
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: July 7, 2006

SUBJECT: Petition 400-05-43 – Mr. Blake Henderson – request to:

- Rezone property generally located at 857 East 100 South, 70 South 900 East and 58 South 900 East from Residential Multi-Family RMF-35 to Residential Multi-Family RMF-45
- Amend the Central Community Master Plan Future Land Use Map

AFFECTED COUNCIL DISTRICTS: If the ordinance is adopted the rezoning and master plan amendment will affect Council District 4

STAFF REPORT BY: Janice Jardine, Land Use Policy Analyst

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

NOTICE REQUIREMENTS: Newspaper advertisement and written notification to surrounding property owners 14 days prior to the Public Hearing

- A. Due to the Council’s summer meeting schedule and a request from the petitioner for a hearing as quickly as possible due to the length of time they have been in the process, Council staff has identified the following schedule should the Council choose to move this item forward to a public hearing after the briefing from the Administration. (The Administration’s transmittal was received in the Council office on July 3, 2006.)
- July 11 Council briefing
 - July 11 Set hearing date
 - August 8 Council hearing
- B. The Planning Commission has recommended denial of this petition, but did not specifically address the five standards/factors for zoning map and text amendments as is required by City Ordinance. The Planning staff recommended approval to the Commission and did make specific findings, which are included in the Administration’s staff report and on pages 3 and 4 of this report.
- C. For ease of reference, the following items have been brought forward from the Administration’s paperwork and attached at the end of this staff report.
- Attachment 1 - the March 8th Planning Commission minutes for the public hearing have been brought forward and attached at the end of this staff report.
 - Attachment 3 – Letters and minutes relating to accusations irregularities in the process
 - Attachment 2 is a memo from the Planning Director that was provided early in May to Council Members relating to the appropriateness of amending master plans.

KEY ELEMENTS:

- A. An ordinance has been prepared for Council consideration to:
1. Rezone property at 857 East 100 South, 70 South 900 East and 58 South 900 East from Moderate Density Residential Multi-Family RMF-35 to Moderate/High Density Residential Multi-Family RMF-45.
 2. Amend the Central Community Master Plan Future Land Use Map designation for the properties from medium density residential to medium-high density residential land uses.
- B. The rezoning and master plan amendment would facilitate demolition of a non-conforming medical office and two low-density, single-family residential structures and construction of a 46-unit condominium residential development in a single building with underground parking. (Please see the Planning staff report and Planning Commission minutes for details) The Administration's transmittal and Planning staff report note:
1. The applicant is requesting a higher density zoning classification based on:
 - a. Adjacent development that is similar in scale.
 - b. The replacement of an existing non-conforming medical building (demolition costs) increases the cost of the land.
 - c. The cost of underground parking must be absorbed by the project.
 2. Amending the Central Community Master Plan Future Land Use map from Medium Density Residential (15-30 dwelling units/acre) to Medium/High Density Residential (30-50 dwelling units/acre) is necessary to accommodate the proposed development's density of 43 units/acre.
 3. The proposed development will comply with the requirements of the RMF-45 zoning district and will be an over-the-counter permitted use.
- C. The Planning staff report notes surrounding land uses include the following zoning classifications and existing land uses. (Please see attached map for details).
1. North – High Density Residential RMF-75 and Moderate Density Multi-Family RMF-35 – non-conforming medical clinic and 14-story (approximate) high density apartment building
 2. South – Moderate Density Multi-Family Residential RMF-35 (across 100 South) – 3-story medium-density apartment building
 3. West – Moderate/High Density Multi-Family Residential RMF-45 – 4-story residential condominium building
 4. East – Low Density Multi-Family RMF-30 (across 900 East) – Single-family and multi-family residential, retail and institutional uses
- D. The purpose of the Moderate Density Multi-Family Residential 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/acre for single-family attached dwellings
 - 21.8 units/acre for multi-family developments with less than 15 units
 - 29.6 units/acre for multi-family developments over 15 units with 1 acre
 - 29.0 units/acre for multi-family developments over 15 units and above 1 acre
- E. The purpose of the Moderate/High Density Multi-Family Residential RMF-45 district is to provide for an environment suitable for multi-family dwellings of a moderate/high density. Commercial and office types of uses are not permitted in this zone. Maximum height in the zone is 45 feet. Maximum density in the RMF-45 zone is:
- 14.5 units/acre for single-family attached dwellings

- 30.5 units/acre for multi-family developments with less than 15 units
- 43.2 units/acre for multi-family developments over 15 units with 1 acre
- 43.0 units/acre for multi-family developments over 15 units and above 1 acre

F. The public process included a presentation to the East Central Community Council and written notification of the Planning Commission hearing to surrounding property owners.

1. The Administration's transmittal and Planning staff report note the petitioner attended Community Council meetings on October 19, 2005 and February 15, 2006. There was general support for the project but also a concern that the rezone would set a precedent for increased zoning density which would encourage other demolitions in the area. The Community Council discussed design concepts to insure neighborhood compatibility. (A copy of the October Community Council minutes is included in the Planning staff report – Exhibit 4).
2. At the March 8, 2006 Planning Commission hearing, Ms. Chris Johnson, Chair of the East Central Community Council noted the following information. (Please see the Planning Commission minutes, Attachment 1, and item J, pg. 4, of this staff report - Issues discussed at the Planning Commission hearing - for additional details.)
 - a. She represented a 10 of 11 vote in opposition to the proposed development.
 - b. The petitioner had been respectful and cooperative to the requests and concerns of the community.
 - c. The Community Council would be supportive of the development if it was feasible in the RMF-35 zone.

G. The City's Fire, Police, and Public Utilities Departments and Transportation and Engineering Divisions have reviewed the request. The development proposal will be required to comply with City standards and regulations and demonstrate that there are adequate services to meet the needs of the project.

H. The Planning staff report provides the following findings for the Zoning Ordinance Section 21A.50.050 - Standards for General Amendments. The standards were evaluated in the Planning staff report and considered by the Planning Commission. (Discussion and findings for these standards are found on pages 5-7 of the Planning staff report.)

1. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City.

Findings: The zoning amendment is generally consistent with master plan policies of eliminating non-conforming uses and accommodating a variety of housing types. However, to accommodate this specific development, it will require amendment of the Central Community Master Plan to change the map for this site from medium density residential to medium/high density residential.
2. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property.

Findings: The proposed amendments would allow for multi-family dwellings that are similar in scale to adjacent land uses and the amendments are harmonious with existing development.
3. The extent to which the proposed amendment will adversely affect adjacent properties.

Findings: The zone change will not adversely affect adjacent property. Adjacent zoning has allowed structures of similar or greater scale and intensity. The zone change will allow the replacement of a non-conforming medical office building with condominium uses that are more in keeping with the residential character of the neighborhood and potential for future elimination of another non-conforming medical office for future housing development.

4. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.

Findings: The location is within the Groundwater Source Protection Overlay district. The proposed condominium project must satisfy all requirements of the Overlay district. (Please note, the property is located within the Bryant National Historic District but has not been designated as a City Historic District. The Historic Preservation Overlay zoning classification is not applicable.)

5. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

Findings: The proposed condominium project will not negatively affect the existing public services in the area. The project must meet all City Codes and regulations prior to the issuance of a building permit.

- **RECOMMENDATION (Planning staff):**

In light of the comments, analysis and findings noted above, Planning staff recommended that the Planning Commission forward a positive recommendation the City Council to approve an ordinance to:

- Amend the Central Community Master Plan regarding the properties located at 857 East 100 South, 70 South 900 East and 58 South 900 East from a land use classification of medium density housing to medium-high density housing.
- Amend the zoning map to rezone the properties located at 857 East 100 South, 70 South 900 East and 58 South 900 East from the zoning classification RMF-35 to RMF-45.

- I. On March 8, 2006, the Planning Commission voted, based on the comments, analysis and findings, to forward a negative recommendation to the City Council to rezone the property and amend the Central Community Master Plan Future Land Use Map. The Administration's transmittal letter notes that the Planning Commission decision was based upon the fact that the Central Community Master Plan had just recently been adopted identifying the specific site to be medium density on the Future Land Use Map and that there is other RMF-45 land available in the area to develop. (Please see Attachment 1 - Planning Commission minutes for additional details.)
- J. Issues discussed at the Planning Commission hearing (summarized below) included:
 1. The proposed rezoning would be considered spot zoning.
 2. The proposed rezoning could potentially set precedence for additional rezoning of other properties with higher density zoning classifications and encourage other demolitions in the area.
 3. Other properties near the proposed location are currently zoned RMF-45 and those properties should be considered for the proposed development.
 4. Inconsistency with the recently adopted Central Community Master Plan.
 5. Design issues relating to the proposed development including elevation, grade change, height, mass, scale and neighborhood character compatibility.
 6. Potential traffic, parking, entrance/exit location and noise impacts on the surrounding neighborhood.
 7. The potential for crime in the underground parking area.
 8. The proposed demolition of 2 historic homes.
 9. The length of time the petitioner has owned the property, the age of the medical building, the proposed square footage and pricing of the project.
 10. Financial viability should not be considered as an appropriate reason for a zone change.

11. Concern regarding the lack of tools or options available to develop the project and address compatibility, in lieu of rezoning the property, such as use of a density bonus, development agreement or the planned development conditional use process.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR THE ADMINISTRATION:

- A. Council Members may wish to discuss with the Administration the following items that have emerged during the process for this petition.
 1. If it may be appropriate to request that the Planning Commission identify specific findings as part of the motion when they differ from those provided in the Planning staff report, given changes to the Utah Code Land Use Development Management Act that were considered this year and adopted last year by the State Legislature.
 - a. The motion provided in the Planning Commission minutes states, “Based on the comments, analysis and findings, Commissioner Scott made a motion to deny the request to amend the Central City Master Plan to City Council and to also forward a recommendation to City Council to deny the rezoning at the subject property”.
 - b. The Administration’s transmittal letter notes that the Planning Commission decision was based upon the fact that the Central Community Master Plan had just recently been adopted identifying the specific site to be medium density on the Future Land Use Map and that there is other RMF-45 land available in the area to develop.
 - c. The Planning Commission minutes reflect additional items summarized below. (Please see Attachment 1 - Planning Commission minutes - for specific statements and additional details.)
 - Additional comments made by Commissioners after closing the public hearing including those noted in the transmittal letter. For example:
 - RMF-45 should be located along the 700 East corridor.
 - The proposed rezone is a spot zone request.
 - The area surrounding the subject property includes various zones.
 - The entire area is in a unique situation and should be considered individually.
 - A list of opposition points made by the East Central Community Council Chair and members of the public.
 - Several statements made by the petitioner and the project architect responding to concerns and issues, benefits of the proposed project to the community, steps taken and time invested in working with Community Council members to respond to their issues.
 2. When is it appropriate to consider amending adopted master plans? In a memo to Council Member Jergensen, dated May 10, 2006, the Planning Director provided information relating to the Planning Division’s opinion on the appropriateness of amending a master plan. (Please see the attached memo for reference - Attachment 2 This memo was also provided to all Council Members. Planning staff indicated to Council staff that the memo was shared with the Planning Commission.) The memo notes:
 - a. The appropriateness of amending a master plan is affected by various factors such as time, map inconsistencies, specific policy analysis, new development patterns and new city-wide policies.
 - b. The need to amend a master plan is usually discovered during the analysis of a specific proposal.
 - c. Through specific analysis of a project and after reviewing all of the applicable adopted policies, the decision makers can determine whether it is appropriate to amend policies of a master plan.

- d. Because the policy is usually not the matter of conflict, rather where the policies are applied geographically is the point of conflict; the Future Land Use Map is usually the portion of the master plan that is proposed for amendments.
3. The Council may wish to request more information from the Planning Division on the issues considered at the Planning Commission in relation to this petition, and whether the Administration provides information to the Commission to assure that they are fully aware of the policy issues relating to the projects, and that the scope of the Planning Commission's role is clear for each project considered. For example:
 - a. "The proposed rezoning would be considered spot zoning." Does the Planning staff agree that this proposed rezoning could be considered spot zoning? Was information or clarification provided to the Planning Commission? Could a lack of response on this assertion for the record leave the City open to legal questions?
 - b. "The length of time the petitioner has owned the property, the age of the medical building, the proposed square footage and pricing of the project." When issues of this nature are raised is the role of the Planning Commission clarified, or does the Planning Commission consider these issues as part of their deliberations?
 - c. "The potential for crime in the underground parking area." The City's master plans have encouraged underground parking whenever possible, while also recognizing the need to address crime prevention through environmental design. Since specific findings were not made, it is not clear whether the inclusion of an underground parking garage (in keeping with the concepts of the master plan) was a factor in the Planning Commission's recommendation for denial of this petition.
4. The Administration's transmittal notes:
 - a. Due to various written correspondence relating to this request, the Planning Commission addressed the issue three times after their decision on March 8, 2006. The issues outlined in the correspondence included concerns regarding process, which were raised by the applicant, and a formal request to re-hear the petition in a public forum in response to those concerns. (Please see Attachment 3 – Letters and minutes relating to accusations of irregularities in the process – and the Administration's transmittal letter pg. 4 for details.)
 - b. The correspondence is summarized as follows:
 - Applicant's letter, dated March 15, 2006, raising claims of irregularities in the process and possible ex parte communications between a Commissioner and members of the East Central Community Council.
 - Planning Director's letter, dated March 23, 2006, to applicant responding to the applicant's claims.
 - At the March 22, 2006 Planning Commission meeting, Commissioner Scott also responded to the allegations.
 - At the April 12, 2006 Planning Commission meeting, in response to a request from the Community Development Department for the Planning Commission to rehear the matter, the Commission voted to reaffirm their decision to recommend denial of the rezoning and master plan amendment.
 - At the April 26, 2006 Planning Commission meeting, in response to a letter from the applicant requesting the Planning Commission rehear the matter, the Commission voted again to reaffirm their decision to recommend denial of the rezoning and master plan amendment.
 - At the June 14, 2006 Planning Commission meeting, the Commissioners specifically addressed allegations made by the applicant.
 - o The Commission found that no evidence supports the applicant's accusations put forth in letters to the Community Development and Planning Directors regarding

comments made during the Planning Commission meeting and between Planning Staff.

- o They further stated that the basis for allegations relating to conversations held between Commissioner Scott and members of the East Central Community Council and/or any other member of the Planning Commission were unfounded and without merit.
- o Chairperson Noda stated that Commissioner Scott had already stated in the record that she did not have any conversations with outside parties regarding the petition, nor attended any field trips other than the Planning Commission field trip that is regularly scheduled.
- o When the applicant requested time to address the Commission, the Commission voted to not take testimony from the applicant.

5. The timeframe identified by the Planning Division for processing amendments to the Zoning Ordinance to provide options or tools for facilitating new development or redevelopment projects in lieu of rezoning properties.

- a. At the Planning Commission hearing, Commissioners expressed concern regarding the lack of tools or options available to develop the project and address compatibility, in lieu of rezoning the property, such as use of a density bonus, development agreement or the planned development conditional use process.
- b. Planning staff indicated that in October of 2005 a petition was initiated by the Commission to review the requirements of density for Planned Developments. Planning staff also noted that on March 7, 2006, the Council initiated a Legislative Action requesting the Planning staff review the same item of concern. Planning staff stated that the petition will be given new priority by the Planning staff.
- c. On March 7, 2006, as part of the Council action adopting the non-conforming uses and non-complying structures Zoning Ordinance text amendment, the Council adopted a motion initiating a Legislative Action requesting that the Administration (Planning Commission and Planning staff) address additional design considerations regarding expansion, enlargement or voluntary demolition for such uses and structures. Key elements the Council requested the Administration to review within the next six months include:
 - Additional design considerations including, but not limited to:
 - o Height
 - o Historic preservation
 - o Density
 - o Neighborhood compatibility
 - Ensure that the standards are consistent for voluntary demolition, the conditional site design review process and the conditional use process.
- d. On March 7, 2006, as part of the Council action rezoning property located at 500 South, 500 East and Denver Street (Richard Astle and Thaes Webb, petitioners), the Council adopted a motion initiating a Legislative Action requesting that the Administration reevaluate the Residential Multi-Family RMF zoning districts relating to height, density and compatibility with surrounding neighborhoods and identify options that would include, but not be limited to, modification of the Planned Development regulations, density bonus and affordable housing incentives, and neighborhood compatibility standards. *(This was in response to the Council's discussion of the need in this situation to use a development agreement restricting height in order to allow for the desired density in addition to rezoning the property.)*

MASTER PLAN AND POLICY CONSIDERATIONS:

- A. The Central Community Master Plan (November 2005) is the adopted land-use policy document that guides new development in the area surrounding the proposed rezoning and master plan amendment. The Future Land Use Map identifies this area for Medium Density residential uses. (As previously noted, amending the Future Land Use Map in the Central Community Master Plan is part of this petition.) The Administration's transmittal and Planning staff report note:
1. The Central Community Master Plan identifies the subject properties as medium density residential.
 2. The adjacent properties are identified as medium-high and high density residential.
 3. The Central Community Master Plan encourages the elimination of non-conforming uses in residential zones if they are replaced by residential uses. (page 32)
- B. The City's Comprehensive Housing Plan policy statements address a variety of housing issues including quality design, architectural designs compatible with neighborhoods, public and neighborhood participation and interaction, accommodating different types and intensities of residential developments, transit-oriented development, encouraging mixed-income and mixed-use developments, housing preservation, rehabilitation and replacement, zoning policies and programs that preserve housing opportunities as well as business opportunities.
- C. The Transportation Master Plan contains policy statements that 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 recognizes the benefits of locating high density housing along major transit systems and reducing dependency on the automobile as a primary mode of transportation.
- 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.
- 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:

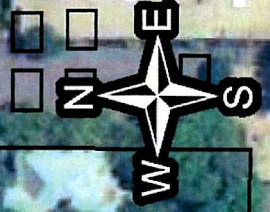
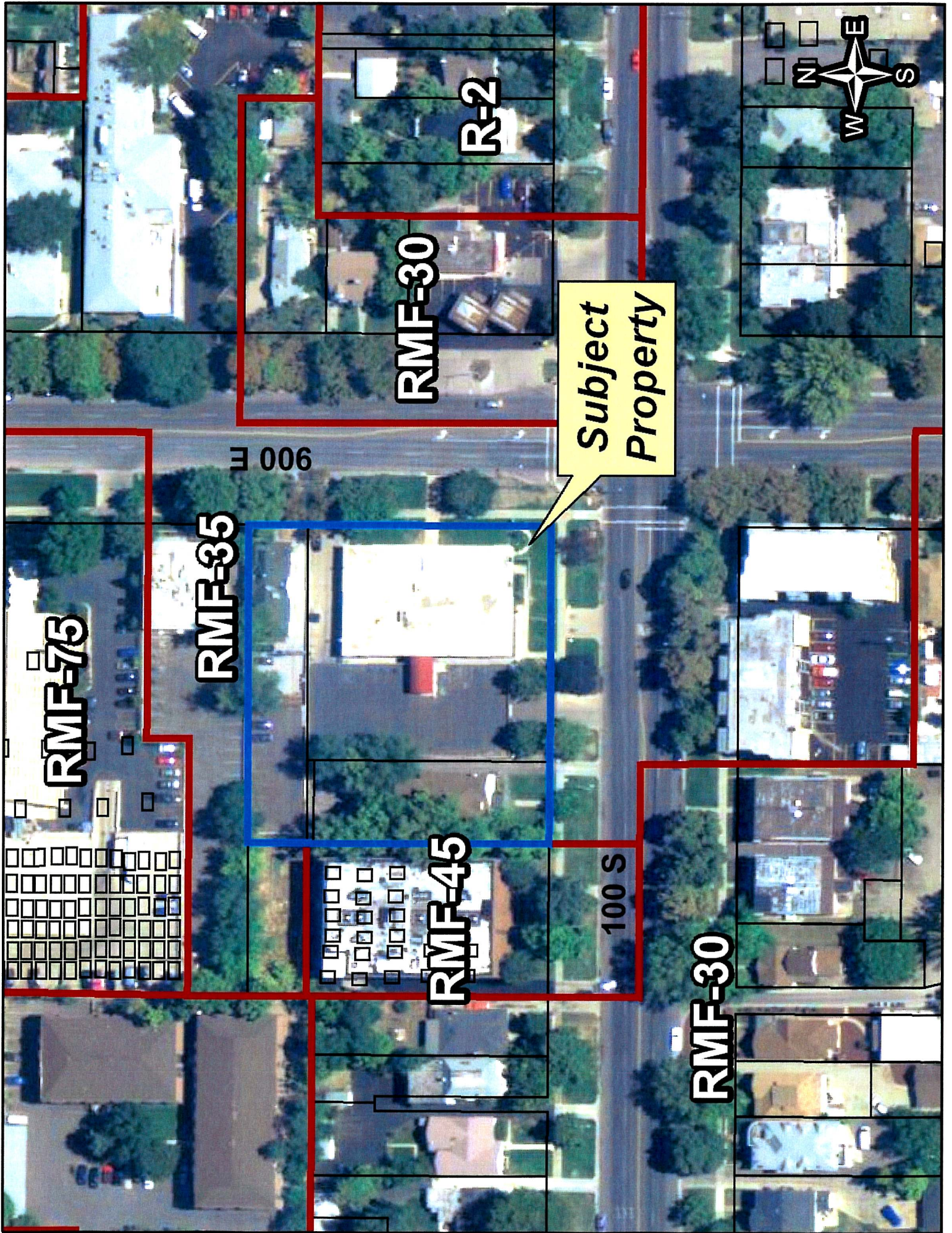
The Administration's transmittal provides a chronology of events relating to the proposed rezoning and master plan amendment. Key dates are listed below. Please refer to the Administration's chronology for details.

- Oct. 19, 2005 & Feb. 15, 2006 East Central City Community Council meetings
- December 13, 2005 Petition submitted to Planning Division
- March 8, 2006 Planning Commission hearing
- March 14, 2006 Ordinance requested from City Attorney's office

- March 24, 2006 Ordinance received from City Attorney's office
- March 22, April 12, April 26 and June 14, 2006
Planning Commission review and response to claims of process irregularities and ex parte communication

cc: Sam Guevara, Rocky Fluhart, DJ Baxter, Ed Rutan, Lynn Pace, Melanie Reif, Louis Zunguze, Brent Wilde, Alex Ikefuna, Doug Wheelwright, Cheri Coffey, Doug Dansie, Jennifer Bruno, Sylvia Richards, Gwen Springmeyer

File Location: Community Development Dept., Planning Division, Rezoning and Master Plan Amendment, Blake Henderson, 857 East 100 South, 70 South 900 East and 58 South 900 East



R-2

RMF-30

Subject Property

900 E

RMF-35

RMF-75

100 S

RMF-45

RMF-30

ATTACHMENT 1

SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, March 8, 2006

Present for the Planning Commission were Laurie Noda (Chairperson), Tim Chambless, John Diamond, Robert Forbis Jr., Peggy McDonough (Vice Chairperson), Kathy Scott, Jennifer Seelig and Prescott Muir. Craig Galli and Babs De Lay were excused from the meeting.

Present from the Planning Division were Alexander Ikefuna, Planning Director; Doug Wheelwright, Deputy Planning Director; Doug Dansie, Principal Planner; Wayne Mills, Senior Planner; and Cindy Rockwood, Senior Planning Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Noda called the meeting to order at 5:46 p.m. Minutes are presented in agenda order and not necessarily as cases were heard by the Planning Commission. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Tim Chambless, Kathy Scott, Prescott Muir, and Robert Forbis Jr. Planning Division Staff present was Doug Dansie.

PUBLIC HEARINGS

Petition 400-0543 —A request by Blake Henderson to amend the zoning map to change the parcels of land located at approximately 857 East 100 South, 70 South 900 East and 58 South 900 East from RMF-35 to RMF-45 to build a new multi-family housing development. This proposal will require an amendment to the Central Community Master Plan to identify the properties as medium-high density residential rather than medium density residential.

(This item was heard at 6:02 p.m.)

Chairperson Noda recognized Staff member Doug Dansie presenting the petition.

Mr. Dansie introduced the petition as a rezone of the area generally located on the northwest corner of 900 East and 100 South. The property is south of the Sunset Tower Apartments and east of the Market Street Condominiums. The site is presently zoned RMF-35 and is presently occupied by a non-conforming medical office building. The property slopes to the south. Two homes are located on each side of the medical building. The applicant is proposing to demolish all three structures and build a condominium complex.

The complex would be three- and four-stories tall. The taller portions will be located towards the northeastern portion of the site, with the three-story on the southwestern portion. The new building meets all criteria of the RMF-45 zoning requirements. Mr. Dansie stated that the Planning Commission is considering the request for a zoning change. If the zoning is approved, a permit would be issued for the building as there are no conditional or planned development requirements for the proposed building. All parking for the development will be underground. If RMF-45 zoning is approved, the site plan found in the Staff Report meets all ordinance requirements. It was noted that the proposed development would be lower than the existing Market Street Condominiums.

