

Planning Commission Staff Report

SUSTAINABILITY ORDINANCE – ACCESSORY STRUCTURES FOR URBAN AGRICULTURE AND SMALL SCALE RENEWABLE ENERGY

PLNPCM2009-01338

Re-Hearing date: October 27, 2010



Planning Division
Department of Community
& Economic Development

Applicant

SLC Corp., Mayor Ralph Becker

Staff

Casey Stewart 535-6260
casey.stewart@slcgov.com

Current zone

N/A

Current master plan designation

City-wide

Council District

City-wide

Community Council

City-wide

Affected Ordinance Sections

- 21A.40 Accessory Uses, Buildings and Structures
- 21A.62 Definitions

Notification

- Notice mailed October 15, 2010
- Posted to Planning Dept and Utah State Public Meeting websites October 27, 2010.

Attachments

- A. Department Comments
- B. Public Comments
- C. Historic Landmark Commission Minutes

Request

Mayor Ralph Becker has initiated a request to amend the Salt Lake City Zoning Ordinance to include regulations promoting sustainable urban living. The proposed Sustainability Code Amendment project includes many aspects and this petition is focused on regulations to specifically allow for accessory structures associated with urban agriculture uses and equipment relating to small renewable energy systems including solar and wind.

Recommendation

PLNPCM2009-01338 – Sustainability Ordinance for Accessory Structures

Based on the findings in the staff report, it is the Planning Staff's opinion that the Planning Commission transmits a favorable recommendation to the City Council to adopt the proposed sustainability ordinance text amendments related to accessory structures.

Updates

On July 14, 2010, Planning Staff presented these proposed amendments to the Planning Commission. The Planning Commission initially discussed the amendments then tabled the item so the Commission members would have more time to consider the amendments and to allow staff the opportunity to research some questions raised at that first meeting. The issues raised were:

- Further explanation of when wind turbines are exempt from the 55 dBA noise level.
- Exempt "row covers" from building coverage limits
- Address proposed urban farming accessory structure size on vacant lots
- More discussion on height limits for small solar collection systems

The above issues are discussed below:

Wind Turbines

Wind turbines manufactured today have greatly reduced sound generation than even those manufactured a few years ago. A number of studies have shown that the turbine noise could not be separated from the background noise. That being said, there are two scenarios in which turbine noise increases above normal operating conditions; those are power outages and severe storms that involve high wind. (1) Turbines that are connected to the power "grid" increase noise output during outages because the turbine loses its power load, causing the blades to freewheel until power is restored and the "load" slows the blades. This situation is easily remedied by simply shutting the wind generator off. (2) Turbines that are designed for charging batteries may increase noise output when the batteries cannot accept more energy. This most often occurs during storms of prolonged periods of high wind. The remedy for this scenario is to transfer the excess energy to a resistive load which should be designed into the system. That will keep a "load" on the turbine preventing the blades from freewheeling. A requirement could be placed on battery-charging systems in residential zones that the design include a resistive load for these high wind events.

Row Covers

Staff noted Mr. Kyle LaMalfa's suggestion to exclude row covers from the coverage calculations for urban farming accessory structures. Row covers are typically a layer of plastic or fabric stretched over a row to retain some warmth in cold temperatures. They may involve a simple support structure (arches) that supports the material. These are very common in gardening and are not considered accessory structures for the purpose of calculating building coverages. Staff did not deem it necessary to mention row covers specifically in the amendments given their common use, simple deployment, very temporary nature, and to avoid over-regulating.

Structure size

Mr. Kyle LaMalfa also raised the question of urban farming accessory structures on vacant lots and how large they could be. Staff revised the amendments to specifically address these accessory structures on vacant lots, allowing a footprint of up to ten percent (10%) of the total lot area. Staff also revised the building coverage limits for urban farming accessory structures on developed lots based on a recommendation of the Historic Landmark Commission. The allowable building coverage area was reduced slightly from the July 14th version.

Height limits for small solar energy collection systems

The absolute height limit would be no taller than three feet (3') beyond the allowable building height limit (for the type of building, either principal or accessory) of the zoning district. No solar collection system could exceed that height. A secondary height limit would be equal to no higher than twelve feet

(12') above the roof line of the structure upon which it is mounted. This would be in the case of buildings that are lower than the allowable building height limit for the zoning district. Staff did not modify the height limits from the original proposal because they determined the proposed limits were adequate, but language was added to clarify that the height limit is based on the type of building, principal or accessory, on which the system is located.

Historic Overlay Districts

After the first hearing, staff and the project consultants had concerns with some of the proposed regulations for solar energy systems in Historic Overlay Districts. Staff decided to have further discussions with the Historic Landmark Commission. Since the Planning Commission's first public hearing to consider these amendments, The Historic Landmark Commission conducted a subcommittee meeting on September 14, 2010 and two public hearings (September 1 and October 6, 2010) prior to providing a final recommendation for approval focusing on solar energy collection systems in Historic Overlay Districts. The proposed amendments have been updated based on their recommendation and include clarification on when installations in the Historic Overlay can be approved administratively and the removal of the limitation of reasonable restrictions. Aside from revising the regulations for installation of small solar energy collection systems, other changes resulted in further limiting the size of accessory structures typically used in urban farming.

[End of updates]

Background

In November 2009, Mayor Becker initiated a petition for the purpose of amending the Salt Lake City Zoning Ordinance to encourage practices of sustainable living. The City hired Clarion Associates as a consultant on the project, with the goal of creating appropriate zoning, subdivision and site development regulations that will make Salt Lake City a sustainable community. A portion of those regulations pertains to facilitating the use of accessory structures in support of urban agriculture and private, small scale renewable energy generation

The amendments for accessory structures relating to urban agriculture are incorporated into the section of 21A.40.050 that establishes yard, bulk, and height limitations for accessory structures. The proposed amendments for structures relating to renewable energy (solar and wind) collection and generation are recommended as new sections, essentially new categories of accessory structures.

Initial Summary

Following are the proposed types of accessory structures grouped by type mentioned above and a brief list of the issues typically associated with the structures in question together with the intent of the proposed amendments:

Urban Agriculture (food/plant production) – cold frame, greenhouse, hoop house

"Cold frame" means an unheated outdoor structure typically consisting of, but not limited to, a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

"Greenhouse" means a temporary or permanent structure typically made of, but not limited to, glass, plastic, or fiberglass in which plants are cultivated.

"Hoop house" means a temporary or permanent structure typically made of, but not limited to, piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of growing plants. A hoop house is considered more temporary than a greenhouse.

Issues:

1. **Size:** Not subject to the usual coverage limits as most accessory buildings, yet still limited.
2. **Height:** Subject to zoning district height limit
3. **Location:** Prohibited in front yard; allowed in side and rear yards
4. **Materials:** Commonly made of either molded or thin sheet transparent plastic over a frame of wood, metal, or PVC piping.

These types of structures are typically seasonal or temporary in nature but can be permanent. These structures have always been permitted in the past but have been subject to the location and building coverage limits for all accessory buildings, making it difficult to have a garage, shed, and a greenhouse. The intent of the proposed accessory structures amendments is to encourage and promote their use in urban agriculture by easing some of the typical regulatory barriers or limits often encountered with accessory structures such as limits on location, size, and number of structures.

Small Renewable Energy Systems – small wind energy system, small solar energy collection system

“Small wind energy system” means an accessory structure defined as a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a rated capacity of not more than 100 kilowatts (kW) and that is intended to generate electricity primarily for buildings and/or uses on the same property, thereby reducing on-site consumption of utility power.

“Small solar energy collection system” shall mean an accessory structure that is roof-mounted, wall-mounted, or ground-mounted panel the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating of buildings located on the same property. A small solar energy collection system shall not exceed a capacity of 100 kilowatts (kW).

Issues (Wind):

1. **Setback:** Shall be setback from lot lines a distance equal to the total height plus five feet.
2. **Height:** Required setback will regulate; must also comply with Federal Aviation Administration height limits.
3. **Location:** Subject to compliance with setback provisions.
4. **Sound:** Cannot exceed 55dBA for any period of time and measured at adjacent property line. The sound level may be exceeded during short-term events out of owner's control, such as severe storms for battery-charging systems or utility outages for systems connected to the power grid.

The most common complaint relating to small wind energy systems is noise. With the recommend qualifiers it is anticipated that any adverse impacts will be sufficiently mitigated.

Issues (Solar):

1. **Size/Area:** No more than 90% of roof area.
2. **Height:** Shall not exceed by more than three feet the maximum height permitted in the zoning district in which it is located or shall not extend more than 12 feet above the roofline of the structure upon which it is mounted, whichever is less.

