PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Agenda

5:30 PM, Tuesday, July 18, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

The in-person meeting will be held in the **Council Chambers**. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If you do not have access to the Internet, you can join via telephone following the instructions below.

TO MAKE A VIRTUAL PUBLIC COMMENT:
To participate in the public comment portion(s) of the meeting, call in as an audience member as the presentation is wrapping up. Be sure to mute/silence any external audio on your end to reduce feedback (if you are viewing the live proceedings on YouTube, mute the YouTube video; you will be able to hear the meeting audio through the phone while you are on the line).

Press *9 from your phone to indicate that you would like to speak. When you are invited to speak, the meeting host will grant you speaking permission, calling on you by the last four digits of your phone number. Please begin by stating your first and last name, and city of residence for the record. After you have shared your comment, hang up. If you wish to comment on a later item, simply re-dial to rejoin the meeting for any subsequent comment period(s).

July 18 Council Meeting: Dial 346 248 7799. Enter Meeting ID 814 9074 9972 and press #. When asked for a participant ID, press #. To join via computer, visit zoom.us and enter the meeting ID and passcode: 966671.

Decorum

The Council requests that citizens help maintain the decorum of the meeting by turning off electronic devices, being respectful to the Council and others, and refraining from applauding during the proceedings of the meeting.

Opening Ceremony
Roll Call
Prayer
Pledge of Allegiance

Public Comment

Fifteen minutes have been set aside for any person to express ideas, concerns, comments, or issues that are not on the agenda:

Please state your name and city of residence into the microphone.
Please limit your comments to two minutes.
State Law prohibits the Council from acting on items that do not appear on the agenda.

Action Agenda

1. A resolution appointing an individual to the Civil Service Commission. (23-005)

2. An ordinance amending Provo City Code regarding apartment building signage requirements. Citywide Application. (23-048)

3. An ordinance amending Provo City Code to add official city maps. (23-053)

4. An ordinance amending Provo City Code section 9.20.130(6) to correct a typo. (23-023)

5. A Resolution Approving the Petition to Annex Approximately 3.46 Acres Of Property Located at Approximately 5500 North Canyon Road. North Timpview Neighborhood (PLANEX20230020)

6. A Resolution Approving the Petition to Annex Approximately 5.64 Acres Of Property Located at Approximately 5500 North Canyon Road. North Timpview Neighborhood (PLANEX20230020)

7. An Ordinance Amending Provo City Code to Expand Prohibitions on Depositing Materials on Sidewalks and Streets and to Regulate Street Parking of Recreational Vehicles, Boats, and Trailers. (23-054)

8. An ordinance amending the Zone Classification of approx 1.36 acres located between 5065 N Canyon Rd & 5075 N Canyon Rd, From One-Family Residential (R1.20) to One-Family Residential (R1.10). N Timpview Neighborhood. (PLRZ20230073)

9. An ordinance amending the zone map class. of approx. 2 acres of property, located at 2075 W Center Street, from One-Family Residential (R1.8) to Mixed Use (MU) & authorizing and related development agreement. Provo Bay Neighborhood. (PLRZ20210271)

10. A resolution instituting a Fire Restriction Order. (23-052)

11. ***CONTINUED*** Barry Finch requests an Ordinance Text Amendment to Section 14.08.020 (Permitted Uses in the A1 Zone), to add "Meeting Halls for Rent" as a new conditional use in the A1 (Agricultural) zone. Citywide Application. PLOTA20230082

Redevelopment Agency of Provo

12. A resolution amending the bylaws of the Redevelopment Agency of Provo City Corporation (23-045)

Adjournment

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: provo.org/government/city-council/meet-the-council

Materials and Agenda: agendas.provo.org
Council meetings are broadcast live and available later on demand at youtube.com/ProvoCityCouncil
To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next Council Meeting will be held on Tuesday, August 1, 2023. The meeting will be held in the Council Chambers, 445 W. Center Street, Provo, UT 84601 with an online broadcast. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting are invited to notify the Provo Council Office at 445 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/ProvoCityCouncil.

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 07-18-2023

SUBJECT: A discussion regarding the Conservation and Resiliency Plan. (23-021)

RECOMMENDATION: Discussion- seeking motions for edits and/or further action.

BACKGROUND: As part of the City's ongoing effort to plan and guide the city's manangement for decades to come, this plan focuses on envirnomental sustainabilty and good governance of natural resources.

