



**Planning and Development Services**

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

**Magna Planning Commission**

**Special Public Meeting Agenda**

**Wednesday, June 22, 2022 5:00 P.M.**

**Location**

**Join meeting in WebEx**

Meeting number (access code): 961 841 420

<https://slco.webex.com/join/wgurr>

**Join meeting in WebEx (download available at <https://www.webex.com/downloads.html> for Windows, Android, and Apple devices)**

**Tap to join from a mobile device (attendees only)**

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**Join from a video conferencing system or application**

Dial [wgurr@slco.webex.com](mailto:wgurr@slco.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

Need help? Go to <http://help.webex.com>

**Anchor Location: Magna Webster Center  
8952 West Magna Main Street. Magna, 84044**

*UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707.  
TTY USERS SHOULD CALL 711.*

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and MSD staff regarding land use applications and other items on the Commission’s agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance or recommendation to other bodies as applicable.

**PUBLIC HEARING(S)**

**REZ2022-000616:** Derek Shenk is requesting approval to rezone from Commercial (C-2) to Residential (R-2-6.5). **Area:** 0.15 acres. **Location:** 8516 West Magna Main Street. **Planner:** Brian Tucker (Motion/Voting)

**ADJOURN**

# Rules of Conduct for Planning Commission Meetings

## PROCEDURE FOR PUBLIC COMMENT

1. Any person or entity may appear in person or be represented by an authorized agent at any meeting of the Commission.
2. Unless altered by the Chair, the order of the procedure on an application shall be:
  - a. The supporting agency staff will introduce the application, including staff's recommendations and a summary of pertinent written comments and reports concerning the application
  - b. The applicant will be allowed up to 15 minutes to make their presentation.
  - c. The Community Council representative can present their comments as applicable.
  - d. Where applicable, persons in favor of, or not opposed to, the application will be invited to speak.
  - e. Where applicable, persons opposing the application, in whole or in part will be invited to speak.
  - f. Where applicable, the applicant will be allowed 5 minutes to provide concluding statements.
  - g. Surrebutals may be allowed at the discretion of the Chair.

## CONDUCT FOR APPLICANTS AND THE PUBLIC

1. Speakers will be called to the podium by the Chair.
2. Each speaker, before talking, shall give his or her name and address.
3. All comments should be directed to the Commissioners, not to the staff or to members of the audience.
4. For items where there are several people wishing to speak, the Chair may impose a time limit, usually 3 minutes per person, or 5 minutes for a group spokesperson. If a time limit is imposed on any member or spokesperson of the public, then the same time limit is imposed on other members or spokespersons of the public, respectively.
5. Unless otherwise allowed by the Chair, no questions shall be asked by the speaker or Commission Members.
6. Only one speaker is permitted before the Commission at a time.
7. The discussion must be confined to essential points stated in the application bearing on the desirability or undesirability of the application.
8. The Chair may cease any presentation or information that has already been presented and acknowledge that it has been noted in the public record.
9. No personal attacks shall be indulged in by either side, and such action shall be sufficient cause for stopping the speaker from proceeding.
10. No applause or public outbursts shall be permitted.
11. The Chair or supporting agency staff may request police support to remove offending individuals who refuse to abide by these rules.
12. After the public comment portion of a meeting or hearing has concluded, the discussion will be limited to the Planning Commission and Staff.



GREATER SALT LAKE

**Municipal Services  
District**

**Planning and Development Services**  
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84190-4050  
Phone: (385) 468-6700 • Fax: (385) 468-6674  
[msd.utah.gov](http://msd.utah.gov)

