



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

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To: Salt Lake City Planning Commission  
From: Sara Javoronok, AICP, Senior Planner, 801-535-7625, sara.javoronok@slcgov.com  
Date: March 13, 2019  
Re: PLNPCM2018-00839 and PLNPCM-2018-00898

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## Zoning Map Amendment

**PROPERTY ADDRESS:** 504 South 900 East  
**PARCEL ID:** 16-05-377-024-0000  
**MASTER PLAN:** Central Community  
**ZONING DISTRICT:** RMF-35

**REQUEST:** The petitioner, Ian Kaplan of ADDVirtue, is requesting a master plan amendment from Medium Density Residential to Medium Residential/Mixed Use and a zoning map amendment from RMF-35, Moderate Density Multi-Family Residential District to R-MU-35, Residential/Mixed Use Residential District for the property located at approximately 504 S 900 E. The master plan and map amendments are anticipated to allow for redevelopment of the site with a mixed use building that would have residential units and a small commercial component.

### RECOMMENDATIONS:

Based on the analysis and findings of fact in this staff report, Planning staff recommends that the Planning Commission forward a positive recommendation to the City Council for the proposed master plan amendment from Medium Density Residential to Medium Residential/Mixed Use.

Based on the information in this staff report, planning staff finds that the zoning map amendment petition meets the standards, objectives and policy considerations of the city for a zoning map amendment and recommends that the Planning Commission forward a positive recommendation to City Council for a change to the Residential/Mixed Use (R-MU-35) zoning district.

### ATTACHMENTS:

- A. [Vicinity Maps \(Zoning & Future Land Use\)](#)
- B. [Site Photographs](#)
- C. [Additional Applicant Information](#)
- D. [Existing Conditions & Development Standards](#)

- E. [Analysis of Standards](#)
- F. [Public Process & Comments](#)
- G. [Department Review Comments](#)
- H. [Background Information](#)

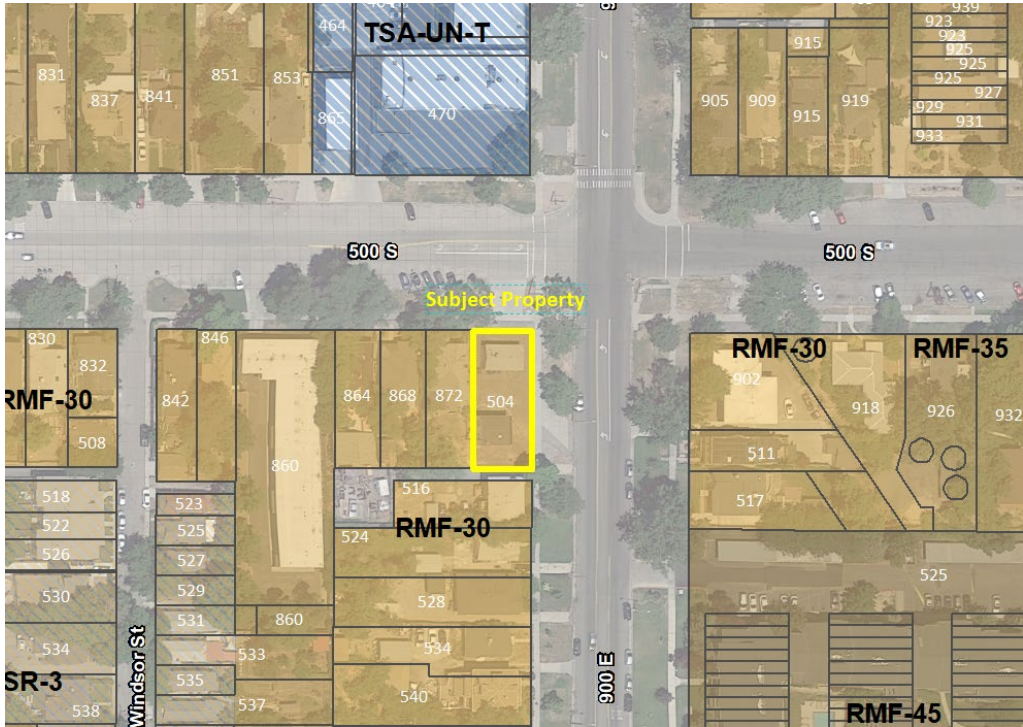
**PROJECT DESCRIPTION:**

The applicant is seeking a master plan amendment from the Medium Density residential land use classification to Medium Residential/Mixed Use and a zoning map amendment from RMF-35, Moderate Density Multi-Family Residential District to R-MU-35, Residential/Mixed Use Residential District. The applicant has not submitted a site plan or proposal, but anticipates a mixed use development with a small commercial component and residential units. The property is approximately 5,750 square feet and is currently occupied with two structures that were formerly a commercial use and were converted to a residential use in the early 2000s. Prior to 1995, the property was zoned B-3. Per minutes of a Board of Adjustment case for PLN1997-100999, the property was used as a service station from approximately 1927 through 1990. The 1911 Sanborn maps show the property as vacant. The 1950 Sanborn maps show the two existing structures and note that the use is gasoline and oil (Attachment H).

The small size of the site and the existing standards, including the lot area and yard requirements limit its redevelopment. For example, the existing RMF-35 zoning generally precludes development at an intensity greater than a single family home because multi-family dwellings require a minimum lot size of 9,000 square feet. This lot is only 5,750 square feet. The proposed rezoning will allow for the future development of a mixed use building with a greater residential density on the small site, which is located on the southwest corner of 500 South and 900 East and is just over a block, less than 1000 feet, from the 900 East Trax Station.



*View of subject property and existing structures*



*Map showing the area proposed for rezoning highlighted in yellow with existing adjacent zoning identified*



*Map showing the area proposed for a master plan amendment highlighted in yellow with existing adjacent master plan designations identified*

## **KEY ISSUES:**

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

### **Issue 1: Compatibility with the Central Community Master Plan**

The *Central Community Master Plan* identifies this property as Medium Density Residential (15-30 dwelling units/acre). The proposed zoning map amendment and development would be at a higher density than this and include a commercial use on the site. As such, staff recommended and the applicant is proposing a master plan amendment to change the land use to Medium Residential/Mixed Use (10-50 dwelling units/acre). This designation is consistent with the proposed uses. It is also consistent with the neighborhood since this is the land use designation on the properties located to the north and across 500 S. More generally, the neighborhood is an eclectic mix of land use types and densities and there are higher density multi-family developments in close proximity.

Several goals and criteria in the *Central Community Master Plan* are applicable to this project. The plan's Vision for the Future identifies several applicable criteria among four goals:

#### *Livable communities and neighborhoods*

- A variety of residential land use supports all types of housing and the affordability of the housing stock.
- The appropriate transition of multi-family housing with mixed land uses in designated areas supports sustainable development within the community.

#### *Vital and sustainable commerce*

- Increased pedestrian accessibility and cultural activities encourage more housing that supports the employment center of the downtown area.
- An enhanced built environment encourages employees to work and live in the Central Community and supports the creation of smaller locally owned businesses.

#### *Unique and active places*

- New places where people can gather, meet, socialize, and recreate are created using design excellence and shared resources.
- Existing destination centers and gathering places are enhanced through urban design recommendations.

#### *Pedestrian mobility and accessibility*

- Children, senior adults, and those with disabilities can access destination points without being threatened by vehicular movement.
- Improved pedestrian movement along arterials and collectors ensures pedestrian safety.

The proposed rezoning would allow for a future development that would provide housing and a commercial component that could serve as a neighborhood gathering place. It would be in a location that is accessible to pedestrians and in close proximity to transit. These elements would improve area sustainability.

Specific to the East Central North Neighborhood Planning Area, the proposed project provides housing on a small piece of land. Within the East Central Neighborhood Planning Area Issues, several in the residential section apply:

- Reduce excessive density potential, stabilize the neighborhood, and conserve the neighborhood's residential character.
- Improve zoning enforcement, including illegal conversion to apartments, yard cleanup, "slum lords," etc.

- Encourage higher density housing in East Downtown, Downtown, and Gateway to decrease the pressure to meet those housing needs in this neighborhood.
- Ensure new multi-family development is carefully sited, well designed, and compatible in scale.
- Provide more affordable housing (owner occupied and rental).

While a commercial use is not currently permitted, the historic use of the site was as a commercial building. Additionally, the small size of the property would not allow for a commercial space of a significant site. As for the residential component, while the proposal would allow for a greater number of residential units than is currently permitted, it would likely be comparable to the building types that are in close proximity. The proposal will maintain the building typology of the area with a mixed-use building that is primarily residential with a small commercial component. The building form permitted in the proposed zone would be transitional in scale with the types of uses and development permitted to the north and the surrounding mix of existing multi-family and single family units.

