

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

Present for the Planning Commission meeting were Frank Algarin, Tim Chambless, Babs De Lay, Robert Forbis, Kathy Scott and Matthew Wirthlin (Vice Chair). Peggy McDonough (Chair), Prescott Muir and Mary Woodhead were excused from the meeting. (*Susie McHugh arrived at 5:58 p.m.*)

Present from the Planning Division were Alexander Ikefuna, Planning Director; Cheri Coffey, Deputy Planning Director; Kevin LoPiccolo, Zoning Administrator; Lex Traughber, Principal Planner; Cindy Rockwood, Acting Planning Commission Secretary; and Cecily Zuck, Senior Secretary. Melanie Reif from the Attorney's Office was also present.

A roll is being kept of all who attended the Planning Commission Meeting. Vice Chairperson Wirthlin 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 Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Frank Algarin, Tim Chambless, Kathy Scott and Matthew Wirthlin. Planning Division Staff present were Lex Traughber and Kevin LoPiccolo.

APPROVAL OF MINUTES from Wednesday, August 9, 2006.

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

Commissioner Forbis made a motion to approve the minutes from August 23, 2006, with the noted changes. Commissioner Scott seconded the motion. Commissioner Algarin, Commissioner Chambless, Commission Forbis, Commissioner Scott, and Commissioner Wirthlin voted "Aye". Commissioner De Lay abstained from the motion.

REPORT OF THE CHAIR AND VICE CHAIR

Vice Chairperson Wirthlin noted that Chairperson McDonough was not in attendance, but that upon her return she would present a report. Vice Chairperson Wirthlin presided over the meeting.

REPORT OF THE DIRECTOR

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

Mr. Ikefuna requested the following items be considered:

1. Request for a withdrawal of Petition 400-06-29 - A request to eliminate the reference to the East Downtown Master Plan in the RMU (Residential Mixed-Use) Zoning District.
Mr. Ikefuna stated that after review of the request from staff and the departments, Staff is requesting that the petition not move forward.

Ms. Coffey provided a brief background to the withdrawal request. She included that on July 12, 2006, the Planning Division requested the Planning Commission initiate a petition to amend the RMU (Residential Mixed-Use) Zoning District, which currently requires that additional height will only be allowed if the property is found within the East Downtown Neighborhood. She stated that Staff discussed the request with Brent Wilde, Manager of the Zoning Re-Write Project, and Doug Dansie, Writer of the RMU Zoning District, who stated that the language was purposeful. They agreed that the design of the City was to encourage a height scale-down from the Central Business District. She noted that areas zoned RMU, but are not located in the East Downtown Neighborhood, are mainly for density flexibility purposes. She concluded that leaving the verbiage regarding the additional height only being allowed in the East Downtown Neighborhood is appropriate.

Commissioner De Lay made a motion to withdraw the petition request. Commissioner Forbis seconded the motion. All voted "Aye". The motion passed.

2. Request to initiate a petition to expedite approval process for temporary construction-related activities in the Downtown area.

Mr. Ikefuna stated that there has been some news regarding the mall consolidation, adding that there are several projects that involve the downtown area and will involve extensive construction. He indicated that the Mayor's office and the Community Development Department would like to be proactive when addressing construction-related projects in the designated downtown area and is requesting that the Planning Commission initiate a petition to this end. Mr. Ikefuna stated that at the September 27 Planning Commission Meeting, Louis Zunguze, Community Development Director, would be at the meeting to present the proposed ordinance.

Commissioner Chambless made a motion to initiate the petition request. Commissioner De Lay seconded the motion. All voted "Aye". The motion passed.

3. Request to initiate a petition for a text amendment for the increase of height and expansion of the boundaries for the Light Manufacturing Overlay District on the West side.

Mr. Ikefuna stated that the request is from the Mayor's Office and the Community Development Department. He stated that an industry is proposing to relocate, but will require access to the railroad tracks and cannot be located at the new location if the height is not changed. He also included that the height change would allow for similar companies to relocate as well.

