

**PLANNING COMMISSION STAFF REPORT
ADMINISTRATIVE ITEM**



Planning Division
Department of Community and
Economic Development

**Reconstruction of a Noncomplying Structure
with a Nonconforming Use
Special Exception PLNPCM2012-00838
279 North 900 West
April 24, 2013**

Applicant: Neighborworks

Staff: Wayne Mills
Phone: 801-535-7282
Email:
wayne.mills@slcgov.com

Tax ID: 08-35-403-038

Current Zone: R-1/5000,
Single-Family Residential

Master Plan Designation:
Northwest Master Plan
Future Land Use – Low
Density Residential

Council District: Two

Community Council:
Fairpark

Lot Size:
5,175.08 square feet

Current Use: Vacant.
Previously uses include
retail and office

**Applicable Land Use
Regulations:**

- 21A.24.070: R-1/5000
Single-Family
Residential District
- 21A.38: Nonconforming
Uses and Noncomplying
Structures

Attachments:

- A. Site Plan and Elevation
Drawings.
- B. Photographs
- C. Department Comments
- D. Additional Applicant
Information

Request

Neighborworks Salt Lake is requesting a Special Exception to reconstruct a noncomplying structure containing a nonconforming use at 279 North 900 West. The Planning Commission has final decision making authority for Special Exceptions.

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 approve the conditions stated in the recommended motion below.

Recommended Motion

Based on the findings listed in the staff report and the testimony heard, I move that the Planning Commission approve the proposed special exception with the following conditions:

1. The final development plan complies with all applicable City development requirements.
2. The development complies with all conditions of the Development Review Team as documented in the March 29, 2012 Development Review Team meeting notes.

VICINITY MAP



Background

Project Description

The subject property is located at 279 North 900 West in the R-1/5000 Single-Family Residential zoning district. The building on the property has been used for commercial (retail and office) purposes since at least 1942. Retail and office uses are not allowed in R-1/5000 zoning district; therefore the use is considered legal nonconforming. A nonconforming use is a use that was legally allowed by zoning on a property when the use was established but is no longer allowed due to subsequent zoning changes. The building also does not meet the current building footprint and setback requirements of the R-1/5000 district so it is considered a noncomplying structure.

The building on the property has suffered from fire damage and subsequent damage from being exposed to natural elements. Neighborworks Salt Lake (applicant) has recently purchased the property and is seeking approval to reconstruct the damaged building and continue the office/retail nonconforming use. The applicant does not have a tenant; however, it is anticipated that the building will be used as an office for a non-profit organization.

Section 21A.38 of the Salt Lake City Zoning Ordinance (the ordinance) regulates nonconforming uses and noncomplying structures. Specifically, Section 21A.38.090C of the ordinance regulates the reconstruction of a noncomplying structure containing a nonconforming use when the structure is damaged by natural elements.

The ordinance states that if a noncomplying structure that contains a nonconforming use is

destroyed by fire or other natural calamity to the extent of 50%, the structure can be restored upon issuance of a building permit. If the damage exceeds 50%, and the nonconforming use is commercial (nonresidential), the Planning Commission has the authority to approve the full reconstruction of the building as a special exception. The 50% threshold calculation is performed by the Zoning Administrator and is based on the ratio of the cost to construct the building according to current building standards and the cost of replacing the portion of the building to be demolished and replaced. In this case, the Zoning Administrator has determined that the damage exceeds 50%; therefore, special exceptional approval is needed to reconstruct the building.

In summary, with respect to nonconforming uses and noncomplying structures, it is the responsibility of the Zoning Administrator to determine the status of a nonconforming use and to determine the extent of damage that has occurred to a structure in the event of a fire or other natural calamity. In the event that the Zoning Administrator finds that the majority of a noncomplying structure with a nonconforming use is destroyed, the Planning Commission has the authority through the Special Exception process to allow the reconstruction of the structure and the continuance of the nonconforming use. In this case, the applicant is proposing a full demolition and reconstruction of the building on the subject property and is requesting the continued use of the property for either retail or office.

