



Staff Report

PLANNING DIVISION
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Appeals Hearing Officer

From: Diana Martinez, Principal Planner
(801) 535-7215 or diana.martinez@slcgov.com

Date: January 1, 2022

Re: PLNZAD2021-01162– School K-8th Grade and a Senior High School – 142 West 200 North

Determination of Nonconforming Use Change

PROPERTY ADDRESS: 142 West 200 North

PARCEL ID: 08-36-430-008-0000 & 08-36-430-009-0000

ZONING DISTRICT/ORDINANCE SECTION: Neighborhood Commercial District (CN) and Zoning Ordinance Section 21A.38.040.H, Nonconforming Uses and Noncomplying Structures

APPLICANT: Curtis Livingston – Principal Architect Curtis Miner Architecture

DETERMINATION ISSUE:

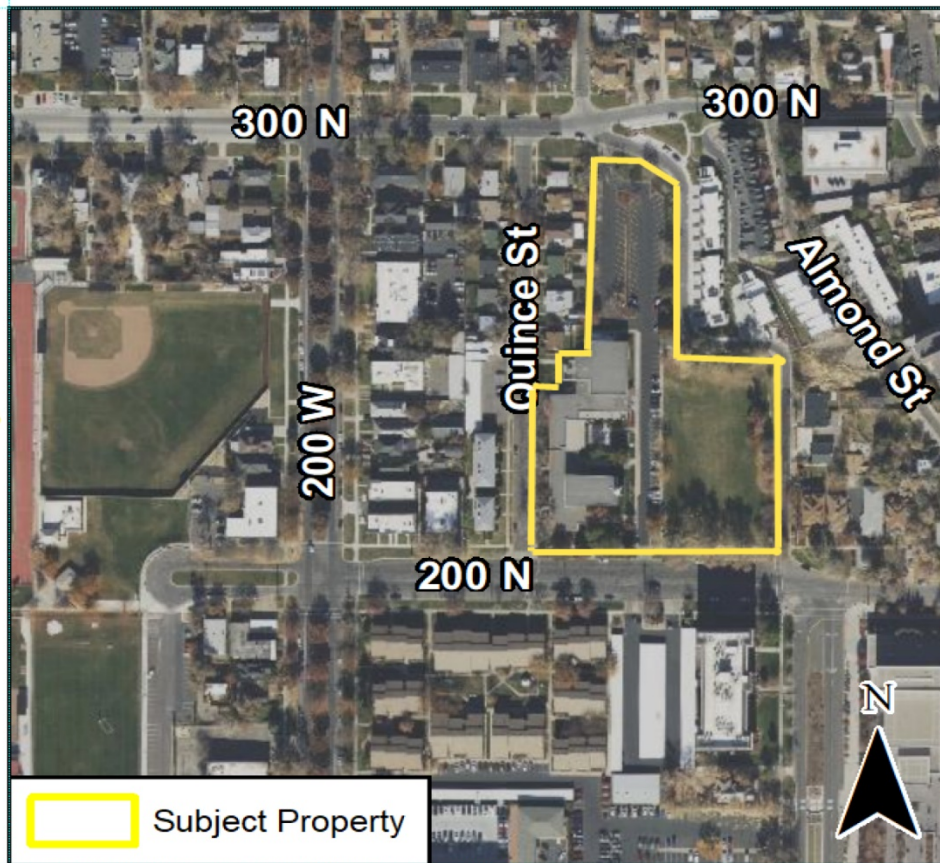
Whether the proposed use of “Institutional – School (K-8th) and Senior High School” is sufficiently similar to an existing nonconforming use of “Institutional -Place of Worship” to allow the change of use on the subject property. Changing from one nonconforming use to another nonconforming use is a determination that is made by the Appeals Hearing Officer per ordinance section 21A.38.040.H.1 of the Salt Lake City Zoning Ordinance.

RECOMMENDATION:

The Planning Division recommends that the Appeals Hearing Officer approves the proposed change from “Institutional -Place of Worship” to “Institutional – School (K-8th) and Senior High School” because the proposed use is similar to the existing use and the subject site is able to provide the required off street parking within the limits of existing, legal hard surfaced parking areas on the site.

ATTACHMENTS:

- A. [Vicinity map](#)
- B. [Photos – Site and Surrounding Development](#)
- C. [Application Information](#)



PROJECT DESCRIPTION:

The request is to change the existing nonconforming use of a “Institutional -Place of Worship,” to a “Institutional – School (K-8th) and Senior High School”, to accommodate private schools for elementary and high school students.

