

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, June 14, 2006**

Present for the Planning Commission meeting were Laurie Noda (Chairperson), Peggy McDonough (Vice Chairperson), Tim Chambless, Babs De Lay, Robert Forbis Jr., Prescott Muir, Kathy Scott, and Matthew Wirthlin. Jennifer Seelig and John Diamond 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; Doug Dansie, Principal Planner; Marilyn Lewis, Principal Planner; Everett Joyce, Senior Planner; Lex Traughber, Principal Planner and Cindy Rockwood, Planning Commission Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Noda called the meeting to order at 5:45 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, Prescott Muir, Laurie Noda, Kathy Scott, and Matthew Wirthlin. Planning Division Staff present were Cheri Coffey, Doug Wheelwright, Everett Joyce, Lex Traughber, and Elizabeth Giraud.

FIELD TRIP NOTES

Petition 410-06-08 & 490-06-18 – Concern was raised regarding the reasoning that there could not be windows on the sheer concrete wall. Also, questions addressed if false windows could be placed on the concrete wall area to heighten the glass percentage on the main floor; namely, where the new stucco/addition on either side of the south elevation is located.

Petition 400-06-06 – Concern was raised regarding frontage and access issues, and the buffering requirements to the SR-1 residential homes. It was noted that potential shadows on the properties to the north could occur.

Petition 410-777 – The Commissioners had questions about the homes north of Gertie Avenue and the status of the Gigante project.

Petition 400-02-41 – Questions from the Commissioners related to the relationship of allowing higher density as recommended in the Community Housing Plan and how the Capitol Hill Protective Overlay District impacts the policy. It was stated that the Capitol Hill Protective Overlay District technically down zones the property by decreasing the height.

Petition 400-06-09 – Concern was raised regarding how the proposed development will affect the property owner to the east and if it would block the existing views. The history of the property subdivision and the development surrounding it was provided.

Petition 410-06-14 – No comments were raised regarding this site.

DINNER

A quorum was present at dinner, but no significant discussion was held.

APPROVAL OF MINUTES from Wednesday, May 24, 2006.

(This item was heard at 5:45 p.m.)

Commissioner De Lay moved to approve the May 24, 2006 minutes. Commissioner Scott seconded the motion. All voted "Aye". The motion passed.

REPORT OF THE CHAIR AND VICE CHAIR

(This item was heard at 5:47 p.m.)

Chairperson Noda provided a brief summary of the Planning Commission Retreat held on June 7, 2006. She expressed appreciation to those who attended the Retreat and provided input. She noted that discussion commenced between the Commissioners and Councilmember Nancy Saxton, who indicated that phone calls to respective Councilmembers are encouraged to discuss important issues.

REPORT OF THE DIRECTOR

(This item was heard at 5:49 p.m.)

Mr. Ikefuna stated that within the packet of materials distributed to the Commissioners, there were items that needed to be addressed: (1) Institutional Expansion and (2) Henderson Petition originally considered on March 8, 2006.

Mr. Ikefuna stated that the reasoning for returning the Henderson petition to the Planning Commission is to address the allegations and issues raised in a letter prepared by Mr. Blake Henderson. He also noted that he had reviewed the allegation and found no evidence of ex-parte communication as claimed by the applicant. Mr. Ikefuna provided all correspondence to and from the applicant. He apologized for not including the Commission in the initial response made from the Planning Division regarding the allegations.

Chairperson Noda requested that the items be discussed at the end of the meeting. She also stated that moving the items to the end of the meeting, would allow the Commissioners time to read the documents.

PUBLIC NOTICE AGENDA

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

- a. Schoolhouse Downtown, LLC and Salt Lake City Property Management Division — Schoolhouse Downtown, LLC is requesting that Salt Lake City approve a lease agreement for continued under-sidewalk vault space and for surface encroachment into the sidewalk area of the street right-of-way on Pierpont Avenue, for outdoor dining purposes. The subject property adjacent to the encroachments is located at 122 West and 134 West Pierpont Avenue, and currently contains the Café Pierpont and the Baci's restaurants. It is zoned Central Business District (D-1). Property Management staff intends to approve the lease agreements as proposed.
- b. Roman Catholic Bishop of Salt Lake City, Inc. and Salt Lake City Property Management Division — The Roman Catholic Bishop of Salt Lake City is requesting that Salt Lake City approve a lease agreement to allow the installation of two sports field lighting poles within the right-of-way for 1000 East Street at approximately 650 South, for athletic field illumination of the new Football Stadium at Judge Memorial Catholic High School. The adjacent property zoning is Institutional (I). Property Management staff intends to approve the lease agreement as proposed.
- c. Emigration Market and Salt Lake City Property Management Division — Emigration Market is requesting that Salt Lake City approve a lease agreement to allow the installation of a planter box encroachment within the public way of 1700 East Street for fencing purposes to separate the outdoor dining area from the sidewalk. The adjacent property is located at 1706 South 1300 East in the Neighborhood Commercial (CN) Zoning District. Property Management staff intends to approve the lease agreement as requested.

Chairperson Noda requested comments from the public or Commission regarding the public notice items. No comments were made and the items were approved.

UNFINISHED BUSINESS

(This item was heard at 5:53 p.m.)

Petition 410-06-08 — A request by Ken Menlove for a Planned Development for the construction of additional mini-warehouse space to an existing warehouse/storage building located at 510 West 100 South in the Gateway Mixed-Use (G-MU) Zoning District. All new construction is a Planned Development in the G-MU District. Also a Conditional Use approval to modify the exterior building materials and for mini-warehouse use.

Petition 490-06-18 — A request by Ken Menlove for Preliminary Subdivision for a storage facility at 510 West 100 South.

Mr. Ikefuna stated that a request had been made at the previous Planning Commission meeting to have the Zoning Administrator and City Attorney provide an interpretation of whether the building has frontage on 500 West. He noted that an interpretation had been provided and reviewed by the Zoning Administrator and City Attorney stating that the frontage of the building was not on 500 West. He stated that given the information, the Planning Commission may proceed with action on the petitions. Mr. Ikefuna also noted that the petition has been reviewed by the Planning Commission Subcommittee, and those concerns have been addressed. He requested the Planning Commission approve the petition. Mr. Ikefuna noted that the applicant was present at the meeting if the Commission had any additional questions.

Commissioner De Lay made a motion to approve Petitions 410-06-08 and 490-06-18. The motion was seconded by Commissioner Forbis. All voted "Aye". The motion passed.

Commissioner McDonough raised concern regarding the approval motion without noting the conditions given at the previous meeting.

Commissioner De Lay moved to recall the previous motion. The motion was seconded by Commissioner Forbis. All voted "Aye". The motion passed.

