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AGENDA
PLANNING COMMISSION WORK MEETING
Thursday, August 20, 2026
South Salt Lake Council Chambers
220 East Morris Avenue

PLANNING COMMISSION WORK MEETING AT 6:30 P.M.

1. Conditional Use Permit Training

Join Zoom Webinar
<https://zoom.us/j/96565559652>
Webinar ID: 965 6555 9652

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, INDIVIDUALS NEEDING AUXILIARY COMMUNICATIVE AIDS OR OTHER SERVICES FOR THIS MEETING SHOULD CONTACT ELIZA UNGRICH, (801) 483-6013, GIVING AT LEAST 24 HOURS NOTICE.

Planning Commission Work Meeting Minutes
Thursday, August 20, 2026
South Salt Lake Council Chambers
220 East Morris Avenue
Time: 6:30 PM

Commission Members Present: Jeremy Carter, Chair
Kathy Self
George Pechmann
Suzanne Slifka
Olivia Spencer
Christy Dahlberg (Online)

Staff Members Present: Brienne Brass, City Attorney
Jonathan Weidenhamer, Community Development Director
Spencer Cawley, Senior City Planner
Jed Shum, City Planner

Chair Carter called the Planning Commission Work Meeting to order at 6:30 PM.

PLANNING COMMISSION WORK MEETING

1. Conditional Use Permit Training.

City Attorney, Brienne Brass, reported that the anticipated Design Workshop presentation had been postponed, and Conditional Use Permit (“CUP”) training would be conducted in its place. CUPs are regulated under Utah Code § 10-20-506 and Chapter 17 of South Salt Lake City Municipal Code.

Conditional uses are an administrative duty and not subject to legislative discretion. The City Council has broad policy discretion on legislative issues and can create, amend, or repeal land use ordinances and zoning maps. Courts defer heavily to legislative choices supported by any plausible basis, which is known as the “reasonably debatable” standard. With conditional uses, the Planning Commission is bound by existing code; they must execute and apply adopted standards and has very little discretion in these decisions. The Commission acts as a judge applying facts of law without altering policy, which is known as the “substantial evidence” standard.

Utah Code § 10-20-102 defines a conditional use as:

A land use that, because of the unique characteristics or potential detrimental impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas, or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

Under Utah Code §10-20-506, the City is authorized to adopt land use ordinances that include conditional uses and provisions for those uses that require compliance with objective standards set

forth in the applicable ordinance. South Salt Lake City Municipal Code Chapter 17.05 outlines the review process and requirements for obtaining a CUP and includes both general standards for all CUPs and specific standards for some uses.

The golden rule for CUPs:

- Allowed use by definition. A conditional use is a permitted use in the zone, subject to mitigating conditions.
- Mandatory approval. A CUP must be approved if reasonable conditions can mitigate detrimental effects.
- Mitigate does not mean eliminate. Utah law does not require that all detrimental impacts be mitigated.
- No discretionary vote. The Planning Commission cannot deny a CUP because it does not believe it belongs in the zone.

In response to a question raised by Commissioner Slifka, Ms. Brass confirmed that use of the word “shall” indicates an absolute requirement. The Planning Commission should always consider detrimental effects when reviewing CUP applications. Reasonable conditions can be applied to mitigate those effects, but they do not need to be fully eliminated as there will always be detrimental impacts like traffic or parking.

Commissioner Pechmann asked if the Planning Commission could add or amend conditions. For example, if there were three parking spaces available but the Commission believed the use needed four. Chair Carter pointed out that the key word was “reasonable”, which he interpreted as reasonable among all parties, including the City, citizens, and applicant. Ms. Brass clarified that the City must prove that there is substantial evidence for the condition.

City code outlines the types of conditional uses, universal standards, and specific uses that carry specific standards. Detrimental impacts had already been thought through, but others may arise that were not considered when the standards were written. A legislative text amendment is typically required to adopt new conditions, and you cannot deviate from the codified conditions unless there is substantial evidence to support the deviation. Conditions need to be codified so they are consistent and applicants understand what is required of them.

Commissioner Slifka asked if, in Commissioner Pechmann’s scenario, the CUP must be approved even though it is not what the City wants. Ms. Brass confirmed that once a complete application is submitted, it is vested in the current Code. However, if the Planning Commission was presented with credible evidence that a reasonable condition should be imposed but was not codified, they could discuss the possibility of imposing it. That decision may subject the City to an appeal, but it is easier to argue if there are substantial grounds for imposing the condition.

