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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** April 2, 2004

**SUBJECT:** Petition No. 400-03-22 – Request by Mayor Anderson for a proposed zoning text amendment to allow places of worship in more zoning districts as appropriate

**AFFECTED COUNCIL DISTRICTS:** If the ordinance is adopted, the amendment will be applicable citywide.

**STAFF REPORT BY:** Sylvia Jones, Policy Analyst and Janice Jardine, Land Use Policy Analyst

**ADMINISTRATIVE DEPT. AND CONTACT PERSON:** Community and Economic Development – Planning Division  
Doug Dansie, Principal Planner

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The Administration has forwarded three ordinances for the Council’s consideration.

1. **Version #1** is the original ordinance reflecting the Planning Commission’s recommendation amending the Zoning Ordinance text to allow places of worship in additional zoning districts as follows:
  - A. Permitted use in the following zoning districts:
    - Research Park (RP)
    - Business Park (BP)
    - Airport A (in terminal complex only)
  - B. Conditional use in the following zoning districts:
    - Manufacturing (M-1)
    - Neighborhood Commercial (CN)
  - C. Prohibited in the following zoning districts:
    - Manufacturing (M-2)
    - Foothill Preservation (FP)
    - Agricultural (AG, AG-2, Ag-5, AG-20)
    - Open Space (OS)
    - Public Lands (PL)
    - Mobile Home (MH)
    - Extractive Industry (EI)
2. **Version #2** is the same as version #1 including the Airport A (in terminal complex only) as a permitted use, with the addition of language addressing the existing business/non-conforming questions.
3. **Version #3** removes Airport A (in terminal complex only) from permitted use areas for places of worship. This version also addresses the existing business/non-conforming questions as discussed during the Work Session briefing on March 9<sup>th</sup>. This version is recommended by the Administration.

A. Permitted use in the following zoning districts:

- Research Park (RP)
- Business Park (BP)
- ~~Airport A (in terminal complex only)~~

## WORK SESSION SUMMARY/NEW INFORMATION:

1. The Council discussed the following items with the Administration during the March 9<sup>th</sup> Work Session:
  - A. Can an existing business such as a brewery expand its facility if a place of worship were to locate next to the brewery within the 600-foot distance requirement? Does this make the brewery a non-conforming use? (The non-conforming issue is addressed in versions 2 and 3 of the ordinances on page one with the following statement: “A legally existing brewpub, microbrewery, tavern or private club license, as defined in Section 6.08 of City Code, shall not be deemed nonconforming for the purposes of expansion, reconstruction or licensing (as long as the use is permitted in the district) if the only reason for such nonconformity is due to the subsequent location of a school, church or park within spacing requirements as specified under city ordinances or state law.”) Please see the Planning Division’s transmittal for additional details.
  - B. The text amendment was not requested by the Church of the Nazarene, currently located at 2108 East 2100 South; however, if approved this amendment will allow the Church of the Nazarene (and other places of worship) to locate in M-1 zones through the conditional use process. (This text amendment does not affect the zoning designation of the property at 2108 East 2100 South.)
  - C. After some investigation, the Planning Division has found that several parcels where churches are currently located have been identified for commercial land use in some of the master plans. The Planning Division will be making a recommendation to the Planning Commission to make the necessary changes to the master plans so that these parcels are designated for residential or institutional instead of commercial land uses.
  - D. Some Council Members asked the Planning staff to notify all M-1 property owners of potential concerns regarding the ordinance. (Due to the ordinance changes proposed by Planning staff addressing Council Members’ questions, it was decided that all M-1 property owners did not need to be notified of the public hearing because they would be held harmless under the proposed ordinance.)
2. Council Members received a letter from the Division of Airports requesting that the Airport A zoning district be removed from the proposed text amendment. The Attorney’s Office has verified that this change does not create legal ramifications for the City. (Please see the attached letter from the Airport Administration for details.)
3. Council Members received a letter from Will Hamil of Uinta Brewing asking the following questions: (Please see the attached letter from Mr. Hamil for details.)
  - A. Uinta Brewing currently has a Class C license. If they wish to apply for a Class B Club/Restaurant license in the future, are they able to do so under the proposed text amendment? (This item has been addressed in the new ordinances, versions 2 and 3 on page one.)
  - B. If a church moves next to a sexually oriented business or a brewery, why doesn’t a church have to adhere to the 600-foot distance requirement? Has the Planning Commission considered this question? (Planning staff indicated that language in the sexually oriented business ordinance adopted two weeks ago notes that an existing business would not become non-conforming if a church, school, or park locates within the specified distance restriction area. The new ordinances, versions 2 and 3 address this

same question as it relates to churches moving next to existing businesses.)