The existing subject property is primarily zoned “Institutional”. Around 1995, as part of a city-wide rezoning, a small section of the southwest area of the subject property was rezoned to SR-1A, which is a “special development pattern residential district”. The existing institutional place of worship was legally established in 1965 prior to the current regulations and therefore, the area of the building that crosses over into the SR-1A zone is considered a legal nonconforming use.

Although Institutional – Schools (K-12) are not permitted in the SR-1A zone, they are permitted uses in three zoning districts that Places of worship are also permitted. These three zoning districts are (two of) the Downtown Districts, the G-MU District (Gateway District), and (two of) the Special Purpose Districts.

The parking requirements for the two uses are not the same. Per Ordinance 21A.44.030, Place of worship requires “1 parking space per 1,000 square feet of seating or congregation area”. Schools -K-8th require “1 parking space for each 3 faculty members and other full time employees”, and Schools – Senior High requires “1 parking space for each 3 faculty members, plus 1 parking space for each 3 full time employees, plus 1 parking space for each 10 students”.

There are currently 102 parking spaces on-site that have been used for the church congregation. The requirement, for the school (combined K-12) for approximately 21 full time employees and 20 high school students, will be approximately 14 spaces. The subject property has more than the required amount of parking for the change to a school use.

ANALYSIS & FINDINGS:

To assist the Hearing Officer in reviewing this request, the Planning Division has provided the following analysis and findings related to the regulations in 21A.38.040.H.1 for a change of nonconforming use to another nonconforming use.

The proposed use, “Institutional – School (K-8th) and Senior High School,” is not permitted in CN (Neighborhood Commercial) zoning district where the property is located but could be allowed if found to be a similar land use type to the existing use and is able to meet the required off street parking requirements. According to Section 21A.38.040.H.1 of the Zoning Ordinance, if the uses are determined to be similar by the Appeals Hearing Officer, then the proposed use may operate on the property as a nonconforming use, subject to the regulations in Section 21A.38 of the city zoning ordinance.

In this case, the Zoning Ordinance in Section 21A.38.040.H.1 refers questions of changes of nonconforming uses to the Appeals Hearing Officer. The ordinance language states the following:

1. *Change of Nonconforming Use to Another Nonconforming Use: Any change of an existing nonresidential nonconforming use to another nonconforming use that is listed as a permitted use in the small neighborhood business district or the neighborhood commercial district in Section 21A.33.030, “Table of Permitted and Conditional Uses For Commercial Districts”, of this title, is permitted. Any other change of a nonconforming use to another nonconforming use is subject to determination by the Appeals Hearing Officer as to the new use being a similar land use type as the existing use as defined in chapter 21A.62, “Definitions”, of this title, and subject to the site being able to provide required off street parking within the limits of existing legal hard surfaced parking areas on the site.*

Because the proposed change of use to K-8th grade school and Senior High school is not listed as a permitted use in the small neighborhood business district or the neighborhood commercial district, the underlined regulations apply.



KEY CONSIDERATIONS:

CONSIDERATION 1: Existing Nonconforming Use

A nonconforming use is defined by the zoning ordinance as:

Any building or land legally occupied by a use at the time of passage of the ordinance codified herein or amendment thereto which does not conform after passage of said ordinance or amendment thereto with the use regulations of the district in which located.

The existing building on the subject property was built in 1965. Based on available records, the structure was constructed as a church (place of worship) and it remained as such until recently.

CONSIDERATION 2: Similar Land Use Types

The definition of *Similar Land Use Type* is defined in the Definitions Chapter 21A.62:

“Land uses shall be considered to be similar land use types, if the uses are listed as a permitted or conditional use in the same land use tables within chapter 21A.33 of this title and the uses have similar off-street parking requirements as defined in chapter 21A.44, “Off Street Parking, Mobility And Loading”, of this title.”

The definition notes that if both the existing and proposed uses are listed as permitted or conditional use in the same land use table, and have similar parking requirements, they shall be considered to be similar land use types. Institutional -Place of Worship and Institutional -Schools (K-8th) and Senior High Schools (Private or Public) are allowed in the same land use tables in three ordinance land use tables: the Downtown Districts, the G-MU Districts (Gateway District), and the Special Purpose Districts.