Project Details

Regulation	Zone Regulation	Existing Condition	Proposal
Use	R-1/5000, Single-Family Residential – allowed uses are predominantly low density residential uses	Legal nonconforming retail and office	Continue the legal nonconforming retail and office use
Lot Coverage	Maximum allowed is 40% of the lot. (Lot size is approximately 5,625 square feet. Max lot coverage would be 2,250 square feet.)	Approximately 71% (Existing building coverage is approximately 4,000 square feet)	Approximately 61% (Proposed building coverage is approximately 3,446.5 square feet)
Height	Pitched roof max. height = 28 feet Flat roof max. height = 20 feet	Approximately 14 feet	14 feet 6 inches to top of parapet
Front Yard Setback	Average front yard setback of lots on the same block face. In this case the average is approximately 16 feet. (This is an approximation by staff using an aerial photo and GIS)	Approximately 2 feet	Approximately 2 feet
Corner Yard Setback	10 feet from corner side property line	Approximately 4 feet	Approximately 4 feet
Rear Yard Setback	20 feet from rear property line	Approximately 10 feet	Approximately 10 feet
Side Yard Setback	4 feet from side property line	Approximately 4.5 feet at the closest point	Side building line = 10 feet 6 inches Trellis overhang = 7 feet from side property line

Parking

Salt Lake City zoning regulations allow for the alteration of buildings containing nonconforming uses as long as the alteration does not increase the need to add more parking than already exists on the property (Section 21A.38.080A, Salt Lake City Zoning Ordinance). In this case, there is no legal parking located on the subject property. The proposed building is smaller in total square footage than the existing structure and the use will remain the same; therefore, no additional on-site parking is required.

A carport structure is attached to the rear of the existing building; however, the area under the carport was constructed as a service and delivery area, not parking. The proposed reconstruction of the building would not include the replacement of the carport and the drive approach would be removed. This would allow for additional on-street parking in the parking area located directly north of the building (see vicinity map above and site plan in Attachment 1). This reconfiguration of the on-street parking area would provide seven parking stalls directly adjacent to the subject property. Additional parking is not required as part of the proposed reconstruction of the building; however, staff is of the opinion that the on-street parking helps to mitigate impacts that might occur with commercial uses in residential neighborhoods.

Summary

In summary, the applicant is requesting approval to demolish the existing building and continue the legal nonconforming retail and office use in a newly constructed building. The existing building does not comply with the lot coverage and front, corner, and rear yard setback requirements. The proposed building would be smaller in footprint than the existing building and would maintain the current front, corner, and rear yard building setbacks. The proposed building would be located further from the side property line than the existing building, thereby creating more open space between the proposed structure and the single-family home to the south. The existing and proposed buildings comply with the R-1/5000 height regulation for flat roofed structures.

Public Notice, Meetings and Comments

Public Comments

No comments were received prior to publication of the staff report.

Notification

Notice of the public hearing for the proposal includes:

- Public hearing notice mailed on April 11, 2013
- Public hearing notice posted on property on April 11, 2013.
- Public hearing notice posted on City and State websites on April 11, 2013.
- Public hearing notice emailed to the Planning Division list serve on April 11, 2013.

City Department Comments

The Development Review Team (DRT) reviewed the proposal on March 29, 2012. Representatives from Salt Lake City Engineering, Fire, Public Utilities, Transportation, and Zoning provided comments regarding the proposal. The comments are included in Attachment

D. There were no issues identified that cannot reasonably be fulfilled or that warrant denial of the petition.

Analysis and Findings

The standards of review for a special exception are set forth in Section 21A.52.060 of the Salt Lake City Zoning Ordinance. The standards are as follows:

A. Compliance With Zoning Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.

Analysis: The purpose of the R-1/5000, Single-Family Residential District is as follows (Section 21A.24.070A, Salt Lake City Zoning Ordinance):

The purpose of the R-1/5,000 single-family residential district is to provide for conventional single-family residential neighborhoods on lots not less than five thousand (5,000) square feet in size. This district is appropriate in areas of the city as identified in the applicable community master plan. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.

The intent of the nonconforming uses and noncomplying structure zoning regulations is as follows (Section 21A.38.010B, Salt Lake City Zoning Ordinance):

The intent of this chapter is to allow continued use of legal nonconforming uses and noncomplying structures, while at the same time protecting existing conforming development and furthering orderly development and improvement of the community. Certain nonconformities are permissible as is their continued use so long as in their particular location they are not detrimental to the surrounding neighborhood.

1. Uses of nonconforming and noncomplying buildings, structures or land which are compatible and complement existing or planned development patterns, should be allowed to continue. Improvement for better integration into the surrounding neighborhood should be sought as much as possible.