3. **Location:** Can be located on both the primary and/or accessory buildings, or as a separate structure. More specific location requirements are proposed for systems in the Historic Preservation Overlay district.

Public Participation

The proposed amendments were presented and available for review at an open house on December 17, 2009 and again on April 15, 2010. The Historic Landmark Commission conducted a subcommittee meeting on September 14, 2010 and two public hearings (September 1 and October 6, 2010) prior to providing a final recommendation. Public comments received are included as *Attachment B*.

Between January and May of 2010, staff sought comments from numerous City departments and met with representatives from the Business Advisory Board, and the Historic Landmark Commission to discuss the amendments. They have provided technical input regarding appropriate practice to regulate the proposed structures while attempting to mitigate undesired impacts on residents and local businesses. The Historic Landmark Commission recommended against excluding hoop houses, greenhouses, and cold frames from building coverage limits completely. Staff has responded by including building coverage limits specifically for those types of structures.

Numerous city departments reviewed the proposed amendment and a handful returned comments. Most comments were related to the amendments for small wind and solar renewable energy systems. The comments were implemented in the proposed amendments and are included as *Attachment A*.

Analysis

The proposed text amendments focus on *Chapter 21A.40 Accessory Uses, Buildings, and Structures*. A definition for new terms is included, along with qualifying provisions regulating size, location, and use of the accessory structures. For ease of analysis, the amendments are presented and discussed in three different groups based on type of structure. The first group consists of structures associated with urban agriculture. The second group consists of structures associated with small wind energy systems. And the third and final group consists of small solar energy systems.

The proposed text amendments are listed below in green underlined text and the ordinance location precedes each section:

Add following new definitions to *Section 62 Definitions*:

"Urban agriculture" is a general term meaning the growing of plants, including food products, and the raising of animals in and around cities. Urban farms and community gardens with their accessory buildings, farm stands, farmers markets, and garden stands are components of urban agriculture.

"Cold frame" means an unheated outdoor structure typically consisting of, but not limited to, a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

"Greenhouse" means a temporary or permanent structure typically made of, but not limited to, glass, plastic, or fiberglass in which plants are cultivated.

"Hoop house" means a temporary or permanent structure typically made of, but not limited to, piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape, for the purposes of growing plants. A hoop house is considered more temporary than a greenhouse.

"Small wind energy system" means an accessory structure defined as a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a rated capacity of not more than 100 kilowatts (kW) and that is intended to generate electricity primarily for buildings and/or uses on the same property, thereby reducing on-site consumption of utility power.

"Small solar energy collection system" shall mean an accessory structure that is roof-mounted, wall-mounted, or ground mounted panel, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating of buildings located on the same property. A small solar energy collection system shall not exceed a capacity of 100 kilowatts (kW).

Chapter 21A.40 - ACCESSORY USES, BUILDINGS AND STRUCTURES

21A.40.010: PURPOSE STATEMENT: (No change)

21A.40.020: GENERAL AUTHORIZATION: (No change)

21A.40.030: ZONING COMPLIANCE REQUIRED:

No accessory use, building or structure shall be established or constructed unless ~~a zoning certificate has been issued~~ it complies with the zoning ordinance and proper building permits, if required, have been obtained. Accessory buildings associated with keeping animals, bees, livestock and poultry are not subject to this chapter or the building coverage limits of the respective zoning district but are subject to the provisions of the City Code Chapter 8 Animals. (Ord. 26-95 § 2(20-2), 1995)

21A.40.040: USE LIMITATIONS: (No change)

21A.40.050: GENERAL YARD, BULK AND HEIGHT LIMITATIONS:

All accessory buildings permitted by this chapter shall be subject to the following general requirements:

A. Location Of Accessory Buildings In Required Yards:

1. Front Yards: Accessory buildings are prohibited in any required front, side or corner side yard and shall be setback at least as far as the principal building when the principal building exceeds the required front yard setback. ~~If an addition to residential buildings results in an existing accessory building being located in a side yard, the existing accessory building shall be permitted to remain, subject to maintaining a four foot~~

~~(4') separation from the side of the accessory building to the side of the residential building, as required in subsection A3b of this section. (This section was moved to the new "side yards" section below.)~~

2. Corner Lots: No accessory building on a corner lot shall be closer to the street than the distance required for corner side yards. At no time, however, shall an accessory building be closer than twenty feet (20') to a public sidewalk or public pedestrian way and the accessory building shall be set back at least as far as the principal building.
3. Side Yards: Accessory buildings are prohibited in any required interior side yard; however, hoop houses, greenhouses, and cold frame structures associated solely with growing food and/or plants are allowed in an interior side yard but no closer than one foot (1') to the corresponding lot line. If an addition to residential buildings results in an existing accessory building being located in a side yard, the existing accessory building shall be permitted to remain, subject to maintaining a four foot (4') separation from the side of the accessory building to the side of the residential building, as required in subsection A3b of this section.
4. Rear Yards: Location of accessory buildings in a rear yard shall be as follows:
 - a. In residential districts, no accessory building shall be closer than one foot (1') to a side or rear lot line except when sharing a common wall with an accessory building on an adjacent lot. In nonresidential districts, buildings may be built to side or rear lot lines in rear yards, provided the building complies with all applicable requirements of the adopted building code.
 - b. No portion of the accessory building shall be built closer than four feet (4') to any portion of the principal building; excluding cold frames associated solely with growing food and/or plants.
 - c. Garages on two (2) or more properties that are intended to provide accessory building use for the primary occupants of the properties, in which the garage is located, may be constructed in the rear yards, as a single structure subject to compliance with adopted building code regulations and the size limits for accessory buildings on each property as indicated herein.
 - d. In the R-1 districts, R-2 district and SR districts accessory structures shall be located a maximum of five feet (5') from the rear property line subject to the following exceptions:
 - (1) The building or structure is a hoop house, greenhouse, or cold frame associated solely with growing food and/or plants.
 - (2) The maximum setback from the rear property line may be increased to meet the transportation division minimum required turning radius and other maneuvering standards.
 - (3) The planning director or designee may authorize the issuance of building permits for an accessory structure with a maximum setback of more than five feet (5') from the rear property line if the property owner demonstrates that fifty percent (50%) or more of the properties on the block face have accessory structures located more than five feet (5') from the rear property line. In this case, the accessory structure may be set back from the rear property line a distance equal to the average setback of the other accessory structures on the block face. An appeal of this administrative decision shall be heard by an administrative hearing officer subject to the provision of chapter 21A.52 of this title.
 - (4) The board of adjustment may approve an alternate location for an accessory structure as a special exception based on hardships created by topography or the location of mature vegetation.
5. Accessory Or Principal Lot: No portion of an accessory building on either an accessory or principal lot may be built closer than ten feet (10') to any portion of a principal residential building on an adjacent lot when that adjacent lot is in a residential zoning district; excluding hoop houses, greenhouses, and cold frames associated solely with growing food and/or plants.

B. Maximum Coverage:

1. Yard Coverage:

- a. In residential districts, any portion of an accessory building, excluding hoop houses, greenhouses, and cold frames associated solely with growing food and/or plants, shall occupy not more than fifty percent (50%) of the total area located between the rear facade of the principal building and the rear lot line.
- b. The combined coverage for all hoop houses, greenhouses, and cold frames shall not exceed ten percent (10%) when located on vacant lots or, when located on a lot with a principal building, shall not exceed fifteen percent (15%) of the total area located between the rear facade of the principal building and the rear lot line plus the side yard area between the front and rear facades of the principal building.

2. Building Coverage:

- a. In the FR, R-1, R-2 and SR residential districts the maximum building coverage of all accessory buildings, excluding hoop houses, greenhouses, and cold frames associated solely with growing food and/or plants, shall not exceed fifty percent (50%) of the building footprint of the principal structure up to a maximum of seven hundred twenty (720) square feet for a single-family dwelling and one thousand (1,000) square feet for a two-family dwelling. The maximum footprint for a primary accessory structure within the SR-1A is limited to four hundred eighty (480) square feet with an additional one hundred twenty (120) square feet allowed for a secondary accessory structure. Notwithstanding the size of the footprint of the principal building, at least four hundred eighty (480) square feet of accessory building coverage shall be allowed subject to the compliance with subsection B1 of this section.
- b. The combined coverage for all hoop houses, greenhouses, and cold frames shall not exceed thirty-five percent (35%) of the building footprint of the principal structure.

