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**NORTH SALT LAKE CITY
PLANNING COMMISSION MEETING
FEBRUARY 12, 2013**

FINAL

Chairman Eric Klotz called the meeting to order at 6:30 p.m. and welcomed those present.

PRESENT: Chairman Eric Klotz
Commissioner Robert Drinkall
Commissioner Kim Jensen
Commissioner Ted Knowlton
Commissioner Ryan Mumford
Commissioner Bruce Oblad

ABSENT: Council Member Brian Horrocks

STAFF PRESENT: Ken Leetham, Assistant City Manager; Ali Avery, City Planner; Kathy Streadbeck, Minutes Secretary.

VISITORS: Joe McAllister; Ed Medvic; James Murphy; Bart Udink; Don Ipson; Nick Taylor; Nathan Harrison; Scott Hughes; Charlie Davis; and Todd Hughes.

24 1. PUBLIC COMMENTS

25
26 There were no public comments.

27
28 2. CONSIDERATION OF A CONDITIONAL USE PERMIT LOCATED AT 570 NORTH
29 TAYLOR WAY, UNITS 1 & 2. BART UDINK, APPLICANT.

30
31 Ali Avery reported the proposed conditional use permit is for a “wood product manufacturing”
32 cabinet shop in an existing warehouse building in the M-D zoning district. The applicant
33 proposes to lease 6,000 square feet including both warehouse and office space. In addition, the
34 applicant proposes to lease approximately 2,000 square feet of outside storage within the parking
35 area at the south of the building. The applicant is required to screen this outdoor storage from
36 view with a 6-foot high solid fence or wall, and will not take up any required parking stalls for
37 the building. As proposed, including the outside storage area, parking requirements are still in
38 compliance for this site. The business will be subject to the city’s Noise Ordinance which limits
39 the use of power equipment to certain hours of the day. The applicant is proposing to install a
40 dust collection system subject to approval by the city’s Chief Building Official and Fire Marshal.

41 The proposed business will employ five (5) people. This conditional use permit is also subject to
42 the requirements of the City's Land Use Ordinance (10-7-1-4).

43

44 **Commissioner Knowlton made a motion for the Planning Commission to approve the**
45 **proposed conditional use permit for wood product manufacturing located at 570 North**
46 **Taylor Way, Units 1 & 2 with the following condition:**

47

48 **1. All outside storage must be screened from view with a solid fence or wall at least six**
49 **(6) feet in height, and may not take up any required parking stalls for the building.**

50

51 **The motion was seconded by Commissioner Oblad and passed by unanimous vote (6-0).**

52

53 **3. CONSIDERATION OF A CONDITIONAL USE PERMIT FOR UNITED SITE**
54 **SERVICES LOCATED AT 500 NORTH REDWOOD ROAD. EDWARD MEDVIC –**
55 **UNITED SITES SERVICES, APPLICANT.**

56

57 Ali Avery reported the proposed conditional use permit is for a “contractors and land
58 development (equipment/material storage yards)” business that rents temporary fencing, portable
59 toilets and roll-off dumpsters to projects and businesses in the area, and is proposed to be located
60 in the M-D zoning district. This site will serve as the headquarters for the Greater Salt Lake area
61 and is being relocated from Ogden. The business will bring twenty (20) employees to North Salt
62 Lake. The fencing, toilets and dumpsters not in use will be stored outside until they are needed.
63 The site will also serve as a parking area for pick-up, delivery, and pump trucks. Trucks are
64 dispatched daily from this site and returned for overnight storage. The pump trucks pump out the
65 contents of the toilets at various locations and then empty the contents at an approved sanitation
66 facility. Pump trucks will be stored within the warehouse building.

67

68 All the outdoor storage will be required to be screened from view by a 6-foot high solid fence or
69 wall. It has been determined that a slatted chain-link fence would not be in compliance with the
70 City's beautification goals for Redwood Road (City Code 10-1-33.B.2). No outdoor storage may
71 be located within twenty (20) feet of the public right-of-way (City Code 10-11-2). Additionally,
72 the proposed site plan designates seven (7) parking stalls for trailer storage. This storage area
73 must be relocated to be at least twenty (20) feet away from any public right-of-way, and must
74 also be screened from view with at least a 6-foot solid vinyl fence or wall.

75

76 Currently, there are no striped parking stalls on the site; therefore, it is recommended the
77 applicant be required to stripe the parking stalls in accordance with city standards. In addition,
78 there are landscaped areas on site that have not been maintained. It is recommended the applicant

79 be required to improve, irrigate and maintain these landscaped areas to enhance the appearance
80 of the site. The proposed application does not require compliance with the adopted cross-section
81 for Redwood Road, so the applicant will not be required to install sidewalk and street trees along
82 the Redwood Road frontage at this time. If there is a proposed expansion of the building or any
83 new construction in the future, then the site would be required to come into full compliance. The
84 proposed conditional use permit is subject to the requirements of the City's Land Use Ordinance
85 (10-7-1-4).

86
87 Mrs. Avery responded to questions from the Commission. She clarified the ADA parking stalls
88 will be striped and marked according to City ordinances. She said the portable toilets will already
89 be clean when stored on this site. She also clarified the required landscaping may be water wise
90 xeroscaping.

91
92 Nathan Harrison said he is the property owner to the north of this proposed site. He questioned
93 how the roll-off dumpsters are maintained.

