

# **Conditional Use Review**

## **Findings Report**

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## Introduction

On January 15, 2008, the Salt Lake City Council voted to eliminate a lengthy list of conditional land uses permitted in residential zones and on parcels in other zones that abut residential zones. The Council action also included adoption of an updated set of conditional use regulations and standards of review consistent with State law. In addition, the Council voted to embark on a five-month public process to reevaluate these conditional uses and recommend which, if any, of these uses be reestablished.

The Council took these rather drastic steps to comply with the intent of a 2005 State law change that makes it difficult for any municipality to deny most conditional use requests.

The Council took advantage of this event to engage stakeholders in helping to determine what types of uses should be allowed in and near residential districts, and what criteria or standards should be used when considering approval of a conditional use in order to strike a harmonious balance between land uses. For some years, a variety of community groups have expressed concern about the perceived appropriateness of certain types of non-residential facilities in neighborhoods and about the need to place more conditions on these facilities to mitigate potential impacts or to limit the number of these uses in some areas.

Seeking feedback from residents, businesses and other stakeholders will help inform a decision that the Council will make in July 2008.

A Council subcommittee was formed to guide this process. The subcommittee consists of Council Members Eric Jergensen, Luke Garrott and Søren Simonsen. Council Member Jergensen chairs the group.

In February, the City Council retained land use consultant Frank Gray and public outreach consultants Wilkinson Ferrari & Co. to lead the review process.

## Process

In early March 2008, the consultants, Frank Gray, a land use planning consultant from Scottsdale, Arizona, and Wilkinson Ferrari & Company, a local public involvement firm, met with business owners, City residents, neighborhood community councils, City staff, and City boards and commissions to learn more about the issues and concerns relating to the Conditional Use Zoning Ordinance amendments.

The consultants facilitated a two-day workshop in May with an ad hoc committee to discuss issues and potential solutions relating to conditional uses and their impacts to neighborhoods, as well as zoning requirements that affect businesses. The ad hoc committee was comprised of small-business owners, residents from various City neighborhoods, community council members, City board and commission members and small-business advocacy organization representatives.

During these workshops, the committee reviewed the history of the Zoning Ordinance amendments and evaluated a consolidated list of permitted and conditional uses in residential zones and zones that abut residential zones, including commercial, downtown and manufacturing zones. The intent was to determine those uses that should be allowed, not allowed or allowed as a conditional use in residential zones and those zones that abut residential zones.

The ad hoc committee also discussed other related items including the need to: 1) refine the adopted conditional use standards and criteria; 2) develop standards and criteria for specific types of conditional uses; 3) provide a detailed review and revision of use definitions for clarification, applicability and consistency with State law; 4) consider whether or not to link conditional use approval to the property owner or to the property; 5) ensure that uses are listed in a consistent manner in all zoning districts; 6) identify flexible parking options; 7) establish transitional design standards and design review for commercial development; and 8) review in greater detail certain types of uses and the cumulative effect of conditional and non-conforming uses located within a certain geographic area.

Given the time constraints for this Zoning Ordinance refinement process, some of these areas of concern will be further explored and addressed after the end of the 180-day review period.

Also, the consultants conducted a random-sample, public opinion survey to help determine the types of uses (residential, retail, commercial, institutional) that City residents want to see in their neighborhoods. The survey also asked questions about the positive and negative aspects of various uses and what types of regulations people expect when there are non-residential uses in predominantly residential areas. The survey results will help provide a general look at what people want their “ideal” neighborhoods to be like. Results show City residents highly value small neighborhood-oriented businesses and want to see them in their “ideal” neighborhoods.

The consultants will brief the City Council on June 10, during its regular public meeting, and hold a public open house on June 11 to provide information relating to the review process findings and possible ordinance refinement recommendations, and to receive further public feedback and comment. Comments from the Council’s January public hearing and written comments submitted throughout this process were also considered by the consultants in drafting recommendations to the Council. The Council will invite final comments at a public hearing on July 1. The Council will consider the findings and recommendations from the public and the consultants and may take formal action on July 1 or 22 to adopt refinements to sections of the Zoning Ordinance relating to conditional uses.

