

**SALT LAKE CITY
PLANNING COMMISSION MEETING
In Room 326 of the City & County Building
451 South State Street, Salt Lake City, Utah
Wednesday, June 28, 2006**

Present for the Planning Commission meeting were Laurie Noda (Chairperson), Tim Chambless, Babs De Lay, John Diamond, Robert Forbis Jr., Prescott Muir, Kathy Scott, Jennifer Seelig and Matthew Wirthlin. Peggy McDonough 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; Kevin LoPiccolo, Zoning Administrator; Doug Dansie, Principal Planner; Elizabeth Giraud, Senior Planner; Marilyn Lewis, Principal Planner; Ray McCandless, Principal Planner; Wayne Mills, Senior 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 5:46 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, Prescott Muir, Kathy Scott and Jennifer Seelig. Planning Division Staff present were Doug Wheelwright, Marilyn Lewis, Ray McCandless, Doug Dansie, and Wayne Mills.

Petition 400-06-10 – A petition initiated by Mayor Anderson requesting to amend provisions of the Salt Lake City Zoning Ordinance to clarify processes and procedures relating to the review of projects subject to the City-wide Compatible Residential Infill Development standards adopted by Ordinance 90 of 2005 and Ordinance 26 of 2006.

(ISSUES ONLY HEARING)

(This item was heard at 6:18 p.m.)

Chairperson Noda recognized Cheri Coffey as staff representative. Ms. Coffey provided background to the subject petition.

She stated that the goals relating to the subject petition include:

1. Maximize administrative approvals;
2. Broaden the number of standards that can be modified;
3. Increase the number of standards that can be handled administratively;
4. Fine tune some of the standards, based on public comment received;
5. Tighten the standards for appeals of administrative decisions, while also shortening the appeal period; and
6. Clarify the role of the administrative hearing officer.

Ms. Coffey stated that an Open House had been held regarding the petition, with the attendance of Design Professionals, Citizen Groups, and Property Owners. She stated that concerns of the public included: calculation of average setback and height; difficulty in obtaining 100 percent signatures (potential of weighing the more closely located property owners); strengthening the standards relating to appeals; appellants being required to demonstrate how the proposal does not meet the standards; streamline the administrative public hearing process; standardize submittal requirements; provide greater flexibility in the tiered review process; and the potential of changing the Development Pattern definition.

Ms. Coffey provided the following summary of proposed amendments:

Technical Changes: Opportunity to change the front and corner side yards, as no administrative authority presently exists. This flexibility would allow for accommodation of the anomalies in the area.

Maximum Building Coverage: The coverage is 40 percent requirement, with no administrative authority to change, besides a variance request. The recommended modification would allow the applicant to complete the special exception process instead.

Width of an Attached Garage: No remedy to alter the standard exists at this time. The proposal is to maintain that if the majority of the garages on the street are wider than the standard, that the Zoning Administrator would have the authority to approve the request. If it is not the majority, a routine and uncontested matter could be pursued for approval. If the location is in a historic district, the Historic Landmark Commission would have the authority to make the modification.

Accessory Structures: Allowance of Historic Landmark Commission (HLC) to modify the building height, maximum footprint, and the maximum rear yard setback location for accessory structures. If the property is outside a historic district those issues could be handled as a routine and uncontested matter.

Appeals of Administrative Decisions: Presently the appeal period is 30 days, with a potential advantage to moving the case directly to the Board of Adjustment if the applicant believes a potential to appeal is present. The subject petition proposes to reduce the appeal period to 10 days and to limit standing to those that are notified of the request. If no notification is required, abutting property owners would have standing to appeal. Also, the recommendation is to require the appellant identify specific procedural errors or demonstrate they have a property related adverse impact by the decision.

General Standard: The request might not meet the specific standards, but could be compatible with the surrounding area and have support of the neighbors. By altering the standard where this is the case, the administrative hearing officer could approve the request with the special exception standards as the criteria.

