



**SALT LAKE COUNTY** Public Works  
Planning & Development Services Division  
PUBLIC WORKS <http://www.utah.gov/pmn/index.html>

## **Emigration Township Planning Commission**

**Public Meeting Agenda**

**Thursday, February 14, 2013**

**8:30 A.M.**

THE MEETING WILL BE HELD IN THE COUNTY COUNCIL CHAMBERS, COUNTY GOVERNMENT CENTER, MAIN FLOOR, ROOM #N1100, 2001 SOUTH STATE STREET.  
**ANY QUESTIONS, CALL 385-468-6700**

*REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 468-2120 OR 468-2351: TDD 468-3600.*

The purpose of the Planning Commission Meeting is to allow the Planning Commission to hear staff, applicant, public, and other agency comments and recommendations prior to making decisions and/or recommendations on land use applications and projects on file with Salt Lake County. The Planning Commission may take action on any agenda item which may include: approval, approval with conditions, denial, continuance or a recommendation to other bodies or agencies as applicable. Public comment is not normally on the business portion of the agenda.

### **Business Items – Starting at 8:30 A.M.**

- 1) Adoption of Minutes from the January 17, 2013 Meeting
- 2) Other Business

### **Public Hearing Items (Starting immediately following Business Items)**

**28275** – Salt Lake County is considering amendments to Salt Lake County Ordinance 19.92 BOARD OF ADJUSTMENT and all other chapters and sections of Salt Lake County Ordinances which reference the Board of Adjustment (BOA). Specifically, the County is considering replacing the BOA with an Appeal Authority/Administrative Law Judge (AA/ALJ). Community Council: Emigration. Planner: David J. Gellner, AICP

**(Please Note: This Agenda Item was Continued from the January 17, 2013 Public Meeting)**

### **Meeting Adjournment**

## **Rules of Conduct for the Planning Commission Meeting**

First: Applications will be introduced by a Staff Member.

Second: The applicant will be allowed up to 15 minutes to make their presentation.

Third: The Community Council representative can present their comments.

Fourth: Persons in favor of, or not opposed to, the application will be invited to speak.

Fifth: Persons opposed to the application will be invited to speak.

Sixth: The applicant will be allowed 5 minutes to provide concluding statements.

- Speakers will be called to the podium by the Chairman.
- Because the meeting minutes are recorded it is important for each speaker to state their name and address prior to making any comments.
- All comments should be directed to the Planning Commissioners, not to the Staff or to members of the audience.
- For items where there are several people wishing to speak, the Chairman may impose a time limit, usually 2 minutes per person, or 5 minutes for a group spokesperson.
- After the hearing is closed, the discussion will be limited to the Planning Commission and the Staff.



**STAFF REPORT**

Executive Summary									
<b>Hearing Body:</b>	Emigration Canyon Township Planning Commission								
<b>Meeting Date and Time:</b>	Thursday, February 14, 2013	08:30 AM	<b>File No:</b>	2	8	2	7	5	
<b>Applicant Name:</b>	Salt Lake County	<b>Request:</b>	Ordinance Amendment						
<b>Description:</b>	AA/ALJ/Land Use Hearing Officer in lieu of Board of Adjustment								
<b>Location:</b>	County-Wide Ordinance Change								
<b>Community Council Rec:</b>	Not yet received								
<b>Staff Recommendation:</b>	Approval								
<b>Planner:</b>	David Gellner, AICP								

**1.0 BACKGROUND**

**1.1 Summary**

Salt Lake County is considering amendments to Salt Lake County Ordinance 19.92 BOARD OF ADJUSTMENT and all other chapters and sections of Salt Lake County Ordinances which reference the Board of Adjustment (BOA). Specifically, the County is considering replacing the Board of Adjustment with an Appeal Authority/Administrative Law Judge (AA/ALJ) or Land Use Hearing Officer.

**1.3 Community Council Response**

Not yet received. The Emigration Canyon Community Council (ECCC) has been asked to review this proposed ordinance and make a recommendation at their meeting of February 12, 2013. Staff will present the recommendations of the ECCC to the Commission at the meeting of February 14, 2013.

**2.0 ANALYSIS**

**2.1 Existing Ordinance**

The Board of Adjustment (BOA) is volunteer citizen's board which is appointed by the County Mayor, with advice and consent of the County Council. The BOA is assigned to hear and render decisions on only the the following quasi-judicial matters:

- 1) Act as the **Appeal Authority** for final zoning decisions rendered by the six County/Township Planning Commissions and by the County Planning and Development Services Director pertaining to Title 19 Zoning and Title 18 Subdivision Ordinances as outlined in Chapter 19.92.050;
- 2) Hear and decide the **Special Exceptions** to the terms of the Zoning Ordinance as outlined in Chapter 19.92.060.
- 3) Hear and decide **Variances** from the terms of the Zoning Ordinance as outlined in Chapter 19.92.040; and,
- 4) Hear and decide applications for the expansion or modification of nonconforming uses.

## **2.2 Proposed Ordinance**

The proposed Ordinance Amendments designate an Appeal Authority/Administrative Law Judge (AA/ALJ) or Land Use Hearing Officer to carry-out the above responsibilities instead of a BOA. They also change all references found elsewhere in County Ordinances from BOA to AA/ALJ or Land Use Hearing Officer. (See attached ordinance)

## **2.3 Analysis and Rationale for the Proposed Ordinance**

Salt Lake County is considering adoption of this Ordinance for the following reasons:

- 1) To improve existing Salt Lake County processes in regard to the path of appeals for final zoning decisions.
- 2) To obtain consistent results and better facilitate applicant predictability in the zoning appeal process.
- 3) An AA/ALJ or Land Use Hearing Officer would enhance and improve the legal review of an appeal prior to any future District Court action. In doing so, this would reduce the County's liability in regard to these decisions.

## **3.0 STAFF RECOMMENDATION**

### **3.1 Staff recommends APPROVAL of the proposed Ordinance Amendment.**

### **3.2 Reasons for Recommendation**

- 1 )

**SALT LAKE COUNTY ORDINANCE**

Ordinance No. \_\_\_\_\_

Date \_\_\_\_\_, 2012

**LAND USE HEARING OFFICERS**

AN ORDINANCE AMENDING SECTIONS 2.24.040, 2.70.020, 2.92.100, 3.52.010, 18.08.040, 19.04.335, 19.06.040, 19.72, 19.74.190, 19.75.040, 19.76, 19.78.170, 19.84.080, 19.88, 19.92, AND 19.93.030 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, REGARDING REPLACEMENT OF THE BOARD OF ADJUSTMENTS WITH LAND USE HEARING OFFICERS; REPEALING SECTIONS 19.92.070 AND 19.92.080; AND MAKING OTHER RELATED CHANGES.

The County legislative body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II. Section 2.24.040 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**2.24.040 Divisions of the department designated.**

The department of public works shall be comprised of the following divisions that shall perform the services set forth in this section; provided, however, each division shall be responsible for planning, managing, budgeting and evaluating its service programs, safety programs and delivery systems and for the contracts attendant thereto under the administrative direction of the director of public works. The degree of administrative direction exercised shall be in accord with any independent authority delegated to the respective divisions and their boards or commissions by statutory law, ordinance, or contract.

A. Administration. This division constitutes the staff of the director and is responsible for assisting the director in performing the duties delegated in Sections 2.24.010

and 2.24.020. This division is also responsible for development and maintenance of department policy and procedures and provides accounting, budget development and analysis, personnel, purchasing, information system services and cash management support for all divisions in the department.

B. Flood Control. This division is responsible for the planning, engineering, construction, maintenance, operations and regulation of flood-control facilities in both the incorporated and unincorporated areas of the county. It is further responsible for the storm water quality management program, the water resources management program and coordinating of the Jordan River sub-basin watershed management council.

C. Engineering. This division is responsible for the planning, engineering design and construction of county roads, bridges, traffic control devices, parking facilities, curbs, gutters, sidewalks, drainage, and other related projects, infrastructure and systems.

When engineering work is competitively placed by contract with private licensed engineering consultants or construction firms, the division is responsible for reviewing, inspecting and approving the engineering and construction aspects of project programming, cost estimates, plans and specifications, change orders, progress reports and payment requests. In addition, the division is responsible for the development of the county transportation improvement plan, the standards for roadway development and the county standard plans for public works construction.

D. Operations.

1. This division is responsible for the construction, maintenance, inspection and testing of county roads; including materials production, snow removal, pavement management, curb, gutter, sidewalk, bridges, drainage and other

related facilities. The division is further responsible for the implementation of control measures for noxious weeds and the inspection of beehives in the county.

2. This division is responsible for the identification, manufacture, installation, inspection and maintenance of traffic control devices for county roads. This division is also responsible for the identification, installation and maintenance of advance traffic management systems (ATMS) and the coordination of traffic signals in the county. It is further responsible for the maintenance and repair of street lights.

