

SALT LAKE CITY PLANNING COMMISSION MEETING
Room 126 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, October 23, 2013

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:29:54 PM](#). Audio recordings of the Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

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

Planning Staff members present at the meeting were: Wilford, Sommerkorn, Planning Director; Joel Paterson, Planning Programs Coordinator, Nick Norris, Planning Manager; Michaela Oktay, Planning Manager; Janice Lew, Senior Planner; John Anderson, Principal Planner; Michelle Moeller, Senior Secretary and Paul Nielson, City Land Use Attorney.

FIELD TRIP NOTES:

A field trip was held prior to the meeting. The following places were visited:

- **465 E. Third Avenue-** The Commission and Staff discussed if the garage had been rented. Staff confirmed that it had been rented for approximately 10 years. The Staff and Commission discussed the utilities in the structure.
- **503 E First Avenue-** The Commission asked questions regarding future placement of boxes. Staff explained a box could be put in the rear of the property and they would ask the Applicant about future placement plans.

APPROVAL OF THE MINUTES FROM THE OCTOBER 9, 2013 MEETINGS [5:30:39 PM](#)

MOTION [5:30:45 PM](#)

Commissioner Fife made a motion to approve the October 9, 2013, meeting minutes. Commissioner Flores-Sahagun seconded the motion. The motion passed unanimously.

REPORT OF THE DIRECTOR [5:30:55 PM](#)

Mr. Wilford Sommerkorn, Planning Director introduced and welcomed Michaela Oktay as a new Planning Manager. He reviewed the Brew Ha Ha case that was heard by the Appeals Hearing Officer and asked Mr. Paul Nielson to review the activities of the case.

Mr. Paul Nielson, City Attorney, reviewed the workings of the case and the direction he was taking for the Planning Commission.

The Commission and Mr. Neilson discussed what would happen if the case was returned to the Planning Commission. They discussed what evidence the Hearing Officer reviewed in making his decision. The Commission and Mr. Neilson discussed past business in the area that was evidence of issues with parking in the subject area.

Mr. Nick Norris, Planning Manager, reviewed the draft copy of the West Salt Lake Master Plan (available online at SLCGOV.com). He gave an overview of the public outreach for the Master Plan and the results of the outreach. Mr. Norris discussed the next steps for the Master Plan and the Planning Commission's role. He asked the Commissioners to read through the draft document and send comments and questions to Staff.

The Commission and Staff discussed streetcars and connections to downtown from surrounding areas and how it had been implemented into the plan. They discussed the proposed City-wide transportation plan that will be reviewed in the future. The Commission and Staff discussed when and where a meeting with the public could be held.

REPORT OF THE CHAIR AND VICE CHAIR [5:48:22 PM](#)

Vice Chairperson Ruttinger stated he had nothing to report.

PUBLIC HEARINGS [5:48:49 PM](#)

Vice Chairperson Ruttinger stated the following petitions had been withdrawn or postponed:

WITHDRAWN

Alder remodel a special exception petition for an In-Line Addition at 1506 Harvard Avenue - PLNPCM2013-00726

POSTPONED

Gordon Unit Legalization at 2316 S. 1800 East - PLNPCM2013-00698

Howell Unit Legalization at 24 N. Wolcott - PLNPCM2013-00652

[5:49:17 PM](#)

[Wittmeyer Unit Legalization at approximately 465 E. Third Avenue](#) - Jacqueline Wittmeyer is requesting approval from the City to legalize a second dwelling unit at the above listed address. Currently the property is recognized by Salt Lake City as a single-family residence that is zoned SR-1A Special Development Pattern Residential District. This type of project must be reviewed as a Special Exception. The property is within Council District 3, represented by Stan Penfold. (Staff contact Janice Lew at (801)535-7625 or janice.lew@slcgov.com Case number PLNPCM2013-00682).

Ms. Janice Lew, Senior Planner reviewed the petition as presented in the Staff Report (located in the case file). She stated Staff was recommending the Planning Commission approve the petition as presented.

The Commission and Staff discussed the size and location of the subject apartment, the Board of Adjustment decision, the standards of approval and why it was possibly denied by the Board of Adjustment in 1980. It was stated that there were no records of the improvements to the structure.

