



NOTICE AND AGENDA

SOUTH OGDEN CITY PLANNING COMMISSION MEETING

THURSDAY, JANUARY 13, 2022

Notice is hereby given that the South Ogden City Planning Commission will hold a meeting on, January 13, 2022, beginning at 6:15 p.m. in the Council Chambers located at 3950 Adams Avenue, South Ogden, Utah. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including wearing of masks, social distancing and number of people allowed to gather at one time. Some members of the planning commission may be attending the meeting electronically.

A briefing session will be held at 5:30 pm in the conference room and is open to the public.

I. CALL TO ORDER AND OVERVIEW OF MEETING PROCEDURES - Chair Scott Amos

II. PUBLIC HEARING

To Receive and Consider Comments on Proposed Amendments to SOC 10-5.1A-5-6 and 10-5.1B-5-6 to define setbacks for interior row buildings of multiple building developments.

III. ZONING ITEMS

- A. Discussion/Recommendation on Previously Tabled Item on Proposed Changes to the Allowed Number of Children in a Home Daycare/Pre-School
- B. Discussion/Recommendation on Proposed Amendments to SOC 10-5.1A-5-6 and 10-5.1B-5-6 to define setbacks for interior row buildings of multiple building developments.

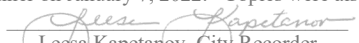
IV. SUBDIVISION APPROVAL

Discussion/Recommendation on Amendment to Fox Chase Subdivision Phase II Concerning Building Siting and Setbacks on Flag Lot Located at 5619 Fox Chase Drive

V. APPROVAL OF MINUTES OF PREVIOUS MEETING

Approve of December 9, 2021 PC Minutes

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on January 7, 2022. Copies were also delivered to each member of the Planning Commission.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.

VI. OTHER BUSINESS

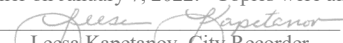
VII. STAFF REPORTS

Wasatch Point Apartments Planning Approval

VIII. PUBLIC COMMENTS

IX. ADJOURN PLANNING COMMISSION MEETING AND CONVENE INTO TRAINING SESSION

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on January 7, 2022. Copies were also delivered to each member of the Planning Commission.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.

STAFF REPORT

SUBJECT: Proposed Zoning Change to Increase
Maximum Maximum Number of Home
Daycare and Home Preschool Children

AUTHOR: Mark Vlasic

DEPARTMENT: City Planner

DATE: January 3, 2022



SUMMARY OF APPLICATION

This is a continuation to an application received in November to amend the zoning ordinance to increase the maximum number of children permitted at a home daycare/preschools from the current maximum of five children to a new maximum of eight children. The application was submitted by a local resident, and was first considered by the Planning Commission in November 2021 and followed by a Public Hearing in December 2021. Based in part on the input received during the Public Hearing, the Planning Commission tabled a decision until additional information of what is required by the State of Utah regarding the operation of home childcare as follow:

- What is the difference between a home daycare and home preschool?
- What is the maximum number of children that can be accommodated home daycare and home preschool?
- What are the caretaker/child staffing requirements?

BACKGROUND

Staff contacted Lisa Roundtree, a Process Specialist with the Utah Department of Health - Child Care Licensing Program. Staff indicated that the Planning Commission desires to understand state licensing requirements related to Home Daycare and Home Preschool operations in order to ensure potential zoning adjustments are aligned.

To summarize, it was noted that home daycare and preschools are covered under Utah Code, Chapter 39 - Utah Child Care Licensing Act (attached).

What is the difference between a home daycare and home preschool?

According to the Child Care Licensing and state code, there is no distinction between a home daycare and a home preschool. Operators are allowed to use either term, and both require appropriate licensing certificates in order to operate.

What is the maximum number of children that can be accommodated home daycare and home preschool?

There are two types of home daycare/preschool licenses available – **Residential Certificate** and **Licensed Family**. As indicated in the attached comparison chart, a Residential Certificate allows providers to care for up to eight children, including the provider's/caregivers own children under age 4; a Licensed Family Certificate allows providers to care for up to 16 children, including the provider's/caregivers own children under age 4. Discussions with Ms. Roundtree indicate that the Residential Certificate is typically requested for apartments or small homes with limited interior space and/or that lack access to a dedicated outdoor play area, and Licensed Family Certificates are usually requested for larger homes that have access to a dedicated outdoor play area, as required. State investigators will determine the maximum number of children permitted based on a review the home, yard and other factors.

It was noted that the maximum thresholds of eight children and 16 children for each type of reflect the maximum numbers permitted by the state, and that South Ogden has the prerogative to establish lesser caps and thresholds.

What are the caretaker/child staffing requirements?

As illustrated in the attached Ratio Compliance handout, the number of caretakers depends on the number of children to be cared for and their ages.

For a daycare/preschool with up to eight children, a single caretaker is permitted if they are caring for no more than one infant (0-17 months) and two toddlers (18-23 months). However, two or more additional caretakers may be required if additional infants and toddlers are in the mix.

A daycare/preschool for eight to 16 children requires a minimum of two caretakers regardless of the age of the children, and will require additional caretakers depending on the number of infants and toddlers to be cared for.

DISCUSSION

According to State code, there is no distinction between a home daycare and a home preschool; caretakers can use either term. The licensing process addresses the standards and requirements for the care of children in a home daycare or preschool setting.

There is increasing need for affordable daycare/preschool options in South Ogden and elsewhere in the region. The two key issues to be addressed from a planning perspective concern the maximum number of children to be permitted at home daycare/preschool facilities, and the maximum number of caretakers permitted to care for them. The current code permits home daycare/preschools for up to five children and limits the number of caretakers to two (2) people who actually reside in the dwelling.

The planning commission does not need to meet state maximum thresholds, and may place geographic limits and requirements such as placing limits on the number per street or block segments, although Ms. Roundtree has not heard of such limits being applied in other communities.

RECOMMENDATION

The Planning Commission should determine if the number of children to be accommodated at a home daycare/preschool should be increased from the current five as currently permitted to eight

as requested, or more if they deem it appropriate. In all cases the actual number of children will depend on the type of license requested and approved by the health department.

The Planning Commission must also decide how many caretakers will be permitted. The following are suggested changes to the existing code for your consideration. See underlined text for specific input to be provided.

10-2-1: DEFINITIONS

DAYCARE CENTER: Any building or structure other than an occupied residence, furnishing care, supervision and guidance for nine or more children unaccompanied by parent or guardian for periods of less than twenty four (24) hours per day. or as provided in chapter 19 of this title, an occupied residence which furnishes care, supervision and guidance for not more than five (5) children unaccompanied by parent or guardian for periods of less than twenty four (24) hours per day. Occupied residence shall refer to being used as a residence by a family. The term "daycare center" is inclusive of commercial kindergartens, preschools, nursery schools and all other similar facilities specializing in the education and/or care of children prior to their entrance into the first grade, other than facilities owned and/or operated by the public school system.

KINDERGARTEN: See definition of daycare center.

DAYCARE, HOME: Any occupied residence furnishing care, supervision and guidance for not more than (eight to 16 – the applicant is requesting eight) children unaccompanied by parent or guardian for periods less than twenty four (24) hours per day. An occupied residence shall refer to a structure being used as a residence by a family. The term "home daycare" is inclusive of kindergartens, preschools, nursery schools and all other similar facilities operating within a residential setting and specializing in the education and/or care of children prior to their entrance into the first grade, other than facilities owned and/or operated by the public school system.

PRESCHOOL: See definitions for 'Daycare Center' and 'Daycare, Home'.

CHAPTER 19

HOME OCCUPATIONS

10-19-2: USES:

A. Permitted Uses: Home occupations shall be allowed as permitted uses in residential districts of the city as listed in the use regulations of the various districts and in accordance with the regulations and restrictions of this chapter.

B. Allowable Uses Specified: The following uses are examples of allowable home occupations:

1. Group instruction or motivational meetings as a forum for sales presentations not more than once every three (3) months.
2. Musical instruction.
3. Phone order or mail order services.
4. Barber or beautician services with not more than two (2) customers on the premises at any time. (Ord. 901, 2-18-1997)
5. Home Daycare or Preschool, which is a type of home occupation that provides care for children including the caregiver's own children. A "home daycare" must follow all rules and regulations established by the State of Utah regarding licensing requirements for home child-care providers, including that the provider must maintain at least one caregiver for up to eight children in care and two caregivers for nine to 16 children in care, including the caregiver's own children under the age of four. All children under 13 years old count toward this limit. A home day care must meet the following standards:
 - a. There may be a maximum of eight to 16 (applicant is requesting eight) children on premises at any time, including the caregiver's own children under the age of six and not yet in full day school.
 - b. Employees shall be limited to not more than two (2) people who actually reside in the dwelling (no non-resident employees permitted).
 - c. The home day care/preschool caregiver shall comply with all applicable licensing requirements.
 - d. The use shall comply with all applicable traffic, parking, drop-off and noise regulations.
 - e. No signs shall be allowed on the dwelling or lot except a nameplate sign.
 - f. The use shall comply with all local, state and federal laws and regulations.
- ~~5. Child daycare of not more than five (5) children unaccompanied by parent or guardian for periods less than twenty four (24) hours per day. (Ord. 901, 2-18-1997; amd. Ord. 15-06, 2-17-2015, eff. 2-17-2015)~~
6. Computer information services.
7. Garage sales held not more than once every three (3) months.