Commissioner Scott raised attention to the letter presented to the Commissioners from James Glascock Architects addressing some of the points that had been raised at the previous public hearing. She addressed the 40 percent glazing (glass/windows) condition placed on the petitions and referred to the letter which stated that the condition could not be met on behalf of the addition, as it would create a seismically unsound structure. Commissioner Scott suggested new amendments and a new motion.

Mr. Ikefuna recommended that the applicant discuss the reasons for the inability to fulfill the 40 percent glass requirement.

Commissioner McDonough stated that the recommendation from Staff was to approve the petition and modify the 40 percent requirement, therefore if the Staff's recommendation was approved; an amendment requiring glass would not be required. *(Clarification: The staff report does not include a condition to modify the 40 percent glass requirement, but the intent of the Planning Commission indicated clearly that the glass requirement was to be modified.)*

Based on analysis, findings of fact, discussion at the last meeting, the Staff recommendation and the additional information received from the City Attorney regarding frontage and information received from the developer in a letter dated June 8, 2006, Commissioner Scott made a motion that the Planning Commission approve the petition with the following conditions:

- 1. An access agreement over the corner property must be acquired;**
- 2. The public way improvements must be constructed on 100 South as defined in the Staff Report (with the intent to modify the 40 percent glazing (glass/windows) requirement for the new addition);**
- 3. Due to the restricted site maneuvering area and the proposed warehouse function, that the site be restricted to single-unit truck and passenger vehicles;**

4. **Retail/Sales presence will be maintained and combined with the facility office for the sales on the main floor of the building;**
5. **Allow a modification to the regulation relating to the materials to allow the primary finish material to be brick and stucco, and more than 30 percent of the façade to be stucco (as reflected in the renderings);**
6. **Per the letter dated June 8, 2006, the interior hallway on the 100 South street façade be shifted to be visible from 100 South; and**
7. **Other provisions Glascock Architects made in the letter to the Planning Division regarding the additions of canvas awnings typical to the building's period architecture in compatible building colors along 100 South to create more visual interest at the pedestrian level.**

Petition 490-06-18 was included in the motion for preliminary subdivision approval with a condition requiring an easement be granted for access to the site. The motion was seconded by Commissioner Wirthlin. All voted "Aye". The motion passed.

PUBLIC HEARINGS

Petition 400-06-06 — A request by 639 W North Temple, LLC to amend the Capitol Hill Community Master Plan Future Land Use Map from Low Density Residential and Commercial to Medium Density Residential Land Use and to rezone the property located at approximately 644 West North Temple Street from Commercial Corridor (CC) and Special Residential (SR-3) Zoning to Residential Multifamily (RMF-45). The rezone and plan amendment is to allow for the development of a 74-unit condominium project. *(This item was heard at 6:09 p.m.)*

Chairperson Noda recognized Everett Joyce as Staff Representative. Mr. Joyce presented a brief background of the project. He stated that the Capitol Hill Master Plan Future Land Use Map designates the property in a conflicting manner when consideration of other city policies is supported; namely, the Community Housing Policy, Transit Development and the Transportation Master Plan relating to Transit Corridors. He stated that the North Temple Corridor is a proposed future transit corridor, providing high-density residential structures – supporting the proposal. Mr. Joyce included that the impact of high-density housing will affect the surrounding area; however, the developer has proposed an alternate site plan than the one provided in the Staff Report to better suite the neighborhood requests. The new site plan places the building along the freeway instead of near the backyards of the existing residents. Mr. Joyce reinforced the request for a rezone and an amendment to a master plan.

Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to approve the requested amendments.

The Commissioners expressed concern regarding noise, lighting, landscaping and the permitted uses in the area if the rezone is approved.

Staff referred noise concerns to the applicant and clarified that landscape buffering is required when site approval is requested. Mr. Joyce reiterated that the current request is for a rezone to allow multi-family residential dwellings at 45 feet in height. Staff clarified that 1.7 acres of the property would be re-zoned from SR-3 to RMF-45, given approval.

At 6:20 p.m., Chairperson Noda recognized the applicants.

Mike Embley, representing the developer (Ken Shirley), Tim Short, and Architect Mark de Bry represented the applicant. Mr. Embley commended the Commissioners for their public service. He stated that the site is awkward in its design because of the commercial and street frontage. He indicated that there are privacy and security concerns for the area, but that he intends to work with the neighbors regarding the development.

Tim Short provided a brief description of the setting, the neighborhood, and the background of the project. He noted that the goal is to pattern the project after the Gateway Park Condominiums in developing a

classy, business clientele. Mr. Short also included that the new site plan is being proposed to help mitigate the concerns of the neighborhood.

Commissioner De Lay expressed concern regarding Mr. Embley's comment about isolation from the neighborhood.

Mr. Embley stated that his intention is not to isolate the building, but rather to provide a safe, secure environment for the owners. Mr. Short mentioned that a wrought-iron gate would be constructed to provide an open, yet secure area. He noted that the goal was to be courteous to the surrounding residential neighbors. Mr. Short indicated that an alleyway (or right-of-way) is located on the northern end of the property, with potential for walkable access, and will be considered upon site plan approval.

Commissioner De Lay raised attention to the letter from Maria Garcia, Neighborhood Housing Executive Director, regarding the potential for high density housing in the area and the impact it will have on adjacent neighborhoods.

Chairperson Noda requested comments from Community Council Chairs and from the public.

Jon Robinson, 129 North 600 West, expressed concern regarding the size of the proposed building in relation to the size of the parcel. He raised concern regarding the rezone approval and the potential for an inappropriate structure to be placed on the property if it is sold or redesigned. Mr. Robinson suggested that a condition be placed on the motion to include the current site plan.

Commissioner De Lay expressed concern regarding the impact to the neighborhoods to high-density housing, as Citifront is also proposing to build in the area. Commissioner Scott requested additional information regarding the soil on the property.

Mr. Embley stated that they would do all things possible to satisfy the neighbors, as far as their property is concerned. He also stated that an environmental engineering study has been conducted for the whole project and is satisfactory. He noted that ½ story of underground parking will be constructed.

Chairperson Noda closed the public hearing.

The Commissioners discussed the proposed rezone and requested that the site plan be a condition of the approval.

Mr. Joyce stated that if the Commissioners wanted site plan approval, the motion could include that the rezoning would not be in place until a building permit had been issued with site plan approval of the Planning Commission. He noted that the buildings are presently defined as condominiums and not as a planned development, due to their upper level connection.

Mr. Ikefuna suggested that the Planning Commission add that the approval be conditioned upon the building permit; however, ensuring that the plan return to the Planning Commission is not appropriate to the present request. He also addressed the density concerns of the Planning Commission by stating that the North Temple Corridor is being considered as a potential Transit Oriented Corridor including mixed use and high density development towards the Interstate 80 area. Mr. Ikefuna recommended that the petition request be approved.

