

**PLANNING COMMISSION STAFF REPORT
LEGISLATIVE ITEM**



Planning Division
Department of Community and
Economic Development

**Noise Regulations Text Amendment
Zoning Text Amendment PLNPCM2010-00591
Citywide
August 10, 2011**

Applicant: Mayor Ralph Becker

Staff: Elizabeth Reining
801-535-6313
elizabeth.reining@slcgov.com

Tax ID: N/A

Current Zone: N/A

Master Plan Designation:
Citywide

Council District: Citywide

Community Council: Citywide

**Applicable Land Use
Regulations:**

Review Standards:

- 21A.50.050-Standards for General Amendments

Affected Text:

- 21A.36.180
- 21A.24.190
- 21A.26.080
- 21A.30.050
- 21A.31.050
- 21A.32.140

Notification:

- Notice mailed on July 27, 2011
- Published in newspapers August 1, 2011
- Agenda posted on the Planning Division and Utah Public Meeting Notice websites on July 27, 2011

Attachments:

- A. Petition
- B. Proposed Ordinance Changes
- C. Department Comments
- D. Public Input

Request

Salt Lake City Mayor Ralph Becker is requesting a Zoning Text Amendment to amend the Environmental Performance Standards in regards to noise. The proposal would require specific non-residential uses located near residential uses to obtain review from Salt Lake Valley Health Department to assure that those non-residential uses can meet current community noise pollution control regulations. The Petition will address several amendments in various sections of Title 21. Title 21A.36.180 will be amended to include new text and there will be corresponding changes to Titles 21A.24.190, 21A.26.080, 21A.30.050, 21A.31.050 and 21A.32.140. Changes would apply citywide if adopted by City Council. The Planning Commission is required to transmit a recommendation to the City Council for Zoning Text Amendment requests.

Recommendation

Based on the findings listed in the staff report, it is the Planning Staff's opinion that overall the project generally meets the applicable standards and therefore, recommends the Planning Commission transmit a favorable recommendation to the City Council with the following conditions.

Recommended Motion

Based on the findings listed in the staff report, I move that the Planning Commission transmit a favorable recommendation to the City Council relating to this request to amend the Environmental Performance Standards regulations in regards to noise.

Background

Project Description

The City adopted a comprehensive Zoning Ordinance in April 1995. At that time, it was understood that adjustments to the Zoning Ordinance would be necessary once it had been implemented and people had an opportunity to work with it. Over the spring and summer of 2010, the Planning Division facilitated meetings with the Mayor's Office, City Attorney's Office, Building Services Division, Business Licensing Division and the Salt Lake Valley Health Department to identify ways to prevent noise and enforce noise violations. There had been recent noise conflicts between businesses and nearby residences. It was hoped that a change to the Zoning Ordinance, requiring new businesses to get sound attenuation studies before they go into a location, would alleviate this problem. Such a change to the Zoning Ordinance would assure the new businesses can meet current City and Salt Lake Valley Health Department acceptable noise levels.

Petition Description

The purpose of the amended ordinance is to help prevent future noise conflicts between certain non-residential and residential uses. The proposed amendment would require some new non-residential uses that are located within 300 feet of a residence to get review from the Salt Lake Valley Health Department to make sure the proposed use will meet Health Department noise pollution standards. Review would go into effect if the proposed use operates between the hours of 10 p.m. and 7 a.m. Affected uses include, but are not limited to, restaurants with drive-throughs, clubs, taverns, brewpubs, performance arts facilities and amphitheaters, etc. (A complete list of affected uses is found in Attachment B: Proposed Ordinance Changes.) If those same affected uses directly abut a residence, a professional acoustical engineer study must be submitted to show the use will meet Health Department standards.

Proposed Code Changes

The Salt Lake City Planning Division is processing specific adjustments to the Zoning Ordinance. The changes proposed are discussed below in order of impact.

