
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: November 12, 2004

SUBJECT: Petition 400-04-12 – Mr. Jack Plumb – request to rezone property at 518 East 3rd Avenue from Residential Multi-Family RMF-35 to Neighborhood Commercial CN and amend the Avenues Master Plan

AFFECTED COUNCIL DISTRICTS: If the ordinance is adopted the rezoning and master plan amendment will affect Council District 3

STAFF REPORT BY: Janice Jardine, Land Use Policy Analyst

ADMINISTRATIVE DEPT. AND CONTACT PERSON: Community Development Department, Planning Division
Everett Joyce, Principal Planner

NOTICE REQUIREMENTS: Newspaper advertisement and written notification to surrounding property owners 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 at 518 East 3rd Avenue from Residential Multi-Family RMF-35 to Neighborhood Commercial CN and amending the Avenues Master Plan.
3. ["I move that the Council"] Not adopt an ordinance rezoning property at 518 East 3rd Avenue from Residential Multi-Family RMF-35 to Neighborhood Commercial CN and amending the Avenues Master Plan.

WORK SESSION SUMMARY AND NEW INFORMATION:

The Council received a briefing from the Administration at the Council Work Session on October 8, 2004. Issues discussed included:

- A. Types of permitted and conditional uses allowed in the Commercial Neighborhood zoning classification.
- B. The concern of adjacent property owners relating to potential traffic, parking, 24-hour business operation and noise impacts on the surrounding neighborhood.
- C. Issues associated with nonconforming use status such as refinancing and insurance.
- D. Setback, landscape and parking requirements and potential limitation on future expansion or new construction.

Council Member Jergensen indicated an interest in exploring with the Community Council, surrounding neighbors and the petitioner the option of using a voluntary restrictive covenant in order to address the neighborhood concerns. In a subsequent meeting with Council Member Jergensen, Planning

staff indicated that use of a restrictive covenant is not suitable due to the inability of the City to track and enforce such a restriction. They also noted that it may be more appropriate for the Council to request that the Administration develop a new zoning classification for small neighborhood business areas. (It should be noted that in 1999, the Council initiated a Legislative Action requesting a citywide analysis of the Neighborhood Commercial and Commercial Business zones. It is Council staff's understanding that as part of the analysis, the Planning Division and a subcommittee of the Planning Commission has done a substantial amount of work researching and developing a small neighborhood business zoning district. Council Members may wish to request an update on the status of this project.)

In the recent past, the Council has rezoned properties that have included the use of a voluntary restrictive covenant. Examples include the Lincoln White properties on the northeast corner of 600 South and 700 East and the Reaveley Engineering property at 1120 E. Kensington Avenue. In addition, the Council has scheduled a public hearing in December for a rezoning at 1321 South 500 East that includes the use of a voluntary restrictive covenant.

Also attached are comments received from the Avenues Community Council Chair regarding recent discussions with the surrounding property owners. The comments reiterate issues that have been raised at the Planning Commission meeting. It appears that some of the issues are not zoning issues but issues that may require involvement of the County Board of Health such as noise and smoking. (Please see the attached document for details.)

The following information was provided previously for the Council Work Session on October 8, 2004. It is provided again for your reference.

KEY ELEMENTS:

- A. This action would remove the non-conforming use status of the existing building currently being leased for a coffee shop. An ordinance has been prepared for Council consideration to rezone property at 518 East 3rd Avenue from Residential Multi-Family RMF-35 to Neighborhood Commercial CN and amend the Avenues Master Plan subject to:
 - 1. Combining the two properties into one lot.
 - 2. Establishing the east property line of the parcel as the required rear yard.
- B. The Administration's transmittal notes:
 - 1. The applicant owns a commercial structure and off-street parking located on two adjacent lots at 502 and 518 East 3rd Avenue.
 - 2. The commercial structure straddles the property line between the two parcels and functions as a single commercial entity.
 - 3. Existing parking for the development is located on property currently zone Neighborhood Commercial.
 - 4. The existing use of the parcel has been commercial in nature since 1955.
 - 5. In 1986, the Board of Adjustment reaffirmed the nonconforming commercial use status of the property.
- C. Surrounding land uses include:
 - 1. Single family uses to the north and east.
 - 2. Multi-family and single family uses to the south and southwest.
 - 3. The existing commercial use and residential uses across G Street to the west.

