



# COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

**TO:** City Council Members

**FROM:** Nick Tarbet, Policy Analyst

**DATE:** September 1, 2020

**RE: Rezone: 402 & 416 East 900 South  
from CN & RB to CB  
PLNPCM2019-01025**

## **PROJECT TIMELINE:**

Briefing 1: July 16, 2019  
Briefing 2: March 3, 2020  
Briefing 3: Sept 1, 2020  
Public Hearing 1: Aug 27, 2019  
Public Hearing 2 Oct 6, 2020  
Public Hearing 3 Oct 20, 2020  
Potential Action: Oct 20, 2020

## **WORK SESSION SUMMARY**

During the September 1 briefing, the applicant spoke and expressed support for adding a zoning condition to the final ordinance that would ensure 900 South is declared the front yard of this parcel. Staff noted this zoning condition would run with the land.

Council Member Mano said he received some questions about types of uses that are allowed in the CB but not the CN or RB. A full comparison of the use tables is found on pages 39-47 of the transmittal. Here are the uses that were raised during the briefing.

### **Alcohol Establishments**

- Bars (less than 2,500 sf) are a conditional use in the CN, RB and CB.
- Brewpubs and Taverns (less than 2,500 sf) are a conditional use in the CB and not permitted in the CN or RB.

### **Drive throughs**

- Drive throughs for financial institutions, retail good and service establishments and restaurants are permitted in CB and not permitted in the CN or RB.

The public hearings were set for October 6 and 20.

***The following information was provided for the September 1 work session. It is provided again for background purposes.***

### **ISSUE AT-A-GLANCE**

The Council will be briefed on a proposal to rezone the properties located at 402 and 416 East 900 South from RB (Residential/Business) and CN (Neighborhood Commercial) to CB (Community Business). These parcels currently fall within two different zoning districts and the applicants would like to rezone it under one district for consistency. It is the applicant's intention to restore the existing market building on the site and construct some form of a mixed-use building over the existing surface parking lot; however, no development plans have been submitted with this application.

The Planning Commission forwarded a positive recommendation to the Council.

### **Timeline of Council Review:**

- July 16, 2019 work session briefing #1
  - During the July 16 work session, the Council did not raise any significant concerns about the proposed rezone.
  
- August 27, 2019 public hearing #1
  - Based on comments during the public hearing, the Council continued the public hearing and asked staff to set up a meeting with the applicant and concerned residents.
  - A summary of that meeting and concerns are summarized in the section below titled "Meeting with Applicant and Nearby Residents."
  
- November 2019 - Applicant / neighbor meeting:
  - The applicant met with neighbors, Council Members, Planning Staff, and Council Staff.
  - At the end of the meeting the applicant said they wanted to talk with Planning staff to see if any other zoning options would work for their desired outcome. The applicant let Council staff know that upon further review, they wanted to move forward with the current proposal to rezone the parcel to CB.
  - The residents raised concerns about the impacts to the adjacent property and the overall neighborhood impact with more commercial uses along the 900 South corridor. They felt the neighborhood character would be greatly changed.
  - To staff's knowledge, based on some discussion in the community, some neighbors continue to be opposed to the rezone based on the increase of density to the neighborhood.
  
- March 3, 2020 – Work Session Briefing #2
  - The Council held a briefing on March 3. A short summary of the issues discussed during that briefing are outlined in the following section of the staff report.
  
- April 7, 2020 – Public Hearing #2
  - A public hearing was set for April 7. However, the week before the public hearing, the applicant asked to postpone the public hearing. That hearing was postponed until an undetermined, later date.
  
- September 1, 2020 – Work Session Briefing #3

- At this point, the item is scheduled for Council consideration again, because the applicant is ready to move forward the rezone.
- Per Council direction, two public hearings have been held for land use petitions while the Council has been holding meetings remotely.
- After the September 1 briefing, if the Council is supportive of moving forward with the public hearings, staff proposes they be set for October 6 and October 20. The Council has the option to consider taking action at the conclusion of the second public hearing.

