



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Brian Fullmer
Policy Analyst

DATE: February 6, 2024

**RE: Zoning Text Amendment for Daycare Facilities
PLNPCM2019-00225**

Item Schedule:

Briefing: February 6, 2024

Set Date: February 20, 2024

Public Hearing: March 5, 2024

Potential Action: March 19, 2024

BRIEFING UPDATE

At the February 6, 2024 briefing, Council Members expressed support for the proposed amendments. They clarified that there aren't additional City barriers not required by the State. Planning staff said they worked to ensure that City and State requirements align. Council Members discussed the potential for the amendments to increase the number of neighborhood daycares and the importance for the City to act where it can to support this.

The following information was provided for the February 6, 2024 Council briefing. It is included again for background purposes.

The Council will be briefed about a proposal requested by Mayor Mendenhall to amend requirements in *Salt Lake City Code* related to daycare facilities. The request is to reduce barriers to new and expanding daycare facilities in the zoning ordinance and help ease the effects of the daycare shortage. Planning staff referenced 2020 data from the Utah Department of Workforce Services that identified the most severe shortage of daycare centers in Utah was in Salt Lake County.

In response to some conflicts with State Code and other updates needed in the City's code, Planning staff proposed the following changes to the Planning Commission:

Proposed changes to Home Daycares (as a Home Occupation):

- Eliminate the definition and regulations for "Non-registered Home Daycares." Non-registered daycares allow for the care of up to two children and are not regulated by City or State code.



Including these regulations in the zoning code created confusion with the definitions and regulations of other childcare facilities.

- Increase the maximum number of children allowed at home daycares from eight to sixteen to align with State code.
- Moving standards for home daycares into the Home Occupation chapter, 21A.36.030 of *Salt Lake City Code*.
- Allow the location of a second licensed home daycare without primary residential use.

Proposed changes to Child Daycare Centers:

- Change the land use from Conditional Use to Permitted in the following zones: R-1/5,000, R-1/7,000, R-1/12,000, SR-1, SR-3, R-2, RMF-30, RMF-35, and RMF-45.
- Add as a Permitted Use to the following zones: FR-1/43,560, F-2/21, 780, FR-3/12,000, SNB, FP, and FB-UN1.
- Eliminate existing Conditional Use Standards for childcare centers outlined in 21A.36.130.

The Planning Commission reviewed the proposed text amendment at its August 9 and October 11, 2023 meetings and held a public hearing at which two people spoke. One was opposed, stating that the need for daycare facilities is significantly less than what was presented at the meeting. The other expressed a desire for clarity on what is allowed and not allowed as it relates to daycare facilities. She also encouraged the use of churches and closed school buildings for childcare.

The Commission voted 7-1 to forward a positive recommendation to the Council with a condition that Planning staff includes language clarifying the first location of a licensed home daycare must be an ancillary use to the primary residential use. That language is included in the draft ordinance. The Commissioner who voted against the proposed text amendment did not share the reason for her opposition.

Goal of the briefing: Review the proposed text amendment and determine if the Council supports moving forward with the proposal.

POLICY QUESTION

1. The Council may wish to discuss potential impacts of allowing commercial childcare centers in residential neighborhoods.

ADDITIONAL INFORMATION

These proposed changes would also better align City daycare-related zoning regulations with *Utah State Code* and administrative rules set by the Utah Department of Health and Human Services (DHHS), which oversees daycares in the state. Under the proposed changes, daycare facilities operating within the city with a State-issued license would not face additional requirements beyond what the State requires.

According to the Administration Transmittal, the following provides some context of the need for the proposed amendments:

- Most daycare facilities are either home daycares or commercial daycare centers. Home daycares are permitted as a home occupation within any legal conforming residential use and provide care for children in a house. Home daycare use is typically an accessory to the primary residential use, with a requirement that the business owner lives in the home. *Utah State Code* allows up to 16 children

to be cared for in a home daycare, provided the required ratio of caregivers to children is met. In comparison, *Salt Lake City Code* allows up to eight children. Some providers reportedly have been surprised to learn the City's requirements are more restrictive than the State's. As an example of City and State code conflicts, under the proposal the home daycare limit of eight children in City code would be changed to 16 children to align with State code.

