

**SALT LAKE CITY PLANNING COMMISSION MEETING**  
**In Room 326 of the City & County Building**  
**451 South State Street, Salt Lake City, Utah**  
**Wednesday, October 13, 2010**

Present for the Planning Commission meeting were Chair Michael Fife, Vice Chair Angela Dean Commissioners Mary Woodhead, Michael Fife, Michael Gallegos, and Matthew Wirthlin. Commissioners Emily Drown, Kathleen Hill, Charlie Luke and Susie McHugh were excused.

The field trip was cancelled.

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at 5:45 p.m. Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time. Planning staff members present at the meeting were: Frank Gray, CED Director, Nick Norris Planning Manager; Doug Dansie, Senior Planner; Nole Walkingshaw, Program Supervisor; Ana Valdemoros, Associate Planner; Daunte Rushton, Planning Intern; Paul Nielson, City Attorney; and Angela Hasenberg, Senior Secretary.

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**Approval of Minutes from Wednesday, September 8, and September 22, 2010.**

**Commissioner De Lay made a motion to approve the September 8 and September 22, 2010 minutes as amended. Commissioner Woodhead seconded the motion. Commissioners voted, "Aye". The motion passed unanimously. Commissioner Gallegos abstained from voting.**

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**Report of the Chair and Vice Chair**

Chairperson Fife thanked former Chairperson Babs De Lay for her service.

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**Report of the Director**

Mr. Norris stated reported that the Utah Chapter of the American Planning Association awarded the Salt Lake City Planning Division two awards of merit for the work done on North Temple with both the Master Plan and the Zoning Ordinances.

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**Unfinished Business**

**Petition 410-07-57: The Boyer Company is requesting a time extension for the planned development approval of a proposed office building located at approximately 50 North Rio Grande.**

Chairperson Fife recognized Doug Dansie and CED Director Frank Gray as staff representatives.

Mr. Dansie referred to the original staff report that was provided in the information packet. Mr. Dansie stated that the petition involved an approval of an office building on 50 North and Rio Grande Street. Since its' approval, there had been a subdivision process involved, and though the building had not been built, there was other activity on the site. The Boyer Company requested an extension.

Land Use Attorney, Paul Nielson recused himself due to a conflict of interest.

CED Director, Mr. Gray spoke, giving a brief history of the project.

Commissioner De Lay stated that because of the economy, the Commission had not failed any extensions.

Commissioner Woodhead asked if the building was still to be built on Rio Grande.

CED Director Gray stated that this extension will only extend the Plan that has been approved. His understanding from the developer was that because of the new viaduct designs, that more than likely the building will not be the one that is built, but that they will do an amendment to make the change.

Commissioner Wirthlin asked if there was a time frame on the extension, he stated that typically the extension would be for another year or two.

CED Director Gray stated that the request was for five years and gave the reason as the North Temple Viaduct and Light Rail construction. He added that the site was being used as a staging area for the North Temple construction and therefore the applicant could not move forward because of that situation.

Chairperson Fife asked if the approval had expired.

CED Directory Gray stated that it had not. The subdivision that was part of the project had been completed, but there was no ability for the applicant to build the building. Mr. Gray noted that concurrently the City asked the applicant to stop work because of the North Temple designs and construction and that because of that fact, the City asked the applicant to request a formal extension. The delay was caused by the City and not the applicant.

Chairperson Fife asked for clarity on whether the motion should include a time limitation.

CED Directory Gray stated that the request was for five years until October 13, 2015.

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## **Motion**

**Commissioner De Lay made the motion that in regard to Petition 410-07-57 she moved that the Planning Commission extend the Boyer Company request for the planned development approval for the office building proposal at 50 North Rio Grande for up to five years.**

**Commissioner Gallegos seconded the motion.**

**Vote: Commissioners De Lay, Gallegos, Wirthlin, Woodhead and Dean all voted “aye”. The motion passed unanimously.**

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**Ordinance extension:** A request by Salt Lake City Mayor Ralph Becker to extend Ordinance 74 of 2006 for a period of 5 years. Ordinance 74 of 2006 created an expedited review process for temporary construction related activities in a portion of the Downtown area, which is bounded by North Temple Street, 600 South, Interstate 15 and 200 East. The Ordinance grants the authority to City Administrative Staff to modify certain City regulations for construction activities pursuant to petition no. 400-06-32 Located in City Council District Four, represented by Luke Garrott.

