



Memorandum

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Planning Commission
From: Maryann Pickering, AICP, Principal Planner
(801) 535-7660 or maryann.pickering@slcgov.com
Date: May 13, 2015
Re: **PLNAPP2015-00101** – Reconsideration of the Planning Commission’s decision to deny the 9+9 Mixed Use Conditional Building and Site Design Review (PLNPCM2014-00890)

Property Address: 932 E. 900 South
Planning Commission Public Hearing Date: February 11, 2015
Appellant: George Hunt of Williams & Hunt

Appeals Hearing: March 25, 2015
Appeals Hearing Officer: Mary J. Woodhead

On April 13, 2015, the Appeals Hearing Officer issued a decision regarding PLNAPP2015-00101. That decision noted that there was not substantial evidence in the record of the Planning Commission meeting that supported the denial of the project based solely on a community wide parking and traffic issue. The Appeals Hearing Officer reversed the decision and remanded it back to the Planning Commission for further consideration. Therefore, the Planning Commission must consider the record of the February 11, 2015 Planning Commission meeting make a decision based on that record. This is a reconsideration of a Planning Commission decision. Therefore, the discussion and decision must be made based on the record from the Planning Commission meeting of February 11, 2015 and the Appeals Hearing on March 25, 2015.

Since the decision was issued by the Appeals Hearing Officer, Planning Commissioners and members of the community have raised some questions about the process and next steps. Below are those questions and answers from Planning Staff.

1. I thought that the petition was denied based on it being out of scale with the master plan but the decision focuses on the parking issue.

The project was denied based on Standard L (Conditional Building and Site Design standards) that the project did not comply with the master plan because it (the project) would create community wide parking issues. Below is the excerpt of the minutes with motion and final vote:

Motion

“Commissioner Guilkey stated based on the findings in the Staff Report, the testimony, plans presented and in light of the conflict with the Master Plan for this area, he moved that the Planning Commission deny the request for the 9+9 Mixed Use Conditional Building and Site Design Review, PLNPCM2014-00890, to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet. Commission Fife seconded the motion.

Mr. Nielson asked for clarification on the motion. He stated the Commission needed to state the findings for denial as they were going against the Staff recommendation.

Commissioner Guilkey stated specifically items CLU-1.2 that the proposal would generate community wide parking issues.

The Commission and Staff discussed which standards the proposal did not meet.

Commissioner Guilkey clarified the motion stating that referring to the analysis of standards specifically standard L, that the development shall comply with the intent of the zoning district found within and therefore refers back to the CLU-1.2 and the Community Master Plan.

Mr. Nielson asked if the finding was that section 21A.59.060L of the ordinance was not met.

Commission Guilkey stated that was correct.”

Final Vote

“Commissioner Dean, Guilkey, Fife, Drown, and Hoskins voted “aye”. Commissioners Gallegos and Taylor voted “nay”. The motion passed 5-2.”

- 2. Related to the parking issue, if you can only consider community wide parking issues, you are essentially saying that you can never consider parking issues because what project would be of the magnitude that it would cause parking problems throughout an entire community?**

Petitions considered by the Planning Commission are reviewed by the City’s Transportation Division. The Transportation Division looks at the scope of each project and the surrounding area. When a project is determined by the Transportation Division to potentially have an impact on an area, a traffic study is typically required before the item can be scheduled for a public hearing. A project that meets the minimum parking requirement is not normally going to generate a parking study. In the case of the 9+9 Mixed Use project, the Transportation Division did review the petition and determined that it meets all standards for parking and traffic.

- 3. Can the hearing officer legally compel the Planning Commission not to open the public hearing again?**

Utah Code Section 10-9a-701(3) provides that a land use appeal authority shall “serve as the final arbiter of issues involving the interpretation or application of land use ordinances....” Such language gives the Appeals Hearing Officer fairly broad authority when deciding land use appeals.

Moreover, Section G(2) of the city’s policies and procedures governing the Appeals Hearing Officer states:

A decision may reverse or affirm, wholly or in part, or may modify the decision subject to the appeal. The Land Use Appeals Hearing Officer may also remand the matter back to the original authority with specific instructions to address any portion of the matter that may be missing from the record.

These provisions allow the Appeals Hearing Officer to remand a matter to the Planning Commission and dictate the scope of the proceedings on remand.

- 4. The Hearing Officer’s distinction between ‘community’ and ‘neighborhood’ caught me by surprise. Are those legally defined terms? i.e., does ‘community’ refer to the entire Central Community?**

Based on the definitions above and common planning practices, Planning staff would interpret community be a larger area than a neighborhood, typically a collection of connected neighborhoods. The manner in which the Central Community Master Plan is laid out indicates

that a community is made up of a collection of neighborhoods. The Central Community Master Plan defines a neighborhood as:

“A diversified livable neighborhood in the Central Community is one where; educational and recreational resources are within walking distances, shopping and employment is close and accessible, pedestrian mobility is safe and a priority, the historic neighborhood fabric is respected and neighborhoods have integrity and identifiable characteristics.”

For example, the above definition describes an area larger than three or four blocks, but not an area as large as the boundaries of the entire Central Community planning area. The Central Community Master Plan defines specific neighborhoods within the document (pg 4-7).

- 5. Because the developer sought approval through the Conditional Building and Site Design Review process, does this open up conversation about height and density? Or, by requesting a variance, does the height-density issue just follow along? Where does it say that?**

It needs to be emphasized that there was **no** variance requested as part of this petition. The CB (Community Business) zoning designation says that buildings with a footprint over 15,000 square feet or 20,000 square feet overall can only be approved through the Conditional Building and Site Design Review process. The authority of the Planning Commission is limited to that specific section of the Zoning Ordinance related to Conditional Building and Site Design (21A.59.040). In this case, only the building footprint and overall square footage are up for discussion as all other standards have been met. The Planning Commission has to focus their decision on the size of the structure, not any other issue including density, landscaping, parking, or any other standard. In other words, how does the footprint and overall square footage compare to other developments in the area, does the size in and of itself create impacts and if so, what design criteria can be applied to offset those impacts.

- 6. Can exceeding the height and density be discussed and used by the Planning Commission as reason to reject the project?**

The proposed project does not exceed the height or density allowed by the current zoning designation. It is not a basis to reject the project.

- 7. With this going back to the Planning and Zoning Commission, does the City Attorney have an opinion about due process procedures in not opening the upcoming hearing to public comments?**

Legal advice from the Office of the City Attorney is typically provided to the Planning Commission at the commission's request. The Senior City Attorney assigned to advise the Planning Commission will generally provide legal advice on process issues during public meetings when requested or when the attorney believes that providing such advice is appropriate. Matters involving due process and potential liability arising from possible claims related thereto are matters the attorney would not typically provide advice in a public setting or in a publicly available document.

- 8. Can the commission table this and then reopen a new hearing to hear amplifying comments – Or, is it easier for them to simply reject the petition based on exceeding height and density and direct the petitioner to reapply?**

As directed by the Appeals Hearing Officer, there should not be any additional public comments. The inquiry as to whether it may be “easier...to simply reject the petition...and direct the petitioner to reapply” is problematic in that the Planning Commission lacks the authority to direct an applicant to submit any application and the Planning Commission's role is to determine

whether a development proposal meets applicable standards, not whether its decisions make things easy or difficult.

Moreover, the petition does not seek relief from height or density standards as the proposed development falls within height and density limitations.

9. How is it that the hearing officer has the authority to direct the Planning Commission to revisit their decision?

See response to #3 above.

10. Why can the hearing officer specify a public hearing that is closed?

See response to #3 above.

11. I had the impression that there is only a 30 day window for the City or the Community to appeal the hearing officer's decision in court. Is that not correct? Yet the proposed Planning Commission hearing on May 13 falls outside that 30 day window, and therefore precludes a court filing, does it not?

Filing a petition for review with the District Court is not precluded by virtue of the hearing officer's remand. Section 10-9a-708 of the Utah Code provides that a written decision of a land use appeal authority is a final decision for purposes of appealing to the District Court under Section 10-9a-801 of the Utah Code. Nothing in the relevant code provisions prohibits an appeal of a decision of the land use appeal authority when the appeal authority's decision is to remand.

12. Does the email to the Community Council co-chair mean to imply that no new information can be provided by the Planning Department to the Planning Commission for their May 13 deliberation?

No new factual information may be supplied since the Appeals Hearing Officer determined that the Planning Commission's consideration of this petition is limited to the facts in the record. The Planning Division and the Senior City Attorney may provide information regarding applicable regulations and discuss facts already in the record with the Planning Commission.

Below is guidance for the Planning Commission related to this reconsideration:

- The Planning Commission can review the record and identify any facts that relate to the square footage of the building and determine which of these facts relate to the standards of approval for Conditional Building and Site Design Review.
- After identifying the facts and standards, the Planning Commission must determine if design criteria needs to be applied in order for the proposed development to comply with the standards of the conditional building and site design review process.
- If design criteria are deemed necessary to meet the standards, the Planning Commission should approve the project based on the identified criteria. If the proposal does not comply with the standards of the Conditional Building and Site Design Review process and no design criteria can be established that would bring the proposal into compliance with the standards of approval, then the Planning Commission may deny the proposal based on facts within the record that are related to the specific standard(s) that are not complied with.

It should also be noted again that the Planning Commission review being limited to that specific element that has triggered the Conditional Building and Site Design process. In this case, the proposal has a building footprint greater than 15,000 square feet and a total square footage over 20,000 square feet.

Therefore, the Planning Commission can only apply the standards as they relate to the overall size of the building. Any other issue is not relevant to the Conditional Building and Site Design Review standards.

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SALT LAKE CITY LAND USE APPEALS HEARING OFFICER
APPEALS DECISION

APPEAL BY GEORGE HUNT OF DENIAL OF APPROVAL BY
PLANNING COMMISSION FOLLOWING MIXED USE
CONDITIONAL BUILDING AND SITE DESIGN REVIEW

APPEAL PETITION PLNAPP2015-00101

ORIGINAL PETITION PLNPCM2014-00890

932 E. 900 SOUTH

HEARING HELD APRIL 1, 2015

DECISION ISSUED, APRIL 13, 2015

This is an appeal by George Hunt of Williams & Hunt of a decision by the Salt Lake Planning Commission to deny a petition to build a mixed use building with square footage in excess of 15,000 square feet following required Conditional Building and Site Design Review. The Planning Commission determined that the project failed to meet the standards set forth 21A.59.060; specifically that the project failed to comply with adopted master plan policies.

The decision of the Planning Commission is reversed because there is not substantial evidence on the record that appellant's project will result in a community-wide negative impact on traffic and parking.

The Petition at issue came before the Planning Commission for review pursuant to Salt Lake City's Conditional Building and Site Design Review requiring mixed use projects with square footage in excess of 15,000 feet to be reviewed pursuant to twelve standards set forth in Salt Lake City Code 21A.59.060 designated as (a) through (L).

The Conditional Building and Site Design Review provides for "a comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, height, setbacks, front façade glass, architecture, materials, colors, lighting and signs in accordance with a set of adopted criteria and standards."

Following a field trip to the area, public hearing, review of the staff report recommending approval, and debate, the Commission found that the project failed to satisfy standard (L); which requires that the development comply with "the city's adopted master plan policies, the city's adopted "urban design element" and design guidelines governing the specific area of the proposed development." The Commission made no findings regarding standards (a) through (k) and there was no indication by the Commission that these standards were not met.

Specifically, the Commission found that the development did not comply with the applicable Central Community Master Plan (2005) and cited a provision titled "Commercial Land Use Policies" requiring that "community level retail sales and services [should be located] on

appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.” In making his motion, Commissioner James Guilkey stated that that the project was at odds with the Master Plan with regard to parking and traffic problems.

The decision is reversed because there was no evidence in the record to support a finding that any parking or traffic problems evidenced in the record were “community-wide.” Nor were there factual findings setting forth a relationship between the proposed project and any potential traffic or parking problems. The Commission failed to distinguish between neighborhood and community-wide impacts and improperly relied on limited evidence of parking and traffic problems within a few blocks of the project to find a violation of the Master Plan.

A decision of the Planning Commission should be upheld on appeal unless it is not supported by substantial evidence in the record. Salt Lake City Code Sec. 21A.16.030.E.2.c. The decision below should be reviewed for correctness based on the applicable standards adopted by the City. Salt Lake City Code Sec. 21A.16.030.E.2.b.

Public comment before the Commission included specific factual reports of parking and traffic problems within two blocks of the proposed project. These reports included difficulty finding parking places on 9th South at various times of day, slowed traffic as a result of drivers seeking parking, unknown persons parking in front of homes and occasional difficulty turning left onto Windsor Street from 9th South. While this evidence is sufficiently factual that it might support a finding of neighborhood-wide difficulties, the evidence does not support a finding of community-wide traffic problems, which is required by the standard cited by the Commission as the basis for its decision.

Because parking and traffic tend to have relatively localized impacts, there is a temptation to read community-wide in this context as a synonym for neighborhood-wide. That is not, however, the way the Central Community Master Plan is written. The plan language makes specific references throughout that differentiate between community level concerns and neighborhood level concerns. The plan repeatedly uses the phrase “community-wide” to describe impacts and issues which affect the plan area as a whole. The most frequent use of the phrase “community-wide” in the plan occurs in the implementation table, where goals are described as being either neighborhood specific or “community-wide.” *See*; plan, pages 21-23.

Utah law is clear that statutes and administrative rules must be read as a whole, so that no provision becomes nonsensical. “Statutory enactments are to be so construed as to render all parts thereof relevant and meaningful, and ... interpretations are to be avoided which render some part of a provision nonsensical or absurd.” *Millett v. Clark Clinic Corp.*, 609 P.2d 934, 936 (Utah 1980). To read the standard as requiring only a neighborhood-wide impact would be inconsistent with the structure, organization and use of language in the Plan as a whole. Community-wide is always used in the plan to describe impacts and issues affecting an area beyond that of an individual neighborhood. Thus, evidence showing neighborhood problems cannot be used to support a finding of community-wide impact.

The language relied on by the Commission to deny appellant’s application falls under the heading “Commercial Land Use” policies for development designated as Community

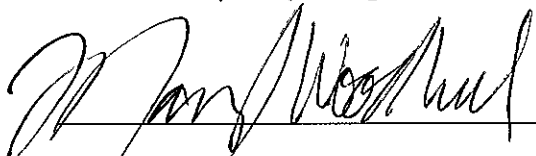
Commercial.¹ This section specifically refers to “community level” retail sales and services. The section is distinct from the previous paragraph in the plan, which describes the standards for properties zoned “neighborhood commercial.” That section addresses neighborhood, rather than community-wide impacts. *Master Plan*, page 11.

Although there was some direct eye witness testimony of parking difficulties in the neighborhood, that testimony was limited to one or two blocks around the project and did not rise to the level of substantial evidence of “community-wide” parking and traffic problems. Nor was there substantial evidence connecting the described problems with the proposed development. In fact, the Motion by the Commission did not specifically cite any facts showing how this particular project would create parking and traffic problems. The “findings of fact” by the Commission were not factual findings at all, but rather a recitation of the standard set forth in the ordinance and Master Plan.

Finally, most objections to the proposed project were to the parking associated with the residential component of the project. Given that the Master Plan language relied on to deny the project is specifically tied to commercial development, it is not clear that this provision is an appropriate basis for the Commission’s decision, which addressed the retail element of the project only in passing.

Because there was not substantial evidence before the Planning Commission which could be used to support a finding that appellant’s application would create “community-wide parking and traffic issues,” the decision to deny approval to the development is reversed and remanded to the Salt Lake City Planning Commission for further proceedings consistent with this decision.

DATED this ^{13th} day of April, 2015.



Mary J. Woodhead, Hearing Officer

¹ The property at issue is zoned Community Business.

From: Mary J Woodhead [mailto:mjwoodhead@att.net]

Sent: Wednesday, April 15, 2015 8:15 AM

To: Nielson, Paul

Cc: george hunt; Shepard, Nora; Norris, Nick; Oktay, Michaela; Coffey, Cheri; Paterson, Joel; Moeller, Michelle

Subject: Re: 9th & 9th Decision

Paul and George: my understanding is that the public hearing was closed on this issue and I did and do not see any basis for the hearing to be re-opened. It would be problematic if the Commission were to reopen the public hearing for the purpose of creating a record to support a predetermined outcome rather than making a decision based on what facts there are in the record. However, although I found that the decision was inconsistent with the law and the Master Plan, I did not find it appropriate to substitute my own decision for that of the commission. So my intention is that the Commission make and pass a motion that is consistent with my opinion, the actual facts in the record and their obligation to act according to the ordinance. Please include this response in the record. Mary

Mary J. Woodhead, Attorney
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Salt Lake City, Utah 84101
(801) 532-6367

LAW OFFICES OF
WILLIAMS & HUNT
A PROFESSIONAL CORPORATION

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P.O. BOX 45678
SALT LAKE CITY, UTAH 84145-5678

GEORGE A. HUNT

April 21, 2015

TELEPHONE (801) 521-5678
FAX (801) 364-4500
E-MAIL ghunt@wilhunt.com

Nora Shephard, Director
SALT LAKE CITY PLANNING DIVISION
P.O. Box 145480
Salt Lake City, Utah 84114

Re: 9th & 9th Property, LLC – Conditional Building & Site Design Review
Original Petition : PLNPCM2014-00890
Appeal Petition : PLNAPP2015-00101
Our File No. : 2121.0004

Dear Ms. Shephard:

We represent 9th & 9th Property, LLC, the applicant and petitioner under the referenced Petition Numbers. Most recently, we participated in the reversal of a Planning Commission decision by the Appeals Hearing Officer process. We are currently scheduled to go back before the Planning Commission on May 13, 2015 at 5:30 p.m. to have the Planning Commission enter a decision consistent with the hearing officer's appellate ruling.

We write because it has come to our attention that one of the planning commissioners, Mr. Edward James Guilkey has been engaging in ex parte contact and discussion of the matter that will come before the Commission on May 13th in an effort to influence the outcome. Mr. Guilkey has admitted this contact in emails to Nick Norris, the Planning Manager. His emails have been made a part of the Official Record in our case.

Mr. Guilkey has a history in this case. At our original hearing on February 11, 2015, Mr. Guilkey adopted the role of an advocate rather than a decider and took an active role in championing the position of the citizens who attended and spoke at that hearing. We remarked on his behavior in our Reply Brief filed with the hearing officer and indeed at the hearing she commented on his inappropriate behavior and statements


that appeared in the video record – perhaps her perception of his conduct influenced the outcome of the appeal.

Given Mr. Guilkey's continued conduct, we believe that we have no alternative but to request that he be recused from further service on the Commission with respect to our matters and that the Commission be cautioned to the effect that such inappropriate conduct demonstrates bias and prejudice and constitutes a denial of our due process rights and jeopardizes the integrity of the public process. Needless to say our client was very disappointed in his conduct at the initial public hearing and is appalled that the public's business would be conducted in such a fashion in a city as large and sophisticated as Salt Lake City. Accordingly, we formally request that Mr. Guilkey be removed from the Commission insofar as any input or participation at the further hearing of our pending matter, and that he be instructed not to discuss our case with any other commission members. If the requested action is not taken, we will consider it a prima facie violation of our due process rights and act accordingly.

Thank you for your attention to this matter.

Very Truly Yours,

WILLIAMS & HUNT



George A. Hunt

GAH/mcw

cc: Nick Norris, Planning Manager
(Via Email)
MaryAnn Pennington, Principal Planner
(Via Email)
Paul Nielsen, Senior City Attorney
(Via Email)

299513.1

Pickering, Maryann

From: Severson, Deborah
Sent: Monday, April 13, 2015 12:59 PM
To: Pickering, Maryann
Subject: FW: 9th and 9th Appeal Decision
Attachments: 9th and 9th appeal decision.pdf

Hi Maryann – Here is Mary's decision. It has been posted to the Planning web site.

From: Mary J Woodhead [mailto:mary.woodhead@utah.gov]
Sent: Monday, April 13, 2015 12:12 PM
To: Severson, Deborah; Coffey, Cheri
Subject: 9th and 9th Appeal Decision

My decision on the 9th and 9th Appeal is attached. Let me know if I need to make any changes formatting or otherwise.
Thanks, Mary

Mary J. Woodhead, Attorney
380 West 200 South, Suite 101
Salt Lake City, Utah 84101
(801) 532-6367

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER

APPEALS DECISION

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PLANNING COMMISSION FOLLOWING MIXED USE

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The decision of the Planning Commission is reversed because there is not substantial evidence on the record that appellant's project will result in a community-wide negative impact on traffic and parking.

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Specifically, the Commission found that the development did not comply with the applicable Central Community Master Plan (2005) and cited a provision titled "Commercial Land Use Policies" requiring that "community level retail sales and services [should be located] on

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Mary J. Woodhead, Hearing Officer

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Pickering, Maryann

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To: Tarbet, Nick
Cc: Pickering, Maryann; Coffey, Cheri
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The decision is reversed because there was no evidence in the record to support a finding that any parking or traffic problems evidenced in the record were “community-wide.” Nor were there factual findings setting forth a relationship between the proposed project and any potential traffic or parking problems. The Commission failed to distinguish between neighborhood and community-wide impacts and improperly relied on limited evidence of parking and traffic problems within a few blocks of the project to find a violation of the Master Plan.

A decision of the Planning Commission should be upheld on appeal unless it is not supported by substantial evidence in the record. Salt Lake City Code Sec. 21A.16.030.E.2.c. The decision below should be reviewed for correctness based on the applicable standards adopted by the City. Salt Lake City Code Sec. 21A.16.030.E.2.b.

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Because parking and traffic tend to have relatively localized impacts, there is a temptation to read community-wide in this context as a synonym for neighborhood-wide. That is not, however, the way the Central Community Master Plan is written. The plan language makes specific references throughout that differentiate between community level concerns and neighborhood level concerns. The plan repeatedly uses the phrase “community-wide” to describe impacts and issues which affect the plan area as a whole. The most frequent use of the phrase “community-wide” in the plan occurs in the implementation table, where goals are described as being either neighborhood specific or “community-wide.” See; plan, pages 21-23.

Utah law is clear that statutes and administrative rules must be read as a whole, so that no provision becomes nonsensical. "Statutory enactments are to be so construed as to render all parts thereof relevant and meaningful, and ... interpretations are to be avoided which render some part of a provision nonsensical or absurd." *Millett v. Clark Clinic Corp.*, 609 P.2d 934, 936 (Utah 1980). To read the standard as requiring only a neighborhood-wide impact would be inconsistent with the structure, organization and use of language in the Plan as a whole. Community-wide is always used in the plan to describe impacts and issues affecting an area beyond that of an individual neighborhood. Thus, evidence showing neighborhood problems cannot be used to support a finding of community-wide impact.

The language relied on by the Commission to deny appellant's application falls under the heading “Commercial Land Use” policies for development designated as Community

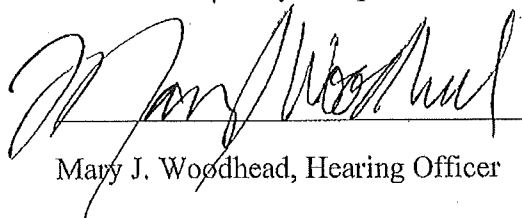
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Although there was some direct eye witness testimony of parking difficulties in the neighborhood, that testimony was limited to one or two blocks around the project and did not rise to the level of substantial evidence of “community-wide” parking and traffic problems. Nor was there substantial evidence connecting the described problems with the proposed development. In fact, the Motion by the Commission did not specifically cite any facts showing how this particular project would create parking and traffic problems. The “findings of fact” by the Commission were not factual findings at all, but rather a recitation of the standard set forth in the ordinance and Master Plan.

Finally, most objections to the proposed project were to the parking associated with the residential component of the project. Given that the Master Plan language relied on to deny the project is specifically tied to commercial development, it is not clear that this provision is an appropriate basis for the Commission’s decision, which addressed the retail element of the project only in passing.

Because there was not substantial evidence before the Planning Commission which could be used to support a finding that appellant’s application would create “community-wide parking and traffic issues,” the decision to deny approval to the development is reversed and remanded to the Salt Lake City Planning Commission for further proceedings consistent with this decision.

DATED this ^{13th} day of April, 2015.



Mary J. Woodhead, Hearing Officer

¹ The property at issue is zoned Community Business.

Pickering, Maryann

From: Moeller, Michelle
Sent: Tuesday, April 14, 2015 8:41 AM
To: Angela Dean (and@amdaarchitecture.com); Carolynn Hoskins; Clark Ruttinger (crutting@utah.gov); Emily Drown (edrown@hcmall.com); James Guilkey (james.guilkey@utah.edu); K. Marie Taylor (kmarie@utah.gov); Michael Fife (mike@yaleco.com); Michael Gallegos (mgallegos@slco.org)
Cc: Pickering, Maryann
Subject: FW: 9th and 9th Appeal Decision
Attachments: 9th and 9th appeal decision.pdf

Commissioners
Please see the attached message.

Thank you

MICHELLE MOELLER
PLANNING DIVISION ADMIN SECRETARY

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7757
FAX 801-535-6174

www.SLCGOV.COM

From: Pickering, Maryann
Sent: Tuesday, April 14, 2015 8:33 AM
To: Moeller, Michelle
Cc: Shepard, Nora; Coffey, Cheri; Norris, Nick; Oktay, Michaela
Subject: FW: 9th and 9th Appeal Decision

Hi Michelle.

Can you please forward this to the Planning Commission.

Thank you,
Maryann

From: Severson, Deborah
Sent: Monday, April 13, 2015 12:59 PM
To: Pickering, Maryann
Subject: FW: 9th and 9th Appeal Decision

Hi Maryann – Here is Mary's decision. It has been posted to the Planning web site.

From: Mary J Woodhead [mailto:maryjwoodhead@slco.org]
Sent: Monday, April 13, 2015 12:12 PM

To: Severson, Deborah; Coffey, Cheri
Subject: 9th and 9th Appeal Decision

My decision on the 9th and 9th Appeal is attached. Let me know if I need to make any changes formatting or otherwise.
Thanks, Mary

Mary J. Woodhead, Attorney
380 West 200 South, Suite 101
Salt Lake City, Utah 84101
(801) 532-6367

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER

APPEALS DECISION

APPEAL BY GEORGE HUNT OF DENIAL OF APPROVAL BY

PLANNING COMMISSION FOLLOWING MIXED USE

CONDITIONAL BUILDING AND SITE DESIGN REVIEW

APPEAL PETITION PLNAPP2015-00101

ORIGINAL PETITION PLNPCM2014-00890

932 E. 900 SOUTH

HEARING HELD APRIL 1, 2015

DECISION ISSUED, APRIL 13, 2015

This is an appeal by George Hunt of Williams & Hunt of a decision by the Salt Lake Planning Commission to deny a petition to build a mixed use building with square footage in excess of 15,000 square feet following required Conditional Building and Site Design Review. The Planning Commission determined that the project failed to meet the standards set forth 21A.59.060; specifically that the project failed to comply with adopted master plan policies.

The decision of the Planning Commission is reversed because there is not substantial evidence on the record that appellant's project will result in a community-wide negative impact on traffic and parking.

The Petition at issue came before the Planning Commission for review pursuant to Salt Lake City's Conditional Building and Site Design Review requiring mixed use projects with square footage in excess of 15,000 feet to be reviewed pursuant to twelve standards set forth in Salt Lake City Code 21A.59.060 designated as (a) through (L).

The Conditional Building and Site Design Review provides for "a comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, height, setbacks, front façade glass, architecture, materials, colors, lighting and signs in accordance with a set of adopted criteria and standards."

Following a field trip to the area, public hearing, review of the staff report recommending approval, and debate, the Commission found that the project failed to satisfy standard (L); which requires that the development comply with "the city's adopted master plan policies, the city's adopted "urban design element" and design guidelines governing the specific area of the proposed development." The Commission made no findings regarding standards (a) through (k) and there was no indication by the Commission that these standards were not met.

Specifically, the Commission found that the development did not comply with the applicable Central Community Master Plan (2005) and cited a provision titled "Commercial Land Use Policies" requiring that "community level retail sales and services [should be located] on

appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.” In making his motion, Commissioner James Guilkey stated that that the project was at odds with the Master Plan with regard to parking and traffic problems.

The decision is reversed because there was no evidence in the record to support a finding that any parking or traffic problems evidenced in the record were “community-wide.” Nor were there factual findings setting forth a relationship between the proposed project and any potential traffic or parking problems. The Commission failed to distinguish between neighborhood and community-wide impacts and improperly relied on limited evidence of parking and traffic problems within a few blocks of the project to find a violation of the Master Plan.

A decision of the Planning Commission should be upheld on appeal unless it is not supported by substantial evidence in the record. Salt Lake City Code Sec. 21A.16.030.E.2.c. The decision below should be reviewed for correctness based on the applicable standards adopted by the City. Salt Lake City Code Sec. 21A.16.030.E.2.b.

Public comment before the Commission included specific factual reports of parking and traffic problems within two blocks of the proposed project. These reports included difficulty finding parking places on 9th South at various times of day, slowed traffic as a result of drivers seeking parking, unknown persons parking in front of homes and occasional difficulty turning left onto Windsor Street from 9th South. While this evidence is sufficiently factual that it might support a finding of neighborhood-wide difficulties, the evidence does not support a finding of community-wide traffic problems, which is required by the standard cited by the Commission as the basis for its decision.

Because parking and traffic tend to have relatively localized impacts, there is a temptation to read community-wide in this context as a synonym for neighborhood-wide. That is not, however, the way the Central Community Master Plan is written. The plan language makes specific references throughout that differentiate between community level concerns and neighborhood level concerns. The plan repeatedly uses the phrase “community-wide” to describe impacts and issues which affect the plan area as a whole. The most frequent use of the phrase “community-wide” in the plan occurs in the implementation table, where goals are described as being either neighborhood specific or “community-wide.” See; plan, pages 21-23.

Utah law is clear that statutes and administrative rules must be read as a whole, so that no provision becomes nonsensical. "Statutory enactments are to be so construed as to render all parts thereof relevant and meaningful, and ... interpretations are to be avoided which render some part of a provision nonsensical or absurd." *Millett v. Clark Clinic Corp.*, 609 P.2d 934, 936 (Utah 1980). To read the standard as requiring only a neighborhood-wide impact would be inconsistent with the structure, organization and use of language in the Plan as a whole. Community-wide is always used in the plan to describe impacts and issues affecting an area beyond that of an individual neighborhood. Thus, evidence showing neighborhood problems cannot be used to support a finding of community-wide impact.

The language relied on by the Commission to deny appellant’s application falls under the heading “Commercial Land Use” policies for development designated as Community

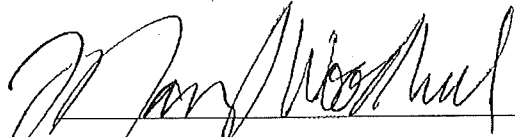
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Finally, most objections to the proposed project were to the parking associated with the residential component of the project. Given that the Master Plan language relied on to deny the project is specifically tied to commercial development, it is not clear that this provision is an appropriate basis for the Commission’s decision, which addressed the retail element of the project only in passing.