## Overview of Findings

Neighborhoods are the building blocks of Community. The delicate balance of convenience and contentment requires a delicate balance of land uses. Many neighborhoods throughout Salt Lake City have evolved over an extended period of time and conditions. This has made them rich urban places, each with its own personality. It has also presented them with the challenges of evolution and interface with their surroundings. Many of these challenges have been dealt with on a case-by-case basis, as they should be, but have resulted in allowing uses within the Zoning Ordinance which are not always compatible or desirable with a particular neighborhood character. The 1995 elimination of the Business B3 neighborhood commercial zoning, combined with the 2005 State Legislative action related to conditional uses, have hampered the City's ability to discern the appropriateness of uses on an individual case basis.

Salt Lake City is fortunate to have had a strong neighborhood planning program over an extended period of time. The community planning documents provide a clear road map of the neighborhoods' vision for their growth and development. The key therefore is to tie these plans directly to land use decisions and, in particular, the approval of conditional uses. The findings identified in this report were determined with the cooperative effort of neighborhood and business interests. Strategies developed from these findings will provide for sustained neighborhood and business growth, while ensuring the vision and goals of the neighborhood plans are achieved.

This effort needs to involve the continued evolution of the neighborhood planning process and the coordination of the neighborhood plans with one another and with citywide planning efforts. The City will also need to continue to ensure that it has the necessary tools and processes to assist in the implementation of these plans. Only when the businesses, residents and their government work together can we ensure healthy neighborhoods.

## Common themes

Several common themes emerged from the various research methods used for this project (small group meetings, workshops, opinion survey). These are highlighted below; more in-depth summaries of the opinion survey and workshops follow:

### **Strong support for multiple uses in neighborhoods.**

The consulting team found strong support from residents, business owners and other stakeholders for having a variety of uses in neighborhoods throughout the city. In particular, neighborhood-oriented businesses, such as small grocery stores, coffee shops, bakeries and book stores, are prized for their convenience and promotion of walkable communities.

Overall, the perception among stakeholders is that there is *not* a great deal of conflict between uses. Residents and business owners recognize there are impacts to having commercial uses in neighborhoods – specifically parking and traffic congestion – but they agree that these impacts can be successfully managed. For example, we found support for encouraging shared parking among businesses and with nearby churches and schools.

### **Inconsistent planning process masks conditional use issues.**

The predictability of the planning and zoning process (as dealt with in the City Council's recent audit by Citygate Associates), rather than the conditional use process itself, seems to be the larger issue. Specific areas of conflict in the conditional use area are symptomatic of these broader process concerns.

Outdated and unclear zoning code sections and definitions, the lack of a citywide General Plan, inconsistent interpretation of rules and regulations by City staff, and some permit applicants who are perceived to bend the rules to their advantage, all add up to an unpredictable system.

### **Conditional use system seen as safety valve for neighborhood concerns.**

From the neighborhood resident point of view, the principal purpose of the conditional use system should be to ensure that non-residential development is compatible with neighboring residential uses. The conditional use system is viewed as one way to allow residents an opportunity to be actively involved and have a “say” in what happens in their neighborhood. However, residents also indicated there may be other ways – such as rezoning in some instances and/or a design review process – to provide a more transparent process. Residents also suggested that more-specific criteria for approval of some uses may be needed, such as for restaurants.

### **Likewise, businesses want a predictable system.**

Business owners want to remind policy makers that they, as well as residents, make large investments to prosper within the City’s neighborhoods. In fact, many owners of small-scale businesses live within or near the neighborhoods in which they work. However, there is concern among business owners that the current system may dissuade investment because of opaque and confusing rules. In addition, some business owners say they feel “unwelcome” in their neighborhood because their businesses have become “too popular” and draw patrons from outside of the core neighborhood. They indicated a willingness to discuss issues and concerns with residents to “keep the peace” and resolve or prevent conflicts when they arise.

