

SALT LAKE CITY PLANNING COMMISSION MEETING

In Room 326 of the City & County Building

451 South State Street, Salt Lake City, Utah

Wednesday, October 14, 2009

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

A field trip was held prior to the meeting. Planning Commissioners present were: Tim Chambless, Michael Gallegos, Matthew Wirthlin, Michael Fife, and Frank Algarin. Staff members present were: Wayne Mills, Ray Milliner, and Katia Pace

A roll is being kept of all who attended the Planning Commission Meeting. Chair Woodhead called the meeting to order at 5:44 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: Cheri Coffey, Programs Manager; Paul Nielson, City Attorney; Ray Milliner, Principal Planner, Katia Pace, Associate Planner, Wayne Mills, Senior Planner and Tami Hansen, Senior Secretary.

Work session

Mary De La Mare-Schaeffer, CED Deputy Director, gave a briefing on the civic campus.

5:45:39 PM Approval of Minutes from Wednesday September 9, 2009

Commissioner McHugh made a motion to approve the September 9, 2009 minutes as written. Commissioner Gallegos seconded the motion. All in favor voted, “Aye”. The minutes were approved.

5:46:21 PM Approval of the minutes from Wednesday September 23, 2009

Chair Woodhead stated regarding the Deseret Industries matter, the applicant made major modifications to their plan, which now complied with all of the conditions the Commission stated; however, the new building was slightly bigger. She stated that condition 12 stated that final approval was delegated to the Planning Director, and because of this the Commission did not need to completely rehear this issue, given that the applicant complied with all of the other conditions.

Mr. Sommerkorn inquired if the Commission was flexible regarding the size of the building as long as the applicant met the other conditions that were imposed.

Commissioner Hill stated the intent of the motion was to best serve the surrounding community.

Commissioner McHugh made a motion to approve the September 23, 2009 minutes with the noted clarifications. Commissioner Hill seconded the motion. All in favor voted, “Aye”. Commissioners Algarin and De Lay abstained. The minutes were approved.

Chair Woodhead thanked the applicant for their efforts and noted their contribution to the community was appreciated.

5:50:51 PM Report of the Chair and Vice Chair

Chair Woodhead noted neither she nor Vice Chair McHugh had anything to report.

5:51:45 PM Report of the Director

Mr. Sommerkorn stated the next North Temple Boulevard workshops would be held during the last week of October at City front located at 631 West North Temple. Commissioners were invited to attend and be involved in those workshops.

He stated the City Council denied the rezoning for the Reese Apartments, which followed the recommendation of the Planning Commission, and the Scenic Motel would be decided on at the public hearing on October 20.

5:56:43 PM Vote for the new Chair and Vice Chair

Commissioner Babs De Lay was voted as the new Chair and Commissioner Frank Algarin was voted as the new Vice Chair of the Planning Commission.

Briefing

Proposition #1-Public Safety Building—Salt Lake City does not currently have a dedicated Emergency Operations center, leaving residents and businesses highly vulnerable in the event of an emergency or catastrophic event. Proposition #1 will allocate \$125 million in general obligation bonds that will pay for the Public Safety Building, an underground parking structure, and a dedicated Emergency Operations Center. The estimated tax impact is \$6.25 per month or \$75 per year for the average residential property and \$43.52 per month or \$522.32 per year for the average business. For additional information go to: www.slcgov.com/psb

No one was present to present a briefing to the Planning Commission.

Commissioner De Lay inquired when the Commission would receive a formal petition regarding this issue.

Mr. Sommerkorn stated after the election in November 2009.

Issues Only Hearings

6:03:23 PM PLNPCM2009-00726; Pet Cemetery Zoning Ordinance Amendment —a request by the 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 Woodhead recognized Ray Milliner as staff representative.

Mr. Milliner stated this was an issues only petition for purposes of gathering direction from the Planning Commission. He stated this pet cremation service would allow pet owners to cremate or bury pets in a more formal way and the definition modification would have an impact on the overall way the City regulated the disposition of the deceased, because it would also include mortuaries within the City limits as well. He stated after discussions with mortuaries within the City they had expressed they would like to offer crematory services as well as part of their business model.

Mr. Milliner inquired of the Commission if this definition was appropriate, and if crematoriums should be allowed in the CC Zone. He stated currently most of the mortuaries and funeral homes in the City were non-conforming uses located in the Downtown Zone, and if they wanted to put in cremation retorts it would be an expansion of a non-conforming use. He inquired if the Commission would also like staff to modify the use table to allow mortuaries, etc. in additional zones and if so, what zones would be appropriate for this use.

Vice Chair McHugh inquired if Mr. Milliner was saying there could not be a crematorium for pets only, without also allowing funeral homes and mortuaries that same service.

