

Planning Commission Staff Report

Legislative Item

LOBB ZONING AMENDMENT

PLNPCM2012-00588

1321 South 500 East

Hearing date: January 9, 2013



Planning and Zoning Division
Department of Community &
Economic Development

Applicant

Michael Lobb

Staff

Casey Stewart 535-6260
casey.stewart@slcgov.com

Tax ID:

16-07-478-015

Current Zone:

CN (Neighborhood Commercial)

Master Plan Designation:

Central Community Master Plan:
Neighborhood Commercial

Council District:

District 5 – Jill Remington Love

Community Council:

Liberty Wells Community Council
– Jeff Bair (Chair)

Lot size: ≈ 2.52 acres

Current Use:

None; vacant two-story building

Applicable Land Use Regulations:

- 21A.26.020 CN District
- 21A.50 Amendments
- 21A.02.040 - Effect Of Adopted Master Plans Or General Plans

Attachments:

- A. Applicant Request
- B. Photographs
- C. Citizen Input
- D. Department Comments

Request

Michael Lobb is requesting a zoning amendment related to specific conditions placed on his property in 2005 that limit the permitted uses on his property at 1321 South 500 East. Mr. Lobb has plans for a mixed use project consisting of residential and office uses. The Planning Commission is required to transmit a recommendation to the City Council for zoning amendment requests.