The ground units in the proposed development would have street access and are responsive to the street. The subject property is located in a National Historic District, but not the City Historic District. At present, the medical office building is not eligible for the register; although the homes are. The proposal has been routed to all applicable City departments and no objections were raised regarding the zoning change. Mr. Dansie mentioned that the site plan has been recently altered due to request from the fire

department and its requirement for accessibility to all areas of the building; therefore, the driveway has been realigned to enter on the side of the proposed development.

The zoning change proposed would require an amendment to the Central Community Master Plan. The Land Use and the Zoning Map coincide with another, but carry some varying characteristics. There is not always a direct correlation between the exact zone and the land use; therefore, more than one Zoning classification can fit into a Land Use category. The Land Use surrounding the proposed property is a mixture of high, medium-high, medium, and low-medium density. Mr. Dansie noted that previous Land Use maps for other master plans had been completed with a broad-brush, generalized style, not defining exact parcels of Land Use. The Central City Master Plan was completed with a computer and is parcel based, therefore providing distinction. The subject property is identified as medium-density housing.

Staff recommends the Planning Commission amend the Central Community Master Plan regarding the properties at 857 East 100 South, 70 South 900 East, and 58 South 900 East from a Land Use classification of medium density to medium-high density housing classification and change the zoning from RMF-35 to RMF-45.

Commissioner McDonough requested information regarding the elevation of the properties and the variation presented on the maps. Commissioner McDonough noted a significant grade change on the 900 East elevation map illustrating a retaining effect on the north of the property, resulting in a lower sidewalk and landscape.

Mr. Dansie stated that the elevation maps are the same, but due to the superimposition of the photographs, the trees are actually concealing the design. Mr. Dansie agreed that there is a grade change in the northern area of the property resulting in a flattened sidewalk and landscape.

Commissioner Scott noted two corrections in the Staff Report on page 5 with regards to the specific location of the subject property to the neighboring properties. Mr. Dansie agreed and stated that the subject property is not immediately adjacent to a high-density property.

At 6:18 p.m., Chairperson Noda recognized the applicant, Mr. Blake Henderson.

Mr. Blake Henderson introduced himself and Mr. Neil Henderson (senior) as a partner in the project. The applicant distributed a handout to the Commissioners reflecting the proposed project and the necessity of a rezone. Mr. Henderson stated that the project is not financially viable within an RMF-35 zone and the renovation of the existing buildings is also not financially viable, resulting in a rezone as the only option.

Mr. Henderson stated that the subject property is bordered by an RMF-45, and is one lot removed from an RMF-75. The building presently on the subject property is a non-conforming medical office building. The proposed project is a full residential condominium project for purchase and would provide a more pleasing view to the area. Mr. Henderson stated that he has met with the East Central Community Council numerous times and has felt support and cooperation in working with the community to provide a feasible structure for the area. The Community Council has expressed concern regarding the size of the building; although, the design and concept of the building has been supported. One of the major concerns of the Community Council is the possibility of a precedent being set by the proposed rezone, but it is required to place the structure on the site and to provide a benefit to the community.

In response to Commissioner McDonough's questions regarding the elevation and the grade change, Mr. Henderson stated that the building has been lowered in order to maintain a lower height. The building will remain a forty-four foot high building on the 900 East side, but the existing grade will be altered.

Commissioner McDonough requested clarification on the actual grade change creating a steeper slope to the building. Commissioner McDonough noted concern for the difference between the sidewalk and the first level of the building in the northeast area of the building. Commissioner McDonough noted that the first-level site plan does not detail the entry doors from below grade and the connection to the sidewalk.

Guillaume Belgique, Project Architect, stated that the grade change would be approximately five to six feet given the proposed site plan, but that alterations may occur once the project has reached the finalizing stages. He noted that the property will have twenty-five feet from the property line for the landscaping to slope to the appropriate level.

Mr. Henderson noted that the reasoning in lowering the building height was to create a greater visual aspect from the 900 East view and was in response to a request from the community council. It was also noted that parking is below grade with accessible entry above the parking level as well as from the interior.

Commissioner Diamond requested the limitations of "cut and fill" on the site. Mr. Wheelwright stated that there are implications, but a grade change may be conducted for up to two feet on the property. If it is outside of the two-foot range, the proposal must appear before the Board of Adjustment.

Commissioner Chambless asked a few questions regarding the period of time the Hendersons have owned the property, the age of the medical building, and the proposed plan of the square footage and pricing of the property. Commissioner Chambless also noted that the units would not likely be used by students of the university or the elderly commuting to the downtown area.

Mr. Henderson stated that the property had been obtained in December 2005 and the medical office building was built approximately in the 1940s or 1950s. He stated that the square footage of the units will range between 1500-1800 sq. ft., with a penthouse on the fourth level with approximately 3700 sq. ft. The price projected is in the high \$300,000 to \$500,000 range and would be owned, not rented.

Commissioner Diamond requested further information relating to the financial inability to provide 46 units in a duplex manner. He noted that the applicant is given the right to appear before the Planning Commission and present a plan that will bring a greater return to a property, but consideration should be given to engage the ground-level units. Commissioner Diamond asked if the applicant had been given the option to complete this project as a Planned Unit Development (PUD) and if they had reached the requirements.

Mr. Henderson stated that the Salt Lake City code would not allow the density requested in an RMF-35 zone. In an RMF-35 zone the density could have reached 32 units, but would not be allowed more than 33 units because of the size and height requirements.

Mr. Dansie responded to the question regarding the PUD option, by stating that the site does not contain multiple buildings. By definition, a Planned Development process cannot be used to increase the density above the base zone.

Commissioner Muir clarified that the petition placed before the Commission is for a rezone. Mr. Ikefuna agreed and stated that the Planning Commission can recommend conditions wherein the property could comply in building the proposed design.

At 6:44 p.m., Chairperson Noda opened the Public Hearing and requested any comments from Community Council Chairs or public.

Chris Johnson, Chair of the East Central Community Council Chair spoke. Ms. Johnson noted her concerns about the project (as listed below). She was representing a 10 of 11 vote in opposition to the proposed development. Ms. Johnson also stated that the Hendersons have been respectful and cooperative to the requests and concerns of the community. The Community Council would be supportive of the development if it was feasible in an RMF-35 zone. Ms. Johnson also requested a possible form of better communication between the Planning Division and the Community Councils.

The following members of the public spoke in opposition to the petition: Arla Funk, Cindy Cromer, Ester Hunter; Chair of the University Neighborhood Council, Michael Molteni, and Wendell Duncan. (Handouts were distributed to the Commissioners by some of the representatives.)

The opposition points made by the East Central Community Council Chair and members of the public are listed as follows:

- Zoning the property an RMF-45 is a spot zoning technique and could result in further upzoning
- Setting a precedent for allowable zone changes
- Inconsistency with the recently adopted Central Community Master Plan
- Financial viability is perceived differently by each individual and should not be considered as an appropriate reason for a zone change
Inconsistency in the City's Master Plan
- RMF-45 zoning can be found in the 400 South area and should be considered by the developer
- A home zoned R-2 is located ½ block to the east of the subject property
One- to three and one-half story buildings are in the vicinity; not larger buildings that do not fit.
- The continuous mass of the proposed property will change the character of a key intersection
- Demolishing of two historic homes
- After-hour noise becoming amplified
- Placement of HVAC and AC units
- Amplification of crime in the underground parking area
- Location of entrance/exit
- Insufficient number of parking spaces for owners and visitors

Ms. Cromer noted that density is not as great of concern as character compatibility. She also noted that the neighborhood is anticipating the addition of two group homes within the former Bryner Clinic building (RMF-45) and has not had any complaints regarding the change of use.

Ms. Cromer also stated that the City Ordinance Code should be reviewed because of the considerable changes in the recent history and the density. A suggestion was to consider density bonuses be included within the City code.

At a point during the comments from the public, Mr. Ikefuna clarified that the Central Community Master Plan encouraged the elimination of non-conforming buildings if the area is replaced with a residential use.

At 7:28 p.m., Mr. Henderson was given the opportunity to respond to some of the concerns that were stated. Some of the concerns noted were building code concerns and will be addressed as progression is made with the project. Density is not the strongest concern among the opposition, but rather the precedent this rezone could establish in the area. Developers will continue to come and request for a rezone but this project is a benefit to the community and will reduce crime. The project is an upscale addition to the community; but an addition of this type cannot be completed in a RMF-35. Perhaps another type of building could be developed, but it will not be as complimentary to the community. The base is to rezone the property to an RMF-45 in order to complement the property. Mr. Henderson Sr., stated that excellent dialogue has been conducted between community council and the developers. In his view, the community councils are highly concerned with the possibility of setting a precedent, when in fact the planning staff is not trusted to make decisions when considering the best interest of the City.

Mr. Dansie was given some time to respond to any further questions of the Commissioners.

Commissioner McDonough requested the height of the RMF-35 apartment building on 100 South and 900 East on the south side of the street.

Mr. Dansie stated that the first floor was slightly elevated and could be 33-35 feet, but he was unable to give the exact height:

Commissioner Muir requested information on the advisement an applicant receives in relation to the presentation given to the Community Councils. Commissioner Muir noted that the proposed project either

carried an approval or disapproval for the Planning Commission unless a development agreement was to be developed. He was also concerned that the possibility of a Planned Unit Development (PUD) should have been considered for this applicant, rather than a complete rezone request.

Mr. Dansie stated that the City Ordinance requires the applicant to present the petition to the Community Council. Legally, the applicants are only required to present the proposed project to the council and utilize the time spent with the community council as an information gathering situation. The attorney's have discouraged the use of development agreements with the issue of a rezone because of the possible bias for specific projects. The attorney's have requested that the Land Use be considered as the main guideline. Mr. Dansie also noted that this specific project could not be a PUD because of the requirements of a PUD.

Commissioner Muir stated concern about the lack of ability the Division has to allow a mechanism to find greater compatibility between the 29- and 46-unit development, rather than the option of a rezone.

Mr. Wheelwright stated that in October of 2005 a petition was initiated by the Planning Commission to review the requirements of density for a Planned Unit Development. The City Council seconded the petition initiation and passed a Legislative Initiative on March 7, 2006, requesting the Planning Staff review the same item of concern. The petition will be given new priority by the Planning Staff.

Mr. Ikefuna stated that comments and concerns have been noted that the decision regarding this proposed development might set a precedent in the area. He stated that this thought was not entirely supported because of the location of the subject property located near to an RMF-45 and an RMF-75.

At 7:44 p.m., Chairperson Noda closed the Public Hearing and the Commission went into Executive Session.

Commissioner Scott stated in response to Mr. Ikefuna's comment that the area surrounding the subject property includes various zones; although there is an RMF-45, it was an existing zone when the master plan was created. She noted the Land Use for the area is medium density and would not recommend the alteration of a recently adopted master plan. Commissioner Scott also stated that the proposed rezone is a spot zone request, and other properties near to the proposed location are zoned RMF-45 and that those properties should be considered for the development requested.

Chairperson Noda stated that the surrounding area of the subject property is a various point of zoning, but RMF-45 should be located along the 700 East corridor. She agreed with the statement of spot zoning and expressed concern with the surrounding vicinity of two-story buildings. Chairperson Noda stated that the option of demolishing the medical building would be beneficial to the surrounding neighborhoods, and noted appreciation to the developer and the cooperation exhibited with the community council.

Commissioner McDonough stated that a relevant point of opposition was that RMF-45 zoning is available further west on 700 East. She stated that her points made regarding the slope were in relation to the awkward site of the property and not the massing and scale, rather the massing and scale provide a compatible building for the area. The overall question lies in spot zoning and future opportunities.

Commissioner Muir noted that the entire area is in a unique situation and should be considered individually. He stated that the demolition of the medical office building could be a problem for developers. Commissioner Muir continued to state that the RMF-45, if issued, should be shifted to the corner area of the block. He also noted that his participation in the development of the East Central Community Master Plan will lead to his vote against the proposed development.

Motion for Petition 400-05-43 — Based on the comments, analysis and findings, Commissioner Scott made a motion to deny the request to amend the Central City Master Plan to City Council and to also forward a recommendation to City Council to deny the rezoning at the subject property. The motion was seconded by Commissioner Chambless. All voted "Aye". The motion passed.

Commissioner **Seelig** requested information on how the public receives information when it is requested at a Planning Commission meeting.

Mr. **Ikefuna** responded that Staff will ensure to send the appropriate material to the member of the public.

Meeting was adjourned at 8:29 p.m.

Cindy Rockwood, Senior Planning Secretary




MEMORANDUM

451 South State Street, Room 406
Salt Lake City, Utah 84111
(801) 535-7757

Planning and Zoning Division
Department of Community Development

TO: Councilmember Eric Jergensen

FROM: Alex Ikefuna, Planning Director 

DATE: May 10, 2006

CC: City Council Members
Louis Zunguze, Community Development Director
Brent Wilde, Deputy Community Development Director
Cheri Coffey, Deputy Planning Director
Doug Wheelwright, Deputy Planning Director
Cindy Gust-Jenson, City Council Executive Director
Janice Jardine, Public Policy Analyst

SUBJECT: Appropriateness of Amending Master Plans

As per your request, the Planning Division is submitting this memorandum regarding the Division's opinion on the appropriateness of amending a master plan.

The general definition of a master plan is:

"The plan is the official statement of a municipal legislative body which sets forth its major policies concerning desirable future physical development; the published general-plan document must include a single-unified general physical design of the community, and it must attempt to clarify the relationships between physical-development policies and social and economic goals."

A master plan serves many purposes: (1) to describe and identify the community character, (2) to clearly identify the future direction of the community, (3) to describe the compatible components of new development, (4) to identify community problems and propose solutions, (5) to identify strategies for maintaining community attributes and strengths. Master Plans most often contain the above information in two components: Text and Future Land Use Map.

The main tool used by cities to implement the policies of a master plan is a zoning ordinance. This tool regulates land use and lot and bulk requirements.

Creation, Adoption and Development

The process for the creation and adoption of a master plan allows opportunity for public input in an advisory capacity and eventual adoption by the legislative body. In Salt Lake City, public input is obtained in four ways: (1) general public issue identification meetings, (2) an Advisory Committee for the Master Plan project, (3) community council review, and (4) public hearings.

Policies to implement new planning concepts, address issues raised by the community, and identify implementation efforts are the main focus in the development of the master plan; therefore, the most specific focus is on the Text component of the master plan. The development of the Future Land Use Map is generally based on the existing land use, existing zoning, and new policies that may affect a certain area (such as a new Transit Oriented Development corridor). Therefore, the Future Land Use Map is a generalized map in which the Planning Division does not scrutinize each parcel, but instead consists of a general idea where major changes to physical development in the community are envisioned to occur.

Prioritization of Plan Development and Update Process

Master Plans are long-range policy documents requiring many years to develop. Although there is a general idea of a plan's lifespan, (generally 10-20 years), the priorities for updating or rewriting master plans is based on development pressures for a geographic area, age of the plan, the overriding public need, and whether funding has been allocated. Therefore, some plans are not updated as frequently as others. An example of this varied timeline update concept, would be the update to the *Downtown Master Plan* (adopted in 1995) prior to the update of the *Avenues* or *East Bench Master Plans* (adopted in 1987). The *Downtown Master Plan* has been affected by development pressures, and requires consideration of the greater public need and the planning policies needing to be addressed in the Downtown area. In the *Avenues* or *East Bench* communities, many items requiring consideration may be addressed through zoning ordinance changes.

Appropriateness of Amending a Master Plan

The appropriateness of amending a master plan is affected by various factors.

1. Time

The number of years between the master plan's adoption and update request can vary. There may be various new, city-wide policies that are adopted prior to the update of a community master plan which would conflict with older community master plan policies. An example of this is the non-conforming/non-complying ordinance that was adopted to help property owners refinance their properties. This project required amending the *Avenues Community Master Plan* (adopted in 1987) which contains specific language that discourages the City from allowing these types of structures to be rebuilt.

2. Map Inconsistencies

A project may be suggested that would implement various policies found within the Text of a master plan, but that may not be consistent with the Future Land Use Map for the specific property. An example of this is the Richard Astell rezoning request at approximately 520 South 500 East. In this project, it was found that the project would implement various master plan policies (both city-wide and in the *Central Community Master Plan*) by providing more housing near a light rail station as well as provide a variety of housing types and densities in the neighborhood. The decision makers found that the location was appropriate for higher-density residential development because of its location within a ¼ mile of a light rail transit line on 400 South and the adjacency to higher-density zoning.

3. Specific Policy Analysis

During the zoning implementation phase of a master planning process, it may be appropriate to amend a master plan after conducting a more thorough analysis of a specific policy and obtaining input from the affected property owners (who are usually not very involved in the development phase of the master plan). An example of this is the amendments to the *Sugar House Community Master Plan* which were required as part of the implementation of zoning changes that were identified in the plan.

4. New Development Patterns

Addressing new development patterns in an area that is governed by an older master plan is another scenario of when it may be appropriate to amend a master plan policy. An example of this is the amendments to the Northwest *Community Master Plan* (adopted in 1990) in 2004 to identify an area (700 North Redwood Road) as commercial rather than residential because the center of the neighborhood had shifted.

5. New City-wide Policies

Implementing various city-wide planning policies, identified in city-wide planning documents, may require amending a community master plan's Future Land Use Map if it is inconsistent with the map but the project would implement city-wide goals. An example of this includes proposals to allow higher-density housing development along North Temple Street in anticipation of the development of a light rail transit corridor on this street.

The need to amend a master plan is usually discovered during the analysis of a specific proposal. Therefore, through specific analysis of a project and after reviewing all of the applicable adopted policies, the decision makers can determine whether it is appropriate to amend policies of a master plan. Because the policy is usually not the matter of conflict, rather where the policies are applied geographically is the point of conflict, the Future Land Use Map is usually the portion of the master plan that is proposed for amendments.

Coordination of Planning Documents during Review

In an effort to try and minimize conflicts between community master plan policies and city-wide policies, the City has agreed to a new process for master plan development. In the past, the main citizen input source during the development of a master plan was the affected community council. Although the community council still plays a large role in the development of new master plans, the City has found that it is in the interest of the public if broad and diverse citizen input is obtained. The Planning Commission, as the City's leading planning body, is now the lead group in the development of master plans and is heavily involved in the planning process. The involvement by the Planning Commission ensures that the planning policies in any one community master plan are consistent with city-wide goals. It also assures that the master plan is not narrowly focused on one area that would preclude city-wide planning policies from being implemented.

Process to Amend a Master Plan

The State Enabling Legislation; Land Use Development Management Act, identifies the process that must be followed in amending a master plan. The City's process, which meets the State requirements, includes: (1) presentation of the matter before the affected community council for input, and (2) mailing notification of the public hearings (both the Planning Commission and City Council) to owners of property within 300 feet of the subject property and publishing notification in a newspaper of general circulation fourteen days prior to the public hearings. Community Councils, business groups, and other interested parties are included in the mailed notification of the public hearings.

If you have any questions or comments, please contact me at 535-7226 or at alexandef.ikchna@slc.gov.com. The Planning Staff is also willing to meet with you or any of the Council members to discuss the information included in this memorandum.

Thank You

- d. Letters and minutes relating to accusations of irregularities in the process**

Date: March 15,2006

To: Louis ~~Zunguze~~, Planning Director

From: Blake Henderson
Applicant/ Land Owner
Case #: 400-05043

CC: Alex **Ikefuna**, Planning **Administration** Director
Doug **Dansie**, Principle Planner

Subject: Rezoning application for 857 East 100 South, 70 South 900 East and 58 South 900 East, from RMF35 to RMF45 reviewed at the March 8,2006 Planning Commission Meeting.

Dear Sir,

On March 8 our application for a rezoning of our property on the northwest corner of 100 South and 900 East was heard by the Planning Commission. The application was submitted by the Planning Department with a strong positive recommendation. Our application will be forwarded to the City Council with a negative recommendation by the Planning Commission. This letter is sent to request a review of the above matter because there appears to have been some irregularities in the review process, before the meeting took **place**, and as a **result** during **the meeting** itself.

The irregularities:

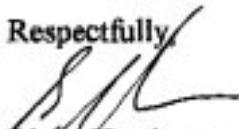
During preparation for this meeting we asked the Planning Department staff if it was appropriate to ask for pre-meetings with some of the Planning Commissioners to thoroughly explain our rezoning request and its importance to our project. We were advised against this by **staff**. They said it **was** politically incorrect and that it put the said Commissioners in a **difficult** position in **judging** the application **on** its merits. We happily took staff's recommendation.

We later (just prior to the meeting) heard from the Community Council (~~Esther Hunter~~) that Cindy **Chromer** and or **Arla Funk** had met with certain Commissioners ~~before the~~ meeting and had **successfully lobbied** to have our application rejected or ~~at~~ the very least recommended to a subcommittee. It is our belief that at least Commissioner Kathy Scott met with the Community Council and road around the neighborhood in their car while being lobbied to support their case. This commissioner during the meeting single handedly directed the arguments in favor of the Communities Councils position and formed and proposed the motion for the "negative recommendation".

I do not **know** the degree of inappropriateness of the above Commissioners actions but I am absolutely certain that **we** did not have equal access to the Commissioners and it appears the outcome of the meeting supports the boast of the four Community Council members present that the out come was a 'done deal' before the meeting started.

We do not believe that we should argue the merits of our project and our application in this letter but we strongly request to have our application reheard by the Commissioners, (with Commissioner Kathy Scott excusing herself from the proceedings).

Respectfully,



Blake Henderson

P.S. below are additional comments that may be of interest to you with respect to the above.

- The Community Council advised us to take a path that they would orchestrate that would allow us to go around the current zones, code and process by negotiating with certain planning **staff**, building department, inspectors **and** politicians to sign off on our project as designed for RMF45 but to be built in a RMF35. Our position to the Community Council is that we would follow the standard protocol and **advise** of planning staff and go to a hearing by the planning commission for a formal re-zone.
- When **we** told the Community Council **we** were not willing to postpone our scheduled hearing, they requested a meeting with Planning Commissioners and were very vocal in an attempt to lobby against our re-zone. I became aware of this meeting through a phone call with Esther Hunter on March 8th. She told me that she was concerned because they were going to oppose our re-zone because of the precedent it might set when in fact they liked the project and that it was not a matter of this projects height or density. She **further** stated that the Community Council were not too concerned because Cindy Chromer and or **Arla** Funk had an agreement with one or more of the planning commission that the re-zone request would be recommended to go to a sub-committee if not denied all together.
- This "deal" became even more apparent when during the hearing Planning Commissioner Kathy Scott brought up that while riding around 7th East with Community Council members that they pointed out many building opportunities for a RMF45 projects. As the hearing proceeded to comments **from** the Planning Commission Kathy Scott was the second Commissioner to speak and then tried to move directly to a denial for the rezone well before other Commissioners had expressed their thoughts. Commissioner Scott's motion was delayed until all Commissioners had their turn.

We are confident that this deal was made between **Arla** Funk, Cindy **Chromer** and Kathy **Scott** and possibly one other Commission member. I was told by Esther Hunter that they were not too concerned going into the hearing because this deal was struck

Community Council urged us to postpone the hearing so they could work with unnamed people in the Planning Dept. and Building Dept. to get this project approved and built, 'essentially as is' but **still** called a RMF35 zone.

- We told the Community Council we were not **comfortable** with this because we do not understand the process and did not want to take the risk of building a project so far out of code and zone that it could get shut down at any moment. The Community Council has repeatedly expressed that we need to **trust** them that they have ways of getting this done by "just going over the counter and involving only the right people.

I asked for more detail but Esther was not willing to share more but commented "**that** this is a process you stay very quiet **about**"

- The Community Council have said many times that they like and want this particular project including its height and density but they do not **trust** the Planning Dept. staff to **give** bad projects a negative recommendation if they allow this project to set a precedent. They just do not want to set a precedent for a RMF35 to RMF45 re-zone even though this project is surrounded by buildings greater than 35 feet high.

The Community Council was very **successful** in leading everyone to **believe** that the block we are on is primarily RMF35 **and** R-2. This is not necessarily accurate much of our block is Zoned RMF 35, 45, 75 and R-2 and the great majority of the buildings are built larger than RMF 35 or our non-conforming. **Consider** our block to run between S. Temple and 100S & 900E and 800E) Our proposed project adds to the residential community's character.

March 23,2006

Mr. Blake Henderson
Blake Henderson
417 Centennial Circle
Park City UT 84060

Re: Letter dated March 15,2006

Dear Mr. Henderson:

I have received your letter regarding the action and discussion of the Planning Commission with relation to Petition #400-05-043 on March 8,2006. I have reviewed your claims and concerns, and thoughtfully considered the discussion points relating to the specific activity of Commissioner Scott.

In reviewing the minutes and discussion that occurred during the Planning Commission meeting, Commissioner Kathy Scott stated her opinion in relation to the specific project and was not swayed by a specific agenda. During the meeting both Cindy Cromer and Ester Hunter discussed driving up and down the **surrounding** area to compile a study about zoning concerns. Commissioner Scott also stated her presence in a vehicle driving up and down 700 East in reference to the Planning Commission Field Trip. This routine field trip occurs prior to every Planning Commission meeting to allow the Commissioners time with Planners to openly discuss and visually grasp the effects of their decision. It is my opinion the ride around the neighborhood you were referring to was actually the routine field trip by the Commissioners.