The Commissioners discussed the option of (a) adding a condition to return to the Commission with a site plan, (b) deny the petition, or (c) to grant approval based on the presented site plan. The uniqueness of the parcel and its location was raised to support the rezone request. Some of the Commissioners agreed that safeguards exist in order to mitigate the adjacency of RMF-45 buildings and residential housing; therefore, placing trust in the applicants to work with the neighbors to create a satisfactory result for all parties involved.

Ms. Coffey suggested the rezoning request be conditioned upon the site plan distributed at the meeting, given the fact that a condition cannot be required to return to the Planning Commission.

Based upon the findings of fact in the Staff report, Commissioner Muir made a motion for the Planning Commission to transmit a favorable recommendation to the City Council to amend the Capitol Hill Community Master Plan Future Land Use Map for medium-density residential land use and to rezone the property from CC (Commercial Corridor) and SR-3 (Special Development Pattern Residential District) to RMF-45 zoning classification, contingent upon the latest site plan submitted as part of the record. The motion was seconded by Commissioner Scott. All vote "Aye". The motion passed.

Commissioner De Lay clarified that her intent in requesting the applicant to return to the Planning Commission was not to micro-manage the project, but to rather be more aware of the upcoming density to the North Temple and 300 West areas.

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. *(This item was heard at 6:56 p.m.)*

Chairperson Noda recognized Everett Joyce as staff representative.

Due to potential conflict of interest, Commissioner Forbis and Commissioner Muir recused themselves from the item and removed themselves from the meeting.

Mr. Joyce introduced the petition and provided a brief background to the project. He stated that the property is owned by Nova Source Development, with the proposed development to be in the front portion of the parcel. He also noted that proposed redevelopment of the service station to the south will create shared access for the proposed Check City and Chevron onto Redwood Road.

Mr. Joyce stated that the parcel is located in a CS Zone, which is a suitable area for a community shopping center to serve the Northwest and West Salt Lake Communities. He stated that it has been the goal of the City to obtain a community shopping center in the area and concern is noted that by developing parcels piece-by-piece the possibility of developing a large scale shopping center becomes limited. Mr. Joyce stated that an application has been submitted to the City that would close Gertie Avenue and allow for a shopping center development to the north (Plaza Americas). The proposed Plaza Americas development would occur north of the subject site, on Gertie Avenue and include the subject property. Mr. Joyce stated that the land use is not in violation of the zone, but rather the potential interference with the shopping center development is of great concern. Mr. Joyce included that the purpose of a CS Zoning District is to encourage and allow the development of large shopping districts.

Staff recommends that the petition request be denied for the following reasons:

1. The proposed development is not in harmony with the general purposes and intent of the zoning district.
2. The proposed development is not compatible with and does not implement the master plan goals as related to providing a comprehensive shopping center development rather than piecemeal development.
3. The proposed development will hinder the ability to provide for a desired community level shopping center in the CS Zoning District area.
4. Continued development of small parcels can consume enough land area to have a cumulative adverse impact on development of large commercial anchors necessary to provide a community level shopping center to serve the Northwest and West Salt Lake Communities.

Also incorporating the recommendation from Staff requesting the applicant revise their development plans, and that the revision process include working with owners and/or developers of adjacent properties to provide a site plan that appropriately interacts with surrounding properties and supports the shopping

center development objectives of the City. The design solution should support a cohesive shopping center development that reflects closure of Gertie Avenue, Harold Street and Duder Street. The revised development plans need to mitigate the above stated reasons of denial.

Chairperson Noda recognized the applicant, RTTA, LLC and its representative Val Killian. Mr. Killian stated that he was surprised to discover that the request is not in harmony with the surrounding area, as the proposal has met all of the required standards applicable. He also noted that they have worked with the adjacent owner to the south to further accommodate the surrounding properties. Mr. Killian noted that the proposed structure could be considered a pad building/site as part of the master plan request. He referenced the site plan for the proposed shopping center development and included that the subject property would take the place of five retail buildings within the shopping center, but would be compatible to the area and would not impede future development. Mr. Killian stated that he has made contact with Nova Source and the owners of the Service Station regarding the proposed request.

Commissioner De Lay mentioned that the planned development has been to subcommittee for review.

Chairperson Noda requested comments from Community Council Chairs and from the public.

Angie Vorher, Chairperson of Jordan Meadows Community Council, expressed opposition on behalf of the community council for the proposed development because numerous check cashing businesses exist in the area. She stated that other communities are opposed also. Ms. Vorher stated that a shopping center to provide for the needs of the citizens in the area represents the underlying need of the community. She stated that the vote was three to one at the community council meeting in opposition to the request.

Alison McFarlane, Senior Advisor for Economic Development for Salt Lake City, presented a brief background for development conflicts on the west side. She stated that finding sizable, affordable pieces of land on the west side is difficult and a reason for the lack of a comprehensive shopping center. She stated that traffic counts, access, high visibility, and the available land on the corner of North Temple and Redwood Road make the site one of the best for a large-scale retail development. Ms. McFarlane noted that sales tax revenue is being lost because of the lack of adequate retail services, and that the community councils in the area have consistently requested more retail development.

Ms. McFarlane introduced a comprehensive, focused approach to address and inspire retail on the west side entitled, "Development Potential Initiative". The Mayor's Office and the Community Development Department has coordinated together to create an opportunity for awareness, increase in development, increase in job creation, and to increase sales and property tax for the City and the west side. She noted that numerous retail agents have stated that the area of North Temple and Redwood Road is the location for beginning the retail on the west side. Ms. McFarlane additionally stated that the citizens have requested numerous entities including a coffee shop, grocery stores, soft goods, bicycle shops, fabric shops, furniture shops and dance clothing stores.

Ms. McFarlane stated that the current proposal is for 25,000 square feet of development, when the corner could allow ten times that development. She stated that it is a disservice to the community to work in a patchwork, piecemeal manner for development that offers no economic impact nor significant job creation for the neighborhood or the City. She stated that for the reasons listed above the Mayor's Office of Economic Development requests the denial for conditional use.

Commissioner Wirthlin requested, on behalf of the Commission, that each receive a copy of the Development Potential Initiative.

Commissioner Chambless requested a timeline for the potential projects.

Ms. McFarlane stated that with the focused and aggressive efforts, development could occur within two years.

Cary Dunn, 2180 South 1300 East Suite 410, from Nova Source Development was the representative for the land owners of the subject property. He stated that the Staff Report indicated a non-harmonious situation with the existing development, although he does not agree. Mr. Dunn requested further information regarding the harmonious impact of the proposed Plaza Americas and their alignment with the master plan. He also added that all other surrounding property owners have been contacted in order to make the area harmonious to the master plan. Mr. Dunn stated that what the City seems to desire is a large shopping center, but the proposal does not state that Check City proposal would not be applicable within the larger shopping center.