Land Use Districts that allow both Places of Worship and Schools (K-12) as Permitted and/or Conditional Uses (Table information from tables in 21A.33.050, 21A.33.060, and 21A.33.070):

Legend:	P =	Permitted	P ¹¹ =	If a place of worship is proposed to be located within 600 feet of a tavern, bar establishment, or brewpub, the place of worship must submit a written waiver of spacing requirement as a condition of approval.
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Use	Permitted and Conditional Uses By District				
	D-3	D-4	G-MU	I	UI
Institution- Place of Worship	P ¹¹	P ¹¹	P	P	P
Institution - K-12 Private	P	P	P	P	P
Institution - K- 12 Public	P	P	P	P	P

Finding: Planning Staff finds that the existing and proposed uses are similar land use types as defined in section 21A.62 of the zoning ordinance because both are listed in the land use tables for three zoning districts as Permitted Uses.

CONSIDERATION 3: Required Off-Street Parking

As indicated in table 21A.44.030, minimum off Street Parking Requirements, the proposed use of Place of worship requires “1 parking space per 1,000 square feet of seating or congregation area”. Schools -K-8th require “1 parking space for each 3 faculty members and other full time employees”, and Schools – Senior High requires “1 parking space for each 3 faculty members, plus 1 parking space for each 3 full time employees, plus 1 parking space for each 10 students”.

There are currently 102 parking spaces on-site that have been used for the church congregation. The requirement for the school (combined K-12) for approximately 21 full time employees and 20 high school students, will be approximately 14 spaces. The subject property has more than needed parking for the change to a school use.

FINDING:

Planning Staff finds the subject site is able to provide the required off street parking in accordance with the requirements in 21A.44, within the limits of existing legal hard surfaced parking areas on the site.

SUMMARY:

The most recent use on the property, “Institutional -Place of Worship” is a legal nonconforming use. The proposed uses of “Institutional -Schools (K-8th) and Senior High School” are similar in type as required by the definition of *Similar Land Use Type*. The proposed use of the site as a school (K-12) should be allowed to replace the church and continue as a nonconforming use as permitted in Salt Lake City Zoning Ordinance section 21A.38.040.H.

NEXT STEPS:

If the appeals hearing officer determines the proposed change from the existing nonconforming use to the proposed use of Institutional – School (K-8th) and Senior High School meets the requirements of section 21A.38.040.H.1, a business license can be obtained to reflect the new use.

Any person adversely affected by a final decision made by the appeals hearing officer can be appealed to Third District Court within 30 days after the decision is rendered.

ATTACHMENT B: PHOTOS – SITE AND SURROUNDING DEVELOPMENT

View of the southwest side of existing building



Looking east at the existing building





Apartments directly across the street to west of the existing church



Houses to the north of the existing church along Quince Street

ATTACHMENT C: APPLICATION INFORMATION



Determination of Nonconforming Use – Submittal Requirements

Project Address: 142 W 200 N, Salt Lake City 84103
Property Owner: THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Lessee: AMERICAN HERITAGE SCHOOLS, INC
Lessee Contact: Grant Beckwith, Head of School and Corporate Secretary
Lessee Phone: (801) 885-8530
Lessee Address: 736 N. 1100 E. American Fork, Utah 84003
Lessee Email: gbeckwith@ahsmaail.com

To whom it may concern,

The information provided below is intended as supporting documentation to the application for the Determination of Nonconforming Use application for the above listed property

1. Project Description

American Heritage Schools, Inc. has recently entered into a lease agreement with The Church of Jesus Christ of Latter-day Saints for an existing church building (Place of Worship) to be converted into a (K-8th grade) and Senior High School for American Heritage Schools. The 3.92 acre, 28k SF building, is located in Salt Lake City at the above address. The lease has been signed and will commence April 1st, 2021

The request is to allow the following change of use:

Existing Property Use: Institutional - Place of Worship
Proposed Property Use: Institutional - Schools (K-8th grade) and Senior High School

2. Project Description

Evidence: N/A

Chronology of Uses:

1965 – Present – Church (Place of Worship)

Copies of all Business licenses relating to the subject property: N/A

Sincerely,



Curtis Livingston AIA, NCARB
Principal Architect

Principal Architects: Curtis N. Miner, AIA, NCARB • Gerrit W. Timmerman, AIA • Jay V. Taggart, AIA
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