

**PLANNING COMMISSION STAFF REPORT**  
**Legislative Item**



Planning Division  
Department of Community  
and Economic Development

**Special Exception Text Amendment**  
**Zoning Text Amendment PLNPCM2010-00785**  
**Citywide**  
**July 13, 2011**

**Applicant:** Mayor Ralph  
Becker

**Staff:** Maryann Pickering  
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**Tax ID:** n/a

**Current Zone:** n/a

**Master Plan Designation:**  
Citywide

**Council District:** Citywide

**Community Council:** Citywide

**Applicable Land Use**

**Regulations:**

**Review Standards:**

21A.50.050 – Standards for  
General Amendments

**Affected Text:**

21A.06 – Decision Making  
Bodies and Officials  
21A.14 – Routine and  
Uncontested Matters  
21A.24 – Residential Districts  
21A.26 – Commercial Districts  
21A.34 – Overlay Districts  
21A.36 – General Provisions  
21A.38 – Nonconforming Uses  
and Noncomplying Structures  
21A.40 – Accessory Uses,  
Buildings and Structures  
21A.44 – Off Street Parking and  
Loading  
21A.46 – Signs  
21A.52 – Special Exceptions  
21A.62 – Definitions

**Attachments:**

- A. Proposed Ordinance  
Amendments
- B. Department Comments
- C. Public Input

***Request***

Salt Lake City Mayor Ralph Becker is requesting a Zoning Text Amendment to transfer the approval authority in the Salt Lake City Zoning Ordinance for special exceptions from the Board of Adjustment to the Planning Commission. In addition to the transfer of approval authority, the Petition will address several amendments in various sections of Title 21 that reference special exceptions, including the removal of Chapter 21A.14. The applicable text of Chapter 21A.14 will be moved into Chapter 21A.52. Related provisions of Title 21A – Zoning may also be amended as part of this petition. Changes would apply citywide if adopted by the City Council. The Planning Commission is required to transmit a recommendation to the City Council for Zoning Text Amendment requests.

***Recommendation***

Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission transmit a favorable recommendation to the City Council relating to this request.

***Recommended Motion***

Based on the findings listed in the staff report, testimony and plans presented, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to this request to transfer the approval authority for special exceptions from the Board of Adjustment to the Planning Commission based on the following findings:

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;
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.

## **Background**

### **Project Description**

The City adopted a comprehensive Zoning Ordinance in April 1995. At that time, it was understood that adjustments to the Zoning Ordinance would be necessary once it had been implemented and people had an opportunity to work with it. Salt Lake City intermittently processes fine tuning ordinance adjustments to provide code maintenance for the City's ordinances. At times, code changes are processed due to land use policy changes adopted by the City or because State enabling regulations are changed. It is then beneficial for Salt Lake City to make minor code revisions that lead to a greater ease of use and understanding.

Amendments to the Zoning Ordinances meet the following objectives:

- Have all administrative items reviewed by the same appointed body.
- Allow the Historic Landmark Commission to use their expertise in addressing special exceptions in designated historic districts.
- Clarify the review process for special exceptions.
- Codify the Zoning Administrator or ZA List.
- Improve the clarity and usability of the Zoning Ordinance without changing the intent behind the specific regulation in questions.
- Clarify wording that may be open to interpretation.
- Address ongoing problems with administration of existing ordinance language, and may result in a minor policy change of low significance.

### **Proposed Code Changes**

The Salt Lake City Planning Division is processing specific adjustments to the Zoning Ordinances. The changes proposed are discussed below in the order that they would appear on the ordinance.

#### **1. Chapter 21A.06 – Decision Making Bodies**

The duties and responsibilities of the Planning Commission, Board of Adjustment and Historic Landmark Commission will be modified. The primary change and purpose of the petition to transfer the approval authority will be in this chapter. In addition, language has been added to have the Board of Adjustment convene meetings as needed throughout the year.

In addition to the transfer of the approval authority, the Historic Landmark Commission will now have the authority to approve certain special exception for projects located within a historic preservation overlay zone. The specific items include: building wall height, garage height, garage square footage, fence height, overall building height and signs. Currently, applicants in a historic preservation overlay zone would need to obtain approvals from two separate bodies. This will streamline the approval process for applicants.

**2. Chapter 21A.14 – Routine and Uncontested Matters**

This chapter will be completely removed from the Zoning Ordinance. Planning staff has found there is confusion on how these items relate to special exceptions and there has never really been a clear process or comprehensive list of routine and uncontested matters. The existing chapter discusses how these items have been delegated to the Zoning Administrator (ZA) for an administrative review, but the items were never codified into the Zoning Ordinance and instead were found on a list commonly known as the “ZA List”. By removing this chapter and changing the way that special exceptions are reviewed, the process will be clear to our applicants. The list of items on the ZA List will be codified into Chapter 21A.52, of which there will be more discussion later in this report.

**3. Chapter 21A.24 – Residential Districts**

Changes to this chapter are cleanup items. The references to the Board of Adjustment are replaced with the Planning Commission. The administrative hearing officer function has been removed as a part of the special exception process. Modifications to the process will be found in both Chapters 21A.10 and 21A.52.

**4. Chapter 21A.26 – Commercial District**

A modification has been made to the approval authority for additional height on commercial buildings.

**5. Chapter 21A.34 – Overlay Districts**

The approval authority for the special exceptions for properties the Yalecrest Compatible Infill district have been changed to the Planning Commission. In addition, Section 21A.34.120(H) is being deleted since a property owner’s right to apply for a special exception or variance is already established in the code and it is unnecessary to repeat it in this section.

**6. Chapter 21A.36 – General Provisions**

In the current Zoning Ordinance, the Board of Adjustment has authority to review certain home occupations. These changes will transfer that authority to the Planning Commission.

**7. Chapter 21A.38 – Nonconforming Uses and Noncomplying Buildings**

Similar to the previous section, the two changes in this chapter are only changing the approval authority from the Board of Adjustment to the Planning Commission.

## **8. Chapter 21A.40 – Accessory Uses, Buildings and Structures**

One section of this chapter has been entirely removed. Planning staff felt that the items relating to the regulation of automatic amusement devices was no longer necessary at this time. This section of the code was most likely added into the Zoning Ordinance in the 1980's when stand alone arcades were a popular business. Considering that most residents have some type of gaming device in their home, there will most likely not be a large demand for standalone arcades in the near future. Current businesses that have one or two amusement devices should not be required to apply for a special exception. This change does not affect any the standards or requirements for automatic amusement devices located within a sexually oriented business.

The other changes in Chapter 21A.40 are related to the approval authority for difference types of fences and walls.

## **9. Chapter 21A.44 – Off Street Parking and Loading**

A new section has been added to Chapter 21A.44. The section addresses and provides regulations for vehicle and equipment storage in certain zoning districts. This is an item that was previously located on the ZA List. Staff felt that the regulations were appropriate for the vehicle and equipment storage, but that the item did not need to have a special exception approved for the use. Any business desiring to have a vehicle and equipment storage lot in the CG, M-1, M-2 and EI zoning districts that does not have a hard surface will simply need to comply with the standards in this chapter.

## **10. Chapter 21A.46 – Signs**

This section has been changed to allow the Historic Landmark Commission to approve signs located within a historic preservation overlay. It further implements the changes in Chapter 21A.06 related to duties of the commission.

## **11. Chapter 21A.52 – Special Exceptions**

A majority of the changes proposed in this text amendment are located within this chapter. Changes include the ability of the Planning Director to review and approve and items administratively, definition of a special exception, list of all special exceptions and any standards specific to each special exception, process, general standards, amendments, extensions of time, and an appeal process.

One subsection in Chapter 52 proposed to be removed is the subsection which contains all of the regulations for unit legalizations (currently 21A.52.100(E)). Staff has removed this process as a special exception due to the recently adopted Good Landlord Program. It is anticipated that a petition will be initiated around September 1 to consider new regulations for unit legalizations.

Attachment A shows all of the proposed changes in a legislative format.

## ***Public Notice, Meetings and Comments***

The following is a list of public meetings that have been held related to the proposed project:

- Open House held on January 20, 2011. There were no comments received at the open house meeting.
- A briefing with the Salt Lake City Board of Adjustment was held on January 24, 2011. An excerpt of the meeting minutes can be found in Attachment C.
- The Planning Commission held a briefing on the item on June 22, 2011.

Notice of the public hearing for the proposal includes:

- Public hearing notice posted in newspaper on July 1, 2011.
- Public hearing notice posted on City and State websites on June 30, 2011.
- Public hearing notice emailed to the Planning Division list serve on June 30, 2011.

## **City Department Comments**

The comments received from pertinent City Departments / Divisions are attached to this staff report in Attachment B. The Planning Division has not received comments from the applicable City Departments / Divisions that cannot reasonably be fulfilled or that warrant denial of the petition.

## ***Analysis and Findings***

### **Findings**

#### **21A.50.050 Standards for General Amendments.**

A decision to amend the text of this title 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.

- A. In making its decision concerning a proposed text 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 proposed text amendment is consistent with the purposes, goals, objectives and policies of the City. The process will be more streamlined than how it is currently administered. In addition to the process being streamlined, the ability for an applicant to submit a petition for a special exception still exists. The major difference is the appointed bodies that oversee the process. By allowing staff to review the application initially, applicant may have their approvals quicker than they would by following the process that currently exists.

**Finding:** The proposed text revisions are for the purpose of maintaining, updating, and clarifying the Zoning Ordinance, and as such are consistent with adopted City planning documents.

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

**Analysis:** Not all of the sections which are proposed to be changed contain purpose statements. Those that do have purposes statements contain language that is specific for each of the zoning districts, overlay districts, accessory uses, off-street parking and nonconforming or noncomplying uses. The changes in each of these chapters are specific to the change of the approval authority for special exceptions from the Board of Adjustment to the Planning Commission. References to other chapters or sections of the ordinance are being completed. Changes to the Special Exception chapter are more substantial than the rest of the chapters.

**Chapter 21A.52** – A new purpose statement has been written for Chapter 52. The new statement states that both the Planning Commission and Historic Landmark Commission have the ability to review certain exceptions and that they can delegate their authority for review of special exceptions to the Planning Director. The remainder of the section discusses how the process is to be completed.

