



Special Exception Approval Process

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Historic Landmark Commission

From: Cheri Coffey, Assistant Planning Director;
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Date: February 27, 2014

Re: Delegation of approval authority for Special Exceptions to the Planning Director

ACTION REQUESTED: Historic Landmark Commission delegate approval authority for Special Exceptions to the Planning Director following the approval process outlined in the Zoning Ordinance.

RECOMMENDATION: I move that the Historic Landmark Commission delegate the approval authority of Special Exceptions to the Planning Director following the approval process outlined in Chapter 21A.52 of the City's Zoning Ordinance.

BACKGROUND/DISCUSSION: A Special Exception is classified as a use incidental to or in addition to the principal use(s) on the property or an adjustment to a fixed dimensional standard. Special Exceptions have less potential impact than a conditional use but require a careful review of such factors as location, design, configuration and/or impacts to determine the desirability of authorizing it on a given site. Examples of dimensional types of Special Exceptions include additional fence height, wall height, in-line additions which are in line with the existing structure that has a setback that does not meet the current zoning for side yard setbacks, or grade changes. Examples of use type of Special Exceptions include unit legalization (repealed), home day care, alternative parking and outdoor dining. Chapter 21A.52 of the zoning lists each type of Special Exception and criteria for each (See Attachment A).

Prior to 2012, the Board of Adjustment identified Special Exceptions that were Routine and Uncontested and delegated the approval authority of those to staff. Because it was not clear in the zoning ordinance that this was authorized, the City Council amended the Special Exception section of the zoning ordinance, which took effect January 2012, to include these Routine and Uncontested matters in the list of authorized Special Exceptions. At the same time the City Council established a two tiered approval process for Special Exceptions: Administrative Approval unless the Planning Director determines that the matter is of such a nature that it should be reviewed and decided by the Planning Commission. The types of Special Exceptions the Planning Commission would typically see are those that do not appear to meet the criteria, are controversial or that are one of several types of approvals needed for a project that the Planning Commission has to review anyway. The ordinance also transferred the authority for Special Exceptions from the Board of Adjustment to the Planning Commission.

In November 2012, the City Council amended the Special Exception regulations again to authorize the Historic Landmark Commission approval authority for dimensional types of Special Exceptions so a property owner in an H Historic Preservation Overlay District did not have to go to two different decision making processes for approval of a project. As the two-tiered approval process was already established it was the intent that all applications for dimensional standard Special Exception applications in local historic districts would first be reviewed and decided administratively. The application would be sent to the Historic Landmark Commission for those applications that do not appear to meet the criteria, are controversial or that are one of several types of approvals needed for a project that the Historic Landmark Commission has to review anyway (such as projects for major alterations or new construction.) The Commission does not have approval authority for use types of Special Exceptions. The specific types of Special Exceptions that were authorized by the City Council Action for Historic Landmark Commission to review and decide include the following:

1. Building and wall height
2. Accessory structure wall height
3. Accessory structure square footage
4. Fence height
5. Overall building and accessory structure height
6. Signs
7. Any modification to bulk and lot regulations of the underlying zoning district where it is found that the underlying zoning would not be compatible with the historic district and / or landmark site

The administrative approval process includes sending a Notice of Application to abutting property owners explaining what is being requested, the Staff Planner's contact information and a request that any comments or questions be directed to staff. If no objections are received within 12 days of sending the notice, and the project meets the ordinance criteria, staff may administratively approve the request.

The actual ordinance says that the Planning Commission and Historic Landmark Commission may delegate to the Planning Director the authority to administratively approve Special Exceptions. The City Attorney's Office is asking that the Historic Landmark Commission formally pass a motion that delegates this authority to the Planning Director. The Planning Commission officially delegated this authority to the Planning Staff at its February 12, 2014 meeting.

In 2013, the Planning Division received 277 Special Exception applications; 20 of those related to historic preservation and two of those were reviewed and approved by the Historic Landmark Commission as part of applications for new construction. The majority of dimensional type of Special Exception applications the Planning Division received in 2013 was for fence height and in-line additions and they were administratively approved.

Please contact me if you have any questions or need additional information.

Thank You

ATTACHMENT A
Special Exceptions Authorized

21A.52.030: SPECIAL EXCEPTIONS AUTHORIZED:  

A. In addition to any other special exceptions authorized elsewhere in this title, the following special exceptions are authorized under the provisions of this title.