2. Nonconforming and noncomplying situations which hinder the attainment of the city's master plan, create a nuisance, or are a hazard to a community or neighborhood, should be eliminated or brought into compliance with the provisions of this title.

The subject property has been used for commercial purposes since at least 1942 and is part of the neighborhood. The proposed building would incorporate storefront windows and other architectural variations that provide a small neighborhood business appearance, which integrates well with the street frontage. The size and scale of the building are

compatible with the development patterns of the surrounding residential neighborhood and there is sufficient parking located directly adjacent to the property, which mitigates parking problems that could be associated with commercial uses in residential zoning districts.

Finding: Staff finds that the proposed reconstruction of the noncomplying structure with a nonconforming use is in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.

B. No Substantial Impairment Of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

Analysis: The building on the subject property has been damaged by fire and exposure to natural elements. The current state of the building could have detrimental effects on the value of property within the neighborhood. The proposed reconstruction of the building would be an enhancement to the neighborhood and is scaled appropriately to house uses that are compatible with low-density residential development.

Finding: Staff finds no evidence that the proposal would substantially diminish or impair the value of the property within the neighborhood in which it is located.

C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare; and

Analysis: The proposal is to reconstruct a building and continue a use that has been a part of the neighborhood for over 70 years. There is no zoning enforcement history that would indicate that the use has had a negative impact on the neighborhood.

Finding: Staff finds no evidence that the proposal would have a material adverse effect upon the character of the area or the public health, safety and general welfare.

D. Compatible With Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

Analysis: The existing building does not comply with current lot coverage and front, corner, and rear yard zoning regulations. The proposed building would maintain the front, corner, and rear yard setbacks but would increase the southern side yard setback. This reduces the overall building coverage and provides more open space between the subject building and the single-family home to the south. The overall height of the proposed building is five and one half feet lower than what is allowed in the R-1/5000 district and is compatible with the heights of the surrounding homes. The size of the building limits the size of future retail and/or office uses that could be located in the building to a scale

that is typical of a neighborhood business.

Finding: Staff finds that the proposal will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

Analysis: There is no foreseen destruction of any significant features.

Finding: Staff can find no evidence that the proposal would result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

F. No Material Pollution Of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.

Analysis: No pollution of the environment is evident.

Finding: Staff can find no evidence that the proposal would cause material air, water, soil or noise pollution or other types of pollution.

G. Compliance With Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

In addition to the general special exception standards, the proposed reconstruction of noncomplying structure with a nonconforming use must comply with the following standards:

(A) Reconstruction plans shall be reviewed through the site plan review process to consider the feasibility of site redesign to better meet underlying zoning district standards without a reduction in type or intensity of use of the property;

Analysis: The Development Review Team (DRT) reviewed the proposal on March 29, 2012. Representatives from Salt Lake City Engineering, Fire, Public Utilities, Transportation, and Zoning provided comments regarding the proposal. The comments are included in Attachment D. Staff recommends that if the Planning Commission approves the requested special exception, it is conditioned upon meeting all requirements as stated by the DRT representatives.

Finding: Staff finds that the proposal will be appropriately designed if it complies to all City development requirements.

(B) Compliance with all other current, local or state development standards (e.g., floodplain hazard protection, fault line hazards, groundwater source protection, airport flight path protection, environmental performance standards, and hazardous waste prohibition);

Analysis: If the proposed special exception is approved, reconstruction of the building will need building permit approval. A building permit will not be issued unless the proposal meets all applicable development standards. There is no evidence to date that would suggest the proposal could not conform to these standards.

Finding: Reconstruction of the subject building will require compliance of all applicable development standards.

(C) The reconstruction and reuse of the structure would not change the character of the neighborhood by using construction materials which did not exist previously on the building. Other building materials should not be used, unless the materials are compatible with the neighborhood; and/or

Analysis: The existing building is a hodgepodge of deteriorated materials that do not represent any consistent design theme. The building face treatments on the proposed building consist of aluminum siding, storefront windows along both street frontages, and blank panels along the 300 North street frontage that would be used for murals. The proposed building face treatments would not change the character of the neighborhood.

Finding: Staff finds that the reconstruction and reuse of the structure would not change the character of the neighborhood by using construction materials which did not exist previously on the building.

(D) Consideration of the enforcement history of the property regarding any continual public nuisance generated by the nonconforming use activity.