Commission De Lay made a motion to initiate the petition request. Commissioner Forbis seconded the motion. All voted "Aye". The motion passed.

Mr. Ikefuna raised the attention of the Commissioners to the multi-agency initiative to develop the Downtown Transportation Master Plan. He mentioned that it was a large project, and as part of the approval process, the recommendation will be appearing before the Planning Commission at a later date; hopefully in 2007. He added that in order to keep the Planning Commission informed of the final plan, the committee would like to have joint meetings between the Planning Commission and the Transportation Advisory Board, with the first being a lunch meeting on September 20. Meetings will also occur on October 25 and November 29 for the Transportation Advisory Board and the Planning Commission. He indicated that additional information would be provided to the Commissioners as the time approaches.

Mr. Ikefuna also reminded the Commissioners that the Utah League of Cities and Towns Convention was under way; a Conference of which four Commissioners had been registered for.

PUBLIC NOTICE AGENDA

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

- a. Chris Robinson and Salt Lake City Public Utilities Department — Mr. Robinson is requesting that Public Utilities allow him to revise the alignment of an existing roadway easement he previously reserved over Public Utilities Property from its deeded location to follow the actual location of that access roadway, and to expand the easement to include allowance for a driveway access for a future homeowner on abutting Lot 601 of North Cove Estates Subdivision. The subject property over which the easement is now located is the City owned culinary water reservoir site located within the North Cove Estates PUD subdivision, just south of 299 East Oak Forest Road. The reservoir property is zoned Open Space (OS) and the subdivision lot is zoned Foothill Residential (FR-1). Public Utilities staff intends to approve the revision and expansion of the access easement as requested. *(This item relates to Petition 490-06-21.)*

Vice Chairperson Wirthlin requested comments from the public or Commission regarding the public notice item. Hearing and seeing no request for comment the item was approved.

PUBLIC HEARINGS

Petition 480-06-17 – A request by Ken Millo for preliminary approval to convert the newly constructed building located at approximately 678 N. "F" Street into two (2) condominium units. The subject property is approximately 0.25 acres in size and is located in the SR-1A (Special Development Pattern Residential District) Zoning District. This item was approved on August 15, 2006, by an Administrative Hearing Officer. The decision was appealed on August 21, 2006, by a neighbor.

(This item was heard at 6:00 p.m.)

Vice Chairperson Wirthlin recognized Lex Traughber as staff representative. Mr. Traughber provided a brief background to the project, including that it had been approved by an Administrative Hearing Officer during an Administrative Hearing but had been appealed. Mr. Traughber added that the building plans were reviewed in May 2005, when permits for the project were issued. At the time of issuance, the property was zoned SR-1 (Special Pattern Residential), but has been changed to SR-1A; however, due to the fact that the building permits were already issued, the project is vested and the development standards of the SR-1A Zone are not applicable.

Mr. Traughber stated that there are five criteria that the City has adopted to evaluate requests of this nature, with the findings made in the staff report. He stated that the criteria and findings support the proposed condominium request. Staff recommends that the Planning Commission grant approval with the following conditions:

1. Approval is conditioned upon compliance with departmental comments as outlined in the staff report. If during the building permit review process, additional requirements are stipulated by the Building Department, the applicant shall satisfy said requirements prior to the recording of any approved final condominium plat.
2. The submittal of a final condominium plat shall conform to the requirements of Chapter 21A.56 – Condominium Approval Procedure. A Final Plat Application is required.
3. Any future redevelopment activity associated with the properties will require that all inadequate or absent public improvements be installed in accordance with the departmental comments noted in the staff report. Additionally, any future redevelopment will be subject to the requirements of the zoning ordinance.

Mr. Traughber also informed the Commission that the request for condominium is simply a question of ownership. He added that no physical development will occur with the condominium request. He stated that originally the permit had been requested as a duplex (two units on one piece of property); however, the City has entertained condominium requests after the building permit has been issued as a duplex, because it is allowed in the zone.

Commissioner Scott asked if there was potential for a subdivision on the property.

