

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 315 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, September 24, 2008**

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

Present from the Planning Division: Wilf Sommerkorn, Planning Director; Joel Paterson, Acting Deputy Director; Lynn Pace, Deputy City Attorney; Everett Joyce, Senior Planner; Nole Walkingshaw, Senior Planner; Michael Maloy, Principal Planner, Cheri Coffey, Planning Manager, and Tami Hansen, Planning Commission Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chair Wirthlin called the meeting to order at 5:47 p.m. Audio recordings of the 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, Peggy McDonough, Susie McHugh, Kathy Scott, and Matthew Wirthlin. Staff members present were: Michael Maloy and Joel Paterson.

DINNER NOTES

Mr. Nole Walkingshaw gave a presentation regarding the new Accela database program that has been implemented throughout departments city-wide.

APPROVAL OF MINUTES FROM WEDNESDAY, September 10, 2008.

[5:52:01 PM](#) Vice Chair Woodhead made a motion to approve the minutes from Wednesday, September 10, 2008 with amendments. Commissioner Algarin seconded the motion. All in favor voted, "Aye," the motion passed unanimously.

[5:52:14 PM](#) REPORT OF THE CHAIR AND VICE CHAIR

Chair Wirthlin noted that he and Vice Chair Woodhead joined Mayor Ralph Becker, five members of the City Council, related city staff, and the Director of the RDA and staff, on a trip to Portland Oregon, and Seattle, Washington. He noted that it was a positive event, and much of the trips focus was to view the benefits of the street car/trolley systems that they had in each state. He noted that they also met with some developers and reviewed some of their projects and met with the Mayors of Seattle and Portland.

Vice Chair Woodhead stated that the trip was very much focused on transit-development and the notion that transit should be built first and used to focus development. She noted that both Mayors shared the political stories involved in this process.

Mr. Sommerkorn stated that he went onto Vancouver, Canada where the transit system was not as developed as some of these other communities, which was interesting because it is much denser. He noted that they focused more on walking, there were a lot of similarities to Salt Lake City, and this experience was very beneficial.

[6:00:13 PM](#) REPORT OF THE DIRECTOR

Mr. Sommerkorn noted the reorganization of the department had been announced to staff. He noted that staff was being reorganized into teams broken into geographic areas, which would be more specified within a week or two, and the Commission would be updated on that.

BRIEFING

[6:01:40 PM](#) **Conditional Use Project- Issues for Further Study**—The Planning Staff will review and discuss with the Planning Commission the proposed responses to issues that were raised during the City Council's recent review of conditional use regulations. The City Council requested further study of issues that were not addressed prior to the July 22, 2008 adoption of amendments to the Zoning Ordinance relating to conditional and permitted uses. The Planning Staff is requesting comment and direction from the Planning Commission prior to submitting the responses to the City Council for its review. [View: Memorandum](#) [View: Document](#)

[6:32:55 PM](#) **Commissioner McDonough made a motion regarding the Conditional Use project – Issues for Further Study, and moved that the Planning Commission supports staff to continue the line of study that has been presented and discussed at the meeting.**

Commissioner De Lay seconded the motion. All in favor voted, “Aye,” the motion carried unanimously.

PUBLIC HEARING

[6:34:29 PM](#) **Petition 400-08-02, Driggs Avenue Street Closure at 1300 East**—the Utah Department of Transportation (UDOT) is requesting to close a portion of Driggs Avenue (approximately 2370 South and just west of 1300East). It is proposed that Driggs Avenue will terminate in a cul-de-sac at this location. The purpose of the street closure is to accommodate the reconfiguration of the east bound I-80 off ramp at approximately 1300 East. [View: Staff Report](#)

Chair Wirthlin recognized Lex Traugher as staff representative.

Public Hearing— Chair Wirthlin noted that there was no one present to speak.

