

SALT LAKE CITY PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, December 9, 2009

Present for the Planning Commission meeting were Chair Babs De Lay and Vice Chair Frank Algarin and Commissioners Tim Chambless, Angela Dean, Michael Fife, Michael Gallegos, Kathleen Hill, Prescott Muir, Matthew Wirthlin, Susie McHugh, and Mary Woodhead.

A field trip was held prior to the meeting. Planning Commissioners present were: Commissioners Algarin, Chambless, Dean, Fife, Hill, Muir, and Wirthlin. Staff members present were: Ray Milliner, Bill Peperone, and Cheri Coffey.

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at 5:46 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Frank Gray, CED Director; Wilford Sommerkorn, Planning Director, Cheri Coffey, Programs Manager; Ray Milliner, Principal Planner; Nole Walkingshaw, Senior Planner; Lex Traugher, Principal Planner; Bill Peperone, Principal Planner; Nick Norris, Senior Planner; Paul Nielson, City Attorney; and Tami Hansen, Senior Secretary.

Work Session

Mr. Paul Nielson gave training to Planning Staff and the Planning Commission on the revised Open and Public Meetings act.

Approval of Minutes from Wednesday, November 18, 2009

The motion to approve the minutes was postponed until January 13, 2010

Report of the Chair and Vice Chair

Chair De Lay stated neither she nor Vice Chair Algarin had anything to report.

Report of the Director

There was no report of the Director.

Public Hearings

5:45:28 PM **PLNHLC2009-00021; Boundary Adjustment and Map Amendment (Rehearing)**—a request by the Planning Commission to reconsider the boundaries of historic districts for clarification purposes. The project affects properties in the City's six locally designated historic districts. This petition is being reheard to comply with the State notification requirements for zoning amendments.

Chair De Lay recognized Nick Norris as staff representative.

Mr. Norris stated this petition was being brought back before the Commission due to some public noticing issues, which needed to be met before a complete transmittal could be submitted to the City Council.

5:46:16 PM Public Hearing

Chair De Lay opened the public hearing portion of this petition, she noted there was no one present to speak to the petition and closed the public hearing.

5:46:41 PM Motion

Commissioner Woodhead made a motion regarding Petition PLNPCM2009-00021; Historic Overlay Zoning District Boundary Adjustment, based on the information in the staff report and received in a previous presentation, the Planning Commission transmits a favorable recommendation to the City Council to adopt the proposed map amendment.

Commissioner McHugh seconded the motion.

Commissioners McHugh, Hill, Dean, Fife, Gallegos, Chambless, Wirthlin, Woodhead, Muir, and Algarin voted, “Aye”. The motion passed unanimously.

5:47:55PM PLNPCM2009-01003; Qwest Corporation DSL Conditional Use—Qwest Corporation, represented by Ralph Vigil, requests conditional use approval for the replacement of a previous utility box in the *public right-of-way* adjacent to 2713 South Imperial Street. The box would face Imperial Street and be approximately 4 ½ feet tall and 7 feet wide. The property is located in City Council District 7, represented by Soren Simonsen.

Chair De Lay recognized Ray Milliner as staff representative.

Mr. Milliner stated the box had already been installed, the applicant mistakenly assumed that a separate approval also approved this box. He stated this application was reviewed administratively and there were a number of comments regarding the design and placement of this structure, so the Administrative Hearing Officer forwarded it on to the Planning Commission.

Commissioner Chambless noted that on the field trip the Commission noticed around the corner from this site there was a cinder block wall. He inquired if there was a necessity to have such a large box at the location it currently stands, or if it could be relocated to behind that cinder block wall where it would be more nondescript.

Mr. Milliner stated the applicant would need to answer that question.

Commissioner Woodhead inquired how the applicant made the mistake of thinking this box was approved.

Mr. Milliner stated there was another utility box located around the corner against a cement wall, and when the applicant received approval for that box he also thought he had received approval for this current application.

Chair De Lay invited the applicant to the table. She noted the applicant was not present at the meeting.

5:51:33 PM Public Hearing

Chair De Lay opened the public hearing portion of this petition.

The following people spoke or submitted cards in ***opposition*** to the petition: **Judi Short** (862 Harrison) stated the last time a box was installed in the neighborhood Qwest left a scoop loader at the location for ten (10) days, which was broken into and there was shattered glass everywhere that the school kids were walking through for three days. She stated she would like to see Qwest be more responsible when installing and monitoring sites.

Chair De Lay inquired if there were any ordinances that could be used to fine the utility companies.

Ms. Short stated currently there was not, but there were ways it could be done in the future.

Commissioner McHugh stated the staff report indicated the homeowners would rather have this box where it was rather than any other place in their yard because it would obstruct their view.

Commissioner Dean stated if this box was shifted to the right it would completely block the front of their house.

Scott Kisling (2409 Lynwood Drive) stated he had some before and after pictures, and he was concerned this was only the start of the placement of these types of boxes with the future of DSL television, etc. He stated in this particular case the owner would probably be very happy to provide an access easement behind the house to this box instead of having it in the front yard. He stated it did not seem fair to impact one neighbors property values for the benefit of everyone else in the area.

Chair De Lay closed the public hearing.

Mr. Milliner suggested since the applicant was not present to continue this petition.

6:01:26 PM Motion

Commissioner Wirthlin made a motion to table Petition PLNPCM2009-01003; Qwest DSL Utility Boxes conditional use.

Commissioner Algarin seconded the motion.

Commissioners McHugh, Hill, Dean, Fife, Gallegos, Chambless, Muir, Wirthlin, Woodhead, and Algarin voted, “Aye”. The motion passed unanimously.

6:02:01 PM PLNPCM2009-00824; Declaration of Surplus Property and Minor Subdivision Approval—a request for 3.16 acres of unused land located on the eastern portion of the Rose Park Golf Course, at approximately 1385 North 1200 West to be declared as surplus property and minor subdivision approval for a one lot subdivision. The property is currently zoned as Open Space. The subject property is located in Council District 1, represented by Carlton Christensen.