### **MARCH 3 WORK SESSION BRIEFING SUMMARY**

During the March 3 briefing, the following items were raised by the Council during the discussion:

- Comparison of the CN and RB zones
- Setback standards
- Parking issues
- The parcel size exceeds the maximum allowed for CN and RB zones
- Whether the building would be required to face 900 south or if it could face Denver Street

Some of the Council Members asked if the City could require the applicant to orient the building so its front entrance faces 900 South. The intent would be to reinforce 900 South as the primary commercial corridor, ensure that Denver Street is the secondary building frontage, and ensure that a larger landscape buffer is required along the south property line.

There are a few tools the Council has to include this type of condition in the final ordinance. Both development agreements and zoning conditions on the parcel established through the rezoning have been utilized in the past.

Staff has talked with the applicant and they expressed support for including this requirement in the final ordinance.

If the Council would like to include a provision to ensure that 900 South is declared the front yard of this parcel, staff can work with the applicant, Attorney's Office and Planning staff to include this condition in the ordinance being considered for potential adoption.

### **Vicinity Map**



### **ADDITIONAL INFORMATION**

The applicant stated they are pursuing this zoning amendment to rezone the lots under one zoning district because the current zones have some restrictions that make redevelopment difficult:

- The existing CN zone limits lot size to 16,500 square feet and the property at 416 east 900 south is just over 30,000.
- The existing RB zone is restrictive in that it limits the number of residential units in a mixed-use building to a single unit on an upper story.

Aside from these restrictions within the current zoning districts, the applicant feels that the purpose of the proposed CB, "to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods," best aligns with their vision for the property in the future.

The Transmittal letter notes zoning standards within the proposed CB district would not produce a building much different than what could be built on the site today.

- Permitted height is 25 feet in the existing CN zone, 30 feet in the existing RB zone and 30 feet in the proposed CB zone.
- Setbacks and landscape buffers are similar except there are no front or corner setbacks required in the proposed CB zone, which could push a new building closer to the street(s).
- Off-street parking requirements are dependent on land use as opposed to the zoning district, and any new development or intensification of existing land uses must accommodate parking accordingly.

- Uses permitted in the CB zone may be considered slightly more intense than what is permitted in the existing zones; however, the few uses permitted outright in the CB zone that are not permitted in the existing zones would likely need a larger amount of land to accommodate.
  - Pages 39-47 of the Planning Commission staff report shows a comparison of uses between the three zoning districts. Uses allowed in the CB as either a permitted or conditional use, that aren't allowed in the CN or RB zoning districts include:
    - Permitted – Antenna, communication tower, Eleemosynary Facility, Financial Institution (with drive through), Large Wind energy system, Nursing Care Facility, Reception Center, Restaurant with Drive-Through, College/University,
    - Conditional Use - Antenna, communication tower exceeding the zoning maximum height, Gas Station, Hotel/Motel, Limousine service (small),

**Planning Commission Staff Report**

The table on the next page is a comparison chart of the key zoning standards. It is found on page four of the Planning Commission Staff report. *The information in the table below was used as the basis for Attachment A, Zoning Comparison Chart. This was shared with the community via the Council's various social media accounts.*