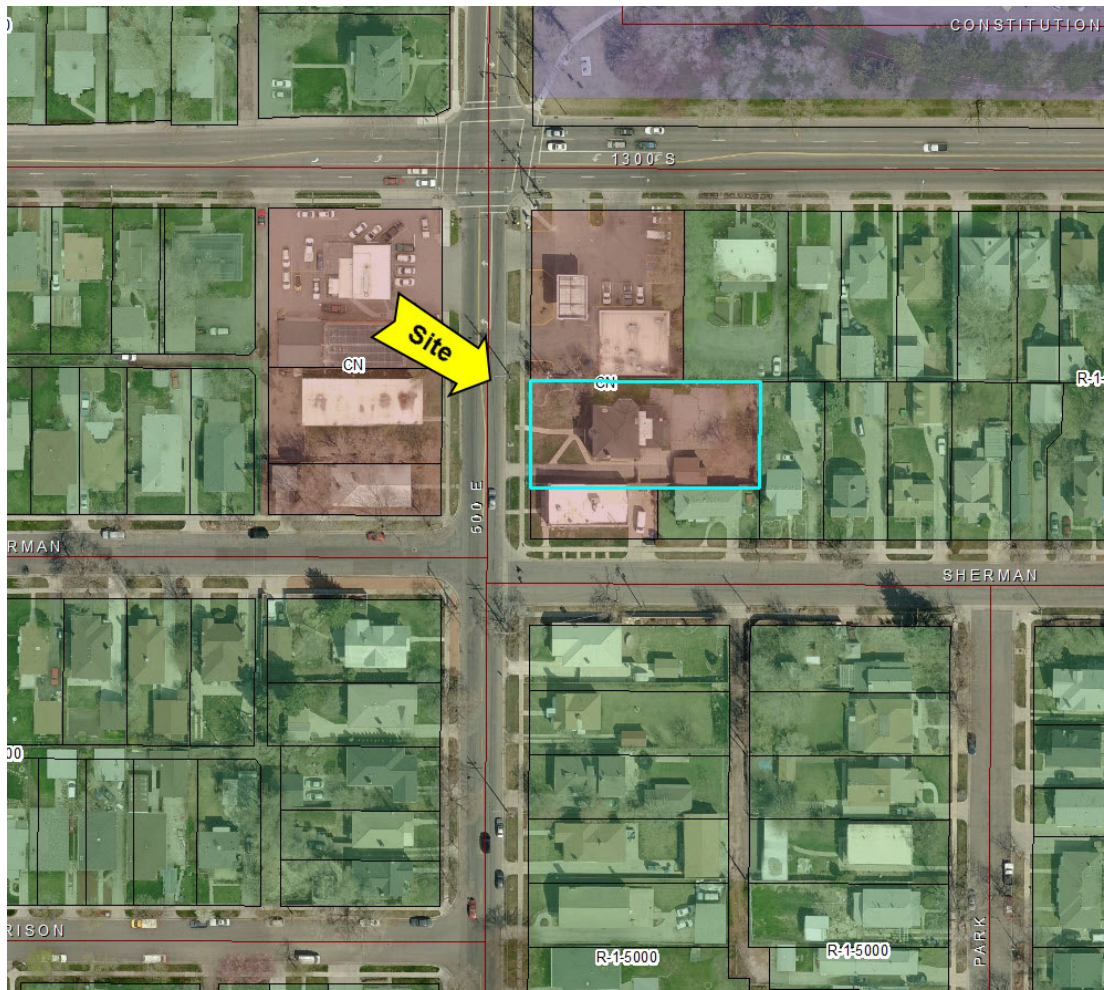
Recommendation

Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission transmit a favorable recommendation to the City Council relating to this request.

Recommended Motion

Based on the findings listed in the staff report and the testimony and plans presented, I move that the Planning Commission recommend to the City Council approval of the requested Lobb Zoning Amendment PLNPCM2012-00588 to dissolve the prior agreement of 2005 between Salt Lake City Corporation and the property owner that instituted covenants, conditions, and restrictions, on property located at approximately 1321 South 500 East, and zone the entire property simply CN (Neighborhood Commercial) as proposed.

VICINITY MAP – 1321 South 500 East



Background

Project Description

The subject property located at 1321 South 500 East is currently zoned CN (Neighborhood Commercial). The CN zoning for this property was established in 1995, and then amended in 2005 to include a specific set of “covenants, conditions, and restrictions” (CCR’s) for the property. The current owner, not the owner at the time of that zoning amendment, requests that the CCR’s be eliminated and the property revert back to simply CN zoning designation, without any conditions, similar to the adjacent properties.

The applicant intends to demolish the existing two-story building and construct a two-story mixed use building with 5-6 residential units and office spaces on the main level of the units to allow for a live/work type use. The final design is pending the result of the zoning amendment, but the applicant has stated he intends to comply with the design limits for height, setback, landscaping, parking, etc. He further stated he may seek approval for the actual building and site development through a “planned development” review if he cannot adequately meet the CN design regulations. That would require another public hearing with the planning commission.

As part of the *1995 Zoning Rewrite* project, this block face was zoned to CN to reflect the history of commercial uses of the properties. This particular property was deeper than all of the others on the block face, and when the final zoning map was completed, the zoning boundary was mistakenly drawn in line with the other shallower lots, thereby creating a split-zoned property (CN up front and R-1/5,000 on the rear portion of the lot). This was discovered by planning staff in 1999, determined to be a mistake based on a review of the zoning maps used during the rewrite project, and remedied by administrative action. Later, some residents in the area learned of the administrative remedy and contested it as a way to force discussion about the concern of potential surface parking in the rear of the lot for a commercial use, so the planning division decided to void the administrative action and take it to the planning commission and city council for decision.

Based on community input from the neighborhood and Liberty Wells Community Council, the city council approved zoning the full property as CN but placed conditions on it with a separate, recorded document. The document restricted the uses allowed on the property and established a handful of site development requirements. Based on a review of the previous rezoning file, it appears this was done as a result of the poor management and maintenance of the property under the previous owner.

The current owner, Michael Lobb, utilized the existing building for a while as a real estate office. Prior to that, under the previous owner, it was used as a daycare. The building is currently vacant and has been for a few years. The applicant hopes to redevelop the site and energize the neighborhood with a new residential/office building.

The applicant initially sought to merely modify the existing conditions by adding “single family attached” use to the list of permitted uses. Planning staff informed him that single family residential uses were not currently permitted in the CN zoning district and the revised table of allowed uses that is being considered by the city council continues to leave single family residential uses off the list of permitted uses; therefore, staff would not support his initial request. It has never been the intent of the CN zone to permit single family uses but to facilitate neighborhood businesses and/or multi-family residential uses that support and are compatible with the neighborhood.

