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Staff Report Memorandum April 20, 2023

To: Planning Commission
From: Community Development Department
Subject: Interpretation of the term "Mixed Use Development"

MSC03202023-006505

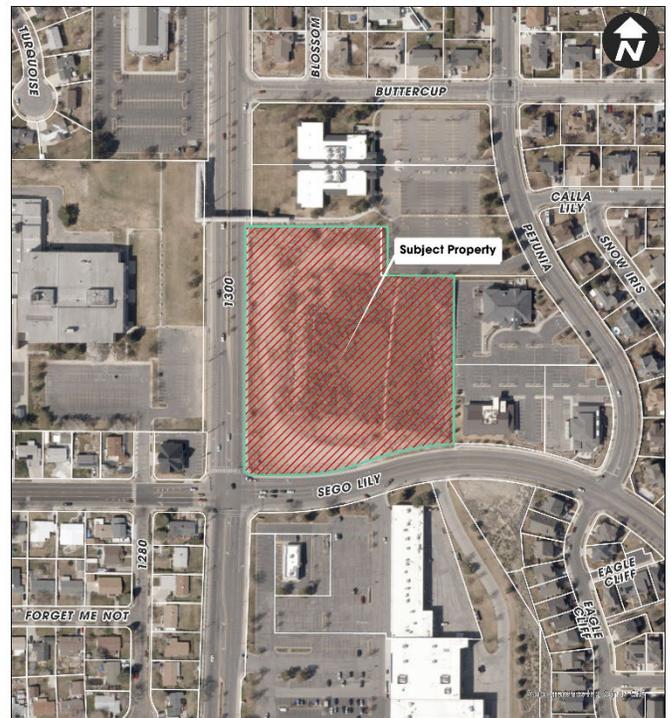
Request

The Community Development Director, James Sorensen, is requesting the Planning Commission provide the interpretation of the term "mixed use development" as applied in the context of a conditional use permit application on a property located at 10165 South 1300 East. The application is to seek review and approval of a mixed use development for this site. This property is zoned Neighborhood Commercial (CN) which generally allows only commercial uses, but also allows for a mixed use development as a conditional use. The key determination to be made is whether this proposal qualifies as a mixed use project under the Sandy City Code. If not, the use is not allowed in this zone or at this location. If yes, then the applicant will proceed with their conditional use application.

Background

Staff received a conditional use permit application which the application materials are provided in Exhibit "A" (see attachment for full details). It seeks review and approval of a mixed use development land use in the Neighborhood Commercial (CN) zone district from Wade Budge of Snell & Wilmer, LLP (applicant) which is representing the property owner Magna Investment & Development, LTD.

This property is surrounded by professional and medical office buildings to the east and the Salt Lake County Public Library to the north (zoned SD(PO/R), Professional Office subdistrict). To the south is the Alta View retail shopping center (zoned Community Commercial (CC)). The Eastmont Middle School (zoned R-1-8) is located to the west of the property.



MSC03202023-006505
Mixed Use Interpretation
10165 S 1300 East

Community Development Department
Cartography Eleanor Mearns



Public Notice and Outreach

This item has not been noticed to any property owners or to the property since the request for interpretation is not property specific and notice is not required. For future applications requiring notice, all requirements will be followed.

Likewise, a neighborhood meeting has not been held but will be prior to any future Planning Commission reviews of property specific requests on the referenced property.

Analysis

Staff members have had multiple conversations with the applicant regarding the type of development that would meet the definition of mixed use. We've seen several iterative plans that partially addressed the code requirements, but never fully incorporated a true mixed use development proposal. The applicant made a complete submittal of all required materials for a conditional use application recently. While reviewing the application, staff continued to have concerns that the proposed development did not meet the definitional standard of "mixed use development" as outlined in the Land Development Code. The Director has called upon the Planning Commission to provide a final interpretation on the term "mixed use development", in accordance with the interpretive authority given to the Planning Commission as per [section 21-1-6](#) of the Land Development Code, prior to proceeding with the review of their conditional use permit application.

To assist the Planning Commission in making this determination, staff has highlighted a few areas of the Land Development Code that help define and describe the composition of a mixed use development. The following are the definitions of the related terms found in [section 21-37-14\(10-14\)](#):

Sec. 21-37-14. - "M" Definitions.