I appreciate your respect for the advice of the Planning Staff; however, after reviewing your letter and concerns, and after investigation and thoughtful consideration of the facts and discussion points relating to the specific activity of Commissioner Scott, it is my opinion that Commissioner Scott was not reacting to a lobbied conversation or agreement. It is also my opinion that Commissioner Scott did not act inappropriately regarding your petition. Therefore, I find your claims unfounded and, granted that fact, would not recommend your request for a rehearing be granted.

Thank you for your interest in residential development in Salt Lake City.

Sincerely,

Alex Ikefuna
Planning Division Director

cc: Louis Zunguze, Community Development Director
Doug Dansie, Principal Planner

e. Letters and Minutes relating to a request to rehear the case at the April 12,2006 meeting.

Lori Noda
Planning Commission Chair
Office of the Attorney General
160 East 300 South
Salt Lake City, UT 84114

March 30, 2006

Re: Petition #400-05-24 by Harrison Apartments LLC, to rezone the property at 713 East Harrison Avenue from R-1 5000 to RMF-35 to facilitate the construction of six town homes


Dear Lori,

During the course of preparing the City Council transmittal for the above referenced petition, it became apparent from reading the minutes that the Planning Commission was supportive of the proposed development but preferred using the planned development process for approving the project rather than a rezoning. A paragraph on page 3 of the minutes seems to summarize the Planning Commission sentiment. This paragraph states:

Commissioner McDonough addressed the concern that in the future this same scenario might be presented as a Planned Unit Development and possibly be approved. (This would occur only if the Planned Unit Development process was amended.) She raised concern in relation to the manner in which the project is being approved. Given future development, her concern was that approval of this petition could set an unwanted precedent for spot rezoning, rather than using the more effective tool of the Planned Development Process for unique sites within larger overall zones.

City ordinances do not allow the use of the planned development regulations to address this issue or approve a project of this type in this zoning district. Furthermore, there is no indication in the minutes that the Planning Commission understood this or that Planning Staff clearly explained to the Commission that the planned development process is not an option for this type of request. The resulting record sends a mixed and confusing message to the City Council.

As the means of avoiding further confusion or risking that the City Council might refer the petition back to the Planning Commission for clarification, I recommend that the Planning Commission consider scheduling a second hearing to consider this petition.



If you have any concerns about rehearing this petition or any questions, please do not hesitate to contact me. I can be reached at 535-7105 or via e-mail at brent.wilde@slcgov.com.

Sincerely,

Brent Wilde
Community Development Deputy Director

cc: Louis Zunguze, Community Development Director
Alex Ikefuna, Planning Director
Doug Wheelwright, Deputy Planning Director



required surrounding the signs; clarification of the attended sign standards to allow portable signs to be placed within 25 feet of the front door or a window. Mr. Paterson stated that the Public Utilities Division requested a modification to allow the City to request the removal or relocation of the portable sign to accommodate construction in the right-of-way.

Mr. Paterson stated the Business Advisory Committee had reviewed the proposals and recommended approval. He also noted that an Open House had been held where business owners from the Downtown area attended to request the continued use of portable signs.

Mr. Paterson stated that Staff is recommending the Planning Commission forward a positive recommendation to the City Council.

Chairperson Noda requested comments from the public. No comments were received. The Planning Commission entered Executive Session.

Commissioner McDonough requested further information regarding the use of portable signs in the Research Park area, and the terms of block face and intersections in relation to the area.

Mr. Paterson stated that the standards in the Ordinance do allow portable signs in Research Park which is zoned Research Park (RP) Zoning District. He noted that the definition for block face found in the Ordinance is applicable for the Research Park area.

Commissioner Chambless requested further information regarding the liability of the City in relation to the temporary signs.

Mr. Paterson stated that to the best of his knowledge there had not been any liability issues with portable signs. He also noted that with the exception of portable signs, signs in the public right-of-way are generally prohibited. Other types of signs that encroach into the right-of-way, such as marquee signs, require insurance.

Bared on the analysis and findings presented in the Staff Report and diacuosion. Commissioner McDonough made a motion for the Planning Commission to transmit a favorable recommendation to the City Council to approve the amendments portrayed in the Portable Signs Provisions, Section 21A.46.055 of the Zoning Ordinance. Commissioner Forbis seconded the motion. All voted "Aye". The motion passed.

UNFINISHED BUSINESS

(This item was heard at 7:38 p.m.)

Commissioner Scott referenced the prior Planning Commission meeting and a motion she made, to inform the Planning Commission that the petitioner, in the form of a letter, made specific allegations that she had made a deal with Community Councils and participated in illicit van rides. She stated that the allegations were unfounded and questioned her integrity and that of the Planning Commission's decision. Commissioner Scott was outraged and disappointed in relation to the situation and felt it appropriate to share this information with the Planning Commission.

Mr. Wheelwright noted that Cindy Rockwood has been appointed to the Planning Commission Secretary and Sarah Carroll has been promoted to the Principal Planner position. He also noted that two Associate Planner positions remain open. Mr. Ikefuna stated that the Division is working towards obtaining an additional Principal Planner position in the new budget.

Meeting Was adjourned at 7:40 p.m.,


Cindy Rockwood, Planning Commission Secretary

SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, April 12, 2006

Present for the Planning Commission were Laurie Noda (Chairperson), Tim Chambless, Babs De Lay, John Diamond, Robert Forbis Jr., Peggy McDonough (Vice Chairperson), Prescott Muir, Kathy Scott, and Jennifer Seelig. Craig Galli was excused from the meeting.

Present from the Planning Division were Alexander Ikefuna, Planning Director; Cheri Coffey, Deputy Planning Director; Doug Wheelwright, Deputy Planning Director; Joel Paterson, Planning Programs Supervisor; Kevin LoPiccolo, Zoning Administrator; Sarah Carroll, Principal Planner; Marilyn Lewis, Principal Planner; Ray McCandless, Principal Planner; and Cindy Rockwood, Planning Commission Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Noda called the meeting to order at 5:49 p.m. Minutes are presented in agenda order and not necessarily as cases were heard by the Planning Commission. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Tim Chambless, Laurie Noda, Kathy Scott, and Jennifer Seelig. Planning Division Staff present were Doug Wheelwright, Sarah Carroll, and Marilyn Lewis.

APPROVAL OF MINUTES from Wednesday, March 22, 2006.
(This item was heard at 5:49 p.m.)

Commissioner Scott moved to approve the March 22, 2006 minutes. Commissioner Chambless seconded the motion. Commissioner Chambless, Commissioner De Lay, Commissioner Diamond, Commissioner Forbis, Commissioner McDonough, Commissioner Muir and Commissioner Scott voted "Aye". Commissioner Seelig abstained. The motion passed.

REPORT OF THE CHAIR AND VICE CHAIR
(This item was heard at 5:50 p.m.)

Chairperson Noda raised the attention of the Commissioners to a letter received from Brent Wilde, Community Development Deputy Director regarding the Harrison Apartment Rezone Petition No. 400-05-24.

Discussion commenced regarding the previous decision of the Commission, and the determination was that the minutes clearly stated the desired result of the Planning Commission; a Planned Unit Development proposal would have been supported by the Planning Commission had it been an option for the applicant, rather than a rezone request. As a result of this finding, the Planning Commission initiated a petition to review the requirements of Planned Unit Development proposals.

Commissioner De Lay noted that clarity was the strongest concern and suggested a recall and re-evaluation of the Petition.

At 5:54 p.m., Commissioner McDonough made a motion to reaffirm the decision of the Planning Commission in relation to Petition #400-05-24 to state that the unfavorable recommendation was based on the rezoning and master plan amendment standards. Commissioner Scott seconded the motion. Commissioner Diamond, Commissioner Forbis, Commissioner McDonough, Commissioner Scott, and Commissioner Seelig voted "Aye". Commissioner De Lay and Commissioner Chambless were opposed. Commissioner Muir abstained.

f. Letter and minutes relating to a request to rehear the ease at the April 26,2006 meeting.

To: Alex Ikefuna, Planning Director

April 25, 2006

Cc: Louis Zunguze, Brent Wilde

Attachment: Letter to Louis Zunguze, dated March 15, 2006

Subj: March 8 Planning Commission mtg. –Henderson Project, Case 400-05043

Dear Alex,

We are writing to you at the suggestion of Brent Wilde. You were present at the above meeting and have probably heard about our complaints concerning the outcome of that meeting. The problem is outlined in the attached letter to Mr. Louis Zunguze. After a meeting with Louis and Brent, they suggested that the issue was best handled internally within the Planning Commission. The outcome of that meeting, according to Mi. Wilde, is that the Planning Commission is "not inclined to reconsider" hearing our case again or to re-evaluate the initial recommendation on our petition for rezoning. We were not given any reasoning behind the current position, which leads us to the following assumptions about the thought process:

Who are we (the Henderson's) to challenge the authority of, or the correctness of, the Planning Commission's initial decision on this matter?

The implications of our contention of irregularities, in the conduct of particular **Planning** Commission members, is something that the Planning Commission does not want to deal with, and in the absence of absolute proof, they would like it to just go away.

- The words "not inclined to reconsider" imply closing the door three quarters of way and waiting to see what our response is while hoping we simply accept the current position and move on

The current position, in our opinion, is not in the best interest of the Planning Commission, the Planning Department, or the City for the following reasons.

When this project goes before the City Council, we have to make a strong argument to overcome the negative recommendation by the Planning Commission. Our extensive lobbying efforts, personal contacts with council members and strong advocacy from local neighbor property owners will put a dark cloud over the Planning Commission's recommendation by:

- Thoroughly exposing the considerable circumstantial evidence (recorded phone conversations, notes on personal conversations, actual comments during the Planning Commission meeting, and Planning Dept. **staff** comments) regarding the behavior of the East **Central** Community Council (Chris Johnson, Cindy Cromer, **Arla** Funk, Ester Hunter) prior to the March 8th meeting that showed they used their personal influence with certain Planning Commission members to further their position. We do not have absolute proof but any reasonable person would be concerned based on the evidence we do have.

- Pointing out that, the **primary** reason for rejecting our petition, was the Planning Commission reluctance to make any change of the zoning map, regardless of the merits of the project, because that would set a precedent that the Planning Commission would have to live with in the future. It is our understanding that the Planning Commission is suppose to review each project individually and make decisions based on merit and support of the City's Master Plan, not based on their fear of setting a precedence.
- Little note was made that by so deciding, in fact, the Planning Commission has set a much worse precedent; namely, that the Planning Commission would not consider changes to the City Zoning Map, regardless of merit, and the best interest of the City Master Plan.
- Because we could not anticipate the reason for the Planning Commission's position on our project, prior to the meeting March 8th, we were not prepared to demonstrate that the City Master Plan is significantly reinforced by our request for a rezone to **RMF-45** (removal of non-conforming building, home ownership, density increase and underground parking.). The other financially viable RMF-35 alternatives are far less desirable and would entail us leaving the existing ugly **façade** of the medical **office** building and its parking in place; and building on top of and around it a for rental product with lower density and surface parking.
- The East Central Community Council (by their self proclaimed declaration) has essentially taken over all land use strategy **and** planning decision making for their area. Their influence and contacts have superseded Planning Department **staff** planning efforts and others' interpretation of the City Master Plan.

Our point is that **if we** go to the next step, (the city council bearing) without a more thorough review of the present situation, the grey cloud over the Planning Commission recommendation will only grow much darker, it will not blow away.

We recognize that if the Planning Commission does offer us a chance for a rehearing of our petition we will be walking into a meeting with a potential hostile attitude toward us. We can only hope that the professionalism of the majority of the commissioners will prevail and a thorough review of the proposal based on its merits strongly supporting the City Master Plan will carry the day, and that alternative current zoning (**RMF-35**) project results in a major sub optimization of a one-time opportunity.

Please give our appeal serious consideration. We stand ready to meet with you and discuss any of the above at your convenience.

Sincerely,


435 658 3544 office

435 658 3544 office

435 901 2321 cell

417 Centennial Circle

Park City, UT 84060

Mr. Ikefuna clarified that the Planning Commission is a recommending body for the City Council. He noted that a development agreement was created between Rowland Hall, the City, and Mt. Olivet, to further encourage the approval. He also stated that the Federal Government, in this instance, will still have to decide the reversionary clause issue.

Letter from Blake Henderson

The Commission discussed the letter from applicant, Blake Henderson, formerly requesting the Commissioner rehear his request for a rezoning of the property at approximately 900 East 100 South. Vice Chairperson ~~McDonough~~ requested a decision from the Planning Commission for a possible rehearing.

Commissioner De Lay noted the number of letters received in the recent past from applicants who have received an unfavorable recommendation from the Commission to the City Council. She requested clarification of the formal process.

Mr. Ikefuna confirmed that when a petition receives an unfavorable recommendation, an applicant can request a rehearing or the applicant can file an appeal. The Commission can either reopen the case, or reaffirm their position. Based on that decision, the Commission either rehears the case or the case is forwarded to the City Council. If the petitioner disagrees with the decision made by the City Council the petitioner may choose to progress to court action.

Commissioner Scott addressed the concerns of the letter, as she had been noted by name in the letter. She also cited the minutes from the March 22, 2006 meeting relating to her brief statement regarding the first letter from the applicant. She proposed to make a motion regarding the status of a rehearing for Petition 400-05-043.

Commissioner Scott made a motion regarding the Henderson Project Case, 400-05-043, heard at the March 8 Planning Commission meeting, that the Planning Commission reaffirm the recommendation made at that meeting; a recommendation to deny a rezone request from RMF-35 to RMF-45.

The previous motion was withdrawn, due to the request of the applicant for the Commission to "rehear" the petition.

Commissioner Scott made a motion to deny rehearing Petition No. 400-05-043. Commissioner Chambless seconded the motion. Commissioner Charnbless, Commissioner De Lay, Commissioner Forbis, Commissioner Scott, Commissioner Seelig, and Commissioner Wirthlin voted "Aye". The motion to deny passed.

Handicapped Parking — Paul Rolly Article

Commissioner Seelig raised the attention of the Commissioners regarding a recent article by Paul Rolly of the Salt Lake Tribune stating that the Planning Commission had "passed a rule" relating to the handicapped parking accessibility to the Downtown area. She noted that Mr. Ikefuna had been informed and related the correct information to Mr. Rolly, wherein he corrected the mistake.

REPORT OF THE PLANNING DIRECTOR
(This item was heard at 6:05 p.m.)

Utah League of Cities & Towns: Summary of 2006 Legislation on Land Use

Mr. Ikefuna referenced the 2006 Summary of Legislation on Land Use and proposed the Commission schedule time to listen to the Deputy City Attorney, Lynn Pace, present the changes that may have implication on the Commission. It was noted that the presentation will be brief and contained, as best as possible, to fifteen minutes. The Commission agreed to have Lynn Pace review the 2006 Legislation at a future date. Mr. Ikefuna stated that a member of the Attorney's office will appear on an "as needed basis" upon the request of the Commission or Planning Staff to the Planning Commission meetings.

g. Minutes of Planning Commission review of the allegations at the June 14,2006 meeting

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, June 14, 2006**

REPORT OF THE DIRECTOR

(This item was heard at 9:23 p.m.)

Petition 400-05-043 – Blake Henderson

Chairperson Noda introduced a memorandum with attached letters to the Commissioners regarding Petition 400-05-043, which was originally heard by the Commission on March 8, 2006. The information was presented before the Commission to complete the due process for the petition due to the multiple requests for a re-hearing made by the applicant.

The Commissioners reviewed the letters and discussed the allegations that were set forth in the letters, particularly the letter dated April 25 directed to Alex Ikefuna, Planning Director with copies sent to Louis Zunguze, Community Development Director and Brent Wilde, Deputy Community Development Director. Chairperson Noda requested the Commissioners address the specific allegations addressed in the letter.

Commissioner McDonough requested clarification regarding the manner in which the Commission was addressing the issue in the past meetings when the item has been raised.

Mr. Ikefuna stated that the response of the Planning Commission in previous meetings was the consideration of re-hearing the petition or re-affirming the decision of the Commission, rather than addressing the allegations and ensuring due process. He stated that the transmittal to City Council did not contain any indication that the Commission had addressed the allegations and therefore, the Commission is being asked to address the allegations at this time. Mr. Ikefuna also stated that he had investigated the matter himself, conducted an interview with Commissioner Scott, and reviewed the audio recording of the meeting discussions and concluded that there was no merit to the allegations. He raised the attention of the Commission to a letter that was sent in response to the allegations from him, but unfortunately a copy was not sent to the Commissioners.

Chairperson Noda stated that based upon the allegations that the Hendersons have made, no evidence supports their documentation regarding comments made during the Planning Commission meeting and between Planning Staff. The basis for allegations relating to conversations held between Commissioner Scott and members of the East Central Community Council and any other member of the Planning Commission were unfounded and without merit. Chairperson Noda included that Commissioner Scott had already stated in the record that she did not have any conversations with outside parties regarding the petition, nor attend any field trips other than the Planning Commission field trip that is regularly scheduled.

Commissioner Scott additionally stated her support in the findings that the allegations were without basis and noted that the allegations were false and insulting, and compromised the integrity of the Planning Commission. She noted that this was the fourth time in which the petition has been brought before the Commission. (March 8 – Original presentation, March 22, April 12, and April 26, and June 14, 2006, Discussion regarding re-hearing and allegations.) Commissioner Scott stated that an apology from Mr. Henderson would be accepted at any time. She also addressed the allegation that she had steamrolled a decision on the petition and noted that the Commissioners rarely allow that to happen.

Chairperson Noda stated that the Planning Commission finds no merit to the allegations made in the letter sent on April 25, 2006, by the applicant.

Mr. Henderson requested a moment to comment to the Commission. He noted that he had been called to attend the meeting at a late notice and had not requested it.

Mr. Ikefuna asked if the Commission wanted to entertain a comment from the applicant.

A vote was taken by the Commission as to whether or not they wanted to hear from the applicant. It was determined that they did not want to hear from the applicant.

Mr. Henderson expressed frustration to the Commission, due to the fact that he waited to be heard for four hours and was requested to attend the meeting, but was not given the opportunity to address the Commission.

Chairperson Noda again stated that the position of the Planning Commission in terms of the letter is that there was no basis, based upon the evidence that was in the record at the time, for the allegations that were made by Mr. Henderson.

Mr. Henderson left the meeting.

Chairperson De Lay raised the question on the invitation of Mr. Henderson to the meeting.

Mr. Ikefuna stated that Mr. Henderson had been requested to attend in order to witness the discussion of the issue by the Planning Commission and to ensure that it was reviewed fully and fairly.

Commissioner Forbis requested that the documents and transcripts be submitted to the City Attorney, due to the seriousness of the allegations of due process. He requested that they be submitted to protect Commissioner Scott and the Planning Commission.

Mr. Ikefuna clarified that the documents had been reviewed by Louis Zunguze, Community Development Director, and they would be submitted to Lynn Pace, Deputy City Attorney.

A. LOUIS ZUNGUZE
DIRECTOR
BRENT B. WILDE
DEPUTY DIRECTOR

SALT LAKE CITY CORPORATION

DEPT. OF COMMUNITY DEVELOPMENT
OFFICE OF THE DIRECTOR

ROSS C. "ROCKY" ANDERSON
MAYOR

CITY COUNCIL TRANSMITTAL

TO: Rocky Fluhart, Chief Administrative Officer **DATE:** June 29, 2006

FROM: Louis Zunguze, Community Development Director

RE: Petition 400-05-43 by Blake Henderson requesting an amendment to the Central Community Zoning Map to change the zoning of the parcels of land located at approximately 857 East 100 South, 70 South 900 East, and 58 South 900 East from Moderate Density Multi-Family Residential (RMF-35) to Moderate/High Density Multi-Family Residential (RMF-45). This requires an amendment to the Central Community Master Plan to change the future land use map designation of the site from medium density residential to medium-high density residential.

STAFF CONTACTS: Doug Dansie, Principal Planner, at 535-6182 or
doug.dansie@slcgov.com

RECOMMENDATION: That the City Council schedule a briefing and a Public Hearing

DOCUMENT TYPE: Ordinance

BUDGET IMPACT: None

DISCUSSION:

Issue Origin: Petition 400-05-43 was initiated by Blake Henderson, land owner, requesting an amendment to the Central Community Zoning Map to change the zoning of the parcels of land located at approximately 857 East 100 South, 70 South 900 East and 58 South 900 East from RMF-35 to RMF-45. This also requires an amendment to the Central Community Master Plan to change the Future Land Use Map designation of the site from medium density residential to medium-high density residential.

Analysis: The request is to rezone the property to RMF-45 to allow higher density and building height than the current RMF-35 zoning. The proposed project includes the demolition of a non-conforming medical office and two low-density residential structures to enable the construction of a single building with 46 residential condominium units. All parking is proposed to be underground.

The developer has asked for the higher density designation for several reasons: adjacent development is similar in scale, the replacement (demolition costs) of an existing medical

building with a residential building increases the cost of the land, and the cost of underground parking must be absorbed by the project.

The proposed development meets all the requirements of the RMF-45 Zoning District and will be an over-the-counter permitted use. Therefore, if the zoning change is approved, no separate conditional use or planned development approval is required. The RMF-45 Zoning District allows buildings of up to 45 feet (45') in height. The density allowed for a one acre parcel is one unit per 1,000 square feet of lot area. There are 46,609 square feet of lot area. Most portions of the building are below 45 feet (45'); no portion exceeds 45 feet (45').

Staff recommended approval of the project based upon the fact that the project replaced a non-conforming land use with new housing and would provide underground parking, consistent with the master plan, and adjacent land uses are generally medium/high or high density housing or non-conforming uses.

Master Plan Considerations: The Central Community Master Plan identifies the subject properties as medium density residential. The adjacent properties are identified as medium-high and high density residential. In addition, the Central Community Master Plan encourages the elimination of non-conforming uses in residential zones if they are replaced by residential uses (page 32). The 2000 Community Housing Plan encourages higher residential density when amenities, such as underground parking, are included.

PUBLIC PROCESS:

The petitioner attended the East Central Community Council meeting on October 19, 2005, and also on February 15, 2006. There was general support for the project but also a concern that the rezone would set a precedent for increased zoning density which would encourage other demolitions in the area. The Community Council discussed design concepts to insure neighborhood compatibility. A copy of the October minutes is included in the staff report (Exhibit 4).

Property owners were notified (notices mailed on 2/21/05) and a notice in a newspaper of general circulation (*Deseret News* and *Salt Lake Tribune*) was published at least 14 days in advance of the public hearing (published on 2/22/06).

On March 8, 2006, the Planning Commission conducted a public hearing and voted to forward a negative recommendation to the City Council regarding the amendment of the Central Community Master Plan and zoning map based upon the fact that the Central Community Master Plan had just recently been adopted identifying the specific site to be medium density on the Future Land Use Map and that there is other RMF-45 land available in the area to develop.

Due to various written correspondence relating to this request, the Planning Commission addressed the issue three times after their decision on March 8, 2006. The issues outlined in the correspondence included concerns regarding process, which were raised by the applicant,

and a formal request to re-hear the petition in a public forum in response to those concerns; The correspondence and Planning Commission actions are summarized as follows:

1. The applicant, Blake Henderson, sent a letter raising claims of irregularities of the process to Mr. Louis Zunguze. In a letter dated March 23, 2006, Planning Director Alex Ikefuna responded to the accusations and at the March 22, 2006 Planning Commission meeting, Commissioner Scott also responded to the accusations. (Please see attachment 4d.)
2. At its April 12, 2006 Planning Commission meeting, in response to a letter from Mr. Brent Wilde, Deputy Community Development Director requesting the Planning Commission rehear the matter, the Commission voted to reaffirm their decision to recommend denial of the rezoning and master plan amendments (Please see attachment 4e).
3. At its April 26, 2006 Planning Commission meeting, in response to a letter from the applicant Blake Henderson requesting the Planning Commission rehear the matter, the Commission voted again to reaffirm their decision to recommend denial of the rezoning and master plan amendments (Please see attachment 4f)
4. At its June 14, 2006 Planning Commission meeting, in response to a request by the Planning Director, the Commission formally reviewed the claims made by Mr. Henderson that were set forth in his letter of April 25, 2006. The Planning Commission specifically addressed the allegations made by the applicant. The Commission found that no evidence supports the applicant's accusations put forth in letters to Mr. Louis Zunguze and Mr. Alex Ikefuna regarding comments made during the Planning Commission meeting and between Planning Staff. They further stated that the basis for the allegations relating to conversations held between Commissioner Scott and members of the East Central Community Council and / or any other member of the Planning Commission were unfounded and without merit. Chairperson Noda stated that Commissioner Scott had already stated in the record that she did not have any conversations with outside parties regarding the petition, nor attended any field trips other than the Planning Commission field trip that is regularly scheduled (Please see attachment 4g).

