

**SALT LAKE CITY PLANNING COMMISSION MEETING**  
**Room 126 of the City & County Building**  
**451 South State Street, Salt Lake City, Utah**  
**Wednesday, January 9, 2013**

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:33:05 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: Chairperson Michael Gallegos; Commissioners Lisa Adams, Angela Dean, Bernardo Flores-Sahagun, Michael Fife, Clark Ruttinger, Marie Taylor, Matthew Wirthlin and Mary Woodhead. Vice Chair Emily Drown was excused.

Planning Staff members present at the meeting were: Wilford Sommerkorn, Planning Director; Nick Norris, Planning Manager; Casey Stewart, Senior Planner; Anna Anglin, Principal Planner; Ray Milliner, Principal Planner; Michelle Moeller, Senior Secretary and Paul Neilson, City Attorney.

**FIELD TRIP NOTES:**

A field trip was held prior to the work session. Planning Commissioners present were: Commissioners Michael Fife, Bernardo Flores-Sahagun, Clark Ruttinger and Mary Woodhead. Staff members in attendance were Nick Norris and Ray Milliner.

The following locations were visited:

- Nichol's In line addition- Staff gave an overview of the project. The Commission asked what part was keeping with the ordinance. Staff stated all but nine feet on the south side. The Commissioners asked why were the steps used to determine the setbacks. Staff explained the steps were originally covered and the setback was measured to that covering. Staff explained the definition of an in line addition. The Commissioners asked if it could be modified. Staff explained that was a question for the Applicant. Staff stated the issue with the overall building height had been resolved.
- Liberty Height Fresh- Staff gave an overview of the petition. The Commission asked if the parking would be on the other side. Staff stated yes it would. The Commissioners asked how the second stories were oriented. Staff stated set back from the front.
- Rezoning on 500 East- Staff gave an overview of the project. The Commissioners asked how conditions were put on property to begin with. Staff stated property was split zoned, the previous owners petitioned for an amendment and the Council rezoned to CN with conditions.

**APPROVAL OF THE MINUTES FROM THE DECEMBER 12, 2012 MEETING**

**MOTION [5:33:20 PM](#)**

**Commissioner Woodhead made a motion to approve the December 12, 2012 minutes. Commissioner Fife seconded the motion. The motion passed unanimously.**

**REPORT OF THE CHAIR AND VICE CHAIR [5:33:53 PM](#)**

Chairperson Gallegos stated he had nothing to report at this time. He asked the Commission to answer the email regarding the quorum count in a timely manner in order to ensure a quorum would be present at the meeting. Chairperson Gallegos stated he would like an email confirming a quorum was available prior to the meeting. He stated Vice Chairperson Drown was excused from the meeting.

**REPORT OF THE DIRECTOR [5:34:53 PM](#)**

Mr. Wilford, Sommerkorn, Planning Director, stated the City Council approved the vacation of the Pier Pont Avenue easement and also the Home Occupation ordinance changes.

**PUBLIC HEARING [5:35:25 PM](#)**

**PLNPCM2012-00615 The Lays Over Height Fence - A request by Ron Lay for a Special Exception for a fence that exceeds the six foot height limit of the zoning ordinance by two feet located at approximately 1351 West Arapahoe in the Single Family Residential (R-1/5000) zoning district in Council District 2, represented by Kyle LaMalfa. (Staff contact: Anna Anglin at 801-535-6050 or [anna.anglin@slcgov.com](mailto:anna.anglin@slcgov.com))**

Ms. Anna Anglin, Principal Planner reviewed the petition as outlined in the Staff Report (located in the case file). She stated it was Staff's recommendation that the Planning Commission deny the petition as presented.

Mr. Ron Lay, Property Owner, reviewed how the proposed project met the standards in the ordinance and explained there were other tall fences in his neighborhood, similar to what was being requested. Mr. Lay stated a six foot fence would not provide adequate privacy for the intended use of his back yard. He stated an eight foot fence would not detract from the area, would not affect the light or shade in the yards as there currently are trees that change the light and shade for the properties. Mr. Lay asked the

Commission to take into consideration that the eight foot section would be between two houses and not detract from the neighborhood.

Commissioner Ruttinger asked the location of the other eight foot fences in the neighborhood.

Mr. Lay stated there was one or two within a walkable distance from his home.

Commissioner Dean stated the open lattice portion of the proposed fence did not provide privacy therefore; it was not an issue of privacy but of height.