**Finding:** Transferring the approval authority for special exceptions and adding an administrative process will be a positive change for both staff and applicants. Those who may be affected by a project will still have the opportunity to express their concerns. But by changing the language of the purpose statement in Chapter 52, the Planning Director will be able to make determinations at an administrative level regarding special exceptions. If the Director feels that they cannot make the administration determination, it will be forwarded to either the Planning Commission or Historic Landmark Commission for their review and decision.

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

**Analysis:** The proposed text amendment will affect one overlay district. Within this district, the Yalecrest Compatible Infill Overlay, the proposed language is to transfer the review and approval from the Board of Adjustment to the Planning Commission for special exceptions relating to garages height and remove the redundant language granting a property owner due process that already exists elsewhere in the zoning ordinance.

**Finding:** There will be in impact on the purposes and provisions of the overlay district by this proposal.

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

**Analysis:** The intent of this petition to have administrative items heard by the Planning Commission who is more accustomed to hearing administrative items such as conditional uses. The role of the Board of Adjustment is to hear quasi-judicial items which follow different regulations and are often confused during public hearings for special exceptions. The framework and structure of Salt Lake City's zoning regulations and development standards are sound and do not require wholesale restructuring. However, at times code changes are processed due to land use policy changes adopted by the City or because of State enabling regulation changes. It would be beneficial for Salt Lake City to make minor code revisions that lead to a greater ease of use and understanding.

**Finding:** The proposed changes are a matter of code maintenance and as such implement the best current, professional practices of urban planning and design.

### **Alternatives**

If it is determined that these proposed changes should not be made, the current process will remain unchanged. However, the proposed changes outlined above and shown in the Attachment A provide for a streamlined process will assist in clarifying for staff and the applicants what regulations and standards are for special exceptions. Recommending that these changes are made will also incorporate the items on the ZA List which is currently not codified as part of the ordinance. Having those items specifically listed in Chapter 52 along with the standards and process for approval make it very clear how a request can be processed and reviewed.

### **Commission Options**

If the Planning Commission agrees with the recommendation of staff, the item will be forwarded to the City Council for their review and decision.

If the Planning Commission agrees with staff, but determines that changes need to be made to this request, the modified request will be forwarded to the City Council

Should the Planning Commission that the changes are not appropriate, a negative recommendation can be forwarded to the City Council stating why the Planning Commission believed that the changes were not appropriate.

### **Potential Motions**

**Consistent with Staff Recommendation:** Based on the findings listed in the staff report, testimony and plans presented, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to this request to transfer the approval authority for special exceptions from the Board of Adjustment to the Planning Commission.

**Not Consistent with Staff Recommendation:** Based on the testimony, plans presented and the following findings, I move that the Planning Commission transmit a negative recommendation to the City Council relating to this request to transfer the approval authority for special exceptions from the Board of Adjustment to the Planning Commission.

The Planning Commission shall make findings on the Zoning Text Amendment standards as listed below:

5. 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;
6. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
7. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
8. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.



**Attachment A**  
**Proposed Ordinance Amendments**

## Chapter 21A.06

### DECISION MAKING BODIES AND OFFICIALS

#### 21A.06.030(B) – Planning Commission

8. Authorize special exceptions to the terms of this title pursuant to the procedures and standards set forth in chapter 21A.52, “Special Exceptions”, of this title;
9. Make ~~certain~~ determinations regarding the existence, expansion or modification of nonconforming uses and noncomplying structures pursuant to the procedures and standards set forth in chapter 21A.38, “Nonconforming Uses And Noncomplying Structures”, of this title.

#### 21A.06.040(B) – Board of Adjustment

- ~~3. Authorize special exceptions to the terms of this title pursuant to the procedures and standards set forth in chapter 21A.52, “Special Exceptions”, of this title;~~
- ~~4. Make certain determinations regarding the existence, expansion or modification of nonconforming uses and noncomplying structures pursuant to the procedures and standards set forth in chapter 21A.38, “Nonconforming Uses And Noncomplying Structures”, of this title.~~

#### 21A.06.040(E) – Board of Adjustment

- E. ~~Meetings: The board of adjustment shall meet at least once a month.~~ The board of adjustment shall convene meetings as needed throughout the year.

#### 21A.06.050(C) – Historic Landmark Commission

8. Review and approve or deny certain special exceptions for properties located within an H historic preservation overlay district. The certain special exceptions are listed as follows:
  - a. Building wall height;
  - b. Garage height;
  - c. Garage square footage;
  - d. Fence height;
  - e. Overall building height; and
  - f. Signs.
89. Make recommendations to the city council concerning the utilization of state, federal or private funds to promote the preservation of landmark sites and H historic preservation overlay districts within the city;
910. Make recommendations to the city council regarding the acquisition of landmark structures or structures eligible for landmark status where preservation is essential to the purposes of ~~section chapter~~ 21A.34.020, “H Historic Preservation Overlay District”, of this title, and where private preservation is infeasible;

4011. Make recommendations to the planning commission in connection with the preparation of the general plan of the city; and
4412. Make recommendations to the city council on policies and ordinances that may encourage preservation of buildings and related structures of historic and architectural significance.

## **Chapter 21A.14**

### **ROUTINE AND UNCONTESTED MATTERS**

#### **21A.14.010: PURPOSE STATEMENT:**

The purpose of this chapter is to enable routine and uncontested matters as designated by the board of adjustment pursuant to section 21A.14.030 of this chapter to be determined administratively by the zoning administrator as a routine and uncontested matter, in accordance with the procedures set forth in section 21A.14.060 of this chapter.

#### **21A.14.015: DEFINITION:**

A "routine and uncontested matter" is a special exception which the board of adjustment has delegated to the zoning administrator to be determined administratively because of its routine and uncontested nature. Routine and uncontested matters shall be decided using the same criteria that the board of adjustment would use for determining special exceptions.

#### **21A.14.020: AUTHORITY:**

Pursuant to the municipal land use development and management act, section 10-9-705, of the Utah Code Annotated, the zoning administrator is authorized to decide routine and uncontested matters brought before the board of adjustment in accordance with the provisions of this chapter.

#### **21A.14.030: DESIGNATION OF ROUTINE AND UNCONTESTED MATTERS:**

The board of adjustment may adopt a designation of classes of matters brought before it as routine and uncontested matters for decision by the zoning administrator pursuant to section 21A.14.060 of this chapter.

#### **21A.14.040: GUIDELINES FOR DECISION:**

A designation by the board of adjustment pursuant to section 21A.14.030 of this chapter shall be accompanied by a statement of guidelines with which the zoning administrator shall comply in deciding the matter.

#### **21A.14.050: RECORD OF DESIGNATED MATTERS:**

A list of routine and uncontested matters as designated by the board of adjustment shall be kept on file in the office of the zoning administrator.

### **21A.14.060: PROCEDURE FOR REVIEW AND DECISION:**

- A. ~~— Making Applications: An application for a routine and uncontested matter shall be submitted to the office of the zoning administrator.~~
- B. ~~— Abutting Property Owners' Signatures: Application must include signatures of approval of all abutting property owners on a form provided by the zoning administrator. If the zoning administrator determines it to be appropriate, due to the nature of the application, signatures of approval of property owners across the street(s) may also be required.~~
  - 1. ~~— If all of the required signatures cannot be obtained, the zoning administrator shall refer the application to the administrative hearing officer to be considered as a special exception pursuant to chapter 21A.52 of this title.~~
  - 2. ~~— If all required signatures are obtained, the zoning administrator will approve, approve with conditions, deny or refer the application to the administrative hearing officer to be considered as a special exception pursuant to chapter 21A.52 of this title.~~
- C. ~~— Notification Of Decision: Within ten (10) working days of the zoning administrator's decision, the zoning administrator shall send a letter notifying the applicant of the decision.~~
- D. ~~— Records: A record of all decisions on routine and uncontested matters shall be kept on file in the office of the zoning administrator.~~

### **21A.14.070: APPEAL OF DECISION:**

~~Any person adversely affected by a decision of the zoning administrator or the administrative hearing officer on an application for a routine and uncontested matter may appeal the decision to the board of adjustment pursuant to the provisions in chapter 21A.16 of this title.~~

## **Chapter 21A.24 RESIDENTIAL DISTRICTS**

### **21A.24.010(P) – General Provisions**

- 2. Height Special Exception: The ~~planning commission~~ **board of adjustment**, as a special exception to the height regulations of the applicable district, may approve a permit to exceed the maximum building height but shall not have the authority to grant additional stories. To grant a height special exception the ~~planning commission~~ **board of adjustment** must find the proposed plan:
  - c. In making these considerations the ~~planning commission~~ **board of adjustment** can consider the size of the lot upon which the structure is proposed.

- d. The burden of proof is upon the applicant to submit sufficient data to persuade the ~~planning commission board of adjustment~~ that the criteria have been satisfied.
- e. The ~~planning commission board of adjustment~~ may deny an application for a height special exception if:

#### **21A.24.050(D) – R-1/12,000 Single-Family Residential District**

- 6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by the ~~planning commission or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The ~~planning commission administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor refer the application to the board of adjustment to be considered as a special exception~~ pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the of adjustment.~~

#### **21A.24.060(D) – R-1/7,000 Single-Family Residential District**

- 6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by the ~~planning commission or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The ~~planning commission administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor refer the application to the board of adjustment to be considered as a special exception~~ pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the board of adjustment.~~

#### **21A.24.070(D) – R-1/5,000 Single-Family Residential District**

- 6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by the ~~planning commission or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The ~~planning commission administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor refer the application to the board of adjustment to be considered as a special exception~~ pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the board of adjustment.~~

## 21A.24.080(D) – SR-1 AND SR-1A Special Development Pattern Residential District

6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by **the planning commission** ~~or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The **planning commission** ~~administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor~~ **refer the application to the board of adjustment to be considered as a special exception** pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the board of adjustment.~~

## 21A.24.100(D) – SR-3 Special Development Pattern Residential

6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by **the planning commission** ~~or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The **planning commission** ~~administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor~~ **refer the application to the board of adjustment to be considered as a special exception** pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the board of adjustment.~~

## 21A.24.110(D) – R-2 Single- and Two-Family Residential District

6. a. For properties outside of the H historic preservation overlay district, additional building height may be granted as a special exception by **the planning commission** ~~or an administrative hearing officer~~ subject to the special exception standards in chapter 21A.52 of this title and if the proposed building height is in keeping with the development pattern on the block face. The **planning commission** ~~administrative hearing officer~~ will approve, approve with conditions, or deny ~~the requestor~~ **refer the application to the board of adjustment to be considered as a special exception** pursuant to chapter 21A.52 of this title. ~~Any person adversely affected by a decision of the administrative hearing officer may appeal the decision to the board of adjustment.~~

## Chapter 21A.26 COMMERCIAL DISTRICTS

### 21A.26.010(J) – General Provisions

1. Modifications Of Ten Percent Or Less Of Maximum Height:
  - a. The ~~planning commission~~ ~~board of adjustment~~ may approve, as a special exception, additional height not exceeding ten percent (10%) of the maximum height pursuant to the standards and procedures of chapter 21A.52 of this title. Specific conditions for approval are found in ~~chapter subsection~~ 21A.52-100G of this title.