1. Accessory building height, including wall height, in excess of the permitted height provided:
 - a. The extra height is for architectural purposes only, such as a steep roof to match existing primary structure or neighborhood character.
 - b. The extra height is to be used for storage of household goods or truss webbing and not to create a second level.
 - c. No windows are located in the roof or on the second level unless it is a design feature only.
 - d. No commercial use is made of the structure or residential use unless it complies with the accessory dwelling unit regulations in this title.
2. Accessory structures in the front yard of double frontage lots, which do not have any rear yard provided:
 - a. The required sight visibility triangle shall be maintained at all times.
 - b. The structure meets all other size and height limits governed by the zoning ordinance.
3. Additional height for fences, walls or similar structures may be granted to exceed the height limits established for fences and walls in chapter 21A.40 of this title if it is determined that there will be no negative impacts upon the established character of the affected neighborhood and streetscape, maintenance of public and private views, and matters of public safety. Approval of fences, walls and other similar structures may be granted under the following circumstances subject to compliance with other applicable requirements:
 - a. Exceeding the allowable height limits; provided, that the fence, wall or structure is constructed of wrought iron, tubular steel or other similar material, and that the open, spatial and nonstructural area of the fence, wall or other similar structure constitutes at least eighty percent (80%) of its total area;
 - b. Exceeding the allowable height limits within thirty feet (30') of the intersection of front property lines on any corner lot; unless the city's traffic engineer determines that permitting the additional height would cause an unsafe traffic condition;
 - c. Incorporation of ornamental features or architectural embellishments which extend above the allowable height limits;
 - d. Exceeding the allowable height limits, when erected around schools and approved recreational uses which require special height considerations;
 - e. Exceeding the allowable height limits, in cases where it is determined that a negative impact occurs because of levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics;
 - f. Keeping within the character of the neighborhood and urban design of the city;
 - g. Avoiding a walled-in effect in the front yard of any property in a residential district where the clear character of the neighborhood in front yard areas is one of open spaces from property to property; or

- h. Posing a safety hazard when there is a driveway on the petitioner's property or neighbor's property adjacent to the proposed fence, wall or similar structure.
- 4. Additional building height in commercial districts is subject to the standards in chapter 21A.26 of this title.
- 5. Additional foothills building height, including wall height, shall comply with the standards in chapter 21A.24 of this title.
- 6. Additional residential building height, including wall height, in the R-1 districts, R-2 districts and SR districts shall comply with the standards in chapter 21A.24 of this title.
- 7. Any alternative to off street parking not listed in section 21A.44 of this title intended to meet the number of required off street parking spaces.
- 8. Barbed wire fences may be approved subject to the regulations of chapter 21A.40 of this title.
- 9. Conditional home occupations subject to the regulations and conditions of chapter 21A.36 of this title.
- 10. Dividing existing lots containing two (2) or more separate residential structures into separate lots that would not meet lot size, frontage width or setbacks provided:
 - a. The residential structures for the proposed lot split already exist and were constructed legally.
 - b. The planning director agrees and is willing to approve a minor subdivision application.
 - c. Required parking equal to the parking requirement that existed at the time that each dwelling unit was constructed.
- 11. Use of the front yard for required parking when the rear or side yards cannot be accessed and it is not feasible to build an attached garage that conforms to yard area and setback requirements, subject to the standards found in chapter 21A.44 of this title.
- 12. Grade changes and retaining walls are subject to the regulations and standards of chapter 21A.36 of this title.
- 13. Ground mounted central air conditioning compressors or systems, heating, ventilating, pool and filtering equipment located in required side and rear yards within four feet (4') of the property line. The mechanical equipment shall comply with applicable Salt Lake County health department noise standards.
- 14. Hobby shop, art studio, exercise room or a dressing room adjacent to a swimming pool, or other similar uses in an accessory structure, subject to the following conditions:
 - a. The height of the accessory structure shall not exceed the height limit established by the underlying zoning district unless a special exception allowing additional height is allowed.
 - b. If an accessory building is located within ten feet (10') of a property line, no windows shall be allowed in the walls adjacent to the property lines.
 - c. If the accessory building is detached, it must be located in the rear yard.
 - d. The total covered area for an accessory building shall not exceed fifty percent (50%) of the building footprint of the principal structure, subject to all accessory building size limitations.

15. In line additions to existing residential or commercial buildings, which are noncomplying as to yard area or height regulations provided:
 - a. The addition follows the existing building line and does not create any new noncompliance.
 - b. No additional dwelling units are added to the structure.
 - c. The addition is a legitimate architectural addition with rooflines and exterior materials designed to be compatible with the original structure.
16. Operation of registered home daycare or registered home preschool facility in residential districts subject to the standards of chapter 21A.36 of this title.
17. Outdoor dining in required front, rear and side yards subject to the regulations and standards of chapter 21A.40 of this title.
18. Razor wire fencing may be approved subject to the regulations and standards in chapter 21A.40 of this title.
19. Replacement or reconstruction of any existing noncomplying segment of a residential or commercial structure or full replacement of a noncomplying accessory structure provided:
 - a. The owner documents that the new construction does not encroach farther into any required rear yard than the structure being replaced.
 - b. The addition or replacement is compatible in design, size and architectural style with the remaining or previous structure.
20. Underground building encroachments into the front, side, rear and corner side yard setbacks provided the addition is totally underground and there is no visual evidence that such an encroachment exists.
21. Window mounted refrigerated air conditioner and evaporative swamp coolers located in required front, corner, side and rear yards within two feet (2') of a property line shall comply with applicable Salt Lake County health department noise standards.
22. Vehicle and equipment storage without hard surfacing in the CG, M-1, M-2 or EI districts, subject to the standards in 21A.44 of this title.