Mr. Lay stated someone could look through the lattice work if they were standing next to the fence but from a distance it would be difficult to see through the lattice work. He stated a solid eight foot fence would not be attractive.

Commission Woodhead stated there were many people with outdoor kitchens and Jacuzzis and asked why this proposal was different from those.

Mr. Lay stated other neighborhoods may have more hills and the nature of their lots accommodated privacy for a Jacuzzi, in his neighborhood the lots were flat and did not provide for privacy.

The Commission asked why a gap was being left between the existing fence and the proposed fence.

Mr. Lay stated it was to prevent a problem with his neighbor and building next to the existing fence. He stated he was able to mow the three foot gap between the fences and maintain the area.

The Commission and Applicant reviewed the location of eight foot fences in the area.

**PUBLIC HEARING [5:55:18 PM](#)**

Chairperson Gallegos opened the Public Hearing.

The following individual spoke in opposition to the petition: Mr. Gaylen Young,

The following comments were made:

- Eight foot fence is too tall and too close to neighboring properties
- Wood fence would be hard to maintain.

- Would be an eyesore for the neighborhood.
- A six foot fence would be more appropriate for the area.
- Could the Jacuzzi be lowered in the ground to allow the extra privacy
- Eight foot fences are not present in the area
- Would cause more shade in the area and the trees are trimmed to allow the most light onto the property.

Chairperson Gallegos closed the Public Hearing.

Mr. Lay stated the fence would not be as tall as the posts currently in place as they were two feet higher than needed. He stated it would not be imposing to the neighborhood and he was not aware of a Jacuzzi that could be installed below ground.

The Commission and Applicant reviewed the location of the Jacuzzi and the concrete pad.

**DISCUSSION** [6:01:46 PM](#)

Commissioners Dean and Woodhead stated many fences were addressed by the Planning Commission and eight foot fences were not generally approved. They stated they were not convinced that a six foot fence would not provide enough privacy for the property.

**MOTION** [6:02:31 PM](#)

**Commissioner Dean stated in regards to PLNPCM2012-00615, based on the findings listed in the Staff Report, testimony and plans presented, she moved that the Planning Commission deny the Special Exception for the property located at approximately 1351 West Arapahoe. Commissioner Woodhead seconded the motion.**

Commissioner Woodhead stated she understood the concern with privacy but there was nothing outstanding with the property that made an eight foot fence relevant.

Commissioner Taylor stated the fence was next to the house, not in the front yard and that the Planning Commission was able to make exceptions at times for people who wanted to improve their houses.

Commissioner Ruttinger stated he agreed that the fence was not imposing.

**Commissioner Dean, Fife, Woodhead, Adams, Wirthlin and Flores-Sahagun vote “aye”. Commissioner Taylor and Ruttinger voted “nay”. The motion passed 6-2.**

[6:04:45 PM](#)

**PLNPCM2012-00796 Nichols Special Exception for an “in line” addition - a request by Amy & Scott Nichols, represented by Stan Avery (contractor), for approval to construct an addition to the existing single family home that would not comply with the required 10-foot side yard setback on the south side of the home located at approximately 2675 South 1500 East. The addition would encroach less than one foot into the side yard, in line with the rear porch steps. The property is located in the R-1/7,000 (Single Family Residential) zoning district, in Council District 7, represented by Soren Simonsen. (Staff contact: Casey Stewart at (801) 535-6260 or [casey.stewart@slcgov.com](mailto:casey.stewart@slcgov.com))**

Mr. Casey Stewart, Senior Planner reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff was recommending that the Planning Commission deny the petition as presented.

The Commission and Staff discussed why the proposal was originally permitted and then issued a stop work order. They discussed the definition of an in line addition and if the proposal followed the definition in the ordinance. The Commission and Staff discussed the setbacks as indicated on the presented drawings and what would need to be done if the petition was denied. Staff stated the height issue was resolved without a Special Exception.

Mr. Stan Avery, Project Contactor, stated the information in the Staff Report was not correct and bias. He reviewed the distance from the property line to the in line addition and explained the addition encroached on the setback roughly nine inches. Mr. Avery discussed the standards listed in the Staff Report and how the proposal met those standards. He stated the addition was not imposing on the neighbors and the extra nine inches did not give the applicant additional space nor was it really that big of an issue to require its removal.

