

**SALT LAKE CITY PLANNING COMMISSION MEETING**  
**In Room 326 of the City & County Building**  
**451 South State Street, Salt Lake City, Utah**  
**Wednesday, November 18, 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, Prescott Muir, and Mary Woodhead. Commissioners Susie McHugh, Matthew Wirthlin, and Kathleen Hill were excused.

A field trip was held prior to the meeting. Planning Commissioners present were: Frank Algarin, Tim Chambless, Michael Fife, Michael Gallegos, and Mary Woodhead. Staff members present were: Cheri Coffey, Ray Milliner, and Nick Norris.

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: Wilford Sommerkorn, Planning Director, Cheri Coffey, Programs Manager; Ray Milliner, Principal Planner; Paul Nielson, City Attorney; and Tami Hansen, Senior Secretary.

## **Work session**

The Planning Commission heard presentations regarding the North Temple Master Plan and the Downtown Streetcar Project

### 5:47:11 PM **Approval of the minutes from Wednesday, October 28, 2009**

Commissioner Woodhead made a motion to approve the October 28, 2009 minutes with noted changes. Commissioner Fife seconded the motion. All in favor voted, "Aye". The minutes were approved.

### 5:48:16 PM **Report of the Chair and Vice Chair**

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

### 5:48:18 PM **Report of the Director**

Mr. Sommerkorn stated the City Council was moving forward on some of the petitions staff had been working on for the past year. He stated on November 17, the City Council approved the amendment to the mixed-use zone, to allow for private/social clubs with a minor modification that a security and operations plan was required to be submitted along with a parking management plan.

Mr. Sommerkorn noted on December 7, from 4:00-6:00 p.m. an open house would be held regarding the streetcar planning effort. He noted on December 8 & 9 a workshop would also be held which Planning Commission members were invited to attend.

He stated on December 7, there would also be a workshop regarding the Public Safety Complex at the Salt Lake City Library.

Chair De Lay noted two Commissioners terms were expired and inquired where the Mayor was in appointing two new Commissioners.

Mr. Sommerkorn stated a petition was forwarded to the City Council today from the Mayor with the name of one new individual, and a decision should be scheduled within the next few weeks.

## Public Hearings

**5:54:38 PM PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment**—a request by Rival Investments for a zoning text amendment to modify Sections 21A.62.040 (definitions) and 21A.30.080 (Commercial Table of Permitted and Conditional Uses) of the Salt Lake City Zoning Ordinance to create a new definition for a “Funeral Home” a new definition for an “Animal Cremation Service” and to allow Animal Cremation Services in the Commercial Corridor zoning district as a permitted use. The purpose of the request is to allow a pet cremation service at approximately 1727 East Major Street. The proposed text amendments are city-wide.

Chair De Lay recognized Ray Milliner as staff representative.

Mr. Milliner noted a conditional use process was added regarding crematoriums, and the criteria was expanded since the Commission had last seen this petition about a month ago which included: noises, screening from public view, and this should be a service for the preparation and cremation of pets only, as opposed to bringing animals in from a veterinary office, farms, etc. This service should stay as a funeral type service. He stated the permitted tables for permitted and conditional uses were also amended to allow the animal cremation services and crematorium in most of the C zones. The cremation and funeral homes would also be permitted in the M zones and would be conditional uses in the Mixed-Use zones and the D1, D2, and D3 zones.

Commissioner Fife inquired about the definition for a crematorium on Page 3 which stated, *An accessory use to a funeral home where the dead, both animal and human, are prepared for and cremated, but not in the same crematorium.* He inquired if this language should include, *or cremation service*, because they are being defined as two separate things.

Mr. Milliner stated that was a good point.

Commissioner Fife stated on Page 4, code change 5, which stated, *In the case of pet crematoriums, the use shall be for the preparation and cremation of pets only. The disposal of animals from other sources such as, but not limited to, veterinarian offices, research labs, and farms.* He inquired if this language was trying to prohibit the disposal of animals from sources other than pets.

Mr. Milliner stated yes essentially that was what was happening. The idea behind this service was for an individual to take their pet and utilize this service on a more personal basis, rather than a veterinarian office bringing multiple deceased pets in that just needed to be cremated.

Commissioner Fife stated it seemed that most pets were euthanized at the veterinarian office, so a clarification was needed.

Chair De Lay stated she agreed the second sentence did not have a clear intent.

Ms. Coffey stated this would be an accessory use, a minor part of the overall operation, not a place where animals would be brought in to be disposed of. She stated this was to control the intensity of the use.

Commissioner Woodhead stated there was re-drafted language regarding the accessory structure in the letter received by the Commission from the Russon Brother funeral home. She inquired if those changes were acceptable.

