

SALT LAKE CITY PLANNING COMMISSION MEETING
Room 126 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, August 14, 2013

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [6:00:05 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: Commissioners Lisa Adams, Michael Fife, Bernardo Flores-Sahagun, Clark Ruttinger, Marie Taylor, Matthew Wirthlin and Mary Woodhead. Chairperson Michael Gallegos; Vice Chair Emily Drown and Commissioner Angela Dean were excused.

Planning Staff members present at the meeting were: Wilford Sommerkorn, Planning Director; Nick Norris, Planning Manager; Katia Pace, Principal Planner; Maryann Pickering, Principal Planner; Michelle Moeller, Senior Secretary and Paul Nielson, City Land Use Attorney.

FIELD TRIP NOTES:

A field trip was held prior to the work session. Planning Commissioners present were: Michael Fife, Mary Woodhead, and Marie Taylor. Staff members in attendance were Nick Norris, Katia Pace and Maryann Pickering.

The following locations were visited:

- **Marmalade Library-** Staff gave an overview of the project. The Commission asked about the parking. Staff explained the on street parking can be utilized for the library; the project met the minimum requirements and the pedestrian friendly parking exception. Staff and Commissioners discussed the parking on 300 West and the three on street parking spaces. Staff and Commission discussed the ADA accommodations of the structure and ADA parking.
- **Brew HaHa-** Staff gave an overview of the project.

APPROVAL OF THE MINUTES FROM THE JULY 31, 2013 MEETINGS

MOTION [6:00:47 PM](#)

Commissioner Woodhead made a motion to approve the July 31, 2013, meeting minutes. Commissioner Taylor seconded the motion. The motion passed unanimously. Commissioner Flores-Sahagun abstained from voting as he was not in attendance at the subject meeting.

REPORT OF THE CHAIR AND VICE CHAIR [6:01:07 PM](#)

Acting Chairperson Fife excused Chairperson Gallegos and Vice Chairperson Down. He stated he had nothing to report at this time.

REPORT OF THE DIRECTOR [6:01:22 PM](#)

Mr. Wilford Sommerkorn, Planning Director, reported the Marmalade lofts petition would be returning to the Commission for further review due to legalities with the alley rights.

PUBLIC HEARINGS [6:02:00 PM](#)

Marmalade Library at approximately 270 West 500 North - Kevin Blalock, on behalf of the Salt Lake City Library is requesting approval from the City to develop a library which will be a two-story branch facility for the Salt Lake City Public Library System. The building size will be approximately 18,690 square feet. The project is conceived as the first phase of a larger public/private development within the Marmalade Block. This request will require a Conditional Use approval. Currently the land is vacant and the property is zoned R-MU (Residential Mixed Use.) The subject property is within Council District 3, represented by Stan Penfold. (Staff Contact: Katia Pace at (801) 535-6354 or katia.pace@slcgov.com.) Case number PLNPCM2013-00506.

Mr. Paul Nielson recused himself as he is the attorney for the library.

Ms. Katia Pace, Principal 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 in the Staff Report.

The Commission asked what happened if the on street parking did not become available.

Staff stated if the proposed parking plan did not come to pass the library would have to prove they met the minimum parking requirements.

Mr. Kevin Blalock, Applicant, stated he had nothing to add and was available for questions.

PUBLIC HEARING [6:17:30 PM](#)

Acting Chairperson Fife opened the Public Hearing seeing no one in the audience was present to speak for or against the petition Acting Chairperson Fife closed the Public Hearing.

MOTION [6:17:48 PM](#)

Commissioner Woodhead stated as to petition PLNPCM2013-00506 Marmalade Library Conditional Use, based on the findings listed in the Staff Report and the testimony heard, she moved that the Planning Commission approve the proposed Conditional Use subject to conditions one through three as set forth in the Staff Report. Commissioner Wirthlin seconded the motion. The motion passed unanimously.

[6:18:54 PM](#)

BrewHaHa Tavern Conditional Use at approximately 2108 East 1300 South - Bryce Jones is requesting approval from the City to open and operate a new tavern at the above listed address. The proposed tavern will occupy the space of the former Finnish Day Spa and the property is zoned CB (Community Business). The type of project must be reviewed as a Conditional Use by the Planning Commission. The subject property is within Council District #6, represented by Charlie Luke. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com. Case number PLNPCM2013-00348).