FISCAL IMPACT:

PRESENTER'S NAME: Hannah Salzl & Brandon Larsen, Planners

REQUESTED DURATION OF PRESENTATION: 55 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-021

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: EVANDERWERKEN
Department: Council
Requested Meeting Date:

SUBJECT: A resolution appointing an individual to the Civil Service Commission. (23-005)

RECOMMENDATION: Approve the resolution.

BACKGROUND: Due to a vacancy on the Civil Service Commission, the Council is appointing a new Commission member.

FISCAL IMPACT:

PRESENTER'S NAME: Justin Harrison, Council Executive Director

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-005

RESOLUTION 2023-

A RESOLUTION APPOINTING AN INDIVIDUAL TO THE CIVIL SERVICE COMMISSION. (23-005)

WHEREAS, the Council, acting pursuant to their statutory authority, has reviewed the qualifications of individuals to be appointed to the Civil Service Commission; and

WHEREAS, on July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter, which facts are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council (i) appoints the individual set forth below to the Civil Service Commission and (ii) finds such appointment will reasonably further the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

1. Pursuant to Utah Code Section 10-3-1003, the Municipal Council appoints the individual listed below to serve on the commission for the prescribed term:

Appointee's Name	Board	Term Expiration Date
Bruce Haraguchi	Civil Service Commission	June 30, 2024

2. Following said appointment, there are 3 members on the Civil Service Commission, as shown on the attached Exhibit A.

PART II:

This resolution and the appointments indicated herein shall take effect immediately.

END OF RESOLUTION.

EXHIBIT A[1]
CIVIL SERVICE COMMISSION APPOINTMENTS

Name	Seat	Party[2]	Term Expiration Date[3]	Appointing Resolution
Bruce Haraguchi	1	Republican	6/30/2024	attached
Arturo Soza	2	Republican	6/30/2028	2022-45
Hollie Fluhman	3	Democrat	6/30/2026	2022-59

Commented [EV1]: This column should not be included on resolutions and is included here only for reference and to comply with the statute.

[1] This Exhibit includes the Civil Service Commission appointees in the resolution to which it is attached. Anyone not so appointed should be removed from the Exhibit.
[2] Qualifications established by state law, one of which is that no more than two members may be of the same political party. This column is intended for internal use and should be removed from public versions of this exhibit.
[3] Six-year term with term expiring on June 30 of each even-numbered year. Vacancies filled for remainder of unexpired term.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 06-06-2023

SUBJECT: An ordinance amending Provo City Code regarding apartment building signage requirements. Citywide Application. (23-048)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: During the May 2nd Work Meeting, the Council motioned to direct staff to prepare an amendment requiring apartment buildings to post a sign listing the contact information of the property and or maintenance manger. This ordinance is the result of Council direction regarding the issue.

FISCAL IMPACT:

PRESENTER'S NAME: Melia Dayley, Policy Analyst

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-048

ORDINANCE 2023-

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING APARTMENT BUILDING SIGNAGE REQUIREMENTS. CITYWIDE APPLICATION. (23-048)

WHEREAS, it is proposed that Provo City Code Section 6.26.120 be enacted regarding apartment building signage requirements; and

WHEREAS, ensuring the safety and convenience of residents and visitors within our city is a prioritized responsibility of the Municipal Council;

WHEREAS, apartment buildings require prompt and efficient maintenance services to maintain the quality of living for residents;

WHEREAS, the Municipal Council aims to establish a clear and practical framework that encourages open lines of communication between tenants and landlords;

WHEREAS, on May 2, June 20, and July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 6.26.120 (Signage Requirements) is hereby enacted as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
B. This ordinance and its various sections, clauses, and paragraphs are hereby declared to be severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.
C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.

END OF ORDINANCE.

Exhibit A

6.26.120 Signage Requirements

Within six (6) months of the ordinance approval of this Section, all apartment buildings and condominium projects, as those terms are defined in 14.06.020, must conform to the following signage requirements:

(1) The owner(s) must post and maintain at least one sign, in English and in Spanish, in a conspicuous place on the exterior premises of the building and visible on the block face of the primary entrance of the building that includes the phone number of:
(A) the building's office; and/or
(B) the maintenance manager for the building.

(2) If an apartment complex or condominium project consists of multiple buildings in one complex sharing the same name, only one building is required to have the sign required by this Section, but the sign must be visible on the block face where the primary entrance to the complex is located.