- In conversations with DHHS: Planning staff discovered that a recent change to DHHS regulations allows a licensed home daycare facility to open a second facility without requiring the business use to be secondary to residential use in the second location. Planning staff noted that while there is potential for home daycare facilities' second locations to take housing stock, it is anticipated that the loss would be minimal. Additional locations would also expand business and childcare options within neighborhoods.
- Commercial daycare centers typically serve more children than home daycare facilities. Therefore, commercial daycares must meet zoning and State building code requirements such as parking, commercial kitchens, fire prevention systems, and emergency exits. The proposed City Code include updates to align with additional State licensing requirements as well.
- Planning staff noted that commercial daycare centers are currently a permitted use in most zoning districts but are listed as a conditional use in the following residential zones: R-1/5,000, R-1/7,000, R-1/12,000, SR-1, SR-3, R-2, RMF-30, RMF-35, and RMF-45. Existing City Code has the following requirements for a proposed commercial daycare center in these districts:
 - Have an area of at least 20,000 square feet,
 - Face an arterial (high traffic) street,
 - Be located no closer than 600 feet from another daycare center, and
 - No residential units would need to be demolished.

These requirements disqualify many potential sites from providing daycare in residential neighborhoods. The proposed conditional use process adds another step for potential childcare providers who want to open their businesses.

Planning staff provided maps showing current areas where daycare centers are allowed and not allowed; where they would be allowed under the proposed text amendment; and current provider locations. These are included at the end of this report.

It is worth noting that some daycare facilities, such as those serving fewer than six children, and some religious institutions are exempt from licensing. The proposed amendments would not affect these types of daycares.

KEY CONSIDERATIONS

Planning staff identified four key considerations related to the proposal, found on pages 5-6 of the Planning Commission staff report and summarized below. For the complete analysis, please see the Planning staff report.

Consideration 1-How the proposed amendment helps to implement City goals and policies identified within adopted plans:

Planning staff found that the proposed amendment aligns with the following guiding principles found in Plan Salt Lake:

- Neighborhoods that provide a safe environment, opportunity for social interaction, and services needed for the well-being of the community therein.
- Ensure access to all City amenities for all citizens while treating everyone equitably with fairness, justice, and respect.
- A balanced economy that produces quality jobs and fosters an environment for commerce, local business, and industry to survive.

Consideration 2-Compliance with text amendment standards:

Planning staff found the proposed text amendment aligns with the stated purpose of the zoning ordinance and is up to date with the most recent urban planning philosophies. The Text Amendment Standards table below includes factors to be considered when reviewing text amendments.

Consideration 3-Alignment with State Code:

Planning staff notes the proposed amendments align City zoning regulations with the State and would reduce additional burdens on new and smaller childcare businesses. They stated the following:

Complying with requirements from multiple levels of government can be confusing and burdensome for small business owners when trying to receive a license, especially if English is not their first language. The proposed alignment with state code reduces the need for multiple layers of rules without increasing the burdens on State regulators or local communities.

Consideration 4-Option for Second Home Daycare Location:

As discussed above, Planning staff learned of a recent change to DHHS regulations allowing a licensed home daycare facility to open a second facility without requiring the business to be an accessory use to residential use in the second location. Planning staff believes the potential for home daycare facilities’ second locations to take housing stock would be minimal. Additional locations would also expand business and childcare options within neighborhoods.

ANALYSIS OF STANDARDS

Attachment D (pages 28-29) of the Planning Commission staff report outlines zoning map amendment standards that should be considered as the Council reviews this proposal. The standards and findings are summarized below. Please see the Planning Commission staff report for additional information.

