

January 15, 2008 - City Council Motion relating to Conditional Uses

I move that the Council

1. Continue the Public Hearing to a future Council meeting within 180 days AT WHICH TIME FURTHER REFINEMENTS TO THE ORDINANCE MAY BE MADE;
2. Adopt an INITIAL ordinance amending the City Zoning Ordinance Chapter 21A.54 Conditional Uses relating to:
 - a. The conditional use process, purpose statement, definitions, and standards of review that includes sections from the proposed amendments recommended by the Planning Commission, and
 - b. Changes identified by the Council removing conditional uses from the Residential Zoning Districts and specifying that conditional use applications may not be considered on properties that abut residentially zoned properties, and
 - c. Amend Section 1 and 2 of the proposed ordinance to delete the words “additional building height” and replace them with ‘educational facilities’.
 - d. Amend Section 2 of the proposed ordinance to delete the word “is located adjacent to” and replace them with the word “abuts”.

I further move that the Council refine the conditional use regulations and reevaluate the Zoning District Purpose Statements and the Tables of Permitted and Conditional Uses for all zoning districts by:

1. Establishing a Council subcommittee
2. Retaining the assistance of a consultant
3. Inviting public comment throughout the 180 day period and scheduling the continued hearing date within that 180 day period.
4. Scheduling a consideration date within the 180 day period for refinements to the ordinance.

I further move that the Council adopt the proposed Legislative Intent Statements.

City Council Legislative Intent Statements – Regarding review of the City Zoning Ordinance Conditional Use process, Permitted and Conditional Uses and Zoning District Purpose Statements

It is the City Council's intent in initiating action to further refine the City's Zoning Ordinance relating to the Conditional Use process and the Tables of Permitted and Conditional Uses for all zoning districts that:

- A. The City Council appropriate funding for a consultant to:
- Reevaluate the Zoning District Tables of Permitted and Conditional Uses,
 - Consider further refinement of the conditional use permitted and conditional use zoning regulations, and
 - Review the appropriateness of zoning district purpose statements in relation to the ordinance.
 - This study should be completed within approximately 150-days of the adoption of the amendment to City Code, Title 21A. Zoning, Chapter 21A.54 Conditional Use.
 - The study will include a broad public outreach element in preparing the desired future condition.
- B. The City Council to create a subcommittee to address conditional use issues from all aspects.
- C. The creation of an ad hoc business task force to be involved with the City Council small business subcommittee, the Business Advisory Board, Vest Pocket, and other appropriate organizations, to address conditional use issues.

SALT LAKE CITY ORDINANCE

No. 2 of 2008

(Amending various provisions in Chapter 21A pertaining to conditional uses)

AN ORDINANCE AMENDING TABLE AT SECTION 21A.24.190, *SALT LAKE CITY CODE*, PERTAINING TO PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL USES, THE TABLES OF PERMITTED AND CONDITIONAL USES FOR ALL OTHER ZONING DISTRICTS, SECTION 21A.54.010, *SALT LAKE CITY CODE*, PERTAINING TO PURPOSE STATEMENT FOR CONDITIONAL USES, SECTION 21A.54.080, *SALT LAKE CITY CODE*, PERTAINING TO STANDARDS FOR CONDITIONAL USES, SECTION 21A.54.120, *SALT LAKE CODE*, PERTAINING TO LIMITATIONS ON CONDITIONAL USE APPROVAL, AND SECTION 21A.62.040, *SALT LAKE CITY CODE*, PERTAINING TO DEFINITIONS, PURSUANT TO PETITION NO. 400-07-19.

WHEREAS, the Planning Commission and the City Council of Salt Lake City, Utah, have held public hearings and have taken into consideration citizen testimony, filing, and demographic details of the area, the long range general plans of the City, and the local master plan as part of their deliberation. Pursuant to these deliberations, the City Council has concluded that the proposed amendments are in the best interest of the City.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. **Amending Table of Permitted and Conditional Uses for Residential Districts.** That the table, entitled Table of Permitted and Conditional Uses for Residential Districts, which is located at Section 21A.24.190 of the *Salt Lake City Code*, shall be and hereby is amended, to eliminate all conditional uses in residential districts except for places of worship,

public/ private utilities and related facilities, residential facilities for persons with a disability, planned developments, and educational facilities.

SECTION 2. **Amending Table of Permitted and Conditional Uses** . The tables of Permitted and Conditional Uses for all other zoning districts, shall be and hereby are amended, to include the following statement at the end of each table: “No conditional use permit shall be granted for any property which abuts a residential zoning district, except for places of worship, public/ private utilities and related facilities, residential facilities for persons with a disability, planned developments and educational facilities.”