## **Issue 2: Compatibility with citywide adopted planning documents**

The proposed master plan amendment and zoning map amendment are compatible with the following adopted planning documents: *Plan Salt Lake and Growing SLC: A Five Year Housing Plan*.

### *Plan Salt Lake*

Consistent with *Plan Salt Lake*, the proposal will provide a mix of uses, infill development on underutilized land, and an increased density of residential development in an area served by transit. The plan identifies several initiatives that the proposed rezoning helps to implement. In the Growth Chapter, the following apply:

1. Locate new development in areas with existing infrastructure and amenities, such as transit and transportation corridors.
2. Encourage a mix of land uses.
3. Promote infill and redevelopment of underutilized land.

The proposed rezoning is located on the southwest corner of 500 South and 900 East and is in close proximity to the 900 East Trax Station. Currently, the subject property has been converted to a residential use. The applicant has not supplied plans, but anticipates a building that is predominantly residential with a small commercial component. The proposal would provide a mix of uses and infill development on underutilized land and would increase the number of medium density residential units.

Two initiatives in the Housing Chapter apply as well:

2. Increase the number of medium density housing types and options.
4. Direct new growth toward areas with existing infrastructure and services that have the potential to be people-oriented.
5. Enable moderate density increases within existing neighborhoods where appropriate.

The site is located in close proximity to existing infrastructure, including a transit line. The property across the street and to the north is zoned Transit Station Area – Urban Neighborhood Transition and the proposed rezoning would provide a transition from the higher intensity building forms and uses permitted in this zone to the predominantly moderate density residential uses that surround the site. Additionally, the proposal is for a building that would be substantially residential.

### *Growing SLC: A Five Year Housing Plan*

The proposal is also consistent with Goal 1 in *Growing SLC: A Five Year Housing Plan, 2018-2022*. The plan addresses the increasing divide between income and housing costs and promotes additional strategies to increase the supply of available and affordable housing. Goal 1 is particularly relevant to this proposal stating: “Increase housing options: reform city practices to promote a responsive, affordable, high-opportunity housing market.” The proposed rezoning is anticipated to increase the types of housing options and provide additional housing units in the community.

### **Issue 3: Zoning compatibility with adjacent properties**

As detailed in Attachment A – Vicinity Maps and Attachment D – Existing Conditions and Development Standards, the surrounding properties are RMF-30 and TSA-UN-T. The RMF-30 zone is slightly less intense than the existing zone, would allow for a building maximum of height of 30 feet and it is generally limited to single family residences for lots under 8,000 square feet. The TSA-UN-T zone is more intense, permitting a building height of 50’ and a greater variety of commercial and residential uses. Given these standards, the expected use of the site with a predominantly residential building with a commercial component would serve as a transition from the more intensive zoning to the north to the less intensive zoning to the south.

While much of the surrounding property is zoned RMF-30, the proposal is generally consistent with other uses in the area. Other multi-family buildings are located near the site. The property across the street and to the east, 902 E 500 S has six units, and the property to the south is a duplex. Several larger apartment buildings or condos are located approximately one-half block away. This includes a larger, affordable housing building with commercial space that is located to the north at 444 S 900 E and a multiple building condo development located to the south at approximately 543 S 900 E. A commercial building is located on the property directly to the north.

### **Issue 4: Existing zoning limitations and proposed zone**

The subject property is currently zoned RMF-35, which allows for moderate density multi-family dwellings. As stated above, multi-family dwellings require a minimum lot size of 9,000 square feet. The district also includes other neighborhood serving uses that are intended to be compatible such as municipal uses, places of worship, open space, and single family dwellings. These uses require lot area in excess of the size of this property. This is detailed in Attachment D – Existing Conditions and Development Standards. Generally, the existing zoning limits redevelopment of the property to a single family home.

The proposed R-MU-35 zoning district is a residential/mixed use district that promotes residential urban neighborhoods with residential, retail, service commercial, and small scale office uses. Areas should have a mixed use character and promote appropriately scaled development that is pedestrian oriented. It is also intended to provide a buffer for lower density residential uses and nearby higher volume streets and higher intensity land uses. This district, unlike the RMF-35 zoning district, has detailed design standards for street facing facades that, in addition to other standards, would require a use other than parking for 75% of the length of the building, durable building materials on 80% the first floor façade, and 60% glass between a height of three and eight feet of the façade. The applicant’s proposed future use of residential development with a commercial component is consistent with this zoning district. The development standards and permitted and conditional uses allowed in the two zoning districts are detailed in Attachment D. However, the proposed zoning district is not otherwise present in close proximity to the site. Its usage is limited to a few areas of the city, and the closest properties with this zone are located approximately one-half mile to the southwest near Trolley Square.

### **DISCUSSION:**

The proposed master plan amendment from Medium Density Residential to Medium Residential/Mixed Use and the proposed zoning map amendment from RMF-35 to R-MU-35 would allow for a more intense redevelopment of the site. Currently, the property is underutilized and retains the historically commercial structures on the site that have been converted to a residential use. Generally, due to the small size of the site, development of a greater intensity than a single family residence is not permitted due to lot area restrictions. While the proposed zoning is not located in close proximity to the site, the type and intensity of development is appropriate for the site since it is adjacent to Transit Station Area zoning, which allows for more intensive land uses, is located less than ¼ mile from a Trax station, and is located on the corner of two city arterial streets.

There is mixed reception of the project from the neighborhood. The East Central Community Council submitted a letter in opposition to the project (Attachment F). Staff spoke with a few neighbors

regarding the project. One neighbor was in support and two were in opposition. An additional neighbor had concerns. Issues included the potential for decreased availability of on-street parking and the potential density. Residents reported that parking is already an issue since not all properties have off-street parking, and there are people that park in the neighborhood because of the proximity to the University of Utah. Additionally, while the applicant has not submitted a site plan, the proposed nine microunits identified in the application narrative was a concern because of the increased density.

**NEXT STEPS:**

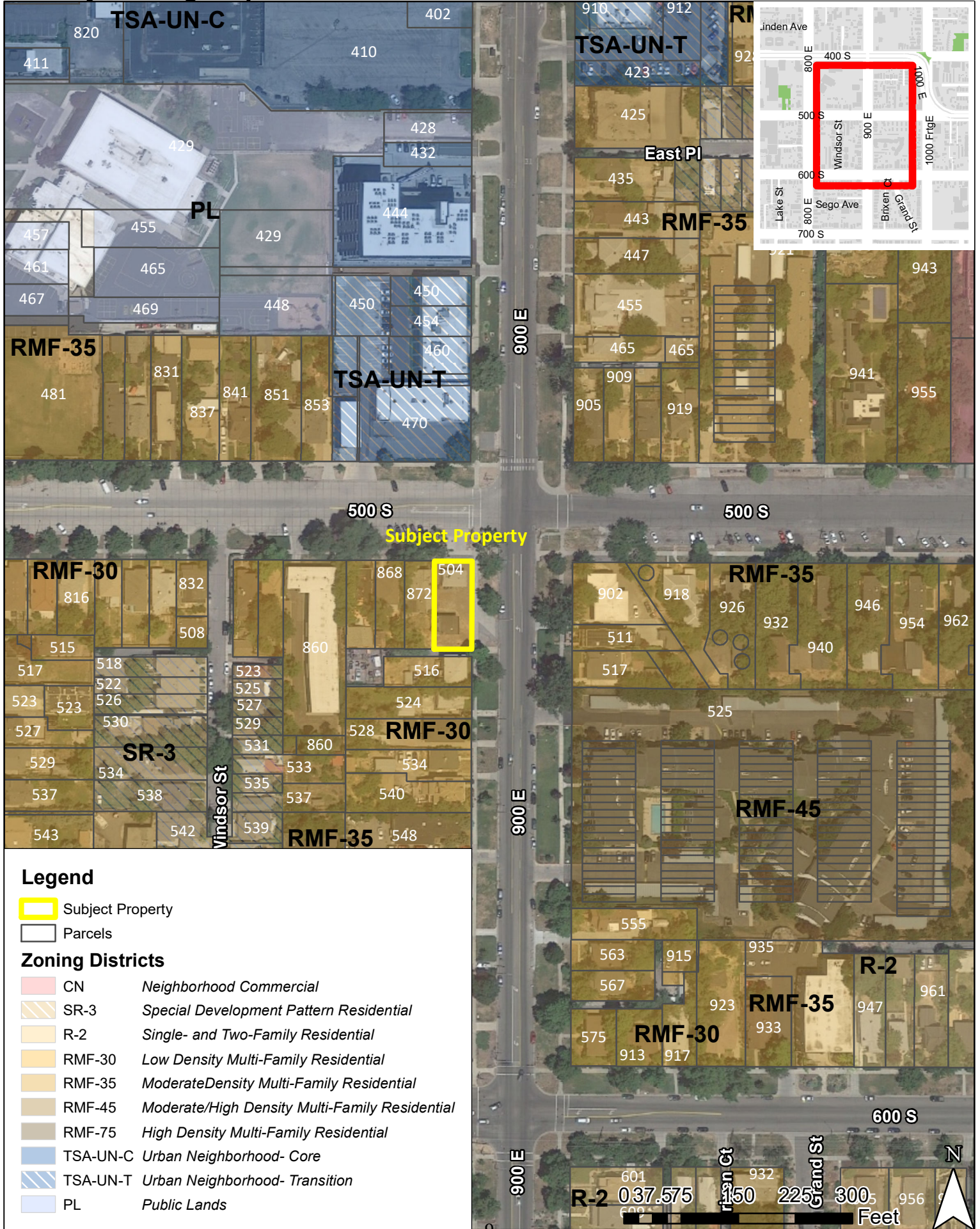
The Planning Commission's recommendation will be forwarded to the City Council for their consideration as part of the final decision on this petition. If ultimately approved, the applicant may proceed with the submission of plans for a project under the R-MU-35 zoning district. If ultimately denied, the applicant could maintain the site as is or would still be eligible to redevelop the property in accordance with the existing RMF-35 zoning on the subject property.

