



MEMORANDUM

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Salt Lake City, Utah 84111
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Planning and Zoning Division
Department of Community Development

TO: Planning Commission Members
FROM: Nole Walkingshaw, Senior Planner
DATE: December 10, 2008
SUBJECT: Issues Only Public Hearing regarding Residential Condominium Conversions;
Zoning Text and Building Text Amendment Petition No. PLNPCM2008-00409

The following is a petition to amend the Salt Lake City Zoning Ordinance, the Salt Lake City Building Code and the Salt Lake City Existing Residential Housing Code, as they relate to the conversion of existing apartment buildings to condominium units. The Planning Commission is holding an Issues Only Public Hearing on this petition. As such, the Commission may accept public comment but will not take any official action on this petition on December 10, 2008. During a future public hearing, the Planning Commission will be asked to make a recommendation on this petition to the City Council.

Background

Recently, the City began experiencing a substantial boom in residential condominium approval requests. Requests include new construction projects, conversions of existing non-residential buildings and conversions of existing apartment buildings. The demand for condominium conversion or new approvals is cyclical as market demand and financing availability vary. The market for residential condominium conversions typically arises when the price of single family homes increases beyond the reach of first time home buyers.

Condominium ownership of real property is authorized under Utah State Law, Title 57-8. Condominium ownership is a hybrid ownership form where the real property and the physical building structure and site improvements are owned in common in an undivided interest by all owners within the condominium project. Individual ownership is restricted to the air space within the building, as shown on the required Condominium Plat or Map. Salt Lake City has also adopted a zoning ordinance which defines applicability and processes to approve or amend condominium projects within the City limits. Condominium approvals are also considered as subdivisions. Condominiums can be residential, commercial, office, or industrial in land use, and can be considered for both conversions of existing buildings or new construction.

The following table documents condominium approvals in Salt Lake City over the past three year:

Preliminary Approvals	# of Projects	# of Units Converted
2006	5	37
2007	18	338
2008	7	78
Total	30	453

The following is a list of items which have been reviewed and discussed by City Staff:

Issues

- Clearly define “condominium”
- Is conversion used to avoid:
 - city regulations that deal with apartment licensing and inspections
 - minimal life safety and fire code
 - physical improvements
- Are condominiums sublet, negating community benefit of ownership
- Is the existing apartment building suitable for condominium ownership conversion
- City is unable to enforce minor and substandard housing conditions in rental units
- Potential for lower quality rental market
- Public safety issues with existing condo “loophole” regarding inspection requirements
- “Nuisance issues” Apartments v. Condominiums

Zoning

- Oversight for exterior building and site improvements
 - Landscaping
 - Exterior repairs
 - Improvements to common areas
- Analysis of parking
 - Surfacing
 - Control curbs
 - Number of existing parking stalls
 - Standard for number of parking stalls
 - Additional parking stalls
 - Alternative parking solutions
- Conversion not a “Change of Use”
- Land use types

Building

- Compliance with the Salt Lake City Existing Residential Housing Code
- Structural integrity
- Exterior building standards/condition
- Interior building standards
- Space and occupancy standards
- Light and ventilation standards
- Heating standards
- Sanitation standards
- Protection from the elements
- Safe and sanitary maintenance
- Fire safety-egress standards
- Installation of smoke detector system
- Common halls equipped with general automatic detection system with capability to send signal to remote stations.
- Fire sprinkler systems in buildings with more than three (3) units
- Compliance with chapter 18.96.050 (Fit Premises) Property Owner to Maintain the Premises and Each Dwelling Unit

- Exit Door(s) with panic hardware for occupant load of 50 or more.
- Seismic upgrading

Staff has not identified any issues with condominium approvals for new construction or for conversions from a nonresidential use to a residential use in existing buildings, as these situations require compliance with and are reviewed in accordance with current zoning and buildings codes.

Condominium approval has traditionally been considered in City Policy as a basic property ownership right and is not a separate land use by itself. The City has approved every requested condominium project. However, there is new concern among city regulatory staff that some of the old longstanding apartment buildings are being converted to condominium ownership as a way to avoid certain City regulations that deal with apartment licensing and inspections and/or to avoid minimal life safety and fire code requirements and physical improvements to existing apartment buildings.

