
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: December 3, 2004

SUBJECT: Petition No. 400-01-45 – Planning Commission request to rezone property located at 1321 South 500 East from Residential R-1/5000 to Neighborhood Commercial CN

STAFF REPORT BY: Janice Jardine, Land Use Policy Analyst

AFFECTED COUNCIL DISTRICTS: District 5

**ADMINISTRATIVE DEPT:
AND CONTACT PERSON:** Community and Economic Development
Everett Joyce, Principal Planner

NOTICE REQUIREMENTS: Newspaper advertisement 14 days prior to the Public Hearing

POTENTIAL OPTIONS AND MOTIONS:

1. **["I move that the Council"]** Close the public hearing and defer action to a future Council meeting.
2. **["I move that the Council"]** Adopt an ordinance rezoning property located at 1321 South 500 East from Residential R-1/5000 to Neighborhood Commercial CN. *The rezoning is subject to the following conditions:*
 - a. *Execution and recording of a restrictive covenant.*
 - b. *Submission of acceptable plans and obtaining a permit that includes a solid fence and strong vertical landscaping on the southern boundary of the property.*
 - c. *Approval of plans and certification that the conditions have been met by the Planning Director.*
3. **["I move that the Council"]** Not adopt an ordinance rezoning property located at 1321 South 500 East from Residential R-1/5000 to Neighborhood Commercial CN.

The following information was provided previously for the Council Work Session on November 4, 2004. It is provided again for your reference.

This action would rezone the rear portion of an individual parcel of property that is currently zoned with two different zoning classifications. The first 120 feet of lot depth is zoned Neighborhood Commercial and the rear portion of the property (60 feet) is zoned Residential R-1/5000. The proposed rezoning would allow parking in the rear portion of the property to support commercial use of the existing structure. Please refer to the attached maps for clarification.

WORK SESSION SUMMARY AND NEW INFORMATION

- A. On February 28, 2002, the Council received a briefing from the Administration regarding this rezoning petition. Council Member Love requested additional time to discuss with the

Community Council and the petitioner the option of a restrictive covenant that would limit the use of the property to address the community concerns. This was in response to the issues that had been raised by neighboring residents and the Liberty Wells Community Council.

- B. Since that time, Council Member Love and Planning staff worked with the petitioner and the City Attorney's office to develop a restrictive covenant and requested input from the Liberty Wells Community Council.
- C. The petitioner's attorney, Mr. Steve Newton, recently contacted Council staff indicating that Mr. Jayson Critchfield, the property owner, is in agreement with the requirements of the restrictive covenant and requested that this issue be moved forward for a public hearing since a substantial amount of time has elapsed.
- D. In March 2003, the Liberty Wells Community Council provided a letter indicating that the Council voted not to support the request indicating that the ordinance (restrictive covenant) was not strong enough to meet the needs of the neighborhood. (Please see the attached letter for details.)
- E. Key components of the restrictive covenant are summarized below. (Please see the attached draft Declaration of Covenants, Conditions and Restrictions for details.)
 - 1. Use Restrictions - The property may be used for the following specific permitted uses:
 - Offices
 - Financial institutions without drive-through
 - Adult day care center or child day care center
 - Small group home
 - Schools, professional and vocational
 - Art gallery, art studio, dance studio
 - Bed and breakfast
 - Retail goods or retail service uses without drive-through facilities subject to review and approval by the Planning Director to ensure that the intensity of the proposed use is compatible with the surrounding neighborhood character
 - a. Commercial activity open to the general public is restricted to the hours between 6:00 a.m. and 10:00 p.m.
 - b. Installation and maintenance of a solid fence and landscaped buffer is required along the south property line adjacent to the residential zoning district.
- 2. Alterations
 - a. Repair, renovation, restoration or other alterations shall comply with all applicable zoning and building code requirements and preserve the residential character of the structure.
 - b. All site and exterior building improvements are subject to approval of the Planning Director.
 - c. The Planning Director may also require additional improvements to mitigate negative impacts on adjacent residential properties.
 - d. A demolition permit is required prior to demolition of the principal structure.
- 3. New Construction
 - a. Any replacement structure shall be reviewed and approved by the Planning Director to ensure the principal building maintains a compatible residential character.
 - b. Any replacement structure shall have a hip or gable roof with the front building elevation containing not more than 50% glass.
- 4. General Provisions

