AUG 16 2004

ALISON WEYHER
DIRECTOR

SALT LAKE CITY CORPORATION
COMMUNITY AND ECONOMIC DEVELOPMENT

ROSS C. "ROCKY" ANDERSON
MAYOR

# COUNCIL TRANSMITTAL

**TO:** Rocky Fluhart, Chief Administrative Officer **DATE:** August 5, 2004

**FROM:** Lee Martinez, Community Development Director

**RE:** **Petition 400-04-12.** This is a request to amend the zoning district map for the real property located at 518 East 3rd Avenue to Neighborhood Commercial (CN) zoning classification. The subject property is presently zoned RMF-35. This rezoning would require amendment of the Avenues Master Plan Future Land Use Map to a business commercial land use classification.

**Staff Contact:** Everett L. Joyce, Planning Division 535-7930

**DOCUMENT TYPE:** Ordinances

**BUDGET IMPACT:** None

**DISCUSSION:** The applicant is requesting rezoning of the subject property (518 East 3rd Ave) from RMF-35 zoning to a CN neighborhood commercial zoning classification. The associated 502 East 3rd Avenue parcel is zoned CN.

The applicant has one business that is located on two lots. The 502 East 3rd Avenue parcel is zoned CN. The 518 East 3rd Avenue parcel is zoned RMF-35. The existing business uses both parcels. The 518 East 3rd Avenue parcel operates under a nonconforming commercial use status. In 1955, when the existing commercial development was constructed, zoning regulations regarding split-zoned lots considered both parcels as commercial zoning. In 1958, the zoning interpretation for split-zoned lots changed and the commercial use of the 518 East parcel became nonconforming.

Presently the existing structure houses a coffee shop. This business was permitted under the commercial zoning status of the 502 East 3rd Avenue parcel and the nonconforming commercial status of the 518 East 3rd Avenue parcel. The proposed rezone request does not relate to or affect the status of the existing business.

The rezoning petition is for the purposes of making the two parcels that support the existing development one CN zoning classification and eliminating the nonconforming status of the subject rezone parcel.

**Analysis:**

The table below summarizes the zoning history of the two parcels. The City's 1943 citywide master plan designated proposed land use for the subject property for retail business. The 1967 citywide master plan designated the properties for high density residential land uses. Both the 1979 and 1987, Avenues Community Master Plans designated both properties for medium density residential use. In 1995, adoption of the Citywide Zoning Rewrite project amended the Avenues Community Master Plan. This action designated the 502 East 3rd Avenue parcel for business commercial land use.

| Zoning History | | |
|---|---|---|
| *Zoning* | *502 3rd Ave* | *518 3rd Ave (Subject rezone parcel)* |
| 1927-1958 | B-3 (commercial) | Split-zoning B-3 and Residential. Zoning regulations designated the entire property as B-3 zoning because the portion zoned residential was less than 30 feet in width. |
| 1958-1995 | B-3 (commercial) | Split-zoning B-3 and Residential. Split-zoned lot regulations changed. The parcel no longer qualified as wholly zoned for commercial use. The commercial use of the parcel continued as a nonconforming use. |
| 1995-Present | CN (commercial) | RMF-35 (moderate density multifamily) The nonconforming commercial use status continued to remain intact. |

**Master Plan Compliance**

Conversion of the subject development from neighborhood commercial and low medium density residential to all neighborhood commercial would be consistent with other neighborhood commercial areas within the community and with the Avenues Community Master Plan as amended through the adoption of the 1995 Citywide zoning rewrite. Based on the findings of fact and public hearing input, the Planning Commission recommended amending the Avenues Community Master Plan Future Land Use Map classification to business commercial and rezone the 518 East 3rd Avenue property to CN.

**Public Process:**

The applicant presented the request to the Avenues Community Council on March 10, 2004 and on April 7, 2004. The community council supported the proposed development and rezoning of the property.

The Planning Commission held a public hearing regarding the petition request on July 14, 2004. The Planning Commission moved to forward a positive recommendation to the City Council to change the zoning of the property from RMF-35 to CN and to amend the

future land use map of the Avenues Community Master Plan from medium density residential to a business commercial designation, subject to the following conditions:

1. Combine the two properties into one lot.
2. That the east property line of the parcel will be the established location of the required rear yard.

**Relevant Ordinances:**

| | |
|---|---|
| Section 21A.50.050 | Standards for zoning amendment |
| Utah State Code Section 10-9-403 | Amendments and rezoning |
| Utah State Code Section 10-9-304 | Amendment of plan |

# Contents


1. **Chronology**

2. **Proposed Ordinances**

3. **City Council Hearing Notice**

    i. Notice
    ii. Mailing List

4. **Planning Commission**

    i. Public Hearing Notice and Postmark
    ii. Planning Commission agenda and minutes for July 14, 2004
    iii. Planning Commission Staff Report
        a. Public comments
        b. Department comments

5. **Original Petition**

# Chronology

| | |
|---|---|
| March 8, 2004 | Planning Division received the petition request |
| March 10, 2004 | Petition request presented to the Avenues Community Council Board |
| March 16, 2004 | Assigned petition |
| April 7, 2004 | Second presentation to the Avenues Community Council |
| April 13, 2004 | Requested City department review comments |
| April 14, 2004 | Received review response from the Transportation Division |
| April 19, 2004 | Received review response from the Fire Department |
| April 20, 2004 | Received review response from the Public Utilities Department |
| April 23, 2004 | Received review response from the Public Services Department |
| June 18, 2004 | Notice sent of Planning Commission public hearing |
| June 29, 2004 | Agenda notice of public hearing mailed out |
| July 1, 2004 | Posted the subject property |
| July 14,2004 | Planning Commission public hearing |
| July 15, 2004 | Ordinance request sent to City Attorney |
| July 28, 2004 | Planning Commission ratified minutes of July 14, 2004 meeting |
| July 29, 2004 | Received ordinance from City Attorney |

SALT LAKE CITY ORDINANCE
No. _____ of 2004

(Amending the Avenues Community Master Plan and rezoning property located at 518 East 3rd Avenue)

AN ORDINANCE AMENDING THE AVENUES COMMUNITY MASTER PLAN AND REZONING PROPERTY LOCATED AT 518 EAST 3RD AVENUE FROM RESIDENTIAL MULTI-FAMILY (RMF-35) TO NEIGHBORHOOD COMMERCIAL (CN), PURSUANT TO PETITION NO. 400-04-12.

WHEREAS, the City Council of Salt Lake City, Utah, has held public hearings before its own body and before the Planning Commission, and has 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 its deliberations. Pursuant to these deliberations, the City Council has concluded that the proposed amendment of the Avenues Community Master Plan and the change of zoning for the property located at 518 East 3rd Avenue is appropriate for the development of the community in that area.

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

SECTION 1. Amendment of Master Plan. The Avenues Community Master Plan, as previously adopted by the Salt Lake City Council, shall be and hereby is amended to change the designation of the subject property from Medium Density Residential to Business Commercial.

SECTION 2. Rezoning. The property located at 518 East 3rd Avenue, which is more particularly described on Exhibit A attached hereto, shall be and hereby is rezoned from Multi-Family Residential (RMF-35) to Neighborhood Commercial (CN).

SECTION 3. Amendment of Zoning Map. The Salt Lake City zoning map, as adopted by the Salt Lake City Code, relating to the fixing of boundaries and zoning districts, shall be, and hereby amended consistent with the rezoning identified above.

SECTION 4. Conditions. This ordinance is conditioned upon the following:

a. The property owner must combine the subject property with the adjacent commercially zoned property into one lot.

b. The East property line of the subject parcel shall be established as the require rear yard of the property.

SECTION 5. Effective Date. This ordinance shall not become effective until the condition identified in paragraph 4(a) above has been satisfied, as certified by the Salt Lake City Planning Director.

SECTION 6. Time. If the condition identified in paragraph 4(a) above has not been satisfied within one year from the date of the execution of this ordinance, this ordinance shall become null and void and of no effect. The City Council may, for good cause shown, by resolution, extend the time period for satisfying the condition identified above.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2004.

_____
CHAIRPERSON

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

_____
MAYOR

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

(SEAL)

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 7-29-04
By

Bill No. _____ of 2004.
Published: _____.

G:\Ordinance 04\Amending the Avenues Comm Master Plan and rezoning 518 E 3rd Ave - July 29, 2004.doc

# Exhibit A

**Legal Description:**

Salt Lake County Sidwell Parcel Number: 09-31-478-007

BEGINNING 7 RODS EAST FROM THE NORTHWEST CORNER OF LOT 3, BLK 35, PLAT D, SALT LAKE CITY SURVEY THENCE EAST 35.5 FEET, SOUTH 5 RODS, WEST 33 FEET, NORTH 2.5 RODS, WEST 2.5 FEET, NORTH 2.5 RODS TO THE POINT OF BEGINNING.

30 July 04

# NOTICE OF PUBLIC HEARING

The Salt Lake City Council will review Petition No. 400-04-12, a request by Jack E. Plumb to rezone the property 518 E 3rd Avenue and amend the Avenue Community Master Plan Future Land Use Map from Medium Density Residential to Business Commercial. This property is part of the commercial development located at 502 East 3rd Avenue. The 518 3rd Avenue parcel has nonconforming commercial use status and the property is zoned RMF-35 Multifamily Residential. The 502 3rd Avenue parcel is zoned CN Neighborhood Commercial. The petition request is to rezone the 518 3rd Avenue parcel from RMF-35 zoning to CN zoning.

As part of this request the City Council is holding an advertised public hearing to receive comments regarding this petition request. 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:** City Council Chambers
City and County Building
451 South State Street
Salt Lake City

If you have any questions relating to this proposal, please attend the meeting or call Everett L. Joyce at 535-7930, between the hours of 8:30 a.m. and 5:30 p.m. Monday through Friday.

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SALT LAKE CITY UT 84103

BAIRD, ROGER A
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478 E THIRD AVE
SALT LAKE CITY UT 84103

BABBITT, MICHAEL D
Sidwell No. 0931441017
509 E THIRD AVE
SALT LAKE CITY UT 84103

ATKINSON, SHANE R &
Sidwell No. 0931440009
681 E THIRD AVE
SALT LAKE CITY UT 84103

ATKINSON, SHANE R &
Sidwell No. 0931440008
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ANDERSEN, FRANKLIN P &
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134 N 'H' ST
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CARTER, ANN MARIE; TR
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CARROLL, PHILIP &
Sidwell No. 0931481010
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MENLOVE, DARIN L
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MCOMBER, W TYLER &
Sidwell No. 0931440013
459 E THIRD AVE
SALT LAKE CITY UT 84103

# 4. Planning Commission

Public Hearing Notice
Agenda
Minutes
Staff Report

A. LOUIS ZUNGUZE
PLANNING DIRECTOR

BRENT B. WILDE
DEPUTY PLANNING DIRECTOR

DOUGLAS L. WHEELWRIGHT, AICP
DEPUTY PLANNING DIRECTOR

**SALT LAKE CITY CORPORATION**

COMMUNITY AND ECONOMIC DEVELOPMENT
PLANNING AND ZONING DIVISION

ROSS C. ANDERSON
MAYOR

June 18, 2004

# NOTICE OF HEARING POSTPONEMENT AND REVISED HEARING DATE

The public hearing for June 23, 2004 regarding Petition 400-04-12 to rezone property at 518 3rd Avenue has been postponed. **The public hearing has been rescheduled for July 14, 2004. The petition request is to rezone the 518 3rd Avenue parcel from RMF-35 zoning to CN zoning. As part of the rezone petition an amendment to the Avenues Community Master Plan Future Land Use Map is required. The request is to modify the land use map designation from Medium Density Residential to Business Commercial.**

The Salt Lake City Planning Commission will be reviewing Petition No. 400-04-12, a request by Jack E. Plumb to rezone the property at 518 East 3rd Avenue and to amend the Avenues Community Master Plan. The subject property is part of the commercial development located at 502 East 3 rd Avenue. The 518 3rd Avenue parcel has nonconforming commercial use status and the property is zoned RMF-35 Multifamily Residential. The 502 3rd Avenue parcel is zoned CN Neighborhood Commercial.

As part of the zoning and master plan amendment process the Planning Commission is holding a public hearing to receive comments regarding this petition request. During this hearing the Planning staff will present information to the Commission on the petition request. Anyone desiring to address the Planning Commission about this matter can either attend the public hearing or send written comments prior the hearing date to the address on the bottom of this notice.

## Planning Commission Public Hearing

### Petition Number 400-04-12

**To rezone property at 518 East 3rd Avenue from RMF-35 to CN and to amend the Avenues Master Plan for Business Commercial land use**

| | |
|---|---|
| **DATE:** | **July 14, 2004** |
| **TIME:** | **5:45 P.M.** |
| **PLACE:** | **ROOM 326**<br>**City and County Building**<br>**451 South State Street**<br>**Salt Lake City** |

If you have any questions relating to this proposal, please attend the meeting or call Everett Joyce at 535-7930, between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday.

We comply with ADA guidelines. Assistive listening devices and interpretive services provided upon 24 hour advance request.

Salt Lake City, Utah

**NOTICE OF PUBLIC HEARING**
Petition 400-04-12

Salt Lake City Planning Division
451 South State Street
Salt Lake City, Utah 84111
EJ

SALT LAKE CITY JUN 30 04 UT

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Everett Joyce
1095 Hyland Lake Dr

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| CUSTOMER NAME AND ADDRESS | ACCOUNT NUMBER | DATE |
|---|---|---|
| PLANNING DIVISION<br>451 SOUTH STATE STREET, ROOM 4<br>SALT LAKE CITY UT 84111 | P5356184L-07 | 06/30/04 |

| ACCOUNT NAME | |
|---|---|
| PLANNING DIVISION | |
| TELEPHONE | INVOICE NUMBER |
| 801-535-6184 | TL8202HDMA1 |
| SCHEDULE | |
| START 06/30/04 END 06/30/04 | |
| CUST. REF. NO. | |
| | |
| CAPTION | |
| SALT LAKE CITY PLANNING COMMIS | |
| SIZE | |
| 41 LINES 1.00 COLUMN | |
| TIMES | RATE |
| 1 | 1.68 |
| MISC. CHARGES | AD CHARGES |
| .00 | 73.88 |
| | TOTAL COST |
| | 73.88 |

**SALT LAKE CITY PLANNING COMMISSION MASTER PLAN AMENDMENT AND REZONE PUBLIC HEARING**

On Wednesday, July 14, 2004 at 5:45 P.M., the Salt Lake City Planning Commission will hold a hearing to take comment on Petition 400-04-12 to amend the Avenues Community Master Plan and rezone the property at 518 3rd Avenue. Requested is changing the land use designation from Medium Density Residential to Business Commercial and rezone the property CN. All persons interested and present will be given an opportunity to be heard.

The hearing will be held in Room 326 of the Salt Lake City and County Building, 451 South State Street. Accessible parking and entrance is located on the east side of the building. Hearing impaired individuals who wish to attend this meeting should contact our TDD service number, 535-6021, four days in advance. For further information regarding this hearing, call Everett Joyce at 535-7930.
8202HDMA

## AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY CORPORATION LEGAL BOOKKEEPER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF SALT LAKE CITY PLANNING COMMIS FOR PLANNING DIVISION WAS PUBLISHED BY THE NEWSPAPER AGENCY CORPORATION, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH.

PUBLISHED ON START 06/30/04 END 06/30/04

SIGNATURE Merrilyn D. Dore

DATE 06/30/04

Notary Public
MERRILYN D. DORE
824 West Big Mountain Drive
Taylorsville, Utah 84123
My Commission Expires
January 23, 2006
State of Utah

THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"
PLEASE PAY FROM BILLING STATEMENT.

**NOTE: The field trip is scheduled to leave at 4:00 p.m.**

**AGENDA FOR THE**
**SALT LAKE CITY PLANNING COMMISSION MEETING**
**In Room 326 of the City & County Building at 451 South State Street**
**Wednesday, July 14, 2004, at 5:45 p.m.**

The Planning Commission will be having dinner at 5:00 p.m., in Room 126. During the dinner, Staff may share general planning information with the Planning Commission. This portion of the meeting will be open to the public.