## Chapter 21A.34 OVERLAY DISTRICTS

### 21A.34.120(G) – YCI Yalecrest Compatible Infill Overlay District

- G. Special Exception For Garages: A garage built into a hillside and located forward of the front line of the building may be allowed as a special exception granted by the ~~planning commission~~ ~~board of adjustment~~, subject to the following standards:

#### ~~21A.34.120(H)~~

- ~~H. Authority To Modify Regulations Through Variance Or Special Exception: The board of adjustment may consider applications from property owners seeking to change, alter, modify or waive any provisions of this section or other regulations applicable to the district in which the subject property is located through the variance (chapter 21A.18 of this title) or special exception (chapter 21A.52 of this title) processes. No such change, alteration, modification or waiver shall be approved unless the board of adjustment finds that the proposal:~~

## Chapter 21A.36 GENERAL PROVISIONS

### Table 21A.36.030(B) – Obstructions in Required Yards

Notes:

2. Below grade encroachments (encroachments which are completely below grade where the surface grade remains intact and where the below grade encroachment is not visible from the surface) into required yards shall be treated as a ~~special exception~~ ~~routine and uncontested matter~~ in accordance with the procedures set forth in chapter 21A.52-14 of this title.

## 21A.36.030(D) – Home Occupations

- D. Conditional Home Occupations:
1. The following home occupations, which either require a client to come to the home or which may result in neighborhood impacts if not properly managed, may be authorized by the ~~planning commission~~~~board of adjustment~~ as an accessory use only by special exception pursuant to standards specified in this section as well as the provisions of chapter 21A.52 of this title:
  2. The ~~planning commission~~~~board of adjustment~~ may delegate authority to the ~~planning director~~~~zoning administrator~~ to handle special exceptions for conditional home occupations. The ~~planning director~~~~zoning administrator~~ will review and approve applications in accordance with the provisions of chapter 21A.52~~44~~ of this title.

## 21A.36.030(I)

- I. Decision By ~~Planning Commission~~~~Board Of Adjustment~~ or ~~Planning Director~~~~Zoning Administrator~~: The ~~planning commission~~ ~~board of adjustment~~ or ~~planning director~~~~zoning administrator~~ shall issue a permit for the home occupation if the ~~planning commission~~~~board of adjustment~~ or ~~planning director~~~~zoning administrator~~ finds that:

## 21A.36.030(K)

- K. Appeals:
2. Any person adversely affected by the denial or issuance of a permit for a home occupation may appeal that decision to the ~~land use appeals board~~ ~~board of adjustment~~ pursuant to chapter 21A.52~~46~~ of this title.

## Chapter 21A.38

### NONCONFORMING USES AND NONCOMPLYING STRUCTURES

#### 21A.38.080(E)(2)(a)(2) – Moving, Enlarging or Altering Nonconforming Uses of Land and Structures

- b. Nonconforming Nonresidential Uses: The ~~planning commission~~ ~~board of adjustment~~ may authorize as a special exception the reconstruction and reestablishment of a legal nonconforming nonresidential use structure subject to consideration of the following:

#### 21A.38.090(C)(2)(a)(1)(B) – Noncomplying Structures

- (B) The reconstruction will not increase the number of units.
- (2) Nonconforming Nonresidential Uses: The ~~planning commission~~ ~~board of adjustment~~ may authorize as a special exception the reconstruction and reestablishment of a legal noncomplying structure with a nonconforming nonresidential use subject to consideration of the following:



## Chapter 21A.40

### ACCESSORY USES, BUILDINGS AND STRUCTURES

#### ~~21A.40.110 – Automatic Amusement Devices~~

~~Automatic amusement devices, as defined in chapter 21A.62 of this title, shall be subject to the following standards and limitations:~~

- ~~A. Standards: Automatic amusement devices may be kept and maintained, subject to the maximum number allowed indicated in subsection B of this section.~~
- ~~B. Limitation On Number Of Amusement Devices: The number of licensed automatic amusement devices available for use by the public which may be permitted as accessory uses on licensed premises shall be limited by district as follows:
  - ~~1. CN district: Up to two (2);~~
  - ~~2. CB and R-MU districts: From three (3) to nine (9) may be approved as a special exception, pursuant to chapter 21A.52 of this title, upon a finding by the board of adjustment that their number and location are appropriate considering the following standards:
    - ~~a. Character of the neighborhood;~~
    - ~~b. Distance from any residential use or school on adjoining properties;~~
    - ~~c. The principal permitted use and its relation to the amusement device(s) in terms of floor space and dollar volume; and~~
    - ~~d. The best interests of the city.~~~~~~
- ~~C. Commercial Video Arcade: In the CC, CS, CSHBD, CG, D-1, D-2, D-3, M-1 and M-2 districts, over nine (9) licensed automatic amusement devices are permitted when part of a commercial video arcade principal use.~~

#### 21A.40.120(E)(2)(g) – Regulation of Fences, Walls and Hedges

- g. Special Exception Approval Standards: The **planning commission or historic landmark commission** ~~board of adjustment~~ may approve taller fencing if it is found that ~~the board finds that~~ the extra height is necessary for the security of the property in question as defined in **chapter section 21A.52.100** of this title.

#### 21A.40.120(I)(2)

- 2. Special Exception: Barbed wire fencing may be approved for nonresidential uses as a special exception pursuant to chapter 21A.52 of this title, in all zoning districts except for those listed above as permitted uses. The **planning commission** ~~board of adjustment~~ may approve as special exceptions, the placement of barbed wire fences, for security reasons, or for the keeping of animals around nonresidential properties, transformer stations, microwave stations, construction sites or other similar publicly necessary or dangerous sites, provided the requested fence is not in any residential district and is not on or near the property line of a lot which is occupied as a place of residence.

### 21A.40.120(I)(5)

5. Special Exception Approval Standards: The **planning commission board of adjustment** may approve, as a special exception, the building permit for a barbed wire fence if **it is found that the zoning administrator finds that** the applicant has shown that the fence is reasonably necessary for security in that it protects people from dangerous sites and conditions such as transformer stations, microwave station or construction sites.

### 21A.40.120(J)(1)

1. Special Exception: Razor wire fencing may be approved for nonresidential uses as a special exception pursuant to chapter 21A.52 of this title, in the A, CG, D-2, M-1 and M-2 zoning districts. The **planning commission board of adjustment** may approve as a special exception the placement of razor wire fences, for security reasons, around commercial or industrial uses, transformer stations, microwave stations, or other similar public necessity or dangerous sites; provided, that the requested fence is not on the property line of a lot which is occupied as a place of residence.

### 21A.40.120(J)(4)

4. Special Exception Approval Standards: The **planning commission board of adjustment** may approve razor wire fencing if the **commission board** finds that the applicant has shown that razor wire is necessary for the security of the property in question.

## Chapter 21A.44

### OFF STREET PARKING AND LOADING

#### 21A.44.020(F)(9) – General Off Street Parking Requirements

1. Vehicle and equipment storage: In CG, M-1, M-2 and EI zoning districts, vehicle and equipment storage may be allowed without hard surfacing as a special exception provided:
  - a. The lot is used for long term vehicle storage, not for regular parking and/or maneuvering.
  - b. The vehicles stored are large and/or on tracks that could destroy normal hard surfacing.
  - c. The parking surface is compacted with six inches of road base and other semi-hard material with long lasting dust control chemical applied annually.
  - d. A hard surfaced wash bay is installed to wash wheels to prevent tracking of mud and sand onto the public way.
  - e. A minimum of 50 feet paved driveway from the public street property line.
  - f. City Traffic Engineer's approval.

## Chapter 21A.46 SIGNS

### 21A.46.070(V) – General Standards

- V. Historic District Signs: The ~~historic landmark commission~~ **board of adjustment** may authorize, as a special exception, modification to an existing sign or the size or placement of a new sign in a historic district or on a landmark site if the applicant can demonstrate that the location, size and/or design of the proposed sign is compatible with the design period or theme of the historic structure or district and/or will cause less physical damage to the historically significant structure.

