

DATE: January 18, 2005

TO: Salt Lake City Planning Commission

FROM: Wayne Mills, Senior Planner

RE: STAFF REPORT FOR THE JANUARY 25, 2006 MEETING

CASE#: 400-05-17

APPLICANT: Salt Lake City Planning Commission

PROJECT LOCATION: This is a zoning ordinance text change that is applicable City-wide.

PROJECT/PROPERTY SIZE: Not Applicable

COUNCIL DISTRICT: **District One**, Carlton Christensen
District Two, Van Turner
District Three, Eric Jergensen
District Four, Nancy Saxton
District Five, Jill Remington Love
District Six, Dave Buhler
District Seven, Soren Simonsen

REQUESTED ACTION: Analyze the feasibility of allowing additional conditional uses to be approved by an Administrative Hearing Officer.

PROPOSED USE(S): The proposal is not use or site specific; however the proposed zoning text amendment pertains to conditional uses City-wide.

APPLICABLE LAND USE REGULATIONS: Salt Lake City Code, Title 21A, Zoning Ordinance

MASTER PLAN SPECIFICATIONS: City Vision and Strategic Plan, adopted in 1993

SUBJECT PROPERTY HISTORY: Not Applicable

ACCESS: Not Applicable

PROJECT DESCRIPTION:

The Salt Lake City Code currently provides an Administrative Public Hearing Process where an Administrative Hearing Officer (the Planning Director or Designee) may approve certain development requests that are unopposed by the community and comply with City ordinances and policies. The types of development requests that may be approved through the Administrative Public Hearing Process are:

- Applications for low power wireless telecommunication facilities that are listed as conditional uses;
- Alterations or modifications to a conditional use that increase the floor area by 1,000 square feet or more and/or increase the parking requirement;
- Minor Subdivisions;
- Subdivision Amendments not involving streets; and
- Condominiums

The review process, notification process, and Staff Report for requests reviewed through the Administrative Hearing process is the same as that of requests reviewed by the Planning Commission:

- Notification, and presentation if requested, to the affected Community Council(s);
- Review by the pertinent City Departments and Divisions, such as, Engineering, Transportation, Public Utilities, Fire, Building Services, and the Police Department;
- Notification by mail to surrounding property owners fourteen days in advance of the Administrative Public Hearing; and
- A Staff Report describing the request, outlining the issues and recommending action (approval or denial) based upon the ordinance standards for the type of request.

Two appeal processes are currently in place to ensure that only those development requests that are unopposed are approved through the Administrative Public Hearing process. They are as follows:

- Any person may object to the request being considered in an Administrative Public Hearing prior to the scheduled hearing. If any person objects to the request being considered in the Administrative Public Hearing, the request is forwarded to the Planning Commission for review; and

- Any person aggrieved by a decision of the Administrative Hearing Officer, may appeal the decision to the Planning Commission.

In addition to the appeal process, the Administrative Hearing Officer may decline to hear the request and forward it to the Planning Commission if it is determined that there is neighborhood opposition, if the applicant has failed to adequately address the conditional use standards, or for any other reason at the discretion of the Administrative Hearing Officer.

On June 8, 2005 the Salt Lake City Planning Commission requested that the Planning Staff analyze the possibility of expanding the conditional uses that may be approved by the Administrative Hearing Officer in an Administrative Public Hearing. The Planning Staff has reviewed current ordinances and analyzed conditional use case history for the years 2004 and 2005 and recommends that Chapter 21A.54 (Conditional Uses) of the Zoning Ordinance be amended to permit any conditional use to be reviewed in an administrative hearing except those that:

- Are listed as a “residential” land use in the Table of Permitted and Conditional Uses for each zoning district;
- Are located within a Residential zoning district;
- Abut a Residential zoning district or residential use; or
- Require Planned Development approval.

The Planning Staff also recommends that Chapter 21A.54 of the Zoning Ordinance be amended to permit Administrative Hearing review of Public/Private Utility Buildings and Structures that are proposed in both residential and non-residential zoning districts. All of the proposed amendments to Chapter 21A.54 are shown in strike and bold format in Exhibit 1.