1. **APPROVAL OF MINUTES** from Wednesday, June 23, 2004

2. **REPORT OF THE CHAIR AND VICE CHAIR**

3. **REPORT OF THE DIRECTOR**

4. **CONSENT AGENDA** – Salt Lake City Property Conveyance Matters:

   a. Salt Lake Arts Academy and Salt Lake City Property Management Division – Salt Lake Arts Academy, a public charter middle school, is requesting that Salt Lake City lease approximately 15,000 square feet of the Old Library Building located at 209 East 500 South on an interim basis. The Old Library Building contains approximately 120,000 square feet and is located in a "PL-2" Public Lands Zoning District.

   b. Lapis Development L.L.C. and Salt Lake City Property Management Division – Lapis Development L.L.C is requesting that an existing public waterline be removed and that new privately owned facilities be constructed to serve a proposed Planned Development located at approximately 8970 S. Danish Road. The easement associated with this water line will be quit claimed back to the property owner at current market value as determined by the Salt Lake City Property Management Division. This project is located outside Salt Lake City Limits.
   (Staff – Linda Cordova at 535-6308 or Doug Wheelwright at 535-6178)

5. **PUBLIC HEARINGS (Public Hearings will generally begin at 5:45)**

   a. **PUBLIC HEARING** – Petition No. 410-668, by Richard Young, requesting a planned development approval to construct an addition on the existing art studio at 602 West South Temple. The property is located in the "GMU", Gateway Mixed Use zoning district. The Applicant is also requesting conditional use approval to waive the design standards and minimum height requirement of the "GMU" zoning district for the addition. (Staff –Cheri Coffey at 535-6188)

   b. **PUBLIC HEARING** – Petition No. 400-03-30, by the Salt Lake City Planning Commission, requesting to amend the Salt Lake City Zoning Ordinance to add language relating to the conversion of vacant properties, due to demolition to commercial parking garages, lots, or decks in the "D-1" zone, requiring said lots to be adjacent to and associated with a primary use and/or a contributing factor to the overall downtown parking scheme. Additionally, vacant properties, due to demolition in the "D-1" zone, where no replacement use is proposed, would be required to install a landscape yard around the entire perimeter of the parcel with drought resistant landscaping. (Staff – Lex Traughber at 535-6184 or lex.traughber@slcgov.com)

   c. **PUBLIC HEARING** – Petition No. 400-04-02 & 410-673, by Rick Plewe (developer), requesting approval for a rezone, master plan amendment, and planned development located at 2665 E. Parley's Way. The Applicant requests that the property be rezoned from "CB" Community Business to "RMF-35" Moderate Density Multifamily Residential, in order to construct a new 42-unit condominium complex. The requested rezone requires that the East Bench Community Master Plan be amended to reflect a residential rather than a commercial land use category. The Applicant also requests planned development consideration to specifically address special design elements of the proposed building.
   (Staff – Lex Traughber at 535-6184 or lex.traughber@slcgov.com)

   d. **PUBLIC HEARING** – Petition No. 400-04-12, by Jack Plumb, requesting to rezone the property located at 518 East Third Avenue from Multi-Family Residential "RMF-35" to Neighborhood Commercial "CN" as part of a two parcel commercial enterprise at 502 and 518 East Third Avenue. This petition will also require an amendment of the Avenues Community Master Plan by modifying the land use map designation from Medium Density Residential to Business Commercial.
   (Staff – Everett Joyce at 535-7930)

6. **UNFINISHED BUSINESS**

**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 City 48 hours in advance of the meeting and we will try to provide whatever assistance may be required. Please call 535-7757 for assistance.**

**PLEASE TURN OFF CELL PHONES AND PAGERS BEFORE THE MEETING BEGINS. AT YOUR REQUEST A SECURITY ESCORT WILL BE PROVIDED TO ACCOMPANY YOU TO YOUR CAR AFTER THE MEETING. THANK YOU.**

COMMUNITY AND ECONOMIC DEVELOPMENT • PLANNING DIVISION • 451 SOUTH STATE STREET, ROOM 406 • SALT LAKE CITY, UT 84111
TELEPHONE: 801-535-7757 • FAX: 801-535-6174

**Petition No. 400-04-12, by Jack Plumb, requesting to rezone the property located at 518 East Third Avenue from Multi-Family Residential "RMF-35" to Neighborhood Commercial "CN" as part of a two parcel commercial enterprise at 502 and 518 East Third Avenue. This petition will also require an amendment of the Avenues Community Master Plan by modifying the land use map designation from Medium Density Residential to Business Commercial.**

This item was heard at 6:39 p.m.

Chair Muir read for the record a letter which was submitted by Mr. Bill Wood and Ms. Cydney Wood as well as twelve other tenants in support of the proposed request.

Principal Planner Everett Joyce presented the petition as written in the staff report. Mr. Joyce indicated that in 1955 a gas station was built on two parcels located at 502 and 518 East 3rd Avenue, at that time under the zoning regulations both parcels were treated and considered as commercial zoning. In 1986 the Board of Adjustment reaffirmed the nonconformity of the commercial property because between 1955 and 1986 there was a zoning text change which modified the interpretation of how adjacent properties were treated because of zoning boundaries. Both parcels were no longer considered completely commercial. The Applicant is requesting to rezone the property to "CN" for the continuity of both parcels. Mr. Joyce stated that there is a current use that has been permitted through Business Licensing under the nonconforming status. Under that status minor expansion can take place up to 50 percent which would be almost 600 feet. The commercial zoning would allow more expansion; however, it would still be limited by setbacks and off street parking. Mr. Joyce noted that the site is located in a Historic District and an expansion would be considered for scale and mass. Mr. Joyce stated that based on the findings of fact noted in the staff report Staff recommends that the Planning Commission forward a favorable recommendation to the City Council to change the zoning of the property from "RMF-35" to "CN" and to amend the Future Land Use Map of the Avenues Community Master Plan from "medium density residential" to a "business commercial" designation, subject to the conditions noted in the staff report.

Commissioner Diamond asked if there is enough parking if the Applicant were to build an addition to the structure. My Joyce replied, yes but that an addition would require the Applicant to utilize the existing parking.

Mr. Jack Plumb addressed the Commission saying that the property he is proposing for rezone is located at 518 East 3rd Avenue. Mr. Plumb stated that he agrees with the staff report. Mr. Plumb indicated that when he first purchased the property he spoke with Planning Staff who suggested that the property be combined to carry the same zoning classification for continuity. Mr. Plumb stated that along 3rd Avenue he has not found another facility which affords the amount

of parking that his facility does. He stated that he is cleaning up issues that have been ongoing for a long time by changing the zoning.

Commissioner Scott asked Mr. Plumb where the dumpster is kept. Mr. Plumb replied that there was a dumpster but the City requested that it be removed and now there are two traditional garbage cans located on the west side of the building.

Commissioner Daniels referred to the opposing comments submitted by several members of the community who felt that they were not heard at the Community Council meetings. He asked Mr. Plumb if he has listened to their opposition and responded to it.

Mr. Plumb stated that he attended two separate Community Council meetings. He stated that he has been completely forthright and upfront regarding his intentions for the site. Mr. Plumb stated that he has been available for anyone to discuss issues with him personally. Mr. Plumb stated that the Community Council approved his proposal at both meetings that he attended.

Commissioner Daniels asked Mr. Plumb to speak to the issue of residual gas tanks on the site. Mr. Plumb stated that he is not aware of gas tanks on the site and he believed that the tanks were removed in the early 1980's which was prior to any type of official report.

Commissioner De Lay referred to the document in the staff report regarding Quality Oil's tanks asking if the tanks were removed. Mr. Joyce stated that he verified with the State that the tanks were removed in 1985.

Chair Muir opened the public hearing.

Mr. Jonathan Buss, an adjacent property owner addressed the Commission in opposition of the proposed rezone. Mr. Buss felt that there are numerous provisions to regulate nonconforming uses. First of all the overriding public policy is to reasonably restrict and eventually eliminate nonconforming uses. Mr. Buss referred to the Avenues Community Master Plan which states "that the City should not grant variances to rebuild structures containing nonconforming uses. Once the property deteriorates or is lost to an act of God, the property should revert to use conforming to the present zoning". Mr. Buss felt that the proper use for the property is residential. He felt that the proposal goes against the Avenues Community Council Master Plan policy. He felt that if the Commission were to approve the proposal to change the zoning to allow a commercial uses, they would be setting a dangerous precedent. Mr. Buss said that if the zoning is changed then eventually a more intensive commercial use could be constructed there. He felt that the coffee shop is currently a viable use and it should be left as it is to continue to operate as a nonconforming use which may eventually die a natural death in which case the property will revert to residential zoning.

Mr. Dick Raybould an adjacent property owner addressed the Commission in opposition of the proposal. He gave a brief history of the area saying that the proposed property has gone through several different uses. He disputed the staff report that indicates that the site was at one time used for a parking lot which he said is inaccurate. Mr. Raybould stated that he supported the Master Plan and felt that the property should be left as is. Mr. Raybould indicated concern with creeping commercialism into his neighborhood.

Ms. Rebecca Raybould, an adjacent property owner addressed the Commission on behalf of 19 other neighbors in the immediate neighborhood who signed a petition requesting that the Commission disprove the proposal. Ms. Raybould stated that they are not anti-commercial and they do appreciate the mix of different compatible uses within their neighborhood. She stated that they are against rezoning the property which would allow for larger commercial uses which would increase traffic, parking, and noise issues. She felt that there is no compelling reason to rezone the property. Ms. Raybould felt that the Applicant is requesting to change the zoning to increase the resale value of the site. She asked that the Planning Commission deny the proposal.

Commissioner De Lay asked Ms. Raybould if the Community Council approved the request.

Ms. Raybould indicated concerns with the process of the Community Council meeting and stated that the item was approved.

Chair Muir said that the Commission understands that it is an imperfect process.

Commissioner Chambless inquired the actual Community Council numbers of the vote. Mr. Joyce replied that the vote was 19 in favor and 9 opposed.

Ms. Raybould said that she did not feel that there were many residents who attended the Community Council meeting.

Commissioner Scott asked Ms. Raybould if there were residences on the proposed site before the gas station was constructed.

Ms. Raybould replied that there was one lot prior to the gas station.

Mr. Raybould added that the one lot was chopped into three lots two of which had residences and the third lot was the gas station.

Mr. Melvin Grossgold an adjacent property owner addressed the Commission in opposition of the proposal. He said that he is delighted to have the coffee shop in his neighborhood, and he hopes that the neighborhood never has to deal with the issue of a larger development moving in. He asked that the Commission

dismiss the staff report which he believed to be flawed. Mr. Grossgold said that the major flaw is that the four City departments are given equal weight with the neighborhood. Mr. Grossgold stated that the second flaw is the Community Council process which he felt was unfair. He indicated that the vote was inflated by members of the public which he was not sure were residents of the Avenues Community.

Chair Muir stated that the Community Council is solely advisory to the Planning Commission which is advisory to the City Council who ultimately has the final decision regarding this matter.

Mr. Grossgold indicated a concern with the Staff representation with respect to the petition, saying that Staff appeared as an advocate for the proposal. Mr. Grossgold disputed the need to clean up the zoning map. He did not feel that there were valid reasons given by Staff that would support the residents of the community. Mr. Grossgold respectfully requested that the staff report not be given any credence regarding the Planning Commission's decision. He asked that the Planning Commission deny the Applicant's request.

Mr. Albert Reed, an adjacent resident of the proposal, addressed the Commission in opposition to the proposal. Mr. Reed submitted his comments in written form for the public record. Mr. Reed felt that the patio should be no larger than the previous owners nonconforming use with no broadcast or intercom system. He felt that there is a plethora of eating, coffee, and boutique establishment within the area which he felt illustrate no compelling need for the zoning change. He felt that the approval of the proposal would negatively impact him and the adjacent residents of the site. Mr. Reed asked that the Commission deny the request.

Mr. Brent Herridug, an adjacent property owner, addressed the Commission in favor of the proposal. He said that the Applicant has a wonderful sensitivity to the needs of the surrounding neighborhood. He referred to a previous Planning Commission meeting which discussed the need to let the City breathe and allow small businesses into neighborhoods. He did not feel that the intent of the Applicant is to bring in larger businesses. He asked that the Commission approve the request and allow that the zoning be cleaned up.

Mr. Gary R. Hansen, an adjacent property owner, addressed the Commission in opposition to the proposal. He said that he and others worked hard to incorporate the Master Plan policies into the Avenues Plan. He noted that one of the principles is to not allow the conditional uses to encroach on the residential zoning. He asked that the Commission deny the request.

Chair Muir read the following comments for the public record:

Ms. Jean Raybould, an adjacent resident of the site, who is opposed to changing the zoning classification of 518 East 3rd Avenue.

Mr. Chet Gritzmachen, an adjacent property owner, did not wish to speak but is in opposition to the proposal.

Mr. Mark Pochurek, an adjacent property owner, did not wish to speak but is in opposition to the proposal.

Mr. Plumb addressed the Commission saying that he attended the first Community Council meeting and the proposal was approved unanimously; however, there were a few people who felt that they were misrepresented. Mr. Plumb stated that he went to the second meeting which the item was approved unanimously again. Mr. Plumb stated that he takes offense to the comments by the public that his intentions are to sell the property to a larger commercial development. Mr. Plumb felt that it is an insult further to claim the Planning Staff has allegiance to him. Mr. Plumb stated that this property will not lay idle, and his intention is to clean up the zoning.

Commissioner De Lay asked Mr. Plumb if he can operate his business as a nonconforming use why is he applying to rezone the property.

Mr. Plumb stated that prior to purchasing the property he met with Planning Staff and they suggested that he apply to change the zoning to make both lots commercial. Mr. Plumb stated that the two lots have been married together and logically they should carry the same zoning.

Commissioner De Lay asked for clarification regarding the expansion of the structure.

Mr. Joyce replied that the Applicant can do additions to the structure; the difference is in the intensity. With the existing use the Applicant can do an addition of 50 percent expansion and under the commercial use the site could be expanded 300 square feet more.

Chair Muir noted that the disadvantage is that it is a real impediment to refinance a nonconforming use.

Commissioner Daniels asked Mr. Plumb regarding Mr. Reed's comments regarding the noise and speakers on the structure.

Mr. Plumb replied that he is not aware of any speakers on the structure.

Commissioner Scott referred to the "CN" and "RMF-35" landscape buffers asking if the "CN" buffers are more stringent.

Mr. Joyce stated that is correct because the setbacks for commercial structures are closer to the property line.

Commissioner Scott clarified that if another commercial use came in, the commercial zoning would afford more protection for the neighborhood.

Chair Muir closed the public hearing.

Commissioner McDonough asked Mr. Joyce which came first, the property line which created two lots or the structure.

Mr. Joyce relied that he does not know when the two lots were created but it was prior to 1955.

Commissioner Scott referred to the petition that was initiated during the Director's Report at the beginning of the meeting, which requested that Staff begin phase two to correct errors of the zoning rewrite of 1995. She asked if this request would ordinarily fall under an error resulting from that rewrite.

Mr. Joyce replied that is correct. In 1995 Staff would have suggested that the property be rezoned to commercial based on the policies at that time. Mr. Joyce said that Mr. Plumb thought that it was an error and as he stated that the previous owner never took the steps to have that error corrected.

Commissioner Chambless asked Mr. Joyce regarding his role as a City Staff member when appearing before a Community Council which is not one of advocacy. Mr. Joyce agreed and replied that his role is to address the issues and bring in the technical and detailed information related to the request.

Chair Muir noted that he feels that it comes down to weighing the disadvantages of a nonconforming use in terms of its impediments to refinancing and continued operation and health of an existing business against the concerns of the Community which seem to be very strong regarding encroachment of the commercial element into the residential neighborhood.

Commissioner Daniels asked Mr. Joyce if there are speakers on the property and if they are used.

My. Joyce replied that he does not know if the speakers are used. He added that the Applicant is the owner who leases the property.

Chair Muir added that there is a noise ordinance that would be relevant to that.

<u>Motion for Petition No. 400-04-12</u>

Commissioner De Lay made a motion regarding Petition No. 400-04-12, based on the findings of fact noted in the staff report that the Planning Commission forward a favorable recommendation to the City Council to change the zoning of the property from "RMF-35" to "CN" and to amend the Future Land Use Map of the Avenues Community Master Plan from "medium density residential" to a "business commercial" designation, subject to the following conditions:

1. Combine the two properties into one lot.
2. Establish the east property line of the parcel as the required rear yard.

Commissioner Scott seconded the motion.

Commissioner De Lay, Commissioner Diamond, Commissioner McDonough, Commissioner Noda, and Commissioner Scott voted "Aye". Commissioner Chambless and Commissioner Daniels voted "Nay". Prescott Muir as Chair did not vote. All voted in favor, and therefore the motion passed.

Mr. Zunguze stated that while healthy discussion in the community is encouraged it is important that everyone uses terms that can be sustained. Mr. Zunguze said that he is concerned with the use of terms that have been thrown in the direction of Staff. Staff's intention is to educate the public and explain City policies and to say the Mr. Joyce had a conflict of interest regarding the previous petition is incorrect. Mr. Joyce's activities do not rise to that level.

**DATE:** July 9, 2004

**TO:** Salt Lake City Planning Commission

**FROM:** Everett L. Joyce, AICP

**RE:** **STAFF REPORT FOR THE JULY 14, 2004 MEETING**

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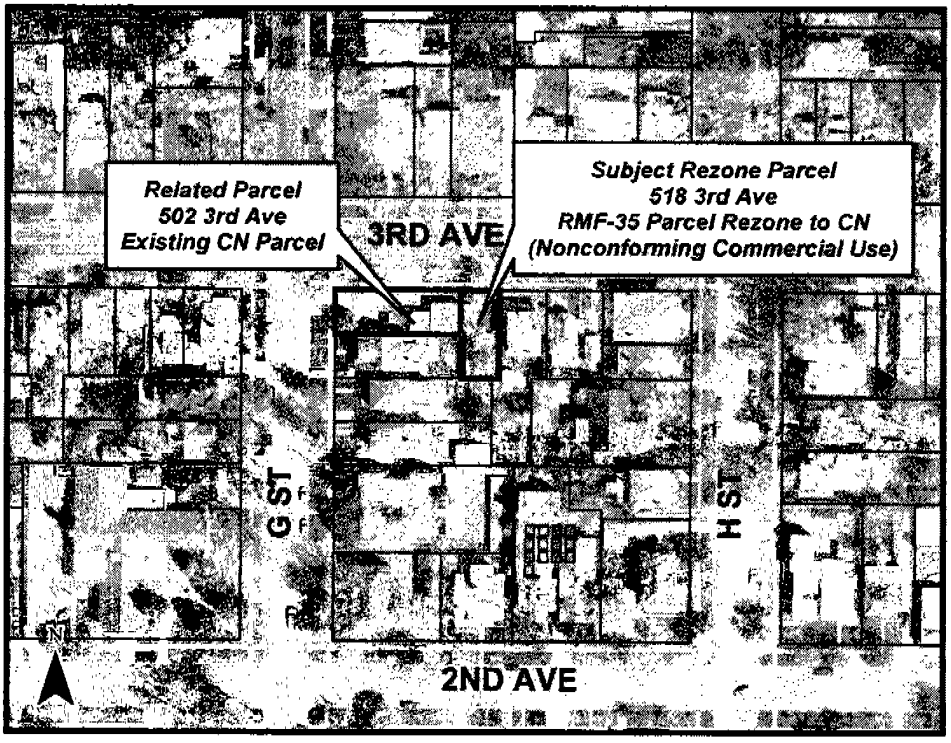
**CASE#:** Petition 400-04-12 Zoning Map and Master Plan Amendment

**APPLICANT:** Jack E. Plumb

**STATUS OF APPLICANT:** Property Owner

**PROJECT LOCATION:** 518 East 3rd Avenue, this parcel is contiguous to and occupied by the same use as 502 East 3rd Avenue. Both parcels function as one single property for an existing commercial development.



**PROJECT/PROPERTY SIZE:** 0.06 Acres

**COUNCIL DISTRICT:** District 3

**REQUESTED ACTION:** The applicant is requesting rezoning of the subject property (518 3rd Ave) from the RMF-35 zoning to a CN neighborhood commercial zoning classification. The related 502 3rd Avenue parcel is zoned CN. Avenues Community Master Plan amendment will also be required.