94
95 Edward Medvic, applicant, said he is accepting of the proposed conditions of approval. He said
96 this is a better location for their company because it is closer to a majority of their customers. He
97 explained the process of delivering, maintaining, and cleaning the portable toilets. The toilets
98 leave their site clean and empty and return the same way. All disposal and cleaning of toilets
99 takes place off site and is done in accordance with disposal regulations. He explained the roll-off
100 dumpsters are also emptied off-site before they are returned for storage. These dumpsters are not
101 cleaned on a regular basis. They are used primarily for dry debris on construction sites. There
102 may be some dust residue left behind, but there is rarely anything rotten or smelly. If this is the
103 case the dumpster will be washed. He said the site will be maintained in an orderly fashion. All
104 materials are stored in organized rows and will be shielded from site as required. He also
105 mentioned the hours of operation are from approximately 6am-6pm with even less hours on
106 weekends; 24-hour services are not available.

107
108 The Commission asked for clarification regarding the proposed fencing on the site. Ken
109 Leatham, Assistant City Manager, said the south property line has an existing chain link fence.
110 This fence will be slatted for privacy. All outside storage will be fenced with a required 6-foot
111 high solid vinyl fence or wall. Active materials, those items being moved daily including the
112 trailers, which are only on site overnight do not have to be screened. In addition, all fencing must
113 be located 20-feet away from any public right-of-way.

114

115 **Commissioner Mumford made a motion for the Planning Commission to approve the**
116 **proposed conditional use permit for United Site Services at 500 North Redwood Road with**
117 **the following conditions:**

118

119 **1. All the employee and customer parking stalls must be striped according to city**
120 **standards, including ADA parking stalls must be striped and marked.**

121 **2. The existing landscaping on-site must be improved, irrigated, and maintained.**

122 **3. The screening of all outdoor storage must be accomplished with a solid vinyl fence**
123 **or a wall, with allowance of a slatted chain link fence to the south of the storage. No**
124 **outdoor storage is allowed within 20-feet of the public right-of-way. The storage of**
125 **trailers is included in the definition of outdoor storage.**

126 **4. All the conditions must be met prior to issuance of a city business license.**

127

128 **The motion was seconded by Commissioner Jensen and passed by unanimous vote (6-0).**

129

130 4. PUBLIC HEARING - CONSIDERATION OF A REZONE OF PROPERTY LOCATED
131 AT APPROXIMATELY 900 NORTH REDWOOD ROAD FROM C-G to M-D. JOE
132 MCALLISTER – HUGHES & HUGHES INVESTMENT CORP., APPLICANT.

133

134 (*Note:* Staff specifically requested the staff report for this item dated February 12, 2013 be made
135 part of the public record for this meeting. It is attached to these minutes and noted as Exhibit A)

136

137 Ken Leatham, Assistant City Manager, reported the Development Review Committee (DRC)
138 recommends denial of the proposed re-zoning of property. On February 7, 2012 the City Council
139 approved the rezone of several properties from Manufacturing Distribution (M-D) to General
140 Commercial (C-G). The applicant's property is located within this rezoned area. Following this
141 rezone the City Council instructed staff to prepare a code amendment that would allow property
142 owners to clarify their status in a way that would allow continued use of their properties without
143 being classified as "legally nonconforming." The result of this assignment was the adoption of
144 Ordinance No. 2012-09 establishing the "Existing Uses Overlay Zone." This new overlay zone
145 allows property owners to have their existing uses classified as permitted in the C-G Zoning
146 District. The City Council rezoned these parcels in order to promote development themes
147 throughout the Redwood Road corridor, including: eliminating "islands" of industrial zones,
148 promoting commercial activity, encourage retail commercial, and encourage commercial
149 development and redevelopment.

150

151 The applicant has been informed of the existing uses overlay option which would deem their
152 property use permitted, but has decided to continue with their rezone request. The applicant

153 claims they need to have the same zoning designation on all the property they own in order to
154 continue to run their business as they have for many years.

155

156 The DRC does not find that rezoning this property back to its previous industrial zoning
157 designation would in any way assist the City in carrying out the goals for the Redwood Road
158 corridor. The General Plan (adopted in 1991) states the Redwood Road corridor should be
159 dedicated to commercial development and that further development is encouraged, but
160 controlled. The DRC finds it has been the intention of the City to encourage and require
161 commercial development along the Redwood Road corridor for over 20 years and that the rezone
162 actions of the City Council (February 7, 2012) were consistent with that objective.

163

164 The February 7, 2012 rezone did not render the current and lawful uses in existence at that time
165 as illegal uses, but only legally non-conforming. The existing uses overlay tool is merely a way
166 for impacted property owners to re-classify their lawful uses, now classified as legally
167 nonconforming, into permitted uses and avoid any negative consequences arising out of a status
168 as a non-conforming land use. Such permitted uses may continue uninterrupted, expand as
169 needed and otherwise enjoy full status of conformance to the City's zoning requirements. In this
170 case, the DRC believes the existing uses overlay tool would be of great benefit while at the same
171 time preserving the City's future and very long-term goal of one day allowing for general
172 commercial uses at the subject location.

173

174 Although a denial of this application would divide the applicant's overall property into two
175 zoning designations, rezoning the property to M-D would establish that the entire property would
176 remain industrial for many years, which is not the overall goal of the City. Keeping the property
177 as a commercial zoning designation would in no way harm the tax base, cause degradation of the
178 aesthetics of the property, or decrease the property value. In fact, a commercial zoning
179 designation (with or without the Existing Uses Overlay) would likely increase the property value
180 as it would open up more options for permitted land uses. Mr. Leetham explained the City
181 Council is trying to avoid a situation where the expansion of the M-D use and subsequent
182 buildings take place in an area where the future goal of the City is to encourage commercial uses
183 and buildings. The proposed application is inconsistent with the long-range goals of the City.