COMMENTS, ANALYSIS AND FINDINGS

COMMENTS:

The comments received from pertinent City Departments/Divisions are attached to this staff report for review (see Exhibit 2). The comments received from citizens are also attached as Exhibit 3. The following is a summary of the comments/concerns received:

A. **Public Utilities:**

The Public Utilities Department has no objection to the proposed zoning ordinance changes; however, some changes to the use of property will trigger different regulations pertaining to water, sewer and storm drainage. The Planning Department needs to continue to keep Public Utilities informed of new projects.

Planning Staff Comment: Planning Staff responded to Public Utilities by stating that the review process for administrative conditional uses is the same as that of conditional uses reviewed by the Planning Commission in that they are routed to Public Utilities for

review and comments.

B. Engineering:

No comments received.

C. Building Services:

Building Services recommends that the language in Section 21A.02.050B2 of the Zoning Ordinance is amended to reflect the new procedure.

Planning Staff Comment: Section 21A.02.050B2 of the Zoning Ordinance states that utility wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment owned, operated and/or maintained by a governmental entity or public utility that are underground or above grade and smaller than 20 square feet horizontally, 10 cubic feet in volume or 3 feet above grade are exempt from zoning regulations. The proposed change to the Conditional Use section of the Zoning Ordinance would not affect this section of the Zoning Ordinance because it only pertains to those utility structures that are not exempt from zoning regulations and require conditional use review. Planning Staff met with the Development Review Supervisor in the Building Services Department to explain and clarify the proposed amendment.

D. Transportation:

The Transportation Division does not foresee an impact to transportation issues as part of this proposal.

E. Fire:

The Fire Department has no comments regarding this request.

F. City Attorney:

No comments received.

G. Community Councils and Citizens: A public open house was held on December 5, 2005 and seven people were in attendance. Prior to the open house, Staff received an e-mail stating the following:

"I don't have a problem with an administrative hearing for Low power wireless telecommunication facilities. I could even let the power company and cable boxes be done administratively. The Planning Commission has wasted a lot of time on these.

However, I am opposed to administrative approval for uses that are:

- *Non-residential land use types;*
- *Not located within a residential zoning district;*
- *Do not abut a residential zoning district or residential use;*
- *Do not require Planned Development approval;*

Perhaps you have a staff report, even a draft, of what you are proposing so I could get a clearer picture of it? Maybe there is a way to word these so that we know that our neighborhoods are protected? I worry that we could have three of these properties in a row on a street, the two on either side abut residential, but the one in the middle doesn't, so the middle one gets redeveloped in a non-compatible way. East Central is an area that comes to mind, there is lots of non-residential mixed in between the residential, and this proposal sounds way too broad to me.”

Staff Responded to the e-mail with the following:

“The proposal would allow administrative consideration of only those conditional uses that are unopposed and meet the conditional use standards as well as any other zoning requirements.

The administrative hearing process requires the same notification to the surrounding neighborhood as the Planning Commission hearing process. The applicant and staff member assigned to the project are required to meet with the affected community council(s) prior to the administrative hearing being scheduled. If the community council is not in support of the requested conditional use, planning staff would forward it to the Planning Commission for review. In addition, the required notification of an administrative hearing is the same as the required notification of a Planning Commission hearing; all property owners within a radius of 300 feet of the subject property. If a neighbor, upon receiving notice, objects to the administrative hearing, the request would be forwarded to the Planning Commission for review. Also, if any person objects to the decision made at an administrative hearing, the request is forwarded to the Planning Commission.

The intent of this proposal is not to circumvent the Planning Commission process. It is intended to provide a process to review those conditional uses that are listed as a condition use in the use charts of the Zoning Ordinance, but would not have an impact on neighboring property due to their location in the City. This would free the Planning Commission’s time to review the more controversial and technical planning projects.”

The individual that wrote the e-mail did not attend the public open house. As stated above, seven people did attend the open house and one public comment form was returned to Staff with the following comment:

“This seems like a useful and wise amendment, which could allow for more attention to significant issues. I am in support of it.”

ANALYSIS:

Pursuant to Planning Commission directive, Staff reviewed Section 21A.54 of the Zoning Ordinance, which is the regulating ordinance for conditional uses. Staff also reviewed all of the

conditional uses reviewed by the Planning Commission during the years 2004 and 2005. Summary spreadsheets of the 2004 and 2005 year review are attached as Exhibit 4.

