
M E M O R A N D U M

DATE: June 27, 2008
TO: City Council Members
FROM: Janice Jardine, Land Use Policy Analyst
RE: Conditional Use Zoning Review - Consultant Project

BACKGROUND

In January 2008, as part of the Council action adopting changes to the City's Zoning Ordinance relating to conditional uses, the Council hired consultants with experience in land use and zoning policy and public involvement to conduct a detailed review of the Zoning Ordinance and the adopted amendments applicable to conditional uses. This also included gathering input from stakeholders to assist in the review and ordinance refinement process.

The consultant team reevaluation process, findings report and recommendations for proposed ordinance revisions included the following. (In addition, the findings report contains a list of issues, projects and discussion items identified for future consideration.)

- A detailed review of the zoning regulations, other applicable city regulations, standards and land use plans.
- Interviews with city, county, and other governmental employees, members of the City Council, City board and commission members, community council representatives, business owners, property owners, developers, and interested residents.
- Two 4-hour workshops held with an ad hoc committee comprised of small business owners, residents from various City neighborhoods, community council members, City board and commission members and small business advocacy organization representatives
- A random sample, public opinion survey to help determine the types of uses that city residents want to see in their neighborhoods.
- A public open house to provide information relating to the review process findings and possible ordinance refinement recommends and to receive further public feedback and comment.

On June 10, 2008, the Council received a presentation from the consultant team relating to the reevaluation process, public opinion survey, the findings report and recommendations.

ATTACHMENTS

The following items are attached for Council review and discussion:

- Proposed standards for design review (These will be added to the current design standards in the Zoning Ordinance, Chapter 59, Conditional Building and Site Design Review)
- A proposed work plan and schedule to address issues, projects and discussion items identified for future consideration in the consultant's Findings Report.
- Proposed revisions to the Conditional Use Standards of Review
- Conditional Use Review Findings Report
- Consolidated table of proposed permitted and conditional uses

- Conditional Use Fact Sheet
- Conditional Use Survey Results

POTENTIAL DISCUSSION ITEMS

Items for further Council discussion includes the following:

1. Standards for Design Review - the Council may wish to take a straw poll to determine which design standards Council Members are most interested in incorporating into the proposed ordinance. (Please refer to the attached document 21A.59.060 Standards for Design Review)
2. Other issues identified by the Council or consultant

21A.59.060 Standards For Design Review:

In addition to standards provided in other sections of this title for specific types of approval, the following standards shall be applied to all applications for design review:

- A. The development shall be primarily oriented to the street, not an interior courtyard or parking lot;
 - 1. **Primary building orientation shall be toward the street rather than the parking area. The principal entrance must be designed to be readily apparent.**
 - 2. **At least ~~sixty~~ 60 percent of the street frontage of a parcel shall have any new buildings within 10 feet of the front setback. Parking is not permitted in this area.**
 - 3. **Buildings that are open to the public and are within 30 feet of the street shall have an entrance for pedestrians from the street to the building interior. This entrance shall be designed to be a distinctive and prominent element of the architectural design, and shall be open to the public during all business hours.**
 - 4. **Buildings shall incorporate lighting and changes in mass, surface, or finish to give emphasis to entrances.**
- B. The primary access shall be oriented to the pedestrian and mass transit;
 - 1. **Buildings shall incorporate arcades, roofs, alcoves, porticos, awnings, or similar architectural features that protect pedestrians from the rain and sun.**
- C. The facade shall maintain detailing and glass in sufficient quantities to facilitate pedestrian interest and interaction;
 - 1. **At least 40 percent of any first floor wall area that faces and is within 30 feet of the primary street, plaza, or other public open space shall contain display areas, windows, or doorways. Windows must allow views into working areas or lobbies, pedestrian entrances, or display areas. First floor walls facing side streets must contain at least 25 percent of the wall space in windows, display areas, or doors. Monolithic walls within 30 feet of the street are prohibited.**
 - 2. **Building Scale. Recessed or projecting balconies, verandas, or other usable space above the ground level on existing and new buildings is encouraged on a street-facing elevation. Balconies may project over the public right of way, subject to an encroachment agreement issued by the City.**