- a. Validity and enforceability of this Declaration are expressly conditioned on City Council approval of the rezoning and recordation of the Declaration.
- b. The declarant, the City or any subsequent property owners shall have the right to enforce the covenants and restrictions.
- c. Amendments to the covenants and restrictions shall be executed and acknowledged by the property owner and the City.
- d. The covenants and restrictions shall be in force for a period of 50-years.
- e. Nothing in this Agreement shall be construed to obligate the City to rezone the property or prohibit the City from rezoning the property at any time.

The following information was provided previously for the Council Work Session on February 28, 2002. It is provided again for your reference.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR ADMINISTRATION:

- A. Council Members may wish to discuss with the Administration in further detail options or steps taken to address issues, comments and opinions expressed to date relating to mitigation of potential negative impacts on the surrounding residential neighborhood.
 1. The Administration's transmittal states that neighboring residents have noted that the property should not be rezoned because the use of the rear yard for off-street parking would have adverse impacts on adjacent residential properties.
 2. The Council received written correspondence noting neighborhood concerns relating to the proposed rezoning. Please see the attached letter for details. Issues include:
 - a. Potential 24-hour business operations.
 - b. Security and safety concerns.
 - c. Parking location and potential adverse impacts on surrounding residential uses.
 - d. Planning Commission meeting procedure.
 3. While the Central City Community Council voted to support the rezoning, the Liberty Wells Community Council voted not to support the rezoning. The Community Council expressed concerns relating to parking in the rear yard including:
 - a. The potential of attracting undesirable activities when the business use is closed.
 - b. Child safety issues relating to the proposal to use the property for a childcare facility and locating the play area in the rear yard.
 - c. Impacts on neighboring residential properties.
 4. The Planning Commission motion included conditions for the installation of a solid fence and strong vertical landscaping along the southern property boundary. The Planning Commission motion did not address that the existing ordinance would allow parking in the front yard behind the required front yard setback. This would be inconsistent with the 'walkable communities' approach.
 5. The Planning staff report notes:
 - a. Rezoning the entire parcel to Neighborhood Commercial would allow parking in the rear yard, which will enhance the neighborhood streetscape and the pedestrian environment.
 - b. The property owner could satisfy parking requirements for a business in the front yard.
 - c. Parking provided in the front yard would create a greater visual impact on the neighborhood than a parking lot in the rear yard.

- d. Parking located in the rear yard would be required to include a landscaped buffer to mitigate impacts on adjacent properties. (7-foot buffer is required)
 - e. Potential impacts on the property at 515 East Sherman Avenue were self-imposed through the approval of a specific request to construct a home without the required rear yard setback. (In 1950, the Board of Adjustment approved a variance to permit an addition to the existing retail store and allow a two-foot rear yard for a new single-family residence facing Sherman Avenue. The existing home is very close to the property line.)
- B. The Administration’s analysis addresses the draft Central Community Master Plan. The Council has previously expressed concern when draft master plans (not adopted by the Council) are cited in policy analysis. Area residents and community council representatives are currently reviewing the draft master plan. The Planning Commission has reviewed the draft but has not taken formal action. A mitigating factor is that elements from the adopted 1974 Central Community Master Plan and the 1990 Urban Design Element are also included in the Administration’s analysis.
- C. While the 1995 zoning rewrite established opportunities to allow conversion of residential structures for nonresidential uses, the Council’s policy that supports avoiding conversion of homes to business use, “If it looks like a house, it is a house”, remains the same. Does the Council wish to revisit this policy? The existing house was previously used for a commercial childcare center and more recently, a residential rental property. Currently, the structure is being considered for use as a childcare facility.