[6:40:46 PM](#) **Commissioner De Lay made a motion regarding Petition 400-08-02, based on information in the staff report, and testimony heard at the meeting, the Planning Commission declare the subject property surplus and transmit a favorable recommendation to the City Council to close the subject street. The recommendation is subject to the following conditions:**

1. **Compliance with the City Department/Division comments as attached to this staff report as Exhibit A.**
2. **Compliance with City Code 2.58 which regulates the disposition of City owned real property.**

Vice Chair Woodhead seconded the motion. All in favor voted, “Aye,” the motion carried unanimously.

Crestview Holdings Master Plan and Zoning Map Amendment—a request by Juston Puchar, with Crestview Holdings, for a master plan and zoning map amendment for property located between approximately 356 to 358 North Redwood Road. The proposed master plan and zoning map amendment would accommodate an eight (8) unit multi-family residential development. The property is located in City Council District One represented by Carlton Christensen.

- a. **Petition 400-08-10 Master Plan Amendment**—the applicant is requesting an amendment of the Northwest Community Land Use Plan map for the property from Parks/Open Space to Medium Density Residential.
- b. **Petition 400-08-09 Zoning Map Amendment**—the applicant is requesting amendment of the Salt Lake City Zoning Map for the property from R-1/5000 Single Family Residential to RMF-35 Moderate Density Multi-Family.

This item was postponed indefinitely.

6:41:20 PM West Temple Senior Housing Master Plan Map Amendment, Zoning Map Amendment, and Planned Development—a request by Bill Nighswonger, Executive Director of the Housing Authority of Salt Lake City, for a master plan amendment, zoning map amendment, and planned development for property located at approximately 1812 South West Temple Street. The proposed master plan amendment, zoning map amendment, and planned development petition would accommodate a proposed 95 unit senior-housing residential development. [View: Staff Report](#)

Petition 400-08-20 Master Plan Amendment—the applicant is requesting approval to amend the Central Community Future Land Use map for the property from Low Density Residential (1-15 dwelling units/acre) to Medium High Density Residential (30-50 dwelling units/acre).

Petition 400-08-21 Zoning Map Amendment—the applicants are requesting approval to change the zoning of the property from R-1/5,000 Single Family Residential District to RMF-45 Moderate/High Density Multi-family Residential District.

Petition 410-08-51 Planned Development—the applicant is requesting approval of a planned development containing 95 units for senior housing on the property. The proposal includes renovation and reuse of an existing single-family dwelling as an “amenity” for the project.

Chair Wirthlin recognized Michael Maloy as staff representative.

7:00:32 PM Public Hearing

The following person spoke or a submitted hearing card in *support* for the proposed petition: **Bill Davis** (332 West 1700 South) Chair of the Peoples Freeway Community Council.

7:19:59 PM Commissioner Scott made a motion regarding Petitions 400-08-20, 400-08-21, and 410-08-51 based on the recommendations found in the staff report, and information heard and considered at the meeting, that the Planning Commission transmit a favorable recommendation to the City Council:

1. To amend the Central Community Future Land Use map from Low Density Residential (1-15 dwelling units/acre) to Medium High Density Residential (30-50 dwelling units/acre) for property located at 1812 South West Temple Street.0
2. Transmit a favorable recommendation to the City Council to amend the Salt Lake City Zoning Map from R-1/5,000 Single-Family Residential District, to RMF-45 Moderate/High Density Multi-Family Residential District for property located at 1812 South West Temple Street.
3. The Planning Commission grant approval for a planned development containing 95 dwelling units for the senior housing project subject to the following conditions:

- a. **Property must be rezoned to permit construction of the planned development proposal. Failure to obtain appropriate zoning shall render the Planning Commission approval null and void.**
- b. **Approval is subject to compliance with Attachment G—Department Comments.**
- c. **Illumination of the parking lot shall be sufficient to ensure public safety; however, security lighting must be shielded to control light pollution and glare. Light pole height shall not exceed 15 feet. All lighting shall be oriented downward except for the highlighting of any building architecture and landscape features, or for low wattage decorative lighting.**
- d. **The preservation, exterior restoration, and maintenance of the Stanley F. Taylor House shall comply with Section 21A.34.020.G and applicable Residential Design Guidelines for Residential Historic Districts in Salt Lake City.**
- e. **Landscaping plans shall be revised to comply with quantity and density requirements of buffer regulations, except for buffer width reductions specified on page 4 of this staff report. In addition, vertical growth landscaping shall be increased to mitigate proposal to reduce building setbacks. Approval of the final landscaping plan shall be delegated to the Planning Director.**
- f. **Private roadway will remain at 26 feet. All building structures abutting the south property line shall be shifted northward an additional two feet to increase the landscape buffer to address privacy concerns.**