C. Maximum Height Of Accessory Buildings/ Structures:

1. Accessory To Residential Uses In The FP District, RMF Districts, RB, R-MU Districts, And The RO District: The height of accessory buildings/structures in residential districts shall conform to the following:
 - a. The height of accessory buildings with flat roofs shall not exceed twelve feet (12');
 - b. The height of accessory buildings with pitched roofs shall not exceed seventeen feet (17') measured to the midpoint of the roof; and
 - c. Accessory buildings with greater building height may be approved as a special exception, pursuant to chapter 21A.52 of this title.
2. Accessory To Residential Uses In The FR, R-1 Districts, R-2 District And SR Districts: The height of accessory buildings/structures in the FR districts, R-1 district, R-2 district and SR districts shall conform to the following:
 - a. The height of accessory buildings with flat roofs shall not exceed twelve feet (12'); nine feet (9') in the SR-1A;
 - b. The height of accessory buildings with pitched roofs shall not exceed seventeen feet (17') measured as the vertical distance between the top of the roof and the finished grade at any given point of building coverage. In the SR-1A the height of accessory buildings with pitched roofs shall not exceed fourteen feet (14'); and
 - c. Accessory buildings with greater building height may be approved as a special exception, pursuant to chapter 21A.52 of this title, if the proposed accessory building is in keeping with other accessory buildings on the block face. (Ord. 26-06 §§ 2, 3, 2006: Ord. 90-05 § 2 (Exh. B), 2005: Ord. 13-04 § 18, 2004: Ord. 35-99 § 57, 1999: Ord. 30-98 § 4, 1998: Ord. 88-95 § 1 (Exh. A), 1995: Ord. 26-95 § 2(20-4), 1995)

21A.40.052: ACCESSORY USES ON ACCESSORY LOTS: (No change)

The following sections are new and will be added at the end of Chapter 21A.40.

21A.40.170: SMALL WIND ENERGY SYSTEMS:

1. Standards

All small wind energy systems shall comply with the following requirements. If there is any conflict between the provisions of this section and any other requirements of the zoning, site plan, and subdivision ordinances, the zoning administrator shall determine which requirements apply to the project in order to achieve the highest level of neighborhood compatibility.

a. Setback

The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height plus five feet. If the small wind energy system is on a roof, the total extended height is equal to the roof height and tower height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail rights-of-way. Guy wires and other support devices shall be setback at least five (5) feet from all property lines.

b. Tower Height

Where the total extended height meets the sound and setback requirements of this section (See 1a above.), there shall be no specific height limitation, except as imposed by Federal Aviation Administration (FAA) regulations per subsection (j), below.

c. Sound

Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dBA for any period of time. The 55 dBA sound level may be exceeded during short-term events out of the owner's control such as utility outages and/or severe wind storms.

d. Appearance, Color, and Finish

Colors permitted include grays, browns, greens, tans and other earth tones. Bright, luminescent, or neon colors are prohibited.

e. Clearance

The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades. Blades on small wind energy systems in residential districts shall not exceed twenty (20) percent of tower height. All portions of the system shall maintain a clearance from power utility lines as required by the Utah High Voltage Line Safety Act.

f. Signage Prohibited

All signs on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification, shall be prohibited.

g. Lighting

No illumination of the turbine or tower shall be allowed unless required by the Federal Aviation Administration (FAA).

h. Access

No foot pegs, rungs, or other climbing aids shall be allowed below 12 feet on a freestanding tower. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.

i. **Requirement for Engineered Drawings**

Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings (by an engineer licensed by the State of Utah) of the tower, base, footings, and/or foundation as provided by the manufacturer.

j. **Compliance with FAA Regulations**

No small wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection or other current FAA regulations governing airspace protection.

k. **Compliance with Building and Electrical Codes**

Small wind energy systems and all associated components shall comply with all applicable building and electrical codes adopted by Salt Lake City and the State of Utah.

l. **Utility Notification**

No small wind energy system shall be installed until evidence has been submitted to the city that the relevant electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

m. **Abandonment**

If a wind turbine is inoperable for six consecutive months the owner shall be notified by Salt Lake City that they must, within six months of receiving the notice, restore their system to operating condition or remove the wind turbine from the tower. If the owner(s) fails to restore their system to operating condition within the six-month time frame, then the owner shall be required, at his expense, to remove the wind turbine from the tower for safety reasons.

n. **Off-Street Parking Or Loading Requirements**

A small wind energy system shall not remove or encroach upon required parking or loading areas for other uses on the site or access to such parking or loading areas.

21A.40.180: SMALL SOLAR ENERGY COLLECTION SYSTEMS:

To avoid conflict with the only current ordinance for solar panels, the section below (general regulations for the foothills residential districts) is being modified as indicated:

21A.24.010.P.3.d *Special Foothills Regulations – Design Regulations*

Mechanical Equipment: Mechanical equipment including, without limitation, swamp coolers, air conditioning equipment, heat pumps, vents, blowers and fans shall be screened from view or painted to match the building color adjacent to the equipment. Roof mounted mechanical equipment, excluding solar panels which are subject to section 21A.040.180, shall not extend above the highest roof ridgeline. ~~Roof mounted solar collection panels need not be screened or painted so long as they are mounted parallel to and flush with the roof slope and do not project above the ridgeline of the roof segment upon which they are mounted. Except as provided in the foregoing sentence, solar collection panels shall not be mounted upon any roof.~~

The proposed regulations:

1. Standards

All small solar energy collection systems shall comply with the following requirements except as provided in Section 2 relating to small solar energy collection systems in the Historic Preservation Overlay Districts. Per chapter 21A.34.020 the historic landmark commission or staff have authority to modify the setbacks, location and height to ensure compliance with the overlay district regulations. Excluding Section 2, if there is any conflict between the provisions of Section 1 Standards, and any other requirements of the zoning, site plan, and subdivision ordinances, the zoning administrator shall determine which requirements apply to the project in order to achieve the highest level of neighborhood compatibility.

a. Setbacks, Location, and Height

- (1) A small solar energy collection system shall be located a minimum of six feet from all property lines and other structures, except the structure on which it is mounted.
- (2) A small solar energy collection system may be located on an accessory structure, including legal accessory structures located less than six feet from a property line.
- (3) A small solar energy collection system shall not exceed by more than three feet the maximum building height (based on the type of building – principal or accessory - the system is located on) permitted in the zoning district in which it is located or shall not extend more than 12 feet above the roofline of the structure upon which it is mounted, whichever is less.
- (4) A development proposed to have a small solar energy collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.

b. Coverage

A small solar energy collection system mounted to the roof of a building shall not exceed ninety percent (90%) of the total roof area of the building upon which it is installed. A system constructed as a separate accessory structure on the ground shall count toward the total building and yard coverage limits for the lot on which it is located.

c. Code Compliance

Small solar energy collection systems shall comply with all applicable building and electrical codes contained in the International Building Code adopted by Salt Lake City.

d. Solar Easements

A property owner who has installed or intends to install a small solar energy collection system shall be responsible for negotiating with other property owners in the vicinity for any desired solar easement to protect solar access for the system and shall record the easement with the Salt Lake County Recorder.

e. Off-Street Parking And Loading Requirements

Small solar energy collection systems shall not remove or encroach upon required parking or loading areas for other uses on the site or access to such parking or loading areas.

2. Small Solar Collection Systems And Historic Preservation Overlay Districts or Landmark Sites

a. General

In addition to meeting the standards set forth in this ordinance, Section 21A.040.180, all applications to install a small solar collection system within the Historic Preservation Overlay District shall obtain a Certificate of Appropriateness prior to installation. Small solar collection systems shall be allowed in accordance with the location priorities detailed in subsection 21A.40.180.2.c that follows. If there is any conflict between the provisions of this subsection, 21A.40.180.2, and any other requirements of Section 21A.40.180, Small Solar Energy Collection System, the provisions of this subsection shall take precedence.

b. Installation Standards

- (1) The small solar energy collection system shall be installed in a location and manner on the building or lot that is least visible and obtrusive and in such a way that causes the least impact to the historic integrity and character of the historic building, structure, site or district while maintaining efficient operation of the solar device. The system must be installed in such a manner that it can be removed and not damage the historic building, structure, or site it is associated with.

c. Small Solar Collection System Location Priorities

In approving appropriate locations and manner of installation, consideration shall include the following locations in the priority order they are set forth below. The method of installation approved shall be the least visible from a public right-of-way, not including alleys, and most compatible with the character-defining features of the historic building, structure, or site. Systems proposed for locations 1 – 4, which are not readily visible from a public right-of-way may be reviewed administratively as set forth in Chapter 21A.34.020.F.1 *Administrative Decision*. Systems proposed for locations 5 – 6, which may be visible from a public right-of-way shall be reviewed by the Historic Landmark Commission in accordance with the procedures set forth in Chapter 21A.34.020.F.2 *Historic Landmark Commission*.