Because there was not substantial evidence before the Planning Commission which could be used to support a finding that appellant’s application would create “community-wide parking and traffic issues,” the decision to deny approval to the development is reversed and remanded to the Salt Lake City Planning Commission for further proceedings consistent with this decision.

DATED this ^{13th} day of April, 2015.



Mary J. Woodhead, Hearing Officer

¹ The property at issue is zoned Community Business.

Pickering, Maryann

From: Norris, Nick
Sent: Tuesday, April 14, 2015 11:20 AM
To: [REDACTED]
Cc: Pickering, Maryann
Subject: 9th and 9th Appeal Decision
Attachments: 9th and 9th appeal decision.pdf

Jim,

Attached is the decision of the Hearing Officer related to the proposed project located on 900 South and Lincoln. The decision can be appealed to Third District Court within 30 days of the date of the Decision (April 13th). Let me know if you have any questions.

NICK NORRIS
Planning Manager

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COMMUNITY *and* ECONOMIC DEVELOPMENT
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SALT LAKE CITY LAND USE APPEALS HEARING OFFICER

APPEALS DECISION

APPEAL BY GEORGE HUNT OF DENIAL OF APPROVAL BY

PLANNING COMMISSION FOLLOWING MIXED USE

CONDITIONAL BUILDING AND SITE DESIGN REVIEW

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ORIGINAL PETITION PLNPCM2014-00890

932 E. 900 SOUTH

HEARING HELD APRIL 1, 2015

DECISION ISSUED, APRIL 13, 2015

This is an appeal by George Hunt of Williams & Hunt of a decision by the Salt Lake Planning Commission to deny a petition to build a mixed use building with square footage in excess of 15,000 square feet following required Conditional Building and Site Design Review. The Planning Commission determined that the project failed to meet the standards set forth 21A.59.060; specifically that the project failed to comply with adopted master plan policies.

The decision of the Planning Commission is reversed because there is not substantial evidence on the record that appellant's project will result in a community-wide negative impact on traffic and parking.

The Petition at issue came before the Planning Commission for review pursuant to Salt Lake City's Conditional Building and Site Design Review requiring mixed use projects with square footage in excess of 15,000 feet to be reviewed pursuant to twelve standards set forth in Salt Lake City Code 21A.59.060 designated as (a) through (L).

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Specifically, the Commission found that the development did not comply with the applicable Central Community Master Plan (2005) and cited a provision titled "Commercial Land Use Policies" requiring that "community level retail sales and services [should be located] on

appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.” In making his motion, Commissioner James Guilkey stated that that the project was at odds with the Master Plan with regard to parking and traffic problems.

The decision is reversed because there was no evidence in the record to support a finding that any parking or traffic problems evidenced in the record were “community-wide.” Nor were there factual findings setting forth a relationship between the proposed project and any potential traffic or parking problems. The Commission failed to distinguish between neighborhood and community-wide impacts and improperly relied on limited evidence of parking and traffic problems within a few blocks of the project to find a violation of the Master Plan.

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The language relied on by the Commission to deny appellant’s application falls under the heading “Commercial Land Use” policies for development designated as Community


Commercial.¹ This section specifically refers to “community level” retail sales and services. The section is distinct from the previous paragraph in the plan, which describes the standards for properties zoned “neighborhood commercial.” That section addresses neighborhood, rather than community-wide impacts. *Master Plan*, page 11.

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DATED this 13th day of April, 2015.



Mary J. Woodhead, Hearing Officer

¹ The property at issue is zoned Community Business.

Pickering, Maryann

From: Shepard, Nora
Sent: Tuesday, April 14, 2015 11:43 AM
To: East Liberty Park 1 CC Chair; 'Sheridan Mordue'
Cc: Norris, Nick; Pickering, Maryann
Subject: 9th and 9th Appeal Decision
Attachments: 9th and 9th appeal decision (2).pdf

Hi Darryl and Sheridan. Attached is the Appeal Officer's decision on the 9th and 9th appeal. It reverses the Planning Commission denial and appears to remand it back to the Planning Commission. Once we have a chance to do a more thorough review, I'll let you know how we plan to move forward.

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

SALT LAKE CITY LAND USE APPEALS HEARING OFFICER

APPEALS DECISION

APPEAL BY GEORGE HUNT OF DENIAL OF APPROVAL BY

PLANNING COMMISSION FOLLOWING MIXED USE

CONDITIONAL BUILDING AND SITE DESIGN REVIEW

APPEAL PETITION PLNAPP2015-00101

ORIGINAL PETITION PLNPCM2014-00890

932 E. 900 SOUTH

HEARING HELD APRIL 1, 2015

DECISION ISSUED, APRIL 13, 2015

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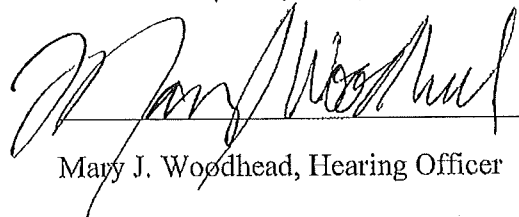
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DATED this ^{13th} day of April, 2015.



Mary J. Woodhead, Hearing Officer

¹ The property at issue is zoned Community Business.

Pickering, Maryann

From: [REDACTED]
Sent: Tuesday, April 14, 2015 11:56 AM
To: Norris, Nick
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Hi Nick,

Thanks for sharing this. Could I impose upon you to send me the most recent Central Community Master Plan?

How does the Planning Commission determine whether it will appeal in court?

Thanks,

Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: [REDACTED]
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:19:57 AM
Subject: 9th and 9th Appeal Decision

Jim,

Attached is the decision of the Hearing Officer related to the proposed project located on 900 South and Lincoln. The decision can be appealed to Third District Court within 30 days of the date of the Decision (April 13th). Let me know if you have any questions.

NICK NORRIS
Planning Manager

PLANNING DIVISION
COMMUNITY *and* ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-6173
Email nick.norris@slcgov.com

www.slcgov.com/planning

Pickering, Maryann

From: Norris, Nick
Sent: Tuesday, April 14, 2015 11:58 AM
To: [REDACTED]
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Yes, I will send the most current plan. The hearing officer directed the matter back to the planning commission, so I wrote a bit too quickly.

Sent from my iPhone

On Apr 14, 2015, at 11:55 AM, "[REDACTED]" <[REDACTED]> wrote:

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Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: "[REDACTED]" <[REDACTED]>
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:19:57 AM
Subject: 9th and 9th Appeal Decision

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Planning Manager

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COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-6173
Email nick.norris@slcgov.com

www.slcgov.com/planning

Pickering, Maryann

From: [REDACTED]
Sent: Tuesday, April 14, 2015 11:59 AM
To: Norris, Nick
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

I don't understand your last sentence.

Thanks,

Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: [REDACTED]
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:57:37 AM
Subject: Re: 9th and 9th Appeal Decision

Yes, I will send the most current plan. The hearing officer directed the matter back to the planning commission, so I wrote a bit too quickly.

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Thanks,

Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: [REDACTED] <[REDACTED]>
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:19:57 AM
Subject: 9th and 9th Appeal Decision

Jim,

Attached is the decision of the Hearing Officer related to the proposed project located on 900 South and Lincoln. The decision can be appealed to Third District Court within 30 days of the date of the Decision (April 13th). Let me know if you have any questions.

NICK NORRIS

Planning Manager

PLANNING DIVISION
COMMUNITY *and* ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-6173

Email nick.norris@slcgov.com

www.slcgov.com/planning

Pickering, Maryann

From: Norris, Nick
Sent: Tuesday, April 14, 2015 12:03 PM
To: [REDACTED]
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Sorry about that. The decision of the hearing officer was to send the item back to the Planning Commission to address the lack of facts that they used to justify the decision.

Sent from my iPhone

On Apr 14, 2015, at 11:58 AM, "[REDACTED]" <[REDACTED]> wrote:

I don't understand your last sentence.

Thanks,

Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: [REDACTED]
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:57:37 AM
Subject: Re: 9th and 9th Appeal Decision

Yes, I will send the most current plan. The hearing officer directed the matter back to the planning commission, so I wrote a bit too quickly.

Sent from my iPhone

On Apr 14, 2015, at 11:55 AM, "[REDACTED]" <[REDACTED]> wrote:

Hi Nick,

Thanks for sharing this. Could I impose upon you to send me the most recent Central Community Master Plan?

How does the Planning Commission determine whether it will appeal in court?

Thanks,

Jim

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Pickering, Maryann

From: [REDACTED]
Sent: Tuesday, April 14, 2015 12:11 PM
To: Norris, Nick
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Thanks. So, procedurally, what is the sequence of events from here?

Thanks,

Jim

From: "Nick Norris" <Nick.Norris@slcgov.com>
To: [REDACTED]
Cc: "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 12:03:28 PM
Subject: Re: 9th and 9th Appeal Decision

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Sent from my iPhone

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Email nick.norris@slcgov.com

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Pickering, Maryann

From: Norris, Nick
Sent: Tuesday, April 14, 2015 12:20 PM
To: [REDACTED]
Cc: Pickering, Maryann
Subject: RE: 9th and 9th Appeal Decision

We will put the item on a future Planning Commission agenda, date to be determined. We are waiting for the City Attorney's Office to weigh in on exactly what this decision means in terms of what the Commission can and cannot do. We will let everyone know more after we get that input.

From: [REDACTED] [mailto:[REDACTED]]
Sent: Tuesday, April 14, 2015 12:11 PM
To: Norris, Nick
Cc: Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Thanks. So, procedurally, what is the sequence of events from here?

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Pickering, Maryann

From: Sheridan Mordue ([REDACTED])
Sent: Tuesday, April 14, 2015 9:34 PM
To: Shepard, Nora
Cc: Norris, Nick; Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Thanks for this Nora. It seems the officer's decision is a little vague in what is supposed to happen next or maybe I am mistaken. Regardless, I look forward to hearing from you regarding next moves and having any applicable conversation. In the mean time I will be in contact with Nick re: meeting with the Business District.

Best,
Sheridan

From: "Nora Shepard" <Nora.Shepard@slcgov.com>
To: "East Liberty Park 1 CC Chair" <[REDACTED]>, "Sheridan Mordue" <[REDACTED]>
Cc: "Nick Norris" <Nick.Norris@slcgov.com>, "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:42:50 AM
Subject: 9th and 9th Appeal Decision

Hi Darryl and Sheridan. Attached is the Appeal Officer's decision on the 9th and 9th appeal. It reverses the Planning Commission denial and appears to remand it back to the Planning Commission. Once we have a chance to do a more thorough review, I'll let you know how we plan to move forward.

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

Pickering, Maryann

From: Norris, Nick
Sent: Wednesday, April 15, 2015 8:16 AM
To: Pickering, Maryann
Subject: FW: 9th & 9th Decision

From: Mary J Woodhead [mailto:████████████████████@slcgov.com]
Sent: Wednesday, April 15, 2015 8:15 AM
To: Nielson, Paul
Cc: george hunt; Shepard, Nora; Norris, Nick; Oktay, Michaela; Coffey, Cheri; Paterson, Joel; Moeller, Michelle
Subject: Re: 9th & 9th Decision

Paul and George: my understanding is that the public hearing was closed on this issue and I did and do not see any basis for the hearing to be re-opened. It would be problematic if the Commission were to reopen the public hearing for the purpose of creating a record to support a predetermined outcome rather than making a decision based on what facts there are in the record. However, although I found that the decision was inconsistent with the law and the Master Plan, I did not find it appropriate to substitute my own decision for that of the commission. So my intention is that the Commission make and pass a motion that is consistent with my opinion, the actual facts in the record and their obligation to act according to the ordinance. Please include this response in the record. Mary

Mary J. Woodhead, Attorney
380 West 200 South, Suite 101
Salt Lake City, Utah 84101
(801) 532-6367

From: "Nielson, Paul" <paul.nielson@slcgov.com>
To: Mary J. Woodhead <████████████████████@slcgov.com>
Cc: george hunt <ghunt@wilhunt.com>; "Shepard, Nora" <Nora.Shepard@slcgov.com>; "Norris, Nick" <Nick.Norris@slcgov.com>; "Oktay, Michaela" <Michaela.Oktay@slcgov.com>; "Coffey, Cheri" <Cheri.Coffey@slcgov.com>; "Paterson, Joel" <joel.paterson@slcgov.com>; "Moeller, Michelle" <Michelle.Moeller@slcgov.com>
Sent: Tuesday, April 14, 2015 3:23 PM
Subject: 9th & 9th Decision

Mary:

Thank you for promptly returning a decision in the 9th & 9th appeal matter. The amount of thought you put into that decision and your familiarization with the facts and applicable policies are apparent in that document.

The question has arisen as to the scope of the planning commission's proceedings on remand. These can be tricky waters to navigate given the nature of the commission's prior decision and the information comprising the record. Please advise whether it is your determination that this matter is open to additional submissions (including a reopening of the public hearing) and additional consideration of the facts already submitted relative to applicable standards, whether the petition is deemed approved with only the issue of appropriate conditions to be determined, or whether there is to be some other course of action. Your opinion noted that the planning commission's decision was based on its consideration of master plan policies. Since the commission apparently did not address any other standards in its denial of the conditional building and site design application, the

commission is likely to question whether your decision forecloses consideration of other relevant standards on remand. Your direction will be greatly appreciated.

Thank you.

Paul C. Nielson
Senior City Attorney
801.535.7216

IMPORTANT: E-mail from the City Attorney's Office is likely to contain confidential and privileged material for the sole use of the intended recipient. The use, distribution, transmittal or re-transmittal of any such communication is prohibited without the express approval of the City Attorney or a Deputy City Attorney in writing or by e-mail. If you are not the intended recipient, please contact the sender and delete all copies.

Pickering, Maryann

From: Shepard, Nora
Sent: Wednesday, April 15, 2015 8:45 AM
To: 'Sheridan Mordue'
Cc: Norris, Nick; Pickering, Maryann
Subject: RE: 9th and 9th Appeal Decision

We are trying to get some clarification from the Hearings Officer

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

From: Sheridan Mordue [mailto: [REDACTED]]
Sent: Tuesday, April 14, 2015 9:34 PM
To: Shepard, Nora
Cc: Norris, Nick; Pickering, Maryann
Subject: Re: 9th and 9th Appeal Decision

Thanks for this Nora. It seems the officer's decision is a little vague in what is supposed to happen next or maybe I am mistaken. Regardless, I look forward to hearing from you regarding next moves and having any applicable conversation. In the mean time I will be in contact with Nick re: meeting with the Business District.

Best,
Sheridan

From: "Nora Shepard" <Nora.Shepard@slcgov.com>
To: "East Liberty Park 1 CC Chair" < [REDACTED]@comcast.net>, "Sheridan Mordue" < [REDACTED]@comcast.net>
Cc: "Nick Norris" <Nick.Norris@slcgov.com>, "Maryann Pickering" <Maryann.Pickering@slcgov.com>
Sent: Tuesday, April 14, 2015 11:42:50 AM
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Planning Director

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FAX 801-535-6174

Pickering, Maryann

From: George A. Hunt [ghunt@williamsandhunt.com]
Sent: Wednesday, April 15, 2015 5:00 PM
To: Pickering, Maryann
Cc: Nielson, Paul
Subject: 9th & 9th Property, LLC - Further Proceedings

Maryann:

In order to assure that our files are complete going forward in this matter, we would appreciate being copied on any additions to the official record after the decision by Ms. Woodhead, including her clarification email, etc. Thank you for your assistance in this matter. We are anxious to get this exciting project moving forward.

Regards,
George

George A. Hunt
Lawyer
257 East 200 South Suite 500
Salt Lake City, Utah 84111
801-521-5678 (v) 801-364-4500 (f)
www.williamsandhunt.com

WILLIAMS HUNT
LAWYERS

Pickering, Maryann

From: Norris, Nick
Sent: Thursday, April 16, 2015 2:58 PM
To: Pickering, Maryann
Subject: FW: 9th & 9th Decision
Attachments: [QUAR] Re: 9th & 9th Decision

As we prepare for the PC on the 13th, we need to keep a running list of questions from the Commission and provide written comments. I told them all that we will provide the answers in writing, but will provide all of the answers at one time. Below are some questions from Michael Fife and attached are some questions from James Guilky. I'll send more on to you if I get them.

From: Mike . [mailto:████████████████████]
Sent: Thursday, April 16, 2015 1:40 PM
To: Norris, Nick; Nielson, Paul
Cc: Shepard, Nora; Oktay, Michaela; Coffey, Cheri
Subject: Re: 9th & 9th Decision

Hi Nick and Paul,

1. I thought that we denied the petition based on it being out of scale with the master plan but the decision focuses on the parking issue. I'll have to listen to it again and see what we said.
2. Related to the parking issue, if you can only consider community wide parking issues, you are essentially saying that you can never consider parking issues because what project would be of the magnitude that it would cause parking issues throughout an entire community.
3. Can the hearing officer legally compel the planning commission not to open the public hearing again?

Commissioners,
Below is the information for the 9th & 9th decision. Please forward any questions to Nick or Paul.

The Appeals Hearing Officer reversed the decision of the Planning Commission related to the proposed mixed use development located at 932 East 900 South (PLNPCM2014-00890). What this means is that the Hearing Officer did not find sufficient evidence in the record to support the Planning Commission's decision to deny the project and has sent the matter back to the Planning Commission to reconsider the decision. In doing so, the Hearing Officer set specific parameters that must be followed. Those parameters include:

- The public hearing is closed and shall stay closed. This means that no new testimony, evidence, etc. can be submitted to the Planning Commission.


- The Planning Commission cannot consider a neighborhood parking issue a community wide issue. In other words, while there may be an impact on 900 South and Lincoln Street, it does not rise to the level of a community wide parking issue.
- The Hearing Officer directed the Planning Commission to make and pass a motion that is consistent with the opinion issued, based on the actual facts in the record and the Commission obligation to act according to the ordinance.


The Planning Commission will discuss this matter at the May 13th, 2015 meeting. The meeting will be held at 5:30 pm in Room 326 of the City and County Building, 451 South State St. The meeting is open to the public. However, no new testimony or evidence will be allowed. The Planning Commission must make a decision based on the information, evidence and testimony already provided.

Thank you

MICHELLE MOELLER
PLANNING DIVISION ADMIN SECRETARY

PLANNING DIVISION
COMMUNITY *and* ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7757 

FAX 801-535-6174 

WWW.SLCGOV.COM

Pickering, Maryann

From: James Edward Guilkey ([redacted])
Sent: Thursday, April 16, 2015 9:53 AM
To: Moeller, Michelle; Angela Dean ([redacted]); Carolynn Hoskins; Clark Ruttinger ([redacted]); Emily Drown ([redacted]); James Edward Guilkey; K. Marie Taylor ([redacted]); Michael Fife ([redacted]); Michael Gallegos ([redacted])
Cc: Norris, Nick; Shepard, Nora; Oktay, Michaela; Coffey, Cheri; Nielson, Paul
Subject: [QUAR] Re: 9th & 9th Decision
Importance: Low

I looked again at the document that Michelle sent us on Tuesday. I don't see those parameters mentioned. Is there an additional part of the Hearing Officer's decision that we weren't given?

Thanks,

Jim

From: Moeller, Michelle
Sent: Thursday, April 16, 2015 9:25 AM
To: Angela Dean ([redacted]), Carolynn Hoskins, Clark Ruttinger ([redacted]), Emily Drown ([redacted]), James Edward Guilkey, K. Marie Taylor ([redacted]), Michael Fife ([redacted]), Michael Gallegos ([redacted])
Cc: Norris, Nick, Shepard, Nora, Oktay, Michaela, Coffey, Cheri, Nielson, Paul

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Pickering, Maryann

From: Norris, Nick
Sent: Thursday, April 16, 2015 2:59 PM
To: Pickering, Maryann
Subject: FW: Standards

Here is the email from James regarding his conversation with Erin Mendenhall. Will you add the entire chain to the record? Thanks.

-----Original Message-----

From: James Guilkey [mailto: [REDACTED]]
Sent: Wednesday, April 15, 2015 5:11 PM
To: Norris, Nick; Nielson, Paul
Cc: Shepard, Nora; Oktay, Michaela; Coffey, Cheri; Love, Jill; DeLaMare-Schaefer, Mary
Subject: Re: Standards

Nick,

Understood. I was planning to disclose my discussion with Ms. Mendenhall to the other commissioners at the meeting in question, and I hope you'll allow me to do so. I'm also happy to disclose the nature of that discussion as well. I will, however, cease any further discussion.

Thank you.

Jim

On 04/15/2015 04:57 PM, Norris, Nick wrote:

> James,
>
> The matter will be brought back to the Planning Commission at the May 13th meeting. It is inappropriate for us to have any discussion about the project outside of a public meeting. If you have questions, you can ask questions during the meeting on the 13th.
>
> I need to mention to you that discussing the project, outcome, future meetings, etc. with anyone, including a City Council member is ex parte communication and jeopardizes your ability to participate in the decision making process. Knowing that you sent an email message to me that states you discussed the merits of the proposal with another person puts an obligation on me to notify the rest of the Planning Commission of the discussion. I don't know the extent of the conversation you had with Councilperson Mendenhall, but you clearly discussed the matter, specifically the issue of what constitutes a community wide parking impact. By doing so, you may have inadvertently allowed new testimony to influence the decision making process, which creates a due process issue for all parties.
>
> Following the adopted Policies and Procedures of the Planning Commission, the Commission may determine that you have jeopardized your ability to be impartial on this matter and vote to remove you from participating in the decision.
>
> NICK NORRIS
> Planning Manager
>
> PLANNING DIVISION
> COMMUNITY and ECONOMIC DEVELOPMENT
> SALT LAKE CITY CORPORATION
>

> TEL 801-535-6173
> Email nick.norris@slcgov.com
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> www.slcgov.com/planning
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>
>

> -----Original Message-----

> From: James Guilkey [mailto:James.Guilkey@slcgov.com]
> Sent: Wednesday, April 15, 2015 12:24 PM
> To: Norris, Nick; Nielson, Paul
> Subject: Re: Standards
>

> Thanks Nick,
>

> A few other questions:
>

> I've been asked by Erin Mendenhall when 9th and 9th will be on the agenda again for us. Do you know yet?
>

> I've been looking at the Master Plan for that area, with an eye towards making findings that will be more defensible. If I put together a plan, is that something I could go over with you and Paul prior to the actual PC meeting? I'd like to show up as prepared as possible.
>

> Mary's distinction between "community" and "neighborhood" caught me by surprise. Are those legally defined terms? i.e., does "community"

> refer to the entire Central Community? As Erin said when we spoke, unless the locate the prison at 9th and 9th (or a soccer stadium was what I had in mind) it's hard to imagine any project impacting traffic substantially across the entire Central City community.
>

> Thanks,
>

> Jim
>

> On 04/15/2015 12:03 PM, Norris, Nick wrote:

>> Here they are:

>> Conditional Use:

http://www.sterlingcodifiers.com/codebook/index.php?book_id=672&chapter_id=49088 Key section is 21A.54.080, specifically the first line that starts "A conditional use shall be approved if..."
>>

>> Planned Development:

http://www.sterlingcodifiers.com/codebook/index.php?book_id=672&chapter_id=61909 Key section is 21A.55.050, first sentence.
>>

>> Conditional Building and Site Design Review:

http://www.sterlingcodifiers.com/codebook/index.php?book_id=672&chapter_id=49091 The key section is 21A.59.020 and 21A.59.040 which says that the Commission shall approve design criteria from City Depts and upon considering the intent of the individual regulation. Section 040 limits the PC review to the specific element referenced in the base zoning district.
>>
>>

>> -----Original Message-----

>> From: James Guilkey [mailto:James.Guilkey@slcgov.com]
>> Sent: Wednesday, April 15, 2015 9:29 AM

>> To: Norris, Nick
>> Subject: Standards

>>

>> Hi NICK,

>>

>> Would you please send me the standards that you were reading from at dinner at our last meeting regarding Planned Developments and Conditional Building and Site Design Review? Or point me at them, if they are readily available online.

>>

>> Thanks,

>>

>> Jim

>

Pickering, Maryann

From: Norris, Nick
Sent: Thursday, April 16, 2015 3:05 PM
To: Pickering, Maryann
Subject: FW: 9th & 9th Decision
Attachments: Re: 9th & 9th Decision

From: Norris, Nick
Sent: Thursday, April 16, 2015 2:56 PM
To: 'James Edward Guilkey'; Moeller, Michelle; Angela Dean (angela@andarchitecture.com); Carolynn Hoskins; Clark Ruttinger (crutting@rednet.net); Emily Drown (edrown@hotmail.com); K. Marie Taylor (kmarie@rednet.net); Michael Fife (mefife@rednet.net); Michael Gallegos (mgallegos@rednet.net)
Cc: Shepard, Nora; Oktay, Michaela; Coffey, Cheri; Nielson, Paul
Subject: RE: 9th & 9th Decision

We asked for a clarification from the Hearing Officer related to the direction she gave. I have attached that email for everyone to see. I apologize for not including it in the earlier email. She did ask that it be added to the official record. That addresses items 1 and 3 below. The second item relating to the community wide parking impact is addressed in the written decision from the hearing officer. It is summarized in the email that the Planning Division sent out this morning.

There are lots of questions coming in regarding this decision. If you have questions, please send them in and thank you to those that have already sent in questions. We will assemble all of the questions into one document and provide written answers to those questions that will be part of the public documents prepared for the meeting on May 13th.

Michelle, will you make sure that it is attached to the decision letter posted on the website? Thank you.

Nick

From: James Edward Guilkey [<mailto:JamesEdwardGuilkey@rednet.net>]
Sent: Thursday, April 16, 2015 9:53 AM
To: Moeller, Michelle; Angela Dean (angela@andarchitecture.com); Carolynn Hoskins; Clark Ruttinger (crutting@rednet.net); Emily Drown (edrown@hotmail.com); James Edward Guilkey; K. Marie Taylor (kmarie@rednet.net); Michael Fife (mefife@rednet.net); Michael Gallegos (mgallegos@rednet.net)
Cc: Norris, Nick; Shepard, Nora; Oktay, Michaela; Coffey, Cheri; Nielson, Paul
Subject: [QUAR] Re: 9th & 9th Decision
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Michael Fife (t[REDACTED]), Michael Gallegos (t[REDACTED])

Cc: Norris, Nick, Shepard, Nora, Oktay, Michaela, Coffey, Cheri, Nielson, Paul

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Thank you

MICHELLE MOELLER
PLANNING DIVISION ADMIN SECRETARY

PLANNING DIVISION
COMMUNITY *and* ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7757
FAX 801-535-6174

WWW.SLCGOV.COM

Pickering, Maryann

From: Mary J Woodhead [redacted]
Sent: Wednesday, April 15, 2015 8:15 AM
To: Nielson, Paul
Cc: george hunt; Shepard, Nora; Norris, Nick; Oktay, Michaela; Coffey, Cheri; Paterson, Joel; Moeller, Michelle
Subject: Re: 9th & 9th Decision

Paul and George: my understanding is that the public hearing was closed on this issue and I did and do not see any basis for the hearing to be re-opened. It would be problematic if the Commission were to reopen the public hearing for the purpose of creating a record to support a predetermined outcome rather than making a decision based on what facts there are in the record. However, although I found that the decision was inconsistent with the law and the Master Plan, I did not find it appropriate to substitute my own decision for that of the commission. So my intention is that the Commission make and pass a motion that is consistent with my opinion, the actual facts in the record and their obligation to act according to the ordinance. Please include this response in the record. Mary

Mary J. Woodhead, Attorney
380 West 200 South, Suite 101
Salt Lake City, Utah 84101
(801) 532-6367

From: "Nielson, Paul" <paul.nielson@slcgov.com>
To: Mary J. Woodhead <[redacted]>
Cc: george hunt <ghunt@wilhunt.com>; "Shepard, Nora" <Nora.Shepard@slcgov.com>; "Norris, Nick" <Nick.Norris@slcgov.com>; "Oktay, Michaela" <Michaela.Oktay@slcgov.com>; "Coffey, Cheri" <Cheri.Coffey@slcgov.com>; "Paterson, Joel" <joel.paterson@slcgov.com>; "Moeller, Michelle" <Michelle.Moeller@slcgov.com>
Sent: Tuesday, April 14, 2015 3:23 PM
Subject: 9th & 9th Decision

Mary:

Thank you for promptly returning a decision in the 9th & 9th appeal matter. The amount of thought you put into that decision and your familiarization with the facts and applicable policies are apparent in that document.

The question has arisen as to the scope of the planning commission's proceedings on remand. These can be tricky waters to navigate given the nature of the commission's prior decision and the information comprising the record. Please advise whether it is your determination that this matter is open to additional submissions (including a reopening of the public hearing) and additional consideration of the facts already submitted relative to applicable standards, whether the petition is deemed approved with only the issue of appropriate conditions to be determined, or whether there is to be some other course of action. Your opinion noted that the planning commission's decision was based on its consideration of master plan policies. Since the commission apparently did not address any other standards in its denial of the conditional building and site design application, the commission is likely to question whether your decision forecloses consideration of other relevant standards on remand. Your direction will be greatly appreciated.

Thank you.

Paul C. Nielson
Senior City Attorney
801.535.7216

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Pickering, Maryann

From: Shepard, Nora
Sent: Wednesday, April 22, 2015 3:08 PM
To: Pickering, Maryann; Norris, Nick; Nielson, Paul
Subject: FW: 9th + 9th reconsideration by the Planning Commission

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

From: jja-1@comcast.net [mailto: [REDACTED]]
Sent: Thursday, April 16, 2015 12:55 AM
To: Shepard, Nora
Subject: Re: 9th + 9th reconsideration by the Planning Commission

Thanks. I'll look forward to your reply. Could I possibly meet with you about this shortly after your return?

Jim

From: "Nora Shepard" <Nora.Shepard@slcgov.com>
To: [REDACTED]
Sent: Wednesday, April 15, 2015 9:45:09 PM
Subject: Re: 9th + 9th reconsideration by the Planning Commission

Good questions. I'll need to check with Paul Nielson, our Attorney, to make sure I answer your questions correctly.

Sent from my iPhone

On Apr 15, 2015, at 9:25 PM, [REDACTED] <[REDACTED]> wrote:

Hi Nora,

I am a bit confused on a few counts:

How is it that the hearing officer has the authority to direct the Planning Commission to revisit their decision?

Why can the hearing officer specify a public hearing that is closed?

I had the impression that there is only a 30 day window for the City or the Community to appeal the hearing officer's decision in court. Is that not correct? Yet the proposed Planning

Commission hearing on 5/13 falls outside that 30 day window, and therefore precludes a court filing, does it not?

Does your email to Darryl mean to imply that no new information can be provided by the Planning Department to the Planning Commission for their 5/13 deliberation?

Sorry to pepper you with questions, but I'm sure you appreciate the interest.