**PROPOSED USE(S):** Both the 502 and 518 East 3rd Avenue parcels support an existing single commercial development. (See Exhibit 1 Existing Site Plan and Photographs.)

Presently the existing structure is vacant. Separate business license action is in progress to convert the existing building for use as a coffee shop. This current business license action is taking place under the commercial zoning status of the 502 3rd Avenue parcel and the nonconforming commercial status of the 518 3rd Avenue parcel. The proposed rezone request does not relate to this business license action.

The rezoning petition is for the purposes of making the two parcels that support the existing development one CN zoning classification and eliminate the nonconforming status of the subject rezone parcel.

**APPILCABLE LAND USE REGULATIONS:** Section 21A.50.050 Standards for general amendments.

**SURROUNDING ZONING DISTRICTS:**

**North** – Residential SR-1
**South** – RMF-35
**East** – RMF-35
**West** – CN Neighborhood Commercial

**SURROUNDING LAND USES:**

**North** – Single family residences
**South** – Multiple family residence
**West** – The adjacent commercial property
**East** – Single family residence

**MASTER PLAN SPECIFICATIONS:**

1987 Avenues Community Master Plan – The Future Land Use Map identifies the subject area for medium density residential land use from 8-20 dwelling units per acre. Even with the Future Land Use Map designation in the master plan, the related 502 3rd Avenue parcel was zoned B-3 and this policy of commercial development for this site continued. In 1995, the property was rezoned CN amending the Avenues Community Future Land Use Map designating the property for "business commercial" land use. The 518 3rd Avenue parcel has been master planned and zoned for residential uses since 1987. However, commercial use of the property has continued since 1958 through its nonconforming use status.

**SUBJECT PROPERTY HISTORY:**

In 1955, on both the adjacent related property 502 3rd Avenue and the subject property 518 3rd Avenue a service station was constructed. (See Exhibit 6 – 1955 Permit Invoice) A portion of the existing commercial structure is located on the subject rezone parcel. In 1958, the method to determine the zoning of split-zoned parcels changed. Under this revised method, the zoning designation changed to residential for the 518 3rd Avenue parcel. This action created a nonconforming use status for the commercial use of the 518 3rd Avenue parcel.

In 1986, the Board of Adjustment reaffirmed the nonconforming commercial status of the 518 3rd Avenue property. The existing commercial structure straddles the property line between the 502 and 518 3rd Avenue parcels and the properties continued to operate as a single commercial entity.

**ACCESS:**

The subject property has access from 3rd Avenue and through the related adjacent property at 502 3rd Avenue. Existing parking for the development is located on the current CN zoned parcel.

**PROJECT DISCRIPTION:**

The subject property and adjacent parcel originally developed as one commercial business. The existing building is presently vacant. The petition request is to make the entire development zoned CN.

## COMENTS, ANALYSIS AND FINDINGS:

### COMMENTS

City departments submitted comments.

**Transportation** - The Transportation Division recommended approval subject to uses not expanding or intensifying beyond the existing traffic generation capacity. Availability of required parking spaces limits the expansion or intensification potential of the site.

**Public Utilities** - Salt Lake Public Utilities has identified that they have no objection with the proposed rezone.

**Fire Department** – The Fire Department noted approval for the rezoning request.

**Public Services** – The Public Services Department had no comments regarding the petition request.

**Community Council(s)** – The applicant met with the Greater Avenues Community Council on March 10, 2004 and on April 7, 2004. The Community Council supported the requested rezoning of the property. On March 10, 2004, the Community Council Board voted 7 in favor, 2 against and 4 abstained. A neighboring property owner requested that the Community Council rehear the proposal due to an address error in the meeting agenda for March 10, 2004. The Avenues Community Council reheard the proposal on April 7, 2004 and the vote result was 19 in favor and 9 opposed to the rezoning request. Exhibit 2 contains the Community Council minutes related to this petition.

### ANALYSIS AND FINDINGS

The table below summaries the zoning history of the two parcels. The City's 1943 citywide master plan designated proposed land use for the subject property for retail business. The 1967 citywide master plan designated the properties for high density residential land uses. Both the 1979 and 1987, Avenues Community Master Plans designated both properties for medium density residential use. In 1995, adoption of the Citywide Zoning Rewrite project amended the Avenues Community Master Plan Future Land Use Map. This action designated the 502 3rd Avenue parcel for business commercial land use. However, the related parcel 518 3rd Avenue remained designated for medium density residential use.

| **Zoning History** | | |
|---|---|---|
| *Zoning* | *502 3rd Ave* | *518 3rd Ave (Subject rezone parcel)* |
| 1927-1958 | B-3 (commercial) | Split-zoning B-3 and Residential. Zoning regulations designated the entire property as B-3 zoning because the portion zoned residential was less than 30 feet in width. |

| | | |
|---|---|---|
| 1958-1995 | B-3 (commercial) | Split-zoning B-3 and Residential. Split-zoned lot regulations changed. The parcel no longer qualified as wholly zoned for commercial use. The commercial use of the parcel continued as a nonconforming use. |
| 1995-Present | CN (commercial) | RMF-35 (moderate density multifamily) The nonconforming commercial use status continued to remain intact. |

**Discussion of issues submitted to the Planning Commission by community members**
Staff has provided additional information regarding key issues brought out in letters to the Planning Commission. Exhibit 3, Letters to the Planning Commission, contains copies of letters from the community and a list of residents opposing the rezone request. Staff has discussed below three key issues brought out by the community letters.

1. Removal of gas tanks. Staff contacted the State Department of Environmental Quality. State staff noted that removal of the underground gas tanks occurred in 1985. (See Exhibit 8 Underground Storage Tanks)

2. Landscaping Approval. The Salt Lake City zoning ordinance has specific landscape standards for park strips and required buffer strips. The balance of the property does not have any specific landscape standards. Excepting for noncomplying status, new construction or expansion would be required to meet the current ordinance landscape standards. The existing site does have noncomplying status where the parking lot and existing structure is closer than seven feet from the property line.

3. Expansion potential of the properties. Expansion of the existing structure may occur without approval of the requested rezoning. New construction potential is limited. Redevelopment would require parking to be behind the building setback line of fifteen feet along both street frontages with no parking in the front yard. Since new development would require compliance with current setback and landscape requirements demolition and new construction would not be likely. Expansion potential is also limited based on the provision of required parking. The Transportation Division's comments recognize this issue in their reference that the existing use not expand or intensify the existing traffic generation. Expansion is limited to the availability of meeting required parking standards.

   Staff has evaluated expansion potential under the nonconforming use status of the property if it were zoned CN. Under the existing nonconforming use status expansion is limited to approximately 600 square feet. Rezoning the property would allow approximately 900 additional sq. ft. of building footprint for restaurant uses and 1800 sq. ft of building footprint for office use. Parking requirements limit the expansion potential. The type of use determines the amount of parking required. The existing site supports parking for 11 parking spaces.

## ZONING AMENDMENT
## CODE CRITERIA / DISCUSSION / FINDING OF FACT

In reviewing this application, the Planning Commission is required to use the following zoning amendment standards:

Section 21A.50.050 Standards for General Amendments.

**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 Future Land Use Plan of the 1987 Avenues Community Master Plan depicts both the 502 and 518 parcels for medium density residential land use. In 1995, adoption of the Citywide Zoning Rewrite project amended the master plan land use policy designating the 502 3rd Avenue property for neighborhood business land use.

Zoning district designation of parcels during the 1995 Citywide Zoning Rewrite project considered four major factors. These were existing zoning, master plan land use policy, existing land use and minimization of nonconforming uses. Through the Citywide zoning mapping process the two related parcels were not mapped as single commercial development as was done prior to 1958.

The Avenues Master Plan contains a new business zoning policy that identifies the specific evaluation criteria for additional business zoning. Staff believes that since this is part of an existing business and the property contains a commercial nonconforming use that the master plan evaluation criteria regarding new business zoning is not applicable. The existing nonconforming use status allows limited expansion of commercial use on the subject property.

In 1986, the Board of Adjustment reaffirmed the nonconforming commercial status of the 518 3rd Avenue property. The existing commercial structure straddles the property line between the 502 and 518 3rd Avenue parcels. (See Exhibit 5 Board of Adjustment Minutes)

Commercial land use patterns for the Avenues show one shopping center. (5-6th Ave and E-F St) There are eight neighborhood commercial nodes ranging in size from one parcel to five parcels. There are approximately 24 nonconforming commercial sites within the community. Neighborhood commercial uses exist throughout the southern half of the Avenues Community.

**Findings**: The existing use of the parcel has been commercial in nature since 1955. The Board of Adjustment reaffirmed the nonconforming status of the property in 1986. The existing commercial structure is located on both the 502 and 518 3rd Avenue parcels. Staff believes that the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City

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

**Discussion**: Construction of the original service station was in 1955. The most recent use of the property was a private school. The subject parcel contained the outdoor activity area for the school as well as a portion of the principal structure.

In 1986, the property owner obtained a finding from the Board of Adjustment that the 518 3rd Avenue property contained a nonconforming commercial use related to the CN parcel at 502 3rd Avenue. A 1986 survey showed that the existing building is located on both the 502 and 518 parcels (See Exhibit 7 Building Location Survey). The building encroaches onto the 518 parcel three feet. The request is for CN zoning which is the zoning of the adjacent parcel that contains the majority of the principal building.

The two parcels have been part of a commercial development since 1955. The parking for the development is on the northwest corner as far from adjacent residential properties as possible.

**Findings**: The 518 3rd Avenue property has been in continuous use as part of the adjacent commercial use and the intensity level of uses has been consistent with the CN neighborhood commercial zoning designation. Neighborhood commercial zoning is an appropriate zoning designation within residential neighborhoods. Therefore, the proposed amendment is harmonious with the overall character of existing development.

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

**Discussion:** The adjacent land uses are residential except the related 502 3rd Avenue parcel, which is part of the existing commercial development. The proposed amendment would allow a neighborhood commercial use. The CN Neighborhood Commercial zoning district states the district is intended to provide for small-scale commercial uses that can be located within residential neighborhoods without having significant impacts upon residential uses. To meet this purpose statement, buffer yards are required on any CN lot abutting a residential district. This buffer yard consists of a seven foot wide landscaped area at the property line. Landscaping requirements are: 1) One shade tree per thirty linear feet; 2) Shrubs having a mature height of not less than four feet along the entire length of the landscape buffer; 3) Areas not planted with trees or shrubs shall be maintained in turf or groundcover; and 4) A solid fence between four and six feet erected at the property line unless waived by the zoning administrator.

The site layout pattern for the 502 and 518 3rd Avenue parcels do not provide the entire seven-foot landscaped setback along the south property line where the existing structure and off-street parking is located. In 1955, at the time of development of the original service station this setback was not required.

The existing structure and parking location is noncomplying with respect to the seven foot landscaped buffer requirement. Any additions to the existing structure should maintain the required seven-foot landscaped buffer requirement. New construction on the site would be required to comply with the zoning setback requirements. Any additions that do not meet the setback requirements need approval as a Routine and Uncontested Matter, which requires signature from abutting property owners, otherwise approval would be required through a public hearing process with the Board of Adjustment.

**Findings**: Rezoning the 518 3rd Avenue parcel to CN along with combining the lot with 502 3rd Avenue parcel would permit a single neighborhood commercial development. This is consistent with commercial uses located within residential neighborhoods citywide. The rezoning amendment will not adversely affect adjacent properties beyond the existing commercial use of the property in place since 1955. Any additions will need to meet the building location and buffer regulations in place for small-scale businesses that are located within residential areas. The development potential between existing nonconforming status and CN zoning of 900 additional square feet of buildable area will not adversely impact adjacent properties.

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

**Discussion**: The Avenues Community Historic District and Aquifer Recharge Overlay affect the subject property. Any exterior remodeling, expansion or new construction on the property requires review and approval through the standards of the Historic District Overlay. Any change of use will be required to meet the standards of the Aquifer Recharge Overlay.

**Findings**: Any future development plans would be required to meet the standards and regulations of the historic and aquifer recharge overlay districts. The proposed zoning amendment would not create any inconsistencies with these overlays.

**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**: Water and sewer services exist on the subject property. The rezoning request was routed to the Transportation, Public Utilities, Engineering, Fire, Permits, Police, and Public Services departments for comment. The Public Utilities Department responded with the comment that Public Utilities had no issues with this proposed rezone. The Transportation Division stated no expansion that would increase traffic. Further discussion with the Barry Walsh identified that this comment relates to off-street parking availability not street capacity.

**Findings**: The public facility services and utilities are adequate to serve the property.

## MASTER PLAN AMENDMENT

**Rationale**: The subject parcel 518 East 3rd Avenue and its related parcel 502 East 3rd Avenue have functioned as one single commercial development since 1955. The commercial structure is located on both parcels. Amending the master plan to include both parcels for business use is consistent with the existing land use and minimization of nonconforming uses criteria of the 1995 citywide zoning rewrite project. Amending the Avenues Community Master Plan Future Land Use Map to "business commercial" land use for the 518 East 3rd Avenue parcel is consistent with the land use patterns in place since 1955.

The Final Report of the Salt Lake City Futures Commission contains two summary recommendations related to the amendment of the master plan for the existing neighborhood commercial development. These recommendations are:

1. Provide neighborhood services, including retail business, health care, recreation, social and community services, and cultural amenities that can be reached by walking, bicycling or using public transit.
2. Create a balanced approach to business incentives and zoning ordinances that encourages small-scale commercial and business activities.

A notice for the Master Plan amendment was published in the Salt Lake City Tribune and Deseret News on June 30, 2004 meeting State Law requirements for Master Plan amendments.

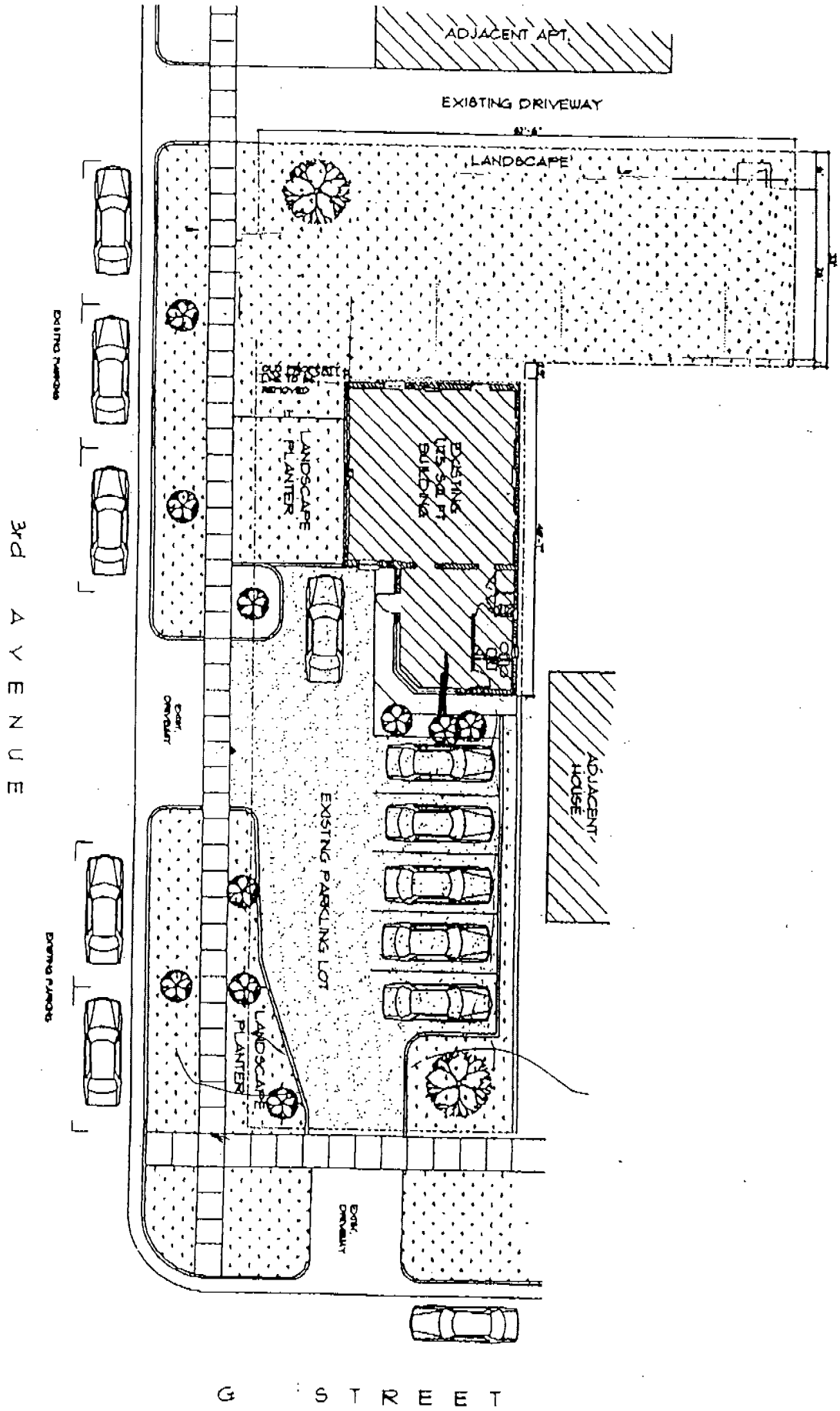
## RECOMMENDATION:

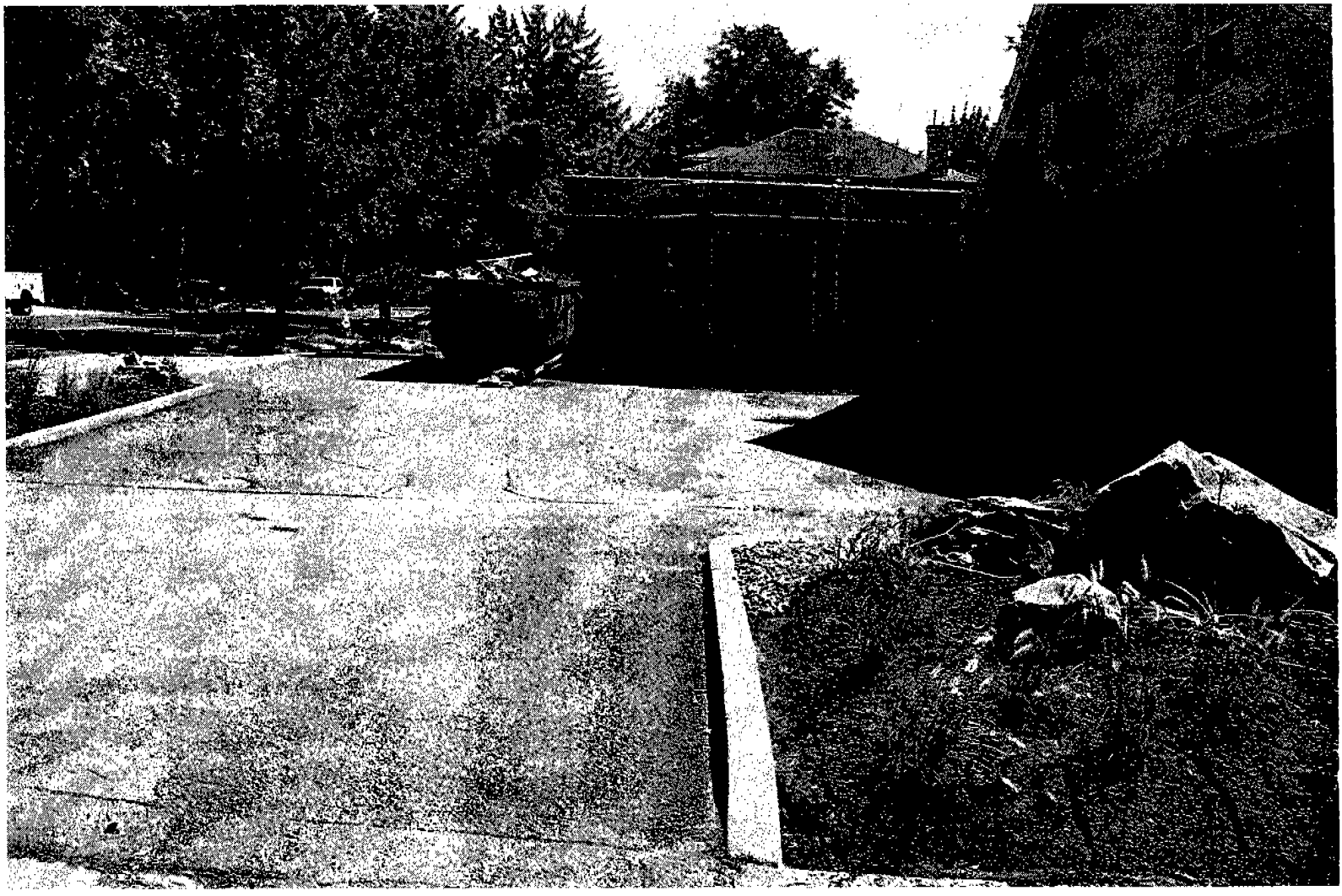
Based on the findings of fact, staff recommends that the Planning Commission forward a favorable recommendation to the City Council to change the zoning of the property from RMF-35 to CN and to amend the Future Land Use Map of the Avenues Community Master Plan from "medium density residential" to a "business commercial" designation, subject to the following conditions:

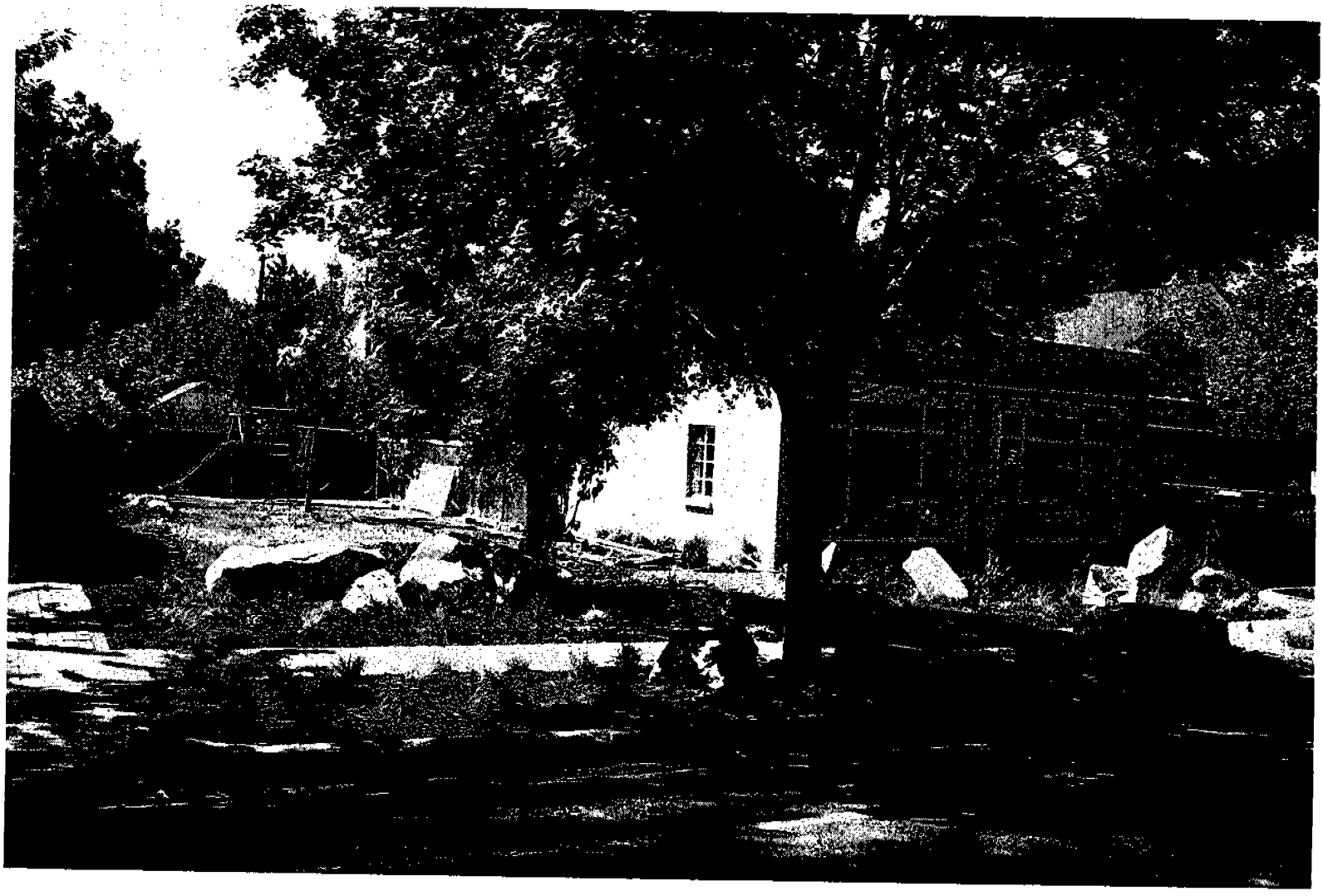
1. Combine the two properties into one lot.
2. Establish the east property line of the parcel as the required rear yard.

**Exhibits** Exhibit 1: Existing Site Plan and Photographs; Exhibit 2: Community Council Minutes: Exhibit 3; Letters to the Planning Commission; Exhibit 4: Department Comments; Exhibit 5: Board of Adjustment Minutes – Nonconforming Use Status; Exhibit 6: 1955 Permit Invoice; Exhibit 7: Building Location Survey; Exhibit 8: Underground Storage Tanks.

# Exhibit 1
# Existing Site Plan and Photographs


ADJACENT APT.
EXISTING DRIVEWAY
LANDSCAPE
EXISTING PARKING
LANDSCAPE PLANTER
EXISTING 1,125 SQ. FT. BUILDING
EXIT ONLY
EXISTING PARKING LOT
ADJACENT HOUSE
LANDSCAPE PLANTER
EXIT ONLY
3rd AVENUE
G STREET





# Exhibit 2
# Community Council Minutes
GACC Board Meeting - March 10, 2004
Community Council Meeting – April 7, 2004

**GACC Board Meeting**
**March 10, 2004**

**Sweet Library**

Attending: Jim Jenkin, Dick Coleman, Walter Jones, Becky Mitchell, Denton, Jennifer and Michael Hughes, Peter Corroon, John Sittner, Thella Mae Christensen, Grace Wilson, Jill Van Langeveld, Phil Carroll, Judith Locke.

Albert Reed is a neighbor to Jack Plumb on 3rd Ave between G and H street. Trying to talk to us about the vote that was made recommending a change in zoning. Was not here last week because the notice in the newsletter had the wrong address. Very much against zoning change. Since the notice and address of proposal was put in improperly should we consider the recommendation to be invalid? Neighbors (2 of them) Raybоulds and Melvin Grusco did not get a fair hearing on their feelings about why their recommendation was not accepted. Peter apologizes about the address. Letter has already been provided to Jack Plumb. Did have a fairly decent discussion. Maybe it was not as fully explored as possible. Gene Raybould and Grusco had a chance to speak. Peter checked with city and Jack Plumb is required to give names of anybody who lives within 300 feet of the property. City will give you notice of a hearing. Contact the planning commission to see when it's scheduled in case they miss you. Albert is curious how those two people have no weight to their voice. They are right in the vicinity. Everybody is thrilled with the café except the immediate neighbors. City wants input from the CC at large and then a voice from neighbors within 300 feet. Written correspondence ahead of time is a lot more valuable than what happens at the meeting. Follow up at the public hearing. If it is written it is more a part of the view in advance. Then they can put a name and a face together. City is there to balance the interests of all of the groups. We as a CC give the whole CC feelings and you give your private feelings. Was a fight before over this same issue and people moved from that area there. Having a café next door is a lot different than one 5 blocks away. As a possible course of action you could come to next council meeting and notify the CC you did not get adequate notice of the neighbors. We may not be able to vote on it again. Then you are at the whim of what the CC votes next month. If it is contentious --still we could publish it in the calendar of events. Would be nice to publish the city zoning meetings etc in the newsletter if at all possible. This meeting was rushed and we did not have enough time to discuss this in full. Can we put it in the council and open it up again? Is there a rule about that in our bylaws? If we put it up for a vote again we should submit another letter to the planning commission to let them know the difficulty. Get one person on each side to give a brief presentation before asking for a vote. Had a responsibility to announce themselves as neighbors. We should be very clear in our minutes as to why we are effectively attempting to undo something so we don't have to do this repeatedly. Someone will be unsuccessful almost every time we take a vote. Letter to planning commission might suffice explaining it was published under the wrong address. Letter said a vote was taken and a large majority supported it. He got on the agenda on his own. Had the board been participating we would have asked the neighbors be notified so they could have been fairly represented. 2 reasons to rehear

the matter: the address was published incorrectly and this matter was not put before the board as an agenda item so the neighbors would have been fairly represented. Motion to put item on the agenda to ask council if they would like to open the issue again, explain our reasoning and let the council decide. Peter will notify Jack and will discuss it and consider it again at that point. Official address is 502 3rd Ave. Lot between 502 and 524. zoned currently for moderate density family. Plumb asked for it to be zoned for anything. It was the parking lot for the Montessori school. In favor 7: against 2. abstained 4. Motion carries.

**Greater Avenues Community Council Meeting**
**April 7, 2004**

Attendance: approximately 55

Chair Peter Corroon opened the meeting at 7:00 pm

Agenda Item: 502 -518 3rd Avenue – Rezoning of 518 3rd Avenue from RMF-35 to CN

**Minutes**

Last month we talked about the old Montessori school property and we made a mistake because the address in newsletter was inaccurate. First thing we decided was that we wanted to ask CC if you want to bring it up again. Show hands to discuss this again. 17 positives. Those who would not like to revisit this issue. 9 against. Motion to discuss this item again passes. Jack Plumb will tell us what his plans are and then someone from the other side will report their concerns.

Jack Plumb owns property at 502 East Third avenue & has pondered concerns here and had plans enlarged to show us. Is very good at landscaping, likes to think he makes effective changes in neighborhoods. Is not a developer. Had no responsibility for mistake of the address put in the newsletter last time. Whatever the result of tonight's discussion, he will follow it. Piece of property he is talking about is directly East of school. It's a parking lot for the school just west of it. Planning commission thinks it's better not to have 2 different zones in that area. That lot is not conducive to a multiple family unit. Could be ideal as a patio having to do with use of the existing bldg. Have changed windows in existing bldg. Spent 90 days with historic society making sure things were done according to the historical interests. Has permits for every part of it. Proud of what he has done there. People walking by are also pleased with it. Has no intention of changing that site building wise, just trying to coordinate the 2 sites together. With that in mind, has plenty of parking for the area. Wants to put a patio out there. City wants to zone it commercial like the other lot it's connected to. Presently zoned as multiple family and next lot commercial. Can't build concept without changing of zoning. City won't give permission to.

SLC planning office says this property is in nonconforming status. Has already been used for commercial use even though it's been zoned otherwise. In 1995 this should all have been made into CN property then. By changing zoning structure could be expanded to that lot or it could be used as parking. Financing and insurance is affected on properties by zoning changes which makes it easier for city. Can't develop under existing zoning. Planning commission supports Plumb's plan. Right now city says patio could be built on it as it is. Off street parking will control what happens on property. CN requires landscaping. Rezoning is most helpful to new owners who might develop this property to a more commercial use. Concern by neighbors is that more commercial development would come there. Setbacks were explained under current conditions and commercial development of that property. Property is residentially zoned but has non conforming use

with piece of commercial bldg on it. So it can be used for any commercial use and depends on what that commercial use would be what the zoning requirements are. Difference is in intensity which is defined by setbacks. If this zoning is cleaned up it would make resale value higher- non conforming is a big issue in the city.

Neighbors would like to speak to this issue. Rebecca Raybould lives at 535 3rd Ave and was asked by several of the folks in neighborhood to represent them. She has a petition signed by several residents. GACC recommended approval of this last month but the address was published wrong. Residents were not aware because of that typographical error. Lot is only suitable for very small office or shop. Upzoning would make it possible for applicant to expand structure to larger entity. Any change in zoning would affect privacy of 3 adjacent backyards. Historic value is affected as well. Change would run in perpetuity. Would be at the expense of our historic community. Residents have no desire to expand more business into this area. Request you deny zoning change. Question: what are size restrictions you can put on this -depends on type of use. Bldg can only be 25 ft high. Still in historic district. Setbacks are main difference residential zone has 10 ft and 20 ft. Commercial has 7 ft and 10 ft. Parking is determined by what kind of use it is. Right now that lot is an eyesore. That is completely being overlooked. Retired architect living across street understands zoning changes to be difficult process because it protects everybody around there. Has to show compelling need. Haven't heard those arguments yet. He is asking change for a specific use. He can ask for a variance. A patio but nothing else. By doing an issue by issue basis, we can vote on variance or no variance. Incredible this has gone this far. Like knocking a thumbtack with a sledgehammer. Motion original approval stand: 19 for. Against 9. original motion stands.

# Exhibit 3
# Letters to the Planning Commission

Melvin J. Grossgold
515 Third Avenue
Salt Lake City, UT 84103
March 4, 2004

Salt Lake City Planning Commission
451 South State Street
Salt Lake City, UT 84111

Copy: The Avenues Neighborhood Council

Subject: Rezoning application for 502 & 512 Third Avenue

Dear Sirs/Madams:

Last night the Avenues Neighborhood Council voted to recommend that the above-referenced application for rezoning be approved as requested.

A few of my neighbors and I had come to the scheduled hearing for the purpose of learning anything we could about the nature of the rezoning request. We understandably expected that we would be offered the opportunity to ask a few questions of the applicant and to offer our concerns to the Council, if, at that point, we had any.

Anyone who was present at last night's hearing can attest to the fact that the Council blatantly disregarded any such input from the affected neighbors who happened to be present.

The only comment that was heard from the floor came from one member who moved to postpone a vote on the issue because the printed notice of the hearing indicated the wrong address. He reasoned that the affected neighbors, reading the wrong address, would wrongly assume that the matter didn't concern them, and thus they might not attend. This proved to be the case, since none of the bordering property owners was present.

Immediately after the voicing of this request for postponement, and without further discussion, a voice from one of the group up front blurted out, "I move to recommend approval". A seconding motion from another unseen voice quickly followed from the same location. As if on cue, the Chair called for a show of hands, and the motion carried, to the astonishment of the attending public, who hadn't had enough time to consider which way they might vote.

The Council's rush to approval without any demonstration of some compelling argument why the applicant should be permitted to up-zone a commercial assemblage in an otherwise charming residential block is an arrogant disregard of its fiduciary responsibility.

I therefore respectfully request that the recommendation of the Neighborhood Council be nullified, voided and disregarded. It should not be given any consideration in that it does not represent the will of the people in the immediate vicinity of the property in question.