## **ATTACHMENT A: VICINITY MAPS**

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# Vicinity Zoning Map





## ATTACHMENT B: SITE PHOTOGRAPHS

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View of the subject property across 900 E



View of the subject property across 500 S



View of adjacent property to the west



View of the adjacent property to the south



View of the property to the north and across 500 S



View of the property to the east and across 900 E



View of the property to the northeast



Birds eye view – subject property identified in yellow

**ATTACHMENT C: ADDITIONAL APPLICANT  
INFORMATION**

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# Zoning Amendment

Amend the text of the Zoning Ordinance     Amend the Zoning Map

**OFFICE USE ONLY**

Received By: <i>PLN/PCM 2018-00839</i>	Date Received: <i>10/12/18</i>	Project #: <i>AUGLIN</i>
Name or Section/s of Zoning Amendment: <i>AMU-35 Rezone</i>		

**PLEASE PROVIDE THE FOLLOWING INFORMATION**

Address of Subject Property (or Area):  
**504 SOUTH 900 EAST**

Name of Applicant:  
**IAN KAPLAN**

Phone:  
**(585) 261 - 1856**

Address of Applicant:  
**9897 SOUTH 2700 EAST, SANDY, UT 84092**

E-mail of Applicant:  
**IAN@ADDVIRTUE.COM**

Cell/Fax:  
**SAME AS ABOVE**

Applicant's Interest in Subject Property:

Owner     Contractor     Architect     Other:

Name of Property Owner (if different from applicant):  
**JAMI BOGENSCHUTZ/CARL TRUJILLO**

E-mail of Property Owner:  
**BOGJAM@MSN.COM**

Phone:  
**(801) 792 - 5547**

**Please note** that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

**AVAILABLE CONSULTATION**

If you have any questions regarding the requirements of this application, please contact Salt Lake City Planning Counter at (801) 535-7700 prior to submitting the application.

**REQUIRED FEE**

- Filing fee of **\$1,011** plus **\$121** per acre in excess of one acre,
- Text amendments will be charged **\$100** for newspaper notice.
- Plus additional fee for mailed public notices.

**SIGNATURE**

If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: DocuSigned by: <i>ian kaplan</i> BE594004EA84414	Date: <b>10/12/2018 9:22:08 AM PDT</b>
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SALT LAKE CITY PLANNING



**SUBMITTAL REQUIREMENTS**

Staff Review

**1. Project Description** (please attach additional sheets.)

- A statement declaring the purpose for the amendment.
- A description of the proposed use of the property being rezoned.
- List the reasons why the present zoning may not be appropriate for the area.
- Is the request amending the Zoning Map?  
If so, please list the parcel numbers to be changed.
- Is the request amending the text of the Zoning Ordinance?  
If so, please include language and the reference to the Zoning Ordinance to be changed.

**WHERE TO FILE THE COMPLETE APPLICATION**

*Mailing Address:* Planning Counter  
PO Box 145471  
Salt Lake City, UT 84114

*In Person:* Planning Counter  
451 South State Street, Room 215  
Telephone: (801) 535-7700

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

<sup>DS</sup>  
IK I acknowledge that Salt Lake City requires the items above to be submitted before my application can be processed. I understand that Planning will not accept my application unless all of the following items are included in the submittal package.

# Application for Zoning Amendment Supplemental Information

**Prepared By:**

Ian Kaplan (Owner Representative/Architect)  
ADDvirtue  
ian@ADDvirtue.com  
585.261.1856

**Date:**

October 12th, 2018

**Owner Information:**

Jami Bogenschutz, Carl Trujillo  
[bogjam@msn.com](mailto:bogjam@msn.com)  
801.792.5547

**Project Addresses**

504 E 900 S

**Parcel Numbers:**

377-024

**Site Area:**

.13 Acres - 5,750 SF

**Existing Zone:**

RMF-35

**Proposed Zone:**

RMU-35



**Masterplan:**

Central Community

**Purpose For Amendment:**

The zoning regulations of the RMF-35 zone are prohibitive to the development of a medium-density residential building. With a frontage of 50' and a total size of 5,750 SF, the parcel is non-conforming in the current zoning designation and is not eligible for a Planned Development. A rezone to RMU-35 would create development opportunity for the site that would positively benefit the neighborhood and contribute to a more walkable, urban environment.

## Application for Zoning Amendment Supplemental Information

**Proposed Use:** Mixed-Use: 9 Micro Residential Units and a small ~750 SF commercial unit. Supplemental drawings will be provided at a later date.

**Present Zoning Conflicts:**

1. The parcel size of 5,750 SF makes these parcels non-conforming for all permitted uses except Single-family detached dwellings (See PG.2). In this location, a single family residence is not a feasible development with the value of the existing land.
2. The project is not eligible for a Planned Development per 21A.55.060 - Minimum Area, which prevents any municipal code deviation that would create opportunity for development (See Pg. 2).

**Central Community Master Plan Findings:**

The future land use is designated as Medium Density Residential on PG.2 of the Central Community Master plan. The RMU-35 zone supports medium density multi-family residential development which is congruent with the future land use vision.

**Plan Salt Lake Findings:**

The proposed Mixed-Use development positively contributes towards the guiding principals of Plan Salt Lake by accomplishing the following:

- Creation of a new community gathering space with the addition of a ground floor street facing commercial unit.
- Responsible growth of the city by re-development of an underutilized building site located within 1/4 mile of mass transit (900 E Trax Stop)
- The development of Micro-Units provides housing for a variety of income levels. Micro-units fill a need for affordable housing by offering smaller, cheaper spaces for residents to live.
- The development will provide limited on site parking for an additional fee per month to encourage future residents to utilize the proximity of mass transit for their transportation needs.

# Application for Master Plan Amendment Supplemental Information

**Prepared By:**

Ian Kaplan (Owner Representative/Architect)  
ADDvirtue  
Ian@ADDvirtue.com  
585.261.1856

**Date:**

November 5th, 2018

**Owner Information:**

Jami Bogenschutz, Carl Trujillo  
[bogjam@msn.com](mailto:bogjam@msn.com)  
801.792.5547

