



## **PROVO MUNICIPAL COUNCIL**

### **Redevelopment Agency of Provo**

#### **Regular Meeting Minutes**

5:30 PM, Tuesday, September 15, 2015  
Room 200, Municipal Council Chambers  
351 West Center, Provo, Utah

## **Opening Ceremony**

### **Roll Call**

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member Gary Garrett	Council Member Kim Santiago
Council Member Vernon K. Van Buren	Council Member Gary Winterton
Council Member Harold L. Miller, Jr.	Council Member David Sewell
Council Member Calli Hales	CAO Wayne Parker
Deputy Mayor Corey Norman	Deputy City Attorney Brian Jones
Council Executive Director Matthew Taylor	

Conducting: Council Chair Gary Garrett

**Invocation and Pledge** – Matthew Taylor – Council Executive Director

**Approval of Minutes** – September 1, 2015 Council Meeting Minutes

**Motion:** Council Member Kim Santiago moved to approve the minutes. The motion was seconded by Council Member Gary Winterton.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

## **Presentations, Proclamations and Awards**

### **1. A presentation by the Covey Center.**

Paul Duerden, Covey Center for the Arts Manager, announced a Clean Comedy Festival would be held at the Covey Center on September 18 and 19, 2015. Headliners included Jason Hewlett (coming out of semi-retirement for this performance) and Rodney Norman. Comedy workshops would be held on Saturday for aspiring comedians. A video giving a brief performance by Rodney Norman was shown.

## **2. A presentation on the Mayor's photo contest winners.**

Wayne Parker, Provo City Chief Administrative Officer (CAO), presented awards to the following 2015 Provo City Photo Contest winners. He indicated that more than 400 photos had been submitted. Photos were on display in the mezzanine area outside the council chambers.

### Provo Scenery

Third Place \$50 - Amber Smith

Second Place \$100 - Jacob Keele

First Place \$300 - Dakota Williams

### Provo Life

Third Place \$50 - Emma McAdam

Second Place \$100 - Laci Gibbs

First Place \$300 - Alice Cannon

### Provo Architecture

Third Place \$50 ea - Jason Lewis & Melissa Hernandez (tie)

Second Place \$100 - Carey Moore

First Place \$300 - Beau Sorensen

### Best Overall Photo - \$500

Christina Bartholomew

## **Public Comment**

Melanie McCoard, Provo, announced that architect Ross Chapin would be in Salt Lake City from October 12-15 to make presentations concerning pocket neighborhoods. She had contacted Mr. Chapin about taking an extra day and coming to Provo to make a presentation. His rate was \$800 per day plus lodging so she asked the Council if they would be interested in helping sponsor a presentation in Provo. She was going to try to raise some funds also to help bring him to Provo. Ms. McCoard reminded the council that she was not going to let go of this issue and invited them attend one of his seminars in Salt Lake City with her.

There were no more public comments.

## **Mayor's Items and Reports**

### **3. A resolution approving a lease agreement between Provo City and Utah Transit Authority regarding various Provo City streets for the purpose of constructing a Bus Rapid Transit (BRT) System. (15-110)**

The applicant requested that this item be continued in order to work out some of the engineering language in the lease agreement.

**Motion:** Council Member Vernon K. Van Buren moved to continue this item until the next council meeting. The motion was seconded by Council Member Kim Santiago.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

## **Policy Items Referred from the Planning Commission**

### **4. A public hearing on an ordinance amending the zone map classification of approximately 4.38 acres of real property, generally located at 1040 South 1000 East, from RC (Residential Conservation) and CM (Heavy Commercial) to MDR (Medium Density Residential). Spring Creek Neighborhood. (13-0003R)**

Bill Peperone, Community Development Assistant Director, presented. The property in question was on south State Street and was surrounded by Carpenter Seed to the east, a private business to the north, mixed density housing on the south, and a single family residential development on the west. Some of the concerns expressed by the staff and Planning commission included:

- Access to the proposed development – 1000 East was the only fully improved street that led into the area. A possible 2<sup>nd</sup> access, required by city code, was 1060 South which did not meet the standards. If the road was fully improved it would be very close to the fronts of several of the homes on the north and south sides.
- Scale of the buildings – the proposed development would be three-level condos which would be out of scale with the neighborhood and did not relate to the surrounding neighborhood.
- Fencing surrounding the project – by building a fence all around the project it isolated the development from the neighborhood. Also, there would be narrow spaces between the fence and building in several areas.
- Underground parking – access to the underground parking posed problems for the residents.
- Safety concerns – there were some safety issues associated with the units to the south. Residents would have to travel south on 1000 East to 1140 South in order to access State Street. Because of people parking on State Street turning left onto State Street would not be safe. The other option would be to take 1060 South over to 900 East.