### **Impacts from concentration of commercial uses in neighborhoods is a concern.**

Some residents of neighborhoods that feature multiple small businesses feel that the impacts from a concentration of businesses can be significant. In particular, issues with parking and traffic congestion were mentioned repeatedly. On the other hand, very high numbers of respondents to the public opinion survey said they would like to see small groups of businesses in their “ideal” neighborhood. Limiting the number of certain types of businesses in one area – for example, allowing only two restaurants of 2,500 square feet along one street – was a suggested solution.

## Opinion survey findings summary

An opinion survey was conducted during April 2008 among 708 Salt Lake City residents equally divided between the seven City Council districts. (Cross-tabulations show only minor differences in opinion among respondents from different districts.)

Here is a summary of the key findings. The complete survey results are provided as an appendix to this report.

### Introductory questions

Respondents were asked what they like best about their neighborhood. The top three answers were:

- People/neighbors/friendly environment, 23%
- It is quiet/peaceful, 12%
- Convenient/close to stores/schools, 10%

Respondents were asked what they like least about their neighborhood. The four answers were:

- Miscellaneous, 16%
- Don't know, 15%
- Crime/gangs/graffiti/drugs, 13%
- Traffic/speed, 12%

Safety and low crime rate are, by far, the most important factors in determining neighborhood quality of life.

In their "ideal" neighborhood, respondents want to be within a five-minutes' walk of transit, parks and recreational fields, small markets and neighborhood retail shops.

### Housing questions

Respondents believe that their current neighborhood has a broad mix of single family houses, duplexes and townhomes, apartments, accessory dwellings and condos.

Their “ideal” neighborhood closely mirrors this mix, albeit with fewer apartments.

Respondents say they value the mix of people and the variety of housing types.

### Retail business questions

A high percentage of respondents say their current neighborhood has small neighborhood-oriented businesses; 68% says this is a positive thing.

- The convenience of having stores nearby is most positive aspect (44%); traffic/congestion is most negative aspect (56%).

89 percent want to see small neighborhood-oriented businesses in their “ideal” neighborhood; 81 percent want to see clusters of small businesses akin to 9<sup>th</sup> and 9<sup>th</sup>.

- All of the types of these uses that we asked about received marks above the consensus level (66%) except for drive-through or fast food restaurant (only 35% prefer) and video/music store (58%). Conversely, 92% want a neighborhood grocery store nearby.

Just over half (52%) say they prefer locally owned businesses in their neighborhood; 40 percent say like both locally owned and national chain stores.

The most positive aspect of having neighborhood retail businesses is convenience/having shopping and dining nearby; the most negative aspect is traffic congestion.

### Office questions

Most respondents believe their neighborhood already contains small office buildings and professional services such as doctors offices. Interestingly, respondents overwhelmingly said they want these uses in their “ideal” neighborhoods: 94% say one-story office buildings belong in their “ideal” neighborhood; 84% want to see professional offices.

- Overall, 50% of respondents say having commercial buildings in the neighborhood is positive; 36% say it’s negative.

Respondents want to see libraries, elementary schools, fire stations and churches in their “ideal” neighborhood.

### Regulatory questions

In response to questions about the importance of regulating various activities in neighborhoods, the highest scores (5 is highest) were for:

- Regulating noise (4.25)
- Regulating the size and design of buildings (4.21)
- Regulating parking (4.09)
- The other items (landscaping, location of driveways, hours of operation and signs) also scored quite high; no item was below 3.82.

