

# PLANNING COMMISSION STAFF REPORT

## TAYLOR UNIT LEGALIZATION APPEAL Appeal of Administrative Decision PLNAPP2013-00907 158 South 1100 East January 8, 2013



Planning and Zoning Division  
Department of  
Community and Economic  
Development

**Appellant:**

Karyn Taylor

**Staff:**

Thomas Irvin (801) 535-7932  
thomas.irvin@slcgov.com

**Current Zone:**

R-2 Single- And Two-Family  
Residential District

**Central City Master Plan**

**Designation:**

Low Density Residential

**Council District:**

District 4- Luke Garrott

**Community Council:**

East Central

**Lot size:**

Approximately 7,405 sq ft

**Current Use:**

Two-family dwelling (Duplex)

**Applicable Land Use**

**Regulations:**

- 21A.24.110 R-2 Single- And Two-Family Residential District
- 21A.52.022 Special Exceptions (Unit Legalization)

**Attachments:**

- A. Findings and Order
- B. Claim of Appellant
- C. Certificate of Present Condition
- D. Site Photographs

### ***REQUEST***

The appellant, Karyn Taylor, is requesting that the Planning Commission overturn an administrative decision made by the Planning Director on October 25, 2013 based on a claim that the April 12, 1995 date required by ordinance is arbitrary.

The original request was for a Special Exception to legally recognize a triplex at 158 South 1100 East. The Special Exception request was administratively denied based on the fact that the structure did not exist on April 12, 1995 as required by ordinance.

The Planning Commission has the authority to hear and decide appeals of administrative decisions concerning Special Exceptions as per section 21A.52.120 of the Salt Lake City Zoning Ordinance.

### ***RECOMMENDATION***

Based on the analysis in this staff report, it is the Planning Staff's recommendation that the Planning Commission uphold the administrative decision.

### ***POTENTIAL MOTIONS***

Potential actions by the Planning Commission: The Planning Commission may reverse or affirm, wholly or in part, or may modify the administrative decision.

**Affirm:** Based on the findings listed in the staff report and testimony presented, the Planning Commission affirms the Planning Director's administrative decision to deny the triplex unit legalization request based on the findings of fact that neither the building nor the dwelling units existed prior to or on April 12, 1995 as required by the ordinance.

**Reverse:** The Planning Commission overturns the Planning Director's administrative decision to deny the triplex unit legalization request based on the findings of fact that neither the building nor the dwelling units existed prior to April 12, 1995 as per the standards of the ordinance. (The Planning Commission would then make findings for their decision)

## Vicinity Map



## BACKGROUND

The appellant filed for a Special Exception to legally recognize the use of the property as a triplex. The initial evidence provided appeared to show the existence of a triplex since at least the early 1960's. Further research established that a triplex had existed on the lot but it was demolished in 1973. The building permit to construct the current structure, originally built as a single-family residence but later recognized as a duplex, was not issued until June of 1996. Therefore the special exception request was administratively denied since the Unit Legalization ordinance requires that dwelling units must have existed prior to April 12, 1995. (Attachment A)

## STAFF ANALYSIS

### Timeline

Date	Event
March 26, 1973	Permit to demolish previous triplex issued
April 12, 1995	Adoption of citywide zoning rewrite which defined multiple single-family zoning districts
June 27, 1996	Permit issued to construct a new single-family dwelling
August 25, 1997	Board of Adjustments denies a request for a duplex based on the fact that the lot did not have the necessary square footage for the use
October 15, 1998	Certificate of Present Condition filed recognizing the building's use as a duplex based on the fact that the necessary square footage for a duplex was obtained

The permit to construct the current structure was issued in 1996. This permit was for a single family dwelling. During construction, the owners went before the Board of Adjustments to seek a variance to convert the home to a duplex because the lot lacked the necessary square footage for that use. This request was denied. In 1998, the owners were able to convert the home to a duplex since the necessary square footage had been obtained.

Since the structure itself did not exist prior to April 12, 1995, the request for legalizing the triplex was denied. During the analysis of the request, city staff believed that only a single family dwelling could be recognized. Later, the Appellant obtained a copy of a Certificate of Present Condition that was recorded on April 15, 1998 (Attachment C). This document recognized the use as a duplex.

In addition to the fact that the construction date is later than the required date stipulated by ordinance, the applicant failed to establish that three (3) separate dwelling units existed or have been maintained on the property. The singular piece of evidence provided referencing the existence of a triplex is the owner's statement that they have used it as such since 1999. Rental agreements provided only establish that tenants have occupied the basement since 2004. The zoning ordinance requires that the evidence provided indicate that the units have been maintained and occupied at least once every five years.

