

SALT LAKE CITY PLANNING COMMISSION MEETING
Room 126 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, October 22, 2014

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:30:31 PM](#). Audio recordings of the Planning Commission meetings are retained for an indefinite period of time.

Present for the Planning Commission meeting were: Chairperson Clark Ruttinger, Vice Chair Matt Lyon, Commissioners, Angela Dean, Michael Fife,Carolynn Hoskins, James Guilkey and Marie Taylor. Commissioners Emily Drown and Michael Gallegos were excused.

Planning Staff members present at the meeting were: Nick Norris, Planning Manager; Michaela Oktay, Planning Manager; Everett Joyce, Senior Planner; Maryann Pickering, Principal Planner; Tracy Tran, Principal Planner; Michelle Moeller, Senior Secretary and Paul Nielson, Senior City Attorney.

Field Trip

A field trip was held prior to the work session. Planning Commissioners present were: Clark Ruttinger and Michael Fife. Staff members in attendance were Michaela Oktay, Everett Joyce, Maryann Pickering and Tracy Tran.

The following location was visited:

- **Third Avenue Bistro** - Staff gave an overview of the proposal.
- **Kingfisher Planned Development** - Staff gave an overview of the proposal.
- **Kilby Court Brewery** - Staff gave an overview of the proposal.

APPROVAL OF THE MINUTES FROM THE OCTOBER 8, 2014, MEETING [5:30:43 PM](#)
MOTION [5:30:50 PM](#)

Commissioner Guilkey moved to approve the October 8, 2014. Commissioner Dean seconded the motion. The motion passed unanimously. Commissioner Taylor and Fife abstained as they were not present at the subject meeting.

REPORT OF THE CHAIR AND VICE CHAIR [5:31:12 PM](#)

Chairperson Ruttinger stated the Commission recognized Matthew Wirthlin for his services as a Planning Commissioner and wished him well with his new position as an Appeals Hearing Officer.

Mr. Wirthlin thanked the Commission and Staff.

Mr. Nick Norris, Planning Manager, thanked Mr. Wirthlin on behalf of the City and Planning Staff for his time and dedication to Salt Lake City.

Vice Chairperson Lyon stated he had nothing to report.

REPORT OF THE DIRECTOR [5:33:25 PM](#)

Ms. Michael Oktay, Planning Manager, reported on the status of the Yalecrest Harvard Park Local Historic District petition stating the City Council would hold a public hearing on November 18.

[5:34:08 PM](#)

Third Avenue Bistro Special Exception at approximately 564 E Third Avenue - Jude Rubadue is requesting approval from the City to develop an outdoor dining patio that is less than 500 square feet in area in the side yard at the above listed address. Currently the land is used for a nonconforming restaurant and the property is zoned, Special Development Pattern Residential (SR-1A). This type of project must be reviewed as a special exception. The subject property is within Council District 3, represented by Stan Penfold. (Staff contact: Everett Joyce at (801) 535-7930 or everett.joyce@slcgov.com.) Case number PLNPCM2014-00529.

Mr. Everett Joyce, Senior Planner, reviewed the petition as presented in the Staff Report (located in the case file). He stated Staff was recommending that the Planning Commission approve the petition as presented.

The Commission and Staff discussed the following:

- The hours of operation for the patio as proposed in the Staff Report.
- The music allowed to be played on the patio.
 - Staff stated the City adopted the County Health Regulations regarding noise levels which are reflected in the Staff Report.

Ms. Jude Rubadue, applicant, reviewed the proposal, the location of the patio, the current sound barrier on the south and what would be put in place to protect the neighbors. She reviewed the use of the patio and asked the Commission to approve the petition with extended hours.

Mr. Wade Budge, attorney, stated the conditions Staff was asking for had been agreed on by the Applicant. He reviewed the reasoning for located the patio. Mr. Budge stated the

addition of outdoor dining would improve the area and help move the neighborhood to a more walkable area.

Mr. Bruce Baird, Attorney, discussed the hours of operation and the need to extend business hours between Memorial Day and Labor Day. He stated allowing the hours to extend would financially help the business. Mr. Baird reviewed the need to have walkable areas in the city.

The Commission, Staff and Applicant discussed the following:

- Where patrons using the patio would go at closing time.
 - Mr. Baird stated they are asking for the serving time to end at 9:30 pm to allow for those dining on the patio to finish their meals.
- If the outdoor furniture would remain on the patio after the restaurant closed.
- Why there were changes in the requested hours from the original application.
- If the hours in the summer could extend past 9:00 pm.
- If the operating hours would be posted and visible.
 - Yes, and the Commission could list that as a condition.
- Other businesses have outdoor dining and later hours in the area.
- Whether or not it makes sense to end hours for partial service on the patio at 9:00 pm.
 - The noise ordinance would be followed regardless of the hours of operation.
- What conditions could be placed on the patio regarding hours of operation.
- The difference between a Special Exception and a Conditional Use.
- The repercussion if the applicant was not following the conditions of approval.
- If the Special Exception could be revoked due to enforcement.

