
MEMORANDUM

DATE: August 29, 2003

TO: Council Members

FROM: Janice Jardine
Land Use Policy Analyst

SUBJECT: Follow-up on zoning issues relating to the Mountair Annexation - Petition No. 400-01-07

CC: Rocky Fluhart, David Nimkin, DJ Baxter, Ed Rutan, LeRoy Hooton, Rick Graham, Alison Weyher, David Dobbins, Louis Zunguze, Lynn Pace, Jeff Niermeyer, Kevin Bergstrom, Max Peterson, Tim Harpst, Brent Wilde, Doug Wheelwright, Cheri Coffey, Everett Joyce, Michael Sears, Lehua Weaver, Annette Daley

On August 27, 2003 the City received signatures from residents in the Mountair annexation area seeking withdrawal from the annexation petition. The City is calculating the effect of the removal of these signatures from the petition and determining if the annexation petition meets the requirements of State Annexation Law. Additional information will be provided during the September 2, 2003 briefing. Interested parties have until the Council's vote on the annexation to express their positions in writing. It is possible for parties to change their written positions until the hearing is closed.

The following are items or questions identified for Council consideration relating to the proposed zoning in the Mountair annexation area. At the Council Work Session on August 12, Council Members indicated their preference to eliminate the need to non-conform existing land uses within the annexation area. Planning staff indicated this would require the use of the Community Business and Commercial Corridor zoning classification for a majority of the existing businesses in the annexation area. Please see the attached proposed zoning map for details.

- A. Council Members may wish to discuss with the Administration if it may be appropriate to create a new commercial zoning classification that would better address the current land uses and site design (setbacks, scale of buildings and parking locations). Examples of zones that have been developed for specific areas of the city and recommended by master plans include:
1. Mixed Use MU zone applied to the West Capitol Hill area
 2. Residential Mixed-Use RMU zone applied to the East Central City area
 3. Sugar House Business District CSHBD zone
 4. Gateway Mixed-Use GMU zone
 5. Urban Institutional UI zone
- B. Several businesses located on local streets and in the middle of certain blocks would be zoned Commercial Corridor under the proposal (this would alleviate creating non-conforming uses as

requested by the Council). The zoning classification currently is intended for automobile oriented commercial development along arterial and major collector streets, and it is somewhat unusual for this zone to be applied in the middle of blocks or on local streets.

- C. Businesses located along 1300 East, Highland Drive and 3300 South (the streets are classified as arterials or major collectors) would be zoned Community Business. This zoning classification is currently intended for close integration of moderately sized commercial areas with adjacent residential neighborhoods. It is somewhat unusual for this zone to be applied on an arterial or major collector.
- D. Properties located on 3300 South on either side of the Libbie Elementary school are proposed to be zoned Residential Business. This zoning classification is currently intended for limited commercial use opportunities within existing residential areas located along higher volume streets to preserve the area for single-family residential use.
- E. Movie theatres are not permitted in either the Community Business or Commercial Corridor zones. The Villa Theatre (3092 S. Highland Drive) is located in the annexation area. (The theatre is currently closed. Planning staff indicated that they are not aware of any proposed reuse plans. Information from news stories noted:
 - 1. The property (3.4 acres) was recently sold to Harmon's grocery store chain.
 - 2. Harmon's intends to resell the property and is willing to consider reuse options that may address historic preservation.
 - 3. The most recent news report indicated interest in establishing a night club on this site, but that would not be permitted under the proposed rezoning.
- F. The Community Business zoning classification requires a conditional use process for buildings with 15,000 sq. ft. of floor area on the first floor or 20,000 sq. ft. total including additions to existing buildings. Lots 4 acres or larger require a conditional use process. The Residential Business zone restricts the maximum lot size to 10,000 sq. ft. New non-residential construction, parking lots or additions to existing buildings that include demolition of a residential structure requires a conditional use process.
- G. Planning staff has indicated to Council staff that many properties and structures within the annexation area will become non-complying in relation to yard area, height, lot size and parking requirements in the City's proposed zoning classifications. An exact number of non-complying structures and lots has not been determined at this time. Non-complying is different than non-conforming in that non-complying relates to the physical characteristics of the business such as building size and setbacks rather than use. If the buildings were to be demolished or destroyed with less than 25 percent remaining, the replacement structure would need to comply with the ordinance in place at the time of the demolition or destruction. For example:
 - 1. The proposed zoning districts require landscaped front yard setbacks and landscaped buffer yard areas between commercial and residentially zoned properties.
 - 2. Examples of properties that would become non-complying with the proposed zoning requirements include: Patagonia Outlet at 3267 S. Highland Drive, Hyland Pharmacy at 3291 S. Highland Drive, and the Flower Patch florist shop at 3295 S. Highland Drive.