Mr. Traughber stated that he could not completely answer the question; however, he did not believe that a sufficient amount of street frontage was available in order for this property to be subdivided.

Vice Chairperson Wirthlin recognized Ken Millo, applicant, to address the petition. Mr. Millo stated that the condominium project meets all of the requirements and is allowed in the zone. He provided a brief history of the property, including that he did want to create two units on the property when he subdivided the property from the original house located at approximately 678 North F Street. He stated that he has resided in the neighborhood for twelve years. He requested approval from the Commission, noting that no substantive issues had been raised by the appeal.

Commissioner De Lay asked if the traffic would increase, particularly near the entrance of North Pointe.

Mr. Millo stated that he reviewed the traffic studies in the area when Meridian (a nearby 28-unit complex) was reviewed and determined that there was a surplus capacity on F Street. He also indicated that two more units would not impact traffic that much on the street.

Vice Chairperson Wirthlin opened the public hearing and read a letter into the record from Paul Fife in favor of the petition. He requested comments from the community council chairs and the public.

Paul Fife, 159 West Broadway #606, stated that he had watched the development occur on the subject property and finds it to be an addition and improvement to the neighborhood. He commented on the red brick used, as it matches the Avenues; however, the architectural style does not characterize much of the Avenues, but is pleasing. He added that no additional traffic is foreseen, with no higher occupancy between a duplex and a condominium and requested approval. There are no substantive issues against the petition. He recommended the Commission approve the project.

Bill Mackie, 685 G Street, is the appellant of the decision and added that it is a wonderful building; however, the law should be followed. He cited State code reading "a condominium project is defined as a minor subdivision" and under City code 20.20.020 a minor subdivision shall conform to the standards specified in the building code, which states, "lots created shall conform to the applicable requirements to the zoning ordinance of the city". He added that it would require two new plats be submitted to the city; as it is a 10,800 square foot piece of property, and that under the new SR-1A lot requirements, the minimum lot size is 8,500 square feet; therefore, under law it cannot be subdivided into a condominium.

Vice Chairperson Wirthlin seeing or hearing no further request to comment invited the petitioner to return and speak to the issues raised.

Mr. Millo stated that staff reviewed the project very critically in the beginning, and reassured the Commission that the building meets all code requirements. He added that although his original permit was for a duplex, he never anticipated leaving it as such. Mr. Millo also confirmed that he was the architect and the owner of the project.

Mr. Ikefuna stated that the focus of the Planning Commission should remain on the appeal process. He stated that the petition meets all pertinent City ordinances, Building Codes, and Subdivision Standards.

Vice Chairperson Wirthlin requested clarification on the Commission's role with the request.

Mr. Ikefuna stated that the approval for the condominium has already been granted and what is before the Commission is to deny or approve the appeal.

Hearing no further request for comment, Vice Chairperson Wirthlin closed the public hearing.

Commissioner Chambless noted that the petition request had not been presented in a community council setting; nor were there any community council chairs in attendance at the meeting.

Commissioner Forbis expressed confusion with the appellants request and letter. The appellant had indicated that an administrative interpretation of the statute was given; however, he did not know whose interpretation was represented.

Mr. Traughber noted that the reference of a twin home was an interpretation given only by the appellant and not the City staff.

The Commissioners discussed the appeal and the administrative interpretation represented in the documents. It was concluded that the appellant was the source of the administrative interpretation.

Mr. Ikefuna stated that the appellant had cited codes regarding the lot sizes. He added that the particular appeal is not correct; as this request complies with every letter of the law.

Regarding Petition 480-06-17, Commissioner Algarin made a motion based on the findings of Staff to deny the appeal and confirm the approval of the Administrative Hearing Officer to approve the condominium conversion request. The motion was seconded by Commissioner Forbis. All voted "Aye". The motion passed.

Petition No. 410-06-28 – A request by Robert Bunnel for Conditional Use approval for a Rooming House located at approximately 149 South 900 East, in an RMF-30 (Low Density Multi-Family Residential) Zoning District. The applicant proposes to convert an existing single family residence into a Rooming House for seven tenants.