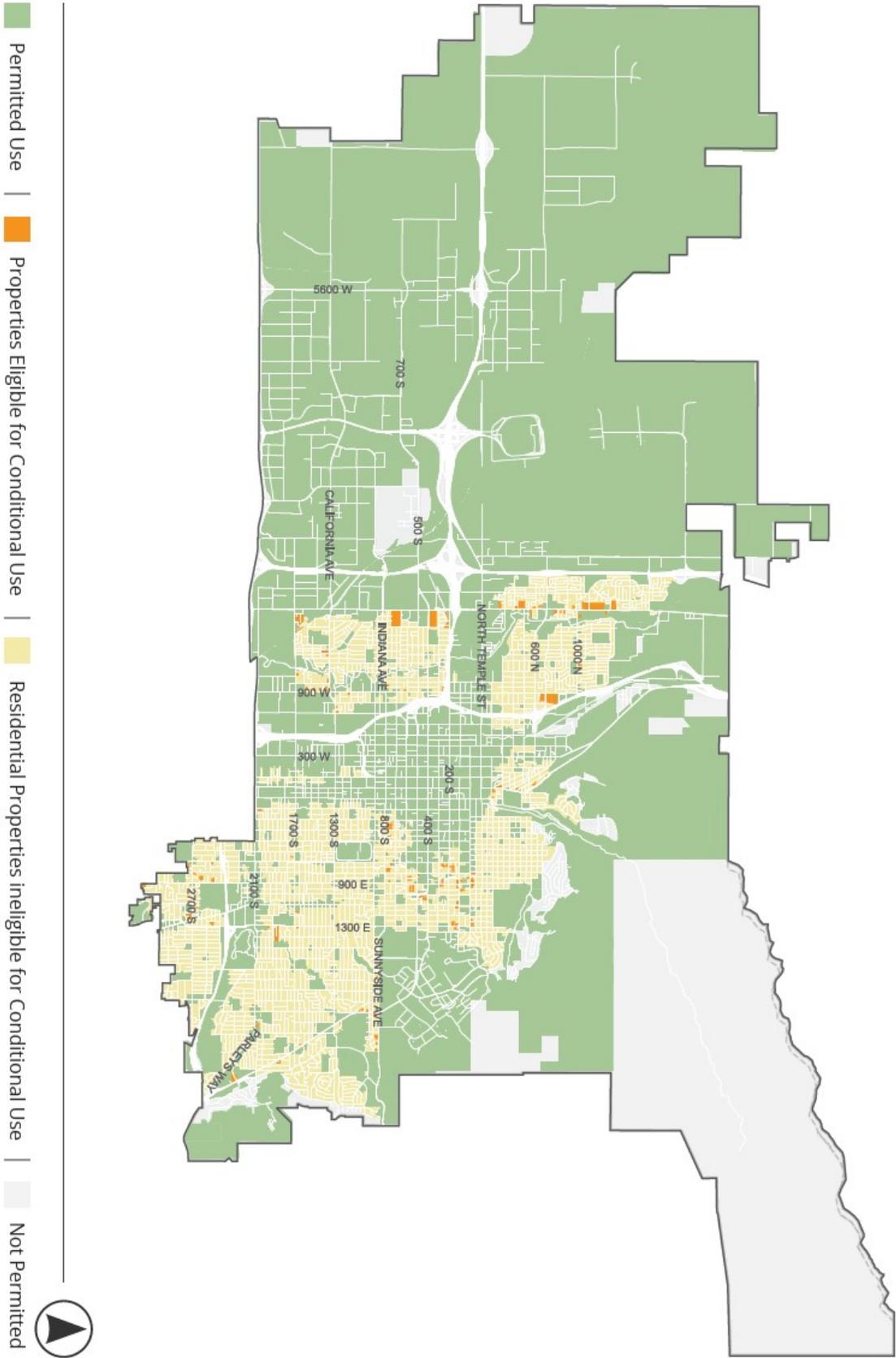
| Factor | Finding |
|---|--|
| Whether a proposed map amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents. | <i>Complies</i> |
| Whether a proposed map amendment furthers the specific purpose statements of the zoning ordinance. | <i>Complies</i> |
| Whether a proposed map amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards. | <i>Not inconsistent with any zoning overlays</i> |
| The extent to which a proposed text amendment implements best current, professional practices of urban planning and design. | <i>Complies</i> |