Commissioner McHugh seconded the motion. All in favor voted, “Aye,” the motion carried unanimously.

Chair Wirthlin announced a short break at 7:24 p.m.

Chair Wirthlin reconvened the meeting at 7:33 p.m.

[7:33:38 PM](#) Petition 400-08-18, a legislative action initiated by the Salt Lake City Council—a request by the City Council for the preparation of an ordinance that would restrict the distance between businesses in Salt Lake City that provide “payday-loan check cashing services,” and consider expanding the ordinance to cover the ratio of businesses to the number of people served, and where those businesses should be allowed. Everett [View: Staff Report](#)

Chair Wirthlin recognized Everett Joyce and Nole Walkingshaw as staff representatives.

Mr. Walkingshaw stated that check cashing/payday loan lending was a legislative action initiated by the City Council, it was an ordinance that was becoming more common across the Salt Lake City valley, as a way to regulate these types of businesses. He noted that prior to this, the use of a check cashing/ payday loan lending business had been considered a financial institution similar to banks or credit unions. He noted that this was a growing industry, and staff felt that this growth constituted a specific definition within the ordinance.

Mr. Walkingshaw noted that some of the options to help regulate these institutions could be population ratio caps, or spacing between each business. He noted that the first step was to establish it as a use and then distribute it as a new defined use.

Mr. Walkingshaw noted that the potential options to handle this would be to define it as a use, establish a radius since there seemed to be a development trend to cluster these types of businesses together, which tended to

have a negative appeal, but there was some findings from Congress that found that there seemed to be a practice to roll over these loans. Where a customer borrows from check cashing place one and then uses check cashing place two to pay off the loan and the first, thus a feeding cycle and pattern develops. He noted a distance radius would help break up this clustering, and staff would recommend 600 feet, though other municipalities have done more. He noted that 600 feet is a city block, which seemed reasonable.

Commissioner De Lay inquired if this new ordinance would restrict existing businesses from closing and the same type of businesses opening in a cluster of these businesses.

Mr. Walkingshaw noted that would fall within a non-conforming use and there would need to be a discussion about how to manage that.

Mr. Walkingshaw stated that the a concept of placing a cap on the total number of these businesses, which right now there were 49 of these businesses in operation, and that number comes from the state which requires a registration for these businesses. He noted now there are roughly 180,000 residences, which means that only 18 locations were actually legal. Essentially every single payday lending institute was a non-conforming use, because that ratio has been exceeded and each facility becomes a non-conforming use in association to the clustering pattern.

Mr. Walkingshaw noted that typically with non-conforming uses they would be allowed to continue, because it was a legal non-conforming use.

Mr. Pace stated that if the Planning Commission adopted only a spacing requirement, then there was no population cap, but in theory one business could move from one location into another legal location. He noted that another option could be that the Planning Commission adopted a spacing requirement as well as a cap per number of residents; language would need to be added to the ordinance to address how to deal with non-conforming uses. He noted that generally the City had allowed modification if it made the subject less non-conforming than before.

He noted that the Planning Commission could use the spacing to break up the clustering, by requiring that one of the businesses move somewhere more conforming, because it would meet the 600 foot spacing requirement, but not the population cap. Mr. Pace noted that to answer Commissioner De Lay's question, these uses run with the land, and a new owner could continue the non-conforming use.

Vice Chair Woodhead inquired if the next tenant of the building happened to be a different type of business and they were there for two years, then would the check cashing/ payday use be eliminated.