Acting Chairperson Fife reviewed the seating available for attendees and the rules for public hearings. He asked Mr. Wilford Sommerkorn, Planning Director to review the difference between Administrative Matters and Legislative Matters and the role of the Planning Commission.

Mr. Wilford Sommerkorn, Planning Director, reviewed the difference between Legislative Matters and Administrative Matters, the process and policies for each and the purview of the Planning Commission on these matters. He reviewed the appeals process.

Acting Chairperson Fife stated the drive-thru and coffee shop were not up for review as they were allowed under the current zoning. He stated the Commission would not be discussing these issues.

Ms. Maryann Pickering, Principal Planner reviewed the petition as presented in the Staff Report (located in the case file). She stated Staff's was recommending the Planning Commission approve the petition as presented.

The Commission and Staff reviewed the operating hours allowed by law and what was being proposed. They discussed the business licenses required for the proposed business. They discussed if alcohol could be sold at the same location where children would be served. Staff stated children would only be allowed to go through the drive-thru not enter the building. The Commission discussed the State requirements and the process for a tavern license. Staff stated the State would defer to the local regulation for parking and location. They discussed the possible sound levels outside the building. Staff stated the County Health Department would regulate noise issues and the zoning ordinance regulated outdoor dining. The Commission and Staff discussed the noise regulations in the ordinance. They discussed the traffic of the area, what a neighborhood travel survey was, the parking and how it could be mitigated to restrict parking in front of the surrounding houses.

Ms. Robin Hutchinson, Transportation, explained the neighborhood parking permit program that helped with on street parking issues in different areas. She stated a plan could be put in place in the subject neighborhood to help with patrons parking in front of residents homes.

The Commissioners discussed smoking areas, how to mitigate them and if smoking could be removed from the property entirely. It was stated that the regulations were 25 feet from the entrance to the building. Staff stated the ordinance for smoking referred to State law. The Commission and Staff discussed if they could regulate smoking on the property and reasons for having a designated smoking area.

Mr. Bryce Jones, Applicant, reviewed the letter submitted to the Planning Commission (located in the case file) dated August 14, 2013. Mr. Jones stated the Community Councils found that crime in the neighborhood would decrease with the existence of his proposed business. He asked the Planning Commission to override the fence requirement proposed by Staff as he and the neighbor had worked out a solution to the light issue. Mr. Jones asked the Planning Commission to override the requirement to shield the preexisting parking lot lights as they had been there for a number of years. He asked the Commission to approve the tavern and if they did not approve the tavern he would apply for a restaurant license with a full service liquor license which was a permitted use.

The Commission and Applicant discussed if a professional parking study had been done and if it was appropriate for customers of the tavern to park in front of the residential areas for a continuous amount of time. They discussed the Commissions ability to grant a stay on the approval.

PUBLIC HEARING [7:17:46 PM](#)

Acting Chairperson Fife opened the Public Hearing. He reviewed the rules and procedures for the Public Hearing.

Ms. Ellen Reddick, Bonneville Hills Community Council, reviewed the businesses in the area and how the proposed business did not fit with the area. She stated the noise, traffic, hours, parking and safety of those traveling the area were all concerns of the public. Ms. Reddick stated smoking adjacent to the residential area was not acceptable, drive-thrus should not be allowed next to residential areas and the impacts to the area were great and could not be mitigated. She stated there was no concrete plan as to what this business would be.

Ms. Denise Doxey, Foothill Community Council, plan did not meet the requirements or address the communities concerns, use was too intense for the neighborhood, no support for parking plan and it was an understatement that business would impact the area. She asked the Commission to look at the impact on the neighborhood as a whole and make it comply with all the requirements not just a few. Ms. Doxey stated the Community Council would like a traffic study done and more parking required. She stated this was not a neighborhood bar but a destination bar and that was not what was intended by the new ordinance. She asked that the Planning Commission to deny the petition.

Acting Chairperson Fife stated there were twenty seven cards for individuals that wished to speak. He stated the Planning Commission would be determining if there were impacts to the areas, from the business, that could not be mitigated. He asked the Public to focus on those issues. Acting Chairperson Fife stated each person would be given two minutes to speak.