Ms. Jacqueline Wittmeyer, Applicant, reviewed the history of the unit, the updates that were made to the structure, the rental history of the property and the non-issue of parking. She stated there had been no complaints from the neighbors, business licenses were not an issue and she was willing to comply with the standards listed in the Staff Report.

PUBLIC HEARING [5:59:21 PM](#)

Vice Chairperson Ruttinger opened the Public Hearing.

The following people spoke in favor of the petition: Mr. Brent McOmber

The following comments were made:

- Fits in with the neighborhood
- Parking was not an issue
- Has existed for a number of years

Vice Chairperson Ruttinger closed the Public Hearing

DISCUSSION [6:00:19 PM](#)

The Commission and Staff discussed the occupancy of the unit and if it not being rented for eight years was an issue. They discussed the standards required for approval of the unit and if zoning violations existed on the property. Staff stated there was no record of zoning violations and there were no complaints prior to this unit applying for legalization. The Commission and Staff discussed the unit legalization process and if the use of the property was an issue.

MOTION [6:05:46 PM](#)

Commissioner Woodhead stated regarding PLNPCM2013-00682 - the Whittmeyer Special Exception Unit Legalization, based on the findings listed in the Staff Report, the evidence provided, and the testimony heard, She moved that the Planning Commission approve the Special Exception for Unit Legalization at 465 East Third

Avenue subject to the conditions listed in the Staff Report. Commissioner Taylor seconded the motion. The motion passed unanimously.

[6:07:27 PM](#)

Century Link High Speed Internet Xbox - A request by Ralph Vigil of CenturyLink for conditional use approval to place a ground mounted utility box in the public right-of-way. The box would be located at approximately 503 E First Avenue and is located in the RMF-35 (Moderate Density Multi-Family Residential) zoning district. The site is located in Council District 3, represented by Stan Penfold. (Staff contact: Michaela Oktay at (801) 535-6003 or michaela.oktay@slcgov.com Case number PLNPCM2013-00319).

Ms. Michaela Oktay, Planning Manager, reviewed the petition as presented in the Staff Report (located in the case file). She stated Staff was recommending the Planning Commission approve the petition as presented.

Mr. Ralph Vigil, CenturyLink, reviewed the use of the utility boxes and the placement of them. He stated it was CenturyLink's goal to place the boxes at the rear of properties and have been quite successful in doing so. Mr. Vigil stated this was the only site of twelve that has had an issue since utility boxes have been approved through the Administrative Hearing process.

The Commission and Applicant discussed why the box was not located on private property and if other sites would attract less graffiti. They discussed if a graffiti resistant material was available or if the boxes could be buried. The Applicant stated that the water table was an issue, putting power and electronics in the ground would be an issue.

The Commission and Applicant discussed different locations for the cabinets such as burying them or mounting them on a pole and the reduction in service if the box was not located in the area. The Applicant stated high speed internet would not be available in the area and about 400 households could not get the increased internet speed if the box was not allowed in the area. The Commission asked how other companies provide service to these areas. The Applicant stated other delivery systems are a little different but cabinets were still used.

PUBLIC HEARING

Vice Chairperson Ruttinger opened the Public Hearing.

The following people spoke in opposition of the petition: Ms. Pat Lawrence, Mr. Mike Lawrence, Mr. Steve Hart, Ms. Mary Mark, Ms. Carlisle Carroll and Mr. Phil Carroll.

The following comments were made:

- Do not want the box on their property
- Came to the hearings to voice opinion
- Graffiti is an issue in the area and City has a hard time taking care of it now
- Detrimental to the property
- Other sites on the property are available and would be a better fit
- Not something that belongs in a front yard
- Internet was not a problem in the area
- Better places with less traffic and less access for graffiti
- Technology will change but the box will always be there
- This is a local historic district and the proposed box is not appropriate on streetscape
- Should be made to fit with the neighborhood
- Parking lot east of the Governor's Mansion would be a better location
- Should be reviewed by the Historic Landmark Commission because it is in a historic district

The Commission and Mr. and Mrs. Lawrence discussed if there were other locations on their property that would work and if they were willing to work with CenturyLink. Mr. and Mrs. Lawrence stated they did not want the box on their property after the way they were treated by the Applicant. Mr. Lawrence stated there are sites in the Avenues that would fit better with the neighborhood and not be such an intrusion.

