

PROCEEDINGS OF THE CITY COUNCIL OF SALT LAKE CITY, UTAH

TUESDAY, DECEMBER 7, 2004

The City Council of Salt Lake City, Utah, met in Regular Session on Tuesday, December 7, 2004, at 7:00 p.m. in Room 315, City Council Chambers, City County Building, 451 South State.

The following Council Members were present:

Carlton Christensen
Jill Remington Love
Dale Lambert

Van Turner
Eric Jergensen

Nancy Saxton
Dave Buhler

Mayor Ross C. "Rocky" Anderson; Cindy Gust-Jenson, Executive Council Director; Edwin Rutan, City Attorney; and Scott Crandall, Deputy City Recorder were present.

Councilmember Love presided at and conducted the meeting.

#1. The Council led the Pledge of Allegiance.

members voted aye.

(P 04-33)

#2. Councilmember Turner moved and Councilmember Christensen seconded to approve the **minutes** of the Salt Lake City Council meetings held **November 9, 2004** and **November 16, 2004**, which motion carried, all members voted aye.

(M 04-3)

#2. RE: Accept public comment and consider adopting ordinances closing and abandoning a portion of **Hamilton Place** extending north from 600 South between State Street and 200 East and a portion of **Hawthorne Avenue** extending west from 200 East between 500 and 600 South pursuant to Petition Nos. 400-04-14 and 400-04-15. (**Garff Family, LLC**)

PUBLIC HEARINGS

#1. RE: Accept public comment and consider adopting an ordinance amending Salt Lake City Code to allow for **car wash facilities** in the **downtown (D-2) zoning district** pursuant to Petition No. 400-04-32.

Councilmember Saxton moved and Councilmember Turner seconded to **close the public hearing**, which motion carried, all members voted aye.

Councilmember Jergensen moved and Councilmember Saxton seconded to **adopt Ordinance 86 of 2004**, which motion carried, all

Councilmember Lambert moved and Councilmember Buhler seconded to **close the public hearing**, which motion carried, all members voted aye.

Councilmember Buhler moved and Councilmember Christensen seconded to **adopt Ordinance 87 of 2004** and **Ordinance 88 of 2004**, which motion carried, all members voted aye.

(P 04-30)

#3. RE: Accept public comment and consider adopting an ordinance rezoning the rear

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portion of property located at approximately **1321 South 500 East** from **Residential (R1/5000)** to **Neighborhood Commercial (CN)** pursuant to Petition No. 400-01-45. (**Jayson Critchfield**)

Fred Repman spoke in favor of the proposal. **Kathy Byers, Robin Davis** and **Tony Byers** spoke in opposition. Comments included highest and best use, residential/commercial property, appropriate use, split zoning, by-laws, neighborhood standards, staff recommendations, long-term venture, security/safety issues, community council opposition, neighborhood enhancement, parking issues, adverse impact, illicit activities, beautification, security lights, community degradation, property values, neglect, and deteriorated landscaping.

Councilmember Lambert asked how Mr. Repman felt about the request to install a solid fence and vertical landscaping to insulate neighbors from the commercial property. Mr. Repman said they reviewed the declaration of covenants prepared by City staff. He said they were willing to accept the recommendations which would address neighborhood concerns.

Councilmember Saxton moved and Councilmember Turner seconded to **close the public hearing**, which motion carried, all members voted aye.

Councilmember Love asked **Everett Joyce**, Environmental Planning and Urban Design Planner, to update the Council

about adjacent properties and current uses. Mr. Joyce said street frontage on both sides of 1300 South to Sherman Avenue were zoned CN. He said a 7-Eleven and an apartment complex were located to the north. He said Rico's market and a single family home were located to the south and a single family home was located to the east.

Councilmember Love asked why the front half of the property was zoned commercial and the rear half residential. Mr. Joyce said the 1974 Central City Plan recognized that area for neighborhood business. He said split zoning existed in that area prior to 1995. He said during the 1995 zoning rewrite, the property was mapped for neighborhood commercial but when the process was complete the property inadvertently remained split.

