



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Nick Tarbet, Policy Analyst

DATE: July 20, 2021

**RE: Text amendment: Eliminating the
Special Exception Process
PLNPCM2020-00606**

PROJECT TIMELINE:

Briefing July 20, 2021
Set Date: July 20, 2021
Public Hearing: Aug, 17 2021
Potential Action: Aug, 24 2021

ISSUE AT-A-GLANCE

The Council will be briefed on a proposal to that would remove the special exception process from the zoning ordinance. The purpose of this proposal is to amend the zoning ordinance related to special exceptions to accomplish the following:

- Simplify the zoning ordinance by updating regulations and eliminating special exceptions
- Reallocate staff resources away from processing land use applications that favor individual properties and toward updating overall zoning codes to align with adopted master plans
- Increase predictability and reduce neighbor conflicts that are created by requests for exceptions to the zoning regulations for single parcels

A special exception is a minor alteration of a dimensional requirement of the zoning ordinance or addresses accessory uses and structures. Common examples of special exceptions include requests for exceptions to the maximum height requirements for buildings and fences, additions to existing buildings that do not comply with current setback requirements, grade changes over four feet in height, legalization of dwelling units when there is no record of the unit be permitted, and modifications to building bulk requirements in historic districts. Special exceptions are approved by staff of the Planning Division, the Planning Commission, or Historic Landmark Commission depending on location/designation of the property.

The Planning Commission forwarded a positive recommendation to the City Council.

Policy Questions

1. The Council may wish to ask if this change will enable planning staff to process other initiatives more quickly, and how this staff time would be coordinated with the positions added in the FY 22 budget process.
2. Given the breadth of these changes and City-wide nature, the Council may wish to discuss with planning staff how public feedback was sought and incorporated, and whether additional public process is concluded.

Public Process

The proposed text amendment went through the required public process outlined in City Code See pages 2-3 of the transmittal letter for details.

- Early engagement period ran from August 13 to October 10, 2020
 - The public information document was posted on the Planning Division website
 - Notice sent to all recognized organizations, AIA Utah, and the Planning Divisions email list
- Planning Commission held a work session on September 30, 2020
- Historic Landmark Commission virtual public hearing on November 5, 2020
 - HLC adopted a motion recommended that the City Council adopt the proposal
- Planning Commission virtual public hearing on November 18, 2020
 - PC unanimously adopted a motion recommending that the City Council adopt the proposal

During the public process, Planning staff reached out to the Utah chapter of the American Institute of Architects (AIA) and Rocky Mountain Power (RMP), in addition to all recognized organizations. RMP provided suggestions to the proposal.

ADDITIONAL INFORMATION

Definition (21A.52.020): 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.

Purpose Statement (21A.52.010): The planning commission or historic landmark commission may delegate its authority as necessary to the planning director to make a determination regarding special exceptions. The planning director may approve the special exceptions authorized by this title in accordance with the procedures and standards set out in this chapter and other regulations applicable to the district in which the subject property is located.

Budget /Staffing Impact

Pages 2-3 of the transmittal letter outlines the budgetary and staffing impact of the proposed amendments. Below are some of the key info taken from that section.

- If adopted, revenue from application fees would decrease approximately \$43,000.00
 - application fee of (\$265) x average number of applications submitted annual (156)
- Approximately 150 applications for special exceptions are received each calendar year.
- The application fee is \$265.00.

- Eliminating this process would result in significant staff time savings. See calculation summary in the following two sections:
- **Typical Special Exception Process**
 - The processing time for a typical special exception is about 17 hours. The cost to process the applications is determined primarily by the hours of staff needed.
 - the cost to the city is between approximately \$460.00 and \$575.00 depending on the classification of the planner processing the application.
 - The application fee covers between 48-57% of the cost.
- **Special Exception that Requires Planning Commission or Historic Landmark Commission Review**
 - Average processing time for special exceptions that require approval by the Planning Commission or Historic Landmark Commission is approximately 52 hours.
 - Staff hour cost is between \$1,370.00 and \$1,765.00 which is 5-6.6 times the application fee.
 - The application fee only covers between 15% and 52% of the cost to process which means that the rest of the cost is subsidized by the city.

Summary of Proposed Changes

Currently there are 42 special exceptions authorized in the zoning ordinance. The proposal addresses each special exception and results in each of them being either deleted, permitted, or authorized through a different process in the zoning ordinance. The list below uses a color code to easily identify the proposed changes for each item.

Process to be Permitted (see items in the list below in blue)

Most special exceptions do not generate public input and either require no conditions of approval or require consistent conditions of approval regardless of the property location. The special exceptions that fall into this category will be allowed by right and some of them will have specific qualifying provisions

Processes Proposed to be Eliminated (see items in the list below in red)

These exceptions are being eliminated because they make up the bulk of denied special exceptions requests, there are other processes to address the exception already in the zoning ordinance, or due to the high level of controversy that are generated by the exceptions.

Proposed Changes that Generated Public Input (see items in the list below in green)

The Planning Division identified some special exceptions that have generated public input during the process, as potentially impactful and the Planning Commission asked for more detailed information those items. See pages 23-25 Planning Commission Staff report for full discussion on these items:

- Historic Landmark Commission would retain authority to make modifications to dimensional requirements through existing processes in 21A.34.020 Historic Preservation Overlay District.
- Ground mounted utility boxes will be required to be on private property when serving individual developments.
- Accessory building heights would be able to increase slightly up to a district specific maximum with increased setbacks.