1. Chapter 21A.36 General Provisions

Changes to this chapter would create a new subsection to Section 21A.36.180 Environmental Performance Standards. The new subsection will include all of the provisions set forth in the Petition Description.

2. Chapter 21A.24 Residential Districts

Changes to this chapter would create a new Qualifying Provision to the Permitted Uses table that notes the change to Section 21A.36.180.

3. Chapter 21A.26 Commercial Districts

Changes to this chapter would create a new Qualifying Provision to the Permitted Uses table that notes the change to Section 21A.36.180.

4. Chapter 21A.30 Downtown Districts

Changes to this chapter would create a new Qualifying Provision to the Permitted Uses table that notes the change to Section 21A.36.180.

5. Chapter 21A.31 Gateway Districts

Changes to this chapter would create a new Qualifying Provision to the Permitted Uses table that notes the change to Section 21A.36.180.

6. Chapter 21A.32 Special Purpose Districts

Changes to this chapter would create a new Qualifying Provision to the Permitted Uses table that notes the change to Section 21A.36.180.

Comments

Public Comments

An Open House was conducted on March 17, 2011 and a Planning Commission briefing was held on April 13, 2011. The proposed ordinance amendment was sent to Salt Lake Valley Health Department on April 15, 2011. The proposed ordinance was sent to affected business types in May and June, 2011. The only public comments received asked that restaurants with drive-throughs be added to the affected uses (See Attachment D: Public Input). That change has been made. Planning Commission raised several concerns during its briefing in April. It was noted that the current tests only tested for decibel level and not levels of bass and vibration. Bass and vibration levels can have an effect on neighborhood property owners. Also it was asked if business owners had been consulted. As noted above, business owners were contacted in May and June, but no response was received.

City Department Comments

All department comments are found in Attachment C. The Salt Lake City Redevelopment Agency (RDA) had concerns about the amendment hurting new residential developments in downtown and the Sugar House Central Business District.

Analysis and Findings

Options

Approval: If the Planning Commission finds that the proposal meets the standards of the ordinance as discussed below, the petition should be forwarded to the City Council with a recommendation of approval.

Modification: If the Planning Commission finds that the proposal generally meets the standards of the ordinance as discussed below but believes some of the language needs to be changed, the petition with modified language should be forwarded to the City Council with a recommendation of approval.

Denial: If the Planning Commission finds that the proposal does not meet the standards of the ordinance as discussed below, the petition should be forwarded to the City Council with a recommendation of denial.

Continuation: If the Planning Commission finds that additional information or further revision is needed in order to make a decision, then a final decision may be postponed with specific direction to Planning Staff regarding the additional information or revision required for the Planning Commission to take future action.

Findings

Section 21A.50.050 Standards for General Amendments

A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the City Council and is not controlled by any one standard. In making its decision concerning a proposed text amendment, the City Council should consider the following factors:

a. Whether the proposed amendment is consistent with the purposes, goals, objectives and policies of the City as stated through its various adopted planning documents;

Analysis: The proposed text amendment is consistent with the purposes, goals, objectives and policies of the City. This proposed amendment will help the City prevent future noise conflicts between certain commercial and residential uses. This amendment will allow the City to identify potential noise conflicts before those conflicts are created.

Finding: The proposed text amendment meets this standard.

b. Whether the proposed text amendment furthers the specific purpose statements of the zoning ordinance;

Analysis: The proposed text amendment will not adversely affect any purpose statements found in the Zoning Ordinance. The purpose statements of thirteen zoning districts include sections on encouraging mixtures of residential and commercial uses: RMU-35, RMU-45 and RMU Residential/Mixed Use Districts, CN Neighborhood Commercial District, CB Community Business District, CSHBD1 and CSHBD 2 Sugar House Business Districts, TC-75 Transit Corridor District, TSA Transit Station Area District, D-3 Downtown Warehouse/Residential District, D-4 Downtown Secondary Central Business District, G-MU Gateway Mixed Use District, and MU Mixed Use District. This proposed amendment will further those purpose statement because it will identify possible noise conflicts before a business is located near a residence. Noise conflicts will now be identified before they become enforcement issues.