Chair De Lay recognized Bill Peperone as staff representative.

Commissioner Wirthlin recused himself from the meeting at 6:02 p.m.

Commissioner Gallegos inquired if there would be a restriction placed on the deed so this would always be a school in perpetuity.

Mr. Peperone stated the city could certainly put a deed restriction on the property, the open space (OS) zone did not allow for very many facilities to be built, but because of state law the school skirts the city's restrictions on open space development, and was allowed to be placed there; however, should someone else buy it there was not much they could do with it.

Chair De Lay inquired if a deed restriction was something the Planning Commission could add to the conditions.

Mr. Nielson stated there was a procedural issue regarding this case that was currently being worked through.

Commissioner Fife stated the Commission was not deciding if a school could go into that space, but if this property should be declared surplus.

Mr. David Terry (City Golf Enterprise Manager) stated the golf fund was a self sufficient enterprise fund operated by the City based off the revenues generated by the public's use of the golf courses. He stated there were approximately 22 million dollars in deferred capital improvements that needed to be made throughout the system. He stated 2,775,000 dollars of that was at Rose Park, and there were very little retained earnings as a result of paying off two golf courses that were built around 1990, which included Wingpoint and the expansion of Mountain Dell. He stated future revenues were not obtainable within the current operating capitol do any of those improvements.

Commissioner Muir stated the configuration of this parcel seemed curious. There was a pie shaped piece that was a utility easement, which also created a lack of frontage for the school, and it seemed the maintenance of that would be problematic. He stated as far as the golf course, it looked like some type of natural drainage through there and he inquired how the applicant could really improve anything north of that drainage anyway, so why did the parcel not follow that drainage.

Mr. Duran Lucas (Salt Lake City Property Management) stated there was a large storm drain that followed the road and cut up, he stated the Public Utilities Department indicated they did not want that piece included in the sell because the equipment currently located there was valuable and they wanted it to be protected.

Mr. Terry stated there was a natural drainage primarily for the golf course and at 1200 West that feed primarily into the city's storm drain system. He stated that would be relocated to the north 150 feet so it bypassed the surplus parcel.

Commissioner Muir inquired if that drainage course would take a right angle.

Mr. Terry stated that was correct it would move to the north. He stated currently Rose Park was a par 72, which the majority of championship golf courses are. He stated they would like to maintain that if at all possible.

Commissioner Muir stated he was concerned that out of economic necessity, the city was cannibalizing the natural and open space resources it had.

Mr. Terry stated the primary improvement at Rose Park was to solve the driving range problem, the tee was too small and the length of the driving range was too short, at 240 yards. He stated those issues were responsible for significant revenue impact issues. He stated the goal was to acquire 2.64 acres of property between the Rose Park driving range and the Jordan River par 3, which would allow for an extension up to 350 yards. He stated there was no guarantee that property would be acquired, so even though there was a loss of open space zoned land the goal was to acquire about the same acreage of residential property to convert to open space zoning.

Chair De Lay inquired if the water course on the property was natural, or was it created with Rose Park.

Mr. Terry stated it was created when it was built.

Commissioner Chambless stated this area was very flat and he inquired how deep the water table was there.

Mr. Terry stated he did not have that information.

Commissioner Fife stated he was concerned for the people who bought houses along the golf course and are now not going to be along the golf course, what can be said to them.

Mr. Terry stated the golf course had no agreement with the Guadalupe school; certainly they were an interested buyer and they have had conversations with them regarding locating the building to maximize the open space between the school and neighboring homes property line.

6:17:38 PM **Public Hearing**

The following people spoke or submitted hearing cards in *support* of the petition: **Vicki Mori** (340 South Goshin) stated she was the executive director of Guadalupe Schools. She stated currently their building was only 13,000 square feet, which only allowed for children kindergarten through third grade to attend and they would like to provide for children through the sixth grade. **David Kuhn** (11622 South Terendale Lane) stated he was in charge of the expansion committee for the school; they had spent several years looking for enough property to build a larger school. He stated they were a charter school, which placed restrictions on where their school could be. He stated they would also be sensitive to the current residential neighborhood as well.

Commissioner Chambless inquired about demographic projections for the next five to ten years.

Ms. Mori stated because the children were bused to the school, a 20 mile square radius was covered, and growth was definitely going to be incredible in the future. She stated currently there were 100 children on the waiting list and it was predicted that would continue to grow.

Bill Knowles (705 North East Capitol Boulevard) stated he been associated with the school for 15 years and this seemed like a win/win situation for the school and the city. **Walt Romney** (2606 Commonwealth Avenue) stated he was the President of the Guadalupe schools and he wanted to echo what Vicki, Bill, and Dave had already said. He stated this was a wonderful opportunity for the school and he would encourage the Commission to vote positively for this petition.

Commissioner Fife inquired about how many square feet the new facility would be.

Mr. Romney stated it would be 38,000 square feet.

The following people spoke or submitted hearing cards in **opposition** to the petition: **Ben Gilgen** (1246 West Sunset Drive) stated he was concerned because he currently lived along the golf course and this would directly impact him. He stated as far as the flooding there was approximately two feet of water that does cover the area from the ditch across to the street.

Chair De Lay inquired if Mr. Gilgen had spoken with the city regarding this, because the city had mentioned they were planning to improve the storm drainage and move it further away from the residences.

Mr. Gilgen stated the city had done some improvements about five years ago, but it had never functioned properly. He stated he was also concerned about home values and expanding the range to 350 yards, which he did not see a good return on investment with that because the thing that restricted the Rose Park golf range was the small tee off area.

Commissioner Chambless inquired if any homes had suffered water damage since 1983.

Mr. Gilgen stated he would have to ask his father, in the past some pumps had needed to be placed in backyards to help with flooding, and as far as damage, yes there had been water damage in the past.

