



# Memorandum

Community & Economic Development Department  
Office of the Director

To: Land Use Appeals Board

From: Mary DeLaMare-Schaefer, Community & Economic Development Department  
Deputy Director

Date: May 19, 2009

CC: Wilf Sommerkorn, Planning Director  
Lynn Pace, Deputy City Attorney  
Paul Nielson, Senior City Attorney  
Ray Milliner, Principal Planner

Re: Petition CED2009-00002 – Additional Information

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The Land Use Appeals Board is scheduled to meet on June 1, 2009, to continue the hearing on the appeal petition CED2009-00002.

As requested at the Board hearing on April 27, 2009, attached are the verbatim minutes of the Planning Commission discussion of petition PLNSUB2008-00680 from the Planning Commission meeting on February 25, 2009. The original application and staff report are also attached and are available at [www.slcgov.com/boards/luab/LUAB\\_min-agen.htm](http://www.slcgov.com/boards/luab/LUAB_min-agen.htm).

Please let me know if you have any additional questions or concerns.

Thank you.

## SALT LAKE CITY PLANNING COMMISSION MEETING

Wednesday, February 25, 2009

### Verbatim Minutes

Present for the Planning Commission meeting were Chair Mary Woodhead and Vice Chair Susie McHugh; Commissioners Babs De Lay, Tim Chambless, Angela Dean, Kathy Scott, and Matthew Wirthlin.

*Note: The verbatim minutes provided begin at the end of the break identified in the adopted minutes which were included in the original LUAB staff report packet. Verbatim minutes of the entire case are available to the Board upon request.*

**Time: 9:35:32**

Chair Woodhead: This is a one minute warning. Okay we're gonna call the Commission back into session. Have you had a chance to look at the conditions?

Mr. Howell: I have, I have no issues except for perhaps number 12, just because I don't know really how to effectuate that. I mean I believe it really is probably, you know because of the current zoning and the current City ordinances I would suspect that primarily deals with it if there's a...if the committee or council for the committee has some recommendation on something that could be done for number 12 I'm open to that, but the main issues I have no problem with. I think it's interesting that most of them, if not all of them one through eleven, the City already deals with and it's simply a matter of meeting the law. Drainage, height, all of the other things except the screening issue, but the landscape plan is important to a PUD and we're still in the process, or planned development, we're still in the process and that's part of designing a planned project. I also point out on number 12, that if there's something recorded certainly as broad as this against the property it might hurt the marketability of the units from a buyer's perspective because if the properties encumbered. But probably even worse, by a lender for a future buyer, if there's some weird encumbrance then they're gonna say no thank you. You know?

Chair Woodhead: Let me just ask other question to our counsel about number 11. The last sentence about compensation, is that something that's in our authority?

Mr. Nielson: No. No that's a private court matter.

Chair Woodhead: Okay. I'm gonna bring this back to the Commission for discussion and/or a motion.

Commissioner Scott: I actually had a question for Ray. Ray, when one is calculating a garage door and what percentage of the façade that it covers, isn't it just the first floor? It's not the entire front façade is it? Angela brought this up when we were looking at the picture.

Commissioner Dean: The width of the garage door.

Commissioner Scott: The width of the garage door on the proposed...clearly this garage door covers more than fifty percent of the first floor.

Mr. Milliner: The way that I did it is I took the garage...sight plan...or floor plan for the garage level and threw a scale across it and divided by two.

Mr. Milo: The fact is those garage doors also exist so they'd be...even if they didn't conform today they would be legally non-conforming.

Commissioner De Lay: Oh, shut up Ken.

Mr. Milo: Thank you [laughs].

Commissioner De Lay: Mr. Smarty pants.

Commissioner Scott: No they wouldn't be because what we're doing, by taking out the middle portion of the house then it's no longer the same building. Where they were...

Commissioner De Lay: Well that can be handled through design review by the city.

Commissioner Scott: Right.

Commissioner De Lay: We could add that.

Commissioner Scott: We'd have to add that because that's way too much garage door for...

Mr. Milo: They're 16 foot doors.

Commissioner De Lay: Let's not argue.

Mr. Milo: [laughs] I mean we need to get two cars in there.

Commissioner De Lay: Right.

Chair Woodhead: Go ahead.

Mr. Paterson: Madam Chair the way the ordinance reads is that the width of an attached garage facing the street may not exceed fifty percent of the width of the front façade of the house. Façade's not defined in the ordinance, it doesn't define on a sloping lot like this if it's just that first level. That's something we'd have to look at.

Commissioner De Lay: Façade is not defined in the ordinance?

Mr. Paterson: No.

Commissioner Dean: Well that's a mistake.

Commissioner De Lay: Could you all work on that?