Cal Noyce, 625 North Redwood Road and Vice Chair of the Jordan Meadows Community Council, stated that the developers' architects came to the community council meeting but did not address the questions of the community. He stated that the type of business being requested was not in harmony with the neighborhood. Mr. Noyce suggested the proposed Check City become a part of the shopping center, rather than becoming separated.

Vasilios Priskos, 51 East 400 South, was the previous landowner of the property and was asked to read a letter into the record by the current owner (Keith D. Plottel). The letter was read and a copy included with the minutes. The letter summarized Mr. Plottel's opposition to the development of the property as presently proposed. Mr. Priskos added that he has worked on the property for eight years and is in support of the cohesive planned development for a shopping center.

Mark Dudley, 625 North Redwood Road #14, stated opposition for the subject petition. He noted that the amount of property available for development is limited. He also stated that on a business standpoint there is interest in the type of business and the effects on the community as a whole.

Mr. Killian noted that there is some opposition to the type of business, but noted that the majority of clients served by Check City are within the \$35-45,000 range, because preference is given over banks. He stated that they are willing to be a part of the shopping center, but being pressured to become part of a greater whole that is not yet in existent is illogical.

Chairperson Noda closed the public hearing.

Commissioner De Lay raised the attention to the subcommittee's concerns regarding the type of proposed business. She stated that the issue of concern is land use planning and great thought regarding the safety of the employees should be of strong consideration. Commissioner De Lay noted that the elevation does not place much protection on the streets requiring her to deny the request until modifications are made regarding the safety concerns.

Commissioner McDonough, Commissioner Wirthlin, Commissioner Scott, and Commissioner Chambless agreed to the importance of the long-term, master plan vision, as well as the request of the community. They also addressed concern regarding the consideration of the property as a whole. It was noted that traffic, materials, location, parking, and landscape are all critical to enhance the viability of shopping centers and therefore require working together as a whole when supporting a community.

Based on the findings of fact, Commissioner De Lay made a motion that the Planning Commission deny Petition 410-777 for the following reasons:

1. **The proposed development is not in harmony with the general purposes and intent of the zoning district;**
2. **The proposed development is not compatible with and does not implement the master plan goals as related to providing a comprehensive shopping center development rather than piecemeal development;**
3. **The proposed development will hinder the ability to provide for a desired community level shopping center in the CS Zoning District area; and**
4. **Continued development of small parcels can consume enough land area to have a cumulative adverse impact on development of large commercial anchors necessary to**

provide a community level shopping center to serve the Northwest and West Salt Lake communities.

5. **Also incorporating the recommendation from staff requesting the applicant revise their development plans, and that the revision process include working with owners and/or developers of adjacent properties to provide a site plan that appropriately interacts with surrounding properties and supports the shopping center development objectives of the City. The design solution should support a cohesive shopping center development that reflects closure of Gertie Avenue, Harold Street and Duder Street. The revised development plans need to mitigate the above stated reasons of denial.**

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

Commissioner Muir and Commissioner Forbis returned to the meeting.

Petition Number 400-02-41 — A request by the Salt Lake City Planning Commission to modify the existing Capitol Hill Protective Area Overlay District text to restrict height limits and to amend the Capitol Hill Community Master Plan and Zoning Map to expand the western boundary of the Overlay Zone to approximately 200 West and the southeast boundary to "A" Street. The Capitol Hill Protective Area Overlay District lies within the Capitol Hill and Avenues Planning Communities. The general boundaries proposed are from Girard Avenue (550 North) to North Temple Street and from 200 West Street to "A" Street. The Capitol Hill Protective Area Overlay District restricts building heights and does not affect the types of land uses permitted within the base zoning districts.

(This item was heard at 7:49 p.m.)

Chairperson Noda recognized Everett Joyce as staff representative. Mr. Joyce referenced a map to the existing Capitol Hill Protective Overlay Boundary with the extended area referenced as well. He stated that the initial purpose of the Overlay is to prohibit exceptions to building height on the base zones; however, with the recent adoption of the Compatible Infill Ordinance, there is a process that allows special exception to existing heights which would not be available to properties within the Overlay unless the amendments are approved. He further stated that additional changes requested reflect the implementation strategies of the master plan to limit building height in this area.

Mr. Joyce stated that the amendments are requested to implement the master plan while ensuring that the intent of the Compatible Infill regulations are realized. Staff recommends that Planning Commission forward a favorable recommendation to the City Council to adopt the following actions:

1. Amend the Capitol Hill Protective Area Overlay District text to:
 - a. restrict building height limits to 35 feet in residential zoning districts with exceptions for RMF-45 and RMF-75 properties with existing buildings that exceed 35 feet to allow them to be rebuilt to 45 feet through the Conditional Building and Site Design Review process;
 - b. Allow special exceptions in the SR-1 and R-2 zoning districts, within the Overlay, to meet compatible residential infill and/or H Preservation Overlay standards up to the 35 feet;
 - c. Limit UI Zoning District building height to 75 feet unless adjacent to a residential zoning district, then the building height limit is 50 feet.
2. Modify the Zoning Map to expand the boundaries of the Capitol Hill Protective Area Overlay District west to 200 West Street and east to A Street; and
3. Amend the Capitol Hill Master Plan text to support building height exceptions when found consistent with the regulations of the Compatible Infill Residential ordinance and or the H Historic Preservation regulations of the City.

Commissioner Muir requested clarification regarding the timeline of the Capitol Hill Protective Overlay District and its implementation stages. He also requested further information regarding the conflicts of this overlay with existing citywide plans and how the conflicts are reconciled. Commissioner Muir also expressed concern that this Overlay precludes higher density which is encouraged in the Citywide policy documents.

Ms. Coffey clarified that the Overlay was adopted in 1965 with the master plan adopted in 1999. She also stated that the Citywide Housing Policy has conflicted with various other policies in the plan and careful

review determines where the higher density development should occur. In Capitol Hill, for example, higher density is identified on North Temple and 300 West. She noted that the goal of the Overlay Protective District is to protect the view corridor of the Capitol, not necessarily regulating the density of the area.

Commissioner De Lay, Commissioner Muir, and Chairperson Noda agreed that the view corridors are not clearly stated, nor physically determined.

Mr. Joyce confirmed that 35 feet is a policy decision made in the adoption of the master plan and was determined as an appropriate height for a view corridor.

Ms. Coffey included that when the Capitol Hill Master Plan was developed, the community was very specific about modification to the Capitol Hill Protective Overlay District; and the City Council adopted the plan. This petition implements the plan.

Chairperson Noda requested any comments from Community Council Chairs or public.

No comments were heard and Chairperson Noda closed the public hearing.