184

185 Chairman Klotz opened the public hearing.

186

187 Joe McAllister, Counsel for the applicant, said Hughes and Hughes Investment Corp, does not
188 believe the Existing Uses Overlay is an effective tool to address both their business needs and
189 their private property rights. He said they also do not believe a rezone back to M-D is contrary to
190 the General Plan or the desires and goals of the City Council. He said, of all the properties

191 rezoned in February 2012, this is the only property where the entire footprint of a business was
192 not included. Only a portion of the Hughes property was rezoned to C-G. He said this is due, in
193 part, because of a deed mix-up in the 1980's. He explained there are two parcels of land which
194 Hughes owns and operates. These parcels have always been treated as one parcel and have
195 always been used as industrial cohesively. He said the rezone came about because the City
196 Council anticipated the creation of a Regional Activity Center (RAC) southwest of Redwood
197 Road and Center Street. It made sense to rezone property around the RAC to commercial in
198 order to promote the RAC and originally only extended north to 100 north. It was later that the
199 corner of Redwood and 1100 North was included in the rezone. He said it makes sense to rezone
200 the corner to commercial, but it does not make sense to extend that onto the Hughes property. He
201 said there is no current proposal or future plans to change the use or add buildings on the Hughes
202 property. The C-G zone simply destroys the unity of zoning for the Hughes property and causes
203 problems with operating their business, including loan payments and business documents. It is
204 difficult to leverage property assets when there is split zoning. Hughes should also have the right
205 to maintain their sub-leasing possibilities.

206

207 Mr. McAllister explained there is no way to split the north parcel (C-G) from the Hughes
208 property and from their current existing use (M-D). This parcel contains the main access to their
209 site. He explained both the fuel island for Hughes and one existing building is split among the
210 two zoning designations because the parcel line was inaccurately measured and recorded. He
211 said Hughes is not in the retail business and does not intend to be in the retail business and
212 respectfully requests their entire property be rezoned back to its original designation of M-D. He
213 said the proposed General Plan encourages the property rights of business owners and
214 encourages the expansion or growth of existing businesses. He read from the January 31, 2012
215 Planning Commission minutes and the February 7, 2012 City Council meeting minutes. He said
216 there were five (5) rezone options presented to the Commission at that meeting. The Planning
217 Commission minutes reflect a desire to set the ground work for the RAC and passed a motion to
218 rezone only the southeast corner of Redwood and Center Street to C-G. The Planning
219 Commission also moved not to rezone any other parcels at that time. He said he does not see the
220 connection between the RAC and extending the C-G zone ten (10) blocks north to include the
221 Hughes property. He said it was stated by the City Manager in the City Council minutes that the
222 rezone at the corner of Redwood and 1100 North was not critical. However, the City Council still
223 rezoned the Hughes property. He said, it seems, according to the minutes on record, that the
224 rezone of the Hughes property was not necessary or critical for the support of the RAC.

225

226 Mr. McAllister said the proposed General Plan (on tonight's agenda) discusses a desire to cluster
227 retail and shows (Figure R.3: Encourage Clustered Retail in Redwood Road District) a preferred
228 cluster of retail on the southwest corner of Redwood and 1100 North. It does not suggest retail

229 on the Hughes property. He said Hughes has spent a significant amount of money, time, and
230 planning to create a footprint of businesses with compatible uses in order to reduce conflicts. He
231 said the proposed General Plan (Goal R-2.1.1) encourages retaining and expanding current
232 businesses. He said rezoning the Hughes property back to M-D will accomplish this goal and is
233 in keeping with the goals of the General Plan. He said Hughes is a clean, orderly, good industrial
234 tenant who brings generous tax revenue to the City. It is not fair to bisect their property and
235 diminish their property rights. He said there is no harm in recommending to the City Council the
236 proposed rezone back to M-D which is in accordance with the currently existing use,
237 surrounding uses, and the proposed General Plan amendments. He said North Salt Lake Code
238 (10-1-43) states that regardless of division or more than one tax notice (i.e., separate parcels) all
239 contiguous land, held in one ownership should be considered a whole parcel.

240
241 Scott Hughes, property owner/applicant, said the immediate southeast corner of Redwood Road
242 and 1100 North is a reasonable location for commercial, but to extend that zone onto his property
243 bisecting his business is not practical. He said they have invested a great deal into their property
244 in order to sustain their growth and would like to continue under their original industrial zone.
245 He said they have been in business since the 1980's and would like to retain their property rights.
246 He explained they have always considered their property one parcel and it has always been used
247 and viewed as such. He said the building that bisects the parcel line was only built three years
248 ago. If the parcel line was reality the approval for that building would never have been allowed.
249 He said they cannot continue to expand their business northward on their own property if this
250 parcel is not rezoned back to M-D. He said they are an industrial use and will always be; there is
251 no way to expand their business into a commercial zone.

252
253 Mr. Leetham said the version of the General Plan that Mr. McAllister referred to is not currently
254 adopted and is not the General Plan that was in existence at the time of the rezone. He said it is
255 irrelevant what was said in past meeting minutes or what is proposed for the amendments to the
256 General Plan. The guiding document for this issue is the Ordinance (No. 2012-5) that was
257 adopted amending the zoning map last February 2012. The County records clearly indicated the
258 property boundaries, perhaps there was a deed mistake, but the rezone was legally accomplished
259 per County data, which was provided to the City Council along with pictures of each parcel. He
260 said the applicant has been informed that the City will consider all their business activities as
261 permitted in the Existing Uses Overlay zone, as long as those activities are owned and operated
262 by Hughes. The Existing Uses Overlay would not include buildings leased to other entities. The
263 City's future goal for this area is commercial. He said reverting back to M-D would create
264 another industrial park on Redwood Road, a goal the City does not share.

