

PLANNING COMMISSION STAFF REPORT

Avenue Heights Planned Development Case #PLNSUB2008-00670 678 North H Street February 25, 2009



Planning and Zoning
Division
Department of Community
Development

Applicant:

Celtic Bank, Reese Howell

Staff:

Ray Milliner ray.milliner@slcgov.com
(801)535-7645

Tax ID

09-30-479-013

Current Zone:

SR-1A

Master Plan Designation:

Avenues Very Low Density 1-4 units per
acre.

Council District:

3 Eric Jergensen

Lot Size:

.44 acres or 19,160 square feet

Current Use:

Single Family Home

Applicable Land Use Regulations:

Section 21A.54.140
Section 21A.24.080

Notice

Mailed: February 10, 2009
Posted: February 10, 2009

Attachments:

- A. Proposed Site Plan and Elevations
- B. July 23, 2008 Interpretation
- C. Department Comments
- D. Minutes from Administrative Hearings
- E. Community Council Comments

REQUEST

The Celtic Bank, represented by Reese Howell is requesting planned development approval for the following:

1. Relief from Section 21A.36.010B1-2 requiring that not more than one principal building be allowed on a single lot.
2. Relief from Section 21A.24.010HI requiring that buildings have an entrance door along the front façade.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review the proposed planned development, conduct a public hearing and consider approving it pursuant to the analysis, findings and conditions of approval in this staff report.

Conditions of Approval

1. Prior to the final occupation of either of the buildings, a condominium conversion application shall be reviewed and approved by the City.
2. No increase in the overall footprint of the site is allowed.
3. No increase to the height of the structure shall be allowed as part of this application.
4. Any changes in existing grade shall be reviewed and approved pursuant to SLC Zoning Ordinance requirements prior to any excavation work on site.
5. Screening shall be provided on either side yard in the form of landscaping. A detailed landscape plan shall be provided as part of the building permit review.

Vicinity Map



BACKGROUND

The owner of the property, Celtic Bank, is requesting approval of a planned development to allow two principal structures on a single lot and a side entry as the primary access to a building. The land is located in the SR-1A zone and is approximately 19,160 square feet in size. There is an unfinished 14,000 square foot single family home on site. If approved, the applicant will remove the center section of the building, creating a single family home on the north and a duplex on the south.

A building permit for the existing home was issued on December 13, 2002 nonetheless; construction has yet to be completed. Progress has been hindered by a number of issues and problems with ownership, Ordinance compliance and costs that have arisen throughout construction. If the Planning Commission approves this planned development, the current building permit will become void and a new building permit for the proposed work will be issued.

Since the issue of the 2002 building permit, changes to the City Zoning Ordinance, adopted in 2005, have rendered the building nonconforming in height as well as wall height. These issues were addressed in a July 23, 2008 Administrative Interpretation letter from the Zoning Administrator (attached as Exhibit B). Section 21A.38.090 states:

“Any noncomplying structure may be repaired, maintained, altered or enlarged, except that no such repair, maintenance, alteration or enlargement shall either create any new noncompliance or increase the degree of the existing noncompliance of all or any part of such structure.”

The applicant is proposing significant alterations to the building that will reduce the amount of noncompliance of the height by removing the central section of the building. Staff's review of the proposal indicates that this action along with the approval of a condominium plat will not create any additional noncompliance of the structure, as no additional height will be added to the building. Nonetheless, the buildings will remain noncomplying as not all of the excessive height will be eliminated. Much of the height in the rear will remain as well as the height of the exterior walls.

The following is a timeline of events since 2002.

- Summer 2002, Jeffery Burt, the owner of the property, submitted an application to the Building Division to connect two single family homes at 678 and 684 H Street.
- December 13, 2002 the building permit is issued, construction begins.
- April 27, 2005, contractor, Scott White, acquired property.
- January 6, 2006, Building Division issues stop work order because of concerns regarding the height of structure.
- January 27, 2006 Building Division determines that building exceeds height limit, orders contractor to remedy problem.
- February 17, 2006 Building Division inspects height revisions, finds them to be compliant, and the contractor proceeds with construction.
- July 2006, inspectors order the applicant to submit a special exception application for a grade change of greater than 2 feet.
- October 2, 2006 Administrative Hearing Officer reviews application denies request (Minutes attached as Exhibit D).
- November 27 2006, Administrative Hearing Officer re-opens case and approves special exception request (Minutes attached as Exhibit D).
- July 2008, Celtic Bank acquires property, proposes to split single family home into two lots with two buildings.
- July 23, 2008 City Zoning Administrator issues determination stating that splitting the home and creating two lots would increase the degree of noncompliance of the structure by creating new noncomplying exterior walls along the new interior side yards (letter attached as exhibit C).
- October 17, 2008 applicant submits Planned Development application currently under review.

Proposal

The applicant is proposing to transform an existing 14,000 square foot single family home into a 3 unit condominium on one lot, with access for each unit from H Street. The middle section of the building will be removed, creating a single family home on the north and a duplex on the south. When the middle section is removed, the existing front entry will be eliminated and new entries for each building will be built. The applicant is requesting that the Planning Commission review and approve a Planned Development waiving the following requirements.

1. Relief from Section 21A.36.010B1-2 requiring that not more than one principal building is allowed on a single lot.
2. Relief from Section 21A.24.010HI requiring that a building have an entrance door along the front façade.

Staff has conducted a preliminary zoning review of the property and made the following findings:

	SR-1A Ordinance Requirement	Existing	Proposed
Lot Area	5,000 sq. ft. for a Single family home 8,000 sq. ft. for a duplex.	.44 acres or 19,160 square feet. COMPLIES	.44 acres or 19,160 square feet. COMPLIES
Lot Width	Minimum 50 feet of frontage for a single family home and 50 feet of frontage for a duplex	105 feet COMPLIES	105 feet COMPLIES
Building Height	Maximum 16 feet for a flat roof measured from established grade	Approximately 30 feet at the highest point. NONCOMPLYING	Approximately 30 feet at the highest point. NONCOMPLYING
Yard Requirements	Front = average of blockface Side = 10' and 4' Rear = 25% of lot depth not to exceed 30' or be less than 15'	Front = 25 feet both frontages Side = 10' and 8' Rear = 30' COMPLIES	Front = 25 feet both frontages Side = 10' and 8' Rear = 30' COMPLIES
Building Coverage	40% of lot area	7,884 square feet, approximately 42 % NONCOMPLYING	6,505 square feet approximately 34 % COMPLIES
Parking	2 spaces per unit.	4 parking stalls. COMPLIES	6 parking stalls. COMPLIES
Attached Garage	50% of front façade, if facing street.	Approximately 37% COMPLIES	Single Family Home = 45% Duplex = 38% COMPLIES

If the Planning Commission makes findings for approval of this application, the project will be able to proceed with building permits and begin construction. Nonetheless, the applicant will be required to submit for approval a condominium plat that will need to be approved and recorded prior to the final issue of a certificate of occupancy by the Building Division. A final review for zoning ordinance compliance will occur at the time of building permit application.

Comments

Public Comments

This application was reviewed by the Greater Avenues Community Council (comments attached as exhibit E). The Council determined that the proposed changes to the structure were not sufficient to mitigate the problems caused by the original structure and therefore did not support the application.

No other public comments have been received at the time of this writing.

City Department Comments

The proposal was reviewed by all applicable City departments and divisions. The review comments have been attached to this report as Exhibit C. There were no issues raised by the City that would prevent the proposal from proceeding. The applicant must comply with all City requirements.

ANALYSIS

Master Plan

The .44 acre property is located in an area covered by the Avenues Master Plan, designated as very low density residential (1- 4 units per acre) on the Future Land Use Map. The future land use map was updated by the 1995 adoption of the current Zoning Ordinance and this property was zoned SR-1. The proposal is consistent with the allowed density of the SR-1 district.

The planning goal of the Land Use section of the Avenues Master Plan states:

“Preserve the residential character and existing land use patterns in the Avenues Community. Special emphasis should be placed on regulating foothill development and preserving the historically significant sites, and districts.”

The Avenues Master Plan further recommends that the potential height limit be reduced, in order to limit the impacts of new single family homes on existing homes. This will make new construction more compatible in mass, size, style and design with the surrounding historic and contemporary single family homes. In 2005, the City Council amended the Zoning Ordinance and adopted these recommendations by creating the SR-1 zoning district. In 2006, the City Council adopted the current zoning of SR-1A which further reduced the allowed building height.

The house was originally designed and permitted in 2002, prior to the adoption of the 2005 Zoning Ordinance changes that implemented the master plan goals. As a result, the home is not compatible with other structures in the neighborhood. Modifications to the building will result in two smaller structures, with a section of the top level of the northern building being removed. Although much of the original height of the building will remain, staff finds that the proposal represents an improvement over the existing conditions as the visual impact of the building when viewed from the street will be reduced, as the mass of the building will be broken into two pieces.