I would be most grateful if you kept me in the loop directly with respect to your updates to the community, given that my business is located next door to the subject property.

Best regards,

Jim Ack, DVM
University Veterinary Hospital & Diagnostic Center, Inc.
801 574-3975M

From: "Nora Shepard" <Nora.Shepard@slcgov.com>
To: "East Liberty Park 1 CC Chair" <[REDACTED]>
Cc: "Nora Shepard" <Nora.Shepard@slcgov.com>, "Andreas Pryzbyla" <[REDACTED]>, "Andrew Stone" <[REDACTED]>, "Arthur Miller" <[REDACTED]>, "Berit Campion" <[REDACTED]>, "Bill Ronnow" <[REDACTED]>, "Charlotte Bell" <[REDACTED]>, "Cindy Cromer" <[REDACTED]>, "Dave Richards" <[REDACTED]>, "Derek Hackmann" <[REDACTED]>, "Ellen Parrish - West Emerson" <[REDACTED]>, "Eric Madsen" <[REDACTED]>, "Erin Mendenhall" <[REDACTED]>, "Erin Mendenhall" <[REDACTED]>, "Heidi Preuss" <[REDACTED]>, "Jason Stevenson - Gilmer Neighborhood" <[REDACTED]>, "Jeremy Higginson" <[REDACTED]>, "Jim Ack - Univ Pet Hosp" <[REDACTED]>, "Josh Levey & Tanya De Angelis" <[REDACTED]>, "Judi Short" <[REDACTED]>, "Kent Hart" <[REDACTED]>, "Kim Madsen" <[REDACTED]>, "Kim Ventura" <[REDACTED]>, "Marcia McKeen" <[REDACTED]>, "Marielle Sira" <[REDACTED]>, "Mary DeLaMare-Schaefer" <Mary.DeLaMare-Schaefer@slcgov.com>, "East Liberty Park 2 CC Chair" <[REDACTED]>, "Monica Ruegner" <[REDACTED]>, "Nate White - Lincoln Courtyard" <[REDACTED]>, "Phillip Bimstein" <[REDACTED]>, "Ralph Curtis" <[REDACTED]>, "Ruth Povinelli" <[REDACTED]>, "Scott Evans - Pago & Finca" <[REDACTED]>, "Sharen Hauri - South Salt Lake" <shauri@southsaltlakecity.com>, "Shelly Cordova" <[REDACTED]>, "Sheridan Mordue - Hip&Humble" <[REDACTED]>, "Steven Rosenberg - Liberty Heights Fresh" <[REDACTED]>, "Susan Harkness" <[REDACTED]>, "Susan Webster" <[REDACTED]>, "Susanna Cohen" <[REDACTED]>, "Swen R Swenson" <[REDACTED]>, "Tom Cordova" <[REDACTED]>, "Tom Harkness" <[REDACTED]>, "myron willson" <[REDACTED]>
Sent: Wednesday, April 15, 2015 8:59:41 PM
Subject: Re: 9th + 9th reconsideration by the Planning Commission

I understand your take on it. The appeals officer has the pretty well defined job of reviewing the record and deciding whether or not the Planning Commission decision was sound in light of the adopted plans and ordinances.

I'll keep you posted as this progresses back to the planning commission.

Nora

Sent from my iPhone

On Apr 15, 2015, at 8:36 PM, Darryl High <[REDACTED]> wrote:

Nora

Thank you for sending the clarification about the appeals decision for Mutual Beauty Supply. This ruling by Mary Woodhead does not seem to meet the needs of a community asking for an open discussion – or approach the test of due process – and in my naiveté mind, appears to be rather arbitrary. Just my two cents...

Best Regards

Darryl High

Co-Chair

East Liberty Park Community Organization

<image001.jpg>

Darryl W. High

C: 801.870.0404 | F: 801.359.2977

[REDACTED]

<image002.jpg>

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From: Shepard, Nora [<mailto:Nora.Shepard@slcgov.com>]
Sent: Wednesday, April 15, 2015 4:29 PM
To: East Liberty Park 1 CC Chair; 'Sheridan Mordue'
Cc: Mendenhall, Erin; Love, Jill; DeLaMare-Schaefer, Mary
Subject: 9th + 9th reconsideration by the Planning Commission

Good Afternoon! After reviewing the Appeal Decision and getting some clarification from the Hearing Officer Mary Woodhead, the process on the 9th and 9th project will be as follows:

The Appeals Hearing Officer reversed the decision of the Planning Commission related to the proposed mixed use development located at 932 East 900 South (PLNPCM2014-00890). What this means is that the Hearing Officer did not find sufficient evidence in the record to support the Planning Commission's decision to deny the project and has sent the matter back to the Planning Commission to reconsider the decision. In doing so, the Hearing Officer set specific parameters that must be followed. Those parameters include:

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Please let me know if you have further questions.

Thanks!

Nora

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

<9th and 9th appeal decision.pdf>


Pickering, Maryann

From: Shepard, Nora
Sent: Wednesday, April 22, 2015 3:09 PM
To: Pickering, Maryann; Nielson, Paul; Norris, Nick
Subject: FW: 9th + 9th reconsideration by the Planning Commission

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

From: Darryl High [mailto:
Sent: Monday, April 20, 2015 1:53 PM
To: Shepard, Nora
Subject: RE: 9th + 9th reconsideration by the Planning Commission


Good afternoon Nora! Hope you had a wonderful weekend.

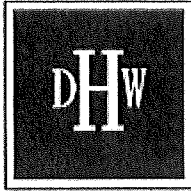
I'd like to start Monday off with a few questions

- 1- Because the developer sought approval through the Conditional Building and Site Design Review process, does this open up conversation about height and density? Or, by requesting a variance, does the height-density issue just follow along? Where does it say that?
- 2- Can exceeding the height & density be discussed and used by the Planning Commission as reason to reject the project?
- 3- With this going back to the Planning & Zoning Commission, does the city attorney have an opinion about due process procedures in not opening the upcoming hearing to public comments?
- 4- Can the commission table this and then reopen a new hearing to hear amplifying comments – Or, is it easier for them to simply reject the petition based on exceeding height & density and direct the petitioner to reapply?

Thank you for your assistance in answering these concerns.

Best Regards
Darryl High

Darryl W. High
C: 801.870.0404 | F: 801.359.2977




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From: Shepard, Nora [<mailto:Nora.Shepard@slcgov.com>]

Sent: Wednesday, April 15, 2015 9:00 PM

To: East Liberty Park 1 CC Chair

Cc: Shepard, Nora; Andreas Pryzbyla; Andrew Stone; Arthur Miller; Berit Campion; Bill Ronnow; Charlotte Bell; Cindy Cromer; Dave Richards; Derek Hackmann; Ellen Parrish - West Emerson; Eric Madsen; Mendenhall, Erin (External); Mendenhall, Erin; Heidi Preuss; Jason Stevenson - Gilmer Neighborhood; Jeremy Higginson; Jim Ack - Univ Pet Hosp; [REDACTED]; Josh Levey & Tanya De Angelis; Judi Short; Kent Hart; Kim Madsen; Kim Ventura; Marcia McKeen; Marielle Siraa; DeLaMare-Schaefer, Mary; East Liberty Park 2 CC Chair; Monica Ruegner; Nate White - Lincoln Courtyard; Phillip Bimstein; Ralph Curtis; Ruth Povinelli; Scott Evans - Pago & Finca; Sharen Hauri - South Salt Lake; Shelly Cordova; Sheridan Mordue - Hip&Humble; Steven Rosenberg - Liberty Heights Fresh; Susan Harkness; Susan Webster; Susanna Cohen; Swen R Swenson; Tom Cordova; Tom Harkness; [REDACTED]; [REDACTED]; [REDACTED]

Subject: Re: 9th + 9th reconsideration by the Planning Commission

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East Liberty Park Community Organization

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Darryl W. High

C: 801.870.0404 | F: 801.359.2977



<image002.jpg>

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Please let me know if you have further questions.

Thanks!

Nora

Nora Shepard, AICP
Planning Director

PLANNING DIVISION
COMMUNITY and ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7226
FAX 801-535-6174

<9th and 9th appeal decision.pdf>



Memorandum

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Mary Woodhead, Salt Lake City Appeals Hearing Officer
From: Maryann Pickering, AICP, Principal Planner
(801) 535-7660 or maryann.pickering@slcgov.com
Date: March 25, 2015
Re: **PLNAPP2015-00101** – Appeal of Planning Commission decision to deny the 9+9 Mixed Use Conditional Building and Site Design Review (PLNPCM2014-00890)

Property Address: 932 E. 900 South
Planning Commission Hearing Date: February 11, 2015
Appellant: George Hunt of Williams & Hunt

Attached is the documentation for appeal PLNAPP2015-00101 regarding the decision of the Planning Commission to deny petition PLNPCM2014-00890, a request by Rinaldo Hunt to build a mixed use building that is 30 feet high and 15,550 square feet of building footprint on the ground floor level. Because the ground floor square footage or footprint exceeds 15,000, it has to obtain Conditional Building and Site Design approval. The building will contain 5,000 square feet of retail and some common tenant space to the residential units on the ground floor as well as the parking for the project. The applicant has provided 25 parking stalls, which is 10 more than required by the Zoning Ordinance. The appeal was submitted by the applicant's representative George Hunt.

The appellant has filed the appeal on these grounds.

1. The decision of the Planning Commission failed to follow the specific criteria of the Conditional Building and Site Design Review, was not supported by substantial evidence and was unlawful as a matter of law.
2. The project before the Planning Commission was specifically designed to comply with the stated policies of the Central Community Master Plan.

Project Chronology:

| | |
|-------------------|---|
| December 18, 2014 | Application is submitted to and received by the Planning Division. |
| December 22, 2014 | Project is assigned to Maryann Pickering. |
| December 31, 2014 | Notice of application to nearby property owners and residents. Those who receive the notice have until January 12, 2015 to request a public hearing or provide comments on the project. |
| January 6, 2015 | A request was made for a public hearing. |
| January 7, 2015 | A second request was made for a public hearing. |
| January 8, 2015 | A third request was made for a public hearing. |
| January 29, 2015 | The following occurred: public hearing notice mailed, public hearing notice posted at the site and public notice posted on City and State websites and Planning Division list serve. |
| February 11, 2015 | Planning Commission public hearing. The project was denied by the Planning Commission. |
| February 12, 2015 | A record of decision letter was sent to the applicant and stated that any appeal would need to be filed by February 23, 2015. |
| February 18, 2015 | Appeal was filed by the applicant's representative (Petition Number: PLNPCM2015-00101) |

March 19, 2015 Notice of the Appeals Hearing was mailed.
April 1, 2015 Appeals Hearing.

This is an appeal of a Planning Commission decision. Therefore, the appeal must be made based on the record. No public testimony shall be heard.

Table of Contents:

1. Appellant Information and Basis for Appeal
2. City Attorney's Response
3. Planning Commission Record
 - a. Record of Decision Letter
 - b. Staff Report
 - c. Meeting Minutes
 - d. Agenda and Notice
 - e. Information submitted at or prior to public hearing

GEORGE A. HUNT (1586)
WILLIAMS & HUNT
257 East 200 South, Suite 500
P. O. Box 45678
Salt Lake City, Utah 84145-5678
Phone: 801-521-5678
Facsimile: 801-364-4500
ghunt@williamsandhunt.com

*Attorneys for Applicant
9th & 9th Property LLC*

BEFORE THE APPEALS HEARING OFFICER

| | |
|--|---------------------------|
| In Re: Application of 9 th & 9 th Property LLC, | Case No. PLNPCM2014-00890 |
|--|---------------------------|

STATEMENT OF ERROR
AND
REASONS FOR APPEAL

APPEAL FROM A DECISION OF THE SALT LAKE CITY PLANNING COMMISSION
DENYING APPLICANT'S CONDITIONAL BUILDING AND SITE DESIGN REVIEW
APPLICATION

Statement of Jurisdiction. Jurisdiction is present in this Tribunal pursuant to Utah Code Ann. § 10-9a-70(1)(b) and Salt Lake City Code § 21A.16.030.

Standard of Review. The review being undertaken in this matter was purely administrative in nature. It was part of the executive function of government and not a part

of the legislative process. Salt Lake City enjoys the Mayor- Council form of government where the Council is the legislative body and the Mayor and staff – including planning staff, perform executive and administrative functions. Utah Code Ann. §10-3b-201. As such, public political input was not appropriate for consideration by the Planning Commission at this type of proceeding. *Scherbel v. Salt Lake City Corp.*, 758 P.2d 897, 899 (Utah 1988). Rather, the Planning Commission’s sole mission and focus was to determine whether the Application complied with the specific criteria in the zoning code. *Mouty v. Sandy City Recorder*, 2005 UT 41, ¶¶ 30-33, 122 P.3d 521.

The Appeals Hearing Officer shall review the decision based upon applicable standards and shall determine its correctness. The Appeals Hearing Officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute or ordinance in effect when the decision was made. The Appellant has the burden of proving the decision appealed is incorrect. The appeal is heard on the record established by the Planning Commission. § 21A.16.030(2) Salt Lake City Code and Utah Code Ann. § 10-9a-705, 707.

Statement of Issues. Whether the decision of the Planning Commission denying approval of the application for Conditional Building and Site Design Review (the “Application”) seeking approval of maximum building size in excess of 20,000 sq. ft., as provided in the Community Business District (CB) Zone, §21A.26.030.E, was based upon substantial evidence in the Record, or was a specific response to public clamor and was

therefore insufficient as a matter of law to support the denial. *Thurston v. Cache County*, 626 P.2d 440 (Utah 1981); *Davis County v. Clearfield City*, 756 P.2d 704, 711 (UT App. 1988); *Uintah Mtn. RTC, LLC, et al. v. Duchesne County*, 2005 UT App 565, ¶¶ 28-30, 127 P.3d 1230.

Controlling Statutes, Rules and Code Sections. The standard for reversal of the denial by the Planning Commission is a demonstration that the decision was not supported by substantial evidence or that it was contrary to law, statute or ordinance in effect at the time the decision was rendered. Salt Lake City Code §21A.16.030.E (2)(c).

STATEMENT OF THE CASE

This is an appeal from the denial by the Salt Lake City Planning Commission of an Application for Conditional Building and Site Design Review as contemplated by the CB Zone that applied to Applicant's property. The CB Zone contemplates, among other things, that if a proposed building exceeds 20,000 total square feet in size, the application must go through the Site Design review process. Note that buildings exceeding 20,000 square feet are not prohibited by the CB Zone; rather, such projects simply must complete the Site Design Review process. Salt Lake City Code, §21A.26.030.C. The Application was heard before the Salt Lake City Planning Commission on February 11, 2015. The Application was recommended for approval by the Planning Division Staff Report, but after listening to 35 highly politicized neighbors complain that the proposed development

would cause parking and traffic congestion problems in the neighborhood, the Commission denied the Application. The Record of Decision was posted February 12, 2015.

The instant appeal is being filed on February 18, 2015 by 9th & 9th Property, LLC, (“Appellant”) which owns the subject property located at 932 East 900 South in Salt Lake City. The Appellant challenges the denial as not being based upon substantial evidence, but rather a response to public clamor in the neighborhood. Thus the decision denying the application was unsupported by substantial evidence and illegal.

The Applicant believes that its Application fully meets and satisfies the standard set forth in §§ 21A.26.030 and 20.31.090, Salt Lake City Code, and that the Appellant has met its burden to demonstrate that the decision of the Planning Commission was incorrect.

ARGUMENT

Point I

THE DECISION OF THE PLANNING COMMISSION FAILED TO FOLLOW THE SPECIFIC CRITERIA OF THE CONDITIONAL BUILDING AND SITE DESIGN REVIEW, WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND WAS UNLAWFUL AS A MATTER OF LAW.

LACK OF SPECIFIC EVIDENCE. The Application before the Planning Commission was a Conditional Building and Site Design Review which is defined by the Code as follows:

“CONDITIONAL BUILDING AND SITE DESIGN REVIEW: A design that is allowed only after review and approval by the planning commission which includes a comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, height, setbacks, front facade glass, architecture, materials, colors, lighting and signs in accordance with a set of adopted criteria and standards.”

Salt Lake City Code §21A.62.040.

Note that this review by definition focuses on the building and the site. It does not mention the potential impact of traffic or parking and it refers specifically to an adopted set of standards and criteria that the Planning Commission is duty bound to apply.

On the issue of “maximum building size”, which was the only issue before the Commission¹ and the only particular in which the Application did not, on its face, fully meet all of the zoning criteria set forth in the CB Zone, the Staff Report prepared by Maryann Pickering, Principal Planner for the City, stated:

“The applicant has applied for approval through the conditional building and site design process. In addition, no basement is proposed. The Standards of Conditional Building and Site design review are analyzed in Attachment F. That analysis indicates that the proposal complies.”

In denying the Application, the Commission found that the Application did not meet Standard L contained in Attachment F to the Staff Report because the Application conflicted with a Master Plan Policy contained in the Central Community Master Plan, and designated CLU-1.2 which provides:

“Community Commercial: Locate community level retail sales and services on appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.”

¹ The Staff Report also stated that the building footprint exceeded 15,000 square feet, but failed to consider that over 8,000 square feet of the ground floor is parking, which is allowed “*in addition to*” the square footage limitations. SLC Code §21A.26.030.E.

Central Community Master Plan. p.11; *See also*, Record of Decision Letter from Maryann Pickering to Applicant dated February 12, 2015.

There is a clear disconnect between the Master Plan Policy cited by the Commission in making its decision and the issue of the Applicant exceeding the maximum building size. As previously stated, the Master Plan policy focuses on encroachment on residential neighborhoods and generating *community-wide* parking and traffic issues which is an entirely separate issue from the building size. In reviewing the Record of proceedings before the Commission, the Applicant notes that all of the 35 public comments addressed parking and traffic issues that would allegedly be created by the development. All of the comments were anecdotal in nature and based on conjecture. None cited statistics, facts or particular expertise. Several residents voiced concerns regarding the *existing* parking problems created by a Yoga Studio that has zero on-site parking. None provided factual support as to why the maximum floor size of this development which will add 25 on-site parking spaces would encroach into the residential neighborhood and generate community-wide parking and traffic issues. As previously detailed, the proposed development fully complies with all traffic, parking and setback requirements. Staff Report, pp. 22, items E, F; p. 27, Transportation Review. The building setback on the South side where the project interfaces with the residential community exceeds the minimum setback by 100%. *See* Staff Report, p.10 - Site Plan.

The citizens who appeared at the Commission hearing voiced concerns with the recent action of the City Council which reduces parking requirements for new developments and places limits on the number of parking stalls in a development, in an effort to encourage use of mass transit, bicycles and walking in neighborhoods. *See, e.g.,* SLC Code §14.06.010, *et seq.*; §21A.44.030.H; it is undisputed in the Record here that the proposed development meets and, in fact, exceeds all applicable parking requirements and that the City Transportation Department does not foresee any traffic problems being created by the design, layout or relative size of the project.

The proceeding before the Planning Commission was supposed to be a Building and Site Design Review to ascertain whether the project met the specific criteria in the zoning code. However, the Planning Commission's ultimate decision was not based on evidence on the aforementioned criteria of the specific matter at hand. Rather, the Planning Commission's decision was based upon highly politicized personal opinion and anecdotal statements regarding the issue of *community-wide* parking and traffic concerns, which is outside the intended scope of review. While certain residents stated that the building as proposed would create additional parking issues, the Records shows no evidence as to how the parking provided on site, which is in excess of the parking required by code, would be insufficient to accommodate the new development. Presumptively, by meeting the applicable parking requirements and passing muster with the Transportation Department,

the designed square footage of the building does not create traffic or parking problems. That presumption was not rebutted by any of the public testimony.

THE PUBLIC CLAMOR DOCTRINE. It has long been held in this state that “public clamor” is not a legally sufficient basis to uphold an administrative land use decision. By definition, reliance upon public clamor is arbitrary and capricious as a matter of law and does not provide a sound legal basis to support a land use decision. *Davis County v. Clearfield City*, *supra* at pp. 712, 713; *See also, Ralph L. Wadsworth Construction, Inc. v. West Jordan City*, 2000 UT App 49, ¶ 17 999 P.2d 1240. Moreover, by citing violation of a planning policy that is not connected to the issue at hand as reason for the decision, is an admission that the decision was based upon the neighbors’ complaints about community-wide traffic and parking rather than any direct problem with the building square footage. During the hearing, Staff Counsel Paul Nielson and the Planning Manager Nick Norris repeatedly attempted to get the Commission to focus on the issue at hand rather than the parking and traffic issues which were not relevant. These were not heeded by the Commission. In effect, the hearing was commandeered by the political process and the specific zoning code requirements of the administrative process were not addressed – except by the Staff report and the comments by the Applicant which were ignored.

The decision of the Planning Commission should be reversed. In basing its decision on public opinion rather than substantive data, the Commission acted like a legislative body seeking public comment on a new zoning code or parking requirement rather than an

administrative body implementing an existing code and its specific requirements. The denial is unlawful and is not supported by substantial evidence.

Point II

THE PROJECT BEFORE THE PLANNING COMMISSION WAS SPECIFICALLY DESIGNED TO COMPLY WITH THE STATED POLICIES OF THE CENTRAL COMMUNITY MASTER PLAN.

The narrative of the Central Community Master Plan specifically addresses the 9th & 9th Neighborhood. It states:

9TH & 9TH: The East Central Small Area plan provides opportunity to enhance the diversity of the area by “building up” (vertically) in existing commercial land use designated areas. This concept supports ground level commercial space with apartment or condominium units above the first floor. Neighborhood commercial businesses can extend the unique fabric of the 9th and 9th neighborhood with an inviting pedestrian environment. The introduction of housing into the business district should be encouraged through re-use of existing buildings. New structures should maintain the same height, scale and mass as those existing and should be compatible with existing architecture.

Central Community Master Plan, p. 11.

The project reflected in the Application sits on the corner of 900 South and Lincoln Street. It is designed to be exactly the same height as adjacent buildings to the West; it rises vertically and places apartment units next to and above ground level commercial; parking is covered and screened from view on the ground floor behind commercial space that fronts on 900 South and it creates a pleasant interconnect with the pedestrians on 900 South and Lincoln Street. And considering the “business district” includes the Smith’s Grocery Store on 900 East, the building is actually smaller in size and mass than others in the district.

As noted at p. 23 of the Staff Report:

The building is oriented to both 900 South and Lincoln Street with an urban format with no additional setbacks. The intent of the CB zoning designation is to provide retail that is pedestrian oriented in size and scale while noting the importance of transit and auto access to the site.

The Central Community Master Plan encourages mixed-use development when the residential character of the area is maintained. This project is small scale and is compatible with the neighborhood.

The urban design element encourages the height of neighborhood retail, residential and industrial use to the height and scale of the respective neighborhood and generally be limited to three stories in height. This particular proposal does satisfy the policy found in the Urban Design Element.

The project was specifically designed with the Master Plan in mind and, as a result, fits well within the intent of the Central Community Master Plan. The Application complies with the criteria of the zoning code in all respects as reflected in the Staff Report. Based on the lack of evidence to the contrary, it certainly appears that the Application was denied solely because the Commission was derailed by politics and public clamor. The decision should be reversed and the Application granted as recommended in the Staff Report.

CONCLUSION

The proceeding before the Planning Commission was supposed to be a Building and Site Design Review to ascertain whether the project met the specific criteria in the zoning code. Instead, the process was derailed by politics which should not have been involved at all. The Application was administrative in nature. This was not supposed to be a legislative function where public comment is appropriate. As a result, the Commission failed to focus

on the task at hand, compromised the separation of powers doctrine and based its decision on public clamor. Because of these failures, the Applicants request that the decision of the Planning Commission be reversed and the Application granted.

DATED this 18th day of February, 2015.

WILLIAMS & HUNT

By



GEORGE A. HUNT
Attorneys for Applicant,
9th & 9th Property, LLC

ADMINISTRATIVE HEARING OF A LAND USE APPEAL
(Case No. **PLNAPP2015-00101**)
(Appealing Petition No. PLNPCM2014-00890)
April 1, 2015

| | |
|-------------------------------|--|
| Appellant: | 9th and 9th Property, LLC |
| Decision-making entity: | Salt Lake City Planning Commission |
| Address Related to Appeal: | 932 East 900 South |
| Request: | Appealing the planning commission's denial of conditional building and site design approval. |
| Brief Prepared by: | Paul C. Nielson, Senior City Attorney |

Land Use Appeals Hearing Officer's Jurisdiction and Authority

The appeals hearing officer, established pursuant to Section 21A.06.040 of the *Salt Lake City Code*, is the city's designated land use appeal authority on appeals of planning commission decisions.

Standard of Review for Appeals to the Appeals Hearing Officer

In accordance with Section 21A.16.030.A of the *Salt Lake City Code*, an appeal made to the appeals hearing officer "shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the Appellant claims the decision to be in error, including every theory of relief that can be presented in district court." It is the Appellant's burden to prove that the decision made by the land use authority was erroneous. (Sec. 21A.16.030.F). Moreover, it is Appellant's responsibility to marshal the evidence in this appeal. Carlsen v. City of Smithfield, 287 P.3d 440 (2012), State v. Nielsen, 326 P.3d 645 (Utah, 2014), and Hodgson v. Farmington City, 334 P.3d 484 (Utah App., 2014).

“The appeals hearing officer shall review the decision based upon applicable standards and shall determine its correctness.” (Sec. 21A.16.030.E.2.b). “The appeals hearing officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.” (Sec. 21A.16.030.E.2.c).

This case deals with application of Chapter 21A.59 (Conditional Building and Site Design Review) of the *Salt Lake City Code*.

Background

Applicant, 9th and 9th Property, LLC (“Appellant”), submitted a petition for conditional building and site design approval (Petition No. PLNPCM2014-00890) to construct a mixed use structure that exceeds 15,000 first floor square feet or 20,000 total square feet.

Planning Division staff prepared a report on Appellant’s application for the planning commission’s February 11, 2015 public hearing on said application. The staff report reviewed the petition in light of applicable ordinance standards, and recommended approval of the application. (Staff Report at pp. 1, 20-23, 30).

The planning commission, rejecting the staff recommendation, voted to deny the application based upon its determination that the proposal failed to comply with the intent and purpose statements of adopted master plan policies as required by Section 21A.59.060.L. (See Minutes of Planning Commission’s February 11, 2015 meeting and the video of that meeting). Specifically, the commission determined that the proposed development would violate Policy CLU-1.2 of the Central Community Master Plan, which policy states, “[l]ocate community level retail sales and services on appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.” (Salt Lake City Central Community Master Plan (Adopted November 1, 2005) at p. 11).

Video of the commission's public meeting is found at <http://www.slcgov.com/slctv/slctv-videos-demand>, and the video of the February 11, 2015 public meeting is part of the record of this matter. The commission's motion, including its findings, occurs at 1:36:16 to 1:39:01 of the February 11, 2015 meeting.

Appellant filed an appeal of the planning commission's decision on February 18, 2015, which document is provided as part of the record of this matter. Appellant's arguments, as set forth in its appeal document, are as follows:

- A. The planning commission "failed to follow the specific criteria of the conditional building and site design review";
- B. The planning commission's decision was based on public clamor; and
- C. The proposed development "was specifically designed to comply with the stated policies of the Central Community Master Plan."

DISCUSSION

Appellant's Argument that the Planning Commission's Decision Failed to Follow the Specific Criteria for Conditional Building and Site Design Review.

Appellant's first argument is the planning commission ignored the conditional building and site design criteria set forth in the ordinance. To support its argument, Appellant relies on the definition of "conditional building and site design review" provided at Section 21A.62.040 of the *Salt Lake City Code*. (Appellant's Statement of Error and Reasons for Appeal at p. 4). However, that definition does not establish the standards of approval. Those standards are set forth in Section 21A.59.060 of the city's code.

Appellant acknowledges that the standard established in Section 21A.59.060.L that requires compliance with adopted master plan policies (Appellant's Statement of Error and

Reasons for Appeal at p. 5), but contends that “[t]here is a clear disconnect between the Master Plan Policy cited by the Commission in making its decision and the issue of the Applicant exceeding the maximum building size.” (Appellant’s Statement of Error and Reasons for Appeal at p. 6). Appellant further argues that “encroachment on residential neighborhoods and generating community-wide parking and traffic issues...is an entirely separate issue from building size.” (*Id.*) However, neither Appellant nor the planning commission has the option to choose whether the standard set forth in Section 21A.59.060.L applies. Instead of arguing that the proposed project satisfies that standard, Appellant’s arguments attempt to marginalize its importance and applicability, arguing that the proposal otherwise meets the city’s parking requirements.

There is no legal basis for the planning commission to ignore the standard of Section 21A.59.060.L. Thus, Appellant’s opinion that the aforementioned master plan policy should not apply is not only meritless, but also fails to show that the planning commission’s decision was arbitrary, capricious or illegal. To the contrary, had the commission ignored that standard, it would have violated the requirement of Section 21A.59.060.L to make a finding as to compliance with applicable master plan policies. Thus, Appellant’s arguments concerning the applicability of Section 21A.59.060.L clearly fail to present any basis for the appeals hearing officer to reverse the commission’s decision.

Appellant’s Argument that the Planning Commission’s Decision was Based on Public Clamor.

Appellant correctly argues that a land use decision may not be based upon public clamor. However, its suggestion that public comment is tantamount to public clamor is misplaced.

First, it is important to note that, as stated by the Utah Court of Appeals in Harmon City, Inc. v. Draper City, 997 P.2d 321 (Utah App., 2000), public comment is not the same as public clamor, holding that,

“**Clamor**” is a more subjective term, connoting a degree of irrationality or emotion. *See Webster's Third New Int'l Dictionary* 414 (1993) (defining “clamor” as “the loud and continued uproar of many human voices[;] a loud continued and usu[ally] confused noise”). Its synonyms include hubbub, rumpus, tumult, and din.

Id. at 329. Additionally, the Utah Supreme Court, in Thurston v. Cache County, 626 P.2d 440 (Utah, 1981), in a case challenging a conditional use permit approval, held that

[w]hile it is true that the consent of neighboring landowners may not be made a criterion for the issuance or denial of a conditional use permit, there is no impropriety in the solicitation of, or reliance upon, information which may be furnished by other landowners in the vicinity of the subject property at a public hearing.

Id. at 445.

Thus, when public comment is informative rather than irrational and speculative, it is not public clamor and the land use authority may consider relevant comments and concerns presented in a public hearing.¹ In this case, neighbors expressed concerns based upon their own experience with parking and traffic issues that the proposed project would exacerbate parking and traffic issues.

For these reasons, Appellant’s arguments concerning public clamor should be rejected.

Appellant’s Argument that the Proposed Project was Specifically Designed to Comply with Master Plan Policies.