- (1) Rear yard in a location not readily visible from a public right-of-way.
(2) On accessory buildings or structures in a location not readily visible from a public right-of-way.
(3) In a side yard in a location not readily visible from a public right-of-way.
(4) On the principal building in a location not readily visible from a public right-of-way.
(5) On the principal building in a location that may be visible from a public right-of-way, but not on the structure's front façade.
(6) On the front façade of the principal building in a location most compatible with the character-defining features of the structure.

Chapter 21A.34.020.F.1.a (Historic Overlay Districts) *Types Of Construction Allowed Which May Be Approved By Administrative Decision* shall be amended to include:

- (6) Installation of solar energy collection systems that are not readily visible from a public right-of-way, as described in and pursuant to Section 21A.40.180.2 of this title.

Chapter 21A.34.020.F.2.a (Historic Overlay Districts) *Types Of Construction To Be Reviewed By The Historic Landmark Commission* shall be amended to include:

- (7) Installation of solar energy collection systems that may be readily visible from a public right-of-way, as described in and pursuant to Section 21A.40.180.2 of this title.

STANDARDS FOR GENERAL AMENDMENTS

A decision to amend the text of the Zoning Ordinance or the Zoning Map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. However, in making its decision concerning a proposed amendment, the City Council should consider the following factors:

1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;

Analysis: The executive summary section of the City's Futures Commission Report of 1998 states, "Vibrant neighborhoods are fundamental to the health and vitality of the city and citizens, business owners, and local government each have a role to play in creating and sustaining ideal neighborhoods." Promoting sustainability by encouraging local food production and renewable energy systems is a priority in Salt Lake City. The proposed amendments related to urban agriculture accessory structures and small renewable energy systems offer opportunities to improve and sustain the health of citizens and neighborhoods.

Finding: The proposed text change is consistent with adopted policy documents.

2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance.

Analysis: Chapter *21A.02.030* of the Zoning Ordinance states:

"PURPOSE AND INTENT:

The purpose of this title is to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, to implement the adopted plans of the city, and to carry out the purposes of the municipal land use development and management act, title 10, chapter 9, of the Utah Code Annotated or its successor, and other relevant statutes. This title is, in addition, intended to:

- a. Lessen congestion in the streets or roads;
- b. Secure safety from fire and other dangers;
- c. Provide adequate light and air;
- d. Classify land uses and distribute land development and utilization;
- e. Protect the tax base;
- f. Secure economy in governmental expenditures;
- g. Foster the city's industrial, business and residential development; and
- h. Protect the environment. (Ord. 26-95 § 2(1-3), 1995)"

The proposed changes to the ordinance will further the purpose statement of the Zoning Ordinance by enabling urban agriculture and renewable energy systems in various zones throughout the City. Specifically these uses are consistent with intent statements c, d, e, g and h. By enabling the uses, individuals will be able to work more efficiently in community gardens and sell locally grown foods and products thereby lessening the need for imported foods and reducing the environmental impacts from transportation, air pollution etc. Amendments allowing renewable energy sources will enable citizens to create new sources of energy while lessening overall dependence on fossil fuels, which also decreases air pollution.

The qualifying provisions for the accessory structures are designed to encourage their use yet uphold the general health, safety, and welfare of citizens by reducing or eliminating harmful impacts. These

modifications create qualifying provisions that will facilitate mitigation of adverse impacts on neighboring property owners and will clarify sections of the ordinance that were not clear or concise.

Finding: Staff finds that the proposed changes to the Zoning Ordinance are consistent with the overall purpose of the Zoning Ordinance as stated in Chapter 21A.02.030.

3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards.

Analysis: The proposed text amendments are city-wide and as such will affect properties within the Historic Preservation Overlay District. The proposed amendments propose specific requirements and limits for accessory structures within the Historic Preservation Overlay District which are consistent with and balance the purposes of preserving historic buildings, structures and the associated neighborhoods while encouraging individual properties to utilize accessory structures for urban agriculture and renewable energy.

Finding: The proposed text amendment meets this standard.

4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

Analysis: The proposed text amendments mirror current trends in community sustainability, by providing alternatives for renewable energy and food production systems. These amendments will update planning practices that create and maintain efficient infrastructure, foster close-knit neighborhoods, create a sense of community, and preserve natural habitat.

Finding: The proposed text amendment implements the best current practices in urban planning and design.

Attachment A
Public Comment

Stewart, Casey

From: Bentley, Alene [Alene.Bentley@PacifiCorp.com]
Sent: Tuesday, June 22, 2010 5:28 PM
To: Stewart, Casey
Subject: FW: Sustainability Code Revisions
Categories: Other

Casey,
The set back requirement for wind power systems says there should be no interference with public utilities. Rocky Mountain Power suggests you include a stronger statement about clearance and specifically reference the Utah High Voltage Line Safety Act, which requires a working clearance of 10 feet.

In addition, each section addresses "municipal code." Electric codes are national and state. We also suggest you include reference to compliance with national and state electrical clearance codes.

Thanks again for the opportunity to review the code revisions. It's helpful for people to understand requirements up-front so there are no surprises.
Alene

Alene Bentley

Rocky Mountain Power
201 South Main, Suite 2300
Salt Lake City, UT 84111
Office: (801) 220-4437 Cell: (801) 910-6527

From: Barker, Jake
Sent: Tuesday, June 22, 2010 4:38 PM
To: Bentley, Alene
Subject: RE: Sustainability Code Revisions

Hi Alene,

The only thing I can think of is a statement that would reference the Utah High Voltage Line Safety Act and that a working clearance of 10 feet must be maintained. In their set back section of the wind power source, they mention that public utilities shouldn't be "interfered" with, but I think there should be a stronger statement about clearance.

In addition, each section talks about complying with "municipal code", but our electric codes are national and state for clearances. Working that in would probably be nice.

Thanks,
Jake

From: Bentley, Alene
Sent: Tuesday, June 22, 2010 2:56 PM
To: Barker, Jake
Subject: FW: Sustainability Code Revisions
Importance: High

Jake,

Proposed sustainability zoning ordinances - **Airport Comments on:**

**Urban Agriculture, Alternative Energy Systems, Accessory Dwelling Units, and
Street & Pedestrian Connectivity**

Submitted to Cheri Coffey from Allen McCandless
October 30, 2009

Title	Paragraph Number	Comments
Urban Agriculture	D.2. a. and D.2. b.	No zoning district was provided, however the A Airport district would not be an appropriate zone for Urban Agriculture activities due to potential bird attractants and safety concerns. <i>Recommend: Do not allow Urban Agriculture in the A Airport district.</i>
Alternative Energy Systems, Small Wind Energy Systems	D.3. j.	Text should be added to cover other FAA airspace regulations as follows: Recommend to add: " . . . Part 77 of the FAA guidance on airspace protection, <u>or other current FAA regulations governing airspace protection.</u> "
Alternative Energy Systems, Solar Array	E.3. a. 1.	The airport could install a large solar array in the future as part of the terminal and concourse expansions. The array may be ground mounted, roof mounted or a variety of installations. The ordinance, as written would not allow the airport to install any solar array between the main terminal and public right of way. <i>Recommend: Exempt the airport from Solar Array ordinance.</i>
Alternative Energy Systems, Solar Array	E.3. a. 3, 4, and 5.	The square footage and height of an airport solar array could exceed these restrictions. As written, the ordinance would not allow any large solar array and would restrict the height. <i>Recommend: Exempt the airport from Solar Array ordinance.</i>
Alternative Energy Systems, Solar Collection System	F.3.a.2.	If solar collectors are installed on terminals, or concourses or other airport buildings, the systems could exceed 12 feet maximum height. <i>Recommend: Exempt the airport from Solar Collection System ordinance.</i>
Accessory Dwelling Units		(No Airport-related comments)
Street & Pedestrian Connectivity	A.2.a.(1)	<u>We are concerned that this draft ordinance was written for subdivisions, and streets within commercial and residential developments. The airport environment has many conflicts with this zone as</u>

Stewart, Casey

From: Coffey, Cheri
Sent: Tuesday, February 23, 2010 2:56 PM
To: Stewart, Casey; Milliner, Ray
Cc: Sommerkorn, Wilford
Subject: FW: Need a Shade Control Act to encourage residential solar

This may play into the solar array and solar collection equipment ordinance changes.

Very timely☺

From: Bennett, Vicki
Sent: Tuesday, February 23, 2010 1:44 PM
To: Becker, Ralph; Gale, Amy
Cc: Mickelson, Kaye; Chris Duerksen; Coffey, Cheri
Subject: RE: Need a Shade Control Act to encourage residential solar

Here is the State code that is current:

57-13-1. Definitions.