After analyzing the 2004/2005 conditional use case history and the existing conditional use chapter of the Zoning Ordinance, Staff determined that the conditional uses that are permitted to be reviewed by an Administrative Hearing Officer should be expanded to include those conditional uses that are commercial in nature and would have no impact to the residential community. Therefore, Staff recommends that Section 21A.54 (Conditional Uses) of the Zoning Ordinance is amended to permit any conditional use to be reviewed in an Administrative Hearing except those that:

- Are listed as a “residential” land use in the Table of Permitted and Conditional Uses for each zoning district;
- Are located within a Residential zoning district;
- Abut a Residential zoning district or residential use; or
- Require Planned Development approval.

In addition, Planning Staff recommends that Chapter 21A.54 of the Zoning Ordinance is amended to permit Administrative Hearing review of Public/Private Utility Buildings and Structures that are requested in both residential and non-residential zoning districts.

The purpose of the proposed amendment is to:

- 1) Decrease the number of items on the Planning Commission agendas, which provides more time for the Planning Commission to focus on issues with impacts to the community; and
- 2) Offer an expedited process for those conditional uses with no impact to the surrounding community.

Review of the 2004/2005 conditional use case history shows that in 2004, the Planning Commission reviewed 45 conditional uses. Out of those 45 conditional uses, 17 Public/Private Utility Structures and 5 conditional uses fitting the proposed criteria stated above could have been approved by the Administrative Hearing Officer as per the proposed ordinance. This would have been a 48% decrease in the number of conditional uses reviewed by the Planning Commission. In 2005, the Planning Commission reviewed 32 conditional uses. Out of those 32 cases, 1 Public/Private Utility Structure and 4 conditional uses could have been approved by the Administrative Hearing Officer as per the proposed ordinance. This would have been a 15% decrease in the number of conditional uses reviewed by the Planning Commission during 2005.

This study shows that, although the percentage decrease is much less in 2005 due to the large number of utility structures in 2004, the proposed amendment would decrease the number of items that require review by the Planning Commission. Therefore, the proposed amendment is consistent with purpose #1 stated above. Also, the conditional uses that could be approved by the Administrative Hearing Officer could be approved through the expedited Administrative Hearing process. The Administrative Hearing process is an expedited process because the hearings can be

scheduled at any time after the necessary review is completed, as long as the minimum 14 day notice requirement is met.

In addition to the amendments to the Conditional Use section of the Zoning Ordinance stated above, Staff also recommends that other changes are made to the ordinance to reflect the Administrative Hearing Officer's (Planning Director or designee) authority to approve Administrative Conditional Uses. The proposed amendments also require appeals of administrative conditional uses to specify, in detail, the reasons for the appeal. The reasons for the appeal must be based upon procedural error or compliance with the conditional use standards or any other specific standards listed in the Zoning Ordinance that regulate the particular conditional use (see Section 21A.54.155C – Appeals – in Exhibit 1). All of the proposed amendments to Chapter 21A.54 are shown in strike and bold format in Exhibit 1.

FINDINGS

Issues that are being generated by this proposal

Since this petition is a modification of the Conditional Use section of the Zoning Ordinance, the Planning Commission must review the proposal and forward a recommendation to the City Council. In undertaking the task, the Planning Commission must establish findings of fact based on the following standards contained in Section 21A.50.050 of the City's Zoning Ordinance.

21A.50.050 Standards for general amendments.

A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City.

Discussion: The City Vision and Strategic Plan (1993) states as a goal that the City should, "*Develop business friendly licensing and regulatory practices.*" One of the purposes of the proposed amendment is to allow conditional use requests that are commercial in nature and have no impact to the surrounding community to be approved through the Administrative Hearing Process. Staff finds that providing this option for conditional use approval is consistent with the goal of the City Vision and Strategic Plan by creating a business friendly regulatory practice.

Findings: The proposed amendment is consistent with the goals of the City Vision and Strategic Plan adopted in 1993.

B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property.