Chairperson Fife recognized Nick Norris as staff representative.

Mr. Norris stated that in 2006 the City Council adopted regulations that allowed the Community Economic Development Director certain authority to modify regulations as listed in the memo related to construction in the Downtown area. In 2008, it was extended and the new deadline would expire on October 21, 2010. Given the ongoing construction activities and the economy, staff recommended that the Planning Commission transmit to the City Council, a recommendation to extend the new deadline for an additional five years, to end October 21, 2015.

Chairperson Fife asked the reasoning to keep “sunsetting” the regulation.

CED Director Gray noted that the same question came up in City Council; the question was that if it worked so well, why look at a “sunset”. The response was that it was set up that way. Mr. Gray stated that he believed that the City Council would like to see this as a regulatory mechanism in the Downtown Area. He added that they use the authority quite regularly.

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### **Public Hearing**

No one chose to speak.

Chairperson Fife stated that if one were to look at the geographic area of the request, major construction problems would continue, and they need to be expedited because of the nature of construction.

Commissioner Wirthlin added that he agreed, he stated that the temporary ordinance has proven that it worked; he strongly encouraged the City Council to consider making the temporary regulation permanent.

Chairperson Fife asked if the Planning Commission could initiate a petition to make it permanent.

Commissioner De Lay offered that a staff report that illustrated the implications of making the regulation permanent and advice from staff would be helpful.

Chairperson Fife asked Mr. Norris what his recommendation was.

Mr. Norris stated that staff is asking for a recommendation to the City Council to extend the temporary regulation.

Commissioner Woodhead asked if the Planning Commission could recommend that they extend it permanently.

Land Use Attorney Nielson stated that the item would need to be re-noticed.

Mr. Norris said that one thing that would need to be considered was that there would be eight or nine different zoning areas that this regulation would apply to, and therefore, it would take some analysis and effort to make it conducive to all the areas affected.

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## **Motion**

**Commissioner Wirthlin made the motion that in regard to the extension of Ordinance 74-2006, He moved that the Planning Commission forward a favorable recommendation to extend the City Ordinance 74 of 2006 for a period of five years with an expiration date of October 17, 2015, with an encouragement to look at making the ordinance permanent.**

**Commissioner Woodhead seconded the motion.**

**Vote: Commissioners De Lay, Gallegos, Wirthlin, Woodhead and Dean all voted “aye”. The motion passed unanimously.**

Commissioner De Lay added a request to staff to give options to put the regulation in place permanently.

Mr. Norris stated that he would do that.

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**PLNPCM2010-00487: Club Limo Conditional Use** - A request by Marlon Ramirez for conditional use approval of a limousine service at 62 East Cleveland Avenue. The subject property is in the CC (Corridor Commercial) zoning district and in Council District 5, represented by Jill Remington Love.

Chairperson Fife recognized Ana Valdemoros as staff representative.

Ms. Valdemoros stated that the applicant has requested conditional use approval for a limousine service located at 62 East Cleveland Avenue. She stated that the applicant would be using part of an existing building and is also requesting a window tinting business.

The conditional use approval depended on the fact that the limousine service would utilize no more than three limousines at a time. The property owner had been notified of the proposal.

Ms. Valdemoros stated that staff received two letters of support from the neighboring businesses. Staff recommended that the request be approved.

Commissioner Woodhead stated that she noticed that the third condition to the recommendation had to do with the eight parking stalls being available. She asked if there was some question to their availability.

Ms. Valdemoros answered saying that the Transportation Division requested updated parking requirements in the site plan.

Mr. Norris clarified that the issue was not a lack of parking, but a lack of parking for this particular site. He added that the building had been "condominium-ized" and some of the parking was on an adjacent lot. The concern was that there needed to be cross access easements and that the parking was shared for this use.