- H. As previously noted in the Council staff report, this zoning recommendation carries with it many of the principles from the Sugarhouse Master Plan. Since the adoption of the plan, some Council Members have expressed a desire to discuss principles further, prior to adopting the zoning that implements the recommendations in the Sugarhouse Business District. During the Council discussion regarding the Sugar House Business District rezoning, issues noted by Council Members that could relate to the proposed zoning in the annexation area include:
1. Is it appropriate to rezone existing areas to phase out regional commercial development that provides potential customer base for smaller commercial uses?
 2. To what extent should zoning emphasize locally owned small business to the exclusion of larger business?
 3. Does the future zoning preclude existing businesses (Smith's grocery store and Shopko) from remaining or rebuilding in the area? (This could relate to the redevelopment of the Villa Theatre site.)
 4. Identify what percentage, number and location of the properties would become non-complying if the proposed zoning were implemented.
 5. Identify options for streamlining procedural implementation, and closely examine the extent to which the conditional use approach is used.
 - a. The conditional use/planned development process may be too onerous for small businesses wishing to make structural changes to their buildings.
 - b. It may be more effective to provide an expedited process for proposed developments that meet the intent/purposes of the master plan and zoning. Providing clearly stated requirements, guidelines and criteria would
 - c. Simplify processes and reduce subjectivity.
- I. Council Members may wish to discuss with the Administration the criteria or rationale used to establish a new community planning area. The Planning staff report notes the Sugar House Master Plan reiterates the City's annexation policy in relation to areas contiguous to Sugar House. In addition, the Planning staff report notes that the location and size of the annexation area would provide a logical boundary for the Sugar House planning community without creating a new planning community. The following policy statements regarding annexation are included in the Sugar House Master Plan:
1. Encourage the annexation of designated areas as a whole rather than in small pieces to provide coordinated land use development policies and comprehensive municipal services.
 2. Establish new community planning districts for areas annexed into the City south of the existing Sugar House community planning boundary.
- J. In a related matter, in January 1997 the City Council initiated a Legislative Action requesting a city-wide analysis of areas zoned Community Business and Commercial Neighborhood to determine consistency with existing master plans and provide an evaluation of how well the zoning has functioned in implementing master plans and other City policies. Council Members may wish to request from the Administration an update on the status of this project. By way of background, in March of 2000, the Administration indicated that this issue was scheduled for a May public hearing with the Planning Commission and transmittal to the Council was anticipated in June. Since that time, the Planning Division has indicated that the project has been delayed due in part to a turnover in Planning staff and selection of a consultant to examine the use of performance zoning in relation to this project. Issues raised regarding the Community Business zone at the time the Legislative Action was initiated included:

1. Impacts on surrounding residential neighborhoods relating to scale, size and intensity of development, potentially inadequate off-street parking, commercial and commuter traffic filtering through neighborhoods on residential streets.
2. The amount of Community Business zoning applied to existing properties and vacant structures may be too large.
3. The potential for an increase in the intensity of uses allowed through the conditional use process such as an increase in building square footage, increase in building height and reduction in required setback or buffer requirements. (For example, the Planning Commission had recently approved as a conditional use approximately 88,000 sq. ft. for two office buildings, service commercial uses and a restaurant at Parley's Way and Foothill Boulevard.)

POTENTIAL OPTIONS:

Council Members are scheduled to hold a public hearing on September 9th. As noted above, property owners have until the annexation vote by the City Council to decide if they support the petition to annex into Salt Lake City. If over 50 percent of the private property owners support annexation, in accordance with state law, the Council could vote to annex the area. The Council could also opt to take action at a later date or to vote against annexation. If the Council votes against the annexation this area cannot be annexed by Salt Lake City and would instead be included in the Millcreek Township. The proposed annexation area is inside the boundaries of the Millcreek Township but because the annexation petition was filed prior to the creation of the township, the ordinance that established the township did not include the pending annexation. If annexation does not occur, the area becomes part of the Millcreek Township.

Council Members may wish to consider the following options:

1. Close the public hearing and continue Council action to a future date.
2. Continue the public hearing and Council action to a future date.
3. Adopt the proposed ordinance.
4. Do not adopt the proposed ordinance.
5. Request that the Administration provide additional analysis of issues identified by Council Members and identify options for Council consideration.
6. Adopt the proposed ordinance to annex the area and zone the properties on an interim basis and request that the Administration provide additional analysis of issues identified by Council Members and identify options for Council consideration.
7. Create a Council subcommittee to review the issues and make a recommendation to the full Council.
8. Any combination of the above.
9. Other options as identified by Council Members.

File Location: Community and Economic Development Dept., Planning Division, Mountair Annexation – 3000 South to 3300 South and 1100 East to 1700 East (Imperial Street)