Mr. Milliner stated he did not feel those changes changed the intent of the language, so he did not have a problem with it.

Mr. Sommerkorn stated he agreed with that amendment.

Chair De Lay invited Jake Tate and Earl Tate, the applicants to the table.

Mr. J. Tate stated regarding amendment 5, he felt it was clear that a veterinary service would be a facility where people would take their animals to be euthanized, and if they wanted the funeral services for the animal they could bring them to the crematorium. He stated he felt the second sentence did not capture this, because veterinary services are a source of business for what the pet crematorium was trying to do for families.

He stated he was concerned about the petition that was turned in; it seemed it was instigated from a source who gave the signers false pretences and misunderstandings.

Mr. E. Tate stated they had chosen a nice facility to be an alternative to the industrial disposition of animals and was available in many communities around the country.

Chair De Lay invited Gary Russon to the table.

Mr. Russon stated he was satisfied with the zoning ordinance changes, as far as it related to mortuaries and cremations. He stated the only change he would prefer would be to the accessory use phrase as had already been discussed.

Chair De Lay inquired about how many crematoriums were in Salt Lake City currently.

Mr. Russon stated approximately five.

Chair De Lay inquired if they were inspected by the Health Department or the Environmental Protection Agency (EPA).

Mr. Russon stated all of funeral homes were required to have a yearly permit issued by the EPA.

Chair De Lay inquired if most of these facilities were also located by residential neighborhoods and food services.

Mr. Russon stated yes, they were all around the City.

Commissioner Algarin stated there seemed to be a lot of questions surrounding the technology of this process. He inquired if there was anything he could do to educate the public regarding these types of services. He stated the EPA was very strict, so if there was a problem it would be dealt with.

Mr. Russon stated they were very open about this, so if the public had questions they were willing to answer those, there was nothing to hide. He stated the media could be involved if the Commission felt they wanted to get more information out there.

Commissioner Dean suggested code change 5.1 should be changed to include, *the crematorium shall emit no visible emissions or odor*. She inquired if that would address the technology question.

Mr. Russon stated he did not have a problem with that.

### 6:12:21 PM **Public Hearing**

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

The following people spoke or submitted cards in **support** of the petition: **Glenn Lyle** (6017 Kipps Colony Gulfport, FL) stated he was representing BNL Cremation Systems, the company that manufactured the equipment that would be used by the pet crematorium. He stated there was no odor associated with the cremation process because there was an after burn chamber which cleansed the gases for a second time and before it eliminated them.

Commissioner Chambless inquired if Mr. Lyle felt the cremation process was becoming a more common choice for people.

Mr. Lyle stated in Utah approximately 34 percent of people's remains were cremated and by 2020 these numbers were projected to rise to 50 percent.

**Jane Ball** (463 Sixth Avenue) stated she represented animal lovers everywhere, this was a needed service. One that was close and available and she would like to see this type of service in the City because if offered an intimate, personal, and caring atmosphere.

**Scott Russon** (Representing the Utah Funeral Directors Association) stated there was a growing need regarding this type of service.

**Jamie Jackson** (4580 Red Sage CT) stated she was Earl Tate's daughter and they had taken packets around to all of the neighbors regarding the pet crematorium and they were willing to talk to anyone who was concerned about this in the neighborhood.

The following people spoke or submitted cards in **opposition** to the petition: **Robert Holman** (1395 West Vanburen Avenue) stated he instigated the petition regarding this issue. He stated he was in opposition to this request because it would have a definite impact on businesses and residences in the neighborhood.

Commissioner Gallegos inquired if Mr. Holman would describe what he meant by impact.

Mr. Holman stated this was a friendly walkable neighborhood with cafés and coffee shops. He stated all businesses associated with food felt they would be affected by having this type of business in the area.

Commissioner Gallegos inquired if Mr. Holman felt this was really a perception issue.

Mr. Holman agreed that was the problem.

Vice Chair Algarin inquired if the neighbors did not believe what was being said about the technology, because there really was no way the neighborhood would know the crematorium was there. He stated there would not be lines of animals outside of the building, so what was the neighbor's objection.

Mr. Holman stated most people felt the smell would be a problem as well as possible catastrophic effects of the natural gas the applicant would be using in the furnaces.

Commissioner Woodhead inquired of staff, if the Commission approved this particular text amendment tonight, this particular crematorium would have to come back before the Commission for approval of a conditional use application.

Mr. Milliner stated that was correct.

Commissioner Dean stated there seemed to be a contradiction of the definition of crematorium, *an accessory use to a funeral home where the dead, both animal and human are prepared for and cremated, but not in the same crematorium*. She inquired if that meant not in the same physical location.

