



# Staff Report

PLANNING DIVISION  
COMMUNITY & ECONOMIC DEVELOPMENT

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To: Salt Lake City Planning Commission

From: Maryann Pickering  
(801) 535-7660 or [maryann.pickering@slcgov.com](mailto:maryann.pickering@slcgov.com)

Date: July 8, 2015

Re: PLNPCM2015-00146: Fine Tuning Spring 2015

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## ZONING TEXT AMENDMENT

**PROPERTY ADDRESS:** Citywide  
**PARCEL ID:** Not Applicable  
**MASTER PLAN:** Not Applicable  
**ZONING DISTRICT:** All Zoning Districts

**REQUEST:** Salt Lake City Mayor Ralph Becker is requesting that various sections of the Zoning Ordinance are modified in order to clarify the regulations and processes related to public hearings and the operations of various boards and commissions. The proposed regulation changes will affect several different sections of Title 21A or the Salt Lake City Zoning Ordinance. Related provisions of Title 21A-Zoning may also be amended as part of this petition.

**RECOMMENDATION:** Based on the findings in the staff report, Planning Staff finds the proposed amendment adequately meets the standards for general text amendments and therefore recommends that Planning Commission transmit a positive recommendation to the City Council to adopt the proposed zoning ordinance text amendment related to clarifying the regulations of noticing and operations of various boards and commission within the zoning ordinance.

### ATTACHMENTS:

- A. Petition to Initiate
- B. Proposed Ordinance Changes
- C. Analysis of Standards
- D. Public Process and Comments
- E. Motions

### PROJECT DESCRIPTION:

The proposed text amendment will affect various sections of Title 21A. When changes are made to the Zoning Ordinance, potential misunderstandings are not always understood initially. As the ordinance is implemented, it becomes clear that some regulations are not producing the intended outcome or they just are not entirely clear. When a certain amount of changes are identified, a fine tuning petition is initiated to make those changes.

## **PROPOSED CHANGES:**

Each of the proposed changes will be discussed in detail below.

1. **Ordinance Section:** 21A.10.020.A.1  
**Issue:** Requires notice by first class mail for all public hearings.  
**Discussion:** Clarify that notice by first class mail is not required for text amendments unless a noticed is requested in writing to the Planning Director. This change would make the City noticing requirements for text amendments consistent with the State requirements. Text amendments affect most if not all zoning districts in the city and sending a notice to every property owner and tenant in the city would not be cost effective. A newspaper notice will still be required and done for every text amendment.
2. **Ordinance Section:** 21A.10.020.B.3  
**Issue:** Special Exception notices and who should receive a notice.  
**Discussion:** Clarify that notice should go to all abutting properties and those properties located across the street from the property where the special exception is proposed. Across the street would typically include at least three properties.
3. **Ordinance Section:** 21A.16.030.D  
**Issue:** Appeals hearing are continuously delayed by the applicant and no hearing takes place for several months.  
**Discussion:** All appeals shall be heard within 180 days of submitting an application. If an appeal is not heard within 180 days due to inaction by the appellant, the appeal will be void and considered withdrawn by the applicant. This change is proposed to ensure due process for all parties and avoid one party from needlessly delaying an appeals hearing.
4. **Ordinance Section:** 21A.06.030.C.9  
**Issue:** The Planning Commission is not the decision maker regarding nonconforming issues.  
**Discussion:** Delete this from 21A.06.030 and move under Appeals Hearing Officer section in 21A.16.010. Prior to establishing an Appeals Hearing Officer, the Board of Adjustment had the authority to make decisions regarding nonconforming uses. The nonconforming chapter says the hearing officer is the one to determine nonconforming issues. This change would eliminate an inconsistency in the zoning ordinance. The Appeals Hearing Officer processes are legal in nature and nonconforming use issues are more closely related to the authority of the Appeals Hearing Officer than the Planning Commission.
5. **Ordinance Section:** 21A.16.030.E  
**Issue:** Appeals Hearing Officer Procedures  
**Discussion:** Include a section that if the matter is delayed by the Appeals Hearing Officer, written materials should be submitted fourteen days prior to the rescheduled meeting date.
6. **Ordinance Section:** 21A.18.040.E  
**Issue:** Specifying the sequence of hearings for certain applicants is no longer applicable.  
**Discussion:** This section is proposed to be removed in its entirety. The section currently requires that any hearing for a variance would be the last hearing of any project. This was done to ensure that the variance and modification of a development standard was the last option after all other processes with modification of development standards (such as Conditional Building and Site Design Review and Historic Landmark Commission approvals) had been exhausted. Ordinance changes within the last few

years have made it so that applicants will still have to apply and go through any other process that is applicable to them such as conditional use approval or development within a historic district. The Historic Landmark Commission can also modify lot and bulk requirements if the project is designed to the standards and guidelines of the local historic districts.