Matt Luker (1328 Sunset Drive) stated this seemed to be a short term fix at the expense of the neighborhood. He stated he had heard the golf course had a budget shortfall of 20 million plus dollars and they expected to invest 2 million of that back into the Rose Park golf course, so essentially 90 percent of the money made from this sale would not be invested in the neighborhood. The idea to put a school on that property was the same thing as changing the zoning on that property from open space to something else; because once that building was built it was technically not open space anymore.

Tom Dickerson (1280 West Sunset Drive) stated the neighborhood's right to quiet enjoyment would be hampered with this school and would increase traffic in the neighborhood. He stated he did not want to see a traffic light put in. **Kelly Dickerson** (1280 West Sunset Drive) stated one of the major traffic concerns was to have 300 students from various neighborhoods being transported in. She stated the road was very narrow and having an increase in people traveling that daily could cause harm and damage to the neighborhood. She stated she was concerned about the night classes and because people might race late to class and not pay attention to children in the area. She stated the neighborhood had experienced an increase in traffic with the church at 1200 North and 1200 West, as well as soccer games held on Sundays in the parkway.

Chair De Lay closed the public hearing.

Mr. Terry stated a comment was made that the clubhouse would need to be torn down to allow for a 350 foot driving range. He stated that was not the case, the range would stay in its current location and then extend to the south.

Chair De Lay inquired about the flooding issues some of the neighbors had brought up.

Mr. Terry stated the open drainage would be improved and moved to the north and any issues regarding work done eight to ten years ago would be taken care of. He stated throughout the golf system there was 22 million dollars of differed capital improvements, but less than three million of that was at Rose Park. That money would not be generated from this project; it was simply one way of generating those funds.

Commissioner Gallegos stated he worked for an agency which provided financial support for the Guadalupe Schools, he wanted to know if the Commission felt this was a conflict of interest.

Commissioner McHugh stated this particular petition regarded whether or not this should be converted to surplus property.

Mr. Nielson stated he did not see a conflict as long as the Commissioners did not.

The Commissioners agreed there was no conflict.

Commissioner Muir inquired about what other possible options there were for this property.

Mr. Peperone stated other permitted and conditional uses would be cemeteries and accessory crematoriums, community and recreation centers, pet cemeteries, country clubs, golf courses, natural open space conservation areas, nature preserves, accessory uses to other allowed uses, and public or private utility buildings, transmission lines or wires.

Ms. Coffey stated a private recreation facility included: golf course, swimming pool, tennis club, or other recreation facility under private control, operation, or management, which functions as the principal use of the property. She stated there is another definition for public recreation as well as health club.

Commissioner Muir inquired why there was not an opinion on this from the open space committee.

Mr. Sommerkorn stated they may be making their recommendation directly to the Mayor, but the Commissions role was to hold a public hearing and then to make a recommendation to the Mayor.

Mr. Terry stated golf courses, all though zoned open space, do not fall under the jurisdiction of the open space committee. He stated there was a golf enterprise advisory board which had spoken with the open space committee.

6:48:45 PM **Motion**

Commissioner Hill made a motion regarding Petition PLNPCM2009-00824, that the Planning Commission forwards a recommendation to the Mayor that the property at approximately 1385 North 1200 West be declared as surplus property and that the minor subdivision approval be approved with the following conditions, and contingent upon the Mayor's action regarding the declaration of surplus property:

- 1. That the applicant shall finalize the land acquisition with the Property Management Division**
- 2. That the applicant shall purchase the subject property for its fair-market value.**

3. That a minor subdivision plat is recorded in the office of the Salt Lake County Recorder prior to issuance of a building permit on the subject property.
4. That the sale of the surplus property is subject to a Public Utilities easement on the north side of the property.
5. That a landscape maintenance agreement be entered into between Public Utilities and the ~~Guadalupe School~~ purchaser.
6. That a 30 foot easement will be maintained by Public Utilities along the east property line for maintenance and replacement of 78 inch sewer interceptor and 60 inch storm drain.
7. That an odor easement will be retained by Salt Lake City.
8. That 1200 West Street will be improved by the ~~Guadalupe School~~ purchaser, including curb, gutter, sidewalk, and a half width of asphalt pavement for the required right-of-way.
9. That all requirements of the city departments/divisions must be met.

Commissioner Woodhead seconded the motion.

Discussion of the Motion

Commissioner Muir noted that in the conditions it addressed the Guadalupe School, and he inquired if that was appropriate.

Commissioner Woodhead inquired if that should be changed from Guadalupe School to purchaser.

Mr. Peperone stated yes.

Commissioners McHugh, Hill, Dean, Gallegos, Chambless, Muir, Woodhead, and Algarin voted, “Aye”. Commissioner Fife voted, “No”. The motion passed.

Commissioner Dean stated this would be zoned open space still, but does the Commission want to restrict future sales to maintain this as open space in perpetuity.

Commissioner McHugh stated any type of zoning change would come before the Planning Commission for a decision, so specific conditions could be added in the future.

Commissioner Dean made an amendment to the motion to add a deed restriction to the property and it's permitted uses to remain as open space.

Commissioner Fife seconded the motion.

Commissioners Hill, Dean, Fife, Gallegos, Chambless, Muir, Woodhead, and Algarin voted, “Aye”. Commissioner McHugh voted, “No”. The amendment to the motion was passed.

Chair De Lay announced a small break at 6:54 p.m.

Chair De Lay reconvened the meeting at 7:00 p.m.

Commissioner Wirthlin rejoined the meeting.

7:00:41 PM PLNPCM2009-00774; Jam in the Marmalade Private Club—a request by Robert McCarthy for a conditional use approval to operate a private club, at approximately 751 North 300 West (currently a Tavern/Bar). The subject property is located in the MU (Mixed Use) zoning district in City Council District 3, represented by Eric Jergensen.

Chair De Lay recognized Nole Walkingshaw as staff representative.

Mr. Walkingshaw stated this was different from a standard conditional use due to the additional qualifying provisions of the social club in the M-U zoning district. He stated those qualifications were developed through the text amendment process and were intended to reflect a lot of the concerns of the citizens as this project went through that process. He stated the staff report analyzed those concerns, which were some of the strong points to focus on.

