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**SALT LAKE CITY PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, December 14, 2011**

Present for the Planning Commission meeting were Chair Angela Dean, Vice Chair, Michael Gallegos, Commissioners, Emily Drown, Bernardo Flores-Sahagun, Kathleen Hill, Clark Ruttinger, Marie Taylor, Matthew Wirthlin, Michael Fife and Mary Woodhead.

A field trip was held prior to the meeting. Planning Commissioners present were: Bernardo Flores-Sahagun, Michael Fife, Michael Gallegos and Mary Woodhead. Staff members in attendance were: Nick Norris and Everett Joyce

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at 5:30 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: Wilf Sommerkorn, Planning Director; Nick Norris, Planning Manager; Everett Joyce, Senior Planner; Casey Stewart, Senior Planner; Paul Nielson, Land Use Attorney Kalli Ruiz, Senior Secretary and Angela Hasenberg, Senior Secretary.

Field Trip Notes:

Planning Commissioners visiting the following locations:

PLNPCM2011-00600 Conditional Use 616 South State Street; Commissioners asked questions regarding building orientation, parking, first floor glass and was the plaza enough to offset the request for first floor glass.

Work Session:

Staff representative Joel Paterson briefed the Planning Commission on the Proposed Zoning Ordinance Text Amendments to the Local Historic Districts and the Landmark Sites Designation Process.

Mr. Paterson stated that this was a petition initiated by Mayor Becker to amend the local historic district/landmark site designation process. This petition was a result of several factors, including the recent adoption of the Preservation Philosophy by the City Council, efforts to improve and clarify the preservation program by clarifying regulations, updating existing, and create new design guidelines and creating new tools such as character conservation districts.

Mr. Paterson added that the existing process to create new local historic districts, as defined in the Zoning Ordinance, can be improved to better define who may submit a petition and how the process progresses from initiation through implementation. The proposed designation process also includes provisions to assist gauging the level of support of property owners who would be affected by the creation of a new local historic district and focusing the preservation program on creating new local districts that preserve the best examples of an element of the City's history, development patterns and architecture.

Historic District Designation Proposed Process and Criteria:

Local Historic District Designation: The Planning Staff will discuss with the Commission proposed changes to the process and criteria for designating local historic districts and Landmark Sites.

Mr. Joel Paterson, Planning Manager, reviewed the proposed Zoning Ordinance Text Amendments to the Local Historic Districts/ Landmark Sites Designation Process addressing the following items:

A. Types of Designation:

1. Landmark Site
2. Historic District- geographic based
3. Historic District- thematic based (like historic churches, apartment buildings, etc.)

B. Process:

1. Petition Initiation: Petition can be initiated by:
 - a. Mayor
 - b. A majority of the City Council
 - c. A property owner (for Landmark Site)
 - d. 40% of owners of the property within the area proposed for designation (for a district)

Other groups may request that the Mayor or majority of the City Council initiate the petition.

2. Petition /Application were submitted to the Planning Director.
 - a. Before beginning a formal review process, the Planning Director will create a report including a determination of:
 - i. A cursory determination of whether the application generally meets the factors to consider for designation;

- If a professional reconnaissance level survey has not been conducted, it must be done prior to formally processing the request.
 - ii. Determine whether there are sufficient resources (funding) to adequately inform the owners of property subject to the proposed designation about the proposed regulations and benefits; and
 - iii. Determine whether there are sufficient staffing resources to process the petition in a timely manner.
- b. The Planning Director will submit a report to the Mayor and City Council that includes a determination of whether the request appears to generally meet the criteria and whether current resources are sufficient to adequately process the request.
- i. The Mayor will determine what level of priority it is for the Planning Division to process the request;
 - ii. If financial resources are needed, the City Council will determine whether they will allocate specific funding for the request.
- Once the Mayor has approved the priority of the project and / or the City Council has allocated funding (if needed), the Planning Director would assign the project for analysis and processing.