Chair Carter referred to the Veterans Administration clinic that was recently approved. The Commission understood that the Code was shortsighted, but the application was approved based on the current Code. That is why it is important for the City to reinvestigate whether changes should be made to prevent mandatory approval of a similar application in the future. Commissioner Slifka asked who determines whether changes should be made. For example, who would take on

the task of revisiting tree standards. Ms. Brass stated that the Commission can always communicate to Staff.

Community Development Director, Jonathan Weidenhamer, remarked that Deputy Community Development Director, Eliza Ungricht, and Senior City Planner, Spencer Cawley, were currently working with Director of Neighborhoods, Sharen Hauri to update the tree ordinance. He and City Engineer, Jacob Moser, met with the Utah Department of Transportation ("UDOT") earlier in the day, and the City would be changing its pre-application process to ensure that UDOT concerns are brought into the process. They were also working on how to better consider off-site impacts when evaluating traffic and parking studies. The Planning Commission's feedback was discussed and taken to the City Council for direction. They may not see the impacts immediately, but their comments were always very important, and the City Council paid attention to their discussions and recommendations.

Ms. Brass reviewed the following procedures for reviewing a CUP:

- The applicant must submit a complete application and pay the application fee.
- The applicant has the burden of showing that the proposed use meets all conditional use standards.
- Staff reviews the application for compliance with general conditional use standards.
 - If the proposed use is in a category with specific standards, those standards are also reviewed for compliance.
- Notice and meeting requirement: Utah law does not require specific notice to any party other than the applicant or that a meeting be held. South Salt Lake City Code designates the Planning Commission as the deciding body for CUPs.

There is a two-step legal test for approving CUPs:

1. Identify detrimental effects.
 - Point to specific objective and reasonably anticipated impacts on health, safety, or general welfare that are grounded in factual evidence.
2. Apply reasonable mitigation.
 - Impose targeted, enforceable conditions tied directly to standards established in the Code to mitigate the specific impacts.

Commissioner Pechmann referred to the recent brewery CUP approval and asked how the reasonable impact of smells could be legally determined. Ms. Brass stated that the standard would need to be created. There was nothing about smells in the Code, and no substantial evidence was presented to support any assumed detrimental impacts. Commissioner Pechmann remarked that enforceability may also be an issue. Chair Carter stated that a fact that would support requiring a scrubber system would be measurable, identifiable past complaints. Ms. Brass indicated that if an instrument can be used to document that a smell is detrimental to the surrounding area, the City should codify a standard to that effect. However, it was currently not addressed in code, and they did not yet know if the smell would have a detrimental impact.

Ms. Brass indicated that the CUP can also be reevaluated if it is determined that that severe detrimental impacts exist. In response to a question from Commissioner Slifka, she confirmed that those impacts are usually brought to the City's attention by citizens complaints. That typically

happens when someone expands their conditional use beyond what was documented in their application, and in that case they must apply for the expansion.

Ms. Brass reported that decisions must be based on facts, not public clamor. Substantial evidence can be provided by:

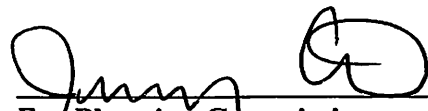
- Technical studies like traffic impact studies, engineering evaluations, noise modeling, or photometric lighting plans prepared by licensed professionals.
- Adopted standards pre-written into municipal ordinance prior to submission of the application.
 - Unwritten requirements are difficult to enforce and defend.
- Factual testimony from neighbors regarding specific physical conditions.

A common complaint heard by land use attorneys regarding street master plans is that a child could die, but no evidence is provided for that generalized fear. Other examples of public clamor are citizens expressing concern about property values potentially decreasing or 50 residents attending a meeting to protest a decision. Substantial evidence could be appraisals, reports, market trends, and analyses.

Commissioner Slifka asked how residents could provide appraisals or market analyses to prove that approving an application would decrease their property value. Mr. Weidenhamer explained that they could hire a realtor or someone with commercial real estate experience to provide a report on the five years of property values before and after a use was approved, for example. Ms. Brass reported that there was a case where a real estate agent testified that values would decrease if an application were to be approved, but the agent did not have an actual market analysis or other evidence proving that values had decrease in a similar circumstance. Without that analysis, the court found that their testimony was not credible. In response to a follow-up question from Commissioner Slifka, Mr. Weidenhamer stated that the evidence would need to be for a related application but did not need to be specific to South Salt Lake City. Ms. Brass added that a study from another municipality could be considered evidence, but whether it was determined to be credible would be fact-specific. It is very important to have written findings indicating why a decision was made.