Under condominium ownership, the units may continue to be rented and not sold to individuals, or the units are sold to speculators or investors in blocks of units, who then continue to rent the properties often without coordinated management. When this occurs, not only are the City licensing, inspection, and life/safety regulations skirted, the City and neighborhoods fail to realize one of the potential benefits of condominium ownership, having owner occupants that are more likely to get involved in community affairs or neighborhood interests, and owners that will take better care of the physical appearance of the properties. Therefore, perhaps not all existing apartment buildings are suitable for condominium ownership conversion and it may no longer be in the City's best interest to facilitate all condominium conversions.

“Change of Use”: some community members have argued that the condominium conversion process qualifies the building to be subject to the current provisions of building and zoning codes as required by a “change of use”.

The Salt Lake City Zoning Ordinance defines a “Change of Use” as;

The replacement of an existing use by a new use, or a change in the nature of an existing use which does not increase the size, occupancy, or site requirements. A change of ownership, tenancy, name or management, or a change in product or service within the same use classification where the previous nature of the use, line of business, or other function is substantially unchanged is not a change of use. (See also definition of Land Use Type (Similar Land Use Type).

The adopted building code requires an existing building to meet current standards based on changes of occupancy which is defined in the International Building Code (IBC) as:

Change of Occupancy: no change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancy. Subject to the approval of the building official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

It has been determined by the City that the condominium conversion process is not a “change of use” or a “change of occupancy.” The conversion process simply reflects a change in ownership and as such is not subject to the requirements of a “change of use” or a “change of occupancy”. The City may require additional repairs, compliance and improvements as part of the Condominium Conversion process. These additional

requirements are reflected in the current ordinance and identified concerns are addressed in the proposed changes.

Process

During the summer of 2007, the Community Development Department and the Planning Division convened a task force with pertinent City staff to study the issues related to condominium approvals and conversions. The proposed text changes have been through a series of reviews by City Personnel, and the Administration. An Open House was held to provide information to the public, answer questions and take comments. The petition was presented to the Housing Advisory and Appeals Board who supports the modifications, and understands their potential role as an appeal authority.

The adoption of some of the amendments to the Building Code proposals may be required to go to the State of Utah for a Local Amendment to the Building Code.

State Code Amendments

Staff has identified the following three issues for additional study and possible adoption:

- Requiring seismic upgrading;
- ADA compliance; and
- Installation of fire suppression systems.

Each of these topics would require an amendment to the State Building Code. This process requires an application, Request for Code Amendment, with the State of Utah to be filed with the Department of Professional Licensing (DOPL).

Application Requirements

The Request for Code Amendment application requires a financial impact study and documentation of the following specific information:

- Entire section(s) proposed for amendment;
- Purpose of or Reason for the Amendment;
- Cost or savings Impact of Amendment;
- Compliance Costs for Affected Persons (“Person” means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency. The City must break out the impact cost to state budget and local government, and must state aggregate costs to other persons (cost per person times number of persons affected)):

In an effort to complete this study the City will need to hire a Professional Structural Engineer to complete the study of a base group of existing buildings with the potential for condominium conversion. The building Reports shall identify the required modifications to meet seismic standards, ADA and fire suppression. Following this a construction cost estimate will need to be prepared for the identified work. The City may use these numbers to answer the application requirements with the caveat that each conversion is unique.

Recommendations

The following summary of proposed text changes recommends an increased review of life safety matters, encourages investment resulting in better quality housing, and provides options which can be administrated and managed effectively. Staff recommends that State Code Amendments be pursued separately and incorporated into City Code, should the State adopt the recommendations.

Summary of proposed draft Zoning and Building Code text changes

Zoning Ordinance

1. Expand Planning Director oversight for exterior building and site improvements as may be required.
2. Amend definitions to specifically state that condominium conversions of existing residential apartment buildings to condominium ownership are not a “Change of Use”.

Building Ordinance:

1. Requiring exterior building conditions; interior building standards; space and occupancy standards, light and ventilation standards and fire safety-egress standards to apply to the residential apartment-condominium conversion process, as required by the Salt Lake City Existing Residential Housing Code.
2. Require the installation of a smoke detector systems conforming to manufacturer’s recommendations.
3. Require fire sprinkler systems in buildings with more than three (3) units.
4. Require compliance with chapter 18.96.050 (Fit Premises) Property Owner To Maintain The Premises And Each Dwelling Unit:

If you require additional information please contact me by phone at 535-7128 or by e-mail at nole.walkingshaw@slcgov.com.