Finding: Staff finds that the proposed changes to the structure are compatible with the existing Avenues Master Plan as the Planned Development will reduce the mass, and height of a large nonconforming building in a residential zone characterized by smaller historic and contemporary single family homes. Staff also finds that the proposed improvements to the structure will jumpstart construction on a building that has stagnated. In spite of its status as a relatively new structure, the lack of any activity on the property has created a situation of neglect that needs to be remedied.

Conditional Use Standards

Section 21A.54.080 of the Zoning Ordinance provides General Standards for Approval of a conditional use. Staff has applied these standards to the proposed use, and made the following findings (staff analysis is in italics):

Standard 1: Master Plan and Zoning Ordinance Compliance: The proposed conditional use shall be:

- a. Consistent with any policy set forth in the City-Wide, Community and Small Area Master plan and future land use map applicable to the site where the conditional use will be located, and
- b. Allowed by the zone where the conditional use will be located or by another applicable provision of this title.

Analysis: The proposed use is an allowed use in the SR-1A zone. The density at 7 units per acre is within the limits established in the Avenues Master Plan as updated by the 1995 Zoning rewrite project as well as those established in Section 21A.24.080 of the Zoning Ordinance.

The applicant is requesting that the Planning Commission allow two principal structures on a single lot, one with a primary entrance on the side. Staff has reviewed this request and recommends that the Planning Commission consider granting the requests for the following reasons.

- The proposal to break the building into two structures will reduce the visual mass of the building when viewed from the street.
- The center section of the building will be removed, and the overall height of the structure will be reduced.
- Because there were two homes on site originally, the proposal to breaking the buildings into two will partially restore the historic streetscape of H Street (recognizing there will be an increase in density).
- Placement of a new entry on the south side of the Single family home will eliminate a need for additional grading and soil removal.

Finding: Staff finds that the proposed planned development is consistent with the Avenues Master Plan and future land use map. Staff further finds that the use is allowed in the zone where it is located.

Standard 2: Use Compatibility: The proposed conditional use shall be compatible with the character of the site, adjacent properties and existing development within the vicinity of the site where the use will be located. In determining compatibility, the Planning Commission shall consider:

- a. Whether the street or other means of access to the site where the proposed conditional use will be located will provide access to the site without materially degrading the service level on such street or any adjacent street;
- b. Whether the type of use and its location will create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected with the development of a permitted based on:
 - i. Orientation of driveways and whether they direct traffic to major or local streets, and, if directed to local streets, the impact on the safety, purpose, and character of these streets;
 - ii. Parking area locations and size, and whether parking plans are likely to encourage street side parking for the proposed use which will adversely impact the reasonable use of adjacent property;
 - iii. Hours of peak traffic to the proposed use and whether such traffic will unreasonably impair the use and enjoyment of adjacent property; and
 - iv. Hours of operation of the proposed use as compared with the hours of activity/ operation of other nearby uses and whether the use during hours of operation will be likely to create noise, light or other nuisances that unreasonably impair the use and enjoyment of adjacent property;

- c. Whether the internal circulation system of any development associated with the proposed use will be designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic;
- d. Whether existing or proposed utility and public services will be adequate to support the proposed use at normal service levels and will be designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources;
- e. Whether appropriate buffering or other mitigation measures, such as, but not limited to, landscaping, setbacks, building location, sound attenuation, odor control, will be provided to protect adjacent land uses from excessive light, noise, odor and visual impacts and other unusual disturbances from trash collection, deliveries and mechanical equipment resulting from the proposed use; and
- f. Whether detrimental concentration of existing non-conforming or conditional uses substantially similar to the use proposed is likely to occur based on an inventory of uses within one-quarter (1/4) mile of the exterior boundary of the subject property.

Analysis: Each unit will have access from H Street, each with 2 interior parking spaces. Comments from the Transportation and Engineering Divisions indicate that improvements to the public right-of-way will need to be made as part of the construction project. Specifically, the applicant will need to install a compliant sidewalk along the front property line and remove some existing encroachments into the public right-of-way. These issues can be resolved as part of the building permits process. All necessary utilities are on site and available. No increase in utility service will be necessary as part of this application.

The traffic, pedestrian and parking impacts of the three units on the neighborhood will be no greater or less than those of any other residential structure in the neighborhood. The use will be compatible with surrounding residences in the number of automobile trips, number of parking spaces taken, and the hours of operation.

Finding: Staff finds that the proposed development is compatible with the surrounding development as it relates to utility and public services, parking, buffering and hours of operation.

Standard 3: Design Compatibility The proposed conditional use is compatible with the character of the area where the use will be located with respect to:

- a. Site design and location of parking lots, access ways, and delivery areas;
- b. Whether the proposed use, or development associated with the use, will result in loss of privacy, objectionable views or large parking or storage areas; or views or sounds of loading and unloading areas; and
- c. Intensity, size, and scale of development associated with the use as compared to development and uses in the surrounding area.
- d. If a proposed conditional use will result in new construction or substantial remodeling of a commercial or mixed-use development, the design of the premises where the use will be located shall conform to the conditional building and site design review standards set forth in Chapter 21A.59 of this title.

Analysis: The proposed use is located in a residential zone with a mix of contemporary single family homes and duplexes. The proposed development creates a single family home and a duplex. These buildings and uses are more consistent with the surrounding vernacular in mass scale and design than the original structure. No large parking areas, commercial deliveries or other impacts associated with a commercial use will be associated with this development. The width of the garage doors is compliant

with the regulation that all attached garage doors facing the street not be more than 50 percent wider than the façade. Each door is less than 50%.

The buildings are proposed to be setback 25 feet from the front yard property line. This setback is consistent with surrounding development as there are homes closer to the property line and farther away.

Central to the history of this home have been the impacts of the structure on the surrounding neighborhood. The height, and mass of the structure, as well as the amount of grading and retaining required to build it have been a significant concern of the surrounding neighbors. This new design will not eliminate all of those concerns, as no changes to the sides of the building are proposed, and most of the rear height of the duplex will remain. Nonetheless, the proposal represents a significant improvement to the existing condition on site. To further mitigate the impacts of the height, staff recommends that the Planning Commission require the applicant to provide significant landscaping along both of the side yards that will soften the impact of the grading and height on adjacent structures. Staff has included a condition of approval in this report.

Finding: Staff finds that the proposed design represents a significant improvement on the existing situation on site, as it eliminates a slice of an existing noncomplying structure, and brings it closer to compliance. The proposed changes are more compatible with the overall character of homes in this area than the existing structure, as they relate to mass, scale, setback, height, and architectural design.

Standard 4. Detriment to Persons or Property The proposed conditional use shall not, under the circumstances of the particular case and any conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor be injurious to property and improvements in the community, existing surrounding uses, buildings, and structures. The proposed use shall:

- a. Not emit any known pollutant into the ground or air that will detrimentally affect the subject property or any adjacent property;
- b. Not encroach on any river or stream or direct runoff into a river or stream;
- c. Not introduce any hazard or potential for damage to an adjacent property that cannot be mitigated;
- d. Be consistent with the type of existing uses surrounding the subject property; and
- e. Improve the character of the area by encouraging reinvestment and upgrading of surrounding properties.

Analysis: The proposed use will not introduce any known pollutant to the ground or air that is not commonly associated with a single family residence. The use will be consistent with the neighborhood in size, scale and design and will provide an improvement to the character of the neighborhood, by modifying the larger structure.

Finding: Staff finds that the proposed development will not be a detriment to neighboring persons or property because of its pollutants, and hazards, and that it will be consistent with the character and type of development in the area.

Standard 5. Compliance with Other Applicable Regulations: The proposed conditional use and any associated development shall comply with any other applicable code or ordinance requirement.

Analysis: Other than the requested exceptions, the project either complies with, or has legal nonconforming status with all other Zoning ordinance requirements, including height, lot size, front yard

setbacks, building coverage, and standards for minimum garage sizes. The property is not located within a historic district; therefore no historic design guideline review is necessary.

Finding: Staff finds that the proposed development complies with all Zoning Ordinance related criterion other than that which is being modified as part of this application.

Planned Development Standards

In approving any planned development, the Planning Commission may change, alter, modify or waive any provisions of the Zoning Ordinance regulations as they apply to the proposed planned development. No such change, alteration, modification or waiver shall be approved unless the Planning Commission shall find that the proposed planned development meets the following standards:

Standard 1: Will achieve the purposes for which a planned development may be approved pursuant to subsection A (planned development purpose statement) of this section (Section 21A.54);

Analysis: The proposed planned development is located in a logical location for this type of use. The impact on adjacent properties by the requested side entry and two principal buildings on a single lot will be mitigated by the fact that the mass and scale of the existing home will be reduced to better conform with the overall vernacular of the surrounding neighborhood.

Finding: Staff finds that the proposed development meets the minimum requirements of the Zoning Ordinance.