(This item was heard a 6:27 p.m.)

Vice Chairperson Wirthlin recognized Kevin LoPiccolo as staff representative. Mr. LoPiccolo provided a brief background to the request. He stated that the request is for a conversion of a single-family dwelling into a seven room boarding house. He added that the RMF-30 Zoning District only allows a boarding house as a conditional use. Upon reviewing the project, Staff has recommended the following conditions:

1. Standard permit plan review process is required for compliances with Building Code, Fire, Engineering, Public Utilities and Transportation. *(Fire will require an automatic fire sprinkler system, due to the change in occupancy. Parking requirements will be met with five parking stalls, instead of the required four.)*
2. That a cedar fence be installed around the rear and sides of the property, subject to the zoning ordinance in terms of height and location.
3. That the landscaping be improved and maintained in a manner that complies with Salt Lake City Zoning Ordinance, Chapter 21A.48, Landscaping.

Mr. LoPiccolo stated that Staff is recommending approval for the request based on the criteria in the staff report.

Vice Chairperson Wirthlin noted the email from Taffy Badham, and read it into the record.

Commissioner Scott disclosed that a nearby resident had contacted her regarding the petition; however, she told the resident that she could not enter into a discussion with her. The Commission did not have any problem with the phone conversation.

Commissioner Scott requested the definition of a boarding house and requested specific information regarding housing requirements.

Mr. LoPiccolo cited the definition of a rooming (boarding) house in Chapter 21A.62.040: "A building or group of attached or detached buildings containing a combination of at least three (3) lodging units for occupancy on at least a monthly basis, with or without board, as distinguished from hotels and motels in which rentals are generally for daily or weekly periods and occupancy is by transients". He added that the housing requirements will be determined by the Business Licensing process; a requirement for a boarding house.

Discussion commenced regarding the definition of transients versus students, as the request is for seven students. It was noted that verification was not easy to obtain regarding the requirements of the residents. Staff noted that the determination of the occupants is not within the purview of the Planning Commission.

Commissioner Scott expressed concern regarding the Fair Housing Act and the enforcement of the act.

Ms. Coffey stated that Apartment units of three or more are also required to obtain a business license; the issue of obtaining a business license is not unique to boarding houses. Furthermore, it was determined that Fair Housing Law is not within the purview of the Commission.

Mr. LoPiccolo added that he did not want to deceive the Commissioners by adding that the approval is not conditioned upon who the occupants will be. He stated that if the use is approved it will remain with the property.

Commissioner McHugh clarified that the approval is for seven occupants; not two to a bedroom and fourteen occupants. She questioned if a condition could be placed onto the approval, limiting the number of renters to seven. Staff confirmed that the issue of occupancy is resolved through the business licensing process.

Commissioner Scott expressed concern regarding overnight guests at the home.

Mr. Ikefuna stated that the Planning Commission should not determine if overnight guests should be allowed or not.

Commissioner Scott added that the zone is RMF-30 (Medium/Low Density) and asked if each unit is considered a "unit" in a boarding house. She stated that if the density in each room being considered a unit, it would be higher than the maximum allowance.

Mr. LoPiccolo stated that based on density, the dwelling is not viewed as seven units; rather seven rooms within one unit. Commissioner De Lay and Commissioner McHugh agreed that the unit question is not relevant, because a single-family dwelling can hold any number of related individuals.

Commissioner Chambless stated that the definition of "family" according to the Zoning Ordinance can be difficult to enforce, when considering single family housing.

Mr. LoPiccolo stated that the definition of a family is not applicable with the request for a boarding house. He added that the rooms are entitled to be rented out individually.

Commissioner Algarin requested clarification regarding the parking requirement for the boarding house.

Mr. LoPiccolo stated that the parking requirements are reviewed during the development review.

Commissioner Chambless referred to the applicant's letter regarding the improvement to the landscaping, and added that a cedar fence is already constructed rather than waiting until approval had been granted.