Analysis: The only zoning enforcement cases related to the subject property involve maintenance of the building. These enforcement actions were issued to a previous property owner. There are no zoning enforcement cases that would imply that the commercial use of the property has been a nuisance to the neighborhood.

Finding: Staff finds that there is no evidence to indicate that the nonconforming use has been a public nuisance.

Attachment A
Site Plan and Elevation Drawings

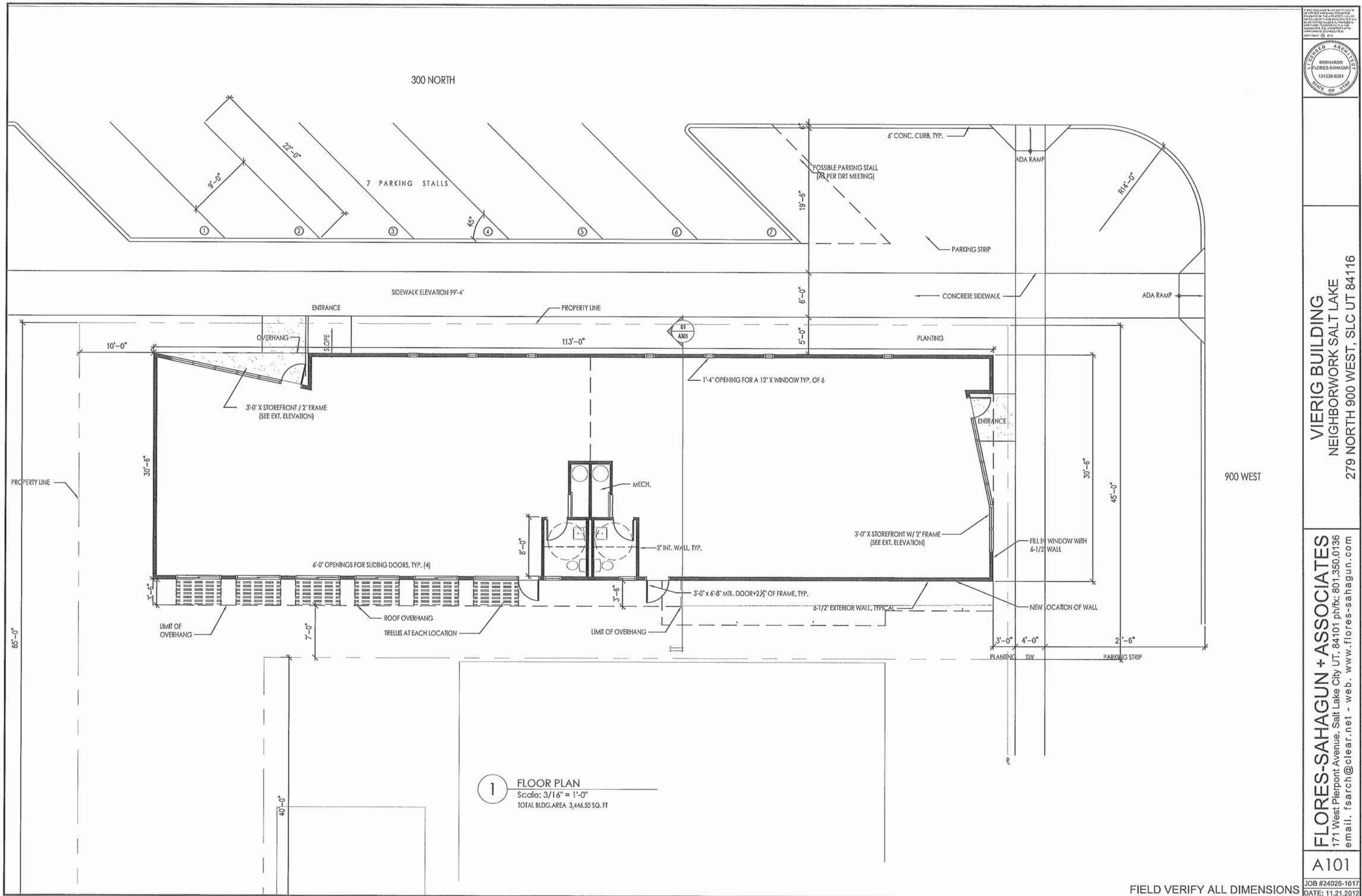


VIERIG BUILDING
NEIGHBORWORK SALT LAKE
279 NORTH 900 WEST, SLC UT 84116

FLORES-SAHAGUN + ASSOCIATES
171 West Pierpont Avenue, Salt Lake City UT, 84101 ph/fx: 801.350.0136
email: fsarch@clear.net - web: www.flores-sahagun.com