Based on discussions with planning staff, Mr. Lobb decided to revise his request from single family townhomes to a mixed use project, which is currently permitted in the CN zone, and the proposed use tables would continue to permit them. “Mixed use” anticipates residential uses and office or retail uses together in the same building and is supported by the purposes of the CN zoning district. Rather than add “mixed use” to the conditions attached to the property, Mr. Lobb and planning staff deemed it preferable to remove the CCR’s completely, thereby zoning the property simply CN, if the neighborhood and community councils also supported it. Doing so would make it easier for the City to administer and enforce the CN regulations on this property, and easier for Mr. Lobb to comply and develop the property in accordance with the Central Community Master Plan. Given the time that has passed since the CCR’s were established, and recent input and support from his discussions with neighbors, he felt it was a good time to make this request to dissolve the CCR’s.

Public Notice, Meetings, Comments

The following is a list of public meetings that have been held related to the proposed project:

- Planning staff conducted an initial open house for this request on October 18, 2012. Two neighbors, Tony and Kathy Byers, attended the open house and had concerns about the potential project, not necessarily the zoning amendment. Their concerns related mainly to building height in relation to the setback from their property to the east, and additional vehicle traffic. A copy of their comments is attached under *Attachment C*.
- The Liberty Wells Community Council discussed this request at a meeting on December 12, 2012. Approximately 20 people attended and the questions and comments in general were focused on the

design of the project, with less attention and concern focused on the zoning amendment. At the end of the meeting, the majority of those in attendance indicated in a type of straw poll that they supported the zoning amendment. An official vote was scheduled for their January 9, 2013 meeting, which exceeds the 45-days given to community councils for comment (community council comments were requested prior to Jan 1, 2013); since that next meeting was the same day and time as the Planning Commission meeting, individual citizens were encouraged to attend any future public hearings on the case to provide comments. No official written comments were provided by the community council.

- The Central City Community Council was provided notice of the zoning amendment request but determined the location was not within their council boundaries and decided not to comment.

Notice of the public hearing for the proposal included:

- Public hearing notice mailed on or before December 28, 2012
- Public hearing notice posted on property on or before December 28, 2012
- Public notice posted on City and State websites December 28, 2012
- Public hearing notice emailed to the Planning Division listserve on December 28, 2012

City Department Comments

The comments received from pertinent City departments/divisions are attached to this staff report in *Attachment D*. The departments had no concerns or objections to the proposed zoning amendment.

Analysis and Findings

Standards for General Amendments; Section 21A.50.050

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard. In making a decision to amend the zoning map, the city council should consider the following factors:

1. Whether a proposed map amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;

Analysis: The proposed amendment to remove the CCR's from this property is consistent with the objectives of the Central Community Master Plan, specifically the goal to "provide opportunities for smarter and more creative development practices to better serve the community" and "encourage specific types of growth in designated parts of the community". The master plan was adopted in 2005 and designates this entire property as CN. By removing the restrictions on this property, it allows the owner to pull from a larger list of available uses and site designs, facilitating better development for the neighborhood. The design regulations in the CN zone are there to foster compatibility with surrounding neighborhoods and have been enhanced in the last few years to encourage pedestrian and transit focused development. The CCR's document was recorded prior to the enhancements and does not therefore incorporate them, complicating redevelopment of the site. A mixed use project with residential uses included could proceed at this location and is a category of use encouraged and deemed compatible within this residential neighborhood.

Finding: The proposed amendment is supported by the community master plan. Reverting to a clear "CN" zoning designation would benefit the neighborhood and the City by allowing for redevelopment in accordance with more recent and preferable design requirements of the CN district for maximum building setback, parking setback, and building design. The proposal would have a positive impact on the goals of the community master plan.

2. Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance;

Analysis: Some of the applicable purposes of the zoning ordinance that this proposal supports are – *distribute land development and utilization; protect the tax base, and; foster the city’s business and residential development.* Removing the development restrictions from this property will promote better development and utilization of the site in a manner intended by the CN zone. A mixed use development would then be an option and would improve the tax base on this property with multiple offices and residential units versus one single use. Redevelopment with uses that would support and be compatible with the neighborhood would foster more residential and small business redevelopment of the commercial area around the 1300 South and 500 East intersection, enhancing an existing neighborhood commercial node.