¹ Appellant contends that Scherbel v. Salt Lake City Corp., 758 P.2d 897 (Utah 1988) dictates that public input is inappropriate in administrative land use decisions. (See Appellant’s Statement of Error and Reasons for Appeal at p. 2). Scherbel does not support Appellant’s contention and the large body of case law addressing public comments in administrative land use decisions such as conditional use permits clearly dispels Appellant’s argument.

Appellant's argument that the development project was specifically designed to comply with stated policies in the Central Community Master Plan is a nonstarter because it supposes that it is not possible for the planning commission's judgment to differ from Appellant's. Were this true, there would be no need for planning commission review where an applicant declares that its proposal satisfies applicable standards.

Whether the proposed development is in harmony with the stated policies and principles in the Central Community Master Plan is a decision within the judgment of the planning commission regardless of any representation made by an applicant or any other person that the proposal does or does not meet the established standards.

Thus, Appellant's argument that the proposed development project complies with the policies of the master plan because it designed it that way is meritless and must be rejected.

CONCLUSION

For the reasons stated above, Appellant's arguments must be rejected and the planning commission's decision upheld.



February 12, 2015

Rinaldo Hunt
9th and 9th Property, LLC
2716 Ocean Park Boulevard, Suite 2025
Santa Monica, California 90405

RE: Record of Decision for Petition PLNPCM2014-00890 regarding the Conditional Building and Site Design Review request located at approximately 932 E. 900 South

Dear Mr. Hunt:

On February 11, 2015, the Planning Commission denied your request for conditional building and site design review located at approximately 932 E. 900 South.

The decision of the Planning Commission was based on the information contained in the staff report, the project details provided by you, testimony from the public, and the discussion of the Planning Commission. Copies of this information may be found at <http://www.slcdocs.com/Planning/Planning%20Commission/2015/890.pdf>.

The decision considers the general purpose of the zoning ordinance as well as the purpose of the zoning district where the proposal is located. The purpose of the zoning district is as follows:

The CB community business district is intended to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods. The design guidelines are intended to facilitate retail that is pedestrian in its orientation and scale, while also acknowledging the importance of transit and automobile access to the site.

The purpose of Conditional Building and Site Design Review is stated in 21A.59.010:

The intent of building and site design review regulations is to provide for the flexible implementation of the specific design requirements set forth within individual zoning districts. The purpose statement of each zoning district provides the philosophical approach to defining that flexibility. This process is intended to supplement the review and administrative procedures which are carried out under this title or other city ordinances and regulations. The conditional building and site design review process is intended to help ensure that newly developed properties and redeveloped properties are designed to encourage pedestrian access, circulation and

orientation while acknowledging the need for transit and automobile access.

The Planning Commission specifically made a finding related to the proposal that it was not compatible with 21A59.060 Standards for Design Review, specifically standard L, which states:

Any new development shall comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located as well as adopted master plan policies, the city's adopted "urban design element" and design guidelines governing the specific area of the proposed development. Where there is a conflict between the standards found in this section and other adopted plans and regulations, the more restrictive regulations shall control.

Based on the policies in the Central Community Master Plan, the Planning Commission found that the proposal does not comply with the adopted master plan policies, citing policy CLU1.2 and therefore does not satisfy standard 21A.59.060.L.

The Record of Decision is provided to you indicating the date action taken to deny the request, the 10 day appeal period, and to what body an appeal can be made.

There is a 10-day appeal period in which any affected party can appeal the Planning Commission's decision. This appeal period is required in the City's Zoning Ordinance and allows time for any affected party to protest the decision, if they so choose. The appeal would be heard by the Administrative Hearing Officer. Any appeal, including the filing fee, must be submitted by the close of business on **Monday, February 23, 2015**.

The decision of the Planning Commission is located on the Planning Division's website at: <http://www.sledocs.com/Planning/Planning%20Commission/2015/211ROD.pdf>.

If you have any questions, please contact me at (801) 535-7660 or maryann.pickering@slcgov.com.

Sincerely,



Maryann Pickering, AICP
Principal Planner

cc: File



Staff Report

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Planning Commission

From: Maryann Pickering, Principal Planner
(801) 535-7660

Date: February 11, 2015

Re: 9+9 Mixed Use Conditional Building and Site Design Review (PLNPCM2014-00890)

CONDITIONAL BUILDING AND SITE DESIGN REVIEW

PROPERTY ADDRESS: 932 E. 900 South

PARCEL IDS: 16-08-182-016 and 16-08-182-017

MASTER PLAN: Community Commercial – Central Community Master Plan

ZONING DISTRICT: CB (Community Business)

REQUEST: Approval of a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission.

RECOMMENDATION: Based on the information in this staff report, planning staff recommends that the Planning Commission approve the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

ATTACHMENTS:

- A. Vicinity Map
- B. Zoning Map
- C. Development Plan Set
- D. Additional Applicant Information
- E. Existing Conditions
- F. Analysis of Standards
- G. Public Process and Comments
- H. Department Comments
- I. Motions

PROJECT DESCRIPTION:

The proposal seeks to increase the maximum first floor area of 15,000 square feet or 20,000 square feet overall for the building. The mixed use development would be three stories in height. The first floor would contain approximately 5,000 square feet of retail space and the remainder of the building would be comprised of 28 residential condominium units. Buildings that exceed either 15,000 square feet for the first floor or 20,000 square feet overall may be approved if they comply with the standards for Conditional Building and Site Design Review.

The building would take up virtually all of the land area on the property. Parking is proposed to be located underneath the building, but will not be in an underground parking structure. It will be located along the first floor area of the building in the back or rear of the 5,000 square feet of retail area. All vehicular access to the site will be from Lincoln Avenue and there are no plans to provide vehicular access from 900 South. A total of 25 parking spaces are provided and that does exceed the requirement found in the Zoning Ordinance. The building is designed to be 30 feet in height.

KEY ISSUES:

The key issues listed below have been identified through the analysis of the project, neighbor input and department review comments.

Issue 1: Building Height

As noted in the project description, the building is designed to be 30 feet in height. However, it will have a parapet wall at the top to screen mechanical equipment that is approximately four feet tall. The Zoning Ordinance does allow a parapet wall for this purpose up to five feet in height. And, an elevator or stairwell bulkhead is provided that extends approximately 16 feet up from the roof deck height of 30 feet. This is also permitted per the Zoning Ordinance. Therefore, the building does comply with all height requirements of the Zoning Ordinance, but may appear taller than 30 feet.

Issue 2: Parking Spaces

The proposed project will include a total of 25 parking spaces. These parking spaces will be located at the first floor level and they will all be accessed from Lincoln Avenue. Based on various reductions allowed through the Zoning Ordinance, the project is required to provide a minimum of 14 parking spaces. The reductions allowed are described in Section 21A.44.040.B.8 of the Zoning Ordinance. The applicant has demonstrated on the site plan that bike racks are located within 100 feet of an entrance to the business and therefore is allowed to exempt a total of 2,500 square feet of the retail building area from the parking requirements. Concerns have been raised by residents in the area that there is little to no on-street parking available today and most of those spaces are utilized by the existing residents. The concern is that this development will increase the demand for parking in the area and there will be less available for those who live and work there already.

Issue 3: Rear Yard Setback

A concern has been raised by a neighbor in the area about the rear yard setback. The building itself is located approximately 20 feet from the rear property line and a seven foot landscaped setback has also been provided. Both of these items are in compliance with the standards of the Zoning Ordinance. Staff will agree that the manner in which the site plan was drawn does make it seem like the building is closer than the minimum setback as a four foot tall retaining wall and required light proof fence are shown on the site plan. A total of five new trees will also be installed in the landscaped area along the rear property line to help screen the building and parking area from the residential property located directly to the south.

Issue 4: Vehicular Access

Staff has noted that the proposed required parking area is accessible by one driveway or access point. While there is no requirement for more than one access point, it should be noted that having all vehicles entering and exiting the parking area through this one point will most likely increase the amount of vehicular traffic along Lincoln Street, since the current layout or configuration of the site has two access points. Currently there is one driveway along Lincoln Street and the other is along 900 South. The proposed parking area of 25 parking spaces is less than the approximate 35 parking spaces that currently exist on the site; however, all vehicular traffic will now be directed to one driveway. It should be noted that the City's Transportation Division has reviewed the project and did not have any objections to the proposed access or require a traffic study. The Central Community Master Plan includes a policy TRANS-2.1 states "minimize, through design review, that street design, pedestrian connections, building/parking areas, and land use designations do not create circulation conflicts between vehicles and pedestrians." Locating the vehicular access on Lincoln Street eliminates the existing drive approaches on 900 South, which are conflict points between pedestrians and vehicles entering the property. 900 South carries more pedestrian traffic due to the nature of the street, and should be viewed as the primary pedestrian street, where conflicts should be reduced.

DISCUSSION:

In general, the proposal is well thought out and satisfies all of the Zoning Ordinance and design standards for approval. The building is designed with a ground level that is pedestrian focused along the two adjacent streets and is visually interesting with columns, expansive glass, and various building materials. Proposed vehicle access will utilize the existing driveway along Lincoln Street and as discussed above, it will be the only vehicular access for the parking area provided. The parking area is well designed and by its location behind the building and installation of the light proof fence along the southern property line, it will be difficult to see the parking area from the adjacent properties. There have been no concerns expressed to staff regarding the square footage of the building and the larger square footage can be approved if the project satisfies all the requirements of Conditional Building and Site Design review. Not only does the proposal satisfy all of the general design standards and requirements of the Conditional Building and Site Design review process, it also meets all but one Zoning Ordinance requirements. Therefore, staff would recommend approval of this project.

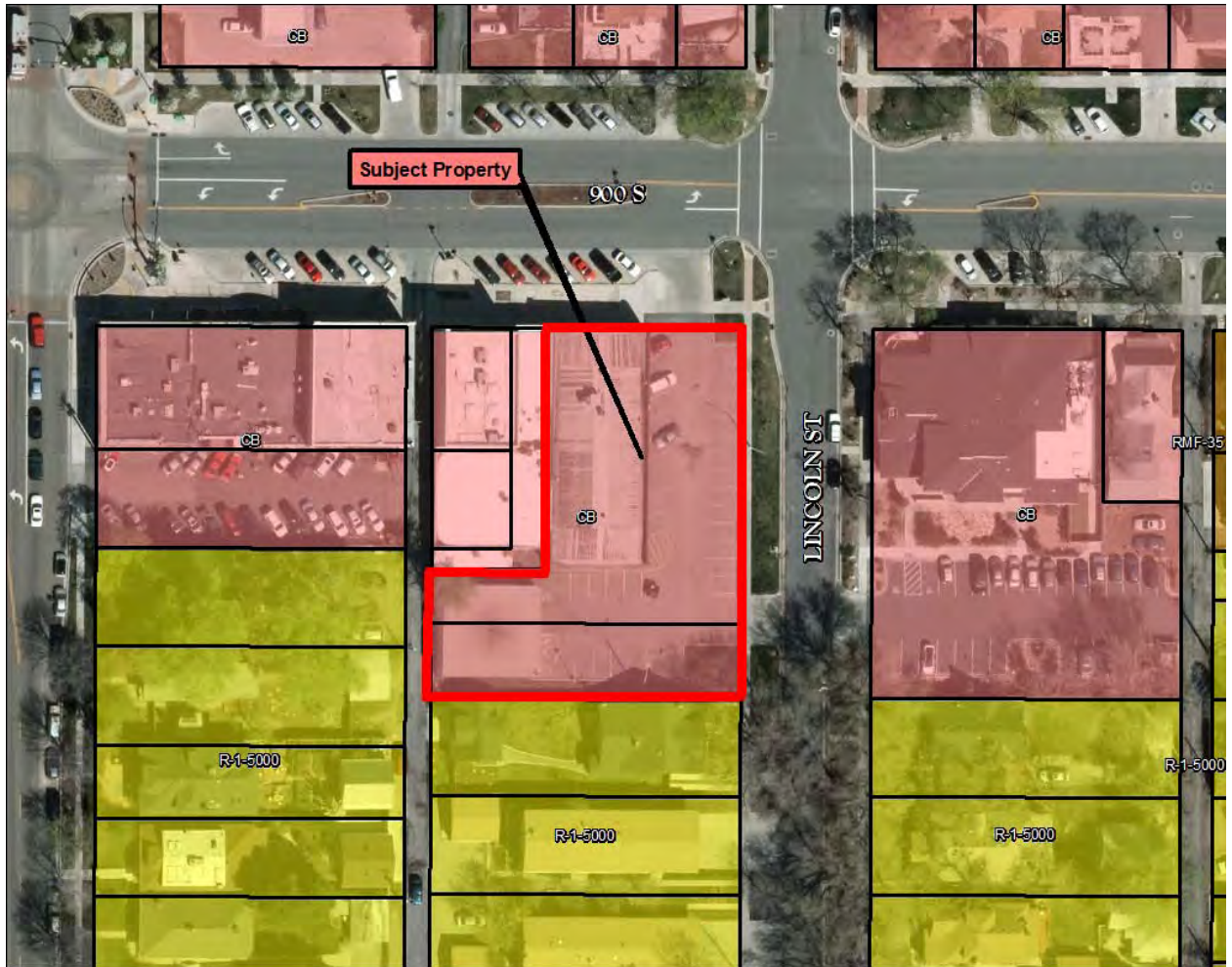
NEXT STEPS:

If approved, the applicant may proceed with the project and will be required to obtain all necessary permits. If denied the applicant would still be able to construct a building but it would need to be less than 20,000 square feet in size and would need to comply with all applicable Zoning Ordinance standards.

ATTACHMENT A: VICINITY MAP



ATTACHMENT B: ZONING MAP



ATTACHMENT C: DEVELOPMENT PLAN SET

9+9 MIXED USE DEVELOPMENT



SITE EVALUATION for 9+9 Mixed Use Development

Zoning

| | |
|-----------------------------------|---|
| Lot Area: | 22,302 sq. ft. .51 acres |
| Lot Dimensions: | 99.05' x 187.02' |
| Building Footprint: | 15,550 sq. ft. |
| Parking Area: | 9,934 sq. ft. |
| Existing Zoning: | CB/Community Business District |
| Zoning Requirements: | Any building have a fifteen thousand (15,000) gross square foot floor area of the first floor or a total floor area of twenty thousand (20,000) gross square feet or more, shall be allowed only through the conditional building and site design review process. |
| Setbacks: | Front or Corner Side Yard: No minimum yard is required. Interior Side Yard: None required. Rear Yard: Ten feet (10'). |
| Maximum Height: | Thirty feet (30'). |
| First Floor Non-Reflective Glass: | 40%. Required. 48% Provided |
| Maximum Length of Blank Wall: | 15'-0". Required . 14'-6" Proposed |
| CN/CB ZONING: | PEDESTRIAN FRIENDLY DEVELOPMENT. 21-A 44.030.8. -a,b,c,d,e.. exemptions. |

General Parking Requirements As per table 21A.44.030

| | |
|------------------------------|--------------------------------------|
| Retail Requirements: | 2 stalls/1,000 sq. ft. |
| Studio (500 Sq. Ft.): | 1/2 stall |
| 1 Bedroom Unit Requirements: | 1 stall/unit |
| 2 Bedroom Unit Requirements: | 2 stalls/unit |
| ADA: | 1/25 stalls |
| Landscape Buffer: | Seven feet (7')W/ Light proof fence. |
| Interior Landscape: | N/A |

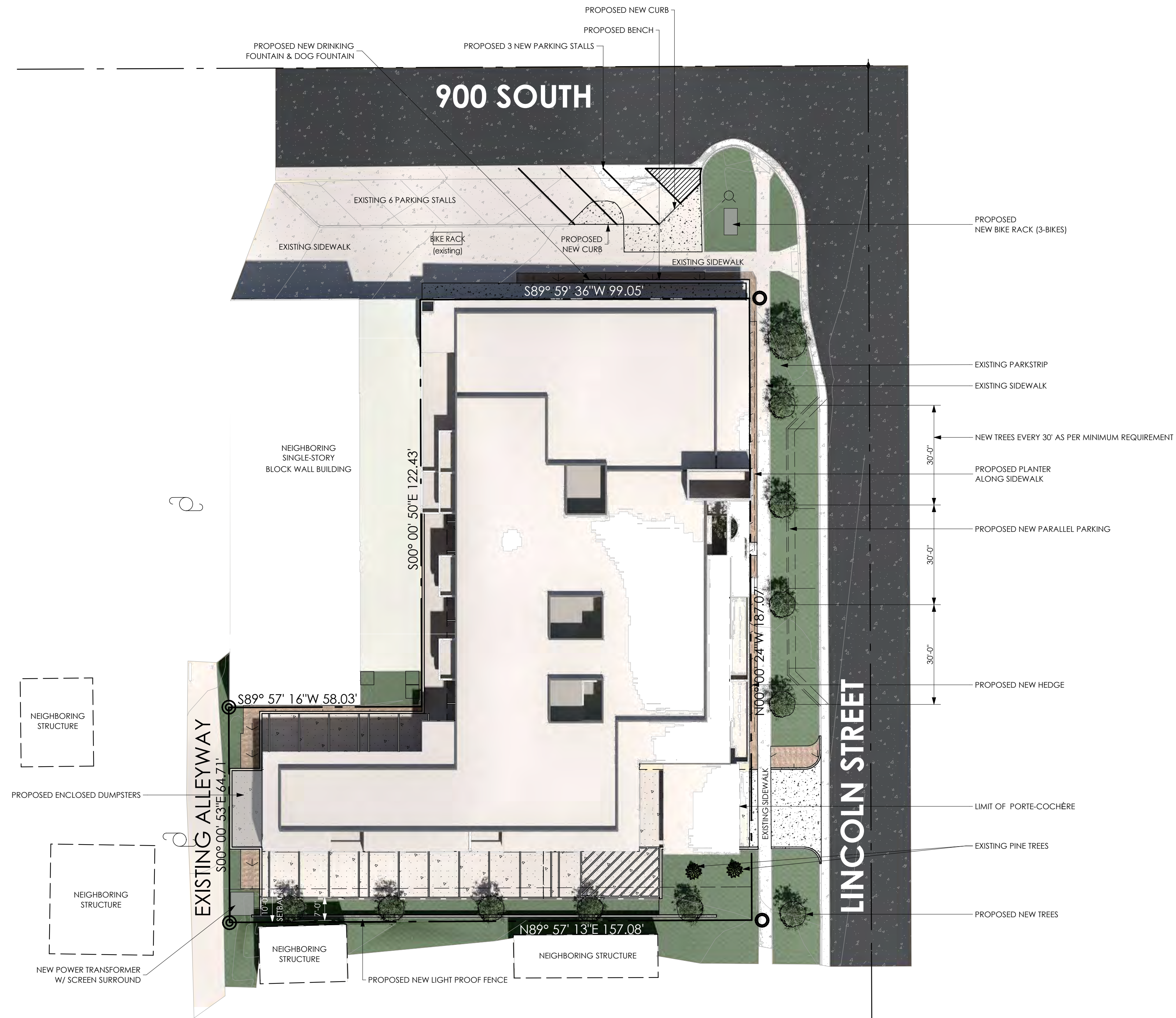
CN/CB ZONING:

Parking lot lighting: Light poles limited to 16'-0" in height /globe must be shield

| BUILDING | AS PER TABLE 21A.44.030 | PEDESTRIAN FRIENDLY EXCEPTION* | PROVIDED |
|----------------------------------|--------------------------|--------------------------------|-----------------------|
| Retail-1 Unit: | 5,000 sq. ft. 10 Stalls | 0 Stalls | 1 Stalls |
| Studio - 2 Units: | 1,000 sq. ft. 1 Stall | .5 Stalls .5/unit | 2 Stalls |
| 1 Bedroom-10 Units: | 10,860 sq. ft. 10 Stalls | 5 Stalls.5/unit | 5.0 Stalls |
| 2 Bedroom-16 Units: | 11,768 sq. ft. 32 Stalls | 8 Stalls.5/unit | 16.0 Stalls |
| ADA Stalls (1/25): | (2 Stalls) | 1 Stall | 1 Stall |
| Total # of Parking Stalls | 53 Stalls | 14.5 Stalls | 24+1 ADA Stall |

MAXIMUM # OF STALLS: 125% OF MINIMUM **22.65 Stalls**
 MINIMUM # OF STALLS: **14.5 Stalls**

*See sheet A4-ZONING ORDINANCE: CB/COMMUNITY BUSINESS DISTRICT & PARKING REQUIREMENT REDUCTIONS. 21A.44.030 5.7

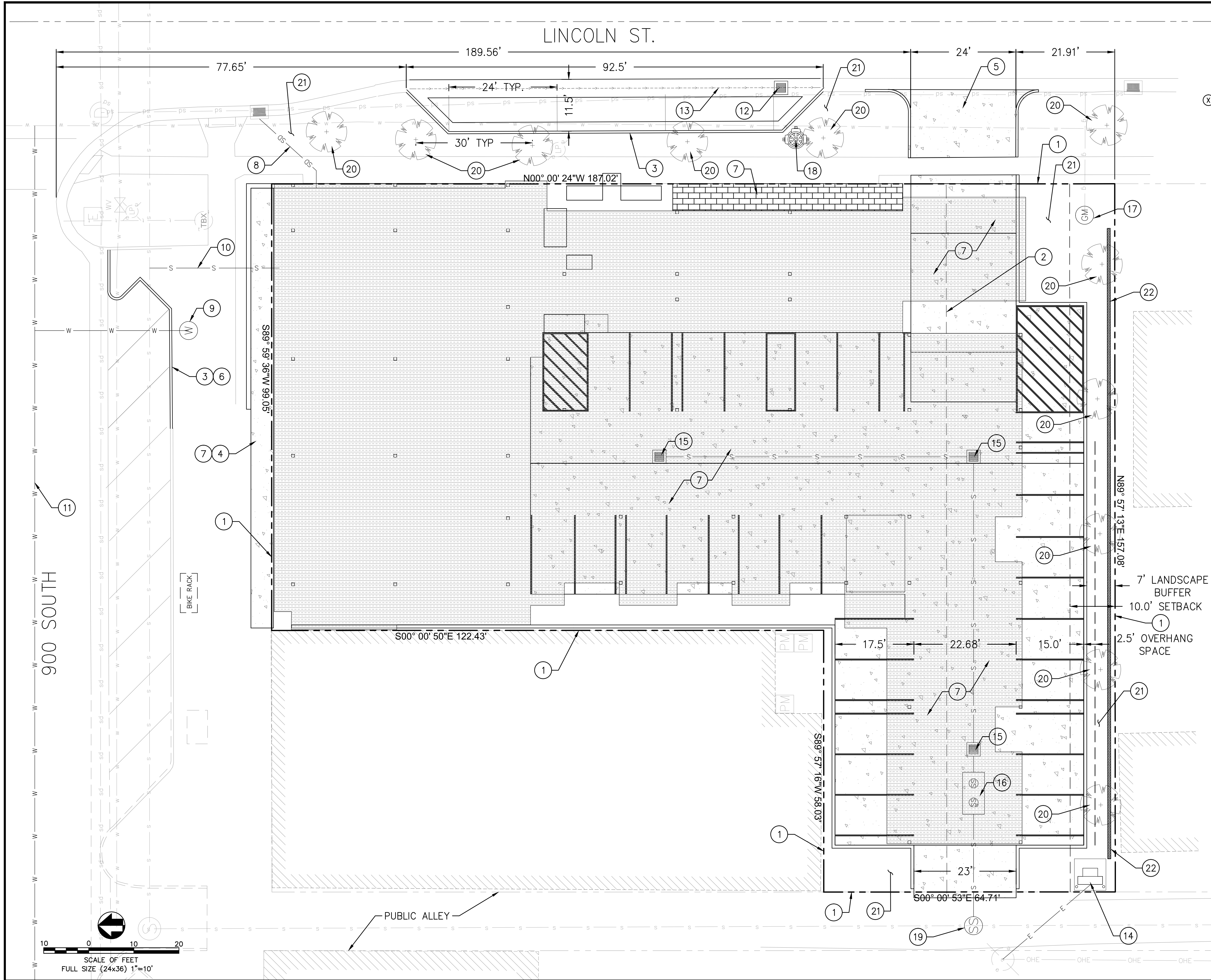


Site Plan
 SCALE: 1" = 20'



ILLUSTRATIONS, LAYOUTS AND CALCULATIONS SHOWN ARE BASED ON THE INFORMATION PROVIDED AND OBTAINED TO DATE. THIS INFORMATION IS PRELIMINARY AND CONCEPTUAL AND MAY VARY THROUGHOUT THE PROJECT. PRESENTED INFORMATION IS NOT INTENDED TO REPRESENT FINAL CONSTRUCTION OUTCOME OR RESULTS.

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NOTE:
ALL EXISTING SIDEWALK, CURB AND GUTTER, UTILITIES, BUILDINGS, AND OTHER FEATURES OUTSIDE OF THE PROPERTY LINES SHALL BE PROTECTED UNLESS OTHERWISE NOTED

SITE PLAN KEYED NOTES

- (X) 1. EXISTING PROPERTY LINE
- 2. EXISTING PROPERTY LINE TO BE CONSOLIDATED
- 3. INSTALL NEW CURB AND GUTTER PER SALT LAKE CITY STANDARDS
- 4. INSTALL NEW SIDEWALK PER SALT LAKE CITY STANDARDS
- 5. IMPROVE EXISTING DRIVE ACCESS
- 6. CLOSE EXISTING DRIVE ACCESS. REPLACE WITH CURB AND GUTTER AND SIDEWALK PER SALT LAKE CITY STANDARDS
- 7. INSTALL NEW PAVING. SEE LEGEND THIS SHEET
- 8. INSTALL 4 INCH PVC ROOF DRAIN
- 9. INSTALL NEW 4 INCH WATER METER
- 10. INSTALL NEW 6 INCH PVC SEWER LATERAL
- 11. NEW 12 INCH WATER LINE PER SEPARATE DESIGN PACKAGE
- 12. REPLACE EXISTING STORM DRAIN CATCH BASIN LID WITH H-20 TRAFFIC RATED GRATE
- 13. INSTALL NEW 4 FOOT CONCRETE WATERWAY
- 14. PROPOSED TRANSFORMER LOCATION
- 15. INSTALL NEW STORM DRAIN CATCH BASINS
- 16. INSTALL NEW SAND OIL SEPARATOR
- 17. REUSE EXISTING GAS LINE.
- 18. RELOCATE EXISTING FIRE HYDRANT
- 19. CONNECT EXISTING LOT STORM DRAIN SYSTEM TO EXISTING SANITARY SEWER WITH NE 4 FT MANHOLE
- 20. INSTALL NEW TREE
- 21. LANDSCAPED AREA
- 22. CONCRETE RETAINING WALL. 4' MAXIMUM HEIGHT

LEGEND

- PROPOSED BUILDING AREA
- STANDARD DUTY ASPHALT PAVING
- STANDARD TYPE A CURB AND GUTTER
- CONCRETE PAVING
- PATIO AREA PER ARCHITECTURAL PLANS

LEGAL DESCRIPTION

(16-08-182-017)
THE SOUTH ONE-HALF OF LOT 26 AND ALL OF LOT 27, BLOCK 3, BELMONT SUBDIVISION, IN THE CITY OF SALT LAKE, COUNTY OF SALT LAKE, STATE OF UTAH, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

(16-08-182-016)
THE EAST 99 FEET OF LOTS 22, 23 AND 24; THE NORTH 1/2 OF LOT 26 AND PART OF LOT 25, BLOCK 3, BELMONT SUBDIVISION, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 25, AND RUNNING THENCE SOUTH 25.0 FEET; THENCE WEST 157.0 FEET; THENCE NORTH 14.7 FEET; THENCE EAST 57.65 FEET; THENCE NORTH 10.3 FEET; AND THENCE EAST 99.35 FEET TO THE POINT OF BEGINNING.

THE FOLLOWING IS SHOWN FOR INFORMATION PURPOSES ONLY: 16-08-182-016 & 16-08-182-01

BASIS OF BEARING

THE BASIS OF BEARING IS NORTH 00° 01' 00" WEST 642.35' FEET AS MEASURED BETWEEN THE INTERSECTION MONUMENTS IN 900 SOUTH AND BELMONT AVENUE IN 900 EAST

ASSESSOR'S PARCEL NUMBERS

16-08-182-017 AND 16-08-182-016

LOT AREA

16,411 SQ. FT. OR 0.38 AC.(16-08-182-016) AND 5,891 SQ. FT OR 0.13 AC. (16-08-182-017)

| REVISION DESCRIPTION | | DATE |
|----------------------|--|------|
| NO. | | |

| SUBMITTAL | SITE PLAN | DATE |
|------------------|-----------|----------|
| DRAWN BY: ATR | ATR | 12/15/14 |
| CHECKED BY: SDR | SDR | |
| APPROVED BY: SDR | SDR | |
| RELEASE: | DEC 2014 | |
| PLOT DATE: | 12/15/14 | |

NOT FOR CONSTRUCTION
THIS DRAWING IS THE PROPERTY OF PSOMAS AND IS SUBJECT TO CHANGE

| LEGAL DESCRIPTION | | PROJECT NUMBER: |
|---|--|-----------------|
| <p>PSOMAS Enhancing the Natural and Built Environment 4179 Riverboat Road, Suite 200 Salt Lake City, UT 84123 (801) 270-5777 (801) 270-5782 fax www.psomas.com</p> | | 8WFO10100 |

| 9TH & 9TH MIXED-USE | | SITE PLAN |
|---|--|-----------|
| <p>PROPERTY, LLC 2716 OCEAN PARK BLVD SUITE 2025 SANTA MONICA, CA 90405</p> | | |

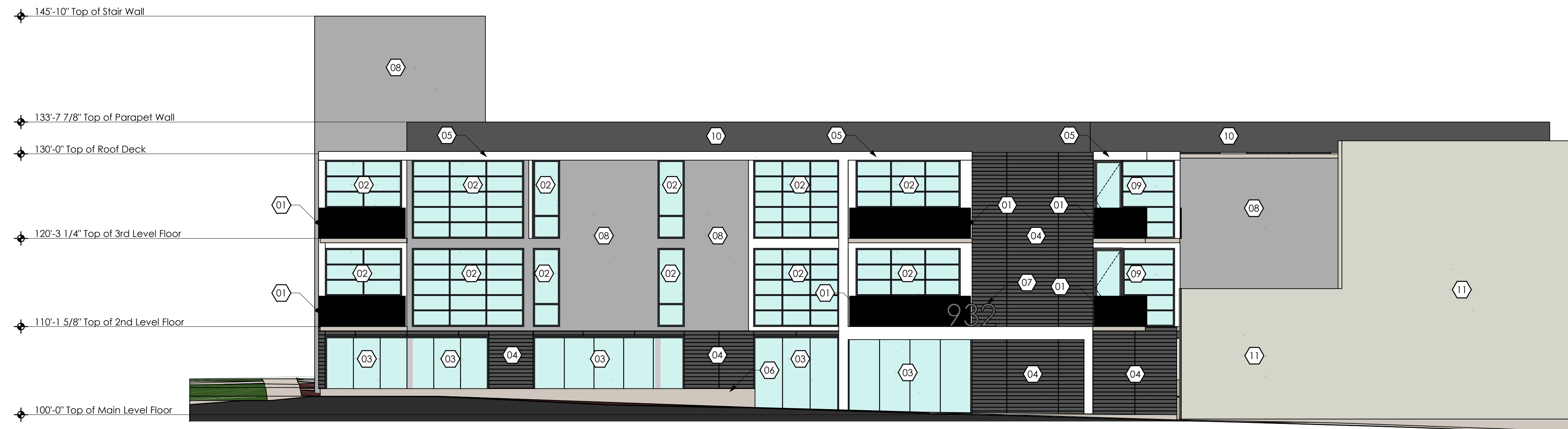
SP

- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
- 03. Butt Joint Storefront System w/ Non-Reflective Tempered Glass
- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color



East Side Elevation - Lincoln Street
 SCALE: 1/8" = 1'-0"

- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
- 03. Butt Joint Storefront System w/ Non-Reflective Tempered Glass
- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color
- 11. Existing Structure



North Elevation - 9th South
 SCALE: 1/8" = 1'-0"

- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
- 03. Butt Joint Storefront System w/ Non-Reflective Tempered Glass
- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color
- 11. Existing Structure



South Side Elevation
 SCALE: 1/8" = 1'-0"



9th & 9th Mixed Use Development

932 East & 900 South, Salt Lake City, Utah

FLORES -
SAHAGUN
ARCFLO +
a visionary design firm

SALT LAKE CITY
257 EAST 200 SOUTH, SUITE 525
84111, UTAH
T 801 350 0136
F 801 350 0136
E info@arcflo.com

© 2014 FLORES-SAHAGUN + ARCFLO
Developed By:
RH Brokerage Services, Inc.
Rinaldo Hunt - Project Developer



9th & 9th Mixed Use Development

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Developed By:
RH Brokerage Services, Inc.
Rinaldo Hunt - Project Developer

ATTACHMENT D: ADDITIONAL APPLICANT INFORMATION

Project Description

December 18th, 2014

TO:

Salt Lake City Planning Department
Attn: Planning Staff
451 South State Street
RM 406
Salt Lake City, UT 84111

FROM:

9th and 9th Property, LLC
2716 Ocean Park Blvd.
Suite 2025
Santa Monica, CA 90405



SUBJECT:

Required project description for Conditional Building & Site Design Review Application

To whom it may concern:

9th and 9th Property, LLC owns the real property located at approximately 932 East 900 South, Salt Lake City, UT 84105. For further reference, the property is located within the 9th and 9th sub-district on the corner of 900 South and Lincoln Street. The property is 22,302 square feet of Community Business (CB) zoned land that contains an aged unreinforced masonry building that is approximately 6,000 square feet and formerly known as the Mutual Beauty Supply Store.