SECTION 3. **Amending Section 21A.54.010 Purpose Statement for Conditional Uses**. That Section 21A.54.010 of the *Salt Lake City Code*, pertaining to purpose statement for conditional uses be, and hereby is, amended to read as follows:

21A.54.010 Purpose Statement:

A conditional use is a land use which, because of it unique characteristics or potential impact on the municipality, surrounding neighbors or adjacent land uses, may not be compatible or may be compatible only if certain conditions are required that mitigate or eliminate the negative impacts.

Conditional uses are allowed unless appropriate conditions can not be applied which, in the judgment of the planning commission, or administrative hearing officer would mitigate adverse impacts that may arise by introducing a conditional use on the particular site. It requires a careful review of its location, design, configuration and special impact to determine the desirability of allowing it on a particular site. Whether it is appropriate in a particular location requires a weighing, in each case, of the public need and benefit against the local impact, taking into account the applicant's proposals for ameliorating any adverse impacts through special site

planning, development techniques and contributions to the provision of public improvements, rights of way and services.

SECTION 4. **Amending Section 21A.54.080 Standards for Conditional Uses.** That Section 21A.54.080 of the *Salt Lake City Code*, pertaining to conditional uses be, and hereby is, amended to read as follows:

21A.54.080 Standards For Conditional Uses:

A. General Standards for Approval: A conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

In order to identify and evaluate the detrimental effects and the need for and/or adequacy of mitigating conditions, the Planning Commission shall review and consider the following:

Approval of Conditional Use Application

1. Master Plan and Code Compliance

- A. The proposed development is supported by the general policies of the City Wide, Community, and Small Area Master plan text and the future land use map policies governing the site;
- B. The proposed development is one of the conditional uses specifically listed in this title;
and

C. The proposed development is supported by the general purposes and intent of the zoning ordinance including the purpose statement of the zoning district.

2. Use Compatibility

The proposed use at the particular location is compatible with the character of the site, adjacent properties, surrounding neighborhoods, and other existing development. In determining compatibility, the Planning Commission may consider the following:

A. Streets or other means of access to the proposed development are suitable and adequate to carry anticipated traffic and will not materially degrade the service level on the adjacent streets;

B. The type of use and its location does not create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected with the development of a permitted use. In determining unusual patterns, the Planning Commission shall consider:

i. The orientation of driveways and if they direct traffic to the major streets or local streets, and, if directed to the local streets, the impacts to the safety, purpose, and character of the local streets;

ii. Parking locations and size, and if parking plans encourage street side parking to the proposed use which impacts the adjacent land uses;

iii. Hours of peak land use when traffic to the proposed use would be greatest and that such times and peaks would not impact the ability of the surrounding uses to enjoy the use of their properties; and

iv. The hours of operation of the proposed use when compared with the hours of activity/operation of the surrounding uses and the potential of such hours of operation do

not create noise, light, or other nuisances not acceptable to the enjoyment of existing surrounding uses or common to the surrounding uses.

- C. The internal circulation system of the proposed development is properly designed for motorized, non-motorized and pedestrian traffic, and mitigates impacts on adjacent properties;
- D. Existing or proposed utility and public services are adequate for the proposed development and are designed in a manner that will not have an adverse impact on adjacent land uses or resources; and
- E. Appropriate buffering, such as landscaping, setbacks, and building location is provided to protect adjacent land uses from light, noise and visual impacts.
- F. Detrimental concentration of existing non-conforming or conditional uses substantially similar to the use proposed. The analysis is based on an inventory of uses within a quarter mile radius of the subject property.

3. Design Compatibility

The proposed conditional use is compatible with:

- A. The character of the area with respect to: site design and location of parking lots, access ways, and delivery areas; impact on adjacent uses through loss of privacy, objectionable views of large parking or storage areas; or views and sounds of loading and unloading areas;
- B. Operating and delivery hours are compatible with adjacent land uses; and
- C. The proposed design is compatible with the intensity, size, and scale for the type of use, and with the surrounding uses.

4. Detriment to Persons or Property

The proposed use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor be injurious to property and improvements in the community, existing surrounding uses, buildings, and structures. The applicant shall demonstrate that the proposed use:

- A. Does not lead to deterioration of the environment by emitting pollutants into the ground or air that cause detrimental effects to the property or to neighboring properties;
- B. Does not encroach on rivers or streams or direct run off into rivers or streams;
- C. Does not introduce hazards or potentials for damage to neighboring properties that cannot be mitigated; and
- D. Is in keeping with the type of existing uses surrounding the property, and that as proposed the development will improve the character of the area by encouraging reinvestment and upgrading of surrounding properties.