**Project Addresses**

504 S 900 E

**Parcel Numbers:**

377-024

**Site Area:**

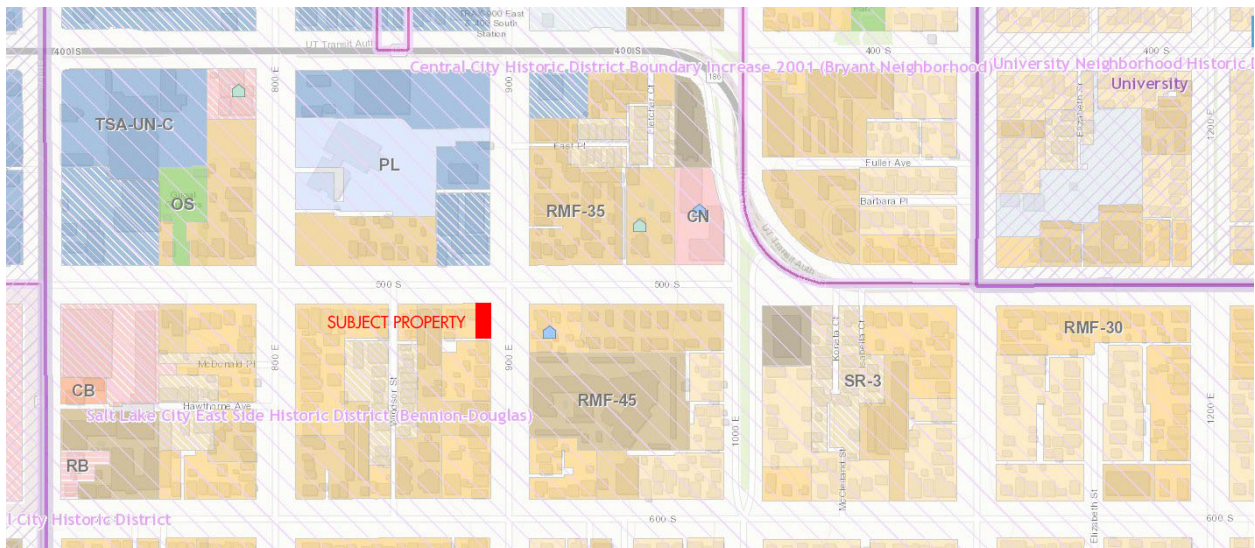
.13 Acres - 5,750 SF

**Existing Zone:**

RMF-35

**Proposed Zone:**

RMU-35



**Masterplan:**

Central Community

**Purpose For Amendment:**

The current Central Community Masterplan Future Land Use Map designates this parcel as Medium-density Residential. The development team would like to amend the masterplan to show a Medium Density Mixed-Use land use due to the historic use and previous zoning of the property as a Commercial based land use. In addition, with it's proximity and adjacency to high density TSA zoning, the parcel can serve as a transitional zoning into the medium density residential areas to the South which will help to create an urban buffer between higher density mixed-use land uses and lower density residential areas.

To Whom It May Concern,

As owner of the property located at 504 S 900 E, I authorize Ian Kaplan with ADDvirtue as an agent to submit an application for Zoning Amendment located at the aforementioned address.

Sincerely,

DocuSigned by:  
  
1F8AAF2CCD924C9...  
Jami Bogenschutz  
Ivy Partners

Date: 10/12/2018 1:04:23 PM PDT

# ATTACHMENT D: EXISTING CONDITIONS & DEVELOPMENT STANDARDS

## CURRENT USES OF THE SUBJECT PARCELS AND THOSE WITHIN THE IMMEDIATE VICINITY

### Abutting property to the north:

The property to the north is zoned TSA-UN-T and is a commercial building.

### Abutting properties to the east, south, and west:

The properties to the east, south and west are zoned RMF-30. The property to the east is a six unit multifamily building. The property to the south is a duplex. The property to the west is a single family residence.

## CURRENT RMF-35 ZONING STANDARDS (21A.24.150)

The subject property is currently zoned RMF-35 (Moderate Density Multi-Family Residential). The following table provides the general yard and bulk requirements for development within the zoning district.

Land Use	Minimum Lot Area	Minimum Lot Width
Multi-family dwellings (3 to 14 units)	9,000 square feet <sup>1</sup>	80 feet
Multi-family dwellings (15 or more)	26,000 square feet <sup>1</sup>	80 feet
Municipal service uses, including City utility uses and police and fire stations	No minimum	No minimum
Natural open space and conservation areas, public and private	No minimum	No minimum
Places of worship less than 4 acres in size	12,000 square feet	140 feet
Public pedestrian pathways, trails and greenways	No minimum	No minimum
Public/private utility transmission wires, lines, pipes and poles	No minimum	No minimum
Single-family attached (3 or more)	3,000 square feet per unit	Interior: 22 feet Corner: 32 feet
Single-family detached dwellings	5,000 square feet	50 feet
Twin home dwellings	4,000 square feet per unit	25 feet
Two-family dwellings	8,000 square feet	50 feet
Utility substations and buildings	5,000 square feet	50 feet
Other permitted or conditional uses as listed in section <a href="#">21A.33.020</a> of this title	5,000 square feet	50 feet

Qualifying provisions:

1. 9,000 square feet for 3 units, plus 2,000 square feet for each additional dwelling unit up to and including 11 units. 26,000 square feet for 12 units, plus 1,000 square feet for each additional dwelling unit up to 1 acre. For developments greater than 1 acre, 1,500 square feet for each dwelling unit is required.

RMF-35 Moderate Density Multi-Family Residential District					
Front Yard	Rear Yard	Corner Side Yard	Interior Side Yards (MF)	Height	Building Coverage
20'	25% of lot depth, not less than 20', and need not exceed 25'	10'	10'	35'	45-60% depending on the use

**PROPOSED RMU-35 ZONING STANDARDS (21A.24.164)**

The proposed zoning district is RMU-35 (Residential/Mixed-Use). The following table provides the general yard and bulk requirements for development within the zoning district.

Land Use	Minimum Lot Area	Minimum Lot Width
Multi-family dwellings	5,000 square feet for new lots No minimum for existing lots	50 feet
Municipal service uses, including city utility uses and police and fire stations	No minimum	No minimum
Natural open space and conservation areas, public and private	No minimum	No minimum
Nonresidential uses	No minimum	No minimum
Places of worship less than 4 acres in size	12,000 square feet	140 feet
Public pedestrian pathways, trails and greenways	No minimum	No minimum
Public/private utility transmission wires, lines, pipes and poles	No minimum	No minimum
Single-family attached dwellings (3 or more)	2,500 square feet per unit <sup>1</sup>	Interior: 22 feet Corner: 32 feet
Single-family detached dwellings	2,500 square feet	25 feet
Twin home dwellings	2,500 square feet per unit	25 feet
Two-family dwellings	2,500 square feet	25 feet
Utility substations and buildings	5,000 square feet	50 feet
Other permitted or conditional uses as listed in section <a href="#">21A.33.020</a> of this title	5,000 square feet	50 feet

Qualifying provisions:

1. There is no minimum lot area nor lot width required provided:
  - a. Parking for units shall be rear loaded and accessed from a common drive shared by all units in a particular development;
  - b. Driveway access shall connect to the public street in a maximum of 2 locations; and
  - c. No garages shall face the primary street and front yard parking shall be strictly prohibited.

**R-MU-35 Residential/Mixed Use District: Nonresidential, Multi-Family Residential and Mixed Use**

Front Yard/Corner Side Yard	Rear Yard	Interior Side Yards	Height	Open Space
Min. 5'  Max. 15'	25% of lot depth, need not be more than 30'	None unless abutting SF or two-family	35', 45' with CB&SDR; Nonresidential: 20'	Min. 20%

**Allowed uses in each zone:**

Land use tables for each zone are attached for reference. The residential/mixed use zone allows for a greater range of uses.

Permitted and Conditional Uses by District	RMF-35	R-MU-35
Accessory use, except those that are otherwise specifically regulated elsewhere in this title	P	P
Adaptive reuse of a landmark site	C <sup>8</sup>	P
Alcohol, bar establishment (2,500 square feet or less in floor area)		C <sup>9</sup>
Alcohol, brewpub (2,500 square feet or less in floor area)		C <sup>9</sup>
Alcohol, tavern (2,500 square feet or less in floor area)		
Animal, veterinary office		C
Art gallery		P
Artisan food production (2,500 square feet or less in floor area)		P <sup>3</sup>
Bed and breakfast inn		
Bed and breakfast manor		
Clinic (medical, dental)		P
Commercial food preparation		P
Community garden	P	P
Community recreation center	C	
Crematorium		C
Daycare center, adult		P
Daycare center, child	C <sup>22</sup>	P
Daycare, nonregistered home daycare	p <sup>22</sup>	p <sup>22</sup>
Daycare, registered home daycare or preschool	p <sup>22</sup>	p <sup>22</sup>
Dwelling, accessory guest and servant's quarter		
Dwelling, accessory unit	P	
Dwelling, assisted living facility (large)	C	C
Dwelling, assisted living facility (limited capacity)	P	P
Dwelling, assisted living facility (small)	P	P
Dwelling; dormitory, fraternity, sorority		
Dwelling, group home (large) <sup>14</sup>	C	C
Dwelling, group home (small) <sup>15</sup>	P	P
Dwelling, manufactured home	P	P
Dwelling, multi-family	P	P
Dwelling, residential support (large) <sup>16</sup>		
Dwelling, residential support (small) <sup>17</sup>	C	C
Dwelling, rooming (boarding) house		C
Dwelling, single-family (attached)	P	P
Dwelling, single-family (detached)	P	P