Mr. Milliner stated staff recommended that *cremation* be pulled from the definition and a conditional use should be created for a cremation service with the criteria outlined in the staff report.

Commissioner Algarin inquired if this definition was changed would funeral homes have to get permission to put a crematorium in, or would they have the right to put one in with whatever technology they had at their disposal.

Mr. Milliner stated assuming that the funeral home was an allowed use, under the staff recommendation, which would be to make it a conditional use, the Planning Commission would review each application and either approve or deny it.

Commissioner De Lay inquired if the crematorium industry was regulated by the health department.

Mr. Milliner stated there were some significant regulations with the State.

Chair Woodhead invited the applicant to the table.

Mr. Jake Tate stated he was with Great Basin Engineering. He introduced Earl Tate the owner of the property.

Mr. J. Tate stated at the beginning of the process he was told they would only be allowed as a pet cemetery, which he felt did not define their process because they would not actually be burying the animals only cremating them.

He stated the administrative interpretation denied this particular use, and it was clear that the zoning ordinance did not have a clear definition of what exactly would be done. He stated the decision was made by the City that a crematory would only be allowed in a cemetery; those that currently existed were grandfathered in or created before the zoning ordinance regulated them. He stated there were no cemeteries in Utah that currently operated a cremation facility, every facility associated with a cemetery was also connected to and ran by a funeral home.

Mr. J. Tate stated the public perception of a crematorium was negative. Modern technology allowed the exhaust gasses to be refined several times before they were released; crematoriums produce no odors, no visual emission, and they ran quietly.

He stated the proposed change to the text amendment would read, *an establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming, cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with proper disposition of the dead, are conducted.*

Mr. J. Tate stated the proposed activities of the crematorium would include: meeting with owners of deceased pets and making arrangements for their cremation, providing memorial merchandise for these owners should they require, and providing cremation service for the pet owners.

Mr. E. Tate stated removal services would also be provided from a home, without the pet being exposed to the elements.

Commissioner De Lay inquired if there was a limit in regards to the size of animal that could be cremated at the facility.

Mr. J. Tate stated they envisioned dogs and cats as being the most common.

Commissioner De Lay inquired what the objection was to the changes staff made regarding this petition.

Mr. J. Tate stated his concern with removing the word *cremation* from a funeral home definition, was in the future it would not be allowed at a funeral home.

Commissioner De Lay inquired if there currently were animal cremation services for the county, city, or even road kill, and were they associated with funeral homes and/or cemeteries.

Mr. Milliner stated currently the City landfill was used, and veterinarians could cremate.

Vice Chair McHugh stated there were two pet cremation services in Salt Lake County, and they were not associated with a funeral home or cemetery.

Mr. J. Tate stated there was a facility in Salt Lake City, and they operated under the terminology of a pet cemetery, which seemed like a very liberal interpretation of the code.

6:44:11 PM **Public Hearing**

Chair Woodhead opened the public hearing.

The following person spoke or submitted cards in *support* of the petition: **Steven Handy**, representing Russon Brothers Mortuary, stated their patrons had requested crematory services, which after remodeling would be included as a service. He stated the technology was so far advanced there were no emission from the building that would affect the environment. He stated they agreed with Mr. Milliner's staff report and proposal.

Commissioner De Lay inquired if Mr. Handy was encouraging the Commission to make the City guidelines more in sync with the State guidelines.

Mr. Handy stated that was correct.

Commissioner Hill recused herself from the meeting at 6:50 p.m.

Chair Woodhead inquired if there was special training regarding cremation within the specialty of funeral services.

Mr. Russon stated there was training, but not anything like formal licensing-everything operated under State law under a funeral director.

Commissioner Gallegos inquired if bodies were embalmed in preparation for cremation.

Mr. Russon stated there were two avenues to take one, an immediate cremation and in that instance embalming was not necessary; however, cremations that included a traditional funeral service before the cremation would require embalming.

Glen Lyle, representing Beeno Cremation systems of Florida, stated the company manufactures cremation equipment for both the human and pet industry.

Chair Woodhead inquired if Mr. Lyle wanted to express anything new that the Commission needed to know.

Mr. Lyle stated the cremation industry was changing, including environmentally friendly retorts for pet cremation. He stated pet cremation is huge, because a pet is a family member.

The following person spoke or submitted a card in *opposition* to the petition: **Joni Sorenson**, representing Joni's Deli, stated she was approximately 100 feet from Major Pet Services. She stated she was an entrepreneur of 25 years and the deli is her livelihood. She stated her concern was if you cannot sell alcohol around a school, why can a pet crematorium be placed next to a restaurant.

Chair Woodhead closed the public hearing.

Commissioner Gallegos inquired if cremation would be by appointment only, and would any animals be stored before being cremated.