The Commission and Mr. Avery discussed what was meant by keeping with the character of the neighborhood and how character was determined.

Mr. Alex Schiel, Architect, reviewed how the property line was measured and the confusion with the actual location of the property line. He explained that the addition was lined up with the bay window and the porch which justified the encroachment.

The Commission and Mr. Schiel discussed issues with initially locating the property line, how much the addition encroached on the setback and when the issues were discovered. They discussed the survey that was conducted on the property to determine the actual property line.

Mr. Scott Nichols, Property Owner, stated the proposal did comply with all the standards of the ordinance and in all reality the issue was nine inches of encroachment on the setback. He stated the Mayor was working on an ordinance that would allow leeway in the setbacks which would make the proposal comply. Mr. Nichols stated the nine inches were virtually imperceptible to the casual observer and it was unlikely that anyone would notice the change in the setback. Mr. Nichols stated he did not agree that the size of the building was out of character with the neighborhood and was not the reason the project was under review. He stated that the addition was in line as defined in the ordinance and therefore, should be approved. Mr. Nichols reviewed the history and time table for the proposal. He read letters from neighbors that supported the proposal (located in the case file). Mr. Nichols presented a model of the home and reviewed what the proposal would require.

Ms. Amy Nichols, Property Owner, explained the reason for the remodel and the process taken to make it visually fit the neighborhood. She read letters from a neighbor in opposition of the remodel and explained her distain for the comments contained in the letter. Ms. Nichols stated they have followed the rules and process required for the project and should be allowed to construct the addition as proposed.

**PUBLIC HEARING [6:45:43 PM](#)**

Chairperson Gallegos opened the Public Hearing.

Ms. Judy Short, Sugar House Community Council, stated the Community Council did not support the project as it was overbearing in the neighborhood and took all the privacy away from the property to the rear. She stated approving the petition would set a precedent in the area and was not a positive thing. Ms. Short stated the project should be made to fit the standards.

Commissioner Ruttinger asked if Ms. Short felt the nine inches would make a difference in the look of the home.

Ms. Short stated it would especially in the rear of the home.

The following individuals spoke in opposition of the proposal: Ms. Janice Gordon, Mr. Ron Gordon, Mr. Russell Pack, Mr. Steven Lester, Mr. Andrew Kope, Ms. Sarah Price, Mr. Curtis Clark, Ms. Bonnie Clark, Ms. Bonnie Clark and Ms. Sarah Price.

The following comments were made:

- Structure was not in character of the neighborhood
- The project would set a precedent in the area
- The project would be a detriment to the neighborhood
- The project would invade the privacy of the abutting neighbors
- The project should comply with the codes in place and no exceptions made
- In line additions should be in line with the outside wall not a porch or window.
- Code should be enforced not changed
- Correct information should be presented in the beginning of an application therefore allowing for proper measurements and codes to be followed.
- Type of addition was not common in the area and should not be allowed.
- Neighbors' requested a survey be done at the beginning of the project but it was not done until after the code was questioned.
- Project was still in the stage where the nine inches could be addressed.
- Driveway was only seven feet wide
- Blocks sunlight to neighboring properties

The following individuals spoke in support of the proposal: Mr. Dennis and Mrs. Annette Weight, Ms. Virginia Wilson,

The following comments were made:

- Would like to see resolution to the problem and move on with the project.
- Addition does not block views from other properties
- Great addition to the area.

The Commissioners and Staff discussed when surveys were required for projects and when it was requested for the proposed project.

Chairperson Gallegos closed the Public Hearing.

[7:06:52 PM](#)

The Commission and Staff discussed how an in line addition was defined in the ordinance and if it was meant for an addition to be constructed in line with an outside wall or a building element. Staff explained the porch was covered therefore, was the point from which the setback was measured and allowed the in line addition to be constructed to that point. They discussed the possible need to address the definition of an in line addition. Staff stated the City Council had initiated a petition to address the definition.

Mr. Nichols stated the project satisfied the code and ordinance requirements. He stated the reduction of the nine inches would not make a large enough change in the look and size of the structure to cause the petition to be denied.

The Commission and Applicant discussed the eve measurements and how the changes that would be made if the nine inches were removed. They discussed what the Applicant would do if the nine inches were required to be removed and how/if the design would be changed. The Applicant stated they would move the wall back the nine inches, nothing else would be changed. The Commission and Applicant discussed if work was continuing even though a stop work order had been issued. The Applicant stated there was a permit issued for two days that allowed work to be done as well as the replacement of some windows and doors to the original structure.