The appellant claims that the April 12, 1995 date required by the Unit Legalization ordinance is "arbitrary". An examination of the staff report associated with the establishment of the Unit Legalization process reveals that this date was intentionally selected. It reflects the date that Salt Lake City adopted significant changes to the zoning ordinance. These changes created many single family districts and prohibited the addition of second units, often referred to as mother-in-law apartments.

The City Attorney has reviewed this appeal and made the following comment:

*By challenging the 1995 cutoff date, the appellant is challenging the wisdom of the city council in adopting that date, and challenging the wisdom of the city council in this appeal is essentially asking the planning commission to bypass the authority of the council in adopting such policies. The planning commission does not have the authority to bypass the wisdom of the city council and, therefore, it cannot legally decide in appellant's favor.*

## **SUMMARY CLAIM OF APPELLANT**

The appellant contends that the denial should be reversed on the grounds that the April 12, 1995 date required by the Zoning Ordinance is “arbitrary” and that the spirit of the ordinance will still be maintained if three dwelling units are recognized at this location. (Attachment B)

### ***Notification***

- Required notices mailed on December 20, 2013
- Sign posted on property on December 20, 2013
- Agenda posted on the Planning Division and State Website on December 20, 2013
- Agenda sent to Planning Division Listserve on December 20, 2013

**ATTACHMENT A**  
**Findings and Order**

**SPECIAL EXCEPTION – UNIT LEGALIZATION CASE PLNPCM2013-00687  
PLANNING COMMISSION  
FINDINGS AND ORDER**

This is a request for a special exception by Clinton Joseph and Karyn Taylor to legalize a triplex on property located at 158 South 1100 East. The property is located in the R-2 Single and Two Family Residential District.

**STANDARD OF REVIEW:**

- Compliance with ordinance and district purposes;
- Proposal will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- No Material adverse effect upon the character of the area or the public health, safety, and general welfare;
- Compatible with surrounding development;
- No destruction of significant features; natural, scenic or of historic significance;
- No material pollution of environment;
- The dwelling unit existed prior to April 12, 1995;
- The dwelling unit has been maintained as a separate dwelling unit since April 12, 1995;
- The property where the dwelling unit is located can accommodate on-site parking as required by code, or is located within one-quarter (1/4) mile radio of a fixed rail transit or bus stop in service at the time of legalization; and,
- There is no history of zoning violations occurring on the property.

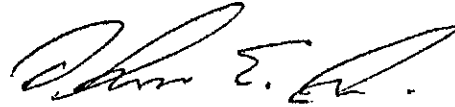
**FINDINGS:**

After review of the application submittal and city records the Zoning Administrator denies the request based upon the following findings:

- The dwelling units did not exist prior to April 12<sup>th</sup>, 1995.
- Permit number 12381 was issued on March 26<sup>th</sup>, 1973 to demolish the previous structure on the property.
- Permit number 110570 was issued on June 27<sup>th</sup>, 1996 to construct a single family dwelling.
- On August 25<sup>th</sup>, 1997, case number 2384-B was brought before the Board of Adjustments for a variance to allow a duplex on the property without the required square footage in the R-2 zoning district.
- During the hearing, the owner stated that 3 meters were installed since he believed that there would be two units and he wished to have a third meter for common areas.
- The Board of Adjustments denied the variance request since it could not be established that there was uniqueness to the lot that established a property related hardship.
- Based on the permit and Board of Adjustments history, Salt Lake City only recognizes a single-family home on the property.

Any aggrieved party may appeal this administrative decision within 10 days to the Planning Commission pursuant to Section 21A.52.120 of the Zoning Ordinance.

Dated in Salt Lake City, Utah, this 25<sup>th</sup> day of October, 2013.

A handwritten signature in black ink, appearing to read "Thomas E. Irvin". The signature is fluid and cursive, with a large initial "T" and "I".

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Thomas Irvin  
Principal Planner  
(801) 535-7932

**ATTACHMENT B**  
**Claim of Appellant**



## Karyn Taylor

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176 South 1100 East, Salt Lake City, Utah 84102  
rosaritobeach@hotmail.com  
T 801-750-5003

Thomas Irvin  
SLC Planning Department  
Salt Lake City  
451 S State Street  
Salt Lake City, UT 84114

October 30th, 2013

Re: Building located at 158 South 1100 East, Salt Lake City, Utah  
Unit Legalization Request PLNPCM2013-00687.

