

**SALT LAKE CITY  
PLANNING COMMISSION MEETING  
In Room 326 of the City & County Building  
451 South State Street, Salt Lake City, Utah  
Wednesday, March 28, 2007**

Present for the Planning Commission meeting were Chairperson Peggy McDonough, Vice Chair Matthew Wirthlin, Tim Chambless, Babs De Lay, Robert Forbis, Kathy Scott, Frank Algarin, and Mary Woodhead.

Present from the Planning Division were George Shaw; Planning Director, Doug Wheelwright, Deputy Planning Director; Katia Pace, Associate Planner; and Tami Hansen Planning Commission Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson McDonough called the meeting to order at 5:51 p.m. 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, Peggy McDonough, Kathy Scott, and Matthew Wirthlin. Salt Lake City Staff present were George Shaw, Doug Wheelwright, and Katia Pace.

**DINNER**

A dinner for the Commissioners was held prior to the meeting. Lynn Pace; Deputy City Attorney gave a synopsis of some of the 2007 Legislative Bills that were passed including the following:

**Changes of Land Use Laws:**

HB69, County and Municipal Land Use Provisions Regarding Schools (Wiley). This bill allows a city to impose regulations on public and charter schools that are necessary to avoid unreasonable risk to health or safety. The bill also makes some modifications to the requirements for who can be used to handle inspections of school construction.

Substitute HB 117, Transfer of Density (Froerer). This bill authorizes municipalities to designate areas as sending and receiving zones to allow for the transfer of development rights.

Substitute HB 120, Utility Facility Review Board (Tilton). This bill extends the current process for resolving disputes between local governments and electrical utilities to natural gas facilities.

Substitute HB 129, Land Use Provisions (Morely). This bill deals primarily with the vacating of streets and alleys, changing the reviewing body from the land use authority to the Planning Commission, and making the land use authority the decision making body instead of the Chief Executive Officer.

HB 285, Land Use Development and Management act Amendments (Tilton). This bill clarifies that when an owner signs a plat that includes rights-of-way and easements for underground utilities, this only verifies the approximate location of those utilities.

HB352, Local Government Regulation of Billboards (Brown). This bill allows a billboard owner to relocate a billboard to any commercial, manufacturing or industrial property within a half mile of the existing. Prior to doing so, however, the sign owner must consult with the City to attempt to identify a mutually acceptable location for the sign. The ordinance should be changed to reflect this.

SB163, Amendments to Municipal and County LUDMA (Stowell). This bill encourages counties and municipalities to receive a recommendation from the fire authority before approving a subdivision plat.

SB183, Restriction on Designation of Wetlands (Killpack). This bill simply says that a city may not designate or regulate an area as wetlands unless the U.S. Army Corps of Engineers has designated the area as such.

SB 215, Amendments to Land Use Development and Management Act (Bell). This bill contains several negotiated amendments to the Land Use and Development Act. It includes a reference to "fundamental fairness" in land use decisions. It also creates a provision by which an applicant may, after a reasonable period of time is allowed the municipality to make a decision, demand a decision on a land use application. In the event of such a request, the municipality must render a decision on the application within forty-five (45) days.

Changes to open and Public Meetings Act:

HB10, Open and Public Meetings Act Amendments (Harper). This bill clarifies that the definition of a public body includes a public body created by the Utah Constitution as well as by statute, rule, ordinance, or resolution. It amends content requirements for written minutes and recordings of open meetings, and makes technical changes. The technical corrections clarify that summaries of public comment can be included in the written minutes, rather than exact comments.

HB204, Modifications to Open and Public Meetings (Wyatt). This bill modifies definitions; clarifies that notice of an emergency meeting shall include notice of the time, place, and topics of the meeting; provides that, at the discretion of the presiding member of the public body, topics raised by the public may be discussed at a meeting even if they have not been placed on the agenda, provided that no final action is taken at the meeting; and makes technical changes

HB 222, Open and Public meetings—Electronic Notice (Dougall). The bill requires a public body to provide public notice of its meetings on the Utah Public Notice Website authorizes the Division of Archives and Records Service, with the technical assistance of the Department of Technology Services, to establish and maintain the Utah Public Notice Website; provides that responsibility of the public body posting the notice; and makes technical changes.