Standard 2: Will not violate the general purposes, goals and objectives of this title and of any plans adopted by the Planning Commission or the City Council.

Analysis: The proposed planned development achieves the purposes for which planned development regulations were instituted by allowing the Planning Commission to modify standards to encourage development of a site with dimensional constraints (i.e. narrow frontage, deep lot, with few accessible points). The proposed planned development does not detract from the general purposes of the zoning ordinance or any plans, master plans or otherwise, adopted by the Planning Commission or City Council.

Finding: Staff finds that the proposed design meets the purpose of the planned development process.

Section 21A.51.150.D provides additional standards of review for a planned development and states, “Planned developments may be approved subject to consideration of the following *general conceptual guidelines*” (italics added for emphasis, as a positive finding for each standard is not required):

Standard 1: Minimum Area: A planned development proposed for any parcel or tract of land under single ownership or control shall have a minimum net lot area for each zoning district as set forth in table [21A.54.150E2](#) of this section.

Analysis: The SR-1A district minimum lot area requirement for a planned development is 9,000 square feet. The subject property contains approximately 19,160 square feet, which exceeds the minimum lot area required.

Finding: The proposed development complies with this criterion.

Standard 2: Density Limitations: Residential planned developments shall not exceed the density limitation of the zoning district where the planned development is proposed. The calculation of planned development density may include open space that is provided as an amenity to the planned development. Public or private roadways located within or adjacent to a planned development shall not be included in the planned development area for the purpose of calculating density.

Analysis: The SR-1A zone allows one residential dwelling unit per 5,000 square feet for a single family home and 8,000 square feet for a duplex. A minimum of 13,000 square feet is necessary for the density requested. The applicant has 19,160.

Finding: Staff finds that the proposed development does not exceed the density limitation of the district.

Standard 3: Consideration of Reduced Width Public Street Dedication:

Analysis: The project does not involve a reduced width of a public street or a public street dedication.

Finding: This standard is not applicable.

Exhibit A: Proposed Site Plan and Elevations

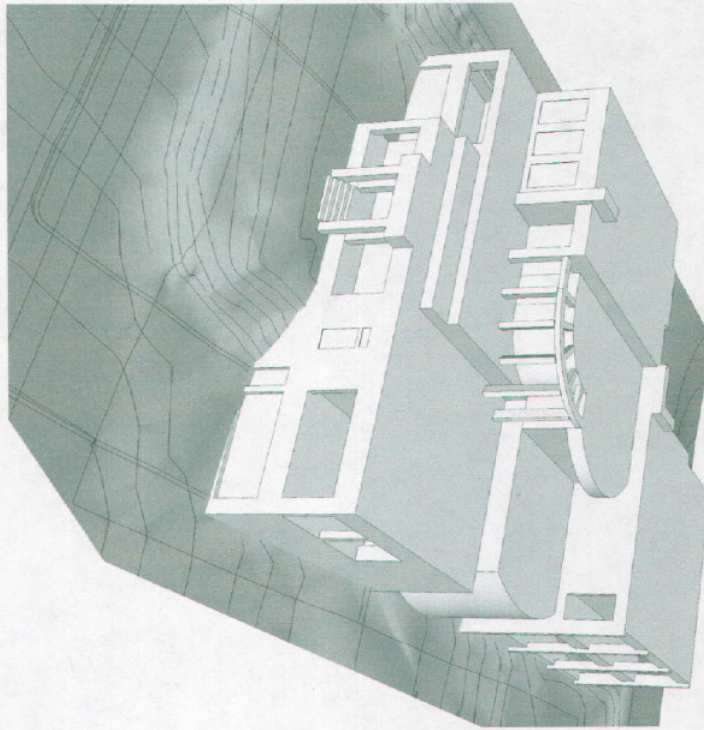
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SPENCER

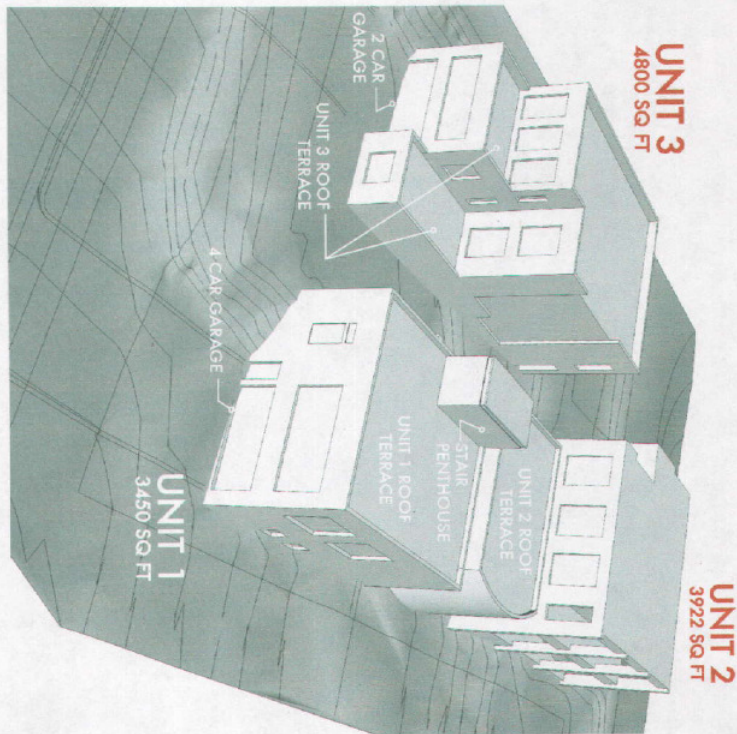
6.1. **DATA SET** - NOTED
 7.4. **NUMBER OF DATA POINTS** - 10,000

A-7	SOC TALK ROOM TEL-AUS
A-8	SOC SPEECH ROOM REC-AUS
A-9	SOC EL-EVATION-SNS
B-6	SOC SECTION
C-1	SOC SECTION
D-1	SOC SECTION