Mr. LoPiccolo stated that all residents have the right to build a six-foot fence in the rear yard without a permit, and that the applicant is entitled to put the fence up without approval from the Commission.

Commissioner Scott also noted that the interior renovations have been completed without approval.

Mr. LoPiccolo added that the interior renovation has had enforcement because of the lack of permits. He added that the applicant will be required to receive permits.

Vice Chairperson Wirthlin recognized the applicant, Robert Bunnel. Mr. Bunnel is the property owner and indicated that he had lived in the neighborhood several times in his life. He added that the property had been degenerated and required assistance. He expressed apologies for adding the extra rooms prior to receiving approval, but added that he anticipates this use as the best possible use for the location. He stated that using the home as a rooming house allows him to have greater control over the residents in the home; as he will be able to approve individuals through an application process. He stated that he would be willing to place any restrictions the City would like to be enforced upon approval. Mr. Bunnel expressed concern for the neighborhood and added that he would do all that he could do to sustain the peace of the area.

Commissioner Chambless cited an example of a house fire and emphasized the importance of the fire requirements. Mr. Bunnel added that he would be happy to comply with the requirements, given his own personal history of fire-related losses.

Commissioner Scott asked if a house manager would be present on the property or if the tenants would be unsupervised.

Mr. Bunnel stated that a house manager would be a tenant on the property. Mr. Ikefuna clarified that the house manager would be one of the tenants.

At 6:48 p.m., Vice Chairperson Wirthlin opened the public hearing and requested comments from the community council chairs and the public.

Esther Hunter, East Central Community Council Acting Chair (Chris Johnson was unable to attend), expressed opposition to the request. She added that the community council had not reviewed the item as at a general meeting; therefore, the general membership did not provide comments. She also added that there was concern regarding the net adverse impact, because the title "neighborhood" should carry a broader understanding. Additionally, she emphasized the impact on the neighborhood because of the non-conforming uses in the area. Last, Ms. Hunter stated that the applicant had made the changes prior to receiving any permits although he had been a landlord of numerous properties, causing concern that if approval is granted forgiveness is given, rather than requesting permission.

Ms. Hunter added that one to three blocks should be included when considering a neighborhood. Ms. Hunter stated that there are many illegal uses in the area, relating to tenant usage because of the history of rooming houses in the area.

Commissioner Scott stated that in a sense, a rooming house is a version of an SRO (Single Room Occupancy).

Sandra Godfrey, 865 East 200 South, expressed opposition to the request because of the potential trend of converting single-family dwelling into a conditional use request. She stated that there is little parking in the area and the impact of the rooming houses will cause families to leave the area.

Commissioner Scott requested confirmation that transient populations are the ones using the property. Ms. Godfrey stated that the residents generally were transients. She also added that specialty houses, such as the House of Hope or Odyssey House, are located in their neighborhood and houses transients also.

Vice Chairperson Wirthlin read into the record the expressed opposition of Don Main.

Melinda Main, 847 East 200 South, stated that she would like the City to keep single family homes in the neighborhood. She added that the area, as present, is a viable area to raise a young family in the area. She desires stability in the neighborhood. She added that in the history of the neighborhood, the area was designed to be the buffer to the Federal Heights Neighborhood and a rezone request should not be approved.

Mr. Ikefuna clarified that a rezone is not being requested; rather it is a conditional use request.

Ms. Coffey added that if the property was sold to another individual, the new property owner would still have the rights to use the property as a rooming house if approval is granted.

Cindy Cromer, 810, 814, and 816 East 100 South, stated that the majority of people define their neighborhood as the four blocks square in the immediate area. She also stated that it is easier to remove a rezone than to remove a conditional use from the property. As a landlord, she stated that the request is exploitive and is not in the interest of the neighborhood. She expressed appreciation to Joel Paterson, of the Planning Division, for his conveyance of the East Central Community Neighborhood input and concerns. Additionally, she pointed out that the property abuts the R-2 Zoning area which is not in a Multi-Family Zone. She stated that the future of the area is determined by the City and the Commission because of the non-conforming medical clinics and the impact they have had.