Because of these concerns, Mr. Peperoni reported that staff and the Planning Commission recommended denial of the request. Mr. Peperoni indicated that the first plan the applicant had in 2013 would have been more consistent with the neighborhood.

In response to a question from Mr. Winterton, Mr. Peperoni replied that the proposed plan met the requirements of the MDR zone. The development, with 20 units per acre, was on the low end of the density range (15 to 30 units per acre).

Steve Turley, the applicant, was invited to present. The application was submitted in March 2013 and, since that time, he reported they had gone through 37 variations of the plan. He indicated that the site plan they originally submitted was their first choice and presented that to

the council. The original plan included side-by-side townhomes for a total of 75 units. The exterior material would be comparable or better than similar developments in the area. They wanted to create a family friendly project with underground parking, a walking trail, playground, pavilion, and an interior park.

He noted that, although 1060 South was a small street, it was a dedicated city street and four of the eight owners had been willing to dedicate the additional space needed to widen the road. The homes on 1060 South were small, at about 750 square feet, and were almost 75 to 80 years old with some of them falling into disrepair. He indicated there may be an opportunity to turn those homes over. While 1060 South could be used as a second access into the development, the alternative was to use the road as an emergency access into and out of the development. He was told by the police that more crime happened with those eight houses on that street than the rest of the neighborhood combined. He said they wanted to make things safe and that safety happened when neighbors had the ability to walk through an area to keep an eye on things.

Mr. Turley noted that the request before the council was for a zone change. He was asking for the MDR zone because the LDR zone was not compatible with the adjacent units. It did not make sense to put less density near the businesses to the east. They had held three neighborhood meetings and each time the residents were overwhelmingly in favor of the project. In addition, more than 32 people had sent emails to him supporting the project. He asked that those be included in the public record. If the rezone was approved they would go back and work with the staff and Planning Commission to address their concerns. He emphasized that he was presenting the original site plan to the council.

Vice-Chair Santiago asked if a traffic study had been completed for this project. Mr. Turley replied that there had been two studies done and that all streets in the area, prior to the proposed development, had an "A" grading. After the project was built the streets would maintain an "A" rating with the exception of 1140 South State, which had an "F" rating. It was recommended in the traffic study that they put in a right turn pocket on southbound State Street at that intersection. He would find out the estimated number of car trips from the traffic study.

Mr. Winterton noted there was only one public street in the proposed development and that was the circle at the entrance. Therefore, the units all fronted private streets or did not front a street at all. Mr. Turley replied that, although it was not shown on the site plan, the four end units around the circle would face the public street. Mr. Peperone said that was not unusual. The Vintage development in the Riverbottoms had end units with front doors on a different side than the rest of the units in the same building.

Mr. Winterton asked if the pictures shown by Mr. Turley showed what was actually going to be built, not just something similar. Mr. Turley replied that yes, they would look like the architectural renderings shown. The townhomes would have a masonry siding above, stone below, and a different type of masonry on the sides. Mr. Peperone stated that aluminum siding was not allowed in the MDR or the LDR zones.

Chair Garrett invited Mary Miller, the Neighborhood Chair, to comment. Ms. Miller said she confused because the plans that Mr. Turley had presented at the neighborhood meetings were a

little different from the one presented to the Planning Commission for approval. The neighborhood voted 16 to 4 in favor of the plan that was presented by Mr. Turley. Since that meeting she had received emails from 15 people concerning the proposal, 14 of which were opposed with one in favor. That would make the neighborhood divided on the proposal. She had not seen the emails sent directly to Mr. Turley. Her biggest concern was that the proposal presented to the Planning Commission was markedly different from the plans presented at the neighborhood meetings. She was not sure if they understood exactly what was being proposed.