## ~~Chapter 21A.52 SPECIAL EXCEPTIONS~~

### ~~21A.52.010: PURPOSE STATEMENT:~~

~~A special exception is an activity or use incidental to or in addition to the principal use(s) permitted in a zoning district or an adjustment to a fixed dimension standard permitted as exceptions to the requirements of this title of less potential impact than a conditional use but which requires a careful review of such factors as location, design, configuration and/or impacts to determine the desirability of authorizing its establishment on any given site. A special exception may or may not be appropriate in a particular location depending on the local impacts, and consideration of ways to minimize adverse impacts through special site planning and development techniques.~~

### ~~21A.52.020: AUTHORITY:~~

~~Pursuant to its authority under the municipal land use development and management act, section 10-9-703 of the Utah Code Annotated, the board of adjustment shall have the following authority in connection with the special exceptions authorized by this title:~~

- ~~A. Approval Of Special Exceptions: The board of adjustment may approve the special exceptions authorized by this title in accordance with the procedures and standards set out in this chapter and other regulations applicable to the district in which the subject property is located.~~
- ~~B. Authorization Of Approval Of Special Exception Under Procedures For Routine And Uncontested Matter: The board of adjustment may, by motion, designate any special exception authorized by this title as a routine and uncontested matter for decision by the zoning administrator or the administrative hearing officer pursuant to the procedures found in chapter 21A.14 of this title, but subject to the general standards for deciding special exceptions and such specific conditions on special exceptions as may be applicable pursuant to section 21A.52.100 of this chapter.~~

### ~~21A.52.030: SPECIAL EXCEPTIONS AUTHORIZED:~~

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

- ~~A. Additional fence height (subsection 21A.52.100A of this chapter).~~

- ~~B. Additional height in commercial districts (subsection 21A.52.100G of this chapter).~~
- ~~C. Additional building height in foothills districts (subsection 21A.24.010P2 of this title).~~
- ~~D. Alternative parking (section 21A.44.030 of this title).~~
- ~~E. Amusement devices (section 21A.40.110 of this title).~~
- ~~F. Barbed wire fences (subsection 21A.40.120I of this title).~~
- ~~G. Repealed.~~
- ~~H. Conditional home occupations (subsection 21A.36.030D of this title).~~
- ~~I. Access for persons with disabilities (subsection 21A.52.100C of this chapter).~~
- ~~J. Amateur ("ham") radio antennas (subsection 21A.40.090D of this title).~~
- ~~K. Hobby shops, studios and other noncommercial uses in accessory structures (subsection 21A.52.100D of this chapter).~~
- ~~L. Legalization of excess dwelling units (subsection 21A.52.100E of this chapter).~~
- ~~M. Modifications to maximum height in commercial districts (subsection 21A.26.010J of this title).~~
- ~~N. Operation of registered home daycare or registered home preschool facility in residential districts (subsection 21A.36.130B of this title).~~
- ~~O. Outdoor dining in required yard areas (subsection 21A.52.100F of this chapter).~~
- ~~P. Razor wire (subsection 21A.40.120J of this title).~~
- ~~Q. Reconstruction and reestablishment of nonresidential nonconforming uses and noncomplying structures with nonconforming uses damaged or destroyed greater than fifty percent (50%) (subsections 21A.38.080E2b and 21A.38.090C2b of this title).~~
- ~~R. Front yard parking (subsection 21A.44.050B of this title).~~
- ~~S. Routine and uncontested matters (chapter 21A.14 of this title).~~
- ~~T. Window mounted refrigerated air conditioners and evaporative "swamp" coolers located less than two feet (2') from a lot line (table 21A.36.020B, "Obstructions In Required Yards", of this title and subsection 21A.52.100H of this chapter).~~
- ~~U. Ground mounted central air conditioning compressors or systems, heating, ventilating, pool and filtering equipment located less than four feet (4') from a lot line (table 21A.36.020B, "Obstructions In Required Yards", of this title and subsection 21A.52.100I of this chapter).~~
- ~~V. Additional building height in the R-1 districts, R-2 districts and SR districts (subsections 21A.24.050D6, 21A.24.060D6, 21A.24.070D6, 21A.24.080D6, 21A.24.100D6, and 21A.24.110D6 of this title).~~
- ~~W. Alternate location for accessory structures in the R-1 districts, R-2 districts and the SR districts (subsection 21A.40.050A3d(3) of this title).~~

### **21A.52.040: PROCEDURE:**

An applicant for a special exception shall be processed in accordance with the following procedures:

- ~~A. Application: An application may be made by the owner of the subject property or the owner's authorized agent to the zoning administrator on a form or forms provided by the zoning administrator, which shall include at least the following information, unless deemed unnecessary by the zoning administrator:~~

1. ~~The applicant's name, address and telephone number and interest in the subject property;~~
  2. ~~The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;~~
  3. ~~The street address and legal description of the subject property;~~
  4. ~~The Salt Lake County property tax number;~~
  5. ~~The zoning classification, zoning district boundaries and present use of the subject property;~~
  6. ~~A vicinity map with north arrow, scale and date, indicating the zoning classifications and current uses of properties within eighty five feet (85') (exclusive of intervening streets and alleys) of the subject property;~~
  7. ~~The proposed title of the project and the names, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project;~~
  8. ~~A complete description of the proposed special exception;~~
  9. ~~A plan or drawing drawn to a scale of one inch equals twenty feet (1" = 20') or larger which includes the following information:
    - a. ~~Actual dimensions of the lot,~~
    - b. ~~Exact sizes and location of all existing and proposed buildings or other structures,~~
    - c. ~~Driveways,~~
    - d. ~~Parking spaces,~~
    - e. ~~Safety curbs,~~
    - f. ~~Landscaping,~~
    - g. ~~Location of trash receptacles, and~~
    - h. ~~Drainage features;~~~~
  10. ~~Traffic impact analysis;~~
  11. ~~Such other and further information or documentation as the zoning administrator may deem necessary or appropriate for a full and proper consideration and disposition of the particular application.~~
- ~~B. Determination Of Completeness: Upon receipt of an application for a special exception, the zoning administrator shall make a determination of completeness pursuant to section 21A.10.010 of this title, and that the applicant has submitted all of the information necessary to satisfy the notification requirements of subsection 21A.10.020A of this title.~~
- ~~C. Fee: The application for a special exception shall be accompanied by the fee established on the fee schedule, chapter 21A.64 of this title.~~
- ~~D. Staff Report: A staff report evaluating the special exception application shall be prepared by the zoning administrator unless, pursuant to subsection 21A.52.020B of this chapter, such special exception has been designated by the board of adjustment as a routine and uncontested matter for decision pursuant to the procedures of chapter 21A.14 of this title.~~
- ~~E. Public Hearing: The board of adjustment shall schedule and hold a public hearing on the completed application in accordance with the standards and procedures for conduct of the public hearing set forth in chapter 21A.10 of this title.~~

~~F. Board Of Adjustment Decision: The staff report shall be considered at the board of adjustment's public hearing. Following the conclusion of the public hearing, the board of adjustment shall either: 1) approve the special exception; 2) approve the special exception subject to specific conditions; 3) deny the special exception; or 4) hold the application for additional information.~~

### ~~21A.52.050: COORDINATED REVIEW AND APPROVAL OF APPLICATIONS:~~

~~Whenever an application for a special exception requires a variance, the applicant shall indicate that fact on the application and shall also file a variance application with the board of adjustment. Both applications may be considered by the board of adjustment at the same time. All required notices shall include reference to the request for the variance and any other approvals. Each application shall be accompanied by a separate fee as specified in the fee schedule, chapter 21A.64 of this title.~~

### ~~21A.52.060: GENERAL STANDARDS AND CONSIDERATIONS FOR SPECIAL EXCEPTIONS:~~

~~No application for a special exception shall be approved unless the board of adjustment shall determine that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions. (See section 21A.52.100 of this chapter.)~~

- ~~A. Compliance With Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.~~
- ~~B. No Substantial Impairment Of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.~~
- ~~C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.~~
- ~~D. Compatible With Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.~~
- ~~E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.~~
- ~~F. No Material Pollution Of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.~~
- ~~G. Compliance With Standards: The proposed use and development complies with all additional standards imposed on it pursuant to section 21A.52.100 of this chapter.~~

### ~~21A.52.070: CONDITIONS ON SPECIAL EXCEPTIONS:~~

~~The board of adjustment may impose conditions and limitations as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the special exception or upon public facilities and~~

~~services. These conditions may include, but are not limited to, conditions concerning use, construction, operation, character, location, landscaping, screening and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in the motion granting the special exception.~~

#### ~~21A.52.080: VIOLATION OF CONDITIONS:~~

~~Violation of any such condition or limitation shall be a violation of this title and shall constitute grounds for revocation of the special exception.~~

#### ~~21A.52.090: GENERAL CONDITIONS TO BE APPLIED TO ALL SPECIAL EXCEPTIONS:~~

~~The following conditions shall apply to all special exceptions granted by the board of adjustment. These conditions shall be in addition to any other conditions set by the board of adjustment or required by this title for certain special exceptions. (See section 21A.52.100 of this chapter.)~~

- ~~A.——Special Exceptions: Subject to an extension of time granted upon application to the zoning administrator, no special exception shall be valid for a period longer than one year unless a building permit is issued or complete building plans have been submitted to the division of building services and licensing within that period. The planning director may grant an extension of a special exception for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted to the planning director in writing prior to the expiration of the exception.~~
- ~~B.——Authority To Inspect: The zoning administrator shall have the authority to inspect all properties for compliance with special exception conditions as often as necessary to assure continued compliance.~~

#### ~~21A.52.100: SPECIFIC CONDITIONS FOR CERTAIN SPECIAL EXCEPTIONS:~~

~~The following special exceptions shall be subject to the particular specific conditions set forth below:~~

- ~~A.——Additional Height For Fences, Walls Or Similar Structures: The board of adjustment may grant a special exception to exceed the height limits established for fences and walls in chapter 21A.40 of this title. The board of adjustment shall consider the established character of the affected neighborhood and streetscape, maintenance of public and private views, and matters of public safety. The board of adjustment shall evaluate the application for compliance with the following approval standards and conditions:~~
  - ~~1.——Approval Standards:~~
    - ~~a.——Fences, walls or other similar structures which exceed the allowable height limits; provided, that the fence, wall or structure is constructed of wrought iron, tubular steel or other similar material, and that the open, spatial and nonstructural area of the fence, wall or other similar structure constitutes at least eighty percent (80%) of its total area;~~
    - ~~b.——Fences, walls or other similar structures which exceed the allowable height limits within thirty feet (30') of the intersection of front property lines on any corner lot; provided, that upon~~

~~consideration of existing traffic control devices, topographic conditions, street design, parking strip width, and other traffic related circumstances, it is determined by the board of adjustment, with the recommendation of the city transportation engineer, that additional height may be granted and still provide for adequate safety;~~