(3) The signs required in this section shall be a minimum of 12 inches by 24 inches. Sign facings shall be weather-proof with contrasting colors between text and background.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: NMUHLESTEIN
Department: Legal
Requested Meeting Date: 07-18-2023

SUBJECT: An ordinance amending Provo City Code to add official city maps. (23-053)

RECOMMENDATION: Item to be heard at council meeting for reccommended approval.

BACKGROUND: This ordinance would establish 4 official city maps. These would be the General Plan, Zoning, Neighborhood District and Annexation maps. This ordinance, if enacted, would provide links to these official maps within the Provo City Code which would be updated regularly to match new legislation.

FISCAL IMPACT:

PRESENTER'S NAME: Nick Muhlestein, Assistant City Attorney

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
This ordinance would work to inform the public of salient information relating to governmental and development-related issues. Increasing access to such information provides for the health, safety and general welfare of Provo's citizens.

CITYVIEW OR ISSUE FILE NUMBER: 23-053

ORDINANCE 2023-.

AN ORDINANCE AMENDING PROVO CITY CODE TO ADD OFFICIAL CITY MAPS. (23-053)

WHEREAS, it is proposed that the certain maps be designated as official city maps and links provided in the code; and

WHEREAS, on July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 1.08 is hereby enacted as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

1.08.010 Official City Maps

The official maps of Provo City are the General Plan, Zoning, Neighborhood District and Annexation maps. This chapter shall provide a digital link to each of these official maps. These digital official maps shall be updated and modified as needed to match the most current legislation. However, Provo City does not guarantee their accuracy and assumes no liability for inaccuracies. If an official map contains an error or otherwise conflicts with the most current legislation it is the legislation that will control. Please seek verification of map details from City staff.

1.08.020 General Plan Map

The General Plan map (https://www.provo.org/home/showpublisheddocument/2238/638211142646470000) illustrates the comprehensive, long-range general plan of Provo City.

1.08.030 Zoning Map

The Zoning map (https://www.provo.org/home/showpublisheddocument/8772/638179199235230000) illustrates the zone boundaries within Provo City and provides a description of the different zone types.

1.08.040 Neighborhood District Map

The Neighborhood District map (https://www.provo.org/home/showpublisheddocument/21767/638126571319530000) illustrates the neighborhood districts and boundaries throughout Provo City.

1.08.050 Annexation Map

The Annexation map (https://www.provo.org/home/showpublisheddocument/21348/638131096401430000) illustrates the annexation policy throughout Provo City.

1.08.060 Fireworks Discharge Restricted Area Map

The Fireworks Discharge Restricted Area map (https://experience.arcgis.com/experience/a79e5999135a46438c45d8bb2d3d504d) illustrates areas where fireworks are prohibited.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: AMACCABEE
Department: Council
Requested Meeting Date: 01-01-2018

SUBJECT: An ordinance amending Provo City Code section 9.20.130(6) to correct a typo. (23-023)

RECOMMENDATION: Approval Needed

BACKGROUND: As part of regular code cleanup, this is an ordinance amending Provo City Code section 9.20.130(6) to correct a typo.

FISCAL IMPACT:

PRESENTER'S NAME: Abi Maccabee, Council Intern

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-023

ORDINANCE 2023-

AN ORDINANCE AMENDING PROVO CITY CODE CHAPTER 9.06 (PUBLIC DISTURBANCES) TO CORRECT LANGUAGE RELATED TO GENDER NEUTRALITY. (23-023)

WHEREAS, it is proposed to amend Provo City Code Section 9.06.050 to correct language related to gender neutrality; and

WHEREAS, Provo City Code Section 9.06.050 was enacted by Ordinance 1987-18 and this enactment included gender-specific language; and

WHEREAS, on June 20, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) the amendment to Provo City Code Section 9.06.050 should be approved as set forth below, and (ii) this action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 9.06.050 is hereby amended as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

9.06.050

Use of Police~~men~~ Personnel at Large Parties or Gatherings Requiring a Second Response.

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PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JBLARSEN
Department: Recorder
Requested Meeting Date: 07-18-2023

SUBJECT: A RESOLUTION APPROVING THE PETITION TO ANNEX APPROXIMATELY 3.46 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 5500 NORTH CANYON ROAD. NORTH TIMPVIEW NEIGHBORHOOD (PLANEX20230020)

RECOMMENDATION: To be heard at the July 18, 2023, Work and Council Meeting. Please see supporting documents.