The Planning Director also investigated the applicant's concerns and claims of ex parte communication and thoughtfully considered the discussion points of the Planning Commission meeting held on March 8, 2006, relating to the specific activity of the commissioner in question, and found that the claims were without merit.

RELEVANT ORDINANCES:

Amendments to the Zoning Ordinance and Maps are authorized under Section 21A.50 of the Salt Lake City Zoning Ordinance, as detailed in Section 21A.50.050: "A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard." It does,

however, list five standards which should be analyzed prior to rezoning property (Section 21A.50.050 A-E). The five standards are discussed in detail starting on page 5 of the Planning Commission Staff Report (see Attachment 4b).

The Utah Code Annotated (10-9-302) identifies the procedures for adopting and amending general plans. The Code identifies an adoption process that mandates a 14-day notification requirement including a notice in a newspaper of general circulation. As noted above, this requirement was met.

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 - g. Minutes of Planning Commission review of the allegations at the June 14, 2006 meeting
5. Original Petition

1. Chronology

Chronology

- December 13, 2005 Petition 400-05-43 submitted by property owner.
- October 19, 2005 The petitioner attended the East Central Community Council.
- Jan.13 – Feb. 4, 2006 Requested department input.
- February 15, 2006 The petitioner attended the East Central Community Council.
- February 21, 2006 Notices mailed.
- February 22, 2006 Notice printed in both major daily newspapers.
- March 8, 2006 The Planning Commission voted to forward a negative recommendation to the City Council regarding the amendments to the Central Community Master Plan and the Central Community Zoning Map.
- March 14, 2006 An ordinance was requested from the City Attorney.
- March 22, 2006 The Planning Commission discussed accusations or irregularities of the process raised by the applicant.
- March 24, 2006 An ordinance was received from the City Attorney.
- April 12, 2006 The Planning Commission reaffirmed its March 8, 2006 decision to recommend denial of the project.
- April 26, 2006 The Planning Commission again reaffirmed its March 8, 2006 decision to recommend denial of the project.
- June 14, 2006 Planning Commission formally discussed the allegation by Blake Henderson and found there was no merit to the claims.

2. Proposed Ordinance

SALT LAKE CITY ORDINANCE
No. _____ of 2006
(Rezoning Property Generally Located at 100 South 900 East and Amending the Central
Community Master Plan)

REZONING PROPERTY GENERALLY LOCATED AT 100 SOUTH 900 EAST
FROM MODERATE DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT (RMF-35) TO
MODERATE/HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT (RMF-45), AND
AMENDING THE CENTRAL COMMUNITY MASTER PLAN, PURSUANT TO PETITION
NO. 400-05-43.

WHEREAS, the Planning Commission and the City Council of Salt Lake City, Utah, have held public hearings and have taken into consideration citizen testimony, filing, and demographic details of the area, the long range general plans of the City, and any local master plan as part of their deliberations. Pursuant to these deliberations, the City Council has concluded that the proposed amendments to the Master Plan and change of zoning for the property generally located at 100 South 900 East is appropriate for the development of the community in that area and in the best interest of the city.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. REZONING OF PROPERTY. The property generally located at 100 South 900 East, which is more particularly described on Exhibit A attached hereto, shall be and hereby are rezoned from moderate density multi-family district (RMF-35) to moderate/high density multi-family district (RMF-45).

SECTION 2. AMENDMENT TO ZONING MAP. The Salt Lake City Zoning Map, adopted by the Salt Lake City Code, relating to the fixing of boundaries and zoning districts, shall be, and hereby is amended consistent with the rezoning of property identified above.

SECTION 3. AMENDMENT OF MASTER PLAN. The Central Community Master Plan, as previously adopted by the Salt Lake City Council, shall be, and hereby is amended consistent with the rezoning set forth herein.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2006.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2006.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date April 3, 2006
By Melanie Heif

Published: _____.

I:\Ordinance 06\Rezoning 100 South 900 East - 03-21-06 draft.doc

DD
4/3/16

Attachment A

PARCEL A (58 SOUTH 900 EAST):

PARCEL 1:

BEGINNING 4 FEET NORTH FROM THE SOUTHEAST CORNER OF LOT 8, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY; AND RUNNING THENCE NORTH 37.25 FEET THENCE WEST 330 FEET; THENCE SOUTH 37.25 FEET; THENCE EAST 330 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

BEGINNING 119.75 FEET SOUTH FROM THE NORTHEAST CORNER OF LOT 8, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY; AND RUNNING THENCE SOUTH 4 FEET; THENCE WEST 330 FEET; THENCE NORTH 4 FEET; THENCE EAST 330 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING FROM PARCEL 1 AND 2 THE FOLLOWING DESCRIPTION:

PART OF LOT 8, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY AND BEING LOCATED IN THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 169.00 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 1, SAID BLOCK 58, PLAT "B" AND RUNNING THENCE NORTH 41.25 FEET; THENCE EAST 107.25 FEET; THENCE SOUTH 41.25 FEET; THENCE WEST 107.25 FEET TO THE POINT OF BEGINNING.

PARCEL B (70 SOUTH 900 EAST):

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY, SAID POINT OF BEGINNING BEING SOUTH 89°58'22" WEST 64.35 FEET AND NORTH 00°01'05" WEST 63.58 FEET FROM THE MONUMENT AT THE INTERSECTION OF 900 EAST AND 100 SOUTH STREETS; RUNNING THENCE SOUTH 89°58'28" WEST 165.0 FEET; THENCE NORTH 00°01'02" WEST 169.0 FEET; THENCE NORTH 89°58'28" EAST 165.0 FEET; THENCE SOUTH 00°01'02" EAST 169.0 FEET TO THE POINT OF BEGINNING.

PARCEL C (857 EAST 100 SOUTH):

COMMENCING 10 RODS (165 FEET) WEST OF THE SOUTHEAST CORNER OF LOT 1, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY; AND RUNNING THENCE NORTH 10 RODS (165 FEET); THENCE WEST 3 1/2 RODS (57.75 FEET); THENCE SOUTH 10 RODS (165 FEET); THENCE EAST 3 1/2 RODS (57.75) TO THE PLACE OF BEGINNING.

RIGHT OF WAY EASEMENT OVER PARCEL C (S.L. COUNTY ENTRY NO. 2563412, BK. 3400, PG. 129; RECORDED AUGUST 22, 1973, IN FAVOR OF MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, A COLORADO CORPORATION):

A SIX FOOT (6') EASEMENT, 3 FEET EITHER SIDE OF A BURIED TELEPHONE CABLE ACROSS THE FOLLOWING DESCRIBED PROPERTY: COMMENCING 6 1/2 RODS (107.25 FEET) EAST OF THE SOUTHWEST CORNER OF LOT 1, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY; THENCE EAST 3 1/2 RODS (57.75 FEET); NORTH 10 RODS (165 FEET); WEST 3 1/2 RODS (57.75 FEET); SOUTH 10 RODS (165 FEET) TO THE BEGINNING.

PARCEL D (865 EAST 100 SOUTH):

BEGINNING 169 FEET NORTH AND 165 FEET WEST OF THE SOUTHEAST CORNER OF LOT 1, BLOCK 58, PLAT "B", SALT LAKE CITY SURVEY; THENCE SOUTH 4 FEET; THENCE WEST 57.75 FEET; THENCE NORTH 4 FEET; THENCE EAST 57.75 FEET TO THE POINT OF BEGINNING.

Sidwell Numbers: 16-05-126-051, 16-05-126-040, 16-05-126-045, 16-05-126-063

Approximately 1.07 Acres

3. City Council Public Hearing

a. Notice

b. Mailing List

NOTICE OF PUBLIC HEARING

The Salt Lake City Council is currently reviewing **Petition 400-05-43**, an application by Blake Henderson, land owner, requesting an amendment to the Central Community Zoning Map to change the zoning of the parcels of land located at approximately 857 East 100 South, 70 South 900 East and 58 South 900 East from RMF-35 to RMF-45. This also requires an amendment to the Central Community Master Plan to change the Future Land Use Map designation of the site from medium density residential to medium-high density residential.

As part of their study, the City Council is holding an advertised Public Hearing to receive comments regarding the petition. During this hearing, the Planning staff may present information on the petition and anyone desiring to address the City Council concerning this issue will be given an opportunity to speak. The hearing will be held:

DATE:

TIME: 7:00 P.M.

PLACE: Room 315
City and County Building
451 South State Street
Salt Lake City, Utah

If you have any questions relating to this proposal, please attend the meeting or call Doug Dansie at 535-6182 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. If you are the owner of a rental property, please inform your tenants of this hearing. People with disabilities may make requests for reasonable accommodation no later than 48 hours in advance in order to attend this public hearing. Accommodations may include alternate formats, interpreters, and other auxiliary aids. This is an accessible facility. For questions, requests, or additional information, please contact the ADA Coordinator at 535-7971; TDD 535-6021.

THOMASON, HARRIETT M
Address: 4819 CALDWELL MILL ROAD
Suite N/A
BIRMINGHAM AL 35242

KNEBL, MATTHEW B
Address: 30 EVENING LIGHT LN
Suite N/A
ALISO VIEJO CA 92656 8034

MCDONALD, ROBERT E;
Address: 960 BUCK RIDGE LN
Suite N/A
ARROYO GRANDE CA 93420

DEVEREAUX APARTMENTS
Address: 700 N BRAND BLVD
Suite 560
GLENDALE CA 91203 1238

DANIELS, WILLIAM & SUSAN M; TRS
Address: 11260 CROCKER GROVE LN
Suite N/A
GOLD RIVER CA 95670

NJ FINANCIAL CORP
Address: 1100 QUAIL ST
Suite 210
NEWPORT BEACH CA 92660 2759

THE SCARSDALE LLC
Address: 2626 HANOVER ST
Suite N/A
PALO ALTO CA 94340

SPIKER, RICHARD
Address: 26760 MACMILLIAN RD
Suite N/A
SANTA CLARITA CA 91387

SHUFF, JOHN & MARGARET; JT
Address: 750 S OCEAN BLV
Suite 1
BOCA RATON FL 33432

SUN TOWERS LC
Address: 700 N BRAND BLVD
Suite 560
GLENDALE GA 91203

BRENNAN, ANDREW J JR
Address: 213 E 200 S
Suite N/A
SODA SPRINGS ID 83276

J & M FAMILY INVESTM LTD PARTNERSH
Address: 450 POLELINE RD
Suite N/A
TWIN FALLS ID 83301

J & M FAMILY INVESTM PARTNERSHIP
Address: 450 POLELINE RD
Suite N/A
TWIN FALLS ID 83301

VENTAS FINANCE I, LL
Address: 303 E WACKER DR
Suite 850
CHICAGO IL 60601

THE MARYLAND CONDM, COMMON ARE,
Address: 10225 FREDERICK AVE
Suite 616
KENSINGTON MD 20895 3375

BRUNNAN, IOLANDA R
Address: 199 LAGUNA CIR
Suite N/A
KALAMAZOO MI 49009

OLSEN, LAWRENCE S &
Address: PO BOX 64142
Suite N/A
ST PAUL MN 55164 0142

MCDONALD, DON A & MARHAE; JT
Address: 1700 ST SOUTH
Suite N/A
GREAT FALLS MT 59405

GEORGE, STEPHEN A; J
Address: 4 GREENBRIAR CT
Suite N/A
MISSOULA MT 59802 3342

BERG, N EDWARD & RUT
Address: 70 HORIZON DR
Suite N/A
BEDFORD NH 03110 6325

KINGSLEY, EDWIN C & KATHY; JT
Address: 2321 CASERTA CT
Suite N/A
HENDERSON NV 89014

PETTIGREW, MARGIE A DAVID W; TRS
Address: 3038 ARBORCREEK DR
Suite N/A
CINCINNATI OH 45242 6358

KARTSONIS, SOPHIA
Address: 2300 ROHS STREE
Suite 2
CINCINNATI OH 45219

GAF PROPERTIES IV LL
Address: 4047 PARK LANE
Suite N/A
COLUMBUS OH 43220

URMANN, DAVID H
Address: 8828 TWIGG HUPP RD
Suite N/A
SUNBURY OH 43074 9526

STYLER, J LYNN & CHERYL A; TC
Address: 960 GREEN OAKS DR
Suite N/A
BOUNTIFUL UT 84010 3132

MDSE INVESTMENTS, LC
Address: 1014 WOODMOOR DR
Suite N/A
BOUNTIFUL UT 84010

DOOLEY PROPERTY LLC
Address: 3282 E ALTA HILLS DR
Suite N/A
COTTONWOOD HTS UT 84093 2112

LARSON, JEAN D & ANNABEL M; TRS
Address: 3339 E ANTLER WY
Suite N/A
COTTONWOOD HTS UT 84121 4403

RICHARDS, DOUGLAS P;
Address: 3055 E SUNDRIFT CIR
Suite N/A
COTTONWOOD HTS UT 84121 4349

MCQUARRIE, MELVIN C
Address: 698 CALLA WAY
Suite N/A
HERRINGTON UT 84032

KHALEEL, HABIB UR RA RIZVANA; JT
Address: 4007 S CUMBERLAND DR
Suite N/A
HOLLADAY UT 84124 1736

BARRON, ROBERT J
Address: 4600 S HOLLADAY BLVD
Suite N/A
HOLLADAY UT 84117

THOMAS, RUBY L & BRY
Address: 2010 S ANGELL HEIGHTS DR
Suite N/A
HURRICANE UT 84737

EAST DOWNTOWN LLC
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Suite 430
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Community Council
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WASATCH HOLLOW
1670 E. EMERSON
SLC UT 84105



4. Planning Commission

- a. Original Notice and Postmark
- b. Staff Report: March 8, 2006
- c. Minutes: March 8, 2006
- d. Letters and minutes relating to accusations of irregularities in the process
- e. Letter and minutes relating to a request to rehear the case at the April 12, 2006 meeting
- f. Letter and minutes relating to a request to rehear the case at the April 26, 2006 meeting.
- g. Minutes of Planning Commission review of the allegations at the June 14, 2006 meeting

a. Original Notice and Postmark

NOTICE OF A HEARING

Salt Lake City Planning Division
Planning Commission Secretary
451 South State Street, Rm. 406
Salt Lake City, UT 84111

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21 FEB 2006

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After the staff and petitioner presentations, hearings will be opened for public comment. Community Councils will present their comments at the beginning of the hearing.

3. In order to be considerate of everyone attending the meeting, public comments are limited to 3 minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed 5 minutes to speak. Written comments are welcome and will be provided to the Planning Commission in advance of the meeting if they are submitted to the Planning Division prior to noon the day before the meeting. Written comments should be sent to:

Salt Lake City Planning Director
451 South State Street, Room 406
Salt Lake City, UT 84111
4. Speakers will be called by the Chair.
5. Please state your name and your affiliation to the petition or whom you represent at the beginning of your comments.
6. Speakers should address their comments to the Chair. Planning Commission members may have questions for the speaker. Speakers may not debate with other meeting attendees.
7. Speakers should focus their comments on the agenda item. Extraneous and repetitive comments should be avoided.
8. After those registered have spoken, the Chair will invite other comments. Prior speakers may be allowed to supplement their previous comments at this time.
9. After the hearing is closed, the discussion will be limited among Planning Commissioners and Staff. Under unique circumstances, the Planning Commission may choose to reopen the hearing to obtain additional information.
10. Salt Lake City Corporation complies with all ADA guidelines. If you are planning to attend the public meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify the Planning Office 48 hours in advance of the meeting and we will try to provide whatever assistance may be required. Please call 535-7757 for assistance.



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MARSHALL KEITH J
838

Classifieds

010 Special Notices
FOR SALE 2 Cemetery Plots at Memorial Estates. CALL 266-5445

010 Special Notices
Salt Lake City Master Plan Amendment Public Hearing
 On March 8, 2006, at 5:45 PM, the Salt Lake City Planning Commission will hold a public hearing to consider making recommendations to the City Council regarding Petition 000-05-43, a request by Blake Henderson to amend the zoning ordinance map to change the parcels of land located at 857 E. 100 South, 700 S. 900 East, and 58 S. 900 East from RMF-35 to RMF-45. The City may also consider properties at 50 South 900 East and 845 E. 100 South-east. This will also require amendment of the General City Master Plan.

A public hearing will be held in room 326 of the City County Building, 451 South State Street, Salt Lake City, UT. For more information or for special arrangements, call Doug Damsie at 535-6182.

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099—Career Info. Services/List

tail territory and inside sales reps to achieve revenue and volume goals.

Must have a minimum one year's experience in sales, marketing, advertising, or closely related field. Must have knowledge of media sales, a budgeting procedure and possess knowledge of current market and retail environments. Requires strong leadership skills, a ability to work under deadline, a strong analytical problem-solving skill to work with sales trends, and assist planning, implement and overseeing promotional campaign. Candidates must hold a valid driver's license, proof of auto insurance, and access to dependable vehicle. (A current motor vehicle report will be requested at time of application.)

Please submit resume reference to Call 2560 in care of newspaper, P.O. 704005, West Valley City, UT 84117-4000. Equal opportunity employer.

ADVERTISING ACCOUNT EXECUTIVES

Needed for Home Values & Utah Magazine. A strict 12 year old company. We're expanding! Full Area Sales needed in St. George, Salt Lake City, Tooele, Park City and LaMores. Must have strong sales management, computer skills, college degree, equivalent work experience in magazine sales preferred. CELENT INCOME OPPORTUNITIES! Ground check req. Fax or email resume to Jamie at 877-26362 sffb@Utapply.com

099—Career Info. Services/List

We Want To Hear From You!

Thursday, March 8
 4:00 to 7:00 pm
 Aneth Chapter House
 Aneth, Utah

SR-262
 Montezuma Creek to Aneth
 environmental impact statement

Public Open House

WWW.UDOT.UTAH.GOV/SR-262

The Utah Department of Transportation (UDOT) invites you to attend the SR-262 Environmental Impact Statement (EIS) Public Open House on Thursday, March 8, 2006 from 4:00-7:00pm. The purpose of the meeting is to:

- Introduce the project
- Obtain public input on transportation

• Come and go at any time
 • Children welcome
 • Refreshments provided

Train for a Career That's PICTURE PERFECT!

Accounting
 Business Management
 Computer Networking
 Computer Programming

b. Staff Report: March 8, 2006

DATE: March 2, 2006

TO: Salt Lake City Planning Commission

FROM: Doug Dansie
Principal Planner
Telephone: (801) 535-6182
Email: doug.dansie@slcgov.com

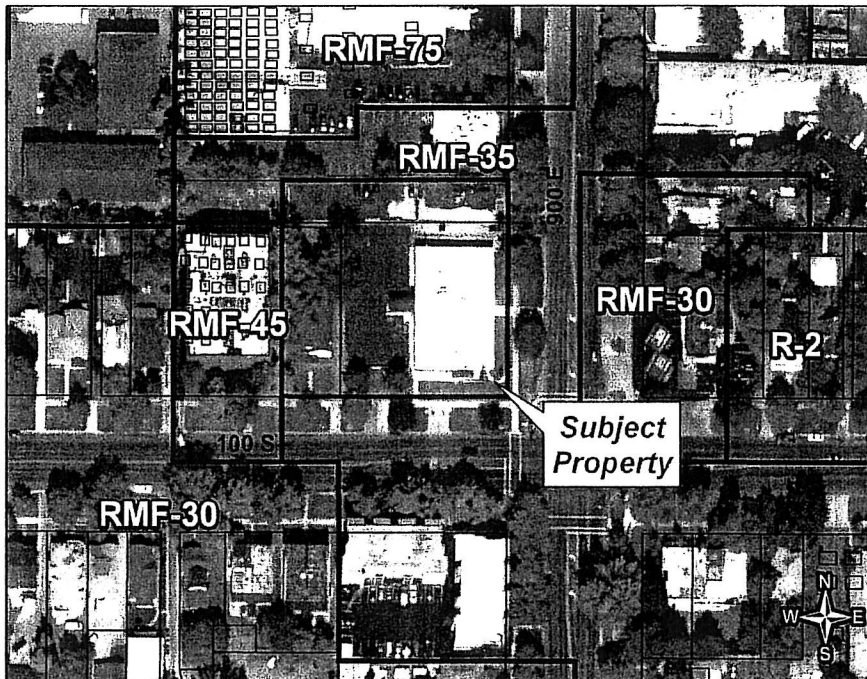
RE: STAFF REPORT FOR THE MARCH 8, 2005 MEETING

CASE#: 400-05-43

APPLICANT: Blake Henderson

STATUS OF APPLICANT: Land Owner

PROJECT LOCATION: 857 East 100 South, 70 South 900 East and 58 South 900 East.



PROJECT/PROPERTY SIZE: 1.07 acres

COUNCIL DISTRICT: District 4 – Councilmember Nancy Saxton

REQUESTED ACTION: An amendment to the Zoning Map to change the zoning of the parcels of land located at 857 East 100 South, 70 South 900 East and 58 South 900 East from RMF-35 to RMF-45. This also requires an amendment to the Central Community Master Plan to change the future land use map designation of the site from medium density residential to medium-high density residential.

PROPOSED USE(S): A 46 residential unit condominium (Henderson Project)
Continuation of vacant common land for existing condominiums and continuation of an existing medical clinic.

APPLICABLE LAND USE REGULATIONS: Salt Lake City Code Chapter 21A.50.050 and the Future Land Use map of the Central Community Master Plan.

SURROUNDING ZONING DISTRICTS:
North –RMF-75 and RMF-35
South – RMF-35 (across the street)
West – RMF-45
East – RMF-30 (across the street)

SURROUNDING LAND USES:
North – non-conforming medical clinic and an approximately 14 story high-rise apartment
South – medium-density three story multi-family apartment
West – four-story residential condominium
East – single family residential, multi-family residential, retail, and institutional (across the street)

**MASTER PLAN
SPECIFICATIONS:**

The Central Community Master Plan identifies the subject properties as medium density residential. The adjacent properties are identified as medium-high and high density housing. The Central Community Master plan encourages the elimination of non-conforming uses in residential zones if they are replaced by residential uses (page 32). The 2000 Community Housing Plan encourages higher density when amenities, such as underground parking, are included. The site is on a mass transit/bus line.

**SUBJECT PROPERTY
HISTORY:**

The majority of the Henderson site is presently occupied by a non-conforming medical office building. There are also two homes located at the north and west edges of the site. The home to the north is still listed as single family, according to Salt Lake County tax records; however the home to the west has been subdivided into smaller apartments.

ACCESS:

The site has access from both 100 South and 900 East. The petitioners are proposing automobile access from 100 South for the Henderson project.

PROJECT DISCRPTION:

The request by Blake Henderson is to rezone the property to RMF-45 to allow higher density and building height than the current RMF-35 zoning. The proposed project includes the demolition of a non-conforming medical office and two low-density residential structures and the construction of a building with 46 residential condominium units that would have more density and height than what is presently allowed in the RMF-35 zoning district. All parking is proposed to be underground.

The developer has asked for the higher density designation for several reasons: adjacent development is similar in scale, the replacement (demolition costs) of an existing medical building with a residential building increases the cost of the land, and the cost of underground parking must be absorbed by the project.

The proposed development meets all the requirements of the RMF-45 zoning district and will be an over-the-counter permitted use, therefore if the zoning change is approved, there will be no separate conditional use or planned development application. The RMF-45 allows buildings up to 45 feet in height. The density allowed for a 1 acre parcel

is one unit per 1,000 square feet of lot area. There are 46,609 square feet of lot area. Most portions of the building are below 45 feet, no portion exceeds 45 feet. There are 46 units proposed.

COMMENTS, ANALYSIS AND FINDINGS:

Comments from City Departments and Community Council(s):

Staff notified all City Departments/Divisions of the request and routed the petition information specifically to the Engineering Division, Public Utilities Department, Transportation Division, Building Services and Licensing Division, Fire Department (via DRT) and the Police Department. The petition was reviewed by the East Central Community Councils. A summary of their comments are below:

- a) **Transportation Division:** Indicated that the adjacent roadway system is capable of handling any increase in traffic generated by the rezone. They wish to review the specific project in more detail prior to the issuance of a building permit.
- b) **Building Services and Licensing Division:** No objection.
- c) **Engineering Division:** No comment
- d) **Police Department:** No objections to the rezone although they wish to further review the details of the actual project prior to the issuance of a building permit.
- e) **Public Utilities Department:** No objections.
- f) **Fire Department:** Would like to see a fire access area on the west side of the building.
- g) **Community Councils:** The petitioner attended the East Central Community Council meeting on October 19, 2005, and also on February 15, 2006. There was general support for the project but also a concern that the rezone would set precedent for increased zoning density which would encourage other demolitions in the area. The Community Council discussed design concepts to insure neighborhood compatibility.

ANALYSIS AND FINDINGS

Issues that are being generated by this proposal.

There has been both support and opposition expressed for the project. The primary concern originally expressed by the public has been the potential to set precedence for rezoning of other parcels in the neighborhood by existing land owners who are waiting for the opportunity to increase the potential development intensity on their properties. There is also concern with the demolition of the two residential structures that are located within the Bryant National Historic District. At their February Community Council meeting, the primary issues raised by the Community Council were design issues such as window type and building materials.