Mr. Walkingshaw noted that if the next tenant changed the use, it would be eliminated.

Commissioner McDonough inquired about how the current ordinance dealt with non-conforming uses running with the land, and if the Planning Commission could change the language so that some of the uses ran with the land and some of the uses were particular to the occupant.

Mr. Pace stated that if currently an owner had a non-conforming use they get to continue it; however, if a new owner was to come in under this ordinance, the Commission could say that a new owner's conditional use would not be tied to the land.

Commissioner McDonough inquired why these were not considered as conditional uses.

Mr. Joyce noted that they were permitted uses, because if both criteria for controlling spacing of these types of businesses were used, then there would have to be a population of over 500, 000 people to build a new one.

Mr. Pace noted that if the Commission put into effect a population cap, and then told the payday loan businesses the City would not let them move this tends to memorialize them in place and they never move to a better location—for instance this has happened with billboards, rarely they will move out of a residential areas to another area because the City has frozen them in place. He noted that in contrast if the Commission adopted a spacing requirement without the population cap, this would allow for more, but would allow the businesses over time to move to better locations, that were more appropriate.

Mr. Joyce noted that the negative impact of a conditional use versus a permitted use would be clustering, and the spacing criteria would address that.

Commissioner Scott stated that it seemed that nobody thought that these types businesses were a good idea, so the Commission could put a cap on them and minimize the damage, but what if the Commission did something radical and stated that the zoning should not include these types of businesses.

Mr. Pace stated that legally the Commission could do that, there would just need to be a rational basis for the regulation, but it was not a protected constitutional use.

Commissioner McDonough stated that she understood that differently, for instance with sexually-oriented businesses, it had been mandated.

Mr. Pace stated that sexually-oriented businesses had been determined to be businesses that involved an element of free speech, and therefore could not be outlawed completely, only the time, place, and manner could be regulated. He noted that there had been no such finding with check cashing/ payday loan facilities.

Vice Chair Woodhead stated that as far as the population cap versus the 600 foot spacing, was there a number of these businesses now that were in inappropriate or bad locations.

Mr. Joyce stated that it was more a clustering issue, rather than a location issue. He noted that he and Mr. Walkingshaw did map out the 49 facilities that exist and there were quite a few that would be affected by a spacing regulation alone.

Chair Wirthlin inquired why staff had chosen the 600 foot spacing, and would there be legal issues if the Commission increased this to 1,000 feet.

Mr. Pace noted that as long as the Commission had a rationale basis for the 1,000 feet the Commissioner could do it. He also noted that there was an impact from these businesses being clustered as far as increased crime, and economic issues, and as long as the Commission had a reasonable standard the spacing could be increased.

Commissioner De Lay inquired if these types of business could be banned.

Mr. Pace noted that was a more aggressive direction to take, but as long as the Commission gave solid reasons as to why it was appropriate it could be done.

Commissioner De Lay stated that South Salt Lake City agreed to cap their bars and taverns, so it could be done.

Vice Chair Woodhead stated that by banning them, it does not mean they will go away.

Mr. Pace stated that there was nothing in the ordinance that required existing businesses to go away.

Vice Chair Woodhead stated that essentially doing this would leave the situation the same, with nowhere for the businesses to go.

Public Hearing—Chair Wirthlin opened the public hearing portion of the petition and noted here was no one present to speak, he then closed the public hearing.

Commissioner McDonough stated that she agreed that a cap would tend to nestle these businesses in place for a long period of time. She noted that she would be inclined to consider a more restrictive distance requirement.

Commissioner McHugh stated that in the future, especially in the Northwest Quadrant, under a new ordinance with capping restrictions, it precluded them from ever going out into that area, so this could prevent problems in other areas.

Mr. Joyce stated that one of the other things staff was looking at in the zoning ordinance was which zoning districts they could go into. Right now financial institutions would be in commercial residential and all of the commercial districts.

Commissioner Algarin stated that he would like to see 1,200 foot spacing between these businesses, which would be two city blocks in any direction.

