



## Planning Commission Hearing Staff Report Hearing Date: February 26, 2020

**\*ITEM #4** The Provo City Community and Neighborhood Services Department requests an Ordinance Text Amendment to the Professional Office (PO) Zone (Section 14.16.020) to allow private educational services as a conditional use. Citywide application. Robert Mills (801) 852-6407 rmills@provo.org PLOTA20200047

**Applicant:** Provo City Community and Neighborhood Services Department

**Staff Coordinator:** Robert Mills

**\*Council Action Required:** Yes

### **ALTERNATIVE ACTIONS**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is March 11, 2020 at 6:00 PM.*
2. **Deny** the requested Project Plan. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

**Relevant History:** Currently public schools are permitted in any zoning district; however, private educational institutions are not permitted in the Professional Office (PO) Zone. After evaluation of an operational private school, the Community and Neighborhood Services Department that private educational facilities could function well in the PO zone as a conditional use with the proposed specific conditions.

**Staff Recommendation:** Staff recommends the Planning Commission forward a positive recommendation of the requested Ordinance Text Amendment to the Municipal Council.

## **OVERVIEW**

The proposed Ordinance Text Amendment is a staff-initiated amendment to add “Educational Services” to the list of conditional uses in the Professional Office (PO) zone. Public and charter schools are already permitted, by right, in any zoning district; however, a private educational facility is not currently permitted in a PO zone because “Educational Services” is not listed in the list of permitted uses. Staff feels that, with adherence the proposed conditions, private educational facilities are compatible with other uses in the PO zones.

It was recently brought to the attention of staff that a private school occupies an existing office building in an existing PO zone. The school was initially permitted there because it was thought to be a charter school; however, it is actually a private school and, therefore, not currently permitted. The school has been operational for several months and does not seem to be causing major impacts to the surrounding properties, and so, the proposal to allow private educational facilities as conditional uses, with specific codified conditions, seemed the logical way to allow the school to continue operating in the zone.

The proposed amendment enumerates specific conditions that a private educational facility will be required to adhere to when operating in a PO zone. These conditions include:

1. Following the parking provisions of Section 14.37.060 of the Provo City Code;
2. Having a detailed parking and circulation plan prepared by a professional which empirically concludes the existing or proposed facility will not negatively affect area traffic or surrounding uses;
3. Conform to all health, safety, and building codes; and,
4. No exterior lighting shall shine directly into adjoining properties.

## **FINDINGS OF FACT**

1. By state law, public and charter schools are allowed in any zoning district.
2. Private educational facilities are not granted the same zoning immunities public and charter schools are given even though they function in a very similar manner.
3. The proposed amendment will apply to all PO Zones in the City.

## **Analysis**

Section 14.02.020(1) of the Provo City Code states the following regarding amendments to the Planning and Zoning Title and to the General Plan:

*“Amendments shall not be made . . . except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors.”*

Additionally, guidelines for consideration of an amendment are set forth in Section 14.02.020(2) of the Code and are listed below. Staff analysis is provided after the individual guidelines in **bold**.

(a) Public purpose for the amendment in question.

**The amendment seeks to allow private educational facilities as conditional uses within the PO zones in the City.**

(b) Confirmation that the public purpose is best served by the amendment in question.

**The public purpose is served because educational facilities are an important part of the community and provide a significant public benefit. Some residents prefer alternative educational options from traditional public or charter schools. This amendment seeks to enable private educational facilities to operate in PO zones with specific conditions.**

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

**Several of the General Plan policies, goals, and objectives seek to enhance educational opportunities within the City; therefore, the proposed amendment is consistent with those policies, goals, and objectives.**

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

**No conflicts.**

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

**The proposed amendment is unlikely to hinder or obstruct attainment of the General Plan's articulated policies.**

(f) Adverse impacts on adjacent land owners.

**No adverse impacts are anticipated.**

(g) Verification of correctness in the original zoning or General Plan for the area in question.

**The amendment applies citywide.**

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

**No such conflict is anticipated.**

### **RECOMMENDATION**

Staff recommends the Planning Commission forward a positive recommendation of the proposed amendment to allow “Educational Facilities” as conditional uses to the Municipal Council for approval.

### **ATTACHMENTS**

1. Proposed Language of the Amendment

Attachment 1 – Amendment Language

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**Chapter 14.16**  
**PO - PROFESSIONAL OFFICE ZONE**

Sections:

- 14.16.010 Purpose and Objectives.**
- 14.16.020 Permitted Uses.**
- 14.16.025 Single Ownership or Control.**
- 14.16.030 Lot Area.**
- 14.16.040 Lot Width.**
- 14.16.050 Lot Frontage.**
- 14.16.060 Prior Created Lots.**
- 14.16.070 Area of Zone.**
- 14.16.075 Professional Offices on Less Than One Acre.**
- 14.16.080 Yard Requirements.**
- 14.16.090 Projections Into Yards.**
- 14.16.100 Building Height.**
- 14.16.110 Distance Between Buildings.**
- 14.16.120 Permissible Lot Coverage.**
- 14.16.130 Parking, Loading, and Access.**
- 14.16.140 Project Plan Approval.**
- 14.16.150 Reversion of Zoning.**
- 14.16.160 Other Requirements.**

**14.16.010**  
**Purpose and Objectives.**

The Professional Office (PO) zone is established to provide locations beyond the central area of the City, primarily along arterial or major collector streets which will accommodate offices or laboratories for professional persons and other related uses. This zone should not be established in a “strip” zoning manner along major streets but should be concentrated to provide easy accessibility to the public. The zone is intended to provide availability of professional services conveniently to all neighborhoods in the community. Uses permitted in the PO zone would typically include offices for doctors, dentists, accountants, and other similar professions, medical and dental laboratories, and pharmacies.