3. Informing and Determining Support Level of owners of property subject to proposed designation.

After the initiation of the petition and prior to beginning a formal review / adoption process with the Historic Landmark Commission, the City shall conduct a formal means of:

- a. Informing property owners, subject to the proposed designation, about regulations and costs / benefits of a local historic district; and
- b. Determining what the level of support is from owners of property that would be subject to the designation.

4. Public Hearings:

- a. Historic Landmark Commission- makes recommendation based on review of criteria for the designation of new local historic districts and landmark sites;
- b. Planning Commission- make recommendation based on review of criteria for Zoning Map Amendments; and
- c. City Council- makes decision based on review of Historic Landmark Commission and Planning Commission recommendations and public comment.

5. Notice of Designation; if adopted:
 - a. All owners notified by US mail of all of the new regulations / guidelines; and
 - b. A notice of designation is recorded on the property deeds.

C. Criteria for Designation:

1. The City Council may designate a new Landmark Site or Local Historic District where;
 - a. 51% or more of owners of property subject to the proposed regulation are in support of the proposed regulation; or
 - b. Where there is less than 51% of owners of property subject to the proposed regulation in support, a 2/3 majority of members of the City Council is required for approval of the proposed regulation; and
 - c. The designation would protect the best examples of an element of the City's history, development patterns and architecture; and
 - d. The designation is generally consistent with adopted planning policies; and
 - e. It would be in the overall public interest; and
 - f. There is a need for protection to avoid potential loss of important historic resources; and
 - g. The boundaries are appropriate.
2. Factors to Consider: In determining whether the designation criteria are met, the following criteria should be considered prior to taking action on the adoption of a new historic district:

- a. What is the level of Significance: Significance relates to important events, persons important in history; architecture; importance in the understanding history.
- b. What is the level of Physical Integrity: Physical Integrity is the retention of physical characteristics that existed during the property's prehistoric or historic period. Integrity enables a property to illustrate the significant aspects of its past.
- c. Whether the property(ies) would be eligible for listing on the National Register.
- d. Whether the property(ies) are of such an age that it would allow insight into its (their) importance in the overall history of the community.
- e. For local historic districts, whether it contains exceptional examples of elements of the City's history, development patterns or architecture not typically found in other areas of the City, region or State.

- f. Whether at least 75% of the structures within the proposed boundaries are rated contributing by a professional reconnaissance level survey.
- g. Whether the proposed boundaries of a district coincide with historic boundaries (roadways, canals, subdivision plats, etc),
- h. Whether the proposed boundaries only contain non-contributing structures where necessary to meet appropriate boundaries.

D. Application Fee

Because historic preservation is deemed to be in the public interest, an application for designation as a Landmark Site or a local historic district does not require a fee.

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Approval of the Minutes from November 30, 2011

Motion:

Commissioner Fife moved to approve the minutes from November 30, 2011.

Commissioner Woodhead seconded the motion.

Vote: The motion passed unanimously.

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Report of the Chair and Vice Chair:

Chairperson Dean stated that she had nothing to report. She did note that the agenda would be modified to move the public petitions to the beginning of the meeting, and unfinished business to the end.

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Report of the Director:

Planning Director Wilf Sommerkorn stated that the City Council continued the public hearing on the Accessory Dwelling Units and was still considering the issue.

He added that the proposal to replace the Board of Adjustment was also continued, but he felt that the Council would make a decision at the first meeting in January.

Planning Director Sommerkorn stated that there was a proposed retreat for the Planning Commissioners tentatively set for either the second meeting in January or the first meeting in February.

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Planning Manager Nick Norris discussed the Recycling and Construction Waste Management ordinance that the Planning Commission approved on November 30, 2011. He clarified two issues:

- Taking an existing section of ordinance and moving it from one chapter to another.
- Use of consistent terms so that upon administration of the ordinance, that the term 'recycling collection station' would be used rather than 'recycling container' or 'recycling center or station' so that the use would be consistent .