Sincerely yours,

Melvin J. Grossgold

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515 Third Avenue
Salt Lake City, UT 84103
March 4, 2004

Salt Lake City Planning Commission
451 South State Street
Salt Lake City, UT 84111

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Sincerely yours,

Melvin J. Grossgold

I concur.
LYNN RICHARD RAYBOULD
531 3D AVE SLC UT 84103
364-6698

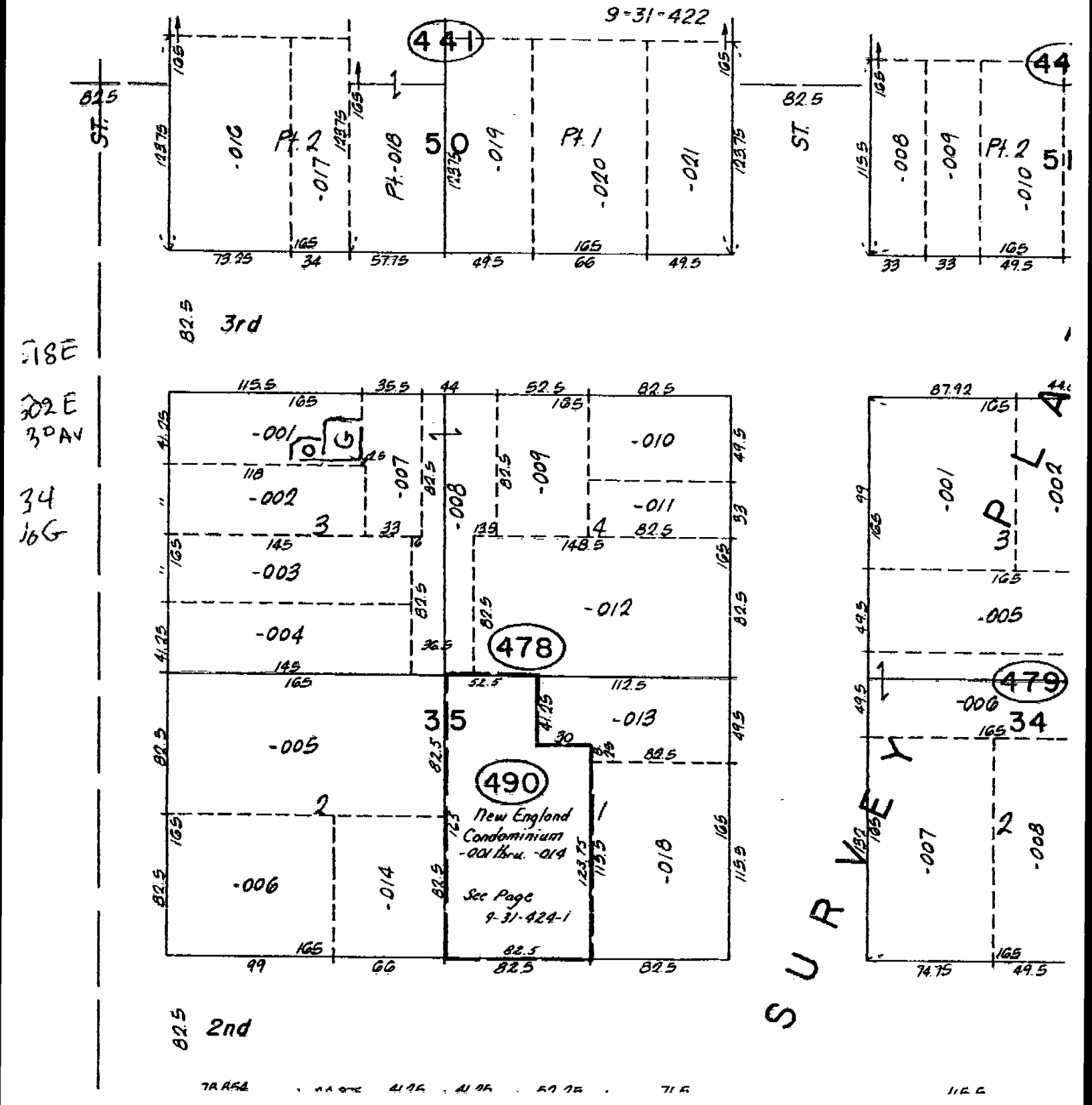
Request copy of staff report.

? How do we insure that gas tanks have been removed

? Who approves landscaping ?

7-31-424

09-31-478-001




Stacey

VTDI 093147800 1

562 E 30 Ave
Jack Plum, 11 Acre
1518 E 30 Av, .06 Acre
Anderson Wayne & Judi

PETITION TO THE SALT LAKE CITY PLANNING COMMISSION

**Re: Request for zoning change of 518 Third Avenue, S.L.C.**

March 19, 2004

The Greater Avenues Community Council (GACC) recommended approval of the above-referenced rezoning request on March 3, 2004. The public notice of the proposed hearing that was published in the March GACC newsletter indicated the wrong address. We, the undersigned residents of the Third Avenue and G Street micro-neighborhood were not aware that the proposed change related to our *immediate* neighborhood because of that typographical error.

The parcel in question is adjacent to a commercial building that has no setbacks on the east and south property lines. It is non-conforming, but fortunately is quite small in size. It is only suitable for very small and unobtrusive commercial activities, such as a professional office or small boutique-type of shop.

"Up-zoning" 518 Third Avenue from Residential to Commercial would make it possible for the applicant, or any future owner, to expand or replace the existing adjacent commercial building with a larger structure. Most likely this would result in increased vehicular access, an unsightly blacktop parking lot, and additional need for on-street parking in front of our residences. Any change in zoning to this parcel would also affect the privacy of three adjoining back yards. An expanded commercial lot would violate the scale and architectural character of the neighborhood, which is now precariously protected by existing historic preservation laws.

There is no hardship argument because this site has functioned viably for years in its present configuration. The applicant (a real estate developer) recently purchased both properties with, what we assume to be, full knowledge of the existing zoning. Unfortunately a change in the property to Commercial would run in perpetuity with the property. Such change, which would probably be financially advantageous to the applicant, would likewise be at the expense of our distinctive and historic community.

The magical ingredients that blend to create a desirable community are already present in our neighborhood. We nearby residents have not expressed any desire or need for any *expanded* commercial entity on that corner. There are several small businesses that are within walking distance including a deli, a hair stylist, a barbershop, a laundromat, and several coffee shops. Although convenient, all of these add to a growing parking problem on already busy Third Avenue. In addition, Smith's Shopping Center is only six blocks away, so even a convenience store would be of no benefit to us.

We therefore respectfully submit this petition with the request that you deny the zoning change.

The undersigned are all residents who live within one block of the subject property:

| Name | Address |
|---|---|
| Michael Bartlett | 509 3rd Avenue |
| [illegible] Thurston | 509 3rd Avenue |
| [illegible] Staeb | 479 3rd Ave |
| Debra Scott | 129 G St |
| Wayne Chase | 134 G St. |
| [illegible] | 528 THIRD AVE. |
| Albert Reed | 524 3rd Ave |
| Melvin J. Crongeyer | 515 3RD AVENUE |
| Michael Jaffe | 177 H Street |
| Eugenie Jaffe | 177 H Street |
| [illegible] Gutzmacher | 539 E. 3rd Ave |
| Mark A. Pechuk | 539 E. 3rd Ave |
| [illegible] | 167 H ST 84103 |
| [illegible] | 167 H street 84103 |
| [illegible] | 165 H Street 84103 |
| [illegible] Raybould | 531 3rd Avenue |
| Jean C. Raybould | 531 3RD Avenue |
| Carl Mimie | 115 G St. 84103 |
| Judith Mimie | 115 G St 84103 |
| Rod Olson | 488 E 3rd Ave |
| Shelly Hosek | 521 E 3rd Ave |
| D. Robert Tice | 521 E 3RD AVE. |
| Arthur Lucero | 482 3 AVE |
| Van Bank | 125 H St |

I would like to understand the ramifications of this zoning change prior to its approval.



REQUEST TO DENY ZONING CHANGE

March 31, 2004

To: Salt Lake City Planning Commission
451 S. State Street
Salt Lake City, Utah 84111

We are strongly opposed to any additional commercial zoning near the intersection of Third Avenue and "G" Street.

502 Third Avenue is not an historic commercial property as some of the Avenues businesses are. It is a product of the Fifties. Historically the entire corner was residential. The corner was one large lot with one large house. (Diagram 1.) This large house was demolished and the property was divided into 3 lots and 2 houses were built. (Diagram 2.) During the 1950s when the trend in the Avenues was one of "anything goes", a gas station was allowed and a lube bay was built right to the south and east property lines of 502 Third Avenue. (Diagram 3.) A 12 foot strip on the East side of 518 Third Avenue lot was transferred to 524 Third Avenue. (Diagram 4.) The gas pumps have been removed but decontamination and testing at 502 Third Avenue are not on record at the State of Utah Department of Health.

We think that it is essential that the lot at 518 Third Avenue remain residential and that it be maintained as a buffer between the commercial lot on the corner and the surrounding residential properties. Also, before any business license is issued for 502 Third Avenue, the City should verify that all of the old tanks have been removed and that the site is free of contamination.

Thank you for your consideration.

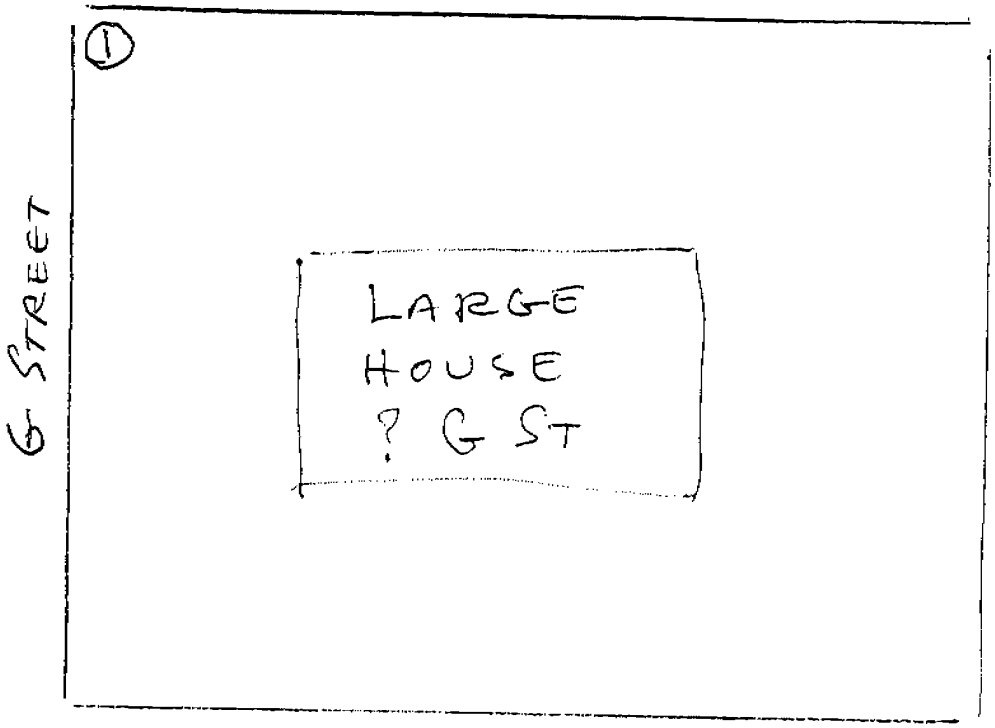
Sincerely,

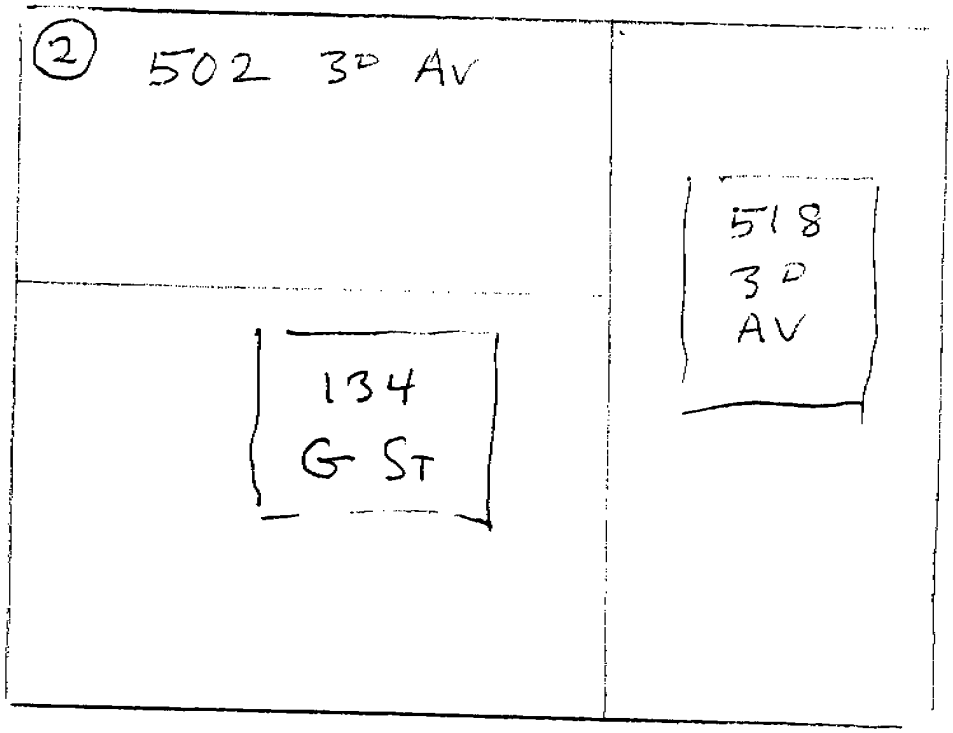
Lynn R. Raybould
531 Third Avenue
Salt Lake City, Utah 84103

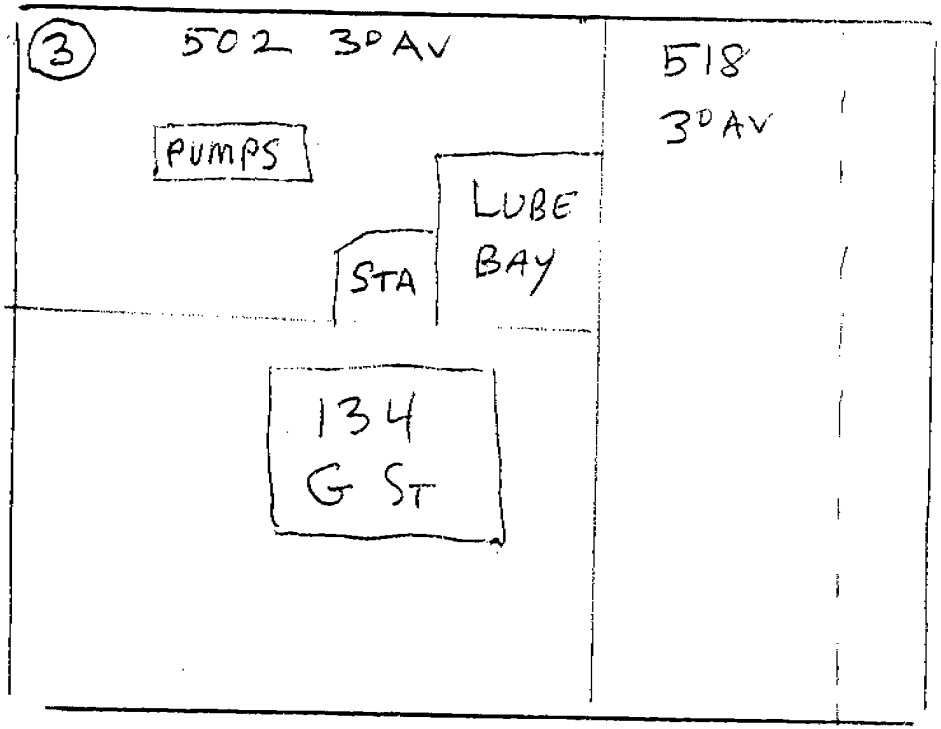
Jean C. Raybould
531 Third Avenue
Salt Lake City, Utah 84103

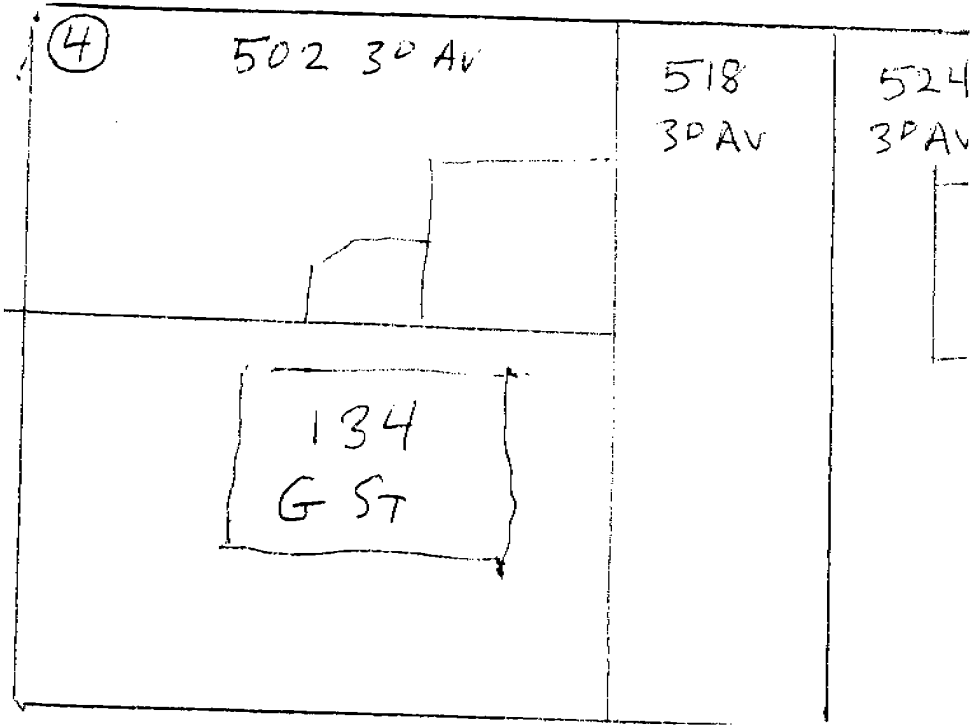
3D AVENUE

G STREET



**Wayne & Judy Andersen**
**134 G Street**
**Salt Lake City, Utah 84103**
**(801) 355-4443**

June 11, 2004

Salt Lake City Planning Commission
Room 406
City & County Building
451 South State Street
Salt Lake City, UT 84111

RE: Petition Number 400-04-12
To rezone property at 518 East 3rd Avenue
From RMF-35 to CN

Dear Commission Members:

The property being considered for rezoning is adjacent to our back yard. We have lived in this neighborhood for almost 35 years. We've watched the property used as a gas station, plumbing supply, wood shop, car wash, newspaper depot, nursery school. There was a period of several years the property was not in use and was in disrepair and an eye sore.

Having read the specific permitted uses and conditional uses of 'CN Zoning' as stated on section 21A.26.080 Table of Permitted And Conditional Uses for Commercial Districts, We are supportive of the proposed zoning change.

Please accept this letter as testimony at the zoning hearing on June 24th in our absence.

Thank you for efforts in this matter.

Sincerely,

Wayne Andersen Judy Andersen

# 408.04.12

to: S.L.C. Planning & Zoning Comm.

From: Bill Wood & Cydney Wood
123 G St.

We live across the Street & South of the Jack Plumb property. We also own three (3) rental properties, all within a stone's throw of the subject property. We have polled over twelve tenants and all are in agreement that the Plumb property is a good addition to the area & we also support the re-zone request.