### 14.16.020

#### Permitted Uses.

- (1) Those uses or categories of uses as listed herein, and no others, are permitted in the PO zone.
- (2) All uses listed herein are listed by number as designated in the Standard Land Use Code published and maintained by the Planning Commission. Specific uses are identified by a four-digit number in which all digits are whole numbers. Classes or groupings of such uses permitted in the zone are identified by a four-digit number in which the last one (1) or two (2) digits are zeros.
- (3) All such categories listed herein, and all specific uses contained within them in the Standard Land Use Code, will be permitted in the PO zone subject to the limitations set forth herein.
- (4) *Permitted Principal Uses.* The following principal uses and structures, and no others, are permitted in the PO zone:

Use No.	Use Classification
4811	Electric transmission right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity.)
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (Predominantly covered pipes or boxes)
4923	Travel Agencies

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Use No.	Use Classification
5912	Prescription pharmacy (intended for the convenience of permitted establishments and/or clients thereof, provided that no business occupies more than fifteen percent (15%) of the total floor area of the building in which it is located and has no separate entrance)
6100	Financial, Insurance and Real Estate Services
6311	Advertising services (office only)
6320	Consumer credit services
6330	Duplicating, stenographic, and office services
6340	Dwelling, janitorial, and other building services (office only)
6350	News syndicate services (office only)
6360	Employment services
6390	Miscellaneous business services (office only)
6500	Professional Services (except 6513, 6515 Behavior, drug and alcohol treatment; office only, no lodging or bed facilities, 6516)
6710	Executive, legislative, and judicial offices
6900	Miscellaneous service organizations (office only)
7112	Museums
7398	Video Rental Shops

(5) *Permitted Accessory Uses.* Accessory uses and structures are permitted in the PO zone provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

- (a) Accessory buildings such as garages, carports, supply storage buildings, and similar structures which are customarily used in conjunction with, and are incidental to, principal uses and structures allowed in the PO zone; and
- (b) Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site or

immediately adjacent thereto and provided that such use shall be for only the period of construction and thirty (30) days thereafter.

(6) *Conditional Uses.* The following uses and structures are permitted in the PO zone only after a Conditional Use Permit has been approved, and subject to the terms and conditions thereof.

Use No.	Use Classification
4700	Communications (Subject to Section <a href="#">14.34.420</a> , Provo City Code)
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4834	Water storage as part of a utility system (covered including water storage standpipes)
4872	Debris basin (A dam and basin for intercepting debris)
4874	Spreading grounds (Area for percolating water into underground)
5320	Mail and phone order houses (Only on in historic buildings arterial streets)
5391	Dry goods and general merchandise (yarn, linen, crafts, fabric, etc.) (Only in historic buildings on arterial streets)
5441	Candy, nut, and confectionery (only in historic buildings)
5600	Apparel and accessories (Only in historic buildings on arterial streets)
5811	Restaurants, subject to the following conditions:  (a) that the restaurant be architecturally compatible with surrounding buildings;  (b) that there be no short-order/fast food or drive-in restaurants;  (c) that signs, landscaping, number of employees, and distance from existing commercial zones, and related matters, shall be factors considered in the review and approval of a conditional use permit.



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Use No.	Use Classification
5900	Miscellaneous retail trade (except 5912, 5920, 5930, and 5980; only in historic buildings as defined in this Title)
5932	Second hand clothing, shoes, furniture and books (does not include 5933, flea markets, or 5936, thrift stores) (Only on arterial streets)
6220	Photography studio (Only in historic buildings on arterial streets)
6230	Beauty and barber shop (Only in historic buildings on arterial streets)
6241	Mortuary (Only in historic buildings on arterial streets)
6299	Wedding chapels and reception centers
6513	Hospitals
6515	Behavior, drug & alcohol treatment
6516	Sanitariums, convalescent and rest home services
6722	Police protection and related activities, branch (Office only)
6800	Educational Services (Subject to the provisions of Section 14.34.520 of the Provo City Code.)
8221	Veterinarian services, subject to the following conditions: <ul style="list-style-type: none"><li>(a) experimental or scientific research activities are prohibited</li><li>(b) no on-site disposal of dead animals</li><li>(c) the facility shall be located completely within an air-conditioned and soundproofed building</li><li>(d) animal noise shall not be audible at the nearest property line</li><li>(e) overnight boarding shall be limited to animals receiving treatment on the premises</li><li>(f) services shall be limited to small animals only</li><li>(g) no services shall be permitted for</li></ul>

14.34.520

### **Educational Services as a Conditional Use.**

Private Educational Services, when allowed as a Conditional Use, shall be approved only in compliance with the applicable zoning district regulations, Section [14.02.040](#), Provo City Code, and the following:

- (1) Parking requirements shall follow the provisions enumerated in Section 14.37.060, Provo City Code, relating to schools.
- (2) A detailed parking and circulation plan shall be prepared by an engineer, architect, planner, or other similar professional, which empirically concludes that the existing or proposed facility will not negatively affect area traffic, surrounding land uses, or properties. The parking and circulation plan shall include:
  - (a) A designated drop-off and pick-up zone sufficient for the student population; and
  - (b) Sufficient cueing space on the property to prevent vehicle back-ups on city streets during drop-off and pick-up times.
- (3) Such use shall conform to all applicable health, safety, and building codes.
- (4) No exterior lighting shall shine directly into adjoining properties.