PROJECT CHRONOLOGY

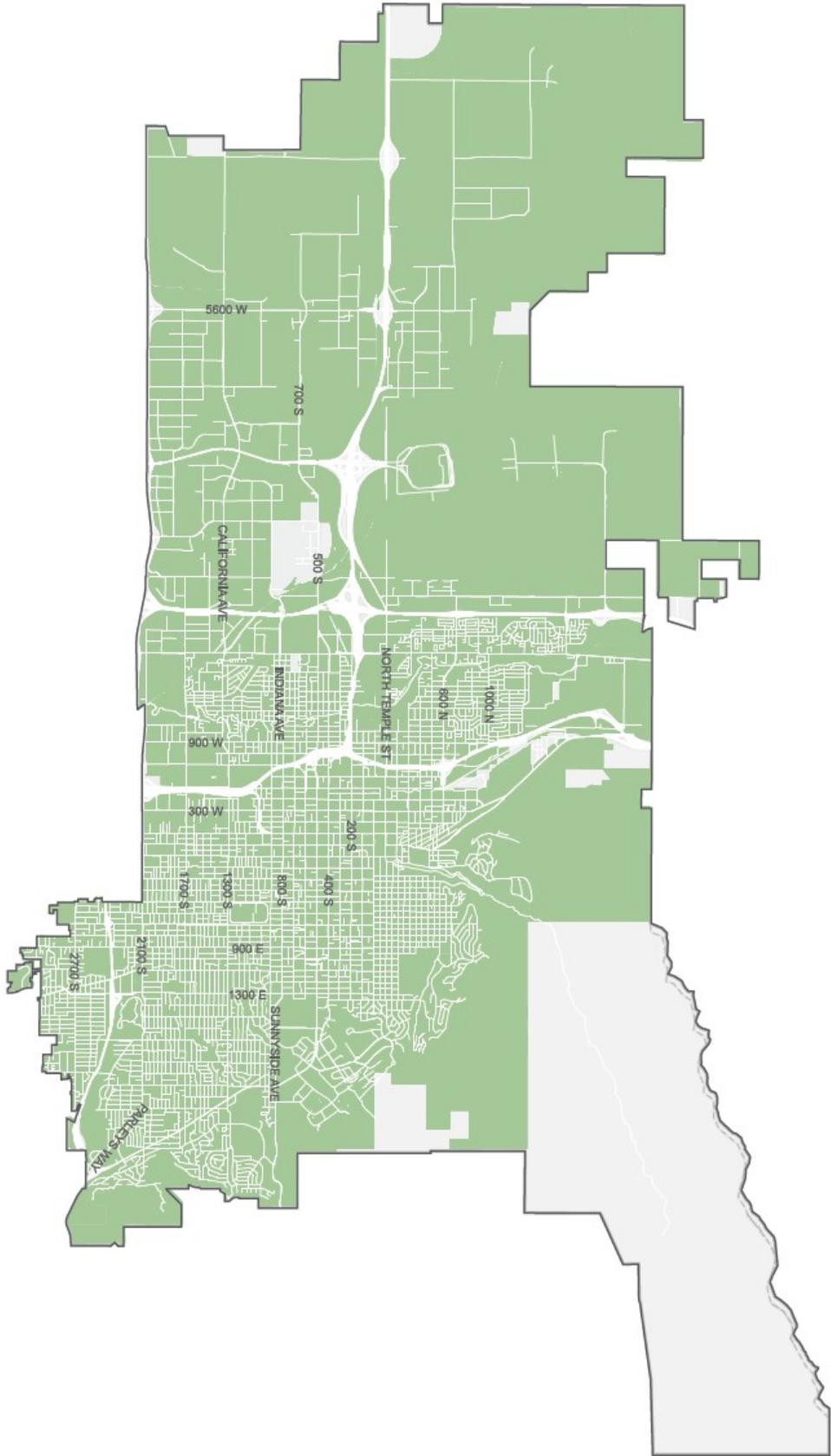
- 2019-2023 – Previous research conducted by former employee.

- April 3, 2023 – Petition assigned to Cassie Younger and Aaron Barlow.
- June 13, 2023 –
 - 45-day early engagement sent to all daycare providers within Salt Lake City and all City recognized community organizations.
 - Proposed changes routed to all citywide departments for comment.
- July 12, 2023 – Planning staff presented at Salt Lake City Business Advisory Board.
- July 17, 2023 – Planning staff presented at Sugar House Community Council.
- August 1, 2023 – Planning staff made changes to text amendment based on discussions with licensing managers from the Utah Department of Health and Human Services.
- August 9, 2023 – Planning Commission work session briefing.
- August 31, 2023 – 45-day public comment period for recognized community organizations ended.
- September 6, 2023 – Second notice sent to recognized community organizations with information about changes to original petition, including changes related to second home daycare locations.
- September 14, 2023 – Planning staff presented changes to East Liberty Park Community Organization Land Use Committee.
- September 18, 2023 – Planning staff presented changes to Sugar House Community Council.
- September 28, 2023 –
 - Planning Commission public hearing notice mailed to all daycare providers, Agenda posted to the Planning Commission website and the State of Utah Public Notice webpage.
 - Public hearing notice sign with project information and notice of the Planning Commission public hearing physically posted at several daycares and public libraries throughout the city.
- October 11, 2023 – Planning Commission public hearing. The Planning Commission held a public hearing and voted to forward a positive recommendation to the City Council for the proposed text amendment with conditions.
- November 9, 2023 – Ordinance requested from Attorney’s Office, which included requested changes from the Planning Commission.
- November 21, 2023 – Ordinance from the Attorney’s Office received by Planning Division.
- December 6, 2023 – Transmittal received in City Council Office.

CHILD DAYCARE CENTER AMENDMENTS | EXISTING CONDITIONS



CHILD DAYCARE CENTER AMENDMENTS | PROPOSED CONDITIONS



Permitted Use | Not Permitted



DAYCARE CENTERS & HOME DAYCARES | EXISTING PROVIDERS