265
266 Chair Klotz closed the public hearing.

267

268 Commissioner Knowlton said the Planning Commission is not a legislative body and does not
269 have the ability to create policy for the City. The Commission is being asked to find if the
270 proposed amendment is in accordance with the General Plan (1991), goals, and policies of the
271 City and if the proposed amendment is reasonably necessary to carry out changed or changing
272 conditions. Although the applicant has reasonable arguments, it is still clear a rezone back to M-
273 D is not compatible with the future goals of the City. Commissioner Knowlton also noted, it is
274 odd, that at the time of the rezone a consolidation proposal or boundary line adjustment was not
275 pursued.

276

277 Mr. McAllister said Hughes was aware of the rezone, but did not participate in the rezone
278 because the original plans did not include their property and there were no red flags that led
279 Hughes to believe there would be any future problems with the rezone. He said a lot
280 consolidation is now no longer possible because of the conflicting zones. If Hughes were to
281 consolidate their property today ordinances dictate the more restrictive zone applies, which
282 would render Hughes entire property non-conforming. He said they are simply asking the
283 Commission to recommend to the City Council consideration that there is confusion with this
284 property and there are adverse affects to Hughes, the property owner.

285

286 Commissioner Drinkall said the City Council acted in accordance with their duties when they
287 amended the zoning map in 2012. He said the minutes show significant discussion and a
288 unanimous vote by the City Council for the rezone. It is difficult to believe the Council acted
289 hastily without full consideration of all factors. The City Council acted in a manner that was in
290 the best interest of the city. He said although the applicant has some compelling arguments staff
291 has provided a recommendation and the Commission does not have the power, the tools, or the
292 ability to do anything different. It is up to the City Council to make this legislative decision.

293

294 Commissioner Mumford said there are some confusing questions associated with this issue. He
295 wondered whether the City Council was fully aware that Hughes property consists of more than
296 one parcel and that a building is bisected between zones. It is strange that these issues were not
297 discussed or resolved.

298

299 Commissioner Jensen agreed there is obvious confusion and conflict with the property. She said
300 the Planning Commissions main role is to help land owners accomplish what they desire in
301 accordance with city ordinances. She said the applicant has provided a great presentation and
302 dilemma. However, it is up to the City Council to make this legislative decision.

303

304 Chair Klotz said the Existing Overlay Zone is the appropriate tool to help current property
305 owners continue as they are. The City Council provided this tool because they were aware of the
306 complications the rezone may create and this tool allowed the continuation of current uses while
307 providing direction toward future goals. He agreed it is important to consider the City Council
308 voted unanimously for the rezone last February.

309

310 **Commissioner Drinkall said the Commission recognizes that there may be confusion with**
311 **the Hughes and Hughes Investment Corporation and there may be a need for the City**
312 **Council to revisit this issue and make a final decision. He made a MOTION for the**
313 **Planning Commission to recommend to the City Council further review of the property**
314 **lines for the Hughes and Hughes Investment Corporation generally located at 900 North**
315 **Redwood Road for further discussion of converting back from the C-G Zoning District to**
316 **the M-D Zoning District prior to granting approval or denial, as necessary, and in the best**
317 **interest of the City and in accordance with the City's long term goals. Motion FAILED for**
318 **lack of a second.**

319

320 Mr. Leetham said it would be best if the motion spoke to the application. The failed motion
321 discussed part of the substance but fell short on the Commission's position regarding the
322 application. For example, if the property line dispute were resolved what is the Commission's
323 recommendation for zoning?

324

325 Commissioner Knowlton said it seems the Existing Uses Overlay would protect this applicant's
326 existing business. He said it is reasonable for the applicant to have consistent zoning for both
327 parcels and it is also reasonable for the applicant to request that zoning not be C-G. He said if
328 these parcels were joined he may look at this application differently, but since the parcels are
329 separate he recommends denial of the application.

330

331 Mr. McAllister agreed the parcels should be joined. However, this is not possible while the
332 parcels are separately zoned. He asked the Commission to urge the City Council to recognize the
333 confusion and recommend approval of the rezone in order to join these contiguously owned
334 parcels. He said the problem with the Existing Uses Overlay is that it demands a decision on
335 future use within twenty-four (24) months. He said decisions regarding property use can take
336 decades, it is not reasonable to expect Hughes to make a decision this quickly.

337

338 Mr. Leetham said it is not accurate to say what can or cannot be accomplished with the Existing
339 Uses Overlay because that is not the application before the Commission tonight. However, with
340 other Existing Use Overlay applications the City Council has tailored the approval to the
341 property owner. The Existing Uses Overlay is an exercise in researching zoning rights and then

342 establishing those rights in an ordinance. It is not a decision about what a property owner wants
343 to put on their property. It is a measurement of the existing activities on a given site as of
344 February 7, 2012 and whether the City is willing to allow those activities to continue, to expand,
345 and/or to grow to their fullest potential. He explained there are two choices for the use of this
346 property; any use within the C-G Zoning District and/or any uses the City Council determines
347 appropriate for the Existing Uses Overlay.

348
349 Commissioner Oblad said Hughes has created an industrial cul-de-sac on the east end of their
350 property. If this parcel is allowed to revert back to M-D it would be possible for Hughes to create
351 another industrial cul-de-sac, this time on Redwood Road. He said it is clear the General Plan,
352 the zoning ordinances and the City Council foresee commercial along Redwood Road, not more
353 industrial. Rezoning this parcel back to M-D would not be consistent with future goals.