Councilmember Christensen asked if zoning prior to 1995 allowed parking behind the structure. Mr. Joyce said parking was allowed for a day-care facility which existed on the property.

Councilmember Lambert asked what was located on the rear portion of the property. Mr. Joyce said a detached garage extended to the south property line. Councilmember Love asked if enough room existed in the back portion of the property to turn a vehicle around. Mr. Joyce said a multipoint turn was needed because there was not enough room for a direct turnaround. Councilmember Lambert said he understood an effort was made to

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address neighborhood concerns through a restrictive covenant. Mr. Joyce said that was correct. Councilmember Lambert asked about the restrictions. Mr. Joyce said the Planning Commission required landscaping and fencing on the south property line. He said intense property uses such as drive-in facilities and medical offices were restricted.

Councilmember Lambert asked if it made sense to require a fence along the east portion. Mr. Joyce said yes. Councilmember Lambert asked how that could be accomplished. Mr. Joyce said the requirement could be added to the restrictive covenants. Ms. Gust-Jenson said the southern fence was included in the ordinance. She said the ordinance could be amended to say southern, eastern and northern boundaries.

Councilmember Jergensen asked if parking was allowed under previous zoning. Mr. Joyce said yes but only for residential uses. Councilmember Jergensen said one neighborhood complaint was lighting and asked if the covenant contained a restriction. Mr. Joyce said City ordinance indicated parking lot lighting had to be shielded and controlled onto the site.

Councilmember Buhler said he felt the type of business uses allowed on the property would not require nighttime use. Mr. Joyce said the hours of operation went until 10:00 p.m. and a business might want lighting there until that time. Councilmember Buhler suggested amending the restrictive covenants to include

a motion light. He said he felt motion lights could help deter crime and eliminate the need to have lights burning throughout the night. Mr. Joyce said he agreed motion lights would be desirable. He said a lighting engineer could be utilized to insure adequate levels and that lights did not glare into adjacent properties.

Councilmember Buhler said the property owner might be willing to install the lights as a gesture to surrounding neighbors without being required to. Councilmember Love asked about the hours of operation in the restrictive covenant. Mr. Joyce said 6:00 a.m. to 10:00 p.m. Councilmember Love said she felt the neighborhood might feel better about 7:00 a.m. to 9:00 p.m. Mr. Repman, representing the property owner, said that was acceptable.

Councilmember Saxton said she felt there was a clear delineation between commercial and residential along 1300 South to Sherman Avenue. She said she felt the use was more compatible with residential than commercial. She said even though a parking lot was allowed, previous owners recognized the land was more valuable as a yard or residential use.

Mr. Joyce said historically, boundary definitions between commercial and residential properties were established by distances. He said typically between 1927 and 1958 boundaries matched lot lines. He said if a split zone property had 30 feet or less of residential and the

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balance was commercial, the property automatically became commercial to allow for lot line adjustments. He said this did not apply in all cases.

Councilmember Christensen said even if the owner was agreeable, he was not sure limiting hours of operation from 7:00 a.m. to 9:00 p.m. would work for office use. Councilmember Buhler asked if a business opened at 8:00 a.m. and an employee came to work at 6:00 a.m. would that constitute a violation. Mr. Joyce said the restrictive covenants only applied to public use.

Councilmember Buhler moved and Councilmember Lambert seconded to **adopt Ordinance 89 of 2004 with the following amendments or conditions: 1) require fencing on the south, east and north sides of the property, 2) restrictive covenant be changed so the hours of operation were not greater than 7:00 a.m. to 9:00 p.m. and 3) after the hours of operation, lighting to be located on the rear portion of the property, would be controlled by a motion sensor.**

Councilmember Saxton said she would vote against the motion. She said she felt the line of delineation was clear. She said neighborhoods were tenuous and encroachments were destabilizing. She said a parking lot on the rear portion of the property should not be allowed if the Council was serious about retaining the house on Sherman Avenue. She said she

felt the portion on 500 East should be commercial and the remaining portion residential.