3. The division is responsible for the security of the department's facilities and vehicles through the investigation of complaints and accidents involving employees or equipment at the Public Works Midvale location. The division is also responsible for administration of the communications system.

E. Sanitation. This division is responsible for the collection of refuse in the unincorporated area of the county, and performs this function by contractual arrangement with the Salt Lake County Special Service District No. 1.

F. Planning and Development Services. This division is responsible for preparing studies and reports on a broad range of problems and issues related to urban growth; recommending, preparing and processing amendments to the zoning ordinance text and participating in the preparation of the economic development plan. This division shall be responsible for reviewing, recommending and processing zoning map, conditional use, subdivision and ~~[board of adjustment]~~ land use hearing officer applications. It shall also be responsible for the various aspects of development, including the review and conformance of subdivision design and construction, administration of bonding and fee requirements, supervision of engineering surveys, and flood-control drainage plan review for new

development; building inspection functions including the issuance of building permits, inspection of construction for compliance with building codes, and enforcement of building code requirements; providing land use information and inspection services to the public, relating to development process, property address assignment, field inspection for compliance with off-site improvement requirements and the zoning ordinance; and business license issuance and regulation.

G. Solid Waste Disposal. This division plans, operates and manages the county's solid waste management programs, landfill and waste transfer station facilities as provided for by interlocal agreement with Salt Lake City. The director of this division is responsible to the Salt Lake Valley solid waste management council for the operation of the landfill and is administratively responsible to the director of the public works department.

H. Animal Services. This division is responsible for the enforcement of animal ordinances; sheltering and placement of stray domestic pets and livestock; and dissemination of information on animals and animal care.

SECTION III. Section 2.70.020 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**2.70.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively described to them below:

A "conflict of interest" exists when:

A. A quasi-judicial official has a direct or indirect financial interest which will be or is reasonably likely to be affected by the outcome of the matter currently pending before the official; or

B. Resolution of the matter before the official will or is reasonably likely to create a material personal gain or provide a gain or advantage to relatives, friends, agents, business associates, or to groups and associations which hold some share of the official's loyalty. Membership in a group or association alone shall not be considered a conflict of interest with respect to any matter affecting such group or association unless a reasonable and informed person would conclude that such membership in itself would prevent an objective quasi-judicial consideration of the matter.

"Ex-parte contact or communication" means contact by one side only of a matter before an individual, board or council when said individual, board or council is acting in a quasi-judicial capacity and the contact is outside of the hearing or official proceedings in the matter.

"Interested party" in a quasi-judicial proceeding means any applicant, party, representative or agent of an applicant or party, any person or entity who may claim to be adversely affected by the resolution of a matter or any issue of fact or law related to a matter, and any person or entity who claims a substantial property interest which could be adversely affected by the resolution of a matter or an issue of fact or law related to a matter.

"Legislative capacity" means activity by a board or council when involved with the framing and enactment of ordinances and policies for the county. Included without limitation in such category is the adoption of or amendment to the Salt Lake County code of ordinances, the countywide policies and procedures of Salt Lake County, the administrative rules of the Salt Lake County board of equalization, the personnel policies and procedures of Salt Lake County adopted by either the county career service council or the civil service commission of Salt Lake County, the Salt Lake County planning and zoning general plan, specific zoning ordinances and the re-zoning of individual properties, and rules or policies adopted by any board, committee or council of Salt Lake County authorized by law to engage in legislative activities.

"Quasi-judicial capacity" means the role of an individual, board, or council acting to investigate facts and draw conclusions therefrom as a basis for its official actions and the exercise of discretion of a judicial nature is a matter which is currently before the individual, board or council, or which would come under the individual's, board's or council's jurisdiction pursuant to an appeal of an administrative determination. Quasi-judicial officials or bodies may include the county council, the county board of equalization, the mayor or designee, any hearing officer employed by Salt Lake County, the county planning commission, any township planning commission, [~~the board of adjustment,~~] the career service council, the civil service commission, the board of health, the property tax committee, and any other individual, hearing board, committee, council or board of the county when acting in a quasi-judicial capacity. In determining whether the individual or entity is quasi-judicial in nature, the nature of the activity engaged in shall control over the title of the individual or entity or the other duties assigned to or otherwise engaged in by the individual or entity.

SECTION IV. Section 2.92.100 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**2.92.100 Land use applications prior to incorporation.**

The county mayor, council, planning commission, township commissions and [~~board of adjustment~~] land use hearing officer require adequate time to complete the notice, hearing and review process for various land use applications prior to a scheduled city incorporation. To avoid duplication, confusion and imposition of fees or exactions for applications that may not be finally processed prior to incorporation, the planning and development services division shall not accept an application for a zone or general plan change, a subdivision or conditional use permit one hundred twenty days prior to the official date of incorporation. [~~Board of adjustment~~] [~~†~~]Requests to a land use hearing officer for a variance, special exception or appeals shall not be accepted ninety days

prior to incorporation. Building permit applications and non-discretionary permitted uses shall not be accepted thirty days prior to scheduled incorporation date.

SECTION V. Section 3.52.010 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**3.52.010**      ~~[Board of adjustment]~~ **Land Use Hearing Officer application fees.**

The fee for all applications under the authority of the ~~[board of adjustment]~~ Land Use Hearing Officer shall be as follows:

Residential	\$1,000.00
Nonresidential	\$1,000.00

NOTE: Double fee for post-construction or after the fact requests unless specifically and in writing is modified or waived by the division director.

SECTION VI. Section 18.08.040 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**18.08.040**      **Appeals.**

The applicant or any person adversely affected by a final decision on a subdivision shall have the right to appeal the decision to the ~~[county board of adjustment]~~ land use hearing officer by filing a letter to the ~~[board]~~ hearing officer stating the reasons for appeal within ten days after the decision. The ~~[board]~~ hearing officer shall review the record and the decision to determine whether the decision was arbitrary, capricious, or illegal. After hearing the appeal, the ~~[board of adjustment]~~ land use hearing officer may affirm, reverse, alter or remand the decision for further consideration.

SECTION VII. Section 19.04.335 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.04.335 Lot.**

"Lot" means a parcel of land occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot areas as are required by this title, having frontage upon a street or upon a right-of-way approved by ~~the board of adjustment~~ a land use hearing officer, or upon a right-of-way not less than twenty feet wide. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy one lot.

SECTION VIII. Section 19.06.040 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.06.040 Boundary location rules.**

Where uncertainty exists as to the boundary of any zone, the following rules shall apply:

A. Wherever the zone boundary is indicated as being approximately upon the centerline of a street, alley or block, or along a property line, then, unless otherwise definitely indicated on the map, the centerline of the street, alley or block, or such property line, shall be construed to be the boundary of the zone;

B. Whenever such boundary line of such zone is indicated as being approximately at the line of any river, irrigation canal or other waterway or railroad right-of-way, or public park, or other public land, or any section line, then in such case the center of the stream, canal or waterway, or of the railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of the zone;

C. Where the application of the above rules does not clarify the zone boundary location, the ~~board of adjustment~~ land use hearing officer shall interpret the map.

SECTION IX. Section 19.72.050 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.72.050 Approval procedure for development in the foothills and canyons overlay zone.**

A. Purposes. The purpose of the approval procedures set forth in this section is to ensure compliance with the zoning standards and provisions of this chapter and all other applicable ordinances and codes, while encouraging quality development in the foothills and canyons reflective of the county's goals, policies, and objectives set forth in this chapter, the Wasatch Canyons general plan, and other applicable community plans.

B. Applicability. All development proposed in the foothills and canyons overlay zone is subject to the site development plan approval procedures set forth in this section. No development or construction activity, including tree/vegetation removal and grading, or subdivision of land, shall occur on property subject to this chapter until a site development plan has been approved.

1. Permitted Uses. Site development plans for uses permitted by the underlying zone may be finally approved by the development services director upon substantiation of compliance with the zoning standards and provisions of this chapter and all other applicable ordinances and codes.

2. Conditional Uses. Site development plans for conditional uses shall be submitted in a form that satisfies the requirements of both this chapter and the conditional use provisions (Chapter 19.84) of this title and shall be subject to final approval by the planning commission pursuant to the process set forth in this section.

3. Subdivisions. Site development plans for subdivisions shall be submitted in a form that satisfies the requirements of both this chapter and the subdivision provisions of Title 18 and shall be subject to the same review and approval process as set forth therein.

C. Preapplication Meeting. A preapplication meeting with the development services director is required prior to submitting a site development plan application. The purposes of the preapplication meeting are:

1. To provide an opportunity for the county to explain the site development plan review and approval process;

2. To discuss the proposed development of the site and its relationship to site conditions and area characteristics;

3. To describe applicable provisions of this chapter and other codes and ordinances; and

4. To clarify the scope of submittal requirements.

a. Attendance. In addition to the development services director, other county participants in the preapplication meeting may include the county geologist, representatives from the health department, and any other person or entity the county deems appropriate.

b. Request for a Preapplication Meeting. To request a preapplication meeting, the applicant shall submit a request on a form approved by the development services division, together with any reasonable fee and materials that the development services division deems necessary. The materials and form submitted for the preapplication meeting shall not be considered an application for site development plan approval.

c. Scheduling. Upon submittal of the applicant's form and materials, the development proposal shall be scheduled for consideration and discussion at the next regularly-scheduled preapplication meeting.

