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# Staff Report Memorandum

## July 20, 2023

To: Planning Commission  
From: Community Development Department  
Subject: South Towne Center Mall Subdivision Amended  
(Commercial Subdivision Amendment)  
10450 S. State Street  
(Commercial Area, Community #9)

SUB10122021-006180

CBD Zone  
9 Commercial Lots  
Approx. 80 Acres

**Public Meeting Notice:** This item has been noticed to property owners within 500 feet of the subject area, on public websites, and at public locations.

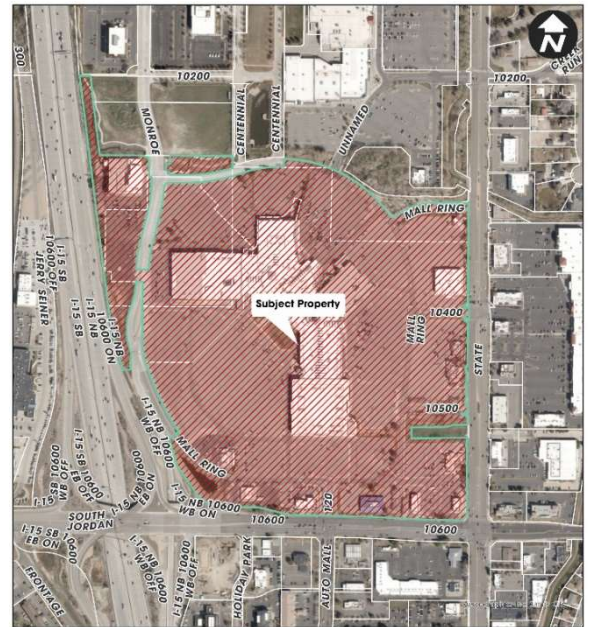
### Request

The applicant, Leeza Evensen of Snell and Wilmer (representing the property owner South Town Owner PR, LLC), is requesting preliminary review of South Towne Center Mall Subdivision Amended plat for a property located at 10450 S. State Street. The request is to amend an existing plat for the Shops at South Town development that would create several new lots for some of the perimeter pad buildings associated with the mall. It would also clean up some property remnants that were created with the dedication and improvement of the Monroe Street and freeway offramp (see application materials in Exhibit A).

### Background

At the end of 2021, the city approved a code amendment to that allows the Planning Commission to approve modified or reduced setbacks for developments over 10 acres in size based on a few criteria. This was done with the intent of creating pad lots in the future that would not otherwise conform to the existing regulations of the Central Business District (CBD) Zone.

The subject property is surrounded by areas that have been developed as regional retail uses. Properties to the north and east are within the CBD Zone while those to the south are Autotmall Commercial Zone.



