
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: September 5, 2003

SUBJECT: ARX Group, LLC and Richard Fetzer, Fetzer’s Inc.
o Petition No. 400-02-36 – Request to rezone property located at 1436 South West Temple from Residential RMF-35 and General Commercial to Residential Mixed-Use RMU
o Petition No. 400-02-37 – Request to close a portion of Front Street (155 West between 1400 and 1430 South)

AFFECTED COUNCIL DISTRICTS: If approved, the ordinances will affect Council District 5

STAFF REPORT BY: Janice Jardine, Planning Policy Analyst

ADMINISTRATIVE DEPT. AND CONTACT PERSON: Community and Economic Development – Planning Division
Doug Dansie, Principal Planner

POTENTIAL MOTIONS:

1. [“I move that the Council”] **Adopt the proposed ordinances rezoning property located between at 1436 South West Temple and closing a portion of Front Street (155 West between 1400 and 1430 South).**
4. [“I move that the Council”] **Not adopt the proposed ordinances.**

The following information was provided previously. It is provided again for your reference.

KEY ELEMENTS:

- A. This is a request to rezone approximately 9.34 acres of property from Residential Multi-family RMF-35 and General Commercial to Residential Mixed-Use and close a portion of Front Street at approximately 155 West between 1400 and 1430 South. The actions are intended to facilitate mixed-use, multi-family development.
- B. The Administration’s transmittal notes the RMF-35 zoning along West Temple does not allow commercial development and has a lower density requirement than the remaining property zoned for general commercial use.
- C. The Planning staff report notes that the primary issues relating to the rezoning request include the compatibility of higher density mixed-use development with the existing neighborhood, neighboring commercial/industrial uses and access to the light rail system.
- D. Planning staff indicates that currently, the property is used for an industrial woodworking mill/cabinetry business. Surrounding land uses include low-density single-family and duplex residential uses to the east and commercial and industrial uses to the south, north and west. The Franklin Quest baseball stadium is to

the northeast, the light-rail TRAX 1300 South station is to the north and the City's Public Utilities maintenance shops are located to the south.

- E. On February 12, 2003, the Planning Commission voted to forward a positive recommendation to the City Council to close the portion of Front Street as requested and rezone the properties subject to conditions identified by the Planning Commission. The Commission recommended that the rezoning not take effect until a building permit for the proposed mixed-use development had been approved and issued by the City.
- F. Issues discussed at the Planning Commission meeting focused on details and design of the proposed mixed-use development such as:
1. Traffic impacts
 2. Access to the TRAX station at 1300 South
 3. Height, scale, parking and mix of commercial uses proposed in the development
- G. On June 25, 2003, the Planning Commission agreed to remove the condition linking the rezoning with a specific project and issuance of a building permit. The Planning Commission minutes and a letter from the property owner, Mr. Richard Fetzer, indicate that the property sale contract between the developer, ARX Group, and property owner had been cancelled. The property owner requested that the rezoning and street closure be forwarded to the City Council without the condition for approval of a specific project and issuance of a building permit. The Planning Director noted the City's support for transit oriented developments and recommended adjustment of the Planning Commission's action. (Please see the attached Planning Commission minutes and letter from Mr. Richard Fetzer.)
- H. The Administration's transmittal, Planning Commission minutes and Planning staff report provide a discussion of the proposed rezoning and street closure. Major points are summarized below. (Please refer to the Administration's paperwork for additional details.)
1. Rezoning:
 - a. The property is adjacent to the north/south light rail corridor and within walking distance of the 1300 South TRAX station.
 - b. An increase of residential density near the 1300 South station is an asset to the light rail system.
 - c. The mixed-use zoning would provide a transition between the low-density, single-family/duplex uses and commercial industrial uses currently in the surrounding area.
 - d. Specific details regarding uses, density, design, landscaping, public facilities and services parking and traffic impacts will be addressed through the planned development conditional use process.
 2. Street Closure:
 - a. The portion of Front Street included in the street closure request is a dead end street. (Two previous street closures and an alley closure were approved through Council action in April and August of 1995.)
 - b. Closure of the remaining portion of Front Street would facilitate better design options for a future mixed-use development and assist in implementation of City policies relating to housing and transit-oriented development.
 - c. The street presently does not function as a street, provides no viable transportation purpose and is not needed for the City's transportation system.
 - d. No other buildings face the street or use this street for access.
 - e. Properties abutting this section of Front Street are currently owned by the petitioner.
 - f. Other privately-owned properties would not be denied access by the proposed street closure.
- I. City departments and divisions involved in the review of the proposed street closure have recommended approval of the request and identified specific requirements including easements for existing public utility