Mr Irvin;

We, Clinton and Karyn Taylor, as joint owners of the building above are submitting an appeal base on the unit legalization criteria having selected the year of 1995 as the arbitrary date for the cut off. Although a previous building did exist as a triplex prior to this date. The current building did not exist in 1995. But began the process of being built, a year later.

The spirit of the ordinance was developed in order to bring existing units that are not recognized by the city, onto the records of the city. And to be certain that these units, that might not otherwise be acknowledged, conform to proper fire and safety criteria. We respectfully submit an appeal in order request an exception to the arbitrary date. And get the 3rd unit recognized as a legal unit.

The original building, a triplex, burned down. The owners pocketed the insurance money. And never rebuilt. Many years later, they sold the vacant lot to the developer of the current building.

This building, although legally recognized as a duplex, was built from the ground up as a triplex. In my opinion, done so in a very manipulative manner, by the original developer and the original owner of the building. On many points, they took advantage of the city having their hands tied on many issues. ie. People are legally allowed to have 2 kitchens.

The duplex building was plumbed for 3 full kitchens, 3 laundry rooms, and there are 3 separate electrical panels. Electricity for one kitchen, one laundry room, and all related outlets are fed separately to each of these panels.

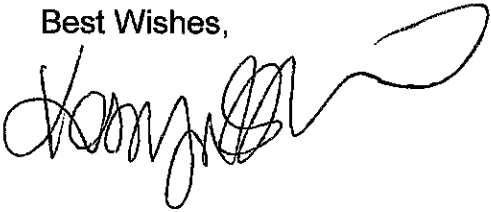
During the Board of adjustments hearing, the previous owner stated that they were attempting to get 3 meters put on the building because they wanted a 3rd meter for common lights. There is no 4th electrical panel in the building for any common lights.

There are 3 canister light fixtures on the front porch. Seems unlikely that an extra meter would be needed to power 3 bulbs. And it seems more likely that the 3rd meter, was for the 3rd apartment that they had built.

This is not "a second canning kitchen" or "second laundry on another level" for one of the legal duplex units. The third unit has a separate entrance, which feeds directly into a living room area, with a 6 foot wide opening between an area designed to be a dining room. Exactly as exists with the other 2 kitchen/ dining room areas, in the building.

We respectfully request an exception to the arbitrary date of 1995. And get this building recognized as a legal triplex.

Best Wishes,

A handwritten signature in black ink, appearing to be "Kenny" followed by a stylized flourish.

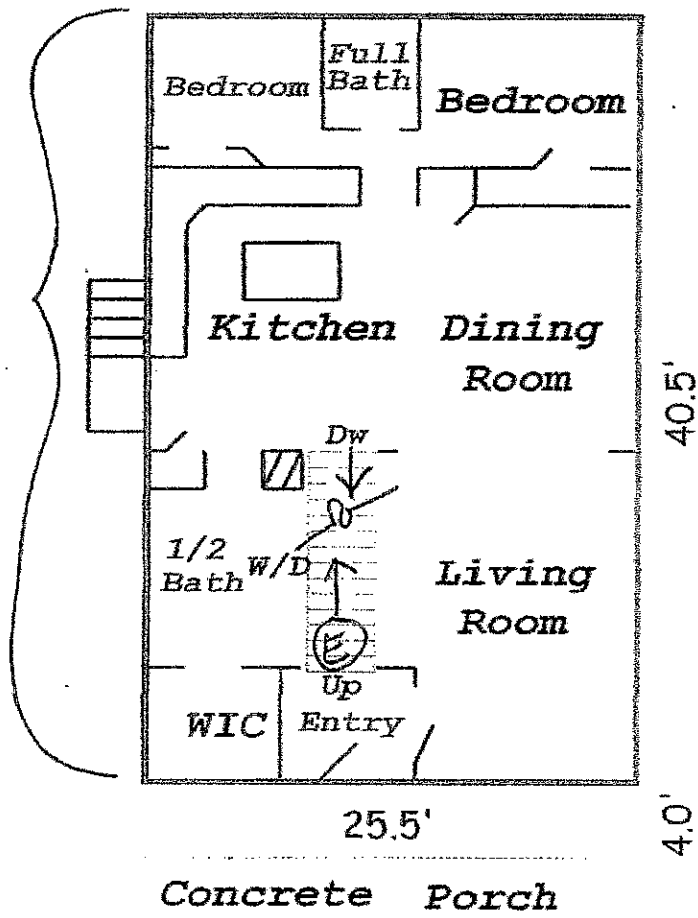
# SKETCH AREA TABLE ADDENDUM

total sq footage rounded 3,100.00

Property Address	158 SO. 1100 E.	State	Utah	Zip	84102
City	Salt Lake				
Borrower					
Lender/Client					

