HYRUM CITY
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# City Council Agenda Information

**To:** Mayor Miller and City Council

**From:** Tony Ekins, City Planner

**Date:** July 31, 2026

**Subject:** Misti Hamaker, Rezone R-2 to C-2 – Discussion with the City Council to consider rezoning from Residential Zone R-2 to Commercial Zone C-2 located at 400 West Main Street.

**Summary:**
The Applicant would like to provide an update from the previous City Council discussion regarding certain restrictions that are associated to the property located at 400 West Main Street.

The last City Council meeting on July 16, 2026, the City Council discussed scenarios that may or not support the rezoning of the property to accept a professional child care use. The following bullet points outline key points of the discussion:

- There was discussion rezoning the property to a commercial zone which would permit uses that are not otherwise permitted in the current residential zone.
- There was discussion regarding spot zoning from residential to commercial across 400 West street.
- There was discussion regarding the current General Plan guiding the property to remain residential. The General Plan update draft staff recently reviewed with the consultant on July 30th still guides the property as residential.
- There was discussion regarding the traffic loads at the intersection during middle school drop off and pick up times.
- There was discussion regarding the school round about and traffic patterns that may present drop off options for a private child care. A fence around the property parcel can eliminate drop offs from occurring near the building.
- The City Council advised the applicant to return the application with either an affidavit signed by the property owner of record or the applicant being the property owner of record.
- There was a question from the City Council whether the property could be rezoned with an affidavit signed by the property owner of record whereas the property owner is not petitioning the rezone. Staff consulted with the City Attorney and the attorney advised the City Council to never rezone any property without the property owner petitioning for the rezone and submitting and signing the rezone application.

**Previous Summaries:**
The applicant desires to operate a professional child care in the existing LDS Seminary Building located at 400 West Main Street. The current Hyrum City Zoning Ordinance is regulating professional child care as a permitted accessory use in the R-2 and C-2 zone districts meaning that a primary use must

be occupied in any building before the professional child care use. For example, in a residential zone a single-family dwelling must be in use to operate a professional child care at the home. In the commercial zone, a permitted commercial use must be operating in a commercial building to operate a professional child care in the building.

At this time the applicant has an offer submitted to acquire the property from the property owner. To staff understanding, the property owner will no longer be accepting offers on July 13, 2026. The applicant has explained to staff the property owner is aware of the rezone application as well as the applicant is coordinating with the property owner's agent for the rezone. Hyrum City staff also notified the property owner of record according to the records of the county recorder.

Staff advised the applicant they may petition the rezone application to the Planning Commission and City Council to assist them through their due diligence process in determining how and if the site can accommodate a primary or conditional professional child care use. However, staff also advised the applicant the rezone may or may not be accepted. If the City Council determines that a rezone is the best path moving forward, staff recommends the City Council temporarily table the application and advise the applicant to return to an upcoming City Council meeting with either a notarized and signed property owner avadavat or applicant ownership of the property.

**Planning Commission Summary:**
On July 9, 2026, the Planning Commission held the required public hearing and the public comment was presented as follows:

- A citizen who lives across the street supports a private child care use at the property because it is generally unused a lot of the time but also expressed on-site parking concerns and noted there are only 6 parking stalls on the property that are not ADA parking stalls and the citizen also mentioned there is a feral cat colony.
- Staff received a comment by telephone from a Hyrum City Senior Citizen who supported the application for a private child care to operate at the location.

The Planning Commission discussed scenarios the staff presented in the staff evaluation. They found that an accessory use in a residential zone is appropriate should remain as is. They view the existing building and lot as a commercial type by nature, accommodating to a commercial use, and proximity to the existing Commercial Zone C-2.

The Planning Commission made a motion (4-0 vote) to recommend approval to the City Council with the following conditions:

- The current property owner Corp Presiding Bishop LDS be in consent or the Hamaker themselves be the property owner.

**Attachments:**
1. Applicant Submitted 400 West Main Street Proposed Improvements

## Benefits to the community

### Utah is a  “Child Care Desert”

Utah recently ranked in the **top 10 worst** places to live in the USA according to an article by CNBC. **Lack of child care was one of the 3 reasons** listed for Utah’s low ranking.

Childcare availability acts as essential community infrastructure that directly dictates local economic health, household stability, and long-term public resources. When a community lacks reliable, accessible childcare, a cascading ripple effect alters the overall quality of local life.

Statewide in Utah, licensed programs meet only about **36% of the potential need** for children under six. In Cache County alone, there are over 6,300 children under 6 potentially needing childcare and only 1,900 available spots. **This project will immediately open 70 spots** for the south side of Cache County, filling an incredible need.

