

SPECIAL EXCEPTIONS

PROPOSED CHANGES

Purpose

As part of the Zoning Amendment Project (ZAP), the Planning Division is proposing to make changes to the Special Exception regulations in the Salt Lake City zoning ordinance. This portion of the proposed amendments to the zoning ordinance is very broad in scope and has the potential for introducing several new policies and procedures. It is the goal of this amendment to meet the transparency initiatives of the city while, streamlining processes and strengthening predictability.

Background

A special exception can relate to many things. It is an activity or use incidental to or in addition to the principal use(s) permitted in a zoning district. It can also be an adjustment to a fixed dimension standard permitted as exceptions to the requirements of the zoning ordinance. A Special Exception has less potential impact than a conditional use, but still requires a careful review of such factors as location, design, configuration and/or impacts to determine the desirability of authorizing it 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

Special exceptions under the City ordinance can be divided into three categories: use exceptions, design exceptions, and location exceptions. Use examples include: hobby shops, studios in accessory structures, conditional home occupations, and home daycare, etc. Design examples include: fence height, additional building height, etc. Location examples include: front yard parking, window mounted swamp coolers, ground mounted compressors, etc. ***For the purpose of this review, special exceptions relating to the residential compatible infill process are not part of the proposed amendments. They will be reviewed as part of the process to analyze and improve the residential development standards (aka compatible infill regulation) s that is being reviewed by a team in the Planning Division.***

Special Exceptions used to be authorized by State Law but are no longer recognized. The City, however, has relied on the Special Exception process to allow for “outs” to the rule, while still allowing for some extra review. In fact, overtime, the City has developed dozens of special exceptions and has used the tool generously, perhaps to a fault. This has contributed significantly to the workload of the Division and has lead to criticism relating to inefficiencies and in consistencies.

In addition to dividing Special Exceptions into types (use, design and location), Staff is also looking at the procedures for notification and appeals of special exception types of projects (administratively or full public hearing by board or commission.) The main focus is how to conduct the administrative approval process and under which approval body, the type of current Special Exception will reside.

Issues for Review

Decision Making Authority

As noted above, staff has categorized the different types of Special Exceptions (use, design and location). Staff is proposing that the approval authority for each of these types of Special Exceptions be handled in the following way:

(‘Use’ related special exceptions): These types of requests are often thought of as “minor conditional uses.” In order to address Special Exceptions relating to Use, staff is proposing a new category- “Special Uses.” This type of classification is used in other jurisdictions and allows for more review than a regular Permitted Use would warrant, but the review is not as intensive as that for a conditional use. This new use category will have a base set of requirements and additional qualifying provisions may be used for specific types of Special Uses. The process for a “Special Use” may be handled either administratively (where it is clear that all the standards have been met or through a public hearing (either an Administrative Public Hearing or with the Planning Commission) where it is unclear as to whether the standards are met. Since the issues relate to use, it is more appropriate for the Planning Commission to review these matters than the Board of Adjustment.

(‘Design’ related special exceptions): These types of requests relate to things such as additional building height, and modifications to noncomplying structures. Because the Zoning Ordinance has a specific process for reviewing design related requests, The Conditional Building and Site Design Review process, staff is proposing that these types of design related special exceptions be reviewed through that process. These types of requests will have a base set of requirements and additional qualifying provisions may be used for specific types of design related requests for items such as additional fence height, barbed and razor wire may be clarified as permitted in some zoning districts subject to meeting qualifying provisions.

(‘Location’ related special exceptions): These types of issues usually relate to fairly minor matters, such as an alternative location for the placement of an air conditioning unit or circular driveway. Staff is proposing that these types of issues be better defined in the ordinance and allowed to be permitted subject to meeting qualifying provisions or through a variance request if the provisions cannot be met.

Notification

The current Administrative Approval process consists of the applicants obtaining signatures from abutting property owners (and in some instances applicable community councils) to indicate support of the project and then staff determines if the project meets the standards. Signature gathering is used as a notifying mechanism and to indicate to the City is the neighbors support for the request.

The proposed process is to have an applicant submit the request to the Planning Division and have staff review and determine whether it meets the standards of the ordinance. If it does, staff will approve the project and then send a Record of Decision to the applicant and abutting property owners. If a party with standing chooses to appeal the decision, it would be appealed to the Board of Adjustment as an Appeal of an Administrative Decision. If the appeals period expires and no one has appealed the administrative decision, the City can issue the required permits and / or licenses.

The basic reason for the proposed change is that often an applicant is held up by an abutting property owner who will not sign not because they necessarily object to the request but they fear the government, do not get along with the applicant, don’t understand the request or would like to get something in return for their

signature. In addition, staff has no way to verify that the signatures submitted are authentic. It can also be difficult to obtain signatures from property owners who do not live at the site they own. In addition, obtaining the signatures oftentimes gives the applicants a false sense of ‘approval.’”

The types of Special Exceptions that will be affected by the proposed change include existing Routine and Uncontested Matters, Conditional Home Occupations and Unit Legalization cases.

Process for Review

This is the initial public scoping document for proposed amendment. Additional meetings and in house discussions will need to take place prior to the development of the strike and bold version of the ordinance. Following the input and discussions additional information will be presented to the Task Force and at public open houses to obtain public input.

Attached is a list of existing Special Exceptions and how staff has categorized them.

Your input on this petition is greatly appreciated. I realize that there is a lot of information being presented in this petition and if you have any questions or concerns please feel free to contact me. I may be reached at (801)535-7128 or by email at nole.walkingshaw@slcgov.com