5-1



EXISTING BUILDING
MASSING MODEL

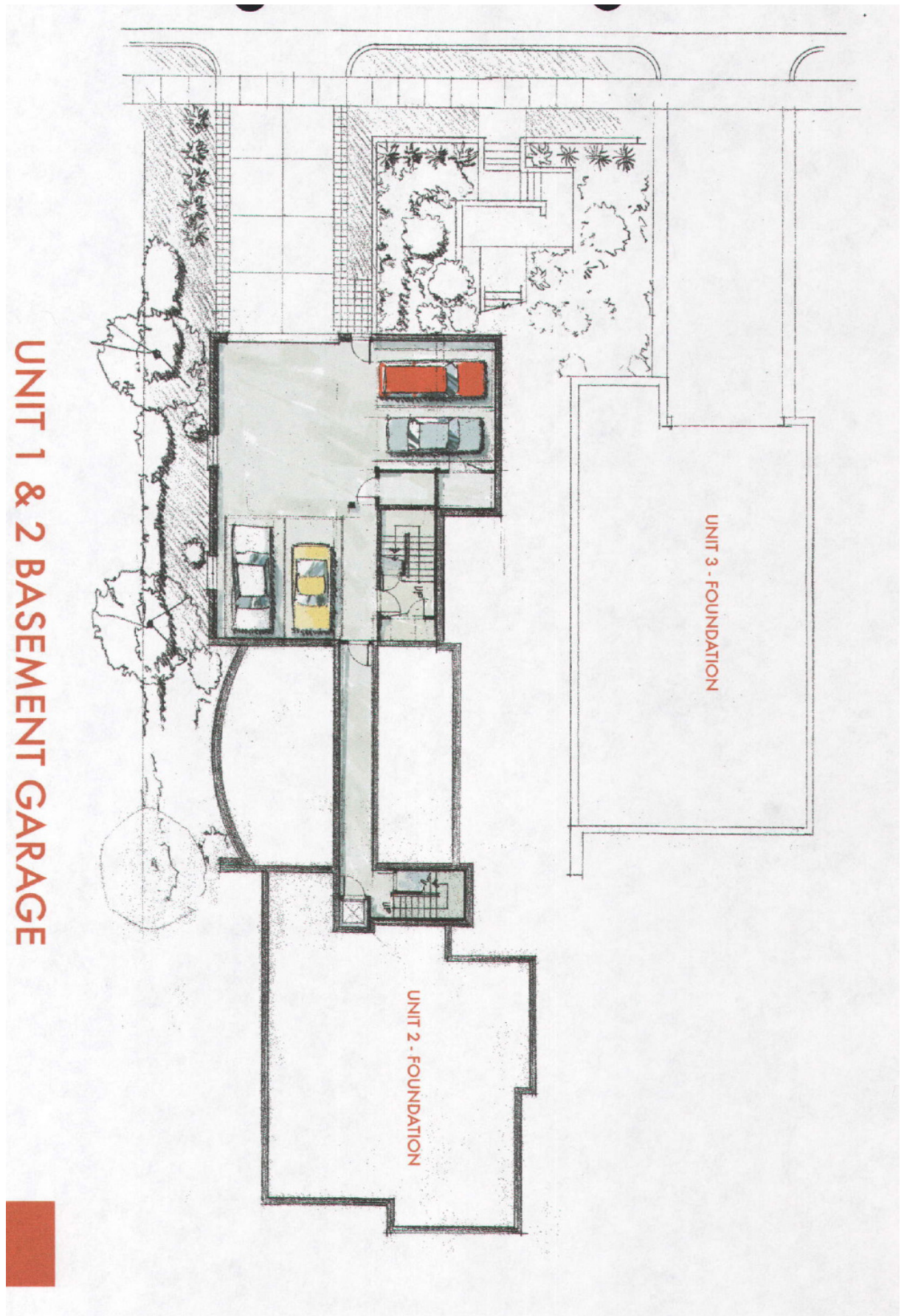


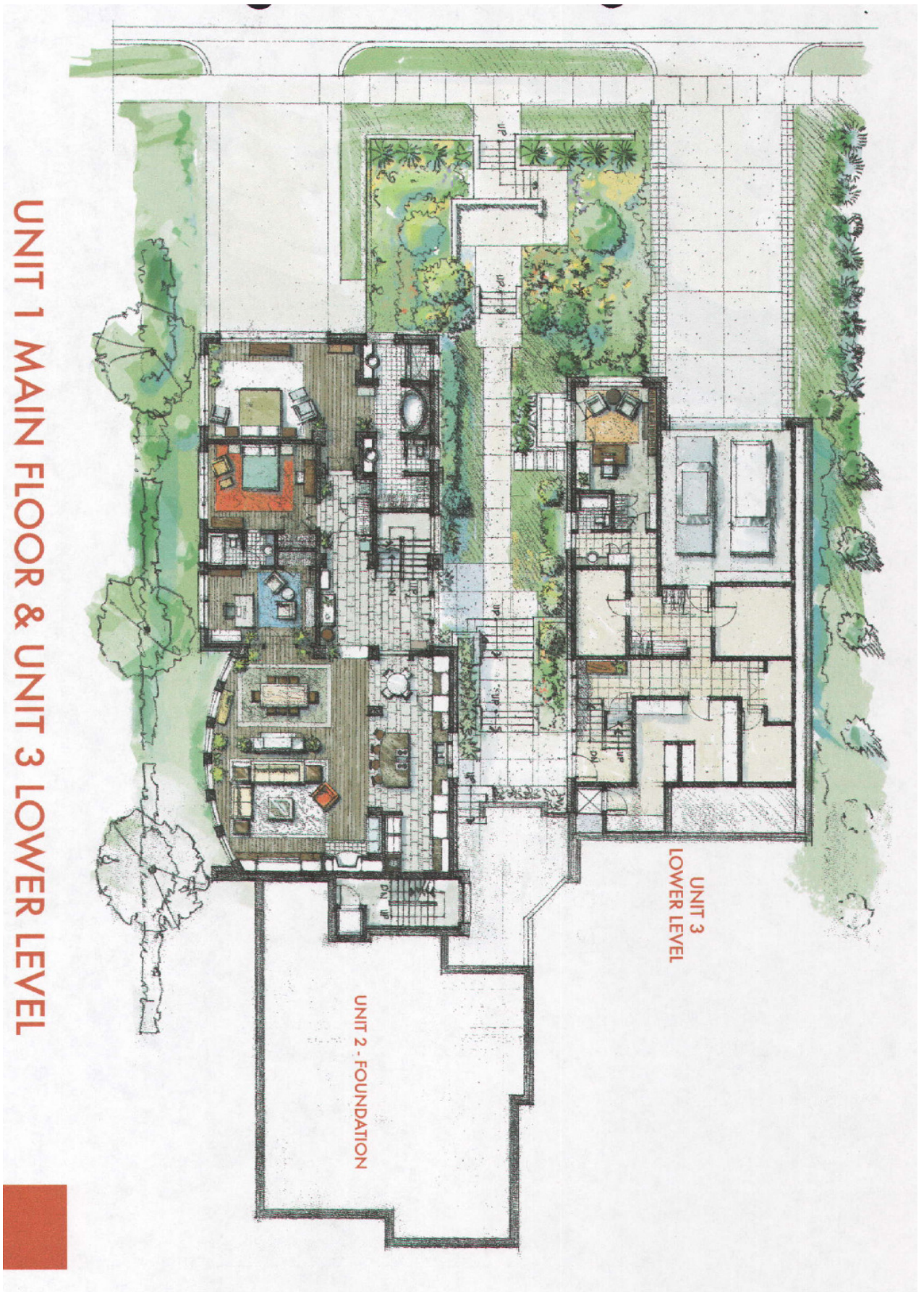
PROPOSED REMODEL
MASSING MODEL

**AVENUE
HEIGHTS**







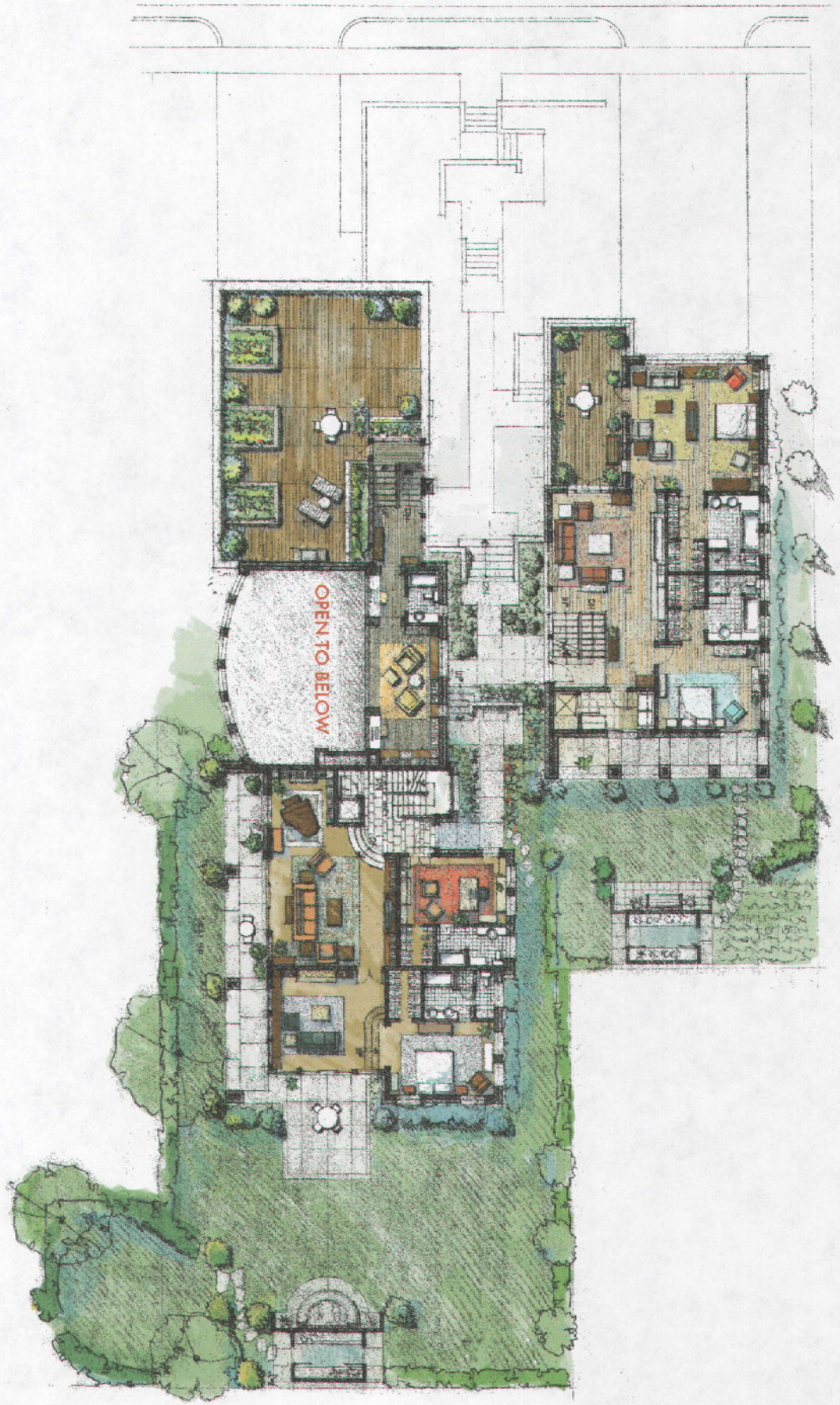


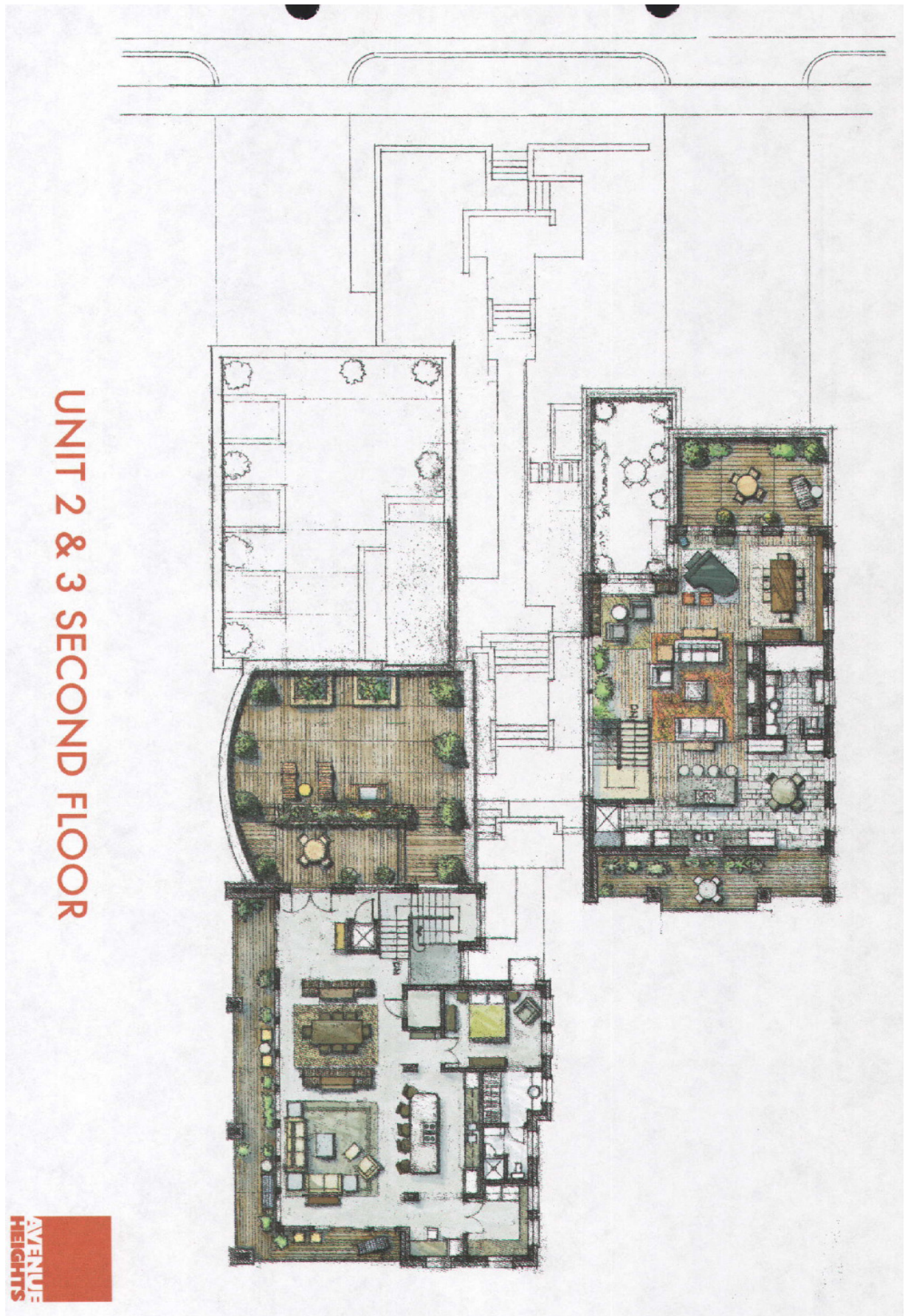
UNIT 1 MAIN FLOOR & UNIT 3 LOWER LEVEL

UNIT 3
LOWER LEVEL

UNIT 2 - FOUNDATION

UNIT 1 MEZZANINE / ROOF DECK & UNIT 2 MAIN FLOOR





Attachment B: Zoning Administrator Interpretation

July 23, 2008

Ken Milo
308 W. Broadway
Salt Lake City, Utah 84101

Subject: 678 H Street, Salt Lake City, Utah

Dear Mr. Milo:

This letter is in response to a request for an administrative interpretation regarding alterations to a single family structure at 678 North H Street. Staff has reviewed your request, and made the following findings.

1. Existing Structure

- The home is located in the Special Residential Pattern Zone (SR-1A).
- The Salt Lake City Zoning Ordinance, Section 21A.24.
- A building permit was issued for the home in 2002. The building permit is still active. When the building permit is finalized, the building will have a legal noncomplying structure status.
- Since 2002, changes to the ordinance and zoning district map lowered the maximum allowable height for flat roof structures in the SR-1A zone, making the structure legal noncomplying.

2. Ordinance Changes

- Property rezoned to SR-1A.
- 21A.24.080.D2. **Flat Roofs:** The maximum height of a flat roof building in a SR-1A district is sixteen feet (16').
- 21A.24.080.D3. **Exterior Walls:** in the SR-1A district, the height limit for exterior walls is sixteen feet (16') for walls placed at the building setback. In SR-1A district, the exterior wall height may increase one foot (1') (or fraction thereof) in height for each foot (or fraction thereof) of increased setback beyond the minimum required interior side yard. If an exterior wall is approved with a reduced setback through a special exception, variance or other process, the maximum allowable exterior wall height decreases by one foot (1') (or fraction thereof) for each foot (or fraction thereof) that the wall is located closer to the property line than the required side yard setback.

3. Existing Noncompliance's

- The SR-1A zone requires that flat roof structures have wall height limit of 16 feet.
- Side yard entries require a side yard of 12 feet with 8 feet of the side yard landscaped.

Lot area coverage in the SR-1A zone is limited to 40 percent of the lot for all principal and accessory structures.

4. Proposed Alterations

Changes to the existing structure include:

- Modification of the structure that splits the existing structure into two separate structures and provides two individual lots for each structure.
- Change to the existing footprint is proposed with a single structure on each new lot.
- New exterior walls will be created along the proposed interior line between the split structures.

- The interior lot line setback of the proposed structures will be modified extensively to accommodate a single family dwelling structure and a duplex dwelling structure.
- The new modified structures will have principal entry into the proposed new side yards.