### We bring High Paying, Flexible Jobs to the Community

We currently employ 11 local adults and 2 high school students. We estimate that by opening this center, **we would add another 23 high paying, flexible jobs** to the community.  Our starting wage is $20 for the adults, the highest in the state for child care and much higher than minimum wage.

We employ an underemployed segment of the population. We hire people that may otherwise not have a job because they still have children at home. We do this by allowing them to bring their children with them.

We allow flexibility in schedule. One of our senior citizen employees works 2 hours a day because that is what she has the energy for. We work around staff going back to school, children's school schedules, and encouraging staff to take time off for family events.

### We help solve problems for parents and the community

Due to some budget restrictions, there will be no after school program at Canyon Elementary this year, our plan is to work with the schools and parents to help provide that much needed program at this new facility.

To help parents  support their children's academic and personal growth without having to miss work, we intend to provide various programs, such as music instruction, and private and semi-private after-school tutoring.

Many of our clients are school teachers and staff, we support the school system by providing convenient childcare to those employees.

We provide education, nutritious meals, a safe environment and stability for the children in our community.

**Why this building is so important**

We started our business six years ago, and have grown every year. We currently operate two in-home childcare facilities, meaning we are at the legal limit.The only way for us to legally grow our business is to open a center

In our year-long search for a building to expand our child care business, we have found it extremely difficult to find a building that meets state certification requirements without major construction and changes that would make it unprofitable.

This building is an anomaly in that it would require no structural changes to be licensed and operated as a state certified child care center. This building has the mandatory attached outdoor play area with ample space. It has required fire doors in each classroom, which connect to the play area (state required). It has the necessary number of restroom facilities, along with many other requirements to achieve state certification. This makes it much more financially viable, meaning it’s much more likely to succeed.

**A vision for the future**

We have been in business for 6 years, and continue to grow. The need for childcare will only grow in the coming years.

This building is perfectly sized for the needs of Hyrum. When we reach max capacity, we will keep this location and start an additional location in a neighboring town, according to local needs.

Since using this property for a childcare facility represents its ultimate and best use, any sale of the real estate would be packaged with the company as a going concern.

**As elected officials of the city, your primary responsibility and job is to actively help Hyrum become the best possible place to live for all its residents. Please don’t say no to so many good things and impactful opportunities today simply because of speculative concerns about what may happen 50 years from now.**

## Expressed Concerns

At the last city council meeting, some of the council members brought to light specific concerns regarding the recommended rezoning. We have addressed each concern below.

**Concern 1: Potential Future Uses**

One main concern expressed was that by changing zoning from R-2 to C-2, that upon sale or possible business change any owners may put a business here which would be potentially disruptive to the nearby homes and schools.

As members of this community, we share this concern. However, there are several considerations which would keep this from happening.

**A)** Use Restrictions All sales of church owned buildings from the Church of Jesus Christ of Latter-Day Saints have a Use Restrictions clause attached to their contract. These Use Restrictions are enforceable by law and pass on to any future owners or buyers for the next 50 years or until the demolition of the building.

These use conditions are as follows:

1. any public or private nuisance;
2. any business, trade or activity which, in Grantor's sole opinion, is noxious,
3. unreasonably noisy, or offensive;
4. the making, storing, reading, showing, viewing, playing, listening, renting, selling, transmitting, receiving or distributing of any material, regardless of form or medium, having, in Seller's sole opinion, morally offensive content appealing to prurient interest in sex;
5. the manufacture, storage, sale or consumption of drugs, alcoholic beverages, or tobacco products; (v) any form of gambling or betting;
6. loitering;
7. a place of public entertainment or amusement (as defined by local statutes or ordinances); or
8. any other conduct or condition which is illegal and is not otherwise expressly mentioned above

*Exhibit 1* (below) is the actual clause from the purchase contract. The Grantor, in this case the LDS Church, could pursue injunctions against any use listed.

**B)** Potential Deed Restrictions.
To alleviate any additional concerns regarding future use, we would be willing to explore adding deed restrictions to the property to prevent reasonable specific uses to the property. These deed restrictions would be enforceable by similar means to the Church's Use Restrictions.

**C)** Highest and Best Use (HBU)

HBU is a real estate and appraisal concept defining the most profitable, legally permitted, and physically possible use of a property. It must be financially feasible and result in the highest present value. Investors and appraisers use it to determine market value regardless of current use. To determine a property's HBU, appraisers and investors apply four tests. HBU analysis of this property would deter most businesses from attempting to use the property.