Mr. Milliner stated that meant animals and humans were not allowed to be cremated in the same retort/facility.

Commissioner Dean stated in 5.8 it states, *the crematorium use shall be associated with a licensed funeral home, or dedicated animal cremation service*. She stated this seemed to contradict the definition of crematorium.

Commissioner Fife stated, *or animal cremation service* should be added to the definition of crematorium.

Commissioner Dean stated the definition stated it should be separate.

Mr. E. Tate stated *facility* meant the retort, a machine which cannot be used for animals and humans, but the two machines could be located on the same property.

Commissioner Dean inquired how many machines one facility would typically have.

Mr. J. Tate stated it would depend on the volume of each facility and what they needed.

Commissioner Dean stated if legally you could pair human and animal then the cremation service could be a primary use as a standalone facility in a CC zone, she stated the intent largely was to say funeral homes could add a crematorium function, but animal cremation and human cremation services could function as a standalone service without the funeral home capacity in the CC zone.

Mr. Milliner stated the crematorium should be associated with either a funeral home for the animals or a funeral home for humans, but not a standalone crematorium. He stated the idea was to have crematoriums associated with a funeral home.

Commissioner Dean stated the definition of animal cremation service needed to be changed then. Instead of saying, *a service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested*. She stated the word *may* should be removed from that definition.

Commissioner De Lay inquired if number 8 should read, *a crematorium should be associated with a licensed funeral home and/or a licensed animal funeral service*.

Commissioner Dean stated if that was the case animal funeral service would need to be defined.

Ms. Coffey suggested the definition of crematorium should include it was, *an accessory use to a funeral home, where the dead, either animal or human, are prepared for and cremated*.

Mr. Nielson stated number 8 might also read, *the crematorium use shall be associated with a licensed funeral home for human cremations, or dedicated animal cremation services for pet cremations*.

Mr. E. Tate stated the licensing requirement for a funeral home was through the state of Utah, and if an animal facility needed to be licensed it would need to go through state licensing.

Mr. Nielson stated animal services were not required to be licensed through the state as a funeral home, so if you do not have to be licensed to do cremations for animals, but a funeral home does; it would be a good idea to include language that specifies humans are not to be cremated at an animal cremation facility.

Mr. Sommerkorn inquired if staff felt this language would work with the changes suggested by the Russos in their letter to the Commission.

Mr. Milliner stated so far all the information and changes proposed would be acceptable.

Chair De Lay closed the public hearing.

Ms. Coffey inquired if the Commission could clarify the issue of whether or not the Commission would allow for standalone crematoriums or not.

Commissioner Fife stated he would like to see *animal cremation service* changed to *a service dedicated to the disposition of dead animal remains by means of cremation, that also provides necessary goods and services for the memorialization of the animal if requested*. So it would not say *may* it would say *provides*.

Commissioner Woodhead stated she was more comfortable with that.

#### 6:35:24 PM Motion

**Commissioner Fife made a motion regarding Petition PLNPCM2009-00726; Major Street Pet Services Zoning Ordinance Amendment. The Planning Commission forwards a positive recommendation to the City Council**

regarding the request to modify the chapters of the Zoning Ordinance as detailed in the staff report with the following changes:

1. That the definition of *animal cremation service* now read: *a service dedicated to the disposition of dead animal remains by means of cremation that also provides necessary goods and services for the memorialization of the animal if requested.*
2. That the definition of *crematorium* now read: *an accessory use to a funeral home or animal cremation service where either the dead animal or human is prepared for and cremated.*
3. That under 21A.40.170 Crematoriums, condition 1 now read: *the crematorium shall emit no visible emissions or odors.*
4. That under 21A.40.170 Crematoriums, condition 8 now read: *the crematorium use shall be associated with a licensed funeral home for human cremation, or dedicated animal cremation service for animal cremation.*

Commissioner Woodhead seconded the motion.

Commissioner Gallegos, Fife, Dean, Muir, Chambless, Woodhead, and Algarin voted, “Aye”. The motion passed unanimously.

#### 6:37:40 PM Amendment to the Motion

Commissioner Woodhead made an amendment to the motion that a condition 5 be added stating, that changes proposed in the Russon Brothers letter, dated November 17, 2009, be included in the final changes, based on the testimony during the public hearing and the indication these language changes were acceptable to staff.

Commissioner Gallegos seconded the amendment to the motion.

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

6:38:57 PM **PLNPCM2009-01196 Conditional Use for Utility Box Installation**—a request by Rocky Mountain Power, represented by Alene Bentley for the installation of 18 utility boxes between 2830 East and 2940 East Oakhurst Drive, 2849 East and 2927 East Millicent Drive and 1063 South and 955 South Vista View Drive. The purpose of the application is to upgrade a failing electrical system in this neighborhood. The subject property is located in the R-1-12,000 Residential zoning district and is within Council District 6, represented by JT Martin.