Dwelling, twin home and two-family	P	P
Eleemosynary facility	C	C
Financial institution		P
Funeral home		P
Governmental facility	C	C
Home occupation	p <sup>24</sup>	p <sup>24</sup>
Laboratory (medical, dental, optical)		P
Library		C
Mixed use development		P
Mobile food business (operation on private property)		P
Municipal service use, including City utility use and police and fire station	C	C
Museum		C
Nursing care facility		P
Office, excluding medical and dental clinic and office		P
Open space on lots less than 4 acres in size	P	P
Park	P	P
Parking, off site (to support nonconforming uses in a residential zone or uses in the CN or CB Zones)		C
Parking, park and ride lot shared with existing use	P	P
Place of worship on lots less than 4 acres in size	C	C
Reception center		P
Recreation (indoor)		P
Restaurant		P
Restaurant with drive-through facility		
Retail goods establishment		P
Retail goods establishment, plant and garden shop with outdoor retail sales area		P
Retail service establishment		P
School, music conservatory		C
School, professional and vocational		C
School, seminary and religious institute	C	C
Seasonal farm stand		P
Studio, art		P
Temporary use of closed schools and churches	C <sup>23</sup>	C <sup>23</sup>
Theater, live performance		C <sup>13</sup>
Theater, movie		C
Urban farm	P	P
Utility, building or structure	p <sup>5</sup>	p <sup>5</sup>
Utility, transmission wire, line, pipe or pole	p <sup>5</sup>	p <sup>5</sup>
Wireless telecommunications facility (see section 21A.40.090, table 21A.40.090E of this title)		

**Qualifying provisions for specific land uses:**

1. A single apartment unit may be located above first floor retail/office.
2. Provided that no more than 2 two-family buildings are located adjacent to one another and no more than 3 such dwellings are located along the same block face (within subdivisions approved after April 12, 1995).
3. Must contain retail component for on-site food sales.
4. Reserved.
5. See subsection [21A.02.050B](#) of this title for utility regulations.
6. Building additions on lots less than 20,000 square feet for office uses may not exceed 50 percent of the

building's footprint. Building additions greater than 50 percent of the building's footprint or new office building construction are subject to a conditional building and site design review.

7. Subject to conformance to the provisions in section [21A.02.050](#) of this title.

8. Subject to conformance with the provisions of subsection [21A.24.010S](#) of this title.

9. Subject to conformance with the provisions in section [21A.36.300](#), "Alcohol Related Establishments", of this title.

10. In the RB Zoning District, the total square footage, including patio space, shall not exceed 2,200 square feet in total. Total square footage will include a maximum 1,750 square feet of floor space within a business and a maximum of 450 square feet in an outdoor patio area.

11. Accessory guest or servant's quarters must be located within the buildable area on the lot.

12. Subject to conformance with the provisions of section [21A.36.150](#) of this title.

13. Prohibited within 1,000 feet of a single- or two-family zoning district.

14. No large group home shall be located within 800 feet of another group home.

15. No small group home shall be located within 800 feet of another group home.

16. No large residential support shall be located within 800 feet of another residential support.

17. No small residential support shall be located within 800 feet of another residential support.

18. Large group homes established in the RB and RO Districts shall be located above the ground floor.

19. Small group homes established in the RB and RO Districts shall be located above the ground floor.

20. Large residential support established in RO Districts shall be located above the ground floor.

21. Small residential support established in RO Districts shall be located above the ground floor.

22. Subject to section [21A.36.130](#) of this title.

23. Subject to section [21A.36.170](#) of this title.

24. Subject to section [21A.36.030](#) of this title.

(Ord. 47-17, 2017; Ord. 46-17,2017)

# ATTACHMENT E: ANALYSIS OF STANDARDS

## MASTER PLAN AMENDMENTS

State Law, Utah Code Annotated, Title 10 Chapter 9a, requires that all municipalities have a master plan. However, there is no specific criteria relating to master plan amendments. The City does not have specific criteria relating to master plan amendments. However, City Code Section 21A.02.040 – Effect of Adopted Master Plans or General Plans addresses this issue in the following way:

All master plans or general plans adopted by the planning commission and city council for the city, or for an area of the city, shall serve as an advisory guide for land use decisions. Amendments to the text of this title or zoning map should be consistent with the purposes, goals, objectives and policies of the applicable adopted master plan or general plan of Salt Lake City. (Ord. 26-95 § 2(1-4), 1995)

In this case, the master plan is being amended in order to provide consistency between the Central Community Master Plan and the proposed zoning designation of the subject property. This request facilitates a rezoning of the property to a district that will allow for the redevelopment of the property as a residential building with a commercial component. State Law does include a required process in relation to a public hearing and recommendation from the Planning Commission for a master plan amendment. The required process and noticing requirements have been met. Should the Planning Commission make a positive recommendation for the zoning map amendment, an amendment to the master plan is also appropriate.

## ZONING MAP AMENDMENTS

**21A.50.050:** A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. In making a decision to amend the zoning map, the City Council should consider the following:

Factor	Finding	Rationale
<p><b>1. Whether a proposed map amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents;</b></p>	<p><b>Complies</b></p>	<p>As discussed in Issues 1 and 2, and with a master plan amendment to the Central Community Master Plan, the proposed zoning amendment is consistent with adopted planning documents. Consistent with the proposal, the plans encourage additional housing options and greater intensity development near transit lines. The rezone would provide greater opportunity for the redevelopment of the property with higher density housing and the opportunity for commercial development.</p>
<p><b>2. Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance.</b></p>	<p><b>Complies</b></p>	<p>Issues 3 and 4 detail how the proposal zoning district fits the purpose statement of the proposed zoning district. The zone is intended to provide residential and mixed use development that promotes a variety of related uses. It is also intended to reinforce the mixed use character of the area and promote appropriately scaled development. This is appropriate in the area given the location of the property between higher intensity transit oriented zoned</p>

		<p>land and moderate density residentially zoned land.</p> <p>Section 21A.02.030 of the Salt Lake City Code provides the purpose and intent of the overall Zoning Ordinance stating that it is to, “promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the city, and to carry out the purposes of the municipal land use development and management act...and other relevant statutes.” Additionally, it is to address the following:</p> <ul style="list-style-type: none"> <li>A. Lessen congestion in the streets or roads;</li> <li>B. Secure safety from fire and other dangers;</li> <li>C. Provide adequate light and air;</li> <li>D. Classify land uses and distribute land development and utilization;</li> <li>E. Protect the tax base;</li> <li>F. Secure economy in governmental expenditures;</li> <li>G. Foster the city's industrial, business and residential development; and</li> <li>H. Protect the environment.</li> </ul> <p>The proposed zoning map amendment from RMF-35 to R-MU-35 is consistent with these purposes. The proposal is consistent with the proposed land use classification, will increase the tax base, and has the opportunity to provide additional housing in the community.</p>
<p><b>3. The extent to which a proposed map amendment will affect adjacent properties;</b></p>	<p><b>Complies</b></p>	<p>As described in in Issue 3 and Attachment D, the property to the north is zoned Transit Station Area and allows for taller, more dense development. The rezoning would allow for a transition from this type of development. Additionally, the small size of the parcel limits the scale of development on the site. The properties to the east, west, and south are zoned RMF-30 and are developed with a mix of multi- and single family structures. The proposal for a predominantly residential structure as a transition from the transit zoned land to the north and adjacent to the surrounding mix of single family and multi-family units is appropriate in this area that has a mix of densities and existing building types.</p>

<p><b>4. Whether a proposed map amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards</b></p>	<p><b>The zone is consistent with any other applicable overlays.</b></p>	<p>The site is located within the Groundwater Source Protection Overlay District. This is a broad overlay that covers nearly half of the City and imposes additional regulations on development related to protecting the drinking water supply. New development would be required to comply with any of its provisions and the proposed underlying R-MU-35 zoning does not create any unusual conditions that would be inconsistent with the regulations of that overlay.</p>
<p><b>5. The adequacy of public facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection.</b></p>	<p><b>City services can be provided to the site.</b></p>	<p>The subject property is located within a built environment where public facilities and services already exist. Future development on this property may require upgrading or installation of utilities and drainage systems.</p> <p>No concerns were received from other City departments regarding the zoning amendment or the potential for development on these properties as long as normal development requirements are met.</p>

# **ATTACHMENT F: PUBLIC PROCESS AND COMMENTS**

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## **Public Notice, Meetings, Comments**

The following is a list of public meetings and other public input opportunities related to the proposed project:

### **Notice of Application to Recognized Community Organization:**

A notice of application was sent to the Central City Neighborhood Council on November 6, 2018. The neighborhood council was given 45 days to respond with any concerns or to request staff to meet with them and discuss the proposed zoning amendment. The East Central Community Council did not request a formal meeting as part of the zoning amendment process. Planning staff discussed the proposal with the chair via email and over in the phone in December 2018 and the community council submitted a letter in opposition to the proposal. The concerns included the proposed master plan amendment and land use, the number of units permitted with the proposed zone, and the potential for additional parking issues. The letter in opposition and related email communications are attached.