D. Architectural detailing shall emphasize the pedestrian level of the building;

1. Developments shall have a minimum Floor Area Ratio of 0.4.
2. Buildings shall provide a foundation or base, typically from ground to the bottom of the lower windowsills, with changes in volume or material. A clear visual division shall be maintained between ground level floors and upper floors. The top floor of any building rising over two stories shall contain a distinctive finish, consisting of a cornice or other architectural termination.
3. A variety of compatible exterior materials and design shall be used, including building styles, massing, composition, and/or prominent architectural features, such as door and window openings, porches, rooflines.
4. Colors are not limited, provided they are not of ~~day-glo~~, luminescent, iridescent, neon, or similar types. Windows shall be provided with trim. Windows shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround.
5. Fronts and street sides of buildings visible from the public right of way shall be non-reflective and shall be of brick, EIFS, stucco, decorative concrete block, Hardy board, architectural grade stone, or natural wood. Large expanses of undivided glass surfaces are discouraged. All other surfaces shall be non-reflective. Secondary building materials may include copper, brass, and/or wrought iron in their natural state and/or with exposed metal painted, stained, or anodized.

E. Parking lots shall be appropriately screened and landscaped to minimize their impact on the neighborhood;

1. Parking areas shall be located behind or at one side of the building. Parking may not be located between a building and the street.
2. Parking areas shall be shaded by large broadleaf canopied trees placed at a rate of one tree for each six parking spaces. Parking shall be adequately screened and buffered from adjacent uses.
3. Parking lots with 15 spaces or more shall be divided by landscaped areas including a walkway at least 10 feet in width or by buildings.

F. Parking lot lighting shall be shielded to eliminate excessive glare or light extending into adjacent neighborhoods;

G. Parking and On-site Circulation

G.

1. **Connections shall be made when feasible to any streets adjacent to the property and to any pedestrian facilities that connect with the property. A pedestrian access diagram that shows pedestrian paths on the site that connect with the sidewalk shall be submitted.**

H. Dumpsters and loading docks shall be appropriately screened or located within the structure, and;

1. **Trash storage areas, mechanical equipment, and similar areas are not permitted to be visible from the street nor permitted between the building and the street.**

I. Signage shall emphasize the pedestrian/mass transit orientation.

J. **Lighting shall be designed to illuminate pedestrian areas with at least one-half foot candle of illumination. Lighting fixtures shall not cast light beyond the development, except for the public right-of-way.**

K. Streetscape

1. One street tree chosen from the street tree list shall be placed for each 30 feet of property frontage on the street.
2. Landscaping material shall be selected that will assure 80 percent ground coverage occurs within ~~3~~three years.
3. Hardscape (paving material) shall be utilized to designate public spaces—~~people~~ areas. ~~Sample mPermitted materialsaterials could be~~ include unit masonry, scored and colored concrete, grasscrete, or combinations of the above.
4. Outdoor storage areas shall be screened from view from adjacent public rights-of-way. Loading facilities shall be screened and buffered when adjacent to residentially zoned land and public streets.
5. Landscaping design shall include a variety of deciduous and/or evergreen trees, and shrubs and flowering plant species well adapted to the local climate.
6. ~~Existing healthy trees of greater than 6" caliper shall be incorporated into the required landscaping of the site.~~

L. Street Tree Standards

1. All development fronting on public or private streets shall be required to plant street trees consistent with the city's urban forestry guidelines and with the approval of the city's Urban Forester.
- 1.2 ~~Replacement of Street Trees~~ Existing street trees removed by development projects shall be replaced by the developer with trees approved by the city's Urban Forester.