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Comments from the Applicant

The applicant, Mr. Ramirez chose not to speak.

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Public Hearing

Kurt Miller, and Patty Bodily Brown, neighbors spoke in support of the petition.

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Close of Public Hearing

[6:02:09 PM](#)

## **Motion**

**Commissioner Gallegos made a motion in regard to PLNPCM2010-00487: Club Limo Conditional Use that the Planning Commission move a favorable recommendation with conditions 1-3 as stated by staff.**

**Angela Dean seconded the motion**

**Vote: Commissioners De Lay, Gallegos, Wirthlin, Woodhead and Dean all voted “aye”. The motion passed unanimously.**

[6:03:18 PM](#)

**PLNPCM2010-00328 Zoning Map Amendment for Open Space (OS)** - A petition initiated by Mayor Ralph Becker for the rezone of five parcels between 1260 North and 1360 North Redwood Road to expand and improve the City owned Rose Park golf course, and the Jordan River Par 3 golf course. The request would rezone property that is currently zoned R-1/7000 Single Family Residential to Open Space (OS). The property is located within City Council District 1, represented by Carlton Christensen, and located within the Rose Park Community Council, chaired by Brad Bartholomew.

Chairperson Fife recognized Daunte Rushton and Nole Walkingshaw as staff representatives.

Mr. Rushton summarized the petition. The intent was to augment and improve both the City owned Rose Park Golf and Course and Jordan River Park Community Golf Course.

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Questions from the Commissioners

Commissioner Dean asked about the replacement of the homes that have been demolished, stating that typically the Commission would require that of other private developers.

Mr. Walkingshaw stated that the homes were demolished in 2008 at a time when there was a project proposal by a private company whose intentions were to do a subdivision and bring in some extra units, but the project failed. The City purchased the property after the demolition had occurred.

Commissioner Gallegos asked if the developer paid the fee from the demolition.

Mr. Walkingshaw stated that they had, but was unsure of the numbers and how it was recovered or recaptured.

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Public Hearing

No one chose to speak

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Close of Public Hearing

[6:05:26 PM](#)

### **Motion**

**Commissioner Dean made the motion in regard to PLNPCM2010-00328 Zoning Map Amendment for Open Space (OS) she moved that based on the findings in the staff report, that the Planning Commission forward a favorable recommendation to City Council for the rezone from R-1/7000 to Open Space.**

**Commissioner Woodhead seconded the motion.**

**Vote: Commissioners De Lay, Gallegos, Wirthlin, Woodhead and Dean all voted “aye”. The motion passed unanimously.**

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**Apollo Burger, 143 N. Redwood Road** – A proposal by Brandon Lundeen for the new construction of an Apollo Burger drive-thru restaurant at approximately 143 N. Redwood Road. The property was located in the TC-75 Transit Corridor District at the time the application was submitted in Council District 1 represented by Carlton Christensen. The proposal requires the review of the following petitions:

- a. PLNPCM2010-00516** Conditional Use for a restaurant with a drive thru; and
- b. PLNPCM2010-00488** – Building and Site Design Review requesting a modification of the 25 foot maximum building setback along Redwood Road and Gertie Avenue.

Chairperson Fife recognized Ana Valdemoros as staff representative.

Ms. Valdemoros stated that this was a proposal by Brandon Lundeen for the new construction of an Apollo Burger. She stated that the applicant would like to relocate their current restaurant location on

North Temple to Redwood Road and Gertie Avenue. The request was for a Condition Use review because drive thru's in the TC-75 zone are a Conditional Use.

The applicants were also applying for Building and Site Design Review in order to relocate the building and the wrapping drive thru lane. The maximum building setbacks for this zone were twenty five feet, from the property line to the building, the applicant was requesting thirty five feet on the north side, and thirty seven feet on the west side of the site to accommodate the drive thru on that side of the building.

Ms. Valdemoros stated that the applicant was required to have eight parking stalls and five stalling spaces for the drive thru that comply with this requirement. The applicant provides twenty seven parking spaces and two ADA parking spaces.

Ms. Valdemoros showed a PowerPoint Presentation that illustrated the different elevations of the building plans.