<b>Zoning Requirements in Current CN and RB Districts</b>	<b>Zoning Requirements in Proposed CB District</b>
<ul style="list-style-type: none"> <li>• <b>Front setback from 900 South</b> <ul style="list-style-type: none"> <li>○ CN -15 feet</li> <li>○ RB - 20% of lot depth {approx. 20 feet}</li> </ul> </li> <li>• <b>Corner yard setback</b> <ul style="list-style-type: none"> <li>○ CN - 15 feet</li> <li>○ RB-10 feet</li> </ul> </li> <li>• <b>Interior yard setback</b> <ul style="list-style-type: none"> <li>○ CN None required</li> <li>○ RB - 6 and 10 feet</li> </ul> </li> <li>• <b>Rear yard setback abutting properties to the south</b> <ul style="list-style-type: none"> <li>○ CN-10 feet</li> <li>○ RB - 25% of lot depth (approx. 25 feet) <i>(7-foot landscape buffer also required in CN Zone when abutting residential)</i></li> </ul> </li> <li>• <b>Height</b> <ul style="list-style-type: none"> <li>○ CN-25 feet</li> <li>○ RB-30 feet</li> </ul> </li> <li>• <b>Parking</b> <ul style="list-style-type: none"> <li>○ Requirement is dependent on the use</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Front setback from 900 South</b> <ul style="list-style-type: none"> <li>○ None is required <i>(potentially pulls building closer to street)</i></li> </ul> </li> <li>• <b>Corner yard setback</b> <ul style="list-style-type: none"> <li>○ None is required <i>(potentially pulls building closer to street)</i></li> </ul> </li> <li>• <b>Interior Yard Setback</b> <ul style="list-style-type: none"> <li>○ None Required</li> </ul> </li> <li>• <b>Rear yard setback abutting properties to the south</b> <ul style="list-style-type: none"> <li>○ 10 feet <i>(7-foot landscape buffer also required in CB Zone when abutting residential)</i></li> </ul> </li> <li>• <b>Height</b> <ul style="list-style-type: none"> <li>○ 30 feet</li> <li>○ <i>Buildings more than 7,500 gross square feet of floor areas for a first-floor footprint or more than 15,000 gross square feet floor area overall are subject to additional design guidelines that encourage compatibility.</i></li> </ul> </li> <li>• <b>Parking</b> <ul style="list-style-type: none"> <li>○ Requirement is dependent on the use</li> </ul> </li> </ul>

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Pages 6-7 of the Planning Commission staff report identify two main issues for review. A short description of each issue and the finding is provided below for reference. Please see the Planning Commission staff report for full analysis.

### **1. Zoning Compatibility with Adjacent Properties**

- The existing and proposed districts are relatively similar in terms of zoning regulations besides front/ corner setbacks and design review requirements
  - The provision of no front/ corner yard setbacks and requiring Design Review for larger buildings in the proposed CB district could promote more pedestrian-oriented development and, in turn, enhance this small commercial node.
  - Maximum height permitted in the existing and proposed zones are similar - 25 feet in the CN, 30 feet in the RB and 30 feet in the CB.
  - This block is surrounded by the same CN and RB zones with the same 25- 30 feet height maximum.
  - Adequate side/rear yard setbacks may help to limit any new building from "looming" over this property.
  - The same 10-foot rear yard setback that's required in the CN zone is required in the CB zone promote adequate spacing between uses.
  - The same 7-foot landscape buffer required when abutting residential uses will also be required in the proposed CB zone.

### **2. Community Comments**

- Community comments generally pertained to off-street parking and allowed height.
  - off-street parking requirements must be met in the future dependent on any new uses or "intensification" of uses.
  - Maximum height permitted in the existing and proposed zones are similar - 25 feet in the CN, 30 feet in the RB and 30 feet in the CB.
- One person suggested removing the lot size maximum within the CN zone so that this block face could be rezoned to CN instead of the more intense CB.
  - The CN lot size maximum is intended to prevent commercial creep into residential neighborhoods and the implications of eliminating this standard could be harmful in other areas of the city.
- A neighbor submitted a letter regarding on site deliveries being a nuisance and the blocking of Grace Court that runs behind the site.
  - These types of issues can be looked into by the City's enforcement team.
  - The Transportation Division indicated the businesses are allowed to make deliveries daily from 7 a.m. to 10:30 a.m. to the west of the Manoli's building that shouldn't block access to Grace Court. There is also signage on 400 East indicating the presence of this loading zone.

### **Meeting with Applicant and Nearby Residents after the Public Hearing**

This item was first presented to the Council during the July 16, 2019 work session. At that briefing the Council did not raise any significant concerns about the proposed rezone. A public hearing was set for August 27, 2019.

During the August 27, 2019 public hearing, two individuals spoke against the proposed rezone and another submitted written comments. Those comments are summarized below in the Public Comment section of this staff report.

The Council continued the public hearing to a future meeting.