KEY ELEMENTS

- A. The Administration’s transmittal and Planning staff report provide a detailed background relating to the proposed rezoning and findings of fact that support the criteria established in the City’s Zoning Ordinance, Sec. 21A.50.050 - Standards for General Zoning Amendments. Please refer to the Administration’s paperwork and Planning staff report for details. Key points are summarized below:
- 1. Zoning history:
 - a. Prior to 1995, the property was divided with two zoning classifications, Residential R-4 (low-density multi-family) and Business B-3.
 - b. During the 1995 Zoning Rewrite, draft maps zoned the entire parcel for commercial uses. The final zoning map divided the property with two zoning classifications, Residential R-1/5000 and Neighborhood Commercial CN
 - c. In 1999, a new property owner brought the zoning boundary issue to the attention of Planning staff. Staff administratively adjusted the zoning boundary to zone the entire parcel Neighborhood Commercial.
 - d. After 1999, surrounding property owners raised concerns relating to the manner in which the zoning boundary had been adjusted without public notification, adverse impacts due to lack of management as a rental property, recent development activities and lack of property maintenance. Planning staff determined that it would be appropriate to rescind the administrative action and deal with the zoning boundary adjustment through the formal rezoning process.
 - 2. The parcel layout pattern for the properties fronting on 500 East is unique. The subject lot has a greater depth than the two adjacent commercial lots.
 - 3. Prior to 1995, zoning boundaries were established based on a standard depth. In this area along 500 East, the commercial zoning boundary extended 130 feet from the front property line and the remaining portion of the lots were zoned residential. The Zoning Ordinance specified that if the residential portion of a lot were less than 30 feet, the commercial zoning

classification would apply to the entire lot area. In addition, the Zoning Ordinance allowed parking lots in residential districts as a conditional use.

4. During the 1995 Zoning Rewrite, zoning boundaries were established on a parcel-based approach rather than using a standard depth. The conditional use process for commercial parking in residential zones was removed from the Zoning Ordinance. The following criteria were used as a basis to create the citywide zoning map:
 - a. Adopted community master plan future land use maps
 - b. Existing zoning
 - c. Existing land use
 - d. Avoid multiple zoning classification on a single property
 - e. Minimize the number of nonconforming uses and properties
- B. Surrounding land uses include an apartment building and a convenience store to the north and commercial and residential uses to the east, south and west.
- C. The purpose of the Residential R-1/5000 zone is to provide for conventional single-family residential neighborhoods on lot not less than five thousand square feet in size. (Zoning Ordinance Sec. 21A.24.070.A)
- D. The purpose of the Neighborhood Commercial CN zone is to provide for small-scale commercial uses that can be located within residential neighborhoods without having significant impact upon residential uses. (Zoning Ordinance Sec. 21A.26.020.A.)
- E. The Planning Commission voted to recommend that the City Council approve the proposed rezoning with the following conditions:
 1. Erect a solid fence along on the southern property boundary.
 2. Plant strong vertical landscaping along the southern property boundary.
 3. The Planning Director be granted approval authority for the final landscape plan.
- F. Issues discussed at the Planning Commission hearing included:
 1. History of zoning and use of the property.
 2. Proposed future use of the property for a childcare facility, the intent to use the rear yard as a play area for the children and not locate parking in the rear yard.
 3. Development options and limitations including the potential for parking in the front yard area, buffering requirements for a rear yard parking lot and preservation of mature landscaping.
 4. Impacts on adjoining residential properties and the surrounding neighborhood including parking, lighting, property management and maintenance, and safety and security issues.
 5. Concern that the current property owner was not present at the meeting.

MASTER PLAN AND POLICY CONSIDERATIONS:

- A. The 1974 Central Community Development Plan includes the following statements:
 1. Principles:
 - a. The need to revitalize and stabilize inner-city neighborhoods.
 - b. Greater recognition of mixed-use areas and their relative permanence.
 - c. Neighborhood revitalization as a remedy for obsolescence and decline.
 2. Policies and Proposals:
 - a. Population: Central Community program to reverse trend of families leaving for suburbs.
 - b. Urban Design: ...improve the architectural character of neighborhoods.