Chair De Lay recognized Ray Milliner as staff representative.

Commissioner Muir recused himself from the meeting at 6:39 p.m.

Mr. Milliner stated the applicant was originally going to place eighteen (18) utility boxes in the area for the purpose of redoing the electrical services located on the streets. He stated this service was one of the first underground utility

services provided in the City, it was placed with 1950 technology and needed to be replaced because it was failing. He stated staff was recommending approval.

Ms. Alene Bentley (Rocky Mountain Power (RMP) representative) stated the equipment would be installed near the street where the primary conductor would also be installed, and in addition ten (10) outdated transformers would be replaced. She stated the transformers were old and overloaded because people were using a lot more electricity today.

Mr. Jake Barker, responsible for all of the distribution engineering at Rocky Mountain Power, gave a detailed presentation on what transformers do.

Commissioner Chambless inquired how long the new equipment would last.

Mr. Barker stated approximately 40 years.

Commissioner Chambless inquired if Hogle Zoo were to be relocated and the area became even more residential would this new equipment be able to handle that increase.

Mr. Barker stated the power needs would increase, and new infrastructure would need to be installed to serve that area.

Chair De Lay inquired if this was a sustainable alternative because the cables would be placed underground, and utility boxes were being placed in front of people's homes in the area, which might be objected to.

Mr. Barker stated this was pretty much a like-for-like installation, so there would not be a change as far as sustainability. He stated customers would have a utility box in their front yard and easement permissions would be obtained from each property owner.

Commissioner Dean stated it was great the equipment was going underground, but in the past Rocky Mountain Power has said the financial impact of doing that elsewhere in the City was too great. She inquired what was different about this petition.

Ms. Bentley stated this petition dealt with distribution, which was low voltage and cost less than burying transmission. She stated only one half of transmission voltage was buried in the entire United States because of the high expense. And even when distribution lines were buried above ground equipment was still needed to operate it.

Commissioner Woodhead inquired about what RMP did about graffiti on utility boxes.

Ms. Bentley stated there were thousands of ground mounted transformers located throughout Salt Lake City, if customers see graffiti, they could report it on the customer service line.

Chair De Lay suggested RMP have instructions on their website that lets the public know what to do if there is damage or graffiti.

Ms. Bentley stated that was an excellent suggestion.

Chair De Lay read a speaker card from Dixie Smith who inquired why RMP used above ground boxes, she stated the information indicated these boxes were usually only found in Institutional Districts.



Ms. Bentley again stated above ground equipment was necessary for an underground system.

### 7:01:30 PM **Public Hearing**

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

The following people spoke or submitted cards in *opposition* to the following petition: **Gene Taylor** (2927 Oakhurst Drive) inquired if only utility boxes were being discussed tonight and not easements. Chair De Lay stated that was correct. **Susan Mulaney** stated she was concerned these boxes would detract from her property value, because one of the reasons she bought in this neighborhood was because there were no overhead wires, everything including the transformers was underground. She stated on the proposed plan she would be getting a transformer in her yard and she wanted to know what would happen to the current underground system. She inquired if they pulled it up would they re-sod and re-grade the lawn. **Gary Burlingame** (Millicent Drive) inquired if the power goes through the backyards now, how would it work if everything would be in the front of the yards now, would RMP repair landscaping and trees they have to take out or destroy.

Chair De Lay closed the public hearing.

Ms. Bentley stated customers do have to agree to provide access for the equipment placed on their property, which was part of taking part in electric power service. She stated under the tariff RMP would be under no obligation to pay for an easement. She stated currently RMP was working with property owners regarding compensation.

Chair De Lay inquired if someone purchases a piece of property was it subject to the easements on the property, and if so could the utility company go onto the property at anytime. She also stated that she understood if RMP needed to dig to reach the line, the utility company was not required to replace landscaping that might be compromised in the process. She inquired if RMP would be a good neighbor throughout this process.

Ms. Bentley stated in this case RMP would repair whatever damage was done in this process, realizing people take a great deal of pride regarding their homes and RMP would also try to minimize the damage they do and repair the site when the work was completed. She stated however, if a property owner places improvements to land that interferes with the easement rights the property owner should know they bear the risk of loss or damage to those improvements.

Commissioner Dean inquired if the Rocky Mountain Power (RMP) plan would still leave the neighborhood with an antiquated system. She inquired if it would be wiser in the long term to use the existing easement to access and upgrade the service to the homes in the area.

