

SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN
COMMUNITY DEVELOPMENT
DIRECTOR

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

MEMORANDUM

August 29, 2019

To: City Council via Planning Commission
From: Community Development Department
Subject: Commercial Land Use Matrix – Kuwahara Wholesale CODE-06-19-5669
Amend Title 15A, Chapter 8, Land Uses in the Commercial,
Office, Industrial, Mixed Use, Transit Corridor, and
Research and Development Districts, Section 2, Permitted
Land Use Matrix by the Commercial, Office, Industrial,
Mixed Use, Transit Corridor, and Research and
Development Districts, Revised Ordinances of Sandy City,
2008

HEARING NOTICE: *This item has been noticed on public websites, and in the newspaper at least 10 days prior to the Public Hearing.*

REQUEST

Alex Kuwahara and Bruce Parker, representing Kuwahara Wholesale, are proposing to amend Title 15A, Chapter 8, Land Uses in the Commercial, Office, Industrial, Mixed Use, Transit Corridor, and Research and Development Districts, Section 2, Permitted Land Use Matrix by the Commercial, Office, Industrial, Mixed Use, Transit Corridor, and Research and Development Districts, Revised Ordinances of Sandy City, 2008. The purpose of the Code Amendment is to consider allowing Single-Family Dwellings as a Permitted Use in the CN(HSN) Zone (Neighborhood Commercial, Historic Sandy Neighborhood District). Their requested code amendment is detailed in their attached letter and the reasons they believe the amendment should be approved.

BACKGROUND

The City has established a land use matrix for commercial zones, wherein all land use categories are cross referenced to all established commercial zones in the City.

As it states in the beginning section of code:

A. Purpose. The commercial districts land use standards are intended to:

1. Allow a mixture of complementary land uses that may include retail, offices, commercial services, civic uses, and housing to create economic and social vitality, and to encourage the linking of trips; and
2. Develop commercial areas that encourage walking as an alternative to driving and provide employment and housing options

In this matrix, the City has sorted out uses that are deemed not compatible in commercial zone districts. Dwelling, Single Family is not permitted in any zone, except for the Mixed Use (MU) Zone.

The CN(HSN) Zone is described as follows (see section 15A-04-11(G))

Neighborhood Commercial - Historic Sandy Neighborhood District (CN(HSN)). This district is established to provide a viable commercial zoning district for those commercial areas, which border the Historic Sandy Neighborhood. The zone is created to provide the convenience shopping and service needs of the surrounding neighborhood area, while at the same time providing guidelines for development to recognize and maintain the neighborhood's unique characteristics.

ANALYSIS

The Planning Commission must review the following criteria when considering a requested Code Amendment:

Is the change reasonably necessary?

Is it in the public interest?

Is it in harmony with the objectives and purposes of the future development of Sandy City?

Is the change consistent with the General Plan?

Staff is concerned about the request, as it is not in harmony with the established practice of separating residential and commercial uses. Traditional zoning practice separates incompatible uses through different zoning districts. Residential uses are not compatible with commercial uses except in the context of a mixed-use development wherein they are made to be compatible through design requirements.

The intent to zone these properties commercial was to guide the area toward commercial investment and development of commercial uses. The existing single-family structures are able to remain and the single-family use is able to continue legally. If that use ceases for more than a year, then the legal non-conforming use status expires. The structure could only be legally used for commercial uses once it is converted for that purpose and is brought into conformity with the commercial site plan and building code standards.

It appears the intent of this request is to make the existing residential homes in the CN(HSN) Zone a legal conforming use. The impact of this decision could result in not encouraging redevelopment and conversion of single-family homes to commercial uses. It does not further the purpose of the CN(HSN) Zone.

NON-CONFORMING USES

This Code Amendment would not create any non-conforming use situations.

LAND DEVELOPMENT CODE PURPOSE COMPLIANCE

The Sandy City Land Development Code in 15A-01-03 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

15A-01-03 Purpose

This Code is adopted to implement Sandy City's General Plan and to promote: public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

1. **General**
 - a. To facilitate the orderly growth and development of Sandy City.
 - b. To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.
 - c. To stabilize property values.
 - d. To enhance the economic well-being of Sandy City and its inhabitants.
2. **Implementation of General Plan**

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.
3. **Comprehensive, Consistent and Equitable Regulations**

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.
4. **Efficiently and Effectively Managed Procedures**
 - a. To promote fair procedures that are efficient and effective in terms of time and expense.
 - b. To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.
 - c. To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.