Ms. Miller said there were only three streets in the neighborhood that had single family residential homes. Part of Mr. Turley's property was currently zoned RC (Residential Conservation) and the purpose of that zone was to preserve neighborhoods that had been there a long time. Some of the residents indicated they would like to see single family, detached homes in that area.

Chair Garrett asked if there were other concerns besides the preference for single family detached homes. Ms. Miller replied that there were some concerns expressed about traffic in the area, especially 1140 South State Street in the mornings. Because of that, the majority of the neighborhood went north on 900 East up to 900 South to get into the city. The neighbors were also concerned about the increased number of cars that would be added with this development. Cars parked all along 1140 South even though the HOA's provided parking (at no charge) to the residents. This also added to the congestion in the area.

Mr. Sewell noted that the developer has shown two options with 1060 South. One showed a second access connection with the development and the other one showed 1060 South being used as an emergency access only. He asked David Day, Provo City Engineering, if he had a preference. Mr. Day said the number of units in the development required two accesses to the development so 1060 South would have to connect to the development to provide the second access. Potential traffic on 1060 South did not exceed the environmental regulations. The traffic study indicated that the 1040 South State intersection would need separated left and right hand turn lanes.

Vice-Chair Santiago asked if they could stub in a future access point through the property to the north if that property was developed sometime in the future. Mr. Day said Mr. Turley had probably pursued it but the property owner to the north did not want to participate in the development.

Chair Garrett invited public comment.

Melanie (last name ineligible), Provo, stated the applicant was correct in saying that more condos were in keeping with the rest of the neighborhood. However, there were a lot of for rent and for sale signs in the neighborhood. Also, the neighborhood was made up of almost 50% renters. Young families move into the condos and, because they need more room and a decent sized back yard, they end up moving out of the area. They already had a very transient neighborhood and this type of housing just added more churn to the neighborhood. She stated that if they looked at the long term they should be looking at single family homes to make it possible for people to buy and stay there for 10 to 20 years. They do not have that type of housing in that area and this

represented that opportunity. Right now there were three to four adults renting houses and condos, staying there for a few months, and then moving on. This added to the parking and safety concerns.

Erin Langford, resident on 1060 South, was directly affected by this project. They already had a lot of condos for sale and the additional 75 units would add to the problem. The condos in the area were not worth the amount people purchased them for. She felt the presentation given during the neighborhood meetings gave the impression that their condo values would go up if this development was approved. Her biggest issue was that the boundary lines on 1060 South were incorrect. The boundary lines needed to be addressed and fixed before any development went in. They were so skewed that the potential street widening would go right through her home.

Mike McDonald, resident on 1060 South, did not know his house was going to be condemned. The development would require two accesses, regardless of whether it was zoned LDR or MDR. His street was so small that the garbage trucks had to back out because they could not turn around. Two of the homes in the middle of the street use the street for parking. The school bus stop was at the end of 1060 South so any children from the development would have to walk along the road and there were no sidewalks, curb, or gutter because the City could not put them in without condemning someone's property. This project was premature without the property access. There was a pasture north of 1060 south that had not been addressed as a possible access point for the project. It was pointed out that only seven percent of the neighborhood was single family. With this development that would make that percentage even lower. As for the statement that the eight houses on 1060 South had a higher crime rate than the rest of the neighborhood he noted that two of those homes were owned by Mr. Turley. One of Mr. Turley's tenants had to be removed from one of the homes and the SWAT team had to respond to the other home he owned.

Norris Dalton, Provo, said that 1060 South was not wide enough. If residents had visitors they had a hard time getting up the street. Putting this development in would add another hundred cars along 1060 South because it was too hard to get onto State Street at 1040 South. He received a radar gun from the Police Department and had clocked cars going 40 mph on 900 East. He said it was a miserable mess down there. He had lived in the area since 1955 and it was getting worse each year and would not get any better if they put that development in.