## Workshop findings summary

Two three-hour workshops were conducted in mid-May 2008 to review in detail a consolidated list of uses that, until the Council's action in January, were permitted by right or with conditions in various residential and business zones. The Council's action at that time was to remove virtually all conditional uses from residential zones and parcels that abut residential zones, pending this review. The intent of the workshops was to determine which of these uses should be recommended to be put back in the zoning ordinance.

The workshops were attended by a cross-section of City residents, business owners, community council representatives and other interested individuals. Members of this ad hoc task force include:

Joel Briscoe	East Central Community Council chair
Mary Corporon	Business Advisory Board chair
Fred Cox	Fred C. Cox Architect
Cindy Cromer	Bryant neighborhood
Ila Rose Fife	Poplar Grove neighborhood
Maria Garciaz	NeighborWorks Salt Lake
Polly Hart	Capitol Hill Community Council chair
Virginia Hylton	Yalecrest neighborhood
Heidi-Kris Spoor	Yalecrest neighborhood
Warren Lloyd	Historic Landmarks Commission vice chair
Robert Lund	NeighborWorks Salt Lake
Gregg Morrow	Wasatch Hollow Community Council chair
Dallis Nordstrom	Attorney
Rex Olsen	Board of Adjustment vice chair
Vicky Orme	Fairpark Community Council chair
Ellen Reddick	Vest Pocket Coalition/Impact Factory Utah/ Bonneville Hills Community Council chair
Stephen Rosenberg	Liberty Heights Fresh
John Sittner	Avenues neighborhood
Grace Sperry	Sugar House Community Council chair
Ron Whitehead	Former City Council Member/small- business owner

### **General Recommendations Relating to Conditional/Permitted Uses**

During the review of a consolidated list of conditional and permitted uses by zone, the following general recommendations/directions were suggested by the committee. (A spreadsheet indicating the proposed changes in the use table is provided at the end of this report.)

- Allow conditional office uses in higher density multi-family zones and change permitted office uses to conditional in other residential zones.
- Change several permitted uses to conditional uses in mixed use zones.
- Add uses to commercial zones, while protecting Neighborhood Commercial from higher impact uses.
- Add more uses to the manufacturing zones.

### **Uses Needing Further Review and Discussion**

During the evaluation of conditional and permitted uses by zone, the following uses, as well as the standards for approval by the Planning Commission, were identified as needing further review. The City Council, Council staff and planning consultants hired will discuss and review these suggestions before recommendations for adjustments are made for the Zoning Ordinance use tables:

- Office uses
  - Offices, general and medical/dental
    - Allow as a conditional use in Residential Multi-Family 45 zone and above
    - Address criteria relating to size and other impacts
  - Parking
    - Consider the expansion of shared and alternative parking
    - Discourage the development of new parking lots in residential zoning districts
    - Distinguish between short and long term parking in park and rides in neighborhoods
  - Veterinary offices
    - Review definition and refine to include size and type (small vs. large animal and boarding vs. non-boarding facilities)

- Retail sales and service uses
  - Bed & breakfasts
  - Liquor stores
    - Comply with state law
  - Restaurants without drive-through windows
  - Drive-through windows associated with other uses
  - Check cashing businesses
  
- Institutional uses
  - Assisted living/group homes
    - Research conditions that will conform with state and federal law
  - Day care – child and adult
    - Comply with state law
  - Schools and churches
    - Examine allowed uses
  - Private libraries
  
- Recreational, cultural and entertainment uses
  - Performance arts facilities
    - Review definition
    - Refine to add different categories of facilities
  - Private clubs
    - Comply with state law
  
- Miscellaneous uses
  - Animal pound (overnight boarding)
    - Review definition; does this cover doggie daycare/kennels?
  - Funeral homes
    - Look for appropriate zones that can allow them as a conditional use, particularly on the west side of the City
  - Domestic fowl coops
  - Vending machines outside of stores

## Projects/Discussion Areas Identified for Future Consideration

The following projects and discussion areas were identified as needing future review, consideration and action by the City Council. Due to the time constraints of the Zoning Ordinance amendments review and refinement process, some of these projects/discussions will need to be continued after the Council considers taking formal action on the conditional use amendments in July.

