront along Main Street, and the third anchor site has not yet reached an agreement, therefore it was very difficult to make commitments without that site being announced.

Commissioner Muir noted that it would be fair to say that what was included in the ordinance and in the Master Plan would then be complied by the anchor stores and the only issue would be building material.

Mr. Gibbons noted that was correct.

Mr. Allan Sullivan noted that the only restrictions that the developers were aware of were the mid-block height restrictions. He noted that plans dealing with this issue would be provided to the Commissioners and Staff as soon as possible.

Mr. Gibbons noted that in terms of the developer's priorities, they would like to see the Commissioners prioritize key components of the project including:

1. Providing adequate parking for the existing, and continuing office uses that would be in operation throughout the duration of the entire development period.

Mr. Gibbons noted that this was important as existing parking was demolished that replacement parking was built for the existing tenants.

2. Providing retail services during the reconstruction period.

He noted that a food court would service downtown tenants as well as visitors in the area during the reconstruction of the project. The location for the Food Court would be at the base of the Beneficial Financial Group Tower.

Mr. Gibbons noted that while the Master Plan amendment language was waiting approval from the City Council, the developers would like to engage in comment and input from the local architectural community. He noted that the building heights, other than the parking structure, were intertwined with designs for the residential towers mid-block, with the assumption that the conditional uses would be granted.

Chairperson McDonough opened the public portion of the hearing.

Cindy Cromer noted that the Planning Commission had a responsibility to the circulation of public streets and public sidewalks, which should address the needs of all stakeholders in Downtown Salt Lake City property owners, retail merchants, office workers, shoppers, convention visitors, diners, residents, mass transit users, bike riders, and even people who never get out of their cars.

She urged that the circulation request for the connections between this project and the rest of Downtown, the developers' request for additional height at specific locations, and the developers' request for a skybridge on Main Street, do not require the wholesale destruction of our existing master plan policies.

She noted she would like to see more attention focused on Regent Street and Richards Street, and she noted that circulation is the public's business.

She noted that language needed to be expanded when dealing with transfer of development rights. She noted the Commissioners could offer developers height bonuses for providing housing (which they are not required to do), for open space, and for historic preservation. She noted the developers should be given full credit for what they do voluntarily.

Ms. Cromer noted that if the skybridge is demonstrated to be necessary it should remain a public walkway.

Ms. Cromer noted that the City needs to get back to an integrated Main Street, not separate blocks.

Commissioner Forbis inquired if Ms. Cromer was concerned about the increase in parking structures; with regard to congestion, circulation, ambient air quality, and use of mass transit.

Ms. Cromer noted she had not seen the final traffic studies; however, she was concerned about the ratio that will come to the project by automobile as opposed to other means.

Mr. Paterson noted that the applicants had submitted conditional use applications requesting the approval of the mid-block height exceptions.

Mr. Sullivan noted that the applicant clearly had a right to have their application processed under existing ordinances. He noted that he felt they would be supportive of the kind of change that had been proposed in the meeting, but noted that they would not be delayed while the Commission was waiting for another variation; they would like to proceed.

Mr. Robert Bliss noted that previously he had objected to the three requests for variances: Social Hall Avenue, the skybridge, and the building heights. He noted that early in the planning studies, reinforcements of the intersections were considered. He was concerned that the height of the buildings might cast long shadows into the open space. He also noted that he did not see a possibility to connect Gateway and the City Creek Project. He felt the skybridge was a done deal because the developers have made it known that the project could not work without the bridge. He noted that he felt if the bridge project imploded the developers should be responsible for the cost of removing it.

Commissioner Muir inquired if the new development that should occur was put in direct opposition to the historic element of having prominent, extended height, buildings on the corner of the City's blocks. He noted that given the present conflict, there should be a reexamination of the original strategy, and there should be seminal historic buildings on those corners relieving the high rise, or development pressure, by allowing the developers to place them mid-block.