The training was continued to the next Planning Commission meeting. Mr. Weidenhamer encouraged the Commissioners to email questions on any topic to Ms. Ungricht to help better focus future trainings.

The Planning Commission Work Meeting adjourned at 7:04 PM.



For Planning Commission



Community Development

Conditional Use Permits (CUPs)

South Salt Lake City Planning Commission Training 8.20.2026
Understanding Statutory Mandates under the Municipal Land Use, Development, and
Management Act (LUDMA) in Utah Code § 10-20-506 and Chapter 17.05 of the South Salt Lake
City Municipal Code

The Mindset Shift

Transitioning from Legislative Discretion to Administrative Duty under
Utah Municipal Law

Legislative vs Administrative Roles

Legislative Role (City Council)

Broad Policy Discretion: Creating, amending, or repealing land use ordinances and zoning maps.

The Core Question: "Is this land use good public policy for the future of our municipality?"

Discretion: High. Courts defer heavily to legislative choices supported by any plausible basis, known as the "reasonably debatable" standard.

Administrative Role (Planning Comm.)

Bound by Existing Code: Executing and applying the standards already adopted into city ordinance.

The Core Question: "Does this specific application meet the objective standards in our code?"

Discretion: Low. You act as a judge applying facts to the law without altering policy, known as "substantial evidence" standard.

Conditional Use

UCA § 10-20-102 defines a conditional use as a land use that, because of the unique characteristics or potential detrimental impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

UCA § 10-20-506

A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with **objective standards** set forth in the applicable ordinance.

South Salt Lake has adopted Chapter 17.05 that outlines the review process and requirements to obtain a CUP and includes both general conditional use standards of all CUPs as well as conditional uses with specific standards

The Golden Rule of CUPs

-  **Allowed Use by Definition:** A conditional use IS a permitted use in the zone, subject to mitigating conditions.
-  **Mandatory Approval:** Under Utah Code § 10-20-506, a CUP *shall* be approved if reasonable conditions can mitigate detrimental effects.
-  **Mitigate ≠ Eliminate:** Utah law requires mitigating impacts to an acceptable standard, NOT 100% elimination of all negative aspects.
-  **No Discretionary Veto:** You cannot decide "it doesn't belong here"—the City Council already decided it belongs in the zone.



Procedures for reviewing a CUP

- Applicant must submit a complete application.
- Applicant has the burden of showing that the proposed use meets the standards outlined in the conditional use standards ordinance.
- Staff reviews the application for compliance with SSLC general conditional use standards and, if the proposed use fits into a category that has specific standards (there are about 18 of them), those are also reviewed for compliance.
- Notice and meeting requirements: Utah law does not require specific notice to any party other than the applicant and does not require that there be a meeting. SSLC Code designates the planning commission. There is no requirement to conduct a public hearing.

The Two-Step Legal Test

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Mandatory Legal Steps

1. Identify Detrimental Effects

Point to specific, objective, and reasonably anticipated impacts on health, safety, or general welfare grounded in factual evidence.

2. Apply Reasonable Mitigation

Impose targeted, enforceable conditions tied directly to standards established in city code to mitigate those specific impacts.

Fact vs. Public Clamor

Navigating the Substantial Evidence Requirement in Quasi-Judicial Proceedings

Substantial Evidence Rules



Technical Studies

Traffic impact studies, engineering evaluations, noise modeling, or photometric lighting plans prepared by licensed professionals.



Adopted Standards

Objective criteria pre-written into municipal ordinance prior to application submission. Unwritten requirements are rarely enforceable.



Factual Testimony

First-hand factual observations from neighbors regarding specific physical conditions (e.g., historical street flooding observations).

Evidence vs. Public Clamor

Impact Category	Substantial Evidence (LEGAL)	Public Clamor (INVALID)
Traffic & Safety	Certified Traffic Impact Study (TIS) trip counts	Generalized fears like "traffic is already terrible"
Property Values	Appraisal reports & market trend analysis	Unsubstantiated claims that "values will drop"
Noise & Lighting	Decibel specifications & photometric plans	Vague complaints about neighborhood character
Decision Basis	Factual record & written findings of fact	Denying because 50 residents attended to protest

Common Legal Vulnerabilities

- Basing decisions on public clamor
- Applying unwritten standards
- Vague of unenforceable standards
- Inadequate findings of fact

Davis County v. Clearfield City

Ralph L. Wadsworth Constr. v. West Jordan City