The RDA has raised the concern that this proposed text amendment will hinder residential development in downtown and the Sugar House Business District. But the proposed text amendment does not add new regulations to incoming businesses. Rather, it asks those new businesses to show they can meet current City and Salt Lake Valley Health Department noise regulations before they go into a location. The proposed text

amendment will ensure that the uses in a mixed use development are more compatible with each other.

Finding: The proposed text amendment meets this standard.

- c. **Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and,**

Analysis: The proposed text amendment is not associated with any specific overlay zoning districts. If a new business that would be subjected to the proposed regulation locates in an existing overlay district, any further requirements that exist due to being located in an overlay district would apply. The proposed text amendment will not diminish any regulations required in any overlay district.

Finding: The proposed text amendment meets this standard.

- d. **The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.**

Analysis: Currently, noise conflicts are an enforcement issue. In 2010, the City was involved in a noise conflict case between an entertainment venue and surrounding residences. The proposed text amendment will allow the City to identify potential noise impacts and work with business owners to reduce them before a conflict occurs. The proposed text amendment will not affect existing businesses. The proposal will only apply when there is a change of use or to new developments.

Finding: The proposed text amendment meets this standard.

**Attachment A
Petition**



Petition Initiation Request

Planning Division
Community & Economic Development Department

RECEIVED

AUG 30 2010

To: Mayor Becker

Salt Lake City Mayor

From: Wilf Sommerkorn, Planning Director

Date: August 30, 2010

SCANNED TO: *Mayor*
SCANNED BY: *Jantise*
DATE: *8/30/10*

CC: Frank Gray, Community and Economic Development Director; Mary De La Mare-Schaefer, Community & Economic Development Department Deputy Director; Cheri Coffey, Assistant Planning Director; Nick Norris, Planning Manager; file

Re: Initiate Petition relating to regulations which will help prevent and / or mitigate noise impacts.

The Planning Division has facilitated meetings with members of the Mayor's Office, City Attorney's Office, Building Services Division, Business Licensing Division and the Salt Lake Valley Health Department to identify ways to prevent noise and enforcement of noise violations. This memo is to request the initiation of a petition to amend the Zoning Ordinance to implement regulations which will help prevent and / or mitigate noise impacts of more intensive land uses on nearby residential land uses. Other measures relating to enforcement and resolution of noise impacts may require other sections of the City Code be amended.

From a prevention / mitigation standpoint, the Planning Division is prepared to process a petition containing the following:

1. Clarify in Section 21A.36.180, the Health Department has the authority to require additional studies be submitted by applicants and require measures be taken to mitigate potential noise impacts prior to the issuance of building permits or business licenses.

2. Insert a qualifying provision in the various tables of Permitted and Conditional Uses indicating if certain uses (those identified to have the potential for noise impacts) about residential uses, either vertically or horizontally, the applicant must submit a professional acoustical engineer study for approval by the Health Department indicating the attenuation measures are adequate to mitigate the noise to a decibel level within the legal limits. Staff has worked with the Health Department to identify the list of uses that fall into this category.

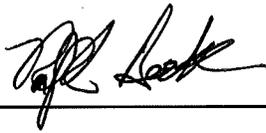
As the Planning Division further reviews these issues, Staff may find other sections in the Zoning Ordinance to be amended in order to address the prevention and/ or mitigation of potential noise violations.

As part of the process, the Planning Division will follow the City's adoption process including citizen input and public hearings with the Planning Commission and City Council.

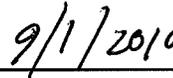
If you have any questions, please contact me.

Thank you.

Concurrence to initiate the zoning text amendment petition as noted above.