STANDARDS FOR GENERAL AMENDMENTS TO THE ZONING ORDINANCE

Since the request is a modification of the existing Zoning Map, the Planning Commission must review the proposal and forward a recommendation to the City Council. In making a decision concerning the proposed amendment, the Planning Commission must consider the following standards:

Section 21A.50.50 includes criteria for review in zoning amendment cases:

A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City;

Discussion: The Central Community Master Plan identifies all of the subject properties as medium density residential housing: Medium density is considered 15-30 units per acre, medium-high is considered 30-50 units per acre and high density is considered 50 units per acre and above. The existing RMF-35 is a variation of medium density zoning because it allows approximately 29 dwelling units per acre. The proposed RMF-45 would be considered medium-high density, because it allows approximately 43 dwelling units per acre. The proposed project is approximately 43 units per acre (the site is slightly larger than one acre).

The adjacent property to the west is identified as medium-high density. The adjacent property to the north is identified as high-density. The site across the street to the south is identified as medium density. The site to the east is identified as low-medium density and medium density.

The Central Community Master Plan encourages the elimination of non-conforming land uses in the area (page 32). The Henderson site is presently occupied by a non-conforming medical clinic.

The 2000 Community Housing plan encourages a broad mix of residential types. Higher densities are encouraged when properly buffered or when providing amenities such as underground parking.

Finding: The zoning amendment is generally consistent with master plan policies of eliminating non-conforming uses and accommodating a variety of housing types. However, to accommodate this specific development, it will require amendment of the Central Community Master Plan to change the map for this site from medium-density residential to medium high density residential.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property;

Discussion: The proposed building is below the 45 foot height limit allowed in the RMF-45 zoning. It is designed to step down the slope, with the four story portion being to the north (adjacent to the high-rise), with a three story portion to the south

west. All of the parking is proposed to be below grade (because the site slopes, it will be exposed on the west side). The building is proposed to be of brick and stucco construction. Several of the ground level units will have front doors facing the street.

The site is bordered by a four story condominium to the west and a high rise apartment to the north located within the RMF-45 and RMF-75 zoning respectively. There is a large three-story historic mid-rise apartment building across the street to the south. To the east is a mix of single family, multi-family, nursing home and retail uses.

There are also two homes (one on each side) that are included in the project. The structures are typical of the historic type of construction of the area; however, each home has lost its context (they are no longer surrounded by other home typical of the era). The northern home is between two medical buildings, the western home is between a medical building and an architecturally non-descript condominium building.

Finding: The proposed amendment would allow for multi-family dwelling that are similar in scale to adjacent land uses and the amendments are harmonious with existing development.

C. The extent to which the proposed amendment will adversely affect adjacent properties;

Discussion: The property to the west is a medium-density condominium building. This project will not materially affect the condominium. The property to the north is a high-density-high rise apartment building. The development to the south is an apartment building of similar scale. There is a mix of development to the east. This proposed complex will be compatible with the surrounding development.

Finding: The zone change will not adversely affect adjacent property. Adjacent zoning has allowed structures of similar or greater scale and intensity. The zone change will allow the replacement of a non-conforming medical office building with condominium uses that are more in keeping with the residential character of the neighborhood and potential for future elimination of another non-conforming medical office for future housing development.

D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.

Discussion: The area is not within an H Historic Preservation Overlay Zone. However, it is within the Bryant National Register District. The National Register District designation is only honorific, is not administered by the City and does not affect this case. However, the Survey for the National Historic District indicates: the medical office building is ineligible for the historic register, 58 South 900 East is eligible, and 857 East 100 South is also eligible but altered. However, as noted previously, the two residential structures to be demolished as part of this project have

lost their context in this setting because they are sandwiched between other structures of larger scale or differing land use.

The property is within the Primary Recharge Area of the Groundwater Source Protection Overlay. The development will be reviewed for compliance upon the application for a building permit.

Findings: The location is within the Groundwater Source Protection Overlay District. The proposed condominium project must satisfy all requirements of the Overlay district.

E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

Discussion: The proposed development is within a built neighborhood and public facilities and services exist. Responses by City Departments and Divisions indicate the proposal will not adversely affect any public services or facilities and the representatives of these Departments have no objections to the proposed rezoning.

Findings: The proposed zoning map amendment and proposed condominium project will not negatively affect the existing public services in the area. The project must meet all City Codes and regulations prior to the issuance of a building permit.

MASTER PLAN AMENDMENTS

The Utah Code Annotated (10-9-302) identifies the procedures for adopting and amending general plans. The Code identifies an adoption process that mandates a fourteen day notification requirement including a notice in a newspaper of general circulation. Property owners were notified (notices mailed on February 21, 2006) and a notice in a newspaper of general circulation (Salt Lake Tribune) was published at least fourteen days in advance of the public hearing (published on February 22, 2006).

RECOMMENDATION:

In light of the comments, analysis and findings noted above, staff recommends that the Planning Commission forward a positive recommendation to the City Council to approve an ordinance to:

- Amend the Central Community Master Plan regarding the properties located at 857 East 100 South, 70 South 900 East and 58 South 900 East from land use classification of medium density housing to medium-high density housing.
- Amend the zoning map to rezone the properties located at 857 East 100 South, 70 South 900 East and 58 South 900 East from the zoning classification from RMF-35 to RMF-45.

Exhibit 1
Other Division
Recommendations

ADDITIONAL INFORMATION

Planning Staff mistakenly raised the issue of rezoning two adjacent properties that are currently zoned RMF-35, and these properties were erroneously included in the Planning Commission notice. These adjacent properties are not included in this petition. This portion of the notice has been retracted.

Attachments:

- Exhibit 1 – Other Division Recommendations.**
- Exhibit 2 - Proposed Development Site Plan and Elevations.**
- Exhibit 3 – Photographs.**
- Exhibit 4 - Community Council Comments**

Doug,

I do not have any CPTED concerns presently with proposed rezoning request. I do have concerns with where driveways would be located and visual corridors to traffic flow due to proximity of project to the intersection of 9th East and 1st South. Obviously these concerns can be better addressed when the specific site plan etc. is developed.

Thanks,

J.R. Smith
SLCPD
Community Action Team

Doug:

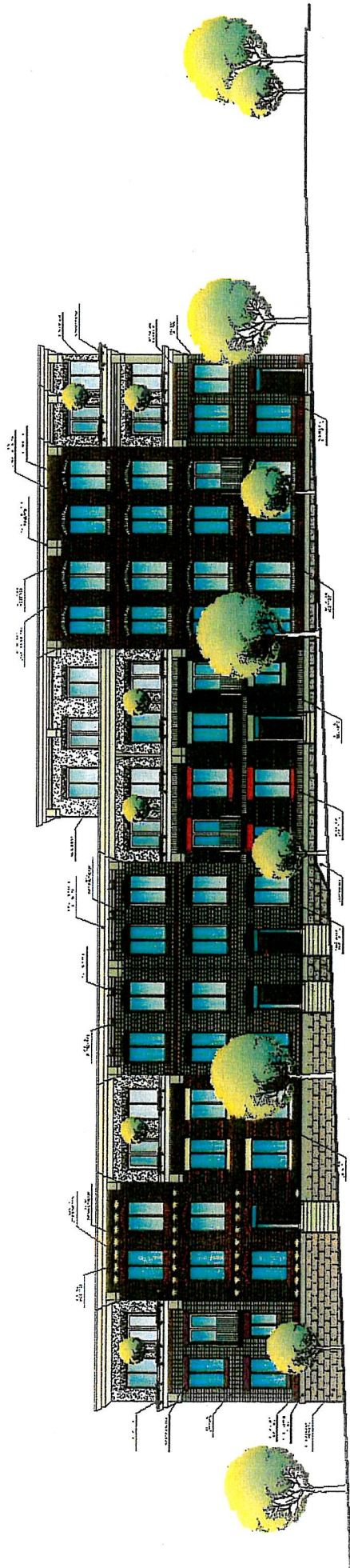
I have no comments on this zone change.

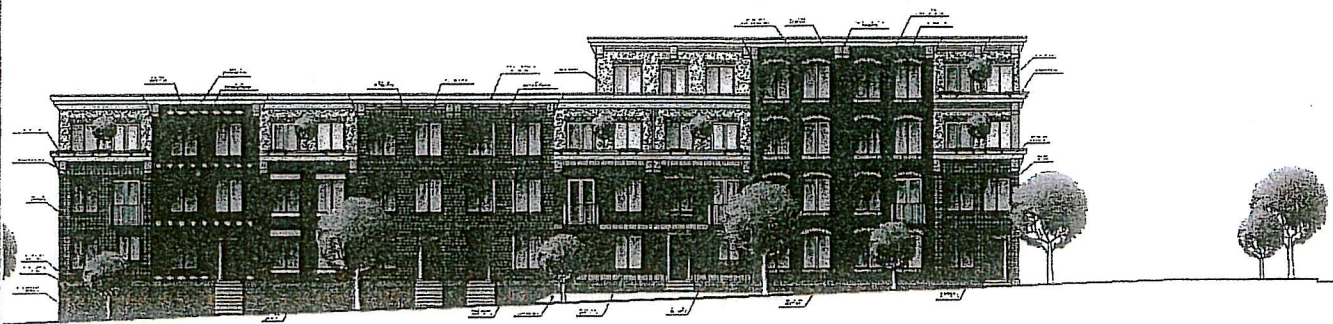
Larry

Permit id: 5009847 Issue Date: 02/02/2006

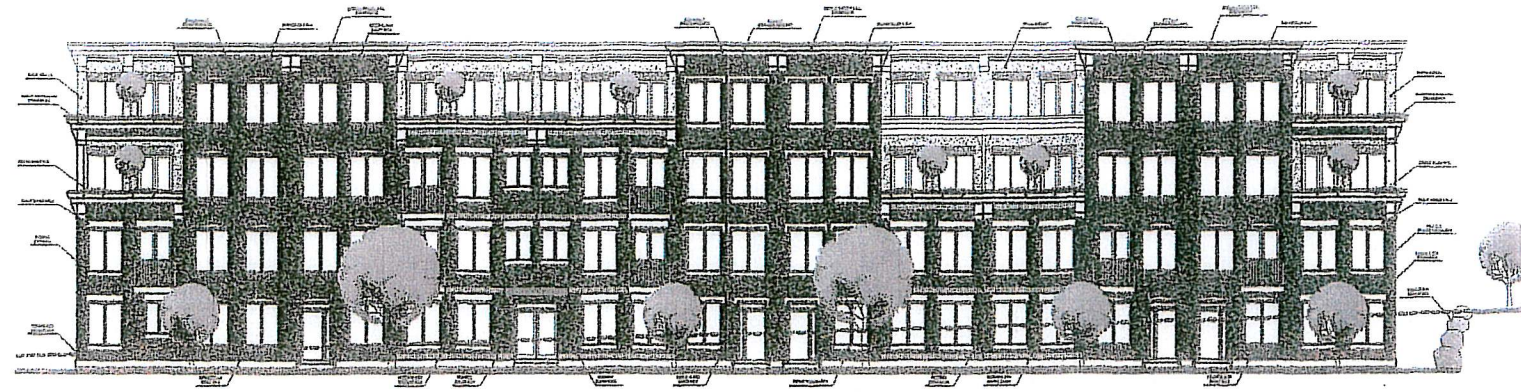
PROJ DESC: BLDG 46 RES CONDO & ZONE MAP AMENDMENT TO RMF-45, DEMOING 3 BLDGS ON 3 LOTS AND COMBINING THE LOTS; AT INDEES: BLAKE HENDERSON, GULLAUME BELIQUUE & DOG DANSIE. - - - FEB 1, 06 - - KEN BROWN, ZONING, SEPERATE DEMO PERMITS REQD FOR EACH PROPERTY. NEW CERTIFIED ADDRESS TO BE OBTAINED FROM THE ENG DEPT. 46,833 SQFT LOT AREA REQD FOR 46 UNITS, 45FT MAX. BLDG HEIGHT. FRONT & CORNER SIDE YARD TO BE LANDSCAPED 60% MAX COVERAGE. WILL NEED TO ADDRESS TRASH REMOVAL & DUMPSTER ENCLOSURE. SITE PLAN TO SHOW PARK WAY STRIP & PUBLIC WAY IMPROVEMENTS. URBAN FORESTER APPROVAL REQD FOR PARK WAY TREE REMOVAL OR PLANTING. CONDOS MAY EACH REQ A SEPERATE PERMIT (46 TOTAL). - - BRAD STEWART, PUBL UTILIT; NEED SEWER DEMAND, WILL NEED TO CHECK FIRE CAPACITY, MAY NEED DETN REQD. SWPPP, GARAGE TO SS THROUGH SAND/OIL SEPARATOR. - - BARRY WALSH, TRANS; COMBINE LOTS, RE-ZONE, PET #400-05-43. 86 PARKING STALLS REQD, 46/47 UNITS; 5% BIKE, 8 ADA (VAN); NEED RAMPS DET TO HEIGHTS, 8FT 2IN; ADA, DRAINAGE, PKG STRUCTURE COLUMNS SPACING, ETC; PUBLIC WAY; DW'S; ST LIGHTS; TREES; DAVE PALES; - - KEN TAYLOR, ENG; COMBINE LOTS, 1 ADDRESS; FULL CIVIL DRAWINGS FOR PUBLIC WAY IMPROVEMENTS; POSSIBLE SUBDIVISION AGREEMENT, BUILT AS CONDOS, STAGING DURING CONSTRUCTION; - - WAYNE L, FIRE; 3 & 4 STORY CONDOS W/PARKING BELOW. ACCESSIBLE FROM 100 SOUTH AND 900 EST; 2 SIDES; 45FT HIGH, BACKYARD 30FT WIDE, NO ACCESS; FULLY SPRINKLERED, REQ IBC CH 9; BLDG WILL HAVE 3 STANDPIPES, 1 FOR EACH STAIRWAY; FD OUTLETS ARE NOW TO BE PLACED AT INTERMEDIATE LANDINGS, WORK WITH FIRE PROT CONTRACTOR, AT LEAST ONE TO ROOF, CENTERMOST, WITH ROOF ACCESS; FIRE

Exhibit 2
Proposed Development
Site Plan and Elevations

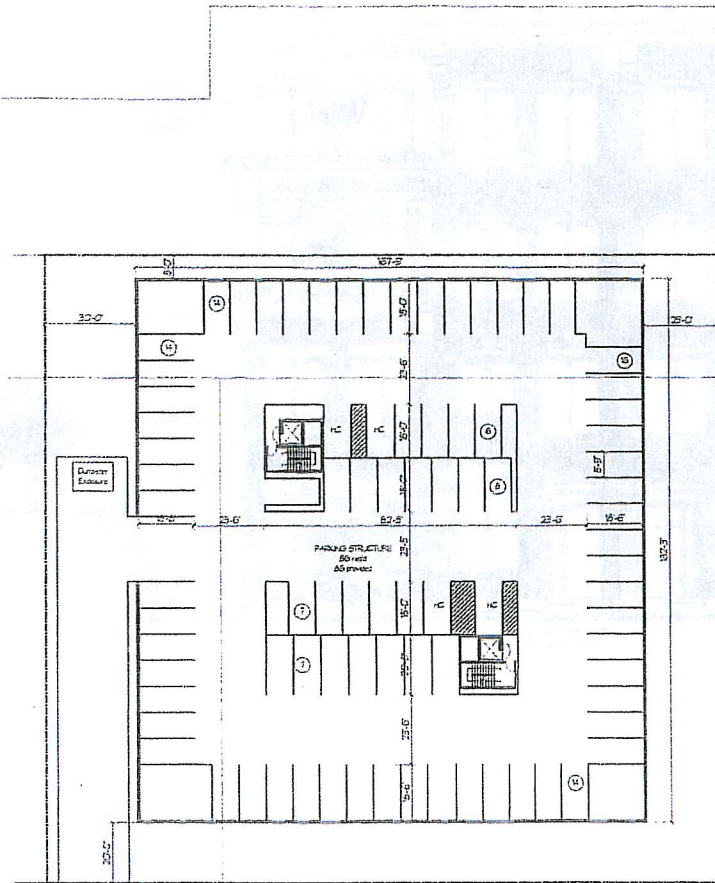




1 100 SO. ELEVATION
A-0.01 SCALE 1/8" = 1'-0" (24X36)
SCALE 1/32" = 1'-0" (11X17)



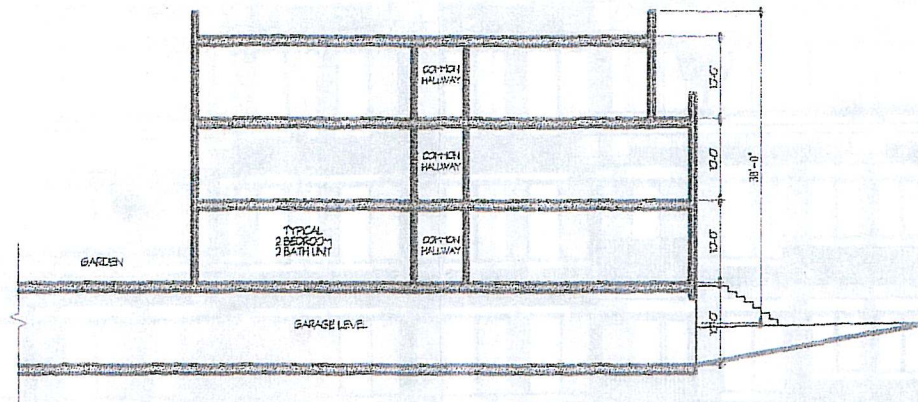
2 900 E. ELEVATION
A-0.01 SCALE 1/8" = 1'-0" (24X36)
SCALE 1/32" = 1'-0" (11X17)



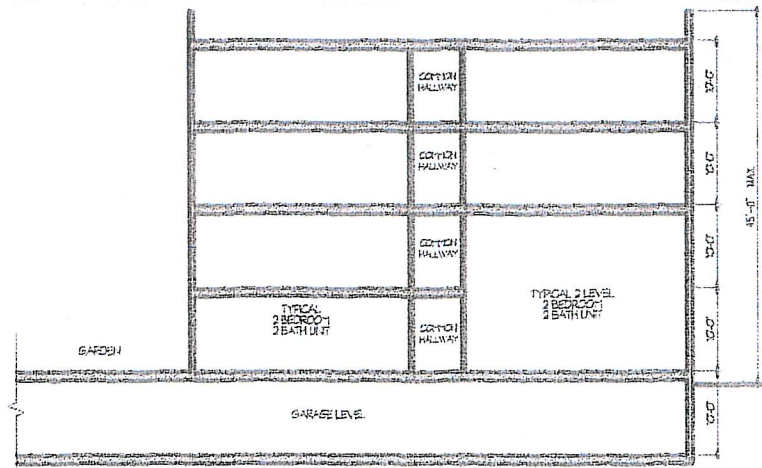
100 SOUTH

900 EAST

5 SITE PLAN
A-0.01 SCALE 1" = 30'-0" (24X36)
SCALE 1" = 60'-0" (11X17)



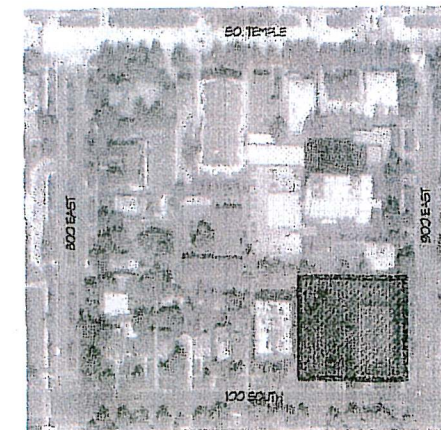
4 SOUTH WING BLDG SECTION
A-0.01 NOT TO SCALE



5 EAST WING BLDG SECTION
A-0.01 NOT TO SCALE

PROJECT DATA

ZONE: MF-45		USE: MULTI-FAMILY			
TOTAL SITE	46,833 S.F. (1.08 ACRES)				
BUILDINGS	25,038 S.F. (58 ACRES) = 54% (60% MAX.)				
DRIVEWAY/LANDSCAPE	21,775 S.F. (50 ACRES) = 46%				
ZONING ORDINANCE					
# OF UNITS ALLOWED	47 UNITS				
	1 PER 1000 SF				
BLDG HEIGHT	45 MAX				
PARKING RIGHTS	2 PER UNIT WITH 2 OR MORE BEDROOMS				
FRONT YARD SETBACK	ONE @ 25, ONE @ 20				
REAR YARD SETBACK	30				
INT. BLDG SIDE YARD SETBACK	5				
INT. LANDSCAPE SIDE YARD SETBACK	8				
UNITS					
UNITS	47				
DENSITY	44 UNITS / ACRE				
PARKING	86 COVERED STALLS				
	86 REQUIRED (1 per Bedroom)				
TYPE OF CONSTRUCTION		VE	TOTAL BUILDING SQ. FTG		
OCCUPANCY		R-2	TBD SF		
UNIT TABULATIONS					
BLDG NO.	1BR/1BA	2BR/2BA	3BR/2BA	TOTAL # BEDS	TOTAL # BATHS
1	8	38	-	86	86



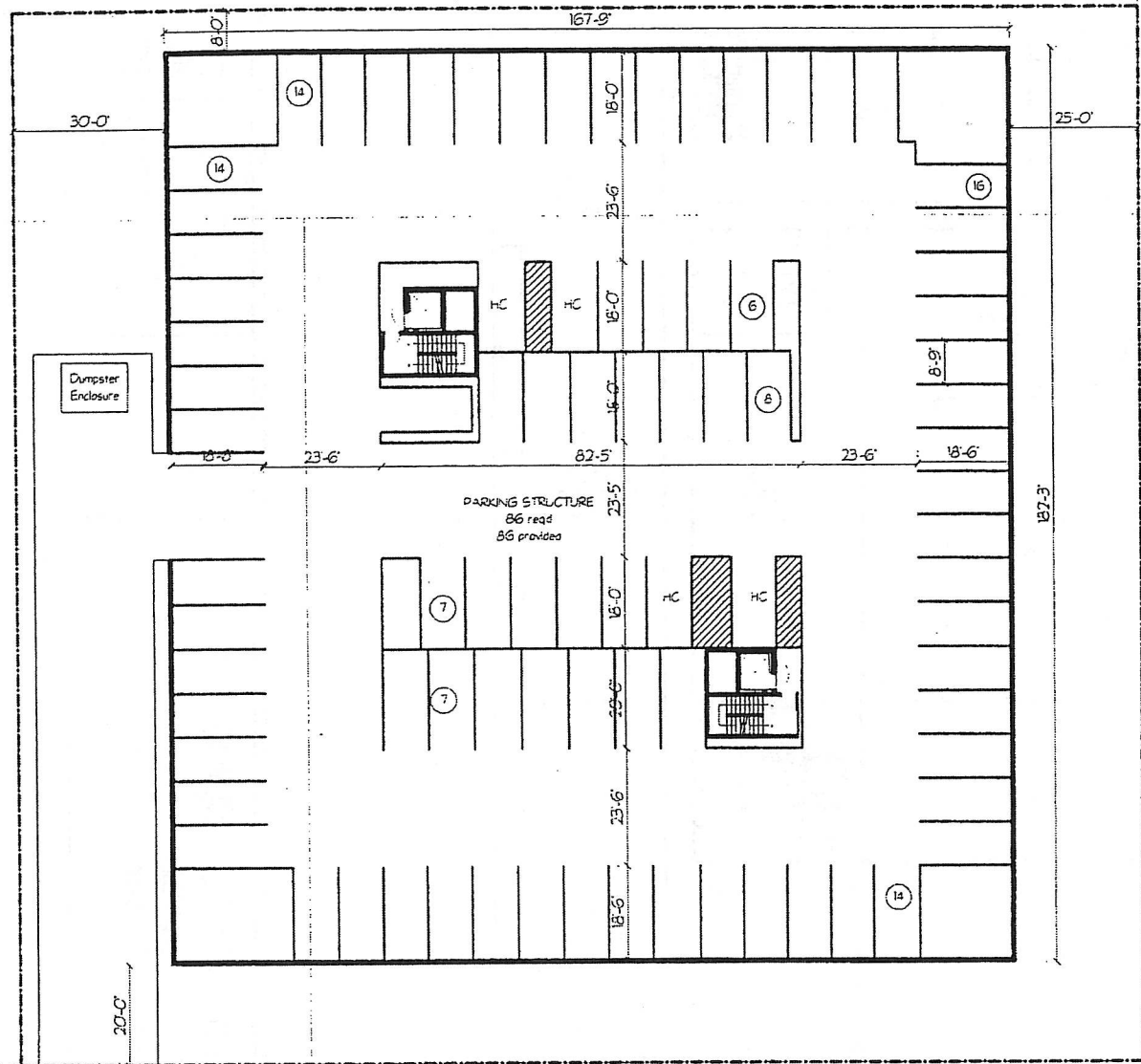
6 VACINITY PLAN
A-0.01 NOT TO SCALE

Architecture Belgique, Inc.
Commercial & Residential
1000 East 1000 South, Suite 100
Salt Lake City, UT 84119
Tel: 801.466.1111
Fax: 801.466.1112
www.architecturebelgique.com