SUB10122021-006180  
Subdivision  
10450 S State St

Sandy City, UT  
Community Development Department

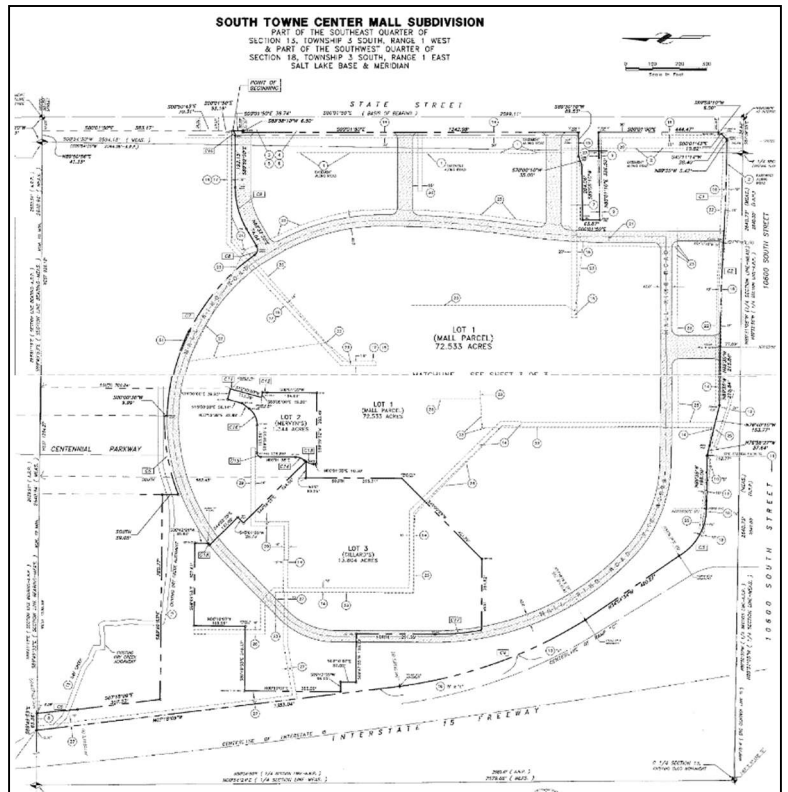


**Public Notice and Outreach**

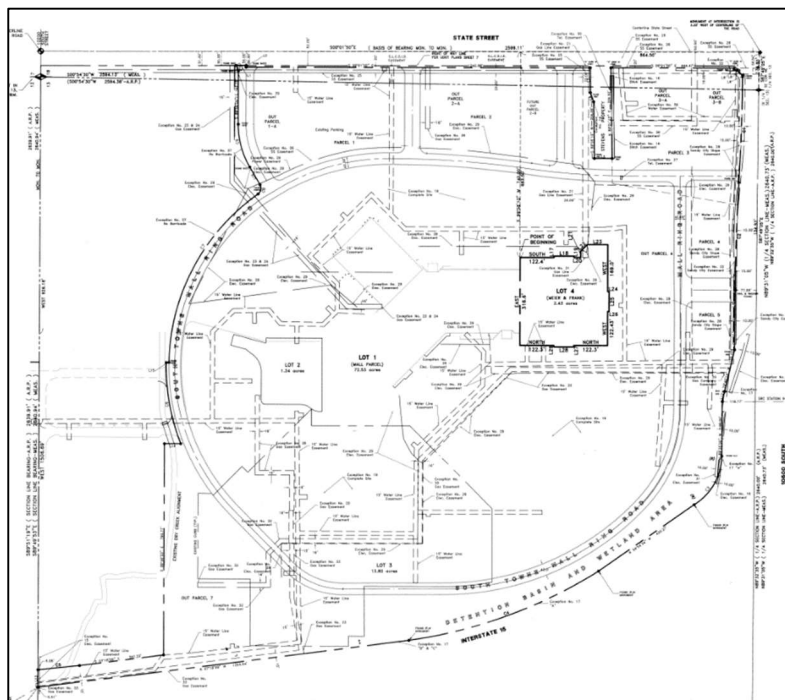
This item has been noticed to property owners within 500 feet of the subject area. No neighborhood meeting has been held as this property is within a commercial area with no existing residential properties near the proposed area.

**Analysis**

The property has had two previous plats recorded on this subject property. The first subdivision was recorded in 1997 (see plat to the right) and created two new lots from the main mall parcel to allow the anchor tenants on the north and northwest ends of the mall to be on their own lots. An amended plat was recorded in 2005 (see plat to the bottom left) and amended the main mall lot to create another lot for the southern anchor tenant. Now, the owners of the mall are seeking to amend the main mall lot once again to create seven new lots. Most of these lots that have been created in the past and six of these proposed new lots are essentially pad lots along the periphery of the mall site. The lots generally follow the footprint of the building and does not include much of the surrounding landscaping or parking areas. The main mall lot acts like a common area lot that provides access and parking to these lots through cross access and shared parking agreements.



The proposed plat would clear up those issues by redefining lot boundaries and creating new lots. This will also facilitate separate ownership interests in the mall development.



To create these proposed lots, the Planning Commission will need consider whether the proposal meets some or all the following criteria of the code in order to approve modified setbacks for this development:

- (i) Overall Master Plan layout for new or expanded development, or a site plan of the existing development.
- (ii) Relationship and impact to other existing or proposed buildings on-site and adjoining properties (present and future) and whether such setback modifications is compatible with the scale and design of said buildings.
- (iii) Physical features such as rail lines, canals, and controlled ingress and egress.
- (iv) Location of any public utility easements.
- (v) Compliance with all applicable building and fire code requirements.