- The new lots Parcel A has a lot coverage for the principal structure of 42 percent and Parcel B has a lot coverage of 35 percent.

Noncompliances created by proposed split of the existing structure.

- **21A.24.010H. Side Entry Buildings:** To provide for adequate air, light and separation between buildings, greater yard requirements are necessary for buildings whose principal means of entry is located along an interior side yard. For all such buildings, the side yard shall not be less than twelve feet (12'), eight feet (8') of which shall be devoted to landscape area.
- **21A.24.010HI. Front Facade Controls:** To maintain architectural harmony and primary orientation along the street, all buildings shall be required to include an entrance door, and such other features as windows, balconies, porches, and other such architectural features in the front facade of the building, totaling not less than ten percent (10%) of the front facade elevation area, excluding any area used for roof structures.
- **21A.24.080.D2E. Minimum Yard Requirements**
 3. Interior Side Yard:
 - ii. Interior Lots:
 - (B) SR-1A: Four feet (4') on one side and ten feet (10') on the other.
 - **21A.24.080.F. Maximum Building Coverage:** The surface coverage of all principal and accessory buildings shall not exceed forty percent (40%) of the lot area. For lots with buildings legally existing on April 12, 1995, the coverage of existing buildings shall be considered legal conforming.

5 Ordinance Standards for Noncomplying Structures

Chapter 21A.38 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

21A.38.010 Purpose Statement and Intent:

A. **Purpose:** The purpose of this chapter is to regulate the continued existence of:

1. Legal nonconforming principal and accessory uses, which do not conform to the use regulations of this title in the zoning districts in which such uses are located; and
2. Legally constructed noncomplying buildings, structures and property improvements, that do not comply with the applicable bulk and/or yard area regulations of this title in the zoning districts in which such buildings or structures are located.

B. **Intent:** The intent of this chapter is to allow continued use of legal nonconforming uses and noncomplying structures, while at the same time protecting existing conforming development and furthering orderly development and improvement of the community. Certain nonconformities are permissible as is their continued use so long as in their particular location they are not detrimental to the surrounding neighborhood.

1. Uses of nonconforming and noncomplying buildings, structures or land which are compatible and complement existing or planned development patterns should be allowed to continue. Improvement for better integration into the surrounding neighborhood should be sought as much as possible.

2. Nonconforming and noncomplying situations which hinder the attainment of the city's master plan, create a nuisance, or are a hazard to a community or neighborhood, should be eliminated or brought into compliance with the provisions of this title.

21A.38.090 Noncomplying Structures:

No noncomplying structure may be moved, enlarged or altered, except in the manner provided in this section or unless required by law.