BACKGROUND: This item is an annexation request for property located at approximately 5500 N Canyon Rd. The total acreage is approximately 3.46 contiguous acres (west parcel). The subject area is located just south of Indian Road Trailhead and east of Canyon Road. The property lies approximately one-half mile south of Provo Canyon, and 800 feet from the boundary of Orem City. There is a dwelling on the subject property along with a city utility station.

FISCAL IMPACT:

PRESENTER'S NAME: Brandon Larsen, Planning Supervisor

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: The subject property is included in Area 5 of the City's Annexation Policy Plan map, and has a Residential land use designation on the General Plan map.

CITYVIEW OR ISSUE FILE NUMBER: PLANEX20230020

RESOLUTION 2023-____.

A RESOLUTION APPROVING THE PETITION TO ANNEX APPROXIMATELY 3.46 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 5500 NORTH CANYON ROAD. NORTH TIMPVIEW NEIGHBORHOOD (PLANEX20230020)

WHEREAS, on May 2, 2023, the Municipal Council approved a resolution accepting an annexation petition for further consideration regarding 9.1 acres of property generally located at 5500 North Canyon Road; and

WHEREAS, it was found that the original annexation petition needed to be split into two separate annexations of approximately 3.46 acres and 5.64 acres, respectively, as the entire approximately 9.1 acres of land is not contiguous;

WHEREAS, this resolution pertains to the annexation of that portion of the original petition consisting of 3.46 acres, as shown in the attached Exhibit A; and

WHEREAS, after splitting the petition, all other necessary steps have been taken and, pursuant to Utah Code 10-2-407(6), if no timely protests against the proposed annexation have been filed, the Municipal Council may approve the annexation; and

WHEREAS, no timely protests were filed against the proposed annexation; and

WHEREAS, on March 8, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a 7:0 vote; and

WHEREAS, on July 18, 2023, the Municipal Council held a public hearing to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, all persons for and against the proposed annexation were given an opportunity to be heard; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds that approval of this annexation would reasonably further the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Mayor is hereby authorized to negotiate and execute an annexation agreement as proposed by the annexation petitioner, consistent with those commitments and representations made by the applicant and the applicant's representatives in the Council Meeting of July 18, 2023 and in form substantially similar to the draft attached hereto as Exhibit B, an executed copy of which shall be attached hereto as Exhibit C after execution.

PART II:

Subject to the execution of the annexation agreement described in Part I, the Municipal Council hereby approves the annexation of approximately 3.46 acres of property generally located at 5500 North Canyon Road, as shown in the attached Exhibit A. The effective date of the Council's approval shall be the date of final execution of the annexation agreement.

PART III:

A. Except as otherwise stated in Part II, this resolution shall take effect immediately.

B. Notwithstanding any provision or language to the contrary in this resolution, if the annexation agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this resolution, the entire resolution shall expire, becoming null and void as if it had never been approved.

END OF RESOLUTION.

Exhibit A


Smith-Provo Annexation, 3.46 Acres
5600 N
5576
5568
ACCESS RD
ACCESS RD
5490
5484
5480
UNIVERSITY AVE
Approximately 3.46 Acres
CANYON RD
ACCESS RD
5450
5440
5404
Provo City