Some of the recommendations that were unique to this petition included the security and operations plan. Many of the concerns were about the impacts this use had, or may have, on the Reed Avenue residents. Staff made a recommendation to landscape the south portion of the property to prevent people from driving down Reed Avenue, as well as additional lighting on the property, and the security and operations plan would be given to the community councils as well as the police department, so they were aware of who they needed to speak to in the event there was an issue.

Commissioner Woodhead inquired about the smoking area. She stated in the security and operations plan it stated that area was 25 feet from entrances or exits, but how close was it to surrounding residences.

Mr. Walkingshaw stated the closest built structure was 50 feet from the facility. He stated the smoking issue was a difficult issue to deal with because currently they were in compliance with state laws when it came to the smoking patio, and the owner intended to comply with it in the future.

Mr. Robert McCarthy stated he signed a lease in 2007, through a long process of gaining permits along with community council and city involvement, Jam was able to open as a tavern in 2008. He stated during those two years he had tried to address the concerns of both the local community and the city. He stated Jam was hailed by the City Council as a model example in which future establishments should follow and the community benefited from having provisions in place versus the current business model of a tavern where no provisions were followed.

He stated this conditional use request was driven by local demand from the community, the neighborhood was evolving and becoming a sustainable and walkable community and was demanding a variety of products and services to suit their needs. Economics was also a huge factor; a beer bar could not make any money. He stated Jam had a sophisticated clientele, whose tastes went beyond beer, and having a liquor license since 2000, there had not been a single violation. He stated approval of this conditional use would allow a positive and vibrant business in the Marmalade District.

Chair De Lay inquired with the new laws the City Council passed, an establishment could not currently get a liquor license because there were no more.

Mr. McCarthy stated they had been working on this for the past eighteen months and had asked to go through the process because there were only one or two liquor licenses left.

7:08:48 PM **Public Hearing**

Chair De Lay opened the public hearing portion of this petition.

The following people spoke or submitted cards in *support* of the petition: **Karl Fraizier** (1147 Autumn Leaf Lane) stated he was in support of the conditional use permit. **Mike Ellis** (1325 Emerson Avenue) stated Jam had become a place for all walks of life to gather and grow as a community. **Marsha Merrill** (438 East Bryan Avenue) stated the Commission should rule in favor of Jam's request for the conditional use of the property. **Joshua Maybee** (708 North 300 West) stated he was in support of the conditional use. **Todd Crofts** (751 North 300 West) stated he was in support of Jam's conditional use permit. **Kyle Kerr** (613 North 200 West) stated as an employee and resident of the neighborhood, Jam is a wonderful addition to the Marmalade community and it has been a pleasure to work for Jam for the past year. He stated the owners care about the future of the neighborhood and the residents living in the Marmalade district. **Ben Olson** (370 West 800 North) stated he was in support of the conditional use. **Jeremiah Maybee** (708 North 300 West) stated he was in support of Jam receiving a liquor license. **Chris Chipman** (560 South 500 East) stated he was in support of Jam receiving a liquor license. **Ken Lee** (560 South 500 East) stated he was in favor of the conditional use permit. **Mark Webber** (1734 West Redstone Avenue #C) stated he was in support of Jam receiving their alcohol permit. **Vanessa Monger** (613 North 200 West) stated Jam was a great asset to our neighborhood, the owners are very responsible and we enjoy their business in the marmalade. **Esther Hunter** (1049 Norris Place) stated she had a thought on mitigation regarding this particular location; the street where the residents live is a very small street and if there was a fence it would be helpful.

Mr. Walkingshaw stated staff was recommending landscaping there, for the very purpose of aiding in traffic control along Reed Avenue.

Eric Ethington (1279 East Roosevelt Avenue) stated there were not a lot of bars in this area that were as quality as Jam and he supported the petition for a conditional use. **Nate Currey** (2519 South 500 East) stated one of the fundamental issues is what the city's view is regarding mixed use zones. He stated what makes an urban, walkable city is a mix of land uses. He stated this is only the beginning for mixed use zoning in Salt Lake City and this is the future evolution of the City's future growth. **David Daniels** (5802 Crest Flower Way) stated he was in support of the petition. **Tyler Kunz** (208 West 600 North) stated he was a patron of Jam as well as an employee and the owners of Jam have welcomed a lot of local artists into their space. **David Johnson** (208 West 600 North) stated because of Jam he has met a lot more people in the neighborhood and he was in favor of having Jam receive approval of this conditional use. **Kevin Nollenberg** (708 North 300 West) stated there is no place to park on Reed Avenue because at night all the residents are home, and children are not playing in the streets, so parking does not seem to be a problem for the neighbors. He stated he would like to see this conditional use move forward. He stated there is some expensive property and urban professionals in the area with money who want to build a community and have a place to go to socialize. He stated the answer was not to build a wall on Reed Avenue, but rather to build the community. **Brian Morris** (751 North 300 West) stated he was one of the owners for Jam and he was in support of the conditional use. He stated extra parking has been contracted with a neighboring business, which is closed at night and would be perfect for Jam. He stated Jam is

not just a bar, they hold art shows Tuesday through Thursday and on Friday there are DJ's and the area is getting better with less crime.

Commissioner Woodhead inquired if Jam served food.

Mr. Morris stated yes, they did not have a kitchen, but did have access to a restaurant that brought fresh food in from local companies.

Commissioner Dean asked about the flow of traffic in Jam's parking lot.

Mr. Morris stated there was angled parking and patrons could pull into the parking lot from 300 West. He stated there were signs posted asking patrons to not use Reed Avenue to exit or to park.

Commissioner McHugh stated there actually was a lot of room to turn around in that parking lot.

Commissioner Muir stated this was a terrible site plan, but if the curb cut was removed from the corner, and a double loaded row of parking was created, then 20 stalls could be put in and the amount of asphalt could be reduced by possibly 30 percent and landscaping could be created along the northern edge to create a buffer. He stated the patio could be moved to the other side of the building to create a further buffer of cigarette smoke and noise from transferring across the property line.