As used in this act:

(1) "Solar easement" means a right, whether or not stated in the form of restriction, easement, covenant, or conditions in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined herein.

(2) "Solar energy system" means a system of apparatus and equipment capable of collecting and converting incident solar radiation into heat, or mechanical or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation or mechanical energy generation.

(3) "Passive solar system" means a system which uses structural elements of the building, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(4) "Solar skyspace" means the space between a solar energy collector and the sun which must remain unobstructed such that on any given clear day of the year, not more than 10 percent of the collectable insolation shall be blocked.

57-13-2. Creation of solar easement -- Writing required -- Contents -- Enforcement.

(1) Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded and indexed in the office of the recorder of the county in which the easement is granted. Such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated herein.

(2) Any deed, will, or other instrument that creates a solar easement shall include, but the contents need not be limited to:

(a) a description of the real property subject to the solar easement and a description of the real property benefiting from the solar easement;

(b) a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;

- (c) any terms or conditions under which the solar easement is granted or may be terminated;
 - (d) any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement; and
 - (e) any other provisions necessary or desirable to execute the instrument.
- (3) A solar easement may be enforced by injunction or proceedings in injunction or other civil action.

Looks like BJ is right about the easement being the only current recourse now.

I will reply to him, and have also copied Chris Duerksen – our revised City Codes also only suggest that landowners negotiate voluntary easements, as the public was concerned about solar issues vs. trees. Do we want to consider taking this issue further?

Vicki

From: Becker, Ralph
Sent: Monday, February 22, 2010 5:29 PM
To: Gale, Amy
Cc: Bennett, Vicki; Mickelson, Kaye
Subject: RE: Need a Shade Control Act to encourage residential solar

Utah has a shade control act that was passed in the 1970's and I think is still in the State Code. (It was actually the first piece of legislation, along with a solar tax credit) I worked on after writing a law review article on solar access law). You may need to get help finding it, but last time I checked, it was still in the land use code. I know BJ, but feel free to follow up,
Ralph

From: BJ Nicholls [mailto:bjnicholls@comcast.net]
Sent: Thursday, February 18, 2010 4:27 PM
To: Mayor
Subject: Need a Shade Control Act to encourage residential solar

Howdy Mayor Ralph,

We're looking at building a new garage and we're seriously thinking of installing a solar photovoltaic array on the building. Currently, we have good sun exposure without shade from the neighboring property. But I can't see that either Utah or the city has a solar shade control law similar to California's. The only solar law that I can find is one that allows you to join with neighbors and create a solar easement/covenant. Creating such an easement is a significant barrier to the anyone considering an investment in home solar, and a shade control act like California's would be a real boon to encouraging investment in clean home solar technology.

We have a neighbor just down the hill who's recently installed an impressive photovoltaic array and passive hot water system on their new garage, and we're excited to see new solar installation contractors providing services in the city. Please take a look at the California law (pdf attached) and consider backing a city or statewide law that could dramatically lower the legal hurdles and costs for residents who'd like to go green with solar energy.

Thanks and best,

BJ

BJ Nicholls
1149 Douglas St

SUSTAINABILITY – Accessory Structures
COMMENT SHEET
PLNPCM2009-01338

If we may contact you for further discussion about your comments, please provide us with contact information:

Name Tom Irvin
Address (include zip code) _____
Phone _____
Email _____

Written comments:

Except coops, beehives, etc (Chap 8) structures
from compliance with 21A-40 Acc. ~~Use~~ Building
locations, etc.

21A-40-030 - zoning certs are not currently being issued
for accessory structures. - change that?

Stewart, Casey

From: Coffey, Cheri
Sent: Tuesday, March 09, 2010 11:19 AM
To: Stewart, Casey
Subject: FW: Building Codes and PV panels

Categories: Other

Casey,

This e-mail relates to solar panels and the fire fighters ability to fight fires from the roof. It is all these little details that we don't know exist.

Have fun.

Cheri

From: Goff, Orion
Sent: Tuesday, March 09, 2010 10:18 AM
To: Zollinger, Renee; Cook, Kurt
Cc: Coffey, Cheri; Butcher, Larry; Sommerkorn, Wilford; Comarell, Pat; Itchon, Edward; Ellis, Martha
Subject: RE: Building Codes and PV panels

Renee, we are the entity that issues the permits for the systems. The ord. is not sensitive to the fire-fighting issue, i.e. where they are placed on the roof to facilitate adequate firefighter safety. (Only structural and connection issues) To accomplish this initiative, firefighter safety, a change to the ord. and a transmittal to Council and subsequent Council action would be required.

Let me discuss this with Frank Gray, and see who should produce the transmittal for Council. I believe the Planning Division is currently working with a consultant to amend the ord. to make it more friendly and consistent with green practices. Perhaps they should be involved with this as well as the placement of these panels on buildings is also an aesthetic issue.

From: Zollinger, Renee
Sent: Tuesday, March 09, 2010 9:49 AM
To: Goff, Orion
Subject: Building Codes and PV panels

Hi, Orion,

Who is the best person to give me a quick primer on what the City's requirements/codes are for solar installations, as they relate to firefighter safety?

Renee Zollinger
Environmental Manager
Salt Lake City Corporation
451 S. State St. Room 145
PO Box 145467
Salt Lake City, UT 84114-5467
(801) 535-7215 (office)
(801) 750-4390 (cell)

Visit us at www.slcgreen.com, become a fan of our [Salt Lake City Green Facebook](#) page or follow [SLCgreen](#) on [Twitter](#)!



Please consider the environment before printing this email.

From: Cook, Kurt
Sent: Tuesday, March 09, 2010 8:22 AM
To: Zollinger, Renee
Subject: RE: PV Safety for Firefighters, April 1 Webinar - Invite your local Fire Department!

Thanks Renee. You are right about the urgency of the awareness and training for our safety. These solar systems pose unique and unfamiliar challenges to our firefighters considering the conditions we typically encounter during structure fire situations. I have forwarded the webinar link to all of my senior staff and Training Division for review and dissemination.

Thanks again for keeping us in mind.

-Kurt

R. Kurt Cook
Fire Chief
Salt Lake City Fire Department
801-580-1242

From: Zollinger, Renee
Sent: Monday, March 08, 2010 12:00 PM
To: Cook, Kurt
Cc: Bennett, Vicki
Subject: PV Safety for Firefighters, April 1 Webinar - Invite your local Fire Department!

Hi, Chief Cook,

I wasn't sure if you already have a safety program focused on solar systems, so I'm passing on some information! Attached is a description of a webinar that talks about fire safety on facilities with solar photovoltaic systems, and the link to register is in the email below. Additionally, here is a link to some training videos prepared by the San Jose Fire Department: <http://www.youtube.com/watch?v=4oaF9GV3pIU>. These videos are getting a fair amount of attention in the solar community.

We saw a large upsurge in the number of systems installed throughout Utah last year, and the State is launching a new solar rebate program in a few weeks that may further increase the number of systems here in the City.

Do you see any need(s) to look at building codes with respect to safety issues, or are these well covered at this time? Let me know if we can support you in this.

Renee Zollinger
Environmental Manager
Salt Lake City Corporation
451 S. State St. Room 145
PO Box 145467
Salt Lake City, UT 84114-5467

(801) 535-7215 (office)
(801) 750-4390 (cell)

Visit us at www.slcgreen.com, become a fan of our [Salt Lake City Green Facebook](#) page or follow [SLCgreen](#) on [Twitter](#)!



Please consider the environment before printing this email.

From: Muller, Hannah [mailto:Hannah.Muller@ee.doe.gov]
Sent: Monday, March 08, 2010 9:31 AM
To: 'Larry Sherwood'; ttleads@sandia.gov
Subject: PV Safety for Firefighters, April 1 Webinar - Invite your local Fire Department!

Solar America City partners,

In partnership with the Solar America Board for Codes and Standards, DOE's Solar America Cities program is pleased to present a Webinar on PV Safety for Firefighters on April 1, 2010 at 2pm EDT.

Please see the attached file for a description of the webinar content and presenter bios.

We hope you will engage fire departments in your region to participate!