- ~~c. Fences, walls or other similar structures incorporating ornamental features or architectural enhancements which extend above the allowable height limits;~~
- ~~d. Fences, walls or other similar structures which exceed the allowable height limits, when erected around schools and approved recreational uses which require special height considerations; or~~
- ~~e. Fences, walls or other similar structures which exceed the allowable height limits, in cases where it is determined that an undesirable condition exists because of the abnormal intrusion of offensive levels of noise, pollution, light or other encroachments on the rights to privacy, safety, security and aesthetics.~~

~~2. Standards For Denial Of Height Exceptions: The board of adjustment may deny any request to exceed the maximum heights for fences, walls or other similar structures upon finding:~~

- ~~a. That it is not in keeping with the character of the neighborhood and urban design of the city;~~
- ~~b. That it would create a walled in effect in the front yard of any property in a residential district where the clear character of the neighborhood in front yard areas is one of open spaces from property to property; or~~
- ~~c. Where there is a driveway on the petitioners property or neighbor's property adjacent to the proposed fence, wall or similar structure that presents a safety hazard.~~

~~3. Conditions: As a condition for authorizing modifications to required height limitations for fences, walls and other similar structures, the board of adjustment may require special landscaping, design features, specific types of materials and any other element which will in the opinion of the board of adjustment diminish the impact of the additional height on neighboring properties, or that make the fence, wall or other similar structure more attractive, or compatible with the neighborhood in which it is located.~~

~~B. Conditional Home Occupations: Repealed.~~

~~C. Access For Persons With Disabilities: For persons with physical disabilities for whom strict compliance with the standards governing yard obstructions in chapters 21A.36 and 21A.44 of this title, substantially impairs their ability to access their single-family or duplex residential dwellings, the board of adjustment may approve as a special exception, an uncovered access ramp with required railings or any other form of access for persons with disabilities including, but not limited to, covered ramps, side yard or parking area modifications or similar access modifications, upon determining that:~~



- ~~1. The encroachment caused by the proposed access modification is necessary to meet the needs of the applicant;~~
  - ~~2. The proposed special exception would have no substantial adverse impact upon the neighborhood; and~~
  - ~~3. The obstruction to accommodate access for persons with disabilities will be removed when the person with a disability moves or no longer needs special access.~~
- ~~D. Hobby Shops, Studios And Other Noncommercial Uses In Accessory Structures: The board of adjustment may approve as a special exception a private study, art studio, hobby shop, exercise room, a dressing room adjacent to a swimming pool, or other similar uses in an accessory structure, subject to the following conditions:~~
- ~~1. The height of the accessory structure shall not exceed the height limit established in subsection 21A.40.050C of this title, unless a special exception allowing additional height is obtained.~~
  - ~~2. If the accessory building is located within ten feet (10') of a property line, no windows shall be allowed in the walls adjacent to the property lines.~~
  - ~~3. If the accessory building is detached it must be located in the rear yard.~~
  - ~~4. The total covered area for accessory buildings cannot exceed fifty percent (50%) of the rear yard area.~~
  - ~~5. The accessory building may at no time be converted to living quarters or commercial use.~~
- ~~E. Legalization Of Excess Dwelling Units: The board of adjustment may grant a special exception legalizing an excess number of residential dwelling units in accordance with the following application requirements and standards:~~
- ~~1. Applications: Applicants for legalization of excess dwelling units are subject to the specific requirements set below.~~
    - ~~a. Application For Excess Dwelling Units Constructed Without A Permit Before 1970: The application shall state:~~
      - ~~(1) The same requirements as listed in subsection 21A.52.040A of this chapter; and~~
      - ~~(2) The date of construction of the excess dwelling units and evidence of the construction at that date.~~
    - ~~b. Application For Excess Dwelling Units Constructed Without A Permit After 1969 And Before January 1, 1980: The application shall state:~~
      - ~~(1) The same requirements as listed in subsection 21A.52.040A of this chapter; and~~
      - ~~(2) The date of construction of the excess dwelling units and evidence of the construction at that date; and~~
      - ~~(3) The party responsible for constructing the excess dwelling units; and~~
      - ~~(4) The relationship between the present owner and the person constructing the excess dwelling units.~~
    - ~~c. Application For Excess Dwelling Units With Implied Permit: The application shall state:~~

- ~~(1) The same requirements as listed in subsection 21A.52.040A of this chapter; and~~
- ~~(2) The date of construction of the excess units and evidence of such construction; and~~
- ~~(3) Evidence of the implied permit.~~
- ~~2. Required Findings: The board of adjustment may authorize a special exception legalizing the excess number of dwelling units applied for upon making findings that support the following conclusions:~~
  - ~~a. Required Findings For Excess Dwelling Units Constructed Without A Permit Before 1970:~~
    - ~~(1) The excess dwelling units were constructed before 1970 and have been continuously used as dwelling units; and~~
    - ~~(2) The building services and licensing division has certified:
      - ~~(A) That the building and units substantially comply with life and safety codes or will be brought into substantial compliance pursuant to building permits which have been applied and paid for, and~~
      - ~~(B) That off street parking has been hard surfaced and, further, to the extent space is available on the property, the 1970 parking standards have been complied with. An alternative parking requirement, as outlined in section 21A.44.030 of this title, shall be provided prior to the approval of any unit legalization application if the applicant cannot satisfy the parking that was required at the time the excess units were created, and~~
      - ~~(C) That all nondimensional zoning violations have been corrected;~~~~
    - ~~(3) The owner has applied for an apartment license if the building contains three (3) or more dwelling units.~~
  - ~~b. Required Findings For Excess Dwelling Units Constructed Without A Permit After 1969 And Before January 1, 1980 For Units Not Constructed By The Owner Or An Immediate Family Relative Of Owner Or A Corporation Or Partnership With Similar Ownership And/Or Control:~~
    - ~~(1) The number of units of excess dwelling units of the building would have been allowed by the zoning classification existing at the time of construction and the units have been continuously so used;~~
    - ~~(2) The owner did not construct the excess dwelling units or is not an immediate family relative or, in the case of a corporation or partnership, similarly owned and/or controlled by the party creating the excess dwelling units; and~~
    - ~~(3) The building services and licensing division has certified:
      - ~~(A) That the building and units substantially comply with life and safety codes or will be brought into~~~~

- ~~compliance pursuant to building permits issued and paid for by applicant;~~
- ~~(B) That off street parking has been hard surfaced and that, to the extent space is available, the parking standard applicable at the time of construction of the excess dwelling units has been complied with. An alternative parking requirement, as outlined in section 21A.44.030 of this title, shall be provided prior to the approval of any unit legalization application if the applicant cannot satisfy the parking that was required at the time the excess units were created, and~~
- ~~(C) That all nondimensional zoning violations have been corrected;~~
- ~~(4) The owner has applied for an apartment license if the building contains three (3) or more dwelling units;~~
- ~~(5) For legalizations permitted pursuant to this subsection any further existing residential housing code deficiencies affecting the building or units, as determined by the date such excess dwelling units were constructed, will be recorded with the county recorder as a certificate of nonconformance. After any sale or other transfer of the property the certificate of nonconformance shall no longer be effective and the city may enforce any existing residential housing code violations, including those referenced in the certificate of nonconformance.~~
- ~~c. Required Findings For Excess Dwelling Units Constructed Without A Permit After 1969 And Before January 1, 1980 For Units Constructed By The Owner Or An Immediate Family Relative Of Owner Or A Corporation Or Partnership With Similar Ownership And/Or Control:~~
- ~~(1) The number of excess dwelling units of the building would have been allowed by the zoning classification existing at the time of construction and the units have been continuously so used; and~~
- ~~(2) The building services and licensing division has certified:~~
- ~~(A) That the building and units substantially comply with life and safety codes or will be brought into compliance pursuant to building permits issued and paid for by applicant;~~
- ~~(B) That off street parking has been hard surfaced and that, to the extent space is available, the parking standard applicable at the time of construction of the excess dwelling units has been complied with. An alternative parking requirement, as outlined in section 21A.44.030 of this title, shall be provided prior to the approval of any unit legalization application if the~~

- applicant cannot satisfy the parking that was required at the time the excess units were created, and
- ~~(C) That all nondimensional zoning violations have been corrected;~~
  - ~~(3) The owner has applied for an apartment license if the building contains three (3) or more dwelling units;~~
  - ~~(4) For legalizations permitted pursuant to this subsection E2c, a certificate of nonconformance shall be recorded with the county recorder for any further existing residential housing code deficiencies affecting the building or units, as determined by the date such excess dwelling units were constructed, and any further parking or zoning deficiencies. After any sale or other transfer of the property the certificate of nonconformance shall no longer be effective and the city may enforce any housing, zoning or parking violations, including those referenced in the certificate of nonconformance.~~
- ~~d. Required Findings For Excess Dwelling Units With Implied Permit:~~
- ~~(1) The units were constructed and continuously operated before April 12, 1995, with an implied permit; and~~
  - ~~(2) The building services and licensing division has certified:
    - ~~(A) Substantial compliance with life and safety codes,~~
    - ~~(B) That all nondimensional zoning violations have been corrected, and~~
    - ~~(C) That off street parking has been hard surfaced and that, to the extent space is available on the property, the parking standards applicable on the date of the implied permit have been complied with. An alternative parking requirement, as outlined in section 21A.44.030 of this title, shall be provided prior to the approval of any unit legalization application if the applicant cannot satisfy the parking that was required at the time the excess units were created.~~~~
- ~~3. Appeals:~~
- ~~a. The decision of the building services and licensing division concerning substantial compliance with life and safety codes may be appealed to the housing appeals and advisory board pursuant to that board's normal appeals process, including the consideration of the appeal by a hearing officer.~~
  - ~~b. The decision of the board of adjustment regarding legalization may be appealed to the district court pursuant to section 21A.16.040 of this title.~~
- ~~F. Outdoor Dining In Required Yard Areas: The board of adjustment may approve as a special exception outdoor dining in required front, rear and side yards if the board of adjustment finds that:~~