7. **Ordinance Section:** 21A.52.060

**Issue:** Clarify that Historic Landmark Commission has authority to approve Special Exceptions.

**Discussion:** The Historic Landmark Commission has authority to approve some special exception requests. However, it was not included in the authority section of the special exception chapter. By adding it in this chapter, it will be clear that the Historic Landmark Commission has the authority.

8. **Ordinance Section:** 21A.54.070.B

**Issue:** Clarify that the Planning Commission is the decision maker for conditional uses, not a recommending body when a variance is also required.

**Discussion:** The language as it is currently written states that the Planning Commission can only recommend approval or denial of a conditional use when a variance is also requested and implies that the City Council has the final authority. This is not correct in that all conditional uses are either approved or denied by the Planning Commission. The City Council does not review requests for conditional uses. Furthermore, the Planning Commission authority for a conditional use cannot be transferred to the Appeals Hearing Officer when a variance is also requested for the same project.

9. **Ordinance Section:** 21A.54.155.D

**Issue:** Noticing for Administrative Conditional Uses references a non-existent code section.

**Discussion:** Administrative Conditional Uses refer to the noticing in 21A.10.020.B which is the Special Exception Notice of Application. Reference should say 21A.10.

**DISCUSSION:**

The City Council has final decision making authority over Zoning Text Amendments. If the proposed changes are not adopted, there may be continued conflicts between various sections of the Zoning Ordinance which in some ways sets a false expectation of the public especially relating to the public hearings and public meetings held by the Appeals Hearing Officer. The proposed changes help to clarify and eliminate confusion relating to the process and some regulations for meetings of the Appeals Hearing Officer. If the ordinance is not changed, it may cause confusion about the specific authority of the Appeals Hearing Officer, what type of notification is required for the various types of items reviewed by the Appeals Hearing Officer, and continuation of conflicting sections of the ordinance.

**NEXT STEPS:**

The City Council has the final authority to make changes to the text of the Zoning Ordinance. The recommendation of the Planning Commission for this request will be forwarded to the City Council for their review and decision.

# **ATTACHMENT A: PETITION TO INITIATE**



# Petition Initiation Request

RECEIVED  
FEB 27 2015  
By Nick

Planning Division  
Community & Economic Development Department

SCANNED TO: Mayor  
SCANNED BY: Nick  
DATE: 2/27/15

To: Mayor Becker

From: Nora Shepard, Planning Director *NLS*

Date: February 26, 2015

CC: David Everitt, Chief of Staff; Jill Love, Deputy Chief of Staff, Mary DeLaMare-Schaefer, Community and Economic Development Acting Director; file

Re: Initiate Petition to Fine Tune Zoning Ordinance to address inconsistencies and clarify regulations.

This memo is to request that you initiate a petition directing the Planning Division to analyze the appropriateness of amending the Zoning Ordinance to make minor changes to address inconsistencies and clarify regulations in the Zoning Ordinance.

As part of a routine analysis of the Zoning Ordinance, the Planning Division has identified several instances where there are regulations that conflict with each other. In general these issues include conflicts in lot and bulk regulations, design standards and other similar items.

As part of the process, the Planning Division will follow the City adoption process for zoning text amendments which includes citizen input and public hearings with the Planning Commission and City Council.

If you have any questions, please contact me.

Thank you.


**Concurrence to initiate the zoning text amendment petition as noted above.**



Ralph Becker, Mayor



Date

RECEIVED  
MAY 06 2015  
BY: 

# **ATTACHMENT B: PROPOSED ORDINANCE CHANGES**

## ***Proposed Change 1***

### **21A.10.020: PUBLIC HEARING NOTICE REQUIREMENTS**

- A. Public Hearing Required: Projects requiring a public hearing as required by this title shall be held after the following public notification:
1. Mailing For Public Hearing: Notice by first class mail shall be provided:
    - d. Notice by first class mail for zoning text amendments shall only be required if a notice requesting the mailing is received by the Planning Director.

## ***Proposed Change 2***

### **21A.10.020: PUBLIC HEARING NOTICE REQUIREMENTS**

3. Notice Of Application For Special Exceptions: Prior to the approval of an administrative decision for special exceptions as authorized in chapter 21A.52 of this title, the planning director shall provide written notice by first class mail a minimum of twelve (12) days in advance of the requested action to all abutting properties and those properties located across the street from the subject property, and to all property owners and tenants of the land subject to the application, as shown on the Salt Lake City geographic information system records.

## ***Proposed Change 3***

### **21A.16.030: PROCEDURE**

- D. Notice Required:
3. Time Limitation. All appeals shall be heard within one hundred and eighty (180) days of the filing of the appeal. Appeals not heard within this timeframe will be considered void and withdrawn by the appellant.