Commissioner Chambless noted that the area is strategically located between the most urban area of the State and the second largest employer of the State (University of Utah).

Ms. Cromer stated that the City has had visions of the area to serve as an office park and that the neighborhood does have a planned vision from the City. She stated that the tools are not in existence to facilitate the redevelopment of the non-conforming medical clinics and the City should address the conditional uses. She stated that boarding houses are a use in the area; however, the cluster at 51, 59, and 61 is actually a special needs group home licensed as a boarding house. She added that it is all

about management, and with the conditional use running with the property. New owners might manage the property differently.

Vice Chairperson Wirthlin read written comments from Skip Boyer, 246 South 10th East, stating that most neighbors are unaware of the proposed change.

Ms. Coffey clarified that the item was presented to the community council. She indicated that the decision to present the request to the full meeting or to the board is up to the community council. The Planning Commission Public Hearing Notice is sent out two weeks prior to the meeting to the surrounding property owners.

Jason Gutierrez, 143 South 900 East, stated that the definition of rooming house raised concerns with the neighborhood. He stated that right now the request is tolerable; however, he should not be required to go one week without traditional rights; such as garbage pick up. He expressed concern if it was not managed with the existing standards, what the market value of his home would become. He added that parking is a potential problem because of the existing parking on the street. He stated that if the Planning Commission approved the conditional use request it would hurt his investment and any other incoming owner in the area. He added that he repaired and renovated his home prior to the boarding house request next door. He stated that he would not have invested in his property if he knew that it would be located next to a boarding house.

Ms. Coffey clarified that some of the types of uses that Mr. Gutierrez identified may or may not be allowed; but a halfway home would not be allowed in this zone. Various types of specialty housing are required to go through a conditional use process of approval.

Mr. Ikefuna stated that the implication of not having your trash picked up because of parking on the street is an issue that can be mitigated with the approval. He added that the City has an enforcement division that will take care of the issue. He referred Mr. Gutierrez to the traffic or parking enforcement division.

Commissioner Scott asked when Mr. Gutierrez had moved in, who was living in the subject property. She asked if he would have bought the home if there had been a boarding house next door.

Mr. Gutierrez stated that there was a family in the home when they purchased the neighboring property. He added that he would not have purchased the home if a boarding house had already existed.

At 7:18 p.m., Vice Chairperson Wirthlin closed the public hearing and invited the applicant to address the comments.

Mr. Bunnel stated that he appreciated the comments and is sensitive to his neighbors. He added that he would be happy to sign a document to revert the property back to a single family dwelling if it was ever sold. He added that the request is not a flip, but will allow him to maintain the property financially. He concluded that he is appreciative to the neighbors and would like to do all that he can to ensure a peaceful neighborhood.

Commissioner De Lay stated that a deed restriction can be put on the property; however, the Planning Commission has not ever approved something of that nature. She added that the Planning Commission is considering the future of the property during their discussion.

Mr. Ikefuna stated that the deed restriction option is not within the purview of the Planning Commission; however, the Commission can attach conditions for approval designed to mitigate the impact the proposed project could create.

Commissioner De Lay wondered if a condition could be placed on the property requiring the application be renewed yearly based on land use.

Mr. Ikefuna stated that once the approval is issued, they cannot require it to be reviewed again every year unless there are substantial issues with the property use.

Commissioners and Staff discussed the affects of the request in a long-term sense, determining that a conditional use request is part of the master plan and the zoning ordinance.

Mr. Ikefuna stated that there is a new state law indicating that the Planning Commission must approve a conditional use if the negative impact can be mitigated.

Commissioner Forbis requested confirmation from the Staff that if the Planning Commission determines that the conditions in the staff report will not mitigate the negative impact to the neighborhood, then the Commission could deny the request.