D. Application for Site Development Plan Approval.

1. Submittal Requirements. Upon conclusion of the preapplication meeting process the applicant shall submit an application form, together with the maps, plans, and reports described in the document entitled "Submittal Requirements for Development in the Foothills and Canyons Overlay Zone," incorporated herein by reference, and any applicable fees, to the Salt Lake County development services division. In the event a waiver from this chapter's slope protection standards for lots of record is being requested (see Section 19.72.060A), then such request shall also be filed with the application. All submitted materials shall be available for public review.

a. Waiver/Modification of Analysis and Study Requirements. If, as a result of the preapplication meeting assessment of the development proposal and any site field inspections that may have been conducted, the development services director determines that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development are such that a full and adequate analysis of the development may be conducted without requiring all of the materials referenced in subsection (D)(1) of this section; then such materials as are determined to be unnecessary for the analysis may be waived or modified by the director.

b. Corrections and Additional Information Requirements. The development services director or, in the case of conditional uses or subdivisions, the planning commission may require correction of any submitted information found to be in error. Additional information as may be necessary to substantiate compliance with the provisions and standards of this chapter and other applicable codes and ordinances may also be required.

c. Incomplete Applications. Applications that do not meet the submittal requirements as set forth in this chapter shall not be accepted.

2. Acceptance of Applications. The development services director shall assess submitted applications with respect to their compliance with the "Submittal Requirements for Review of Development Proposals in the Foothills and Canyons Overlay Zone," either in whole or as modified as authorized herein, and notify the applicant in writing either of the adequacy and acceptance of the application or of the specific deficiencies or errors in the submitted materials that need to be provided prior to acceptance.

3. Staff Review. Upon acceptance of a complete application package, the development services director shall review the development proposal and document the assessment process and its conclusions through the preparation of a written staff report describing the extent to which the proposed development, as submitted, complies with the standards and criteria set forth in subsection F of this section and in other applicable county and state ordinances and codes. The report shall also specify all areas of noncompliance together with such modifications and conditions of approval as may be necessary to incorporate into the development to bring it in to full compliance, if possible, with applicable code and ordinance requirements and to mitigate identified impacts. Inability to achieve compliance with applicable standards and criteria shall warrant denial of the proposal as submitted.

a. Technical and Outside Agency Assistance. In making a determination on a site development plan application, the development services director may seek technical and policy recommendations from other public agencies with legal jurisdiction over matters affecting or affected by the proposed development, such as, but not limited to, the board of health; Utah Division of Wildlife Resources; Utah Division of Forestry, Fire, and State Lands; U.S. Forest Service; and U.S. Soil Conservation Service.

b. Failure to complete and document the assessment process regarding the development's compliance with applicable regulations and standards shall not be deemed to be approval.

4. Development Services Director Consideration and Action on Site

Development Plans for Permitted Uses. Upon completion of the review and report on an application for site development plan approval for a permitted use, the development services director shall take final action on the proposal as submitted.

a. The development services director shall take one of the following actions, based on application of the standards for review set forth in subsection F of this section:

i. Approve the application, either as originally proposed or as modified by mutual agreement through the development review process;

ii. Approve the application with such reasonable conditions and safeguards as are necessary to implement the purposes of this chapter and title, subject to subsection (D)(8) of this section, "Compliance with Conditions of Approval;" or

iii. Deny the application on the basis of specific findings communicated to the applicant in writing.

b. Notice. The development services director shall notify an applicant in writing of the final disposition on an application for site development plan approval for a permitted use.

c. Appeals from Development Services Director Action. Appeals of a decision of the development services director on an application for site development

plan approval for a permitted use shall be filed in accordance with the procedures set forth in Section 19.92.050 of this title.

5. Development Services Director Consideration and Recommendation on Site Development Plans for Conditional Uses and Subdivisions. Upon completion of the review and report on an application for site development plan approval for a conditional use or subdivision, the development services director shall forward the request, together with a recommendation for final action, to the planning commission, unless authorized by this title to grant approval of such request, subject to applicable referral and appeal provisions.

6. Planning Commission Consideration and Action on Site Development Plans for Conditional Uses and Subdivisions. Upon receipt of the development services director's staff report and recommendation, the planning commission shall review the application, site development plan, and related materials and make a final decision on the proposal.

a. The planning commission shall take one of the following actions, based on application of the standards for review set forth in subsection F of this section:

i. Approve the application, either as recommended by the development services director or as further modified by mutual agreement with the applicant during the planning commission's deliberations;

ii. Approve the application with such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and title, subject to subsection (D)(8) of this section, "Compliance with Conditions of Approval;" or

iii. Deny the application on the basis of specific findings communicated to the applicant in writing.

b. Optional Public Hearing. Where the planning commission finds that the size, complexity, projected impacts, proximity to conflicting land uses, or any other aspects of the proposed development may raise issues of particular concern to the general public and welfare, the planning commission may hold a public hearing pursuant to public notice to inform the public and obtain comment prior to taking action on a proposed site development plan. Notice shall be given pursuant to Section 19.84.040D of this title.

c. Notice. The development services director shall notify an applicant in writing of the planning commission's final action on an application for site development plan approval for a conditional use or subdivision.

7. Appeals from Planning Commission Action. Appeals may be made by any party aggrieved by the decision of the planning commission on an application for site development plan approval. All such appeals shall be to the ~~[board of adjustment]~~ land use hearing officer pursuant to the procedures set forth in Section 19.92.050 of this title. The ~~[board of adjustment]~~ land use hearing officer shall apply the review standards set forth in subsection F of this section in determining an appeal.

8. Compliance with Conditions of Approval.

a. Preliminary Approval Only. If the director of development services, planning commission, or ~~[board of adjustment]~~ land use hearing officer on appeal, condition approval of a site development plan application upon receipt of additional information, amendments, or other actions, the decision-maker's action shall be considered only a preliminary approval of the site development plan application.

b. Final Approval Upon Satisfaction of Conditions. Except as specified in subsection (D)(8)(d) of this section, the development services director is

authorized to grant final approval of the site development plan application only after all of the conditions and requirements of the preliminary approval have been met and satisfied. Where the conditions require the applicant to obtain necessary county or state permits, the applicant's failure to comply shall result in a denial of the site development plan. A determination that the applicant has complied with all conditions shall, together with the amended plan, constitute final site development plan approval. The development services director shall, in either event, notify the applicant in writing of the final disposition of the request.

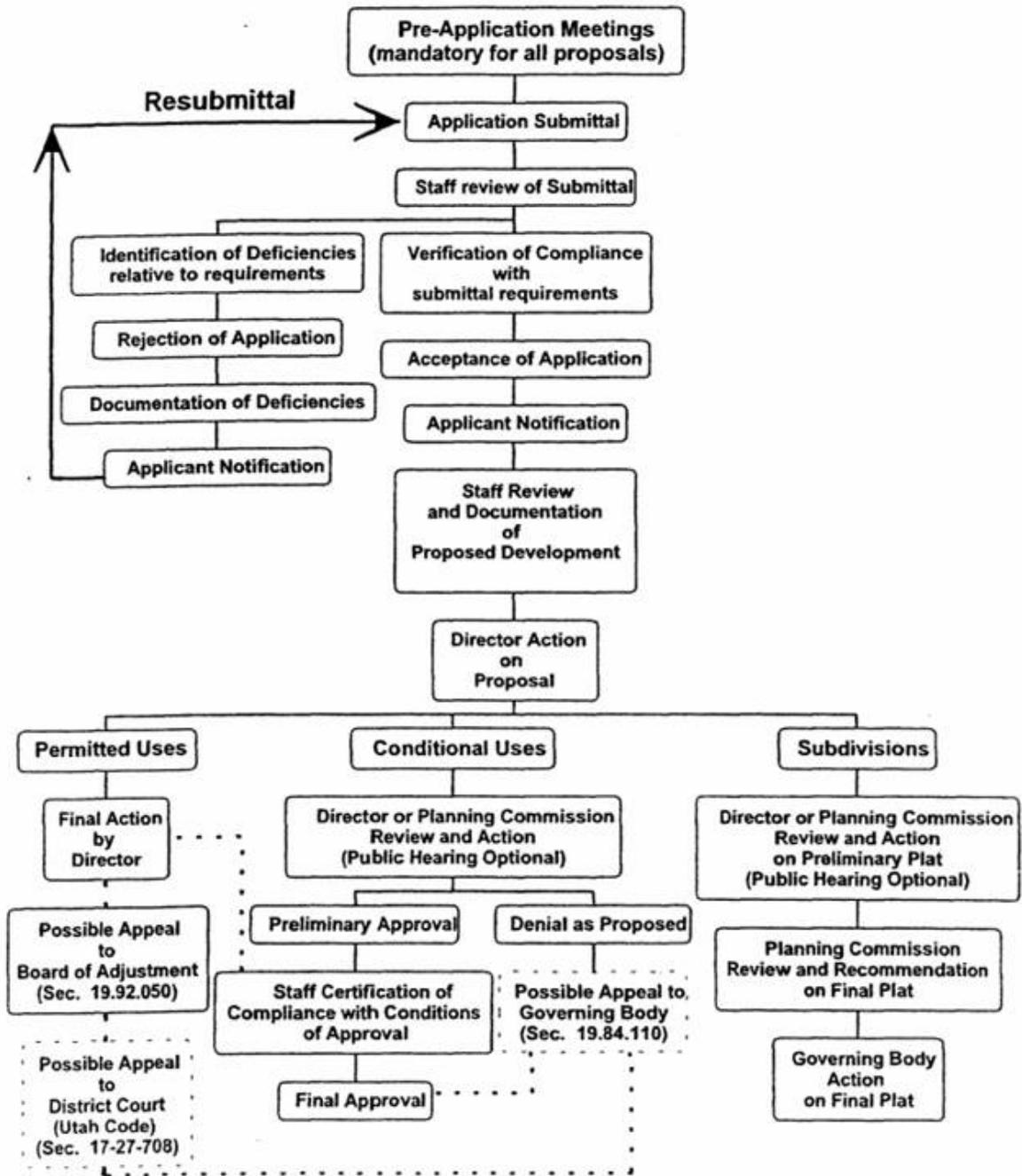
c. Failure to Comply with Conditions of Preliminary Approval—  
Appeal.