## Main Floor

unit #1  
1-2



Comments:

Scale: 1 = 10

AREA CALCULATIONS SUMMARY			
Area	Name of Area	Size	Totals
GLA1	Main Floor	1032.75	1032.75
P/P	Porch	102.00	102.00
			11
		rounded	1033

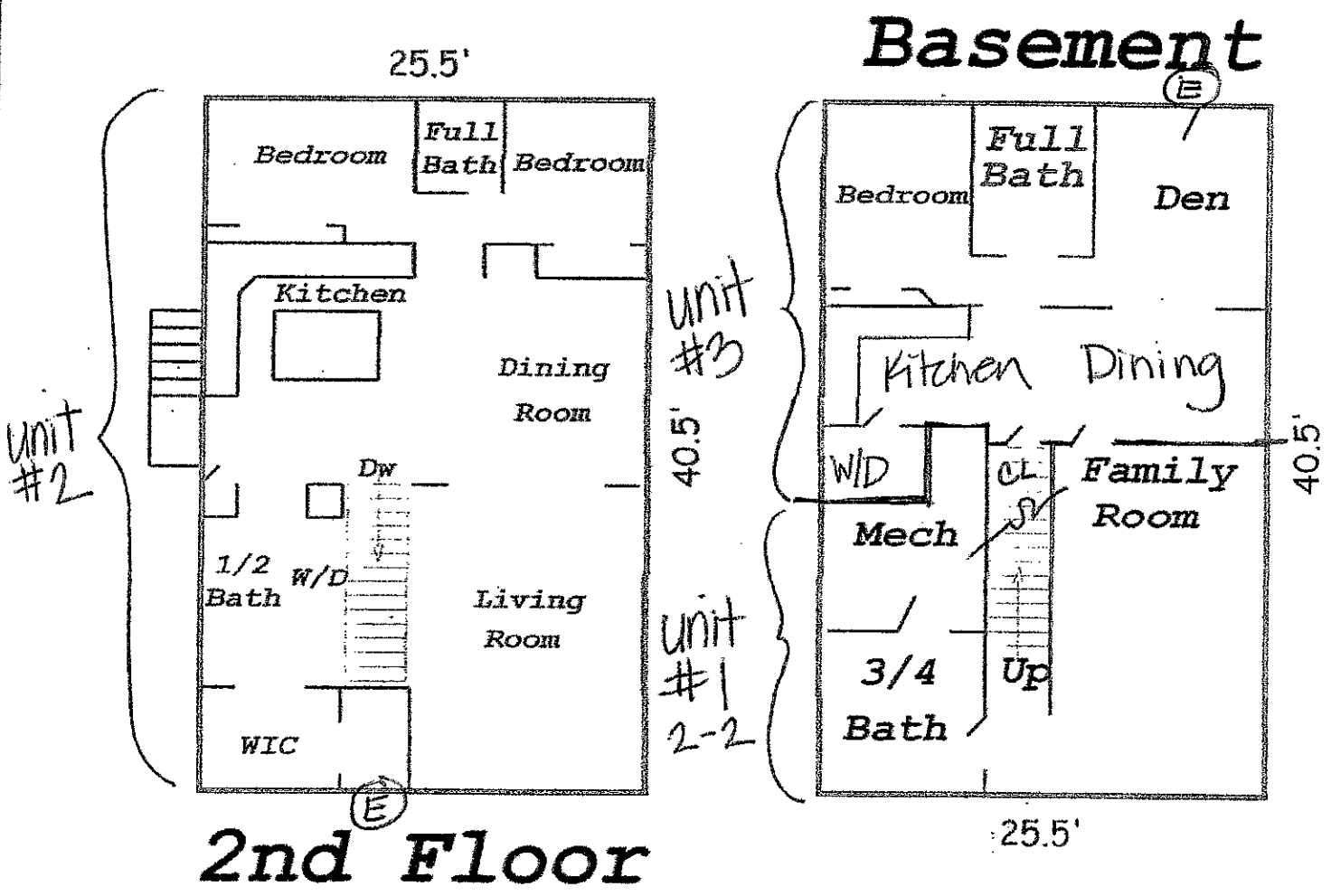
LIVING AREA BREAKDOWN			Subtotals
Breakdown			
Main Floor			
25.5	x	40.5	1032.75
		rounded	1033