I am familiar with other properties that are owned by Plumb. He enjoys a good reputation both in the area of Construction as well as Maintenance.

I respectfully request you read this, (if your able to get by the penmanship) at your meeting.

Bill Wood

P.S. this writing was not solicited by Plum.

# Exhibit 4
# Department Comments

## Joyce, Everett

**From:** Garcia, Peggy
**Sent:** Tuesday, April 20, 2004 4:10 PM
**To:** Joyce, Everett
**Cc:** Niermeyer, Jeff
**Subject:** Petition 400-04-12 - Request by Jack E. Plumb to rezone property at 518 East 3rd Avenue from RMF35 to CN
**Categories:** Program/Policy

Everett,

Public Utilities has no issues with this proposed rezone. Please contact Jeff Snelling at 483-6889 if you have any questions.

*Peggy Garcia*
*Contracts Supervisor*
*Salt Lake City Public Utilities*
*(801) 483-6727*

## Joyce, Everett

**From:** Larson, Bradley

**Sent:** Monday, April 19, 2004 4:30 PM

**To:** Joyce, Everett

**Subject:** Petition 400-04-12 / Request by Jack E. Plumb to rezone property at 518 East 3rd Avenue from RMF35 to CN

Everett,

Please accept this note as Fire Department approval for the above named request.

Thank you.

Brad Larson
Deputy Fire Marshal

**Joyce, Everett**

**From:** Walsh, Barry
**Sent:** Wednesday, April 14, 2004 4:12 PM
**To:** Joyce, Everett
**Cc:** Young, Kevin; Haight, Gordon; Smith, Craig; Brown, Ken
**Subject:** Pet 400-04-12
**Categories:** Program/Policy

April 14, 2004

Everett Joyce
Planning Division
451 So. State Street, Room. 406
Salt Lake City, Utah 84111

Re: Petition 400-04-12 - Request by Jack E. Plumb to rezone at 518 E. 3 rd Ave from RMF-35 to CN zone.

Dear Everett:

The Division of Transportation review comments and recommendations for the proposal for rezone from RMF-35 to CN zone are for approval as follows:

The plan indicates no change to the existing properties, just a legalization of the current use. We recommend approval subject to the existing use not to be expanded or intensify the existing traffic generation.

Final plan approvals are subject to full engineering & site reviews for public way repairs per city standards.

The public way street lighting need to be coordinated with Gordon Haight for up grades as needed.

Please feel free to call me at 535-6630 if you have any further questions.

Sincerely,

Barry D. Walsh
Transportation Engineer Assoc.

cc: Kevin J. Young, P.E.
Gordon Haight, P.E.
Ken Brown, Permits
Craig Smith, Engineering
File

RICHARD GRAHAM
PUBLIC SERVICES DIRECTOR

SALT LAKE CITY CORPORATION
DEPARTMENT OF PUBLIC SERVICES

ROSS C. "ROCKY" ANDERSON
MAYOR

# MEMORANDUM

**TO:** Everett Joyce, Planning Division

**FROM:** Rick Graham, Director
Public Services Department

**DATE:** April 23, 2004

**RE:** **Petition 400-04012**

I have reviewed the petition request and have no concerns or issues regarding the proposed zoning amendment.

451 SOUTH STATE STREET, ROOM 148, SALT LAKE CITY, UTAH 84111
TELEPHONE: 801-535-7775 FAX: 801-535-7789

RECYCLED PAPER

# Exhibit 5
# Board of Adjustment Minutes
# Nonconforming Use Status
Case 339-B for 518 3rd Avenue

trees and lawn be planted. Mr. Martinez second the motion, with all voting "Aye".

Case No. 338-B at 355 South 300 East Street in application of Margaret Mead for a permit to remodel a portion of an existing church building into residential quarters for missionaries without the required off-street parking in a Commercial "C-3" District. This case was withdrawn per letter from the applicant.

Case 339-B at 518 Third Avenue in application of Robyn E. Buchanan, a request to the Board that they reconsider the nonconforming status of the lot at 518 Third Avenue based on new evidence not previously available in a Residential "R-2" District.

Attorney David Church, Mr. Bob Buchanan, Mr. Holley Fryer, former president of Quality Oil, and Janet and Jerry Erkelens were present. Mr. Jorgensen stated that this case has been before the Board previously, both for an addition and for appealing the decision of the Board which denied any variance to enlarge the addition and held that the adjoining property had no nonconforming status. The petitioner asked that his case be reopened but the Board felt there was not sufficient evidence to reopen it and so that request was denied and they have now filed a new application to present new evidence they now have. This is a new case and as far as the Board is concerned both of the previous two cases have been handled. The question is the status of the area to the east of the building. There is no question of the corner being zoned Commercial "B-3", the daycare center has the right to be there. The question is if the petitioner may use the adjoining property for business purposes.

Mr. David Church introduced himself as the attorney for Mr. Buchanan and stated that Mr. Buchanan had asked him to be here because of obvious problems that he has as being an employee and presenting the case; the daycare is really his wife's business but he is the owner. When this originally came before the Board, it was assumed by the Buchanans that the whole property was commercial, either under the zoning or under an existing nonconforming use, so they brought it before the Board requesting a variance to enlarge the building because of some certain side yard or setback questions. In consideration of that request, the Board determined that that variance was not appropriate. That decision is not being appealed but in the Board's consideration they found that the assumed nonconforming use of what is known as 518 Third Avenue did not exist, so since that time they have done some additional research into that specific issue, because when the original application was before the board, the Buchanans were assuming that the total lot had commercial status for either the commercial zoning or the nonconforming use. As part of the original consideration a letter that was presented by some of the neighbors from a Mr. Calister, a principal of Quality Oil Company, who previously owned the building. That letter seemed to indicate that Quality Oil did not even consider the 518 parcel to have conditional use status or commercial status. Since that time they have talked to Mr. Holly Fryer who was a principal in the Quality Oil from 1955 through 1980, during the period of time when they owned that building and he was now present. Mr. Fryer has signed an affidavit as part of some documents they have prepared. Docu-

ments were handed to all members of the Board and all those present for this case. Mr. Fryer indicated that during the period of time from 1955 through when Quality Oil sold the property that they considered the whole parcel commercial and that the 518 parcel had commercial use during that period of time, and that the oil sump, which is a significant fixture on that building, was located underground on the 518 lot. I. Wagner asked Mr. Fryer what his position was at Quality Oil during 1950, and if he was still with them. Mr. Fryer stated that he was no longer with Quality Oil, that in 1969 he was Sales Manager and from 1969 on he was President. Mr. Fryer stated that they had sold the entire interest and was heavily involved in the later part of the company's existence. Mr. Church stated that he had submitted, as part of the new evidence, Exhibit A which is an affidavit Mr. Fryer had signed which indicates the specifics that he felt were relevent at the time; and that was that Quality Oil considered both properties to be one commercial piece, that they owned them from 1958 to 1980 (In 1955 the building was built by McCulough as a service station and 1958 Quality Oil purchased the property from Vern McCulough). The affidavit indicates that the parcel known as 518 had commercial use and is instant to the service station parking as the sump was there. He presented a copy, which is attached as Exhibit 1, of Assistant City Attorney Bruce Baird's letter to the Board which lays out the legal basis for nonconforming use. He stated that they have no objections to Mr. Baird's stand. Mr. Church believes the Buchanans have established basically three points:

(1) That the 518 parcel had at one time a valid commercial zoning.

(2) That the 1955 zoning map (attached to this as Exhibit 2) was not laid out in specific square footage. They had this enlarged (Exhibit #3) and placed a scale on the enlarged map showing that the zone in '55, when the service station was built was approximately 130 feet running east from the corner. The service station was built in 1955 and a copy of the building permit is attached as an exhibit. The building itself extends approximately 3 feet onto the 518 parcel. The building permit was issued and the station was built in 1955 overlapping the 502/518 common boundry. That is part of the new evidence that Mr. Buchanan has obtained. Attached to the handout is the surveyor's certificate (Exhibit #7) of the property. An oil sump, that Mr. Fryer has indicated, which is not just a tank in this case, it is in the ground connected to the building through the drainage system of the old garage base and has existed since they built it. We have submitted these items to indicate that in fact in the 1955 to section that not only the owners treated it as commercial, but the City treated the whole poperty as commercial.

(3) This is further indicated by the fact that the '55 building codes would require that on the corner lot there be a rear yard and a side yard setback. The rear yard would have to be at least 10 feet and the rear yard is established on corners at the option of the owner on the site plan. The drawings show the only possible ground that could have complied with the rear yard requirements is the section to the east between the existing gas station and the fence in 518. Now those three items; the fact that they built the sump, the fact that they parked there, the fact that the zoning map was scaled, not footage

in those times that clearly from 1955 to 1958 when the new zoning ordinance was passed with the flat footage that the entire parcel was considered to be a commercial piece.

Chairman Pace asked how the property was assessed, is it assessed by two different descriptions? Mr. Church stated that it was assessed as two different properties and has been that way forever. It was originally put in one parcel in 1950 into the McCulough's name. They acquired both pieces. Mrs. Pace: So it went in under one name and two descriptions. Mr. Fryer stated that when the company bought this property from Vern McCulough they were of the opinion it was all zoned commercial. Mr. Fryer stated that Quality Oil noted that their service station had become obsolete and felt it necessary to beef up the property and put a new station in, modernize it, that type of thing. Mr. Fryer stated that he had contacted the City and was told verbally there may be a problem of rebuilding but was told not to worry if he wanted to use all the land for pumps or to make a bigger display that it would not be a problem, so they didn't worry about it. Needless to say, they felt that the economy at the time would not warrant even doing any kind of modernization so they scrapped the program and sold the entire parcel. Mrs. Pace asked how he used this piece of property. Mr. Fryer stated that they used it for parking; and towards the end of the tenure of the station they had a fellow in there that was doing mechanical work and if he would take an engine out of a car and it was going to be a long time he would push the car out into the parking lot and leave it there and that the parcel was also used for other company uses, per se, in a commercial situation. Mr. Fryer stated that they were never challenged by the City for using it in that way, for parking their trucks or any other company vehicles there and never were they challenged. Mr. Church stated that the nonconforming use existed until sometime in the 1980's. Mr. Church stated that they have attached a letter from a neighbor, Mr. Wayne Andersen, who had lived near the 502/518 parcels since '69 describing the businesses that have existed there since Quality Oil. (This is attached as #17.) Mr. Church stated that the issue seems to be whether or not the nonconforming use has been abandoned. Mr. Church stated that he felt he has shown that between 1955 when the service station was built and 1958 when Quality Oil purchased the station from McCulough (and '58 being when the City cut the zone down to 100 feet) that the owners and the City considered the total two lots commercial property and that in fact it was down zoned in '58 to the first 100 feet giving anything in excess of 100 feetnonconforming use status, and that they have maintain the nonconforming use status as it has not been abandoned during this period of time as shown on the aerial photos, taken at various times from 1955 through 1979, which shows in each one of those random photos that the parking lot was used for parking cars and other service station matters. As the letter of Mr. Andersen indicates, there was a business in there until the Buchanans, a business that met the "B-3" status and that no abandonment could have taken place. The point that they are trying to make here is that in coming up and asking for the original variance it opened up the whole issue, and it was assumed by all the owners and until the Board's findings of a month or so ago that this parcel had obtained nonconforming use status under the zoning ordinance. There is no other possible way that the original building could have been built pursuant to that building permit and met the City's building codes. They had to have included that parcel for a commercial zone; the side yards and the rear yard setbacks

don't make any sense otherwise. Chairman Pace asked Building Enforcement Officer Merrill Nelson if the City kept any old plans and Merrill stated that he looked for these and that the City has microfilm that goes back even further than this but there is a 10 year block of plans that he cannot find anywhere, not even on microfilm. He felt that if he could find the original plot plan it would either make or break one case one way or the other, and that he would continue to look. Mr. Church stated that unless they assume that the building was built totally without any inspection at all or any approval of site plans, it doesn't make any sense on the 10 foot rear yard, unless that was considered commercial. Now coincidentially the residence that was there was demolished at the time. The sump was put in the same time the building was built. It was paved for parking about the same time and continued paved for parking. The paving is still there, the same paving has not been enlarged on by the Buchanans nor anyone else that he knows of and, in fact, the use can be shown to be consistent. They contend that whether the map was scaled at 120, 130 or 140 feet that the fence was within approximately 30 feet of the edge of the overlapping less restrictive zone then the whole parcel can be used for the less restrictive zone, and the fact that there was a existing "B-3" Commercial use on it in 1958 I think there is no question, the building is partially on the 518 lot, the fact that this nonconforming use has not been abandoned, as shown by the aerial photographs, Mr. Andersen's letter regarding the occupancy of the parcels, and the statement from Mr. Fryer that they used it continuously for that period of time would indicate that there has been no abandonment of the nonconforming use, and the original scaled map showing at least 20 feet of the lot was considered "B-3", the fact that the city considered it commercial as the way they issued the building permit because of how the rear yard setback was oriented, the fact that they demolished the original house on the original property and the fact that it was used from day one with no problems. Mrs. Janet Erkelens stated that they had some questions. Mrs. Pace stated that they would deal with the questions from Mr. & Mrs. Erkelens first and then the Board would follow with their questions to Mr. Fryer.

Mr. Jerry Erkelens stated that Mr. Gordon Bennett, one of Quality Oil's former employee, wrote them a letter where he said he worked managing the service station, Quality Oil, as his father did before him, and he worked there while his father was manager and that as far as he knows Quality Oil tried to get the 518 parcel zoned commercially several times and they were never able to. He also said that the vacant lot, 518 Third Avenue, was used only as a field. He planted some flowers in it once and won a beautification award for that. Mr. Fryer responded to that stating that Mr. Bennett's father was the original employee at that location and Gordon did work for his father. They had nothing to do with the running of the company or applying for any kind of permit. Being the director of the company and sales manager at the early part of this era, he just simply don't remember that. He didn't ever remember any problem with the city on that land at all. As far as his planting flowers there, that just simply isn't true; he planted flowers on the front setback of the 502 lot. Mr. & Mrs. Erkelens stated that Gordon had stated that the flower garden

was located at 518 and Jan also stated that the garden was on 518 lot. Mr. Fryer stated that he did not remember it. Mr. Wagner asked if there was anything in writing that they did apply for rezoning at any time. Mr. Church stated that they could find nothing in the files, in fact, attached is an exhibit where a previous owner, Mr. Whipple, applied to have a variance similiar to one Mr. Buchanan had, and in the order denying that they seemed to indicate that the city recognized there was an existing nonconforming parking lot. They didn't, as the Board did with Mr. Buchanan this time, say no in fact that is not a nonconforming use, they just said no we are not going to give you the variance, but they refer to the existing nonconforming parking lot at the time. Up until this point, everyone assumed that because of the history that in fact it was existing nonconforming use. He stated that there is a substantial legal difference, for the property owner, between having the nonconforming use and having the zone changed to commercial use, and any application to have that zone changed to commercial use would not indicate that they didn't acknowledge a nonconforming use. Obviously, it would be better for everybody if the Board would just rezone that whole property commercially because they get greater benefits. They are just trying to maintain the existing nonconforming use. Mr. Jorgensen stated that if the building were to be torn down any nonconforming use status that may exist would be lost. Mr. Church stated that Quality Oil was thinking of expanding, so the fact that they applied or didn't apply (even though we can find no record of an application) doesn't indicate that they did not think it was not nonconforming, it just indicates that they wish the whole property was commercial as does Mr. Buchanan. Mr. Fryer stated that the flowers were planted in the 502 front yard setback and to his knowledge (Mr. Erkelens stated that Jan and Gordon say that it was just the opposite, that they were planted in the field in the 518 parcel). Mr. Fryer stated that he cannot remember any flowers being planted out there at all. Jerry Erkelens asked if he could bring up two other real quick points before Mr. Fryer had to leave. Jerry stated that Jan said Quality Oil owned and operated a gasoline service station for approximately 20 years. Quality Oil also owned the vacant property adjacent to the service station at 518. On several occassions Quality Oil Company approached the Salt Lake Planning and Zoning Commission for a zoning change on the vacant propety to commercial use. Quality was denied the zoning change on the location. Mrs. Pace asked if he could find the documentation. Mr. Erkelens stated that he could not. The lot remained vacant until it was sold. He stated that they were at a party last night with Dr. Springer, the man who lived next door throughout that entire period of time (Mrs. Pace asked if Dr. Springer lived in the house they now live in. Mr. Erkelens stated that was correct.) and he told him last night and he said that he would testify in court that he called every single time Quality Oil parked junked cars on the 518 lot and the City forced them to move them - every single time and he will testify in court to that and that the only cars that were parked there were junk cars with the engines removed and dumped engines in the back and things like that and he forced you to stop. Mr. Jorgensen stated that junk cars would be illegal in a B-3 zone. Mr. Erkelens stated that Dr. Springer stated that that was all that was parked there. The neighbors that have lived there, some of them, Mrs. Ray Bold was at the party, she has lived there for over 70 years and last night she again told us that that property was vacant and

the neighbors fought it each and every time Quality Oil tried to use it. Mrs. Pace stated that those people are also probably assuming that the piece of property then started with the edge of the building rather than knowing that the building was on the other piece of property and that the sump was there. Mr. Fryer stated that the pavement was there from day one too. They could have planted anything they wanted on the back portion of lot 518 where the pavement ended. Mr. Jorgensen stated that the aerial photographs all indicate the back portion had been in some type of shrubbery and the front part was paved. Mr. Fryer responed by stating that at the time Mr. Springer stated the property was vacant, he was president of the company and if anybody were to come and make that formal application he would have done it and he never did. Mrs. Erkelens asked Mr. Fryer if he ever remembered neighbors calling up and complaining (like the Springers)? Mr. Fryer stated that he does not remember Dr. Springer or anybody else. He stated that he remembers on occasion they would have some weeds on the back property and we were asked to remove the weeds because of a fire hazard. Mr. Erkelens stated there were times the children in the neighborhood started fires in the weeds on the property. Mr. Fryer stated that he could not remember any fires on that property. Mr. Erkelens stated he would like to get back to the order of things he would like to address some other problems. Mrs. Pace asked if they had anymore questions of Mr. Fryer. Mr. Erkelens stated that he had none.