A. Repair, Maintenance, Alterations And Enlargement: Any noncomplying structure may be repaired, maintained, altered or enlarged, except that no such repair, maintenance, alteration or enlargement shall either create any new noncompliance or increase the degree of the existing noncompliance of all or any part of such structure.

Administrative Interpretation

Based on the above findings, and the information submitted in your application, staff finds that the proposed renovation of the single family home at 678 H Street (plans dated March 14, 2008) increases the degree of the existing non-compliance of the structure by creating new structures with noncomplying exterior walls along the new interior side yards created by your proposal. Modification of the concept site plans may correct the new noncompliances related to side yard setbacks and lot coverage, but would not however, eliminate the fact the proposal is creating two new structures from one existing structure therefore, creating a new noncompliance. As such, it is determined that the proposed modifications are not permissible per Section 21A.38.090A of the Salt Lake City Code.

The proposed demolition does not exceed the 75% limitation of the structure as defined in the ordinance.

This is a zoning interpretation for a determination of non-compliance only. If I may be of further assistance, please contact me at (801) 535-7930 or by email everett.joyce@slcgov.com. Thank you for your attention.

NOTICE:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Board of Adjustment. Notice of appeal shall be filed within thirty (30) days of the administrative decision. The appeal shall be filed with the Planning Department and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. A nonrefundable application and hearing fee of \$100.00 is required.

Sincerely,

Everett Joyce
Senior Planner

cc: Mary De La Mare-Schaefer, Community Development Deputy Director
Larry Butcher, Development Review Supervisor
Wayne F. Green, Avenues Community Council Chair
Post on City Web Page

Attachment C: City Division Comments

MEMORANDUM

DATE: DECEMBER 26, 2008
TO: Ray Milliner, Planning Division
FROM: Alan R. Michelsen, Building Services Division
SUBJECT: Petition PLNPCM2008-00670— PUD for 678 North 'H' Street

I have reviewed the proposal for the Conditional Use / PUD for 678 North 'H' Street. As of today's date our records show there is an outstanding building permit issued in 2002, for an addition to connect two single-family dwelling for use as a single-family dwelling. No Certificate of Occupancy has been issued for the 2002 permit. Under the current proposal the existing permits will be voided and new permits will be required to demolish an interior section of the existing structure and construct a duplex and a single-family dwelling on one lot. The Building Services Division recommends consideration of the following conditions:

- 1) Will need to address previous approved grade changes and how this proposal effects the previous approval.
- 2) Will need to certify the addresses for the new structures.
- 3) Due to ordinance changes since 2002 the applicant will need to address the issues of noncompliance outlined the Administrative Interpretation by Everett Joyce, date July 23, 2008.

Alan R. Michelsen
Development Review Planner
Building Services & Licensing
(801) 535-7142
Alan.michelsen@slcgov.com

I have reviewed the application to remove a portion of an existing home and then divide the property into a three unit condominium with a single family residence and a duplex. This parcel currently has a single ¾" water meter and lateral and a single 4" sewer lateral. With the conversion of this property to a condo no new connections may be made, the parcel may only have one water connection and one sewer connection. It is unlikely that a single ¾" water line will support a 3-unit condo. If the developer/owner wishes to upsize either of the current connections, a plan must be submitted to our office for review. The plan will need to show the existing line killed at the main, for water, or killed at the property line for sewer, with a new connection proposed according to the standards and guidelines.

Upon conversion of the property to a condominium, the water and sewer accounts will be put in the name of the condo association and will be addressed as an association. Any sub-metering will be done and will be responsibility of the association, not SLCPU.

Justin D. Stoker, PE

Salt Lake City Public Utilities

1530 S. West Temple, SLC, UT 84115

ph. (801) 483-6786 - justin.stoker@slcgov.com

TO: RAY MILLINER, PLANNING DIVISION

FROM: RANDY DRUMMOND, P.E., ENGINEERING

DATE: DEC. 11, 2008

SUBJECT: **Planned Development at 678 H Street Condominiums**
678 H Street

SLC Engineering's review comments are as follows:

1. It is our understanding that this is an application to convert an existing residence into 3 condominium units. All street right-of-way exists as required on H Street. There is existing curb and gutter and asphalt pavement, but no sidewalk. The applicant must remove the soil that is covering the north drive approach and a portion of the existing curb and gutter so an inspection of the condition of said improvements can be made. If there are sections of curb and gutter and/or the north drive approach that meet the criteria of APWA Std. Plan 291 for replacement, the curb and gutter shall be replaced as per APWA 205A and 251 or 252, and the drive approach shall be constructed as per APWA 225. There is no sidewalk on the entire frontage and it must be installed as per APWA 231. There is an existing wood fence and concrete retaining wall adjacent to the south property line which is encroaching onto the Public Way, and must be removed (back to the property line) to allow the sidewalk to connect to the sidewalk at the drive approach on the south property. In addition, there is a large rock in the Public Way on the north property line which must be removed. All of this work shall be completed by a licensed, bonded and insured contractor via a Public Way Permit to be obtained from our office.
2. The plat is required for this project, and I have attached a copy of the Subdivision Plat Checklist for use by the applicant's consulting surveyor in producing the plat.

cc: Scott Weiler
Brad Stewart
Barry Walsh
George Ott
Craig Smith
Vault

December 9, 2008

Ray Milliner, Planning

Re: Planned Development at 678 North "H" street.

The division of transportation review comments and recommendations are as follows:

The new proposal indicates using the existing drive approaches and creating two separate buildings. One single family residence and the other a duplex. The site plan submitted indicates a new public way pedestrian sidewalk about five feet back of curb. We recommend installing the sidewalk at this time.

The property to the south 668 North has the existing sidewalk terminating at the residence entry walk with a landing and steps in the public right of way. The rest of that properties frontage park strip is paved with brick pavers and a drive approach providing a hard surface pedestrian walkway to the north property line abutting this project. There is also a retaining wall along the abutting property line that encroaches into the public right of way that can be modified to allow the public sidewalk to continue.

That leaves the property to the north 692 North, as the only gap in the pedestrian sidewalk corridor on "H" street between 13th and 14th Avenue.

The site plan also indicates a retaining wall and steps leading to the new pedestrian entry that will require a public way revocable permit to be coordinated with property management. (A past development proposal made application to the board of adjustment Case 2845-B for a grade change in the front yard.)

The conceptual drawing indicates a four car parking garage for the duplex and a two car garage for the single family residence. Final approval is subject to full scale civil drawing complying with city standards.

Sincerely,

Barry Walsh

Cc Kevin Young, P.E.
Randy Drummond, P.E.
Peggy Garcia, Public Utilities
Ted Itchon, Fire
Larry Butcher, Permits
John Spencer, Property Management
File

Attachment D: Minutes from Administrative Hearings

ADMINISTRATIVE HEARING

October 2, 2006

The Salt Lake City Planning Division regular administrative hearing on zoning was held on Monday, October 2, 2006 at 5:00 p.m. at the City and County Building, 451 South State Street, in Room 126. Alexander Ikefuna (Planning Director) was present as the Administrative Hearing Officer. Mr. Ikefuna called the meeting to order and explained the procedures of the hearing.

Case 2845-B (Re-advertised) by Scott White at 678 North “H” Street (550 East) requesting a special exception to allow a grade change in excess of two feet in a required yard in the SR-1A zoning district. (Section 21A.36.020(B) (Staff – Nick Britton at 535-7932)

(This case was heard at 5:02:40 p.m.)

Mr. White was present.

Mr. Britton explained that grade changes were made to the site that were not included in the original approval of the building plans submitted for the building permit. Mr. White is requesting a special exception to allow grade changes of approximately 3.5 feet to 9 feet in the south side yard, 3 feet in the north side and rear yards, and a reorientation of the front yard slope from the west to the south.

Mr. White explained that he is a recipient of many changes that were made prior to his involvement in the project. He acknowledged the grade changes that are being requested, but he does not see any variation of 9 feet on the lot upon his assessment. The previous property owner may have made changes, but he personally has not made any.

Mr. Ikefuna explained that the retaining walls are also in violation and the special exception request is to approve violations from the originally approved plans prior to Mr. White acquiring the property.

Mr. White then explained that he approached Planning and Building Services Staff prior to purchasing the property in January 2005, and Staff had no knowledge of any violations. He did not know any violations existed until May 2006 when he was given an application to make corrections. Mr. White added that he has since submitted a landscape plan indicating how he wishes to bring the site into compliance with the approval. It was noted that a copy of the plan is on file.