HB2257, Open and Public Meeting Act Amendments (Donnelson). This bill provides that all special districts or local with annual budgeted expenditures of \$50,000 or less may keep either written minutes or a recording of their open meetings.

**APPROVAL OF MINUTES from Wednesday, March 14, 2007.**

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

**Commissioner De Lay made a motion to approve the minutes. Commissioner Forbis seconded the motion Commissioner Algarin abstained. All voted "Aye" the minutes were approved.**

**REPORT OF THE DIRECTOR**

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

Mr. George Shaw noted that presentations on the Downtown Rising and Downtown Transportation plan would take place on the April 11, 2007 Planning Commission meeting, if any Commissioners will not be attending that then they can attend the Transportation Advisory board which is on April 2, 2007.

He noted that it had been proposed to move the City's fleet facilities, in the southwest part of downtown, to a new site west of Redwood Road on 500 South Street. The vacated fleet site

property would then be declared as surplus and sold for development. Currently it is a PL (Public Lands) Zone, and the property would need to be rezoned to be more marketable. He suggested that the Commission request of Staff to initiate a petition to rezone the property.

Commissioner De Lay inquired about the total number of acres.

Mr. Shaw noted that it would be approximately nine acres and there were many pending proposals in that area of downtown, however, the current zoning is not adequate. He would like to see an overall rezoning in and around that area of the city.

Chairperson McDonough noted that the Commission would agree to initiate a petition for this zoning change.

### **PUBLIC HEARING**

*(This item was heard at 5:56 p.m.)*

**Petition 400-06-45— A request by Lou Corsillo to amend the Salt Lake City Zoning Ordinance, Section 21A.24.190, Table of permitted and Conditional Uses for Residential Districts. The proposed text amendment would allow Private Clubs as a Conditional Use in a Residential Mixed-Use (R-MU) District.**

Commissioner De Lay disclosed to the Commissioners that she had spoken with Sean Means from the Salt Lake City Tribune about how Downtown development and nightlife were connected. She noted she had not seen the article.

Chairperson McDonough inquired if he had asked her about this specific petition.

Commissioner De Lay noted he had not.

Chairperson McDonough recognized Katia Pace as Staff representative.

Ms. Pace noted that this petition was originated by the applicant Lou Corsillo, owner of Andy's Tavern located at 479 East 300 South. She noted that the two major reasons why Mr. Corsillo requested this petition were first, because a private club license would allow his establishment to serve hard liquor; and second, through a private club membership, he would be able to have more control over the customers that came into his establishment.

She noted that currently the table for permitted and conditional uses in the R-MU Zone (residential districts) included: taverns, lounges, and brew pubs. The change would be to add private clubs to this language.

Ms. Pace noted that in Chapter 6 of the Salt Lake City code, there are additional regulations to assure that alcohol establishments are not clustered. The liquor map shows that in District A, only two establishments are allowed within a linear block. In District B, establishments must be at least 660 feet apart, and in District C, establishments must be 2,000 feet apart.

She noted that all City Departments, with the exception of no response from the Police Department, were in favor of this request. Staff held an open house and invited the Community Councils and property owners within 450 feet of the establishment. She noted that only two people attended that open house, including the applicant.

Ms. Pace noted that this petition was to change the text of the Zoning Ordinance. If this language is adopted, then Mr. Corsillo would request a conditional use to convert his establishment into a private club under the new law.

Chairperson McDonough noted that the amendment read, "*Liquor establishments are allowed in the R-MU Zone*", and a letter submitted by Mr. Art Brown (President of MADD—Mothers Against Drunk Driving) noted that the amendment should read that only, "*Beer establishments are allowed in the R-MU Zone*".

Ms. Pace noted that this correction should be noted, and that Liquor only refers to distilled beverages where as beers and wines are brewed beverages.

Vice Chair Wirthlin inquired if the city, in making this recommendation, looked at the potential impact of allowing hard liquor versus beer only establishments in these areas. He inquired if statistics and studies were done by the city to view the potential effects that this might have.

Ms. Pace noted that she did some research to find if hard liquor intoxicated people more than beer, but noted she was not able to find any research done by the city.

Mr. Kevin LoPiccolo noted that discussions at a staff level involved the differences between a tavern and a private club in relation to land use.