i. If the development services director's determination is that the applicant has not substantially complied with all of the required conditions of approval for a conditional use or subdivision, the site development plan application shall be denied and any subsequent applicant revisions or modifications shall be considered a new application subject to all the requirements and procedures herein.

ii. The applicant may appeal the compliance determination of the development services director on a conditional use or subdivision to the planning commission pursuant to the procedure set forth in Section 19.84.100 of this title.

d. Planning Commission Consideration of Final Approvals. The planning commission may require as a condition of preliminary approval that a site development plan application be brought back before the commission for final consideration and approval.

E. Flow Chart of Site Plan Approval Process.



F. Standards for Review. The following standards shall be utilized in the consideration of and subsequent action on applications for site development plan review and approval. Failure to

comply with any of the following shall constitute sufficient grounds for denial of a development subject to the provisions of this chapter.

1. The development shall be consistent with the purposes and intent of this chapter, and with the policies, goals, and objectives of any applicable plan, including the Wasatch Canyons general plan, the Salt Lake County regional trails plan, and applicable community general plans, as such plans are amended from time to time;

2. The development complies with the requirements set forth in Section 19.72.030, "Development standards," of this chapter, except to the extent modifications and waivers have been expressly granted;

3. The development complies with all applicable development regulations, standards, requirements, or plans adopted by the state, including but not limited to water quality and wastewater regulations;

4. Construction, grading, and development activities are restricted to limits of disturbance that comply with the standards and criteria set forth in Section 19.72.040, "Establishment of limits of disturbance," of this chapter.

G. Time Limit and Effect of Site Development Plan Approval.

1. Construction in Compliance with Approved Site Development Plan and Conditions of Approval Required. A building permit issued pursuant to this site development plan approval process must reference all conditions or stipulations applicable to such approval. All development, construction, and use shall be in accordance with the approved site development plan.

2. Valid for One Year. An approved site development plan shall be valid for a period of twelve months from the date of the development services director's or planning

commission's action granting final approval, except as authorized in subsection (G)(4) (a) of this section for multi-phase development.

3. Issuance of Building Permit Within One-Year Period. A building permit may be obtained at any time within the twelve-month period. If a building permit is not timely issued within the one-year period, approval of the site plan shall automatically lapse and be null and void.

4. Extensions of Time.

a. Phasing. A building permit issued for any phase of a development that has received site development plan approval pursuant to this chapter shall extend the life of the site development plan for the entire development for an additional twelve months from the date of issuance of the building permit. If any successive twelve-month period expires before a building permit is issued for a subsequent phase or phases, then the site development plan approval shall automatically lapse and be null and void as to all undeveloped or unbuilt phases of the development.

b. Other Extensions. A twelve-month extension of the life of the site development plan may be obtained subject to paying an extension fee equal to one times the original filing fee for the site plan application.

SECTION X. Section 19.72.060 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.72.060 Administration and enforcement.**

A. Administrative Modification of Standards Allowed.

1. Development Standards in Relation to the Establishment of Limits of Disturbance. In establishing the limits of disturbance for developments subject to this

chapter, the development services director shall have the discretion to administratively modify the following development standards up to twenty-five percent:

- a. Site and building design standards, as set forth in Section 19.72.030L;
- b. Tree and vegetation protection standards, as set forth in Section 19.72.030H;
- c. Perennial stream corridor and wetlands setbacks, as set forth in Section 19.72.030J and Section 19.73.080B;
- d. Driveway access standards, as set forth in Section 19.72.030E;

2. Limitations on the Granting of Administrative Modifications in Relation to the Establishment of Limits of Disturbance. The development services director may only exercise the aforementioned administrative modification authorities if either or both of the following circumstances apply:

- a. Modification would result in:
  - i. More effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features on the site; and/or
  - ii. Less visual impact on the property or on the surrounding area; and/or
  - iii. Better protection of wildlife habitat.
- b. Strict application of the standard(s) would render a site undevelopable.

3. Exceptions to Perennial Stream Corridor and Wetland Setback Requirements for Lots of Record.

a. Existing Legally-Established Buildings and Structures. A building or structure legally existing on the effective date of the ordinance codified in this chapter that is within fifty feet of a perennial stream corridor or twenty-five feet of a wetland may be renovated, altered, or expanded as follows:

i. Renovations or alterations that will not increase the gross floor area of the original, existing structure are permitted.

ii. Renovations, alterations or expansions which will increase the gross floor area of the original, existing building or structure are limited, regardless of change of ownership, to a cumulative total expansion of no more than two hundred fifty square feet of gross floor area located closer than fifty feet to a perennial stream corridor or closer than twenty- five feet to a wetland.

iii. Renovations, alterations or expansions which will increase the gross floor area of the original, existing building or structure but which are no closer than fifty feet to a perennial stream corridor or no closer than twenty-five feet of a wetland are permitted, subject to compliance with all other applicable regulations and standards.

b. New Buildings and Structures. In establishing the limits of disturbance for new developments subject to this chapter, the development services director may authorize construction to no closer than fifty feet from a perennial stream corridor or to no closer than twenty-five feet from a wetlands upon satisfaction of the following criteria:

i. Denial of an encroachment of more than twenty-five percent into the stream or wetlands setback area would render the site undevelopable; and

ii. No alternative location for the development that is further from the stream or wetland is feasible or available; and

iii. Creative architectural or environmental solutions have been incorporated into the development proposal in order to ensure that the purposes of stream corridor protection, as set forth in Section 19.72.030 of this chapter, are achieved; and

iv. No federal or state laws, or other county ordinances or regulations would be violated.

4. In allowing for the preceding improvements, the development services director shall not:

a. Increase the maximum limits of disturbance set forth in Section 19.72.040F; or

b. Authorize the encroachment of more than five hundred square feet of gross floor area of structural improvements (cumulative total) within the land area between seventy-five feet and fifty feet from perennial stream corridor or within the land area between fifty and twenty-five feet of a wetland.

5. Appeals of decisions on modifications shall be addressed as set forth in Section 19.92.050 of this title, as applicable.

B. Planning Commission Authority to Waive or Modify Standards.

1. Waiver of Slope Protection Standards for Lots of Record.

a. Subject to the conditions set forth in subsection (B)(1)(b) of this section, the planning commission may waive or modify the following standards as applied to development on lots of record and in subdivisions that were approved prior to the effective date of the ordinance codified in this chapter:

i. Slope protection standards regarding prohibition of development on slopes greater than thirty percent or in ridge line protection areas, as set forth in Section 19.72.030B; or

ii. Limitations on the crossing of slopes greater than thirty percent with any street, road, private access road or other vehicular route, as addressed in Section 19.72.030(D)(3)(4).

b. The planning commission may waive or modify the aforementioned standards only upon satisfaction of the following criteria:

i. Strict compliance with the slope protection standards in Section 19.72.030B or in Section 19.72.030(D)(3)—(4) would render the site completely undevelopable; or

ii. Strict compliance with the slope protection standards in Section 19.72.030B or in Section 19.72.030(D)(3)—(4) would result in a substantial economic hardship (as defined in Section 19.72.070) not created by the applicant or otherwise self-imposed; and

iii. The development conforms with all other development, site design, and environmental standards set forth in this chapter, in Chapter 19.73, "Foothills and Canyons Site Development and Design Standards," and in all other applicable ordinances and codes.

c. Notwithstanding its discretion to grant waivers for lots of record from the slope protection standards set forth in this chapter, in no case shall the planning commission permit development other than roads on slopes greater than forty percent.

d. In granting a waiver from or modification of the slope and ridge line protection standards set forth in Section 19.72.030B of this chapter, the planning commission may impose such conditions as are reasonable and appropriate to not only mitigate the impacts of the proposed development on adjacent properties and area characteristics, but to also enhance their compatibility with the surrounding environment. Such conditions may include, for example, but are not limited to, a reduction in the maximum building height otherwise permitted by the underlying zone (e.g., a reduction to twenty feet from the thirty-foot maximum building height permitted in the F.R. zone); mandatory (rather than advisory) incorporation of specific building scale and design, building materials and colors, landscaping and vegetation, and other site development and design standards of Chapter 19.73 of this title that are otherwise advisory, etc.