### **Open House:**

An open house was not required.

### **Notice of the public hearing for the proposal included:**

Notice of the application sent to property owners within 300' on November 14, 2018.

Public hearing notice posted on March 1, 2019.

Public notice posted on City and State website and Planning Division list serve on March 1, 2019.

Public hearing notice sent to property owners within 300' on March 1, 2019.

### **Public Input:**

Staff received phone calls from four property owners. Two were in opposition of the project, one was supportive, and another expressed concerns. Those in opposition or with concerns discussed issues with the proposed use, the potential number of units, potential for increased parking issues with additional residents in the area, and concern for how the proposal might affect the narrow right-of-way to the south of the property.

John Higgins sent an email to staff that is included in this attachment.



December 21, 2018

Salt Lake City Planning  
Sara Javoronok / [Sara.javoronok@slcgov.com](mailto:Sara.javoronok@slcgov.com) / 801.535.7625  
451 S State Street, room 315  
Salt Lake City Utah 84114-5480

Regarding: **504 S 900 E PLNPCM2018-00839&PLNPCM2018-00898**  
**Request for rezone and master plan amendment to Medium Residential/Mixed Used RMU-35**

Dear Sara:

**The East Central Community Council Board and Land Use Committee does not support these changes to our neighborhood/community master plan.**

(While various building sketches have been suggested, the ECC has based its work on the actual zone that is being proposed including its potential which includes the commercial component not a potential design.)

The ECC does not find this request consistent with the master plan and the countless hours spent by the hundreds of community members in giving input to construct the Central Community Master Plan and the extensive time assisting in the formation of the expanded transit zone currently in place.

***The existing borders of the transit zone and the existing boundaries of the business districts were thoughtfully placed.***

The ECC **DOES support** appropriate development, business development, redevelopment, transit use and the 5 year housing plan but in areas of our neighborhood/community and city that are already zoned for this type of development (and there are many).

**We do appreciate and strongly support** the redevelopment of this corner for the owner and our community but believe it is more appropriate for one of the RMF zones currently being redefined by the Salt Lake City Planning Department but not yet adopted. We believe workforce housing in this location would provide the appropriate transition to the neighborhood, support transit use as well as meet a critical need including significant income.

**In recent years (10-15) the two existing buildings on the lot have functioned as three apartments units. Prior to this, for more than 7 years one of the buildings was empty.**

**Also, the lot is not undevelopable.**

As it is currently zoned, this lot could be developed as a single family home.

**We would ask the applicant and the City to consider these options.**



**We would welcome additional conversations to explore how to work together to come to a positive outcome.**

We feel the zoning as proposed, it's potential density and commercial use allowed by the zone is **wrongly placed and would have significant negative impacts on quality of life** such as parking, lights, noise, privacy, sunlight, traffic and added fumes, dumpsters, garbage, potential odors, visual, etc., etc. appropriate in commercial zones but not to the existing national historic neighborhood and abutting neighbors that could not be adequately mitigated in this small lot.

We are always hopeful that those near transit including students, will ride transit but the reality is that people in Salt Lake drive even to the local church or coffee house less than two blocks away. We have been told that toxic clean-up from the gas station has been met but would like this verified.

In order to come to this conclusion, the ECC Community Development & Land Use Committee as well as the ECC Executive Board that represents all areas of the ECC and were involved in the development of the historic districts, the master and transit plan held numerous committee meetings (including site visits), held discussions at Executive Board Meetings and engaged in ongoing day to day discussions/input with abutting property owners and existing business districts to explore options and ways to possibly mitigate negative impacts.

**The ECC is fragile.**

With the existing mix of uses and so close to the University of Utah/downtown it is a unique gem within not only Salt Lake City but unique in the US. It is especially important that all rezoning and development be carefully considered to not destroy the fabric of the existing community.

Due to its location and “patchwork zoning”, the ECC continues to be an area highly sought after for student housing that is seen as a significant profit generator.

Yet, **the ECC cannot possibly accommodate the scope of growth needed by the University of Utah for its student housing needs without losing the very essence of what makes the ECC unique.** Since a transit pass is included with tuition at the U, and provided to the staff, development all along the transit zone, rather than just in the ECC can relieve some of this negative pressure if encouraged.

On the other hand, **the ECC is in need of additional workforce housing** for small families with school aged families, our beloved firefighters, teachers, law enforcement professionals, staff at the U and others. who are overqualified for affordable housing yet cannot afford the average market-rate home and would also benefit from the services and transit in our area. Already significantly built out with the highest density in the City, the disparity in wages and the cost of purchasing or renting a home in the ECC is failing to meet the needs of the essential workers nor is it able to develop ways to provide housing that is affordable to the people that are gainfully employed. Since the ECC is a community in which you can truly age in place this is a desirable outcome that can benefit all interests without destroying the fabric of the ECC.

Sincerely in behalf of the Executive Board of the East Central Community  
Esther Hunter, Chair/East Central Community Council



**From:** [REDACTED]  
**To:** [Javoronok, Sara](mailto:Sara.Javoronok@slcgov.com)  
**Subject:** RE: 504 S 900 E  
**Date:** Monday, November 19, 2018 7:10:08 PM

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Thanks Sara.

Specific concerns are height, setback and the request to include commercial. That block is predominantly single family housing with a few 2 story multifamily units. I'd like to see the existing character maintained, which is part of the stated mission of the slc government. I'm particularly wary about this development thanks to the RDA approved redevelopment of the old hall on 900 E between 400 and 500 S (half a block away). By the time that became public the design was a done deal, with the city signing off on it and saying that the height was in keeping with the surrounding structures, which was complete BS. I read the full planning commission report on that development and it was rubber stamped without due process in my view. I now have all eight stories of it peering down into my backyard, which had been private space beforehand.

Thanks.

John Higgins

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**From:** Javoronok, Sara [mailto:Sara.Javoronok@slcgov.com]  
**Sent:** Monday, November 19, 2018 8:39 AM  
**To:** jwhiggins62@comcast.net  
**Subject:** RE: 504 S 900 E

Mr. Higgins,

Thank you for your email. You will receive notification before public hearings on the property. Please let me know if you have any specific questions or concerns.

Thanks.

Sara

SARA JAVORONOK, AICP  
Senior Planner

PLANNING DIVISION  
COMMUNITY *and* NEIGHBORHOODS  
SALT LAKE CITY CORPORATION

[sara.javoronok@slcgov.com](mailto:sara.javoronok@slcgov.com)  
TEL 801-535-7625

<https://www.slc.gov>

<https://www.slc.gov/planning/>

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**From:** John Higgins [REDACTED]  
**Sent:** Friday, November 16, 2018 8:45 PM  
**To:** Javoronok, Sara <[Sara.Javoronok@slcgov.com](mailto:Sara.Javoronok@slcgov.com)>; East Central Community Council <[east.central@live.com](mailto:east.central@live.com)>  
**Subject:** 504 S 900 E

Please keep me informed of progress and review opportunities regarding the petition to amend the land use zoning on this property.

I am a residential owner in close proximity to it, and at first glance am not in favor of this amendment.

Certainly that lot needs improvement, but it needs to be appropriate for the surroundings.

John Higgins

**From:** [Javoronok, Sara](#)  
**To:** "esther e"  
**Subject:** RE: Notice of Planning Petition - Zoning Map Amendment - 504 S 900 E  
**Date:** Wednesday, December 5, 2018 2:40:00 PM

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Esther,

Thanks for your response. I can answer some of these questions, but do not have information to address the others. Some of them are outside of the scope of the information required for the map amendment and, at this stage, may be better addressed by the applicant. Related to this, is this project an item you'd like to schedule for the next Community Council meeting? The 45-day period ends in a few weeks. The applicant is Ian Kaplan I can send you his contact info if you don't have it already.

The Central Community Master Plan identifies this parcel as Medium Density Residential. Since the applicant is proposing a mix of uses, a Master Plan amendment application to change the land use to Medium Residential/Mixed Use was also submitted. The existing zoning for the property is RMF-35 and the proposed zoning is RMU-35. The application submitted is for the single parcel at 504 S 900 E, which is approximately 5,750 square feet.

Please let me know if you'd like to schedule this for the Community Council. I can also work with the applicant to address the additional questions.

Thanks.

Sara

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**From:** esther e [mailto:eastcentralcommunity@gmail.com]  
**Sent:** Wednesday, December 5, 2018 10:32 AM  
**To:** Javoronok, Sara <Sara.Javoronok@slcgov.com>  
**Subject:** RE: Notice of Planning Petition - Zoning Map Amendment - 504 S 900 E

Thank you for the follow up. Here are a few initial questions/discussion points:

What type of clean up is required for this site and how would it be monitored to protect the neighbors and neighborhood?