Mr. J. Tate stated yes, the cost related to heating the retort for the cremation process was so high it made sense to do a lot of cremations in a row. He stated if there was only one request over a period of time the animal would be refrigerated for a short period of time.

Mr. E. Tate stated funeral services were changing around the country and many funeral homes had crematories in their facilities, as well as banquet halls for receptions following the funeral services, where food was served. He stated as far as there being a health problem in regards to food and the modern crematory there was none.

Commissioner Gallegos stated that might be the case, but a negative perception could be just as problematic.

Commissioner De Lay referred the Commission to page 4 of the staff report to review specific questions staff had requested direction on. First, are the proposed changes to the definition of the funeral home appropriate? She inquired if the existing State law should be used as a guideline for this question.

Mr. Milliner stated the proposed definition was close to the State definition.

Commissioner De Lay stated the proposed new “Animal Cremation Service” as proposed in the definition seemed appropriate. Third, should animal cremation services be allowed in the CC zone? She stated she did not have a problem with that. Fourth, Should animal cremation services be allowed in any other zone? She inquired if Mr. Milliner had a recommendation on this.

Mr. Milliner stated it was allowed in the Open Space Zone.

Chair Woodhead stated that zone allowance was probably only in conjunction with a cemetery, as opposed to a stand alone use in the OS zone.

Mr. Milliner suggested the M-1 Zone as well.

Mr. Sommerkorn stated any of the high intensity, commercial, and manufacturing zones would be appropriate.

Commissioner De Lay stated she perceived this use as more of an industrial use. Fifth, what, if anything, should be done about bringing non-conforming funeral homes into compliance, such as rezoning properties, or allowing these services in the zones where funeral homes currently exist? She inquired of Mr. Milliner what he felt would be the easiest.

Ms. Coffey stated in general funeral services are in the R-MU, D-2, and the RO zones.

Chair Woodhead inquired if these services should be made conforming in those zones, would that be the appropriate thing to do. She stated any of the zones would be appropriate for this use, except for neighborhood, commercial, and residential.

Commissioner Algarin stated at this point these types of services are not a nuisance. He stated it was obvious the definition needed to change.

Commissioner De Lay inquired if staff needed more direction from the Commission.

Mr. Milliner stated he felt he had a good idea on where to go from here.

Commissioner Fife stated the number of zones should be expanded as well, because the services downtown are not a nuisance, and are definitely needed.

Chair Woodhead announced a small break at 7:31 p.m.

Commissioner McHugh recused herself from the meeting at 7:31 p.m.

Chair Woodhead reconvened the meeting at 7:41 p.m.

7:42:01 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 Woodhead recognized Ray Milliner as staff representative.

Chair Woodhead inquired about the detrimental concentration issue on page 4. She stated sometimes a particular use did not necessarily change the fabric of a neighborhood, unless there were too many of that same use. She stated that if one of those uses was declared non-permitted, would that make the rest of the uses in the neighborhood non-conforming.

Mr. Milliner stated if there was a proliferation of one use in the area than it would need some type of review to figure out why there would be such a high demand of that use in the area, and recommendations would be made on that finding. The impacts of the use to the area could also be reviewed, maybe it was creating too much traffic or there was a compatibility issue.

Chair Woodhead stated she understood the analytical problem, but it was clear that there might be a point where a lot of one kind of use changes the neighborhood, maybe in a detrimental way, so if that control is taken away then the City was not really recognizing that problem.

Mr. Sommerkorn stated he wondered how many times that really happened.

Commissioner De Lay stated a very specific example would be medical uses in a neighborhood, say there were already four and a fifth wanted to come in.

Chair Woodhead stated in that case a fifth might destroy the residential fabric of an area and people might not want to live there.

Commissioner De Lay stated she agreed with the changes Mr. Milliner had made; she inquired what the ZAP taskforce discussion was regarding this matter.

Mr. Milliner stated there was not a lot of negative feedback regarding this. He stated most of the anxiety was about who would initiate a revocation application.

Commissioner Wirthlin stated this new language was well written and would help the Planning Commission immensely when dealing with conditional uses.

Commissioner Gallegos stated this language states community councils would be notified of public hearings in the future, and inquired the requirement was regarding that.

Mr. Sommerkorn stated there was some confusion that had developed between the community council representatives and what was actually being proposed. He stated under the procedures for conditional uses, under application, it listed all of the things required to be submitted with the application, including a signed statement that the applicant had met with and explained the proposed conditional use to the appropriate neighborhood organization. He stated staff was striking that out of the new language because it seemed to imply that signed statement had to be part of the application, which meant the applicant would have to go to the community council first, and the City would not have any idea this was being proposed until after that process.