## ***Proposed Change 4***

### **21A.06.030: PLANNING COMMISSION:**

- C. Jurisdiction And Authority: The planning commission shall have the following powers and duties in connection with the implementation of this title:
9. ~~Make 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.16.010: AUTHORITY:**

As described in section 21A.06.040 of this title, the appeals hearing officer shall hear and decide appeals alleging an error in any administrative decision made by the zoning administrator or the administrative hearing officer in the administration or enforcement of this title, as well as administrative decisions of the historic landmark commission; and the planning commission.

In addition, the appeals hearing officer shall hear and decide applications for variances as per chapter 21A.18 of this title and shall make 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.

***Proposed Change 5***

**21A.16.030: PROCEDURE:**

L. For all matters delayed by the Appeals Hearing Officer, any subsequent written materials shall be submitted a minimum of fourteen (14) days prior to the rescheduled meeting date.

***Proposed Change 6***

**21A.18.040: PROCEDURES:**

~~E. Special Procedures In Connection With Other Applications: Whenever a variance is needed in addition to a zoning amendment or a conditional use, the zoning administrator shall not schedule a hearing on the variance until a final approval has been rendered on these other applications by the planning commission or the city council, as applicable.~~

***Proposed Change 7***

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

No application for a special exception shall be approved unless the planning commission, historic landmark 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.

***Proposed Change 8***

**21A.54.070: SEQUENCE OF APPROVAL OF APPLICATIONS FOR BOTH A CONDITIONAL USE AND A VARIANCE:**

B. Actions By Planning Commission And Appeals Hearing Officer: Regardless of whether the planning commission and appeals hearing officer conduct their respective reviews in a combined session or separately, the appeals hearing officer shall not take any action on the application for a variance until the planning commission shall first act to ~~recommend approval or disapproval of~~ approve or deny the application for the conditional use.

***Proposed Change 9***

**21A.54.155: ADMINISTRATIVELY APPROVED CONDITIONAL USES:**

D. Notice: Notice of a proposed conditional use shall be given pursuant to subsection 21A.10.~~020B~~ of this title.

## **ATTACHMENT C: ANALYSIS OF STANDARDS**

### **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. In making its decision concerning a proposed text amendment, the city council should consider the following factors:

| <b>Criteria</b>   | <b>Finding</b> | <b>Rationale</b>   |
|---|----------------|--|
| 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; | Complies       | None of the existing adopted Salt Lake City master plans specifically address the proposed amendments. The 1992 Salt Lake City Strategic plan notes an importance of developing business friendly regulatory practices. It is staff's opinion that the proposed amendments to the Zoning Ordinance relating to the public hearing process will help clarify and make consistent various regulations which in turn, furthers the goal of creating business friendly regulatory practices. |
| 2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;  | Complies       | The proposed changes to the Zoning Ordinance will not affect the overall purpose 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   | Complies       | The proposed text amendments are not associated with any specific overlay zoning districts or development project.   |
| 4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.  | Complies       | The proposed changes relate to providing clarification and consistency in the regulations relating to the public hearing process and d. Whenever regulations are made clearer and the processes more consistent, it helps all users of the regulations to better understand what is meant by the regulations leading to fewer interpretations and a more efficient process. The regulations do not relate to any specifics relating to professional practices of design.                 |



## **ATTACHMENT D: PUBLIC PROCESS AND COMMENTS**

**Open House:** On May 21, 2015, a community wide Open House was held regarding the proposed text amendment. There were no comments received at that open house meeting.

**Public Hearing Notice:** A notice of the public hearing for this text amendment includes:

- Public hearing notice published in newspaper on June 27, 2015.
- Public hearing notice posted on City and State websites on June 25, 2015.
- Public hearing notice emailed to the Planning Division listserv on June 25, 2015.

**Public Comments:** At the time of the publication of this staff report, no public comments have been received. Any comments received will be forwarded to the Planning Commission.

## **ATTACHMENT E: MOTIONS**

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Based on the findings listed in the staff report, it is the Planning Staff's opinion that the project meets the applicable standards for zoning text amendments and therefore recommends that the Planning Commission forward a positive recommendation to the City Council.

### **Consistent with Staff Recommendation:**

Based on the findings and analysis in the staff report and testimony provided, I move that the Planning Commission forward a positive recommendation for PLNPCM2015-00146 to adopt the proposed zoning ordinance text amendment related to clarifying the regulations of noticing and operations of various boards and commission within the zoning ordinance.

### **Not Consistent with Staff Recommendation:**

Based on the findings and analysis in the staff report and testimony provided, I move that the Planning Commission forward a negative recommendation for PLNPCM2015-00146 to adopt the proposed zoning ordinance text amendment related to clarifying the regulations of noticing and operations of various boards and commission within the zoning ordinance.