Mr. Bliss noted that in most instances, particularly with the First Security Bank building which is on the corner, it was doing what was planned for it to do. He noted that there were projects in 1982 that faced these same types of concerns. Mr. Bliss noted again that the shadow patterns did not correspond with what the building heights were.

Seeing no other individuals wanted to address the Commission, Chairperson McDonough closed the public portion of the hearing and invited the applicant back to the table.

She noted that she would like to see a justification of density trade, housing contribution, and a review of how both would contribute to the downtown community. The Commissioners would also like to see shadow projections and studies that were more in-depth than what had been shown; also, street elevations as opposed to isolated building elevations that would articulate and link design and the apertures along those elevations.

Chairperson McDonough also noted that designed drawings of the Food Court and how it was circulated through would be helpful.

Mr. Gibbons noted that the Food Court would encompass the footprint of the Beneficial Tower, plus the footprint of the two parking wings that were currently connected to the tower. He noted that there would be a demolition of the parking structures that encompassed the base of the tower, and would have an access off of State Street, and from the vehicular street that was being proposed between 100 South and State Street around the Qwest building.

Chairperson McDonough noted that one of the components the Planning Commission would like to see was more information of the mass transit circulation.

Commissioner Forbis noted he would like to see modeling in regards to the increase of traffic in the area, and project the ambient air quality in the downtown area.

Mr. Grant Thomas noted that the City Creek project was actually reducing the amount of retail and office on both blocks by a factor of 300,000 square feet in each case. He noted that the residential aspect was part of a walking community, though some parking would be available to accommodate residential areas. He noted that sufficient parking needed to be provided for the anchor stores.

Commissioner Forbis noted he would like to see a serious justification dealing with the increase in parking ratios. He inquired if it was in the best interest of the City or in the best interest of the developers and the anchor stores within the project.

Mr. Thomas noted that he did understand the seriousness, but did not know a better way to analyze such information other than what had been done through traffic studies.

Mr. Louis Zunguze noted that over the years the City had encouraged studies of the parking situation and investment in transit. He noted that one of the key things the City had encouraged was multiple uses of the parking within the vicinity.

Commissioner Scott noted that one of the changing concerns dealing with the proposed ingress and egress is that there might be a perception of more traffic because there were more traffic lanes. She noted that any information the Traffic Department had in regards to this would be helpful information for the Commission.

Mr. Gibbons noted they would try and provide that information in future meetings.

Chairperson McDonough requested Staff to work with the applicant to compose a list that would suggest how working together, topics could be arranged for future Planning Commission meetings through March.

Commissioner Muir noted that the Planning Commission's desire was to look at the project as a whole and not as piecemeal, and then to be able to formulate a decision of planned development which would be predicated upon the decision of the Master Plan amended language. Some discussion from the conditional use process would also need to be integrated and decided upon all at once. He inquired if the Social Hall parking structure height could be separated from the rest of the project, and if the applicant could enlighten the Commission on the reason for the separation.

Mr. Gibbons noted he believed it was separate from the planned development due to the absolute need for the developers to start on that portion as soon as possible in order to be able to achieve the completion date of mid-2011, which could not be met unless demolition is started on the old parking structure of Social Hall Avenue by late January 2007. He noted that at the next meeting the developers would like to address that particular piece of the project in more detail.

Chairperson McDonough noted that it could be considered separately due to the height alone, but the planned development could apply to Harmons and the other Block as a separate piece.

Mr. Gibbons noted that presently there was a parking structure on the site, so they would be demolishing a structurally unsound parking ramp and replacing it. He noted that there was strong merit in saying it was a stand alone project. He noted that a new issue arose, which is Harmons would like its parking to be below the store itself and not across the street.

Commissioner Muir noted that it would make sense to separate the parking garage from Social Hall Avenue and take it out of the Planned Development application, and review it as a change to an existing use.

Mr. Paterson noted the petitioners could submit a new petition for additional building height for that site.

Chairperson McDonough noted that it is important for the applicant to bring a schedule of events to the next meeting for the Commissioners to review.

There was no further business.

The meeting adjourned at 9:28 p.m.

Tami Hansen