Phil Carrol, President of Community Housing Services - owners of the Suncrest Apartments south of the proposed development, stated the council's task was to approve or not approve the rezone request. He said the site plan could be changed many times after a rezone was approved. He suggested the RC zone be continued to the east to cover the whole site. On the Provo City website, the site plan showed a secondary access on the south side east of 1100 East. He said that would create a street right through the Suncrest parking lot, which was not acceptable. As a developer he was concerned that all you could see from the streets in the development was garages. There was not a single access into the condos from the street except through the garages. People would have to walk around the units to access the front doors. It was like a narrow canyon and was very unattractive.

Thomas Gruenewald, Provo, was the owner of a townhouse in the Eastgate development. He was in favor of the development because, even though single homes were talked about, townhouses were within the price range of the demographic of this area. He agreed there were safety concerns in the area, especially with crime. He felt this development would add to the safety by increasing the population.

Shawn Taylor, owner of a townhouse in Eastgate, wanted to comment on the traffic. He has not had more than one vehicle in front of him when he gets to State Street from 1040 South so he did not think traffic was going to be a concern. He also liked the idea of a park and walking area. The more eyes on the neighborhood the less worry there would be. He and his wife had a baby daughter and he would like having a space they could go to that was close by and had a lot of eyes on it. It encouraged people to be out and about so it increased the safety.

Melanie McCoard, Provo, was concerned there were representations that were confusing in some of the emails supporting the project. One response stated that Steve Turley owned the property privately but according to the application and the city maps someone named Bradley Payne owned the property. She wanted to know who actually owned the property. Ms. McCoard stated that Jerry Taylor and Mel Kuhni (property owners next to the proposed project) told her that underground parking was not a possibility because of the high water table. She asked what kind of proof Mr. Turley had that underground parking was feasible. Ms. McCoard pointed out that Norris Dalton owned a piece of property that was 96' wide on the northwest side of the proposed development where an access road could be built. She felt that they should also consider how this project would affect the development of property adjacent to it.

Kylie Turley, Provo, reported there had been three neighborhood meetings during the last two and one-half years, with three different versions of the plans and the neighborhood supported all of them. It had been a long process and they have been trying to please the city and take everything into account. She noted that when they first moved into the area they had been asked by religious leaders not to allow women to walk down 1060 South alone. It was probably a little better now but it was still a scary street and eyes on the area would make it better. In response to a previous comment, she stated that Bradley Payne was her brother-in-law. This project could be stalled forever if they had to take into account what others might want to do with their property. They were looking for a zone change that made sense and putting two 4,000 square foot single family homes in that area did not make sense.

Melanie McCoard did not think they should put 4,000 square foot homes there but a different kind of density. A rezone was appropriate for the property because it should be residential, not commercial. However, LDR would be better than MDR because MDR was so dense. According to the plan, 31 of the units were less than 800 square feet with only one bedroom. That was not family housing and that was not what was presented to the neighborhood.

Shelly Sly, manager of the Suncrest Apartments, was concerned about a possible access to the development through their driveway. There were more than 89 children that lived at Suncrest and the extra traffic would not be safe.

Ben Miller, Provo, expressed concern about the aspersions on the characters of people living on 1060 South. Several years ago his son had a paper route and refused to go down that street because it was scary, but that was 20 years ago. Mr. Miller was told by Norris Dalton that the area was known as “Daltonville” and the bad reputation had stuck to him although it should not have been. Mr. Miller said that Norris Dalton was no harm to anyone. He noted that several residents living on the street, including Mr. McDonald, Ms. Langford, Keith, and Mr. Shoells, were good people that would not harm anyone. There were two residents he had not met and one resident he would raise his eyebrows at. There was an historical crime problem in the area but that was not true today. He attended the neighborhood meetings and he understood the purpose of the meeting was to rezone the area but he had not seen an approved plan for this development. Therefore, the rezoning was premature. He understood that the more than 30 plans for this area had not all been submitted to the City and all the changes were not at the request of the City.

There were no more public comments.

Chair Garrett invited Mr. Turley to respond to some of the comments.