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PLNPCM2011-00600 - Conditional Use request by the Salt Lake County Facilities Management Division for an office building that requires modification to the D-1 zoning standards for building setback and height allowances and first floor window treatment located at 616 South State Street in the D-1 Zoning District and in Council District 4, represented by Luke Garrott.

Chairperson Dean recognized Mr. Everett Joyce as staff representative.

Commissioner Gallegos noted that this was a County project and he was currently employed with Salt Lake County, but not involved in any way with the petition.

Planning Commissioners did not feel he needed to recues himself.

Mr. Joyce stated that this was a petition for a Conditional Use for the Salt Lake County Facilities Management Division for a Salt Lake County District Attorney's office building at 616 South State Street. The property in question was split D-1/D-2. The actual office would be located in the D-1 zone. The conditional use elements being applied for through the D-1 zoning standards were for building height, building setbacks and first floor window treatment.

The standards requested as relief from the ordinance were the front and corner side yard setbacks, there was a 5 foot maximum setback and the building would exceed that. Building height has a 100 foot minimum the roof elevation from the top was at 90 feet and there was additional equipment and solar arrays that increase the height to 103 feet.

Another request would be for the first floor windows, 40% of the façade would be non-reflective glass, the applicant has a proposed mix of vision and translucent glass that they had used on the first floor elevation and the north elevation between 6th south and State Street.

Mr. Joyce gave a PowerPoint presentation.

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Comments from the applicant:

Kennar Kingston, and Holli Adams representing Architectural Nexus spoke, he stated that they did not have a presentation but would be happy to answer any questions the Planning Commission had.

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Questions from the Commissioners:

Commissioner Taylor stated that she had worked with Holli Adams and had attended school with Kennar Kingston.

Commissioner Gallegos asked about parking and whether the design allowed for public transportation to be used by the employees.

Ms. Adams responded that the parking requirement the minimum would be 66 stalls and a maximum of 138 stalls. However, with a 2.3 acre total lot size they would not be able to accommodate more than 77 stalls; the District Attorney's office would take a three pronged approach to their parking dilemma which is that they actually need parking for 200 people. There would be a bus stop, and offsite parking that would take advantage of some of the empty parking lots which were in the area. They would also encourage the use of Trax and van pooling.

Mr. Kingston added that the program exercise that preceded their involvement in the project included an analysis that included multiple sites relative to the needs of both the District Attorneys, Attorney's Groups and the Witnesses, relative to adjacency to the Scott Matheson Courthouse. Although the site had been identified by the County as a site that would under parked, because it is near trax it was seen as a viable site and it has been proven through the design process.

Chairperson Dean stated that this was similar to another project in a D-1 district, The Qwest building. The other applicant was allowed only with an additional trellis

added to the pedestrian level to engage the building. Chairperson Dean asked for something that would engage pedestrians.

Commissioner Hill was concerned about engaging pedestrians, and stated her concern about having only one door and the lack of connectivity because of the translucent windows.

Commissioners Woodhead responded that lawyer's offices do not generally have transparent windows and are not public because clients and defendants expect to have privacy and that would support the model shown.

Ms. Adams added that the nature of the work that would be done in that section is primarily private offices for attorneys. The first floor would be dedicated to some public interaction in the form of victims and witnesses of crime who are there for a very specific purpose and primarily only two days a week. Otherwise, traffic from the street would be minimal. Privacy and security were bigger elements to this than a normal public building.

Chairperson Dean stated that they were presenting this as a public plaza, but it did not seem like one, she wondered if it was more of a buffer.

Mr. Kingston responded that it was more of a relief space but was created after a great deal of thought. He stated that the use was a permitted use, and as a government office building, it was quite different than another building that would be associated in a D-1 zone.

Commissioners discussed the translucent windows on the first floor.

