

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, October 24, 2007**

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

Present from the Planning Division were George Shaw, Planning Director; Doug Wheelwright, Deputy Planning Director; Nick Britton, Principal Planner; Joel Paterson, Planning Manager; and Tami Hansen, Senior Secretary. Also present was Laura Kirwan, City Attorney,

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Wirthlin called the meeting to order at 5:48 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, Susie McHugh, Kathy Scott, and Matthew Wirthlin. Planning Staff present were: Doug Wheelwright, Nick Britton, and Joel Paterson. Also present was Laura Kirwan, City Attorney,

APPROVAL OF THE MINUTES from Wednesday, October 10, 2007.

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

Vice Chair Woodhead made a motion to approve the minutes with noted changes. Commissioner Chambless seconded the motion. All in favor voted, "Aye". The minutes were approved. Commissioners McDonough, Forbis, and Muir abstained from the vote.

REPORT OF THE DIRECTOR

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

Mr. George Shaw noted that a few subcommittees still needed to be scheduled to meet on the city-wide conditional use changes and Commissioners De Lay, Scott, McHugh and Chairperson Wirthlin had volunteered at the last meeting to be on this committee. They decided upon Thursday, November 1st 4:00 p.m.

PUBLIC HEARING

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

Petition 400-06-40: Redeemer Lutheran Church Rezone—a request by Redeemer Lutheran Church and School at 1955 East Stratford Avenue to rezone a portion of one of their parcels from the Open Space Zoning District (OS) to the Institutional Zoning District (I). The remaining portion of the subject parcel (a closed portion of Hillcrest Avenue) will remain Open Space and be deeded to Salt Lake City. This is a modification to the original request that was heard by the Planning Commission on March 14, 2007 and tabled so that planning staff could obtain more information.

Chairperson Wirthlin recognized Nick Britton as staff representative.

Mr. Britton noted that the petition number should read 400-06-49. He noted that this item was previously tabled on March 14, 2007 to allow staff to research and clear up some confusion in regards to the property ownership of the abandoned street by the church lot. Staff discovered that the quit claim deed that was filed in 1989 was incorrect due to a wrong legal description. Mr.

Britton noted that the Redeemer Lutheran Church had obtained ownership of the street erroneously. He noted that this took place because in the early 1980s both Redeemer Lutheran Church and the Sugar House Community Council filed to close the subject portion of Hillcrest Avenue, both petitions were combined and presented before the City Council where in 1987 the Council approved the closure. The property was intended to be split and divided, and the City should have retained half of the street.

In 1999 when the deed was recorded the .744 acres of the street was given to Redeemer Lutheran Church and this mistake was compiled by two other actions. In 1994 there was a use agreement between the city and the church which allowed the city to have access to a portion of the parking to be used by patronages of Hillcrest Park as well as access to the playground on the church property. In 1995 there were a large scale zoning changes involving Institutional and Open Space between the two properties, which would have better represented the two properties had the mistake in the early 1980s never been made.

Mr. Britton noted that the staff report presented to the Commission was a modification to the original application. Staff worked with the applicant to create a new boundary that met the intent of the original agreement, but also took into account the current development plans by the applicant, and would also allow both entrances into the church property and Hillcrest Park to be kept. Mr. Britton noted that if the deed would have been correctly filed in 1999, the zoned amount of Open Space (OS) and Institutional (I) in the location would be close to the current development plan, and therefore there is no decrease in green space. He noted that there were two other legal descriptions that staff received prior to the meeting that would not be filed, but would be retained as part of the record.

Commissioner McDonough stated that she was not quite sure how the open space was originally zoned, because normally the boundary was on a property line.

Mr. Britton noted that the boundary was on the property line, but the drawing defining this was wrong and what contributed to the original misunderstanding.

Mr. Wheelwright noted that the first mistake compounded and created the second mistake and the current petition is close to what was originally intended by both parties in the 1980s.

Chairperson Wirthlin invited the applicant to the table.

Ken Jones (attorney representing Redeemer Lutheran Church) stated that he would like to emphasize that there were a lot of past mistakes; the current staff report was adjusting the current situation back to the original intent, and that everything being done was consistent with the general plan and harmonious with the neighborhood. Mr. Jones stated that the neighborhood would benefit from the project in the following ways: Traffic ingress and egress to the church property was currently accessed from Preston Street, therefore these changes would allow for access from Stratford Avenue as well, alleviating traffic issues. Second, there was a good interaction between the church and the park and this relationship was a benefit to all those in the neighborhood who access the park after school hours. He noted that the only limitation for this plan was any formal agreement that would create access rights, which would have to be looked at very closely between the city and the church.