Maximum Lot Size: Presently the standards do not allow lot creation of a lot that is 150 percent larger than the base zoning requirements. This standard has created difference to the buildable area. The City has no mechanism to control the mass and volume of the structure, although there could be conditions to increase the setback to accommodate one lot. Ms. Coffey cited an example of a site in the Avenues area that appeared before the Planning Commission earlier in 2006. Commissioner Chambless also cited an example of a two-lot consolidation allowing an oversized home to be built on the combined lot. Ms. Coffey confirmed that the maximum lot size is applicable to only a single lot building area, or subdivision of lots, and not to where lots are being combined.

Cost of Obtaining Average Setback and Height: Currently the applicant is required to submit a stamped, signed document by a licensed architect, engineer, or surveyor indicating that the surrounding heights and footprint sizes are correct. Another option would be to allow the property owner to submit a signed document from the applicant stating that to the best of their understanding, the surrounding heights are correct. Staff is recommending that the applicant be required to submit a stamped, signed document by a licensed architect, engineer, or surveyor. Ms. Coffey concluded by reminding the Commissioners that the public hearing is an Issues Only Hearing, requiring no action from the Commission.

Mr. Ikefuna stated that the requirement for an applicant to submit a certified document from an architect, engineer, or surveyor regarding the surrounding property setback and heights is the current practice. He stated that due to the comments received at the Open House, a second option is being presented.

Commissioner Scott requested additional information regarding applicants meeting the requirements for Development Patterns.

Ms. Coffey stated that there are two sides to the concern of meeting Development Pattern: (1) One which considers the topography of different side of a street, like in the Avenues and (2) A broader area that may include higher structures in the same neighborhood, just not on the specific block face. She stated that allowing Planning Staff to review a broader area when the specific standard is not met is what was intended with the General Standard changes proposed.

Mr. Ikefuna stated that additionally, Staff is a bit apprehensive to decide on whether or not the subject property is compatible with the block face. He stated that approval of the project can become very difficult; however, with the approval of the proposed General Standard amendment, Staff will have the opportunity to make a decision in a timely manner by considering additional characteristics of the area.

Commissioner Muir requested information regarding the proposed appeal changes and the number of appeals that have appeared. He stated that the Utah Heritage Foundation letter raised a good point, to consider more time for the process to settle before changes are made.

Ms. Coffey confirmed that the majority of people are abiding by the present standards.

Mr. LoPiccolo added that the Planning Division has been fortunate to not have many appeals. He noted that if the potential for appeal existed, Staff has encouraged the applicant to move straight to the Board of Adjustment in order to save time. Mr. LoPiccolo added that if the property owner submitted signatures of the surrounding property owners in support of the request, the standing of those who signed should be weighted more.

Commissioner Muir stated that the information from the East Downtown Neighborhood Master Plan is quoted to say, "Develop citywide design criteria to ensure compatibility" and should not be raised in the Staff Report, as it is a small area master plan trying to implement broad city policies. He expressed concern regarding the request to shorten the appeal period to 10 days.

Mr. Ikefuna stated that a delicate balance must be met between respect for the applicant and the potential appellant. He noted that the 10 working days is the state requirement. He added that all members of the public are presently allowed to appeal the project; however, if a member of the public chooses to appeal the project only those who have been notified may appeal, as they could be affected.

Commissioner Muir requested clarification regarding the average block face and the notification requirement for obtaining an average setback.

Ms. Coffey stated that the requirement to determine an average setback would still be on the applicable block face. The entire area may be considered in the area with the 300 feet notification distance for appeals. She stated that the reference to notification distance relates to the General Standard, stating that if the applicant has support from the individuals in the required notification area, even if the project does not meet the specific compatibility criteria, it could be considered using the special exception criteria.

Commissioner Diamond added that the appeal process being reduced to a 10-day period is being altered for consideration of the original applicant and is not to try and limit the applicant's ability to appeal a decision.

Ms. Coffey confirmed that the proposal of Staff is to know sooner than later that an appeal might appear. If an appeal is presented, additional information might be required by the applicant.

Mr. LoPiccolo added that essentially there is a 24-day period of potential appeal because of the 14-day notice requirement before the public hearing.