1. **Legally Permissible:** *The proposed use must comply with local zoning codes, land-use restrictions, and building regulations.* The above mentioned restricted uses, would prevent most objectionable uses which would otherwise be allowed in C-2 zoning. Additionally, any plans to demolish the building and build new would be subject to obtaining building permits from the city, allowing the city to have some control over future use.
2. **Physically Possible**: *The site must be large enough, appropriately shaped, and capable of supporting the intended use (e.g., soil conditions, utility access, and topography).* While the lot size is .95 acres, due to the shape and size, a large part of that acreage is used for the access road and parking. This leaves only about .4 acres for the actual building and usage on this lot. This severely decreases the viability for most businesses who might demolish the building to build something else. Since the current building uses the maximum footprint for the space, there could be no added outbuildings or storage on the lot.
3. **Financially Feasible:** *The use must generate enough income or value to justify the costs of development, construction, and operation.* This property has been for sale before, with no one buying it due to the cost of construction to make it usable for most other purposes. Because it was built as a school, it’s perfect for childcare and private school usage. It already fulfills most all the requirements for licensing for those uses, with minimal cost for any minor changes. The features of this building make it one of the only buildings in the county which are financially feasible for a childcare center.
4. **Maximally Productive:** *Out of all feasible uses, it must be the option that yields the highest financial return or maximum value to the land owner.* Due to the usable acreage and structure of the building itself, it lends itself to very few of the listed C-2 uses, mostly office uses and schools. The maximum return for a property like this is as a school, private school, or child care center, due to the minimal required modifications. Additionally, if we were to sell this, we’d most likely sell it as a going concern, meaning that anyone buying it would be buying the business along with the building.

**Concern 2: Traffic during pickup/drop-off.**

One of the concerns expressed was the possibility of a childcare facility increasing traffic at the intersection at 400 West and Main 7:35 to 8:10 am and from 2:25 to 2:40 pm during drop-off and pickup times. Let’s Play Childcare uses a system called BrightWheel to manage and track our clients. It keeps very accurate data for check in and check out times.

*Drop-off*

According to our records,  during school months we served 38 children at our current locations. We had 2 parents who dropped off their children between 7:35 and 8:10 am . At max capacity at the new center we would have 70 children, meaning we would **potentially increase morning traffic by 2-5 cars total** at maximum capacity for this location.

*Pickup*
From 2:25 to 2:40 we have 0 parents picking up kids. It's possible that we could **potentially decrease afternoon pickup traffic** because of the after school programs.

**Concern 3: Parking and Drop-off Mingling with School**

One concern involved the possibility of our clients using the middle school parking and drop-off loop. We plan to address this in a few ways.