Commissioner Scott noted that there were other cities, which had had other options, for example phasing out these businesses over a long term period, or putting a cap on what the lending rate could be. She suggested putting together a subcommittee to scrutinize some alternatives, and then bring it back to the Commission at a later date.

Mr. Pace stated that the City Council felt that this issue was pressing. He noted that in terms of phasing out existing uses, there was one option available that the Commission might want to consider or mention in their comments to the City Council. He noted that under state law, non-conforming uses could be amortized, but it would have to allow the property owner enough time to recover the extent of their investment. He noted that as a city, that had never been done, but the Commission could suggest to the City Council that this would be one situation where that should be looked at.

Chair Wirthlin inquired if Mr. Pace was saying that the Commission could suggest putting a statutory timeframe in place which would give these businesses a certain number of years to recover the investment.

Mr. Joyce stated that would be variable based upon each individual investment, he noted that this would require additional staff and funds to monitor and keep this program going.

Commissioner McHugh stated that in the staff report it was noted that some of these businesses do not have licenses, and inquired if Mr. Joyce or Mr. Walkingshaw had reviewed all 49 of these businesses and validated that they were legal, meaning they had a business license for this specific type of business.

Mr. Walkingshaw stated that they determined that the existing places that they were aware of were legal.

Vice Chair Woodhead suggested keeping these types of businesses a certain distance from schools, so that as part of teaching our youth to be good financial citizens; these businesses were not visible to children right outside of their schools.

Mr. Pace stated that as part of this ordinance the Commission could suggested that the check cashing/payday loan businesses could not be within a certain distance from each other, as well as in proximately to a school.

Commissioner De Lay stated that the Commission could also include schools, churches, or state owned properties. She noted that the ordinance could include that these businesses could not be within 1,200 feet of either of these entities.

Commissioner McDonough stated that she would like to see the distance be a half mile apart.

Mr. Pace inquired about what Commissioner De Lay meant about state or city publicly owned property.

Commissioner De Lay noted that she meant government buildings.

Mr. Pace stated that Commissioner De Lay should expand on why she felt this was important. He also noted that given the survey of other cities it looked like West Jordan had a one mile spacing requirement for these businesses and Orem, had a half mile requirement. He stated that given Salt Lake City's density, if the Commission wanted to recommend a full half mile, they needed more justification as to why a half mile made sense in a dense city, such as Salt Lake City.

Chair Wirthlin noted that technically the Planning Commission was only a recommending body and did not necessarily have to provide any rational basis for anything other than forming suggestions for the City Council to use and rely on to help them make a decision.

Mr. Pace stated that this was true; however, it was important to put on the record, so that there was documented reason why the Commission ended up with a half mile or other specified distance requirements from state or city owned property.

Commissioner McDonough stated that she felt a half mile was necessary because a quarter mile was actually a stated walkable distance by planning standards, and she felt that the Commission should go with a driving distance between these businesses. She noted that a second reason, was due to the disconnect that she saw with the one business per 10,000 residence, and even with the current population in Salt Lake City, that language would only allow a total of 18 check cashing/ payday loan businesses in the entire city. She noted that if these were spread through out all of the districts, a half mile distance could be achieved.

Mr. Walkingshaw stated that where the ratio cap is placed, it starts to reinforce the clustering and prevents the businesses from moving to a different location. He noted that perhaps existing businesses should be allowed to relocate to a legal conforming location, to combat this.

Commissioner McDonough inquired if this would occur if the Commission did not recommend a cap.

Commissioner De Lay stated that her rationale for suggesting that these businesses not be placed near schools, churches, or state owned property was to insure that these businesses were not near liquor stores, children, or where there were legal proceedings/courts.

Chair Wirthlin stated that certainly the ethic that was trying to be promoted in this city was one of being responsible financial citizens. He noted that he agreed with the idea that these businesses should not be built near schools was rational, because it would send mixed financial management messages to children.

Commissioner McHugh inquired about what the Commission wanted to do about amortizing the number of these businesses.