GENERAL PLAN COMPLIANCE

The General Plan encourages appropriate development standards for all uses and zoning categories within Sandy City. This code amendment would not further that goal and objective. The proposed Code Amendment will not create consistency and equitable standards for temporary uses in the city.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a negative recommendation to the City Council to amend a portion of Title 15A, Chapter 8, Land Uses in the Commercial, Office, Industrial, Mixed Use, Transit Corridor, and Research and Development Districts, Section 2, Permitted Land Use Matrix by the Commercial, Office, Industrial, Mixed Use, Transit Corridor, and Research and Development Districts, Revised Ordinances of Sandy City, 2008, as shown in the applicant's letter based on the following findings:

1. It is not in compliance with the Purpose of the Land Development Code by creating consistency and equitable standards in Sandy City.

2. It is not in compliance with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Planner:

Reviewed by:



Mike Wilcox
Zoning Administrator



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**SANDY CITY LAND DEVELOPMENT CODE – SECTION 15A-08-02
TABLE OF USES AMENDMENT**

Section 15A-08-02 – Table of Uses (Sandy City Land Development Code) prohibits (as either a Permitted or Conditional Use,) “Dwelling, Single Family” in the Commercial-Neighborhood (Historic Sandy Neighborhood) Zoning District (CN[HSN]). Any existing Single Family Dwellings located in the CN(HSN) Zoning District are therefore Non-Conforming Uses. A Non-Conforming Use has severe use restrictions and implications including financial lending restrictions by various financial institutions. Identifying all Existing Single Family Dwellings achieves no valid public purposes but does significantly impact private property rights. A Single Family Dwelling, existing on the date of adoption or amendment of the Land Development Code prohibiting Single Family Dwellings in the CN(HSN) Zoning District should be allowed to remain as a Permitted Use. If a change in use is determined appropriate the free market will speak.

This Application proposes that the Sandy City Land Development Code, Section 15A-08-02 – Table of Uses, be amended as follows:

A new table row be created that establishes “Dwelling, Single-Family (Existing)” as a Permitted (P) Use in the Commercial Neighborhood (Historic Sandy Neighborhood) Zone.

**Planning and
Development
Services**

3007 East Cruise Way
Salt Lake City, Utah
84109

801/277/4435
Fax 801/277/4760
pds@utahplanning.com

July 22, 2019

Sandy City Planning Commission Members
c/o Mr. Mike Wilcox, Zoning Administrator
10000 S. Centennial Pkwy. Sandy, UT 84070

Dear Sandy City Planning Commissioners

The Sandy City, Community Development Department staff, has asked that the Applicant provide information related to review items 3(a) to 3(d). In the interests of giving the Sandy City Planning Commission members with the information requested, and to assist the Commission in making a positive recommendation and determinations of the four (4) review items, please accept the following:

**SANDY CITY LAND DEVELOPMENT CODE – SECTION 15A-08-02
TABLE OF USES AMENDMENT**

The Sandy City Land Use Application “Code Amendment Requirements” provides:

“3. The Planning Commission may consider the following items when reviewing the proposed Code Amendment:

- a. Is the change reasonably necessary?
- b. Is it in the public interest?
- c. Is it in harmony with the objectives and purposes of the future development of Sandy City?
- d. Is the change consistent with the General Plan?”

Item (3)(a) – Is this change reasonably necessary?

The proposed Code Amendment is necessary. Section 15A-08-02 – Table of Uses (Sandy City Land Development Code) prohibits any Single-Family Dwelling in the Commercial-Neighborhood (Historic Sandy Neighborhood) Zoning District (CN[HSN]), including an existing Single-Family Dwelling. Therefore, a Single-Family Dwellings located in the Historic Sandy Neighborhood and zoned CN(HSN) is, by the action of the Zoning District requirements, a Non-Conforming Use. A Non-Conforming Use has very severe use restrictions and implications, including financial lending restrictions by financial institutions. Identifying all Existing Single-Family Dwellings as a Permitted Use rectifies this unnecessary regulation for all Single-Family Residential Dwellings located in the CN(HSN) Zoning District, established before the enactment of the zone.

Item (3)(b) – Is it in the public interest?

Creating a use as nonconforming should be a very deliberate decision, intended to achieve a valid public purpose. It is challenging, if not impossible, to envision any public interest being achieved by imposing nonconforming use status on any Single-Family Dwelling that existed before CN(HSN) Zoning District adoption. The Sandy City General Plan presents no rationale for such a regressive regulation. However, several City General Planning policies support the approval of the Land Use Code amendment, including “Housing; Goal 3. Community – *Encourage the preservation, upkeep, and maintenance of existing housing,*” and Item #1 “*Encourage neighborhood commercial development that will enliven street fronts and service the needs of the residential neighborhoods in the area (State Street and 700 East)*” (Historic Sandy Neighborhood Plan).

Item (3)(c) – Is it in harmony with the objectives and purposes of the future development of Sandy City?