- ~~1. The proposed outdoor dining is in conjunction with and incidental to an allowed and licensed indoor restaurant, private club, tavern, market, deli, and other retail sales establishment that sell food or drinks, in the RB, CN, MU and R-MU zones or any zone allowing such uses where the outdoor dining does not comply with chapter 21A.48 or subsection 21A.36.020B of this title;~~
- ~~2. All required business, health and other regulatory licenses for the adjoining indoor restaurant have been secured;~~
- ~~3. A detailed site plan demonstrating the following:
  - ~~a. All the proposed outdoor dining activities will be conducted on private property owned or otherwise controlled by the applicant and that none of the activities will occur on any publicly owned rights of way unless separate approval for the use of any such public rights of way has been obtained from the city;~~
  - ~~b. The location of any paving, landscaping, planters, fencing, canopies, umbrellas or other table covers or barriers surrounding the area, and~~
  - ~~c. The proposed outdoor dining will not impede pedestrian or vehicular traffic;~~~~
- ~~4. The proposed outdoor dining complies with all conditions pertaining to any existing variances, conditional uses or other approvals granted for the property;~~
- ~~5. Live music will not be performed nor loudspeakers played in the outdoor dining area unless the decibel level is within conformance with the Salt Lake City noise control ordinance, title 9, chapter 9.28 of this code; and~~
- ~~6. Parking will be adequate to support the additional parking needs of the outdoor dining activities. Shared parking is allowed.~~
- ~~G. Additional Height In Commercial Districts: The board of adjustment may approve additional height in commercial districts subject to the following conditions:
  - ~~1. The building exceeds twenty thousand (20,000) square feet on the first floor;~~
  - ~~2. The additional height will not exceed ten percent (10%) of the maximum height for the commercial district;~~
  - ~~3. The additional height will not permit additional stories greater than allowed in the commercial district; and~~
  - ~~4. The additional height is needed due to the natural topography of the site.~~~~
- ~~H. Window Mounted Refrigerated Air Conditioners And Evaporative Swamp Coolers Located Within Two Feet Of The Property Line: Window mounted refrigerated air conditioners and evaporative swamp coolers located closer than two feet (2') from the lot line must comply with applicable Salt Lake Valley health department noise standards.~~
- ~~I. Ground Mounted Central Air Conditioning Compressors Or Systems, Heating, Ventilating, Pool And Filtering Equipment Located Within Four Feet Of The Property Line: Ground mounted central air conditioning compressors or systems, heating, ventilating, pool and filtering equipment in the side yard located closer~~

than four feet (4') from the lot line must comply with applicable Salt Lake Valley health department noise standards.

#### **~~21A.52.110: REVOCATION OF SPECIAL EXCEPTION:~~**

~~If the zoning administrator determines that the conditions of a special exception or other applicable provisions of this title are not met, the zoning administrator may initiate action to revoke a special exception.~~

~~A. Notice: Notice of a hearing by the board of adjustment to consider revocation shall be given pursuant to the requirements of chapter 21A.10 of this title. The notice shall inform the holder of the special exception of the grounds for the revocation and set a hearing date.~~

~~B. Public Hearing: The scheduled hearing shall conform to the requirements of chapter 21A.10 of this title.~~

~~C. Board Of Adjustment Decision: Following the hearing, the board of adjustment shall decide whether or not to revoke the special exception in accordance with the findings and decisions in subsection 21A.10.030F of this title.~~

#### **~~21A.52.120: RELATION OF SPECIAL EXCEPTION:~~**

~~A special exception shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.~~

#### **~~21A.52.130: AMENDMENTS TO SPECIAL EXCEPTION:~~**

~~A special exception may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations provided in this chapter for its original approval.~~

#### **~~21A.52.140: APPEAL OF DECISION:~~**

~~Any party adversely affected by the decision of the board of adjustment may, pursuant to section 21A.16.040 of this title, appeal to the district court within thirty (30) days of the date of the decision.~~

## **Chapter 21A.52 SPECIAL EXCEPTIONS**

### **21A.52.010 – Purpose Statement**

The planning commission or historic landmark commission may delegate its authority as necessary to the planning director to make a determination regarding special exceptions. The planning director may approve the special exceptions authorized by this title in accordance with the procedures and standards set out in this chapter and other regulations applicable to the district in which the subject property is located.

### **21A.52.020 – Definition**

A special exception is an activity or use incidental to or in addition to the principal use(s) permitted in a zoning district or an adjustment to a fixed dimension standard permitted as exception to the requirements of this title of less potential impact than a conditional use but which requires a careful review of such factors as location, design, configuration and/or impacts to determine the desirability of authorizing its establishment on any given site.

## 21A.52.030 – Special Exceptions Authorized

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

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

- f. Keeping within the character of the neighborhood and urban design of the city;
  - g. Avoiding a walled in effect in the front yard of any property in a residential district where the clear character of the neighborhood in front yard areas is one of open spaces from property to property; or
  - h. Posing a safety hazard when there is a driveway on the petitioners' property or neighbor's property adjacent to the proposed fence, wall or similar structure.
4. Additional building height in commercial districts are subject to the standards in chapter 21A.26.
  5. Additional foothills building height, including wall height, shall comply with the standards in chapter 21A.24.
  6. Additional residential building height, including wall height, in the R-1 districts, R-2 districts and SR districts shall comply with the standards in chapter 21A.24.
  7. Alternative parking requests shall comply with the standards and considerations of chapter 21.44.
  8. Barbed wire fences may be approved subject to the regulations of chapter 21A.40.
  9. Conditional home occupations subject to the regulations and conditions of chapter 21A.36.
  10. Dividing existing lots containing two or more separate residential structures into separate lots that would not meet lot size, frontage width or setbacks provided:
    - a. The residential structures for the proposed lot split already exist and were constructed legally.
    - b. The planning director agrees and is willing to approve a minor subdivision application.
    - c. Required parking equal to the parking requirement that existed at the time that each dwelling unit was constructed.
  11. Front yard parking shall comply with the standards found in chapter 21A.44.
  12. Grade changes and retaining walls are subject to the regulations and standards of chapter 21.36.
  13. Ground mounted central air conditioning compression or systems, heating, ventilating, pool and filtering equipment located in required side and rear yards within four feet of the property line. The mechanical equipment shall comply with applicable Salt Lake County Health Department noise standards.



14. Hobby shop, art studio, exercise room or a dressing room adjacent to a swimming pool, or other similar uses in an accessory structure, subject to the following conditions:
  - a. The height of the accessory structure shall not exceed the height limit established by the underlying zoning district unless a special exception allowing additional height is allowed.
  - b. If an accessory building is located within ten (10') feet of a property line, no windows shall be allowed in the walls adjacent to the property lines.
  - c. If the accessory building is detached, it must be located in the rear yard.
  - d. The total covered area for an accessory building shall not exceed fifty (50%) percent of the building footprint of the principal structure, subject to all accessory building size limitations.
15. Inline additions to existing residential or commercial buildings, which are non-complying as to yard area or height regulations provided:
  - a. The addition follows the existing building line and does not create any new noncompliance.
  - b. No additional dwelling units are added to the structure.
  - c. The addition is a legitimate architectural addition with rooflines and exterior materials designed to be compatible with the original structure.
16. Operation of registered home daycare or registered home preschool facility in residential districts subject to the standards of chapter 21A.36.
17. Outdoor dining in required front, rear and side yards subject to the regulations and standards of chapter 21A.40.
18. Razor wire fencing may be approved subject to the regulations and standards in chapter 21A.40.
19. Replacement or reconstruction of any existing non-complying segment of a residential or commercial structure or full replacement of a noncomplying accessory structure provided:
  - a. The owner documents that the new construction does not encroach further into any required rear yard than the structure being replaced.
  - b. The addition or replacement is compatible in design, size and architectural style with the remaining or previous structure.
20. Underground building encroachments into the front, side, rear and corner side yard setbacks provided the addition is totally underground and there is no visual evidence that such an encroachment exists.
21. Window mounted refrigerated air conditioner and evaporative swamp coolers located in required front, corner, side and rear yards within two feet of a property line shall comply with applicable Salt Lake County Health Department noise standards.

## 21A.52.040 – Procedure

- A. An application for a special exception shall be processed in accordance with the following procedures:
1. Application: An application may be made by the owner of the subject property or the owner's authorized agent to the planning director on a form or forms provided by the planning director, which shall include at least the following information, unless deemed unnecessary by the planning director:
    - a. The applicant's name, address, telephone number, email address and interest in the subject property;
    - b. The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
    - c. The street address and legal description of the subject property;
    - d. The Salt Lake County property tax number;
    - e. The proposed title of the project and the names, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project;
    - f. A complete description of the proposed special exception;
    - g. A plan or drawing drawn to a scale of one inch equals twenty feet (1"=20') or larger which includes the following information:
      - (1) Actual dimensions of the lot,
      - (2) Exact sizes and location of all existing and proposed buildings or other structures,
      - (3) Driveways,
      - (4) Parking spaces,
      - (5) Safety curbs,
      - (6) Landscaping,
      - (7) Location of trash receptacles, and
      - (8) Drainage features;
    - h. Traffic impact analysis;
    - i. Such other and further information or documentation as the planning director may deem necessary or appropriate for a full and proper consideration and disposition of the particular application.
  2. Determination of Completeness: Upon receipt of an application for a special exception, the planning director shall make a determination of completeness pursuant to chapter 21A.10 of this title, and that the applicant has submitted all of the information necessary to satisfy the notification requirements of chapter 21A.10 of this title.
  3. Fee: The application for a special exception shall be accompanied by the fee established on the fee schedule, chapter 21A.64 of this title.

4. Notice: A notice of application for a special exception shall be provided in accordance with chapter 21A.10.
5. Approval Process: The approval process for a special exception as listed in this title is a two tiered process as follows:
  - A. Review and Decision by the Planning Director: On the basis of written findings of fact, the planning director or the planning director's designee shall either approve, deny or conditionally approve an application for a special exception based on the standards in this chapter. The decision of the planning director shall become effective at the time the decision is made.
  - B. Referral of Application by Planning Director to Planning Commission: The planning director or the planning director's designee may refer any application to the planning commission due to the complexity of the application, the significance in change to the property or the surrounding area.

#### **21A.52.050 – Coordinated Review and Approval of Applications**

Whenever an application for a special exception requires a variance, the applicant shall indicate that fact on the application and shall first file a variance application with the board of adjustment. The special exception shall then be reviewed after a public hearing by the board of adjustment on the variance request.