Councilmember Buhler said this was a difficult issue where a number of interests needed to be balanced. He said it was hard to have a three foot backyard next to a commercial property. He said the property had been neglected for a long time and he hoped by creating one zone the condition of the property would improve. He said the solution was not perfect but created a good balance. He said he hoped proposed restrictions would protect surrounding property owners while still allowing a reasonable commercial use.

Councilmember Christensen said he did not fully agree that residents concerns had not been heard. He said the proposal included restrictive covenants which were seldom used. He said this was a difficult issue but he felt the proposal struck a good balance. He said history indicated that heavy residential or commercial use of the property had existed for some time. He said although the use was not new, he felt it would be better than what currently existed. He said from a current zoning policy perspective he felt the rezone was positive and he would support the motion.

Councilmember Jergensen said he supported the motion. He said the property had been used commercially for a long time. He said he felt residents were aware of the commercial zoning and the proposed use would improve the neighborhood in terms of updating

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a previously dilapidated property. He said he appreciated the landowner's willingness to develop solutions so the property's use did not infringe on surrounding residents. He said commercial uses had a direct effect on the viability of surrounding residential properties.

Councilmember Love said this was a difficult issue in District Five and she supported the motion. She said she wanted to assure property owners the Council listened to their concerns and worked to address the issues. She said if left alone, the property would remain blighted and unusable. She said she felt this solution would improve the neighborhood. She said she wanted to assure property owners the City would enforce the restrictive covenants. She asked residents to let the City know if they saw anything that needed to be enforced.

Councilmember Love called for the question, which motion carried, all members voted aye, except Councilmember Saxton, who voted nay.

(P 04-31)

#4. RE: Accept public comment and consider adopting an ordinance amending Salt Lake City Code to require that **parking lots be located behind buildings**, rather than on street frontage, in all community-oriented commercial and mixed use zones pursuant to Petition No. 400-00-52. **(Walkable Communities)**

Steve Blackham, Keith Bartholomew and Mary Corporon spoke in support of the proposal. Comments included auto based strip center, mixed-use pedestrian/community friendly activity, neighborhood empowering development, urban planning, transit supportive communities, reduce reliance on automobiles, increased transit ridership, tight integration between sidewalks and surrounding structures, business concerns, balance transportation aspects, and the burden of bringing non-conforming buildings into compliance.

Councilmember Jergensen moved and Councilmember Saxton seconded to **close the public hearing**, which motion carried, all members voted aye.

Councilmember Jergensen moved and Councilmember Lambert seconded to **express the Council's intent to adopt the ordinance and request that the Attorney's Office in collaboration with the Planning Division and the Council staff prepare a version of this ordinance with the amendments discussed and outlined during the December 7, 2004 Work Session as follows: 1) Community Council and Business Advisory Board notification, (provide simple notice for Planning Commission action, not Administrative action), 2) property to be posted with a sign giving notice of the Planning Commission public hearing (Administrative decisions would not be included), 3) delineate pedestrian access to buildings through parking lots**

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over a certain size. (Planning to provide recommendation), 4) administrative exceptions for parking lot setbacks for new construction, 5) revise purpose statements to address all means of transportation including vehicles, 6) establish an implementation or ordinance effective date, and 7) change the section that refers to compatibility with the architecture of the existing building to include the phrase "or the surrounding architecture".

Councilmember Buhler said it was unusual for the Council to adopt this type of motion. He said since he had not decided to support the ordinance, he would vote against the motion which expressed the Council's intent to pass the ordinance.

Councilmember Love called for the question, which motion carried, all members voted aye, except Councilmember Buhler who voted nay.
(P 02-13)

COMMENTS TO THE CITY COUNCIL

Douglas Cotent said parking citations needed to be issued for vehicles illegally parked at bus stops.

Melvin Grossgold, Jonathan Buss and Albert Reed spoke in opposition to the rezoning petition at 518 East 3rd Avenue. Comments included no compelling need to change the zoning, conditional use, neighborhood protection, petition to deny,

benefit to business owner, impact to local residents, non-conforming uses, overriding public policy to restrict or eliminate use, deny intensive property use, long-term residential area, commercial use, negative environmental impact, and unwillingness of property owner to address neighborhood concerns.