It is the intent of the Ownership to demolish the existing structure and construct a high-end mixed-use building that is approximately 35,000 square feet containing 28 luxury apartments, a ground level commercial retail opportunity and a roofline that contains a rooftop deck and common space for the building occupants. The new structure will not exceed the 30' height maximum and will comply with all building set-back requirements.

The parking for the building will be on-site and at grade. The ownership will be applying the standards and exceptions listed in 21A.44.030 to comply with Salt Lake City's parking requirements inclusive of parking maximums as it relates to the current zoning and mix of uses within the finished building.

The primary residential entrance will be on Lincoln Street facing east and the commercial retail entrance will be on 900 South facing north. Both entrances are pedestrian friendly and give the building occupants easy access to the district's mass transit opportunities provided by the UTA. The ground level façade exceeds the Non-reflective glass requirement and is designed to emphasize pedestrian interaction and interest.

The at grade parking lot will be screened by residential units on the East side, the commercial retail on the north side, landscaping and a retaining wall on the south side and the neighboring building on the west side. No excessive glare or light is expected to project into the adjacent neighborhood. The ingress and egress for the parking shall be through an existing curb cut facing Lincoln Street on the south east side of the property. To ensure appropriate vehicular circulation in, out and around the property the Ownership is proposing an additional curb cut on the east side of the property to allow for three parallel parking stalls on Lincoln Street. The curb cut will widen the drive aisle on Lincoln Street and prevent vehicular back-up on 900 south and south on Lincoln Street as residents come and go from the development.

The garbage and recycling bins shall be located on the southwest portion of the site in a screened area. The dumpsters will be emptied by the appropriate vendors through the alley access on the west side of the property.

All building signage inclusive of the ground level commercial retail will be oriented to the street and encourage interest from the building frontages on both Lincoln and 900 South. All exterior lighting shall be compliant with the Salt Lake City lighting Master Plan dated 2006 and any subsequent amendments thereof.

All landscaping in the public right-of-way shall be chosen in conjunction with the Salt Lake City urban forestry department. Any hardscape designating public spaces shall be either masonry, scored and colored concrete, grasscrete or a combination of the aforementioned. Any landscaping within the property boundaries shall be a combination of native species of trees, shrubs, ground cover and/or flowers that are drought tolerant and will assure 80% coverage within 3 years of being planted.

The Ownership will be providing residents the opportunity for additional on-site storage of personal belongings. All storage units will be in the parking area and screened from view of all adjacent public rights-of-way.

The intent of the CB zone is defined as *"The CB community business district is intended to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods. The design guidelines are intended to facilitate retail that is pedestrian in its*

orientation and scale, while also acknowledging the importance of transit and automobile access to the site.”

9th and 9th Property, LLC is of the opinion that its development not only meets the intent of the purpose of the CB zone, but will exceed the community’s expectations for urban design elements, pedestrian friendly building attributes, seamless integration with surrounding residential neighborhoods, and over-all mixed-use functionality integrated into the 9th and 9th district. We are excited to turn our development ideas into a transformative and exciting project.

ATTACHMENT E: EXISTING CONDITIONS

Existing Conditions:

The site is currently developed with a retail building and a surface parking lot. The adjacent uses include:

- North: Various commercial businesses (across 900 South). These properties are zoned CB (Community Business).
- East: Commercial business and surface parking lot (across Lincoln Avenue). This property is zoned CB (Community Business).
- South: Single-family residential property. This property is zoned R-1/5,000 (Single-Family Residential District).
- West: Single-family residential properties. These properties are zoned R-1/5,000 (Single-Family Residential District).

Central Community Master Plan Discussion

The subject property is located within the Central Community planning area. The subject property is designated on the future land use map as 'Community Commercial'. Regarding 'Community Commercial', the Central Community Master Plan states,

"The Community Commercial designation provides for the close integration of moderately sized commercial areas with adjacent residential neighborhoods."

The Central Community Master Plan (2005) contains specific policies to development within the Neighborhood Commercial designation, listed as follows:

- CLU-1.2** **Community Commercial:** Locate community level retail sales and services on appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.
- CLU-4.6** Ensure that new development in areas where non-residential and residential land uses are mixed, preserves viable residential structures that contribute to the neighborhood fabric and character.
- CLU-5.1** Replace commercial buildings on commercially zoned property when structural rehabilitation is not feasible. Redevelopment opportunities should consider mixed land use when replacing commercial structures.

Community Business Zoning Standards *(note that only standards applicable to this specific project have been included)*

| CB Zone Standards | Finding | Rationale |
|--|----------|--|
| Lot Size Requirements: No minimum lot area or lot width is required, however any lot exceeding four acres in size shall be allowed only through the conditional building and site design review process. | Complies | The lot is approximately 22,300 square feet or .51 acres. |
| Maximum Building Size: Any building having a 15,000 gross square foot floor area of the first floor or a total floor area of 20,000 gross square feet or more, shall be allowed only through the conditional building and site design review process. An unfinished basement used only for storage or parking shall be allowed in addition to the total square footage | Complies | The applicant has applied for approval through the conditional building and site design process. In addition, no basement is proposed. The standards for Conditional Building and Site Design review are analyzed in Attachment F. That analysis indicates that the proposal complies. |

| | | |
|--|-----------------|--|
| <p>Minimum Yard Requirements:</p> <ol style="list-style-type: none"> 1. Front Or Corner Side Yard: No minimum yard is required. 2. Interior Side Yard: None required. 3. Rear Yard: Ten feet. 4. Buffer Yards: Any lot abutting a lot in a residential district shall conform to the buffer yard requirements of Chapter 21A.48 of this title. 5. Accessory Buildings And Structures In Yards: Accessory buildings and structures may be located in a required yard subject to Section 21A.36.020, Table 21A.36.020B of this title. 6. Maximum Setback: A maximum setback is required for at least 75% of the building facade. The maximum setback is 15 feet. 7. Parking Setback: Surface parking is prohibited in a front or corner side yard. Surface parking lots within an interior side yard shall maintain a 20 foot landscape setback from the front property line or be located behind the primary structure. | <p>Complies</p> | <p>All applicable setbacks have been met for the project.</p> |
| <p>Landscape Yard Requirements: If a front or corner side yard is provided, such yard shall be maintained as a landscape yard. The landscape yard can take the form of a patio or plaza, subject to site plan review approval.</p> | <p>Complies</p> | <p>No front or corner side yard is provided.</p> |
| <p>Maximum Height: 30 feet</p> | <p>Complies</p> | <p>The building is 30 feet. The parapet and stairwell projections are permitted through the Zoning Ordinance.</p> |
| <p>Entrance And Visual Access:</p> <ol style="list-style-type: none"> 1. Minimum First Floor Glass: The first floor elevation facing a street of all new buildings or buildings in which the property owner is modifying the size of windows on the front facade, shall not have less than 40% glass surfaces. All first floor glass shall be nonreflective. Display windows that are three-dimensional and are at least two feet deep are permitted and may be counted toward the 40% glass requirement. 2. Facades: Provide at least one operable building entrance per elevation that faces a public street. Buildings that face multiple streets are only required to have one door on any street, if the facades for all streets meet the forty percent 40% glass requirement. 3. Maximum Length: The maximum length of any blank wall uninterrupted by windows, doors, art or architectural detailing at the first floor level shall be 15 feet. 4. Screening: All building equipment and service areas, including on grade and roof mechanical equipment and transformers that are readily visible from the public right of way, shall be screened from public view. These elements shall be sited to minimize their visibility and impact, or enclosed as to appear to be an integral part of the architectural design of the building. | <p>Complies</p> | <p>All items have been addressed as part of the design of the project.</p> |
| <p>Parking Lot/Structure Lighting: If a parking lot/structure is adjacent to a residential zoning district or land use, the poles for the parking lot/structure security lighting are limited to 16 feet in height and the globe must be shielded to minimize light encroachment onto adjacent residential properties. Lightproof fencing is required adjacent to residential properties.</p> | <p>Complies</p> | <p>All proposed lighting is less than 16 feet in height and a lightproof fence is provided for the southern property line.</p> |

ATTACHMENT F: ANALYSIS OF STANDARDS

21A.59.060: Standards for Design Review: In addition to standards provided in other sections of this title for specific types of approval, the following standards shall be applied to all applications for design review:

| Standard | Finding | Rationale |
|--|----------|---|
| A. Development shall be primarily oriented to the street, not an interior courtyard or parking lot. | Complies | The building design is primarily oriented to both 900 South and Lincoln Street. |
| B. Primary access shall be oriented to the pedestrian and mass transit. | Complies | The main entrance of the building and the retail component is oriented towards 900 South. This makes the building oriented towards the pedestrian and allows for easy walking access to transit in the area. The access for the residential portion of the project is through an entrance off Lincoln Street. |
| C. Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction. | Complies | The building is predominantly glass and the ground level glass along 900 South is clear, looking into the retail area, which facilitates pedestrian interest and interaction. There are some additional glass facades along Lincoln Street towards the corner of the property, which also looks in the retail area. On the second and third stories, all of the residential units have glass and balconies to provide further interest of the building. |
| D. Architectural detailing shall be included on the ground floor to emphasize the pedestrian level of the building. | Complies | The ground level has design elements to emphasize the pedestrian. These elements differentiate the ground floor level from the upper two floors from the rest of the building for improved pedestrian interaction and access. |
| E. Parking lots shall be appropriately screened and landscaped to minimize their impact on adjacent neighborhoods. Parking lot lighting shall be shielded to eliminate excessive glare or light into adjacent neighborhoods. | Complies | Parking for the project will be provided on the ground floor level behind the retail space and below the second level of the building. The applicant has provided additional measures such as lightproof fencing where the parking is adjacent to residential areas to help shield glare or light into the neighborhood. |
| F. Parking and on site circulation shall be provided with an emphasis on making safe pedestrian connections to the street or other pedestrian facilities. | Complies | The parking and circulation provided puts the parking away from the pedestrians and by having only one vehicular access to the parking, the interaction with pedestrians and vehicles is minimized. Sidewalks are provided along each street to allow for safe movement of pedestrians in the area. |
| G. Dumpsters and loading docks shall be appropriately screened or located within the structure. | Complies | The proposed dumpster is located in the parking area and adjacent to the public alley. The dumpster will be screened from Lincoln Street by the parking area. |
| H. Signage shall emphasize the pedestrian/mass transit orientation. | Complies | No specific details regarding signs have been submitted at this time. All signs will need to comply with all Zoning Ordinance requirements. |
| I. Lighting shall meet the lighting levels and design requirements set forth in Chapter 4 of the Salt Lake City lighting master plan dated May 2006. | Complies | Application information indicates compliance with city's lighting standards, with cut-off lighting features. |

| | | |
|--|---|---|
| <p>J. Streetscape improvements shall be provided as follows:</p> <ol style="list-style-type: none"> 1. One street tree chosen from the street tree list consistent with the city's urban forestry guidelines and with the approval of the city's urban forester shall be placed for each 30 feet of property frontage on a street. Existing street trees removed as the result of a development project shall be replaced by the developer with trees approved by the city's urban forester. 2. Landscaping material shall be selected that will assure 80% ground coverage occurs within three years. 3. Hardscape (paving material) shall be utilized to designate public spaces. Permitted materials include unit masonry, scored and colored concrete, grasscrete, or combinations of the above. 4. Outdoor storage areas shall be screened from view from adjacent public rights of way. Loading facilities shall be screened and buffered when adjacent to residentially zoned land and any public street. 5. Landscaping design shall include a variety of deciduous and/or evergreen trees, and shrubs and flowering plant species well adapted to the local climate. | <p>Complies</p> | <p>Application indicates streetscape and landscape improvements will be installed to comply with these standards.</p> |
| <p>K. The following additional standards shall apply to any large scale developments with a gross floor area exceeding sixty thousand (60,000) square feet:</p> | <p>Not applicable, development is less than 60,000 square feet.</p> | <p>Not applicable, development is less than 60,000 square feet.</p> |
| <p>L. Any new development shall comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located as well as adopted master plan policies, the city's adopted "urban design element" and design guidelines governing the specific area of the proposed development. Where there is a conflict between the standards found in this section and other adopted plans and regulations, the more restrictive regulations shall control.</p> | <p>Complies</p> | <p>The building is oriented to both 900 South and Lincoln Street with an urban format with no additional setbacks. The intent of the CB zoning designation is to provide retail that is pedestrian oriented in size and scale while noting the importance of transit and auto access to the site.</p> <p>The Central Community Master Plan encourages mixed use development when the residential character of the area is maintained. This project is small scale and is compatible with the neighborhood.</p> <p>The urban design element encourages the height of neighborhood retail, residential and industrial use to the height and scale of the respective neighborhood and generally be limited to three stories in height. This particular proposal does satisfy the policy found in the Urban Design Element.</p> |

ATTACHMENT G: PUBLIC PROCESS AND COMMENTS

Public Notice, Meetings and Comments

The following is a list of public meetings that have been held, and other public input opportunities, related to the proposed project.

Notice of Application:

A notice of application was mailed to all abutting property owners. The notice sought a reply from anyone who wanted a public hearing with the Planning Commission regarding this petition. Staff initially received three separate requesting for a public hearing. There were also three additional people who called regarding the application. Some were seeking more information and some had concerns with the project. This type of application is not required to be reviewed by Recognized Organizations. However, Recognized Organizations do receive email notification of all Planning Commission agendas.

Notice of the public hearing for the proposal include:

- Public hearing notice mailed January 29.
- Public hearing notice posted at the site on January 29.
- Public notice posted on City and State websites and Planning Division list serve on January 29.

Email:

One email was received in support of the project and is included on the following page. Any other correspondence received after the publication of this staff report will be forwarded to the Planning Commission.

From: [Randall Harmsen](#)
To: [Pickering, Maryann](#)
Subject: PLNPLM2014-00890
Date: Saturday, January 31, 2015 2:26:51 PM

I am the owner of 9th South Delicatessen and our restaurant is directly across the street from the 9+9 mixed use at 932 E. 900 S. I want to fully endorse this project. The owners met with us and we are 100% supportive. Please so indicate for the planning commissioners.

Randy Harmsen

ATTACHMENT H: DEPARTMENT COMMENTS



Work Flow History Report

932 E 900 S

PLNPCM2014-00890

| Date | Task/Inspection | Status/Result | Action By | Comments |
|------------|-----------------------|---------------|--------------------|---|
| 12/23/2014 | Engineering Review | Complete | Weiler, Scott | No objections. A Site Plan, Grading Plan and Utility Plan will need to be reviewed and approved by SLC Engineering, prior to obtaining a building permit. Prior to performing any work in the public way, a Permit to Work in the Public Way must be obtained from SLC Engineering. |
| 12/23/2014 | Staff Assignment | In Progress | Pickering, Maryann | Received all items necessary to route the project. |
| 12/26/2014 | Zoning Review | Complete | Hardman, Alan | This proposal went to a DRT meeting held on November 21, 2014 (DRT2014-00350). See zoning review comments. Two parcels must be combined through a lot consolidation application or a subdivision application process. Submit appropriate application and receive approval. |
| 1/7/2015 | Transportation Review | Complete | Pickering, Maryann | Re; PLNPCM2014-00890 Mix Use Proposal. Transportation review comments are as follows: The Site Evaluations sheet has minor errors in reference to city Code. 21A.44.030.8 should be 21A.44.030.8 and reference 21A.44.030 5.7 should be 21A.44.030 G.7. The parking calculation's note standard parking requirement requiring 53 Stalls for a maximum allowed stalls of 66.25 stalls. The provision for exemption shows 14 stalls required. And the calculations notes 25 stalls provided. The site plan shows 25 stalls provided on Site with three on street angle stalls existing and an additional 6 on street stall to be provided. Along with the Pedestrian friendly Development exemptions. |
| 1/13/2015 | Building Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Fire Code Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Police Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Public Utility Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Sustainability Review | Complete | Pickering, Maryann | No comments received. |



Work Flow History Report

932 E 900 S

DRT2014-00350

Project: 9+9 Mixed Use

Project Description: 3:30PM, New mixed use building with 5k s/f of retail and 28 residential units.

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

| Date | | Task/Inspection | Status/Result | Action By | Comments |
|------------|---|-------------------------|---------------|------------------|--|
| 11/20/2014 | 0 | Application Acceptance | Accepted | Robinson, DeeDee | |
| 11/20/2014 | 0 | Engineering Review | Comments | Ott, George | Site Plan Review – Required. Engineering will review the site plans as submitted for the Building Permit Application. A Public Way Permit maybe required for project completion. A Licensed, bonded and insured Contractor to obtain permit to install or repair required street improvements. Special conditions maybe required to cut through the intersection at 9th and 9th. Contact Scott Weiler for restoration requirements. 801-535-6159 |
| 11/20/2014 | 0 | Fire Review | Comments | Itchon, Edward | Fire hydrants shall be within 400 feet of all exterior walls of the first floor and within 100 feet of a fire department connection (FDC). The FDC shall be installed on the address side. Fire flow estimated 1,750 GPM @ building construction type V-A. If the roof deck is being used and the requirements of IFC Section 316.4, 317, 905 (additional 750 GPM) and Appendix D shall be required. |
| 11/20/2014 | 0 | Public Utilities Review | Comments | Stoker, Justin | There are a number of existing water and sewer utility services across the entire project area. All water and sewer services that are not going to be used in the future will need to be terminated prior to demolition of the existing site. Water services are terminated at the main and sewer services are capped at the property line. With the need to connect fire suppression sprinkler lines, there appears to be a need to upsize the public water main to be able to get the pressure, volumes, and velocities into compliance with current codes and safety limits. For this, the street that the sprinkler line connects to would need to be upsized to a minimum of 12-inch line across the frontage of the property to the nearest cross or tee or until standards are met. Connection to the sewer is okay for the future building. With the project under an acre, no special requirements are required. Pretreatment will be required for parking areas. Coordinate with Dave Pearson at Public Utilities regarding street lights. |

| | | | | | |
|------------|---|-----------------------|----------------------------|------------------|---|
| 11/20/2014 | 0 | Transportation Review | Comments | Walsh, Barry | Proposal for demo of existing building and develop at grade parking with retail frontage and two levels of residential above part of the parking lot, structure mix.. Need to investigate proposed roadway widening along Lincoln Street and removal of existing driveway conversion to added angle parking to match street scape. Coordinate with Planning and city Forester for minimum landscape park strip Provide parking calculations per section 21A.44. |
| 11/20/2014 | 0 | Zoning Review | Comments | Brown, Ken | CB Zone - New retail & residential mixed use that involves combining of two parcels. Combining of the properties will need to be processed through a subdivision application. Conditional building and site design review required for this proposal. Demolition permits will be required for all existing buildings. Certified address is to be obtained from the Engineering Dept. for use in the plan review and permit issuance process. Construction waste management provisions of 21A.36.250 apply to this proposal and a construction waste management plan is to be submitted to constructionrecycling@slcgov.com for review. Construction waste management plan approval is to be submitted with the building permit application. Questions regarding the Waste Management Reports may be directed to 801-535-6984. Recycling collection station provisions of 21A.36.250 apply to this proposal. Landscaping plans are to be developed for this project in conformance with 21A.48 in regards to water efficient landscaping, hydro zones, park strip landscaping, landscape buffers, landscape yards, screening of refuse disposal dumpsters, tree protection, etc. Any public way encroachments would need to be discussed with the SLC Real Estate Services Division. Discussed the possibility of having a rooftop deck. All elements of the deck (including guardrails) would need to be below the maximum height allowance except that the Planning Commission may approve, as a special exception, additional height not exceeding 10%. |
| 11/21/2014 | 1 | Closure | Emailed Notes to Applicant | Robinson, DeeDee | |

ATTACHMENT I: MOTIONS

Staff Recommendation:

Based on the testimony, plans presented and the following findings, I move that the Planning Commission approve the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

Not Consistent with Staff Recommendation:

Based on the findings listed in the staff report and the testimony and plans presented, I move that the Planning Commission deny the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

The Planning Commission shall make findings on the conditional building and site design review standards and specifically state which standard or standards are not being complied with.

SALT LAKE CITY PLANNING COMMISSION MEETING
Room 126 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, February 11, 2015

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:34:05 PM](#). Audio recordings of the Planning Commission meetings are retained for an indefinite period of time.

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

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

Field Trip

A field trip was held prior to the work session. Planning Commissioners present were: Carolyn Hoskins, Michael Fife and Marie Taylor. Staff members in attendance were Nick Norris, Maryann Pickering and Everett Joyce.

The following site were visited

- **336 W 700 S** - Staff gave an overview of the proposal.
- **9 + 9** - Staff gave an overview of the proposal and the comments received related to parking. The Commission asked if on street parking was limited. Staff stated yes, to one side of Lincoln. The Commission asked if the building was stepped back from the home to the south. Staff stated yes a setback was required and provided.

APPROVAL OF THE MINUTES FROM THE JANUARY 28, 2015, MEETING [5:34:46 PM](#)
MOTION [5:34:47 PM](#)

Commissioner Fife moved to approve the January 28, 2015. Commissioner Guilkey seconded the motion. Commissioner Dean abstained from voting as she was not present at the subject meeting. The motion passed unanimously.

REPORT OF THE CHAIR AND VICE CHAIR [5:35:00 PM](#)

Vice Chairperson Lyon stated he had nothing to report.

REPORT OF THE DIRECTOR [5:35:04 PM](#)

Mr. Nick Norris, Planning Manager, stated he had nothing to report.

[5:35:27 PM](#)

The Planning Commission received an update from Mr. Ed Butterfield, Redevelopment Authority of Salt Lake City, Mr. Jessie Allen, GSBS Architects, and Mr. Mark Morris, VOTA Landscape and Design, on the planning, design and timeline for the redesign and

reconstruction of Regent Street. Regent Street is being redesigned as part of the construction of the Eccles Theater. Reconstruction of the street is anticipated to start in 2015.

The Commission and RDA discussed the following:

- Great proposal for the use of the area.
- How the area would be blocked off when it was being used for events.
- The research done to ensure safety of pedestrians along the curbless roadway.
- If the RDA was working with surrounding property owners to update or develop properties.
- Access to the theatre from the subject street.

[5:49:53 PM](#)

9+9 Mixed Use at approximately 932 E 900 South - 9th and 9th Property, LLC, represented by Rinaldo Hunt is requesting Conditional Building and Site Design Review approval from the City to construct a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission. The subject property is located within Council District #5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00890

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.

The Commission and Staff discussed the following:

- If the maximum building size complied or did not comply with the standards.
 - It would comply if the petition was approved.
- The location of the retail space.
- How the proposal encroached on residential neighborhoods and created traffic and parking issues for the surrounding neighborhood.
- Why additional parking was not required for the proposal.
 - Based on the ordinance standards they were required to have 14 stalls and they are providing 23.
- The maximum number of parking stalls required and how the parking percentage was calculated for the proposal.
- There needed to be some give or take to accommodate some of the issues.
 - A Conditional Building and Site Design review was different than a Conditional Use.

Mr. Rinaldo Hunt, architect, stated they had plans to talk with the Community Council about the neighbors concerns. He said they were willing to review the concerns. Mr. Hunt reviewed the elevator shaft height required for the proposed elevator and the additional street parking along Lincoln.

The Commission, Staff and Applicant discussed the following:

- The number of additional parking stalls proposed along Lincoln.
 - There will be two additional parking stalls.
- There fact that there was not even one parking space per unit for the proposal.
 - The Applicant stated they were in compliance with the ordinance for parking.
- More parking could be added to reach the maximum requirements.
 - The Applicant stated parking was not the issue being reviewed.
- If more parking could be required for the proposal.
 - Staff stated the Commission was reviewing the building size and the parking was established by ordinance.
- If the building would be LEED certified.
 - Not at this time but they were working on a future solar program.
- The square footage of the building and the property.
- The use and location of the proposed roof deck.
 - It was allowed in commercial and residential zones but was required to be within the building height.
- The standards for review for Conditional Building and Site Design Review.

Mr. Paul Nielson, City Attorney reviewed meeting etiquette and how the meeting would be conducted. He reviewed the standards of review and approval for the petition and that parking was not something that could be addressed by the Commission.

PUBLIC HEARING [6:15:03 PM](#)

Vice Chairperson Lyon opened the Public Hearing.

Mr. Darryl High, East Community Council, stated they would have liked better notice for the proposal. He read the Community Master Plan and stated the proposal was 75% larger than what was allowed by city code, it did not comply and restricted encroachment on residential neighborhoods, on traffic issues and parking. Mr. High stated it had zero lot line on 900 South and Lincoln and the existing businesses and residents had setbacks and more parking. He stated the development did not fit with the character of the neighborhood, would create a traffic issue on Lincoln and in the surrounding neighborhood and the exemptions should not be allowed in the zoning.

The Commission and Mr. High discussed the operating hours of the bus line on 900 South.

Ms. Cindy Cromer reviewed the history of the 9 + 9 Small Area Plan and zoning in the area. She stated the neighborhood should have remained a small business neighborhood. Ms.

Cromer stated the subject neighborhood would be a great candidate for a Conservation District, the 9 + 9 Small Area Plan needed to be updated and the CB zoning would not move the neighborhood in the right direction.

The following individuals spoke to the petition: Mr. Myron Wilson, Mr. Berit Champion, Mr. Josh Levey, Ms. Judi Short, Mr. Josh Plumb, Mr. Jarrett Fisher, Ms. Linda Peterson, Mr. Tom Denison, Ms. Jacquie Bernard, Mr. Mike Bernard, Ms. Heidi Preuss, Ms. Henrietta Prater, Mr. Mark Schwarz, Mr. Nate White, Ms. Catalina De La Torre, Mr. Derek Hackmann, Ms. Kim Ventura, Ms. Amie Rosenberg and Mr. Jim Ack.

The following comments were made:

- Size of the building did not fit and there should be accommodations made for the surrounding neighborhood.
- Supported the transit oriented building.
- Design of the building was beautiful but was too big for the area.
- Traffic in the area would be greatly affected.
- Something could be done to convert the existing buildings into useable space.
- Parking was all ready an issue and this would make it worse.
- Concerned over garbage pickup because of limited access to the surrounding properties.
- People own cars and they would need somewhere to park them.
- Want the property developed but not at the proposed size.
- Needed to preserve the feel of the neighborhood.
- Neighborhood was almost to capacity and the proposal would push it over the limit.
- Project would lead to the demise and reduce commercial business in the area.
- Access to the neighboring properties should be allowed.
- Easements, setback and stepping should be required for the development.
- Development may establish a precedent for three story buildings in the area.
- The proposed development was never the intention for the area.
- Scale did not fit with the area.
- Proposed roof line did not match other buildings in the area.
- Impact to the neighborhood had not been addressed.
- Inadequate notice was sent for this proposal.
- Developer's interest was not for the area.
- Developer was asking for a variance and there was nothing that constituted a variance being granted.
- How some of the businesses approved without parking.
- Proposed units should be larger and owner occupied.
- Code was confusing and contradictory.

Vice Chairperson Lyon read the following comment:

Mr. William Robinson – I live in a walkable community. I walked past the property to be developed thousands of times. I've been a bicycling commuter for years but I have a car. My wife also has one. At time we have had three cars. How the regulations have evolved to having half a parking space for a unit is insane and beyond any practical reality, even hoped for by the most fervent walkable advocate. Lincoln Street is entirely too narrow, it is phenomenally over used and any development would increase this pressure. Twenty three units would overwhelm capacity. If this City is hamstrung by regulations that make no sense and violate every concept of practicality and sensibility as well as violate every intent of planning then there is something wrong with the process or with the Commissions ability to resolve the problems. The simple answer is to half the size at least.

Vice Chairperson Lyon closed the Public Hearing.

Mr. Norris clarified that the one stall for parking was strictly for residential buildings and the half stall applied to building with both residential and commercial uses.