#### **21A.52.060 – General Standards and Considerations for Special Exceptions**

No application for a special exception shall be approved unless the planning commission or the planning director determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.

- A. Compliance with ordinance and district purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.
- B. No substantial impairment of property value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.
- C. No undue adverse impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.

- D. Compatible with surrounding development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.
- E. No destruction of significant features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.
- F. No material pollution of environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.
- G. Compliance with standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

### **21A.52.070 – Conditions on Special Exceptions**

Conditions and limitations necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the special exception or upon public facilities and services may be imposed on each application. These conditions may include, but are not limited to, conditions concerning use, construction, operation, character, location, landscaping, screening and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in the approval record of the special exception.

### **21A.52.080 – Relation of Special Exception**

A special exception shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.

### **21A.52.090 – Amendments to Special Exceptions**

A special exception may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations provided in this chapter for its original approval.

### **21A.52.100 – Extensions of Time**

Subject to an extension of time granted upon application to the planning director, no special exception shall be valid for a period longer than one year unless a building permit is issued or complete building plans have been submitted to the division of building services and licensing within that period. The planning director may grant an extension of a special exception for up to one additional year when the applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact. Extension requests must be submitted to the planning director in writing prior to the expiration of the exception.

### **21A.52.110 – Authority to Inspect**

The planning director or their designee shall have the authority to inspect all properties for compliance with special exception conditions as often as necessary to assure continued compliance.

### **21A.52.120 – Appeal of Decision**

- A. Any party aggrieved by a decision of the planning director may appeal the decision to the planning commission pursuant to the provisions in chapter 21A.16 of this title.
- B. Any party aggrieved by a decision of the planning commission on an application for a special exception may file an appeal to the land use appeals board within ten (10) days of the date of the decision. The filing of the appeal shall not stay the decision of the planning commission pending the outcome of the appeal, unless the planning commission takes specific action to stay a decision.

### **21A.52.130 – Revocation of Special Exceptions**

Violation of any such condition or limitation shall be a violation of this title and shall constitute grounds for revocation of the special exception. If the planning director determines that the conditions of a special exception or other applicable provisions of this title are not met, the planning director may initiate action to revoke a special exception.

- A. Notice: Notice of a hearing by the planning commission to consider revocation shall be given pursuant to the requirements of chapter 21A.10 of this title. The notice shall inform the holder of the special exception of the grounds for the revocation and set a hearing date.
- B. Public hearing: The scheduled hearing shall conform to the requirements of chapter 21A.10 of this title.
- C. Planning Commission decision: Following the hearing, the planning commission shall decide whether or not to revoke the special exception in accordance with the findings and decisions in chapter 21A.10 of this title.

### **21A.52.140 – Effect on Denial of Special Exception**

No application for a special exception shall be considered by the planning commission or the planning commission's designee within one year of a final decision upon a prior application covering substantially the same subject on substantially the same property if the prior application was denied and not appealed.

## Chapter 21A.62

### DEFINITIONS

#### 21A.62.040 – Definitions of Terms

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

#### ARCHITECTURAL EMBELLISHMENT

“Architectural embellishment” means a nonhabitable design element atop a building’s roof, including but not limited to minor cupolas, towers, and monitors, accessible only for maintenance purposes, intended as a decorative, nonfunctional feature. Elements that function as part of a roof over habitable space, such as a rotunda, are not considered architectural embellishments.

#### INLINE ADDITION:

“Inline addition” means an addition to a structure that continues the wall plane of the existing structure and does not encroach any further into a required setback or yard.’

#### LOT, DOUBLE FRONTAGE:

“Double Frontage Lot” means an interior lot having frontage one more than one street. The frontage which the lot is addressed shall be considered the front yard.

**Attachment B**  
**Department Comments**

**From:** [Ross, Michelle](#)  
**To:** [Pickering, Maryann](#)  
**Subject:** RE: PLNPCM2010-00785  
**Date:** Tuesday, December 28, 2010 12:14:22 PM

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Maryann,

The Police Department has no issues regarding this change.

Thanks,  
Sgt. Michelle Ross

---

**From:** Pickering, Maryann  
**Sent:** Tuesday, December 28, 2010 12:07 PM  
**To:** Walsh, Barry; Drummond, Randy; Garcia, Peggy; Itchon, Edward; Ross, Michelle; Butcher, Larry; Limburg, Garth; Spencer, John  
**Subject:** PLNPCM2010-00785

The Planning Division is requesting a zoning ordinance text amendment to change the approval authority for Special Exceptions from the Board of Adjustment to the Planning Commission. The City's zoning ordinance identifies special exceptions as a use that is incidental to or in addition to the principal use or an adjustment to a fixed dimension standard which have less potential impact than a conditional use, but which require a careful review of such factors as location, design, configuration or impacts to determine the desirability of authorizing its establishment on any given site. The Planning Division believes that because Special Exceptions deal with design and use, it would be more appropriate for the Planning Commission to address these types of requests rather than the Board of Adjustment, whose specialty relates more to appeals.

Please review the attached petition and respond with comments by January 12, 2011. If I do not receive a response by this date, I will assume that you have no comments or concerns regarding the proposal.

Thank you.

Maryann Pickering, AICP  
Principal Planner  
Salt Lake City Planning Division  
451 South State Street, #406  
PO Box 145480  
Salt Lake City, UT 84111-5480  
(801) 535-7660



**From:** [Brown, Ken](#)  
**To:** [Pickering, Maryann](#)  
**Cc:** [Butcher, Larry](#)  
**Subject:** RE: PLNPCM2010-00785  
**Date:** Tuesday, July 05, 2011 3:21:01 PM  
**Attachments:** [image001.png](#)

---

Maryann,

It appears that **Footnote #2** to **Table21A.36.020B Obstructions In Required Yards** was overlooked, where it states .....in accordance with the procedures set forth in **Chapter 21A.14** of this title.

Ken Brown  
Senior Development Review Planner

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**From:** Butcher, Larry  
**Sent:** Thursday, June 30, 2011 4:56 PM  
**To:** Brown, Ken; Hardman, Alan; Michelsen, Alan; Stonick, Anika; Larsen, Nannette  
**Cc:** Pickering, Maryann  
**Subject:** FW: PLNPCM2010-00785

Please read and send your comments to Maryann.

Thanks,

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**From:** Pickering, Maryann  
**Sent:** Thursday, June 30, 2011 8:52 AM  
**To:** Walsh, Barry; Drummond, Randy; Garcia, Peggy; Itchon, Edward; Ross, Michelle; Butcher, Larry; Limburg, Garth; Spencer, John  
**Subject:** PLNPCM2010-00785

Hello.

Please see the attached regarding a petition for which we are asking you to comment on. Let me know if you have any questions and thank you in advance.

Maryann

Maryann Pickering, AICP  
Principal Planner  
Salt Lake City Planning Division  
451 South State Street, #406  
PO Box 145480  
Salt Lake City, UT 84111-5480  
(801) 535-7660

If you could change anything in Salt Lake City what would it be?  
Scan the code below with your phone:



<http://goo.gl/9HmPv>

**Attachment C**  
**Public Input**

**From:** [Dave Richards](#)  
**To:** [Pickering, Maryann](#)  
**Subject:** Re: Petition PLNPCM2010-00785: Zoning Ordinance Amendment  
**Date:** Thursday, January 06, 2011 5:56:22 PM

---

Maryann,

Now I remember, the bike reference did it. Shows where my mind is at.

The change to the PC makes sense to me. As far as the process for special exceptions, it's worked pretty well in the past for my projects. I can't think of any specific suggestions right now. If anything comes to mind, I'll forward my comments to you.

Dave



dave richards, aia  
dave richards architects, inc.  
p.o. box 526064  
1399 south 700 east, suite 17-D  
slc, ut 84152

801.466.1396 voice  
801.466.6810 fax  
[dave@daverichards-architects.com](mailto:dave@daverichards-architects.com)

On Jan 6, 2011, at 3:26 PM, Pickering, Maryann wrote:

Hi Dave.

I think we have met. My husband is the one who wants a Trek Madone.... Also, I had the three cases in December with the wall, detached garage and sign on the Indian grocery store.

As for the changes to special exceptions, we are proposing to change the approval authority to Planning Commission from Board of Adjustment. The Planning Division believes that because special exceptions deal with design and use, it would be more

appropriate for the Planning Commission to address these types of requests rather than the Board of Adjustment, whose specialty relates more to appeals. There is no proposed change to the process itself. It is simply changing the approval authority. However, if you have suggestions on how we could change the process, we would be open to what insight you may have.

We are planning have a discussion with BOA this month and hope to have the amendment before Planning Commission in March.

Please let me know if you have further questions.

Thanks, Maryann

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**From:** Dave Richards [mailto:dave@daverichards-architects.com]  
**Sent:** Thursday, January 06, 2011 12:40 PM  
**To:** Pickering, Maryann  
**Subject:** Petition PLNPCM2010-00785: Zoning Ordinance Amendment

Maryann,

I'm not sure if we've met yet. I sit on Landmarks, but I can't remember if you've presented cases to us. Not surprising on my end, it seems like I can't remember last week these days ;)

At any rate, I saw the notice on the proposed change in how special exceptions are handled in the Urbanus. Could you give me some background on reasons for this proposed change? I'd also like to know how the special exception process itself will be modified

Thanks,  
Dave  
<image001.jpg>

dave richards, aia  
dave richards architects, inc.  
p.o. box 526064  
1399 south 700 east, suite 17-D  
slc, ut 84152

801.466.1396 voice  
801.466.6810 fax  
[dave@daverichards-architects.com](mailto:dave@daverichards-architects.com)

# BOARD OF ADJUSTMENT

*February 28, 2011*

The regular meeting of the Board of Adjustment on Zoning for Salt Lake City, Utah, was held on Monday, February 28, 2011 at 5:45 p.m. at the City and County Building, 451 South State Street, in Room 326. Members present were Edward Radford (Chairperson), Tom Berggren (Vice Chairperson), Catherine Dunn and Rod Julander. Cheri Coffey (Assistant Planning Director), Nick Norris (Planning Manager), Michaela Oktay (Principal Planner), Michael Maloy (Principal Planner), Anna Anglin (Principal Planner), and Paul Nielson (Senior Attorney for Salt Lake City Attorney's Office) were also present. Board member Ken Bullock was not present.