- D. The purpose of the Commercial Neighborhood CN is to provide for small-scale commercial uses that can be located within residential neighborhood without having significant impacts upon residential uses. The maximum district size is 90,000 sq. ft. Maximum height in the zone is 25 feet.
- E. The Planning staff report notes that to meet this purpose statement, buffer yards are required on any commercial lot abutting a residential district.
1. A 7-foot wide landscaped buffer yard is required at the property line.
 2. Landscaping requirements include a) one shade tree per every 30-linear feet; b) shrubs having a mature height of not less than 4-feet along the entire length of the landscape buffer; c) areas not planted with trees or shrubs shall be maintained in turf or groundcover; and d) a solid fence between 4 and 6-feet erected at the property line unless waived by the Zoning Administrator.
 3. The existing structure and parking is non-complying with respect to the 7-foot landscaped buffer requirements.
 4. Any additions to the existing structure should be required to meet the 7-foot landscaped buffer requirements.
 5. Expansion or demolition and new construction are limited due to the need to comply with current setback, landscape and parking requirements.
- F. The purpose of the Residential Multi-Family RMF-35 district is to provide an environment suitable for a variety of moderate density housing types including multi-family dwellings. Commercial and office types of uses are not permitted in this zone. Maximum height in the zone is 35 feet. Maximum density in the RMF-35 zone is 14.5 units per acre for multi-family developments over 15 units above 1 acre.
- G. Applicable zoning overlay districts include the Historic Preservation and Aquifer Recharge Overlay Zones. Any exterior remodeling, expansion or new construction on the property will be required to meet the Historic Preservation Overlay Zone standards and requires review and approval from the Landmark Commission. Any change of use will be required to meet the standards of the Aquifer Recharge Overlay Zone.
- H. The public process included a presentation to the Avenues Community Council and written notification of the Planning Commission hearing to surrounding property owners. The Administration's transmittal notes the Community Council was supportive of the petition.
- I. The City's Fire, Police, and Public Utilities Departments and Transportation and Engineering Divisions have reviewed the request. The applicant will be required to comply with City standards and demonstrate that there are adequate services to meet the needs of the project. The Transportation Division indicated:
1. No objection to rezoning the property with the existing structure and parking.
 2. Any expansion of the building or intensification of the use that would require additional parking and create additional traffic should not be permitted. *(As previously noted, the Planning staff report notes that expansion potential is limited due to the need to meet current setback, landscape and parking requirements.)*
- J. On July 14, 2004, the Planning Commission voted to forward a positive recommendation to the City Council to rezone the property and amend the Avenues Master Plan Future Land Use Map subject to the conditions previously noted.
- K. Issues discussed at the Planning Commission hearings included:
1. Potential traffic, parking and noise impacts on the surrounding neighborhood.
 2. The Avenues Community Council process and the perception that community members/residents were not heard.
 3. Issues associated with nonconforming use status such as refinancing and insurance.

4. Current setback, landscape and parking requirements and potential limitation on future expansion or new construction.

MASTER PLAN AND POLICY CONSIDERATIONS:

- A. The Administration's transmittal and Planning staff report note:
 1. The East Bench Master Plan (1987) is the adopted land-use policy document that guides new development in the area surrounding the proposed rezoning and master plan amendment.
 2. The Future Land Use Map identifies both parcels for medium density residential land uses. (As previously noted, amending the Future Land Use Map in the Avenues Master Plan is part of this petition.) The Planning staff report notes that amending the master plan to include both parcels for business use is consistent with the existing land use and the land use patterns in place since 1955.
 3. In 1995, adoption of the citywide Zoning Rewrite amended the Master Plan land use policy designating the adjacent property (502 East 3rd Ave.) for neighborhood business land use.
 4. The Plan contains a new business zoning policy that identifies specific evaluation criteria for additional business zoning. Staff (Planning staff) believes that since this is part of an existing business and the property contains a commercial nonconforming use that the Master Plan evaluation criteria regarding new business zoning is not applicable.
- B. For Council Members background, the Plan's land use section provides the following information:
 1. Policy Regarding Nonconforming Uses
 - The City should not grant variances to rebuild structures containing nonconforming uses. Once the structure has deteriorated, as defined in the nonconforming use ordinance (*Salt Lake City Zoning Ordinance*), or is lost because of fire or other act of God, the property should revert to a use conforming to present zoning.
 2. Additional Business Zoning
 - a. Additional retail services may eventually be needed in the Avenues.
 - b. Location decisions for changing zoning to accommodate a new retail service should not be made until Avenues residents express the need for additional retail shopping.
 - c. The following criteria should be considered in evaluating possible locations.
 - The need for the proposed business must be documented through obvious community support.
 - Property owners must show the need for the business with regard to the citywide perspective.
 - The property must be located on a street that can handle the additional traffic
 - The site must be large enough to provide adequate open space and parking (including required landscaped buffers) without over crowding the lot.
 - Business projects must be of a scale and density that will not negatively impact neighboring residential properties.
 - The proposal should not involve the demolition of residential structures.
 - The proposal must be accompanied by a market analysis indicating a need and market area.
- C. The City's Comprehensive Housing Plan policy statements address a variety of housing 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.
- D. 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.