Comparison of Requirements for Licensed Family and Residential Certificate

Licensed Family	Residential Certificate
Capacity May care for up to 16 children including provider's & caregiver's own children under age 4.	Capacity May care for up to 8 children including provider's & caregiver's own children under age 4.
Ratios - All children under age 4 count in ratios including the provider and employee's own children 1 caregiver for up to 8 children, including no more than 3 children under age 2, when at least one of the toddlers is at least 18 months old; OR 2 caregivers for 9-16 children including no more than 6 children under age 2, when at least two of the toddlers are at least 18 months old.	Ratios - All children under age 4 count in ratios including provider's own children 1 caregiver for up to 8 children including no more than 2 children under age 2.
Records & Documents - Fire & disaster drills must be documented in writing. - Daily schedule of activities must be posted.	Records & Documents - It is not required to document fire & disaster drills. - A posted daily schedule is not required.
Training 20 hours of training are required annually for the provider & each caregiver. 10 of the 20 hours must be interactive training.	Training 10 hours of training are required annually for the provider. 5 of the 10 hours must be interactive training.
Outdoor Play Area - Must have an outdoor play area that is safely accessible & meets licensing rules. - Children must have a daily opportunity for outdoor play, weather permitting.	Outdoor Play Area - Children may not play outside on premises unless the outdoor play area meets licensing rules. - A daily opportunity for outdoor play is encouraged, but not required.
From the Department of Workforce Services - State-funded child care reimbursements are paid at a higher rate. - Eligible for a \$400 start up grant from CAC	From the Department of Workforce Services - State-funded child care reimbursements are paid at a lower rate. - Not eligible for a start up grant from CAC

Ratio Compliance: Licensed Family and Residential Certificate

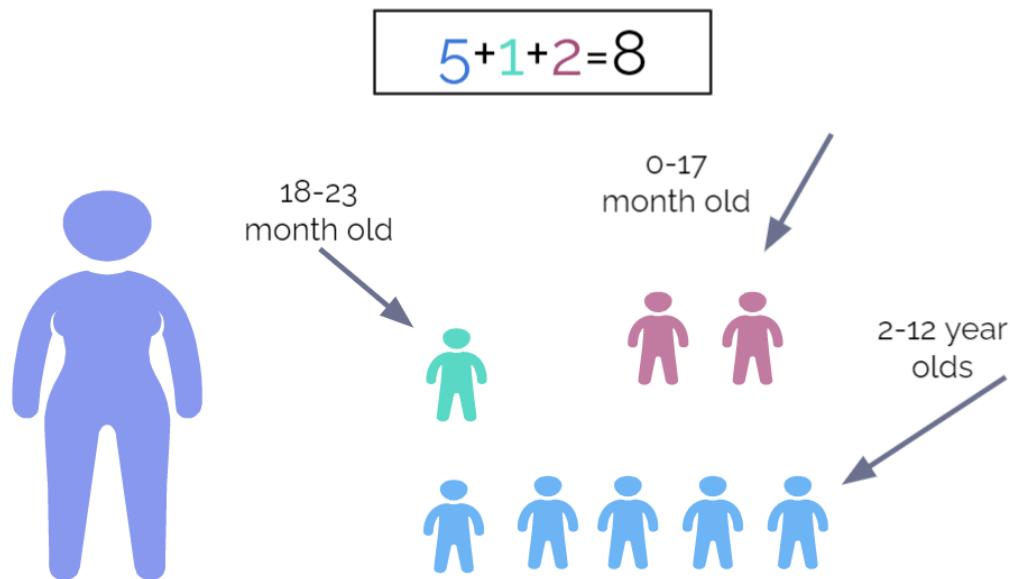
The provider shall maintain at least:

- a) one caregiver for up to eight children in care; and
- b) two caregivers for nine to 16 children in care.

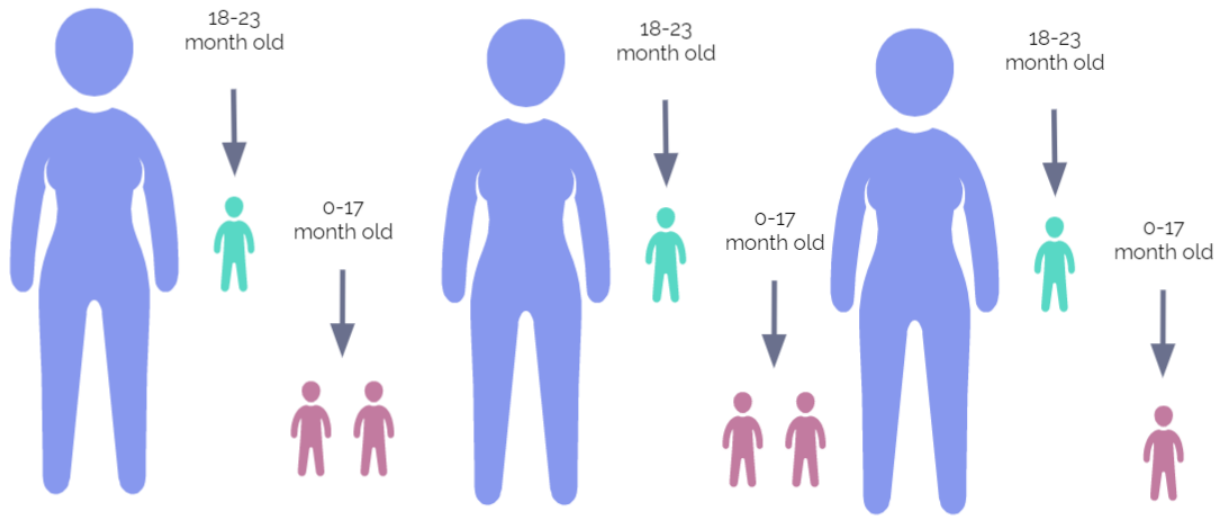
When caring for children younger than two years old, the provider shall ensure that:

- a) there is at least one caregiver for up to 8 children in the group and there are not more than 2 children under 18 months old in the group, and no more than 3 children under the age of two.
- b) once the group has exceeded 3 under the age of two, there is an additional caregiver for every 2 children under 18 months old in the group, or 3 children under the age of two.

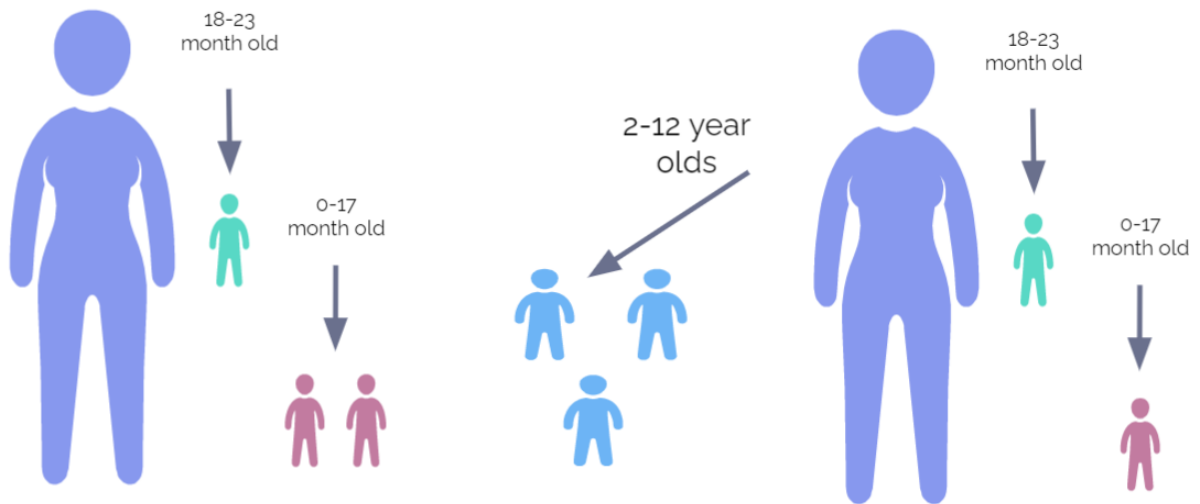
Examples of Ratio Possibilities for a Facility with a Capacity of 8