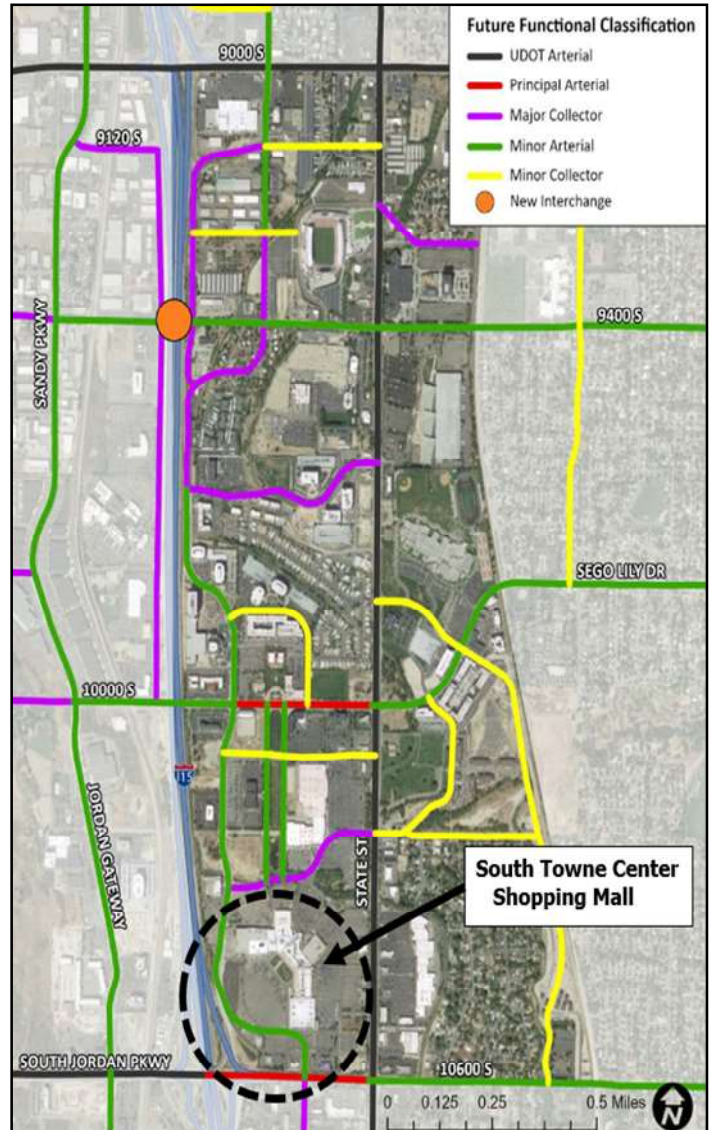


The existing approved site plans for this development did not contemplate zero lot line development. However, most of the buildings are spread out and an assumed property line can be established that meets building, and fire code. By placing a lot near or next to the existing buildings, it triggers building and fire code issues. Those issues can be addressed through exterior modifications or by establishing an easement restricting building within a certain distance of the existing structure to ensure that an “assumed property line” is maintained. With an easement, no physical changes to the existing buildings is required.

The proposed amendment would also address some lot remnants that resulted from the dedication and improvement of the Monroe Street and freeway offramp. These road improvements split the existing main mall lot (Lot 1) and the northwest anchor site (Lot 3) and created remnant parcels. This extension was part of the city’s phased implementation of the adopted Transportation Master Plan (see image to the right).

**Staff Concerns**

The proposed plat addresses the future extension of Monroe Street (which is depicted in the image on the right). The applicant has substantially complied with Land Development Code which requires that any master planned roads be addressed through the subdivision plat process. The applicant has shown an approximate location of the future roadway and has included a plat note with language that attempts to clarify what is shown visually on the preliminary plat (see below).



Sandy Downtown Transportation Master Plan  
2050 Roadway Functional Classification

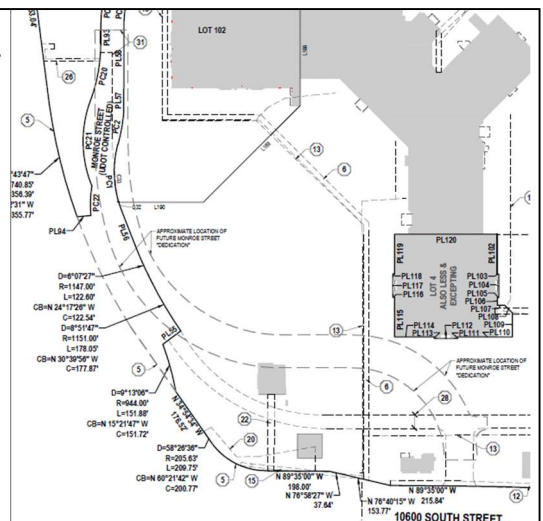
**MONROE STREET NOTE**

Owner is showing the “dedication” of what is labeled as “New Monroe Street” in the general area and at the approximate dimension that it vaguely appears to be on Sandy City’s currently adopted Transportation Master Plan. Owner has been informed that Sandy City does not believe that this alignment or dimension is what Sandy City actually intends to build now or ever. However, Owner is showing New Monroe Street as it is on the proposed plat so that Owner will be in strict compliance with Sandy City’s Code including, but not limited to Sections 21-30-3, 21-30-10 and 21-30-12. Owner is also showing on the plat the standard “dedication” block for New Monroe. With this language on the proposed plat Sandy City has no ability to pretend that the application is somehow “incomplete” and, therefore, Sandy City will have to process the proposed plat to the Planning Commission for immediate approval.