PUBLIC HEARING [6:03:29 PM](#)

Chairperson Ruttinger opened the Public Hearing.

The following individuals spoke in favor of the petition: Ms. Stephanie Petersen, Ms. Ariane Petersen and Mr. Dennis Piercey.

The following comments were made:

- Supports the business, it is not an issue for the neighborhood.
- The hours of operation are not an issue.
- Great neighborhood and restaurant is part of what makes it wonderful.
- Need to promote more businesses like this in neighborhood areas.
- Need to make this business work with the neighborhood to the best of its ability.

The following individuals spoke in opposition of the petition: Ms. Kristen Stowell.

The following comments were made:

- Would like the conditions outlined in the Staff Report enforced.
- No music should be allowed on the patio as the decibel level changes and will affect the neighbors.
- Mitigate the odors that come from the restaurant.
- Smells and odors are mitigated by keeping the kitchen door closed.
- Fence and gate on the south should be constructed of sound mitigating material.
- Hours of operation will affect the neighborhood's young children.
- Would prefer the hours of operation be limited to allow for quiet time.

Ms. Kathy Chadborne, Business Owner, stated she understands the issues and hopes the Commission would approve the patio. She reviewed the hours of operation for the restaurant, the fencing, size of the patio and how they are mitigating the concerns of the neighbors.

The Commission, Applicant and Staff discussed the following:

- The fencing for the proposal.
- The use of the back door for deliveries.
- The backdoor is necessary to serve the patio because the State requires a secure access for restaurants that serve alcohol.
- Allowing music on the patio.
 - The Applicant stated amplified music would not be allowed on the patio.
- The odors coming from the restaurant do not come from the patio they come from the restaurant use which is allowed.
- The back fence and gate would comply with the conditions of the Staff Report and the Health Department.

Chairperson Ruttinger closed the public hearing.

The Commission and Staff discussed the following:

- If they could regulate the type of musical instruments allowed on the patio.
 - It is not necessary and would create enforcement issues.

MOTION [6:30:53 PM](#)

Commissioner Dean stated regarding petition PLNPCM2014-00529, Outdoor Dining Third Avenue Bistro Special Exception, based on the analysis and findings listed in the Staff Report, testimony, and information presented, she moved that the Planning Commission approve the proposed outdoor dining with the conditions one through eight listed in the Staff Report, with a modification of number two as listed with the operating hours extending to 10:00 pm, understanding that the noise ordinance will be enforced from 9:00 pm on. Commissioner Taylor seconded the motion.

The Commission and Staff discussed allowing the hours to change during the different seasons, if it would complicate enforcement of the conditions and if the noise ordinance could be followed.

Commissioner Dean amended the motion to extend the hours of operation to 10:00 pm from Memorial Day to Labor Day and on Thursday through Saturday. The Amendment failed due to the lack of a second.

[6:36:35 PM](#)

The Commission voted on the original motion.

Commissioners Taylor, Dean and Hoskins voted “aye”. Commissioner Fife, Guilkey and Lyon voted “nay”. Chairperson Ruttinger voted “aye”. The motion passed 4-3.

[6:38:08 PM](#)

Kingfisher Planned Development at approximately 1270 S. 1100 East - Rob White of Sugar House Architects is requesting approval for a new mixed use building that is 25 feet tall with an additional projection for a stairway accessing the roof at the above listed address. A total of 22 parking spaces will be located on the site. Currently the site is vacant and the property is zoned Neighborhood Commercial (CN). The subject property is within Council District 5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.)

- a. Planned Development - In order to build the project noted above, a Planned Development is required to allow reduced setbacks for the building and landscaping and to allow the parking next to the building instead of behind the building. Case Number PLNSUB2014-00547.**
- b. Special Exception - In order to allow outdoor dining within a required yard area between the building and sidewalk, approval of a Special Exception is required. Case Number PLNPCM2014-00647.**

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

Mr. Phill Winston, applicant, reviewed the proposal and the improvements to the trail.

The Commission and Applicant discussed the following:

- The rooftop dining.
- The location of the stairwell leading to the roof.
- The size of the rooftop dining and if it was visible from the street.
- If awnings were planned for the rooftop dining.

- No awnings were being proposed but umbrellas could be used on the roof top.
- The seating on the rooftop and the number of patrons that would be available.
- The rooftop dining would have to meet the fire requirements.
- The location of the retail space and patio in the front setback.
- The rooftop dining was allowed within the buildable area, but was subject to the height restrictions for the zone.