# SKETCH

SUBJECT

Property Address 158 SO. 1100 E.  
 City Salt Lake State Utah Zip 84102  
 Borrower \_\_\_\_\_  
 Lender/Client \_\_\_\_\_

IMPROVEMENT SKETCH



Comments:

Scale: 1 = 10

AREA CALCULATIONS SUMMARY			
Area	Name of Area	Size	Totals
GLAI	2nd Floor	1032.75	1032.75
BSMT	Basement	1032.75	1032.75
		rounded	2066

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
2nd Floor			
25.5	x	40.5	1032.75
			rounded 1033

**ATTACHMENT C**  
**Certificate of Present Condition**

7123722

COMMUNITY AND ECONOMIC DEVELOPMENT  
Building Services and Licensing  
451 South State Street, Room 408  
Salt Lake City, Utah 84111

7123722  
10/19/98 4:21 PM\*\*NO FEE\*\*  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
BL CITY - RECORDER  
REC BY:R JORDAN ,DEPUTY - WI

CERTIFICATE OF PRESENT CONDITION

BE IT KNOWN BY THESE PRESENTS:

That I, Larry Butcher, Zoning/Housing Officer of Building Services and Licensing, have either inspected, or have caused to be inspected, the property within the City of Salt Lake, County of Salt Lake, State of Utah, known by the street address of 158 South 1100 East said property being more particularly described as set forth on Exhibit "A" attached hereto.


Sidwell Number: 16-05-206-015

Owner: Peter and Ingelise Goss

Salt Lake City hereby releases the Certificate of Present Condition dated February 13, 1996, and recorded at Book 7599, Page 0138, Entry 65731223.

The present conditions of the above referenced property are that the property contains 8,001 square feet. Based upon that existing square footage, Salt Lake City has issued or will issue a permit for a duplex. Pursuant to Salt Lake City zoning laws, if the square footage of this property is ever reduced to less than 8,000 square feet, the permit issued for the duplex will be revoked.

IN WITNESS WHEREOF, this Certificate was duly signed this 15<sup>th</sup> day of October, 1998.

  
Larry Butcher, Housing/Zoning Officer

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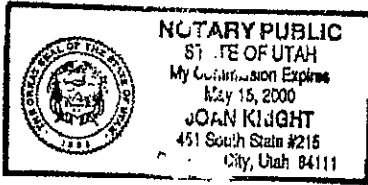
STATE OF UTAH )

:SS.

COUNTY OF SALT LAKE )

On this 15<sup>th</sup> day of Oct, 1998, personally appeared before me, Larry Butcher  
Housing/Zoning Officer of Salt Lake City, Utah, who acknowledged that he signed the above  
certificate and that the statements contained therein are true.

Joan Knight  
NOTARY PUBLIC, Residing at Salt Lake City, Utah



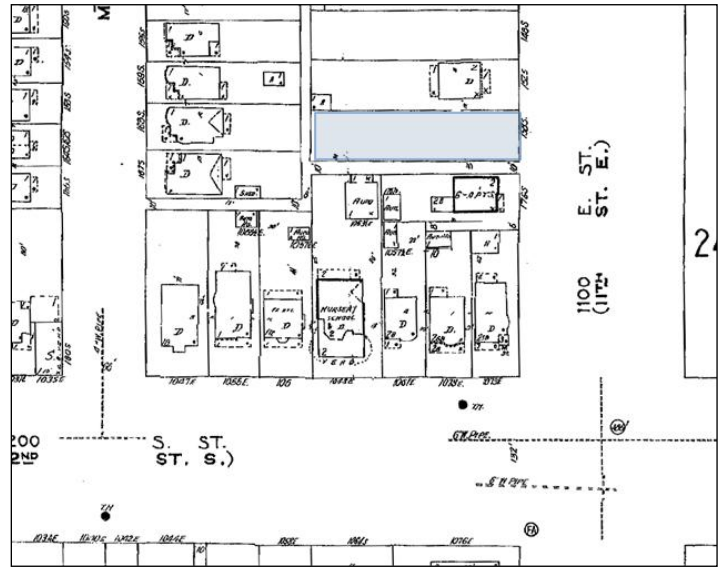
# **ATTACHMENT D**

## **Site Photographs**





**East Façade**



**1986 Sanborn Map Showing Vacant Lot**



**South Façade**



**West Façade with Basement Entrance**