The following people spoke in opposition to the petition: Ms. Pamela Atkinson, Mr. John Dunn, Mr. Larry Spendlove, Mr. Eric Steur, Mr. Michael Gottfredson, Mr. Roger MacDuff, Mr. Nick Hales, Mr. Eric Thompson, Mr. Stuart Matheson, Ms. Suzy Matheson, Ms. Carol Walker, Mr. Robert Doxey, Mr. Bob Moore, Ms. Mary Catherine Perry, Mr. Jeff Taylor, Mr. K Ann Mihilfeith, Ms. Rebecca Gardiner, Ms. Marie Cornwall, Mr. Michael Erickson, Mr. Oscar McConkie, Mr. Benjamin Nelson, Mr. Don Brown, Mr. George Chapman, Mr. Dade Rose, Mr. Brian Burnett, Ms. Kathy Wilson and Mr. Reed Jacobs.

The following comments were made:

- Assumptions need to be clarified
- Schools are very close to the location and the increase of traffic will create a dangerous area
- Idling cars will cause increase in air pollution
- Business will grow and estimated number of patrons was not correctly reflected

- Business did not fit the neighborhood
- Traffic was all ready an issue and the business would increase the issues
- The number of people biking or taking public transportation was not realistic they will drive and park in the neighborhoods
- Community Council voted 97-3 in opposition to the proposal
- Feelings of the neighbors should be taken into account
- Additional businesses will not be allowing tavern patrons to park in their lots
- Why should the residents pay for parking to keep businesses from encroaching on parking in front of their homes
- Neighboring business will have to barricade their properties or require towing which encroaching business should cover the cost of
- Tavern license would not be issued with dual use
- Hours of operation are restricted from 10:00 am to 2:00 am but nothing prohibited the Commission from further limiting the hours and enforcing them. It only restricted them from being extended
- Parking should reflect the site plan and be clarified
- Impact of parking of customers to the neighborhood was not acceptable
- Very hard to regulate and enforce the deliveries
- Smoking in outside area did not work and would be a big impact to the area
- Hours of operation cannot be mitigated therefore, the Conditional Use cannot be approved
- The business goes against the Master Plan for the area
- Business makes sidewalks in the area un-walkable
- Increase in traffic would cause people to drive more than walk
- Community would like more entertainment businesses but not of this nature
- Not a walk able bar or bicycle friendly
- Outside community attraction was not the intent of the new Alcohol ordinance
- Meets less than half of the parking requirements in commercial areas at the subject intersection
- PTA was concerned over safety of children in the neighborhood
- Children are not bused to the school; access routes to the school pass directly in front of the proposed business
- All hour noise levels from the proposed business were concerns
- No proof that the tavern was compatible with the area,
- Majority of residents do not want the tavern
- Evidence did not show crime would decrease in the area
- Restaurant has never been at the location and would not be viable for the area
- A parking district would not benefit the area
- Negative impacts cannot be mitigated
- Patrons will park on Sherman Avenue
- New Alcohol Ordinance did not intend for this type of tavern in this type of area
- Property was pending litigation in regards to the lease agreement for the building
- Proposed site plan violated lease agreement
- Adjacent businesses in the area are also reliant on the on street parking

- On street parking was shared and did not belong to one business
- Bus and transit operation hours do not match the hours of the businesses
- Hours of Operation are not compatible with surrounding business

The following person spoke in favor of the petition: Ms. Carol Goode

The following comments were made:

- Issue was not parking it was alcohol
- Good business for the area

The following individuals were in opposition but did not wish to speak: Mr. and Mrs. Dale Wilkinson, Mr. Paul Christenson, Mr. Cloyd Greenhalgh, Ms. Paulina Greaves, Mr. Jared Parker, Ms. Veniso Spendlove, Ms. Margaret Westergard, Mr. Fred Westergard, Ms. Nicole Hales, Mr. Jeff Tanner, Mr. David Cracraft, Ms. Melisa Ford, Mr. Douglas Grant and Ms. Jeanie McAllister.

The following comments were submitted:

- Parking and traffic are already a problem
- Noise at night would be an issue
- Business did not fit in the area
- Not safe for the kids that walk to the neighboring school
- Too close to the elementary school
- Will be a destination bar not a neighborhood bar
- Need more public transportation in the area

Acting Chairperson Fife closed the Public Hearing.

[8:28:44 PM](#)

The Planning Commission took a short recess

[8:36:52 PM](#)

Acting Chairperson Fife called the meeting back to order. He asked that the meeting continue in a civil manner.

Mr. Jones stated he was not in violation of his lease, the Community Council had determined the increase in police patrols in the area would limit the crime and there was only one adjacent residential neighbor and she in favor of the tavern.

Commissioners asked for a written statement from the neighbor.