Mr. Barker stated RMP was going to abandon the equipment in the back lot lines and replace the transformers. He stated the only antiquated thing that would be staying was the service, which is the 240 volt cable that connected from the transformer to the house.

### 7:21:10 PM **Motion**

**Commissioner Gallegos made a motion regarding Petition PLNPCM2009-01196 based on the staff recommendation, the Planning Commission approves the Hogle Utility Replacement conditional use based on the following conditions:**

1. All necessary building permits for these structures shall be obtained from the building department prior to installation of the structures.
2. The applicant shall mark the boxes with a telephone number that residents can call to have graffiti removed from them.

Commissioner Woodhead seconded the motion.

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

Chair De Lay announced a small break at 7:22 p.m.

Chair De Lay reconvened the meeting at 7:30 p.m.

**7:30:57 PM PLNPCM2009-00902; Amendments to Regulation of Utility Boxes**—a request by the City Council for a zoning text amendment to modify Chapter 21A.40.160, Utility Box Regulations, of the Salt Lake City Zoning Ordinance. The purpose of the amendments is to streamline the process of approvals, to clarify the intent of certain sections, and to revise the standards and factors necessary for conditional use approval. The proposed text amendments are city-wide.

Chair De Lay recognized Ray Milliner as staff representative.

Mr. Milliner stated the Commission reviewed this application in October and gave staff modifications to the proposed amendment. He stated those changes are reflected in this second drafts, which include limiting the size of the utility boxes that would be allowed. He stated there was a problem with the way the ordinance was now set up; there were three sizes of utility boxes currently large, medium, and small. He stated for the most part the large boxes were dealt with through conditional uses, as well as some of the medium boxes. He stated small utility boxes were generally either conditional uses or routine and uncontested. He recommended not putting the size regulation in the ordinance, because the definition of a utility box was sufficiently different from the definition of a substation, so there should not be any confusion as to the way both of those were processed.

Mr. Milliner stated another suggestion from the Commission was to clean up the definitions, which was done; and finally to create some language regarding clustering. He stated there was some concern that there were a number of utility boxes clustered in one area, which was unsightly. In the conditional use criteria he included a number 2, which dealt with spacing that stated, *utility boxes shall be spaced in such a manner as to limit the visual environmental impact of the boxes on neighboring properties. The Planning Director may limit the number of boxes allowed on a specific site to meet this standard.* He stated he did not include a specific number because there may be cases where it would be preferred if the boxes were clustered, for instance if there was a location that would be less impacted.

Chair De Lay requested Mr. Milliner address the taskforce meeting regarding these utility boxes.

Mr. Milliner stated the taskforce meeting was held in August and a discussion was held on how to deal with the meters. He stated RMP representatives were part of that discussion to express their needs regarding where and how utility boxes were installed. He stated the business community expressed they would like these boxes as allowed uses

because of the potential impact to new facilities, which are built and then the owner has to wait up to eight weeks to get their power needs taken care of.

Commissioner Woodhead stated she was still a little confused regarding conditional uses where it stated, *conditional use review is required for all ground mounted utility boxes not specifically addressed in Section C of this chapter*. She inquired if all ground mounted utility boxes are covered in Section C, what was the covered in Section E.

Mr. Milliner apologized and stated Section E should actually be Section D.

### 7:39:12 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: **Philip Carlson**, Sugar House Community Council Chair (1917 East 2700 South) stated it was stated that from a visual standpoint these utility boxes were not that important, he passed around some pictures. He stated he felt there was a problem with the public noticing regarding the ZAP taskforce meetings and he was concerned because he did not feel the voice of the public was being heard through it. He stated as far as moderating there needed to be better control over the placement of these boxes, and he felt these changes moved further away from that goal. He stated the Community Council recognized essential services were being provided. The community was concerned about graffiti and he would like to see the boxes screened and he would like to see stronger language to accomplish this. **Judi Short** (862 Harrison) stated there was a lot of general dissatisfaction regarding this process. She would like to see the City regulate the color of the boxes, so they were standardized. She stated there were still issues with the maintenance crew leaving behind litter and letting their trucks idle. **Dilee Smith** (2865 East Oakhurst Drive) would like to see the equipment buried underground, inquired about the estimate for the reduction of property values with these utility boxes on her property, and inquired about an alternate plan if the Planning Commission did not allow the above ground utility box installation.

The following people spoke or submitted cards in *support* of the petition: **Alene Bentley** (RMP representative) stated this was an essential service. Salt Lake City's policy was to have power lines underground; however, above ground equipment was necessary. She stated RMP was bound by the National Electric Safety Code, which did impose certain safety clearance requirements and as far as screening was concerned, landscaping was great as long as it did not encroach on those safety requirements. She stated RMP supported these ordinance changes.