The Commission, Staff and Applicant discussed the following:

- If a development housed more residential than commercial use would it still qualify for the parking reduction.
 - The ordinance did not have a size qualifier for mixed use.
- The pedestrian friendly parking standards only applied to businesses.
- If a dinner discussion could be had to discuss the parking ordinance.
 - Yes and the Commission could initiate a petition to review parking requirements.
- Transportation reviewed and signed off on the proposal.
- The easements to the rear of neighboring properties
 - There was no legal easement and was not something the Commission could require.
- The square footage of the building.
- The impact on Lincoln Street versus the other surrounding streets.
- If a design with fewer housing units was considered.
 - No, just different configurations of the plan.
- If setbacks were included in the design.
 - Yes, within the rear yard setback.
- Why would Staff support the proposal if it was more than what the ordinance allowed.
 - The ordinance established a maximum footprint by right and clearly established a review process for things that were bigger. It did not prohibit bigger building and the proposal was not for a variance as suggested.
- If the current proposal was not approved would a smaller building be constructed.
- How the proposal fit with the current Master Plan.
- The standards for approval and if the proposal met those standards.

MOTION [7:10:06 PM](#)

Commissioner Guilkey stated based on the findings in the Staff Report, the testimony, plans presented and in light of the conflict with the Master Plan for this area, he moved that the Planning Commission deny the request for the 9+9 Mixed Use Conditional Building and Site Design Review, PLNPCM2014-00890, to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet. Commission Fife seconded the motion.

Mr. Nielson asked for clarification on the motion. He stated the Commission needed to state the findings for denial as they were going against the Staff recommendation.

Commissioner Guilkey stated specifically items CLU-1.2 that the proposal would generate community wide parking issues.

The Commission and Staff discussed which standards the proposal did not meet.

Commissioner Guilkey clarified the motion stating that referring to the analysis of standards specifically standard L, that the development shall comply with the intent of the zoning district found within and therefore refers back to the CLU-1.2 and the Community Master Plan.

Mr. Nielson asked if the finding was that section 21A.59.060L of the ordinance was not met.

Commissioner Guilkey stated that was correct.

Commissioner Dean stated it was a great design but it could be modified to fit the neighborhood and be a great asset.

The Commission discussed if the proposal could be tabled to allow the proposal to be modified. They asked if the Applicant was willing to work with the neighborhood to modify the proposal.

The Commission and Applicant discussed the options for review to modify the proposal and make it more compatible with the neighborhood. The Applicant stated they felt they had complied with the standards and fit the area.

The Commission discussed if it would benefit the proposal to hold a subcommittee meeting to review the proposal to work through the compatibility issues.

Commissioner Dean, Guilkey, Fife, Drown, and Hoskins voted "aye". Commissioners Gallegos and Taylor voted "nay". The motion passed 5-2.

[7:23:55 PM](#)

The Commission took a short break.

[7:29:49 PM](#)

The Commission reconvened.

[7:29:53 PM](#)

[Atmosphere Studios Industrial Assembly Conditional Use at approximately 336 W 700 South and 650 S 300 West](#) – Atmosphere Studios, LLC is requesting approval from the City to place a new use in an existing warehouse building that includes approximately 16 percent of the building for industrial assembly use at the above listed address. Currently the land consists of a vacant warehouse and the property is zoned D-2 Downtown and CG General Commercial. The industrial assembly portion of the project must be reviewed as a conditional use. The subject property is within Council District 4, represented by Luke Garrott. (Staff contact: Everett Joyce at 801-535-7930 or everett.joyce@slcgov.com. Case number PLNCM2014-00875).

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:

Ms. Katie Hansen, applicant, reviewed the nature of the business, how the building would be used and the purpose of moving the business downtown.

The Commission stated this was a great neighborhood and the business fit the area.

PUBLIC HEARING [7:35:51 PM](#)

Vice Chairperson Lyon opened the Public Hearing.

The following individual spoke in favor of the petition: Ms. Cindy Cromer.

The following comments were made:

- The petition fit with the area and the use.
- The Commission needed to find a way to address the easements to help make these areas more walkable and safer for all modes of transportation.
- Was there was a way for the city to incentivize relinquishing the easements to create better projects.

The Commission and Applicant discussed the following:

- Ways to address easements with incentives while balancing property rights.

MOTION [7:39:24 PM](#)

Commissioner Fife stated regarding petition PLNSUB2014-00875 Atmosphere Industrial Assembly Conditional Use, based on the findings in the Staff Report, public testimony and discussion by the Planning Commission, he moved that the Planning Commission approve PLNPCM2014-00875, Atmosphere Studios Industrial Assembly Conditional Use 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. Obtain appropriate City approvals to accommodate the proposed loading dock and stairway on the west elevation (at middle of the parcel) that crosses the existing property line.**
- 2. Provide evidence of crossover access easements or create easements between the three parcels front on 700 South Street.**

Commissioner Drown seconded the motion. The motion passed unanimously.

[7:40:46 PM](#)

[Solar Panel Installations in Historic Districts](#) - Mayor Ralph Becker is requesting to revise the ordinance relating to the approval process for installation of solar panels in all H Historic Preservation Overlay Zones. The proposed change would allow staff to administratively approve applications unless the solar panels are proposed to be located on the front roof plane facing a street. The proposed changes would apply Citywide within all H Historic Preservation Overlay Zones. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00883

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 forward a favorable recommendation to the City Council regarding the petition.

The Commission and Staff discussed the following:

- The process for reviewing the panels on different types of the roofs.
- The percentage of a roof allowed to be covered by fire code.

PUBLIC HEARING [7:44:23 PM](#)

Vice Chairperson Lyon opened the Public Hearing.

The following individual spoke in favor of the petition: Ms. Cindy Cromer

The following comments were made:

- A gap of thirty inches from the ridgeline was required per the fire code.
- The proposal would benefit everyone involved in reviewing solar panel petitions.

Vice Chairperson Lyon closed the Public Hearing.

The Commission and Staff discussed the following:

- The process of review for solar panel petitions.

MOTION [7:46:53 PM](#)

Commissioner Dean stated regarding petition PLNPCM2014-00883 Zoning Text Amendment for Historic Preservation Overlay, based on the findings in the Staff Report, testimony and Staff presentation, she moved that the Planning Commission forward a positive recommendation to the City Council to adopt the proposed zoning ordinance text amendment related to review of small solar energy collection systems within all Historic Districts. Commissioner Gallegos seconded the motion.

Staff clarified that the proposal was for landmark sites also.

Commissioner Dean amended the motion to include landmark sites. The motion passed unanimously.

[7:48:07 PM](#)

[Pedestrian and Bicycle Master Plan](#) - Mayor Ralph Becker is proposing a major update to the City's existing Pedestrian and Bicycle Master Plan. The Pedestrian and Bicycle Master Plan is a citywide master plan that will guide the development and implementation of the City's pedestrian and bicycle infrastructure and programs. The Transportation Division will review the draft plan with the Planning Commission prior to a public hearing, which will be held at a future meeting. (Staff contact: Becca Roofl at (801) 535-6630 or becka.roofl@slcgov.com.)

Ms. Becca Roofl, Transportation Division, gave an overview of the plan and reviewed the changes made to the document. She stated they were asking that the Planning Commission forward a favorable recommendation to the City Council regarding the plan.

Ms. Robin Hutchinson, Transportation Director, reviewed the process the plan had gone through and stated they were still taking comments into consideration.

PUBLIC HEARING [7:49:25 PM](#)

Vice Chairperson Lyon opened the Public Hearing.

The following individuals spoke to the petition: Ms. Whitney Ward, Mr. Jason Hamula, Ms. Ekiucia Cardenas, Mr. Dan Fazziui, Ms. Cindy Cromer and Mr. Dave Iltis.

The following comments were made:

- The Bicycle Advisory Committee fully supported the proposal.
- Important to develop plans to promote other modes of transportation.
- The document was a plan not a specific blueprint and should not include specifics.
- Plan was supporting strategies to make the City better.

- Gave the city a beginning and a place to move forward.
- Plan needs to be more detailed and include an inventory of the city.
- Plan was a step in the right direction for the city.
- Plan needed to address bridge safety.
- A list of objective goals and a steering committee that followed the plan to make sure it was implemented.
- Measureable goals should be outlined to hold the plan accountable.
- Need to make sure safety was a key factor of the plan.
- The plan needed to address arterial streets and how bikes are incorporated into the street plans.
- Plan should be tabled to allow further review of how it linked to other cities.

Vice Chairperson Lyon read the following card:

Mr. Andy McKerrow- I support the Bicycle Master Plan. Salt Lake City will benefit hugely from well planned bicycle transportation infrastructure and programs. If we build it people will use it.

The Commission and Ms. Cardenas discussed the following:

- Which part of the blue print she felt was the best.
 - Ms. Cardenas stated the education and encouragement part are particularly interesting as they serve all people.

The Commission and Mr. Fazziui discussed the following:

- The changes that could be made to bridges in the city.

The Commission and Mr. Iltis discussed the following:

- The meaning of a contra flow lane.
 - Where bikes go one direction and cars go the other.

Vice Chairperson Lyon closed the Public Hearing.

The Commission and Transportation Staff discussed and stated the following:

- How the plan worked with other City plans relating to bridges and helping to accommodate bikes.
 - The Transportation Master Plan addresses all modes of transportation.
 - The Complete Street Policy stated they would accommodate all modes of transportation as much as they could. Such as the new design on 1300 South that would be put in place in March 2015.
- The proposal was a guiding document and all transportation policies and procedures would play into the implementation and function of this plan.
- Public comments regarding east/west connection and bridge safety have been incorporated in the complete streets chapter of the plan.
- Addressing recreational bicycling in the plan.

- It was listed as a goal in the plan however, recreational cycling and transportation cycling are very similar.
- This was a transportation focused plan as it was a modal plan under the transportation plan for the city.
- There was additional information about mountain biking available in the Open Space Plan.
- The bike data program and if accountability could be built into the plan.
 - Staff was working on gathering information, developing a program to outline what was happening and developing an evaluation procedure to look at the best possible interventions to reduce collisions on the street.
- The time frame for the data.
- The arterials are addressed in strengthening Complete Streets and other places in the plan.
- How to reach the different levels of bicycle friendly status.
- The next steps for the proposal and if the plan would continue to evolve.

MOTION [8:18:41 PM](#)

Commissioner Gallegos stated, based on the findings and analysis in the Staff Report and testimony provided, he moved that the Planning Commission forward a positive recommendation to the City Council regarding the Salt Lake City Bicycle and Pedestrian Master Plan. Commissioner Fife seconded the motion.

Commissioner Dean suggested amending the motion to include that they increase verbiage regarding the bike data collection programs and assessment review of actual performance.

Commissioner Gallegos stated he accepted the amendment. Commissioner Fife seconded the amendment.

The Commission discussed incentive programs employers could use to encourage more people to use alternative modes of transportation.

The motion passed unanimously.

The Commission discussed when to put the parking issues on the agenda for review. Staff stated March would be the soonest it could be put on the agenda.

The meeting adjourned at [8:23:31 PM](#).

SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA
In Room 326 of the City & County Building
451 South State Street
Wednesday, February 11, 2015, at 5:30 p.m.
(The order of the items may change at the Commission's discretion.)

The field trip is scheduled to leave at 4:00 p.m.

Dinner will be served to the Planning Commissioners and Staff at 5:00 p.m. in Room 126 of the City and County Building. During the dinner break, the Planning Commission may receive training on city planning related topics, including the role and function of the Planning Commission.

PLANNING COMMISSION MEETING WILL BEGIN AT 5:30 PM IN ROOM 326
APPROVAL OF MINUTES FOR JANUARY 28, 2015
REPORT OF THE CHAIR AND VICE CHAIR
REPORT OF THE DIRECTOR

Administrative Matters

1. **9+9 Mixed Use at approximately 932 E 900 South** - 9th and 9th Property, LLC, represented by Rinaldo Hunt is requesting Conditional Building and Site Design Review approval from the City to construct a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission. The subject property is located within Council District #5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00890
2. **Atmosphere Studios Industrial Assembly Conditional Use at approximately 336 W 700 South and 650 S 300 West** - Atmosphere Studios, LLC is requesting approval from the City to place a new use in an existing warehouse building that includes approximately 16 percent of the building for industrial assembly use at the above listed address. Currently the land consists of a vacant warehouse and the property is zoned D-2 Downtown and CG General Commercial. The industrial assembly portion of the project must be reviewed as a conditional use. The subject property is within Council District 4, represented by Luke Garrott. (Staff contact: Everett Joyce at 801-535-7930 or everett.joyce@slcgov.com. Case number PLNCCM2014-00875).

Legislative Matters

3. **Solar Panel Installations in Historic Districts** - Mayor Ralph Becker is requesting to revise the ordinance relating to the approval process for installation of solar panels in all H Historic Preservation Overlay Zones. The proposed change would allow staff to administratively approve applications unless the solar panels are proposed to be located on the front roof plane facing a street. The proposed changes would apply Citywide within all H Historic Preservation Overlay Zones. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00883
4. **Pedestrian and Bicycle Master Plan** - Mayor Ralph Becker is proposing a major update to the City's existing Pedestrian and Bicycle Master Plan. The Pedestrian and Bicycle Master Plan is a citywide master plan that will guide the development and implementation of the City's pedestrian and bicycle infrastructure and programs. (Staff contact: Becka Roof at (801) 535-6630 or becka.roof@slcgov.com.)

The files for the above items are available in the Planning Division offices, room 406 of the City and County Building. Please contact the staff planner for information, Visit the Planning Division's website at www.slcgov.com/CED/planning for copies of the Planning Commission agendas, staff reports, and minutes. Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission. Planning Commission Meetings may be watched live on SLCTV Channel 17; past meetings are recorded and archived, and may be viewed at www.slctv.com.

The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at 801-535-7757, or relay service 711.

From: [Kirk Huffaker](#)
To: [Pickering, Maryann](#)
Cc: [Judi Short](#); [East Liberty Park 2 CC Chair](#)
Subject: 9+9 mixed use project comment for tonight's Planning Comm. mtg.
Date: Wednesday, February 11, 2015 3:11:38 PM
Attachments: [Safeway_Store.jpg](#)
[scan0025_Abandoned Safeway 900 So July 63.jpg](#)

Hi Maryann,

Please distribute my comments to the commission at tonight's meeting as I will be unable to attend to speak to it directly. Thank you.

Dear Planning Commissioners,

For your consideration at this evening's meeting regarding the 9+9 mixed used project, I'd like to encourage you to consider an option that would allow for higher density development on the corner while rehabilitating the existing building on the lot.

The 'Mutual Beauty Supply Building' at about 932 E 900 S is a former Safeway grocery store. Attached is a photo of what the building looked like historically. While the b&w photo is not in the 9th & 9th location, it does depict the standard Safeway design of this period, about c. 1940. The color photo is one from this exact location in 1963. Following the historic design, the existing building could be an aesthetically pleasing, economically viable amenity to the development if the developer would consider rehabilitation instead of demolition and build the increased density on the remaining property. The roof of the former Safeway could be used as walk out garden/patio space for residents in the new structure or as an amenity for the tenant locating in the ground floor retail space. Having a rooftop patio as a restaurant/bar would be something that could give the owner an amenity that no other building in the neighborhood has. Plus the historic character that could be revealed and used in the new development would blend the warmth of historic craftsmanship with the adjacent contemporary designed structure. The two building could even be connected on the interior. There are financial incentives to execute the rehabilitation as well.

To that end, we encourage you to consider how preserving this building will retain a historic part of the streetscape of 900 South while enhancing a new development, thus not requiring the Planning Commission's approval for additional square footage on the ground floor.

Please let me know if you have questions.

Sincerely,
Kirk

Kirk Huffaker
Executive Director
Utah Heritage Foundation
(801) 533-0858 ext. 105
www.utahheritagefoundation.org

From: [THOMAS HILL](#)
To: [Pickering, Maryann](#)
Subject: Case # PLNPCM2014-00890
Date: Wednesday, February 11, 2015 6:13:55 PM

Dear Representative Mendenhall,

While I am unable to attend the SLC Planning Commission Meeting this evening, I am certain my neighbors will outline the added congestion and lack of parking in the 9th and 9th area if this development is approved. My concern, more than that, is by rezoning to allow one 35000 sq. ft. structure is to begin the transformation that will eventually turn 9th and 9th into Sugarhouse North. Now if that is the ultimate plan, then this first step is necessary

Over the years I have watched planning and zoning give the green light to many, less than stellar projects, going back to the Great Salt Lake Pumping Project, which cost \$60 million for 27 months of service, and requires, if my numbers are right, in the neighborhood of \$300,000 a year for annual maintenance.

Then there is the Gateway/City Creek fiasco, which is eerily reminiscent of the Crossroads/ZCMI Center fiasco of thirty five years prior. Gateways revenues dropped from \$210 million in 2011, to \$100 million in 2013, and still move downward. Talk about not learning from mistakes of the past.

Most recently, the installation of the new parking meter system, installed to close a budget shortfall of \$50,000.00 at the cost of \$7 million. The system lost \$1.5 million the first year of operation, and drove many, Main Street businesses to more 'parking friendly' areas of the valley.

So all I would ask, is that you consider the long term implications before casting your vote. What can always be made to look good on paper does not always turn out to be what is best.

Thank you,

Tom Hill
924 S 1000 E

From: [Kim Ventura](#)
To: [Pickering, Maryann](#)
Subject: First of many photos re: PLNPCM2014-00890
Date: Wednesday, February 11, 2015 4:37:21 PM

One of the neighbors asked me to get these photos to you. She has grief counseling group at 6 pm and will be unable to attend tonight's meeting. The photos were taken @ different times of the day and show how the parking is already a problem for the 9th & 9th area. This new apartment complex will only compound this.

We would prefer to see larger units and a smaller number with at least 1 designated parking slot per unit. We want people who will stay in our community because there is enough living space. The size of these units will result in a constant turnover. That does not build the community. The Public Transportation system does not yet support people being able to live in our community without having a car. The small 2 bedroom units (750 sq. feet) will probably mean 2 cars and parking for those cars will be needed. If you do the math, there are potentially 44 cars for people living in the units, with only 24 allocated parking spots.

How can these be considered "luxury" apartments when the size for each unit is so small - especially the 2 bedroom unit?

There is only 1 designated parking spot for the "retail" development on the main floor. Sounds like 1 employee can park and there is no parking for customers. The existing businesses already struggle with the lack of parking in the area. We don't want this impact to be even larger.

Running out of time to get the pictures sent, but expect at least 4 more emails.

kim ventura

From: [Kim Ventura](#)
To: [Pickering, Maryann](#)
Subject: FW: Monday 10am 3
Date: Wednesday, February 11, 2015 4:39:10 PM
Attachments: [20150210_095226.jpg](#)
[20150210_095224.jpg](#)

Date: Wed, 11 Feb 2015 16:04:07 -0700
Subject: Fwd: Monday 10am 3
From: rpovinelli@gmail.com
To: kimventura@hotmail.com

From: [Kim Ventura](#)
To: [Pickering, Maryann](#)
Subject: FW: Monday 8pm
Date: Wednesday, February 11, 2015 4:38:26 PM
Attachments: [20150209_195502_LLS.jpg](#)
[20150209_195452_LLS.jpg](#)
[20150209_195359_LLS.jpg](#)
[20150209_195301_LLS.jpg](#)

Date: Wed, 11 Feb 2015 16:03:47 -0700

Subject: Fwd: Monday 8pm

From: rpovinelli@gmail.com

To: kimventura@hotmail.com

From: [Kim Ventura](#)
To: [Pickering, Maryann](#)
Subject: FW: More Monday 8pm
Date: Wednesday, February 11, 2015 4:40:03 PM
Attachments: [20150209_195020.jpg](#)
[20150209_195055.jpg](#)
[20150209_195111_LLS.jpg](#)
[20150209_195129_LLS.jpg](#)

Date: Wed, 11 Feb 2015 16:05:10 -0700

Subject: Fwd: More Monday 8pm

From: rpovinelli@gmail.com

To: kimventura@hotmail.com

From: [Kim Ventura](#)
To: [Pickering, Maryann](#)
Subject: FW: Tuesday night 2
Date: Wednesday, February 11, 2015 4:39:24 PM
Attachments: [20150209_195129_LLS.jpg](#)
[20150209_195141_LLS.jpg](#)

Date: Wed, 11 Feb 2015 16:04:21 -0700
Subject: Fwd: Tuesday night 2
From: rpovinelli@gmail.com
To: kimventura@hotmail.com

From: jpap8888@aol.com
To: [Pickering, Maryann](#)
Subject: Letter of Opposition to 930 E. 900 S. Proposed Development
Date: Wednesday, February 11, 2015 5:51:17 PM

February 12, 2015

Dear Maryann and Salt Lake City Planning Commission:

I am a partner in Lincoln Courtyard Apartments, 936 S. Lincoln Street.

I am opposed to the project proposed at 930 East 900 South because the square footage far exceeds CB Zone standards -- 75% larger than the allowable 20,000 sf maximum. It also exceeds the main floor standard of 15,000 sf.

The size of this structure greatly alters the comfortable neighborhood atmosphere and "feel" of the 9th & 9th community. This quaint atmosphere is what has made the 9th & 9th area so famous and desirable in the Salt Lake Valley.

I'm also opposed because currently there are approximately 35 parking spaces on this site. This project would be a much larger -- requiring much more parking -- but instead the number of parking stalls is reduced to 25 spaces.

The project calls for 28 residential units. At only one occupant per unit -- and it will certainly be more than that with 2 bedroom units and couples -- that would require more than the proposed 25 parking spaces. (By comparison, our apartment complex provides 1-1/2 parking stalls per unit.)

Therefore other occupants (both residential and commercial) would be forced to utilize street parking -- which is already very cramped and limited.

I ask that you keep the integrity of the 9th & 9th community intact by not allowing this project in its present form.

Sincerely,
John Papanikolas

From: [Randall Harmsen](#)
To: [Pickering, Maryann](#)
Subject: PLNPLM2014-00890
Date: Saturday, January 31, 2015 2:26:51 PM

I am the owner of 9th South Delicatessen and our restaurant is directly across the street from the 9+9 mixed use at 932 E. 900 S. I want to fully endorse this project. The owners met with us and we are 100% supportive. Please so indicate for the planning commissioners.

Randy Harmsen

From: [East Central Community Council Chair](#)
To: [Pickering, Maryann](#)
Subject: RE: Pending Planning Division Petition
Date: Tuesday, January 06, 2015 5:33:00 PM

Ok. Other than the comments I sent from the one person to pass on, I have gotten almost unanimous support from the board. Will summarize and put into a letter for the hearing. Related to the comment, these are the kinds of things we work out directly to gather support and good relations. It usually works out pretty well. You might let the applicant know. Since this is not directly in our cc but instead on the border we just pass on the thoughts to be helpful. Our core position is in support of the exception.

Sent from my Windows Phone

From: [Pickering, Maryann](#)
Sent: 1/6/2015 2:38 PM
To: [East Central CC Chair](#)
Subject: RE: Pending Planning Division Petition

I have had a formal request for a hearing. You will receive notice when it is scheduled.

Thanks.

From: Chair, East Central Community Council [mailto:ECChair@live.com]
Sent: Wednesday, December 31, 2014 12:21 PM
To: Pickering, Maryann
Subject: Re: Pending Planning Division Petition

I am going to send in questions or comments as they come in from the ECC Executive Board so they can be addressed/mitigated as we go.

This seems the most productive.

Here is a set from one of the members of our CDLU (Community Development Land Use Committee). Some of these are not specific to what you need but by passing on the thoughts to the owner/developer will make for better long term relations.

This feedback is from a rep that lives next to the University Gardens Business District so this is their perspective.

"I suggest that the ECC be concerned about the following:

Noise from mechanical units on the roofs of businesses. These noises can be greatly mitigated by requiring sound walls that specifically say that any part mechanical units, ducts or motors cannot be visibly seen from the adjacent residential property.

Second

Concern should be expressed about garbage enclosures. Preferably the entire dumpster is enclosed. Trash pickup times must be strictly enforced

Third

Staff should not be allowed to clean interior floors and flush them down the alley.

Parking is a concern.

Lastly, the cleaning of garbage that misses the enclosure must be carefully monitored by the city

and health department.

From: [Pickering, Maryann](#)
Sent: Wednesday, December 31, 2014 12:09 PM
To: [East Central CC Chair](#)
Subject: RE: Pending Planning Division Petition

I have asked for the rear elevation. They have not submitted one as of yet. The parking is at grade and the building is built above and around the parking. No underground garage.

From: Chair, East Central Community Council [<mailto:ECChair@live.com>]
Sent: Wednesday, December 31, 2014 11:16 AM
To: Pickering, Maryann
Subject: Re: Pending Planning Division Petition

Maryann,
Do you have a drawing that shows the rear?
Is there underground parking?
Thanks, e

From: [Chair, East Central Community Council](#)
Sent: Wednesday, December 31, 2014 10:19 AM
To: [Pickering, Maryann](#)
Subject: Re: Pending Planning Division Petition

Thanks Maryann and Happy New Year almost.

We will get this out and posted to see if there are any comments. I will let you know if we receive anything and will also direct the folks to you directly.

best,
Esther
801.550.9538

From: [Pickering, Maryann](#)
Sent: Wednesday, December 31, 2014 10:13 AM
To: [East Central CC Chair](#) ; [East Liberty Park 2 CC Chair](#) ; [East Liberty Park 1 CC Chair](#)
Subject: Pending Planning Division Petition

Hello.

Please see the attached information related to a project which is located in or near the border of your community council district. The proposed development is located in the 9th and 9th area of the City. A full description of the project is included in the attached notice. I have also include a copy of the most recent plans for you to review.

Please note that this is a request for conditional building and site design and there is no public hearing needed unless one is requested in accordance with the provisions of the Zoning Ordinance.

If you or members of your community council have comments on the project, I need them

by the close of business on Monday, January 12, 2015.

Thank you and please contact me if you have additional questions.

Maryann

MARYANN PICKERING, AICP
Principal Planner

PLANNING DIVISION
COMMUNITY *and* ECONOMIC DEVELOPMENT
SALT LAKE CITY CORPORATION

TEL 801-535-7660
FAX 801-535-6174

WWW.SLCGOV.COM

**Salt Lake City Planning Division
APPEALS HEARING OFFICER
RECORD OF DECISION
City & County Building
451 South State Street, Room 126
Wednesday, April 1, 2015
4:00 p.m.**

- 1. 9+9 Mixed Use Project Appeal at approximately 932 E 900 South** - George Hunt, appellant, has filed an Appeal of the Planning Commission decision to deny the conditional building and site design review request for the 9+9 Mixed Use Project located at the above referenced address (PLNPCM2014-00890). The subject property is located in the CB (Community Business) zoning district and is located in Council District 5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com) **Case Number PLNAPP2015-00101**

Under Consideration

- 2. Decision Regarding the Property at approximately 1587 S Foothill Drive** - Patrick Beesley, representing Beesley Construction, is requesting an Appeal of an Administrative Decision that was rendered on February 10, 2015. The Applicant is seeking to expand a nonconforming use by constructing an addition to an existing multifamily residential structure located at the above referenced address. Multifamily residential developments are not an allowed use in the CN Neighborhood Commercial District and the nonconforming regulations in the zoning ordinance do not allow for this type of expansion. The property is located in the CN Neighborhood Commercial District and is located in Council District 6, represented by Charlie Luke. (Staff contact: John Anderson at 801-535-7214 or john.anderson@slcgov.com) **Case Number PLNAPP2015- 00140**

Appeal Denied

Dated at Salt Lake City, Utah this 2nd of April 2015
Deborah Severson, Administrative Secretary

Any person adversely affected by any decision of the Appeals Hearing Officer may, within thirty (30) days after written decision, file a petition for review with the Utah State Third District Court in accordance with Utah Code §10.9A-801.



Staff Report

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Planning Commission

From: Maryann Pickering, Principal Planner
(801) 535-7660

Date: February 11, 2015

Re: 9+9 Mixed Use Conditional Building and Site Design Review (PLNPCM2014-00890)

CONDITIONAL BUILDING AND SITE DESIGN REVIEW

PROPERTY ADDRESS: 932 E. 900 South

PARCEL IDS: 16-08-182-016 and 16-08-182-017

MASTER PLAN: Community Commercial – Central Community Master Plan

ZONING DISTRICT: CB (Community Business)

REQUEST: Approval of a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission.

RECOMMENDATION: Based on the information in this staff report, planning staff recommends that the Planning Commission approve the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

ATTACHMENTS:

- A. Vicinity Map
- B. Zoning Map
- C. Development Plan Set
- D. Additional Applicant Information
- E. Existing Conditions
- F. Analysis of Standards
- G. Public Process and Comments
- H. Department Comments
- I. Motions

PROJECT DESCRIPTION:

The proposal seeks to increase the maximum first floor area of 15,000 square feet or 20,000 square feet overall for the building. The mixed use development would be three stories in height. The first floor would contain approximately 5,000 square feet of retail space and the remainder of the building would be comprised of 28 residential condominium units. Buildings that exceed either 15,000 square feet for the first floor or 20,000 square feet overall may be approved if they comply with the standards for Conditional Building and Site Design Review.

The building would take up virtually all of the land area on the property. Parking is proposed to be located underneath the building, but will not be in an underground parking structure. It will be located along the first floor area of the building in the back or rear of the 5,000 square feet of retail area. All vehicular access to the site will be from Lincoln Avenue and there are no plans to provide vehicular access from 900 South. A total of 25 parking spaces are provided and that does exceed the requirement found in the Zoning Ordinance. The building is designed to be 30 feet in height.

KEY ISSUES:

The key issues listed below have been identified through the analysis of the project, neighbor input and department review comments.

Issue 1: Building Height

As noted in the project description, the building is designed to be 30 feet in height. However, it will have a parapet wall at the top to screen mechanical equipment that is approximately four feet tall. The Zoning Ordinance does allow a parapet wall for this purpose up to five feet in height. And, an elevator or stairwell bulkhead is provided that extends approximately 16 feet up from the roof deck height of 30 feet. This is also permitted per the Zoning Ordinance. Therefore, the building does comply with all height requirements of the Zoning Ordinance, but may appear taller than 30 feet.

Issue 2: Parking Spaces

The proposed project will include a total of 25 parking spaces. These parking spaces will be located at the first floor level and they will all be accessed from Lincoln Avenue. Based on various reductions allowed through the Zoning Ordinance, the project is required to provide a minimum of 14 parking spaces. The reductions allowed are described in Section 21A.44.040.B.8 of the Zoning Ordinance. The applicant has demonstrated on the site plan that bike racks are located within 100 feet of an entrance to the business and therefore is allowed to exempt a total of 2,500 square feet of the retail building area from the parking requirements. Concerns have been raised by residents in the area that there is little to no on-street parking available today and most of those spaces are utilized by the existing residents. The concern is that this development will increase the demand for parking in the area and there will be less available for those who live and work there already.

Issue 3: Rear Yard Setback

A concern has been raised by a neighbor in the area about the rear yard setback. The building itself is located approximately 20 feet from the rear property line and a seven foot landscaped setback has also been provided. Both of these items are in compliance with the standards of the Zoning Ordinance. Staff will agree that the manner in which the site plan was drawn does make it seem like the building is closer than the minimum setback as a four foot tall retaining wall and required light proof fence are shown on the site plan. A total of five new trees will also be installed in the landscaped area along the rear property line to help screen the building and parking area from the residential property located directly to the south.