Ms. Coffey read the following state law: "A conditional use shall be approved if reasonable conditions are imposed, or can be imposed, to mitigate the reasonably anticipated detrimental affects of the proposed affects in accordance with the applicable standards, if the reasonably anticipated detrimental affects 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." She added that it's a really tough standard and the concern of who lives in the property is not within the purview of the Commission. She added that the approval is not for halfway house or a drug-rehab home; rather it is being approved as a boarding house. She added that the applicant may work with their own private counsel to limit who can live there, according to his own choice. She concluded that if the Planning Commission is considering denying the request, they are required to state that they couldn't find any reasonable ways to mitigate the specific potential negative impacts.

Commissioner De Lay asked if the number of adults that could inhabit the property be limited by the Commission. She noted that a family could move into the home as a single family residence, but as a boarding house could it be limited to seven adults.

Ms. Coffey stated that the number of tenants could be limited to seven, and has been offered by the applicant.

Commissioner McHugh asked if the plan for the area is to become a business neighborhood.

Mr. LoPiccolo stated that in tonight's case, it is not a global view of what East Central is going to look like; rather, the question is whether or not the twelve standards are being met for a particular use.

Commissioner Scott added that the conditional use is a permitted use, provided that the standards are being met. She noted that she believes the 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, with the goal of the city to have affordable, and quality housing) is not being met as the request is an intense use of the home and should not be considered good, quality housing.

Commissioner Forbis agreed that an intense use is being requested for an older dwelling with small square footage.

Ms. Coffey clarified that the state code reads "the reasonably anticipated detrimental affect of a proposed conditional use cannot be *substantially* mitigated...", rather than reasonably, as she had stated before.

Commissioner Forbis requested what substantial meant.

Melanie Reif, City Attorney's Office, added some clarification to the comments and the definition variation between reasonable and substantial. She noted that the definition does not exist in the statute; however, she can state that reasonable conditions are referred to in the section just prior to the section referring to substantial. She advised the Commission that substantial would be more than a reasonable mitigation, as reasonable implies more likely than not the problem could be resolved, but substantial is beyond that. Ms. Reif added that it is akin to the difference between the standards in a criminal case and a civil case.

Regarding Petition 410-06-28, Commissioner De Lay made a motion based on the findings of fact and the testimony heard, that the Planning Commission approve the requested rooming house, subject to the following conditions:

- 1. Standard permit plan review process is required for compliances with Building Code, Fire, Engineering, Public Utilities and Transportation.**
- 2. That a cedar fence be installed around the rear and sides of the property, subject to the zoning ordinance in terms of height and location.**
- 3. That the landscaping be improved and maintained in a manner that complies Salt Lake City Ordinance, Chapter 21A.48, Landscaping.**
- 4. To limit occupancy to no more than seven tenants.**

Discussion of the Additional Condition

Ms. Reif stated that by limiting the number of occupants to those individuals who live there and pay rent, the Commission is somehow limiting those individuals' ability to associate with other individuals and to have guests. She stated that it is not a direction in which the Commission may go. She noted that it might be better if the petitioner were willing to stipulate that he is going to limit the number of tenants to a certain number and allow him to address the issue. It was noted that it was the intent of the applicant to limit the dwelling to seven tenants, with a clear understanding that guests will be allowed.

She added that limiting it to seven tenants is the practical application, from the perspective of the petitioner, as his interest is in enforcing the requirement. If the City doesn't identify what a tenant means and the fact that someone has a long-term overnight guest, there could be some abuse of the contract. A single occupant tenant is not probable because a tenant is not necessarily defined at this time.

Commissioner De Lay withdrew the additional condition. Commissioner Forbis seconded the motion.

Commissioner Scott raised the concern again regarding the SRO's because there was a limit on each tenant's guest responsibility. She added that she has substantial concern with Standard B, and now 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. Ikefuna asked the Commission how they substantiate that the surrounding land uses, tri-plex and multi-family uses, are not compatible in the area.

Commissioner McHugh called for the question.

Vice Chairperson Wirthlin called for a vote on the request for the question. Commissioner De Lay, Commissioner Forbis, Commissioner McHugh, and Commissioner Algarin voted "Aye". Commissioner Chambless and Commissioner Scott were opposed. The call for the question passed.