Lori Briesacher (Representative for Redeemer Lutheran Church & School) stated that this current petition was the best remedy regarding the current situation of the church and school.

Mark Grable (Architect) stated that he had been working on this project for approximately one year and half to two years, and would like to see the Commission forward a positive recommendation the City Council.

Chairperson Wirthlin opened the public portion of the hearing, and stated that he appreciated the involvement of the public in their community and the city to aid in making it a better place.

Grace Sperry (Sugar House Community Council Chair) stated she would like to see the Commission support this petition. She noted that when this was originally planned there was a preliminary park design for Hillcrest Park that was never put into place, and she would like to see a recommendation added to the list of conditions that would allow for the park to be completed.

Rawlings Young (2135 South 1900 East) stated that he was happy to see a solution reached concerning the property lines. He noted he would like to see the city take into consideration the Sugar House Master Plan, and upgrade the Hillcrest Park.

Reverend David Fischer (Redeemer Lutheran Church) stated that he had been the Reverend for the church for the past thirty years. He stated that he would like to see this petition supported by the Commission in order to further improve and expand the church and school.

Virginia Santy (3195 Terrace view Circle) stated that she would like the Commission to support this petition to rezone the lots.

Danielle Lower (2249 South Oneida Street) stated she felt that Redeemer Church was a wonderful steward to the park, a quality choice for private education, and a vital component to the spiritual diversity of the community and she would like the Commission to support this petition.

Constance Smith (2635 Dearborn Street) stated she was in favor of the petition because Redeemer Church was a huge asset to the community and the school and park were very clean and well lit.

Chairperson Wirthlin closed the public hearing portion of the meeting and invited the applicant to the table. The applicant had no additional comments.

Commissioner McHugh inquired how the Commission would handle the request by Ms. Sperry for the park improvements.

Chairperson Wirthlin stated that this was out of the purview of the Commission; however, the Commission could suggest and state for the public record that it would be a positive thing to do.

Commissioner Chambless inquired if the maintenance of the park would be taken care of by city or private entities.

Mr. Shaw noted that staff's understanding was that the church was going to develop a parking lot in the near future, so there would be a definitive line between the church and park properties.

Mr. Wheelwright stated that the conditions would require that the landscaping and irrigation systems would be addressed and changed to reflect the new property line. He noted that the city would be maintaining Hillcrest Park and the church would maintain their property.

Commission Forbis made a motion regarding petition 400-06-49 that the Planning Commission forward a positive recommendation to the City Council regarding the modified zoning request of a parcel generally located at 1955 East Stratford Avenue from Open Space (OS) to Institutional (I) with the following conditions:

- 1. The applicant transfer to Salt Lake City the land originally intended to be retained by Salt Lake City as identified in the staff report.**
- 2. The current irrigation system must be modified at the applicant's expense so that the irrigation system for Hillcrest Park will still remain intact and useable after the proposed expansion.**

3. Revision of the current use agreement between Redeemer Lutheran Church and the City as to public access and public parking use, which reflects the adjusted property boundaries and the future site expansion of the church.
4. The future church expansion project must meet all applicable City code and zoning requirements, or receive relief from appropriate boards in subsequent public processes.

Commissioner McDonough seconded the motion.

Commissioner Scott inquired if the motion needed to be pending the submittal of correct legal descriptions.

Chairperson Wirthlin inquired if Commissioner Scott was amending the motion or making a suggestion.

Commissioner Scott stated that she was concerned that the recording process of this approval should be pending the correct legal description to avoid the 1980s misunderstanding.

Mr. Britton stated that the legal descriptions were prepared by the City surveyor, and would be reviewed by staff to check for accuracy.