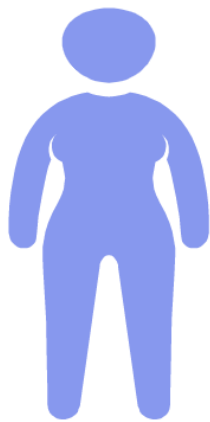
$$3+5=8$$



$$3+2+3=8$$



$$6+2=8$$



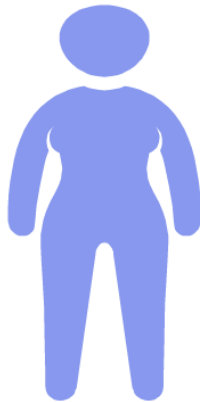
0-17
month old



2-12 year
olds



$$5+3=8$$



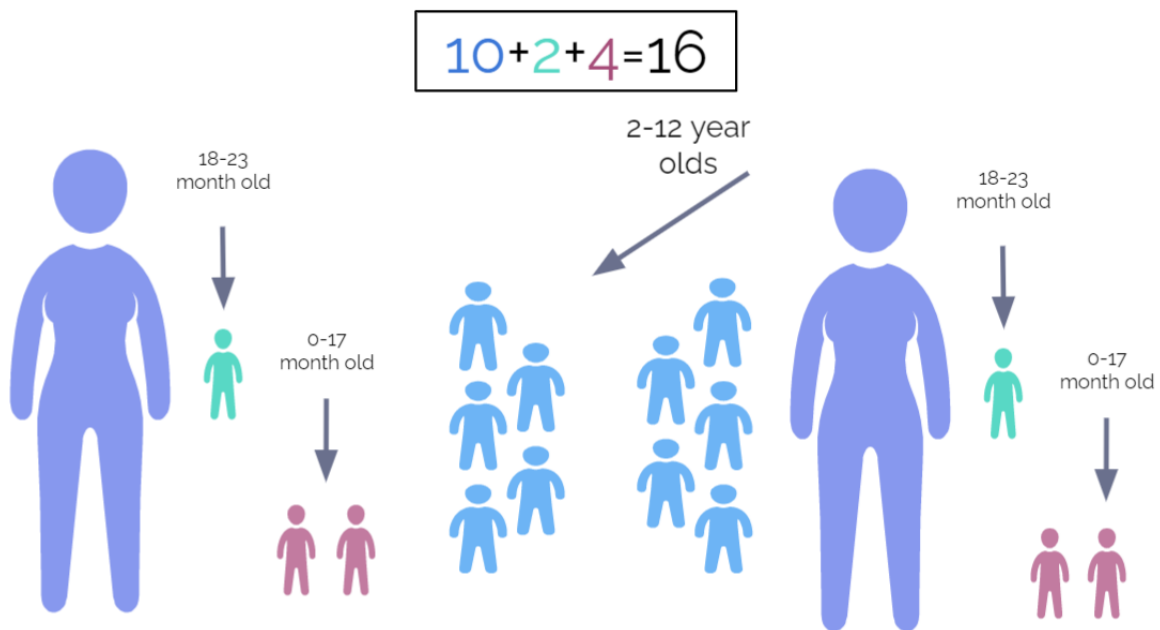
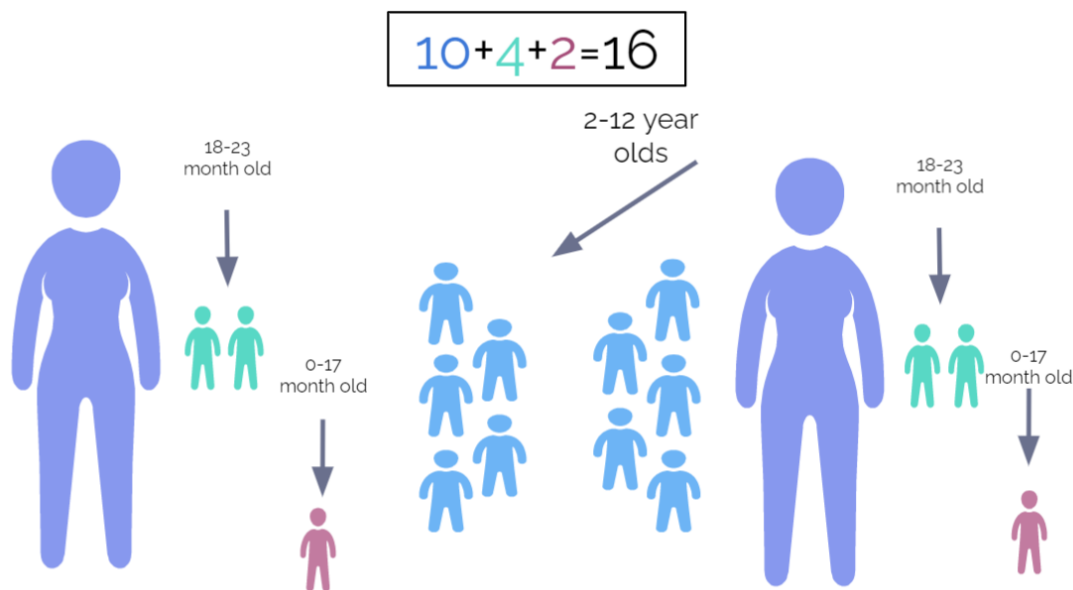
18-23
month old



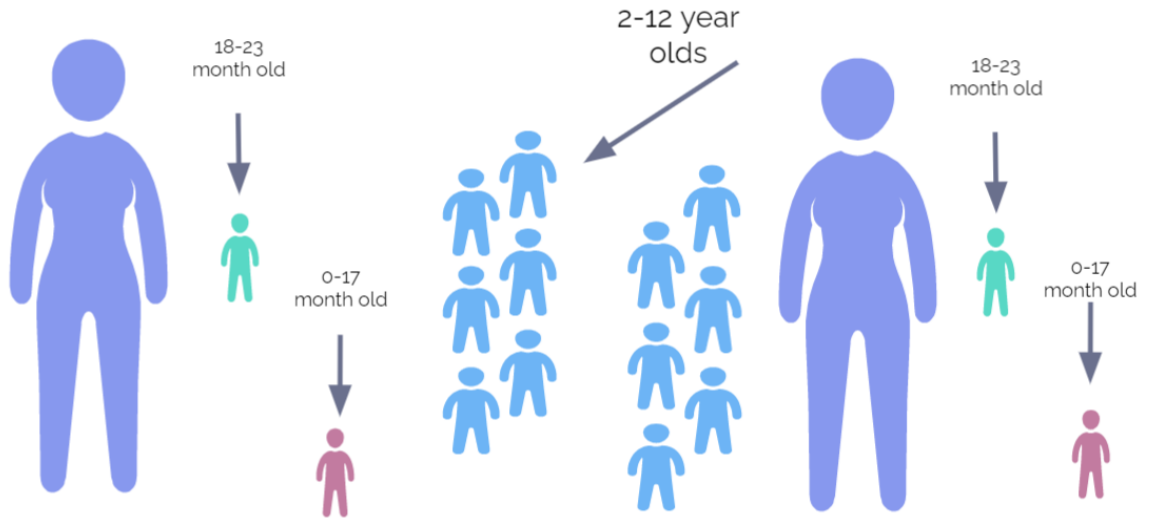
2-12 year
olds



Examples of Ratio Possibilities for a Facility with a Capacity of 16



$$12+2+2=16$$



Chapter 39

Utah Child Care Licensing Act

Part 1

General Provisions

26-39-101 Title.

This chapter is known as the "Utah Child Care Licensing Act."

Enacted by Chapter 196, 1997 General Session

26-39-102 Definitions.

As used in this chapter:

- (1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee, created in Section 26-1-7.
- (2)
 - (a) "Center based child care" means, except as provided in Subsection (2)(b), a child care program licensed under this chapter.
 - (b) "Center based child care" does not include:
 - (i) a residential child care provider certified under Section 26-39-402; or
 - (ii) a facility or program exempt under Section 26-39-403.
- (3) "Child care" means continuous care and supervision of five or more qualifying children, that is:
 - (a) in lieu of care ordinarily provided by a parent in the parent's home;
 - (b) for less than 24 hours a day; and
 - (c) for direct or indirect compensation.
- (4) "Child care program" means a child care facility or program operated by a person who holds a license or certificate issued in accordance with this chapter.
- (5) "Exempt provider" means a person who provides care described in Subsection 26-39-403(2).
- (6) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26-1-7.
- (7) "Public school" means:
 - (a) a school, including a charter school, that:
 - (i) is directly funded at public expense; and
 - (ii) provides education to qualifying children for any grade from first grade through twelfth grade;or
 - (b) a school, including a charter school, that provides:
 - (i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and
 - (ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.
- (8) "Qualifying child" means an individual who is:
 - (a)
 - (i) under the age of 13; or
 - (ii) under the age of 18, if the person has a disability; and
 - (b) a child of:
 - (i) a person other than the person providing care to the child;

- (ii) a licensed or certified residential child care provider, if the child is under the age of four; or
 - (iii) an employee or owner of a licensed child care center, if the child is under the age of four.
- (9) "Residential child care" means child care provided in the home of a provider.

Amended by Chapter 220, 2015 General Session

Part 2

Child Care Licensing Committees

26-39-200 Child Care Center Licensing Committee.

- (1)
- (a) The Child Care Center Licensing Committee created in Section 26-1-7 shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.
 - (b) The governor shall appoint three members who:
 - (i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and
 - (ii) hold an active license as a child care center from the department to provide center based child care.
 - (c)
 - (i) The governor shall appoint one member to represent each of the following:
 - (A) a parent with a child in center based child care;
 - (B) a child development expert from the state system of higher education;
 - (C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and
 - (D) an architect licensed in the state.
 - (ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.
 - (d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.
 - (e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:
 - (i) the health care professional is licensed under:
 - (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or
 - (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and
 - (ii) before appointing a health care professional under this Subsection (1)(e), the governor:
 - (A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and
 - (B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).
- (2)
- (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members

are staggered so that approximately half of the licensing committee is appointed every two years.