Mr. Erkelens stated that he has talked to Bruce Baird and Allen Johnson this morning about a little problem that he had and they told him to present this problem to the Board first, because the Board was a quasi judicial body, that the Board should be informed of this first, and stated, Bruce Baird and Allen Johnson told him to present this complaint to the Board before he went anywhere else with it; specifically, about Bob's gross conflict of interests. The morning after Bob appealed the decision he had come in here to pick up a copy of the new evidence, basically the information that is now present in the file and that he was told by Mr. Hafey that Bob had taken everything out of this file. Mr. Erkelens stated that he felt that Bob had emptied the file specifically so that he couldn't see what was there and so that he could not be prepared for today's meeting. Mrs. Pace stated that she was sorry that Mr. Hafey was not here because he has quite a different version to that side of the story. Mr. Wagner stated that this case was a brand new case and is absoutely separate from the previous case, so this information presented tonight was not appropriately incorporated in the old file. Mr. Jorgensen stated that there would be nothing in the file except the application which Mr. Buchanan had submitted. Mrs. Pace stated that she also might just say, on behalf of the staff, that they have had an extremely low profile in this. They have participated, outside of providing us with information that we have asked for, far less than they have in any case that I have ever served on, being very very careful that there not be any kind of a conflict of interest. Mr. Erkelens asked why Bob was able to take things out of this file, and asked if he could do that? Mr. Jorgensen stated that he did not know what happened, but when the Board received a letter requesting that a case be reopened, if the Board says no, that is the end of it. He stated that no information is kept on file because it has no standing and that the applicant may pick up their material. He stated that this happens to at least half the cases and that a request is not public information. The

case is ended when the Board denies it, and that is policy, the Board has ended it. Mr. Erkelens asked if anybody can come and take information out of the file? Mr. Jorgensen stated that no one can take anything out of the official file; they cannot come in after today and take the items filed out, but if the Board had refused to accept this, which the Board did, then the request is not public information, that is theirs, and if the Board had refused to consider it they could have the materials returned. That's policy and it has always been done. Mr. Erkelens stated that if that is the way that it is done then he had brought this before the right people. Mr. Erkelens stated that the second part of it is, Mr. Hafey told him that same day that in order to have another hearing on a new case, that Bob would have to submit evidence and he has already submitted this and this is really not new evidence, that's the same old tired evidence that the Board has seen before. Mrs. Pace stated that she did not think that was true. Mr. Jorgensen stated that the Board does not know what is being submitted by the applicant until it is brought before the Board during the meeting. All the applicant must do is file a plot plan and file the application and that gets them before the Board. Mr. Erkelens stated that that was what he wanted to find out, why he could not see the information. Mr. Erkelens stated that he had some other information and that he had copies for all present. He stated that first, Bob was aware that this was two separate pieces of property when he bought them, no matter what he says. (Mr. Church stated that this is not the issue as they had never said they were never aware of it and Mrs. Pace stated that she had earlier asked if the property had two separate assessments.) Mrs. Erkelens stated that Mr. Church had stated that they assumed that they were combined. Mr. Erkelens stated that the parcels were two separate pieces, they were sold as two separate pieces (Mr. Erkelens submitted documentation that both parcels were listed separately) in fact, it says the adjacent properties were available, it was sold separately, it wasn't sold as one piece. Mr. Lewis asked when was the date of this sale. Mr. Erkelens stated that the sale took place in November of '83 (this was the listing and that Bob had purchased it right after it was listed). So, it is obviously that it is two separate pieces. Mr. Erkelens stated that in the County Recorder's Office they are listed as two separate pieces. They are not the same. Mr. Erkelens stated that Jean Feriero is one of the people that had sent him infomation - she was a real estate agent that tried to buy this property. He presented a letter from her, stating that he had tried to buy these two parcels and that the city thought that it was a single piece or had a single commercial use was absurb because she had investigated the potential use of these properties for a client and was told by the Zoning Commission that the lot at 518 Third Avenue was zoned "R-2" duplex and the property at 502 Third Avenue was on "B-3" commercial and that the two lots could not be combined for either commercial or duplex use (This was in 1983). Mrs. Pace said that being told by the Zoning Commission, she would imagin that would be somebody at the desk. Mr. Erkelens stated that he could go a little bit further with this. He stated that he had a tape from one of the meetings where Mr. Hafey said that that was true, that he even told people that very same thing. Mr. Jorgensen stated that it was this stand that the Board took that led the Board to do what they did and it is the petitioners contention that this stand was wrong. Mr. Erkelens stated that the City didn't think they were one piece of property, the city knew they were two

pieces of property and that they couldn't be combined. He contends that the use had been abandoned several times and in Bruce Baird's letter he said that if the use was abandoned for a year or more that meant that the use had been abandoned and that the whole time it was for sale it wasn't used. When Mr. Buchanan bought the lot he rented it to Mr. Stephen Fairborne who ran a little tune-up shop. Mr. Erkelens stated that Mr. Fairborne stated that he had the option to buy that property from Bob and that he wanted to buy the gas station but he couldn't use the vacant lot next door and Bob told him that it couldn't be used (so Bob apparently knew this in advance) and he wanted me to buy the 518 piece of property so that I could give him $10,000 so he could use it for the down payment on the 502 piece. Mr. Erkelens said that they would be able to get a letter from Mr. Fairborne stating that Bob knew that those two pieces weren't combined and they couldn't be used and that is why he wanted to sell it to him. He said that he would have loved the parking and the extra space but he couldn't use it. Mr. Wagner asked, assuming you are right and assuming this is right, what is the best use for that property, how would it be used? Mr. Erkelens stated that the Avenues Council wanted the City to buy these two parcels of property (and they have approached the City several times and they had a two year wait to get the property and they almost made it on three different occasions) to make it a little park. Mr. Jorgensen asked if he meant they wanted to buy out his property? Mrs. Pace asked if they wanted to buy out the Erkelens property and Mrs. Erkelens stated no, they wanted to buy out the two pieces (502 and 518). Mr. Erkelens stated that the Council has wanted to make that a park for a long long time, that these parcels had really been an eye sore and an on- going problem for years. Mrs. Erkelens stated that if it is abandoned used for more than two years then the City can (Mr. Erkelens continues) can come in and foreclose on it or something and it almost made it and then Bob bought it. It was real close to making it the last time and Bob purchased it. Mrs. Erkelens stated that it was definitely abandoned from the time they lived there and the time Bob put the school in. Mr. Erkelens stated that the use was abandoned from the time he lived there until they put the school in and that was almost two years. He stated they were the only people that parked their cars there, Steve Fairborne and that tune-up shop had never used it once, not one time, and that Mr. Fairborne would come in and testify, when he had the time to do so, and stated that he was also willing to testify in court. Mr. Fairborne never used it, that the use was abandoned for a period of two years. Mrs. Pace stated that depending what would happen with this case, it may end up in court one way or the other. Mr. Erkelens stated that in Bruce Baird's letter that is exactly what he says, that if it is abandoned for a year or more (Mrs. Erkelens continues) then the nonconforming use was forfeited. Mr. Jorgensen stated that the park issue is no longer an issue because the use is there - the daycare center can stay with or without the 518 parcel of property. They could buy out the daycare center, yes but the one question which I don't completely understand, from either side, is if it were known that there is an overlap on that property of from 3 to 15 feet, and if that portion is nonconforming then that portion has not been abandoned. Mr. Church stated that this was the point that he was trying to make, the use was established when the building was built and the sump was put in and the parking lot. No one used that garage without using that sump. Mrs. Erkelens stated that the

use of the sump had been abandoned. Mr. Jorgensen asked for clarification as to whether Mrs. Erkelens stated that the sump had been abandoned? She stated affirmative. Mr. Church stated that the sump was a fixture on the building. Mr. Erkelens stated that if it is not being used then, and they didn't use it for a carwash (Mrs. Erkelens stated that it is defined as an encroachment on the other piece of property and after seven years it just becomes a part of this (502) piece of property and the (518) description of property just becomes narrower, it doesn't change the zoning, and it doesn't chage the use.) it is just something that just happens all the time. There is one up above Highland High School right now where they moved five feet on to someones property and built a house and its called prescriptive use (Mrs. Pace stated that she believed that Mr. Buchanan is maintaining that the only way that building could be built there would be to consider that piece of property as rear yard.) But then wouldn't they have a "G" Street address instead of a Third Avenue address. Mr. Church stated that the post office would not change their address. Mr. Erkelens stated that they did not have an address until they built it. Mr. Jorgensen stated that they can get an address on either street. Mr. Church stated that they were claiming nonconforming status. Mr. Erkelens stated that the encroachment is called an "issue of adverse possession" and when it happens, and it happens pretty often, the encroaching property gains the property from the property that is being encroached upon after seven years and that is called "prescriptive use" and the effect of which is to enlarge the 502 lot and shrink the 518 lot and nothing else is gained or changed from that. If the use is not changed or anything, you can't say that thats a nonconforming use because that happened, because it happens so frequently it just doesn't work. The 7-Eleven that is up on Third Avenue has the same problem. They encroached five or six feet onto the property in back of them. Mr. Church stated that his understanding is that you do not adverse possess against yourself. This property was in single ownership, even if it is two parcels. It was in single ownership from the mid 40's. It was first acquired by McCulough Corporation by single deed, both parcels described, in 1956, just after they received their building permit, this is a warranty deed. Quality Oil acquired them in one deed, Buchanan acquired it in one deed. How it was listed is not relevent to this discussion. As Mr. Baird points out, the relevent issues was their commercial status, a valid commercial zone for this property in 1955. If there was a valid commercial zone for that property did that use attach prior to '58 when it was evidently down zoned. Mr. Church stated that he had a copy of one of the Board's findings that is similiar to this case, and in the previous cases where the Board found that because the fixtures in a store had not been removed and that the owner had no intent to abandon the use and that it would take extensive remodeling to convert the structure to a family type residential use, that the building still had a nonconforming business "B-3" use standard. Using those same standards on this, obviously, there was never any intent by any owner to abandon. The building extended over in the 518 lot, the sump extended, the parking lot was there. The intent to maintain it as a service station existed until Mr. Buchanan paid all the money to remodel. He is the one who took all the pumps out and the tanks out of the ground. As far as he knows the sump is still in the ground. Mr. Church stated that he would leave a copy of this for the file and that they were just trying to apply those same standards to their case.

Mr. Church stated that the main point that he was trying to make, putting all other items aside, is did the scale map extend beyond the 100 feet to at least 120 feet - they think it extended to 130 feet - and if it did, we meet all those legal elements. Whether the employees thought it was commercial or not, whether they applied to have it changed from nonconforming to actual commercial, whether neighbors compalined, the key is "did the original 1955 zone go beyond the 100 feet". If, it did the nonconforming use was validly established, not illegally established. Now, on that point, they rely on the '55 map, the scale and the 1955 approval of thes building permit and building site the way it was to indicate that the only way that 10 foot rear yard was met was by considering that in 1955 the zone extended at least beyond the 130 foot line. Mrs. Pace stated that we're at a point where we are staring to repeat the same evidence. Mr. Church stated that he just wanted to say that those other areas, though interesting, the real relevent is to meet those three legal issues raised by Mr. Baird and its a question of what happened in '55 and '58. Mrs. Pace asked if there were any further questions from the Board at this time. Mr. Erkelens stated that what he was conerned about was the noise that was there. He stated that alot of people would not believe that the noise is that bothersome, but that they could not use their house when the children were outside playing. There is not a place in their home where you could go where it was quite. They could not invite people over, the noise was just incredible. He stated that he did not know if there are other ways to limit the noise. Mrs. Pace asked them if they had children. They both responded that they did, but not 26 at a time, sometimes more than 26 and seven feet from their house. He stated that maybe he should go to the Business License Department to see if there was any legal remedies; if a business license could be removed because the business was a nuisance. He stated that he could not use his home and to him that was a nuisance. Mr. Jorgensen stated that there is a nuisance provision and any time you get a nuisance over and above what is ordinarily accepted, it can be abated. Mr. Erkelens stated that he had been told by three or four different neighbors, some of them are pretty good friends with Bob, that they think that all he is trying to do is get this combined into one parcel so that he can sell it. Mr. Wagner stated to Mr. Erkelen that what concerned him was that another 7-Eleven type would come in. Mrs. Erkelens said no, another daycare where the children would be out there all day long. Mrs. Pace stated that the Board will take that into consideration in their deliberations. Mr. Erkelens stated that he didn't think that the daycare center is something that they wanted in the Avenues and the Avenues has the potential of really being the show place of Salt Lake, it is going to take alot of work and alot of time and alot of money, but its come along way and there is a long way to go. Mr. Martinez asked if there was any possibility that they could work together to alleviate the noise problems. Mrs. Erkelens stated that Bob would not talk to them, and Mr. Erkelens stated that he has tried, in fact that before this even started when they hired their attorney they asked if a compromise could be reached so that they would not have to go through this process with the Board of Adjustment, Bob had said no. Bruce Baird suggested to Bob to compromise and he said no, they were not going to compromise. Mrs. Pace stated that all they could do is suggest that he has his right either to do it not. Mr. Erkelens stated that he really tried to compromise. Mr. Church told Mr. Erkelens to have

their attorney call him with the suggestions and that he would talk to him regarding suggestions. Mrs. Pace thanked all parties for their evidence and that the Board appreciated the patience on the part of the rest of the applicants. Mr. Erkelens asked if he could call in the morning and find out the decision. Mrs. Pace answered affirmatively.

There were no further protests. Later in the meeting the various aspects of the case were reviewed. Mr. Jorgensen made the suggestion that given all the information presented it would be a good idea to give this case to our attorney for review it and give the Board some advice. Mr. Lewis made the motion that the Board request that the City Attorney review the information of the case and give us his recommendation for action. Mr. Martinez seconded the motion, with all voting "Aye".

Case No. 340-B at 1735 Fort Douglas Circle in application of William Seare by James Webster, agent, for permission to construct a retaining wall which would support a covered arcade without the required side yard and which would change the grade more than the permitted two feet in a Residential "R-1" District.

W. J. Seare and James Webster were present. Mr. Jorgensen explained that this home was built meeting the zoning ordinance as to the required side yards. The grade that comes down and hits the petitioner's property and the attached garage was designed that way. The petitioner has an eight foot side yard and he desires to remove all dirt in his side yard lowering the grade and construct a retaining wall at the property line, and put a covered walkway which would extend along the side of his garage four feet, reducing his side yard to four feet instead of the required eight feet in an "R-1" zone. The petitioner states that the drainage is a major and that the grade of his and his neighbor's yard cased a problem. It was noted that drainage off of the petitioner's is a major contribution to the problem. Mr. Wagner stated that this drainage can be diverted simply by changing the drainage off the roof to the rear of the garage. Mrs. Pace noted that there is a flood basin directly to the rear of the petitioner's property. Mr. Jorgensen asked the petitioner they could justify a four foot side yard in one of the most exclusive areas in the city. Mr. Jorgensen stated that the Board would have to find that the owner is being deprived of substantial use of their land before they can grant a variance.

Mr. James Webster stated that what happened on this property was that the house was located approximately four to four and a half feet lower than originally planned and so whereas the water was suppose to be drained away from the garage and back out into the street, that never occurred. Mr. Seare stated that he had purchased the house from the bank which had repossed the property. Mr. Webster stated that the problems was that even when it was not raining the neighbor would water his lawn and water would come out his garage floor. So regardless of the drainage off the roof, which they recognized, the problems of water seaping into their garage would still occur. What happens is that the moisture is allowed to go under the floor of the garage, expands the soils and crack the garage out from within. They are proposing that instead of allowing that to become a

# Exhibit 6
# 1955 Permit Invoice

ENG. DEPARTMENT COPY

ENG. DEPARTMENT
Machine No. 2

ENG 144

INVOICE

# SALT LAKE CITY CORPORATION

NO. 6661

DATE 12-7-53

REFER 22697

12-7-53

AUDITED

ACCOUNT 5-5

M The Borough Corp.
552 - 3rd Ave.

PAY TO CITY TREASURER. NOT VALID UNLESS RECEIPTED BY CITY TREASURER.

| PERMIT TO | | |
|---|---|---|
| 1 - Stg. Transformer Service | | |
| Entrance 2 - Feeders | | |
| Elec. Conn. 1428 ft | | |
| U.G. - 4½ X 115 | | |
| " - 33 X 825 Parking | | |
| Svce. Ent. - 14,000 | | 32 00 |
| | TOTAL | |

APPROVED [illegible] CITY ENGINEER BY Dale

MOORE BUSINESS FORMS, INC.-5

STATE OF UTAH
County of Salt Lake } ss

I hereby certify that this is a true and correct copy of the original instrument.