Ms. Pace noted that taverns, lounges, and brew pubs already existed in the R-MU Zoning Districts, but the city did not distinguish between beer or liquor establishment on the location regulation. This text change would not result in additional establishments because an institution became a private club.

Vice Chair Wirthlin noted that due to the liquor zone areas, this change would not allow private clubs in an R-MU district that did not fall into one of those areas.

Commissioner Woodhead inquired how wine fit into the liquor laws and zoning ordinances.

Ms. Pace noted that wine is part of a private club, but is not allowed in tavern lounges or brew pubs.

Commissioner Forbis noted that one distinction is that wine is allowed in restaurants.

Ms. Pace noted that the city does not regulate alcohol in restaurants, so they are allowed in many zones throughout the city where the other establishments were not.

Commissioner Chambless inquired if the establishment was near a residential area, and what the hours of operation would be.

Commissioner De Lay noted it was the same as a tavern.

Ms. Pace noted that sale of alcohol ends at 1:00 a.m. and is regulated by the state.

Commissioner Chambless inquired about regulations for decibel level coming from the establishment.

Commissioner De Lay noted that city ordinances control decibel levels for any kind of noise and noted that this is only measured if city authorities are notified.

Chairperson McDonough inquired if the applicant was present.

Ms. Pace noted that he was informed of the meeting, but was not present.

Chairperson McDonough opened up the public hearing portion of the meeting.

Art Brown (President of MADD) noted he was concerned about adding private clubs to the text amendment, because of the safety issue. He noted that taverns were going down in popularity and private clubs were going up. Mr. Brown noted he was not opposed to nightlife, but was opposed to drunk drivers leaving these private clubs and putting a tremendous load on the current DUI squad. He noted that due to difficulties to contain intoxicated drivers, only one percent a night were cited, and maybe five percent with a full police squad.

He noted that most drunk drivers were arrested with blood/alcohol levels of .14 and at .15 an intoxicated driver is 380 times above the crash risk coming out of the bars, which does impose a safety problem around these locations. He noted that he would like to see private clubs and bars contained to the area that they are now.

Vice Chair Wirthlin inquired if there was a difference between serving hard liquor and beer, and the effects that they have on bar patrons.

Mr. Brown noted that alcohol is alcohol; both have the same effect on a person's blood/alcohol level. What goes on in private clubs versus what is going on in taverns is that clubs are crowded and there is a lot of over-serving happening, resulting in high numbers of intoxicated patrons coming out of the private clubs. He noted that in private clubs mixed drinks sometimes contain higher alcohol levels and this is hard to control.

Commissioner Scott noted that at Mr. Corsillo's location it was encouraging to see that Trax does run through the heart of this area. She realized that a lot of people over the legal alcohol limit are not taking Trax and still driving, but she also believed that it was an enforcement issue and the City does not currently have the resources to catch every drunk driver, but obviously needs to get there. She noted that she was not convinced that limiting the establishments would help, because the problem is enforcement.

Mr. Brown noted that limiting the establishment's locations and the density of bars in the city would help. He noted that the R (residential) in front of the mixed use area bothered him. He noted that the drinking public is not functioning at a responsible level to contain themselves at the .08 blood/alcohol limit, and it puts a lot of risk on the street. He noted that this would not be entirely solved by location, but needs to be solved through planning as well.

Jaynie Brown (817 East 17<sup>th</sup> Avenue) noted she was on the board of the Avenues Community Council. One of the best things that the Federal Government had established lately was environmental strategies to control the problem of underage drinking and there is a direct link between bar densities and alcohol incidences.

She noted that findings from an alcohol study at the Harvard School of Public Health confirmed a strong correlation between frequent and risky drinking behavior among students, and a high saturation of alcohol outlets including; bars, and liquor stores within two miles of their campuses. She noted that Mr. Corsillo's establishment is 1.7 miles from the University of Utah campus.

Ms. Brown also stated that it was not just an increase in drunk driving around the campus, but that the biggest problem that the University of Utah had with their students falling out and failing is almost always related to alcohol issues. MADD was also concerned about the underage drinking problems and the study showed that, *more outlets means more youth access to alcohol and other associated problems.*

She noted that the Commission was not just changing a tavern into a private club, but was changing the social structure of the laws on how alcohol is served in the city.