A101

JOB #24026-1017
DATE: 11.21.2012



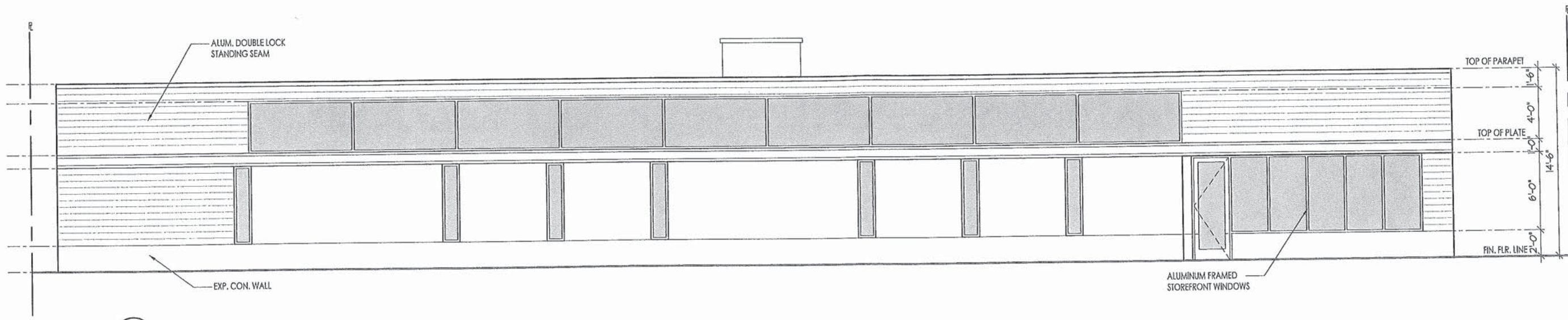


VIERIG BUILDING
NEIGHBORWORK SALT LAKE
279 NORTH 900 WEST, SLC UT 84116

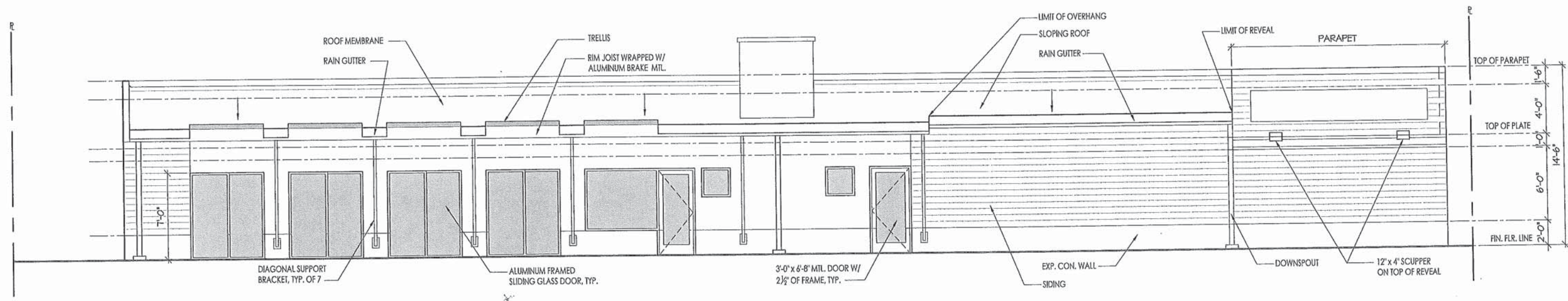
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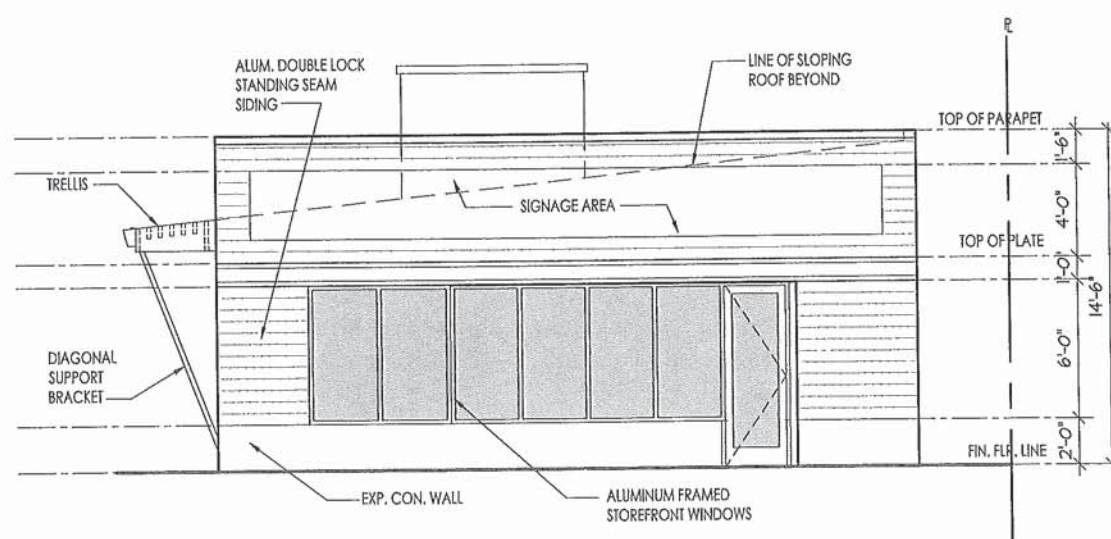
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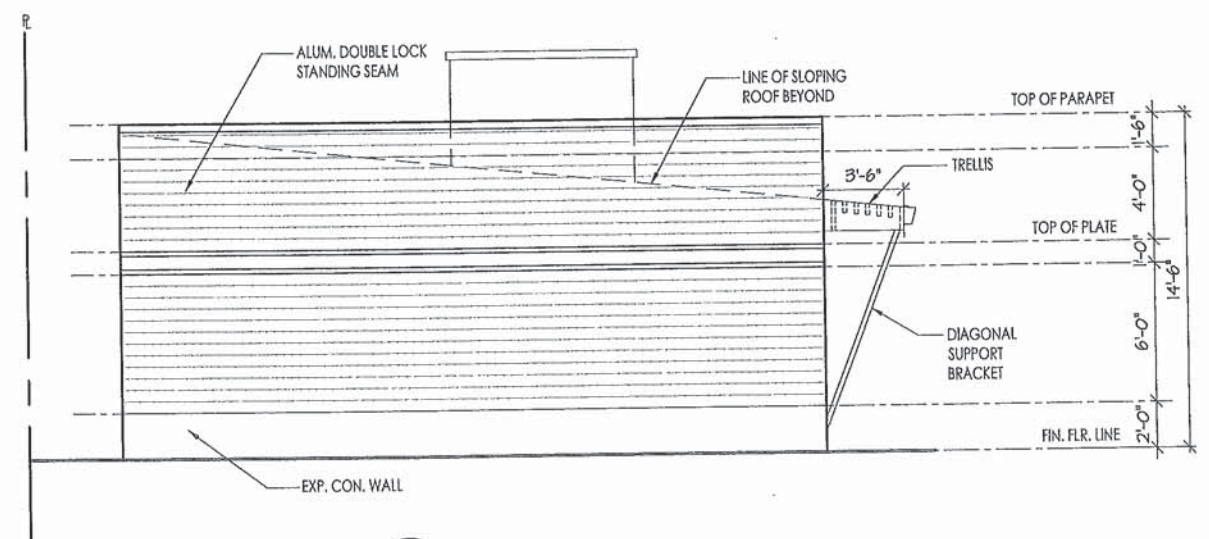
1 NORTH ELEVATION
Scale: 1/4" = 1'-0"



2 SOUTH ELEVATION
Scale: 1/4" = 1'-0"



3 EAST ELEVATION
Scale: 1/4" = 1'-0"



4 WEST ELEVATION
Scale: 1/4" = 1'-0"

FIELD VERIFY ALL DIMENSIONS

**Attachment B
Photographs**









Attachment C
Department Comments



Work Flow History Report

279 N 900 W

DRT2012-00133

Project: 900 West Corner

Project Description: 3:00PM, Upgrade of exterior & roof replacement.