354
355 **Commissioner Knowlton said given the existence of two (2) parcels on Hughes property,**
356 **the possibility of an application for an Existing Uses Overlay, and the fact that the extent of**
357 **the C-G Zoning District is a legislative decision he made a MOTION for the Planning**
358 **Commission to recommend denial to the City Council of the proposed rezoning of property**
359 **located at 900 North Redwood Road from C-G to M-D. The motion was seconded by Chair**
360 **Klotz.**

361
362 Commissioner Mumford said he lives in this area and is a strong proponent of commercial. He
363 said he is not positive the City knew where the property line was or clearly understood all the
364 issues with this property. It is not likely the Council would have rezoned a parcel that would
365 bisect a building if they were fully aware of the circumstances. He said he would be in favor of
366 rezoning Hughes entire property to C-G then granting the entire property an Existing Uses
367 Overlay. Commissioner Jensen agreed.

368
369 Commissioner Oblad said he gives the City Council the benefit of doubt. He does not believe the
370 City Council rezoned this property in ignorance; the Council is more competent than that.

371
372 Commissioner Drinkall said he believes the Council's decision to rezone was made in good
373 prudence, but he also agrees the Hughes property would make a great commercial cluster
374 development. He said if, in the future, Hughes decides to sell their property, the City should have
375 the opportunity to convert this area into commercial for the benefit of those living in the area. He
376 believes the Council made the rezone decision in the best interest of the City.

377
378 **Chair Klotz called for a VOTE on Commissioner Knowlton's motion. The motion passed**
379 **with a unanimous vote (6-0).**

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5. CONSIDERATION OF AMENDMENTS TO THE NORTH SALT LAKE CITY
GENERAL PLAN.

Commissioner Mumford and Chair Klotz expressed their happiness with the proposed changes to the General Plan amendments. Commissioner Mumford said, in his personal opinion, he may not agree with some of the changes, but he believes they are appropriate for the city as a whole. Specifically, he is personally in favor of fly-over ramps, but understands that they may not be the best option for the city. Chair Klotz agreed.

Ken Leetham, Assistant City Manager, said the proposed changes do not remove the option for fly-over ramps, but rather requires collaboration with all agencies (State & Federal) before these ramps are allowed. He also mentioned, in light of the previous agenda item, the Commission may wish to adjust the General Plan (Future Land Use) map to reflect changes that have taken place on the zoning map as they may not be consistent. However, law does not require these two maps be identical; as the General Plan is only a guiding document.

Commissioner Klotz made a MOTION for the Planning Commission to recommend to the City Council approval of the proposed General Plan amendments as presented tonight, February 12, 2013. The motion was seconded by Commissioner Drinkall and passed by unanimous vote (6-0).

6. APPROVAL OF MINUTES

The minutes of the Planning Commission meeting held January 29, 2013 were reviewed. **Commissioner Oblad made a MOTION to approve the minutes as written. The motion was seconded by Chair Klotz and passed by unanimous vote (6-0).**

7. ADJOURNMENT

The meeting was adjourned at 9:05 p.m.


Chairman


Secretary



NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

10 East Center Street
North Salt Lake, Utah 84054
(801) 335-8700
(801) 335-8719 Fax

MEMORANDUM

TO: Planning Commission

FROM: Ali Avery, City Planner

DATE: February 12, 2013

SUBJECT: Re-zoning of the property generally located at 900 North Redwood Road from C-G to M-D.

RECOMMENDATION

The Development Review Committee (DRC) recommends denial of the proposed re-zoning of property generally located at 900 North Redwood Road from the C-G to the M-D zoning district.

BACKGROUND

On February 7, 2012, the City Council approved the re-zoning of several properties from Manufacturing Distribution (M-D) to General Commercial (C-G). Based upon the request of several property owners affected by this action, the City Council also instructed City Staff to prepare a code amendment that would allow property owners to clarify their status in a way that would allow continued use of their properties without be classified as "legally non-conforming". The result of that Council assignment was the adoption of Ordinance No. 2012-09 (see attached) which established "Existing Uses Overlay Zone". This overlay zone allows for owners, through a rezoning application process, to have the existing uses on their properties be classified as permitted uses in the C-G zoning district at that particular location only.

The applicant, Hughes & Hughes Investment Co., owns one of the properties that was affected by the re-zoning about a year ago, specifically Parcel #01-083-0090 located at approximately 900 North Redwood Road. Their attorney has been made aware of the Existing Uses Overlay Zone option, which would make their currently conditional use (Contractors and land development – equipment/material storage) a permitted use under those overlay provisions. But, the applicants have decided that they would rather pursue the option of re-zoning their property back to the M-D zoning district.

I have attached the application materials from Hughes & Hughes Investment Corp. which lays out their reasoning as to why they feel that the re-zoning to M-D should be granted. I did not include the warranty deeds, legal descriptions, etc. because they do not play a part in making

your recommendation to the City Council. In this report, I intend to make known the Development Review Committee's reasoning for recommending denial of this request.

As you may recall, the purpose of the City-initiated rezoning of properties in February 2012 was to promote the following development themes along the Redwood Road corridor:

1. Eliminate "islands" of industrial zoning and promote commercial activities surrounding the Kimball parcel at the southwest quadrant of Redwood Road and Center Street.
2. Encourage retail commercial at major intersections.
3. Encourage currently vacant or underdeveloped land in either of those designated areas to be developed or redeveloped as commercial rather than industrial.

On the vicinity plan attached to this report, Hughes has shown the locations of the buildings on their property and has shown the extent of the area they own along 900 North and Redwood Road. The applicants' claim is that they need to have the same zoning designation on all of the property they own in order to continue to run their business as they have for many years. The DRC does not find that rezoning the property back to its previous industrial zoning designation would in any way assist the City in carrying out those goals listed above.