4. Council Members received an email from Grantly Martelly of the Church of the Nazarene, expressing concerns. (Please see the attached email.) The comments are summarized as follows:
  - A. The text amendment will be applicable citywide, not just to specific areas with the City.
  - B. Houses of worship will cause no additional conflicts or unanticipated non-conformance issues.
  - C. Places of worship will be required to go through the conditional use process.
  - D. Churches contribute to the community and provide necessary services.

## POTENTIAL MOTIONS:

["I move that the Council"] Adopt the proposed ordinance Option \_\_\_\_\_ amending the Zoning Ordinance to allow Places of Worship in more zoning districts and making other related changes.

["I move that the Council"] Not adopt the proposed ordinance amending the Zoning Ordinance to allow Places of Worship in more zoning districts and making other related changes.

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**The following information was provided previously. It is provided again for your reference.**

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## KEY ELEMENTS:

1. The Planning Commission recommends amending the Zoning Ordinance text to allow places of worship in additional zoning districts as follows:
  - A. Permitted use in the following zoning districts:
    - Research Park (RP)
    - Business Park (BP)
    - Airport A (in terminal complex only)
  - B. Conditional use in the following zoning districts:
    - Manufacturing (M-1)
    - Neighborhood Commercial (CN)
2. In 2000, the Religious Land Uses and Institutionalized Persons Act (RLUIPA) was passed to protect religious groups from zoning and historic landmark regulations that significantly interfere with religious exercise. Although the Administration initiated this petition in response to a request from the Church of the Nazarene to allow a house of worship in an M-1 zoning district, the larger issue is whether Salt Lake City is exposed to legal challenges considering that some zoning districts do not currently allow places of worship.
3. In accordance with RLUIPA and the Religious Freedom Act, places of worship should be allowed in any zoning district where the impacts of the facility would be similar to other uses allowed in the zoning district. Currently, Salt Lake City allows churches in *most* commercial zoning districts and within all residential districts (as a conditional use on sites smaller than 4 acres). Planning staff has indicated that most churches in the City on sites larger than 4 acres are zoned Institutional. According to the planning staff report, churches located on lots larger than 4 acres should locate in Institutional zoning districts (areas more suitable for additional traffic and noise which may be generated by larger churches).

4. The Attorney's office indicated that places of worship should be allowed in all zoning districts that allow public assembly such as theaters, stadiums, conference centers, etc. Ancillary uses such as a homeless shelter, bookstore, childcare, school, etc. may be regulated separately. The Planning staff report notes that any accessory uses proposed in conjunction with a place of worship must also conform to the regulations and standards of the zoning district in which it is located. (Example: schools may be allowed in residential areas but retail stores are not; similarly, churches may be allowed in residential areas without also allowing an ancillary retail use.)
5. Cities have the responsibility to respond to legitimate community concerns associated with the location of churches, including compatibility, noise and traffic; however; the City should exercise caution to insure that churches are not regulated more harshly or leniently than similar land uses.
6. Because of concerns regarding health, safety, traffic noise and scale of development, places of worship are not currently allowed in the following zoning districts: Neighborhood Commercial (CN), Manufacturing (M-1 and M-2), Research Park (RP), Business Park (BP), Foothill Preservation (FP), Agricultural (AG, AG-2, AG-5, AG-20), Open Space (OS), Airport (A), Public Lands (PL), Mobile Home (MH), and Extractive Industry (EI).
7. The City's Fire Division, Police Division, Public Utilities Division Transportation Division, and Engineering Division have reviewed the request. Individual development proposals will be required to comply with City standards and demonstrate that there are adequate services to meet the needs of the project. The Police Division expressed some concern about additional activities that often occur in conjunction with places of worship such as providing meals, counseling, and living quarters that have a greater impact on adjacent neighborhoods.
8. Public process:
  - A. Community Council Chairs and randomly selected land owners in the Manufacturing and Research Park zoning districts were notified of the proposed zoning ordinance amendments in a letter dated August 21, 2003. The Planning Division received two responses, both favorable to the proposed Zoning Ordinance changes.
  - B. On September 24, 2003, the Planning Commission voted to recommend that the City Council amend the Zoning Ordinance regarding places of worship. The following issues were discussed at the Planning Commission's public hearing:
    - i. The need to be more consistent with federal law regarding religious land use.
    - ii. The creation of the Institutional (I) zone during the 1995 Zoning Rewrite which allows places of worship.
    - iii. Places of worship at airports.
    - iv. M-2 zoning districts permitting schools with indoor facilities.
9. As mentioned previously, the Planning Commission recommends amending the Zoning Ordinance text to allow places of worship as follows:
  - A. Permitted use in the following zoning districts:
    - Research Park (RP)
    - Business Park (BP)
    - Airport A (in terminal complex only)
  - B. Conditional use in the following zoning districts:
    - Manufacturing (M-1)
    - Neighborhood Commercial (CN)