- (c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.
- (d) A member may not serve more than two consecutive terms.
- (e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.
- (3) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.
- (4)
 - (a) The licensing committee shall meet at least every two months.
 - (b) The director may call additional meetings:
 - (i) at the director's discretion;
 - (ii) upon the request of the chair; or
 - (iii) upon the written request of three or more members.
- (5) Three members of the licensing committee constitute a quorum for the transaction of business.

Amended by Chapter 111, 2019 General Session

26-39-201 Residential Child Care Licensing Advisory Committee.

- (1)
 - (a) The Residential Child Care Licensing Advisory Committee created in Section 26-1-7 shall advise the department on rules made by the department under this chapter for residential child care.
 - (b) The advisory committee shall be composed of the following nine members who shall be appointed by the executive director:
 - (i) two child care consumers;
 - (ii) three licensed residential child care providers;
 - (iii) one certified residential child care provider;
 - (iv) one individual with expertise in early childhood development; and
 - (v) two health care providers.
- (2)
 - (a) Members of the advisory committee shall be appointed for four-year terms, except for those members who have been appointed to complete an unexpired term.
 - (b) Appointments and reappointments may be staggered so that 1/4 of the advisory committee changes each year.
 - (c) The advisory committee shall annually elect a chairman from its membership.
- (3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the chairman, or three or more members of the committee.
- (4) Five members constitute a quorum and a vote of the majority of the members present constitutes an action of the advisory committee.

Amended by Chapter 322, 2014 General Session

26-39-202 Members serve without pay -- Reimbursement for expenses.

A member of the Residential Child Care Licensing Advisory Committee and the Child Care Center Licensing Committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 322, 2014 General Session

26-39-203 Duties of the Child Care Center Licensing Committee.

- (1) The licensing committee shall:
 - (a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:
 - (i) adequate facilities and equipment; and
 - (ii) competent caregivers considering the age of the children and the type of program offered by the licensee;
 - (b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of this chapter that govern center based child care, in the following areas:
 - (i) requirements for applications, the application process, and compliance with other applicable statutes and rules;
 - (ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1);
 - (iii) categories, classifications, and duration of initial and ongoing licenses;
 - (iv) changes of ownership or name, changes in licensure status, and changes in operational status;
 - (v) license expiration and renewal, contents, and posting requirements;
 - (vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and
 - (vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees;
 - (c) advise the department on the administration of a matter affecting center based child care;
 - (d) advise and assist the department in conducting center based child care provider seminars; and
 - (e) perform other duties as provided under Section 26-39-301.
- (2)
 - (a) The licensing committee may not enforce the rules adopted under this section.
 - (b) The department shall enforce the rules adopted under this section in accordance with Section 26-39-301.

Amended by Chapter 74, 2016 General Session

Part 3
Department Duties

26-39-301 Duties of the department -- Enforcement of chapter -- Licensing committee requirements.

- (1) With regard to residential child care licensed or certified under this chapter, the department may:
 - (a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:
 - (i) adequate facilities and equipment; and
 - (ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and
 - (b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:
 - (i) requirements for applications, the application process, and compliance with other applicable statutes and rules;
 - (ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);
 - (iii) categories, classifications, and duration of initial and ongoing licenses;
 - (iv) changes of ownership or name, changes in licensure status, and changes in operational status;
 - (v) license expiration and renewal, contents, and posting requirements;
 - (vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and
 - (vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees.
- (2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.
- (3) Rules made under this chapter by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4)
 - (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.
 - (b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.
- (5) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.
- (6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:
 - (a) a licensed residential child care provider; or
 - (b) an owner or employee of a licensed child care center.
- (7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:
 - (a) by qualifying children;
 - (b) for the care of qualifying children; or
 - (c) to store classroom materials.
- (8)

- (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.
- (b) An exemption granted under Subsection (7)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.
- (9) The licensing committee, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.
- (10) The department shall set and collect licensing and other fees in accordance with Section 26-1-6.
- (11) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.

Amended by Chapter 58, 2018 General Session

Part 4 Licensing

26-39-401 Licensure requirements -- Expiration -- Renewal.

- (1) Except as provided in Section 26-39-403, a person shall be licensed or certified in accordance with this chapter if the person:
 - (a) provides or offers child care; or
 - (b) provides care to qualifying children and requests to be licensed.
- (2) The department may issue licenses for a period not exceeding 24 months to child care providers who meet the requirements of:
 - (a) this chapter; and
 - (b) the department's rules governing child care programs.
- (3) A license issued under this chapter is not assignable or transferable.

Renumbered and Amended by Chapter 111, 2008 General Session

26-39-402 Residential child care certificate.

- (1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.
- (2) The minimum qualifications for a Residential Child Care Certificate are:
 - (a) the submission of:
 - (i) an application in the form prescribed by the department;
 - (ii) a certification and criminal background fee established in accordance with Section 26-1-6; and
 - (iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years of age who resides in the provider's home:
 - (A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;
 - (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and
 - (C) to discover whether the person is listed in the Licensing Information System described in Section 62A-4a-1006;

- (b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:
 - (i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;
 - (ii) identify serious sanitation, fire, and health hazards to qualifying children; and
 - (iii) make appropriate recommendations; and
- (c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.
- (3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.
- (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:
 - (a) child abuse or neglect;
 - (b) serious health hazards in or around the provider's home; or
 - (c) providing residential child care without the appropriate certificate or license.
- (5) Notwithstanding this section:
 - (a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;
 - (b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and
 - (c) an inspection may be required of a residential child care provider in connection with a federal child care program.
- (6) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Amended by Chapter 415, 2018 General Session

Amended by Chapter 344, 2017 General Session

26-39-403 Exclusions from chapter -- Criminal background checks by an excluded person.

- (1) The provisions and requirements of this chapter do not apply to:
 - (a) a facility or program owned or operated by an agency of the United States government;
 - (b) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;
 - (c) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
 - (d) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;
 - (e) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state; or
 - (f) care provided at a residential support program that is licensed by the Department of Human Services.
- (2) The licensing and certification requirements of this chapter do not apply to:
 - (a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a

- private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;
- (b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;
 - (c) care provided to a qualifying child at a public school by an organization other than the public school, if:
 - (i) the care is provided under contract with the public school or on school property; or
 - (ii) the public school accepts responsibility and oversight for the care provided by the organization;
 - (d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;
 - (e) care provided by an organization that:
 - (i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;
 - (ii) provides care pursuant to a written agreement with:
 - (A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or
 - (B) a county that provides oversight for the program; and
 - (iii) provides care to a child who is over the age of four and under the age of 13; or
 - (f) care provided to a qualifying child at a facility where:
 - (i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;
 - (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;
 - (iii) the care is provided on a sporadic basis;
 - (iv) the care does not include diapering a qualifying child; and
 - (v) the care does not include preparing or serving meals to a qualifying child.
- (3) An exempt provider shall submit to the department:
- (a) the information required under Subsections 26-39-404(1) and (2); and
 - (b) of the children receiving care from the exempt provider:
 - (i) the number of children who are less than two years old;
 - (ii) the number of children who are at least two years old and less than five years old; and
 - (iii) the number of children who are five years old or older.
- (4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:
- (a) states that the facility is exempt from licensure and certification; and
 - (b) provides the department's contact information for submitting a complaint.
- (5) The department may not release the information it collects under Subsection (3) except in an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Amended by Chapter 366, 2017 General Session

26-39-404 Disqualified individuals -- Criminal history checks -- Payment of costs.

- (1)
- (a) Each exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to

the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

- (i) owners;
 - (ii) directors;
 - (iii) members of the governing body;
 - (iv) employees;
 - (v) providers of care;
 - (vi) volunteers, except parents of children enrolled in the programs; and
 - (vii) all adults residing in a residence where child care is provided.
- (b)
- (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.
 - (ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.
 - (iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).
- (c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

- (2)
- (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.
 - (b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:
 - (i) the person described in Subsection (1) is under the age of 28; or
 - (ii) the person described in Subsection (1) is:
 - (A) over the age of 28; and
 - (B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.
- (3) Except as provided in Subsections (4) and (5), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:
- (a) provide child care;
 - (b) provide volunteer services for a child care program or an exempt provider;
 - (c) reside at the premises where child care is provided; or
 - (d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.
- (4)
- (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):
 - (i) specific misdemeanors; and

- (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.
- (b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).
- (5) The restrictions of Subsection (3) do not apply to the following:
 - (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or
 - (b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

Amended by Chapter 160, 2019 General Session

Part 5

Investigations and Records

26-39-501 Investigations -- Records.

- (1) The department may conduct investigations necessary to enforce the provisions of this chapter.
- (2) For purposes of this section:
 - (a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.
 - (b) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.
 - (c) "Subject of the complaint" means the licensee or certificate holder about whom the complainant is informing the department.
- (3)
 - (a) If the department receives a complaint about a child care program or an exempt provider, the department shall:
 - (i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a qualifying child;
 - (ii) as necessary:
 - (A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;
 - (B) inform the complainant that the department may not investigate an anonymous complaint;
 - (C) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and
 - (D) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B); and
 - (iii) inform the complainant that a person is guilty of a class B misdemeanor under Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's licensing or certification status.