Based on the finding of facts, staff recommendation, staff report, and discussion held at the public hearing, Commissioner McDonough made a motion that the Planning Commission forward a favorable recommendation to the City Council to take the following actions:

1. **Amend the Capitol Hill Protective Area Overlay District text to:**
 - a. **restrict building height limits to 35 feet in residential zoning districts with exceptions for RMF-45 and RMF-75 properties with existing buildings that exceed 35 feet which may be rebuilt to 45 feet through the Conditional Building and Site Design Review process;**
 - b. **Allow special exceptions in the SR-1 and R-2 zoning districts to meet compatible residential infill and/or H Preservation Overlay standards up to the 35 feet;**
 - c. **Limit UI Zoning District building height to 75 feet unless adjacent to a residential zoning district, then the building height limit is 50 feet.**
2. **Modify the Zoning Map to expand the boundaries of the Capitol Hill Protective Area Overlay District west to 200 West Street and east to A Street; and**
3. **Amend the Capitol Hill Master Plan text to support building height exceptions when found consistent with the regulations of the residential compatible infill ordinance and or the H Historic Preservation regulations of the City.**

Commissioner Scott seconded the motion. Commissioner Chambless, Commissioner Forbis, Commissioner McDonough, Commissioner Scott, and Commissioner Wirthlin voted "Aye". Commissioner De Lay and Commissioner Muir were opposed. The motion passed.

Petition 400-06-09 — A rezone request located at approximately 99 East 700 North from FR-2 (Foothills Residential) to R-2 (Single and Two-Family Residential) Zoning District to build a two-family dwelling (duplex) on the site.

(This item was heard at 8:04 p.m.)

Chairperson Noda recognized Lex Traughber as staff representative. Mr. Traughber presented a brief background of the subject area and overview of the proposed project. He stated that prior to the 1995 zoning rewrite, the subject property was zoned R-2 with a low-density residential land use designation; however, a mapping error occurred causing the properties to be zoned FR-2. Mr. Traughber stated that the applicant is proposing the zoning be returned to R-2, which is consistent with the Master Plan and the neighborhood to the south. Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to rezone the property from FR-2 to R-2 Zoning.

Commissioner McDonough requested if notable information regarding the grade of the property would be applicable, and what the existing slope is.

Mr. Traughber referenced the Zoning Ordinance and Staff Report, which states that development on lots subdivided before November 4, 1994, are not applicable to the current standard of development restriction on slopes greater than 30%. He stated that since the lot was subdivided in 1982, the slope requirements do not apply and that he had not verified any slope on the property.

Mr. Wheelwright stated that the slope on the subject property is extreme, but the slope requirements were not applied to the property due to the timing of the approval and the zoning. He noted that if slope restrictions were required, the lot would be un-buildable, as it is virtually over 30 – 40% slope grade.

Commissioner Scott requested more information regarding the difference between FR-2 zoning and R-2 zoning, requesting particularly the setbacks and the frontage of the lot.

Mr. Traughber provided the following information:

Minimum Yard Requirements	FR-2	R-2
Front Yard	20 feet	20% of the lot depth, but not to exceed 20 feet
Interior Side Yard	20 feet	Twin home dwelling requires no side yard along one side lot line, with a 10 foot side yard along the other
Rear Yard	40 feet	25% of the lot depth, but not less than 15 feet and need not exceed 25 feet

Mr. Traughber also included that the access on the subject property would be on 700 North, with the side yard abutting on the developed parcels.

Chairperson Noda recognized the applicant, Chris Robinson.

Mr. Robinson provided a brief background of the property, and included that the slope within the lot is not over 20 – 30% due to the filling activities that have occurred. He stated that he was unaware of the side yard requirements for the twin home dwelling being zero on one side and agreed that the zero lot line would not be the one abutting the existing developments. Mr. Robinson requested the rezone in order to provide flexibility for someone to build a single-family residence or duplex on the property.

Chairperson Noda requested comments from Community Council Chairs and the public.

Mr. Jeff Rosenbloom, 5689 Oakgrove, Oakland CA, stated that he is currently the owner of the property to the east, and is in the process of converting the properties into condominiums. He stated that the concern is the impact any future building would have on his property, and appreciates the comments regarding the zero lot line. Mr. Rosenbloom also expressed concern regarding the height of any structure on the property, as R-2 allows 30 feet or two-and-one-half stories and that it might be worked out between property owners.

Mr. Scott Dwire, 1920 East Laird Drive, is the contractor and co-owner on the condominium project. He stated that his concerns are not necessarily if the property is zoned for a single-family or duplex, rather that the property owner remains distant from the existing developments and to maintain existing view corridors. Mr. Dwire also noted that the existing developments will be reconstructed with “green” construction.

Mr. Steve Brush stated that the zoning of FR-2 is established because the area to the west of the subject property is a natural preserved property zoned FP. He stated that the purpose of the FR-2 Zoning District is to “promote environmental sensitivity and visually compatible development of lots....the district is intended to minimize flooding, erosion, and other environmental hazards.” He noted that when the

property was “down zoned” it seemed to have been for good reason, as the applicable surrounding area is zoned FR-2 and FP.

Commissioner Wirthlin raised the attention of the public to the point that Mr. Robinson had included that he would be willing to move the zero lot line, and asked if that changed Mr. Brush’s thoughts on the matter.

Mr. Brush stated appreciation for Mr. Robinson’s comments, but included that the development to be placed on the property would need scrutiny from the Planning and Zoning Divisions.

Ms. Coffey stated that the compatible infill ordinance also governs the R-2 Zone, restricting the height to 28 feet for a pitched roof or 20 feet for a flat roof (unless special exception is granted). She continued that the front yard setback is required to be the average on the block face, which would include the duplex to the east. It was clarified by Ms. Coffey that the FR-2 and R-2 zoning districts are applicable to the Citywide Compatible Infill Ordinance.

Chairperson Noda closed the Public Hearing.

Commissioner McDonough noted that due to the location of the parcel, it would seem logical to be zoned FR-2, and due to the date of the subdivision the existing FR-2 minimum requirements are not required.

Mr. Traughber stated that it was because of the date of the subdivision, that the subject property was not required to meet the existing FR-2 requirements.

Mr. Traughber, in response to a question from Commissioner Scott, stated that the applicant had expressed interest in developing a duplex on the subject property; therefore, requesting a rezone.

Based on the comments, analysis, and facts noted in the Staff Report, and public hearing, Commissioner De Lay made a motion that the Planning Commission forward a favorable recommendation to the City Council to rezone the property located at 99 East 700 North from FR-2 to R-2 regarding Petition 400-06-09. The motion was seconded by Commissioner Muir. Commissioner De Lay, Commissioner McDonough, Commissioner Muir, and Commissioner Wirthlin voted “Aye”. Commissioner Chambless, Commissioner Scott, and Commissioner Forbis were opposed. The motion passed.

Clarification was made by Ms. Coffey that the zero lot line is required for twin homes, to allow no space between the units; side yard setbacks are required to be ten feet on one side and four feet on the other for other uses.

There was some confusion regarding the vote, requiring a re-vote to be cast. The vote remained the same; four versus three, the motion passed.