- E. 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.
- F. 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.

CHRONOLOGY:

The Administration's transmittal provides a chronology of events relating to the proposed rezoning and master plan amendment. Key dates are listed below. Please refer to the Administration's chronology for details.

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| • March 8, 2004 | Petition received in Planning Division |
| • March 10, April 7, 2004 | Avenues Community Council meetings |
| • July 14, 2004 | Planning Commission hearing |
| • July 29, 2004 | Ordinance received from City Attorney |

cc: Sam Guevara, Rocky Fluhart, DJ Baxter, Ed Rutan, Lynn Pace, Lee Martinez, David Dobbins, Louis Zunguze, Brent Wilde, Doug Wheelwright, Cheri Coffey, Everett Joyce, Marge Harvey, Gwen Springmeyer

File Location: Community Development Dept., Planning Division, Rezoning and Master Plan Amendment, Jack Plum, 518 East 3rd Avenue

Subject Rezone Parcel
518 3rd Ave
RMF-35 Parcel Rezone to CN
(Nonconforming Commercial Use)

Related Parcel
502 3rd Ave
Existing CN Parcel

3RD AVE

G ST

H ST

2ND AVE

N



Reasons Neighbors Oppose the Re-zoning at G Street and 3rd Avenue.
Calls made November 4-6, 2004

- Everyone talked about wanting the coffee shop to succeed. "Nice people."
- Several mentioned the long hours and said that they would rather see 9-5 offices so people would go home and they could have their neighborhood back during the evening hours.
- Very worried about Creeping Commercialism into their neighborhood. They wanted conditional use rather than a blanket commercial zoning.
- Suggested that with each change of ownership the conditional use should be reviewed. Limit the type of business to one *compatible* with neighborhood.
- Several mentioned that they felt the re-zoning process has not been sensitive to the neighbors. They felt ignored and "railroaded." "Business bring in taxes so the commission wants the revenue for the City and they don't worry about us."

Albert Reed at 524 3rd Avenue is the next door neighbor and is the most effected. Besides the above concerns these are his specific concerns about the coffee shop:

1. Loud speaker
 - a. Placed 14 feet up so the patrons can hear
 - b. Music playing minimum 9 am to 9 pm; often earlier and later
 - c. He likens it to the "Japanese Water Torture." A little bit is OK but it goes on and on and on.
 - d. There are only 3 other speakers for patios in the area from 1300 East to 300 West and from 400 South to the north city limits and they do not have "residential" neighbors. He has the businesses' names and addresses.
2. Smoking – he is a former smoker and said that he'd told himself that he would not become a fanatic but the secondhand smoke is making his life miserable.
 - a. 12-14 hour per day – even with neighbors who smoke, you would not find them outside smoking constantly for that length of time.
 - b. Can't sit out side because it is always drifting.
 - c. Changed from swamp to refrigeration cooling to keep smoke from getting into his home. Windows can't be opened.
 - d. Difficult for him to be outside to do yard work.
3. Parking
 - a. Sometimes patrons or employees park so close to driveway that he can't get out and has to find the owner to move the car.
 - b. His suggestions: paint curb red to show where not to park and set a time limit for parking. He is also considering petitioning for "residential parking" like that around the LDS Hospital.
4. Set a maximum seating. "They could set many more tables out which would mean more people, more cars and more smoke."