- (b) If the complainant elects to be an anonymous complainant, or if the complaint concerns events which occurred more than six weeks before the complainant contacted the department:
 - (i) shall refer the information in the complaint to the Division of Child and Family Services within the Department of Human Services, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a child;
 - (ii) may not investigate or substantiate the complaint; and
 - (iii) may, during a regularly scheduled annual survey, inform the exempt provider, licensee, or certificate holder that is the subject of the complaint of allegations or concerns raised by:
 - (A) the anonymous complainant; or
 - (B) the complainant who reported events more than six weeks after the events occurred.
- (c)
 - (i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:
 - (A) only until the investigation of the complaint has been completed; or
 - (B) indefinitely.
 - (ii)
 - (A) If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.
 - (B) If the complainant elects to remain confidential indefinitely, the department:
 - (I) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and
 - (II) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.
- (4)
 - (a) Prior to conducting an investigation of a child care program or an exempt provider in response to a complaint, a department investigator shall review the complaint with the investigator's supervisor.
 - (b) The investigator may proceed with the investigation only if:
 - (i) the supervisor determines the complaint is credible;
 - (ii) the complaint is not from an anonymous complainant; and
 - (iii) prior to the investigation, the investigator informs the subject of the complaint of:
 - (A) except as provided in Subsection (3)(c), the name of the complainant; and
 - (B) except as provided in Subsection (4)(c), the substance of the complaint.
 - (c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation. However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.
- (5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:
 - (a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:
 - (i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or
 - (ii) a protected record under Section 63G-2-305; and

- (b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual child care program, exempt provider, licensee, certificate holder, or complainant.
- (6) Any record of the department related to a complaint by an anonymous complainant is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual child care program, exempt provider, licensee, certificate holder, or complainant.

Amended by Chapter 220, 2015 General Session

Part 6 Penalties

26-39-601 License violations -- Penalties.

- (1) The department may deny or revoke a license and otherwise invoke disciplinary penalties if it finds:
 - (a) evidence of committing or of aiding, abetting, or permitting the commission of any illegal act on the premises of the child care facility;
 - (b) a failure to meet the qualifications for licensure; or
 - (c) conduct adverse to the public health, morals, welfare, and safety of children under its care.
- (2) The department may also place a department representative as a monitor in a facility, and may assess the cost of that monitoring to the facility, until the licensee has remedied the deficiencies that brought about the department action.
- (3) The department may impose civil monetary penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules made pursuant to this chapter, as follows:
 - (a) if significant problems exist that are likely to lead to the harm of a qualifying child, the department may impose a civil penalty of \$50 to \$1,000 per day; and
 - (b) if significant problems exist that result in actual harm to a qualifying child, the department may impose a civil penalty of \$1,050 to \$5,000 per day.

Renumbered and Amended by Chapter 111, 2008 General Session

Amended by Chapter 382, 2008 General Session

26-39-602 Offering or providing care in violation of chapter -- Misdemeanor.

Notwithstanding the provisions of Title 26, Chapter 23, Enforcement Provisions and Penalties, a person who provides or offers child care except as provided by this chapter is guilty of a class A misdemeanor.

Renumbered and Amended by Chapter 111, 2008 General Session

STAFF REPORT



SUBJECT: Discussion/Recommendation on Proposed Amendment to SOCC 10-5.1A and SOCC 10-5.1B Regarding Clarification of Internal Row Building Definitions and Yard Requirements

AUTHOR: Mark Vlasic
DEPARTMENT: City Planner
DATE: January 3, 2022

BACKGROUND

This is a continuation of the discussions held in November and December on this topic. To Summarize, the city has received several row home project applications in recent months. While the zoning code clearly details the requirements for row homes that front public streets, it does not adequately address row homes that are located within the interior of a site (referred here as “Interior Row Buildings”).

DISCUSSION

Staff presented draft changes to the City Code to address the identified shortcomings during the December Planning Commission meeting. The Planning Commission recommended several changes that have now been incorporated, and included here for review.

RECOMMENDATION

Staff recommends that the Planning Commission forward the Proposed Amendments to SOCC 10-5.1A and SOCC 10-5.1B Regarding Clarification of Internal Row Building Definitions and Yard Requirements to the City Council with a Positive Recommendation.

POTENTIAL MOTIONS

I move to **approve Proposed Amendments to SOCC 10-5.1A and SOCC 10-5.1B Regarding Clarification of Internal Row Building Definitions and Yard Requirements** , with the following findings:

Alternative 2 – Continuance

I move to **continue Proposed Amendments to SOCC 10-5.1A and SOCC 10-5.1B Regarding Clarification of Internal Row Building Definitions and Yard Requirements**, with the following findings:

Alternative 3 – Denial

I move to **deny Proposed Amendments to SOCC 10-5.1A and SOCC 10-5.1B Regarding Clarification of Internal Row Building Definitions and Yard Requirements**, with the following findings:

10-5.1A-5-6: ROW BUILDING:

A. Description And Intent: The row building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This building type may be organized as townhouses or row houses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard and may be incorporated either into a detached garage or in an attached garage accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is active.

B. Regulations: Regulations for the row building type are defined in the table in this section.



			Permitted Subdistricts		
			City Center "General" And Riverdale Road "General"	40th Street "General"	Edge
1.	Building Siting ¹ : Refer to figure 5.6(1) of this section				
		Multiple principal buildings.	Permitted ¹	Permitted ¹	Permitted ¹
	(a)	Front sidewalk coverage. Not applicable to interior buildings of multiple building developments	65% ²	65% ²	65% ²
		Occupation of corner. Not applicable to interior buildings of multiple building developments	Required ⁸	Required ⁸	Required ⁸

	(b)	Front build-to zone. Not applicable to interior buildings of multiple building developments	0' to 10'	5' to 15'	10' to 20'
	(b)(1)	Front yard⁹ depth for interior principal building	10'	15'	20'
	(c)	Corner build-to zone. Not applicable to interior buildings of multiple building developments	0' to 10' ⁸	5' to 10' ⁸	5' to 10' ⁸
	(d)	Minimum side yard setback	0' per unit; 10' between buildings; for interior buildings, min. 10' from property line.	0' per unit; 15' between buildings; for interior buildings, min. 15' from property line.	0' per unit; 15' between buildings; for interior buildings, min. 20' from property line.
	(e)	Minimum rear yard setback	10' ³	10' ³	15' ³
	(f)	Minimum unit width	18' per unit	20' per unit	22' per unit
		Maximum building width	Maximum of 180' per building	Maximum of 180' per building	Maximum of 110' per building
	(g)	Parking	Rear yard/facade	Rear yard/facade	Rear yard/facade
	(i)	Vehicular access	From alley; if no alley exists, 1 driveway per building per street frontage. From alley on Washington Boulevard, 40th Street, and Riverdale Road, unless in Edge Subdistrict		
2.	Height: Refer to figure 5.6(2) of this section				
	(j)	Minimum overall height	2 story	2 story	2 story
	(k)	Maximum overall height	3 stories	3 stories	3.5 stories
	(l)	All stories:			
		Minimum height	9'	9'	9'
		Maximum height	14'	14'	14'
3.	Uses: Refer to figure 5.6(2) of this section. Refer to section 10-5.1A-4 , "Uses", of this article for permitted uses				

	(n)	Ground story	Residential, service, office, limited craftsman industrial	Residential, service, office, limited craftsman industrial	Residential only
	(o)	Upper story	Residential only		
	(p)	Parking within building	Permitted fully in basement and in rear of all floors		
	(q)	Required occupied space	30' deep on all full floors from the front facade		
4.		Street Facade Requirements: Refer to figure 5.6(3) of this section			
	(r)	Minimum transparency per each story	15% ⁴	15%	15%
		Blank wall limitations	Required, see subsection 10-5.1A-5-2D2 of this section 10-5.1A-5		
	(t)	Front facade permitted entrance type	Stoop, porch, limited storefront ^{5,6,7}	Stoop, porch, limited storefront ^{5,6,7}	Stoop, porch
	(u)	Principal entrance location per unit	Front or corner side facade		
		Vertical facade divisions	Not required		
		Horizontal facade divisions	For buildings over 3 stories, required within 3' of the top of any visible basement or ground story		
5.		Roof Type Requirements: Refer to figure 5.6(3) of this section			
	(v)	Permitted roof types	Parapet, pitched, flat	Parapet, pitched, flat	Parapet, pitched, flat
		Tower	Permitted	Permitted	Permitted

Notes:

1. For the purposes of the row building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type unless otherwise noted.
2. Each building shall meet the front property line coverage requirement, except 1 of every 5 units may front a courtyard with a minimum width of 30 feet. The courtyard shall be defined on 3 sides by units.
3. Rear yard setback on alleys [or internal access roads](#) is 5 feet.
4. When the storefront entrance type is utilized, the maximum ground story transparency for the unit is 55 percent as measured between 2 feet and 8 feet above grade.

5. The storefront entrance type is permitted only on corners or buildings that are designated for live/work units.
6. Commercial uses only allowed when fronting on 40th Street or Washington Boulevard.
7. Uses limited to residential on lots lacking frontage on 40th Street or Ogden Avenue.
8. At any uncontrolled intersection, the buildings will be modified to afford automobile drivers a clear view of approaching vehicles or pedestrians. Buildings, trees, or any obstruction shall be prohibited within a triangular area formed by the street curb lines and a line connecting them at points 40 feet from the point of intersection of the back of the curbs (clear view area).