We noticed that the rear entrance of the house to the south has an overhang that seems to encroach on the property line. Is this grandfathered, or would the owner need to modify their property?

Who owns, has access to or right of ways to the dirt drive on the south border of the property and how wide and long is it officially?

When the planning department considers the future land use map what zoning does it suggest the use is for this corner? Is this one lot or two and what is the current zone? Are there any exceptions anticipated? While the immediate neighbors are concerned about parking the council is concerned with changes to street parking configurations on the north side and would prefer the frontage be restored to the wide vegetated park strip characteristic of our neighborhoods and this block face. Were there any exceptions or conditions granted to the last

building permits if there are records? While not technically part of a rezone, what are the landscape plans for the development? So far there has been limited interest for a coffee shop or other commercial venture due to the parking issues and amount of existing coffee shops within walking distance of this site. What are the commercial plans and how would the parking needs be met on site?

Thanks Sara.

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**From:** [Javoronok, Sara](#)

**Sent:** 12/5/2018 8:41 AM

**To:** [east central community](#)

**Subject:** RE: Notice of Planning Petition - Zoning Map Amendment - 504 S 900 E

Esther,

Thanks for your email. I wanted to check in with you on this proposal. Please let me know if you have questions or want to schedule this for a community council meeting.

Sara

SARA JAVORONOK, AICP  
Senior Planner

PLANNING DIVISION  
COMMUNITY *and* NEIGHBORHOODS  
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<https://www.slc.gov/planning/>

**From:** east central community [<mailto:eastcentralcommunity@gmail.com>]

**Sent:** Monday, November 19, 2018 1:42 PM

**To:** Javoronok, Sara <[Sara.Javoronok@slcgov.com](mailto:Sara.Javoronok@slcgov.com)>

**Subject:** Re: Notice of Planning Petition - Zoning Map Amendment - 504 S 900 E

Thank you Sara. We will be in touch. Esther

On Tue, Nov 6, 2018 at 10:03 AM Javoronok, Sara <[Sara.Javoronok@slcgov.com](mailto:Sara.Javoronok@slcgov.com)> wrote:

Dear Ms. Hunter,

The Planning Division has received an application for a zoning map amendment and master plan amendment for 504 South 900 East. The subject property is currently zoned RMF-35, Moderate Density Multi-Family Residential and the

proposal is for RMU-35, Residential/Mixed Use. The master plan amendment is to change the land use map designation to Medium Residential/Mixed Use. It appears that the applicant plans to develop the site for a residential use with a commercial component. I have attached:

1. The petitioner's application materials
2. An information sheet with zoning and land use vicinity maps
3. A formal letter requesting your community council's input

As a recognized community organization you have 45 days from the date of this e-mail to provide comments on the proposed petition. The 45 day period ends on Friday, December 21, 2018. Please let me know if you intend to have the petitioner present at one of your community council meetings, including the date and time of the meeting, and I will coordinate with them.

If you have any questions about the petition please feel free to contact me.

Please acknowledge that you received this email.

Thanks,

Sara

SARA JAVORONOK, AICP  
Senior Planner

PLANNING DIVISION  
COMMUNITY *and* NEIGHBORHOODS  
SALT LAKE CITY CORPORATION

[sara.javoronok@slcgov.com](mailto:sara.javoronok@slcgov.com)  
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## **ATTACHMENT G: DEPARTMENT REVIEW COMMENTS**

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### **Zoning:**

With the RMF-35 and RMU-35 both supporting multi-family uses and with the application of a Master Plan amendment, Building Services sees no foreseeable problems with this request. Future comments may be associated with a building permit at the time of its review. Suggest that the applicant schedule a DRT meeting prior to plans being submitted for a building permit.

### **Building:**

Please note in order to comply with 1208.4 of the International Building Code the proposed residential micro units shall comply with the following:

1. The unit shall have a living room of not less than 165 square feet of floor area. An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

### **Engineering:**

No objections.

### **Public Utilities:**

No utility objections to the map amendment. The property currently has water and sewer service but may be inadequate for proposed uses.

Any unused utility laterals must be capped at the main.

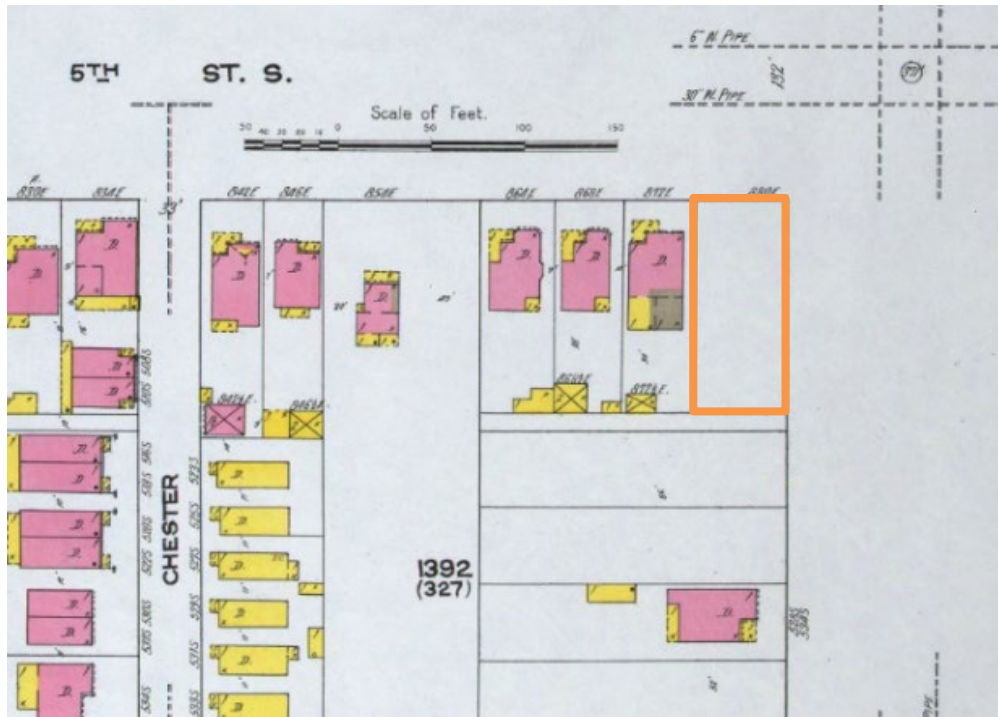
Development plans will need to be submitted to public utilities for review.

All improvements must meet SLCPU ordinance, standards, policies and practices.

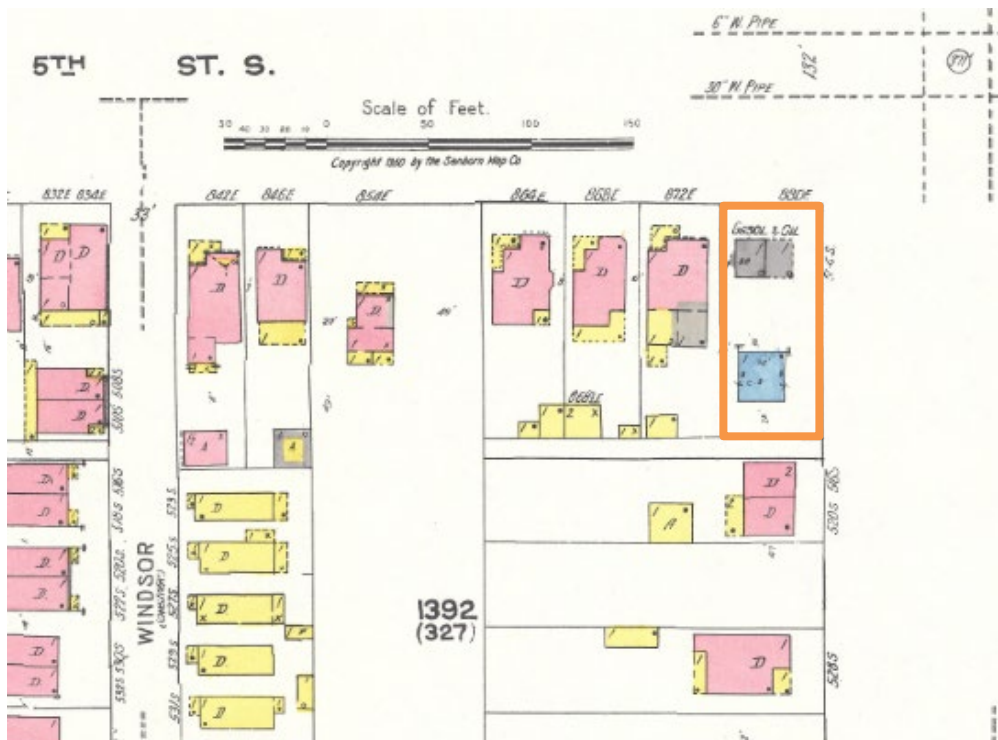
### **Transportation:**

No comments.