The CN neighborhood commercial district is intended “*to provide for small scale, low intensity commercial uses that can be located within and serve residential neighborhoods. This district is appropriate in areas where supported by applicable master plans and along local streets that are served by multiple transportation modes, such as pedestrian, bicycle, transit and automobiles. The standards for the district are intended to reinforce the historic scale and ambiance of traditional neighborhood retail that is oriented toward the pedestrian while ensuring adequate transit and automobile access. Uses are restricted in size to promote local orientation and to limit adverse impacts on nearby residential areas.*”

The current restrictions inhibit the full achievement of these purposes by restricting the uses and instituting some design requirements that complicate a redevelopment project that would otherwise comply with the CN design requirements.

Finding: The proposed amendment would further the purposes of the both the overall zoning ordinance and the CN zoning district, particularly the goals to promote compatible development and strengthen and improve neighborhoods.

3. The extent to which a proposed map amendment will affect adjacent properties;

Analysis: The elimination of the specific conditions and restrictions for the applicant’s property would open up the property to the full list of uses already permitted in the CN zone, which list is also available to the two adjacent CN properties. The surrounding neighborhood is accustomed to commercial uses on this block face since commercial uses have operated here for many years. Possible impacts to the neighborhood and adjacent properties will be no different than have existed for that time. More recent design regulations included in the CN district for building design, setback, and parking, take compatibility even further and were adopted to reduce impacts and improve simulation within the area.

Finding: The proposed amendment will not create any additional adverse impacts on adjacent properties. Rather, the amendment and subsequent proposed development project will have positive impact on the adjacent properties, street, and surrounding neighborhood. Any impacts of legal, complying commercial uses on this block face have been normalized based on commercial use for many years.

4. Whether a proposed map amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and

Analysis: There are no overlay zoning districts affecting this property.

Finding: This factor is not applicable because there are no overlay zoning districts affecting this property.

5. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection

Analysis: The property has existing access to all public services including a paved public street, public water, public sewer and storm drainage system, public trash pick-up, proximity to Liberty Park, Hawthorne Elementary School, and Highland High School. No additional services would be required as a result of the zoning amendment or proposed mixed use project. The surrounding area is predominantly single family residential with smaller commercial business nodes, a large neighborhood park, and main transportation corridors within walking distance. The area is ideal for supporting a neighborhood commercial area and a mixed use project such as the one proposed by the applicant.

Finding: The proposed amendment has adequate access to all necessary public facilities and infrastructure. No additional facilities would be necessary or required as a result of the amendment. The amendment would have no adverse impact on public facilities.

Alternatives

Alternatives in relation to the proposal would be to recommend the zoning of the property remain as is, leaving the CCR's document in effect. This option would continue to limit the uses to those specified in the document and would specify some design requirements not found in the base CN district. Enforcement of the CCR's would continue to prove complicated because of the extra layer of requirements placed on the development of the property and questions of their intent and purpose.

Another alternative is to leave the CCR's in effect but modify the list of permitted uses to include "mixed use" as defined by the zoning ordinance. Mixed uses are already permitted in the CN zone. The applicant, in the case of amending the CCR's, would request some additional items be amended: (1) eliminate the restrictions on roof design in order to allow him flexibility in creating a more modern and efficient building design, and; (2) eliminate requirements to fencing, landscape buffers, and security lighting and instead make the property subject to the standard site and building requirements required by the CN zone.

Commission Options

If the amendment is denied, any redevelopment of the property would be governed by the CCR's in effect currently. This would limit the available uses and prohibit the applicant's proposed mixed use because of the residential component.

If the request is modified to merely add "mixed use" to the permitted uses and revise the site and building requirements, the applicant could still proceed with his proposed mixed use project but would continue to be subject to the additional restrictions of the CCR's.

If the amendment is approved, the property would be subject to the base CN zone regulations and would be subject to the list of permitted uses for the CN zone. The applicant could proceed with the proposed mixed use project subject to the full regulations of the CN zone. No additional restrictions would be in effect.

Potential Motions

Not Consistent with Staff Recommendation (modify CCR's): Based on the testimony, plans presented and the following findings, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to a modified request to amend the prior agreement of 2005 between Salt Lake City Corporation and the property owner that instituted covenants, conditions, and restrictions, on property located at approximately 1321 South 500 East. The amendments include:

1. [Article I] - Add "mixed use" as defined in the zoning ordinance to the list of permitted uses for the property.

2. [Article I] – Remove the last paragraph that specifies fencing, landscape buffers, and lighting requirements.
3. [Article III] – Remove the last two sentences that specify residential building design requirements for new construction.