1ST AND 9TH CONDOMINIUMS
 100 so. and 900 East
 Salt Lake City, Utah

Street Title	
Project Info	
Date	Jan. 24, 2006
Scale	
Sheet Number	A-0.01

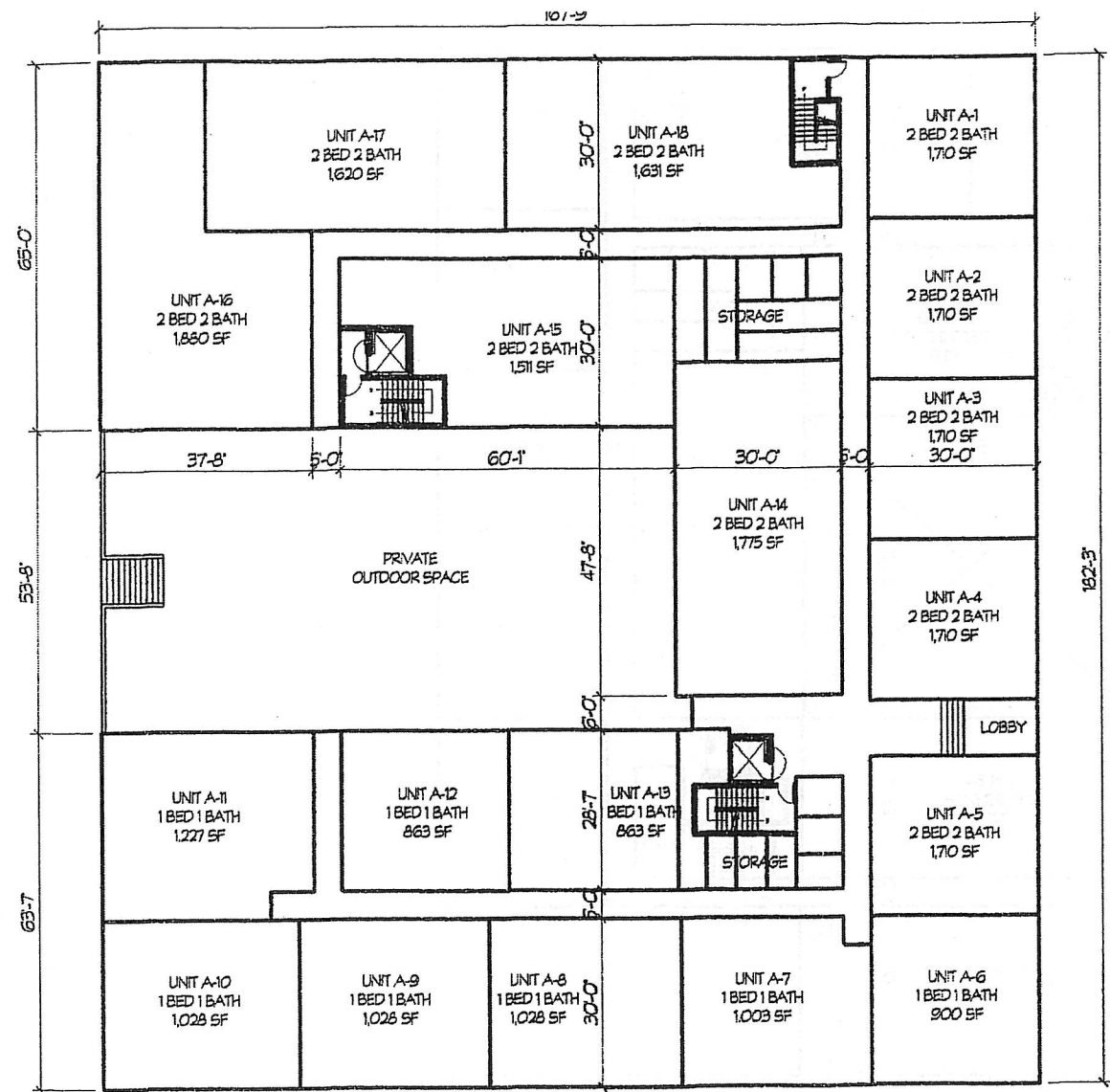




100 SOUTH
GARAGE LEVEL FLOOR PLAN

1
A-101 SCALE 1/16" = 1'-0" (24"X36")
SCALE 1/32" = 1'-0" (11"X17")

900 EAST



2
A-101 1ST LEVEL FLOOR PLAN

SCALE 1/16" = 1'-0" (24"X36")
SCALE 1/32" = 1'-0" (11"X17")

Architecture Belgique, Inc.
commercial & residential
Phone 801.503.9710 Fax 801.503.9528
Email gullavand@archbelgie.com

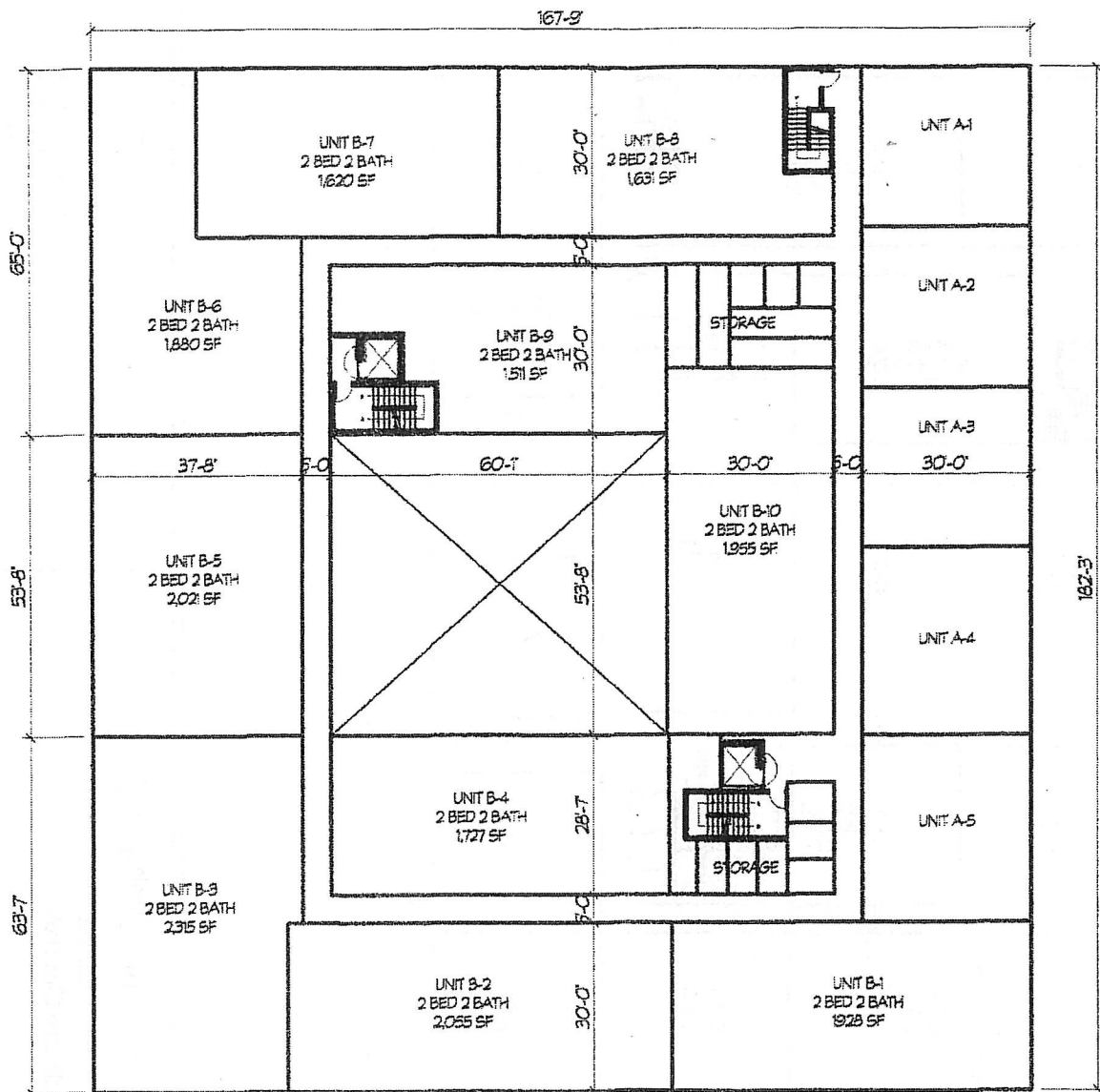
1ST AND 9TH CONDOMINIUMS
100 so. and 900 East
Salt Lake City, Utah

Sheet Title
Floor Plans

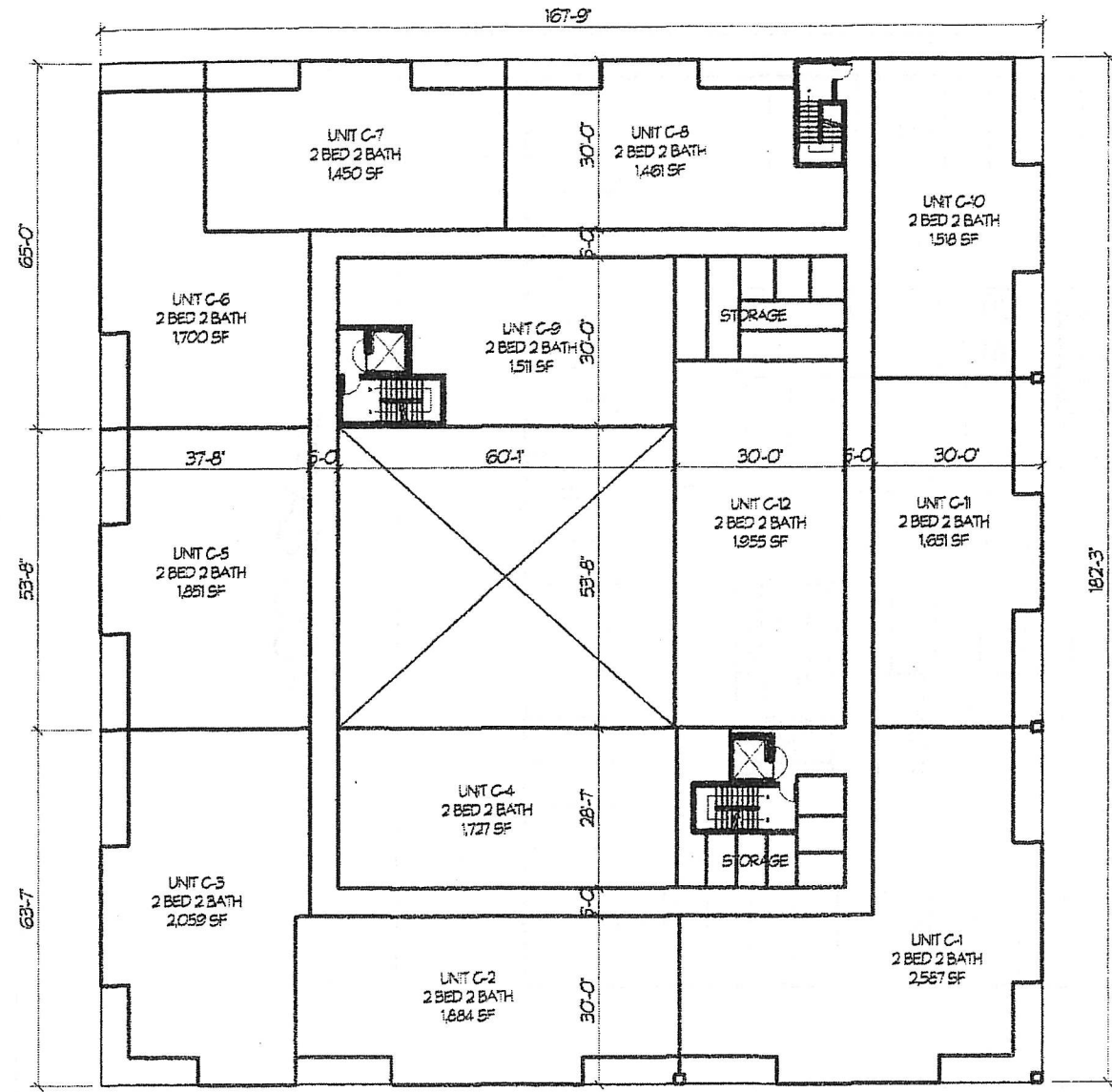
Date
Jan. 24, 2006

Sheet Number
A-1.01

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1 2nd LEVEL FLOOR PLAN
 A-1.02 SCALE 1/16" = 1'-0" (24"X36")
 SCALE 1/32" = 1'-0" (11X17")



2 3rd LEVEL FLOOR PLAN
 A-1.02 SCALE 1/16" = 1'-0" (24"X36")
 SCALE 1/32" = 1'-0" (11X17")

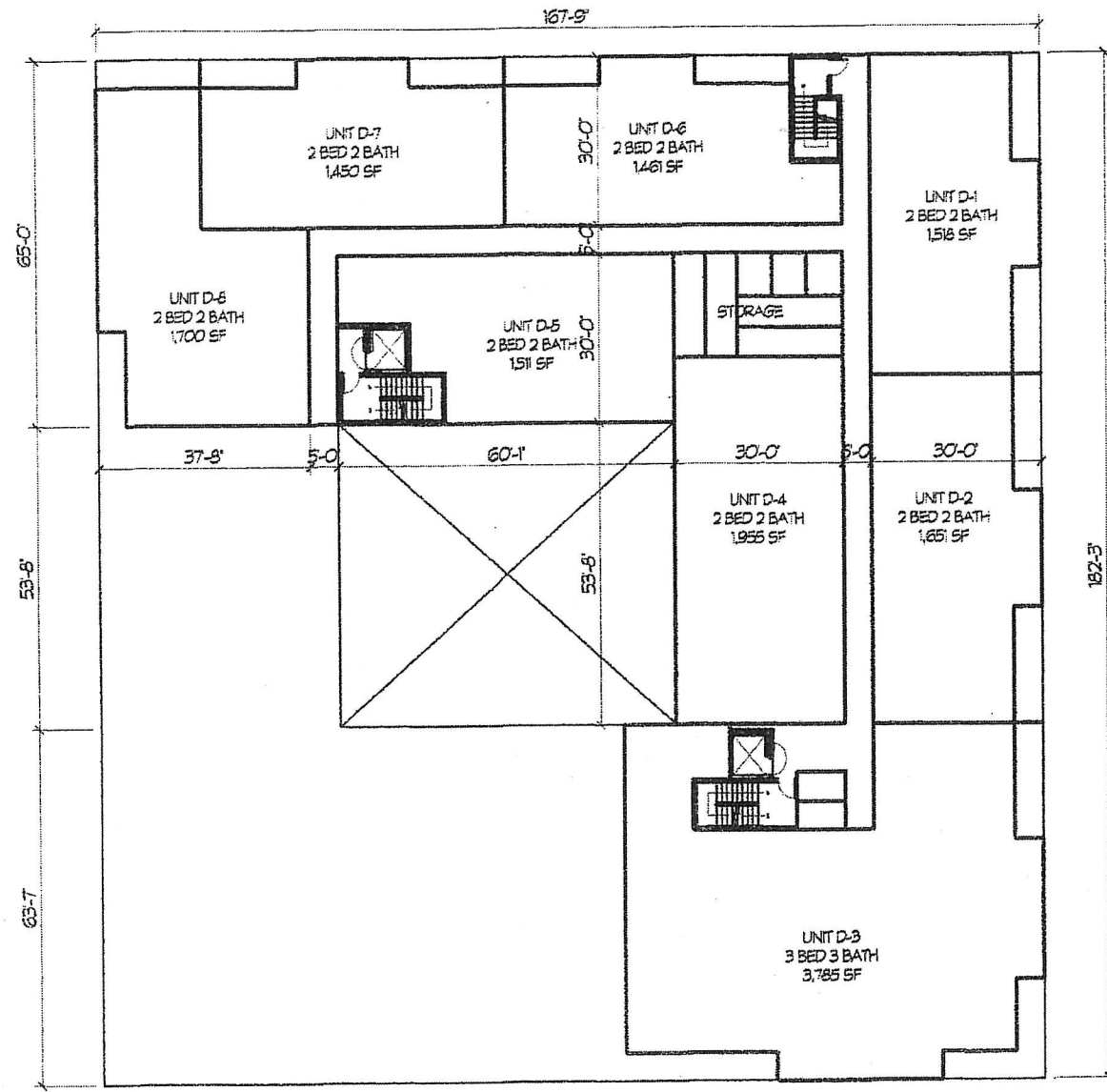
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 Email graham@archbelgique.com

1ST AND 9TH CONDOMINIUMS
 100 so. and 900 East
 Salt Lake City, Utah

Sheet Title	Floor Plans
Date	Jan. 24, 2006
Sheet Number	A-1.02

ARCHITECTURE BELGIQUE, INC. © Jan 2006



1 4th LEVEL FLOOR PLAN
 A-1.03 SCALE: 1/8" = 1'-0" (24"X36")
 SCALE: 1/32" = 1'-0" (11"X17")

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1ST AND 9TH CONDOMINIUMS
 100 so. and 900 East
 Salt Lake City, Utah

Sheet Title
 Floor Plans

Date
 Jan. 24, 2006

Sheet Number
 A-1.03

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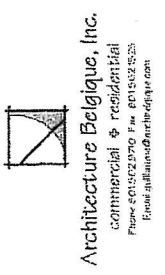


Exhibit 3
Photographs



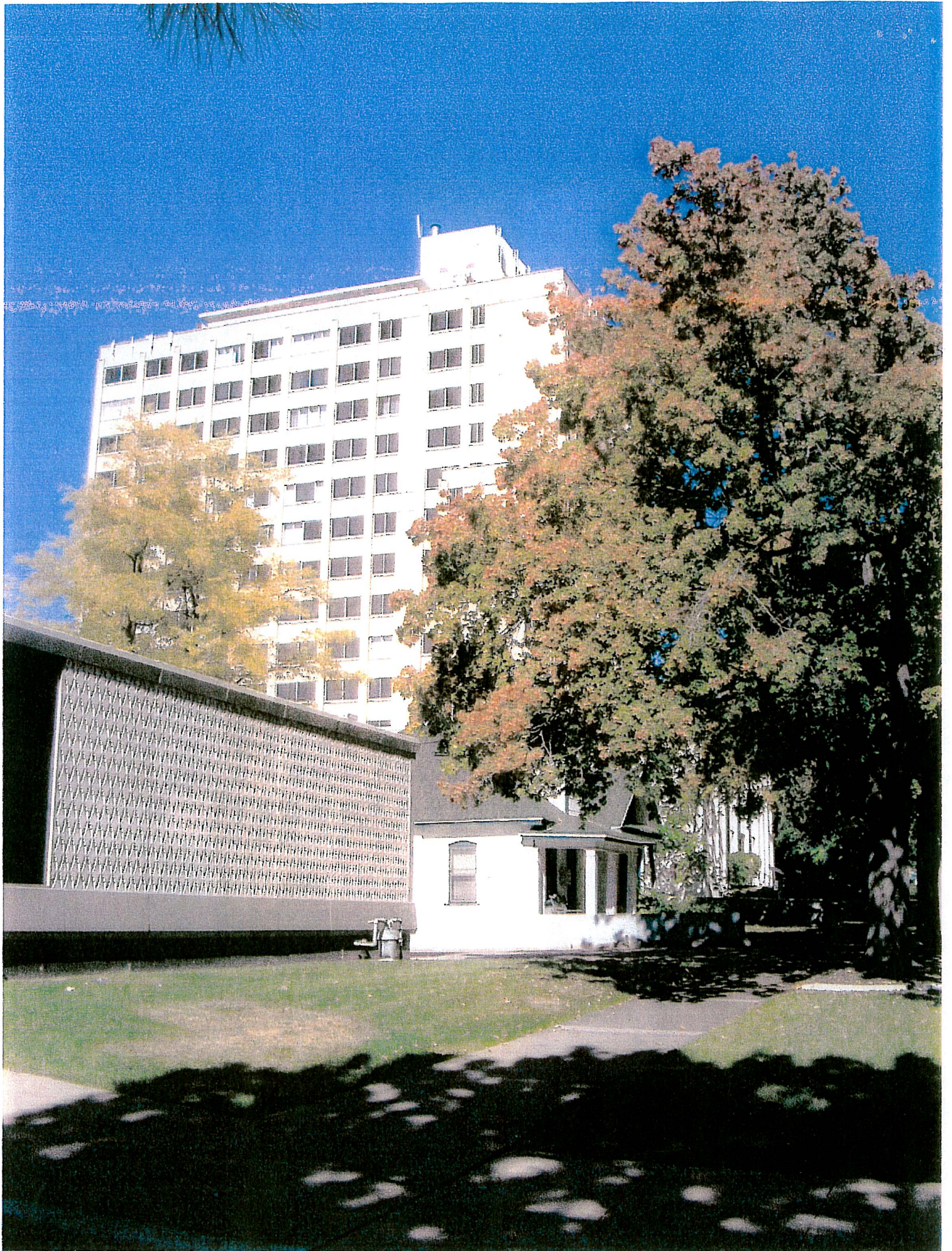


Exhibit 4
Community Council and
Public Comments

Blake Henderson

From: marian [mailto:marian@nflorencefineart.com]
Sent: Friday, December 02, 2005 5:49 PM
To: blake.henderson@comcast.net
Subject: FW: October Board minutes for the ECCC

From: marian [mailto:marian@nflorencefineart.com]
Sent: Wednesday, November 30, 2005 3:22 PM
To: 'Blake.henderson@comcast.net'
Cc: 'sarah.carroll@slcgov.com'; Dennis Guy-Sell (dadufo@aol.com)
Subject: October Board minutes for the ECCC

Dennis Guy-Sell asked me to send these along to you. The issue was discussed again in November at the Board level.

Thanks,

Marian Florence
Secretary, ECCC

East Central Community Council
Board Meeting
October 19, 2005

Attending: Dennis Guy-Sell, Chris Johnson, Esther Hunter, Marian Florence, Cathey Dunn, Penny Archibald-Stone, Dawn Levingston, Cindy Cromer.

Mobile Watch: Penny announced a successful capture of a burglar during Neighborhood Watch and requested a camera.

Board of Adjustment tabled an application for unit legalization at a triplex at 465 S 1200 E. The owner has avoided paying fees for a business license and the case is under review.

Condominium plan for 100 S 900 E Blake and Neil Henderson presented their plans to build a 45-unit condominium building on the NW corner of 100 S 900 E. Currently the site holds a concrete medical office building, two parking lots and two historic homes, one of which is owned by Blake Henderson. Henderson's plans fit current building codes but would require a rezone of the property to RMF 45. He hopes to design the building to fit the neighborhood aesthetic and believes his building will "soften" the corner by replacing the existing concrete medical office.

The ECCC Board raised several objections to the Hendersons' plans. Cindy Cromer detailed some of the history of the two homes, noting that the foundation of one was severely damaged by water draining off the parking structure. She argued that RMF 45 is inconsistent with the character of the neighborhood and that such rezoning would only serve to move the area further from single-family residential. Esther Hunter agreed with Cindy's points, and asked if the facade could be preserved (no) or if a floor could be removed (no). Dawn Levingston expressed concerns for pedestrians and landscaping. Penny likes the idea of replacing the medical office and wants to see more residents living in the area.

Dennis concluded the meeting by proposing a subcommittee to work with the Hendersons, expressing the support of the ECCC board for the removal of the medical office building but the concerns of the ECCC Board for the removal of the historic homes. He asked Esther to organize and head the subcommittee, which will meet with the

12/7/2005

Hendersons within the next month.

Bob Gore presented the neighborhood matching grants, which assist neighborhoods in improving public property. Most grants are used for decorative street lighting. The application process is ongoing, and matches funds up to \$5000.

CDBG – Greg Johnson presented the Community Development Block Grants which are distributed annually (application deadline in September followed by reviews by the CDBG staff, Mayor, and City Council). Some eligible projects may be cracked sidewalks, access ramps, and bathrooms at Reservoir Park. The Bennion Crosswalk project recently submitted has a good chance of being granted the requested \$14K.

Smiths Parking Lot – Herm Franks and Bob Moore, commercial real estate developers, presented plans to construct small shops and a fuel station at 800 S 900 E. The ECCC Board rejected the proposal for a fuel station but approved with caution a plan for local shops and a walkable area tied to the shops of 9th and 9th. The developers will return to the ECCC with further plans.

A motion to pay the \$300 debt incurred by the **Children's Garden** at the 9th and 9th Festival was made by Chris Johnson and seconded by Dawn Levingston and passed.

The **November Agenda** will include John Hamlin, VP of East High, a truancy officer, school council groups, Heather Bennett from the School Board and businesses from the 9th and 9th area as we discuss East's relationship with neighbors.