[9. See definition of 'Yard, Front –Interior Building' in 10-5.1A-10-5.](#)

10-5.1A-10-5: DEFINITIONS:

[YARD, FRONT -INTERIOR BUILDING: A yard extending the full length along the facade opposite the garage\(s\)/parking side of an interior building.](#)

10-5.1B-5-7: ROW BUILDING:

A. Description And Intent: The row building is a building typically comprised of multiple vertical units, each with its own entrance to the street. This building type may be organized as townhouses or rowhouses, or it could also incorporate live/work units where uses are permitted.

Parking is required to be located in the rear yard and may be incorporated either into a detached garage or in an attached garage accessed from the rear of the building. However, when the garage is located within the building, a minimum level of occupied space is required on the front facade to ensure that the street facade is active.

B. Regulations: Regulations for the row building type are defined in the table in this section.



			Permitted Subdistricts	
			Gateway General	Gateway Edge
1.	Building Siting: Refer to figure 5.7(1) of this section			
		Multiple principal buildings	Permitted ¹	Permitted ¹
	(a)	Front sidewalk coverage. Not applicable to interior buildings of multiple building developments	65% ²	65% ²
		Occupation of corner. Not applicable to interior buildings of multiple building developments	Required ⁶	Required ⁶

	(b)	Front build to zone. Not applicable to interior buildings of multiple building developments	5' to 15'	5' to 20'
	(b)(1)	Front yard ⁹ depth for interior principal building	15'	20'
	(c)	Corner build to zone. Not applicable to interior buildings of multiple building developments	5' to 10' ⁶	5' to 10' ⁶
	(d)	Minimum side yard setback	0' per unit; 15' between buildings; for interior buildings, min. 15' from property line.	0' per unit; 15' between buildings; for interior buildings, min. 20' from property line.
	(e)	Minimum rear yard setback	10' ³	15' ³
	(f)	Minimum unit width	20' per unit	22' per unit
		Maximum building width	Maximum of 8 units per building	Maximum of 6 units per building
	(g)	Parking	Rear yard/facade	Rear yard/facade
	(i)	Vehicular access	From alley; if no alley exists, 1 driveway per building per street frontage. From alley on any primary street	
2.	Height: Refer to figure 5.7(2) of this section			
	(j)	Minimum overall height	2 story	2 story
	(k)	Maximum overall height	3.5 stories	3.5 stories
	(l)	All stories:		
		Minimum height	9'	9'
		Maximum height	14'	14'
3.	Uses: Refer to figure 5.7(2) of this section. Refer to section 10-5.1B-4 , "Uses", of this article for permitted uses			
	(n)	Ground story	Residential, service, office, limited craftsman industrial	Residential only
	(o)	Upper story	Residential only	
	(p)	Parking within building	Permitted fully in basement and rear of all floors	
	(q)	Required occupied space	30' deep on all full floors from the front facade	
4.	Street Facade Requirements: Refer to figure 5.7(3) of this section			

	(r)	Minimum transparency per each story	15% ⁴	15% ⁴
		Blank wall limitations	Required, see subsection 10-5.1B-5-2D2 of this section 10-5.1B-5	
	(t)	Front facade permitted entrance type	Stoop, porch, limited storefront ⁵	Stoop, porch
	(u)	Principal entrance location per unit	Front or corner side facade	
		Vertical facade divisions	Not required	
		Horizontal facade divisions	Not required	
5.	Roof Type Requirements: Refer to figure 5.7(3) of this section			
	(v)	Permitted roof types	Parapet, pitched, flat	Parapet, pitched, flat
		Tower	Permitted	Permitted

Notes:

1. For the purposes of the row building, a building consists of a series of units. When permitted, multiple buildings may be located on a lot with the minimum required space between them. However, each building shall meet all requirements of the building type unless otherwise noted.
2. Each building shall meet the front property line coverage requirement, except 1 of every 5 units may front a courtyard with a minimum width of 30 feet. The courtyard shall be defined on 3 sides by units.
3. Rear yard setback on alleys [or internal access roads](#) is 5 feet.
4. When the storefront entrance type is utilized, the maximum ground story transparency for the unit is 55 percent as measured between 2 feet and 8 feet above grade.
5. The storefront entrance type is permitted only on corners or buildings that are designated for live/work units.
6. At any uncontrolled intersection, the buildings will be modified to afford automobile drivers a clear view of approaching vehicles or pedestrians. Buildings, trees, or any obstruction shall be prohibited within a triangular area formed by the street curb lines and a line connecting them at points 40 feet from the point of intersection of the back of the curbs (clear view area).

[7. See definition of 'Yard, Front –Interior Building' in 10-5.1B-10-5.](#)

10-5.1A-10-5: DEFINITIONS:

[YARD, FRONT -INTERIOR BUILDING: A yard extending the full length along the facade opposite the garage\(s\)/parking side of an interior building.](#)



OFFICE OF THE CITY RECORDER

December 30, 2021

Mr. and Mrs. John Doe
1111 Fox Chase Subdivision
South Ogden UT 84403

To Whom It May Concern,

South Ogden City has received an application for an amendment to Fox Chase Subdivision Phase 2. The amendment would establish front, rear, and side yard setbacks for an existing flag lot located at 5619 Fox Chase Drive (see location map on opposite side of this letter.) The setbacks would then be recorded with Weber County, effectually amending the plat.

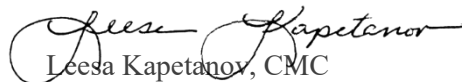
South Ogden City Code requires that all property owners within 300 feet of the property that is the subject of the changes be notified of the proposed amendments. You are receiving this notice because your property falls within the 300 feet.

Anyone objecting to the proposed plat change must file a written objection with the South Ogden City Recorder by 5 pm, January 12, 2022. The objection can be sent via email to lkapetanov@southogdencity.gov or by letter to: South Ogden City, Attn: City Recorder, 3950 Adams Ave. Ste. 1, South Ogden UT 84403.

If no written objections are received, no public hearing for the amendment will be held and the Planning Commission will consider the amendment at their meeting scheduled for January 13, 2022 at 6:15 pm. The meeting will be held in the Council Chambers of City Hall located at 3950 Adams Ave., South Ogden UT 84403. If written objections are received, the planning commission will set a date for a public hearing at which time anyone can comment either in favor of or against the proposed amendment. You will be notified of the date and time of the public hearing if one is needed.

Please feel free to contact me if you have further questions.

Respectfully,


Leesa Kapetanov, CMC
City Recorder

E lkapetanov@southogdencity.gov
O 801-622-2709
F 801-622-2713

3950 Adams Ave., Ste. 1
South Ogden, UT 84403

southogdencity.gov



southgdcity.gov

STAFF REPORT



SUBJECT: Fox Chase Subdivision Phase 2 Amendment
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: January 13, 2021

BACKGROUND

The City was recently approached by the new owner of a vacant flag lot located at 5619 Fox Chase Drive, asking what the building setbacks of the property were. Staff researched the plat, city code, and the original subdivision approval and discovered two things: 1) the code requires that if a flag lot is allowed in a subdivision, "The building setback line shall be established and approved by the planning commission and indicated on the plat." (SOC 11-3-1D(4)(e)), and 2) the City did not follow its own code.

Staff then contacted the attorney, who recommended that the Planning Commission make a recommendation on the setback and then amend the plat. Since the code does not give any type of regulations concerning flag lot building setbacks, I reached out to our City Engineer to see if he had any recommendations.

DISCUSSION

Here is the city's code concerning flag lots:

4. Flag Lots: Flag lots shall be approved by the hearing officer after a recommendation by the planning commission has been provided. A lot or lots not having frontage or not having adequate frontage (flag lot) on a street, as required by the zoning title for the zone in which the subdivision is located, may nevertheless be included within a subdivision, provided the following requirements are met:

- a. The planning commission determines that it is impractical to extend streets to serve such lots.
- b. The area of the right of way shall be in addition to the minimum lot area requirements of the zone in which the lot is located.
- c. The grade of any portion of the right of way shall not exceed fifteen percent (15%).
- d. Lots so created shall be large enough to comply with all yard and area requirements of the zone in which the lot is located.
- e. The building setback line shall be established and approved by the planning commission and indicated on the plat.