Chairperson Radford called the meeting to order and explained the procedures of the meeting. He informed those present that the Members of the Board have visited the properties and the testimony given during the meeting is recorded. Mr. Radford further explained a simple majority vote (or three concurring votes in some cases) is necessary to pass or defeat a motion. All decisions of the Board of Adjustment are made effective immediately and may be appealed to the Third Judicial District Court. The appeal must be filed within 30 days from the day the Notice of Decision is posted on the City's website the following day of the meeting.

## **Administrative Session**

5:49:13 PM

Chairperson Radford stated petition PLNBOA2008-00944 Warren Unit Legalization it has been postponed and would not be addressed

**Mr. Julander made a motion for the Board of Adjustment to approve the December 13, 2010 minutes. Ms. Dunn seconded the motion; Mr. Julander and Ms. Dunn voted aye. Chairperson Radford and Mr. Berggren did not vote. The motion passed with 2-0 vote**

## **Director's Report**

**Special Exceptions: A discussions regarding the Special Exception process and transferring the review authority from the Board of Adjustment to the Planning Commission**

Mr. Nick Norris, Planning Manager, stated Maryann Pickering, Principal Planner, would address the item. Mr. Norris stated the intent of the discussion was to gather input from Board Members regarding potential issues the proposed change could cause. He explained it was the Planning Division's recommendation to modify the review and approval processes for

special exceptions and move these items from the Board of Adjustment to the Planning Commission.

Ms. Maryann Pickering, Principal Planner, reviewed the discussion held during the dinner session regarding the viability of the proposal. She explained the reasoning behind the proposal stating it was more the Planning Commission's role to hear issues regarding land uses and design. Ms. Pickering stated the main purpose and specialty of the Board of Adjustment was to hear and decide appeals and exceptions to the ordinance. She stated the primary change was to give the special exception approval authority to the Planning Commission and modify several sections of the ordinance as outlined in the presented memo. Ms. Pickering explained other minor changes would include cleanup of sections addressing special exceptions and codifying routine and uncontested matters not currently located within the ordinance. She stated the Planning Division was also looking to create a tiered review system containing standards for each of the special exceptions; meaning every special exception would have standards associated with the use. Ms. Pickering explained the approval process for a special exception as outlined in the proposal. She asked the Board for questions and comments on the process and the issue.

Mr. Berggren asked if there were standards for unit legalizations covered under this proposal.

Ms. Pickering stated unit legalizations are included however; the Planning Division has a proposed text amendment regarding Accessory Dwelling Units that may cover unit legalizations. She stated Staff assumed most unit legalizations would be covered. Ms. Pickering asked Nick Norris to comment on the Accessory Dwelling Unit proposal.

Mr. Norris stated the Planning Division needed to clarify how the text amendment and unit legalizations will co-exist. He stated he didn't have a refined solution to report for the meeting.

Mr. Berggren stated the most contentious part of unit legalizations was all the evidence required to determine whether or not excess illegal units had been occupied by people for decades. He explained the Board of Adjustment had been asked to make determinations on these issues. Mr. Berggren explained he was not certain the Planning Commission would historically look at these types of issues, as Planning Commission issues are more orientated for the future. Mr. Berggren said he was generally supportive of the Planning Division's effort regarding special exceptions however; he was hesitant on the Planning Commission's thorough review of unit legalizations. Mr. Berggren stated unit legalizations may be covered by the new Accessory Dwelling Unit language but he would like information on how evidence and proof would be addressed as they are critical parts of the process. He explained the Board of Adjustment proves the property was continually and historically used for a multi unit dwelling therefore, not changing the use of the property dramatically. Mr. Berggren stated if the

acceptable standard for an application was changed there might be more ramifications than a simple procedural process.

Ms. Cheri Coffey, Assistant Planning Director, stated the Planning Division noted the comments and would look to see if unit legalizations could be tabled at this point while still allowing the proposal to move forward. She explained unit legalizations could still come to the Board of Adjustment until a more comprehensive approach was determined to address unit legalizations.

Mr. Julander stated one of the statements made earlier was that this proposal would shift the responsibilities of the two Boards, making the Board of Adjustment more of a quasi judicial board and the Planning Commission more judgmental. He stated unit legalization cases are certainly quasi judicial in nature.

Mr. Norris stated the City Council adopted general standards for all special exceptions and some have specific additional standards that apply. He explained the proposal would codify, in ordinance, the zoning administrator list so the standards applied to specific routine and uncontested matters would also apply to future special exceptions. Mr. Norris stated that meant those standards would have to be met and if not met the request would not be approved. He said the standards for review of conditional uses are very similar to the standards of review for special exceptions therefore, the Board of Adjustment has conducted judicial reviews but the Planning Commission uses issue identification and community input to determine whether or not the standards have been met. Mr. Norris stated under the proposal, only the deciding body would change. He explained the Planning Commission focuses on the physical environment and use issues which most of the special exception requests the City receives refer to.

Ms. Catherine Dunn stated the Planning Division was saying that by virtue of the training and/or occupation a Planning Commissioner may have puts them in a better position to determine special exceptions.

Mr. Norris stated yes and the size of the Commission gives a broader background to review different types of issues. He stated it was more within the Planning Commission's normal realm than what the Board of Adjustment was initially created to do which was to hear variances and appeals.



**From:** Pickering, Maryann  
**To:** ["rsteele99"](#)  
**Subject:** RE: PLNPCM2010-00785: Special Exceptions--  
**Date:** Friday, July 01, 2011 11:11:00 AM  
**Attachments:** [06-28-11 PLNPCM2010-00785 Proposed Text Changes.docx](#)

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Hello Richard.

Please see the attached document of the changes. This is currently under review by other city departments/divisions so some minor changes may occur before the Planning Commission meeting.

Please let me know if you have additional questions.

Thank you, Maryann

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**From:** rsteele99 [mailto:[rsteele99@comcast.net](mailto:rsteele99@comcast.net)]  
**Sent:** Thursday, June 30, 2011 7:42 PM  
**To:** Pickering, Maryann  
**Subject:** PLNPCM2010-00785: Special Exceptions--

Would you please email a copy of the changes to me.

Thank you,

Richard Steele

**From:** Pickering, Maryann  
**To:** ["C. Michael Foster"](#)  
**Cc:** [Julia Robertson](#); [Esther Hunter](#); [Gary Felt](#)  
**Subject:** RE: Proposal PLNPCM2010-00785  
**Date:** Wednesday, July 06, 2011 4:13:00 PM

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Hello.

As you may know, this item is scheduled to be heard by the Planning Commission next week on July 13. Some changes have been made and I encourage you to review the staff report and proposed changes when the item is posted on our webpage in the next day or so. I will be including your letter of February 15 in the packet for next week.

To answer some of your questions from your last letter.

- There will not no impact to scheduling items before the Planning Commission. They will be placed on the agenda in a timely manner.
- The notice section has been moved in Chapter 21A.10. If you are familiar with this text amendment that was heard last month by the Planning Commission, the new notice requirements are in there. In summary we will be notifying property owners and tenants 'adjacent to and contiguous with the land subject to the application.' In some cases this will be less than 85 feet and it will sometimes be more.
- The entire process for special exceptions has been modified. There are now general and specific standards tied to each request. Each application will need to meet those standards in order to be approved in accordance with the notice requirements in Chapter 21A.10 by the Planning Director. If the application cannot meet those standards or the Planning Director feels that the issues are too complex, the item will be forwarded to the Planning Commission for their review and approval. It is very similar to the process currently used for certificate of appropriateness's and the historic landmark commission.
- Routine and uncontested matters have been eliminated. If you were familiar with the list developed by the Board of Adjustment that staff was using (also known as the ZA List), that is gone too. We have reviewed the items on the ZA List and made changes as necessary and all remaining items will now be codified into Chapter 52 – Special Exceptions. There will no longer be a list that is not adopted by Council.

I understand that you may have additional questions and I would be happy to answer those for you. I will be in the office tomorrow and then next week.

---

**From:** C. Michael Foster [mailto:[c.michael.foster@gmail.com](mailto:c.michael.foster@gmail.com)]  
**Sent:** Thursday, February 24, 2011 12:17 PM  
**To:** Pickering, Maryann  
**Cc:** Julia Robertson; Esther Hunter; Gary Felt  
**Subject:** Proposal PLNPCM2010-00785

Could you please include the attached letter in your packet for your meeting on February 28th?

Thank you,

C. Michael Foster  
Chair, Douglas Neighborhood Association

Maryann Pickering, Principal Planner  
Planning Division  
Community & Economic Development Department  
Salt Lake City Corporation  
451 South State Street  
Salt Lake City, UT 84103

February 15, 2011

Dear Ms. Pickering,

During the February 9<sup>th</sup> meeting of the Douglas Neighborhood Association (DNA), concerns were raised regarding proposal PLNPCM2010-00785 – Change in the approval for the Special Exceptions from the Board of Adjustment to the Planning Commission. DNA has the following questions and concerns:

Will there be any impact in an applicant's ability to get issues on the Planning Commission's agenda in a timely manner due to the substantial increase in items to be heard before the Planning Commission?

Will affected neighbor concerns be heard when notice of hearings is reduced to eighty-five feet (85') of the applicant's property?

Concern must be raised when hearings are eliminated and decisions are made by an 'administrative hearing officer'. There is no definition in the documents of 'officer'. A description of the 'zoning administrator' should be included as well.

What types of matters will constitute "routine and uncontested matters". Will it be the same list currently used by the Board of Adjustment? These routine and uncontested matters must be defined in the document.

Neighbors in the DNA suggest a hold be placed on the proposed changes until further discussions have occurred and impacts on Salt Lake citizens are better known.

Sincerely,

C. Michael Foster,  
Chair, Douglas Neighborhood Association

cc: Eastside Community Council – Gary Felt and Esther Hunter