C. Prohibited in the following zoning districts:

- Manufacturing (M-2)
- Foothill Preservation (FP)
- Agricultural (AG, AG-2, Ag-5, AG-20)
- Open Space (OS)
- Public Lands (PL)
- Mobile Home (MH)
- Extractive Industry (EI)

**MASTER PLAN AND POLICY CONSIDERATIONS:**

1. Transportation policy statements include support of alternative forms of transportation, considering impacts on neighborhoods on at least an equal basis with impacts on transportation systems and giving all neighborhoods equal consideration in transportation decisions.
2. The Council's growth policy notes that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
  - i. Is aesthetically pleasing;
  - ii. Contributes to a livable community environment;
  - iii. Yields no negative net fiscal impact unless an overriding public purpose is served; and
  - iv. Forestalls negative impacts associated with inactivity.
3. The City's Strategic Plan and the Futures Commission Report express concepts such as maintaining a prominent sustainable city, ensuring the City is designed to the highest aesthetic standards and is pedestrian friendly, convenient, and inviting, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The Plans emphasize placing a high priority on maintaining and developing new affordable residential housing in attractive, friendly, safe environments and creating attractive conditions for business expansion including retention and attraction of large and small businesses.
4. The City's 1990 Urban Design Element includes statements that emphasize preserving the City's image, neighborhood character and maintaining livability while being sensitive to social and economic realities. Applicable policy concepts include:
  - A. Allow individual districts to develop in response to their unique characteristics within the overall urban design scheme for the city.
  - B. Ensure that land uses make a positive contribution to neighborhood improvement and stability.
  - C. Ensure that building restoration and new construction enhance district character.
  - D. Require private development efforts to be compatible with urban design policies of the city regardless of whether city financial assistance is provided.
  - E. Treat building height, scale and character as significant features of a district's image.
  - F. Ensure that features of building design such as color, detail, materials and scale are responsive to district character, neighboring buildings, and the pedestrian.

**CHRONOLOGY:**

The Administration's transmittal provides a chronology of events relating to the proposed Zoning Ordinance text amendment. Key dates are listed below. Please refer to the Administration's chronology for details.

- August 21, 2003                      Letter were sent to Community Council Chairs notifying them of the proposed Ordinance changes

- September 24, 2003 Planning Commission hearing

cc: Sam Guevara, Rocky Fluhart, DJ Baxter, Ed Rutan, Lynn Pace, Lee Martinez, David Dobbins, Louis Zunguze, Brent Wilde, Doug Wheelwright, Janice Jardine, Cheri Coffey, Doug Dansie, Barry Esham, Annette Daley, Gwen Springmeyer, Lehua Weaver, Jan Aramaki, and Marge Harvey

File Location: Community and Economic Development Dept., Planning Division, Zoning Text Amendment, Places of Worship