Chair De Lay inquired how RMP would address graffiti and the litter left behind by the cleanup crews.

Ms. Bentley stated if customers called the public service line RMP would come out and clean up an area, and they would also talk to their crews about clean up. She stated the color of the boxes was industry standard equipment, which kept the rates low.

Commissioner Woodhead inquired if RMP had a timeline after receiving a call, of when graffiti was taken care of.

Ms. Bentley stated they contracted a company, The Graffiti Doctor, and they were responsible for the response time.

Commissioner Chambless inquired if these cables ever separated or cracked.

Mr. Barker stated they usually did not break, but they could split apart from a pinhole size cut to the cable.

Commissioner Dean inquired if there was a better design to reconfigure these boxes to downsize them so they were not quite so obvious. She inquired if the space inside the boxes was completely used or was the space generous to make sure there was enough working room.

Ms. Barker stated when you think about technology the image of smaller and faster comes to mind, and in the power industry when you think what will be safer it means bigger. Voltage is based on physics and the higher the voltage the more space you need to keep the public and the employees safe. He stated the space is completely utilized.

**Eric Isom;** Qwest (250 Bell Plaza) stated their dilemma was providing services without having any visible equipment as a reminder those services were being provided. He stated he agreed with removing the 10 foot requirement because it gave Qwest greater flexibility when working with private property owners to try to determine a mutually agreeable location for the box. He stated roughly 90 percent of current boxes placed were placed on private easements through these negotiations.

**Rob Vigil** (Qwest Corporation) stated Qwest was constantly trying to rectify the issue of graffiti and clean up around their boxes. He stated there was a graffiti hotline currently and they would also work on getting contact information regarding graffiti removal or other issues.

Commissioner Woodhead stated in the old ordinance language it separated these boxes into small, medium, large. She inquired about the percentage of boxes installed that would fit into the large category.

Mr. Isom stated it would be less than ten (10) percent at this point.

Commissioner Woodhead inquired if these were excluded from the ordinance and placed in the conditional use section based on size, would that be a huge problem.

Mr. Isom stated the attempt was to address utilities on a broader scale and to allow for technological advances.

Mr. Vigil clarified this change was to make a clear distinction between private property with property owner approval and public right-of-way. He stated those in the public right-of-way still would need to go through the conditional use process. He stated as far as screening goes, Qwest was not opposed at all; however, when negotiating with the property owner the details were discussed and finalized, then when the petition went through the conditional use process and the Commission suggested some sort of screening, the complication was maybe the property owner did not want that as a part of their yard.

Chair De Lay closed the public hearing.

Commissioner Dean stated the biggest issue to address was probably the maintenance and upkeep of the boxes, how would that be enforced.

Chair De Lay stated there was the assumption that utility providers try to be good neighbor, but it was up to the public to report problems in one way. She inquired how much more could be required other than the existing hotline and relying on neighborhoods calling in problems.

Mr. Sommerkorn stated some type of requirement could be added in to maintain these boxes, but generally Qwest and RMP were trying to take care of issues that arise.

Commissioner Chambless stated he would like to see everyone involved be more proactive rather than reactive, so this type of vandalism could be stopped all together, or at least lessened because it was an irritant for everyone.

Commissioner Woodhead stated when these utility boxes were graffitied the utility companies were victims of that crime as well, so whatever efforts they could do to clean it up was appreciated and they should not be penalized.

#### 8:17:36 PM Motion

**Commissioner Woodhead made a motion regarding Petition PLNPCM2009-00902, Amendments to Chapter 21A.40.160; utility box regulations, the Planning Commission forwards a positive recommendation to the City Council to adopt the proposed modifications to the relevant chapter, with the correction on page 10 of the staff report under Conditional Use it reads, *Conditional use review is required for all ground mounted utility boxes not specifically addressed in sections C of this chapter, it should be changed to section D of this chapter.* This motion is based on the public hearings, and the information in the staff report.**

**Commissioner Chambless seconded the motion.**

#### Discussion of the Motion

Commissioner Dean inquired if Commissioner Woodhead would consider an amendment to the motion that **all utility boxes have clearly labeled hotlines to call for problems and a no idling sticker.**

**Commissioner Woodhead accepted the amendment.**

**Commissioners Fife, Gallegos, Dean, Chambless, Woodhead, and Algarin voted, “Aye”. The motion passed unanimously.**

8:20:01 PM **PLNPCM2009-00174; Conditional Use Chapter Amendments**—a request by Mayor Ralph Becker for zoning text amendment approval to modify Chapter 21A.54, Conditional Uses, of the Salt Lake City Zoning Ordinance. The purpose of the amendments is to bring the chapter into compliance with state code, to clarify the intent of certain sections, and to revise the standards and factors necessary for conditional use approval. The proposed text amendments are city-wide.