The applicant responded that the translucent glass was in response for the need for privacy, safety and security of the people who frequent that area.

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Public Hearing:

Chairperson Dean opened the public hearing, seeing no one chose to speak she closed the public hearing.

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Motion:

Commissioner Fife made a motion in regard to PLNPCM2011-00600 located at 616 South State Street based on the findings in the staff report and the testimony heard from the applicant and City staff tonight, I move that the Planning Commission approve the Conditional Use as presented for the building height, building setbacks and first floor window treatments for the proposed Salt Lake County District Attorney's office at 616 S State Street located in the D-1 downtown zoning district subject to final site plan approval by the Planning Director.

Seconded by Commissioner Woodhead.

Vote: Commissioners Wirthlin, Taylor, Drown, Ruttinger, Fife, Flores, Woodhead, and Gallegos.

Commissioner Hill voted no, stating for the record that she felt that the function of the piece on the corner makes a statement that is too prohibitive.

The motion passed.

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PLNPCM2011-00499 - Dwelling Unit Legalization Ordinance - A zoning text amendment initiated by Salt Lake City Mayor Ralph Becker to modify the current unit legalization section of the zoning ordinance. The purpose of the text amendment is to clarify the unit legalization process and standards of approval, incorporate the Good Landlord Program into the ordinance, and establish a sunset clause for the unit legalization process. The ordinance would affect properties citywide. (Staff contact: Everett Joyce at 801-535-7930 or everett.joyce@slcgov.com)

Chairperson Dean recognized Everett Joyce as staff representative.

Mr. Joyce stated that legalization of excess dwelling units was an ordinance that was established in the early 1990's . This was an update of that ordinance.

Some of the issues faced in the past were the operation and how properties were managed and their impact on neighboring properties. The intent is to link this ordinance with the good landlord program.

The purpose of the ordinance was to implement the Salt Lake City Community Housing plan. The housing plan from 1990 has always identified that the City would to protect its existing housing stock and therefore created the unit legalization ordinance that would take excess units that were not recognized by the City and have a legalization process to bring them up to life safety code. This

ordinance provides an opportunity for property owners that do not have either a developed property that had created an extra unit, or a property owner who had acquired the property not knowing that the extra units were not legal and to offer a process to demonstrate the existence and they would be able to meet the life safety standards and improvements required in the ordinance.

Special exceptions from unit legalization are subject to the general standards of the special exception process.

Mr. Joyce gave an overview of the history of unit legalization.

Mr. Joyce stated that this was intended as a temporary opportunity originally set up for six months but has been extended for a year.

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Questions from the Commissioners:

Commissioner Woodhead asked about the Good Landlord Program, she stated that she had heard complaints that say if you sign up for it, inspectors have a lot of leeway as to when they can enter the premises, that privacy rights are relinquished.

Planning Manager Norris responded that the statement was not accurate; he stated that the inspections kick in accordance with the number of units. Depending on the number of units, it would require a City inspection. For the single, double or triple units, it requires a self inspection that the applicant fills out themselves, and submits it to the City.

Mr. Joyce added that element had existed before the Good Landlord Program came into effect.

Commissioner Woodhead asked about the 1995 date, she stated she felt that this was conflating the goals of the ordinance with how the City treats people based on how bad their motives were in creating the unit. She stated that it seemed that if the purpose was to get the units in compliance, the fact that people should have known better after 1995 should not necessarily make a difference.

Planning Manager Norris responded that in the administration of the ordinance staff has found that it was not always the current owner that created the unit, in most cases; the home was purchased with the understanding that they had the legal unit in place. The reasons the City requires the basic life safety egress, smoke detectors, etc., is to make the units safe.

Planning Manager Norris went on to say that this process was also designed to provide affordable housing, and for property owners to offset some of the increase in housing costs. It is also intended to maintain all safe dwelling units in the City.

Commissioner Woodhead stated that this seems like this should be wanted for units that were created in the year 2000 or 1997, as early as 1994, and just wondered if that date of 1995 served a good purpose.