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

ISSUES ONLY PUBLIC HEARING

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

Petition No. 470-07-26, Almond Street Condominiums—Watts Enterprises is proposing to amend a 1999 Historic Landmark Commission approval for the Almond Street Condominiums which included seventeen (17) dwelling units located at approximately 289 North Almond Street. The new proposal would add five (5) additional dwelling units to the overall project, which if approved, would include twenty-two (22) dwelling units total. As part of this request, Watts Enterprises proposes to amend a development agreement with Salt Lake City which would limit development on this site to thirty-four (34) dwelling units and a minimum of eighty (80) parking spaces. The proposed amendment to the development agreement would allow Watts Enterprises to develop eighteen (18) new dwelling units in addition to the four (4) existing dwelling units. The amended project would include a total of twenty-two (22) dwelling units and seventy-four (74) parking spaces. The Salt Lake City Community Development Director has the final authority to approve an amendment to the existing development agreement. As part of this request, Mr. Zunguze requested that the Planning Commission forward recommendations pertaining to this decision to him.

Chairperson Wirthlin recognized Joel Paterson as staff representative.

Mr. Shaw noted that the development agreement that this development site was tied to was written approximately ten years ago, and since then the development had evolved. He stated that the intent of having the Commission review this petition tonight was to offer suggestions to be given to Louis Zunguze, Community Development Director. The original agreement was signed by the Director at the time, and it was agreed that any new agreement would need to be signed by the current Community Development Director. Mr. Shaw noted that Mr. Zunguze had specifically requested that the Planning Commission give input on three issues: compatibility of the proposed density to surrounding development patterns; the appropriateness of the proposed number of parking stalls in relation to the traffic circulation in the area; and specific requirements of the RMF-45 Zoning District.

Mr. Paterson stated that the process that was required for the proposal from Watts Enterprises now was for the approval of a 22 unit condominium project of which four units were already built.

He stated that this process would also require design approval by the Historic Landmarks Commission (HLC). In 1997 a development agreement was signed that limited the number of units on the site to thirty-four (34), with an approximate total of eighty (80) parking stalls.

Mr. Paterson stated that the current proposal would include 22 units, which would require forty-four (44) off-street parking sites for these residential units, and thirty (30) visiting parking stalls. Because this is a proposed condominium, that process would come through a Planning Commission process. He noted that the RMF-45 would allow a maximum of 60 units, and Watt's was only proposing 22 units.

Mr. Paterson noted that traffic was an issue in this neighborhood due to the streets being very narrow. Almond Street and West Temple Street both have a pavement width of approximately 13 to 14 feet, and both streets are one-way southbound from 300 North. Mr. Louis Zunguze had relayed to staff that he would like comments that related to the compatibility of the proposed density to the surrounding development patterns, the appropriateness of the proposed number of parking stalls in relationship to traffic and circulation in the area, and specific requirements regarding the RMF-45 Zoning District.

Commissioner Forbis stated that he was confused on the agreement reached by the Historic Landmarks Commission (HLC) on the seventeen units, and inquired if the Planning Commission was being asked to treat that decision as an agreement that did not exist.

Mr. Paterson noted that it was a development approval, and the HLC had approved the design of the project, but not the density or the number of units. He stated that the applicant's current proposal was less than the development agreement they had received approval for; however, the 34 unit agreement is still valid.

Commissioner Scott inquired if development agreements ever expired like conditional uses after a year.

Mr. Paterson noted it would depend on how it was written, stipulations could be made where the agreement could terminate; however, this agreement did not have an end date, but the development agreement would have been in place prior to the HLC granting approval of the seventeen (17) unit condominium project.

Commissioner Scott inquired if there was anything in the legal agreement that stated that if fewer than seventeen (17) units were agreed upon, then the agreement would change.

Mr. Paterson noted that there was no language in the agreement suggesting anything of this nature.

Laura Kirwan stated that when the agreement was entered the applicant agreed to limit his use to 34 units as opposed to 45 units. She noted that the applicant would like to increase the development from 17 units to 22 units and would like to work with the City to amend the development agreement to allow this; however, there is nothing in the language of the development agreement which states that the applicant would need to do that.

Commissioner Scott inquired if in the event the number of units was increased from 17 to 22, would that automatically require this petition go back before the HLC.

Ms. Kirwan stated that for the approval of the design it would need to, but technically the applicant was trying to negotiate this project with Mr. Zunguze. The Planning Commission was being asked to review three areas of the development per Mr. Zunguze request, and through the scope of their professional expertise help him reach an appropriate resolution/ negotiation with the developer.

Mr. Paterson noted that if this development was not in a historic district then this would be an over the counter permitted use as long as all the zoning standards were met. However, in this historic district it was required to go through the HLC process and approval for any new construction.