Commissioner McHugh stated where the patio was currently seemed better as far as security, because if Jam had to I.D. people they had to come to the main entrance and not slip in through the patio.

Mr. Morris stated a lot of the layout now was done according to how the City said they wanted it.

Commissioner Hill stated Jam should refer to a more community building design philosophy, with patios out in front of the building.

Mr. Morris stated the front of the building contained all of the mechanical systems to the building, but he would take those suggestions into consideration.

The following people spoke or submitted hearing cards in *opposition* to the petition: **Nephi Kemithmuehler** (representing the area of 600 North to 800 North and from 400 West to 300 West) stated in a block area there were two bars and one liquor establishment and in Salt Lake City there were only two MU zones, both of which were in the Capitol Hill Community area. He stated several weeks ago Jam applied to be a liquor establishment and he asked that the Commission not grant the conditional use request because Jam is surrounded by residential properties. He stated he was concerned about a traffic increase and safety, garbage left in the area, odors, and parking for 185 people. **Katherine Gardner** (606 Desoto Street) stated the community council had a tie vote regarding this issue, the owner had made Jam a nice place, but it is not a convenient walk and there were problems with parking and clean up. She stated she had lived in the area for 47 years and she appreciated Jam's efforts, but it was better as a quiet, little beer bar rather than attracting large crowds to the area. **Minta Brandon** (113 West Clinton Avenue) stated the master plan should be followed in this case, she would hate this neighborhood to turn into bar after bar after bar. **Erick Brown** (1217 Whitlock) stated he owned the duplex on Reed Avenue and parking was a huge concern. He stated Jam currently had about twelve parking spaces and three on the street, but the occupancy was for 185. He stated this is not a really walkable area and he was concerned about traffic and parking problems in the area. **Lewis Wilson** (377 West 800 North) stated his general

inclination toward this petition was whose wallet would get fattened from this approval. He stated if there was a high occupancy function, parking should be accounted for.

Chair De Lay closed the public hearing.

Mr. McCarthy stated financially it would be impossible to redesign the building and after three years of working on this project it would not make sense to do so. He stated his concern regarding the smoking was that if anymore restriction were placed on that it would drive people away from his establishment. Currently those who smoke were contained and fifty (50) feet away from structures and the walls were high in the area, without that they would be out on the street congregating and smoking.

Commissioner Chambless stated traffic seemed to be the number one concern, and he inquired what Mr. McCarthy would do to help mitigate that issue.

Mr. McCarthy stated the parking lot should fit as many cars as possible, which was done. On both sides of 300 West for about a mile, people could park and walk to the establishment. Off street parking was obtained from the business across the street, and signs were placed stating patrons should not park on Reed Street. He stated he was a little concerned about the suggested landscaping on Reed Avenue, and he would like to denote there be no physical way to exit or enter Reed Avenue. He stated if a fence was built that would actually allow for two or three more parking spaces. He stated he would even be for permitted parking, but that would be up to the neighbors.

Mr. Nielson reminded the Planning Commission of what the standard was for a conditional use. He stated there were statutory standards for this decision found in 10.98.507; *a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects 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.* He stated the Planning Commission was required by law to approve the conditional use, if the anticipated effects could be mitigated.

8:05:16 PM Motion

Commissioner Woodhead made a motion regarding Petition PLNPCM2009-00774; a conditional use as a private club for Jam in the Marmalade, the Planning Commission approves this petition based on the staff report and the input received at the public hearing, and subject to the following conditions:

- 1. The proposed Security and Operations Plan will be reviewed by the community police officer for recommendations, followed by a distribution to necessary groups, or agencies. The Planning Director will have final approval on the Security and Operations Plan.**
- 2. The area beginning at the south east corner of the property will be landscaped from the corner of the property to the existing landscaped area on the south property line. The landscape buffer shall not encroach into the travel isle from the 300 West approach and shall not be less than 4 feet in depth. Curbing or fencing shall be in place to prevent vehicle access from the parking area to Reed Avenue. The Planning Director will have final approval on landscaping and fencing.**

3. **Lighting repairs made to the shielded parking lot lights, the wattage of the lights shall be such that the light is contained to the premises and will avoid creating unnecessary light pollution. Lighting to the site will be adequate to provide for safe access and minimize dark places for security purposes. Removal, redirection away from adjacent properties or shielding of existing flood lights is required.**
4. **Compliance with all other City Department requirements outlined in the staff report for this project.**

Commissioner McHugh seconded the motion.

Commissioners McHugh, Hill, Dean, Fife, Gallegos, Chambless, Wirthlin, Woodhead and Algarin voted, “Aye”. Commissioner Muir voted, “No”. The motion passed.

Discussion of the Motion

Commissioner Muir proposed an amendment to consolidate parking on the north side of the building and to move the patio, to mitigate the impact of smoking, around to the east side of the property.

Commissioner Hill seconded the amendment.

Commissioners McHugh, Dean, Fife, Gallegos, Woodhead, and Algarin voted, “No”. Commissioners Hill, Chambless, Muir, and Wirthlin voted, “Aye”. The motion failed.

Chair De Lay announced a short break at 8:07 p.m.

Chair De Lay reconvened the meeting at 8:13 p.m.

8:14:01 PM Petition PLNPCM2009-00495; Zoning Text Amendment Relating to Salt Lake City Alcohol Regulations The Planning Division is reviewing a petition initiated by Mayor Becker to amend the Salt Lake City Zoning Ordinance in matters related to City alcohol regulations. The amendments are proposed to ensure consistency with State law, provide clarity in the Zoning Ordinance and process, and to allow alcohol related establishments throughout the City in areas where they are appropriate.

Chair De Lay recognized Lex Traugher as staff representative.