Chair De Lay recognized Ray Milliner as staff representative.

Commissioner Muir rejoined the meeting.

#### 8:22:21 PM Public Hearing

The following people spoke or submitted cards in *opposition* to the petition: **Cindy Cromer** stated conditional uses under LUDNA were not going to work, it was an entitlement for conditional uses and once you get to that point you effect people’s motivations to be a good neighbor. She stated once a conditional use was approved it was very difficult to amend or revoke that decision. She stated the direction the Planning Commission had taken with the

planned unit developments and moving them outside of the conditional use chapter was outstanding. She stated smoking was an issue at times in areas where neighbors were affected by their patrons cigarette smoke and she would like to see a requirement placed on a project to have a separate HVAC.

Chair De Lay inquired where that requirement would be placed.

Ms. Cromer stated under factor 11, cigarette smoking needed to be considered as an environmental impact under air and water. If language specifically mentioning the anticipated impacts of smoking in particular were included, that would be helpful.

Ms. Cromer stated staff had recommended the removal of the concentration criteria, but there was a collective impact. She stated one way to go about this would be to require mitigation through the new proposed accessory dwelling unit ordinance, which would help mitigate the loss of housing.

Commissioner Fife stated the Commission should come up with the factors to consider and not necessarily a way to solve issues because it was going to be different in every case. He stated including language anticipating the effects of cigarette smoking would be appropriate, but the Commission should not be too specific.

Commissioner Chambless agreed because this was a public health issue.

Mr. Sommerkorn stated that was a good issue to look at, staff had also been involved in reviewing the alcohol normalization that was going on, where the issue of smoking had come up there. He stated the Mayor's office had also discussed dealing comprehensively with smoking in public areas in the City. He stated for the purpose of this petition tonight, raising the issue as something that needed to be reviewed in the future was a good idea.

Chair De Lay stated it would not be a big deal to add a mention of this to factor 11: Environmental Impact.

Ms. Cromer stated she was disappointed the modifications up to 1,000 square feet could be handled without any public process or notice. She stated 1,000 square feet could actually amount to doubling the footprint of some of the smaller historic buildings. She suggested there should be notice to surrounding property owners and if there were any objections there should be a hearing. Expansion exceeding 25 percent of the square footage of the existing facility should also trigger some kind of public hearing.

**Judi Short** (862 Harrison Avenue) stated she wanted to defend the ZAP taskforce and say it was working. She stated there were comments regarding the concentration issues, and people were making comments about them, but nowhere did it say that the ZAP taskforce agreed to take out that language in the new ordinance. She stated notes were taken at the ZAP meeting, and staff wrote the ordinance afterward and now it was before the Commission, she stated staff made it seem like the taskforce had seen this and approved it, but that never happened it was only discussed in general.

Mr. Sommerkorn clarified the ZAP taskforce was not an approving body, it was an input body. He stated so while certain topics might have been discussed at those meetings that was not necessarily the way they were coming forward to the Commission because the taskforce was only one means of input. He stated what the Commission sees in draft form may not reflect all of the different comments from ZAP.

Ms. Short stated she was still disappointed after this process there were still a lot conditional use approvals, she would really like to see some of those go away. She stated staff probably had a good inventory of parcels in the City that were conditional uses.

Ms. Coffey stated several years ago there was an attempt to look at that, but there was really not a system to find out what uses had gone away, what had come back into use etc. She stated it would be difficult to categorize the entire City.

Chair De Lay closed the public hearing.

Chair De Lay inquired of Mr. Milliner to give his rationale on why the concentration criteria was left out.

Mr. Milliner stated the rationale was on page 4 of the staff report, when the conditional use table was adopted it stated that certain uses were compatible with certain zones, if a use was not compatible because for instance there were too many of the uses in one area then it was not a conditional use factor issue, it was a zoning master plan issue.

He stated currently there was not a good set of criteria to determine what actually constitutes detrimental impact. For example up by Immigration Market there was a significant impact from the parking in the neighborhood for the homes that were closest to the market. However, if you talked to the neighbors in general most of them like having the market close by, so there was no criteria that would allow planning staff to determine a good or bad use for the neighborhood, a separate process would need to be created.

Mr. Sommerkorn stated under the state code with the change to the conditional use factors a couple of years ago, if a conditional use was listed in the ordinance there was a presumption that it was valid and could be located in that zone, only some impacts needed to be mitigated. He inquired how a limit could be put on types of uses if the uses were allowed in a zone, it would be really tough to come up with the criteria for this.