The engineer found that many cities had a code similar to ours, i.e. they specified minimum and maximum length and width for the "stem/staff" portion of the lot, but they did not give much if any guidance for the "flag" portion of the lot. However, after further research, he was able to find this:

D. The front side of the flag portion of said lots shall be deemed to be that side nearest to the dedicated public street upon which the staff portion fronts;

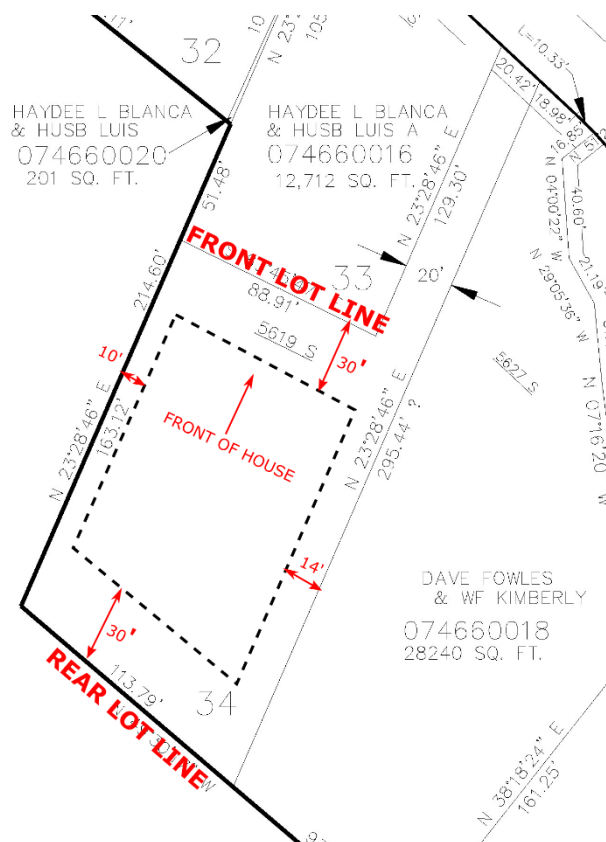
E. The staff portion of said lot shall be deemed to end, and the flag portion of said lots shall be deemed to commence, at the extension of the front lot line;

F. The square footage located in the flag portion of said lot, which shall be exclusive of the square footage located in the staff portion of said lot, shall be the same or greater than the minimum square footage as is required in this section or based on the underlying zoning, whichever is more restrictive;

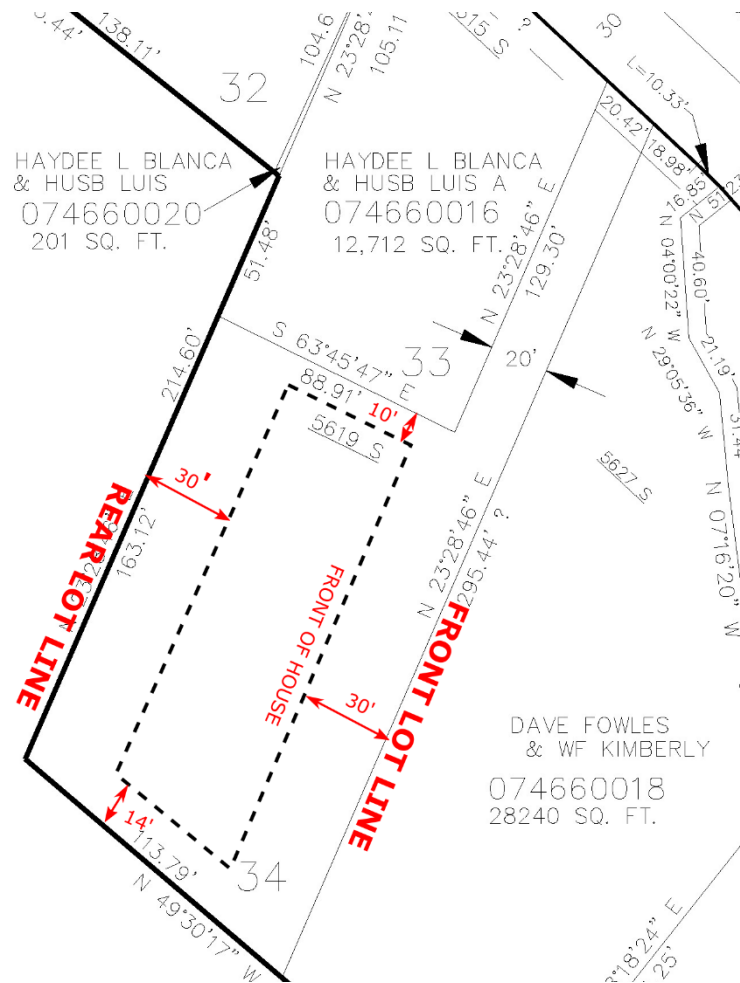
G. The side and rear yard requirements of the flag portion of said lots shall be the same as is required in the zoning district;

H. The front yard minimum setback requirements for all buildings shall be thirty feet (30') from the front lot line of the flag portion thereof;

If the Planning Commission were to follow this code as a guideline for setting the building setbacks for the lot in the Fox Chase Subdivision, this is what it would look like:



The question now becomes, does the planning commission want to give the property owner the option of choosing which way the house faces. If so, it may be advisable to only allow two options; the one shown above or the one illustrated below:



RECOMMENDATIONS

Staff does not feel strongly either way as to a recommendation on which way the house faces; however, it would be best to follow the setbacks of the zone in which the property is located. This would eliminate any arguments that the Planning Commission acted arbitrarily or capricious in establishing the setbacks. The property is located in an R-1-10 zone which has 30' front and rear yard setbacks, and a minimum side yard setback of 10', with the total of the two side yards not less than 24'.

Another thing to consider is that if this situation were to occur again, the action of the Planning Commission here may set a precedence for later. Although staff is unaware of any other vacant flag lots in the City, it doesn't mean they're not out there.



MINUTES OF THE SOUTH OGDEN CITY PLANNING COMMISSION MEETING

THURSDAY, DECEMBER 9, 2021
COUNCIL CHAMBERS, CITY HALL –6:15 pm

PLANNING COMMISSION MEMBERS PRESENT

Chair Scott Amos, Commissioners John Bradley, Steve Pruess, Mike Layton, Angela Snowden, and Robert Bruderer

Note: Commissioner Bruderer joined the meeting via the Teams Meeting app

PLANNING COMMISSIONERS EXCUSED

Jeremy Howe

STAFF PRESENT

Assistant City Manager Doug Gailey, Planner Mark Vlasic, and Recorder Leesa Kapetanov Note: Planner Mark Vlasic joined the meeting via Teams

CITIZENS PRESENT

Ashley Frey, John Prince, Casey Brown, Brooke Robinson, Judy Bergen, Gina Nielsen, Frances C. Loos, Sue Petersen, Jodi Cannon, Bea Black

Note: The time stamps indicated in **blue** correspond to the audio recording of this meeting which can be found at:

[https://www.southogdencity.com/document_center/Sound%20Files/2021/PC211209_1815\(1\).mp3](https://www.southogdencity.com/document_center/Sound%20Files/2021/PC211209_1815(1).mp3)
or requested from the office of the South Ogden City Recorder.

A briefing session was held before the planning commission meeting and was open to the public as well as available through Facebook Live. The audio recording for the briefing meeting can be found by clicking this link:

https://www.southogdencity.com/document_center/Sound%20Files/2021/PC211209_1747.mp3

I. CALL TO ORDER AND OVERVIEW OF MEETING PROCEDURES

- Chair Scott Amos called the meeting to order at 6:16 pm. He outlined the agenda and explained they hoped the meeting would be done by 7 pm so they could begin some training. He then called for a motion to begin.

00:01:09

Commissioner Bradley moved to convene as the South Ogden City Planning Commission and

open the public hearing for the reason stated in the agenda. The motion was seconded by Commissioner Pruess. Commissioners Layton, Bruderer, Pruess, Bradley, and Snowden all voted aye.

II. PUBLIC HEARING

To Receive and Consider Proposed Amendments to SOC 10-2-1 and 10-19-2(B)(5) Which Among Other Things Would Increase The Number Of Children Allowed In A Home Daycare From 5 To 8

- Staff overview 00:02:38
- Public Comments:
 - Frances Loos: 00:08:12
 - Jodi Cannon 00:09:30
 - Kathy Ulrich 00:11:39 Ms. Ulrich had a handout as part of her comments. See Attachment A.
 - Ashley Frey 00:16:23
- There were no more comments. Chair Amos called for a motion to close the public hearing 00:18:29

Commissioner Bradley moved to close the public hearing, followed by a second from Commissioner Snowden. All present voted aye.

III. ZONING ITEMS

Discussion and Recommendation on Proposed Amendments to SOC 10-2-1 and 10-19-2(B)(5) Which Among Other Things Would Increase The Number Of Children Allowed In A Home Daycare From 5 To 8

- Discussion 00:19:35
- The Planning Commission determined more research needed to be made concerning daycares and preschools. The chair called for a motion to table this item.
- Staff notified the commission there had been no online comments for the public hearing 00:27:04
- Motion 00:27:11

Commissioner Bradley moved to table this item for further consideration. Commissioner Layton seconded the motion. The voice vote was unanimous in favor of the motion.

IV. SUBDIVISION APPROVAL

Approval of Burch Creek Towns Subdivision

- Staff overview 00:28:42
- Discussion 00:31:05

- Applicant Q&A 00:32:40
- Motion 00:37:54

Commissioner Bradley moved to approve the Burch Creek Towns Subdivision. The motion was seconded by Commissioner Pruess. Chair Amos called the vote:

Commissioner Bradley-	Yes
Commissioner Bruderer-	Yes
Commissioner Layton-	Yes
Commissioner Pruess-	Yes
Commissioner Snowden-	Yes

The subdivision was approved.