5. Compliance with Other Applicable Regulations

The proposed development complies with all other applicable codes and ordinances.

6. Imposition of the Conditions of Approval

The Planning Commission may impose conditions on the proposed use which are in addition to any conditions specifically listed within this chapter. All conditions imposed shall meet the following criteria:

- A. The condition is within the police powers of Salt Lake City;
- B. The condition must substantially further a legitimate public purpose;
- C. The condition must further the same public purpose for which it is imposed;

- D. The applicant/owner may not be required to carry a disproportionate burden in furthering the public purpose; and
- E. Dedications of land and other contributions as conditions of approval must be reasonably related and roughly proportionate to the use of the property for which the conditional use permit is required.

7. Mitigating Conditions

As part of their review, the Planning Commission may impose mitigating conditions on the proposed development. These conditions may include but are not limited to the following areas: landscaping; access; loading and parking areas; sanitation; drainage and utilities; architecture and signage; fencing and screening; setbacks; natural hazards; public safety; environmental impacts; hours and methods of operation; dust, fumes, smoke and odor; noise, vibrations; chemicals, toxins, pathogens, and gases; and heat, light, and radiation.

The conditions which are imposed on a conditional use permit must be expressly attached to the permit and cannot be implied.

8. Denial of Conditional Use Application

The following findings or others may, in the judgment of the Planning Commission, be cause for denial of a conditional use application:

- A. The proposed use is unlawful;
- B. Conditions of approval could not reasonably mitigate the negative impacts of the proposed use.
- C. The proposed use would create or pose a nuisance, conflict, or hazard relating to noise, vibration, light, electrical or electronic interference, traffic, odor, fumes, dust, explosion,

flooding, contaminations, or other negative effects on the neighboring properties or the community in general, without adequate mitigation.

SECTION 5. **Amending Section 21A.54.120 Limitations on Conditional Use**

Approval. That Section 21A.54.120 of the *Salt Lake City Code*, pertaining to limitations on conditional use approval be, and hereby is, amended to read as follows:

21A.54.120 Limitations On Conditional Use Approval:

Subject to an extension of time granted by the planning commission, or, in the case of administrative conditional uses, the planning director or designee, no conditional use shall be valid for a period longer than twelve (12) months unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period, or unless a longer time is requested and granted by the planning commission, or, in the case of administrative conditional uses, the planning director or designee. Any request for a time extension shall be required not less than thirty (30) days prior to the twelve (12) month time period. The approval of a proposed conditional use by the planning commission, or, in the case of administrative conditional uses, the planning director or designee, shall authorize only the particular use for which it was issued.

SECTION 6. **Amending Section 21A.62.040 Definitions.** That Section 21A.62.040 of the *Salt Lake City Code*, pertaining to definitions be, and hereby is, amended, in part, as follows:

“Compatibility” means capability of existing together in harmony.

“Conditional use” means a land use that because of its unique characteristics or potential impact on the municipality, surrounding neighbors or adjacent land uses may not be compatible in some

area or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

“Fuel center” means a subordinate building site located on the same site as a principle building/use for the sale and dispensing of motor fuels or other petroleum products and the sale of convenience retail.

“Gas station” means a principle building site and structures for the sale and dispensing of motor fuels or other petroleum products and the sale of convenience retail. A gas station may include minor auto repair and car wash facilities when such uses are listed as a permitted or conditional use.

“Truck stop” means a building site and structures whether the business of maintenance, servicing, storage or repair of trucks, tractor-trailer rigs, eighteen wheel tractor-trailer rigs, busses and similar commercial or freight vehicles is conducted, including the sale and dispensing of motor fuel or other petroleum products and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight sleeping accommodations and restaurant facilities.

SECTION 7. **Effective Date:** This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this 15th day of January, 2008.



CHAIRPERSON

ATTEST:

Christina Meeker
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on 1-15-08.

Mayor's Action: x Approved. Vetoed.

[Signature]
MAYOR

Christina Meeker
CHIEF DEPUTY CITY RECORDER



(SEAL)

Bill No. 2 of 2008.

Published: 1-22-08.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 1-15-08
By [Signature]

HB_ATTYY-#2554-v1-Amending_21A_24_Conditional_Use_Provisions_-_11-26-07_draft.DOC