- (10) *Mixed use, commercial and residential development*, means a development consisting of a mixture of residential and commercial uses with an approved ratio, developed according to a master site plan. The development of the uses is of sufficient size and physical improvement to protect surrounding areas and the general community, and to ensure a harmonious integration into the neighborhood.
- (11) *Mixed use development* means a development project that includes residential and one or more of the following land uses: retail, service, commercial, or office; and which, vertically or horizontally, integrates critical massing of physical and functional components into a coherent plan that promotes walkability through uninterrupted pedestrian connections, and reduces traffic and parking impacts.
- (12) *Mixed use, horizontal*, means commercial and residential uses, etc., which are in close proximity to each other and designed in a village manner, but not necessarily within the same building structures.
- (13) *Mixed use, residential and office use*, means a development consisting of a mixture of residential and office uses with an approved ratio, developed according to a master site plan. The development of the uses is of sufficient size and physical improvement to protect surrounding areas and the general community, and to ensure a harmonious integration into the neighborhood.
- (14) *Mixed use, vertical*, means commercial, office, or residential uses, etc., designed in a village manner which are within close proximity to each other within the same building structure.

The land development code contemplates a variety of different types and configurations of a mixed use development (horizontal, vertical, etc.) through these various definitions, but there are commonalities among them and the same

requirements for each mixed use development that are found in [Section 21-23-24](#). If a conditional use permit for a mixed use development is approved on the property, the code requirements for a mixed use development are applied to the property similar to an overlay zone. The additional regulations specific to a mixed use land use must be met in addition to the base zone requirements. They are essential to ensure that a mixed use development is realized. These requirements can be summarized in three categories: Village/Variety, Village/Walkable, and Master Planning/Coordination. Staff has analyzed these code requirements to the applicant’s proposal. Based on these criteria, staff finds that this proposal does not qualify as a mixed use development. This analysis is summarized in the tables below:

<u>Village/Variety</u>	
Sandy City Code (left)	Proposed Project Analysis (right)
<p>A mixed use development must consist of more than just a collection of types of uses that are adjacent (vertically or horizontally) to one another. It requires that they be designed to function as a walkable village center providing a variety of housing, employment opportunities, goods and services that support the existing and proposed residents of a given area. A development that is focused on commercial retail and office uses that harmoniously integrates a residential element into the overall development scope to create a village center would be an appropriate application of a mixed use development.</p>	
<p>A mixed use development:</p> <ul style="list-style-type: none"> • “encourages a combination of land uses which might normally be regarded as incompatible.” (Sec. 21-23-24(a)(1)) • creates a self-sustaining, walkable village where residents can “walk to work, to shopping, to recreational facilities, and have access to mass transit.” (Sec. 21-23-24(a)(2)) • provides “a variety of housing opportunities and choices that include a range of household types, family sizes, and incomes.” (Sec. 21-23-24(a)(2)). “Where size and scale permit, housing units shall include a mix of housing types, housing size, and number of bedrooms, encouraging neighborhoods with a mix of family cycles and incomes.” (Sec. 21-23-24(d)(1)b) • is “designed in a village manner.” (Sec. 21-37-14 (12), (Sec. 21-37-14 (14)) 	<p>The proposal is not designed in a village manner.</p> <p>The proposal shows “live/work units” that are not designed to function as such as the spaces are disconnected. The amount of area designated for “work” within these buildings is too small to function as standalone office space and will likely be utilized for storage and maintenance spaces.</p> <p>The amount of proposed retail uses represents 6% of the overall building square footage (not including the structured parking areas).</p> <p>The amount of live/work “office” space represents 1% of the overall building square footage (not including the structured parking areas).</p> <p>The proposal does not include a range of housing types.</p>

<u>Village/Walkable</u>	
Sandy City Code (left)	Proposed Project Analysis (right)
<p>A mixed use development is required to function as a walkable village center, providing a mix of uses within close proximity, and uninterrupted pedestrian connections, thereby reducing traffic and parking impacts.</p>	

<p>A mixed use development:</p> <ul style="list-style-type: none"> • creates a self-sustaining, walkable village where residents can “walk to work, to shopping, to recreational facilities, and have access to mass transit.” (Sec. 21-23-24(a)(2)) • has “convenient pedestrian commercial services, employment opportunities.” (Sec. 21-23-24(a)(2)) • “integrates critical massing of physical and functional components into a coherent plan that promotes walkability through uninterrupted pedestrian connections, and reduces traffic and parking impacts.” (Sec. 21-37-14 (11)) <p>Mixed use developments “without the above walkable elements are unacceptable and will not be approved.” (Sec. 21-23-24(a)(2))</p>	<p>The proposal does not integrate critical massing of physical and functional components into a coherent plan that promotes walkability through uninterrupted pedestrian connections and reduces traffic and parking impacts.</p>
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Master Planning and Coordination

Sandy City Code (left)	Proposed Project Analysis (right)
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A mixed use development requires coordination and master planning.