Mr. Milliner stated if he was to review a conditional use and this was one of the criteria, how would a detrimental impact be determined. He stated there was not a list of factors to determine it.

Commissioner Muir stated this was already done with group homes for instance; there was some sort of assessment that stated there could only be so many of these uses within a block, so there were ways to measure this.

Mr. Sommerkorn stated look at this on the flip side and look at permitted uses, to many of a certain kind of a permitted use may also be detrimental, but there was no way to put a restraint on that type of competition.

Commissioner Woodhead inquired if there was a way to tie this to the master plan, for instance detrimental concentration of uses which resulted in the neighborhood having a character that was inconsistent with the requirements of the master plan.

Mr. Milliner stated the second factor: Master Plan and Zoning Ordinance Compliance would cover that issue by allowing staff to review the compatibility of the master plan.

Chair De Lay inquired how Mr. Milliner felt about Ms. Cromer's suggestion regarding the modifications up to 1,000 square feet.

Mr. Milliner stated he did not have a problem with that.

Commissioner Fife suggested combining the ideas and saying either the lesser of 1,000 square feet or twenty-five (25) percent of the existing gross square feet would need to be noticed.

The Commission agreed to this change.

Commissioner Woodhead stated factor 11: Environmental impact should include some language to look for some compliance with the City's sustainability ordinances, if there was a way to broadly tie it to those goals, rather than just saying does it affect air and water etc., which seemed like a slim perspective when the City had bigger sustainability goals.

Ms. Coffey stated at this point the sustainability goals had not been adopted; the City was looking at doing a plan. She inquired if the environmental aspect would also include the cigarette smoke issue.

#### 8:46:22 PM Motion

**Commissioner Fife made a motion regarding Petition PLNPCM2009-00174; Amendments to Chapter 21A.54: Conditional Use, based on the staff report and public hearing, the Planning Commission forwards a positive recommendation to the City Council to approve these amendments with the following changes: Factors to consider number 11: Environmental impact should read, *whether the use meets any existing City sustainability goals or plans, or significantly impacts the quality of the surrounding air and water, encroaches into a river or stream, or introduces any hazards or environmental damage to any adjacent property including any significant anticipated impacts of cigarette smoking.* And 21A.54.135: Alterations or Modifications to a Conditional Use on page 17 of the staff report should be changed to read, *Any modifications or legally non-conforming land use listed as a conditional use under current zoning regulations is first required to obtain conditional use approval subject to the provisions of this chapter if the floor area increases by the lesser of 1,000 gross square feet or a twenty-five (25) percent increase in the existing gross square feet or the parking requirement increases.***

**Commissioner Algarin seconded the motion.**

#### Discussion of the Motion

Commissioner Woodhead stated she was interested about how Commissioners felt about the concentration issue; she stated she was conflicted about it. If it was said the response to that is to change it to a prohibited use, than that would require a fairly long process to go through and maybe that would solve the problem.

Commissioner Muir inquired what the implications would be if the zone was changed and created all these non-conforming uses, because essentially that was what was happening.

Mr. Milliner stated when a zone was changed and non-conforming uses were created, that was like saying we no longer want this use here, so eventually this change would make it go away.

Commissioner Dean stated the Commission had talked about wanting to mix a residential element in, so if those zones were changed to a mixed-use with the same baseline zone, it would prevent zones from changing back and forth, or maybe just having some type of living unit associated with the zone would help that type of mixed-use presence.



Chair De Lay stated currently it was impossible to get a loan on something like that because the City did not allow a residence in a building that had more than 25 percent businesses in it. She stated this would be a great idea in the future for more mixed-use areas, but right now it was not practical.

Commissioner Fife inquired about the spacing element that seemed to work for some uses.

Mr. Milliner stated that would be separate from the conditional use as well, it would be adopted in the ordinance.

Chair De Lay inquired if it was really appropriate to figure this issue out at this hearing or would it be a completely separate issue the Commission should address in the future given this was a problem in the City.

Mr. Sommerkorn stated the way this was written in the ordinance now was a problem, it was hard to administer. He stated there were also some potential legal issues with it, but this might be a valid issue to look at and deal with in a different way.

Commissioner Woodhead stated the idea of putting this in the master plan made a lot of sense.

Ms. Coffey stated next year the ZAP taskforce would be going through the use tables and reviewing the definitions of all the uses, and then figuring out what zones those uses should be allowed in, both permitted and conditional. She stated maybe at that time the Planning Commission could figure out what uses were appropriate in what area, as well as deciding on spacing issues.

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

*The meeting adjourned at 8:53 p.m.*

**This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on November 18, 2009.**

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Tami Hansen