Owner has no intention of actually dedicating New Monroe Street to the City (much less actually building it) on the location as shown on the proposed plat (or anywhere else) for free as the word “dedication” implies by its literal dictionary definition and as is required by Sandy City’s Code and as is required by Sandy City’s required “dedication” block on the plat. Owner is certain that such a required free “dedication” would violate the Fifth Amendment to the Constitution of the United States of America and Article 1, Section 22 of the Constitution on their face (and/or as applied to the facts here where the proposed subdivision has precisely 0.00 impact on any need for New Monroe Street at this time) and as interpreted by, respectively, Nollan/Dolan, BAM and, literally, every other case in America that has considered this issue in the last 50 years. Sandy City has never even tried to argue to the contrary. Sandy City knows that its required “dedication” is unconstitutional under these facts.

Further, any required dedication of New Monroe Street as a condition of approval of the plat would violate Section 21-6-7 of the Sandy City Code as such a dedication would be inconsistent with Utah State Code regarding exactions as well as being inconsistent, as noted above, with the Fifth Amendment to the Constitution of the United States of America and Article 1, Section 22 of the Constitution as interpreted by Nollan/Dolan, BAM.

If, in approving the proposed plat, Sandy City insists on the “dedication” Owner will file suit and seek appropriate damages.



Staff agrees with the main concept and intent that they have proposed to address this future roadway; however, we have suggested revised the language of the plat note to read as follows:

*Owner is showing on the plat the extension of what is labeled as Future Monroe Street Extension in the approximate location described in Sandy City's adopted Transportation Master Plan. This roadway is not dedicated to the City at this time. This future street extension is shown to provide notice of the eventual master planned roadway extension that will affect this property. The exact alignment is not fixed and is only shown as an approximate location. The final road design is subject to change and alternative alignments could be implemented in the future. This street extension is being shown to substantially comply with Sandy City's Code.*

The City could file a condemnation action and purchase the property needed for the roadway now. However, the City feels that it would be in the best interest of both parties to not dedicate and fix the exact location of the extension of Monroe Street at this time. This would allow the applicant more time and flexibility to plan for future development through a master plan process. This approach would allow the applicant to substantially comply with the Land Development Code and allow them to create the new proposed lots. This note is important to provide notice to future owners of these proposed lots that Monroe Street will eventually be extended through this property, thus helping to preserve the corridor of this master planned road. This would also allow for flexibility to work out the exact alignment in the future with the applicant and can be coordinated with future land development plans on the subject properties.

### **Recommendation**

Staff recommends that the Planning Commission determine preliminary review is complete for the South Towne Center Mall Subdivision Amended plat located at 10450 S. State Street based on the following findings and subject to the following conditions:

### **Findings:**

1. The proposed subdivision plat substantially meets city code requirements.
2. The development qualifies for modified setbacks as compliance with the building and fire codes can be met with some minor changes to the proposed plat by providing “no-build easements.”
3. The proposal would help enable further development and improvement of the property.

### **Conditions:**

1. That the developer be responsible to meet all provisions of the CBD zoning district and the Land Development Code with the details finalized with staff during Final Site Plan review.
2. That the requirements and conditions of the various City Departments and Divisions be met and finalized during the Final Site Plan Review process with staff.
3. That the applicant revise the plat note regarding the extension of Monroe Street as described in the staff redlines of the preliminary plat; or work with Staff to develop alternate language for this note that is acceptable to both the City and applicant, to provide adequate notice of the future extension of Monroe Street through this property.
4. That the setbacks for this development be reduced to allow for the creation of the lots as shown on the preliminary plat with adequate “no-build” easements shown on the plat (as directed by staff) to ensure that building and fire codes be maintained.

Planner:



Mike Wilcox  
Planning Director

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Exhibit "A"
(See the attached file for full details)

South Towne Center Mall Subdivision Amended Plat. Includes title block, boundary description, lot descriptions, plat notes, and various tables (Line Table, Parcel Table, Access Table, etc.).