Mr. Butcher noted that the information (landscape plan) provided by Mr. White would not bring the property into compliance without special approval. Mr. Butcher acknowledged that Mr. White inquired about the status of the property as a potential buyer. At that time, City records did not show any outstanding violations on the property. The grade change issue was brought to Mr. Butcher’s attention by an inspector after Mr. White purchased the property. Mr. Butcher reviewed the plans that were submitted for the permit which indicated eight-foot terracing along the south side of the building. During the permitting process and for whatever reason, the City reviewer did not trigger a special exception review for the grade change. Once Mr. Butcher became aware of the grade change issue, Mr. Butcher informed Mr. White that he would need to go through the special exception process to receive approval for the grade change and the retaining wall along the south side, and any

other grade changes indicated on the plans as well as changes that Mr. White would propose. Mr. Butcher added that no plans were submitted that would be in total compliance, but they are working with what currently exists.

David Babcock submitted an email from Shane Carlson who is the Spokesperson for the Avenues Community Council Housing Compatibility Committee, and Mr. Ikefuna read it into the record. The email, in part, stated that the Community Council has “concerns about how the grade changes (completed without a permit or documentation of the original grade) may have impacted the legality of the newly constructed building with regards to building height. Retroactive approval of the illegally completed grade changes without a full explanation of how the modified grade may have impacted the legality of the project is inappropriate and they would have to oppose approval of the changes without further information”. The Community Council also questioned whether or not the building meets side yard setback requirements.

Mr. Ikefuna then read a letter submitted by David Babcock and in part it read that “there is a pattern of skirting the rules which governs this construction project. Grade changes were completed and were not flagged during the City’s inspection process. Without a neighbor’s concern that the ten-foot retaining wall was too high, nothing would have been noted regarding the construction”. From Mr. Babcock’s “point of view, about 100 feet up-slope from the unfinished monstrosity, the frequent exceptions need to stop. The builder/owner and Celtic Bank need to be responsible for their errors of judgment and use of financial force to get their way”.

Reese Howell, representing Celtic Bank, explained that they have made every attempt from the beginning to alleviate concerns of neighbors and ensure that the project complies with all City regulations including Mr. White modifying the roof line to bring the height into compliance. Mr. Howell said that it was the City’s authorization to proceed that put them in this situation, and he believes the City should take some responsibility in the fact that the building was built close to compliance with the original plans and specs approved and permitted by the City. They have strived to facilitate an amicable resolution, but the continued delays to complete the project are causing economical damages. Mr. Howell added that they have engaged counsel so that they are properly represented should there be any additional proceedings. Mr. Howell received notice of the hearing 15 minutes before it started and he wants to evaluate all the issues and asked that the case be tabled. He said he certainly disagrees with the statement in the staff report regarding the elevation bearings.

It is noted that although Mr. Howell was not Mr. White’s representative, Mr. White agreed to postpone the case because he too would like additional time to prepare.

David Babcock explained that it was his understanding the City issued a stop work order on January 6, 2006 for violations regarding the height and grade changes. He said that he believes the City gave clear guidance to the Petitioners in which they avoided and are now asking for forgiveness. Issues regarding the height, grade changes and setbacks were only acted upon until a neighbor complained. The project has been untouched for two years and it is unsightly to him. The building is huge and unfinished, it needs more side yard, grade changes need to come into compliance, height restrictions need to be enforced and the nine-foot retaining wall needs to come down. Mr. Babcock said that he wants to trust the builder to make the changes that need to be made and the City to ensure it is done correctly and quickly.

Addressing Mr. Babcock’s concerns on height and setback, Mr. Butcher explained that the Ordinance limits the height to 28 feet which is measured from the existing grade. The overall height of the dwelling is close to 28 feet except at the middle of the roof line on the south side where the greatest grade change occurs. The previous owner modified the roof line, but Mr. White agreed to re-modify that section of the house to bring the height into compliance with the grades as shown on the original plans. He noted that the other proposed grade changes

are not within the height review. Mr. Butcher further explained that the Ordinance allows measurement of heights from the existing grade at the time and because the City is dealing with existing development, the City is using the topographical information that they have now. Any grade changes occurring after the fact would be reviewed through the special exception process and the City would not use those to establish the height of the building.

As for the side yard setback, Mr. Butcher explained that it met zoning requirements at the time the permit was issued.

Kevin LoPiccolo, Salt Lake City Zoning Administrator, explained that the work which has been completed is established and the dwelling itself is in compliance including setback requirements. The request at hand relates to grade changes that could have been administratively approved through a Routine and Uncontested Matter process, but Mr. White was unable to obtain all necessary abutting property owners signatures. Mr. LoPiccolo recommended that the decision be made so that the request can be brought to a closure since Mr. Babcock is asking for closure.

Mr. White noted that the height has been corrected. He said that he too would like closure as well and asked that Mr. Ikefuna render a decision rather than continuing the case.

THEREFORE, from the evidence and testimony presented and pursuant to the plans submitted, Mr. Ikefuna denied the request for a special exception to allow grade changes over two feet and to legalize the existing retaining wall that does not comply with the plans that were originally approved by the Building Services and Licensing Division to obtain a building permit for the property located 678 North "H" Street in an SR-1A zoning district. The special exception is denied because the proposal does not meet the general standards of approval for a special exception in that the use is not compatible with the surrounding neighborhood and it will create an adverse effect upon the character of the area given the fact that the project was not constructed in compliance with the plans that were originally approved.

Mr. Ikefuna suggested to Mr. White that he design his plan and work with Building Services and Licensing Division to resolve this issue. Mr. Ikefuna also informed Mr. White that the administrative decision may be appealed to the Board of Adjustment within 30 days.

ADMINISTRATIVE HEARING

November 27, 2006

The Salt Lake City Planning Division regular administrative hearing on zoning was held on Monday, November 27, 2006 beginning at 5:00 p.m. at the City and County Building, 451 South State Street, in Room 126. Kevin LoPiccolo (Zoning Administrator) was present as the Administrative Hearing Officer. Mr. LoPiccolo called the meeting to order and explained the procedures of the hearing and the appeal process.

Case 2845-B (Re-opened) by Scott White at 678 North “H” Street (550 East) requesting a special exception to allow a grade change in excess of two feet in a required yard in the SR-1A zoning district. (Section 21A.36.020(B) (Staff – Nick Britton at 535-7932)

Scott White (Property Owner) and Bruce Baird (Legal Counsel) were present.

Mr. LoPiccolo explained that the request is for grade changes in setback areas that have occurred outside the building pad which have no relationship to the structure itself. He added that Larry Butcher, Development Review Administrator, has been invited to attend the meeting to address issues regarding the topography of the subject property.

Mr. Britton explained that the subject property is zoned SR-1A and consists of 19,166 square feet of lot area. The request for grade changes includes both side yards, the rear yard and the front. Two grade changes are proposed in the south side yard measuring approximately 3.5 feet and 9 feet. The 9-foot grade change would be terraced at 4.5 feet. Both the north side yard and the rear yard would have grade changes of 3 feet. A mound of dirt in the front yard will be reoriented so that the ground slopes south toward the driveway rather than east toward the street. Mr. Britton further explained that the case was heard in an administrative hearing on October 2, 2006, and it has been reopened by the Planning Staff because the decision made at that hearing (denial) was based on issues not pertinent to the special exception request for grade changes.

Mr. Baird thanked the City for recognizing that the prior denial of the special exception was based on inappropriate reasons, and he agreed that the issue is not related to the height of the house. Mr. Baird then explained that Mr. White and he reviewed the Staff Report and they concur with Staff’s findings regarding Standards A through G. Having met those standards, Mr. Baird asked that the special exception be granted. He further requested that the testimony be limited to the impact the grade changes would have on the standards.

Mr. Butcher explained that the height was reviewed based on the grade lines from the original set of plans submitted for the building permit plus the two-foot grade change allowed by code. One section of the roof did not comply with the height regulation and that section has since been lowered two feet in order to comply. The height was determined in the buildable area of the lot. The grade changes that are currently proposed did not play a factor in review of the height. These grade changes are proposed for yard areas including a substantial cut in the south side yard that resulted in matching the grade of the neighboring property to the south. The proposed grade changes have been accomplished without going through the special exception process, but the change on the south side was shown on the original plans and overlooked during the City’s plan review. Mr. Butcher added that the building permit for the structure was issued under 2002 zoning regulations, and a maximum height of 30 feet was allowed. Height measurements have dramatically changed since that time, and the current infill height limit is 20 feet. Mr. Butcher noted that a survey sheet and stamped topography map are on file.

Mr. Baird added that the height issue Mr. Butcher identified was corrected in the final design of the home, and Staff has determined that the home as built is in compliance with the height requirements of the zoning district.

Robert Mackie, 685 North “G” Street, said that he believes the former Director for the Planning Division stated that the grade change was being made to accommodate the height, and to say otherwise casts doubt upon his credibility. He noted that everyone, so far, has spoken to the height and it should be dealt with if that is the actual issue. Mr. Mackie said that he would like to see the topographical survey, and it should be available to the general public for review at meetings. He said that he believes proceeding without providing the survey is a mistake, and a decision should not be made until the survey is made available. To him, the project is a true monstrosity and it should be called what it truly is if changing the grade is intended to make the building fit.