Based on the comments made during the public hearing Council Member Mendenhall asked for a meeting to be set up with Planning staff, the applicant and concerned residents about the proposed rezone. That meeting was held in late November. Council Member Valdemoros also participated in the meeting.

During the meeting, the residents explained their concerns about the impacts to the adjacent property due to potential redevelopment of the parking lot on 900 South and Douglas Street, and the overall neighborhood impact with more commercial uses along the 900 South corridor. They felt the neighborhood character would be greatly changed.

### **Concerns About Master Plan Interpretation**

One concern the residents raised is a claim the Planning Commission staff report was “incorrect” when it stated the Central Community Master plan supported encouraging businesses to locate along 900 South.

The following statement is taken from the Future Commercial Land Use Changes section of the Central Community Master Plan, page 11.

- *State Street and 900 South: Encouraging businesses to locate in this area can strengthen and stimulate the ethnic and cultural diversity that exists. A cultural business enclave would diversify the community's retail businesses and complement the community economically and socially.*

The Planning Commission staff report included this section on page 6. The bracketed/bolded text was added by the Planning staff:

- *Encouraging businesses to locate in this area **[along 900 South]** can strengthen and stimulate the ethnic and cultural diversity that exists. A cultural business enclave would diversify the community's retail businesses and complement the community economically and socially.*

The residents cited the bracketed language as the problem that led to the incorrect analysis.

However, Council staff notes another paragraph in the same section also refers to other areas, including 900 South, as a “small residential business mixed use areas”:

- *Mixed land use designations - The plan identifies new mixed-use designations to support livable communities. Most of these mixed-use areas are located near mass transit centers and light rail stations in the higher-density and commercial-intensive neighborhoods of the Central Community. Other small residential business mixed use areas are supported along 800 and 900 South and 1100 East. (East Central Master Plan, Page 11)*

The concern that the master plan does not support a growing business district in this area is a paramount concern to some residents. They feel the rezone is not supported by the master plan and it would lead to significant changes to the neighborhood character.

- ***The Council may wish to ask Planning to further explain their analysis of the proposed rezone being compatible with the Master Plan.***

During the meeting with Council Members, applicant and concerned residents, Planning staff explained that master plans are a big vision, guiding document that outline the vision of the community. It is not meant to be set in stone. Sometimes master plans are interpreted differently by different people and due to changing circumstances, sometimes they need to be amended. The City has a process for amending master plans when needed.

Planning staff found the request to rezone the parcels from CN and RB to CB fits within the vision of the existing master plan because the zoning districts allow very similar uses and the general building mass/height/set back controls are similar (*see the table above for district comparison.*) Therefore, they did not recommend a master plan amendment to be processed in tandem with the proposed rezone.

Ultimately, the City Council has the authority to decide if a rezone is in harmony with a master plan and whether the proposed rezone is appropriate.

### **PUBLIC COMMENT**

In addition to the public comments summarized in the Planning Commission staff report, three individuals submitted public comments at the August 27, 2019 public hearing.

Two individuals spoke; both said they live in the neighborhood and were concerned about impacts from the new development. One said the current businesses create nuisance issues by blocking the public right of way for deliveries. The other person said their quality of life would be impacted, that a restaurant patio near his property would make it unlivable and there is already traffic, noise, and parking issues in the area due to other businesses.

Another person submitted a written comment suggesting the zone be changed to CN not CB, and said a proposed patio facing Denver Street would be intrusive on the neighborhood.

Additionally, a petition expressing opposition to the proposed rezone was submitted to the Council Office. It was forwarded to all Council Members on September 13, 2019. The petition states the 224 signees “are petitioning the Council to stop the rezoning of 402 and 416 East 900 South.”

The petition is included as *Attachment B - Petition* to this staff report. Also, the handouts given to Council Members during the August 27 public hearing are included as *Attachment C-Public Hearing Handouts 8.27.19*

The property owner who lives directly south of the proposed rezone submitted comments via email on February 26, 2020. They were sent to the Council Members on February 27, 2020. They are also included with this memo as *Attachment D – DenverStreetGraceCourtNeighborsEmail*. The letter outlines his concerns that the proposed rezone would negatively impact the neighborhood.