Ralph Becker, Mayor



Date

Attachment B
Proposed Ordinance Changes

21A.36.180 Environmental Performance Standards:

A. Purpose: The purpose of environmental performance standards is to help ensure that the activities and processes employed by any use protect the environment, and the use and enjoyment of nearby properties by limiting the emission of potentially harmful noise, vibration, air pollution, odor and other forms of environmental impacts.

B. Scope of Regulation: Any use established in any district after April 12, 1995, shall be operated as to comply with applicable performance standards governing noise, vibration, air pollution, odors, fire and explosion hazards and toxic substances. No use already established on April 12, 1995, shall be altered, enlarged, expanded or modified as to conflict with the performance standards applicable to such uses.

C. Review by Other Agencies: In determining the compliance of any proposed use with applicable performance standards pursuant to this section, the zoning administrator may require an applicant for a zoning certificate to obtain review and comments upon the application as proposed from state and county agencies listed on the table below, or their successor agencies, as deemed necessary. See the table of concurrent regulatory agencies (found in 21A.36.180.C)

TABLE OF CURRENT REGULATORY AGENCIES

<u>Environmental Category</u>	<u>Agency(ies)</u>
Noise	Salt Lake Valley health regulation noise control
Air pollution	Salt Lake Valley health regulation air pollution control State of Utah division of air quality
Odors	Salt Lake Valley health regulation air pollution control
Toxic substances	Salt Lake Valley health regulations solid waste management facilities State of Utah division of solid and hazardous waste
Water Pollution	State of Utah division of water quality State of Utah division of drinking water
Radiation hazards	State of Utah division of radiation control

D. For uses specifically noted in the Permitted and Conditional Use tables, non-residential uses proposed to operate between 10 p.m. and 7 a.m. in residential zoning districts, or uses within 300 feet of a residence in all non-residential zoning districts, excluding manufacturing districts, the City may require the applicant to obtain review and comments from the Salt Lake Valley Health Department to assure the applicant can meet current community noise pollution control regulations prior to issuance of a building permit or business license. The City may require additional studies be submitted by the applicant and require measures be taken to mitigate potential noise impacts before building permits or business licenses are issued.

Uses specifically noted in the various Permitted and Conditional Use tables will require that the applicant submit a noise study prepared by a professional acoustical engineer. Such noise study shall identify existing and proposed conditions on the site and proposed uses that will likely cause noise on the site to exceed typical ambient noise conditions in the area and nearby residential areas, if any. Such study shall list noise attenuation measures that are adequate to mitigate the noise to within the limits set forth in the community noise pollution control regulations if those uses abut a residence, either vertically or horizontally, and operate between 10 p.m. and 7 a.m.

Affected Uses of Noise Revisions

Note Language: If use operates between 10 p.m. and 7 a.m. and abuts a residence, either vertically or horizontally, applicant must submit a professional acoustical engineer study indicating attenuation measures are adequate to mitigate noise to within legal limits.

RESIDENTIAL

Live performance theaters
Private clubs/tavern/lounge/brewpub; 2,500 sq ft or less in floor area

COMMERCIAL

Restaurants with drive-through facilities
Amusement park
Live performance theaters
Private club
Sexually oriented businesses
Tavern/lounge/brewpub, 2,500 sq ft or less in floor area
Tavern/lounge/brewpub, more than 2,500 sq ft in floor area
Microbrewery

DOWNTOWN DISTRICTS

Brewpub (indoor)
Brewpub (outdoor)
Live performance theater
Performance arts facilities
Private club (indoor)
Private club (outdoor)
Tavern/lounge (indoor)

DOWNTOWN DISTRICTS (cont.)

