



Briefing for Planning Commission

**Planning Division
Community & Economic Development Department**

To: Planning Commission Members
From: Maryann Pickering, Principal Planner
Date: June 14, 2011
Re: June 23 Briefing on PLNPCM2010-00785 Regarding Special Exceptions

Attached is a draft version of the Special Exception Text Amendment that staff has been working on for the last few months. The primary purpose of this text amendment is to transfer the approval authority for special exceptions from the Board of Adjustment to the Planning Commission.

In addition to transferring the approval authority to the Planning Commission, below are some of the other minor changes that are also proposed:

- Modified approval process for special exception requests. Once staff receives a request, a notice will be sent to the nearby property owners informing them of the request and asking for their input. If no comments are received from the neighbors and the request meets all of the standards, staff will administratively approve the request. If staff cannot administratively approve the request, it will then be forwarded to the Planning Commission for their review and decision.
- Removal of Chapter 21A.14 – Routine and Uncontested Matters. The current uncodified list of items that are considered to be routine and uncontested matters will be codified into Chapter 21A.52.
- The Historic Landmark Commission will be given authority to approve special exceptions for properties located within a historic overlay zone. This will eliminate the need for an applicant to submit multiple applications for a single project.
- General clean up for existing code language related to special exceptions. This includes removal of incorrect references to state law, and making all terms and titles consistent.

The attached draft version is for your initial review and comment. Our next step will be to gather input during a public comment period. The item will then be brought back in the near future to you for a public hearing and recommendation to the City Council.

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;

- ~~40~~11. Make recommendations to the planning commission in connection with the preparation of the general plan of the city; and
- ~~44~~12. 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.

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 [planning commission](#) ~~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 [planning commission](#) ~~board of adjustment~~ finds that the proposal:

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 ~~14~~ 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 ~~16~~ of this title.

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:

~~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.

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. 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.38.090G2b 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~~~~

- 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 delegates 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 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.52.030 – 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 buildings for single-family dwellings located between the rear façade of the principal building and the rear lot line and which are used for residential storage purposes provided:
 - a. The height of the accessory structure shall not exceed the height limit established in chapter 21A.40 of this title, unless a special exception allowing additional height is obtained.
 - b. 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.
 - c. If the accessory building is detached it shall be located in the rear yard.
 - d. The total covered area for accessory buildings cannot exceed fifty percent (50%) of the square footage footprint of the main building.
 - e. In addition to not exceeding the square footage footprint of the main building, the accessory also cannot exceed fifty percent (50%) of the rear yard area.
 - f. The accessory building may at no time be converted to living quarters or commercial use.
 - g. Any request in excess of the conditions above, requires submittal of a variance application.

2. Accessory structures in the front yard of double frontage lots, which do not have any rear yard provided:
 - a. No line-of-sight problems will exist for pedestrians walking in front of the structure.
 - b. The structure meets all other size and height limits governed by the zoning ordinance.
 - c. For the purposes of this subsection, the rear yard shall be considered the yard that is opposite of the addressed street frontage.

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 the established character of the affected neighborhood and streetscape, maintenance of public and private views, and matters of public safety shall be considered as part of the request. Approval of fences, walls and other similar structures shall issued in these instances:

- 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; provided, that upon consideration of existing traffic control devices, topographic conditions, street design, parking strip width, and other traffic related circumstances, it is determined, with the recommendation of the city transportation engineer, that additional height may be granted and still provide for adequate safety;
 - c. Incorporation of ornamental features or architectural enhancements 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 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.
 - 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 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.
 - b. The planning director agrees and is willing to perform minor subdivision procedures.
 - c. Parking arrangements become independent and as close as possible to the present parking standards.
11. Front yard parking shall comply with the standards found in chapter 21A.44.
12. Garage 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 residential or commercial use is made of the structure.
13. Grade changes and retaining walls are subject to the regulations and standards of chapter 21.36.
14. Ground mounted central air conditional compression or systems, heating, ventilating, pool and filtering equipment located in required side and rear yards within four feet of the property line and shall comply with applicable Salt Lake County Health Department noise standards.
15. Hobby shops, 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.
16. 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.
17. Operation of registered home daycare or registered home preschool facility in residential districts subject to the standards of chapter 21A.36.
18. Outdoor dining in required front, rear and side yards subject to the regulations and standards of chapter 21A.40.
19. Razor wire fencing may be approved subject to the regulations and standards in chapter 21A.40.
20. Replacement of any existing non-complying structure or non-complying segment of a residential or commercial 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 with the remaining or previous structure.
21. Underground building encroachments may encroach underground into the front, side, rear and corner side yard setbacks provided the addition is totally underground and there is no visual impact that such an encroachment exists.
22. Unit legalization or legalization of excess number of residential dwelling units in accordance with the following application requirements and standards:
- a. Application: Applicants for legalization of excess dwelling units are subject to the specific requirements set below.
 - (1) Application for excess dwelling units constructed without a permit before 1970: The application shall state:
 - (a) The same requirements as listed in subsection 21A.52.040 of this chapter; and
 - (b) The date of construction of the excess dwelling units and evidence of the construction at that date.
 - (2) Application for excess dwelling units constructed without a permit after 1969 and before January 1, 1980: The application shall state:
 - (a) The same requirements as listed in subsection 21A.52.040 of this chapter; and
 - (b) The date of construction of the excess dwelling units and evidence of the construction at that date; and
 - (c) The party responsible for constructing the excess dwelling units; and
 - (d) The relationship between the present owner and the person constructing the excess dwelling units.
 - (3) Application for excess dwelling units with implied permit: The application shall state:

- (a) The same requirements as listed in subsection 21A.52.040 of this chapter; and
 - (b) The date of construction of the excess units and evidence of such construction; and
 - (c) Evidence of the implied permit.
- b. Required Findings: A special exception may be authorized legalizing the excess number of dwelling units applied for upon making findings that support the following conclusions 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.
- c. 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.
- d. 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, 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.

- e. 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.
 - f. Appeals:
 - (1) 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.
 - (2) The decision of the planning commission regarding legalization may be appealed to the district court pursuant to section 21A.16.040 of this title.
23. 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 applicant 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. 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 thirty (30) 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 ~~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. 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.