Issue 4: Vehicular Access

Staff has noted that the proposed required parking area is accessible by one driveway or access point. While there is no requirement for more than one access point, it should be noted that having all vehicles entering and exiting the parking area through this one point will most likely increase the amount of vehicular traffic along Lincoln Street, since the current layout or configuration of the site has two access points. Currently there is one driveway along Lincoln Street and the other is along 900 South. The proposed parking area of 25 parking spaces is less than the approximate 35 parking spaces that currently exist on the site; however, all vehicular traffic will now be directed to one driveway. It should be noted that the City's Transportation Division has reviewed the project and did not have any objections to the proposed access or require a traffic study. The Central Community Master Plan includes a policy TRANS-2.1 states "minimize, through design review, that street design, pedestrian connections, building/parking areas, and land use designations do not create circulation conflicts between vehicles and pedestrians." Locating the vehicular access on Lincoln Street eliminates the existing drive approaches on 900 South, which are conflict points between pedestrians and vehicles entering the property. 900 South carries more pedestrian traffic due to the nature of the street, and should be viewed as the primary pedestrian street, where conflicts should be reduced.

DISCUSSION:

In general, the proposal is well thought out and satisfies all of the Zoning Ordinance and design standards for approval. The building is designed with a ground level that is pedestrian focused along the two adjacent streets and is visually interesting with columns, expansive glass, and various building materials. Proposed vehicle access will utilize the existing driveway along Lincoln Street and as discussed above, it will be the only vehicular access for the parking area provided. The parking area is well designed and by its location behind the building and installation of the light proof fence along the southern property line, it will be difficult to see the parking area from the adjacent properties. There have been no concerns expressed to staff regarding the square footage of the building and the larger square footage can be approved if the project satisfies all the requirements of Conditional Building and Site Design review. Not only does the proposal satisfy all of the general design standards and requirements of the Conditional Building and Site Design review process, it also meets all but one Zoning Ordinance requirements. Therefore, staff would recommend approval of this project.

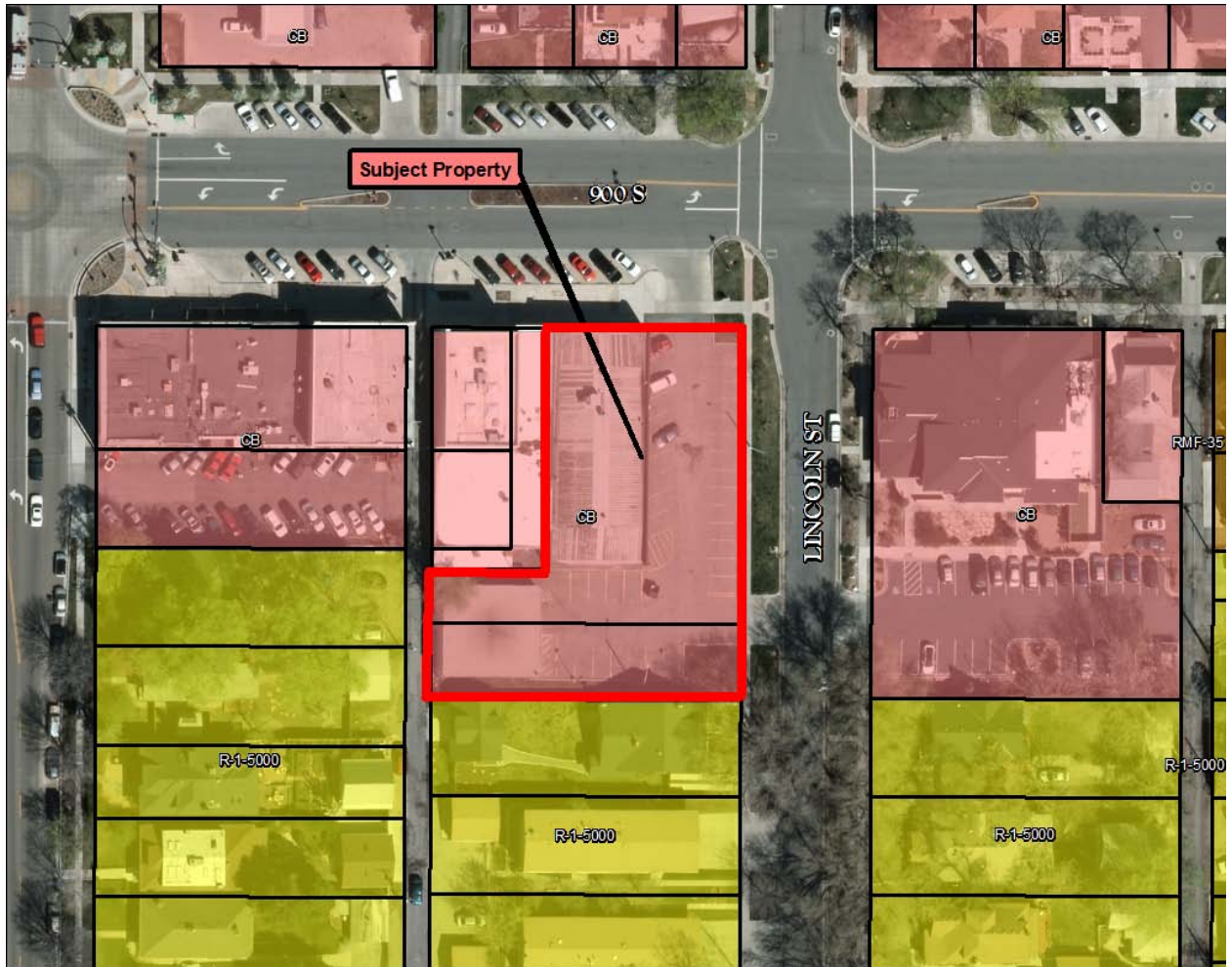
NEXT STEPS:

If approved, the applicant may proceed with the project and will be required to obtain all necessary permits. If denied the applicant would still be able to construct a building but it would need to be less than 20,000 square feet in size and would need to comply with all applicable Zoning Ordinance standards.

ATTACHMENT A: VICINITY MAP



ATTACHMENT B: ZONING MAP



ATTACHMENT C: DEVELOPMENT PLAN SET

9+9 MIXED USE DEVELOPMENT



SITE EVALUATION for 9+9 Mixed Use Development

Zoning

| | |
|-----------------------------------|---|
| Lot Area: | 22,302 sq. ft. .51 acres |
| Lot Dimensions: | 99.05' x 187.02' |
| Building Footprint: | 15,550 sq. ft. |
| Parking Area: | 9,934 sq. ft. |
| Existing Zoning: | CB/Community Business District |
| Zoning Requirements: | Any building have a fifteen thousand (15,000) gross square foot floor area of the first floor or a total floor area of twenty thousand (20,000) gross square feet or more, shall be allowed only through the conditional building and site design review process. |
| Setbacks: | Front or Corner Side Yard: No minimum yard is required. Interior Side Yard: None required. Rear Yard: Ten feet (10'). |
| Maximum Height: | Thirty feet (30'). |
| First Floor Non-Reflective Glass: | 40%. Required. 48% Provided |
| Maximum Length of Blank Wall: | 15'-0". Required . 14'-6" Proposed |
| CN/CB ZONING: | PEDESTRIAN FRIENDLY DEVELOPMENT. 21-A 44.030.8. -a,b,c,d,e.. exemptions. |

General Parking Requirements As per table 21A.44.030

| | |
|------------------------------|--------------------------------------|
| Retail Requirements: | 2 stalls/1,000 sq. ft. |
| Studio (500 Sq. Ft.): | 1/2 stall |
| 1 Bedroom Unit Requirements: | 1 stall/unit |
| 2 Bedroom Unit Requirements: | 2 stalls/unit |
| ADA: | 1/25 stalls |
| Landscape Buffer: | Seven feet (7')W/ Light proof fence. |
| Interior Landscape: | N/A |

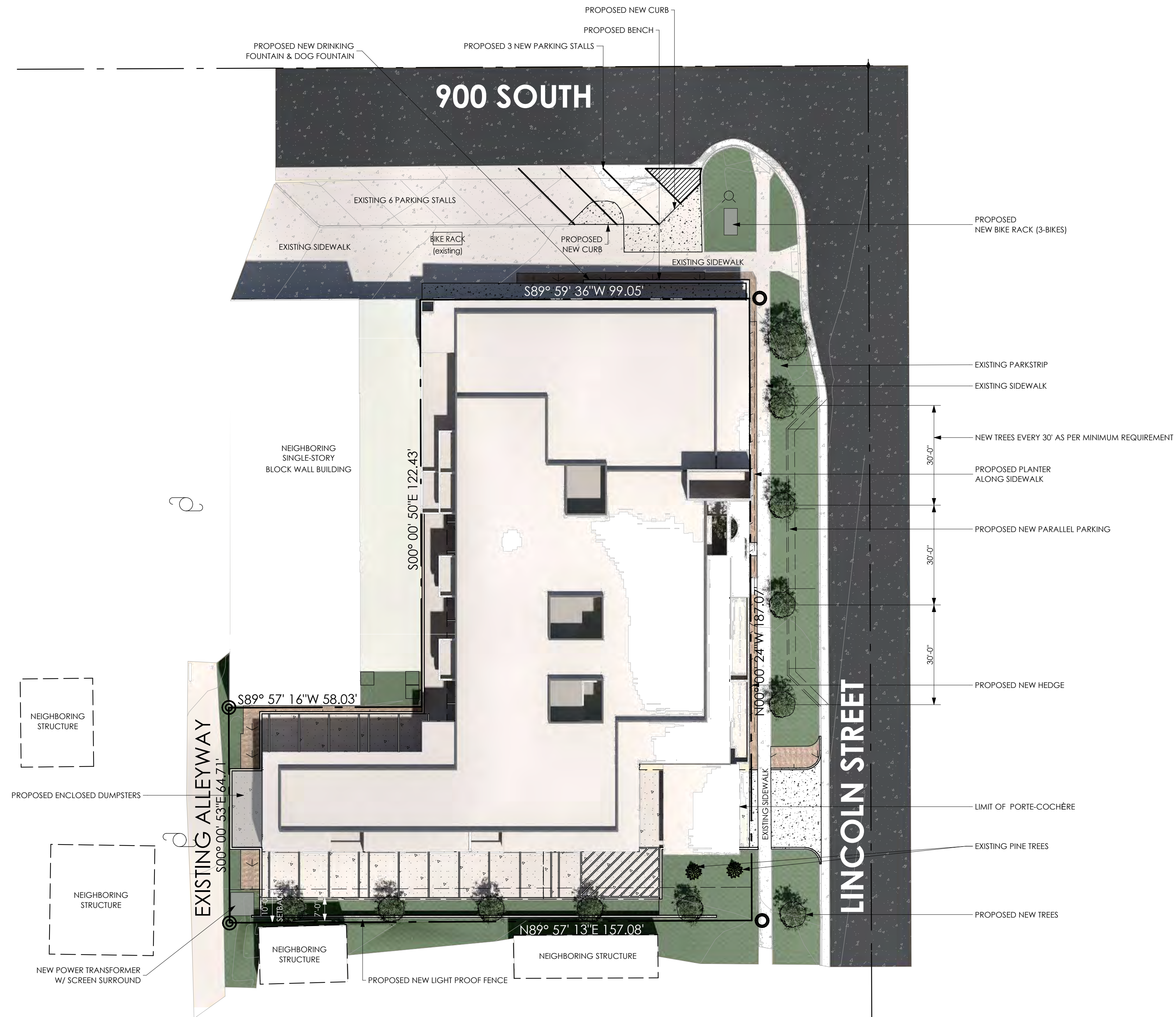
CN/CB ZONING:

Parking lot lighting: Light poles limited to 16'-0" in height /globe must be shield

| BUILDING | AS PER TABLE 21A.44.030 | PEDESTRIAN FRIENDLY EXCEPTION* | PROVIDED |
|----------------------------------|--------------------------|--------------------------------|-----------------------|
| Retail-1 Unit: | 5,000 sq. ft. 10 Stalls | 0 Stalls | 1 Stalls |
| Studio - 2 Units: | 1,000 sq. ft. 1 Stall | .5 Stalls .5/unit | 2 Stalls |
| 1 Bedroom-10 Units: | 10,860 sq. ft. 10 Stalls | 5 Stalls.5/unit | 5.0 Stalls |
| 2 Bedroom-16 Units: | 11,768 sq. ft. 32 Stalls | 8 Stalls.5/unit | 16.0 Stalls |
| ADA Stalls (1/25): | (2 Stalls) | 1 Stall | 1 Stall |
| Total # of Parking Stalls | 53 Stalls | 14.5 Stalls | 24+1 ADA Stall |

MAXIMUM # OF STALLS: 125% OF MINIMUM **22.65 Stalls**
MINIMUM # OF STALLS: **14.5 Stalls**

*See sheet A4-ZONING ORDINANCE: CB/COMMUNITY BUSINESS DISTRICT & PARKING REQUIREMENT REDUCTIONS. 21A.44.030 5.7

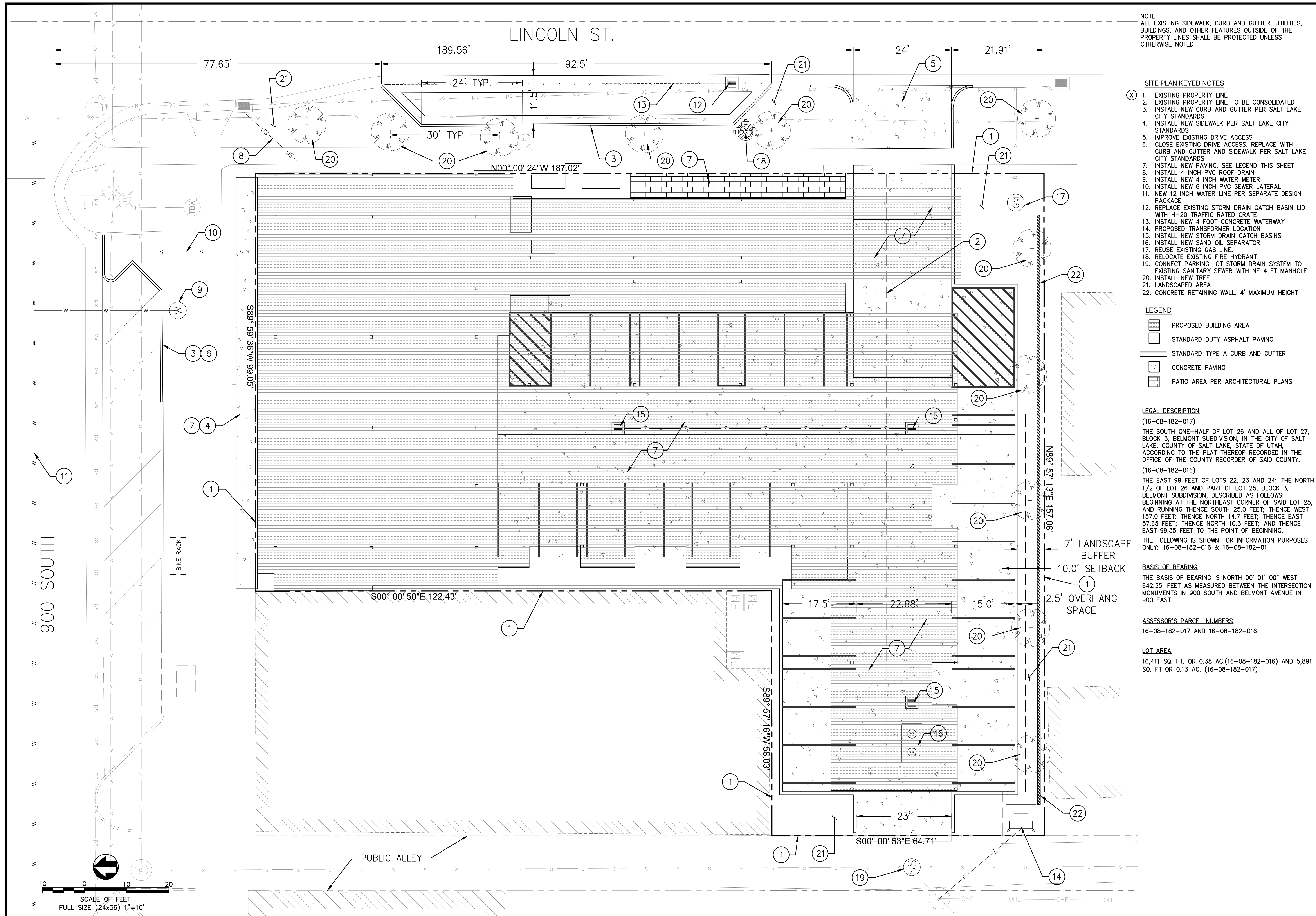


Site Plan
 SCALE: 1" = 20'



North

11:50 AM 12/31/2014 12/31/2014 11:50 AM



NOTE:
ALL EXISTING SIDEWALK, CURB AND GUTTER, UTILITIES, BUILDINGS, AND OTHER FEATURES OUTSIDE OF THE PROPERTY LINES SHALL BE PROTECTED UNLESS OTHERWISE NOTED

SITE PLAN KEYED NOTES

- (X) 1. EXISTING PROPERTY LINE
- 2. EXISTING PROPERTY LINE TO BE CONSOLIDATED
- 3. INSTALL NEW CURB AND GUTTER PER SALT LAKE CITY STANDARDS
- 4. INSTALL NEW SIDEWALK PER SALT LAKE CITY STANDARDS
- 5. IMPROVE EXISTING DRIVE ACCESS
- 6. CLOSE EXISTING DRIVE ACCESS, REPLACE WITH CURB AND GUTTER AND SIDEWALK PER SALT LAKE CITY STANDARDS
- 7. INSTALL NEW PAVING. SEE LEGEND THIS SHEET
- 8. INSTALL 4 INCH PVC ROOF DRAIN
- 9. INSTALL NEW 4 INCH WATER METER
- 10. INSTALL NEW 6 INCH PVC SEWER LATERAL
- 11. NEW 12 INCH WATER LINE PER SEPARATE DESIGN PACKAGE
- 12. REPLACE EXISTING STORM DRAIN CATCH BASIN LID WITH H-20 TRAFFIC RATED GRATE
- 13. INSTALL NEW 4 FOOT CONCRETE WATERWAY
- 14. PROPOSED TRANSFORMER LOCATION
- 15. INSTALL NEW STORM DRAIN CATCH BASINS
- 16. INSTALL NEW SAND OIL SEPARATOR
- 17. REUSE EXISTING GAS LINE
- 18. RELOCATE EXISTING FIRE HYDRANT
- 19. CONNECT PARKING LOT STORM DRAIN SYSTEM TO EXISTING SANITARY SEWER WITH NE 4 FT MANHOLE
- 20. INSTALL NEW TREE
- 21. LANDSCAPED AREA
- 22. CONCRETE RETAINING WALL. 4' MAXIMUM HEIGHT

LEGEND

- PROPOSED BUILDING AREA
- STANDARD DUTY ASPHALT PAVING
- STANDARD TYPE A CURB AND GUTTER
- CONCRETE PAVING
- PATIO AREA PER ARCHITECTURAL PLANS

LEGAL DESCRIPTION

(16-08-182-017)
THE SOUTH ONE-HALF OF LOT 26 AND ALL OF LOT 27, BLOCK 3, BELMONT SUBDIVISION, IN THE CITY OF SALT LAKE, COUNTY OF SALT LAKE, STATE OF UTAH, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

(16-08-182-016)
THE EAST 99 FEET OF LOTS 22, 23 AND 24; THE NORTH 1/2 OF LOT 26 AND PART OF LOT 25, BLOCK 3, BELMONT SUBDIVISION, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 25, AND RUNNING THENCE SOUTH 25.0 FEET; THENCE WEST 157.0 FEET; THENCE NORTH 14.7 FEET; THENCE EAST 57.65 FEET; THENCE NORTH 10.3 FEET; AND THENCE EAST 99.35 FEET TO THE POINT OF BEGINNING.

THE FOLLOWING IS SHOWN FOR INFORMATION PURPOSES ONLY: 16-08-182-016 & 16-08-182-01

BASIS OF BEARING

THE BASIS OF BEARING IS NORTH 00° 01' 00" WEST 642.35' FEET AS MEASURED BETWEEN THE INTERSECTION MONUMENTS IN 900 SOUTH AND BELMONT AVENUE IN 900 EAST

ASSESSOR'S PARCEL NUMBERS

16-08-182-017 AND 16-08-182-016

LOT AREA

16,411 SQ. FT. OR 0.38 AC.(16-08-182-016) AND 5,891 SQ. FT OR 0.13 AC. (16-08-182-017)

| NO. | REVISION DESCRIPTION | DATE | | | | | | | | | | | | | |
|---|----------------------|------|--|--|--|--|--|--|--|--|-------|--|--|--|--|
| NOT FOR CONSTRUCTION | | | | | | | | | | | | | | | |
| DATE: | 12/15/14 | | | | | | | | | | | | | | |
| PLOT DATE: | 12/15/14 | | | | | | | | | | | | | | |
| RELEASE: | DEC 2014 | | | | | | | | | | | | | | |
| APPROVED BY: | SDR | | | | | | | | | | | | | | |
| CHECKED BY: | SDR | | | | | | | | | | | | | | |
| DRAWN BY: | ATR | | | | | | | | | | | | | | |
| PROJECT NUMBER: | 8WFO10100 | | | | | | | | | | | | | | |
| PSOMAS Planning, Surveying and Environmental 4179 Riverboat Road, Suite 200 Salt Lake City, UT 84123 (801) 270-5777 (801) 270-5782 fax www.psomas.com | | | | | | | | | | | 90405 | | | | |
| 9TH & 9TH MIXED-USE PROPERTY, LLC 2716 OCEAN PARK BLVD SUITE 2025 SANTA MONICA, CA | | | | | | | | | | | 90405 | | | | |
| 9TH & 9TH MIXED-USE 932 EAST 900 SOUTH SALT LAKE CITY, UT | | | | | | | | | | | 90405 | | | | |
| SITE PLAN | | | | | | | | | | | SP | | | | |

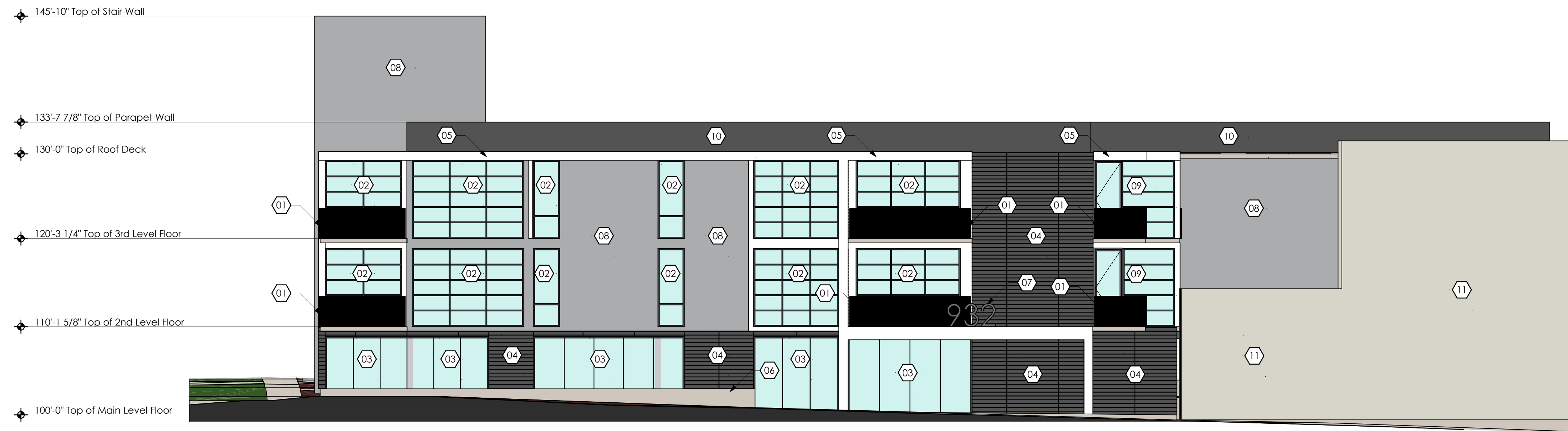
- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
- 03. Butt Joint Storefront System w/ Non-Reflective Tempered Glass
- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color



East Side Elevation - Lincoln Street
 SCALE: 1/8" = 1'-0"

BIM Server: ARCFLO-Server_18 - BIM Server (18.0)\\MUxxxx-14A_9+9_Mixed Use Dev_Concept-4_2014-11-11
 11:50 AM
 12/31/2014
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 BIM Server: ARCFLO-Server_18 - BIM Server (18.0)\\MUxxxx-14A_9+9_Mixed Use Dev_Concept-4_2014-11-11

- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
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- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color
- 11. Existing Structure



North Elevation - 9th South
 SCALE: 1/8" = 1'-0"

- 01. Perforated Aluminum Balcony Guard Wall
- 02. Clear Anodized Aluminum Store Front Window System
- 03. Butt Joint Storefront System w/ Non-Reflective Tempered Glass
- 04. Fiber Concrete Rain Screen
- 05. Clear Anodized Aluminum Panels
- 06. Board Formed Exposed Concrete
- 07. Aluminum Address Number
- 08. Zinc Panel w/ Conceal Fasteners
- 09. Clear Anodized Aluminum Store Front Door System
- 10. Richlite or Similar Cladding - Black in Color
- 11. Existing Structure



South Side Elevation
 SCALE: 1/8" = 1'-0"



9th & 9th Mixed Use Development

932 East & 900 South, Salt Lake City, Utah

FLORES -
SAHAGUN
ARCFLO +
a visionary design firm

SALT LAKE CITY
257 EAST 200 SOUTH, SUITE 525
84111, UTAH
T 801 350 0136
F 801 350 0136
E info@arcflo.com

© 2014 FLORES-SAHAGUN + ARCFLO
Developed By:
RH Brokerage Services, Inc.
Rinaldo Hunt - Project Developer



9th & 9th Mixed Use Development

932 East & 900 South, Salt Lake City, Utah

FLORES -
SAHAGUN
ARCFLO +
a visionary design firm

SALT LAKE CITY
257 EAST 200 SOUTH, SUITE 525
84111, UTAH
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F 801 350 0136
E info@arcflo.com

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Developed By:
RH Brokerage Services, Inc.
Rinaldo Hunt - Project Developer

ATTACHMENT D: ADDITIONAL APPLICANT INFORMATION

Project Description

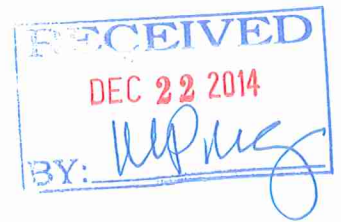
December 18th, 2014

TO:

Salt Lake City Planning Department
Attn: Planning Staff
451 South State Street
RM 406
Salt Lake City, UT 84111

FROM:

9th and 9th Property, LLC
2716 Ocean Park Blvd.
Suite 2025
Santa Monica, CA 90405



SUBJECT:

Required project description for Conditional Building & Site Design Review Application

To whom it may concern:

9th and 9th Property, LLC owns the real property located at approximately 932 East 900 South, Salt Lake City, UT 84105. For further reference, the property is located within the 9th and 9th sub-district on the corner of 900 South and Lincoln Street. The property is 22,302 square feet of Community Business (CB) zoned land that contains an aged unreinforced masonry building that is approximately 6,000 square feet and formerly known as the Mutual Beauty Supply Store.

It is the intent of the Ownership to demolish the existing structure and construct a high-end mixed-use building that is approximately 35,000 square feet containing 28 luxury apartments, a ground level commercial retail opportunity and a roofline that contains a rooftop deck and common space for the building occupants. The new structure will not exceed the 30' height maximum and will comply with all building set-back requirements.

The parking for the building will be on-site and at grade. The ownership will be applying the standards and exceptions listed in 21A.44.030 to comply with Salt Lake City's parking requirements inclusive of parking maximums as it relates to the current zoning and mix of uses within the finished building.

The primary residential entrance will be on Lincoln Street facing east and the commercial retail entrance will be on 900 South facing north. Both entrances are pedestrian friendly and give the building occupants easy access to the district's mass transit opportunities provided by the UTA. The ground level façade exceeds the Non-reflective glass requirement and is designed to emphasize pedestrian interaction and interest.

The at grade parking lot will be screened by residential units on the East side, the commercial retail on the north side, landscaping and a retaining wall on the south side and the neighboring building on the west side. No excessive glare or light is expected to project into the adjacent neighborhood. The ingress and egress for the parking shall be through an existing curb cut facing Lincoln Street on the south east side of the property. To ensure appropriate vehicular circulation in, out and around the property the Ownership is proposing an additional curb cut on the east side of the property to allow for three parallel parking stalls on Lincoln Street. The curb cut will widen the drive aisle on Lincoln Street and prevent vehicular back-up on 900 south and south on Lincoln Street as residents come and go from the development.

The garbage and recycling bins shall be located on the southwest portion of the site in a screened area. The dumpsters will be emptied by the appropriate vendors through the alley access on the west side of the property.

All building signage inclusive of the ground level commercial retail will be oriented to the street and encourage interest from the building frontages on both Lincoln and 900 South. All exterior lighting shall be compliant with the Salt Lake City lighting Master Plan dated 2006 and any subsequent amendments thereof.

All landscaping in the public right-of-way shall be chosen in conjunction with the Salt Lake City urban forestry department. Any hardscape designating public spaces shall be either masonry, scored and colored concrete, grasscrete or a combination of the aforementioned. Any landscaping within the property boundaries shall be a combination of native species of trees, shrubs, ground cover and/or flowers that are drought tolerant and will assure 80% coverage within 3 years of being planted.

The Ownership will be providing residents the opportunity for additional on-site storage of personal belongings. All storage units will be in the parking area and screened from view of all adjacent public rights-of-way.

The intent of the CB zone is defined as *"The CB community business district is intended to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods. The design guidelines are intended to facilitate retail that is pedestrian in its*

orientation and scale, while also acknowledging the importance of transit and automobile access to the site.”

9th and 9th Property, LLC is of the opinion that its development not only meets the intent of the purpose of the CB zone, but will exceed the community’s expectations for urban design elements, pedestrian friendly building attributes, seamless integration with surrounding residential neighborhoods, and over-all mixed-use functionality integrated into the 9th and 9th district. We are excited to turn our development ideas into a transformative and exciting project.

ATTACHMENT E: EXISTING CONDITIONS

Existing Conditions:

The site is currently developed with a retail building and a surface parking lot. The adjacent uses include:

- North: Various commercial businesses (across 900 South). These properties are zoned CB (Community Business).
- East: Commercial business and surface parking lot (across Lincoln Avenue). This property is zoned CB (Community Business).
- South: Single-family residential property. This property is zoned R-1/5,000 (Single-Family Residential District).
- West: Single-family residential properties. These properties are zoned R-1/5,000 (Single-Family Residential District).