- 1060 South was full of good people but he had pulled the calls for service and crime reports and had pulled people out of homes in that area because of violent activity.
- The secondary access shown on the southeast side (through Suncrest Apartments) was not correct. There was no expectation for an access road at that location.
- The units would be more than 700 square feet. Those units at 1984 square feet would include a garage and living space would be in the 1650 to 1680 square foot range.
- He was not aware of the SWAT team responding to one of the homes he owned. It might have happened prior to his purchasing two of the properties on that road.
- As for the boundary concerns on 1060 South, he said that area was surveyed poorly years ago and some were off by as much as 44 feet. Even though a fence may be on someone else's property no one has suggested that the fences should be moved. He had offered free surveys to reconcile those boundaries. Residents on the south side of 1060 South had taken advantage of it and had been able to sort out some of the boundaries. Those on the north side had not. Those were private properties so he could not survey without consent.
- There had never been any expression of condemning the properties. They have purchased the right-of-way in four out of eight of the homes and they were prepared to deed that over to the city.
- Mr. Turley reported that Tim Brough, another neighborhood chair in the area, went before the Planning Commission and expressed support of this project.

Chair Garrett asked if studies relative to the water table had been completed. Mr. Turley replied that they consulted the geotechnical engineer and found that the units to the south had basements. The lower areas of the underground parking would go no lower than those basements. The engineer did suggest underground streams could exist in some of those areas but those were isolated and could be dealt with.

Mr. Turley said they used to own a piece of property that fronted State Street. UDOT told them they would not allow an access on State Street because of street alignment issues. There would not be adequate setback between the streets on South State between 900 South and 960 South.



As for stubbing a road into the property to the north, he reported that Mr. Kuhni had purchased that property and had the opportunity to purchase property owned by Provo Diesel. Mr. Kuhni has not expressed a willingness to sell so they could not get a public road out to State Street. Mr. Dalton owned the strip of undeveloped land on the northwest side but did not want to sell his property for another access road.

Mr. Day said they might be able to talk UDOT into allowing a city street access to State Street between 900 South and 1140 South if someone was willing to sell some property to Mr. Turley. The property already had access out to state street (down 1100 East and 1140 South) so the City would not require Mr. Turley to stub in a road on the north side of his development.

Vice-Chair Santiago asked if any of the boundaries for his property were in question. Mr. Turley replied that all the boundary concerns with his 4.48 acres had been fixed and verified.

In response to a question from Chair Garrett, Mr. Peperone reported they did not have a minimum square footage in the MDR zone. The previous plan (that went to the Planning Commission) had some smaller units proposed. There was no issue with the size of the units in the plan proposed to the Council that night. Mr. Turley had indicated there were three and four bedroom units in the development so a breakdown would be needed in order to calculate parking requirements.

Mr. Miller recalled receiving an email from Dave Graves, Provo City Engineer and Deputy Public Works Director, indicating that a meeting had been held with most of the departments of the city about the original plan. The consensus was that the issues of traffic could be resolved. Mr. Graves said he did not recall the email but, with regard to the traffic issues, those issues could be addressed.

Mr. Sewell asked how the 1060 South access would work. With cars parked on the street it would not function as a two way street. Would the road be widened or would they ban parking? Mr. Graves said the latest plan provided 30 feet of pavement width along the corridor (the current width was 25 feet). In the future as the properties redeveloped or ownership changed, they would be looking at a 32 foot wide pavement width. This met the city street standards for a local street with parking on both sides of the street. They would not be able to provide a sidewalk on either side of that street. They could also look at providing a 24 foot street that would not allow parking on either side. Some of the property needed to widen the road had been deeded to the developer but was never deeded to the City.

In response to a question from Mr. Miller, Mr. Peperone reported that a typical rezone request was accompanied by a site plan and would have gone to the Planning Commission. It would break the pattern if they were to approve a rezone without a site plan that had gone to the Planning Commission.

Mr. Taylor said that, in this case, the Planning Commission reviewed the rezone request and the site plan concurrently and many of the recommendations were based on the accompanying plans. The recommendation by the Planning Commission to deny the request was based on a different plan than was being presented to the Council.

Mr. Sewell said there were a lot of things he liked about the project but he was reluctant to vote on the proposed plan without a full review by the staff and the Planning Commission.

Mr. Jones said the council could make a motion to deny the application and then leave it up to the developer to submit a new application with a new preliminary project plan. In the past they have also tabled an item until the Planning Commission reviewed the project plan that was being proposed. The motion could include provisions to waive any additional fees and try to expedite the process.

