

August 17, 2018
ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
PLNZAD2018-00091



REQUEST:

A request for an Administrative Interpretation for 169 East 200 South, pertaining to section 21A.48.060.E.7 of the Salt Lake City Zoning Ordinance and specifically, to whether a refuse enclosure and dumpster would be permitted within the park strip along 200 East. The applicant claims that the referenced section of the Salt Lake City Zoning Ordinance permits refuse enclosures to be located within a park strip. The subject property is located in the D-1 (Central Business District) zoning District.

DECISION:

The Zoning Administrator finds that section 21A.48.060.E.7 may be used to consider the placement of a refuse enclosure and dumpster within the park strip. However, under consultation with the Planning Director, the Zoning Administrator denies the specific request based on the findings listed below.

FINDINGS:

- Section 21A.48.060.E.7 of the Salt Lake City Zoning Ordinance, states:
7. Retaining Walls, Fences and Other Similar Structural Encroachments: Retaining walls, fences, steps, raised planter boxes and other similar structural encroachments in park strips are only permitted when specifically approved by the engineering department pursuant to adopted standards and/or recognized engineering principles, and by:
 - a. *The historic landmark commission if the proposed structure is located within the H historic preservation overlay district;*
 - b. *The planning commission if the proposed structure is part of a development proposal that requires planning commission approval;*
 - c. *The planning director or the planning director's designee if the proposed structure is not within an H historic preservation overlay district and not part of a development proposal that requires planning commission approval; or*
 - d. *The city council if the proposed structure is part of an adopted improvement district.*

Structural encroachments in park strips are generally limited because they may block access from the street to the sidewalks and create obstructions to, and increase the cost of performing maintenance of public improvements and utilities within the park strip. Structural encroachments are not permitted unless the relevant decision making entities identified in this section find that:

- a. *The proposed structures will serve the general public and are part of general public need, or*
- b. *The proposed structures are necessary for the functional use of the adjacent property (such as a mailbox near the curb, steps or a retaining wall on a sloping site, fence behind the sidewalk, etc.), and*
- c. *There are no other practical locations for the structure on the adjacent private property.*
Any raised structure or retaining wall shall be set back from the curb by at least twenty four inches (24").

This subsection E7 does not apply to outdoor dining that is subject to section 21A.40.065 of this title or ground mounted utility boxes governed by section 21A.40.160 of this title.

- Under section 21A.48.060.E.7 the Engineering Division and the Planning Director, or the Planning Director's designee have the authority to make a decision on this specific request because this location is not within an H historic preservation overlay district and is not part of a development proposal that requires planning commission approval.
- The proposed request was reviewed by the following:
 - Engineering Division – The Engineering Division has no objection provided that a lease agreement is obtained.
 - Public Utilities Department – The Public Utilities Department indicated it would not allow a permanent wall or enclosure over the top of the 20 inch water line or sewer line. Even if the request were to be allowed, the Public Utilities Department stated it would not sign a lease agreement or encroachment permit to construct this request.
 - Transportation Division – The Transportation Division indicated that the proposal would create a sight obstruction that might be mitigated with the use of a convex mirror.
- Section 21A.48.060.E.7 states that structural encroachments in park strips are generally limited because they may block access from the street to the sidewalk and create obstructions to, and increase the cost of performing maintenance of public improvements and utilities within the park strip.
- Structural encroachments are not permitted unless the relevant decision making entities find that:
 - The proposed structures will serve the general public and are part of the general public need. The subject proposal will not serve the general public or satisfy a general public need.
 - The proposed structures are necessary for the functional use of the adjacent property. The proposed refuse enclosure and dumpster within the park strip are not necessary for the functional use of the adjacent property.
 - There are no other practical locations for the structure on the adjacent private property. The building at 169 E. 200 South covers the entire parcel and does not allow for outside storage of a dumpster on the parcel. Refuse storage could be contained within the building.

In addition to the conflicts with 21A.48.060.E.7, the Zoning Administrator also finds that the proposed dumpster and refuse container location is in direct conflict with the intent of park strip landscaping. The intent of park strip landscaping includes the following:

21A.48.060.A. Intent

“The intent of this section is to provide a palette of allowed plant, organic and/or natural materials that allow for creative landscaping, maintain a healthy street tree canopy, and create an attractive pedestrian environment while encouraging actual, not merely perceptual, water conservation. In many instances, a water wise turf grass/sod remains the most effective park strip plant material.”

The intent of park strip landscaping does not include nor anticipate a refuse enclosure or dumpster to be located in a park strip. Refuse enclosures and dumpsters are not plant, organic and/or natural materials and does not create or encourage an attractive pedestrian environment.

If you have any questions regarding this interpretation please contact Kelsey Lindquist at (801) 535-7930 or by email at kelsey.lindquist@slcgov.com.

APPEAL PROCESS:

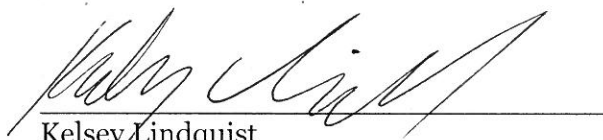
An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <http://www.slcgov.com/planning/planning-applications> along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.

Dated this 17th day of June, 2018 in Salt Lake City, Utah.


Kelsey Lindquist
Principal Planner

cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Development Review Supervisor
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Applicable Recognized Organizations