Ms. Coffey additionally addressed the Historic Landmark Commission process. She stated that when the HLC receives a project governed by the compatible infill regulations, Staff identifies the standards being met and then Staff further (if recommending approval of modifications) must justify the recommendation in the findings. Ms. Coffey stated that if the HLC is agreeing to the recommended modifications, their motion includes their approval for modification. She added that the HLC notifies and holds a public hearing for all property owners required to be notified; generally, the notification area is property owners within 85 feet of the subject property.

Chairperson Noda requested comments from community council chairs and the public.

Margaret Miller, 653 9th Avenue, was surprised to hear of the proposed amendments. She stated that enough time has not passed to fully understand the process. She added that the block faces vary quite differently from one side to another in the Avenues and that it affects the whole block.

Commissioner De Lay requested input from Ms. Miller regarding the amount of input from the public in regards to the proposed changes.

Ms. Miller stated that public information has not been as well distributed as the first proposal. She suggested that the input from the Greater Avenues Community Council be considered.

Jim Jenkin, 212 5th Avenue, stated that too much is occurring at this time to consider the changes that are being requested. He noted special concern for accessory structures and garages.

Commissioner De Lay asked if the Avenues Community Council – Compatibility Housing Committee met about the proposed changes.

Mr. Jenkin confirmed that the Committee has not officially met specifically regarding the proposed changes, although they did send it through email.

Shane Carlson, Housing Compatibility Committee Spokesperson for the Avenues Community Council, addressed the time the committee has had to participate in the process of the amendments. He stated that their first view of the amendments was on June 15 at the Public Open House. Mr. Carlson stated that there are many things that need to be addressed, including the definition of standing. He reinforced his approval of the Utah Heritage Foundation recommendation to form a committee. Mr. Carlson made a request to provide a standard for the types of concerns that arise.

Mr. Ikefuna pointed out that standing is an element that has some implications, as the language that is proposed was reviewed by Lynn Pace. He stated that Mr. Pace had said that the State law that allows someone to appeal is vague; however, to defend the position the language has to be broad rather than specific. Mr. Ikefuna stated that the language pertaining to appeals was prepared in accordance and consultation with the City Attorney's office, which will be represented when formal action on the subject petition takes place.

Hearing or seeing no additional requests for comment, Chairperson Noda closed the public hearing.

Letters received from the Greater Avenues Community Council – Compatible Housing Committee and the Utah Heritage Foundation were included in the record.

Commissioner De Lay stressed the importance of providing information to the community regarding the changes. She noted that their involvement was essential in the beginning and that a forum would be a positive step to discuss the amendments.

Chairperson Noda agreed that more community input is necessary and that the presence of the City Attorney's office is extremely important.

Commissioner Diamond commended the Staff for their continual input and review of the ordinance.

Commissioner Muir requested that applicants who have been through the process appear before the Commission in order for the Commissioners to better understand, from the applicants view, the process.

Mr. Ikefuna confirmed that data regarding the ordinance and its execution will return to the Commission within one year of the date of adoption. He noted that a list of applications that have been through the process will be included with the one year review. He stated that providing flexibility in the process is the concern at this time.

Commissioner Scott noted concerns regarding the potential consequence an applicant if information stated in the staff report is challenged and discussing the potential consequences could be helpful. She requested additional information regarding the SR-1 and R-1/5000 portion of the draft ordinance, and the phrase of "buildings legally existing on April 12, 1995", which is not listed in other areas of the ordinance. She also asked why minimum yard requirements are not listed in all the zones.

Mr. Ikefuna stated that some of the requirements are varied in regards to the Historic Landmark Commission, because of the potential of shuffling people back and forth to different decision bodies. He stated that the ramifications of the property owner signing a letter that the drawings submitted are accurate could be dangerous because of the potential liability.

Commissioner Scott stated that if there was reason to believe that the person was submitting incorrect information, their permit should not be issued.

Commissioner Diamond stated that as an architect, he would never stamp a plan suggesting that their measurements of surrounding properties were correct. He suggested a civil engineer survey the property.

Commissioner Muir stated that a surveyed drawing should be required for legal ramifications.

The petition was closed with no action.