

**DATE:** March 15, 2006  
**TO:** Salt Lake City Planning Commission  
**FROM:** Janice Lew, Principal Planner  
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**RE: STAFF REPORT FOR THE MARCH 22, 2006 MEETING**

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**CASE NUMBER:** Zoning Text Amendment – 400-06-03

**APPLICANT/STATUS:** Salt Lake City Council

**PROJECT LOCATION:** The proposed text amendments will affect all registered home daycare or registered home preschools allowed as an accessory use in the FR-1/43,500, FR-2/21,780, FR-1/12,000, R-1/7,000, R-1/5,000, SR-1, SR-3, R-2, RMF-30, RMF-35, RMF-45, RMF-75, RB, R-MU-35, R-MU-45, R-MU and RO zoning districts.

**COUNCIL DISTRICT:** All Council Districts

**REQUESTED ACTION:**

On January 3, 2006, the City Council initiated a Legislative Action requesting amendments to the Salt Lake City Code pertaining to the City's standards relating to Child Daycare.

**PROPOSED USE(S):**

The proposed text amendments would change the capacity limitations for registered home daycare and preschool uses from six (6) to eight (8) children and require a current business license to engage in said uses.

**APPLICABLE LAND USE REGULATIONS:**

The proposed text amendments are subject to the Salt Lake City Code, Chapter 21A.50 – Amendments and Special Approvals.

## **MASTER PLAN SPECIFICATIONS:**

The Salt Lake City Vision and Strategic Plan (1993) and the Final Report of the Salt City Futures Commission (1998) apply to the proposed text amendments.

## **PROJECT HISTORY:**

Several child services support agencies approached Council Members Carlton Christenson and Jill Love requesting a change to the current child homecare capacity limitations to correspond with State Licensing Standards. Following this meeting with the child services support agencies, the City Council initiated a Legislative Action to address the issue on January 3, 2006. While the City is allowed to have different regulations than the State, this change would make it easier for home daycare providers to obtain appropriate licensing from the State. State licensing for child care provided in a home of a provider is required for more than four (4) unrelated children. The State currently allows one caregiver to care for up to eight (8) children, but sets capacity limitations in accordance with city standards. In Salt Lake City, the Zoning Ordinance limits the number of children to be cared for in a home to six (6) children.

## **PROJECT DESCRIPTION:**

The proposed text amendments would change the capacity limitations for registered home daycare and preschool uses from six (6) to eight (8) children and require a current business license to engage in said uses.

## **COMMENTS, ANALYSIS AND FINDINGS:**

### **1. COMMENTS**

The comments received from pertinent City Departments/Divisions are attached to this staff report as Exhibit 2. The following is a summary of the comments and concerns received:

- a) **Public Utilities Division:** Public Utilities does not have any objections to the proposed text amendments.
- b) **Division of Transportation:** The division does not have any objections to the proposed text amendments. The current ordinance addressing transportation issues and public transportation corridors are not shown to be affected by the number of children or the licensing process.
- c) **Salt Lake City Engineering:** City Engineering did not respond to the request for comments.
- d) **Fire:** The Fire Department did not respond to the request for comments.
- e) **Building Services:** Building Services did not respond to the request for comments.
- f) **Zoning Enforcement:** Zoning Enforcement did not respond to the request for comments.
- g) **Community Council:** Planning staff held an Open House for Community Councils and interested parties on February 15, 2006. Planning staff did not receive any comments from any of the respective Community Councils on the

proposed text change. All interested parties who attended the Open House and submitted comments support the proposed changes (Exhibit 3).

## **2. ANALYSIS AND FINDINGS: Zoning Text Amendment**

### **Chapter 21A.50 of the Salt Lake City Code**

The City Council has final decision authority with respect to text or zoning map amendments. Chapter 21A.50 of the Salt Lake City Code, entitled “Amendments and Special Approvals” addresses changes to the text of the zoning code and associated maps. Section 21A.50.050 outlines standards the City Council must consider when making a decision regarding amendments. The standards for general amendments are as follows:

**A. Whether the proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan of Salt Lake City.**

**Discussion:** The Salt Lake City Vision and Strategic Plan (page 22) states that the City seeks to “develop business friendly licensing and regulatory practices.” The Salt Lake City Futures Commission vision of the ideal neighborhood (page 38) includes a neighborhood that is “family and youth friendly.”

**Finding:** The proposed text amendments are supported by policy elements of the Salt Lake City Vision and Strategic Plan and the Final Report of the Salt City Futures Commission.

**B. Whether the proposed amendment is harmonious with the overall character of existing development in the immediate vicinity of the subject property.**

**Discussion:** Employee restrictions are a clear and simple criterion that ensures home occupations remain incidental and an accessory use to a residential dwelling. Pursuant to Section 21A.36.130(2) of the Salt Lake City Code, caregivers must lawfully reside on the premise and, as such, do not create a need for off-street parking beyond normal dwelling needs. Additionally, capacity limitations effectively minimize additional traffic that may be generated by a facility.

**Finding:** Staff finds no evidence that increasing the capacity of registered home daycare facilities or preschools to eight (8), would have a substantial negative effect on the residential character of a neighborhood.