- Outdoor dining would be permitted with qualifying provisions intended to reduce the impact when next to residential zoning districts, including a setback from the shared property line and time limitations for outdoor music.
- Front yard parking would be allowed for residential uses only when no other yard is accessible for parking and there is no option for an attached garage.
- Inline additions would be allowed to follow existing building lines in front and rear yards. In side yards, an inline addition would be allowed to extend an existing wall that doesn't meet setbacks up to 25% of the length of the wall.
- In commercial zoning districts, building height would be allowed to be increased by up to 10% if the lot is sloped, the increased height is not creating an additional habitable, upper level to the building, and at least 50% of the building complies with the height requirement.
- Zoning districts where vintage signs can be used as art are expanding to include the following zoning districts: CSHBD-2, FB-UN2, FB-UN3, FB-SC, FB-SE, and TSA.
- Vintage signs as art is already authorized in the D-1, D-2, D-3, D-4, G-MU, and CSHBD1 zoning districts.

The following is a simple summary of the proposed changes. The change for each item is identified as either; **deleted/no longer authorized**, **permitted with some qualifying provisions**, or **permitted/authorized through a different process**. (*Attachment A of the November 18, 2020 staff report for the Planning Commission*)

1. Additional Accessory structure height: increased height (up to 75% of the principal structure) allowed with increase in setbacks
2. Accessory structures on double frontage lots: standards added to match location of accessory buildings of the block.
3. Additional height for fences: removed exception process, sets maximum heights.
4. Additional building height in commercial districts: deleted special exception; standards added to allow 10% increase on sloping lots.
5. Additional height in foothill districts: deleted special exception
6. Additional height in R-1, R-2, SR districts: deleted special exception
7. Alternative to off street parking: deleted
8. Barbed wire fences: standards added, restricted to industrial and agricultural zones and for land uses that require added security, such as public utility facilities.
9. Conditional home occupations: deleted. This was changed several years ago to permitted but was not deleted from the special exception chapter.
10. Dividing exiting lots with existing detached dwellings: allowed through the subdivision process with standards added.
11. Front yard parking: Standards added to allow front yard parking in very limited instances.
12. Grade changes over 4 feet: will become permitted with a step between retaining walls necessary to retain the grade change.
13. Ground mounted AC units, pool equipment, etc. within 4 feet of side or rear property line: standards updated to allow equipment in additional situations when there is no impact, or the equipment is screened.
14. Hobby shop, art studio, exercise room in accessory buildings: deleted, will become permitted.
15. Inline additions: permitted to match the existing building setback in front and rear yards; allowed in a limited manner in side yards.
16. Home day care: will become permitted or conditional based on Utah Code requirements for number of kids.
17. Outdoor dining in required yard: will be permitted with specific standards for setbacks, noise, etc. when next to residential zone.
18. Razor wire fencing: limited to industrial and agricultural zones and some uses that require a high level of security.

19. Replacement of noncomplying building or portion of a noncomplying building: allowed by right within the noncomplying chapter of the zoning ordinance.
20. Underground encroachments: permitted in the encroachment table with standards.
21. Window mounted AC units: deleted special exception, will be permitted.
22. Vehicle and equipment storage in CG, M1, M2, EI: permitted with specific standards for water quality and to reduce mud, dirt, gravel being carried onto public streets.
23. Ground mounted utility boxes: prohibited in the public right of way unless the box serves a broader area than just a private development and with specific standards; location requirements on private property added. Size limitations deleted.
24. Unit legalizations: will be addressed as a determination of nonconforming use in chapter 21A.38. Standards related to continuing use maintained. Other standards that require update to parking standards deleted.
25. Vintage signs: Changed to permitted with existing standards in the ordinance, expanded where a vintage sign could be used as public art.
26. Additional height for lights at sports fields: changed to permitted with screening of light trespass, increased setback from residential uses.
27. Recreation equipment height in OS zone: capped at 60 feet in height with no exceptions.
28. Public utility buildings in OS zone: will be allowed to exceed building height for critical public utility infrastructure. Does not include office buildings.
29. Fence and wall height over 6 feet for homeless resource centers: Planning Commission will be given the authority to approve taller fences for buffering purposes.
30. Enlargement of structure with noncomplying use: allowed by right provided the addition complies with zoning requirements.
31. Horizontal inline additions: permitted to match existing portions of buildings that do not meet setback when the addition is in the front or rear yards, with limited application in side yards.
32. Alteration to an existing SFD [single family dwelling] when the use is not allowed: alterations will be permitted.
33. Amateur HAM radio antennae over 75 feet in height: special exception deleted.
34. Electrical equipment for cell towers: will need to be in a side or rear yard with specific setback and screening requirements.
35. Electrical security fences: permitted with updated qualifying provisions.
36. Covered ADA ramps: deleted, will be addressed through a reasonable accommodation authorized under federal laws.
37. Ground mounted utility boxes over a certain size in the right of way: will be deleted and required to be located on private property when serving individual developments.
38. Front yard parking for SFD when side or rear yard not accessible: deleted and will be allowed in very limited instances.
39. Parking exceeding the maximum: deleted. Will be addressed through proposed changes to parking ordinance.
40. Alternative parking requirements: deleted. Will be addressed through proposed changes to parking ordinance.
41. Commercial signs in historic districts: delete special exception requirement; will be authorized through existing processes in the Historic Preservation Overlay.
42. HLC bulk modifications: delete special exception requirement: will be authorized through existing processes in the Historic Preservation Overlay.