Meeting adjourned at 9:20pm

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To Members of the Salt Lake City Planning Commission
Members of the Planning Staff
Councilmember Nancy Saxton

From Cindy Cromer
March 1, 2006



I am writing *as an individual* regarding Petition 400-05-43 which is on your agenda for March 8. The agenda states, "The City may also consider rezoning properties at approximately 50 South 900 East and 845 East 100 South (rear) from RMF-35 to RMF-45 to better conform with the existing land uses and be consistent with the proposed changes by the applicant." Again, I want to state that I am challenging this notice *as an individual*, although I do have information obtained from the community council (East Central). The concerns I am raising have to do with the adequacy of the process, and not with Mr. Henderson's proposal. I will address Mr. Henderson's proposal at your hearing Executive on March 8.

Order requiring notification to the community council

Since the administration of Palmer DePaulis, the Planning Department has been required to notify the community council regarding two types of petitions: conditional uses and rezones. As the attached message from East Central Chairman in 2005, Dennis Guy-Sell, indicates, the community council was contacted by Mr. Henderson who only owns 3 properties at the intersection of 900 East and 100 South at this point. The community council has never been informed by anyone regarding 845 E 100 S (rear). The community council knew that Mr. Henderson was interested in acquiring the property at 50 S 900 E but had not been able to do so. He was not therefor entitled to file a petition. The proposal that the community council reviewed at its recent Board meeting only included the 3 properties that Mr. Henderson owns, not 50 S 900 E.

Ordinance stating who can file a petition

The ordinance clearly states who can file a petition: the Mayor, a member of the City Council, a member of the Planning Commission, or the property owner. In the case of Petition 400-05-43, it appears that the planning staff has initiated portions of the petition regarding the properties at 50 S 900 E and 845 E 100 S. The Planning staff could have asked any member of the Commission to do this, but I would argue that the staff does not have the authority to initiate a petition or a portion of a petition in the name of handling a rezoning comprehensively. The failure to initiate a petition properly is especially serious in this case because an amendment to the recently adopted Central Community Master Plan is involved.

Filing fee

By initiating the petition on 50 S 900 E, the staff avoided the need for the current property owner to pay a filing fee. The proposed rezoning is worth many times more than the filing fee. Again, it is not appropriate for the Planning staff to initiate a petition for one property owner when Mr. Henderson (and other property owners) have to pay the filing fee. It appears to me that the issue with 845 E 100 S could be a mapping error. If that is the case, Planning should have brought the problem to the Commission to initiate a petition so that the owner would not have to pay a filing fee for the City's error.

The message indicating notice to the community council is attached.

Cindy Cromer

From: Dadufo@aol.com
Sent: Friday, February 24, 2006 9:56 PM
To: Cindy Cromer; cajohnson_slc@yahoo.com
Subject: Henderson Project

Cindy asked if I had received any notice last year about the additional properties that the Hendersons now want to develop.

I've never received anything from the City. Randy Henderson contacted me and I invited him to an Exec Board meeting. I recall at that time he indicated that he was trying to obtain additional properties adjacent to his corner property.

In early January 2006, he contacted me again, asking for contact information for Esther.

That was the last I have heard from him.

Dennis

c. Minutes

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, March 8, 2006**

Present for the Planning Commission were Laurie Noda (Chairperson), Tim Chambless, John Diamond, Robert Forbis Jr., Peggy McDonough (Vice Chairperson), Kathy Scott, Jennifer Seelig and Prescott Muir. Craig Galli and Babs De Lay were excused from the meeting.

Present from the Planning Division were Alexander Ikefuna, Planning Director; Doug Wheelwright, Deputy Planning Director; Doug Dansie, Principal Planner; Wayne Mills, Senior Planner; and Cindy Rockwood, Senior Planning Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Noda called the meeting to order at 5:46 p.m. Minutes are presented in agenda order and not necessarily as cases were heard by the Planning Commission. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Tim Chambless, Kathy Scott, Prescott Muir, and Robert Forbis Jr. Planning Division Staff present was Doug Dansie.

PUBLIC HEARINGS

Petition 400-05-43 —A request by Blake Henderson to amend the zoning map to change the parcels of land located at approximately 857 East 100 South, 70 South 900 East and 58 South 900 East from RMF-35 to RMF-45 to build a new multi-family housing development. This proposal will require an amendment to the Central Community Master Plan to identify the properties as medium-high density residential rather than medium density residential.

(This item was heard at 6:02 p.m.)

Chairperson Noda recognized Staff member Doug Dansie presenting the petition.

Mr. Dansie introduced the petition as a rezone of the area generally located on the northwest corner of 900 East and 100 South. The property is south of the Sunset Tower Apartments and east of the Market Street Condominiums. The site is presently zoned RMF-35 and is presently occupied by a non-conforming medical office building. The property slopes to the south. Two homes are located on each side of the medical building. The applicant is proposing to demolish all three structures and build a condominium complex.

The complex would be three- and four-stories tall. The taller portions will be located towards the northeastern portion of the site, with the three-story on the southwestern portion. The new building meets all criteria of the RMF-45 zoning requirements. Mr. Dansie stated that the Planning Commission is considering the request for a zoning change. If the zoning is approved, a permit would be issued for the building as there are no conditional or planned development requirements for the proposed building. All parking for the development will be underground. If RMF-45 zoning is approved, the site plan found in the Staff Report meets all ordinance requirements. It was noted that the proposed development would be lower than the existing Market Street Condominiums.

The ground units in the proposed development would have street access and are responsive to the street. The subject property is located in a National Historic District, but not the City Historic District. At present, the medical office building is not eligible for the register; although the homes are. The proposal has been routed to all applicable City departments and no objections were raised regarding the zoning change. Mr. Dansie mentioned that the site plan has been recently altered due to request from the fire

department and its requirement for accessibility to all areas of the building; therefore, the driveway has been realigned to enter on the side of the proposed development.

The zoning change proposed would require an amendment to the Central Community Master Plan. The Land Use and the Zoning Map coincide with another, but carry some varying characteristics. There is not always a direct correlation between the exact zone and the land use; therefore, more than one Zoning classification can fit into a Land Use category. The Land Use surrounding the proposed property is a mixture of high, medium-high, medium, and low-medium density. Mr. Dansie noted that previous Land Use maps for other master plans had been completed with a broad-brush, generalized style, not defining exact parcels of Land Use. The Central City Master Plan was completed with a computer and is parcel based, therefore providing distinction. The subject property is identified as medium-density housing.

Staff recommends the Planning Commission amend the Central Community Master Plan regarding the properties at 857 East 100 South, 70 South 900 East, and 58 South 900 East from a Land Use classification of medium density to medium-high density housing classification and change the zoning from RMF-35 to RMF-45.

Commissioner McDonough requested information regarding the elevation of the properties and the variation presented on the maps. Commissioner McDonough noted a significant grade change on the 900 East elevation map illustrating a retaining effect on the north of the property, resulting in a lower sidewalk and landscape.

Mr. Dansie stated that the elevation maps are the same, but due to the superimposition of the photographs, the trees are actually concealing the design. Mr. Dansie agreed that there is a grade change in the northern area of the property resulting in a flattened sidewalk and landscape.

Commissioner Scott noted two corrections in the Staff Report on page 5 with regards to the specific location of the subject property to the neighboring properties. Mr. Dansie agreed and stated that the subject property is not immediately adjacent to a high-density property.

At 6:18 p.m., Chairperson Noda recognized the applicant, Mr. Blake Henderson.

Mr. Blake Henderson introduced himself and Mr. Neil Henderson (senior) as a partner in the project. The applicant distributed a handout to the Commissioners reflecting the proposed project and the necessity of a rezone. Mr. Henderson stated that the project is not financially viable within an RMF-35 zone and the renovation of the existing buildings is also not financially viable, resulting in a rezone as the only option.

Mr. Henderson stated that the subject property is bordered by an RMF-45, and is one lot removed from an RMF-75. The building presently on the subject property is a non-conforming medical office building. The proposed project is a full residential condominium project for purchase and would provide a more pleasing view to the area. Mr. Henderson stated that he has met with the East Central Community Council numerous times and has felt support and cooperation in working with the community to provide a feasible structure for the area. The Community Council has expressed concern regarding the size of the building; although, the design and concept of the building has been supported. One of the major concerns of the Community Council is the possibility of a precedent being set by the proposed rezone, but it is required to place the structure on the site and to provide a benefit to the community.

In response to Commissioner McDonough's questions regarding the elevation and the grade change, Mr. Henderson stated that the building has been lowered in order to maintain a lower height. The building will remain a forty-four foot high building on the 900 East side, but the existing grade will be altered.

Commissioner McDonough requested clarification on the actual grade change creating a steeper slope to the building. Commissioner McDonough noted concern for the difference between the sidewalk and the first level of the building in the northeast area of the building. Commissioner McDonough noted that the first-level site plan does not detail the entry doors from below grade and the connection to the sidewalk.

Guillaume Belgique, Project Architect, stated that the grade change would be approximately five to six feet given the proposed site plan, but that alterations may occur once the project has reached the finalizing stages. He noted that the property will have twenty-five feet from the property line for the landscaping to slope to the appropriate level.

Mr. Henderson noted that the reasoning in lowering the building height was to create a greater visual aspect from the 900 East view and was in response to a request from the community council. It was also noted that parking is below grade with accessible entry above the parking level as well as from the interior.

Commissioner Diamond requested the limitations of "cut and fill" on the site. Mr. Wheelwright stated that there are implications, but a grade change may be conducted for up to two feet on the property. If it is outside of the two-foot range, the proposal must appear before the Board of Adjustment.

Commissioner Chambless asked a few questions regarding the period of time the Hendersons have owned the property, the age of the medical building, and the proposed plan of the square footage and pricing of the property. Commissioner Chambless also noted that the units would not likely be used by students of the university or the elderly commuting to the downtown area.

Mr. Henderson stated that the property had been obtained in December 2005 and the medical office building was built approximately in the 1940s or 1950s. He stated that the square footage of the units will range between 1500-1800 sq. ft., with a penthouse on the fourth level with approximately 3700 sq. ft. The price projected is in the high \$300,000 to \$500,000 range and would be owned, not rented.

Commissioner Diamond requested further information relating to the financial inability to provide 46 units in a duplex manner. He noted that the applicant is given the right to appear before the Planning Commission and present a plan that will bring a greater return to a property, but consideration should be given to engage the ground-level units. Commissioner Diamond asked if the applicant had been given the option to complete this project as a Planned Unit Development (PUD) and if they had reached the requirements.

Mr. Henderson stated that the Salt Lake City code would not allow the density requested in an RMF-35 zone. In an RMF-35 zone the density could have reached 32 units, but would not be allowed more than 33 units because of the size and height requirements.

Mr. Dansie responded to the question regarding the PUD option, by stating that the site does not contain multiple buildings. By definition, a Planned Development process cannot be used to increase the density above the base zone.

Commissioner Muir clarified that the petition placed before the Commission is for a rezone. Mr. Ikefuna agreed and stated that the Planning Commission can recommend conditions wherein the property could comply in building the proposed design.

At 6:44 p.m., Chairperson Noda opened the Public Hearing and requested any comments from Community Council Chairs or public.

Chris Johnson, Chair of the East Central Community Council Chair spoke. Ms. Johnson noted her concerns about the project (as listed below). She was representing a 10 of 11 vote in opposition to the proposed development. Ms. Johnson also stated that the Hendersons have been respectful and cooperative to the requests and concerns of the community. The Community Council would be supportive of the development if it was feasible in an RMF-35 zone. Ms. Johnson also requested a possible form of better communication between the Planning Division and the Community Councils.

The following members of the public spoke in opposition to the petition: Arla Funk, Cindy Cromer, Ester Hunter; Chair of the University Neighborhood Council, Michael Molteni, and Wendell Duncan. (Handouts were distributed to the Commissioners by some of the representatives.)

The opposition points made by the East Central Community Council Chair and members of the public are listed as follows:

- Zoning the property an RMF-45 is a spot zoning technique and could result in further upzoning
- Setting a precedent for allowable zone changes
- Inconsistency with the recently adopted Central Community Master Plan
- Financial viability is perceived differently by each individual and should not be considered as an appropriate reason for a zone change
- Inconsistency in the City's Master Plan
- RMF-45 zoning can be found in the 400 South area and should be considered by the developer
- A home zoned R-2 is located ½ block to the east of the subject property
- One- to three and one-half story buildings are in the vicinity; not larger buildings that do not fit.
- The continuous mass of the proposed property will change the character of a key intersection
- Demolishing of two historic homes
- After-hour noise becoming amplified
- Placement of HVAC and AC units
- Amplification of crime in the underground parking area
- Location of entrance/exit
- Insufficient number of parking spaces for owners and visitors

Ms. Cromer noted that density is not as great of concern as character compatibility. She also noted that the neighborhood is anticipating the addition of two group homes within the former Bryner Clinic building (RMF-45) and has not had any complaints regarding the change of use.

Ms. Cromer also stated that the City Ordinance Code should be reviewed because of the considerable changes in the recent history and the density. A suggestion was to consider density bonuses be included within the City code.

At a point during the comments from the public, Mr. Ikefuna clarified that the Central Community Master Plan encouraged the elimination of non-conforming buildings if the area is replaced with a residential use.

At 7:28 p.m., Mr. Henderson was given the opportunity to respond to some of the concerns that were stated. Some of the concerns noted were building code concerns and will be addressed as progression is made with the project. Density is not the strongest concern among the opposition, but rather the precedent this rezone could establish in the area. Developers will continue to come and request for a rezone but this project is a benefit to the community and will reduce crime. The project is an upscale addition to the community, but an addition of this type cannot be completed in a RMF-35. Perhaps another type of building could be developed, but it will not be as complimentary to the community. The base is to rezone the property to an RMF-45 in order to complement the property. Mr. Henderson Sr., stated that excellent dialogue has been conducted between community council and the developers. In his view, the community councils are highly concerned with the possibility of setting a precedent, when in fact the planning staff is not trusted to make decisions when considering the best interest of the City.

Mr. Dansie was given some time to respond to any further questions of the Commissioners.

Commissioner McDonough requested the height of the RMF-35 apartment building on 100 South and 900 East on the south side of the street.

Mr. Dansie stated that the first floor was slightly elevated and could be 33-35 feet, but he was unable to give the exact height.

Commissioner Muir requested information on the advisement an applicant receives in relation to the presentation given to the Community Councils. Commissioner Muir noted that the proposed project either

carried an approval or disapproval for the Planning Commission unless a development agreement was to be developed. He was also concerned that the possibility of a Planned Unit Development (PUD) should have been considered for this applicant, rather than a complete rezone request.

Mr. Dansie stated that the City Ordinance requires the applicant to present the petition to the Community Council. Legally, the applicants are only required to present the proposed project to the council and utilize the time spent with the community council as an information gathering situation. The attorney's have discouraged the use of development agreements with the issue of a rezone because of the possible bias for specific projects. The attorney's have requested that the Land Use be considered as the main guideline. Mr. Dansie also noted that this specific project could not be a PUD because of the requirements of a PUD.

Commissioner Muir stated concern about the lack of ability the Division has to allow a mechanism to find greater compatibility between the 29- and 46-unit development, rather than the option of a rezone.

Mr. Wheelwright stated that in October of 2005 a petition was initiated by the Planning Commission to review the requirements of density for a Planned Unit Development. The City Council seconded the petition initiation and passed a Legislative Initiative on March 7, 2006, requesting the Planning Staff review the same item of concern. The petition will be given new priority by the Planning Staff.

Mr. Ikefuna stated that comments and concerns have been noted that the decision regarding this proposed development might set a precedent in the area. He stated that this thought was not entirely supported because of the location of the subject property located near to an RMF-45 and an RMF-75.

At 7:44 p.m., Chairperson Noda closed the Public Hearing and the Commission went into Executive Session.

Commissioner Scott stated in response to Mr. Ikefuna's comment that the area surrounding the subject property includes various zones; although there is an RMF-45, it was an existing zone when the master plan was created. She noted the Land Use for the area is medium density and would not recommend the alteration of a recently adopted master plan. Commissioner Scott also stated that the proposed rezone is a spot zone request, and other properties near to the proposed location are zoned RMF-45 and that those properties should be considered for the development requested.

Chairperson Noda stated that the surrounding area of the subject property is a various point of zoning, but RMF-45 should be located along the 700 East corridor. She agreed with the statement of spot zoning and expressed concern with the surrounding vicinity of two-story buildings. Chairperson Noda stated that the option of demolishing the medical building would be beneficial to the surrounding neighborhoods, and noted appreciation to the developer and the cooperation exhibited with the community council.

Commissioner McDonough stated that a relevant point of opposition was that RMF-45 zoning is available further west on 700 East. She stated that her points made regarding the slope were in relation to the awkward site of the property and not the massing and scale, rather the massing and scale provide a compatible building for the area. The overall question lies in spot zoning and future opportunities.

Commissioner Muir noted that the entire area is in a unique situation and should be considered individually. He stated that the demolition of the medical office building could be a problem for developers. Commissioner Muir continued to state that the RMF-45, if issued, should be shifted to the corner area of the block. He also noted that his participation in the development of the East Central Community Master Plan will lead to his vote against the proposed development.

Motion for Petition 400-05-43 — Based on the comments, analysis and findings, Commissioner Scott made a motion to deny the request to amend the Central City Master Plan to City Council and to also forward a recommendation to City Council to deny the rezoning at the subject property. The motion was seconded by Commissioner Chambless. All voted "Aye". The motion passed.

Commissioner Seelig requested information on how the public receives information when it is requested at a Planning Commission meeting.

Mr. Ikefuna responded that Staff will ensure to send the appropriate material to the member of the public.

Meeting was adjourned at 8:29 p.m.

Cindy Rockwood, Senior Planning Secretary

- d. Letters and minutes relating to accusations of irregularities in the process**

Date: March 15, 2006

To: Louis Zunguze, Planning Director

From: Blake Henderson
Applicant/ Land Owner
Case #: 400-05043

CC: Alex Ikefuna, Planning Administration Director
Doug Dansie, Principle Planner

Subject: Rezoning application for 857 East 100 South, 70 South 900 East and 58 South 900 East, from RMF35 to RMF45 reviewed at the March 8, 2006 Planning Commission Meeting.

Dear Sir,

On March 8th our application for a rezoning of our property on the northwest corner of 100 South and 900 East was heard by the Planning Commission. The application was submitted by the Planning Department with a strong positive recommendation. Our application will be forwarded to the City Council with a negative recommendation by the Planning Commission. This letter is sent to request a review of the above matter because there appears to have been some irregularities in the review process, before the meeting took place, and as a result during the meeting itself.

The Irregularities:

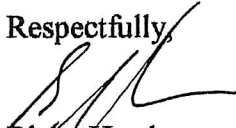
During preparation for this meeting we asked the Planning Department staff if it was appropriate to ask for pre-meetings with some of the Planning Commissioners to thoroughly explain our rezoning request and its importance to our project. We were advised against this by staff. They said it was politically incorrect and that it put the said Commissioners in a difficult position in judging the application on its merits. We happily took staff's recommendation.

We later (just prior to the meeting) heard from the Community Council (~~Esther Hunter~~) that Cindy Chromer and or Arla Funk had met with certain Commissioners before the meeting and had successfully lobbied to have our application rejected or at the very least recommended to a subcommittee. It is our belief that at least Commissioner Kathy Scott met with the Community Council and road around the neighborhood in their car while being lobbied to support their case. This commissioner during the meeting single handedly directed the arguments in favor of the Communities Councils position and formed and proposed the motion for the "negative recommendation".

I do not know the degree of inappropriateness of the above Commissioners actions but I am absolutely certain that we did not have equal access to the Commissioners and it appears the outcome of the meeting supports the boast of the four Community Council members present that the out come was a 'done deal' before the meeting started.

We do not believe that we should argue the merits of our project and our application in this letter but we strongly request to have our application reheard by the Commissioners, (with Commissioner Kathy Scott excusing herself from the proceedings).

Respectfully,



Blake Henderson

P.S. below are additional comments that may be of interest to you with respect to the above.

- The Community Council advised us to take a path that they would orchestrate that would allow us to go around the current zones, code and process by negotiating with certain planning staff, building department, inspectors and politicians to sign off on our project as designed for RMF45 but to be built in a RMF35. Our position to the Community Council is that we would follow the standard protocol and advise of planning staff and go to a hearing by the planning commission for a formal re-zone.
- When we told the Community Council we were not willing to postpone our scheduled hearing, they requested a meeting with Planning Commissioners and were very vocal in an attempt to lobby against our re-zone. I became aware of this meeting through a phone call with Esther Hunter on March 8th. She told me that she was concerned because they were going to oppose our re-zone because of the precedent it might set when in fact they liked the project and that it was not a matter of this projects height or density. She further stated that the Community Council were not too concerned because Cindy Chromer and or Arla Funk had an agreement with one or more of the planning commission that the re-zone request would be recommended to go to a sub-committee if not denied all together.
- This "deal" became even more apparent when during the hearing Planning Commissioner Kathy Scott brought up that while riding around 7th East with Community Council members that they pointed out many building opportunities for a RMF45 projects. As the hearing proceeded to comments from the Planning Commission Kathy Scott was the second Commissioner to speak and then tried to move directly to a denial for the rezone well before other Commissioners had expressed their thoughts. Commissioner Scott's motion was delayed until all Commissioners had their turn.

- We are confident that this deal was made between Arla Funk, Cindy Chromer and Kathy Scott and possibly one other Commission member. I was told by Esther Hunter that they were not concerned going into the hearing because this deal was struck
- Community Council urged us to postpone the hearing so they could work with unnamed people in the Planning Dept. and Building Dept. to get this project approved and built, 'essentially as is' but still called a RMF35 zone.
- We told the Community Council we were not comfortable with this because we do not understand the process and did not want to take the risk of building a project so far out of code and zone that it could get shut down at any moment. The Community Council has repeatedly expressed that we need to trust them that they have ways of getting this done by "just going over the counter and involving only the right people.
- I asked for more detail but Esther was not willing to share more but commented "that this is a process you stay very quiet about"
- The Community Council have said many times that they like and want this particular project including its height and density but they do not trust the Planning Dept. staff to give bad projects a negative recommendation if they allow this project to set a precedent. They just do not want to set a precedent for a RMF35 to RMF45 re-zone even though this project is surrounded by buildings greater than 35 feet high.
- The Community Council was very successful in leading everyone to believe that the block we are on is primarily RMF35 and R-2. This is not necessarily accurate much of our block is Zoned RMF 35, 45, 75 and R-2 and the great majority of the buildings are built larger than RMF 35 or are non-conforming. (I consider our block to run between S. Temple and 100S & 900E and 800E) Our proposed project adds to the residential community's character.

March 23, 2006

Mr. Blake Henderson
Blake Henderson
417 Centennial Circle
Park City UT 84060

Re: Letter dated March 15, 2006

Dear Mr. Henderson:

I have received your letter regarding the action and discussion of the Planning Commission with relation to Petition #400-05-043 on March 8, 2006. I have reviewed your claims and concerns, and thoughtfully considered the discussion points relating to the specific activity of Commissioner Scott.

In reviewing the minutes and discussion that occurred during the Planning Commission meeting, Commissioner Kathy Scott stated her opinion in relation to the specific project and was not swayed by a specific agenda. During the meeting both Cindy Cromer and Ester Hunter discussed driving up and down the surrounding area to compile a study about zoning concerns. Commissioner Scott also stated her presence in a vehicle driving up and down 700 East in reference to the Planning Commission Field Trip. This routine field trip occurs prior to every Planning Commission meeting to allow the Commissioners time with Planners to openly discuss and visually grasp the effects of their decision. It is my opinion the ride around the neighborhood you were referring to was actually the routine field trip by the Commissioners.

I appreciate your respect for the advice of the Planning Staff; however, after reviewing your letter and concerns, and after investigation and thoughtful consideration of the facts and discussion points relating to the specific activity of Commissioner Scott, it is my opinion that Commissioner Scott was not reacting to a lobbied conversation or agreement. It is also my opinion that Commissioner Scott did not act inappropriately regarding your petition. Therefore, I find your claims unfounded and, granted that fact, would not recommend your request for a rehearing be granted.

Thank you for your interest in residential development in Salt Lake City.

Sincerely,

Alex Ikefuna
Planning Division Director

cc: Louis Zunguze, Community Development Director
Doug Dansie, Principal Planner

e. Letters and Minutes relating to a request to rehear the case at the April 12, 2006 meeting.

Lori Noda
Planning Commission Chair
Office of the Attorney General
160 East 300 South
Salt Lake City, UT 84114

March 30, 2006

Re: Petition #400-05-24 by Harrison Apartments LLC, to rezone the property at 713 East Harrison Avenue from R-1 5000 to RMF-35 to facilitate the construction of six town homes

Dear Lori,

During the course of preparing the City Council transmittal for the above referenced petition, it became apparent from reading the minutes that the Planning Commission was supportive of the proposed development but preferred using the planned development process for approving the project rather than a rezoning. A paragraph on page 3 of the minutes seems to summarize the Planning Commission sentiment. This paragraph states:

Commissioner McDonough addressed the concern that in the future this same scenario might be presented as a Planned Unit Development and possibly be approved. (This would occur only if the Planned Unit Development process was amended.) She raised concern in relation to the manner in which the project is being approved. Given future development, her concern was that approval of this petition could set an unwanted precedent for spot rezoning, rather than using the more effective tool of the Planned Development Process for unique sites within larger overall zones.