Mr. Winterton struggled with denying the application and requiring the applicant to start all over. We need to look at why it takes so long to approve a project. He was not concerned with having an LDR zone because it was appropriate for that area. His concern with the MDR was that it allowed a certain density and any changes to a development agreement would not go through the Planning Commission but would go straight to the Council. He felt it was a good project but, if Mr. Turley wanted MDR, it would have to be a great project. He had concerns about the access.

Mr. Jones stated that the Council had an application to change the zone to MDR. Because of concerns voiced by staff and the Planning Commission, the developer has agreed to enter into a development agreement which limited the development to a maximum of 75 units. Even though the MDR zone would allow more units the developer would not be able to put in more units unless they went back to the council for an amendment.

Vice-Chair Santiago wanted to be careful about placing blame on the city or staff for the process taking a long time. Sometimes it just took time. The Council was just seeing the proposal for the first time and they were seeing two different plans. She would like to see version 1, which was presented to the Council, go to planning staff and the Planning Commission to be fully vetted, as any other plan would be. She would like the very best plan with firm information, such as traffic counts, submitted to the Council before any changes were made to the zone.

Mr. Miller said it seemed there was an argument for asking that the modified first plan be presented to the staff and Planning Commission for their consideration. After being assured the project was acceptable, Mr. Turley, some 30 iterations later, was going back to the original proposal. He saw this as a fault of the administrative process. It seemed that, in addition to waiving fees, the Council should specify what their concerns were, either through each council member or through the chair, so they could be addressed expeditiously in what goes to the Planning Commission.

Ms. Hales asked where the 30 plans had been. Had they all gone through planning and zoning or were they iterations that Mr. Turley had created. Mr. Turley said they started with version one. That was modified after their thinking, planning staffs thinking, and suggestions from other people. He said 11 or 12 of the full, engineered plans had actually been through the full vetting process with planning staff. The other iterations had minor adjustments for his own purposes.

Mr. Van Buren asked why the first version did not go to the Planning Commission. Mr. Turley replied that it was part of the process that was required by Provo City Code. The rezone request

was submitted at the same time as the plan was submitted. The rezone request they made was for the multi-family zone that would accommodate the first version. Planning staff felt the MDR zone was appropriate for that site. He had supplied a copy of the staff report where every department said it was approved. He stated that the document represented final approval for recommendation of the zone. In parallel, while they had the approval for MDR zoning from all the departments, the project plan kept changing just a little bit through each iteration. When they got to the Planning Commission on July 22 the planning staff had recommended denial of the zone even though they had been told in 2013 that the MDR zone was appropriate. He was told to make their project comply with the MDR zone so he thought that planning staff would support it. When they finally had approval of the project plan they found the perspective on the rezone was changed.

Mr. Peperone explained that the staff reports Mr. Turley referred to were actually CRC (Coordinated Review Committee) comments on review of the zone change only. The review said they were comfortable with the MDR zone. What were not given to the Council were the CRC comments for the site plan which indicated they still had concerns and questions about the site plan that needed to be resolved before they could move forward. He said they still do not have answers to those 2013 questions. As each plan changed there were different questions that needed to be answered. Mr. Peperone reported they had seen eight plans over the past two years for this project.

Mr. Van Buren asked why the MDR was not favored now if it was favored two years ago. Mr. Peperone replied that it was because of the difference between the plans the Planning Commission had seen versus the original plan submitted in 2013. The MDR zone was based on the first plan submitted. You can be okay with a zone change but still have significant questions about the site plan.

In response to a request from Mr. Jones, Mr. Peperone explained the difference between the CRC and the planning staff. The CRC is made up of representatives from different city departments such as Power, Police, Fire, Engineering, Water, Storm Drain, and Planning. They all have input, make comments, and said they were comfortable with the zone change. But there were still reservations about the site plan, even the first one.

In response to a question from Mr. Sewell, Mr. Peperone indicated the neighborhood plan was in draft form but it showed this area zoned as LDR. He said the LDR zone closely matched all the townhouse projects in the area. The debate in the neighborhood was about whether they already had enough townhouses and should they be pushing for more single family detached housing. He indicated that no one involved in the neighborhood planning process has suggested it should be zoned higher than LDR.