Mr. Traugher stated on September 23, 2009 a work session was held to discuss this petition and suggestions from that work session were worked back into the details of this petition. He stated on Page 6 of the staff report it showed staff went through an extensive public process to collect information, comments, thoughts, and direction regarding this proposal. He stated the Mayor’s office undertook an extensive endeavor to collect input as well and produced a separate report, which also contained a lot of public comment. A lot of the concerns heard were in regards to alcohol related uses in/adjacent to residential areas. The City Council recently passed the ban on the two-per-block-face distancing requirement for alcohol establishments in the downtown area.

Mr. Traugher stated originally brew pubs, taverns, social clubs and dining clubs were proposed in the low intensity residential mixed use zones, and the low intensity commercial zones. Through this process of public comment staff cut back specifically in the commercial neighborhood (CN) zone, residential business (RB) and residential offices (RO) zones, it was proposed the only uses that could be in those particular zones would be a dining club or a brew pub, both would go through a conditional use process. He stated the reason those two uses were chosen was because 50 percent of their revenue was food sales, so they were more along the line of a restaurant, rather than a liquor establishment.

Mr. Sommerkorn stated the public did not seem to have a problem with restaurants being in those commercial zones, many restaurants already served alcohol, so the dining clubs and brew pubs would be very similar to restaurants and the public seemed comfortable with that use in their neighborhood.

Mr. Frank Gray stated the state changed the way liquor was administered in Utah this year. He stated Salt Lake City had the most complex liquor laws in Utah and it seemed like a long process for a business to be able to get a parcel that was zoned correctly, obtain the building permits that were necessary, go to the state to get the liquor licenses necessary, and then apply for a business license, only to find out they could not have their business on that parcel because the alcohol map was actually contained in the business license division and not in the zoning ordinance. He stated this ordinance change should simplify this process. One of the things the community said was yes we want a glass of wine with dinner, but we do not want a bar in their neighborhood, so a lot of changes that were made was the result of interaction with the community.

Commissioner Woodhead stated Section E needed to be rewritten. Currently it read, *a minimum area of one half acre is required to be eligible for an alcohol related establishment as noted in the Tables of Permitted and Conditional Uses*. She stated the half acre needed to be defined better, a half acre of what.

Commissioner Chambless inquired if staff had looked at what other cities, which have grown up much like Salt Lake City had, have done.

Mr. Gray stated other cities did not have some of the stigmas found in Salt Lake City as far as alcohol regulations were concerned. He stated a lot of other cities had not evolved the same way as Salt Lake City.

Chair De Lay stated yes you could not compare those cities, but what about some of the southern Utah cities.

Mr. Gray agreed Utah itself was the best example, and the majority of the cities looked at simply regulating in accordance with State law, but most of those cities did not have the complex urban environment that Salt Lake City had.

Mr. Sommerkorn stated staff looked at West Valley City as an example, and they allowed alcohol related businesses in their commercial zones and a spacing requirement when those zones abutted a residential zone.

8:34:06 PM **Public Hearing**

The following people spoke or submitted cards in *opposition* to the petition: **Anne Cannon** stated she was very opposed to providing zoning changes that would negatively affect the character of residential neighborhoods that have here to fore not included establishments serving alcoholic beverages by definition as dining club or

brewpub. **Gary Felt** (230 South 1200 East) stated more research should be made before a vote. **Kenneth Grover** (206 Douglas Street) stated he would like more community input and to look at smaller zones to vet potential problems before the Commission makes a decision. **Erick Brown** (1217 Whitlock Avenue) stated more work needs to be done for safety, traffic, garbage, and harmony with the community. **JoAnna Matthes** (275 Douglas Street) stated she lived on the backside of the already established businesses on 1300 East and she was concerned with more traffic, more late night noise, more garbage, etc. She stated there were families on Douglas Street and several half way houses or group homes in close proximity in the area and she did not feel it would be a healthy addition to the neighborhood. **G. Kevin Jones** (East Bench Community Council Chair) stated in the East Bench area under these zoning changes alcohol establishments would be allowed in the Foothill Family Clinic area and the Lamplighter Square area, which is further north on Foothill Boulevard. He stated this proposed alcohol regulation had been discussed on the Community Council level many times, he stated the East Bench residents unanimously oppose extending new alcohol related establishments into the neighborhood. He stated these uses on Foothill and next to the freeway propose more traffic and accident issues because cars emerging from Interstate 80 onto Foothill Boulevard are traveling at a high speed, he stated it is highly likely that patrons of these establishments will cut through surrounding neighborhoods for established alcohol serving facilities, which will be a nuisance and safety hazard to those residents.

Commissioner Woodhead inquired if residences would be against the proposed changes to the ordinance which would only allow alcohol establishments in that functioned more as a restaurant rather than a bar.

Mr. Jones stated it did not make a difference, the residence in the area were opposed either way because existing harmony and balance in the area would be disrupted. Currently the businesses and residences were operating on a 8:00 a.m. to 5:00 p.m. schedule and by introducing alcohol related establishments, not only was it an inappropriate use which could not be mitigated successfully through the conditional use process, but extending and introducing late night activities into the neighborhood, which the neighbors were universally against.

Commissioner McHugh stated the council had not voted on these issues so where was the information coming from.

Mr. Jones stated from extensive communications with neighbors, the individuals who came forward were those who were the most affected.

Commissioner McHugh stated currently in the neighborhood was the Bombay House, Five Alls restaurant, Red Butte Café, and a number of other establishments that serve alcohol and already existed in the neighborhood.

Mr. Jones stated yes, but they were further down from the zone where the Foothill Family Clinic was located. He stated that area was simply a business area with 8:00 a.m. to 5:00 p.m. operation.

Commissioner Chambless stated he had lived in that area for over 30 years and it seemed the real problem was the traffic in the area. He stated Foothill Boulevard was surrogate freeway.

Mr. Jones stated that was correct, so if late night establishments were introduced on the south end of Foothill, where that freeway exit was located, just imagine the future problems. He stated it was traffic and an alcohol related problem because the harmony would be changed in that area.

Mark Brinton (Wasatch Hollow Community Council Chair) stated the proposal came out last Thursday evening so this community council did not have an opportunity to vote on it. He stated the 15th and 15th area was located in their community council and the Emigration Market was next to it, he stated those were only two areas that would be affected by this.