Register here:
<https://www2.gotomeeting.com/register/233737995>

Best,
Hannah

Hannah Muller
Solar America Cities Program Lead
U.S. Department of Energy
Ph: 202-586-4883
Fax: 202-586-8148
hannah.muller@ee.doe.gov

DOE is partnering with 25 cities to build sustainable local solar markets. Learn more at www.solaramericacities.energy.gov

Attachment B
Public Comments

**2009 Zoning Text Amendment
November 9, 2009
Task Force Meeting**

Members Present

Jeff Bair, Cindy Cromer, Barbara Green, Jerry Green,, Helen Peters, Vasilios Priskos, Dave Richards, Lon Richardson, Judi Short, Ray Whitchurch

Staff Present

Wilf Sommerkorn Planning Director; Cheri Coffey, Planning Manager; Kevin LoPiccolo, Planning Programs Supervisor

Review of Summary Notes

The members of the Task Force had no comments on the Summary Notes from the October 26, 2009 meeting???

NonConforming Uses / NonComplying Structures

Without having a small neighborhood business zoning district adopted at the same time you change the non-conforming regulations, the property owner is stuck. You are closing the door on potential for expansion where right now you can expand up to 50% of the structure without going through a process.

How do you address incremental expansion?

People like small neighborhood walkable shops. You need to provide the ability to expand.

Perhaps you can create a Special "Legal" conditional use that the Planning Commission can recognize.

The use is not the issue. The standards are the issue.

The expansion of the use has been abused over the years.

Is there a way to use historic landmark process to address this? Perhaps you could expand if the property is in an historic district where they have commercial guidelines. The HLC could review the project if you want to expand. Those outside the historic district have to wait to expand until at some future date when the Small Neighborhood Commercial Project has been adopted and new zoning is in place.

Find guidelines that have to be met to expand or intensify.

Urban Agriculture

General

1. The reality is that you use less energy on a major farm than you do in small local urban agriculture areas. This is due to economies of scale.
2. Do not over regulate especially when you cannot enforce.
3. City has really poor enforcement program.
4. The Purpose statements don't make sense.

Community Gardens

1. Community gardens are helpful in building a sense of community. They are not a panacea to cure all the energy issues.
2. Distinguish between public and private. If on public property, it must be maintained by the City. You can't delegate the maintenance to a private entity on a public property. They have a different level of maintenance which could be a problem.
3. Do not allow on public property that is designated historic or in historic districts.
4. Don't allow in parks. The City needs all the open recreation space it has.
5. Ok to not require parking.
6. If allow to sell from a community garden located in a residential zone, you are basically allowing a commercial use in a residential zone.
7. Compost Site will lead to a problem with Methane Gas.
8. Community Garden as a home occupation is ok if you limit the number of people that can be on site at any one time (similar to what we do with a hair salon or piano teacher as a home occupation).
9. Ok to have these on public lands as long as they are not developed Open Space or the historic medians. If it is a vacant lot owned by the government that is ok.

Community Supported Agriculture

1. Don't allow CSA's in residential. It will lead to increased traffic in the neighborhoods.

Accessory Structures for Urban Agriculture.

1. Greenhouse, hoophouse is ok as long as it meets the accessory structure regulations.

Attachment C
Historic Landmark Commission Minutes

Commissioner Harding noted that the evidence in front of the Commission suggested the use of internal muntins would be supported and felt the Commission should point to evidence to the contrary to bolster their argument.

Commissioner Oliver noted she felt the argument allowing muntins on a building because muntins exist on a streetscape to be fallacious. She noted that muntins were tied to the style of a building and the era which it was intended to reflect. She stated that there was insufficient evidence on the streetscape to evaluate the Trudell home and the Commission therefore needed to expand their definition into the wider neighborhood to find buildings which reflected a similar architectural style to understand if muntins were appropriate. She noted that if the Commission did so, the answer was that they were not.

Commissioner Funk stated there were only two buildings on the block face which had internal muntins.

There was no further discussion of the motion.

Commissioners Bevins, Funk, Hart, Haymond, Vice Chairperson Oliver and Commissioner Richards all voted, "Aye". Commissioners Davis and Harding voted, "Nay". The motion carried, 6-2.

Mr. Nielson noted that any appeal to LUAB needed to be submitted within ten days.

PLNPCM2009-01338, Sustainability Development Code Changes for Accessory Buildings — (Unfinished Business) a request by Mayor Ralph Becker to amend the Zoning Ordinance in regards to accessory structures associated with urban agriculture (such as greenhouses) and renewable energy systems (such as small solar and wind energy collection systems) in an effort to facilitate and regulate those activities throughout the City. Discussion will focus on location priorities for new solar collection systems in the Historic Preservation Overlay District. This is a Citywide policy issue which will affect all Council Districts. (Staff contact: Casey Stewart at 801-535-6260, casey.stewart@slcgov.com.)

Mr. Stewart noted he was back before the Commission with revisions to the draft amendments to address the concerns raised by the Commission in their subcommittee. Mr. Stewart noted the subcommittee raised the following issues;

1. Allowed building coverage area for greenhouses, hoop houses, and cold frames was too large.

Mr. Stewart noted that staff had reduced the amount of coverage allowed in the maximum coverage section beginning on page 3 of the staff memo, from twenty to fifteen percent of the total area behind the building.

2. Color of wind turbine towers should be limited to earth tones.

Mr. Stewart noted that the original language had been changed to limit color to browns, grays, greens and other earth tones.

3. Wind turbine tower drawings should be stamped by a Utah certified engineer.
4. Clarify that renewable energy systems must comply with both city and state electrical codes.
5. When wind systems are abandoned, notice to the property owner shall be made by the city.

Mr. Stewart noted that besides these changes, language was also inserted to address concerns regarding pegs or foot holds on turbine towers.

6. Remove the reasonable restrictions' limits relating to solar collection systems where mitigation could result in additional expenses exceeding \$2,000 or a reduction in efficiency exceeding 20%.
7. Allow for administrative Certificate of Appropriateness and more installation flexibility when solar panels are proposed in locations not visible from the public way (location priorities 1-4).

Mr. Stewart noted that this prioritization arose from the Commission's previous discussion.

8. Require full HLC review for solar panels proposed for locations that are readily visible (location priorities 5 and 6).

Mr. Stewart noted that the language had been altered to denote that these items would be reviewed by the Commission.

9. Incorporate existing policy statements for solar panel installation into the amendments.

Mr. Stewart stated staff had inserted the prioritization hierarchy into the Policy Document where the installation of solar panels was concerned as a guideline to tie policy to the code more closely.

Mr. Stewart noted staff sought a positive recommendation to the Planning Commission regarding the proposed amendments for urban agriculture and solar collection systems.

Questions from the Commission 7:23:11 PM

Commissioner Funk noted that in the code amendments, 21A.40.050, General Yard, Bulk and Height Limitations, seemed to indicate that an accessory structure could be placed in a non-required front yard.

Mr. Stewart noted that this was correct.

Commissioner Funk stated that she did not agree with this revision and felt accessory structures should be placed behind the front façade of the building.

Ms. Coffey noted that there was language in the ordinance which accomplished that and a similar requirement could be added to these proposed amendments.

Commissioner Hart noted that on page 11 of the draft document, noted that item 6 in the location priority would allow solar panels on the front façade which she found troubling.

Mr. Stewart noted that new technology was allowing for shingles to be used for solar applications. Mr. Stewart noted the Commission's thought in the last meeting had been such that with improving technologies, the Commission could review applications for placement of these systems on the front façade and determine if they were allowable on a case by case basis.

Commissioner Richards noted that part of the previous discussion was that technology was advancing quickly; however, not all products would work on the front façade, which is why the Commission had decided during previous discussion that numbers 5 and 6 in the priorities list should go through a full review before the Commission.

Ms. Coffey noted that people were interested in a brief approval process and therefore, hopefully, most people would place these systems in a less visible location.

Commissioner Richards stated he believed the edits to be an improvement.

Mr. Stewart reviewed a sample accessory building calculation for the Commission.

Chairperson Lloyd noted there would be several ways to calculate allowable coverage, including an overall lot coverage limit as well as a percentage of the rear yard and a percentage of the principal structure and the most restrictive limit would be used.

Public Comment 7:36:24 PM

Cindy Cromer, 816 East 100 South, noted that the Commission should note that sustainability should not trump all other ordinances. She stated that due to changing technology, the policy document should note that technology was evolving and the Commission would consider new developments as they arose. She noted that the Commission should request an update after the Planning Commission reviewed the documents.

Sandra Hatch, 1141 Michigan Avenue, was present to speak. She noted that her son was soon to be an Environmental Design graduate and felt that these ordinances were very important to bring sustainable technologies to the forefront in neighborhoods like the Avenues. Ms. Hatch inquired if the Commission would regulate hoop structures and row covers.

Mr. Stewart noted that for row covers no permit would be required and yard coverage would not be affected.

Seeing no further public comment, Chairperson Lloyd moved the item to Executive Session.

Executive Session 7:41:36 PM

Ms. Coffey noted that staff had received a comment about row covers, however staff felt regulating row covers was overregulation, as row covers were very temporary.