Chair Woodhead: Okay, I would like to bring this back yet once again...

Commissioner Wirthlin: Madam Chair I'm ready to make a motion.

Chair Woodhead: Matt?

Commissioner De Lay: Um, yes go.

Commissioner Wirthlin: I'm ready to make a motion. Regarding case number PLNSUB2008-00670, Avenue Heights Planned Development, based on the staff report, analysis, public testimony, discussion of Planning Commissioners. I move that the Planning Commission approve the Avenue Heights Planned Development with conditions one through five on page one of the staff report, adding number 6. No increase in the number of dwelling units beyond the three subscribed in the proposal and approved by the city shall be allowed. Number 7, no lighting shall create a nuisance to neighboring properties nor shall concentrated rays of light shine into other properties. Lighting shall be designed to minimize light, trespass glare, and other forms of light pollution, with respect to other properties in the neighborhood. And flood lights and spotlights are expressly prohibited on the north side of the north structure and the south side of the south structure. Eight, interior off-street parking garages shall be included to accommodate a minimum of two vehicles in the north structure and four vehicles in the south structure, i.e. spaces for two vehicles per unit. Nine, no additional windows to the existing structures of January 2009 shall be added, nor existing windows in large on the north side or on the north structure of the south side of the south structure. Ten, proper drainage shall be installed for roof runoff and other water runoff from the structures, designed to maintain in a way that does not cause spillover onto neighboring properties. That was ten...

Vice Chair McHugh: You're skipping eight and nine on the other...

Commissioner Wirthlin: They're already included in the original staff report.

Vice Chair McHugh: Thank you, sorry.

Commissioner Wirthlin: Eleven, households within 300 feet of 678 H Street will be informed in advance of heavy and excavation required to convert the structure. Demolition shall not occur Sundays, federal holidays, or between the hours of 7:00 p.m. and 7:00 a.m.

Commissioner De Lay: Oh.

Commissioner Wirthlin: Period.

Commissioner De Lay: I thought that was a court matter?

Commissioner Wirthlin: That's why I left the last sentence off.

Commissioner De Lay: Okay, I got that. And would you consider an addendum that we have design review by...didn't we want that?

Commissioner Wirthlin: I don't know did we?

[Unidentified]: The plan requires it.

Commissioner De Lay: It requires it anyway, but do you want to state it? Or is it just redundant?

Commissioner Wirthlin: If it requires it why should we state it?

Mr. Nielson: It's redundant.

Commissioner De Lay: Never mind, sorry.

Chair Woodhead: We have a motion.

Commissioner De Lay: I'll second it.

Chair Woodhead: Motion by Matt; second by Babs. Any further discussion? Okay, we'll move to a vote. Babs?

Commissioner De Lay: Aye.

Chair Woodhead: Angela?

Commissioner Dean: Um, Aye.

Chair Woodhead: Kathy?

Commissioner Scott: Nay.

Chair Woodhead: Tim?

Commissioner Chambless: No.

Chair Woodhead: Matt?

Commissioner Wirthlin: Aye.

Chair Woodhead: Suzie?

Vice Chair McHugh: Aye.

Chair Woodhead: Okay, motion passes four to two.

Commissioner De Lay: Um, might I say madam Chairman...

Commissioner Scott: Could I just mention the reason that I voted against it was because of standard two, planned development standard, because I think that the purpose of a planned development as I understand it is to allow Planning Commission to modify standards to encourage development of a site with dimensional constraints and there simply are no dimensional constraints on site. The difficulty is that this, is the constraints from the building...you know it's ironic our last case we're talking about putting people out in [a] warehouse district and here we're trying to put a warehouse in a residential district.

Commissioner Chambless: Yeah.

Commissioner Scott: You know the ironies, huh?

Chair Woodhead: I think somebody already put the warehouse there.

Commissioner De Lay: I might say though to the Planning Commission. It's interesting the atmosphere that your hearing is that as the country is feeling that the banks are the enemies. And I believe that Mr. Obama last night said get over that, that's spilt milk. And I'm meeting personally with bank after bank after bank that is taking back properties and trying to be proactive so that they don't foreclose on them and turn to some monster in another way. Now here we have luckily a community council and neighbors that have come up with some of this and we can all hope in our cartoon minds that we can work together in these situations to try and rectify this, but take note this is the first of my prediction of many of these things that we're going to see, so.

Commissioner Chambless: Yeah.

Chair Woodhead: And I wanna thank the Avenues Community Council for coming up with that list of conditions. That's really helpful to us.

[Unidentified]: It was not the council.

Chair Woodhead: Well okay, the neighbors.

Commissioner Scott: The neighbors, the neighbors, well done.

Chair Woodhead: Okay, Thank you.

*Time: 9:43 p.m.*