C. Waivers and Modifications for Mountain Resorts, Public Uses, and Mineral Extraction and Processing Uses.

1. Authority to Grant Waivers. The topographic conditions, soil characteristics, hydrologic patterns, climatic constraints, susceptibility to natural hazards, vegetation, wildlife habitat concerns, and aesthetic considerations of foothill and canyon areas often create circumstances in which strict compliance with adopted standards is not only difficult but sometimes impossible to achieve. As these challenges are frequently created by the very nature and operational characteristics of ski resort developments, mineral extraction and

processing operations, and many public uses, and are therefore most often self imposed, other avenues of administrative relief are sometimes necessary and appropriate.

Accordingly, the development services director, and the planning commission, as authorized by this title with regards to the review and approval of conditional use permits, may waive or modify the development standards of this chapter in accordance with the procedures and criteria set forth in this section and in subsection (C)(5) of this section.

2. Waiver Request Procedures. A petition or request for a waiver or modification of the development standards of this chapter shall be submitted in writing by the owner or authorized agent of the property for which administrative relief is sought. Such request shall be made concurrent with the conditional use permit application relating to the proposed establishment and operation of the requested use. The petition or written request seeking the waiver or modification shall clearly indicate:

- a. Those aspects or elements of the development proposal which would not be permitted through strict application of the regulations contained in this chapter;
- b. The specific regulations which would need to be waived or modified in order to accommodate the development as proposed;
- c. The basis, justification, or grounds, in the applicant's opinion, for granting the waiver or modification;
- d. Improvements or design alternatives which would be incorporated into the development, in lieu of strict adherence to the regulations from which waiver or modification is sought, that would lessen or mitigate impacts on adjacent properties and area characteristics, or enhance the environmental compatibility of the proposed development when compared to other design alternatives.

In addition to other submittal requirements, as set forth in this chapter, applications for developments for which waivers or modifications are requested shall clearly illustrate on all graphic materials and supporting written documentation the exact nature and locations of improvement for which waivers or modifications have been requested.

3. Proposed Modifications—Referral for Comment. Each proposed waiver or modification shall be referred to the operational division, department, or agency with jurisdiction over the applicable regulation. The comments, concerns, and recommendations regarding the requested waiver or modification shall be specifically incorporated into the written staff analysis and recommendations prepared for subsequent action by the development services director or the planning commission on the conditional use.

4. Public Hearing and Notice. Requests for waivers or modifications of the development standards of this chapter shall, in the instance of uses that require approval at a public hearing, incorporate into the published notice of hearing the specific ordinance provisions from which the waivers or modifications are requested, together with the alternative development patterns or characteristics that would result from the granting of the requested waivers or modifications.

Where it is required that owners of properties within three hundred feet of the exterior boundaries of that for which development is proposed be notified by first class mail prior to a public hearing, such owners shall likewise be notified in writing of requested waivers, modifications, and alternative development proposals.

Ski resort developments subject to multi-jurisdictional approvals that have completed a National Environmental Policy Act (NEPA) or other comprehensive public review and comment process and been granted approval for development on lands under the jurisdiction

of those agencies administering such processes shall be exempt from subsequent compliance with the county noticing and public hearing requirements of this section so long as:

a. A notice of intent to request waiver or modification of otherwise applicable Salt Lake County zoning ordinance provisions, together with the specific ordinance provisions that the request will apply to and the alternative development standards and improvements that are proposed have been incorporated into the public notification materials of the other agencies with review and approval authority; and

b. The information presented to the public in the review and comment processes administered by those agencies was, with respect to those portions of the development proposal that are to be situated on privately-owned lands subject to the review and approval of Salt Lake County, at a level of site planning and construction detail consistent with that required by the county for its own public review and comment process; and

c. The issues, comments, and concerns expressed through the process were conveyed in writing to the development services director for consideration prior to any official county action on the proposal.

5. Criteria for Approval. Waivers or modifications to the development standards of this chapter may only be approved subject to satisfying those of the following criteria deemed applicable by the development services director or planning commission, depending upon which has jurisdiction over the particular proposal:

a. That the improvements proposed are important to the operation and maintenance of the property and use, and that no reasonable alternative means of satisfying such requirements are feasible or readily available;

b. That the physical surroundings, shape, or topographic conditions of the specific property involved are such that strict compliance with these regulations would result in substantial hardship or practical difficulties, or a substantial economic hardship (as defined in Section 19.72.070) for the owner of the property;

c. That strict or literal interpretation and enforcement of the specified regulation would result in a development approach unintentionally inconsistent with the objectives of this chapter;

d. That the waivers or modifications granted will result in a development approach which preserves area views, reduces adverse impacts on existing trees and vegetation, reduces the overall degree of disturbance to steep slopes, protects wildlife habitat, or reflects a greater degree of sensitivity to stream corridors, wetlands, rock outcrops, and other sensitive environmental features in the vicinity of the proposed improvements;

e. That the granting of the waiver or modification will not be detrimental to the public health, safety, or general welfare, or materially injurious to properties or improvements in the vicinity;

f. That the waiver or modification granted shall not have the effect of nullifying the intent and purpose of these regulations;

g. That the proposed development, as modified by the request, is not in substantial conflict with the goals, objectives, and policies of the adopted community general plan applicable to the area;

h. That creative architectural or environmental solutions can be applied and used to alternatively achieve the purposes of this chapter;

i. That the development in all other respects conforms with the site design, development, and environmental standards set forth in this chapter, in Chapter 19.73, "Foothills and Canyons Site Development and Design Standards," and in all other applicable ordinances and codes;

j. That the waivers or modifications granted do not result in the violation of other applicable federal, state, and county laws.

6. Action on Waiver Requests.

a. The waiver or modification may be approved as proposed, approved in an alternative manner which better satisfies the required findings of fact, or may be denied.

b. The decision on the request shall include the reasons for approval or disapproval.

c. In granting a waiver from or modification of the development standards of this chapter, such conditions may be imposed as are reasonable and appropriate to mitigate the impacts of the proposed development on adjacent properties and area characteristics. These may include, for example, but are not limited to: measures for the protection of scenic vistas, especially with respect to views from public rights-of-way and public lands; measures for the protection of natural settings in the vicinity of site improvements; measures to enhance the relationship to and compatibility with other structures and open spaces in the vicinity of the proposed improvements; etc.

d. All development shall comply with approved plans. Any proposed revisions or changes to approved waivers or modifications shall require resubmittal for consideration and final action.

7. Permissible Slope Waiver Ranges for Eligible Activities. The following table establishes the permissible slope waiver ranges for eligible development activities associated with mountain resorts, public uses, or mineral extraction and processing uses.

Slope Range	Eligible Development Activities
30% or less	• No slope waiver required.
Greater than 30% up to 40%	• All development activities associated with allowed uses.
Greater than 40% up to 50%	• Pedestrian trails;
	• Non-motorized vehicle trails;
	• Ski runs, ski lifts and supporting appurtenances;
	• Mountain resort accessory year-round or non-snow related activities; and
	• Motorized vehicle roads and trails for emergency or maintenance purposes
Greater than 50%	• Pedestrian trails;
	• Non-motorized vehicle trails;
	• Ski runs, ski lifts and supporting appurtenances;
	• Mountain resort accessory year-round or non-snow related activities

8. Notations. In the approval of any waiver or modification under the provisions of this chapter, the development services director shall note in the file for the conditional use permit authorizing the use for which the waiver or modification is granted, as well as on the building permit issued for the proposed development, the exact nature and conditions of approval of such waiver or modification.

9. Appeals. Any person or entity adversely affected by a waiver or modification decision of the development services director may appeal such decision to the ~~[board of adjustment]~~ land use hearing officer in accordance with the provisions of Section 19.92.050 of this title.

Appeals must be filed in writing in the development services director's office within ten days following the date upon which the decision is made, and must be based solely on an assertion that an error has been made in the interpretation or administration of the provisions

of this title. The person or entity making the appeal has the burden of proving by a preponderance of the evidence that an error has been made. Appeals of development services director decisions regarding conditional uses shall be processed in accordance with the requirements of Section 19.84.100 of this title.