**C. The extent to which the proposed amendment will adversely affect adjacent properties.**

**Discussion:** A registered home daycare or preschool request is currently reviewed as a Routine and Uncontested Matter. A Routine and Uncontested

Matter is a special exception to the Zoning Ordinance that the Board of Adjustment has delegated to Planning staff to be determined administratively. Applications for a residential home daycare or preschool must include proof of appropriate licensing from the state, where applicable, and signatures of approval from all abutting property owners. If Planning staff cannot approve a request for any reason, it is referred to the Board of Adjustment for consideration. All residential home daycare or preschools are subject to the provisions set forth in Chapter 21A.52 for home occupation special exceptions and the following specific standards:

1. The applicant resides at the home in which the business will be conducted;
2. At no time shall the applicant provide home daycare or home preschool services for a group of children exceeding the maximum specified for such facility;
3. The outdoor play area for the home daycare or home preschool shall be located in the rear or side yards of the home for the protection and safety of the children and for the protection of the neighborhood;
4. The use of the home for the services of providing childcare shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the home or the neighborhood;
5. The care and supervision of the children be conducted in a manner which is not a public nuisance to the neighborhood;
6. There shall be no advertising of such occupation, business or service, no window or other signs or displays;
7. No employees other than persons lawfully living in the dwelling;
8. No use of any accessory dwellings for daycare purposes; and
9. No play or yard equipment located in the front yard.

Furthermore, the benefit to implementing a more comprehensive regulatory scheme that includes business licensing is that the license is temporary and subject to annual review. Each time a license is up for renewal, the effect of the use on neighbors, and residential character can be reassessed.

**Finding:** The City's special exception process is intended to protect adjacent properties from potential adverse impacts and includes notification to adjacent property owners. The proposed text amendments will not have a negative impact on adjacent properties.

**D. Whether the proposed amendment is consistent with the provisions of any applicable overlay zoning district which may impose additional standards.**

**Discussion:** The proposed text amendment is not site specific, but would be inclusive to the requirements of underlying residential zoning districts and subject to meeting the specific standards listed above under **Standard C**.

**Finding:** The proposed text amendments meet this standard.

- E. The adequacy of public facilities and services intended to serve the subject property, including but not limited to roadways, parks and recreational facilities, police and fire protection, schools, storm water drainage systems, water supplies and wastewater and refuse collection.**

**Discussion:** All requests for registered home daycare or preschool uses would be reviewed through the Special Exception and business licensing process to ensure compliance with City Codes and policies.

**Finding:** All pertinent City Departments will review requests for registered home daycare and preschool uses to ensure adequacy of public facilities and services.

**RECOMMENDATION:**

Based upon the comments, analysis and findings in this report, Planning staff recommends that the Planning Commission recommend approval to the City Council to adopt the proposed text amendments.

Janice Lew  
Principal Planner  
March 15, 2006

**Attachments:**

- Exhibit 1 – Proposed Text Amendments
- Exhibit 2 – Departmental Comments
- Exhibit 3 – Open House Notification and Comments

# **Exhibit 1**

## **Proposed Text Amendments**

Section 21A.62.040  
Definitions

Daycare, Registered Home Daycare or Preschool: "Registered home daycare or preschool" means the use of a principal place of residence to provide educational or daycare opportunities for children under age seven (7) in small groups. The group size at any given time shall not exceed eight (8) ~~six (6)~~, including the provider's own children under age seven (7).

Section 21A.36.130  
Child Daycare

B. Registered Home Daycare Or Registered Home Preschool: A registered home daycare or registered home preschool as defined in part VI, chapter 21A.62 of this title, may be allowed as an accessory use in the FR-1/43,560, FR-2/21,780, FR-3/12,000, R-1/12,000, R-1/7,000, R-1/5,000, SR-1, SR-3, R-2, RMF-30, RMF-35, RMF-45, RMF-75, RB, R-MU-35, R-MU-45, R-MU and RO districts as a home occupation special exception pursuant to the provisions of part V, chapter 21A.52 of this title. The permittee shall also obtain appropriate licensing where applicable from the state pursuant to the Utah Code Annotated, 1953.

1. Permit-Application: An application for a residential home daycare or preschool must be submitted to the zoning administrator. As a part of the application, the applicant must submit the following documentation:

- a. The number of children; and employees, ~~staff or volunteers~~; both total for the day and the expected maximum number to be on the premises at any given time;
- b. The hours and days of operation;
- c. Proof of appropriate licensing from the state, where applicable, or basis upon which exemption therefrom is claimed; and
- d. The names, addresses, and signatures of record property owners abutting the applicant's property and those across the street(s).

2. Standards: All residential home daycare or preschools shall be subject to the standards set forth in part V, chapter 21A.52 of this title and subject to the following specific standards:

- a. The applicant resides at the home in which the business will be conducted;
- b. At no time shall the applicant provide home daycare or home preschool services for a group of children exceeding the maximum specified for such facility;
- c. The outdoor play area for the home daycare or home preschool shall be located in the rear or side yards of the home for the protection and safety of the children and for the protection of the neighborhood;
- d. The use of the home for the services of providing childcare shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the home or the neighborhood;
- e. The care and supervision of the children be conducted in a manner which is not a public nuisance to the neighborhood;

f. There shall be no advertising of such occupation, business or service, no window or other signs or displays;

g. No employees other than persons lawfully living in the dwelling;

h. No use of any accessory dwellings for daycare purposes; and

i. No play or yard equipment located in the front yard.

j. It is unlawful for any person to engage in a "registered home daycare or registered home preschool" as defined in section 21A.62.040 of this title without first obtaining a license pursuant to the provisions of chapter 5.04 of this code. Prior to issuance of said license, the criteria set forth in this title must be satisfied and all applicable fees shall be paid. All home occupation business licenses shall be valid for one year, and may be renewed annually, provided there have been no reported violations, subject to subsection J of section 21A.36.030 of this title.



# **Exhibit 2**

## **Departmental Comments**

# **Exhibit 3**

## **Open House Notification and Comments**

# **Exhibit 3**

## **Context**

# **Exhibit 4**

## **Subdivision Plat**