Commissioner De Lay inquired if Ms. Brown had any local studies of density, because her study included placement of liquor stores, of which there are very few in Utah, and the state is not allowing any more.

Ms. Brown noted that outlet density was defined as any establishments where people could go into and purchase liquor.

Commissioner De Lay noted that the information could be skewed as far as a local perspective, noting that in college towns outside of Utah there was a higher density of liquor stores. She noted that it would be great if MADD, through their volunteer system, could do a study to obtain local statistics and information.

Commissioner Chambless noted that he was a professor at the University of Utah and inquired about the source of the information Ms. Brown shared.

Ms. Brown noted that it came from Professor White who spoke at the Department of Alcoholic Beverage Control, and gave a presentation on the effects of underage drinking that the University of Utah was experiencing.

Commissioner Chambless noted that in his experience the student scholastic failure had more to do with not studying. He noted that the University experienced about a 40% drop out rate that represented many students that do not drink, yet do not come back the following year. He noted he was ambivalent about this issue, and was not quite sure that statistic was viable.

Commissioner Forbis noted that this petition was nothing more than an approval of zoning so that in the future when private clubs were proposed for the R-MU area, the applicant would have to come before the Commission with a Conditional Use request.

He inquired of Ms. Brown thoughts about the Commission sending a positive recommendation to the City Council, with the public knowledge that future conditional uses would be reviewed for private clubs placement in the R-MU zone, along with many other variables that would have to be weighed by the Commission.

Ms. Brown noted that it would depend on the members of the board and the motive of the people speaking against this issue in future meetings. She felt that the Commission should trust in the law and in the regulation and not change the zoning. Citizens who were concerned would have to be aware of these meetings and voice their opinions.

Commissioner De Lay noted that so often citizens in these meetings state that they were not aware of the meeting. She noted that this is public information and is available on the website and if anyone wanted to follow applications it would be easy to do.

Chairperson McDonough closed the public portion of the hearing.

Commissioner De Lay noted that having been a tavern, bar, private club owner for three years, there was the element that though you cannot police everyone, the authorities are very interested in who is being served and how often, and licensing issues are enforced on an almost daily basis. It is illegal to serve an intoxicated person, and an underage person, but from a business standpoint it is very difficult to break the law because the owner will either receive a fine or lose their liquor license. She noted that people will fall through the cracks, which is unfortunate and the reason why there are organizations like MADD, which remind the community to look at consequences and focus on better policing ourselves. She noted that when the neighbors, the City, and the volunteers get involved we make a better city.

Chairperson McDonough noted that currently the Commission was looking for a Conditional Use in an R-MU Zone for other establishments that serve brewed alcoholic beverages, so the

question becomes is this equalizing our ordinance to then allow private clubs. She noted that the ordinance does need to be fair to that use. Regarding the R-MU, having a residential component is not a negative thing, because if liquor establishments are only in zones that are non-residential it seems that driving to and from these establishments is encouraged. If liquor establishments are within walking distance of residential areas, the likelihood of intoxicated people driving goes down.

Commissioner Scott noted that she agreed and felt that this ordinance was changing types or potential types of establishments, but was not in anyway changing density. She noted that there was also a certain respectability that comes with a private club that sometimes is not seen with a tavern.

Commissioner Forbis noted that with conditional uses the neighborhood Community Councils would have to be part of the decision, he noted that he agreed with Chairperson McDonough and concurred that establishments within walking distance were more enticing than taking public transportation, which does not always accommodate night life. He noted that in some ways land use in an R-MU Zone, as opposed to a private club, means that there is a little bit more control from the neighborhood, community, and the owner's stand point.

Vice Chair Wirthlin noted that realistically with the way the law is now, the approval of the text amendment will ultimately lead to this potential use in the area and more often than not if the applicant meets the requirements it will be approved.

Commissioner Forbis noted that what the Commission needed to do in the future was to be very clear on the points of disagreement regarding any petitions and clearly justify that position.

Staff Kevin LoPiccolo noted that there were only two Zoning Districts in the entire City that allow taverns and bars; the R-MU and the MU, and it has been argued that the lounges, when defined within the matrix really meant that it was for a private club because all of the other Zoning Districts listed bars, taverns, and private clubs. However, Staff did not know what the intent of the City Council was when they approved the ordinance. He noted that Staff had discussed tying both zones together, but elected not to so as to not prejudice Mr. Corsillo's application request.