In North Salt Lake City Code 10-3-1:E, it states that "The Planning Commission shall recommend adoption of a proposed [zoning] amendment only when the following findings are made:

1. The proposed amendment is in accord with the comprehensive general plan, goals and policies of the city.
2. Changed or changing conditions make the proposed amendment reasonably necessary to carry out the "purposes" state in this title."

The proposed amendment is in accord with the comprehensive general plan, goals and policies of the city.

In the currently adopted North Salt Lake City General Plan (originally adopted in 1991), it states that the Redwood Road District (described as the property on both sides of Redwood Road for its entire length through the City) should be dedicated to commercial development. It states that further development be encouraged, but controlled. There is a separate designation for the traditional industrial park area west of I-15, excluding the Redwood Road corridor.

The DRC finds that it is clear that the City has had the intention to encourage and require commercial development along both sides of Redwood Road for over 20 years, and that the actions of the City Council on February 7, 2012 were consistent with that objective.

Changed or changing conditions make the proposed amendment reasonably necessary to carry out the "purposes" stated in this title.

The purpose of the city's Land Use and Subdivision Ordinances is: "This title is adopted to provide for the health, safety and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience and aesthetics of the city and its present and future inhabitants and businesses, to protect the tax base, secure economy in governmental expenditures, to foster the state agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values".

The DRC does not find that there are any “changed or changing conditions” that would prohibit the City from carrying out the purposes stated above. Hughes & Hughes Investment, in fact, would have a permitted use on their property and would have a more marketable piece of ground if it were to be zoned C-G with an Existing Uses Overlay rather than reverting to the M-D zoning district. Though it does divide their overall property into two zoning designations, rezoning the property to M-D would establish that the entire property would remain industrial for many years, which is not the overall goal of the City. Keeping the property as a commercial zoning designation would in no way harm the tax base, cause degradation of the aesthetics of the property, or decrease the property value. In fact, a commercial zoning designation (with or without the Existing Uses Overlay) would likely increase their property value as it would open up more options for permitted land uses.

It is also important to note that the City’s actions of rezoning the property to General Commercial did not render the current and lawful uses in existence at the time as illegal uses, but only legally non-conforming. As you know, the existing uses overlay tool is a way for impacted property owners to re-classify their lawful uses, now classified as legally non-conforming, into permitted uses and avoid any negative consequences arising out of a status as a non-conforming land use. Such permitted uses may continue uninterrupted, expand as needed and otherwise enjoy full status of conformance to the City’s zoning requirements. In this case, we believe the existing uses overlay tool would be of great benefit while at the same time preserving the City’s future and very long-term goal of one day allowing for general commercial uses at the subject location.

POSSIBLE MOTION

I move that the Planning Commission recommend denial to the City Council of the proposed rezoning of property generally located at 900 North Redwood Road from the C-G to the M-D zoning district.

Attachments

- 1) Letter from Hughes & Hughes Investment Corp.
- 2) Location map
- 3) NSL zoning map – February 2013
- 4) Vicinity plan

City Planning Commission
CITY OF NORTH SALT LAKE
10 East Center Street
North Salt Lake, Utah 84054

RE: *Parcel # 01-083-0090 – Rezoning Application*

To The Commission:

I am writing on behalf of Hughes & Hughes Investment Corp. (“Hughes”), regarding its Rezoning Application filed for Parcel #01-083-0090, which Parcel is more fully described in Exhibit “A” attached hereto, and is located within the municipal boundaries of the City of North Salt Lake, Davis County, State of Utah (hereinafter referred to as the “Property”).

As the fee title owner of the subject Property, Hughes is entitled to and hereby officially does petition the City Planning Commission for its recommendation of approval of Hughes’ Application, and the City Council for an affirmative vote approving the rezoning of Parcel # 01-083-0090 from its recent change to General Commercial (“G-C”), back to its previous designation as Manufacturing and Distribution (“M-D”).

To that end, this letter is intended to serve as Hughes’ satisfaction of the informational requirements codified within North Salt Lake City Code Title 10 Chapter 3 Section 1. First and foremost, Hughes has standing to seek such an amendment because it is the fee title owner of the Property. Hughes obtained title to the Property by way of a Special Warranty Deed, recorded upon the records of Davis County as instrument number 912707, on December 31, 1990, and remains the fee title owner and occupier of the Property to this date. *See Special Warranty Deed and Abstract of Title attached hereto.*

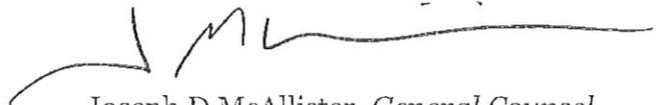
Second, Hughes asserts that the requested rezoning is necessary and proper to allow for the continued use of its entire property, and failing to do so will create confusion and conflict within the zoning designations upon a single contiguous piece of property, which just so happens to be comprised of two Parcels. The conflict exists because the subject Property, which was recently rezoned, sits adjacent to and is used in conjunction with Parcel #01-083-0089 to the south, and while the Parcels are separated by a security fence, this does not reflect in any way the actual boundaries of Hughes current operations, and does not change the fact that both Parcels are required for the utilization of Hughes’ property in that area. Therefore, Hughes requests that the City Council reconsider its previous decision to include the subject Property within the list of properties recently rezoned to the General Commercial (“G-C”) classification, because it conflicts with the adjacent land use, and is, quite frankly, incompatible with Hughes’ ability to utilize the contiguous piece of land that makes up its actual operational footprint ... regardless of the location of an arbitrary Parcel line within that piece of land.