Proposed Text Amendment

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Zoning Ordinance

21A.56.060 Condominium Conversion Process:

B. Planning Official Duties and Responsibility:

3. **Previous Conditions:** The planning official shall review applicable conditions on the use or building imposed by ordinances, variances, and conditional uses.

4. **Site Improvements:** The planning official shall review the proposed building and site plans and shall have the authority to require additional improvements to be made to the existing site including but not limited to landscaping, exterior repairs, and improvements to common areas. This review shall include an analysis of the parking, including internal circulation issues, such as surfacing and control curbs. The analysis shall also include the number of existing parking stalls, noting any deviation from current standards. Based upon this information, the planning official may require construction of additional parking stalls on the site, or may require reasonable alternative parking solutions as outlined in section [21A.44.030](#), "Alternative Parking Requirements", of this title. The total number of parking stalls

21A.62.040 Definitions:

For the purposes of this title, the following terms shall have the following meanings:

"Change of use" means the replacement of an existing use by a new use, or a change in the nature of an existing use which does not increase the size, occupancy, or site requirements. A change of ownership, tenancy, name or management, or a change in product or service within the same use classification where the previous nature of the use, line of business, or other function is substantially unchanged is not a change of use. The conversion of existing residential apartment buildings to condominiums is not a change of use. (See also definition of Land Use Type (Similar Land Use Type).)

Land Use Type (Similar Land Use Type): "Land use types" shall be considered to be similar land use types if both uses are allowed in the same zoning district or in the same or more restrictive zoning district within the commercial zoning category or in the same or more restrictive district within the manufacturing zoning category and the change from one land use type to another similar land use type does not increase the parking requirement. If the proposed land use type is a conditional use it will be subject to the conditional use process.

Building Ordinance

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(Amendment to Section 18.32.050)

SECTION 346. That subsection (5) is, amended to read as follows:

(5) The existing conditions meet the standards of the Salt Lake City Existing Residential Housing Code sections 18.50.140 Exterior Standards; 18.50.150, Interior Standards; 18.50.180, Space and Occupancy Standards; 18.50.190, Light and Ventilation; 18.50.200 Fire Safety-Egress. The building report, as required

in City Code Section 21A.56.060, shall note all deficiencies; appeals of noted deficiencies may be addressed to the Housing Advisory and Appeals Board.

SECTION 347. That subsection (7) is, amended to read as follows:

(7) Installation of a smoke detector conforming to manufacturer's recommendations shall be installed in each dwelling unit as a local detection unit. If the building has a common exit hall or corridor then a general automatic detection system shall be install with the capability of sending a signal to a remote station.

SECTION 348. That subsection (c) is a new subsection to read as follows:

(c) Automatic fire sprinkling system shall be installed in all condominiums which are over 3 units. These systems shall be installed to the current International Fire Code (IFC),

SECTION 351. That subsection is a new subsection to read as follows:

All condominiums shall meet the requirements as listed in 18.96.050 (Fit Premises) of the City Ordinance.

Salt Lake City Existing Residential Housing Code

18.50.020 Purpose and Scope:

B. Scope:

1. Application to Existing Buildings: This chapter encompasses fire safety and structural integrity of existing residential buildings. Within the structures, the scope includes equipment and facilities for light, ventilation, heating, sanitation, protection from the elements, space requirements, and for safe and sanitary maintenance.
2. Owner-Occupied Versus Rental Properties: Except as specified in subsection B3 of this section, the standards of this chapter apply to the interior and exterior of all buildings, dwelling units and premises which are occupied on a rental basis. For buildings or dwelling units which are occupied solely by the owner and the owner's family, all the requirements defined as imminent danger or hazardous condition situations, and those affecting the exterior of the building and premises shall apply. Other interior standards do not apply to owner-occupied dwelling units.
3. ~~Condominiums: Residential condominium units shall be subject to only the requirements defined as imminent danger or hazardous condition. Other interior standards shall not apply to residential condominium units, nor to the interior common areas.~~ (Discussion needed)