Appeals to the ~~[board of adjustment]~~ land use hearing officer of planning commission decisions on waiver or modification requests subject to the provisions of this chapter shall be filed in writing in the planning and development services office within ten days following the date upon which the decision is made by the planning commission. The appeal shall thereafter be considered by the ~~[board of adjustment]~~ land use hearing officer, as set forth in Section 19.92.050 of this title.

D. Violations/Penalties for Unauthorized Land Disturbance and Tree/Vegetation Removal. Any applicant, whether as principal, agent, employee, or other, who violates the provisions of this chapter by removing trees or vegetation or exceeding the prescribed limits of disturbance shall be guilty of a misdemeanor and punishable as provided by law and/or shall be subject to civil penalties as provided by law. Such applicant who violates this chapter shall be deemed to be guilty of a separate offense for each and every day during which any violation of this chapter is committed, continued, or permitted by such person. In addition, any applicant violating the provisions of this chapter shall replace all trees/vegetation illegally removed pursuant to the standards set forth in Section 19.72.030H of this chapter.

E. Financial Assurances. Financial assurances such as cash or surety bonds, escrow agreements, or letters of credit provided in lieu of actual completion of improvements required under this chapter shall be subject to the provisions of Section 19.02.110 of this title or those set forth in Title 18, the subdivision ordinance for Salt Lake County, as deemed most applicable by the public works director.

SECTION XI. Section 19.74.190 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.74.190 Variances and appeal procedures.**

The [~~board of adjustment~~] land use hearing officer, as designated by the zoning ordinance of the county, shall hear and decide all appeals and requests for variances from the requirements of this chapter, as provided in Chapter 19.92 of this title, as amended. The following conditions shall apply, in addition to the provisions of Chapter 19.92:

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below one foot above the base level, providing the [~~board of adjustment~~] land use hearing officer has considered all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, providing the following items have been considered:

1. The danger that materials may be swept onto other land to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with the existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional and undue hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create

nuisances, cause fraud on or victimization of the public, as identified in subsection A1 of this section, or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below one foot above the base flood elevation and that the cost of flood insurance will be commensurate with the increased flood risk resulting from the reduced lowest floor elevation.

G. The [~~board of adjustment~~] land use hearing officer shall maintain the record of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

SECTION XII. Chapter 19.75.040 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.75.040 Disputes.**

Disputes may arise when:

- a. there is a conflict between the boundary lines illustrated on the map and actual field conditions,
- b. detailed investigations show that mapped hazards are not present within a particular area, or
- c. field conditions indicate that unmapped hazards may exist that require study.

Disputes shall be settled as follows:

A. The person disputing the special study area boundary or the presence of mapped or unmapped hazard(s) within a particular area shall submit technical and geologic evidence to support their claim to the County Geologist in the form of a site-specific geologic hazards report (see Section 19.75.060).

B. The County Geologist may request the Utah Geological Survey, U.S. Forest Service, and/or other experts to review the evidence (third-party review) prior to making a decision concerning the dispute. The cost of the third-party review shall be paid by the person disputing the map.

C. The County Geologist may allow deviations from the mapped boundary line only if evidence is provided by the applicant that, to the satisfaction of the County Geologist, clearly and conclusively establishes that the Geologic Hazard Special Study Area boundary location is incorrect, or that the mapped hazards are not present within a particular area.

D. Any decision of the County Geologist may be appealed to the ~~Board of Adjustment~~ land use hearing officer pursuant to the appeal procedures set forth in Section 19.92.050

SECTION XIII. Chapter 19.76 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.76.035 Appeal of planning commission decision.**

Unless otherwise specifically provided for in this title, any person shall have the right to appeal to the ~~board of adjustment~~ land use hearing officer a decision of the planning commission rendered under this title. Appeals shall follow the procedure set forth in Section 19.92.050.

**19.76.080 Lots and buildings on private rights-of-way.**

Except where the requirements of this section are reduced by permit of the ~~board of adjustment~~ land use hearing officer, the minimum area for any lot fronting on a private right-of-way, at least twenty feet wide, shall be one-half acre, and the minimum distance from the center of the right-of-way to the front line of the building shall be fifty feet; except that property that cannot be subdivided as outlined in the subdivision ordinance may be developed on a private street or right-of-way in any R zone upon approval of the development services division director. Such

approval shall be governed by the official policies regulating such development, as adopted by the planning commission and on file at the planning commission office.

**19.76.090 Sale of lots below minimum width and area.**

No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a large parcel of land for the purpose, whether immediate or future, of building or development as a lot, except by permit of the [~~board of adjustment~~] land use hearing officer.

**19.76.290 Single-family or two-family dwelling—Standards.**

Any detached single-family or two-family dwelling located on an individual lot outside of a mobile home park or mobile home subdivision must meet the off-street parking requirements in Chapter 19.80 and the following standards in addition to any others required by law except as provided in subsection I of this section:

A. The dwelling unit must meet the Salt Lake County Building Code or, if it is a manufactured home, it must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and must have been issued an insignia and approved by the U.S. Department of Housing and Urban Development, and must not have been altered in violation of such codes. A used manufactured home must be inspected by the county building official or his designated representative prior to placement on a lot to insure it has not been altered in violation of such codes.

B. The dwelling must be taxed as real property. If the dwelling is a manufactured home, an affidavit must be filed with the State Tax Commission pursuant to Utah Code Annotated 59-2-602.

C. The dwelling must be permanently connected to and approved for all required utilities.

D. The dwelling must provide a minimum of seventy-two square feet (per dwelling unit) of enclosed storage, with a minimum height of six feet, located in the basement or garage area or in an accessory storage structure. Such structure shall conform to all applicable building codes.

E. The dwelling must be attached to a site-built permanent foundation which meets the Uniform Building Code or, if the dwelling is a manufactured home, the installation must meet the ICBO Guidelines for Manufactured Housing Installations, including any successors to these standards, and the space beneath the structure must be enclosed at the perimeter of the dwelling in accordance with such ICBO Guidelines, and constructed of materials that are weather-resistant and aesthetically consistent with concrete or masonry type foundation materials. At each exit door there must be a landing that is a minimum of thirty-six inches by thirty-six inches and that is constructed to meet the requirements of the Uniform Building Code. All manufactured home running gear, tongues, axles and wheels must be removed at the time of installation.

F. At least sixty percent of the roof of the dwelling must be pitched at a minimum of two and one-half to twelve (2.5:12) and shall have a roof surface of wood shakes, asphalt, composition, wood shingles, concrete, fiberglass or metal tiles or slate or built-up gravel materials.

G. The dwelling shall have exterior siding material consisting of wood, masonry, concrete, stucco, masonite, or metal or vinyl lap, or any material meeting the Uniform Building Code or materials of like appearance approved by the development services director. The roof overhang must not be less than six inches, including rain gutters which may account for up to four inches of overhang, measured from the vertical side of the dwelling. The roof overhang requirement shall not apply to areas above porches, alcoves and other appendages which together do not exceed twenty-five percent of the length of the dwelling. The roof overhang may be reduced to two inches on the side of the dwelling facing the rear yard except on corner lots.

H. The width of the dwelling shall be at least twenty feet at the narrowest part of its first story for a length of at least twenty feet exclusive of any garage area. The width shall be considered the lesser of the two primary dimensions. Factory-built or manufactured homes shall be multiple transportable sections at least ten feet wide unless transportable in three or more sections, in which case only one section need be ten feet wide.

I. The development services director may approve deviations from one or more of the developmental or architectural standards provided in subsections E through H of this section on the basis of a finding that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with existing structures in the vicinity. The determination of the development services director may be appealed to the [~~board of adjustment~~] land use hearing officer pursuant to the provisions of subsection C of Section 19.92.070.

J. Except as limited by subsection K of this section, use of one manufactured home as a dwelling on a parcel of land located outside of a mobile home park or mobile home subdivision prior to the initiation by the county of the enactment of the ordinance codified in this section, which use does not meet the requirements set forth in subsections A through H of this section shall be considered as a nonconforming dwelling though not previously approved by the county if such manufactured home and the parcel on which it is located comes into compliance by December 31, 1990, with all development standards which would have been applicable to a single-family dwelling located on such parcel at the time the manufactured home was first used on the parcel as a dwelling. Development standards shall include subdivision, zoning, flood control, outside electrical hookup, applicable fees, health, and fire department requirements for single-family dwellings on such parcel.

K. The use of a manufactured home as a dwelling located on an individual parcel or lot outside of a mobile home park or mobile home subdivision shall terminate on December 31, 1990,

unless the owner opts to have the manufactured home taxed as real property on or before such date by filing an affidavit with the State Tax Commission pursuant to Utah Code Annotated 59-2-602 and meeting the requirements of that statute for having the manufactured home taxed as real property.