Merrill Nelson

Notary Public Salt Lake County, Utah

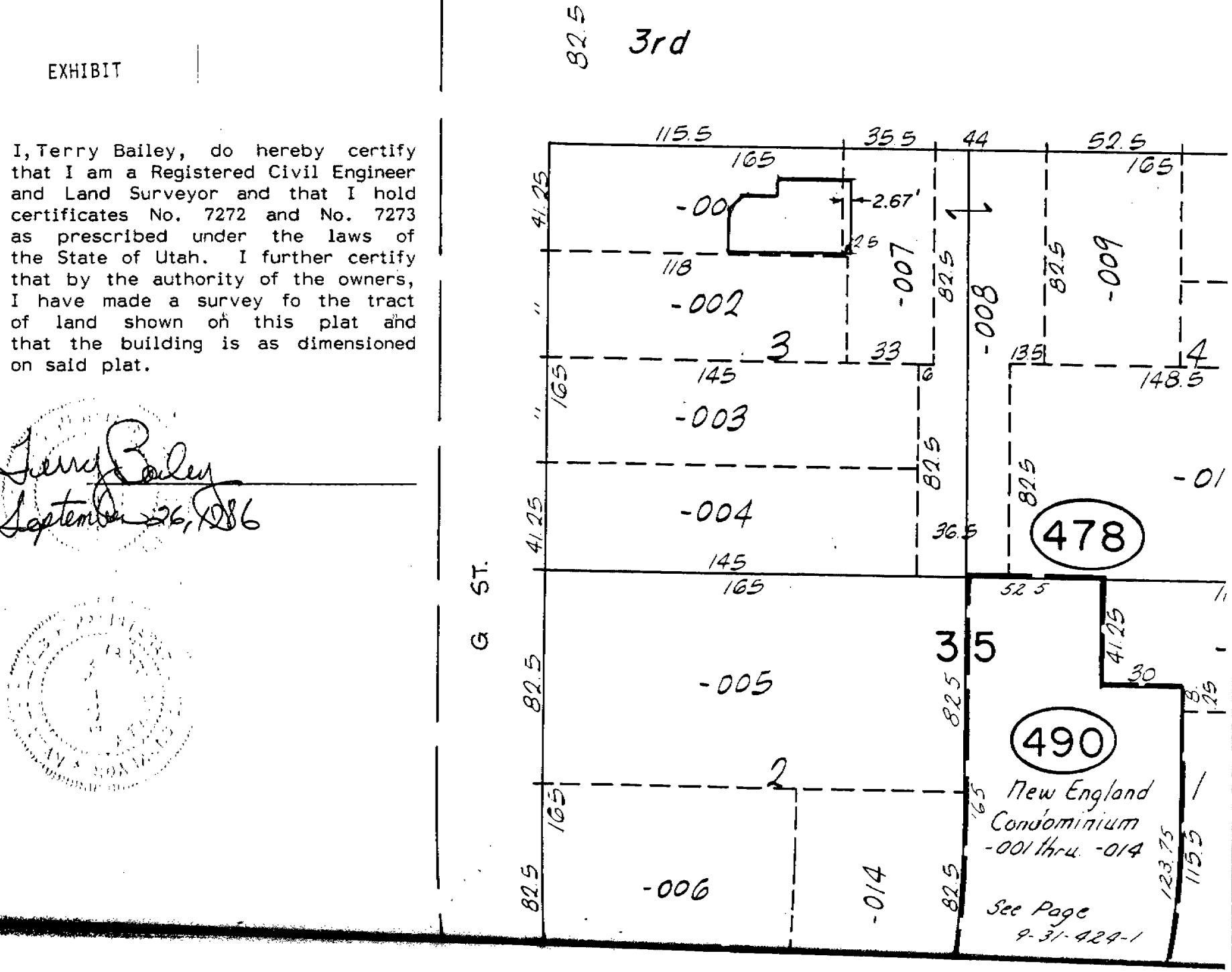
# Exhibit 7
# Building Location Survey
Certification

EXHIBIT

I, Terry Bailey, do hereby certify that I am a Registered Civil Engineer and Land Surveyor and that I hold certificates No. 7272 and No. 7273 as prescribed under the laws of the State of Utah. I further certify that by the authority of the owners, I have made a survey fo the tract of land shown on this plat and that the building is as dimensioned on said plat.

Terry Bailey
September 26, 1986





# Exhibit 8
# Underground Storage Tanks
State Closure List

| Facility ID | Location Name | Location Address | Location City | Zip | Location County | Owner Name | Owner Address | Owner City | ST | Zip | Owner Phone | Total Tanks | Closed Tanks |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 4000933 | SINCLAIR #43003 | 873 E SOUTH TEMPLE | SALT LAKE CITY | 84102 | SALT LAKE | SINCLAIR OIL CORP/CRAIG ANDERSON | 550 E SOUTH TEMPLE P O BOX 30825 | SALT LAKE CITY | UT | 84130 | (801) 524-2795 | 5 | 1 |
| 4000050 | AT&T PRATTS PASS RADIO | EAST CANYON ROAD | SALT LAKE CITY | 84102 | SALT LAKE | AT&T COMMUNICATIONS | 3100 KENNEDY DR | SALT LAKE CITY | UT | 84108 | (801) 328-7905 | 2 | 2 |
| 4001110 | SOUTH TEMPLE SINCLAIR | 901 E SOUTH TEMPLE | SALT LAKE CITY | 84102 | SALT LAKE | BLACKETT OIL COMPANY INC | 8023 S STATE ST P O BOX 55 | MIDVALE | UT | 84047 | (801) 566-5941 | 6 | 1 |
| 4000576 | MINIT-LUBE #1042 | 677 E 400 S | SALT LAKE CITY | 84102 | SALT LAKE | Q LUBE INC | 1385 W 2200 S | SALT LAKE CITY | UT | 84119 | (801) 975-4699 | 4 | 4 |
| 4000097 | TROLLY BONUS #30 | 510 S 700 E | SALT LAKE CITY | 84102 | SALT LAKE | TROLLY PARTNERSHIP | P O BOX 20868 | RENO | NV | 89515 | (802) 322-4277 | 4 | 4 |
| 4002320 | PHILLIPS PLAZA | 660 S 300 E | SALT LAKE CITY | 84103 | SALT LAKE | HOUSING AUTHORITY OF SALT LAKE CITY | 1776 S WEST TEMPLE | SALT LAKE CITY | UT | 84115 | (801) 487-2161 | 1 | 1 |
| 4002321 | ROMNEY PLAZA | 475 E 900 S | SALT LAKE CITY | 84103 | SALT LAKE | HOUSING AUTHORITY OF SALT LAKE CITY | 1776 S WEST TEMPLE | SALT LAKE CITY | UT | 84115 | (801) 487-2161 | 1 | 1 |
| 4002303 | CONSTRUCTION NEAR SUBWAY SANDWICH | APPROX 100 N 300 W NW CORNER | SALT LAKE CITY | 84103 | SALT LAKE | UTAH STATE FLEET OPS/FUEL DISPENSING | ATTN STEVE SALTZGIVER 4120 STATE OFFICE BLDG | SALT LAKE CITY | UT | 84114 | (801) 619-7232 | 1 | 1 |
| 4000706 | POWER ENGINEERING CO. INC. | 364 W 600 N | SALT LAKE CITY | 84103 | SALT LAKE | POWER ENGINEERING CO INC | 364 W 600 N P O BOX 1777 | SALT LAKE CITY | UT | 84103 | (801) 532-6972 | 1 | 1 |
| 4000864 | S.L. SCHOOL MAINTENANCE SHOPS | 143 N 300 W | SALT LAKE CITY | 84103 | SALT LAKE | SALT LAKE CITY SCHOOL DISTRICT | ATTN KAY POPE 440 E 100 S | SALT LAKE CITY | UT | 84111 | (801) 578-8260 | 3 | 2 |
| 4001752 | CONOCO 3RD AVENUE CAR CLINIC | 860 E 3RD AVE | SALT LAKE CITY | 84103 | SALT LAKE | ROBERT ROSE 3RD AVE CAR CLINIC | 860 E 3RD AVE | SALT LAKE CITY | UT | 84103 | (801) 364-0461 | 5 | 3 |
| 4000842 | SALT LAKE CITY CEMETERY | 200 N ST | SALT LAKE CITY | 84103 | SALT LAKE | SALT LAKE CITY CORPORATION | ATTN: STEVE BARTH 325 W 800 S | SALT LAKE CITY | UT | 84111 | (801) 535-6438 | 5 | 3 |
| 4000435 | LASSCO SOUND & SYSTEMS | 1012 N BECK ST | SALT LAKE CITY | 84103 | SALT LAKE | LASSCO SOUND & SYSTEMS | 1012 BECK ST | SALT LAKE CITY | UT | 84103 | (801) 521-3421 | 2 | 2 |
| 4002048 | FORMER UTOCO FACILITY-3RD WEST | 901 NORTH 300 WEST | SALT LAKE CITY | 84103 | SALT LAKE | AMOCO OIL CO | 474 W 900 N | SALT LAKE CITY | UT | 84103 | (801) 521-4831 | 3 | 3 |
| 4000360 | HANSEN SERVICE INC | 206 N 200 W | SALT LAKE CITY | 84103 | SALT LAKE | HANSEN SERVICE INC | 206 N 200 W | SALT LAKE CITY | UT | 84103 | (801) 355-4136 | 5 | 3 |
| 4001505 | GAS-N-GO #3 / FASTRAC | 618 N 300 W | SALT LAKE CITY | 84103 | SALT LAKE | CALDER BROS CO INC | 45 E 300 N PO BOX 1903 | PROVO | UT | 84603 | (801) 375-1412 | 2 | 0 |
| 4001198 | LAYTON ROOFING COMPANY | 732 N 400 W | SALT LAKE CITY | 84103 | SALT LAKE | LAYTON ROOFING COMPANY | 356 REED AVE | SALT LAKE CITY | UT | 84103 | (801) 363-0377 | 1 | 1 |
| 4002190 | J. FARRELL PETERSON FAMILY TRUST | 404 NORTH 300 WEST | SALT LAKE CITY | 84103 | SALT LAKE | AVOCET ENTERPRISES | 404 N 300 W | SALT LAKE CITY | UT | 84103 | | 1 | 1 |
| 4000674 | MAVERIK #327 / OLD CIRCLE K #8601 | 206 W NORTH TEMPLE | SALT LAKE CITY | 84103 | SALT LAKE | MAVERIK COUNTRY STORES INC | 880 W CENTER STREET | NORTH SALT LAKE | UT | 84054 | (801) 936-5557 | 3 | 0 |
| 4002078 | COMMUNICATIONS BUILDING | 81 N 400 W | SALT LAKE CITY | 84103 | SALT LAKE | UNION PACIFIC RAILROAD CO | 1416 DODGE ST ROOM 930 | OMAHA | NE | 68179 | (402) 271-3031 | 1 | 1 |
| 4001194 | QUALITY OIL | 502 3RD AVENUE | SALT LAKE CITY | 84103 | SALT LAKE | ROBERT M BUCHANAN | 3574 SUNILAND CR | SALT LAKE CITY | UT | 84109 | | 2 | 2 |
| 4000865 | BUS STORAGE AREA | 361 N 400 W | SALT LAKE CITY | 84103 | SALT LAKE | SALT LAKE CITY SCHOOL DISTRICT | ATTN KAY POPE 440 E 100 S | SALT LAKE CITY | UT | 84111 | (801) 578-8260 | 1 | 1 |
| 4001985 | SHRINERS HOSPITAL | FAIRFAX RD AT VIRGINIA ST | SALT LAKE CITY | 84103 | SALT LAKE | SHRINERS HOSPITAL | FAIRFAX RD AT VIRGINIA ST | SALT LAKE CITY | UT | 84103 | (801) 536-3500 | 1 | 0 |
| 4001787 | AAA PRECISION | 373 W 400 N | SALT LAKE CITY | 84103 | SALT LAKE | AAA PRECISION | 373 W 400 N | SALT LAKE CITY | UT | 84103 | (801) 322-0465 | 1 | 1 |
| 4000707 | PRIMARY CHILDRENS MEDICAL CENTER | 320 12TH AVENUE | SALT LAKE CITY | 84103 | SALT LAKE | PRIMARY CHILDRENS MEDICAL CENTER | ATTN JOHN OSTBERG 100 N MEDICAL DR | SALT LAKE CITY | UT | 84113 | (801) 588-2128 | 3 | 3 |

# 5. Original Petition

PETITION NO. 400-2004

# PETITION CHECKLIST

| Date | Initials | Action Required |
|---|---|---|
| 3/16/04 | | Petition delivered to Planning |
| 3/16/04 | | Petition assigned to: Everett Joyce |
| 7/14/04 | | Planning Staff or Planning Commission Action Date |
| 7/20/04 | | Return Original Letter and Yellow Petition Cover |
| 3/25/04 | | Chronology |
| 3/25/04 | | Property Description marked with a post it note |
| 3/25/04 | | Affected Sidwell Numbers included |
| 3/25/04 | | Mailing List for Petition include appropriate Community Councils |
| 7/29/04 | | Mailing Posted Date Verification |
| 7/29/04 | | Planning Commission Minutes |
| 7/29/04 | | |
| | | |
| | | |
|

# Zoning Amendment

FOR OFFICE USE ONLY

Petition No. _____

Receipt No. _____ Amount $ _____

Date Received _____

Reviewed by _____

SALT LAKE CITY PLANNING

**Address of Subject Property** 518 E. 3rd Ave. 502 E. 3rd Ave.

Name of Applicant Jack E Plumb Phone 364-8276-231-0295

Address of Applicant 135 W. 900 So.

E-mail address of Applicant _____ Cell (Fax) 364-9947

Applicant's Interest in Subject Property Owner

Name of Property Owner Jack E. Plumb Phone 5648276

County Tax Parcel # (Sidwell #) 09-31-478-001-0000 Zoning of Property RMF-35

Existing Use of Property 09-31 478 007 0000

☐ **Amend the text of the Zoning Ordinance** by amending Section: (attach map or legal description).

☒ **Amend the Zoning Map** by reclassifying the following property: _____

From a RMF 35 classification to a CN classification.

**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.**
5. Legal description of the property.
6. Ten (10) copies of site plans drawn to scale.
7. A signed statement that the petitioner has met with and explained the proposal to the appropriate Community Council.
8. Related materials or data supporting the application as may be determined by the Zoning Administrator.

**Filing fee of $500.00 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 and 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

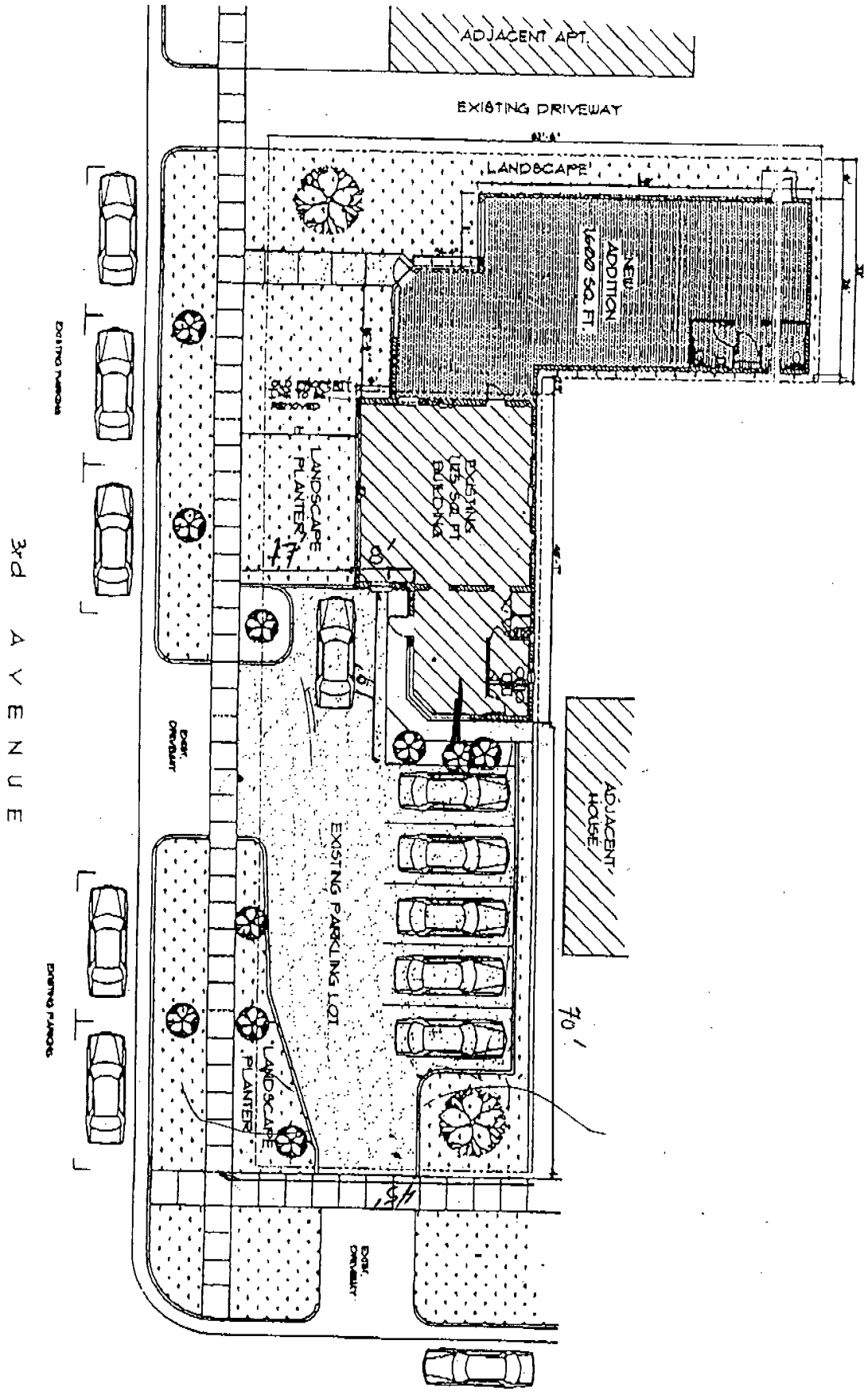
**File the complete application at:**

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

**Signature of Applicant** Jack E Plumb
*or authorized agent*

*Title of agent*

05/30/2003


ADJACENT APT.
EXISTING DRIVEWAY
LANDSCAPE
NEW 1600 SQ. FT. ADDITION
EXISTING 1275 SQ. FT. BUILDING
LANDSCAPE PLANTER
EXIST. DRIVEWAY
EXISTING PARKING LOT
ADJACENT HOUSE
70'
LANDSCAPE PLANTER
EXIST. DRIVEWAY
EXISTING PARKING
EXISTING PARKING
3rd AVENUE
G STREET

825
S
942
917
1205
577
Pt. 1
020
3rd
115.5
165
-001
-002
145
-003
-004
-005
-006
Condominium

**Salt Lake City Corporation**
**CED Planning Division**
**451 South State Rm 406**
**Salt Lake City UT 84111**
**801-535-7757**

**OPEN**
**Invoice#: 062004949**
**Date: 2/18/2004**

**Received From:**
Jack E. Plumb
3123 Skycrest Lane
Salt Lake City, Ut 84108
801-364-8276

**Prepared by:**
Diana Hansen

| Description | No | C. Center | Object | Project | Activity | Amount |
|---|---|---|---|---|---|---|
| Zoning ammendment to reclassify the property located at 518 East 3rd Avenue from a RMF35 to a CN. | 1 | 0600100 | 125111 | - | - | $500.00 |

**TOTAL AMOUNT** **$500.00**
**PAYMENT TYPE** **CHECK**

*REMARKS*

# Petition No. 400-04-12

*By* Jack E. Plumb

Is requesting a zoning amendment to reclassify the property located at 518 East 3rd Avenue from a RMF35 to a CN.

*Date Filed*

*Address*