He stated there was another section in the City code, which required all applicants to take changes to zoning and zoning ordinances and conditional use applications to the appropriate community council—so this requirement exists already, but in a less confusing manner via the City code.

Commissioner Algarin stated the Commission was asking for this for a while and this language was a great response to that request.

8:01:13 PM **Public Hearing**

Chair Woodhead opened the public hearing portion of the petition.

The following people spoke or submitted cards in opposition to this petition: **Judy Short** (Sugar House Community Council, Land Use Chair) stated she was concerned regarding the way community councils seem to be eliminated from the zoning code, which meant most of the petitioners would not tell us about their plans. She stated that detrimental concentration was a vague concept, but if you lived in a neighborhood where this was a factor you see that problem with it all the time. She stated to eliminate because it was difficult to measure was not a good solution. The zoning table should be correct to start with and the option of going back and continually changing it should not be relied on.

Chair Woodhead closed the public hearing.

Public Hearings

8:03:17 PM **PLNPCM2009-00784; Dick N' Dixie's Private Club**—a request by Jason Rasmussen for a conditional use approval to operate a private club at approximately 479 East 300 South (currently “Andy’s Place”). The subject property is located in the R-MU (Residential Mixed Use) zoning district in City Council District 4, represented by Luke Garrott.

Chair Woodhead recognized Katia Pace as staff representative.

8:24:01 PM **Public Hearing:**

Chair Woodhead opened the public hearing, she noted there was no one present to speak to the petition, she closed the public hearing.

8:25:30 PM **Motion:**

Commissioner De Lay made a motion regarding Petition PLNPCM2009-00784, based on the findings listed in the staff report and testimony heard, the Planning Commission approves the petition as proposed with the following conditions:

- 1. The Planning Commission delegates the final authority for the site plan, signage review, and security and operations plan according to the conditional use.**

2. **Require a security and operations plan according to the conditional use provisions for private clubs in the R-MU be prepared and filed with the City. The plan shall include:**
 - a. **A complaint-response community relations program, and;**
 - b. **Having a representative of the private club or association meet with neighbors upon request to attempt to resolve any neighborhood complaints regarding the operations on the premises;**
 - c. **Design and construction requirements to ensure that any sound level originating within the premises, measured within fifteen feet (15) from an exterior wall or door thereof, does not exceed the maximum permissible sound level set forth for residential use districts in Section 9.28.060 of this code;**
 - d. **Allowing live entertainment only within an enclosed building subject to the foregoing sound limit;**
 - e. **Prohibiting electronically amplified sound in any exterior portion of the premises;**
 - f. **Designating a location for smoking tobacco outdoors in conformance with state law;**
 - g. **Having trash strewn on the premises, including any smoking and parking lot area, be collected and deposited in a trash receptacle by 6 a.m. the following day and;**
 - h. **Having portable trash receptacles on the premises emptied daily and automated receptacles emptied at least weekly. Automated receptacles shall be located only within a City-approved trash storage area.**
 - i. **Prompt removal of graffiti within a reasonable period of time, no later than 48 hours, weather permitting.**

Commissioner Chambless seconded the motion.

Commissioners De Lay, Algarin, Fife, Gallegos, Chambless, and Wirthlin voted, “Aye”. The motion passed unanimously.

8:26:45 PM PLNPCM2009; Quest Assisted Living Facility Conditional Use—a request by Quest Services for conditional use approval of a Small Assisted Living Facility in an existing single-family dwelling at approximately 1820 West 800 North. The property is located in the R-1/5000 zoning district in City Council District One, represented by Carlton Christensen.

Chair Woodhead recognized Wayne Mills as staff representative.

8:34:57 PM Public Hearing

Chair Woodhead opened the public hearing. There was no one present to speak to the petition; she then closed the public hearing.

8:35:11 PM Motion

Commissioner Wirthlin made a motion regarding Petition PLNPCM2009-00971, based on the findings listed in the staff report, discussion and testimony heard at the public meeting, the Planning Commission approves the condition subject to the following conditions:

1. Compliance with City Department/Division requirements as addressed in this staff report. If additional requirements are stipulated by the City Departments/Divisions for improvements to the structure or home, the applicant shall satisfy said requirements.
2. The applicant shall obtain all necessary permits for improvements to the property. All improvements must meet current building code and zoning code requirements.

Commissioner Gallegos seconded the motion.

Commissioners De Lay, Algarin, Fife, Gallegos, Chambless, and Wirthlin voted, "Aye". The motion passed unanimously.

Commissioners thanked Chair Woodhead for her year of service as Chair of the Planning Commission.

The meeting adjourned at 8:35 p.m.

This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on October 14, 2009.

Go to FTR Gold at <ftp://ftrftp.slcgov.com/FTRPlayerPlusV21.exe> to download the digital recording.

Tami Hansen