Vice Chair Woodhead asked if the city attorney's position was that the lack of action by the developer could constitute a waiver of their right to build the 34 units. She noted that it seemed that if the agreement to allow the 34 units was signed, then if the developer chose to ask for 17 units, it took advantage of all of the processes laid out which required recommendations and approvals by HLC.

Ms. Kirwan noted that was a valid argument which should be passed on to Mr. Zunguze. She noted that the determination from the attorney's office was that the developer did have the authority to amend the development agreement.

Commissioner McHugh stated that if this were the case, where would the negotiations stop.

Chairperson Wirthlin stated that it was technically outside of the Commissions purview to give input on the three issues Mr. Zunguze had requested, and stated that the city should look at the enforceability issues.

Mr. Paterson noted that Lynn Pace (Deputy City Attorney) had counseled with staff, and stated that this 34 unit development was currently valid, and once a developer received a development agreement it implied that the developer retained the right to modify projects in the future, if they went through the appropriate processes.

Chairperson Wirthlin invited the applicant to the table.

Mr. Russ Watts (Watts Enterprises) stated that he had been working on this project since 1997. He stated that originally all of the parking was underground and there were only 88 stalls for the 34 units with an additional 18 guest parking stalls. He stated that after analyzing the ingress and egress he concluded it did not make sense, and wanted the development to feel more like a residential development. Mr. Watts stated that in 1999 he appeared in front of the HLC with the 17 unit layout, starting with four units first, with the intent of a second phase of the development, which would then create 20 additional units that were a little smaller.

Mr. Watts noted that he had been working with staff on the parking set up, to make sure that it was adequate for the development and was currently at 48 parking stalls and 36 quest parking stalls.

Chairperson Wirthlin opened up the public portion of the hearing.

Polly Hart (355 N. Quince Street) Capital Hill Community Council Chair, stated that the proposed 12 units of the development along West Temple Street were designed with tandem parking, which is not legal in the city if counted as two stalls, which meant that 12 of the parking stalls proposed could not be legally counted. Ms. Hart noted that street parking was a mess, contributing to traffic congestion in the area.

Commissioner McDonough inquired if tandem parking was legal would Ms. Hart still have an issue with it.

Ms. Hart noted she would because there would still be a drastic shortage of parking in the neighborhood. She noted that neighbors had done studies in the neighborhood and found that the second car that has access to the tandem parking was usually forced to use the street because it was a nuisance to park two cars and then have to arrange with the second party scheduling to be able to get back out of the parking.

Commissioner Chambless inquired to what extent were the street parking ordinances enforced by Salt Lake City police.

Ms. Hart noted it was moderate; neighborhood parking permits were installed about eight years ago and less than half were enforced.

Walt Baker (252 N. Almond Street) Homeowner's Association, stated he felt this development was incompatible with the neighborhood and would cause more traffic hazards in the area. He stated that he did not like the look of the development and felt that it looked like a slab of garage doors and concrete.

Carolyn Andree (326 Quince Street) stressed that parking was a very serious problem in the area and she was certain this development would cause more people to have to park on the street, which was already congested.

Susan Moyes (265 N. Vine Street #3) Homeowner's association manager, stated that she was concerned about the fire truck access from 300 N. and Vine Street in this area because the fire department had already expressed their dismay about these streets being very congested, which worsened in the winter.

Chairperson Wirthlin closed the public portion of the hearing.

Mr. Watts stated that as far as the tandem parking, it was not being counted as two stalls, but rather as dual parking, and he was aware that tandem parking was not allowed in the city. He suggested that a solution that would help ease congested parking in the area would be to use some of the open space in the project for additional parking. He also noted that he would support parking enforcement within the area.

Commissioner McHugh inquired if it would be a problem to make additional parking to the north of the project, considering this was a steep incline.

Commissioner Muir inquired if in phase two of the development the parking could be placed underneath the development and accessed from West Temple, and suggested that as far as garbage pick-up issues Mr. Watts should talk to the city about changing the directional route and method.

Mr. Watts noted that there was a huge slope that would make underground parking almost impossible, and that as far as garbage pick-up concerns he would be willing to talk to the city about reanalyzing this.

Commissioner Muir inquired of staff if this petition was coming before the Commission as a PUD, and as a result of that would the Commission have digressions in terms of parking, either imposing more or accepting less per unit, or even qualifying tandem parking configurations.