Discussion: The proposal is not site specific. Each conditional use affected by the proposed amendment would be analyzed according to the existing and unchanged conditional use standards established in the Zoning Ordinance to ensure that any requested conditional use is harmonious with its surrounding neighborhood.

Findings: The proposed amendment is not site specific. All future requests for conditional uses must comply with Zoning Ordinance standards to ensure compatibility with the community.

C. The extent to which the proposed amendment will adversely affect adjacent properties.

Discussion: All conditional uses reviewed pursuant to the proposed amendment, would be analyzed as to its affect on adjacent properties. If any requested conditional use appears to be detrimental to adjacent properties, the conditional use request would be forwarded to the Planning Commission for review.

Findings: The proposed amendments are written to minimize impacts on adjacent properties.

D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.

Discussion: The proposal is not site specific. All requests for conditional uses would be reviewed to ensure compliance with applicable overlay zoning districts.

Findings: The proposed amendments are designed to be consistent with the City's applicable overlay districts.

E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies, and waste water and refuse collection.

Discussion: The proposal is not site specific. All requests for a conditional use would be reviewed to ensure compliance with City codes and policies.

Findings: All pertinent City departments will have review authority on conditional uses proposals to ensure adequacy of public facilities and services.

RECOMMENDATION:

In light of the comments, analysis and findings noted above, staff recommends that the Planning Commission forward a positive recommendation to the City Council to adopt the following proposed zoning text amendments pertaining to Chapter 21A.54 of the Zoning Ordinance:

1. That Section 21A.54.020: Authority, be amended to permit the Planning Director or designee to approve Administrative Conditional Uses;

2. That Section 21A.54.030C: Administrative Consideration of Conditional Uses, be amended to eliminate the phrase, “have been determined by the City to be low impact” and replace it with, “may be considered to be low impact due to their particular location.”
3. That Section 21A.54.030C3, be added to permit the Planning Director or designee to approve (through an Administrative Hearing) all conditional uses except those that:
 - a. Are listed as a “residential” land use in the Table of Permitted and Conditional Uses for each zoning district;
 - b. Are located within a Residential zoning district;
 - c. Abut a residential zoning district or residential use; or
 - d. Require Planned Development approval.
4. That Section 21A.54.030C3, be added to permit the Planning Director or designee to approve (through an Administrative Hearing) Public/Private Utility Buildings and Structures in Residential and Non-Residential zoning districts.
5. That Section 21A.54.060D: Staff Report-Site Plan Review Report, be amended to state that staff report and site plan review report be forwarded to the Planning Director or designee for Administrative Conditional Uses.
6. That Section 21A.54.060E: Public Hearing, be amended to state that the Planning Director or designee shall hold a public hearing in the case of Administrative Conditional Uses and shall conduct the public hearings in conformance to the Zoning Ordinance.
7. That Section 21A.54.060G: Planning Commission Action, be amended to state that, in the case of Administrative Conditional Uses, the Planning Director or designee shall approve, approve with conditions, or deny the Administrative Conditional Use.
8. That Section 21A.54.090: Conditions on Conditional Uses, be amended to state that the Planning Director or designee may impose conditions on Administrative Conditional Uses.
9. That Section 21A.54.110: Effect of Approval of Conditional Use, be amended to include the Planning Director or designee in the case of Administrative Conditional Uses.
10. That Section 21A.54.120: Limitations on Conditional Use Approval, be amended to include the Planning Director or designee in the case of Administrative Conditional Uses.
11. That Section 21A.54.155B2: Administrative Hearing, be amended to state that the Planning Director or designee may approve an Administrative Conditional Use only if it complies with all standards in the Zoning Ordinance that regulate the particular use.

12. That Section 21A.54.155: Appeals of Administrative Conditional Uses, be amended to state that an appeal of an Administrative Conditional Use must be based on procedural error, compliance with the standards that regulate conditional uses, or any specific standards listed in the Zoning Ordinance that regulate the requested use.

Wayne Mills
Senior Planner

Attachments: Exhibit 1 – Chapter 21A.54 – Conditional Uses – Proposed Amendments
Exhibit 2 – City Department/Division Comments
Exhibit 3 – Citizen Comments
Exhibit 4 – 2004/2005 Conditional Use Review