infrastructure. The petitioner has agreed to all conditions of the City departments and divisions and has agreed to purchase the property at fair market value. Any new development proposal will be required to meet City standards and demonstrate that there are adequate services to meet the needs of the project. Public Utilities will require an easement for unrestricted access to maintain existing sewer and water mains in the street.

- J. The public process included review by the Peoples Freeway Community Council and written notification of the Planning Commission hearing to property owners within a 300-foot radius of the proposed rezoning.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR ADMINISTRATION:

➤ **POLICY CONSIDERATIONS**

- A. During the Council’s recent alley policy discussions, Council Members expressed support for the following modifications. Council Members may wish to consider adjusting the Council’s street closure policy to ensure a consistent policy direction. (Please refer to the Master Plan and Policy Consideration section for the Council’s street closure policy.)
 - 1. Shift the focus to consideration of a proposed request with demonstrated public benefit rather than supporting closure/vacation whenever possible.
 - 2. Require an evaluation and documented demonstration of public interest versus private interest. The standard should be to demonstrate an over-riding public purpose, rather than an over-riding private interest.
 - 3. Include neighborhood and community council review and comment as part of the public process prior to the Administration formalizing their recommendation to the City Council. Planning staff has indicated to Council staff that the current street closure procedure does not require Community Council notification and review. (Please note that currently, the Planning Commission agenda is mailed to Community Council Chairs. A Planning Commission hearing notice is mailed to property owners within a 300-foot radius of a proposed street closure.)
- B. Council Members may wish to consider requesting that a new ordinance be prepared to address issues identified by Public Utilities relating to their service/maintenance operations abutting the Fetzer property. Public Utilities expressed concern relating to negative impacts that could be created by locating residential development adjacent to their service/maintenance yards that operate on a 24-hour basis. Utilities specified that documentation related to rezoning this property (including future subdivision plats) must include language pertaining to existing and future operational activities conducted on their property. In addition, Utilities recommended that visual and noise barriers and buffer zones be considered to mitigate the impacts.
- C. In a related matter, as previously noted, two previous street closures and an alley closure were approved by the Council in April and August of 1995. It has come to Council staff’s attention that the ordinance for the street and alley closure request (adopted by the Council on August 8, 1995) has not been recorded. In addition, there is some discrepancy regarding property ownership and compliance with conditions specified as part of the street/alley closure request. Planning staff is currently checking into this issue and will be prepared to provide additional information at the Council Work Session.

➤ **BUDGET RELATED FACTS**

- A. Regarding the street closure request, the Administration’s transmittal notes that the petitioner will be required to purchase the property at fair market value. City Code, Section 2.58 states that the City shall retain title until the land is sold at fair market value. The proposed ordinance includes the following:
 - 1. The street closure is conditioned upon payment to the City the fair market value or its equivalent of the portion of the street requested for closure.

2. The City shall retain title to the street property until the sale has been completed.
3. The City Recorder is instructed not to publish or recorded the ordinance until the condition for sale has been met and certified by the City's Property Manager.