Commissioner Richards noted that the Commission had been concerned that if coverage limits were not placed on hoop houses, people might use them for storage rather than their intended use. He noted that language regarding the Sustainability Ordinances trumping all other ordinances had also been revised to give the Zoning Administrator authority to decide which ordinances should prevail.

Commissioner Funk noted she was concerned the length of time given before the City acted upon turbine abandonment to be too liberal, as it appeared property owners would be given 18 months to resolve any issue.

Mr. Stewart clarified that the language required resolution within 12 months.

Commissioner Funk noted this was better.

Commissioner Funk noted that under small solar collection systems, numbers 1 and 3 might be clarified by combining the two together. Commissioner Funk noted she believed that landscaping bonds did not work, and the language should be removed from the document. She also identified some grammatical errors in the Policy Document.

Ms. Coffey noted that some sections of the Policy Document had not been reviewed since 1984 and while the bonds section had not been part of the current revision, review of the overall document was forthcoming.

There was further discussion of bonds by the Commission.

Chairperson Lloyd inquired if the Commission found it appropriate to forward a recommendation at this time.

Commissioner Davis noted that he would like to see it after the Planning Commission.

Mr. Nielson noted that this request did not work with state code, as the Planning Commission was required to make a recommendation one way or the other to the City Council.

Commissioner Funk inquired if the Planning Commission would set up a subcommittee to examine the suggested changes.

Mr. Stewart that the Planning Commission had seen the code amendment and had made some suggestions, however, he did not believe they would form a subcommittee on the issue.

Commissioner Richards noted he believed the document would be tweaked at some point in the future, as it involved changing technologies, and it seemed evolved enough at this time to forward a positive recommendation.

Vice Chairperson Oliver inquired if staff could brief the Commission on any further developments with the code amendments.

Ms. Coffey noted that staff could do this in November if the Landmark Commission forwarded a recommendation.

In the case of Petition PLNPCM2009-00138, Vice Chairperson Oliver made a motion to forward a favorable recommendation to the Planning Commission to recommend that City Council adopt the proposed sustainability ordinance text amendments relating to Accessory Structures. Commissioner Harding seconded the motion.

There was no discussion of the motion.

Commissioners Bevins, Davis, Funk, Harding, Hart, Haymond, Vice Chairperson Oliver and Commissioner Richards all voted, "Aye". The motion carries unanimously.

PLNHLC2010-00530, Gaddis Certificate of Appropriateness for Minor Alterations — a request by Benjamin and Erica Gaddis, for minor alterations to a single-family residence located at approximately 777 East Fifth Avenue in the Avenues Historic District. The request is to: 1) obtain approval to legalize a partially finished wooden shed, and 2) add solar panels to the roof of the wooden shed. The portion of the request for the solar panels could not be approved administratively since the action does not meet the adopted policies of the Historic Landmark Commission regarding installation of solar panels. The property is zoned SR1-A (Special Development Pattern Residential) and is located in City Council District 3, represented by Council Member Stan Penfold. (Staff contact: Maryann Pickering at 801-535-7660, maryann.pickering@slcgov.com.)

Vice Chairperson Oliver recused herself from the case, citing a conflict of interest in the case as the next door neighbor of the applicant.

September 1, 2010 Minutes

Mr. Nielson noted they could change the order of the agenda by vote.

6:42:30 PM Commissioner Funk moved to change the order of the agenda to proceed to the following case, PLNPCM2009-01338, and wait until that item ends to determine whether or not to consider PLNHLC2010-00489 at that time. Commissioner Richards seconded the motion.

There was no discussion of the motion.

All voted "Aye". The motion carried unanimously.

Mr. Paterson stated that staff was attempting to track down Mr. Stewart to present the next item.

Mr. Leith left the meeting at this time to attempt to contact his applicant.

PLNPCM2009-01338, Sustainability Development Code Changes for Accessory Buildings – A request by Mayor Ralph Becker to amend the Zoning Ordinance in regards to accessory structures associated with urban agriculture (such as greenhouses) and renewable energy systems (such as small solar and wind energy collection systems) in an effort to facilitate and regulate those activities throughout the City. Discussion will focus on location priorities for new solar collection systems in the Historic Preservation Overlay District. This is a Citywide policy issue which will affect all Council Districts. (Staff contact: Casey Stewart at 801.535.6260 or casey.stewart@slcgov.com.)

Staff Presentation 6:45:07 PM

Mr. Stewart noted that the Mayor had initiated a petition to develop a Citywide Sustainability Code. Mr. Stewart stated a consultant had been hired to work on the issue and then the code had been broken into smaller portions, and his portion involved agricultural accessory structures relating to urban agriculture as well as renewable energy systems such as small solar and wind energy collection systems. Mr. Stewart stated that the Planning Commission had reviewed the code and tabled the item for further investigation of the wind energy collection ordinances. He noted that questions had arisen at that time as to how the Historic Overlay Zone would affect the regulations on some of those structures. He noted he had included the Clarion Associates Discussion Paper for the Commission regarding their hierarchy of locations produced in 2009. He noted that staff requested direction regarding solar collection systems. Mr. Stewart reviewed the priorities proposed in the Discussion Paper:

1. Solar panels should be installed below the ridgeline of a pitched roof when possible or setback from the edge of a flat roof.
2. Solar panels should be located so as not to change a historic roofline or obscure the relationship of a historic roof to character defining features such as dormers or chimneys.
3. Should be installed in a manner which does not damage or obscure the character defining features
4. Should be located on the rear or sides of a pitched roof. Locating solar panels on a front pitched roof of the primary façade is inappropriate.
5. Should be mounted parallel to the plane of a pitched roof and have a low profile.
6. Should be installed in a location on the roof so as not to be readily visible from public streets.

Mr. Stewart then reviewed the six priorities laid out in the proposed text amendment language.

1. In a rear yard in a location not readily visible from a public right-of-way (except an alley).
2. On an accessory building or structure (such as a garage), in a location not readily visible from a public right of way (except an alley).
3. In a side yard in a location not readily visible from a public right-of-way (except an alley).

4. On the principal building in a location not readily visible from a public right-of-way (except an alley).
5. On the principle building in a location that may be visible from a public right-of-way, but not on the structure's front façade.
6. On the front façade of the principal building in a location most compatible with the character defining features of the structure.

Mr. Stewart noted that staff had done some research regarding the Secretary of the Interior's Standards regarding these types of systems. He stated that items proposed for the front façade of the principal building were traditionally denied. He noted that staff originally proposed that item six be removed from the location priorities and that consideration of systems on the front façade not be allowed.

Mr. Stewart noted that installation standard number two on page eleven of the staff report indicated that additional restrictions put in place by the Historic Overlay should not reduce the effectiveness of the system by more than twenty percent or exceed \$2000. He noted that staff was of the opinion this was an overly complicated and hard to measure standard, and staff recommended removal of that language.

Ms. Coffey noted that the Commission might want to recommend meshing their current policy regarding solar panel systems with the proposed hierarchy.

Questions for Staff from the Commission 6:54:48 PM

Chairperson Lloyd inquired of Ms. Coffey if it would make more sense to propose that sections of the Commission's current guidelines be inserted into the text amendment or to refer to the standards directly.

Ms. Coffey noted that it would be easier for the sake of clarity to insert sections of the current guidelines into the amendment. She noted that staff could make these changes easily.

Commissioner Funk noted she did not appreciate the economic amount in the ordinance as these numbers were subject to change as new developments emerged and it needed to be not quite as specific. She stated that solar technology was evolving so quickly, there might come a time when appropriate materials would become readily available for the front façade of a residential home, such as recently developed shingles.

Commissioner Richards noted that he originally considered dropping standards 5&6 which would allow for panels on the front of the house. He noted that the language also indicated that a panel could be erected at a height of 12 feet above the roofline.

Chairperson Lloyd inquired if the language distinguished between solar photovoltaic systems and solar thermal collection systems. He stated that many solar thermal collectors were being treated in the same manner as skylights and were not always specifically precluded from the principal façade of a structure.

Mr. Stewart noted that the language did not distinguish between the two.

Chairperson Lloyd noted that performance levels also varied greatly between the two systems. He noted that the Commission might want to further investigate particular systems and their relative appropriateness as suggested by Commissioner Funk.

Commissioner Richards noted that the thermal systems would always require a certain amount of bulk as they required fluid to move through them whereas the photo voltaic systems were essentially batteries and could become very thin over time.

Chairperson Lloyd stated that then it became a question of the appropriateness of the type, appearance and thickness of a system.

Vice Chairperson Oliver noted language could be added to require that a system be flush with the roof or provide less than a 3 inch projection over the roofline.

