



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: January 16, 2024

RE: Avenues Restrictive Covenant

Item Schedule:

Briefing: January 16, 2024

Set Date: February 6, 2024

Public Hearing: February 20, 2024

Potential Action: March 5, 2024

The Council will be briefed about a proposal to remove a restrictive covenant from 18 properties located primarily between B Street and D Street and between 9th Avenue and 11th Avenue in City Council District Three, as shown in the image below. (Please note the property at 390 D Street in the lower right corner of the image is one of the affected parcels.)

The covenant was discovered by Planning staff when the owner of 453 North C Street applied for a lot consolidation with the intent of constructing an accessory dwelling unit (ADU) on their property. While reviewing the restrictive covenant, Planning staff found it also applied to 17 other properties in the area. Planning then consulted with the City Attorney's Office and decided to work toward removing the restriction from all 18 properties.

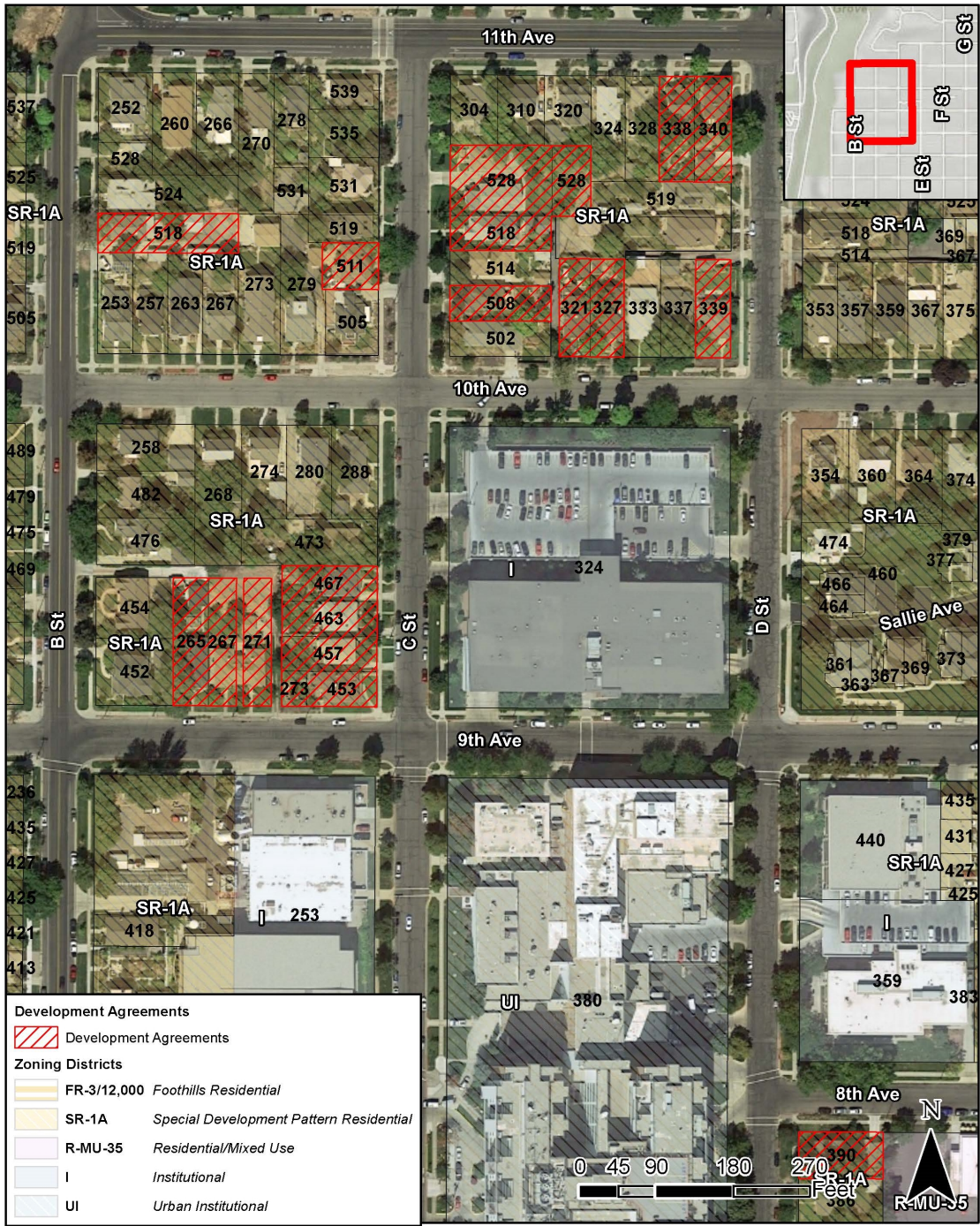
This covenant was established in 1981 as part of closing a portion of 8th Avenue for LDS Hospital expansion. At the time, the Greater Avenues Community Council (GACC) would not oppose the street vacation if these other properties, owned by the hospital at the time, were subjected to a restrictive covenant ensuring they would be limited to single-family, two-family, or other uses that conformed to R-2 zoning then in effect. When the restrictive covenant was recorded, R-2 zoning prohibited ADUs that could be used as a dwelling. (The properties were later zoned to SR-1A as part of the 1995 comprehensive zoning rewrite.) Each subject property is privately owned, and Planning staff believes the covenant's intent has been satisfied. **Planning recommends the Council remove the restrictive covenants from all the affected properties.**