Chair De Lay inquired how these areas would be affected, by having more restraunts.

Mr. Brinton stated this had nothing to do with restraunt licenses; this had to do with the other range of alcohol licenses. He stated these changes would enable the possibility of having dining clubs and brew pubs in the neighborhood. A lot of work was done on this and it was explained to him that dining clubs functioned as restraunts during dinner hours, but more as a bar after hours.

Cathy Knight (1387 Ambassador Way) stated Salt Lake City works to alleviate problems associated with gang activity and underage drinking. She stated the expansion of alcohol related businesses gave the impression of leniency in the use of alcohol to the youth. She stated a clear message from responsible adults which limits the accessibility and use of alcohol would have a wise and positive influence. She stated alcohol is an addictive substance and she would encourage youth to not use it. She stated increasing alcohol establishments makes Salt Lake City like every other urban area and detracts from the uniqueness of our lovely city. **Craig Knight** (1387 Ambassador Way) stated Foothill traffic is horrible and the area from Parley's Way onto Foothill Boulevard is heavily residential, he was concerned because currently the police do not enforce conditions that were included when the conditional use was approved. He stated conditions are a great idea, but who monitors and enforces those. **Arla Funk** (1235 East 200 South #602) stated the proposals regarding these changes were conceptual in nature when the community councils were briefed on them, the actual ordinance has only been out for about seven days. She stated community council votes should be part of the process, especially for something like this. She stated three issues were brought up in the focus groups that were the concerning impacts in the areas of parking, smoking, and noise. She stated the ordinance addresses noise to some extent, by requiring all music be kept inside, but smoking has not really been addressed. She stated all it says is the state law will be followed, which is smokers have to be twenty (20) feet from the entrance of the building, and because there is no spacing requirements from residential areas, patrons could walk twenty feet away from the establishment to smoke and be right in front of someone's house. Smoking can be addressed, it was suggested that somewhere between a fifty (50) and two hundred (200) foot parameter be maintained between an alcohol establishment and an actual residence.

Chair De Lay inquired if that was already part of the State law.

Ms. Funk stated another issue is parking mitigation, which the Commission got a taste of tonight regarding Jam in the Marmalade. She stated the ordinance currently states that parking management should include consideration to the surrounding neighborhoods. She stated that really is not a statement it is more a clash of opinions, so how can an establishment's alcohol license be withheld by only stating consideration needs to be given. She stated parking should be regulated in regards to what the occupancy of the building is either on premises or close by and specific regulations should be added to the ordinance to make it more compatible. She stated there were also fifteen additions made by the focus groups, but the staff report only said staff would continue to asses this and make recommendations. She stated if there are fifteen areas of concerns, they should be studied now to make this a good ordinance, because it is a dramatic change from where the city has been. She stated Salt Lake City cannot really be compared to anywhere else; the ordinance needs to consider that Salt Lake

City is not really a walkable city yet, so when a walkable bar is mentioned in the ordinance that is way in the future and will not function as such for a while. **Marilyn Wolf** (250 South 1200 East) stated she was a resident in the University area along 1300 East. She stated she lives with the traffic, employees that want to party after work, noise, and garbage. She was concerned the small grocery store establishments in the neighborhood would be turned into something with an alcohol use. She stated she wanted to walk down her street and enjoy it and feel safe, as well as the students in the area. **Esther Hunter** (1049 Norris Place) stated the city has done a lot and this is a sensitive topic, and they were interested in enlivening the downtown area. She stated at this point the nodes in the neighborhoods, which are all unique for instance the Trolley Square area would love to see additional establishments in their area, but on 1300 East it is obviously a different issue. She stated the focus groups have been great, but neighborhood still feel there is work to be done and would like to be more involved with these changes. **Katherine Gardner** (606 Desoto Street) stated she was concerned if the city was not careful it would create more problems other than parking, smoking, and noise. She stated she would like to see more time allowed to be able to discuss these issues further and suggested tabling this petition.

Chair De Lay closed the public hearing.

Mr. Gray stated there were a few issues raised that needed to be addressed. The issue of noise and smoking were not only factors in these establishments, but others as well. He stated outdoor speakers were not an issue, but sometimes people congregated outside, but in a way this was part of urban living.

Commissioner Woodhead inquired if there was time for one more open house regarding this issue, or even one month for community council votes.

Mr. Gray stated a draft ordinance went out in September, and was on the website as well and was modified and updated on the website since then. He stated people were invited to make comments, which they had and those modifications were incorporated; however, the purpose of the focus groups were to get input regarding what issues needed to be studied, focused on, and changed. He stated it was not fair to say that this was a last minute thing; it was an evolving process and would probably continue to evolve.

Commissioner Algarin stated the opposition that was expressed did not require time to discuss it to mitigate those concerns. Salt Lake City was changing whether that was seen as a good or bad thing it was a fact. He stated he did not see how additional time was going to change anybody's opinion.

Commissioner Woodhead stated she was still pretty supportive of this ordinance change, but she did have some concerns about whether or not some establishments would be required to serve food, so when she heard about that change to make these establishments function more like restaurants it changed her position. She stated when she heard a lot of anecdotal evidence in opposition from people who may not even know what the ordinance says, she felt a little bit concerned that there should be time made for one more open house to allow people to find out what the ordinance changes actually say, and in turn staff could get some realistic feedback, instead of feedback that might stem from misinformation.

Commissioner McHugh stated the staff report already contained a lot of public comment and she did not know how some of those concerns could be taken care of, there would always be those not in favor of this petition.

Commissioner Woodhead stated when you go to a place like Red Rock it did not seem they necessarily had a smoking area, so it seemed there were certain types of establishments that were not required to have smoking areas at all.

Mr. Gray stated that was a good point. State law was what prevailed and that stated that one had to be twenty feet away from a doorway or entrance, but the City was going to go one step beyond the state law and was proposing a security and maintenance plan, so an establishment would have to show where the designated smoking areas were going to be. There was some question if someone was smoking in accordance to State law, can the City site them and that has not been fully discussed yet.