L. Replacement of an existing nonconforming manufactured home on a lot outside a mobile home park or mobile home subdivision shall comply with all requirements herein.

SECTION XIV. Section 19.78.170 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.78.170 - Scope of planning commission action.**

In carrying out the intent of this chapter, the planning commission shall consider the following principles:

A. It is the intent of this chapter that site and building plans for a planned unit development shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The commission may require the applicant to engage such a qualified designer or design team.

B. It is not the intent of this chapter that control of the design of a planned unit development by the planning commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this section that the control exercised be the minimum necessary to achieve the purpose of this chapter.

C. The planning commission may approve or disapprove an application for a planned unit development. In approving an application the commission may attach such conditions as it may deem necessary to secure compliance with the purposes set forth in Sections 19.84.050 through 19.84.090 of this title. The action of the planning commission may be appealed to the [~~board of adjustment~~] land use hearing officer.

SECTION XV. Section 19.84.080 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.84.080 Appeals.**

Any adversely affected person shall have the right to appeal to the ~~[board of adjustment]~~ land use hearing officer any decision rendered by the planning commission, the director or director's designee by filing in writing, stating the reasons for the appeal with the ~~[board of adjustment]~~ land use hearing officer, within ten days following the date upon which the decision is made. Appeals to the ~~[board of adjustment]~~ land use hearing officer shall comply with the following procedures:

A. Upon scheduling a hearing date, the ~~[board of adjustment]~~ land use hearing officer shall notify the planning commission coordinator at least two weeks prior to the hearing to allow preparation of the record.

B. The planning commission coordinator shall prepare a copy of the record of the proceedings and decision being appealed for presentation to ~~[board of adjustment members]~~ the land use hearing officer.

C. The ~~[board]~~ hearing officer shall review the record, and may not accept or consider any evidence outside the record unless the evidence was offered to and was excluded by the planning commission, the director or director's designee and the ~~[board]~~ hearing officer determines that it was improperly excluded.

D. The ~~[board of adjustment]~~ land use hearing officer shall review the planning commission's or the development services division's actions to determine whether the decision was arbitrary, capricious, or illegal.

E. The filing of an appeal does not automatically stay the decision; however, the ~~[board of adjustment]~~ land use hearing officer has the authority to stay the decision while the appeal is pending.

F. After review of the record and written and oral argument on both sides, the ~~[board]~~ hearing officer may affirm, reverse, alter, or remand to the planning commission, the director or director's designee for further review and consideration the action taken by the planning commission, the director or director's designee.

SECTION XVI. Chapter 19.88 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.88.040 Repairs and alterations permitted.**

Repairs and structural alterations may be made to a noncomplying structure or to a structure housing a nonconforming use. Any remodel or structural alteration that requires the demolition of an outside wall of a noncomplying structure shall only be allowed upon approval of the ~~[board of adjustment]~~ land use hearing officer, unless the new construction complies with the zoning ordinance. The ~~[board of adjustment]~~ land use hearing officer decision regarding applications for the removal and replacement of outside walls of a noncomplying structure shall be based upon the criteria outlined in Section 19.88.070(B).

**19.88.070 Additions, enlargements, moving and reconstruction of a structure.**

A. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.

B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the ~~[board of adjustment]~~ land use hearing officer, provided that the ~~[board of adjustment]~~ land use hearing officer shall find:

1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 19.02.020 of this title, and is in keeping with the intent of this title;

2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

**19.88.140 Application to have a use violation declared legal through special exception.**

A. Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared legal through special exception. The planning commission may approve such an application only when the evidence establishes all of the following:

1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;

2. No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;

3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.

B. The planning commission may consider as evidence:

1. Documents that are part of the public record, such as tax appraisals, utility records, aerial photographs, building permits, etc.

2. Documentation from third parties, such as affidavits, photographs, etc.

3. Documentation from current or past property owners, such as tax records, rental/lease agreements, appraisal records, etc.

In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date of the ordinance codified in this section. Any person shall have the right to appeal to the ~~[board of adjustment]~~ land use hearing officer a decision rendered by the planning commission pursuant to this section. Appellants shall follow the appeal procedures set forth in Section 19.92.050 of this title.

SECTION XVII. Chapter 19.92 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**Chapter 19.92 – ~~[BOARD OF ADJUSTMENT]~~ LAND USE HEARING OFFICER**

**Sections:**

- 19.92.010**     ~~[Membership—Term]~~ Creation.
- 19.92.020**     ~~[Organization-]~~ Procedures.
- 19.92.030**     Powers and duties.
- 19.92.040**     Variances.
- 19.92.050**     Appeals.
- 19.92.060**     Special exceptions.
- ~~[19.92.070—Voting.~~
- ~~19.92.080—Effect on present members.]~~

**19.92.010**     ~~[Membership—Term]~~ Creation.

~~[The board of adjustment shall consist of five members whatever alternate members that the mayor considers appropriate. The members and alternates shall be appointed by the mayor with the advice and consent of the county council. Terms of each of the members and the alternates shall expire on November 1st of the last year of the term for which they were appointed. On or before November 1st of each year one member shall be appointed for a five-year period to take the place of the member whose term has expired, which term shall commence November 1st. Any vacancy occurring on the board by reason of death, resignation, removal or disqualification shall be filled by~~

~~the mayor with the advice and consent of the county council for the unexpired term of such member. In the event a term of a member or alternate shall expire without his having been reappointed or a successor having been appointed, the member or alternate shall continue to serve until a successor has been appointed and the term of the successor shall terminate on the same day as though he was appointed in a timely manner. The members of the board shall be residents of the unincorporated area of the county and at least one and not more than two members or alternates shall be members of the county planning commission.]~~

The position of land use hearing officer is created pursuant to the enabling authority granted by the County Land Use, Development, and Management Act, section 17-27a-701 of the Utah Code Annotated. The land use hearing officer shall replace in all respects the previous duties of the Board of Adjustment. Only one hearing officer shall consider and decide any matter properly presented for land use hearing officer review.

**19.92.020     ~~[Organization—]~~Procedures.**

~~[A.—The board of adjustment shall:~~

- ~~1.—Organize and elect a chairperson; and~~
- ~~2.—Adopt rules governing its procedures.~~

~~B.—The board of adjustment shall meet at the call of the chairperson and at any other times that the board of adjustment determines.~~

~~€]A.~~    The [chairperson, or in the absence of the chairperson, the acting chairperson,] land use hearing officer may administer oaths and compel the attendance of witnesses.

~~[D.]B. [1.]~~    All [meetings of the board of adjustment] hearings before the land use hearing officer shall comply with the requirements of Chapter 4, Title 52, Utah Code, Open and Public Meetings.

~~[2]1.~~    The [board of adjustment] land use hearing officer shall:

a. Keep minutes of ~~[its]~~ his or her proceedings~~[-, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact];~~ and

b. Keep records of ~~[its]~~ his or her examinations and other official actions.

~~[3]~~2. The ~~[board of adjustment]~~ land use hearing officer shall file ~~[its]~~ his or her records in the office of the development services division. All such records are public records.

~~[4. — All records in the office of the board of adjustment are public records.]~~

~~[E. — Not more than two alternate members may sit at any meeting of the board of adjustment at one time.]~~

~~[F]~~C. Decisions of the ~~[board of adjustment]~~ land use hearing officer become effective at the meeting in which the decision is made, unless a different time is designated ~~[in the board's rules or]~~ at the time the decision is made.

### **19.92.030 Powers and duties.**

The ~~[board of adjustment]~~ land use hearing officer shall:

A. Act as the appeal authority for zoning decisions applying this title as provided in Section 19.92.050 and for conditional use decisions by a planning commission:

B. Hear and decide the special exceptions to the terms of the zoning ordinance set forth in Section 19.92.060.

C. Hear and decide variances from the terms of the zoning ordinance; and

D. Hear and decide applications for the expansion or modification of nonconforming uses.

**19.92.040 Variances.**

A. Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the ~~[board of adjustment]~~ land use hearing officer for a variance from the terms of the zoning ordinance.

B. 1. The ~~[board of adjustment]~~ land use hearing officer may grant a variance only if:

a. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;

b. There are special circumstances attached to the property that do not generally apply to other properties in the same district;

c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

e. The spirit of the zoning ordinance is observed and substantial justice done.

2. a. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the ~~[board of adjustment]~~ land use hearing officer may not find an unreasonable hardship unless the alleged hardship:

i. Is located on or associated with the property for which the variance is sought; and

ii. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

b. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (B)(1), the [~~board of adjustment~~] land use hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

3. In determining whether or not there are special circumstances attached to the property under subsection (B)(1), the [~~board of adjustment~~] land use hearing officer may find that special circumstances exist only if the special circumstances:

a. Relate to the hardship complained of; and

b. Deprive the property of privileges granted to other properties in the same district.