City ordinances do not allow the use of the planned development regulations to address this issue or approve a project of this type in this zoning district. Furthermore, there is no indication in the minutes that the Planning Commission understood this or that Planning Staff clearly explained to the Commission that the planned development process is not an option for this type of request. The resulting record sends a mixed and confusing message to the City Council.

As the means of avoiding further confusion or risking that the City Council might refer the petition back to the Planning Commission for clarification, I recommend that the Planning Commission consider scheduling a second hearing to consider this petition.

If you have any concerns about rehearing this petition or any questions, please do not hesitate to contact me. I can be reached at 535-7105 or via e-mail at brent.wilde@slcgov.com.

Sincerely,

Brent Wilde
Community Development Deputy Director

cc: Louis Zunguze, Community Development Director
Alex Ikefuna, Planning Director
Doug Wheelwright, Deputy Planning Director

required surrounding the signs; clarification of the attended sign standards to allow portable signs to be placed within 25 feet of the front door or a window. Mr. Paterson stated that the Public Utilities Division requested a modification to allow the City to request the removal or relocation of the portable sign to accommodate construction in the right-of-way.

Mr. Paterson stated the Business Advisory Committee had reviewed the proposals and recommended approval. He also noted that an Open House had been held where business owners from the Downtown area attended to request the continued use of portable signs.

Mr. Paterson stated that Staff is recommending the Planning Commission forward a positive recommendation to the City Council.

Chairperson Noda requested comments from the public. No comments were received. The Planning Commission entered Executive Session.

Commissioner McDonough requested further information regarding the use of portable signs in the Research Park area, and the terms of block face and intersections in relation to the area.

Mr. Paterson stated that the standards in the Ordinance do allow portable signs in Research Park which is zoned Research Park (RP) Zoning District. He noted that the definition for block face found in the Ordinance is applicable for the Research Park area.

Commissioner Chambless requested further information regarding the liability of the City in relation to the temporary signs.

Mr. Paterson stated that to the best of his knowledge there had not been any liability issues with portable signs. He also noted that with the exception of portable signs, signs in the public right-of-way are generally prohibited. Other types of signs that encroach into the right-of-way, such as marquee signs, require insurance.

Based on the analysis and findings presented in the Staff Report and discussion, Commissioner McDonough made a motion for the Planning Commission to transmit a favorable recommendation to the City Council to approve the amendments portrayed in the Portable Signs Provisions, Section 21A.46.055 of the Zoning Ordinance. Commissioner Forbis seconded the motion. All voted "Aye". The motion passed.

UNFINISHED BUSINESS

(This item was heard at 7:38 p.m.)

Commissioner Scott referenced the prior Planning Commission meeting and a motion she made, to inform the Planning Commission that the petitioner, in the form of a letter, made specific allegations that she had made a deal with Community Councils and participated in illicit van rides. She stated that the allegations were unfounded and questioned her integrity and that of the Planning Commission's decision. Commissioner Scott was outraged and disappointed in relation to the situation and felt it appropriate to share this information with the Planning Commission.

Mr. Wheelwright noted that Cindy Rockwood has been appointed to the Planning Commission Secretary and Sarah Carroll has been promoted to the Principal Planner position. He also noted that two Associate Planner positions remain open. Mr. Ikefuna stated that the Division is working towards obtaining an additional Principal Planner position in the new budget.

Meeting was adjourned at 7:40 p.m.


Cindy Rockwood, Planning Commission Secretary

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, April 12, 2006**

Present for the Planning Commission were Laurie Noda (Chairperson), Tim Chambless, Babs De Lay, John Diamond, Robert Forbis Jr., Peggy McDonough (Vice Chairperson), Prescott Muir, Kathy Scott, and Jennifer Seelig. Craig Galli was excused from the meeting.

Present from the Planning Division were Alexander Ikefuna, Planning Director; Cheri Coffey, Deputy Planning Director; Doug Wheelwright, Deputy Planning Director; Joel Paterson, Planning Programs Supervisor; Kevin LoPiccolo, Zoning Administrator; Sarah Carroll, Principal Planner; Marilynn Lewis, Principal Planner; Ray McCandless, Principal Planner; and Cindy Rockwood, Planning Commission Secretary.

A roll is being kept of all who attended the Planning Commission Meeting. Chairperson Noda called the meeting to order at 5:49 p.m. Minutes are presented in agenda order and not necessarily as cases were heard by the Planning Commission. Audio recordings of Planning Commission meetings are retained in the Planning Office for an indefinite period of time.

A field trip was held prior to the meeting. Planning Commissioners present were Tim Chambless, Laurie Noda, Kathy Scott, and Jennifer Seelig. Planning Division Staff present were Doug Wheelwright, Sarah Carroll, and Marilynn Lewis.

APPROVAL OF MINUTES from Wednesday, March 22, 2006.
(This item was heard at 5:49 p.m.)

Commissioner Scott moved to approve the March 22, 2006 minutes. Commissioner Chambless seconded the motion. Commissioner Chambless, Commissioner De Lay, Commissioner Diamond, Commissioner Forbis, Commissioner McDonough, Commissioner Muir and Commissioner Scott voted "Aye". Commissioner Seelig abstained. The motion passed.

REPORT OF THE CHAIR AND VICE CHAIR
(This item was heard at 5:50 p.m.)

Chairperson Noda raised the attention of the Commissioners to a letter received from Brent Wilde, Community Development Deputy Director regarding the Harrison Apartment Rezone Petition No. 400-05-24.

Discussion commenced regarding the previous decision of the Commission, and the determination was that the minutes clearly stated the desired result of the Planning Commission; a Planned Unit Development proposal would have been supported by the Planning Commission had it been an option for the applicant, rather than a rezone request. As a result of this finding, the Planning Commission initiated a petition to review the requirements of Planned Unit Development proposals.

Commissioner De Lay noted that clarity was the strongest concern and suggested a recall and re-evaluation of the Petition.

At 5:54 p.m., Commissioner McDonough made a motion to reaffirm the decision of the Planning Commission in relation to Petition #400-05-24 to state that the unfavorable recommendation was based on the rezoning and master plan amendment standards. Commissioner Scott seconded the motion. Commissioner Diamond, Commissioner Forbis, Commissioner McDonough, Commissioner Scott, and Commissioner Seelig voted "Aye". Commissioner De Lay and Commissioner Chambless were opposed. Commissioner Muir abstained.

f. Letter and minutes relating to a request to rehear the case at the April 26, 2006 meeting.

To: Alex Ikefuna, Planning Director April 25, 2006

Cc: Louis Zunguze, Brent Wilde

Attachment: Letter to Louis Zunguze, dated March 15, 2006

Subj: March 8 Planning Commission mtg. – Henderson Project, Case 400-05043

Dear Alex,

We are writing to you at the suggestion of Brent Wilde. You were present at the above meeting and have probably heard about our complaints concerning the outcome of that meeting. The problem is outlined in the attached letter to Mr. Louis Zunguze. After a meeting with Louis and Brent, they suggested that the issue was best handled internally within the Planning Commission. The outcome of that meeting, according to Mr. Wilde, is that the Planning Commission is “not inclined to reconsider” hearing our case again or to re-evaluate the initial recommendation on our petition for rezoning. We were not given any reasoning behind the current position, which leads us to the following assumptions about the thought process:

- Who are we (the Henderson’s) to challenge the authority of, or the correctness of, the Planning Commission’s initial decision on this matter?
- The implications of our contention of irregularities, in the conduct of particular Planning Commission members, is something that the Planning Commission does not want to deal with, and in the absence of absolute proof, they would like it to just go away.
- The words “not inclined to reconsider” imply closing the door three quarters of way and waiting to see what our response is while hoping we simply accept the current position and move on

The current position, in our opinion, is not in the best interest of the Planning Commission, the Planning Department, or the City for the following reasons.

When this project goes before the City Council, we have to make a strong argument to overcome the negative recommendation by the Planning Commission. Our extensive lobbying efforts, personal contacts with council members and strong advocacy from local neighbor property owners will put a dark cloud over the Planning Commission’s recommendation by:

- Thoroughly exposing the considerable circumstantial evidence (recorded phone conversations, notes on personal conversations, actual comments during the Planning Commission meeting, and Planning Dept. staff comments) regarding the behavior of the East Central Community Council (Chris Johnson, Cindy Cromer, Arla Funk, Ester Hunter) prior to the March 8th meeting that showed they used their personal influence with certain Planning Commission members to further their position. We do not have absolute proof but any reasonable person would be concerned based on the evidence we do have.

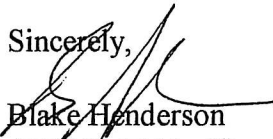
- Pointing out that, the primary reason for rejecting our petition, was the Planning Commission reluctance to make any change of the zoning map, regardless of the merits of the project, because that would set a precedent that the Planning Commission would have to live with in the future. It is our understanding that the Planning Commission is suppose to review each project individually and make decisions based on merit and support of the City's Master Plan, not based on their fear of setting a precedence.
- Little note was made that by so deciding, in fact, the Planning Commission has set a much worse precedent; namely, that the Planning Commission would not consider changes to the City Zoning Map, regardless of merit, and the best interest of the City Master Plan.
- Because we could not anticipate the reason for the Planning Commission's position on our project, prior to the meeting March 8th, we were not prepared to demonstrate that the City Master Plan is significantly reinforced by our request for a rezone to RMF-45 (removal of non-conforming building, home ownership, density increase and underground parking,). The other financially viable RMF-35 alternatives are far less desirable and would entail us leaving the existing ugly façade of the medical office building and its parking in place; and building on top of and around it a for rental product with lower density and surface parking.
- The East Central Community Council (by their self proclaimed declaration) has essentially taken over all land use strategy and planning decision making for their area. Their influence and contacts have superseded Planning Department staff planning efforts and others' interpretation of the City Master Plan.

Our point is that if we go to the next step, (the city council hearing) without a more thorough review of the present situation, the grey cloud over the Planning Commission recommendation will only grow much darker, it will not blow away.

We recognize that if the Planning Commission does offer us a chance for a rehearing of our petition we will be walking into a meeting with a potential hostile attitude toward us. We can only hope that the professionalism of the majority of the commissioners will prevail and a thorough review of the proposal based on its merits strongly supporting the City Master Plan will carry the day, and that alternative current zoning (RMF-35) project results in a major sub optimization of a one-time opportunity.

Please give our appeal serious consideration. We stand ready to meet with you and discuss any of the above at your convenience.

Sincerely,



Blake Henderson
 435 658 3544 office
 435 901 2321 cell
 417 Centennial Circle
 Park City, UT 84060

Mr. Ikefuna clarified that the Planning Commission is a recommending body for the City Council. He noted that a development agreement was created between Rowland Hall, the City, and Mt. Olivet, to further encourage the approval. He also stated that the Federal Government, in this instance, will still have to decide the reversionary clause issue.

Letter from Blake Henderson

The Commission discussed the letter from applicant, Blake Henderson, formerly requesting the Commissioner rehear his request for a rezoning of the property at approximately 900 East 100 South. Vice Chairperson McDonough requested a decision from the Planning Commission for a possible rehearing.

Commissioner De Lay noted the number of letters received in the recent past from applicants who have received an unfavorable recommendation from the Commission to the City Council. She requested clarification of the formal process.

Mr. Ikefuna confirmed that when a petition receives an unfavorable recommendation, an applicant can request a rehearing or the applicant can file an appeal. The Commission can either reopen the case, or reaffirm their position. Based on that decision, the Commission either rehears the case or the case is forwarded to the City Council. If the petitioner disagrees with the decision made by the City Council the petitioner may choose to progress to court action.

Commissioner Scott addressed the concerns of the letter, as she had been noted by name in the letter. She also cited the minutes from the March 22, 2006 meeting relating to her brief statement regarding the first letter from the applicant. She proposed to make a motion regarding the status of a rehearing for Petition 400-05-043.

Commissioner Scott made a motion regarding the Henderson Project Case, 400-05-043, heard at the March 8 Planning Commission meeting, that the Planning Commission reaffirm the recommendation made at that meeting; a recommendation to deny a rezone request from RMF-35 to RMF-45.

The previous motion was withdrawn, due to the request of the applicant for the Commission to "rehear" the petition.

Commissioner Scott made a motion to deny rehearing Petition No. 400-05-043. Commissioner Chambless seconded the motion. Commissioner Chambless, Commissioner De Lay, Commissioner Forbis, Commissioner Scott, Commissioner Seelig, and Commissioner Wirthlin voted "Aye". The motion to deny passed.

Handicapped Parking — Paul Rolly Article

Commissioner Seelig raised the attention of the Commissioners regarding a recent article by Paul Rolly of the Salt Lake Tribune stating that the Planning Commission had "passed a rule" relating to the handicapped parking accessibility to the Downtown area. She noted that Mr. Ikefuna had been informed and related the correct information to Mr. Rolly, wherein he corrected the mistake.

REPORT OF THE PLANNING DIRECTOR

(This item was heard at 6:05 p.m.)

Utah League of Cities & Towns: Summary of 2006 Legislation on Land Use

Mr. Ikefuna referenced the 2006 Summary of Legislation on Land Use and proposed the Commission schedule time to listen to the Deputy City Attorney, Lynn Pace, present the changes that may have implication on the Commission. It was noted that the presentation will be brief and contained, as best as possible, to fifteen minutes. The Commission agreed to have Lynn Pace review the 2006 Legislation at a future date. Mr. Ikefuna stated that a member of the Attorney's office will appear on an "as needed basis" upon the request of the Commission or Planning Staff to the Planning Commission meetings.

**g. Minutes of Planning Commission review of
the allegations at the June 14, 2006 meeting**

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, June 14, 2006**

REPORT OF THE DIRECTOR

(This item was heard at 9:23 p.m.)

Petition 400-05-043 – Blake Henderson

Chairperson Noda introduced a memorandum with attached letters to the Commissioners regarding Petition 400-05-043, which was originally heard by the Commission on March 8, 2006. The information was presented before the Commission to complete the due process for the petition due to the multiple requests for a re-hearing made by the applicant.

The Commissioners reviewed the letters and discussed the allegations that were set forth in the letters, particularly the letter dated April 25 directed to Alex Ikefuna, Planning Director with copies sent to Louis Zunguze, Community Development Director and Brent Wilde, Deputy Community Development Director. Chairperson Noda requested the Commissioners address the specific allegations addressed in the letter.

Commissioner McDonough requested clarification regarding the manner in which the Commission was addressing the issue in the past meetings when the item has been raised.

Mr. Ikefuna stated that the response of the Planning Commission in previous meetings was the consideration of re-hearing the petition or re-affirming the decision of the Commission, rather than addressing the allegations and ensuring due process. He stated that the transmittal to City Council did not contain any indication that the Commission had addressed the allegations and therefore, the Commission is being asked to address the allegations at this time. Mr. Ikefuna also stated that he had investigated the matter himself, conducted an interview with Commissioner Scott, and reviewed the audio recording of the meeting discussions and concluded that there was no merit to the allegations. He raised the attention of the Commission to a letter that was sent in response to the allegations from him, but unfortunately a copy was not sent to the Commissioners.

Chairperson Noda stated that based upon the allegations that the Hendersons have made, no evidence supports their documentation regarding comments made during the Planning Commission meeting and between Planning Staff. The basis for allegations relating to conversations held between Commissioner Scott and members of the East Central Community Council and/or any other member of the Planning Commission were unfounded and without merit. Chairperson Noda included that Commissioner Scott had already stated in the record that she did not have any conversations with outside parties regarding the petition, nor attend any field trips other than the Planning Commission field trip that is regularly scheduled.

Commissioner Scott additionally stated her support in the findings that the allegations were without basis and noted that the allegations were false and insulting, and compromised the integrity of the Planning Commission. She noted that this was the fourth time in which the petition has been brought before the Commission. (March 8 – Original presentation, March 22, April 12, and April 26, and June 14, 2006, Discussion regarding re-hearing and allegations.) Commissioner Scott stated that an apology from Mr. Henderson would be accepted at any time. She also addressed the allegation that she had steamrolled a decision on the petition and noted that the Commissioners rarely allow that to happen.

Chairperson Noda stated that the Planning Commission finds no merit to the allegations made in the letter sent on April 25, 2006, by the applicant.

Mr. Henderson requested a moment to comment to the Commission. He noted that he had been called to attend the meeting at a late notice and had not requested it.

Mr. Ikefuna asked if the Commission wanted to entertain a comment from the applicant.

A vote was taken by the Commission as to whether or not they wanted to hear from the applicant. It was determined that they did not want to hear from the applicant.

Mr. Henderson expressed frustration to the Commission, due to the fact that he waited to be heard for four hours and was requested to attend the meeting, but was not given the opportunity to address the Commission.

Chairperson Noda again stated that the position of the Planning Commission in terms of the letter is that there was no basis, based upon the evidence that was in the record at the time, for the allegations that were made by Mr. Henderson.

Mr. Henderson left the meeting.

Chairperson De Lay raised the question on the invitation of Mr. Henderson to the meeting.

Mr. Ikefuna stated that Mr. Henderson had been requested to attend in order to witness the discussion of the issue by the Planning Commission and to ensure that it was reviewed fully and fairly.

Commissioner Forbis requested that the documents and transcripts be submitted to the City Attorney, due to the seriousness of the allegation of due process. He requested that they be submitted to protect Commissioner Scott and the Planning Commission.

Mr. Ikefuna clarified that the documents had been reviewed by Louis Zunguze, Community Development Director, and they would be submitted to Lynn Pace, Deputy City Attorney.

5. Original Petition

PETITION CHECKLIST

<u>Date</u>	<u>Initials</u>	<u>Action Required</u>
<u>12/13/05</u>	<u>NA</u>	Petition delivered to Planning
<u> </u>	<u>DD</u>	Petition assigned to: <u>Doug Dansie.</u>
<u>3/8/06</u>	<u>DD</u>	Planning Staff or Planning Commission Action Date
<u>3/31/06</u>	<u>DD</u>	Return Original Letter and Yellow Petition Cover
<u>3/31/06</u>	<u>DD</u>	Chronology
<u>3/31/06</u>	<u>DD</u>	Property Description (marked with a post it note)
<u>3/31/06</u>	<u>DD</u>	Affected Sidwell Numbers Included
<u>3/31/06</u>	<u>DD</u>	Mailing List for Petition, include appropriate Community Councils
<u>3/31/06</u>	<u>DD</u>	Mailing Postmark Date Verification
<u>3/31/06</u>	<u>DD</u>	Planning Commission Minutes
<u>3/31/06</u>	<u>DD</u>	Planning Staff Report
<u>3/31/06</u>	<u>DD</u>	Cover letter outlining what the request is and a brief description of what action the Planning Commission or Staff is recommending.
<u>4/3/06</u>	<u>DD</u>	Ordinance Prepared by the Attorney's Office
<u>4/3/06</u>	<u>DD</u>	Ordinance property description is checked, dated and initialed by the Planner. Ordinance is stamped by Attorney.
<u>Doug Dansie</u>	<u> </u>	Planner responsible for taking calls on the Petition
<u> </u>	<u> </u>	Date Set for City Council Action <u> </u>
<u> </u>	<u> </u>	Petition filed with City Recorder's Office



Zoning Amendment

OFFICE USE ONLY	
Petition No.	400-05-43
Receipt No.	Amount: 869.00
Date Received:	
Reviewed By:	JD 12/12/05
Project Planner:	

PLANNING COMMISSION

Address of Subject Property: 857 E 100S, 900 E 70S, 900 E 58S' 566 UT

Name of Applicant: Blake Henderson Phone: 435 901 2321 c 435 658 3544

Address of Applicant: 417 Centennial Circle Park City, UT 84060

E-mail Address of Applicant: blake.henderson@comcast.net Cell/Fax:

Applicant's Interest in Subject Property: Medium density for sale condominiums
Re-zone from RMF 35 to RMF 45

Name of Property Owner: Blake Henderson Phone:

Address of Property Owner: Same

Email Address of Property Owner: Same Cell/Fax:

Existing Use of Property: Medical office & Residential Zoning: RMF35

County Tax ("Sidwell #"):

- Amend the text of the Zoning Ordinance by amending Section: (attach map or legal description).
- Amend the Zoning Map by reclassifying the above property from an {RMF35} zone to a {RMP45} zone.

Please include with the application:

- ✓ 1. A statement of the text amendment or map amendment describing the purpose for the amendment and the exact language, boundaries and zoning district.
- ✓ 2. A complete description of the proposed use of the property where appropriate.
- ✓ 3. Reasons why the present zoning may not be appropriate for the area.
- ✓ 4. The names and addresses of all property owners within four-hundred fifty (450) feet of the subject parcel. The name, address and Sidwell number of each property owner must be typed or clearly printed on gummed mailing labels. Please include yourself and the appropriate Community Council Chair. **The cost of first class postage for each address is due at time of application. Please do not provide postage stamps.** \$59.20
5. Legal description of the property.
6. Six (6) copies of site plans drawn to scale.
7. Related materials or data supporting the application as may be determined by the Zoning Administrator.
- ✓ 8. If applicable, a signed, notarized statement of consent from property owner authorizing applicant to act as an agent.
9. Filing fee of \$800.00 plus \$100 for each acre over one acre is due at the time of application.

If you have any questions regarding the requirements of this petition, please contact a member of the Salt Lake City Planning staff (535-7757) prior to submitting the petition

Sidwell maps & names of property owners are available at:

Salt Lake County Recorder
 2001 South State Street, Room N1600
 Salt Lake City, UT 84190-1051
 Telephone: (801) 468-3391

File the complete application at:

Salt Lake City Planning
 451 South State Street, Room 406
 Salt Lake City, UT 84111
 Telephone: (801) 535-7757

Signature of Property Owner
 Or authorized agent

Salt Lake City Planning Commission
Zoning Amendment

1. Re-zone from RMF35 to RMF45 which would allow development of residential condominiums and the removal of a medical office building. The property is 1.1 acres zoned RMF35 with RMF 45 West and North of the property.
2. The condominium project would consist of 46 two and one bedroom condominiums of roughly 1,200sqft – 1,800sqft .with underground parking for 90 spots. The elevations would be a Brown Stone facade with porches and roof lines that are similar to the existing neighborhood
3. Properties to the west and North and other properties on the block are zoned and built at RMF45. Also a Medical office building exists and would be taken down and replaced with residential. Most importantly, we cannot get enough units with RMF 35 to make the project financially viable
4. ~~To be provided at a later date~~ *Provided*
5. This project consists of 3 properties being combined
 - 857E, 100S Non conforming residential 6-plex house
 - 900E, 70S 25,000sqft cement medical office building
 - 900E, 58S Residential Tri-plex house
6. To be provided at a later date
7. Elevations and Floor plans are included
8. N/A
9. \$800 paid on submission

Project Description and why a zoning amendment is necessary

Please read sections 1 & 2. Also we feel that a properly designed and massed building would soften the viewing landscape from what is currently there. The view consists of a cement medical office building, a brick box condo complex (market Street Condos) to the West and a towering box apartment complex (Sunset Towers) to the North.

Land uses adjacent, abutting and across the street

Adjacent to the West is residential condominiums

Adjacent to the North is a medical office building and residential apartments

Abutting to the North and West is parking for residential condominiums and apartments

Across the street to the East is a gas station

Across the street to the South are residential apartments and condominiums

Discussion with nearby property owner's response

We met with the East Central Community Council. Dennis Guy-Sell was the Chair Person. The minutes from our meeting are included in this application. A sub committee was established to work on the project further. The sub-committee was made up of 3 people who opposed the project. We are continuing to meet with the sub-committee.

The response from the Community Council Meeting was mixed. 1/3rd of the group was in favor, a 1/3rd neutral and a 1/3rd opposed.

All were in favor of removing the medical office building and putting in residential. Many were in favor of condominiums as long as they were architecturally in keeping of the surrounding buildings. Many were supportive of a brownstone elevation with porches off the front and a roof line in keeping with existing buildings.

Those opposed were opposed to the demolition of two older homes but most agree that the homes are of very basic character and in need of significant renovation (not financially viable). The greater concern was the precedent that would be set if a rezoning were to occur and a larger condo complex were to be built. "This would set off a chain reaction of many smaller building being demolished and new large buildings being built. Our position to this concern is that we have a very unique situation that does not commonly exist. We have a significant amount of land that has three non-descript structures with no character that sits between a condominium complex 45 feet high and an apartment complex that is 145 feet high. The current view shed is not appealing but could be very appealing with a properly designed building on the site.

Petition No. 400-05-43

By Blake Henderson

Is requesting a Zoning Amendment to reclassify the property located at 70 South 900 East, from an RMF35 classification to a RMF45 classification.

Date Filed _____

Address _____