- Consistent naming of uses
  - Make the use listing similar in name across all zones, if possible, so City residents are able to easily identify where certain uses might be allowed. For example:
    - In the Residential District Zoning Table there is a listing for tavern/lounge/brewpub; 2,500 sq feet or less in floor area;
    - In the Commercial District Zoning Table there are listings for the tavern/lounge/brewpub; 2,500 sq feet or less in floor area, one that is 2,500 sq feet or more in area plus a separate listing for a microbrewery;
    - And in the Downtown District Zoning Table there are listings for brewpub (indoor), brewpub (outdoor), tavern/lounge (indoor) and tavern/lounge (outdoor) but no listing for a microbrewery or for a tavern/lounge/brewpub and no reference to sizes.
- Definitions
  - Ensure definitions are consistent with Utah State Land Use Development and Management Act (LUDMA)
  - Consider reviewing definitions for consistency, relevance and appropriate title. For example:
    - Change “specialty store” name to better reflect the actual use, which is large “mid-box”-type retailers
    - Review superstore/hypermarket square footage sizes
    - Review definition of community gardens
    - Review definition of animal pounds
    - Review definition of performance arts facilities

- Conditional Use standards and criteria
  - Refine the general conditional use approval standards/criteria. Create additional standards/criteria that address in greater detail issues applicable to certain individual uses to be used along with general standards/criteria. Specific examples identified include:
    - Remove ‘recycling collection stations’ and ‘reverse vending machines’ as primary permitted uses and developing conditional use standards for these listings as accessory uses.
    - Review uses to determine how ‘outdoor vending machines’ are regulated.
  - Determine whether or not an approval of a conditional use should be linked to the person applying or to the property on which it will be located (i.e. “run with the land”). This would also address whether or not conditional uses can change from one specific use to another.
  
- Additional uses
  - Consider adding additional uses, such as charter schools, to the Zoning Ordinance use tables.
  
- Cumulative impact
  - Determine how the accumulation of conditional uses in residential and Neighborhood Commercial zones should be handled. For example, consider limiting certain types of uses to a specific number of establishments within a specific area. Should a restaurant be allowed on each of the four corners at an intersection in a Neighborhood Commercial zone?
  
- Zoning District Purpose Statements
  - Review the purpose of several zoning districts to determine the appropriateness of adding additional conditional and permitted uses, such as:
    - Transit Corridor commercial zone – are there any transit-specific uses that should be added?
    - Residential/Office zone – should additional commercial uses be considered here when the intent was to keep the zone limited to residential and office?
    - Residential/Business zone – reexamine the purpose of this zone

- Multi-family zones – should additional uses be considered for the higher-density multi-family zones? Keeping the residential character of the neighborhoods is important.
  - Manufacturing zones – is it appropriate to add uses to these zones as primary permitted uses, or should they be conditional? Many uses identified as possible additions fall in the recreation, cultural and entertainment category. Is the City interested in allowing additional uses in some of the light-industrial areas?
- Non-conforming uses and non-complying structures
    - Comply with Utah State Land Use Development and Management Act (LUDMA) regulations
    - Need to address expansion, in-line additions, changes of use, and options to terminate non-conforming/non-complying status
    - Need comprehensive, in-depth refinement of existing regulations
  - Parking
    - Consider expansion of shared/alternative/off-site parking opportunities
    - Need a comprehensive citywide analysis
    - Consider incentives for incorporating transit use into development
  - Boarding/rooming houses
    - Limit to higher-density and/or commercial zones as they are incompatible in lower-density zoning districts
    - Analyze the number that exist and the number that would be non-conforming in Residential Multi Family 45 and Residential Multi Family 75 and commercial zoning districts