<p>To achieve a walkable development, the following are required to be coordinated with adjacent property owners (Sec. 21-23-24(d)):</p> <ul style="list-style-type: none"> • appropriate land uses • pedestrian connections • cross-easements • common driveways • no drive-thru windows <p>A “walkable Mixed Use Master Plan . . . must show all phases of the development (including any phasing plans) and both existing and reasonable projected development on adjoining properties, determined through consultation with City staff and adjoining property owners.” (Sec. 21-23-24(e)(1)).</p> <p>A mixed use development:</p> <ul style="list-style-type: none"> • demonstrates “harmonious integration into the neighborhood” (Sec. 21-37-14 (10), 21-37-14 (13)) • “integrates critical massing of physical and functional components into a coherent plan that promotes walkability through uninterrupted pedestrian connections, and reduces traffic and parking impacts.” (Sec. 21-37-14 (11)) 	<p>The proposal does not demonstrate coordination and master planning with surrounding property owners or integrate surrounding existing/future uses.</p>
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Staff Concerns

As described in the tables above, the design proposed by the applicant fails at creating a mixed use development on many levels. The proposal mostly consists of apartments, which are defined in the code as “multiple unit dwellings”. This land use is not permitted in the Neighborhood Commercial (CN) zone. The proposal does not include enough other non-residential elements, nor are they designed in a manner that creates a walkable mixed use village as described in the land development code. In other words, the project appears to have been designed as an apartment project without much regard to the other required elements of a mixed use development. Staff would suggest a master-planned development that is focused on commercial retail and office uses (which are permitted in the zone) that harmoniously integrates a residential element into the overall development scope to create a walkable village center would meet the definitional standard of a mixed use development.

Recommendation

Staff recommends that the Planning Commission determine that this request does not meet the definitional standard of a “Mixed Use Development” as outlined in the Land Development Code based on the following findings:

Findings:

1. A mixed use development must consist of more than just a collection of types of uses that are adjacent (vertically or horizontally) to one another. It requires that they be designed to function as a walkable village center providing a variety of housing, employment opportunities, goods and services that support the existing and proposed residents of a given area. The proposal does not meet this requirement.
2. A mixed use development is required to function as a walkable village center, providing a mix of uses within close proximity, and uninterrupted pedestrian connections, thereby reducing traffic and parking impacts. The proposal does not meet this requirement.
3. A mixed use development requires coordination and master planning to successfully create a walkable community. The proposal does not meet this requirement.
4. The development proposal does not meet the definition of a “Mixed Use Development” as found in [section 21-37-14\(10-14\)](#).
 - a. The proposal shows that there has been no effort to coordinate and master plan with surrounding property owners and integrate those existing uses or future development. After evaluating this proposal within its development area only, and not including the surrounding existing properties and uses, the Planning Commission finds there is not a sufficient mix of uses.
 - b. The proposal is not of sufficient size and physical improvement to protect surrounding areas and the general community, and to ensure a harmonious integration into the neighborhood.
 - c. The proposal does not integrate critical massing of physical and functional components into a coherent plan that promotes walkability through uninterrupted pedestrian connections and reduces traffic and parking impacts.
 - d. The proposal is not designed in a walkable village manner.
 - e. The proposal shows “live/work units” that are not designed to function as such because the spaces are disconnected. The amount of area designated for “work” within these buildings is too small to function as standalone office space and will likely be utilized for storage and maintenance spaces.
 - f. The amount of proposed retail uses represents only 6% of the overall building square footage (not including the structured parking areas).
 - g. The amount of live/work “office” space represents only 1% of the overall building square footage (not

including the structured parking areas).

5. This development proposal is focused on creating a multi-unit dwelling development, which is a use that is not permitted as a standalone use in the CN Zone and does not provide sufficient office/retail elements to achieve a mixed use development.
6. A development that is focused on commercial retail and office uses that harmoniously integrates a residential element into the overall development scope to create a village center would be an appropriate application of a mixed use development.

Planner:

Mike Wilcox
Planning Director

File Name: S:\USERS\PLN\STAFFRPT\2023\MSC03202023-006505 - MIXED USE INTERPRETATION\STAFF REPORT.DOCX

Exhibit "A" – See the attached file for full information.

SANDY - SEGO LILY VICINITY ZONING USE TYPES

Snell & Wilmer | **DE DESERT EDGE** Architecture

SANDY - SEGO LILY DR. & 13TH EAST