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Date		Task/Inspection	Status/Result	Action By	Comments
3/29/2012	0	Application Acceptance	Accepted	Robinson, DeeDee	
3/29/2012	0	Engineering Review	Comments	Norlem, Christopher	If the driveway into the garage portion of the building becomes a dead drive (does not lead to legal parking) it will need to be removed. ADA ramps may be required at the corner. Consult Scott Weiler (801-535-6159) about ADA ramp requirement. Site plan review required. Public Way Permit is required for project completion. Licensed, bonded and insured Contractor to obtain permit to install or repair required street improvements. Approved site plan required. Submit approved site plan to Engineering Permits Office @ 349 South 200 East. (Contact George Ott @ 801-535-6396 for Permit information)
3/29/2012	0	Fire Review	Comments	Itchon, Edward	2A:10BC rated Fire extinguisher shall be within 75' travel distance.
3/29/2012	0	Public Utilities Review	Comments	Stoker, Justin	Obtain building permits for any changes to the building.
3/29/2012	0	Transportation Review	Comments	Walsh, Barry	Review for remodel and revision to the carport delivery area. removal requires removal of the driveway access. public way revisions to existing cut-back angle parking subject to compliance with standard F1.b2. and public way permit. Revision need to be reviewed for compliance to past Board of Adjustment conditions.

3/29/2012	0	Zoning Review	Comments	Brown, Ken	<p>R-1-5000 Zone - Upgrade exterior & roof replacement on existing nonconforming / noncomplying retail building. See 21A.38.080D for change of nonconforming non residential use to another nonconforming use. No additional elements would be allowed to project from the exterior walls beyond that allowed by Table 21A.36.020B unless a variance is sought, as the existing building is currently noncomplying. No additional elements would be allowed to project from the exterior walls beyond the property line unless a Commercial Lease Agreement has been processed with SLC Property Management. Enclosure of the carport delivery area requires removal of the driveway access. All signage will need to be addressed under a separate permit (sign has been removed from the existing pole sign and is therefore considered abandoned - the pole needs to be removed). The property is currently under enforcement (HAZ2009-03594 Abandoned/Unsecured building – Gary Rigler). Will need to review Board Of Adjustment Case Number 895-B and other BOA action to determine how it affects this proposal.</p>
3/30/2012	1	Closure	Emailed Notes to Applicant	Robinson, DeeDee	

Attachment D
Additional Applicant Information



Special Exception NOTICE OF APPLICATION

SALT LAKE CITY PLANNING

Planning Commission

Historic Landmark Commission

OFFICE USE ONLY

Project #: PLNPCM 2012-00888	Received By: <i>Theresa...</i>	Date Received: 11-230-12.	Zoning:
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Project Name:
279 North 900 West Vierig Building

PLEASE PROVIDE THE FOLLOWING INFORMATION

Type of Special Exception Requested:
Nonconforming Nonresidential Use

Address of Subject Property:
279 North 900 West

Name of Applicant:
NeighborWorks Salt Lake

Phone:
801-539-1590

Address of Applicant:
622 W. 500 N. S.L.C, Utah 84116

E-mail of Applicant:
bob@nwsaltlake.org

Cell/Fax:
801-539-1593 Fax

Applicant's Interest in Subject Property:
801 718-5571 Cell

Owner Contractor Architect Other:

Name of Property Owner (if different from applicant):
Bob Lund

E-mail of Property Owner: _____ Phone: _____

➔ Please note that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

WHERE TO FILE THE COMPLETE APPLICATION

Mailing Address: Planning Counter PO Box 145471 Salt Lake City, UT 84114	In Person: Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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REQUIRED FEE

➔ Filing fee of \$221.48, plus additional cost of postage for mailing notice to abutting property owners and tenants

SIGNATURE

➔ If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: <i>Maria Duran</i>	Date: <u>11-26-12</u>
----------------------------------------------------	--------------------------



Rebuilding Neighborhoods
house by house... block by block!

622 West 500 North, Salt Lake City, Utah 84116

t: 801.539.1590 f: 801.539.1593

www.nwsaltlake.org

November 26, 2012

To whom it may concern;

Project Location: 279 North 900 West
Project Description:

NeighborWorks Salt Lake recently purchased the building located at 279 N. 900 W., this building is located in an R-1 5000 zone. The previous use of this building has been retail, office commercial. This is a building that was constructed in 1932 and has had several additions added since that time. NWSL purchased this commercial building with the intention to rehab the existing structure as part of our neighborhood revitalization strategy. We met with the DRT at the SLC offices on March 29, 2012 with these intentions. After doing nonstructural cleanup and demolition we found this structure has evidence of several fires in the roof structure. Also the roof is in such bad repair that the framing structure has been damaged by constant contact with moisture from the elements. NWSL has had the building inspected and evaluated by an architect, engineer (structural) and a general contractor. It is the consensus that the condition of the present building is a liability and danger to the community. The cost of rehabbing the existing building would excide the cost of a new building.