M. Additional Standards for Large Scale Developments. ~~Developments~~ involving with a gross floor area in excess of 60,000 square feet.

1. Orientation and Scale
 - a. Developments shall divide large building masses into heights and sizes that relate to human scale by incorporating changes in building mass or direction, sheltering roofs, a distinct pattern of divisions on surfaces, windows, trees, and small scale lighting.

- b. No new buildings or contiguous groups of buildings shall exceed a combined contiguous building length of 300 feet.

2. Public Spaces

- a. One square foot of plaza, park, or public space shall be required for every 10 square feet of gross building floor area.
- b. Plazas or public spaces shall incorporate at least 3 of the 5 following elements:
 - i. Sitting space or at least one sitting space for each 250 square feet shall be included in the plaza. Seating shall be a minimum of 16 inches in height and 30 inches in width. Ledge benches shall have a minimum depth of 30 inches.
 - ii. A mixture of areas that provide shade.
 - iii. Trees in proportion to the space at a minimum of one tree per 800 square feet, at least two inch caliper when planted.
 - iv. Water features or public art; **and/or**.
 - v. Outdoor eating areas or food vendors.

N. Any new development must comply with the intent of the purpose statement of the zoning district and specific design regulations found within the zoning district in which the project is located, as well as adopted master plan policies, the City's adopted *Urban Design Element* and design guidelines governing the specific area of the proposed development. Where there is a conflict between the standards found in 21A.59.060 and other adopted plans and regulations, the more restrictive regulations shall control.

During the community process, areas for further consideration were identified. The following work items and schedule for the Planning Commission and City Council consideration are proposed.

Uses Needing Further Review & Discussion

Proposed Schedule:

Planning Commission – September 2008

City Council – November 2008

Work Items

- 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
 - 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 – must 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 laws
 - 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
- 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 ft or less in flower area; In the Commercial District Zoning Table there are listings for the tavern/lounge/brewpub: 2,500 sq ft or less in floor area, one that is 2,500 sq ft or more in area plus a separate listing for a microbrewery; and
 - In the Downtown District Zoning Table there are listing 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 inked 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.

- 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 RMF45, RMF75, and Commercial Zoning Districts

Projects/Discussion Areas Identified for Future Consideration

Proposed Schedule:

Planning Commission – September 2008

City Council – January 2008

Work Items

Additional uses

- Consider adding additional uses, such as charter school, 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
 - Multifamily Zones – should additional uses be considered for the higher-density multifamily 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 light0-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 the expansion of shared/alternative/off-site 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
- Need a comprehensive citywide analysis
- Consider incentives for incorporating transit use into development

DRAFT - JUNE 27, 2008

PROPOSED AMENDMENTS TO CONDITIONAL USE PROCEDURE

21A.54.080 Standards For Conditional Uses:

A. General Standard 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 set forth in this section. 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 shall be denied.

B. Specific Standards: A conditional use permit shall be approved unless the evidence presented shows that one (1) or more of the standards set forth in this subsection cannot be met. The Planning Commission, or, in the case of administrative conditional uses, the Planning Director or the Director's designee, may request additional information as may be reasonably needed to determine whether the standards of this subsection can be met.

1. Master Plan and Zoning Ordinance Compliance: The proposed conditional use shall be:

- a. Consistent with any policy set forth in the City-Wide, Community, and Small Area Master plan and future land use map applicable to the site where the conditional use will be located, and
- b. Allowed by the zone where the conditional use will be located or by another applicable provision of this title.