PUBLIC HEARING [6:49:20 PM](#)

Chairperson Ruttinger opened the Public Hearing.

The following individuals spoke in favor of the petition: Mr. Carl Gorder

The following comments were made:

- Supported the proposal and looked forward to the property being developed.
- Was it possible to move the building back leaving the existing setback.

The following individuals spoke in opposition of the petition: Ms. Claudia Johnson, Mr. George Chapman and Ms. Kathie Chapman.

The following comments were made:

- Does anyone care to let the people in the area know there what is being proposed?
- Parking is an issue for the area and the additional business would increase the impact.
- Patio on the rooftop would take away the privacy of the neighbors and cause noise issues.
- Fifteen foot front setback should remain.
- What was the proposed width of the sidewalk?
- Plants around the dumpster should remain to help with beautification and pollution.
- ADA parking spaces should be more abundant.

Chairperson Ruttinger closed the public hearing.

The Commission and Staff discussed the following:

- If the Commission could address the rooftop dining.
 - Rooftop dining was allowed in the use of the property and was not under consideration for the current petition.
- The location of the building on the property.
 - There is a utility box on the west side of the property that cannot be moved, which requires the building to be shifted to the east and one of the reasons for the reduced front yard setback.

- The noticing for the petition.
 - Notices are sent to residences and property owners within 300 feet of the subject property, consistent with City Ordinances.
- More parking than what is required by the zoning ordinance is provided.
- If there was enough ADA parking for the proposal.
 - The proposal complies with the zoning ordinance requirements for ADA parking.

Mr. Phil Winston stated they have done everything to increase the parking and they understand the neighborhoods concerns. He stated the proposed sidewalk is eight feet wide and the building cannot be moved because of the existing communication tower.

MOTION [7:06:52 PM](#)

Commissioner Guilkey stated regarding petition PLNSUB2014-00547 Planned Development and PLNPCM2014-00647 Special Exception, based on the findings listed in the Staff Report and discussion by the Planning Commission, he moved that the Planning Commission approve the Kingfisher Planned Development, and Kingfisher Outdoor Dining at 1270 S. 1100 East, subject to complying with all applicable regulations and subject to the conditions listed in the Staff Report. Commissioner Taylor seconded the motion.

Staff reviewed the height limit for the area and the restrictions for the rooftop dining. Staff stated at this point the Commission was not voting on the outdoor dining.

The motion passed unanimously.

[7:10:22 PM](#)

The Commission took a five minute break

[7:14:56 PM](#)

Kilby Court Brewery at approximately 316 West 700 South - Architect Kent Rigby representing Alvie Carter, property owner, is requesting approval from the City to develop a microbrewery in the existing building (phase 1) and expand the existing the building (phase 2) at the above listed address. Currently the building is vacant and the property is zoned Downtown Support District (D2). This type of project must be reviewed as a Conditional Use. The subject property is within Council District 4, represented by Luke Garrott. (Staff contact: Tracy Tran at (801) 535-7645 or tracy.tran@slcgov.com.) Case number PLNPCM2014-00494.

Ms. Tracy Tran, Principal Planner, reviewed the petition as presented in the Staff Report (located in the case file). She stated Staff was recommending that the Planning Commission approve the petition as presented.

Mr. Kent Rigby, AJC Architect, stated they had nothing to add to Staff's comments.

PUBLIC HEARING [7:18:28 PM](#)

Chairperson Ruttinger opened the Public Hearing, seeing no one in the audience wished to speak to the petition; Chairperson Ruttinger closed the Public Hearing.

MOTION [7:18:45 PM](#)

Commissioner Fife stated regarding petition PLNPCM2014-00494, Kilby Court Brewery conditional use, based on the findings listed in the staff report, public testimony, and discussion by the Planning Commission, he moved that the Planning Commission approve the petition for a microbrewery as proposed and subject to complying with all applicable regulations. Due to the potential for detrimental impacts created by the proposal identified in the report, the Planning Commission applies the following conditions of approval to the project

- 1. A security and operations plan be approved by the Salt Lake City Police Department and Building Official, before being recorded with the City Recorder's office. The plan will need to be recorded before a business license is issued.**
- 2. Proposed landscaping within the parcel and landscape buffer along the public sidewalk does not create any potential hiding places.**
- 3. Ensure that exterior lighting produces a minimum foot-candle to provide safe lighting for pedestrians and is shielded from the abutting residential property to prevent the lighting from being a nuisance.**

Commissioner Lyon seconded the motion. The motion passed unanimously.

The meeting adjourned at [7:20:09 PM](#)