**DISCUSSION** [7:13:56 PM](#)

The Commissioners stated that the Planning Commission was not reviewing the design or if it fit into the neighborhood. They said the issue was the encroaching nine inches into the setback requirement and whether or not it should be allowed to remain. The Commissioners discussed the issue of setting a precedent in the area and whether or not making the Applicant remove the nine inches would make a discernable difference in the appearance of the structure. It was stated that comments from the Public indicating the Planning Commission should never allow exceptions to the rules was not a reality as the rules allowed for exceptions to be made. The Commission discussed the process for an in line addition and stated the process was being followed. They discussed whether or not the additional nine inches would have been approved if the proposal was brought in front of the Commission prior to construction.

The Commission discussed the initial thoughts of the Contactor as to where the property line was located and the vague language in the ordinance determining where an in line addition was allowed to be constructed. The Commission and Staff discussed the building line definition and its interpretation. It was stated that the house was in compliance with the ordinance and the regulations in place which allowed for the additions construction. The Commissioners and Staff discussed the determination of precedents in the area and how a precedent was set. It was stated that the structure was on average under the overall setbacks as to the building footprint and would not greatly impact the neighbors.

**MOTION** [7:27:21 PM](#)

**Commissioner Wirthlin stated in regards to Special Exception PLNPCM2012-00796, Based on the findings made by the Commission, contrary to some findings in the Staff Report, and based on the Public testimony, it was the Planning Commissions opinion that the project did adequately meet the applicable standards therefore; he move that the Planning Commission approve the request. Commissioner Woodhead seconded the motion.**

**Commissioners Wirthlin, Flores-Sahagun, Adams, Ruttinger, Woodhead and Dean voted "aye".**



Commissioners Taylor, Fife voted “nay”. The motion passed 6-2.

[7:39:31 PM](#)

**PLNPCM2012-00588 Lobb Zoning Amendment 1321 South 500 East - a request by Michael Lobb, property owner, to include “mixed use” as an allowed use at the subject property in anticipation of a 7-unit attached townhome live/work project. The property is located at 1321 South 500 East, in the CN (neighborhood commercial) district, within Council District 5, represented by Jill Remington Love. (Staff Contact: Casey Stewart at 801-535-6260 or [casey.stewart@slcgov.com](mailto:casey.stewart@slcgov.com))**

Mr. Casey Stewart, Senior Planner reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission forward a favorable recommendation to the City Council.

The Commission and Staff discussed if there were restrictions in the CCNR zoning. Staff reviewed the restrictions on use, new construction renovation, restoration, maintenance, and repair and stated there were no restrictions on setbacks or building height.

Mr. Michael Lobb, Property Owner, reviewed the history of the property and his intentions for the development of the property. He stated the property was not usable in its current condition.

## **PUBLIC HEARING**

Chairperson Gallegos opened the Public Hearing

The following individuals spoke in support of the proposal: Ms. Kathy Byers, Mr. John Francis

The following comments were made:

- The property would need off street parking
- A four or five-plex would be ideal for the property
- Variance in height should be kept as it was a residential neighborhood
- Anything would be an improvement to what was currently in place and would improve the area greatly.

Chairperson Gallegos closed the Public Hearing.

The Commission and Applicant discussed the possible height of any developments. The Applicant stated he was proposing a structure lower in height, than the current structure, and would comply with all height requirements.

**MOTION** [7:53:43 PM](#)

**Commissioner Fife stated in regards to the Zoning Map Amendment PLNPCM2012-00588, 1321 South 500 East based on the findings listed in the Staff Report, the testimony and plans presented, he move that the Planning Commission recommend to the City Council approval of the requested Lobb Zoning Amendment 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. Commissioner Dean seconded the motion. The motion passed unanimously.**

Commissioner Taylor asked if a drive-thru would be an option for the property.

Mr. Norris stated a drive-thru was not allowed in the CN Zone.

Commissioner Ruttinger asked if the parking would be onsite.

Staff and the Applicant stated yes all the parking would be onsite.

[7:57:45 PM](#)

Commissioner Wirthlin excused himself from the meeting.