**Commissioner De Lay made a motion regarding Petition 400-06-45 based on the comments and analysis of Staff, and testimony heard this evening, that the Commission forward a favorable recommendation to the City Council, to adopt the amendment to include private clubs as a conditional use in the R-MU Zoning District.**

**Commissioner Forbis seconded the motion.**

**All in favor voted, "Aye", the motion passed unanimously.**

Commissioner Scott noted that the Commission unanimously appreciated the effort and presence made by the Browns representing the MADD organization through their testimony tonight.

**Petition 410-07-03— A request by Salt Lake Motorsports, Inc, for Conditional Use approval for motorcycle sales, located at 916 South Main Street in a Downtown Support (D-2) Zoning District.**

Kevin LoPiccolo introduced Travis Nay, an intern for the Planning Staff through the University of Utah.

Mr. Nay noted that Salt Lake Motorsports was relocating to 916 South Main Street, and that motorcycle sales are a conditional use within the D-2 zone.

Commissioner Chambless inquired if the parking lot to the west of the building was specifically reserved for the applicant business.

Mr. Nay noted that was correct, and there was also on-street parking that was to the west of the building as well.

Commissioner Chambless inquired about the decibel level in the area, with Midas Muffler to the north of this establishment.

Mr. Nay noted that the noise level produced by the motorcycles was not reviewed; however, there were two muffler shops in the area and a Ken Garff motors across the street.

Commissioner Chambless noted that in terms of congruency Salt Lake Motorsports seemed to fit in quite well with the neighborhood.

Chairperson McDonough invited the applicant to the table.

Adam Childers noted he was the owner of Salt Lake Motorsports, and he was looking to relocate from 1077 South Main Street to 916 South Main Street to be able to accommodate more showroom space. He noted that as far as the decibel level, double insulated walls had been installed throughout the building, and noise levels would not be a problem.

Chairperson McDonough opened the public portion of the hearing. She noted that there were no public comments.

Commissioner Scott noted that she felt this was a great reuse of the building space.

**Commissioner Scott made a motion regarding petition 410-07-03, that the Commission conditional use approval of the proposed Motorcycle Sales and Service for Salt Lake Motor Sports, subject to meeting all Salt Lake City departmental requirements as noted in the Staff Report.**

**Commissioner Forbis seconded the motion.**

**All in favor voted, "Aye", the motion passed unanimously.**

**UNFINISHED BUSINESS**

*(This item was heard at 6:51p.m.)*

Vice Chair Wirthlin made a proposition to the City Council that as Staff looks at all of the Conditional Uses through out the City, and the need to tighten them up given the State Law, it might be in the Planning Commissions best interest to appoint a subcommittee that could work more intently with the Staff to go through this process.

Chairperson McDonough inquired by show of hands who would be interested in being part of this subcommittee. She noted that all of the Commissioners showed interest and suggested a draft before an actual hearing.

Staff Doug Wheelwright noted that it would be just a matter of going through the table of permitted and conditional uses zone by zone and forming a consensus opinion on whether or not is still worked or if it needed to be considered to be dropped from a particular zone.

Commissioner De Lay noted that it would be beneficial for the whole Commission to go through this process together.



Mr. Wheelwright noted that instead of a subcommittee a workshop could be held with the Planning Commission.

Mr. LoPiccolo inquired if the Commission was more concerned with conditional uses in the Residential Districts or within the Commercial and Industrial Districts as well.

Commissioner Scott responded that it was more the conditional use process across the board.

Mr. LoPiccolo noted that the old rule was that a conditional use was permitted within a district by being subject to the conditions.

Vice Chair Wirthlin inquired if Staff had a specific person working with this.

Mr. Wheelwright noted not currently.

Commissioner Scott noted that nobody is certain where this was going and perhaps with the new interpretation of what Conditional Use means, the whole idea of these uses needed to be looked at since it is not just permitted uses with a few conditions, but seems to be more permitted uses that the Commission must come up with mitigating circumstances for.

*(The meeting adjourned at 6:58 p.m.)*

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Tami Hansen, Planning Commission Senior Secretary