2. Use Compatibility: The proposed conditional use shall be compatible with the character of the site, adjacent properties, and existing development within the vicinity of the site where the use will be located. In determining compatibility, the Planning Commission shall consider:

- a. Whether the street or other means of access to the site where the proposed conditional use will be located will provide access to the site without materially degrading the service level on such street or any adjacent street;
- b. Whether the type of use and its location will create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected with the development of a permitted use, based on:
 - i. Orientation of driveways and whether they direct traffic to major or local streets, and, if directed to local streets, the impact on the safety, purpose, and character of these streets;
 - ii. Parking area locations and size, and whether parking plans are likely to encourage street side parking for the proposed use which will adversely impact the reasonable use of adjacent property;
 - iii. Hours of peak traffic to the proposed use and whether such traffic will unreasonably impair the use and enjoyment of adjacent property; and
 - iv. Hours of operation of the proposed use as compared with the hours of

DRAFT - JUNE 27, 2008

activity/operation of other nearby uses and whether the use, during hours of operation, will be likely to create noise, light, or other nuisances that unreasonably impair the use and enjoyment of adjacent property;

c. Whether the internal circulation system of any development associated with the proposed use will be designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic;

d. Whether existing or proposed utility and public services will be adequate to support the proposed use at normal service levels and will be designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources;

e. Whether appropriate buffering, such as landscaping, setbacks, and building location, will be provided to protect adjacent land uses from light, noise, and visual impacts resulting from the proposed use; and

f. Whether detrimental concentration of existing non-conforming or conditional uses substantially similar to the use proposed is likely to occur, based on an inventory of uses within one-quarter (1/4) mile of the exterior boundary of the subject property.

3. Design Compatibility: The proposed conditional use shall be compatible with the character of the area where the use will be located with respect to:

a. Site design and location of parking lots, access ways, and delivery areas;

b. Whether the proposed use, or development associated with the use, will result in loss of privacy, objectionable views of large parking or storage areas; or views or sounds of loading and unloading areas; and

c. Intensity, size, and scale of development associated with the use as compared to development and uses in the surrounding area.

d. If a proposed conditional use will result in new construction or substantial remodeling of a commercial or mixed-used development, the design of the premises where the use will be located shall conform to the conditional building and site design review standards set forth in Chapter 21A.59 of this title.

4. Detriment to Persons or Property: The proposed conditional use shall not, under the circumstances of the particular case and any 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 proposed use shall:

a. Not emit any known pollutant into the ground or air that will detrimentally affect the subject property or any adjacent property;

b. Not encroach on any river or stream, or direct runoff into a river or stream;

c. Not introduce any hazard or potential for damage to an adjacent property that cannot be mitigated;

d. Be consistent with the type of existing uses surrounding the subject property; and

e. Improve the character of the area by encouraging reinvestment and upgrading of surrounding properties.

5. Compliance with Other Applicable Regulations: The proposed conditional use and any associated development shall comply with any other applicable code or ordinance

DRAFT - JUNE 27, 2008

requirement.

C. Imposition of Conditions of Approval: The Planning Commission, or, in the case of administrative conditional uses, the Planning Director or the Director's designee, may impose on a conditional use any conditions necessary to conform the proposed use with the approval standards set forth in this section. Such conditions may include conditions on the scope of the use; its character or location, architecture; signage; construction; landscaping; access; loading and parking; sanitation; drainage and utilities; 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. Such conditions shall:

1. Be expressly set forth in the approval authorizing the conditional use;
2. Not be used as a means to authorize as a conditional use any use intended to be temporary only;
3. Be within the police powers of Salt Lake City;
4. Substantially further a legitimate public purpose;
5. Further the same public purpose for which the condition is imposed;
6. Not require the applicant/owner to carry a disproportionate burden in furthering the public purpose of the condition; and
7. In the case of land dedications and other contributions of property, be reasonably related and roughly proportionate to the use of the property for which the conditional use is authorized.

D. Denial of Conditional Use Application: The following findings shall be cause for denial of a conditional use application:

1. The proposed use is unlawful; and
2. The reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated as proposed in the conditional use application or by the imposition of reasonable conditions to achieve compliance with applicable standards set forth in this section.

21A.54.090 Violation of Conditions: Violation of any condition of an approved conditional use shall constitute grounds for revocation of the conditional use approval.