This is an uncommon land use item Council Members likely have not seen before. It will follow the pattern of most other land use items before the Council, with a briefing, public hearing, and then a vote on an



ordinance to remove the restrictive covenant. The Planning Commission is not required to review the proposal and hold a public hearing. Council staff asked the Chair and Vice Chair if they prefer to have the Planning Commission review. They felt that was not necessary.

Goal of the briefing: Review the proposed restrictive covenant removal and determine if the Council supports moving forward with the proposal.



Salt Lake City Planning Division 7/12/2023

Vicinity map with the subject parcels shaded in red.
Image courtesy of Salt Lake City Planning Division

POLICY QUESTION

1. The Council may wish to discuss whether to remove the restrictive covenant from all 18 affected properties or just those with property owners who are supportive. It is worth noting that if the restrictive covenant is not removed from some properties, future owners wishing to remove it will need to initiate the process for their property.

ADDITIONAL INFORMATION

Planning staff were unable to find correspondence from 1979 detailing the agreement, but the City Recorder's Office found a 1979 letter from GACC related to the 8th Avenue closure. The letter noted a loss of 44 homes as part of the hospital expansion. Planning staff believes it is likely that the restrictive covenant was intended to prevent further loss of single-family homes in the area and replace them with more intense land uses. The letter is included in Exhibit 3 (pages 34-35) of the City Council transmittal.

The following uses are allowed in the SR-1A zone provided they meet applicable zoning requirements but are prohibited by the restrictive covenants:

- Accessory dwelling unit (permitted)
- Assisted living facility (2-5 individuals) (conditional)
- Congregate care facility (conditional)
- Group home (conditional)
- Community garden (conditional)
- Urban farm (permitted)
- Daycare center (conditional)
- In-home daycare (conditional)

GACC is listed as an interested party in the restrictive covenant, so it must also vote to remove its interest. Planning staff met with the community council on September 13 and October 4, 2023 to discuss the removal. GACC voted to release its interest in the covenant at its November 1, 2023 meeting, and a letter noting the release was sent to Planning after the transmittal was received in the Council Office. The letter is attached to this report.

Planning staff sent notice to all affected property owners letting them know about the covenant and its potential removal. A 45-day comment period was provided, after which Planning staff would begin the process of requesting removal of the covenant. The notice stated if responses were not received, Planning staff would proceed with the covenant removal based on a presumption that the property owners did not object.

Planning received four individual responses from property owners and participated in a call with multiple property owners. Three of the individuals who responded were supportive of removing the restrictive covenant, and one was opposed. That owner is against removing the covenant due to insufficient space to construct an ADU on their property. Although more than one owner expressed support on the phone call, Planning felt only the caller should be recorded as supportive.

PROJECT CHRONOLOGY

- April 2023 – Senior Planner Krissy Gilmore became aware of restrictive covenant and began researching the removal.
- May 24, 2023 – Notice sent to affected property owners and tenants.

- August 30, 2023 – Draft ordinance received from Attorney’s Office.
- September 12, and October 4, 2023 – Planning staff met with GACC to discuss removing the restrictive covenant.
- November 1 2023 – GACC voted to release its interest in the restrictive covenant.
- November 3, 2023 – Final ordinance received from Attorney’s Office.
- November 9, 2023 – Transmittal received in City Council Office.
- December 6, 2023 – GACC letter releasing its interest in the restrictive covenant sent to Salt Lake City Planning Division. (Attached to this report.)