Petition 410-06-14— A request by Wayne Belka of Prosperity Enterprises for planned development approval at 479 South 600 East for a retail bakery building in a Community Shopping (CS) Zoning District, in the Central City Historic District.

Chairperson Noda recognized Elizabeth Giraud as staff representative. Ms. Giraud provided a brief description of the request, including that the bakery is classified as a retail good establishment, thus differing the parking requirements. She stated that numerous modifications to the lot and bulk standards are being requested with the proposal. It was noted that the project had received approval from the Historic Landmark Commission, as the property is located in the Central City Historic District. Ms. Giraud stated that additional modifications being requested include:

1. Modification to the requirement that principal structures have a front, corner, and rear yard setback of thirty feet with an interior side yard of fifteen feet; however, the CS zone is intended for

large, shopping centers but the site is rather small and will never meet the requirements of minimum lot size and set backs.

2. Modification to the thirty foot landscape requirement in the front and corner side yards, along with the seven foot perimeter and 5 percent for interior parking lot landscaping.

Ms. Giraud stated that the plans have been received favorably by the Historic Landmark Commission, as well as support from Dr. Nick Vidalakis on behalf of the Family Center at East Downtown across the street to the west, and the Central City Neighborhood Council.

Commissioner De Lay requested further information regarding the approval of the Historic Landmark Commission and their approval of the design and materials.

Ms. Giraud stated that the surrounding developments – Smith’s Marketplace and Trolley Square consist of stucco and brick designs, giving the predominately brick with stucco building a consistent look to the surrounding area. She also noted that the flat roof design is historically correct. Ms. Giraud also noted that the location of the proposed building is close to the street in keeping with the historic character of the area.

Commissioner Scott requested information about the awning and the parking lot exit.

Ms. Giraud stated that the awning will not be a plastic, backlit awning. She added that there will not be traffic restrictions at the exit.

Chairperson Noda recognized the applicant, Prosperity Enterprises being represented by Wayne Belka. Mr. Belka gave a brief background of the subject property. He stated that the largest problem with the property is the small size; although the potential bakery tenant would suite the property well due to its limited parking requirements. Mr. Belka stated that the modifications being requested are compatible with the City’s plans for the neighborhood. He noted that the awnings will be utilized for potential outdoor dining.

Chairperson Noda requested comments from Community Council Chairs and the public. Hearing no request to comment, Chairperson Noda closed the public hearing.

Regarding Petition 410-06-14, in light of the comments, analysis and findings, and Staff report, Commissioner De Lay made a motion to approve the conditional use/planned development for the proposed development with the following conditions:

1. **The parcels must be consolidated into one parcel with one tax identification number.**
2. **The applicant must submit documents that address the department comments outlined in this report.**
3. **The Planning Commission adopt the design of the structure as approved by the Historic Landmark Commission.**
4. **The Planning Commission modify the regulations pertaining to minimum lot size area, minimum width, and front and corner side yards setbacks.**
5. **The Planning Commission modify the perimeter parking lot landscaping requirements as shown on the submitted plans.**
6. **The Planning Commission modify the front and corner side yard landscaping requirements as required in the CS Zoning District as shown on the submitted plans.**
7. **The Planning Commission waive the requirement for interior parking lot landscaping.**

The motion was seconded by Commissioner Forbis. All voted “Aye”. The motion passed.

Petition 410-768 — A request by Jerome Gourley of T-Mobile USA, Inc. for conditional use approval to replace a 33-foot high utility pole at the rear of the property located at approximately 1596 East Stratford Avenue with a 43-foot high pole for a wireless telecommunications antennae.

(This item was heard at 8:40 p.m.)

Chairperson Noda recognized Elizabeth Giraud as staff representative. Ms. Giraud provided a brief description of the project, including that the utility pole is located in a CN (Neighborhood Commercial) Zoning District and in a small commercial strip. She noted that the existing pole is 33 feet high with the proposed pole to be 43 feet high, with the 10 foot difference representing the maximum difference allowed by the City Zoning Ordinance and the minimum allowed by Utah Power and Light. Ms. Giraud clarified that the pole will be located at the rear of the parcel and can be accessed through Stratford and Glenmare; however, a landscaping business exists that is presently blocking the access from Glenmare.

Ms. Giraud raised the attention of the Commissioners to an error in the Staff Report, noting that the subject utility pole is not in a public right-of-way, but rather is located either on a private right-of-way or a vacated alley. She noted that the reasoning for an allowance for the utility pole change-outs is that it is a way to accommodate the telecommunications business by producing the necessary coverage with a cell site that is less obtrusive than a new one. Ms. Giraud requested that a condition be listed in the motion that an agreement between the property owners providing easement access to perform the maintenance the applicant might need. She noted that a concern from a resident was presented to her prior to the meeting, who stated that there are access easement concerns. She clarified that the eight-foot access easement presented in the plans is the proposed access for a vehicle if access is not granted on the existing curb cut of Stratford and Glenmare Avenues.

Commissioner De Lay noted that the concern of access might warrant tabling the item immediately.

Ms. Giraud suggested that the applicant and public be heard regarding the petition, as they have prepared for the meeting at this time. She stated that Planning Staff is recommending the agreement be given as a condition, as it is up to the applicant and property owners to resolve the situation.

Mr. Wheelwright included that the petition had been scheduled for an Administrative Hearing, but was forwarded to the Planning Commission due to the expression of neighbor opposition.

Ms. Giraud noted that Staff is recommending conditional use approval of the proposed facility subject to the following conditions, with a potential condition to be added upon the discretion of the Commission:

1. A professional engineer's stamp shall be provided on the construction drawings.
2. All cabling leading to antennas shall be placed within a conduit.
3. The utility pole, antennas, mounting and conduit shall be painted a flat color to match existing wood utility poles.
4. The Petitioner shall meet all applicable City, County, State or Federal requirements.
5. The conditional use approval shall be valid for a one year period unless a building permit is issued and construction is actually begun, or the use commenced within that period, or a longer time is requested and granted.
6. That the fence surrounding the equipment building not be taller than six feet (6) high, and that barbed wire not be used.

Chairperson Noda recognized the applicant, Jerome Gourley, representing T-Mobile. Mr. Gourley expressed appreciation to Staff for their work on the proposal and provided a brief description of the project. He conducted a PowerPoint presentation, which has been included in the record. Mr. Gourley stated that the utility pole is located in the rear of Mr. Leroy Pulos' property. Mr. Gourley noted that the utility pole has been in place since 1955. He also stated that the proposed antennas will be attached to the top of the replacement pole and will be flush mounted, with the diameter of the pole not to exceed 30 inches. Mr. Gourley demonstrated that the commercial area surrounding the pole includes high-density housing, office space, and several retail outlets. He stated that the Sugar House Community Council had recommended support of the proposed petition, and included that the site is "very necessary". He stated that the placement of wireless reception will enhance the reception in the area and ensure the health and welfare of the members of the community because of the enhanced E911 signal. Mr. Gourley clarified that the pictures presented throughout the PowerPoint were photo simulations of what it would look like upon approval.