MASTER PLAN & POLICY CONSIDERATIONS:

- A. The 1974 Central City Community Master Plan identifies this area for low to medium density residential land uses.
- B. The Council has adopted housing and transportation policy statements that support creating a wide variety of housing types citywide and changing the focus of transportation decisions from moving cars to moving people. The Council's policy statements have been included in the City's Community Housing Plan and Transportation Master Plan.
 1. Housing policy statements address a variety of issues including quality design, public and neighborhood participation and interaction, transit-oriented development, encouraging mixed-use developments, housing preservation, rehabilitation and replacement, zoning policies and programs that preserve housing opportunities as well as business opportunities.
 2. Transportation policy statements include support of alternative forms of transportation, considering impacts on neighborhoods on at least an equal basis with impacts on transportation systems and giving all neighborhoods equal consideration in transportation decisions. The plan notes that encouraging higher density housing and concentrating business/commercial uses at transit stations allows greater opportunity for ridesharing and use of mass transit.
- C. The City's 1990 Urban Design Element includes statements that emphasize preserving the City's image, neighborhood character and maintaining livability while being sensitive to social and economic realities. Applicable policy concepts include:
 1. Allow individual districts to develop in response to their unique characteristics within the overall urban design scheme for the city.
 2. Ensure that land uses make a positive contribution to neighborhood improvement and stability and building restoration and new construction enhance district character.
 3. Require private development efforts to be compatible with urban design policies of the city regardless of whether city financial assistance is provided.
 4. Treat building height, scale and character as significant features of a district's image.
 5. Ensure that features of building design such as color, detail, materials and scale are responsive to district character, neighboring buildings, and the pedestrian.
- D. The Council's growth policy notes that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
 1. Is aesthetically pleasing;
 2. Contributes to a livable community environment;
 3. Yields no negative net fiscal impact unless an overriding public purpose is served; and
 4. Forestalls negative impacts associated with inactivity.
- E. The City's Strategic Plan and the Futures Commission Report express concepts such as maintaining a prominent sustainable city, ensuring the City is designed to the highest aesthetic standards and is pedestrian friendly, convenient, and inviting, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The Plans emphasize placing a high priority on maintaining and developing new affordable residential housing in attractive, friendly, safe environments and creating attractive conditions for business expansion including retention and attraction of large and small businesses.
- F. The portion of Front Street in the street closure request is not designated in the city's master plans as a potential component of a bicycle or trail system or as a mid-block walkway.

- G. The Council’s street closure policy includes the following:
1. It is Council policy to close public streets and sell the underlying property. The Council does not close streets when that action would deny all access to other property.
 2. The general policy when closing a street is to obtain fair market value for the land, whether the abutting property is residential or commercial.
 3. There are instances where the City has negotiated with private parties to allow the parties to make public improvements in lieu of a cash payment. The Council and the Administration consider these issues on a case-by-case basis.
 4. There should be sufficient public policy reasons that justify the sale and/or closure of a public street, and it should be sufficiently demonstrated by the petitioner that the sale and/or closure of the street would accomplish the stated public policy reasons.
 5. The City Council should determine whether the stated public policy reasons outweigh alternatives to the sale or closure of the street.

CHRONOLOGY:

➤ **BACKGROUND**

The Administration’s transmittal provides a chronology of events relating to the rezoning and street closure. Please refer to the Administration’s chronology for details. Key meeting dates are listed below.

➤ **KEY DATES**

- August 7, 2002 & February 5, 2003 Peoples Freeway Community Council meetings
- February 12, 2003 Planning Commission hearing
- June 25, 2003 Planning Commission agreed to remove the condition linking the rezoning and street closure to issuance of a building permit

cc: Rocky Fluhart, Dave Nimkin, DJ Baxter, Ed Rutan, Lynn Pace, Linda Cordova, Alison Weyher, David Dobbins, Louis Zunguze, Brent Wilde, Cheri Coffey, Doug Dansie, Lehua Weaver, Annette Daley

File Location: Community and Economic Development Department, Planning Division,
Rezoning - ARX Group, Richard Fetzer, 1436 S. West Temple
Street Closure - Front Street 155 West 1400/1430 South