Commissioner De Lay stated that staff was saying this would create a layer of funding and staff that they did not have, it might be mentioned to the City Council that they might want to look at funding for that idea and should be considered as a suggestion.

Commissioner De Lay inquired about the statutory timeframe regarding phasing the licensing out, along with the authority to amortization the non-conforming use of these types of businesses.

Commissioner Scott stated that it would be beneficial to look at a permanent moratorium idea.

Commissioner McHugh noted that if the Commission did not put a cap, but stated the distance of these types of businesses, in the future there could be more locations than the 49 that exist now.

Mr. Pace stated that this was correct, but a new location would only be able to be built where it had been decided it was permitted.

Commissioner McHugh stated that members of the Commission seemed fine with not having any of these types of businesses at all.

Commissioner McDonough stated that if staff could analyze under a half mile radius distance only, in all of the zones that they had suggested where these types of business were permitted, then what total maximum number would that yield. She stated that intuitively thinking it would be less than the current 49.

Mr. Joyce stated that it would not be a concrete number.

Commissioner McDonough stated that if staff identified all of the zones on a zoning map and then mapped it, by using a half mile grid of dots and superimposed the maximum amount of dots within each district, a total number could be made.

Mr. Joyce stated that staff could do that, but using a designated space grid was not concrete, because a business could relocate to the point where there were more.

Commissioner McDonough stated that she agreed, but it would give the Commission good data to make a reasonable judgment with and the error factor might only be one percent.

Vice Chair Woodhead stated that this was premised on the idea that some of the current businesses would want to move, or would go out of business and whatever replaced them would have to replace them in the greater distance.

Mr. Walkingshaw stated that he had recently read an article that showed how well these businesses were doing because of our economy and the reality that access to credit was so poor. He noted that certainly a reduction in the numbers of these types of businesses was not in the near future, and by capping the number a monopoly would be created that would affect the supply and demand economics.

Vice Chair Woodhead noted that she was referring to the current business being bad business people and might not stay in business long enough to reach their peak, make their money, and move on.

Commissioner Chambless stated that these types of businesses were becoming a growth industry.

Commissioner De Lay stated that some of these businesses had the same owner, so they are sort of chains that are being franchised.

Vice Chair Woodhead stated that some of these businesses were also owned by big banks that choose not to put their names on them.

8:11:30 PM Commissioner De Lay made a motion regarding Petition 400-08-18 Check Cashing/Payday Loans, based on the comments, analysis, and findings of fact listed in the staff report, the Planning Commission transmit a favorable recommendation to the City Council to adopt the proposed text amendment for Check Cashing/ Payday Loan as shown in Exhibit A—Proposed Text Amendments, with the following modifications:

1. No check cashing/ payday loan business shall be located closer then one half mile from another check cashing/payday loan business, *public and private* schools, church, government municipal building, or state owned property.

Commissioner McDonough seconded the motion.

8:12:33 PM Discussion of the motion

Commissioner De Lay amended the motion to read condition 3: The Planning Commission adopts the definition of check cashing/payday loan businesses.

Chair Wirthlin stated that as far as state owned property, the Commission had discussed schools, and he suggested that it *public and private schools* should be added.

Commissioner De Lay accepted this amendment.

Commissioner De Lay stated that the Planning Commission should suggest that the City Council also look at phasing out these types of businesses by helping to fund a study, or by giving planning staff or the City the authority to amortize non-conforming uses of these businesses.

Commissioner Scott inquired about the amortizing of non-conforming uses.

Mr. Pace stated that it was only a side recommendation.

Commissioner De Lay agreed and stated that it was a recommendation that the City Council should do a more in depth study of this.

Mr. Joyce inquired if the Commissioners agreed with the zoning designations.

The Commissioners agreed that the zoning designation was acceptable as is and did not need to be modified at this time.

All in favor voted, “Aye,” the motion carried unanimously.

The meeting adjourned at 8:15 p.m.

This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on September 24, 2008.

Tami Hansen