3. Land Use: Designates the properties on both sides of 500 East between 1300 South and Sherman Avenue (1330 South) for neighborhood business uses. The adjacent properties surrounding the neighborhood business area are identified for low density residential uses (5.5 units per acre).
 4. Citizens' Policies and Recommendations:
 - a. Provide an effective means of notifying residents of proposed zoning changes and city activities within their community.
 - b. Organize the City into four block areas each with a citizen representative who will work with City staff in monitoring and reviewing new construction and changes in use of properties within their respective areas.
 - c. Give more consideration to those factors, including residential densities, which give the community a ghetto appearance.
 - d. Establish and enforce architectural controls to preserve the scale and mood of the neighborhoods.
- B. 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. The Urban Design Element is an adopted plan that outlines policy objectives. Applicable policy concepts include:
1. Establish performance criteria for landscaped side yards or buffers rather than prescriptive regulations, particularly where an industrial or retail/commercial district abuts a residential use. (The Zoning Ordinance requires buffers between dissimilar zoning districts rather than between dissimilar land uses.)
 2. Allow individual districts to develop in response to their unique characteristics within the overall urban design scheme for the city.
 3. Ensure that land uses make a positive contribution to neighborhood improvement and stability.
 4. Ensure that building restoration and new construction enhance district character.
 5. Require private development efforts to be compatible with urban design policies of the city regardless of whether city financial assistance is provided.
 6. Treat building height, scale and character as significant features of a district's image.
 7. Ensure that features of building design such as color, detail, materials and scale are responsive to district character, neighboring buildings, and the pedestrian.
- C. The Community Housing Plan contains the following related policy statements:
1. On a citywide basis, the City Council endorses:
 - Policies and programs that preserve housing opportunities as well as business opportunities within the City to ensure the continued existence of a population base and business base. While the Council supports mixed-use development, it also recognizes that there are some zones that are not conducive to residential development. As such, the Council will discourage any housing development in industrial-type zones.
 - Neighborhood anchor areas or commercial uses that are necessary to the function of residential neighborhoods or are compatible with residential activity.
 2. The City Council supports mixed-use and mixed-income concepts and projects that achieve vibrant, safe, integrated walkable neighborhoods through a diverse mix of uses and incomes in areas with established services that:
 - Include public and neighborhood interaction and participation in the design process.
 - Incorporate an assortment of residential, commercial, and professional office uses.
 - Incorporate affordable housing whenever possible.
 - Include a variety of housing types, mixed-income levels, live/work developments, etc.

- D. The Council’s adopted growth policy states: It is the policy of the Salt Lake City Council 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. During the Council’s recent discussions relating to growth, annexations and housing policy, Council Members have expressed support for developments that promote livable community concepts such as:
1. Pedestrian and bicycle friendly environments
 2. Compact, transit and pedestrian oriented developments
 3. Neighborhood anchor areas or commercial and/or business uses that are necessary to the function of residential neighborhoods or are compatible with residential activity
 4. Local services that are conveniently available or can be provided and are accessible on foot
- F. The City’s Strategic Plan and the Futures Commission Report contain statements that support creating attractive conditions for business expansion including retention and attraction of large and small businesses, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The documents 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.

CHRONOLOGY:

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

- August 1, 2001 Central City Community Council meeting
- August 8, 2001 & Liberty Wells Community Council meetings
September 12, 2001
- September 20, 2001 Planning Commission Hearing

cc: Rocky Fluhart, Sam Guevara, DJ Baxter, Ed Rutan, Lynn Pace, David Dobbins, Louis Zunguze, Brent Wilde, Cheri Coffey, Everett Joyce, Lehua Weaver, Annette Daley

File Location: Community and Economic Development Dept., Planning Division, Rezoning – 1321 South 500 East