Mr. Gourley addressed the last minute concern regarding access to the site and stated that T-Mobile's legal resources were involved in the research of title and deed work. He stated that the easement is divided into four separate parcels, although the utility pole is located on Mr. Pulos' property, each owner has interest in the driveway access off of Glenmare. He clarified that the access easement that is being granted by Mr. Pulos does not grant an easement, but only grants access to the site.

Commissioner Scott requested clarification that the driveway easement is located in the southern most eight feet, and is unobstructed. She requested information on how the property is being accessed at this time.

Mr. Gourley stated that the easement is not usable and is obstructed, due to the storage of large rocks and nursery items by the Peterson Nursery property fronting Glenmare. He stated that a small driveway between the two commercial buildings is being utilized by the public.

Commissioner Chambless requested further clarification regarding the original installation of the pole and the potential for placing the wires underground. He also requested information regarding the color of the pole. Commissioner Chambless asked if the item has been addressed by the surrounding neighbors.

Mr. Gourley stated that to the best of his knowledge, the pole is to remain above ground. He stated that the color of the pole will remain brown and that the antennas will be painted to match the pole. Mr. Gourley stated that the project had been presented to the Community Council, but noted that the happiness of everyone will most likely not be met.

Commissioner De Lay noted that a friend of hers had contributed comments on the petition and stated that she did not feel that her vote would be impartial; therefore, she recused herself and left the meeting.

Commissioner Wirthlin requested additional information regarding the lines that are being held up by the utility pole at the present time.

Mr. Gourley stated that electrical and telephone lines were being supported by the utility pole.

At 8:55 p.m., Chairperson Noda requested comments from Community Council Chairs and the public.

Tim Krueger, 2541 Glenmare Street, expressed opposition regarding the proposal. He also distributed an aerial photo of the area and photographs of the vacated alleyway, which are included in the record. Mr. Krueger noted that the utility pole had already been replaced, but is missing the top wireless unit. Mr. Krueger stated that the vacated alleyway does not confer a right, interest, or estate to an adjoining property owner to use as an exclusive right. He requested that the Commission table the issue for 90 days to allow sufficient time for it to be resolved between parties.

Commissioner Forbis requested information regarding the timing of the replaced pole.

Mr. Krueger stated that approximately one month ago the pole was replaced by PacifiCorp.

Debra Mayo, 2549 South Glenmare Street, stated that the Sugar House Community Council meeting was not well advertised, as many of the residents in the area were unaware of the discussion. She cited concerns listed in the Staff Report and added that additional concerns relate to her prior experience of living in close proximity of a cell tower, including poor television and phone reception. Ms. Mayo also addressed some of the findings located in the Staff report, including the potential visual impact on the surrounding property.

Dale F. Lund spoke on behalf of Eugene Lund, 1108 East 2700 South B-13. Mr. Lund addressed the property area and the equal shared right-of-way with all of the property owners. He stated that one property owner should not be able to dictate the rights of others, because of personal, monetary gain. He stated that the right-of-way is existing and is a dedicated, shared right-of-way.

Ted Makris, 1588 Stratford Avenue, spoke regarding the easement and stated that he would like to use the easement on Glenmare Street. He would like to have outside dining on his property. If the easement along Glenmare and along the back is used he would be fine with the pole use, as it is a dead zone for cellular service.

Rocky Schutter, 2666 Wellington Street, addressed the poor cell phone service in the area. He stated that as a community member, the commercial area should be an asset and allow for greater opportunity for cell phone service. He stated that the height is a permitted use, and that 95 percent of people traveling through the area will not notice if it is installed.

Chairperson Noda invited the applicant to address the Commission in light of the remarks made. Mr. Gourley expressed appreciation for a fair and impartial hearing. He stated that T-mobile does need a site and would prefer to take advantage of existing vertical structures. He concluded that T-mobile will do all they can to ensure that the sight is as unobtrusive as possible.

Commissioner Forbis asked if the applicant knew that the pole had already been replaced and when it was replaced and why.

Mr. Gourley stated that he was aware of the replacement of the pole about four weeks ago, and felt that Utah Power and Light acted on the application that T-mobile had submitted.

Mr. Wheelwright stated that this is a second instance in which UP&L has replaced the pole without receiving Conditional Use approval. Mr. Wheelwright stated that Lynn Pace had reviewed the item, and based on the material he had to review at the time, it is his opinion that the alley vacation reserved a right for existing utilities, but to add a utility is an intensification of the easement. That is why Staff altered their recommendation that an access does need to be provided in conjunction with the property owners and could be considered as a condition upon approval.

Commissioner Forbis requested clarification regarding the height allowed for utility poles.

Mr. Wheelwright stated that there is not a regulated height, but rather that the ordinance allows up to a ten foot addition to an existing height. He stated that of all utility pole antennas approved, the location seems good for a monopole installation. Mr. Wheelwright also clarified that the antennas can be no less than ten feet from the existing lines.

Commissioner Chambless wondered if any consideration has been given regarding underground potential.

Mr. Wheelwright and Chairperson Noda stated that due to the expense, underground poles are not a probable option. If lines are to be buried, the City would be required to pay for it.

Mr. Ikefuna reinforced the importance of adding an additional condition because multiple property owners exist and should have access to the area. It is imperative that the applicant work with all four property owner, as each has rights to the right-of-way.

Mr. Gourley clarified that T-mobile is not seeking an easement, but only access to the pole.

Chairperson Noda closed the public hearing.

Commissioner Wirthlin requested a letter be drafted to Utah Power and Light regarding the violation they are creating by replacing a utility pole without conditional use approval. Also, he extended appreciation to the community members for coming. He stated that a balance needs to be worked out in order to benefit the cell phone community and satisfy those who must view the pole daily. He suggested raising the pole less than ten feet, but was corrected in that the existing lines required a ten foot vertical distance from the cell phone antennas.

Chairperson Noda agreed that service was needed for the area.

Regarding Petition 410-768, based upon the findings of facts, the Staff recommendation, and the testimony during the public hearing, Commissioner Scott made a motion that the Planning Commission approve the conditional use of the facility described, subject to the following conditions:

1. **A professional engineer's stamp shall be provided on the construction drawings.**
2. **All cabling leading to antennas shall be placed within a conduit.**
3. **The utility pole, antennas, mounting and conduit shall be painted a flat color to match existing wood utility poles.**
4. **The Petitioner shall meet all applicable City, County, State or Federal requirements.**
5. **The conditional use approval shall be valid for a one year period unless a building permit is issued and construction is actually begun, or the use commenced within that period, or a longer time is requested and granted by the Administrative Hearing Officer.**
6. **That the fence surrounding the equipment building not be taller than six feet (6) high, and that barbed wire not be used.**
7. **That the owner of the property provide access to the pole, and that T-mobile work on an agreement with all property owners, in order for the pole to be accessed from Glenmare Street.**

The motion was seconded by Commissioner McDonough. Commissioner Chambless, Commissioner De Lay, Commissioner McDonough, Commissioner Muir, Commissioner Scott, and Commissioner Wirthlin voted "Aye". Commissioner Forbis was opposed. The motion passed.