File # REZ2022-000616

## Zoning Map Amendment

**Public Body: Magna Township Planning Commission**

**Meeting Date: June 22, 2022**

**Parcel ID: Portions of 14-20-378-025-0000**

**Current Zone: C-2 (Commercial Zone)**

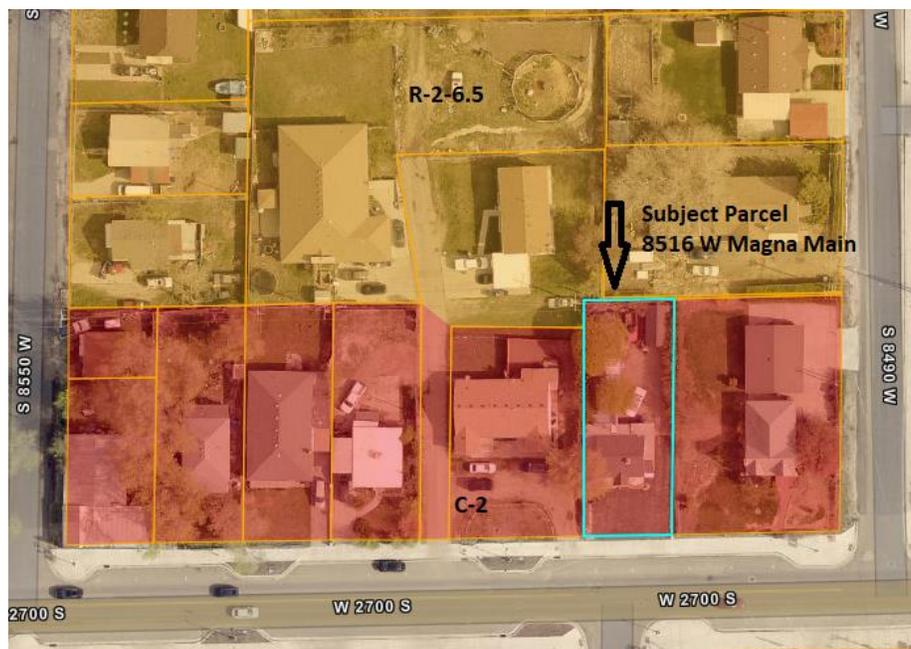
**Property Address: 8516 West Magna Main Street**

**Request: Amend the Zoning Map from C-2 (Commercial Zone) to R-2-6.5 (Medium Density Residential Zone) to allow a residential structure that had been converted to commercial use to be converted back to a residential use.**

**Planner: Brian Tucker**

**Applicant Name: Derek Shenk**

### SITE & VICINITY DESCRIPTION



The property is located on the east end of Magna's Main Street at 8516 West Magna Main. The home and property are located on the north side of the street between 8490 West and 8550 West.

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**PROJECT BACKGROUND AND DESCRIPTION**

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The applicant made application for a building permit to remodel the structure in November of 2021. In most cases a building permit is subject to a land use review prior to permit approval. In this case it was noted that the property is zoned C-2 (Commercial) and that residential uses are not permitted in that zone. It was initially recommended that the applicant seek to have the property declared legal, non-conforming. In researching the record, the MSD realized that the property had been converted to commercial use and business licenses had been issued for a barber shop. A non-conforming use determination was no longer a possibility because the residential use had been intentionally abandoned in favor of a commercial use by a previous owner. A legal, non-conforming use is abandoned when a conforming land use is established. Residential uses are not allowed in the C-2 zone so the residential use cannot be reestablished under that zone.

Conversations between the applicant and the MSD staff then explored alternatives such as variances, exception and rezones with the applicant but none of these were thought to be likely fixes at the time. Exceptions can only be granted as provided for in the code, variances are governed by state code and are by design rarely granted and it was thought that the Magna Council was unlikely to grant a rezone for one property where the property on both sides was still zoned commercially. Conversations continued with the applicant and the idea of an administrative determination was floated in January of 2022 for allow a mixed-use project with commercial on the main floor and residential in the basement.

At some point the applicant started to remodel the structure without a permit and was issued a stop work order. On April 3<sup>rd</sup>, 2022, the applicant submitted plans for a mixed-use building with a showroom on the main level and a residence in the basement. On April 4<sup>th</sup>, 2022, the applicant submitted a formal request for an administrative determination, a request that was granted on April 25, 2022, when then Director of Planning and Development Lupita McClenning issued an administrative determination allowing mixed use. The applicant then received Planning Commission approval of a conditional use permit for a mixed-use structure on May 12, 2022.