Not Consistent with Staff Recommendation (keep CCR's): Based on the testimony, plans presented and the following findings, I move that the Planning Commission transmit a negative recommendation to the City Council relating to this request to dissolve the prior agreement of 2005 between Salt Lake City Corporation and the property owner that instituted covenants, conditions, and restrictions, on property located at approximately 1321 South 500 East.

The Planning Commission shall make findings on the zoning map amendment standards as listed below:

1. Whether a proposed map amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;
2. Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance;
3. The extent to which a proposed map amendment will affect adjacent properties;
4. Whether a proposed map amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
5. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection.

Attachment A
Applicant Request

From: [Michael Lobb](#)
To: [Stewart, Casey](#)
Subject: CCR Letter
Date: Thursday, November 08, 2012 12:04:55 PM

Hi Casey, here's the request to dissolve the current C.C.R's on my property. Please let me know if we addressed everything. If we did, what's our next step?

November 8, 2012

To Whom It May Concern,

This letter is to request that the CC&Rs associated with 1321 S 500 E be dissolved and have standard CN Zoning apply to the property. We will address the "Standards of General Amendments". Below is the Ordinance:

21A.50.050: STANDARDS FOR GENERAL AMENDMENTS:

A decision to **amend the text of this title** or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard.

A. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents;
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

Response:

The CC&Rs in place currently do not allow for full use of the CN Zoning Ordinance, and are in fact, in direct non adherence to the purpose statements, goals, and policies of the CN Zoning Ordinance. Also, the building on the property and the site is non-compliant with its own CC&Rs. The text of the CC&Rs is not consistent with the CN Zoning. The home that is on the property at 1321 S 500 E was built as a single family residence, a use not permitted in the CN zone. Reverting back to standard CN Zoning would allow the appropriate flexibility (consistent with the ordinance) to re-use the land. The home has not been occupied for approximately 10 years. The home is not structurally sound (engineering letter available upon request) and an unsafe structure. The structural issues are so great that it is not financially feasible to do the repairs. In fact, the city no longer receives property tax on the structure, only the land underneath. In the 10 years that the home has not been occupied, there have been countless break-ins, plenty of evidence of drug use (by non-residents/property owners), loitering by homeless people or other non-residents. The site, with this blighted home on it, is a nuisance to the neighborhood. The many neighborhood residents that I have spoken to, attest to this fact. A re-use of the land is much needed. Also, the CC&Rs associated with this property state that several items need to be done and maintained for the CC&Rs to legally be in effect.

- a) A fence should be built and maintained on the perimeter of the property
- b) Motion sensor lighting should be installed and maintained on the building.
- c) A landscape buffer to be installed on the south side of the property.

Items B & C have not been complied with. Motion sensor lighting has not been maintained and is not functional on the property. A landscape buffer was never installed on the south side of the property. Therefore, the CC&Rs, in my opinion, should have no effect. And consequently, the

CC&Rs should be dissolved.

The reuse proposed will be a 6 or 7 unit mixed-use/live-work project. The units will have ground level access to commercial space (approx 400 sq ft) on the north side of the structure. The upper two levels will consist of the living space. The units will have 3 bedrooms, 2 bathrooms and a kitchen/living/dining area. Each unit will have a 2-car garage, which will be accessed on the south side of the structure (opposite of the commercial access). More information is available upon request.