Sincerely,

A handwritten signature in black ink that reads "Robert Lund". The signature is written in a cursive style.

Robert Lund



March 20, 2013

279 North 900 West
B Business (current use of existing structure)

This is the Response to the Issues to address:

1. Abandonment or Loss of Nonconforming Use

Course of Action: See attached letter dated Feb 24, 2012 from Wilford Sommerkorn to the previous owner Craig Vierig.

2. Demolition and Reconstruction of a Noncomplying Structure with a Nonconforming Use. This building is used for B Business and the new use would remain the same B Business

Course of Action: The square footage of the current building is 3775 sq ft. and the construction type is type V B wood frame with no fire sprinklers. There have been 2 or 3 fires in the existing building that have opened up holes in the roof. These holes have allowed water to enter and permeate the roof structure, trusses, beams, rafters, walls, insulation, drywall, ceiling tiles, lighting, furnace, HVAC ducting, interior doors, interior trim, cabinets, counter tops, appliances and floor coverings. Currently the existing roof is shored up by temporary framing. The existing walls were constructed with a fir mudsill plate that was not pressure treated, this plate has rotted away in many areas. The roof would need to be shored up and new walls built and then the roof structure would have to be removed and replaced before installing the new roofing. The engineer questioned the existing footing sizes and does not feel that they are adequate under the bearing walls. The existing structure has been inspected by a General Contractor, Architect and structural engineer to assess the costs to repair the existing structure. It was noted that the (The cost to repair the building to its prior habitable condition prior to being damaged by the fire (or other natural calamities) is \$462,900.00. The cost to demo and reconstruct a new building would be less at a cost estimate around \$440,000.00.

3. Potential Change of Nonconforming Use

Course of Action: See attached drawing of floor plan and proposed Parking plan. This was reviewed at the DRT meeting 2012-00133 on 3/29/2012. It was noted that at the rear of the property the gated area that is covered is the service entrance and not parking. It was discussed that we would need to remove the drive approach and by doing this it would add 2 parking stalls on the north of the building.

NeighborWorks Salt Lake who is the current owner of the property 279 North 900 West Parcel # 08-35-403-038 and an adjoining parcel the south # 08-35-403-067. (see attached drawing) The current intention of NWSL is to Demo the existing Nonconforming structure that is there and build a new structure in the same footprint. The adjoining parcel to the south would remain as open space.

WILFORD H. SOMMERKORN
PLANNING DIRECTOR

CHERI COFFEY
ASSISTANT PLANNING DIRECTOR

SALT LAKE CITY CORPORATION
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
PLANNING DIVISION

RALPH BECKER
MAYOR

FRANK B. GRAY
COMMUNITY AND ECONOMIC
DEVELOPMENT DIRECTOR

February 24, 2012.

Craig R. Vierig
5695 South Highland Dr.
Salt Lake City, Utah 84121

RE: 279 North 900 West

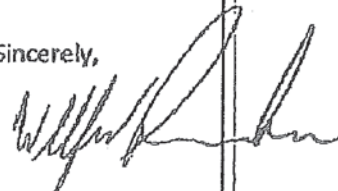
Dear Mr. Vierig:

With regard to your recent request on the non-conforming status of the property at 279 North 900 West, I have reviewed the letter to you from Mr. Larry Butcher, dated June 30, 2003, which confirmed the non-conforming status of this property for retail trade, office and retail service uses. I have also confirmed with you your continuous ownership of the property from that date, and your efforts to market and sell the property for the use described.

I thus find that the non-conforming status as indicated in the June 30, 2003 letter is still valid and applies today.

If you have any other questions, please feel free to contact us.

Sincerely,



Wilford H. Sommerkorn
Zoning Administrator

Cc: Larry Butcher
Joel Paterson

451 SOUTH STATE STREET, ROOM 406, SALT LAKE CITY, UTAH 84111
P.O. BOX 145480, SALT LAKE CITY, UTAH 84114-5480
TELEPHONE: 801-535-7757 FAX: 801-535-6174 TDD: 801-535-6021

WWW.BLCGED.COM