As you are likely aware, the subject Property was originally part of the North Salt Lake Industrial Park and was zoned Manufacturing and Distribution (“M-D”) until the City Council acted on February 7, 2012, to rezone 15 individual parcels throughout the City by its adoption of Ordinance No. 2012-05. Upon information and belief, one of the

primary reasons for this rezone was that the City of North Salt Lake desired to designate strategically located Parcels near major roadway intersections for commercial development. Regardless of the merits of that decision, in practical effect, by failing to restrict the rezoning of the southeast corner of 1100 South and Redwood Road to only the Parcel which actually abuts that intersection, the City has created what is hopefully an unintended consequence -- splitting a contiguous piece of property into conflicting zoning designations. It is this result, and the attendant conflicts to Hughes' operations, that Hughes requests the Planning Commission and City Council to rectify by allowing the Property to revert to its previous zoning designation.

Finally, it should be noted that Hughes is aware of Ordinance No. 2012-09, but after careful consideration, it has been determined that because of the nature of the subject Property, including the fact that its use is inseparably connected to the entire footprint of Hughes' operation, an existing uses overlay simply does not adequately address the concern of having conflicting zoning designations on its property. Rather, it is Hughes' position that all parties have a vested interest in having a unified and clear approach to zoning designations in this location, and that when all relevant factors are taken into consideration, including, the nature of the affected property, its prior uses and the affect on adjacent properties, it is self-evident that the proper outcome of this Rezoning Application should be approval and amendment. We hope you will agree.

HUGHES & HUGHES INVESTMENT CORP.



Joseph D McAllister, *General Counsel*

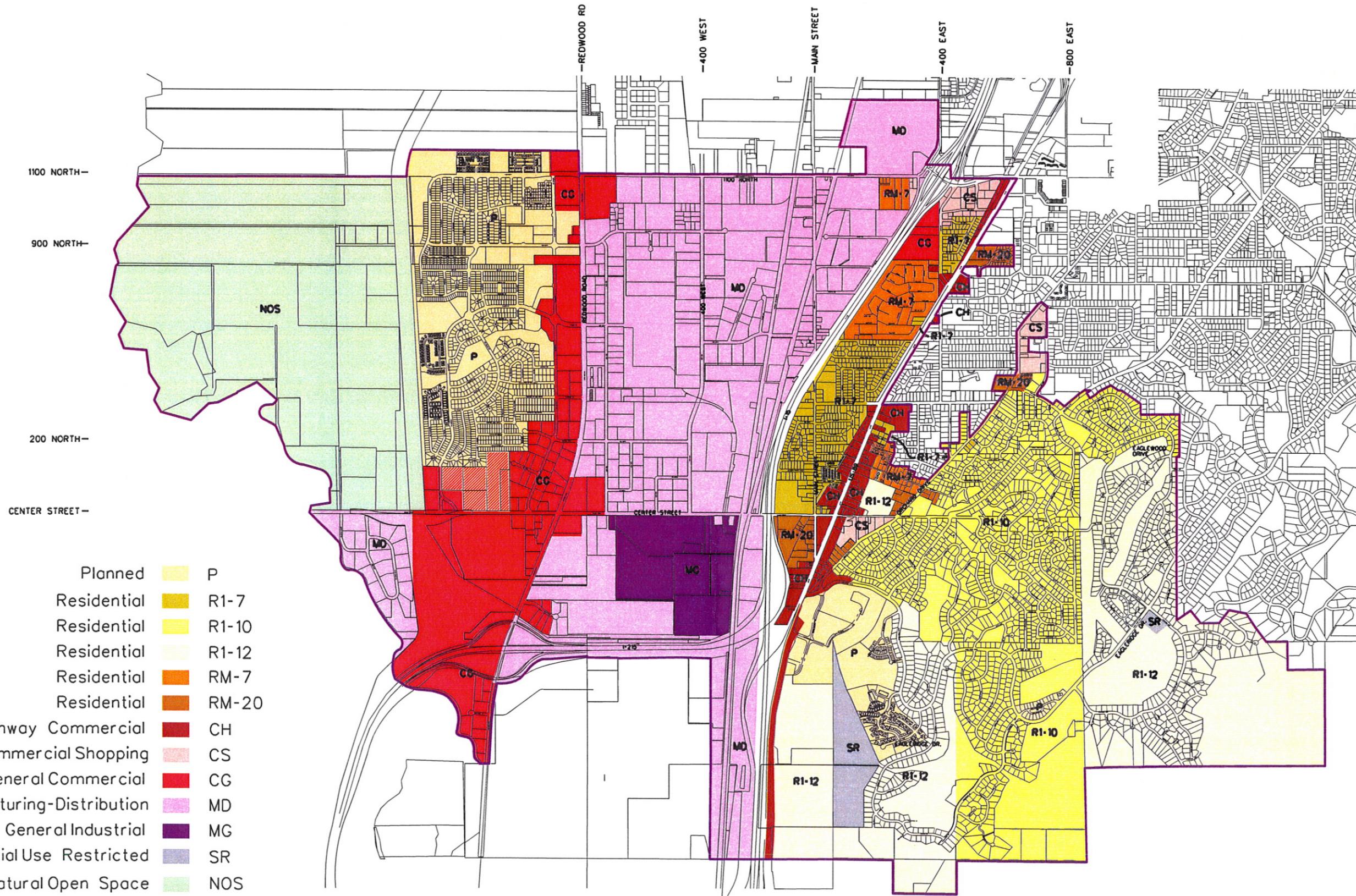


Google earth

feet
meters

3000
900





- Planned P
- Residential R1-7
- Residential R1-10
- Residential R1-12
- Residential RM-7
- Residential RM-20
- Highway Commercial CH
- Commercial Shopping CS
- General Commercial CG
- Manufacturing-Distribution MD
- General Industrial MG
- Special Use Restricted SR
- Natural Open Space NOS
- Existing Uses Overlay EUO

REVISION	DATE	BY	DESCRIPTION	DESIGN
				KDD
				DRAWN
				KDD
				CHECKED
				DATE
				FEB 2013
				F.S. NO.
				P.C. NO.