In pursuing the building permit enabled by the conditional use permit, the applicant realized that complying with the fire code requirements for a mixed-use building was not financially viable and contacted members of the Magna Council to find a solution. A meeting was held with Councilman Prokopis and Councilman/Mayor Peay, the applicant, Magna's attorney, the Fire Marshall, the Chief Building Official and the Interim Senior Planner to try to find a solution. MSD staff presented a number of different options for a way forward, some of which were choices the applicant could make to move forward and some of which were legislative options that only the Magna Council could allow. The meeting outcome was a consensus opinion that rezoning the property to residential was the least objectionable and most likely path forward. The applicant has now applied for a rezone from the existing C-2 (Commercial) Zone to R-2-6.5 (Medium Density Residential) Zone. The R-2-6.5 does allow single family residential as a permitted use. And if approved, would provide the path forward the applicant is seeking.

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**PROPOSAL**

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The applicant has now applied for a rezone from the existing C-2 (Commercial) Zone to R-2-6.5 (Medium Density Residential) Zone. The R-2-6.5 does allow single family residential as a permitted use. If the rezone is approved, it would provide the path forward the applicant is seeking.

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**PLANNING STAFF ANALYSIS**

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**General Plan:**

The Magna General Plan, adopted in March of 2021, identifies this parcel as part of the Magna Main Street Catalyst Area (Magna General Plan, pg. 53). The General Plan identifies office, entertainment, hospitality, mixed use housing, services and restaurants as the desired uses in a walkable environment with small local businesses and amenities. The proposed single family residential use is not listed among the desired land uses.

The General Plan is the template that rezones should follow, but it is not mandatory that zoning comply with the General Plan.

**Zoning:**

The properties along Main Street to both the east and the west are zoned C-2. If the rezone were to be approved, this parcel would be the only property with frontage on Main Street that is not zoned C-2 between 8400 West and 8590 West. The property north located north of these Main Street Parcels is zone R-2-6.5, a medium density residential zone that does allow single family uses. If the subject property is rezoned to R-2-6.5, it will be an anomaly among Main Street fronting parcels, but it will not be a true spot zone because it will match those adjacent parcels to the north. Spot zones are not illegal, but they are usually a bad idea. In this case the adjacent R-2-6.5 zoning district may make the requested rezone more palatable to decision makers.

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**PUBLIC NOTICE AND COMMENT**

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Public notice was provided in accordance with Utah Code 10-9a-205. Public notice was mailed to affected entities on June 10, 2022. Notice was also posted on the Utah Public Notice Website at least 10 days prior to the public hearing. No public comment has been received as of writing this report.

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**REVIEW PROCEDURE AND CRITERIA**

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The Magna Township Council is the land use authority for zoning map amendments. The Township Council cannot amend the zoning map without first submitting the amendment to the Magna Township Planning Commission for the Planning Commission’s recommendation. The Planning Commission must hold a public hearing and review and recommend an action to the Township Council. The Township Council must then hold a public hearing, after which they may adopt, adopt with revisions, or reject the zoning map amendment recommended by the Planning Commission.

A rezone can be approved if it is reasonably debatable that the decision could promote the public welfare. It is not necessary to show that the decision actually promotes the public welfare, or is the best alternative, as long as it is reasonably debatable that the public could benefit from the decision. Similarly, a rezone can be denied if it is reasonably debatable that the decision could detrimentally impact the public welfare.

### **PLANNING COMMISSION ACTIONS**

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The Planning Commission has three options with respect to the proposed zoning map amendment:

- Option 1: Recommend approval of the ordinance as proposed to Council; or
- Option 2: Recommend approval of the ordinance with amendments to Council; or
- Option 3: Recommend denial of the ordinance to Council.

**Attachments:**

1. Location Map

Attachment #1

Location Map and Legal Description

BEG N 89°49' E 3372.9 FT & N 88°45' E 868 FT FR S 1/4 COR SEC 19, T 1S, R 2W, SLM; N 88°45' E 50 FT; N 133.5 FT; S 88°45' W 50 FT; S 133.5 FT TO BEG. 0.15 AC M OR L.