Planning Director Sommerkorn added that this change was more of a practical issue than anything else. He said that it was important to select a time where units were legal or not legal at a specific time. 1995 was good date because that was when a major change in zoning for the City took place. It was easy to document what happened back to 1995, prior to that it was not so easy to document.

Commissioner Gallegos asked about the financing of some of the housing units. If the owner at the time of renovation or conversion did not get a building permit and try to sell it, will financial institutions ask for the building permit.

Mr. Joyce responded that the lender would be asking for a rebuild letter.

Chairperson Dean asked about the sunset date and the 1995 date, she stated that she felt it could go a number of ways, if a tight sunset date of a year was kept, then perhaps then open the 1995 criteria to try to gather as much as possible within that year for those who want to be compliant and that would be the cutoff. Alternatively, keep the 1995 date and then eliminate the sunset clause. Chairperson Dean felt that it should be one or the other.

Commissioner Fife asked about the sunset clause, if there were a sunset, but two years after the fact, someone complains that a neighbor has an illegal unit. What would the City do.

Mr. Joyce responded that the property owner would have the option to identify that they had a legitimate permit that was somehow not recognized, and if they did not, the structure would need to be removed.

Commissioner Fife asked if that had ever happened.

Staff responded that it had.

Commissioner Fife stated that he agreed with the sunset clause and encouraged the City to advertise so that the public could make good on what was wrong.

Planning Manager Norris stated that this was to be part of the outreach program that Housing and Neighborhood Development was doing with the Good Landlord Program.

Planning Director Sommerkorn stated that the Good Landlord Program had prompted a huge response which was one of the reasons this ordinance needed to be conjunction with that.

Commissioner Fife asked if the sunset clause should be extended to two years because of the volume and backlog.

Planning Manager Norris agreed and felt that there would be many petitions that would come through.

Commissioners and staff discussed the length of the sunset clause.

Commissioner Gallegos asked which office would be managing the applications.

Planning Manager Norris stated that the Planning Division would manage the unit legalization process.

Commissioner Flores asked how much flexibility there was in parking requirements.

Mr. Joyce responded that if the property owner cannot provide it, the City cannot require it.

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Public Hearing:

Chairperson Dean opened the public hearing, seeing no one chose to speak, she closed the public hearing.

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Discussion:

The Commissioners discussed the time line for the sunset clause and enforcement standards.

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Motion:

Commissioner Woodhead made a motion in regard to Zoning Text Amendment PLNPCM2011-00499 - Dwelling Unit Legalization Ordinance I move based on the staff report the testimony heard tonight, and the discussion of the Planning Commission, I move that we transmit a favorable recommendation to the City Council to amend the excess dwelling unit legalization regulations and to attach a two year sunset provision.

Second by Commissioner Drown.

Vote: Commissioners Gallegos, Woodhead, Flores, Taylor, Ruttinger, Wirthlin, Drown, and Hill all voted "aye" the motion passed unanimously.

PLNPCM2011-00554 Planning Commission Composition Text Amendment –

A request by Salt Lake City Mayor Ralph Becker to amend the number of members on the Commission, the number required to constitute a quorum, and Commission jurisdiction and authority relating to Title 21A.06.30. Other related provisions of Title 21A as well as Title 2.20 of the City Code may be amended as part of this petition.

Chairperson Dean recognized Planning Manager Nick Norris as staff representative.

Mr. Norris brought some minor changes to the staff report:

- References to State Statute that are incorrect and need to be changed.
 - A. the section 10-9-201, should be corrected to 10-9a-301
 - References to title 2 would be stricken
 - #4 review, evaluate, make recommendations to City Council and proposed amendments to the title. The section number will be changed.
 - #5 add that the Planning Commission also has the authority to review conditional building site design reviews.