Chair Garrett said the primary concerns raised by the neighbors focused on safety issues relative to traffic and access. He felt the requested zone change was consistent with the neighborhood but wanted to see some of the other issues addressed. In an ideal world Mr. Turley would be able to convince Mr. Dalton to sell his property which would make the project even better for the neighborhood. It would be helpful to get additional input from the Planning Commission based

on the first iteration and from staff as well. He would provide Mr. Turley with a list of council concerns relative to the first plan.

**Motion:** Council Member Harold L. Miller, Jr. made a motion to table the request that has been made; that we waive all fees that might otherwise be required for a revision of the site plan; that each member of the Council, who wishes to, provide the developer with a specific indication of further questions and requests for further information; that the revised site plan from the developer go to the Planning Commission for its review and further recommendation to the Municipal Council; and that all of that be accomplished as quickly as possible. The motion was seconded by Council Member David Sewell.

Mr. Taylor clarified that if they were to deny the request then Mr. Turley would have to resubmit his application and fees would be required. If the intent was to go back to the Planning Commission there would be no additional fees required.

Mr. Miller asked that waiving the fees be stricken from the motion.

**Amended Motion:** Council Member Harold L. Miller, Jr. made a motion to table the request that has been made; that each member of the Council, who wishes to, provide the developer with a specific indication of further questions and requests for further information; and that the revised site plan from the developer go to the Planning Commission for its review and further recommendation to the Municipal Council; and that all of that be accomplished as quickly as possible. The amended motion was seconded by Council Member David Sewell.

After discussing how long to table this item, the Council determined that they would leave the date open instead of giving a specific date. That would give Mr. Turley, Provo City Planning staff, and the Planning Commission enough time to address all the concerns.

Chair Garrett called for a vote on the motion.

**Roll Call Vote:** The motion passed 6:1 with Council Members Garrett, Hales, Miller, Santiago, Sewell, and Winterton in favor and Mr. Van Buren opposed.

## **Council Items and Reports**

### **5. Resolution 2015-51 approving an amendment to a Development Agreement regarding property generally located at 5000-5200 North University Avenue, Provo, Utah in order to allow six additional units and decrease the minimum parking spaces per dwelling unit. (15-101)**

Brian Jones, Deputy City Attorney, presented. This item was continued from the last council meeting where two changes to the amended development agreement were requested. Mr. Jones

indicated he had written a revised development agreement amendment and sent it to the applicant. Rather than reduce the minimum number of required parking spaces from 2.6 to 2.1 the agreement would state, "The minimum number of parking spaces shall be the same as whatever the code requires." The code currently required 2.25. If the developer felt like that was not sufficient they could ask for a text amendment to change the code and the development agreement would automatically update. Mr. Jones stated he also added Paragraph 3 to the agreement which said Exhibit C, which showed the elevation drawings, would be updated with the new elevation drawings. He had not received the updated drawings from the developer.

Mr. Jones reported he sent the proposed changes to the developer last week and had not heard back from him.

Chair Garrett asked Ben Markham, Riverbottoms Neighborhood Chair, to comment. Mr. Markham stated he had met with Mr. Horne, the developer, and that he supported the project. Mr. Markham said there was a clause in the development agreement that stated there could be no more than two unrelated adults living in each unit. He was told by Mr. Horne that the HOA would be enforcing that clause so the 2.25 parking did not seem unreasonable. In order to meet the parking requirement the second phase would be sharing the underground parking in the first phase of the development. He had driven by the development and noted three cars parked on University Avenue but that was not due to a lack of parking spaces. The City just needed to make sure that all parking spaces were included in order to meet the 2.25 requirement for both phases of the project, a total of 228 units (110 in the first phase and 118 in the second phase).

The new phase would have their own HOA, separate from the HOA of the initial phase, for a short time because of some existing problems. Mr. Markham spoke with the president of the existing HOA and was told the HOA was underfunded because there was only about 50% owner occupancy. All the amenities had been put in under the assumption there would be twice as many units. When the second phase did not develop it created some maintenance problems with the first building and the amenities associated with the development. Mr. Horne has agreed to a maintenance agreement with the current owners of the first phase and with the HOA on the first unit. Mr. Markham said the increase of units from 112 to 118 was not a big deal because they all met the minimum size of 1,100 square feet (average of 1,460).