C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

D. Variances run with the land.

E. The [~~board of adjustment~~] land use hearing officer [~~and any other body~~] may not grant use variances.

F. In granting a variance, the [~~board of adjustment~~] land use hearing officer may impose additional requirements on the applicant that will:

1. Mitigate any harmful effects of the variance; or

2. Serve the purpose of the standard or requirement that is waived or modified.

### **19.92.050 Appeals.**

A. 1. The applicant or any other person or entity adversely affected by a zoning decision administering or interpreting a zoning ordinance may appeal that decision by alleging that

an order, requirement, decision or determination made by an official in the administration or interpretation of the zoning ordinance is arbitrary, capricious or illegal. Appeals of conditional use decisions rendered by a planning commission shall follow the review procedure outlined in Section 19.84.080 of this code.

2. Any officer, department, board or bureau of a county affected by the grant or refusal of a building permit or by any other decisions of the administrative officer in the administration or interpretation of the zoning ordinance may appeal any decision to the ~~[board of adjustment]~~ land use hearing officer.

B. The person or entity making the appeal has the burden of marshalling the evidence and proving that the decision is arbitrary, capricious (unsupported by the evidence or facts of record), or illegal.

C. 1. Only zoning decisions applying the ordinance and conditional use decisions by the planning commission may be appealed to the ~~[board of adjustment]~~ land use hearing officer.

2. A person may not appeal, and the ~~[board of adjustment]~~ land use hearing officer may not consider, any zoning ordinance amendments.

D. Appeals may not be used to waive or modify the terms or requirements of the zoning ordinance.

E. An appeal to the ~~[board of adjustment]~~ land use hearing officer must be filed at the development services division of Salt Lake County within sixty days after the order, requirement decision or determination administering or interpreting the zoning ordinance is made in writing. The appeal shall set forth with specificity the reasons or grounds for the appeal.

F. Appeals of planning commission conditional use decisions shall follow the procedures set forth in Section 19.84.080(B). ~~[Appeals of decisions applying the zoning ordinance shall follow the procedures set forth in the rules of the board of adjustment.]~~

**19.92.060 Special exceptions.**

The ~~[board of adjustment]~~ land use hearing officer may approve any of the following special exceptions to the zoning ordinance where ~~[it]~~ he or she determines the exception is consistent with the purposes of the zoning ordinance and will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity:

A. Where a zone boundary line divides a lot in single ownership at the time of the passage of the ordinance codified in this title, the ~~[board]~~ land use hearing officer may permit a use authorized on either portion of such lot to extend not more than fifty feet into the other portion of the lot.

B. The ~~[board]~~ land use hearing officer may permit the enlargement of or addition to a noncomplying structure or a building or structure occupied by a nonconforming use.

C. The ~~[board]~~ land use hearing officer may permit the relocation on a lot of a noncomplying structure or a building or structure occupied by a nonconforming use; or the ~~[board]~~ hearing officer may permit the reconstruction on a lot of a noncomplying structure or a building occupied by a nonconforming use.

SECTION XVIII. Section 19.92.070 of the Salt Lake County Code of Ordinances, 2001, is hereby repealed.

~~**[19.92.070 — Voting.**~~

~~The concurring vote of at least three members of the board shall be necessary to reverse any order, requirement or determination of any such administrative official, or to decide in favor of the applicant on any matter on which it is required to pass or to effect any such variation or special exception to this title.]~~

SECTION XIX. Section 19.92.080 of the Salt Lake County Code of Ordinances, 2001, is hereby repealed.

**~~[19.92.080 — Effect on present members.~~**

~~Nothing in this chapter shall be construed to affect the eligibility or qualifications to serve of any of the present members of the board of adjustment whose terms have not expired, nor shall anything in this chapter be interpreted to affect the eligibility for reappointment of any of the present alternates.]~~

SECTION XX. Chapter 19.93.030 of the Salt Lake County Code of Ordinances, 2001, is hereby amended to read as follows:

**19.93.030 Taking relief procedures—Petition and submittal requirements.**

A. Takings Relief Petition. Any applicant, after a final decision on its application is rendered by the development services director, planning commission, ~~[board of adjustment]~~ land use hearing officer, mayor or county council, may file a takings relief petition with the development services director seeking relief from the final decision on the grounds that it constitutes an unconstitutional taking of the applicant's private property.

B. Affected Property Interest. The takings relief petition must provide information sufficient for the attorney to determine that the petitioner possesses a protectable interest in property under Article I, Section 22 of the Constitution of Utah or the Fifth Amendment to the United States Constitution. In the event the petition does not provide information sufficient for the attorney to determine that the petitioner possesses a protectable interest in property under Article I, Section 22 of the Constitution of Utah or the Fifth Amendment to the United States Constitution, the petition shall be returned to the petitioner.

C. Time for Filing Petition. No later than thirty calendar days from the final decision by the development services director, planning commission, ~~[board of adjustment]~~ land use hearing

officer, mayor, county council or other county review authority on any site plan or other type of zoning application the applicant shall file a takings relief petition with the development services director.

D. Information to Be Submitted with Takings Relief Petition.

1. The takings relief petition must be submitted on a form prepared by the development services director, and must be accompanied at a minimum by the following information:

- a. The name of the petitioner;
- b. The name and business address of the current owner of the property; form of ownership (whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture, limited liability company, or other); and if owned by corporation, partnership, or joint venture, or limited liability company, the names and addresses of principal shareholders or partners or members;
- c. The price paid and other terms of sale for the property, the date of purchase, and the name of the party from whom purchased. Include the relationship, if any, between the petitioner and the party from whom the property was acquired;
- d. The nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest;
- e. The terms (including sale price) of any previous purchase or sale of a full or partial interest in the property by the current owner, applicant, or developer prior to the date of application;
- f. All appraisals of the property prepared for any purpose, include financing, offering for sale, or ad valorem taxation, within the three years prior to the date of the petition;

g. The assessed value of and ad valorem taxes on the property for the three years prior to the date of the petition;

h. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance, and term of the loan and other significant provisions, including but not limited to, right of purchase to assume the loan;

i. All listings of the property for sale or rent, price asked and offers received (if any), during the period of ownership or interest in the property;

j. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;

k. For income producing property, itemized income and expense statements from the property for the previous three years;

l. Evidence and documentation of improvements, investments, and expenditures for professional and other services related to property made during the past three years;

m. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and

n. Information describing all use(s) of the property during the five years prior to the petition.

2. The development services director may request additional information reasonably necessary, in his or her opinion, to arrive at a conclusion concerning whether there has been a taking.

E. Failure to Submit Information. In the event that any of the information required to be submitted by the petitioner is not reasonably available, the petitioner shall file with the petition a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

SECTION XXI. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2012.

**SALT LAKE COUNTY COUNCIL**

By \_\_\_\_\_  
David Wilde, Chair

ATTEST:

\_\_\_\_\_  
Sherrie Swensen  
County Clerk

Approved as to form and legality:

\_\_\_\_\_  
Deputy District Attorney  
Date: \_\_\_\_\_

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Voting:  
Council Member Bradley voting \_\_\_\_\_  
Council Member Bradshaw voting \_\_\_\_\_  
Council Member Burdick voting \_\_\_\_\_  
Council Member DeBry voting \_\_\_\_\_  
Council Member Horiuchi voting \_\_\_\_\_  
Council Member Iwamoto voting \_\_\_\_\_  
Council Member Jensen voting \_\_\_\_\_  
Council Member Snelgrove voting \_\_\_\_\_  
Council Member Wilde voting \_\_\_\_\_

Vetoed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By \_\_\_\_\_  
Mayor Peter Corroon or Designee

(Complete As Applicable)

Veto override: Yes\_\_ No\_\_ Date \_\_\_\_\_

Ordinance published in newspaper: Date \_\_\_\_\_

Effective date of ordinance: \_\_\_\_\_

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 2012, the County Council of Salt Lake County adopted Ordinance No. \_\_\_\_\_, amending sections 2.24.040, 2.70.020, 2.92.100, 3.52.010, 18.08.040, 19.04.335, 19.06.040, 19.72, 19.74.190, 19.75.040, 19.76, 19.78.170, 19.84.080, 19.88, 19.92, and 19.93.030 of the Salt Lake County Code Of Ordinances, 2001, regarding the replacement of the board of adjustments with land use hearing officers; repealing sections 19.92.070 and 19.92.080; and making other related changes

SALT LAKE COUNTY COUNCIL:

By \_\_\_\_\_  
DAVID WILDE, Chair

ATTEST:

\_\_\_\_\_  
Sherrie Swensen, County Clerk

Approved as to Form:

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Voting:

Councilman Bradley	_____
Councilman Bradshaw	_____
Councilman Burdick	_____
Councilman DeBry	_____
Councilman Horiuchi	_____
Councilman Iwamoto	_____
Councilman Jensen	_____
Councilman Snelgrove	_____
Councilman Wilde	_____

A complete copy of Ordinance No. \_\_\_\_\_ is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2100A, Salt Lake City, Utah.