Tavern/lounge (outdoor)

Microbreweries

GATEWAY DISTRICT

Amusement park

Arenas, stadiums

Brewpub (indoor)

Brewpub (outdoor)

Live performance theaters

Performance arts facilities

Private club (indoor)

Private club (outdoor)

Tavern/lounge (indoor)

Tavern/lounge (outdoor)

Amphitheater

Auditorium

SPECIAL PURPOSE DISTRICTS

Restaurants with drive-through facilities

Amphitheaters

Arenas, stadiums, fairgrounds

Movie theaters/live performance theaters

Performing arts production facility

Private club 2,500 sq ft or less in floor area

Tavern/lounge/brewpub; 2,500 sq ft or less in floor area

**Attachment C
Department Comments**

From: [Baxter, DJ](#)
To: [Reining, Elizabeth](#)
Cc: [Belliveau, Justin](#)
Subject: RE: Proposed Noise Regulations
Date: Monday, June 20, 2011 8:10:12 PM

Thanks, Elizabeth. Has anyone has inquired with the Health Department as to their willingness to provide those evaluations?

Also, it might be worth including a provision for facilities that only exceed the noise regulations on limited occasions, such as an outdoor venue that has a handful of concerts that go past 10 p.m. in the summer.

I foresee some problems in the downtown, and maybe Sugar House, given that we are trying to promote more urban housing in both locations. It potentially could place nearly every concert venue and bar within 300 feet of a residence. I think the restrictions need to be much more narrowly tailored in a downtown or urban setting where (arguably) residents know that they're not buying a quiet home in the countryside. Of course, downtown dwellers are entitled to a good night's sleep, too, but we need to take the setting into account, and not snuff out all of the excitement that makes downtown appealing.

Let me know if you have any questions.

Thanks,

DJ

From: Reining, Elizabeth
Sent: Monday, June 20, 2011 10:47 AM
To: Baxter, DJ
Subject: Proposed Noise Regulations

DJ,

We're looking at changing the zoning ordinance that will require certain new businesses to obtain noise studies if they plan to operate outside of normal business hours and will be located near residential areas. The changes are being proposed to reduce conflicts between businesses and residences. Below is a summary of the proposed changes. I wanted to make you aware of the changes in case it would affect any future RDA projects.

Specifically, the proposed changes will require certain non-residential businesses that operate between the hours of 10 p.m. and 7 a.m. and are located either in a residential zoning district or within 300 feet of a residence to get approval from the Salt Lake Valley Health Department to assure the business will meet current noise regulations. If the new business is adjacent to a residence it would have to submit a study showing it will meet current noise regulations. Types of new businesses affected will include: drive through restaurants, live performance theaters, private clubs, taverns, lounges, brewpubs, amusement parks, sexually oriented businesses, microbreweries, performing arts facilities, arenas, stadiums, amphitheaters, auditoriums and fairgrounds.

If you have any feedback on the proposed changes, I would appreciate it.

Thank you,

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From: [Drummond, Randy](#)
To: [Reining, Elizabeth](#)
Cc: [Naser, John](#); [Snelling, Jeff](#)
Subject: RE: Changes to Noise Provisions in Zoning Code
Date: Friday, January 21, 2011 10:34:11 AM

Elizabeth, we have reviewed this proposed ordinance change and see no negative impact. Our Public Way Permit form includes language that requires the contractor to comply with all existing ordinances and codes, so no specific language in the ordinance referring to our permits is necessary.

Randy

From: Reining, Elizabeth
Sent: Friday, January 21, 2011 10:09 AM
To: Goff, Orion; Butcher, Larry; Nielson, Paul; Jones, Kyle; Kirwan, Laura; Allred, James; Valdez, Joyce; Stott, Michael; 'Eric Peterson'; Drummond, Randy
Subject: Changes to Noise Provisions in Zoning Code

Planning is working on an ordinance change that would require certain uses to get acoustical studies if they are near residences. The latest draft is attached. Please review and send me comments.

Thank you,

Elizabeth Reining, AICP
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elizabeth.reining@slcgov.com
801-535-6313

From: [Kerry Cramer](#)
To: [Reining, Elizabeth](#)
Subject: Info on Noise Issue
Date: Friday, April 15, 2011 3:13:44 PM

Thank you for all your help. Although we did not receive the notification of the Planning Commission meeting, the Salt Lake Valley Health Department is in complete support of this. Salt Lake City is being proactive in dealing with noise issues. We will try and encourage other municipalities in Salt Lake County to follow your lead.