Commissioner De Lay returned to the meeting.

REPORT OF THE DIRECTOR

(This item was heard at 9:23 p.m.)

Petition 400-05-043 – Blake Henderson

Chairperson Noda introduced a memorandum with attached letters to the Commissioners regarding Petition 400-05-043, which was originally heard by the Commission on March 8, 2006. The information was presented before the Commission to complete the due process for the petition due to the multiple requests for a re-hearing made by the applicant.

The Commissioners reviewed the letters and discussed the allegations that were set forth in the letters, particularly the letter dated April 25 directed to Alex Ikefuna, Planning Director with copies sent to Louis Zunguze, Community Development Director and Brent Wilde, Deputy Community Development Director. Chairperson Noda requested the Commissioners address the specific allegations addressed in the letter.

Commissioner McDonough requested clarification regarding the manner in which the Commission was addressing the issue in the past meetings when the item has been raised.

Mr. Ikefuna stated that the response of the Planning Commission in previous meetings was the consideration of re-hearing the petition or re-affirming the decision of the Commission, rather than addressing the allegations and ensuring due process. He stated that the transmittal to City Council did not contain any indication that the Commission had addressed the allegations and therefore, the Commission is being asked to address the allegations at this time. Mr. Ikefuna also stated that he had investigated the matter himself, conducted an interview with Commissioner Scott, and reviewed the audio recording of the meeting discussions and concluded that there was no merit to the allegations. He raised the attention of the Commission to a letter that was sent in response to the allegations from him, but unfortunately a copy was not sent to the Commissioners.

Chairperson Noda stated that based upon the allegations that the Hendersons have made, no evidence supports their documentation regarding comments made during the Planning Commission meeting and between Planning Staff. The basis for allegations relating to conversations held between Commissioner Scott and members of the East Central Community Council and/or any other member of the Planning Commission were unfounded and without merit. Chairperson Noda included that Commissioner Scott had already stated in the record that she did not have any conversations with outside parties regarding the petition, nor attend any field trips other than the Planning Commission field trip that is regularly scheduled.

Commissioner Scott additionally stated her support in the findings that the allegations were without basis and noted that the allegations were false and insulting, and compromised the integrity of the Planning Commission. She noted that this was the fourth time in which the petition has been brought before the Commission. (March 8 – Original presentation, March 22, April 12, and April 26, and June 14, 2006, Discussion regarding re-hearing and allegations.) Commissioner Scott stated that an apology from Mr. Henderson would be accepted at any time. She also addressed the allegation that she had steamrolled a decision on the petition and noted that the Commissioners do not allow it.

Chairperson Noda stated that the Planning Commission finds no merit to the allegations made in the letter sent on April 25, 2006, by the applicant.

Mr. Henderson requested a moment to comment to the Commission. He noted that he had been called to attend the meeting at a late notice and had not requested it.

Mr. Ikefuna asked if the Commission wanted to entertain a comment from the applicant.

A vote was taken by the Commission as to whether or not they wanted to hear from the applicant. It was determined that they did not want to hear from the applicant.

Mr. Henderson expressed frustration to the Commission, due to the fact that he waited to be heard for four hours and was requested to attend the meeting, but was not given the opportunity to address the Commission.

Chairperson Noda again stated that the position of the Planning Commission in terms of the letter is that there was no basis, based upon the evidence that was in the record at the time, for the allegations that were made by Mr. Henderson.

Mr. Henderson left the meeting.

Chairperson De Lay raised the question on the invitation of Mr. Henderson to the meeting.

Mr. Ikefuna stated that Mr. Henderson had been requested to attend in order to witness the discussion of the issue by the Planning Commission and to ensure that it was reviewed fully and fairly.

Commissioner Forbis requested that the documents and transcripts be submitted to the City Attorney, due to the seriousness of the allegation of due process. He requested that they be submitted to protect Commissioner Scott and the Planning Commission.

Mr. Ikefuna clarified that the documents had been reviewed by Louis Zunguze, Community Development Director, and they would be submitted to Lynn Pace, Deputy City Attorney.

Institutional Expansion Petition

Mr. Ikefuna introduced the item and recognized Doug Wheelwright as staff representative.

Mr. Wheelwright stated that the item had been addressed with Chairperson Noda earlier this week. He provided a brief background to the existing petition. He noted that shortly after a request from the LDS Church to expand a parking lot on an existing church house by demolishing a building, the LDS Church

main headquarters provided a list of properties and projects that they had been instrumental to developing within the City, which they termed, had contributed housing stock to the City. Upon receiving the material, the Planning Commission initiated a petition (Petition 400-05-30) to address institutional uses. Mr. Wheelwright stated that many discussions have occurred relating to the topic of institutional contributions and noted that the Planning Division and Community Development Department believe that the housing mitigation ordinance has been difficult to work with. He stated that in the past, the combination of the housing mitigation requirements and the conditional use standards have led to the denial of applications and are a concern of the Division. Mr. Wheelwright requested, on behalf of the Planning Division, to broaden the context of the petition to reflect the value of institutional uses. He cited Westminster College, LDS Hospital and the University of Utah as institutions that impact the City and the surrounding neighborhoods; for positive or negative effects.

Commissioner Scott noted that Westminster College and LDS Hospital both have underground parking, and make every attempt to make use of the land they have. She noted that concern is raised for other institutional uses, because they might not want to make the investment of having underground parking and instead pursue the path of least expense.

Commissioner De Lay clarified that underground parking does not exist at Westminster College, but is structured parking.

Commissioner Scott agreed and noted that structure parking still makes better use of land.

Mr. Wheelwright stated that the request is to review the context in a broader spectrum. He noted that structured parking for smaller institutions could be impossible for some applicants.

Commissioner De Lay made a motion that the petition be altered to broaden the context and modify the existing understanding of institutional uses and their contributions. She further stated that the scope of the study should be broadened to focus on amending Conditional Use Section 21A.54 and create additional criteria that will specifically address institutional uses, and formulate ways to review justified limited expansion opportunities. The new title would be "Institutional Expansion" which would allow Planning Staff to consider a comprehensive look at all types of associated expansions. The motion was seconded by Commissioner Chambless. All voted "Aye". The motion passed.

The meeting adjourned at 9:38 p.m.

Cindy Rockwood, Planning Commission Secretary