Central Community Master Plan Discussion

The subject property is located within the Central Community planning area. The subject property is designated on the future land use map as 'Community Commercial'. Regarding 'Community Commercial', the Central Community Master Plan states,

"The Community Commercial designation provides for the close integration of moderately sized commercial areas with adjacent residential neighborhoods."

The Central Community Master Plan (2005) contains specific policies to development within the Neighborhood Commercial designation, listed as follows:

- CLU-1.2 Community Commercial:** Locate community level retail sales and services on appropriate arterials and do not encroach upon residential neighborhoods or generate community-wide parking and traffic issues.
- CLU-4.6** Ensure that new development in areas where non-residential and residential land uses are mixed, preserves viable residential structures that contribute to the neighborhood fabric and character.
- CLU-5.1** Replace commercial buildings on commercially zoned property when structural rehabilitation is not feasible. Redevelopment opportunities should consider mixed land use when replacing commercial structures.

Community Business Zoning Standards *(note that only standards applicable to this specific project have been included)*

| CB Zone Standards | Finding | Rationale |
|--|----------|--|
| Lot Size Requirements: No minimum lot area or lot width is required, however any lot exceeding four acres in size shall be allowed only through the conditional building and site design review process. | Complies | The lot is approximately 22,300 square feet or .51 acres. |
| Maximum Building Size: Any building having a 15,000 gross square foot floor area of the first floor or a total floor area of 20,000 gross square feet or more, shall be allowed only through the conditional building and site design review process. An unfinished basement used only for storage or parking shall be allowed in addition to the total square footage | Complies | The applicant has applied for approval through the conditional building and site design process. In addition, no basement is proposed. The standards for Conditional Building and Site Design review are analyzed in Attachment F. That analysis indicates that the proposal complies. |

| | | |
|--|-----------------|--|
| <p>Minimum Yard Requirements:</p> <ol style="list-style-type: none"> 1. Front Or Corner Side Yard: No minimum yard is required. 2. Interior Side Yard: None required. 3. Rear Yard: Ten feet. 4. Buffer Yards: Any lot abutting a lot in a residential district shall conform to the buffer yard requirements of Chapter 21A.48 of this title. 5. Accessory Buildings And Structures In Yards: Accessory buildings and structures may be located in a required yard subject to Section 21A.36.020, Table 21A.36.020B of this title. 6. Maximum Setback: A maximum setback is required for at least 75% of the building facade. The maximum setback is 15 feet. 7. Parking Setback: Surface parking is prohibited in a front or corner side yard. Surface parking lots within an interior side yard shall maintain a 20 foot landscape setback from the front property line or be located behind the primary structure. | <p>Complies</p> | <p>All applicable setbacks have been met for the project.</p> |
| <p>Landscape Yard Requirements: If a front or corner side yard is provided, such yard shall be maintained as a landscape yard. The landscape yard can take the form of a patio or plaza, subject to site plan review approval.</p> | <p>Complies</p> | <p>No front or corner side yard is provided.</p> |
| <p>Maximum Height: 30 feet</p> | <p>Complies</p> | <p>The building is 30 feet. The parapet and stairwell projections are permitted through the Zoning Ordinance.</p> |
| <p>Entrance And Visual Access:</p> <ol style="list-style-type: none"> 1. Minimum First Floor Glass: The first floor elevation facing a street of all new buildings or buildings in which the property owner is modifying the size of windows on the front facade, shall not have less than 40% glass surfaces. All first floor glass shall be nonreflective. Display windows that are three-dimensional and are at least two feet deep are permitted and may be counted toward the 40% glass requirement. 2. Facades: Provide at least one operable building entrance per elevation that faces a public street. Buildings that face multiple streets are only required to have one door on any street, if the facades for all streets meet the forty percent 40% glass requirement. 3. Maximum Length: The maximum length of any blank wall uninterrupted by windows, doors, art or architectural detailing at the first floor level shall be 15 feet. 4. Screening: All building equipment and service areas, including on grade and roof mechanical equipment and transformers that are readily visible from the public right of way, shall be screened from public view. These elements shall be sited to minimize their visibility and impact, or enclosed as to appear to be an integral part of the architectural design of the building. | <p>Complies</p> | <p>All items have been addressed as part of the design of the project.</p> |
| <p>Parking Lot/Structure Lighting: If a parking lot/structure is adjacent to a residential zoning district or land use, the poles for the parking lot/structure security lighting are limited to 16 feet in height and the globe must be shielded to minimize light encroachment onto adjacent residential properties. Lightproof fencing is required adjacent to residential properties.</p> | <p>Complies</p> | <p>All proposed lighting is less than 16 feet in height and a lightproof fence is provided for the southern property line.</p> |

ATTACHMENT F: ANALYSIS OF STANDARDS

21A.59.060: Standards for Design Review: In addition to standards provided in other sections of this title for specific types of approval, the following standards shall be applied to all applications for design review:

| Standard | Finding | Rationale |
|--|----------|---|
| A. Development shall be primarily oriented to the street, not an interior courtyard or parking lot. | Complies | The building design is primarily oriented to both 900 South and Lincoln Street. |
| B. Primary access shall be oriented to the pedestrian and mass transit. | Complies | The main entrance of the building and the retail component is oriented towards 900 South. This makes the building oriented towards the pedestrian and allows for easy walking access to transit in the area. The access for the residential portion of the project is through an entrance off Lincoln Street. |
| C. Building facades shall include detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction. | Complies | The building is predominantly glass and the ground level glass along 900 South is clear, looking into the retail area, which facilitates pedestrian interest and interaction. There are some additional glass facades along Lincoln Street towards the corner of the property, which also looks in the retail area. On the second and third stories, all of the residential units have glass and balconies to provide further interest of the building. |
| D. Architectural detailing shall be included on the ground floor to emphasize the pedestrian level of the building. | Complies | The ground level has design elements to emphasize the pedestrian. These elements differentiate the ground floor level from the upper two floors from the rest of the building for improved pedestrian interaction and access. |
| E. Parking lots shall be appropriately screened and landscaped to minimize their impact on adjacent neighborhoods. Parking lot lighting shall be shielded to eliminate excessive glare or light into adjacent neighborhoods. | Complies | Parking for the project will be provided on the ground floor level behind the retail space and below the second level of the building. The applicant has provided additional measures such as lightproof fencing where the parking is adjacent to residential areas to help shield glare or light into the neighborhood. |
| F. Parking and on site circulation shall be provided with an emphasis on making safe pedestrian connections to the street or other pedestrian facilities. | Complies | The parking and circulation provided puts the parking away from the pedestrians and by having only one vehicular access to the parking, the interaction with pedestrians and vehicles is minimized. Sidewalks are provided along each street to allow for safe movement of pedestrians in the area. |
| G. Dumpsters and loading docks shall be appropriately screened or located within the structure. | Complies | The proposed dumpster is located in the parking area and adjacent to the public alley. The dumpster will be screened from Lincoln Street by the parking area. |
| H. Signage shall emphasize the pedestrian/mass transit orientation. | Complies | No specific details regarding signs have been submitted at this time. All signs will need to comply with all Zoning Ordinance requirements. |
| I. Lighting shall meet the lighting levels and design requirements set forth in Chapter 4 of the Salt Lake City lighting master plan dated May 2006. | Complies | Application information indicates compliance with city's lighting standards, with cut-off lighting features. |

| | | |
|--|---|---|
| <p>J. Streetscape improvements shall be provided as follows:</p> <ol style="list-style-type: none"> 1. One street tree chosen from the street tree list consistent with the city's urban forestry guidelines and with the approval of the city's urban forester shall be placed for each 30 feet of property frontage on a street. Existing street trees removed as the result of a development project shall be replaced by the developer with trees approved by the city's urban forester. 2. Landscaping material shall be selected that will assure 80% ground coverage occurs within three years. 3. Hardscape (paving material) shall be utilized to designate public spaces. Permitted materials include unit masonry, scored and colored concrete, grasscrete, or combinations of the above. 4. Outdoor storage areas shall be screened from view from adjacent public rights of way. Loading facilities shall be screened and buffered when adjacent to residentially zoned land and any public street. 5. Landscaping design shall include a variety of deciduous and/or evergreen trees, and shrubs and flowering plant species well adapted to the local climate. | <p>Complies</p> | <p>Application indicates streetscape and landscape improvements will be installed to comply with these standards.</p> |
| <p>K. The following additional standards shall apply to any large scale developments with a gross floor area exceeding sixty thousand (60,000) square feet:</p> | <p>Not applicable, development is less than 60,000 square feet.</p> | <p>Not applicable, development is less than 60,000 square feet.</p> |
| <p>L. Any new development shall comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located as well as adopted master plan policies, the city's adopted "urban design element" and design guidelines governing the specific area of the proposed development. Where there is a conflict between the standards found in this section and other adopted plans and regulations, the more restrictive regulations shall control.</p> | <p>Complies</p> | <p>The building is oriented to both 900 South and Lincoln Street with an urban format with no additional setbacks. The intent of the CB zoning designation is to provide retail that is pedestrian oriented in size and scale while noting the importance of transit and auto access to the site.</p> <p>The Central Community Master Plan encourages mixed use development when the residential character of the area is maintained. This project is small scale and is compatible with the neighborhood.</p> <p>The urban design element encourages the height of neighborhood retail, residential and industrial use to the height and scale of the respective neighborhood and generally be limited to three stories in height. This particular proposal does satisfy the policy found in the Urban Design Element.</p> |

ATTACHMENT G: PUBLIC PROCESS AND COMMENTS

Public Notice, Meetings and Comments

The following is a list of public meetings that have been held, and other public input opportunities, related to the proposed project.

Notice of Application:

A notice of application was mailed to all abutting property owners. The notice sought a reply from anyone who wanted a public hearing with the Planning Commission regarding this petition. Staff initially received three separate requesting for a public hearing. There were also three additional people who called regarding the application. Some were seeking more information and some had concerns with the project. This type of application is not required to be reviewed by Recognized Organizations. However, Recognized Organizations do receive email notification of all Planning Commission agendas.

Notice of the public hearing for the proposal include:

- Public hearing notice mailed January 29.
- Public hearing notice posted at the site on January 29.
- Public notice posted on City and State websites and Planning Division list serve on January 29.

Email:

One email was received in support of the project and is included on the following page. Any other correspondence received after the publication of this staff report will be forwarded to the Planning Commission.

From: [Randall Harmsen](#)
To: [Pickering, Maryann](#)
Subject: PLNPLM2014-00890
Date: Saturday, January 31, 2015 2:26:51 PM

I am the owner of 9th South Delicatessen and our restaurant is directly across the street from the 9+9 mixed use at 932 E. 900 S. I want to fully endorse this project. The owners met with us and we are 100% supportive. Please so indicate for the planning commissioners.

Randy Harmsen

ATTACHMENT H: DEPARTMENT COMMENTS



Work Flow History Report

932 E 900 S

PLNPCM2014-00890

| Date | Task/Inspection | Status/Result | Action By | Comments |
|------------|-----------------------|---------------|--------------------|---|
| 12/23/2014 | Engineering Review | Complete | Weiler, Scott | No objections. A Site Plan, Grading Plan and Utility Plan will need to be reviewed and approved by SLC Engineering, prior to obtaining a building permit. Prior to performing any work in the public way, a Permit to Work in the Public Way must be obtained from SLC Engineering. |
| 12/23/2014 | Staff Assignment | In Progress | Pickering, Maryann | Received all items necessary to route the project. |
| 12/26/2014 | Zoning Review | Complete | Hardman, Alan | This proposal went to a DRT meeting held on November 21, 2014 (DRT2014-00350). See zoning review comments. Two parcels must be combined through a lot consolidation application or a subdivision application process. Submit appropriate application and receive approval. |
| 1/7/2015 | Transportation Review | Complete | Pickering, Maryann | Re; PLNPCM2014-00890 Mix Use Proposal. Transportation review comments are as follows: The Site Evaluations sheet has minor errors in reference to city Code. 21A.44.030.8 should be 21A.44.030.8 and reference 21A.44.030 5.7 should be 21A.44.030 G.7. The parking calculation's note standard parking requirement requiring 53 Stalls for a maximum allowed stalls of 66.25 stalls. The provision for exemption shows 14 stalls required. And the calculations notes 25 stalls provided. The site plan shows 25 stalls provided on Site with three on street angle stalls existing and an additional 6 on street stall to be provided. Along with the Pedestrian friendly Development exemptions. |
| 1/13/2015 | Building Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Fire Code Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Police Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Public Utility Review | Complete | Pickering, Maryann | No comments received. |
| 1/13/2015 | Sustainability Review | Complete | Pickering, Maryann | No comments received. |



Work Flow History Report

932 E 900 S

DRT2014-00350

Project: 9+9 Mixed Use

Project Description: 3:30PM, New mixed use building with 5k s/f of retail and 28 residential units.

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

| Date | | Task/Inspection | Status/Result | Action By | Comments |
|------------|---|-------------------------|---------------|------------------|--|
| 11/20/2014 | 0 | Application Acceptance | Accepted | Robinson, DeeDee | |
| 11/20/2014 | 0 | Engineering Review | Comments | Ott, George | Site Plan Review – Required. Engineering will review the site plans as submitted for the Building Permit Application. A Public Way Permit maybe required for project completion. A Licensed, bonded and insured Contractor to obtain permit to install or repair required street improvements. Special conditions maybe required to cut through the intersection at 9th and 9th. Contact Scott Weiler for restoration requirements. 801-535-6159 |
| 11/20/2014 | 0 | Fire Review | Comments | Itchon, Edward | Fire hydrants shall be within 400 feet of all exterior walls of the first floor and within 100 feet of a fire department connection (FDC). The FDC shall be installed on the address side. Fire flow estimated 1,750 GPM @ building construction type V-A. If the roof deck is being used and the requirements of IFC Section 316.4, 317, 905 (additional 750 GPM) and Appendix D shall be required. |
| 11/20/2014 | 0 | Public Utilities Review | Comments | Stoker, Justin | There are a number of existing water and sewer utility services across the entire project area. All water and sewer services that are not going to be used in the future will need to be terminated prior to demolition of the existing site. Water services are terminated at the main and sewer services are capped at the property line. With the need to connect fire suppression sprinkler lines, there appears to be a need to upsize the public water main to be able to get the pressure, volumes, and velocities into compliance with current codes and safety limits. For this, the street that the sprinkler line connects to would need to be upsized to a minimum of 12-inch line across the frontage of the property to the nearest cross or tee or until standards are met. Connection to the sewer is okay for the future building. With the project under an acre, no special requirements are required. Pretreatment will be required for parking areas. Coordinate with Dave Pearson at Public Utilities regarding street lights. |

| | | | | | |
|------------|---|-----------------------|----------------------------|------------------|---|
| 11/20/2014 | 0 | Transportation Review | Comments | Walsh, Barry | Proposal for demo of existing building and develop at grade parking with retail frontage and two levels of residential above part of the parking lot, structure mix.. Need to investigate proposed roadway widening along Lincoln Street and removal of existing driveway conversion to added angle parking to match street scape. Coordinate with Planning and city Forester for minimum landscape park strip Provide parking calculations per section 21A.44. |
| 11/20/2014 | 0 | Zoning Review | Comments | Brown, Ken | CB Zone - New retail & residential mixed use that involves combining of two parcels. Combining of the properties will need to be processed through a subdivision application. Conditional building and site design review required for this proposal. Demolition permits will be required for all existing buildings. Certified address is to be obtained from the Engineering Dept. for use in the plan review and permit issuance process. Construction waste management provisions of 21A.36.250 apply to this proposal and a construction waste management plan is to be submitted to constructionrecycling@slcgov.com for review. Construction waste management plan approval is to be submitted with the building permit application. Questions regarding the Waste Management Reports may be directed to 801-535-6984. Recycling collection station provisions of 21A.36.250 apply to this proposal. Landscaping plans are to be developed for this project in conformance with 21A.48 in regards to water efficient landscaping, hydro zones, park strip landscaping, landscape buffers, landscape yards, screening of refuse disposal dumpsters, tree protection, etc. Any public way encroachments would need to be discussed with the SLC Real Estate Services Division. Discussed the possibility of having a rooftop deck. All elements of the deck (including guardrails) would need to be below the maximum height allowance except that the Planning Commission may approve, as a special exception, additional height not exceeding 10%. |
| 11/21/2014 | 1 | Closure | Emailed Notes to Applicant | Robinson, DeeDee | |

ATTACHMENT I: MOTIONS

Staff Recommendation:

Based on the testimony, plans presented and the following findings, I move that the Planning Commission approve the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

Not Consistent with Staff Recommendation:

Based on the findings listed in the staff report and the testimony and plans presented, I move that the Planning Commission deny the requested 9+9 Mixed Use Conditional Building and Site Design Review PLNPCM2014-00890 to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet.

The Planning Commission shall make findings on the conditional building and site design review standards and specifically state which standard or standards are not being complied with.

**Excerpt of
SALT LAKE CITY PLANNING COMMISSION MEETING
Room 126 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, February 11, 2015**

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at [5:34:05 PM](#). Audio recordings of the Planning Commission meetings are retained for an indefinite period of time.

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

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

Field Trip

A field trip was held prior to the work session. Planning Commissioners present were: Carolyn Hoskins, Michael Fife and Marie Taylor. Staff members in attendance were Nick Norris, Maryann Pickering and Everett Joyce.

The following site were visited

- **336 W 700 S** - Staff gave an overview of the proposal.
- **9 + 9** - Staff gave an overview of the proposal and the comments received related to parking. The Commission asked if on street parking was limited. Staff stated yes, to one side of Lincoln. The Commission asked if the building was stepped back from the home to the south. Staff stated yes a setback was required and provided.

[5:49:53 PM](#)

9+9 Mixed Use at approximately 932 E 900 South - 9th and 9th Property, LLC, represented by Rinaldo Hunt is requesting Conditional Building and Site Design Review approval from the City to construct a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission. The subject property is located within Council District #5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00890

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.

The Commission and Staff discussed the following:

- If the maximum building size complied or did not comply with the standards.
 - It would comply if the petition was approved.
- The location of the retail space.
- How the proposal encroached on residential neighborhoods and created traffic and parking issues for the surrounding neighborhood.
- Why additional parking was not required for the proposal.
 - Based on the ordinance standards they were required to have 14 stalls and they are providing 23.
- The maximum number of parking stalls required and how the parking percentage was calculated for the proposal.
- There needed to be some give or take to accommodate some of the issues.
 - A Conditional Building and Site Design review was different than a Conditional Use.

Mr. Rinaldo Hunt, architect, stated they had plans to talk with the Community Council about the neighbors concerns. He said they were willing to review the concerns. Mr. Hunt reviewed the elevator shaft height required for the proposed elevator and the additional street parking along Lincoln.

The Commission, Staff and Applicant discussed the following:

- The number of additional parking stalls proposed along Lincoln.
 - There will be two additional parking stalls.
- There fact that there was not even one parking space per unit for the proposal.
 - The Applicant stated they were in compliance with the ordinance for parking.
- More parking could be added to reach the maximum requirements.
 - The Applicant stated parking was not the issue being reviewed.
- If more parking could be required for the proposal.
 - Staff stated the Commission was reviewing the building size and the parking was established by ordinance.
- If the building would be LEED certified.
 - Not at this time but they were working on a future solar program.
- The square footage of the building and the property.
- The use and location of the proposed roof deck.
 - It was allowed in commercial and residential zones but was required to be within the building height.
- The standards for review for Conditional Building and Site Design Review.

Mr. Paul Nielson, City Attorney reviewed meeting etiquette and how the meeting would be conducted. He reviewed the standards of review and approval for the petition and that parking was not something that could be addressed by the Commission.

PUBLIC HEARING [6:15:03 PM](#)

Vice Chairperson Lyon opened the Public Hearing.

Mr. Darryl High, East Community Council, stated they would have liked better notice for the proposal. He read the Community Master Plan and stated the proposal was 75% larger than what was allowed by city code, it did not comply and restricted encroachment on residential neighborhoods, on traffic issues and parking. Mr. High stated it had zero lot line on 900 South and Lincoln and the existing businesses and residents had setbacks and more parking. He stated the development did not fit with the character of the neighborhood, would create a traffic issue on Lincoln and in the surrounding neighborhood and the exemptions should not be allowed in the zoning.

The Commission and Mr. High discussed the operating hours of the bus line on 900 South.

Ms. Cindy Cromer reviewed the history of the 9 + 9 Small Area Plan and zoning in the area. She stated the neighborhood should have remained a small business neighborhood. Ms. Cromer stated the subject neighborhood would be a great candidate for a Conservation District, the 9 + 9 Small Area Plan needed to be updated and the CB zoning would not move the neighborhood in the right direction.

The following individuals spoke to the petition: Mr. Myron Wilson, Mr. Berit Champion, Mr. Josh Levey, Ms. Judi Short, Mr. Josh Plumb, Mr. Jarrett Fisher, Ms. Linda Peterson, Mr. Tom Denison, Ms. Jacquie Bernard, Mr. Mike Bernard, Ms. Heidi Preuss, Ms. Henrietta Prater, Mr. Mark Schwarz, Mr. Nate White, Ms. Catalina De La Torre, Mr. Derek Hackmann, Ms. Kim Ventura, Ms. Amie Rosenberg and Mr. Jim Ack.

The following comments were made:

- Size of the building did not fit and there should be accommodations made for the surrounding neighborhood.
- Supported the transit oriented building.
- Design of the building was beautiful but was too big for the area.
- Traffic in the area would be greatly affected.
- Something could be done to convert the existing buildings into useable space.
- Parking was all ready an issue and this would make it worse.
- Concerned over garbage pickup because of limited access to the surrounding properties.
- People own cars and they would need somewhere to park them.
- Want the property developed but not at the proposed size.
- Needed to preserve the feel of the neighborhood.

- Neighborhood was almost to capacity and the proposal would push it over the limit.
- Project would lead to the demise and reduce commercial business in the area.
- Access to the neighboring properties should be allowed.
- Easements, setback and stepping should be required for the development.
- Development may establish a precedent for three story buildings in the area.
- The proposed development was never the intention for the area.
- Scale did not fit with the area.
- Proposed roof line did not match other buildings in the area.
- Impact to the neighborhood had not been addressed.
- Inadequate notice was sent for this proposal.
- Developer's interest was not for the area.
- Developer was asking for a variance and there was nothing that constituted a variance being granted.
- How some of the businesses approved without parking.
- Proposed units should be larger and owner occupied.
- Code was confusing and contradictory.

Vice Chairperson Lyon read the following comment:

Mr. William Robinson – I live in a walkable community. I walked past the property to be developed thousands of times. I've been a bicycling commuter for years but I have a car. My wife also has one. At time we have had three cars. How the regulations have evolved to having half a parking space for a unit is insane and beyond any practical reality, even hoped for by the most fervent walkable advocate. Lincoln Street is entirely too narrow, it is phenomenally over used and any development would increase this pressure. Twenty three units would overwhelm capacity. If this City is hamstrung by regulations that make no sense and violate every concept of practicality and sensibility as well as violate every intent of planning then there is something wrong with the process or with the Commissions ability to resolve the problems. The simple answer is to half the size at least.

Vice Chairperson Lyon closed the Public Hearing.

Mr. Norris clarified that the one stall for parking was strictly for residential buildings and the half stall applied to building with both residential and commercial uses.

The Commission, Staff and Applicant discussed the following:

- If a development housed more residential than commercial use would it still qualify for the parking reduction.
 - The ordinance did not have a size qualifier for mixed use.
- The pedestrian friendly parking standards only applied to businesses.
- If a dinner discussion could be had to discuss the parking ordinance.
 - Yes and the Commission could initiate a petition to review parking requirements.
- Transportation reviewed and signed off on the proposal.

- The easements to the rear of neighboring properties
 - There was no legal easement and was not something the Commission could require.
- The square footage of the building.
- The impact on Lincoln Street versus the other surrounding streets.
- If a design with fewer housing units was considered.
 - No, just different configurations of the plan.
- If setbacks were included in the design.
 - Yes, within the rear yard setback.
- Why would Staff support the proposal if it was more than what the ordinance allowed.
 - The ordinance established a maximum footprint by right and clearly established a review process for things that were bigger. It did not prohibit bigger building and the proposal was not for a variance as suggested.
- If the current proposal was not approved would a smaller building be constructed.
- How the proposal fit with the current Master Plan.
- The standards for approval and if the proposal met those standards.

MOTION [7:10:06 PM](#)

Commissioner Guilkey stated based on the findings in the Staff Report, the testimony, plans presented and in light of the conflict with the Master Plan for this area, he moved that the Planning Commission deny the request for the 9+9 Mixed Use Conditional Building and Site Design Review, PLNPCM2014-00890, to allow a development with a first floor square footage in excess of 15,000 square feet and an overall maximum square footage of 20,000 square feet. Commission Fife seconded the motion.

Mr. Nielson asked for clarification on the motion. He stated the Commission needed to state the findings for denial as they were going against the Staff recommendation.

Commissioner Guilkey stated specifically items CLU-1.2 that the proposal would generate community wide parking issues.

The Commission and Staff discussed which standards the proposal did not meet.

Commissioner Guilkey clarified the motion stating that referring to the analysis of standards specifically standard L, that the development shall comply with the intent of the zoning district found within and therefore refers back to the CLU-1.2 and the Community Master Plan.

Mr. Nielson asked if the finding was that section 21A.59.060L of the ordinance was not met.

Commission Guilkey stated that was correct.

Commissioner Dean stated it was a great design but it could be modified to fit the neighborhood and be a great asset.

The Commission discussed if the proposal could be tabled to allow the proposal to be modified. They asked if the Applicant was willing to work with the neighborhood to modify the proposal.

The Commission and Applicant discussed the options for review to modify the proposal and make it more compatible with the neighborhood. The Applicant stated they felt they had complied with the standards and fit the area.

The Commission discussed if it would benefit the proposal to hold a subcommittee meeting to review the proposal to work through the compatibility issues.

Commissioner Dean, Guilkey, Fife, Drown, and Hoskins voted “aye”. Commissioners Gallegos and Taylor voted “nay”. The motion passed 5-2.

SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA
In Room 326 of the City & County Building
451 South State Street
Wednesday, February 11, 2015, at 5:30 p.m.
(The order of the items may change at the Commission's discretion.)

The field trip is scheduled to leave at 4:00 p.m.

Dinner will be served to the Planning Commissioners and Staff at 5:00 p.m. in Room 126 of the City and County Building. During the dinner break, the Planning Commission may receive training on city planning related topics, including the role and function of the Planning Commission.

PLANNING COMMISSION MEETING WILL BEGIN AT 5:30 PM IN ROOM 326
APPROVAL OF MINUTES FOR JANUARY 28, 2015
REPORT OF THE CHAIR AND VICE CHAIR
REPORT OF THE DIRECTOR

Administrative Matters

1. **9+9 Mixed Use at approximately 932 E 900 South** - 9th and 9th Property, LLC, represented by Rinaldo Hunt is requesting Conditional Building and Site Design Review approval from the City to construct a mixed use development that exceeds more than 15,000 square feet for the first floor or 20,000 square feet overall at the above listed address. Currently, the land is developed with a retail store and surface parking lot and is zoned CB (Community Business). This type of project must be reviewed as a Conditional Building and Site Design Review by the Planning Commission. The subject property is located within Council District #5, represented by Erin Mendenhall. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00890
2. **Atmosphere Studios Industrial Assembly Conditional Use at approximately 336 W 700 South and 650 S 300 West** - Atmosphere Studios, LLC is requesting approval from the City to place a new use in an existing warehouse building that includes approximately 16 percent of the building for industrial assembly use at the above listed address. Currently the land consists of a vacant warehouse and the property is zoned D-2 Downtown and CG General Commercial. The industrial assembly portion of the project must be reviewed as a conditional use. The subject property is within Council District 4, represented by Luke Garrott. (Staff contact: Everett Joyce at 801-535-7930 or everett.joyce@slcgov.com. Case number PLNCOM2014-00875).

Legislative Matters

3. **Solar Panel Installations in Historic Districts** - Mayor Ralph Becker is requesting to revise the ordinance relating to the approval process for installation of solar panels in all H Historic Preservation Overlay Zones. The proposed change would allow staff to administratively approve applications unless the solar panels are proposed to be located on the front roof plane facing a street. The proposed changes would apply Citywide within all H Historic Preservation Overlay Zones. (Staff contact: Maryann Pickering at (801) 535-7660 or maryann.pickering@slcgov.com.) Case number PLNPCM2014-00883
4. **Pedestrian and Bicycle Master Plan** - Mayor Ralph Becker is proposing a major update to the City's existing Pedestrian and Bicycle Master Plan. The Pedestrian and Bicycle Master Plan is a citywide master plan that will guide the development and implementation of the City's pedestrian and bicycle infrastructure and programs. (Staff contact: Becka Roof at (801) 535-6630 or becka.roof@slcgov.com.)

The files for the above items are available in the Planning Division offices, room 406 of the City and County Building. Please contact the staff planner for information, Visit the Planning Division's website at www.slcgov.com/CED/planning for copies of the Planning Commission agendas, staff reports, and minutes. Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission. Planning Commission Meetings may be watched live on SLCTV Channel 17; past meetings are recorded and archived, and may be viewed at www.slctv.com.

The City & County Building is an accessible facility. People with disabilities may make requests for reasonable accommodation, which may include alternate formats, interpreters, and other auxiliary aids and services. Please make requests at least two business days in advance. To make a request, please contact the Planning Office at 801-535-7757, or relay service 711.

From: [THOMAS HILL](#)
To: [Pickering, Maryann](#)
Subject: Case # PLNPCM2014-00890
Date: Wednesday, February 11, 2015 6:13:55 PM

Dear Representative Mendenhall,

While I am unable to attend the SLC Planning Commission Meeting this evening, I am certain my neighbors will outline the added congestion and lack of parking in the 9th and 9th area if this development is approved. My concern, more than that, is by rezoning to allow one 35000 sq. ft. structure is to begin the transformation that will eventually turn 9th and 9th into Sugarhouse North. Now if that is the ultimate plan, then this first step is necessary

Over the years I have watched planning and zoning give the green light to many, less than stellar projects, going back to the Great Salt Lake Pumping Project, which cost \$60 million for 27 months of service, and requires, if my numbers are right, in the neighborhood of \$300,000 a year for annual maintenance.

Then there is the Gateway/City Creek fiasco, which is eerily reminiscent of the Crossroads/ZCMI Center fiasco of thirty five years prior. Gateways revenues dropped from \$210 million in 2011, to \$100 million in 2013, and still move downward. Talk about not learning from mistakes of the past.

Most recently, the installation of the new parking meter system, installed to close a budget shortfall of \$50,000.00 at the cost of \$7 million. The system lost \$1.5 million the first year of operation, and drove many, Main Street businesses to more 'parking friendly' areas of the valley.

So all I would ask, is that you consider the long term implications before casting your vote. What can always be made to look good on paper does not always turn out to be what is best.

Thank you,

Tom Hill
924 S 1000 E