North Salt Lake City Zoning Map



CITY OF NORTH SALT LAKE
 10 East Center Street
 North Salt Lake, Utah 84064
 (801) 336-8700

LBN ARAVE
 Mayor
 BARRY EDWARDS
 City Manager

SHEET 1
 OF 1
 PROJECT NO.

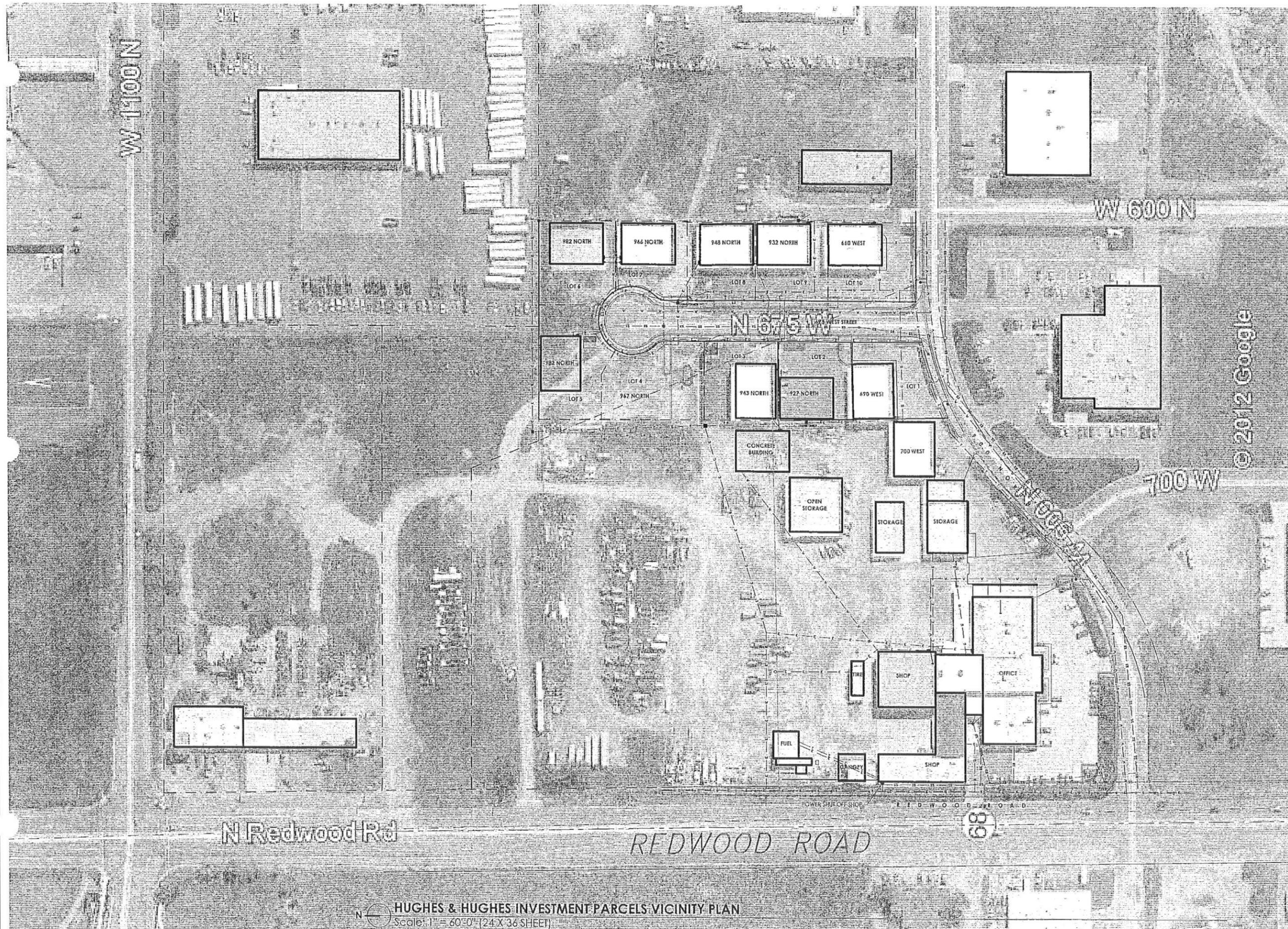


HUGHES
GENERAL CONTRACTORS

CORPORATE OFFICE
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P.O. Box 540700
North Salt Lake, Utah 84054-0700
Phone: 801.292.1411
Fax: 801.255.0539

ST. GEORGE OFFICE
62 W. Washington City Ind. Drive
Washington City, Utah 84780

Phone: 435.628.0047
Fax: 435.628.0328



CONSULTANT:

PROJECT:

**HUGHES & HUGHES
INVESTMENT
VICINITY PLAN**

ADDRESS:

900 NORTH REDWOOD RD.

DATE:

8 Jan 13

REVISIONS:

MARK DATE DESCRIPTION

MARK	DATE	DESCRIPTION

SHEET

SITE PLAN

SHEET NUMBER

SD1.1

HUGHES & HUGHES INVESTMENT PARCELS VICINITY PLAN
Scale: 1" = 60'-0" (24" X 36" SHEET)