Since there would not be underground parking in the second phase it would change the elevation and also allow the building to be set back from University Avenue. A berm would be built to hide the parking from the road. Access on the south end of the property would be right in/right out and through the traffic light on the north end of the property at 5200 North.

Mr. Markham asked the Council if they would approve this project if it was for a new development and not a continuation of a current development. If so, they should approve the amended development. He recommended making the amendments to the development agreement as described. It was a good project that filled an eyesore along University Avenue.

Mr. Van Buren stated he was a little uncomfortable with approving the changes to the development agreement even though they had not received any feedback from the developer. Mr. Jones noted the only changes included the rewording of Paragraph 1d and the addition of

Paragraph 3. Paragraph 1d made changes that he had recommended during the last meeting and the developer had expressed that he was fine with the change. The addition of the new elevation drawings was something he spoke with the developer and the architect about after the meeting so he did not know why they would have any objections to the change. If the council wanted to see the new elevation changes before they were approved as Exhibit C then they should continue the item until the next meeting. If they were okay with their recollection of the elevations from the previous meeting they could go ahead and approve the amended agreement.

**Motion:** Council Member Vernon K. Van Buren moved to continue the item until they had the elevation drawings and some response from the developer. The motion was seconded by Council Member Kim Santiago.

Mr. Jones stated there was no risk to the City if this item was continued. In the previous meeting the architect had expressed some urgency on the part of the developer concerning the financing.

**Roll Call Vote:** The motion failed on a vote of 3:4 with Council Members Miller, Santiago, and Van Buren in favor and Council Members Garrett, Hales, Sewell, and Winterton opposed.

**Motion:** Council Member Dave Sewell moved to approve Resolution 2015-51. The motion was seconded by Council Member Gary Winterton.

**Roll Call Vote:** The motion passed on a vote of 4:3 with Council Members Garrett, Hales, Sewell, and Winterton in favor and Council Members Miller, Santiago, and Van Buren opposed.

#### Adjourn Council Meeting

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**Motion:** Council Member Kim Santiago moved to adjourn the Municipal Council Meeting and convene as the Storm Water Special Service District at 8:31 p.m. The motion was seconded by Council Member Harold L. Miller, Jr.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

### **Storm Water Special Service District**

- 6. A public hearing on Resolution 2015-SWSSD-09-15-1 appropriating \$350,000 in the Provo City Storm Water Special Service District Capital Improvement Fund for expenses relating to the 1500 West Storm Drain Project for the fiscal year ending June 30, 2016. (15-120)**

David Decker, Provo City Public Works Director, presented. He noted there were restrictions associated with the increase of CIP budgets. They were required to go back to the Council to

approve increases that exceeded \$50,000 or 10% of the original budget. The original project was to install storm drain along two blocks on 1500 West in the Grandview area. The original budget was for this project was \$100,000 because it was anticipated the city would do the work. At the same time they were working with a consultant about the route of a future water line for the new water tank that was being built in the Grandview area. As they looked at the project it became apparent they would be putting water lines from the proposed water storage tanks in the same location as the storm drain was planned. Since it was logical that they should do both projects at the same time he was asking for an appropriation of \$350,000 in the Storm Drain CIP to complete the entire storm drain up to 1460 North. The water and storm drain projects would be funded separately but the work would be done at the same time. Part of the storm drain funding would be used on an overflow at 900 North Grand Avenue. The appropriation would take \$300,000 out of the Storm Water contingency account and \$50,000 from the Stadium Avenue Storm Drain project for a total of \$450,000. Although it would cost more to have the outside contractors install the storm drain it was important to note that the water lines and storm drain would be installed at the same time, thereby only have to tear the road up once.

Chair Garrett invited public comment. There was no response to the request.

**Motion:** Board Member Harold L. Miller, Jr. moved to approve Resolution 2015-SWSSD-09-15-1 as written. The motion was seconded by Board Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

#### Adjourn

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**Motion:** Board Member Calli Hales moved to adjourn at 8:37 p.m. The motion was seconded by Board Member David Sewell.

**Roll Call Vote:** The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.