Mr. Jones stated it was in the report. He stated the intent was to have a neighborhood bar, many U of U students live in the area and those are the students that would be coming to the bar. Mr. Jones stated there was no bar or pub within three miles of the proposed location and the proposed would provide a closer option. He stated supporters have stopped by and he wished some of them had come to the meeting. Mr. Jones stated he would place a parking notice in the tavern so patrons knew where they could or could not park. He wanted to be a good neighbor and parking was not the real issue. Mr. Jones discussed his business plan and the ability to police the location to ensure minors would not be entering the facility. He stated the former spa used more parking than the tavern would. Mr. Jones stated the proposed business would offer an adults only atmosphere that did not currently exist.

The Commissioners and Applicant discussed the menu for the tavern and deli and the equipment needed to produce the items. Mr. Jones stated most of the products would be brought in by food vendors and a full kitchen would be available.

The Commission and Staff discussed if the Commission could regulate hours of operation. They discussed if a restaurant would be a permitted use and the parking requirements for a restaurant. The Commission discussed the parking requirements for the different uses and the exception for parking under the new ordinance. The Commission and Staff discussed if the Applicant was required to shield lighting that was not under his control. Staff explained the Landlord signed the application and therefore, he could shield the lighting, the conditional use was for the property not for the building. The Commission and Staff discussed if the Landlord was the applicant. Staff stated the Landlord was the applicant, Staff had met with him and he had stated he agreed to the site plan as presented. Staff stated shielding the lights had not been discussed with the Landlord.

The Commission and Staff discussed the parking, if it could be mitigated and what would constitute denial of the Conditional Use. They discussed the Transportation certification based on the standards in the ordinance which the proposal met. They discussed the hours of operation and if the Commission could mitigate the hours to help alleviate issues with parking and noise. The Commission and Staff discussed if the Applicant opened a restaurant would the City have control over the hours. Staff stated the City would not regulate the hours of a restaurant because there are twenty four hour restaurants. They discussed mitigation of noise from the patrons of the tavern and the patio.

The Commission stated if a condition could be placed on the approval that limited the hours it would help mitigate the impacts of parking, noise and traffic however, since that was not possible then the proposal did not meet the standards.

Mr. Paul Neilson, City Attorney, stated the Commission could not place a condition on the proposal that superseded the State Law. He stated the patio hours could be regulated because they are an external feature of the use.

The Commission and Staff discussed the public safety concerns for the area, school and pedestrians. They stated these issues would be issues for all uses proposed for the building however; they are increased by the hours of operation.

Mr. Nick Norris, Planning Manager, stated part of the requirement for an application such as this was that the Applicant submits a security and operations plan which included a parking management plan. He stated this plan would show the impact of parking on the surrounding neighborhoods and was required to be approved by the building official. Mr. Norris stated it was within the Planning Commission prerogative and power to determine if what was submitted was efficient for the site. He stated a more detailed parking study could be required for this project to help clarify parking impacts.

The Commission agreed the hours of operation increased the other issues and if the hours could not be restricted then the detrimental impacts could not be mitigated.

MOTION 9:19:40 PM

Commissioner Wirthlin stated regarding PLNSUB2013-00348 the Brew HaHa Tavern, based on the overwhelming testimony, plans presented and the findings which have been found by the Planning Commission, he moved that the Planning Commission deny the Conditional Use to allow the operation of a new tavern located at approximately 2108 East 1300 South, the proposed Conditional Use would create detrimental effects which could not be easily mitigated ie: as discussed both on the impact of parking on the surrounding neighborhood, exacerbated by the inability of the Planning Commission to control the operating hours which are governed by State Law, and that having patrons accessing vehicles at all hours of the evening that the Planning Commission cannot mitigate that clearly have detrimental effects on the neighborhood, based on this testimony having found those findings tonight and the Planning Commission discussion he moved that the Planning Commission deny the Conditional Use.

Commissioner Taylor seconded the motion.

The Commissioners stated they appreciated the Applicants work on the proposal and his ideas to help mitigate the impacts to the neighborhood. They said the number of comments did not influence their decision as they had to look at the facts to determine if the proposal met the standards. The Commission discussed the fact that the Applicant was willing to limit his hours of operation but that the Commission could not enforce the limitation therefore; the other issues that are exacerbated by the hours could not be

mitigated. They stated that the Conditional Use attaches to the property not to the Applicants business allowing a future company to operate under the same exceptions.

The motion passed unanimously.

The meeting adjourned at [9:23:29 PM](#)