Commissioner Muir stated he was concerned the community councils had not had a chance to vote, but how soon would this go to the City Council and in that timeframe would there be time for the community councils to hold a vote and to convey that to the Council.

Mr. Gray stated the City Council would probably hear this in February.

Commissioner Hill stated no community should be built around a neighborhood bar, it should be built around a lot of pieces and parts. She inquired if there was something in the ordinance which would designate a particular density with regards to numbers and types of businesses where a community bar was permitted to go in.

Chair De Lay inquired if Commissioner Hill would like *density* to be defined in the ordinance.

Commissioner Hill stated yes and not density in regards to residential because the last thing that should be done was to place a bar in a residential neighborhood. She stated if there was something more concrete in the ordinance regarding that specification, residence might not be as against this.

Mr. Gray stated neighborhoods were concerned about bars or places where people went to just drink alcohol. He stated that was why bars were removed from the ordinance, so the only thing left was, *places that serve fifty (50) percent or seventy (70) of their sales by way of food*. He stated the question being raised was should that be limited even more, which was something that would require additional discussion.

Commissioner McHugh stated the half acreage stipulations were included in the changes, which would likely take care of that concern as well.

Mr. Gray stated alcohol establishment should be part of the commercial fabric of a neighborhood and not the center of the neighborhood.

Mr. Traugher stated distancing requirements were also written into the ordinance, so one neighborhood could not have more than one dining club or brew pub within 600 feet of each other in those zones.

Commissioner Dean stated her main concern was protection for the immediate neighbors from issues that already existed in the community due to facilities like this. She inquired if there was a way to better enforce or to require more accountability. She stated maybe a forfeiture of an alcohol license in the case of so many violations, as well as a proper channel for reporting violations through the City, because the police might not be the right channel either. She stated as far as the distance buffers, there had been recommendations that were only landscape buffers.

Commissioner Fife stated that was probably because a lot of these establishments currently existed in the City and if a 250 foot buffer was required that would wipe out a lot of the areas.

Mr. Traugher stated there was a 200 foot buffer from churches and schools and inquired if Commissioner Dean was referring to that spacing.

Commissioner Dean stated under Section D of the ordinance it states, *require buffering where a tavern social club, brewpub, or microbrewery abuts a residentially zoned parcel. Said buffering shall include vegetative landscaping or walls along any property line or within any required yard area on the lot where the premises are located.*

Chair De Lay inquired what other type of buffering could there be.

Commissioner Dean stated distance, because just a wall was not much of a buffer.

Mr. Gray stated he agreed there could be a spacing requirement, but a landscape buffer was intended to mitigate headlights or noise. It was more of a demarcation use. He stated the maintenance and operation plan would be required to be submitted annually through business licensing. He stated that would also include a name and telephone number where people could call in concerns. Every year each establishment would be reviewed under that plan, to see how many violations or complaints a business had received and then possibly a business license would not be issued, or could be conditioned if they had not been complying.

Chair De Lay stated the City did not have the jurisdiction to take away alcohol licenses, because that was a state function.

Commissioner Fife stated he could support this if there were no conditional uses in the CN zones; the reason was because that zone was the smallest commercial zone and usually was surrounded by homes.

Commissioner Gallegos stated he was also concerned about compliance and enforcement and inquired if there was a system to track that so the City could review that information on a renewal basis.

Mr. Gray stated there was.

Commissioner Chambless suggested looking at Portland, Oregon and Seattle, Washington as models regarding this issue. He stated Salt Lake City's demographics were changing and were much more like those cities rather than smaller Utah cities. He stated the decision should be not be made regarding traffic concerns or culture clashes, he wanted to be certain those who had expressed opposition felt like they had a fair process as far as being able to express those opposing opinions.

Commissioner Wirthlin stated the Commission had heard enough from concerned community councils whose input was highly valued, and there was a sense that not enough education was given on the final ordinance which was being proposed. He stated it might be beneficial to allow for one more open house or to meet with the community councils, and he would also be more inclined to support this if the CN zone was removed like Commissioner Fife suggested.

Commissioner Woodhead stated she did not have a problem with the CN zone being included, though she had before she understood this ordinance was limited to institutions that served food, which made a huge difference.

She stated on one hand the public comment report the Commission received was overwhelmingly in favor of some version of this ordinance and on the other hand there was a sense of negative feedback, which was anecdotal from the community councils and she was not sure people really knew what they were opposed to or what the ordinance actually said. She stated she would be in favor of an open house.

Commissioner Algarin stated he recognized Mr. Traugher had done a lot of work on this. He stated he was not in favor of excluding CN zones because though a community should not be built around a bar, the city certainly cannot tell a community they cannot have a bar.

9:37:56 PM Motion

~~Commissioner Algarin made a motion regarding Petition PLNPCM2009-00495; a Zoning Text Amendment regarding alcohol regulations that the Planning Commission forwards a favorable recommendation to the City Council based testimony heard at the public hearing and the following:~~

- ~~1. The proposed amendments are consistent with the general purpose and intent of the Zoning Ordinance as stated in the Zoning Ordinance section 21A.50.030.~~
- ~~2. The proposed amendments are generally consistent with the factors of consideration for zoning amendments found in Zoning Ordinance Section 21A.50.050.~~

~~Commissioner Gallegos seconded the motion.~~

9:38:38 PM Motion

Chair Woodhead made a motion regarding Petition PLNPCM2009-00495; Zoning Text Amendment Alcohol Regulations be tabled until January 27 and that in the interim staff present the revised ordinance to the community council chairs and hold an open house.

Commissioner Dean seconded the motion.

Commissioner McHugh, Gallegos, Muir, and Algarin voted, “No”. Commissioners Hill, Dean, Fife, Chambless, Wirthlin, and Woodhead voted, “Aye”. The motion passed.

The meeting adjourned at 9:42 p.m.

This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on December 9, 2009.

Tami Hansen