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Discussion:

Commissioner discussed the differences between PLNPCM2011-00554 Planning Commission Composition Text Amendment and PLNPCM2011-00553 Initiating Zoning Ordinance and Map Amendments.

PLNPCM2011-00553 Initiating Zoning Ordinance and Map Amendments –

Salt Lake City Administration proposes to amend the existing Salt Lake City Zoning Ordinance to allow the following to initiate requests to amend the Zoning Ordinance

and Zoning Map: property owners or their authorized agent, the city council, or the mayor.

Chairperson Dean recognized Casey Stewart as staff representative.

Mr. Stewart explained the amendment. He stated that Chapter 15 of the zoning ordinance sets forth the process for amending the zoning ordinance. It also specifies who can initiate a request to change a zoning ordinance, specifically section 30, Initiation.

Mr. Stewart referenced the discussion in the November 30 meeting in which the Planning Commission was concerned about the change in language regarding the ability for a Planning Commissioner to initiate a petition.

Mr. Stewart stated his intent was to clarify and restate the Planning Division and the Mayor's point of view regarding this language.

The purpose for the proposal was an effort to concentrate the ability to initiate a zoning amendment on those bodies that actually allocate funds for the requisite work. Mr. Stewart added that there had been incidences in the past where a Commission member initiated a petition that had been contrary to the direction that the City had been going and resources were directed to items that would not likely be approved.

Mr. Stewart noted that this did not preclude private property owners to initiate amendments. The purpose was to remove Commission and Board groups, with the exception of the City Council and the Mayor, from the ability to initiate an amendment.

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Discussion:

Commissioner Gallegos asked if there had been a recent example.

Mr. Stewart responded that in 2008 there was a petition regarding live/work units that had never been brought back.

Planning Commissioners discussed their concerns over losing the ability to have the power to initiate petition, why this and why now.

Planning Director Sommerkorn explained the financial ramifications.

Commissioner Woodhead stated that this was a very important matter, and felt that took away too much from their ability to initiate change.

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Public Hearing:

Chairperson Dean opened the Public Hearing seeing no one chose to speak, she closed the Public Hearing.

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Motion:

Commissioner Woodhead made the motion as to the petition PLNPCM2011-00553 Initiating Zoning Ordinance and Map Amendments I move that we transmit a negative recommendation to the City Council based on the review of the information in the staff report and the discussion of the Commission and the presentation.

Commissioner Hill seconded the motion.

Commissioner Ruttinger asked to amend the motion, adding the language to add the Planning Commission as a majority not specific individual Commissioners.

Commissioner Woodhead withdrew her motion.

Commissioner Woodhead made the motion that the Planning Commission transmit a negative recommendation to the City Council as to PLNPCM2011-00553 Initiating Zoning Ordinance and Map Amendments but indicate that we believe that the Planning Commission as a whole should be able to initiate amendments to the City Zoning Ordinance and the City Zoning Map, and that an individual Planning Commissioner should not, but a negative recommendation as drafted.

Commissioner Hill seconded the motion.

Vote: Commissioners Gallegos, Woodhead, Flores, Taylor, Ruttinger, Wirthlin, Drown, and Hill all voted "aye" the motion passed unanimously.

Planning Director Sommerkorn stated that staff would consider creating a new petition that would take out the language of Planning Commissioner and replace it with Planning Commission.

**due to change in order, the motion for PLNPCM201-00554 was heard at the end of the meeting.

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Motion:

Commissioner Woodhead made a motion as to petition PLNPCM2011-00554 Planning Commission Composition Text Amendment I move that the Planning Commission forward a positive recommendation to the City Council based on the public hearing on November 30 the staff report the discussion tonight, I also ask that the ordinance reflect the text amendments as indicated above.

Commissioner Drown seconded the motion.

Vote: Commissioners Gallegos, Woodhead, Flores, Taylor, Ruttinger, Wirthlin, Drown, and Hill all voted "aye" the motion passed unanimously.

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Meeting adjourned.