Mr. Norris stated there was an error in the noticing for the next item and explained the error. He stated Staff would present the petition to the Commission and a Public Hearing could be held but a motion could not be made until the January 23 meeting. Mr. Norris reviewed the recommended approvals/ denials for the petitions and how the petitions would be addressed. He stated the Applicant would be available via telephone to answer questions during the January 23 meeting.

**PLNPCM2012-00608 Liberty Heights Fresh Master Plan Amendment - A request by Steven Rosenberg to amend the Central Community Master Plan Future Land Use Map at approximately 1073 East 1300 South from Low Density Residential to Community Commercial. The purpose of the amendment is to allow the removal of a single family home on site that would be replaced with a mixed residential/commercial use on site. The subject property is zoned R-1/5,000 (Single Family Residential District) and is located in City Council District 5 represented by Jill Remington Love (Staff contact: Ray Milliner at (801) 535-7645 or [ray.milliner@slcgov.com](mailto:ray.milliner@slcgov.com)).**

- **PLNPCM2012-00610 Liberty Heights Fresh Master Plan Amendment - A request by Steven Rosenberg to amend the Central Community Zoning Map at approximately 1073 East 1300 South from R-1/5,000 (Single Family Residential**

District) to CN (Neighborhood Commercial). The purpose of the amendment is to allow the removal of a single family home on site and replace it with a mixed residential commercial use on site. The subject property is zoned R-1/5,000 (Single Family Residential District) and is located in City Council District 5 represented by Jill Remington Love (Staff contact: Ray Milliner at (801) 535-7645 or [ray.milliner@slcgov.com](mailto:ray.milliner@slcgov.com)).

- **PLNPCM2012-00607 Liberty Heights Fresh Master Plan Amendment** - A request by Steven Rosenberg for a Minor Subdivision Amendment to combine the lots at approximately 1073 East 1300 South and 1290 South 1100 East into one lot of record. The reason for the request is to allow for the expansion of the existing commercial use on site. The subject property at 1073 East 1300 South is located in the R-1/5,000 (Single Family Residential District), and the property at 1290 South 1100 East is located in the CN (Neighborhood Commercial District) and is located in Council District 5, represented by Jill Remington Love. (Staff contact: Ray Milliner at (801) 535-7645 or [ray.milliner@slcgov.com](mailto:ray.milliner@slcgov.com)).
- **PLNPCM2012-00609 Liberty Heights Fresh Master Plan Amendment** - A request by Steven Rosenberg for a Conditional Building and Site Design Review application that would grant an exception to reduce the required corner side yard setback on the south from fifteen feet (15') to one foot (1') and the front setback on the east from fifteen feet (15') to three feet six inches (3'6") at approximately 1073 East 1300 South and 1290 South 1100 East. The purpose for the request is to allow the redevelopment of the existing commercial business. The subject property at 1073 East 1300 South is located in the R-1/5,000 (Single Family Residential District), and the property at 1290 South 1100 East is located in the CN (Neighborhood Commercial District) and is located in Council District 5, represented by Jill Remington Love. (Staff contact: Ray Milliner at (801) 535-7645 or [ray.milliner@slcgov.com](mailto:ray.milliner@slcgov.com)).

Mr. Ray Milliner, Principal Planner reviewed the petition as outlined in the Staff Report (located in the case file). He stated it was Staff's recommendation that the Planning Commission forward a favorable recommendation to the City Council or approve the petitions as stated in the Staff Report.

Mr. Steven Rosenberg, Applicant, reviewed the history of the business and the property. He reviewed the development of the property and his intentions.

The Commission and Staff discussed if portions of the zoning would revert back to the current zoning if no action was taken.

**PUBLIC HEARING [8:11:30 PM](#)**

Chairperson Gallegos opened the public hearing

The following individuals spoke in favor of the proposal: Ms. Besty Burton, Mr. David Nimkin, Mr. John Bogart, Mr. John Francis and Mr. Christopher Spear.

The following comments were made:

- Business was iconic, needed the changes in order to grow and remain in the area.
- Proposal is key to the growth of the area
- Zoning will help revitalize the area and draw business in to the area.
- Petition is appropriate for the area
- Changes in zoning provide for a dramatic economic advantage to an existing business which will allow it to grow in ways that are necessary for everyone.

Chairperson Gallegos stated the Public Hearing would be continued to the January 23, 2013 meeting.

The Commission stated they would continue the discussion and make a motion at the January 23 meeting.

**The meeting adjourned at [8:22:02 PM](#)**