UNFINISHED BUSINESS

#1. RE: Adopting a resolution to create Salt Lake City, Utah 2004 sidewalk replacement and Quayle Avenue reconstruction Special Improvement District ("The District"), generally as described in the notice of intention concerning the District; authorizing the City officials to proceed with construction improvements as set forth in the Notice of Intention; and related matters.

Councilmember Turner moved and Councilmember Buhler seconded to adopt Resolution 66 of 2004, which motion carried, all members voted aye.
(Q 04-10)

#2. RE: Adopting a resolution conditionally accepting bids for purchasing of materials and construction work and, subject to approval of the city engineer, authorizing execution of a contract for construction contract with the apparent responsive bidder for construction of improvements of Salt Lake City, Utah 2004 Sidewalk Replacement and Quayle Avenue Reconstruction Special

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Improvement District (The "District"); providing for construction of improvements consisting of the installation of concrete sidewalks, sidewalk access ramps, driveways, roadway pavement, curb, gutter and drainage facilities and all other miscellaneous work necessary to complete the improvements in a proper workmanlike manner; all other miscellaneous work necessary to complete the improvements; for issuance of interim warrants and for the addition of the interest thereon to assessable costs and related matters.

Councilmember Turner moved and Councilmember Buhler seconded to **adopt Resolution 67 of 2004**, which motion carried, all members voted aye.

(Q 04-10)

#3. RE: Adopting an ordinance amending the **Avenues Community Master Plan** and rezoning property located at **518 East 3rd Avenue** from Residential Multi-Family **(RMF-35)** to Neighborhood Commercial **(CN)** pursuant to Petition No. 400-04-12. **(Jack Plumb)**

Councilmember Lambert moved and Councilmember Christensen seconded to **adopt the ordinance**.

Councilmember Lambert said it was unfortunate the neighborhood could not come to a resolution on this issue. He said he understood previous owners had used the property commercially over the past 50 years and felt this change would recognize that use. He said he was open to restrictive covenants

and made the motion based on Planning Commission and community support.

Councilmember Jergensen said he would vote against the motion. He said the property had mistakenly been zoned with a split zoning. He said a portion of the property had been used commercially for some time. He said the other portion had not been used as commercial until recently. He said as a government entity, the City's goal was to create viable neighborhoods which included a commercial component.

Councilmember Jergensen said he felt zoning was the only tool the City had to address conflicts between various commercial and residential uses. He said the City was unable to establish an agreement with the property owner who did not live in the neighborhood. He said the proposal required a master plan amendment which would provide future direction and impact the neighborhood. He said he felt if the Council did not pass the zoning, the issue could come back to the Council with restrictive covenants. He said restrictive covenants made more sense for this commercial land owner as well as the neighborhood.

Councilmember Saxton asked if the patio was built what the setbacks from adjoining properties along "G" Street would be. She asked what kind of height restriction there was and if the patio could be elevated. Mr. Joyce said the patio location had to be seven feet from the south property line and ten feet from the east property line. He

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said established rear yards were required on corner properties. He said he was not certain if a raised patio met the same standard.

Councilmember Lambert said he agreed the purpose of zoning was to promote neighborhoods. He said if this property had not been used commercially for 50 years, he would support residential zoning.

Councilmember Saxton asked about parking and patio square footage requirements. She asked if on-street parking counted as part of the parking requirement. Mr. Joyce said there was an off-street parking requirement which was not the same as the structure. He said on-street parking credits were allowed in the CN zone subject to Development Review Team approval.

Councilmember Saxton said she understood smoking and noise issues would be health department guidelines. Mr. Joyce said any commercial business would be handled through the health department. Councilmember Buhler said he would vote against the proposal with the idea that it might come back to the Council with compromises.

Councilmember Love said she was concerned about the property owner's unwillingness to discuss a restrictive covenant. She said she felt in the near future, the property could be sold for a more intense use than a neighborhood coffee shop. She said under the City's current commercial zoning a person could have a 24 hour operation which would not be compatible. She said she would

vote against the motion because she was concerned about future commercial uses on the property.