The Sandy City – Historic Sandy Neighborhood Plan, adopted October 2006 (Retrieved July 2019 from <https://sandy.utah.gov/departments/community-development/planning/long-range-planning/area-master-plans#historic>) refers to the area bounded by 8400 South, 700 East, 9000 South, and State Street as the “original square mile of Sandy City.” The Historic Sandy Neighborhood “is the oldest neighborhood” of Sandy City. As the City’s oldest neighborhood, a variety of existing uses predate the Sandy City Land Development Code, including Single-Family Residential Homes on State Street.

The Sandy City General Plan adopted, but undated (<https://sandy.utah.gov/departments/community-development/planning/long-range-planning/sandy-city-general-plan>) provides nine (9) Chapters. Chapter 2 – Goals and Policies provides many policies supporting this Code Amendment Application. For conciseness, however, only a few will be presented but certainly enough to demonstrate the General Plan’s clear support.

Policy 2.3 Endeavor to include unique facilities in each community that will attract residents not only from that community but other areas of the city as well.

Commercial/Industrial Zoning and Development

1.6 Provide alternatives for rectifying inconsistent zoning.

a. Consider changing zone designation to an existing noncommercial zone designation that would still allow a satisfactory economic return to the property owner.

5.1 Provide for large minimum lot sizes for all future commercial uses that will discourage cluttered, strip development.

Housing

3. Community – Community Encourage the preservation, upkeep, and maintenance of existing housing.

Several Moderate-Income Housing policies also support the retention of existing housing stock.

Item 3(d). Is the change consistent with the General Plan?

The Historic Sandy Neighborhood Plan provides eight (8) actions for the achievement of several Plan goals (below).



Historic Sandy Neighborhood Plan

Neighborhood Commercial Action Plan

	Action	Goal	Participation By	Time Frame
1	Encourage neighborhood commercial development that will enliven street fronts and service the needs of the residential neighborhoods in the area (State Street and 700 East)	Economic growth and development Integrate existing neighborhoods	Businesses Developers Local Government	Immediate
2	Revitalize the commercial areas along State Street and some sections of 700 East through the Historic Sandy Neighborhood in such a way as to provide a catalyst for improving the surrounding area.	Economic growth and development	Businesses Developers Local Government	Long-Term
3	Encourage new commercial developments to comply with the Historic Sandy Design Guidelines (State Street and 700 East).	Preserve and enhance existing neighborhood	Developers Local Government	Immediate
4	Create new ordinances or amend existing ordinances, if necessary, for the commercial areas along State Street.	Revitalization and economic growth and development	Businesses Developers Property Owners Local Government	Immediate
5	Encourage the design of new commercial developments to be compatible with and provide greater connectivity between existing land uses (State Street and 700 East).	Greater connectivity between activity centers, businesses, etc.	Businesses Developers Local Government	Ongoing
6	Enhance the pedestrian scale through well designed amenities (State Street and 700 East).	Economic growth and expanded mobility options	Businesses Developers Local Government	Ongoing
7	Encourage improvements to pedestrian infrastructure and traffic calming measures along State Street through the Historic Sandy Neighborhood.	Economic growth and development Create a safe situation for pedestrians along State Street	Businesses Local Government	Ongoing
8	Work with the Economic Development Department to create incentive programs that will help stimulate new neighborhood commercial development and take full advantage of the high traffic volume on State	Broad, stable economic base	Businesses Developers Local Government	Ongoing

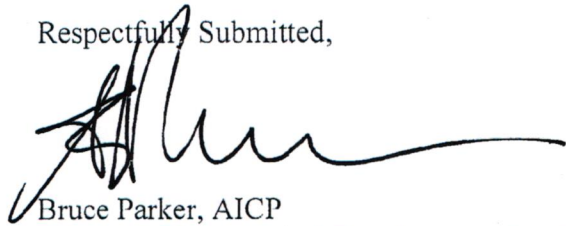
The most applicable Actions directly related to the requested Code Amendment are:

- #1. Encourage neighborhood commercial development that will enliven street fronts and service the needs of the residential neighborhoods in the area (State Street and 700 East)
- #2. Revitalize the commercial areas along State Street and some sections of 700 East through the Historic Sandy Neighborhood in such a way as to provide a catalyst for improving the surrounding area.
- #4. Create new ordinances or amend existing ordinances, if necessary, for the commercial areas along State Street.

Recognizing the City's policy foundations more than adequate support exists for the approval of the proposed Code Amendment. The requested Code Amendment is an amendment of existing ordinances for the commercial areas along State Street. When balanced with the City's housing policies, this Code Amendment should receive a positive recommendation from the Planning Commission to the Sandy City Council.

A new row be provided in the Table of Uses to establish "Dwelling, Single-Family (Existing)" as a Permitted (P) Use in the Commercial Neighborhood (Historic Sandy Neighborhood) Zone.

Respectfully Submitted,



Bruce Parker, AICP
Principal, Planning and Development Services
Authorized Agent for Applicant