V. SPECIAL ITEMS

Discussion on Proposed Code to Clarify Siting of Interior Buildings in a Multi-Building Development

- Staff Overview 00:38:48
- Discussion 00:42:21
- The Planning Commission instructed staff to schedule this item for a public hearing 00:43:40

VI. APPROVAL OF MINUTES OF PREVIOUS MEETING

Approval of November 17, 2021 PC Minutes

- Motion 00:43:50

Commissioner Layton moved to approve the minutes for November's Planning Commission meeting, followed by a second from Commissioner Bradley. All present voted aye.

VII. OTHER BUSINESS

- There was no other business at this time

VIII. STAFF REPORTS

- This item was tabled due to lack of time

131
132 **IX. PUBLIC COMMENTS**

- 133 • At this point in the meeting, there was no one left in the room except staff and
134 Commissioners. Chair Amos asked if there had been any online comments and was
135 informed there were none.

136
137
138 **X. ADJOURN PLANNING COMMISSION MEETING AND CONVENE INTO TRAINING SESSION**

- 139 • The chair called for a motion to adjourn the Planning Commission meeting and convene
140 into a training session

141 00:44:47
142

143 **Commissioner Pruess so moved followed by a motion from Commissioner Layton. The**
144 **voice vote was unanimous in favor of the motion.**

145
146
147 The Planning Commission meeting ended at 7:01 pm. The Commissioners took a short break and
148 returned to the room to receive training from Craig Call, a land use attorney and the City's Hearing
149 Officer. A recording of the training session may be requested by contacting the City Recorder at
150 801-622-2709 or emailing lkapetanov@southogdencity.gov.
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167

168 I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Planning Commission Meeting
169 held Thursday, December 9, 2021.
170

171 
172 Leesa Kapetanov, City Recorder

Date Approved by the Planning Commission

173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214

Attachment A
Handout from Ms. Ulrich

Kathy Ulrich
 801 866 4076
weluvstocks@msn.com

Changes to the code I would love to see:

1. Differentiate between daycare and preschool

Preschool = 3 & 4 year olds, structured activities, set schedule around 3 hours, involved teachers & close supervision

2. Number of children allowed in a preschool -

ratio of 1 adult to 7 kids; 2 adults up to 14 kids*
 (keep number same for daycare)

Concern for the city:

Parking: Preschool hours typically 9-12 or 9-1 during times that aren't busy
 Extremely short time - 5-10 minutes

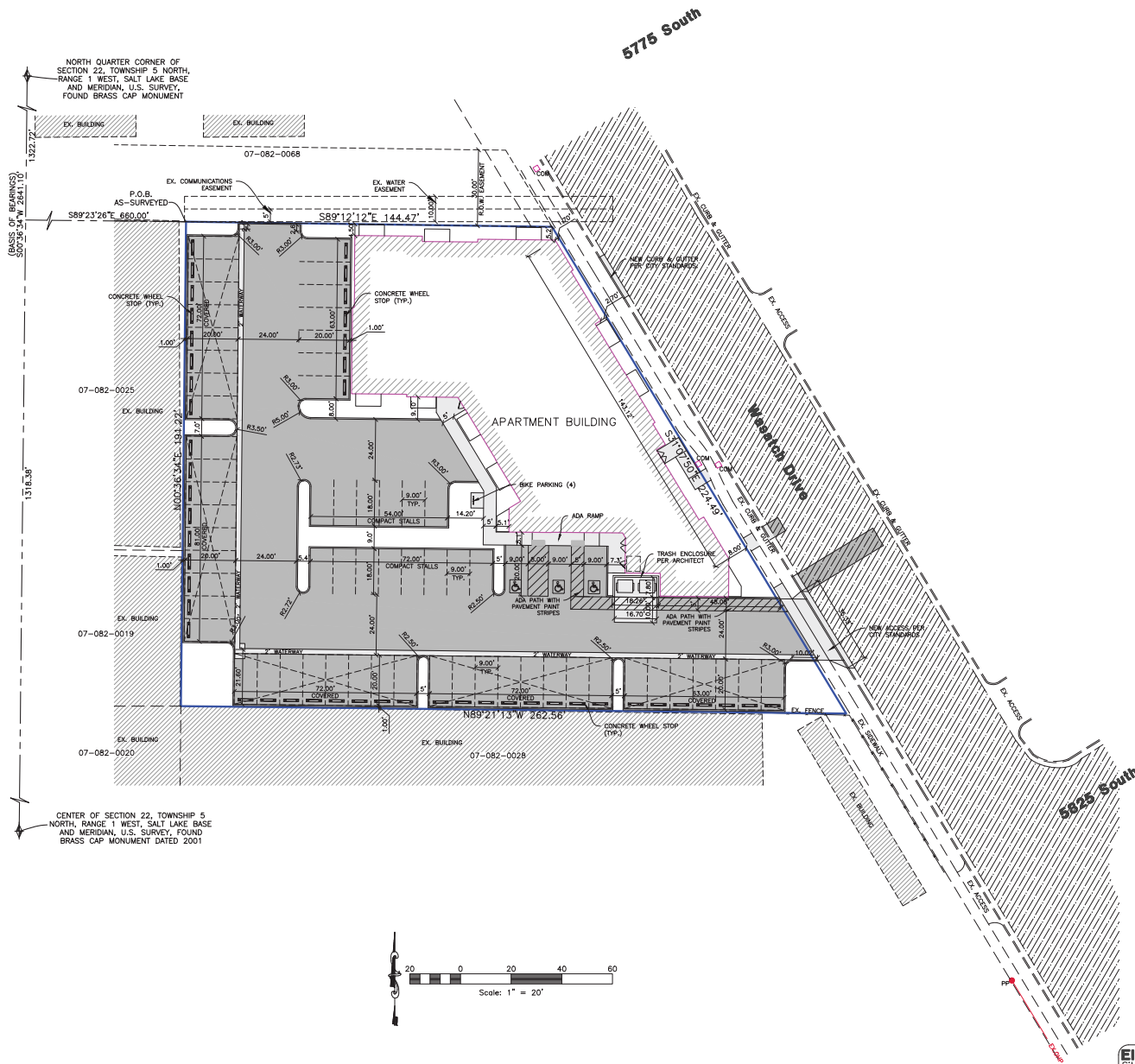
Home preschool parking/pick up would have **minimal** impact

*There is evidence that high-quality early years play-based learning not only enriches educational development but boosts attainment in children from disadvantaged backgrounds who do not possess the cultural capital enjoyed by their wealthier peers. Says Whitebread: "The better the quality of pre-school, the better the outcomes, both emotionally and socially and in terms of academic achievement."¹

"Finnish education miracle" - In my research I've learned that Finland's scholars believe that quality early childhood education is the bedrock foundation for its success, as a country, in academics. I would love the opportunity to open a preschool in my South Ogden home.

1. <https://www.theguardian.com/education/2016/sep/20/grammar-schools-play-europe-top-education-system-finland-daycare>

*In Finland "The staff-child ratio is 1:4 for under-threes and 1:7 for the older Children."



Reeve & Associates, Inc.
5160 SOUTH 1500 WEST, RIVERDALE, UTAH 84405
LAND SURVEYING • CIVIL ENGINEERING • LAND DEVELOPMENT • LANDSCAPE ARCHITECTURE

REVISIONS

DATE	DESCRIPTION
08-21-21	RH. Arch. Changes

Wasatch Point Apartments
5921 South Wasatch Drive
SOUTH OGDEN CITY, WEBER COUNTY, UTAH

Proposed Site Plan

Revised: 2021-10-27

Project Info.
Engineer: KENNETH H. HUNTER, P.E.
Drafter: R. HANSEN
Begin Date: JULY 20, 2021
Name: WASATCH POINT APARTMENTS
Number: 7152-07

C4
14 Total Sheets



EXTERIOR MATERIALS

IMAGE	MATERIAL	STYLE	FINISH COLOR
	STONE VENEER	ASHLAR OR SIMILAR	NATURAL WARM GRAY
	FIBER CEMENT SIDING	6" VERTICAL	WOOD LOOK COLOR TBD
	FIBER CEMENT SIDING	6" HORIZONTAL	SMOOTH DARK GRAY
	EIFS SIDING	PANELED	SMOOTH LIGHT GRAY
	WOOD TRIM	-	MATCH SIDING
	METAL TRIM	-	MATCH SIDING

WASATCH BLVD TRANSPARENCY

LEVEL	MATERIAL	SQ FT	%
GROUND	SOLID	1342	69%
	TRANSPARENT	721	35%
	TOTAL	2064	
2ND	SOLID	1023	64%
	TRANSPARENT	568	36%
	TOTAL	1591	
3RD	SOLID	1023	64%
	TRANSPARENT	568	36%
	TOTAL	1591	

GENERAL STOOP

PR1.4
ELEVATIONS
WASATCH DRIVE FEASIBILITY





2
PR1.6 3D View 4



1
PR1.6 3D View 7



3
PR1.6 3D View 5

PR1.6
3D PERSPECTIVE VIEWS
WASATCH DRIVE FEASIBILITY

JZW
ARCHITECTS

45 E. CENTER STREET STE 202, NORTH SALT LAKE, UTAH 84054

849 W. HILL FIELD RD. STE. 201 LAYTON, UT 84041

150 N. MAIN STREET STE. 101 HEBER CITY, UT 84032

(801) 936-1343

AUGUST 17, 2021