Mr. Paterson noted that as proposed by Watts Enterprises currently, this development would not come before the Planning Commission as a planned development.

Mr. Wheelwright inquired if Mr. Watts disagreed with the 17 unit building permit versus the 4 unit permit.

Mr. Watts noted that he had only submitted a building permit for the first four units, which were platted and built, because the developer wanted to see how they would sale before they built the full development.

Commissioner Muir stated that he did not know what position the Planning Commission was being put in by giving recommendations to Mr. Zunguze without having the development brought officially before them with a staff report to study before making these recommendations.

Mr. Paterson noted that Mr. Zunguze was only looking for feedback from the Commission on the three different issues and how they related to the development, and also if it were possible to revise the current development agreement. He noted that the one caveat was that a condominium plan might end up coming before the Commission in the future.

Commissioner Muir inquired if the Commission was giving leverage and information to Mr. Zunguze in order for him to be able to negotiate the development agreement.

Mr. Paterson stated that Mr. Zunguze was asking for information from the Commission as he considered the proposed development agreement.

Commissioner Muir inquired if this development could come back to the Planning Commission after the development agreement between Mr. Watts and Mr. Zunguze was restructured, and noted that technically the Commission was not helping unless they rendered some opinions.

Mr. Shaw noted that if the Commission had other issues other than the three specific questions that Mr. Zunguze wanted them to elaborate on, for example the parking situation, the Commission could give guidance on those concerns so they could be addressed in the new agreement.

Commissioner Scott stated that she felt this was an unusual request, and she felt a little unqualified to offer a strong opinion with what information the Commission had received; however, she suggested that the public statements and concerns heard at the meeting should be passed along to Mr. Zunguze, which was valuable input and insight into what was going on in the neighborhood. She also suggested that Ms. Kirwan should be given an opportunity to review the current development agreement and its implications in greater detail, specifically as to where it stands now that a different number of units were being proposed and there was a different plan for the configuration of the buildings.

Commissioner Scott stated that it was standard that when the Commission looked at a petition there were usually comments and input from all different City departments, and she felt that Mr. Zunguze would benefit from having a traffic study of the area, or at least from the traffic and fire departments as to what they would suggest for the area.

Chairperson Wirthlin closed the public portion of the hearing.

Chairperson Wirthlin clarified that Mr. Zunguze had asked the Commission for their input on an issue that was completely in his purview to make.

Commissioner McHugh stated that Mr. Zunguze should be give a copy of minutes from the meeting to show what input the Commission and public had.

Chairperson Wirthlin noted that would be sufficient and inquired of the Commission if they wanted to make a formal recommendation for Mr. Zunguze.

Commissioner Forbis stated that he felt there did not need to be a formal recommendation or motion, and that the discussion from the meeting should be sufficient. He noted that if he was seeking direct input it would probably benefit Mr. Zunguze to show up to one of the public hearings and listen to and interact with what the public and Commission had to say.

Commissioner McDonough stated that she agreed with that.

Chairperson Wirthlin asked if the Commission felt that the density of the project was appropriate.

Commissioner McDonough noted that she did not feel that she had a strong opinion on what the density should be, but that parking should be accommodated for, which makes the density flexible. She noted that the development seemed to be compatible with the area, and that the developer was in the range.

Commissioner Muir noted that he felt that phase two of the project was problematic, because architecturally it was a series of double car garages. He noted that alternatives to breaking that parking up should be looked at, and should include below grade parking.

Commissioner Forbis recommended that a parking and traffic study should be done before the development agreement is rewritten. He noted that more information would be beneficial including conversations with the fire, police, and waste management departments. He noted that he would like the residential parking permit process to be reviewed and restructured to alleviate some of the parking and traffic issues.

Commissioner Chambless noted that he agreed with what Commissioner Forbis stated.

Commissioner McDonough inquired when the HLC would be seeing this development again.

Mr. Paterson noted that the HLC would be the next step in the development process once staff received detailed plans from the developer.

Commissioner Chambless inquired if the traffic study that had been completed a decade ago by the developer had been done before Social Hall was built.

Mr. Paterson noted that it had not; that it is a very dated study and the Transportation Division could require a new traffic study.

There were no other comments from the Commission.

There was no other business.

The meeting adjourned at 7:55 p.m.

Tami Hansen, Planning Commission Secretary