Vice Chairperson Ruttinger closed the Public Hearing.

Mr. Vigil stated he had tried to work with the neighbors on the location for the box. He reviewed the letters and discussions with Mr. Lawrence and neighbors in the area.

The Commission and Applicant discussed locating the box in a parking lot. Mr. Vigil explained how the boxes interacted with each other and the impact to service when the boxes are placed further apart. They discussed how the product worked and placement of the boxes was essential to the quality of the product.

DISCUSSION

The Commission and Staff discussed the approval process and if the Historic Landmark Commission would further review the petition.

The Commission and Applicant discussed the location of the box in relation to the power pole and possible screening. Mr. Vigil discussed the various reasons the box could not be in other locations because of required power and signal strength.

The Commission and Staff discussed if the neighborhood's opinion mattered in the decision and the findings needed to deny the petition.

Mr. Neilson stated public clamor was not a consideration in approving Conditional Uses.

Mr. Sommerkorn stated the standards for a Conditional Use state the only way a Conditional Use can be denied was if the negative impacts could not be reasonably mitigated. He stated if the impacts could be mitigated then the Planning Commission was obligated to approve the petition.

The Commissioners discussed the following issues and if they could be mitigated:

- History of the boxes not being maintained
- Graffiti removal
- Visibility
- Look of the boxes
- Located in a historic district
- Look of the box did not fit the area
- Public safety

Staff stated the petition could not be denied because of maintenance history or the lack thereof. The Commission and Staff discussed if the visibility of the proposed box would be grounds for denial. Staff stated the petition could not be denied just because the way it looked, the Commission would have to make findings as to why the subject location was different from other locations. The Commission and Staff discussed if safety issues were a problem, screening, moving the location, and that they could not deny the petition based on the fact that the Applicant had not exhausted all options. The Commissioners and Staff discussed how the visual impacts could be mitigated such as putting the box along a fence line, screening, putting it in a less prominent location or moving it closer to the existing pole.

MOTION [7:01:57 PM](#)

Commissioner Dean stated regarding the CenturyLink Conditional Use petition PLNPCM2013-00319 at 503 First Avenue, based on the findings listed in the Staff Report, discussion, public hearing and plans presented, she moved that the Planning Commission deny the Conditional Use petition as there were impacts the Planning Commission could not mitigate, being the location and device was prominently visible in the area and created a detrimental effect to the neighborhood and values of the property. Commissioner Adams seconded the motion. Commissioners Dean, Fife, Adams, Flores-Sahagun and Taylor voted "aye". Commissioner Woodhead voted "nay". The motion passed 5-1.

Commissioner Woodhead stated her reason for voting nay was not because she liked the utility box but, that the City passed an ordinance allowing utility boxes in park strips and park strips do not have a lot of landscaping or elements to hide the boxes. She stated she thought the Applicant was entitled to the protection of the law as it was written.

Commissioner Flores-Sahagun asked then why was it a conditional use. He stated it was a conditional use because there were parameters that need to be fulfilled.

Commissioner Taylor stated she would rather not have the box there at all but if it was going to be there she would like to have control as to where it sat such as closer to the light pole.

Vice Chairperson Ruttinger asked what right the Applicant had to establish their highest capacity network in an area if the neighbors didn't want it there.

Mr. Neilson stated that was not a consideration of a conditional use.

Mr. Sommerkorn clarified that the motion was based on the fact that the box was in a visually prominent location and asked if Commissioner Dean felt there were other less prominent locations that would work.

Commissioner Dean stated she felt the neighbors had a good sense of where it would fit best and perhaps the Applicant could work more closely with the neighbors on placement.

Commissioner Fife stated the PowerPoint presentation supported the placement at other locations.

Mr. Neilson reviewed the appeal process.

The meeting adjourned at [7:07:15 PM](#)