Councilmember Christensen asked if the present commercial use was allowed in the current zoning. Mr. Joyce said no. He said there was a three foot encroachment on the residentially zoned portion. Councilmember Christensen said he would support the motion. He said to avoid a lengthy public process, the proposal could be tabled if Council Members wanted to consider other options.

Councilmember Love called for the question, which motion failed, Council Members Buhler, Love, Jergensen, and Turner voted nay and Council Members Lambert, Saxton, and Christensen voted aye.

Councilmember Jergensen moved and Councilmember Buhler seconded **that the Council request the Administration to provide information regarding creating a new small neighborhood business zoning district which would minimally address the following:** a) permitted and conditional uses appropriate for small neighborhood oriented business areas abutting or in close proximity to residential properties, b) mitigation of potential negative impacts on surrounding residential properties and neighborhoods such as noise, lighting, and other environmental impacts, hours of operation, heights, setbacks, building size, design standards appropriate in a residential

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business setting and other standards, regulations or criteria which may be foreseen by the Planning staff as important in such a zoning district.

Councilmember Jergensen said he felt the problem was the definition of the zone. He said if the City could redefine the small neighborhood zone so it was different from the CN zone, he felt the City would accomplish a lot for neighborhoods where commercial areas existed.

Councilmember Christensen said he would vote against the motion. He said he was not opposed to going through a legislative process to discuss how current zoning was failing. He said he did not think residents would be happy with any type of commercial zoning in that area. He said it had not been articulated that any other commercial zoning would work. He said he did not want to spend a lot of City resources developing a new classification without a good reason. Councilmember Lambert said he would support the motion if a new zone was needed. He said formal action could be considered after the concept was discussed in a work session.

Councilmember Jergensen said he was not asking for a new zone designation but wanted to hold a work session and ask Planning staff to come back with recommendations. He said findings could show there were no appropriate places where a new classification would be an improvement over the CN zone.

Councilmember Saxton said she would vote against the motion. She said in the past the Council had made changes which allowed businesses and zonings to be more compatible and tailored for neighborhoods/communities. She said the more changes the City made, the more frustrating it was for neighborhoods and communities.

Councilmember Turner said he would vote against the motion. He said his district had a lot of underused commercial properties which needed to be modernized. He said he felt there were a lot of opportunities for the City to restore walkable commerce to neighborhoods and communities.

Councilmember Love said she would also vote against the motion even though she supported the concept. She said the idea could be taken through the process to see if there was a better way of changing existing neighborhood commercial zoning.

Councilmember Jergensen said he would withdraw the motion.

Councilmember Love said the issue would be scheduled for a work session discussion.

(P 04-29)

#4. RE: Confirming the date of **December 14, 2004 at 7:00 p.m.** to accept public comment and consider adopting an ordinance rezoning the properties located at **1029 and 1031 South West Temple Street** from Commercial Corridor (CC) to Residential Mixed Use (RMU), and amending the Central Community Master Plan

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pursuant to Petition 400-04-04.
(Jefferson School Apartments)

Council Chair

Councilmember Turner moved
and Councilmember Lambert
seconded to **confirm the date**,
which motion carried, all members
voted aye.
(P 04-34)

Chief Deputy City Recorder

SC

CONSENT AGENDA

Councilmember Turner moved
and Councilmember Saxton seconded
to **adopt the Consent Agenda**,
which motion carried, all members
voted aye.

#1. RE: Setting the date
of **December 14, 2004 at 7:00 p.m.**
to accept public comment and
consider adopting the **Solid Waste
Management Facility budget**, which
has been prepared and submitted
by the Salt Lake Valley Solid
Waste Management Council for
calendar year 2005, subject to
specific policy directives.
(B 04-4)

#2. RE: Requesting that
the Administration **not** hold a
hearing regarding a request to
lease an **existing parking** lot on
City property for use by a
neighboring restaurant for
overflow parking. Compensation
will be tendered and lessee will
maintain the parking lot area,
including landscaping needs.
(W 04-4)

The meeting adjourned at
8:19 p.m.