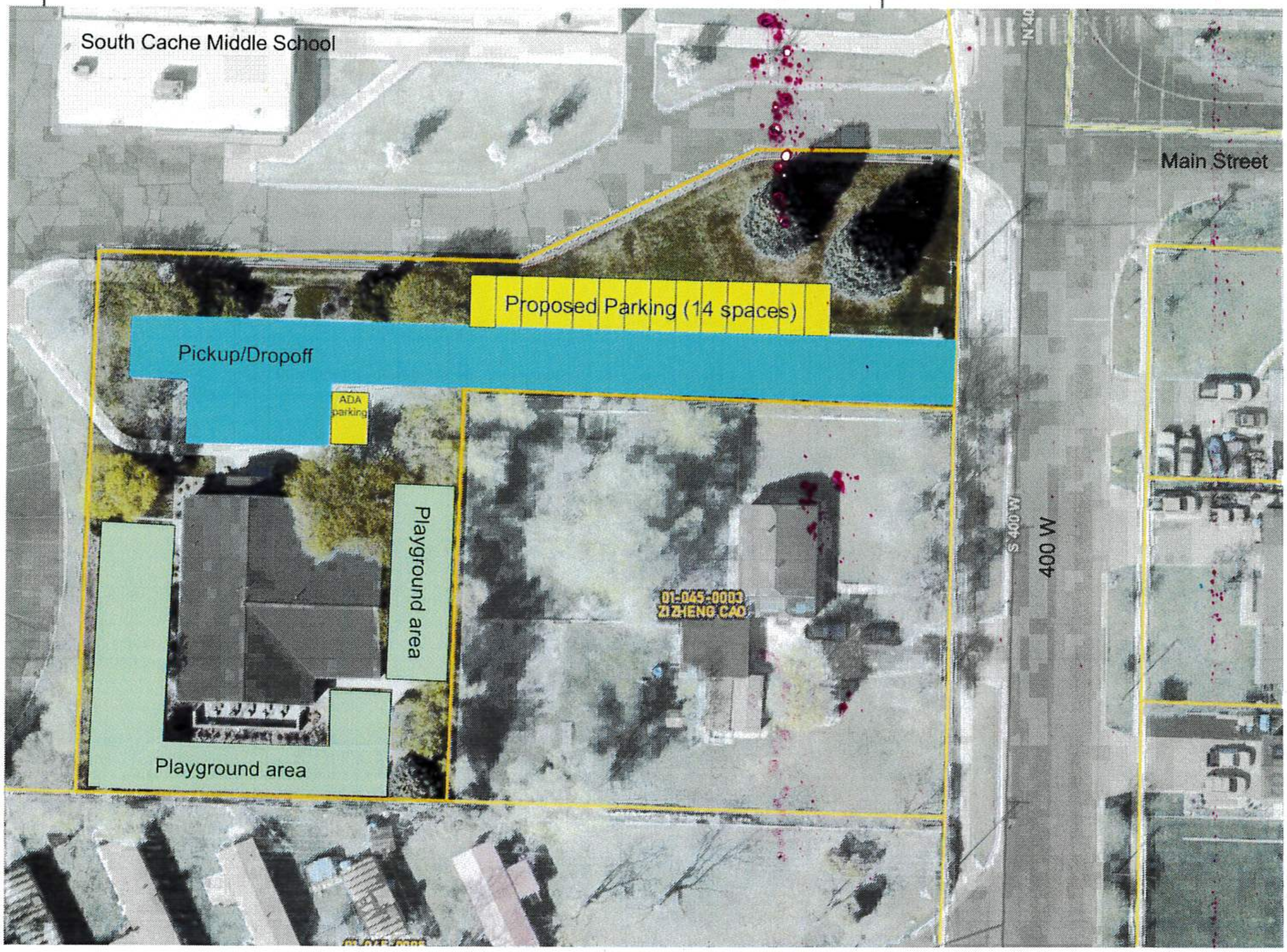
1. Installing fencing and removing walkways. By limiting access, we can prevent our clients from using parking and drives that aren't on our property.
2. By adding additional parking on our property, we can make it so our staff and clients have a place to conveniently park and drop off without using the street of school property.

**Exhibit 1**

USE RESTRICTIONS

The conveyance of the Property is made and is subject to the following restrictive covenants, each created by Grantor to protect the image and integrity of the Property and the improvements placed thereon as former places of worship, that Grantee or any of Grantee's heirs, successors or assigns will not use the Property for the following: (i) any public or private nuisance; (ii) any business, trade or activity which, in Grantor's sole opinion, is noxious, unreasonably noisy, or offensive; (iii) the making, storing, reading, showing, viewing, playing, listening, renting, selling, transmitting, receiving or distributing of any material, regardless of form or medium, having, in Seller's sole opinion, morally offensive content appealing to prurient interest in sex; (iv) the manufacture, storage, sale or consumption of drugs, alcoholic beverages, or tobacco products; (v) any form of gambling or betting; (vi) loitering; (vii) a place of public entertainment or amusement (as defined by local statutes or ordinances); or (viii) any other conduct or condition which is illegal and is not otherwise expressly mentioned above (collectively, "Use Restrictions"). The foregoing Use Restrictions will be binding upon all persons now having or hereafter acquiring any right, title or interest in the Property. If Grantee or any of its heirs, successors or assigns transfers the Property, Grantee and its heirs, successors or assigns will include the Use Restrictions in the deed of such conveyance. If a violation of the Use Restrictions occurs, then Grantor may obtain an injunction enforcing the Use Restrictions and Grantor will be entitled to reasonable attorneys' fees and costs from Grantee incurred in the enforcement thereof. A violation of any of the Use Restrictions, or injunctive relief obtained by Grantor by reason of such breach, will not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the Property or any part thereof, but the Use Restrictions will remain binding upon, and effective against, any owner whose title to the Property or any part thereof, is acquired by foreclosure, trustee's sale or otherwise. The Use Restrictions will terminate and be of no further force or effect upon the earlier to occur of: (a)(i) the demolition of Grantor's buildings on the Property and (ii) the transfer of any real property owned by Grantor or its affiliates that abuts the Property; and (b) the 50-year anniversary of the date of the recording of this conveyance.

400 West Main Street Proposed Improvements




Current Zoning & Proposed Changes