Kerry Cramer, Supervisor
Bureau Of Sanitation & Safety
Salt Lake Valley Health Department
801-313-6663

From: cindy.cromer
To: [Reining, Elizabeth](mailto:Reining,Elizabeth)
Subject: RE: potential noise impacts
Date: Tuesday, March 08, 2011 1:15:55 PM

Elizabeth-I suspected that the proposal was really about alcohol establishments and will let people know that. I would certainly urge the Mayor to add drive-through food vendors and outdoor dining to the proposal. Until the City figures out how to deal with the loopholes I mentioned in my initial message, I think we are going to be stuck with nuisances in our neighborhoods. Thanks for your speedy reply, cindy

From: Elizabeth.Reining@slcgov.com
To: 3cinslc@live.com
Date: Mon, 7 Mar 2011 15:53:43 -0700
Subject: RE: potential noise impacts

Ms. Cromer,

The proposed noise impact changes to the zoning code aren't part of the Sustainability Initiative. Recently, there have been some noise conflicts with new non-residential uses going in next to established residential areas. The proposed changes would require those new non-residential businesses to submit sound studies to show they won't harm the residences and would meet health department standards. The proposed changes would only affect specific uses, not all commercial businesses. Restaurants aren't currently included in affected uses, right now the list is mostly towards clubs, bars, public gathering places. But we can look at including restaurants that have an outdoor component, like drive-throughs or outdoor dining.

If I can answer any more questions, please let me know.

Thank you,

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From: cindy.cromer [mailto:3cinslc@live.com]
Sent: Sunday, March 06, 2011 11:22 AM
To: Reining, Elizabeth
Subject: potential noise impacts

Elizabeth-The upcoming Open House on March 17 includes an item on potential noise impacts that I haven't heard about as part of the Sustainability Initiative. Could you fill me in on the origins of the proposal? I'm summarizing below a couple of examples regarding drive-through fast-food establishments. There appear to be 2 loopholes in the existing ordinances. One is the definition of a remodel and the other is the extended hours of operation of these drive-through businesses.

1. Former Training Table at the corner of 400 S and 800 E: The Training Table operated for decades

as a sit-down restaurant. The site is currently under construction for a fast-food establishment with a drive-through. The neighbors suspect that it will have extended hours of operation that far exceed those of the Training Table. When construction started, 2 stud walls of the former building were left standing, a clear sign to me that the new tenants wanted to bypass compliance with any current requirements of the ordinance which were not consistent with their business plans. The abutting use is residential, although the property has been affected over the years by joint ownership with the business property fronting on 400 S. Craig Richardson in Housing could give you information on the condition of the interior units of the residential property.

2. McDonald's on 700 E at Markea (between 200 and 300 S) in the Central City Historic District: In the early 2000's, the owners installed a vinyl fence. After years of complaints, the neighbors on Markea finally got some help when Steve Akerlow assumed responsibility for enforcement. Steve has done as much as he can regarding illegal drainage, garbage, and the fence. Unfortunately, not much can be done about the squawk-box which operates close to 24-hours a day. The Health Department has been out. The owners indicated at the Historic Landmarks Commission meeting that they intend to rebuild the building in the next few years. I see the same loophole occurring in which they leave a couple of walls standing, pass the near demolition off as a remodel, and keep the nonconforming signage and the drive-through next to residential uses. I watched this very scenario on State Street with the McDonald's adjacent to Salt Lake Community College (formerly "South High").

So, unless the proposed amendment is going to address these loopholes, I don't see that it is going to have much benefit to the parts of the City which have already developed.

I hope that you'll get the enforcement history on the McDonald's from Steve. He did a thorough job with the tools he had available.

Please let me know about the source for the Mayor's proposal on noise, either via e mail or at the Open House which I plan to attend.

Thanks, cindy cromer