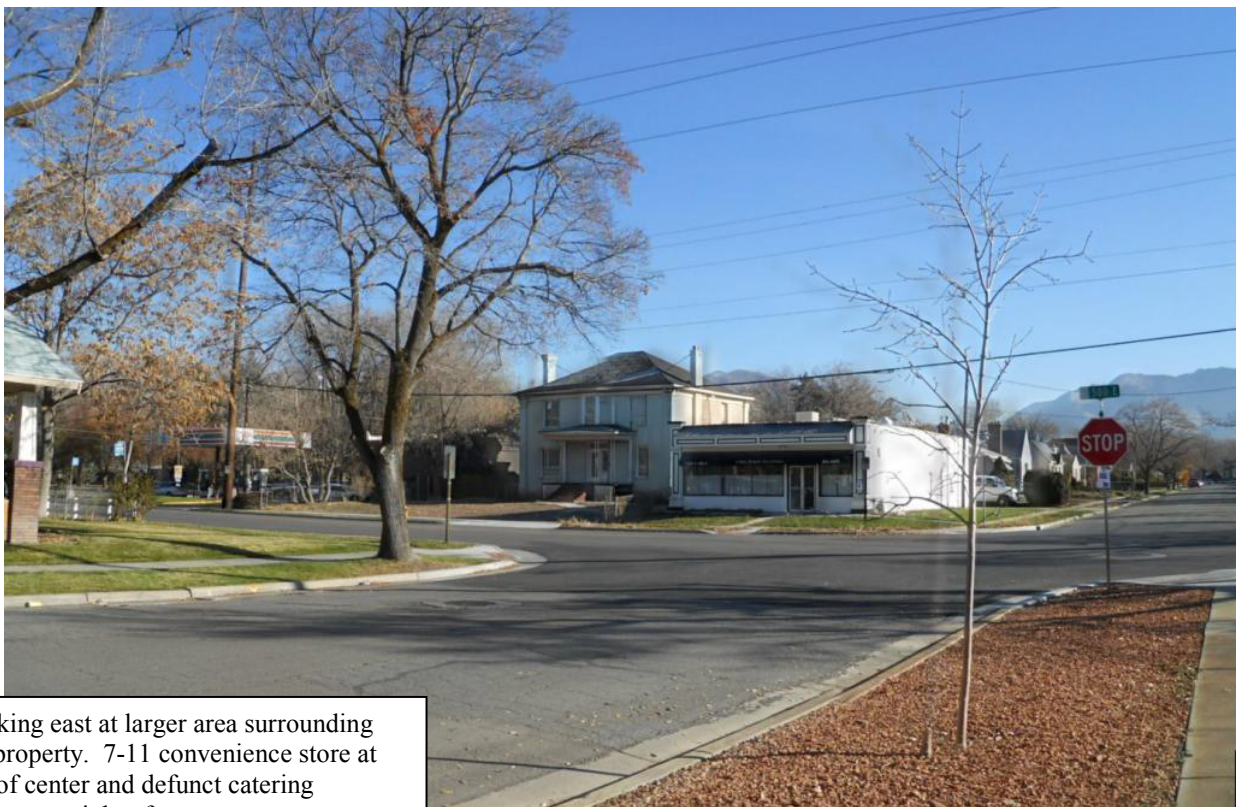
I sincerely thank you for your consideration of this request.

Michael Lobb

Attachment B
Photographs



From 500 East, looking east at existing vacant building.



Looking east at larger area surrounding the property. 7-11 convenience store at left of center and defunct catering businesses right of center.

Attachment C
Citizen Input

LOBB ZONING AMENDMENT

COMMENT SHEET

PLNPCM20012-00588

If we may contact you for further discussion about your comments, please provide us with contact information:

Name Kathy Byers & Tony Byers
Address (include zip code) 525 E.
Phone 801-486-5567
Email Mallory525@comcast.net

Written comments:

- 1) too small of lot for 7 units + parking
- * 2) intersection will not support more traffic ^{master plan does not include} idling more?
- 3) height variance is a issue looking into my yard + home.
- 4) Would do away with the mature trees on the lot - They been growing for over 50 yrs.
- 5) parking for additional guests
- 6) beautiful gardening now - hate to lose that.
- * 7) height of building too high.
- 8) Light Pollution agreeable to a triplex
- 9) put garage in ~~under~~ under building - takes care of height problem

Attachment D
City Department Comments

CITY DEPARTMENT COMMENTS

Public Utilities: No comments or objections.

Engineering (Scott Weiler): “No objections. If the sidewalk on the frontage of this site has uneven joints causing tripping hazards or is otherwise needing repair or replacement, it is recommended that this be included in the development. Prior to performing any work in the public way, a Permit to Work in the Public Way must be obtained from SLC Engineering.”

Transportation (Barry Walsh): “The proposed conversion from an existing vacant Day Care facility (past use) and construction staging facility to the proposed seven attached SFR units with two car garages on the main level and a shared 24-26' wide access drive present little traffic impact to the 500 East local residential roadway classification.”

Fire: No comments or objections.

Zoning: No comments or objections.