Commissioner Richards noted it could also be changed to state that requests front façade placement be reviewed on a case by case basis. He stated that they wanted to be positive and embrace the technology, but didn't want to set a precedent by specifically precluding systems on the front façade when they might be allowable in certain applications in the future. Commissioner Richards noted they might also look at the issue more like a conditional use request.

Ms. Coffey noted that under the proposed General Provisions section, "...If there is any conflict between the provisions of this subsection and any other requirements, the provisions of the subsection shall take precedence." She stated the Commission might consider removal of that language if wanting to review particular issues on a case by case basis.

Commissioner Bevins inquired if the applicant would have to prove if all other locations were not feasible.

Commissioner Richards noted they could delineate the issue and delegate certain applications to staff; particularly those in the rear, on an accessory structure or at the rear of a principal building and not readily visible from the street.

Chairperson Lloyd noted that the principal building would almost always be the best placement for a collection system as it was normally the tallest and most free of shade or other obstructions.

Ms. Coffey noted that there was a current case where the applicant proposed to place panels on a shed that was somewhat visible from the street. She stated that this case might be a proof for the concept that if a system was placed on a shed or other structure beside the primary building, more latitude might be given as to what could be allowed.

Chairperson Lloyd noted that this seemed reasonable.

Vice Chairperson Oliver noted that section 2(c), items 1-4 read to her that projecting panels would be allowed if not placed on the principal façade or readily visible from the street.

Commissioner Funk noted that section 1(a), item 2 would allow a panel to project 12 feet above a roofline, which seemed undesirable and obnoxious in any zone, historic overlay or not.

Chairperson Lloyd noted that this language would only allow that if the roof was 12 feet below the zoning cap.

Mr. Stewart noted that this was intended to allow for a better collection angle on accessory structures such as garages.

Commissioner Funk noted that they could take out numbers and make determinations more by the appropriateness of the application.

Mr. Stewart noted that incorporating the Commission's current guidelines into the text could eliminate some of those issues with the regulations within the overlay.

Ms. Coffey noted that the issue was part of a public hearing and inquired if the Chair wished to open the meeting to public comment.

Chairperson Lloyd opened the floor to public comment.

Public Comments 7:15:42 PM

Cindy Cromer, 816 East 100 South, noted that aside from everything else, the City's existing guidelines for solar collection systems were better written than the proposed amendment. She stated that there was a huge amount of force coming from Clarion regarding the Sustainability Ordinance. Ms. Cromer stated that while important, the Sustainability Ordinance should not trump all and there had been no response from Clarion to objections for over a year.

Executive Session 7:18:18 PM

Commissioner Funk inquired if the Wind Collection Systems were up for discussion.

Mr. Stewart noted that anything in the text amendment was open for discussion.

Commissioner Funk noted that page 8, 1(a), indicated, "...if the small wind energy system is on a roof, the total extended height is equal to the roof height and the tower height", and requested clarification.

Commissioner Richards noted that he believed that regulation was meant to determine how far from the property line the wind tower must be located.

Commissioner Funk stated other concerns, including:

Section D. Appearance, Color and Finish, which stated that a tower had to remain the original applied manufacturer's finish and added that bright, luminescent or neon colors as determined by the City are prohibited. She noted the second portion seemed unnecessary.

Section H. Access, stated that any climbing foot areas or rungs below 12 feet of a free standing tower shall be removed to prevent unauthorized climbing. She stated that the language regarding unauthorized climbing seemed unnecessary also.

Section M. Abandonment, stated if a wind turbine is inoperable for six consecutive months the owner shall be notified that they must, within six months of receiving the notice, restore their system...She inquired who would enforce this and how would one determine what was inoperable.

Commissioner Davis noted if someone had invested the money to put up a wind turbine, they had a strong economic incentive to keep it operating and didn't know many people who would let it fall into disrepair.

Chairperson Lloyd noted he felt the language helped to provide the City some control over enforcement of the issue.

Commissioner Funk noted that as technology evolved wind turbines might also become obsolete and remain as monoliths and the owner should be responsible for removal.

Mr. Stewart stated the language did place financial burden of removal upon the owner.

Chairperson Lloyd stated the Commission felt historic neighborhoods within the City to be some of the most sustainable communities and full of people likely to be interested in renewable energy. He stated he would like to see language regarding the inherent worth of historic neighborhoods in regards to sustainability. He noted that because of the embodied energy, building materials, lot density, living patterns historic districts contributed to making Salt Lake City a sustainable city.

Commissioner Davis noted the Commission had to be open to renewable forms of energy in historic districts because that sustainable tradition should be promoted. He stated that if energy prices increased tenfold and it was difficult to utilize alternative energy forms because a property owner lived in a historic district, it would create a disincentive to live there.

Commissioner Funk concurred with Commissioner Davis but noted that she still did not believe that sustainability should always trump the preservation ordinance.

Chairperson Lloyd inquired what staff required of the Commission.

Mr. Stewart noted staff was ultimately looking for a recommendation for the proposed amendments to forward to the Planning Commission.

Ms. Coffey stated that if it was too difficult to recommend the proposed ordinances, the Commission could make recommendations without formally approving of the draft ordinance.

Chairperson Lloyd noted the Commission could note general approval then, but provide specific recommendations to staff.

Commissioner Funk noted she felt it was difficult to sift through the entire amendment in one hearing and recommended that the Commission form a subcommittee to examine the issue and offer amendments.

Ms. Coffey noted she would prefer that the entire group vote on recommendations made by a subcommittee or through individual comments.

Commissioner Davis concurred with Commissioner Funk and felt the issue required further examination.

Mr. Stewart noted that if the Commission agreed with parts of the ordinance such as the section on accessory structures, the Commission might forward a recommendation on that portion.

Commissioner Funk noted she was not entirely comfortable with that part of the amendment either as it proposed that an accessory building might be as large as fifty percent of the principal structure and that seemed excessive.

Commissioner Richards noted he had been disheartened by the previous response to comments made by the Zoning Amendment Project Committee.

Ms. Coffey noted that this ordinance was now in the hands of the Planning Staff and they would be making the proposed text changes.

Motion 7:39:45 PM

Commissioner Funk moved to create a subcommittee to review petition PLNPCM2009-01338 and make recommendations back to the Planning Commission. Commissioner Richards seconded the motion.

There was no discussion of the motion.

All voted "Aye". The motion carried unanimously.

Commissioners Funk, Bevins, Richards and Davis volunteered for the subcommittee.

Commissioner Richards inquired if staff could provide updated copies of the proposed ordinance for review before the subcommittee meeting.

7:42:00 PM Vice Chairperson Oliver was excused from the meeting at this time.

The following item was moved from earlier on the agenda to the end in order to allow time for the applicant to appear. Mr. Leith confirmed that the applicant was present to participate.

PLNHLC2010-00489, 661 Green Street Certificate of Appropriateness for Minor Alterations – A request by James Olsen, contractor, on behalf of owners Diamond Property Management, for alterations to a series of 10 single story apartment buildings located at approximately 661 & 662 Green Street, Salt Lake City (inc. Nos. 665, 666, 669, 670, 673, 674, 677, 678, 679 & 680). The request is for new additions replacing existing additions to the rear of the properties, and to rebuild the front porches. The property is located in the Central City Historic District and the RMF-30 (Low Density Multifamily Residential) zoning district, in City Council District 4, represented by Luke Garrott. (Staff contact: Carl Leith at 801-535-7758 or carl.leith@slcgov.com.)

Staff Presentation 7:42:16 PM

Mr. Leith continued his staff presentation from earlier noting that Green Street at that point was part of a pedestrian walkway and 10 of 12 original units still existed. Mr. Leith noted that the buildings were in poor condition, the front porch and stairs in disrepair and the proposal would replace those stairs and front porches, extend new rear additions by 4' and would add a gable form roof to improve the current internal layout of the apartment units. He noted that the applicant proposed to use a fiber cement siding and due to the prominence of the rear of the structures from 700 South, staff would rather see a wood siding applied. Mr. Leith noted that staff recommended the Commission approve the request requiring details to be agreed upon with staff, alterations including:

1. Front porch and stairs
2. Rear addition design and cladding
3. Rear addition deck and stairs
4. Window framing to new additions
5. Rear doors to new additions

Questions for Staff from the Commission 7:47:33 PM

Commissioner Bevins inquired where the rear addition deck would be located.

Mr. Leith noted the rear addition deck referred to the landing at the top of the rear stairs.

Chairperson Lloyd inquired if alterations would include foundation work as well.

Mr. Leith noted that foundations would be rebuilt and would let the applicant answer further.