Regarding the motion, Commissioner De Lay, Commissioner Forbis, Commissioner McHugh, Commissioner Chambless, Commissioner Scott, and Commissioner Algarin were opposed.

Ms. Coffey clarified that a motion that passes must be made at this time, with findings that state that negative impacts cannot be substantially mitigated.

Regarding Petition 410-06-28, Commissioner Forbis made a motion based on the findings of fact in the Staff Report and adding additional findings to deny the conditional use request, as the Planning Commission discussion outlines that they find that the project does not meet standards 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), F (Appropriate buffering is provided to protect adjacent land uses

from light, noise, and visual impacts), and 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) and furthermore, that the project does not sufficiently address or can substantially mitigate the negative impacts as required by the ordinance. The motion was seconded by Commissioner Chambless.

Discussion of the motion

Ms. Coffey requested that the Commission state which conditions cannot reasonably be provided to substantially mitigate the potential negative impact.

Commissioner De Lay recommended an amendment to the motion that conditions cannot be provided to substantially mitigate the potential negative impact. The amendment was seconded by Commissioner Chambless. All voted "Aye". The motion to deny the petition request was passed.

Petition No. 490-06-21 - A request by Chris Robinson for preliminary subdivision approval for a one lot subdivision located at approximately 299 East Oak Forest Road, in an FR-1/43,560 (Foothill Estate Residential) Zoning District. The requested subdivision is referred to as North Cove Estates Lot 601 and is being requested in order to plat an existing parcel of land.

(This item was heard at 7:57 p.m.)

Vice Chairperson Wirthlin recognized Kevin LoPiccolo as staff representative. Mr. LoPiccolo gave a brief overview of this project. He stated that this item was heard at an issues-only hearing on May 24, 2006 by the Planning Commission. Mr. LoPiccolo noted that a development agreement was attached to the latest staff report to demonstrate that there was an agreement made between the City and the property owner in 1991, vesting this parcel in the neighboring North Cove Estates, Plat D under the site development and zoning standards that were in effect at that time. Mr. LoPiccolo pointed out that in the Foothill districts, a developer typically cannot build on a slope greater than thirty percent. Under this agreement, however, the developer would be allowed to construct his single family home on a grade of up to forty percent. It was then noted by Mr. LoPiccolo what the developable area would be and what would remain undeveloped.

Vice Chairperson Wirthlin recognized the applicant, Chris Robinson. Mr. Robinson stated that at the issues-only hearing on May 24, 2006, there was a question as to whether the no build limit lot line had been changed. Mr. Robinson noted that he had reached an agreement with his neighbor regarding this line, and that most other issues have also been resolved.

Vice Chairperson Wirthlin requested comments and questions from the Commission at this time.

Commissioner Chambless inquired where on the lot the applicant planned to build his structure.

Mr. Robinson stated that he did not plan to build a home, but rather to sell the property instead. He pointed out that the lot will still be subject to the setbacks set forth by North Cove Estates which provide a fifty foot (50') front yard setback and a forty foot (40') side yard setback provision. Mr. Robinson also indicated that in the northern corner of his lot, there is an area of less than forty percent slope which would be an allowed building area under his agreement with the City; however, he has prohibited the building of a primary dwelling in that area in order to keep the peace within the neighborhood.

Vice Chairperson Wirthlin opened the floor to public comment. There were no comments; therefore, the public hearing was closed at 8:03 p.m.

Vice Chairperson Wirthlin requested questions, comments or a motion from fellow Commissioners.

Regarding Petition 490-06-21, Commissioner Scott made a motion that the Planning Commission approve the preliminary one lot subdivision and allow for the creation of North Cove Estates Lot

601, located at approximately 299 East Oak Forest Road, based on findings listed in the staff report, and being subject to the following conditions:

1. Compliance with departmental comments as outlined in the staff report
2. Final subdivision approval and final plat recordation prior to the issuance of a certificate of occupancy.

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

UNFINISHED BUSINESS

Cindy Rockwood, Acting Planning Commission Secretary

Cecily Zuck, Senior Secretary