# ATTACHMENT H: BACKGROUND INFORMATION



1911 Sanborn map



1950 Sanborn map

From the evidence and testimony presented, some Board members find that the subject property does not meet the requirement of Section 21A.38.050 of the Zoning Ordinance; specifically, the renting of rooms to more than six people on the effective date of the Ordinance, April 12, 1995, was not legal.

THEREFORE, Mr. Hafey made a motion to overturn the administrative decision meaning 1403 East Butler Avenue does not have a legal non-conforming use to rent rooms to six individuals. The property owner is allowed six months to correct the use. Mr. Jones seconded the motion, three members voted *aye*, Ms. Taufer voted *no*, the motion passed.

**Case #2336-B by Judith Christensen at 504 South 900 East for a determination regarding the existence of a non-conforming retail sales use in an RMF-35 Zone.**

Judith Christensen (prospective buyer) and Clyde Harvey (owner) were present to represent the case.

Mr. Nelson explained that the subject property is located on the southwest corner of 500 South and 900 East, it was zoned B-3 and re-zoned RMF-35 in April 1995. City records show the most recent business license was issued on March 6, 1990, to Sagebrush Service for a business called Star Foods which was a retail grocery outlet and no legal occupancy of the structure since that time. Mr. Nelson further explained that the Petitioners are proposing a drive-through coffee shop with retail sales and are requesting the Board to determine the existence of a non-conforming use for retail sales.

Ms. Christensen said that the subject property has been used commercially since 1927. In 1990, a service station and a convenience store existed and the convenience store was closed in 1990. Ms. Christensen explained that Mr. Harvey is a partner in a corporation that has numerous service stations, the subject property was used as gas service and a maintenance shop for vehicles of this corporation and Mr. Harvey was not aware that a business license was needed for such a use. Ms. Christensen said that the property has always been used commercially and the gas tanks still exist. She presented affidavits from surrounding property owners who support allowing the subject property to remain commercial. Ms. Christensen added that Mr. Harvey has been trying to sell the property for the last six years and he has been unable to do so because of the zoning. Ms. Christensen believes that the lot can not be developed as a residential use because it is too small; 900 East is a busy street and developing this lot as a drive-through coffee shop will enhance the neighborhood.

Mr. Harvey confirmed that he never ceased to commercially use the property and he said his only sin was not maintaining the business license. The tanks still remain and will remain as long as the zoning is in question. Mr. Harvey said that he certainly would have taken action if he knew the commercial use of the property was in jeopardy.

The Petitioners and the Board discussed the property. The building located in the southwest corner of the property was leased by Julian Parrish, master engine tuner, until 1965. The building will remain because it has rest room facilities and storage for the proposed coffee shop. Ms. Christensen said that the lot will be cleaned and re-landscaped and the driveways will be redone. Soil samples have been taken and the test results show no contamination from the gas tanks. Ms. Christensen contends that the property may not have had a business license since



1990, but it has been used commercially as an accessory to the corporation where they park and store automobiles.

Vice Chairperson Fenn read a letter from Brent Beutler who is the Housing/Zoning Officer for District 4. The letter states that Mr. Beutler has received numerous complaints over the past four years on this property with regards to weeds, debris and illegal storage of vehicles. Mr. Harvey replied that Mr. Beutler contacted him only once and the vehicles are not illegal; they are currently licensed.

Mr. Fenn read the Transportation Engineer Report which states any new use or revision of the existing property will require upgrades to the infrastructure to current City standards for sidewalk, curbs and driveways.

Linda Lepreau, Chairperson for the East Central Community Council, said that the Board must determine whether or not there was a business legally occupying the structure when the current Zoning Ordinance was adopted on April 12, 1995. Ms. Lepreau said that Ms. Christensen came to the Executive Committee of the Community Council and the Committee informed her that they could not support a non-conforming use because they wanted to be consistent with the position that the neighborhood took in the non-conforming use issue at 511 South 900 East. (See case #2286-B heard on July 15, 1996.) However, the Committee is willing to consider supporting a zoning amendment after reviewing the Central City Master Plan which is not completed; the Master Plan reviews former B-3 corners in this area. Ms. Lepreau explained that the B-3 Zone did not allow storage and/or maintenance of vehicles for another business which the Petitioners are claiming is currently happening. The Zoning Ordinance also defines accessory uses and using the building as an accessory to another business is prohibited. Ms. Lepreau then explained that her research did not reveal Sagebrush Service Corporation owning any other property and Sagebrush purchased the property in July 1992; two years after the business license expired. She further explained that the State Department which regulates gas reported the last time gas was legally used on the property was in 1992 and gas could not have been legally pumped after 1992. Ms. Lepreau added that no evidence shows the property being continuously marketed as a commercial property. She believes the property is large enough for a dwelling and Mr. Harvey purchased the property for speculation.

Cindy Cromer, 816 East 100 South, said that the Zoning Ordinance requires the burden of proof to be placed on the Petitioners and she has not seen any documentation that shows a business exists. Ms. Cromer said that the documentation presented shows no business license since 1990 and no protest from the property owner during the re-zoning hearings in 1994 and 1995. Ms. Cromer explained that this parcel along with other corner parcels were the most scrutinized during the re-zoning and actual inspections revealed that the subject property was vacant in 1994 and has been for several years. Numerous opportunities were available to protest the re-zoning and the City Council even required notices to be sent along with water bills. Ms. Cromer then explained that the Anderson's American Law of Zoning states the requirement of a prior existence may not be established by a use hastily commenced or a use that may be regarded as trivial. Ms. Cromer believes there has been no serious attempt to maintain a business and the business use that the Petitioners presented is a trivial business use which she also believes is illegal. Ms. Cromer then noted documentation from the Salt Lake County Assessor's Office which shows the building assessed as boarded property since 1991; the appraised value being \$38,000 on the land and \$3,000 for the buildings as salvage.

Ms. Christensen responded by saying the structure is boarded because the business is not opened to the public and the current use is less intense than the past use, but the commercial use has not been abandoned. She explained that the gas tanks were being used and it is legal to pump gas from the tanks even though it is no longer legal to put gas in the tanks. Ms. Christensen reiterated that the property has been commercial property for 70 years and a business license has not been maintained because the owner was under a misunderstanding. Ms. Christensen believes that the property will remain blighted as it exists if a non-conforming commercial use is not granted. She explained that the owner will not sell the property for \$38,000 and it is not economically feasible for any commercial business to purchase it with the current zoning issues.

Mr. Harvey further responded by saying Sagebrush Services leased the property for a number of years and is a subsidiary of Rio Vista Oil and Stars Food Store which have existed since 1969. Mr. Harvey contends that he never received notice of the re-zoning and all of the utilities still exist. He believes the zoning has been arbitrarily changed after the property has existed as commercial property for 70 years.

From the evidence and testimony presented, the Board finds that the property does not have a non-conforming retail sales use. Specifically, the structure has been boarded since 1991 and presently remains boarded indicating that there are no grounds for rebuttal of abandonment.

THEREFORE, Mr. Jones made a motion to deny the existence of a non-conforming retail sales use. Ms. Taufer seconded the motion, three members voted aye, the motion passed. Ms. Fannesbeck and Mr. Hafey abstained from voting.

*Chairperson Chambless assumed chairmanship of the meeting.*

**Case #2337-B by Beckie Meisenheimer at 832 South 800 East for a special exception to legalize a duplex in an RMF-30 Zone.**

Beckie Meisenheimer (Real Estate Agent representing Christian and Kara Yost who are the property owners), Geoff Douglas (Prospective Buyer) and John Reseska (Real Estate Agent for Mr. Douglas) were present to represent the case.

Mr. Nelson explained that the subject dwelling was originally constructed as a single family dwelling and the City issued permits for two furnaces, two electrical meters and two gas meters, but no permit to convert the single family dwelling to a duplex. The electrical permits were issued in 1956 and 1959, the furnace permits were issued in 1990 and 1991 and Polk Directory research indicates that the structure was continuously rented as a duplex from 1971 to the present time. Mr. Nelson further explained that the legalization could have been administratively granted provided the Petitioner obtains written approval from surrounding owners and the East Central Community Council. The Petitioner has been unable to obtain the required signatures. Mr. Nelson added that the Zoning Ordinance classifies legalization under three categories and the units must meet certain standards under each category. The subject property falls under the category for units existing after 1969 and before 1980 and the standards are: The number of units must have been allowed when the conversion occurred, the Petitioner did not make the conversion, all life safety issues can be corrected and parking requirements in place during the time of conversion must be met. Mr. Nelson noted that two