Ms. Valdemoros stated that staff reviewed the project, and based upon the TC-75 standards, it was their belief that the applicant did not comply with the standards of Building and Site Design Review. She stated that the current proposal did not comply with the standard as the applicant had proposed it, however, if the applicant could mitigate issues with their site layout, then approval would be recommended.

Chairperson Fife asked if Ms. Valdemoros had any suggestions on how to mitigate the issues.

Ms. Valdemoros stated that the suggestions are embedded in the staff report under the findings, however, her direct recommendation was denial based on the current presentation of the project.

Commissioner Woodhead asked Mr. Nielson about a letter that the applicant had provided to the Planning Commission where they felt zoning isn't applicable to them because their application was filed before the new zoning went into effect.

Mr. Nielson stated that the notice indicated TC-75, the general rules of vesting are that if a complete application that conforms to the requirements of law is submitted, then you are vested in the State of Utah on the date that the application is filed. Mr. Nielson followed by saying that there was a wrinkle that with a Conditional Use, you cannot conform to the requirements of law on the day that the application is submitted because you wouldn't know what the requirements would be, they wouldn't come out until the Planning Commission determined what the conditions are, therefore, the argument failed that it was zoned TC-75, but he was also concerned that notice was faulty because TC-75 no longer exists in that area.

Commissioner De Lay asked Ms. Valdemoros if she had asked the applicant to change their plans.

Ms. Valdemoros stated that through the DRT meetings and pre-submittal meetings the applicant had been advised to change the site layout. There was also an open house where the applicant was advised



to change their plans. The designer had mentioned another design plan, but failed to submit it prior to the meeting.

Commissioner De Lay followed by asking if there was another design that was not submitted, and asked if the design presented was the standard design for all Apollo Burgers.

Commissioner Fife asked for clarification on the zoning.

Mr. Norris responded that the current zoning was TSA. The zoning on the day the application was received and determined to be complete was TC-75.

Chairperson Fife asked if in that zoning drive thru's were allowed.

Mr. Norris responded that they were prohibited in the TSA zoning district.

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Comments from the Applicant

Mr. Brandon Lundeen spoke, he was joined by Brandon Smith, a representative of NAI and Jimmy and John Zouras, owners of Apollo Burger.

Mr. Lundeen stated that they had been working on the project since April, attended three DRT meetings. Over the course of the three meetings, the issues of the TC-75 zone were not addressed until their second meeting. He stated that he was not notified until August 10 that there was a zone change, and that Alan Hardman from the Building Department had let him know.

Commissioner Woodhead asked what zone he had been working under.

Mr. Lundeen stated that he was working under the CC zone. He stated that it had been a balancing act between what the owners would comply with and working with the City. He said that it was his intention to comply with the City, but he stated that he had not been made aware.

He stated that after reading through the information provided, he could see that the biggest issues were where the parking was located and access from the public way across the drive-thru lanes. He believed that what he had to present for the Commission would work and address every issue in the TC-75 zone and make the project work.

Commissioner Woodhead asked if the applicant would have an objection to having the item tabled and presenting their new plans at a future date.

Mr. Lundeen stated that he would like to present the new plans and see if they could be approved with conditions.

Mr. Smith stated that they have time constraints that would be impacted by tabling.

Mr. Lundeen stated that he received the staff report the prior day at noon, and under the time constraint, came up with a plan that would work.

Upon discussion, the Commissioners discussed the need to table the item based on plans that had not been officially submitted. The Planning Commission assured the applicant that their intention was not to turn the applicant down, but would like more specific plans. The Commission encouraged the applicant to present the new plans as a briefing.

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**Motion:**

**Commissioner Wirthlin made the motion to table the item to October 27, 2010.**

**Commissioner Gallegos seconded the motion.**

**Vote: Commissioners De Lay, Gallegos, Wirthlin, Woodhead and Dean all voted “aye”. The motion passed unanimously.**

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The meeting adjourned.

**This document, along with the digital recording, constitute the official minutes of the Salt Lake City Planning Commission held on October 13, 2010.**

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Angela Hasenberg