Mr. LoPiccolo explained that he received numerous emails regarding the height and his intent in mentioning it was to separate the two issues.

Mr. Baird respectfully objected and asked Mr. LoPiccolo to rule out inappropriate comments about whether or not the building is a monstrosity and whether or not the height is excessive. The only issue is the grade change and testimony should be limited to the issue of whether or not the grade change meets the standards of the Ordinance. In order to protect the record, Mr. Baird requested a standing objection if Mr. LoPiccolo were unable to keep out testimony unrelated to the grade change.

Justin Miller, 538 East Fourteenth Avenue, voiced concern about approving something that would impact any neighboring property, and it appears that it may as indicated by a letter written by the next door neighbor stating concerns about soil erosion. Mr. Miller said that his main concern is the endless construction and he wants the project completed without impacting any of the neighbors.

Shane Carlson, Chairperson for the Greater Avenues Community Housing Committee, voiced concern about the process and precedent being set by making decisions in this manner. As to the height, Mr. Carlson said that he believes a grade change can impact the allowable height and cause future recourse. He explained that it is his understanding the City interprets heights of buildings to be measured from the established grade, and the City calls the established grade the new finished grade in cases where there is a grade change. The City’s interpretation is the exact opposite of what was intended during the development of the new SR-1A zoning district. The Housing Committee was led to believe that a grade change does not affect the buildable height of the building, and the established grade is the historic grade. Given the testimony at the most recent Board of Adjustment meeting, Mr. Carlson now assumes the height of the building is measured from the newly finished grade which then becomes the established grade.

Mr. LoPiccolo explained that the case heard by the Board of Adjustment most recently regarded grade changes for an entire subdivision. (Cases 2870-B through 2874-B heard November 20, 2006.) In that case, the original grade was lowered for a church site which was recently demolished. The request was to raise the grade as close to street level to provide streetscape and proper drainage for each lot.

Mr. Carlson acknowledged that there may be multiple reasons for changing grades, and he voiced concern that allowable grade changes could be incremental steps to increased heights.

Mr. LoPiccolo explained that grade changes in required yard areas may occur once a building is constructed. This is the type of grade change that is being requested in that the established grade was determined in 2002, the house was built, and the grade changes occurred after the house was built.

Mr. Carlson continued debating that grade changes may in essence increase heights of structures. He noted an email from Orion Golf, Salt Lake City Building Official, stating that the proposed grade changes are needed in order for the house to qualify, and Mr. Carlson also questioned the accuracy of the certified survey. He explained that he has seen certified surveys in which one showed someone else's yard going four feet into another's back yard. If there is dispute about the height of the building and the accuracy of the survey, approval of a seven- to eight-foot grade change makes any future dispute mute given the Planning Division's policy to measure building heights from newly established grades. Mr. Carlson said that he is not entirely convinced that even the allowable two-foot grade change is not necessary to get the building to fit under the envelope. He also believes that the proposed grade change substantially impacts surrounding properties. He explained that a community member, during an infill meeting last Monday, conveyed that the subject building looms over the abutting property to the south making it difficult to sell. The situation would be exacerbated by allowing the proposed grade changes.

Mr. LoPiccolo reiterated that the request has no bearing on the established height of the building. The height of the building does not change with grade changes of two feet or greater in yard areas. Grade changes in yard areas after the house is constructed does not affect or change the height of the house and would not affect the manner in which the height of the house would be measured.

Bob Lewis, 516 East Fourteenth Avenue, voiced his concern about the project getting done without any attempt to finagle established grades. He explained that he would hate to think the City would allow someone to make mistakes and then beg forgiveness. He is also concerned about the endless construction and process, and the disruptiveness that the project has caused for the neighborhood. Mr. Lewis said that Planning has repeatedly demonstrated a lack of sensitivity and insight into the character of the neighborhood with regards to infill projects, and he asked that the neighbors' interest begin to be considered.

Ms. "Buchanan" also voiced skepticism toward the request and the process. She asked that the public be able to review the topographical elevation survey that was submitted when application for the building permit was made.

Mr. Butcher explained that a survey was not submitted at the time the permit was issued nor are they required upon issuance of building permits. He obtained a stamped survey based on the information that was provided on the original plans. Mr. Butcher added that two homes were removed and the lots were consolidated which caused disturbance to grades.

Mr. Carlson questioned why Orion Golf's letter to him stated that the two-foot grade change was necessary to approve the excess two feet in height, and thus, his question would be why a grade change would be needed at all.

Mr. Baird explained that they needed to take advantage of the allowable two-foot grade change to make a small portion of the building acceptable. This was an issue relating to the building, but the request now is not related to the building envelope. As to fourth-hand hearsay regarding impact to the abutting property, Mr. Baird said that there is no explanation how grade changes at ground level would cause any "looming" aspect. Mr. Baird then explained that it is Mr. White's desire to complete the project as soon as possible and the granting of the special exception for grade changes is the only issue standing in the way. Mr. Baird concluded by saying that no testimony has been presented to contradict or even address the findings relating to Standards A through G, and they believe Staff is correct in their findings which include a recommendation of approval.

Mr. LoPiccolo noted the survey indicates that the retaining wall on the southeast corner is not located on the subject property.

Mr. White explained that the wall was there prior to his involvement with the project and it had nothing to do with the other walls he constructed. Mr. White added that he would like to complete the project as soon as possible. He made application in May 2006, his hands have been tied for quite some time and this is the last issue that is holding him up. Mr. Baird added that one issue, the grade change on the south side, was indeed shown on the plans that were submitted at that time.

Mr. LoPiccolo explained that a decision will be rendered from the hearing officer at this hearing. Any one aggrieved by the decision may appeal to the Board of Adjustment within 30 days. The issue would then be presented to the Board as an appeal to an administrative decision, and the burden of proof would be to find error in the process. Board of Adjustment decisions are appealed to the Third District Court.

THEREFORE, based on the testimony and evidence presented and pursuant to the plans submitted, Mr. LoPiccolo granted the special exception to allow the various grade changes exceeding two feet for the subject property located at 678 North "H" Street in the SR-1A zoning district. The special exception is granted because:

1. The grade change is in compliance with ordinance and district purposes.
2. The grade change will not diminish neighboring property values.
3. The grade change will not have a material adverse effect upon the character of the area.
4. The grade change is compatible with surrounding development.
5. The grade change demonstrates that there are no significant features on the lot or any environmental hazards.

Conditions of Approval:

1. The Applicant shall obtain a revocable lease from Salt Lake City Property Management to work in the right-of-way along H Street.
2. Construction plans must conform to the requirements of the adopted Building Code.

There being no further business, the meeting adjourned at 5:53 p.m.

Deborah Martin, Secretary

Kevin LoPiccolo, Hearing Officer

EXHIBIT E: Comments from Greater Avenues Community Council

Dear Mr Milliner,

Thank you for accommodating the schedule of our meetings.

The attached is forwarded by unanimous action of the Housing Compatibility Committee at the meeting this evening.

I include a MSWord rich-text format file and copy same into the body of this mail, below.

Yours, Jim Jenkin

18 February 2009

To: Mr. Ray Milliner, Planner, et.al. by electronic mail

From: Greater Avenues Community Council Housing Compatibility Committee

Regarding: Proposed development of 678 H Street

As advocates for the entire Avenues community the GACC is obligated, absent over-riding considerations, to consider the long-term benefit of that community in considering action on this property. We do not pretend or aspire to be planners or lawyers. We have participated in meetings with effected property owners and facilitated a meeting between the developer and neighbors. We find the neighbors to be concerned with increased density and impact on adjacent property owners.

The property at 678 H Street is fairly unique in that it is perceived as a failure of law⁽¹⁾ that has done significant harm to neighboring property owners. The harm of this construction is due to its sidewall height and setback, and overall height. The proposed project does little to alleviate sidewall height and setback and negligibly affects overall height. It would serve to extend the life of this construction as a harmful structure.

The long-term interest of the community is best served by whatever strategy would allow the earliest remediation or removal of this structure. Absent a consensus opinion of the surrounding neighbors, we are compelled to oppose this project and hope that some other circumstance will arise that will allow demolition or meaningful remediation. If the immediate neighbors have reached a consensus of opinion we would defer to that opinion as they and their heirs represent the single most effected community sub-set.

For the HCC,

Jim Jenkin

Jill Van Langeveld

Co-chairs

(1) The structure is egregiously out of proportion with its surroundings. If the structure was constructed in accordance with the law then the law failed to protect the neighbors and their property value, and those responsible have failed in their fiduciary responsibilities as agents of the law. If construction was permitted by perversion or circumvention of the law, this would also constitute a failure of the law. Lastly, building permits issued by Salt Lake City have historically been issued under provisions of City Ordinance that the City had no means (and seemingly no intention) of enforcing, a further failure of law.