SMITH-PROVO ANNEXATION



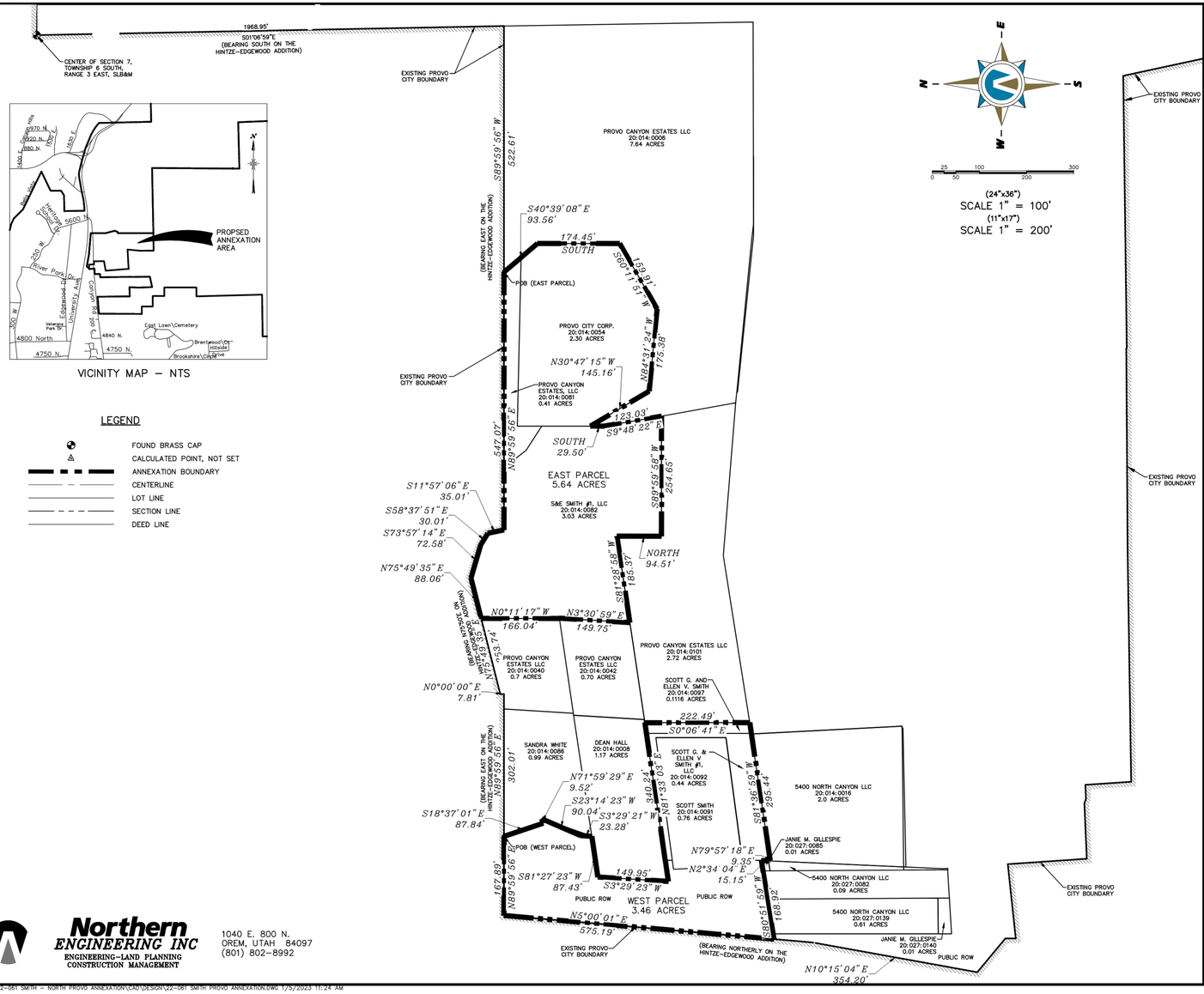
Vicinity

Smith-Provo Vicinity and Zoning Map



Vicinity





ENGINEER'S CERTIFICATE

I, BRANT D. TUTTLE DO HEREBY CERTIFY THAT I AM A PROFESSIONAL ENGINEER AND THAT I HOLD CERTIFICATE NO. 164687 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY, BY AUTHORITY OF THE OWNERS, THAT I HAVE PREPARED THIS ANNEXATION PLAT USING EXISTING ANNEXATIONS PLATS OF RECORD AND THE EXISTING PARCEL AND ANNEXATION BOUNDARY DATA AS OBTAINED FROM THE UTAH COUNTY RECORDERS OFFICE. NO SURVEY OF THE PROPERTIES HAS BEEN DONE NOR DOES THIS MAP PURPORT TO DELINEATE ACTUAL PROPERTY BOUNDARIES ON THE GROUND.

DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 522.61 FEET TO THE POINT OF BEGINNING.

THENCE S.40°39'08"E. A DISTANCE OF 93.56 FEET; THENCE SOUTH A DISTANCE OF 174.45 FEET; THENCE S.60°11'51"W. A DISTANCE OF 159.91 FEET; THENCE N.84°31'24"W. A DISTANCE OF 175.38 FEET; THENCE N.30°47'15"W. A DISTANCE OF 145.16 FEET, THENCE SOUTH A DISTANCE OF 29.50 FEET; THENCE S.09°48'22"E. A DISTANCE OF 123.03 FEET; THENCE S.89°59'56"W. A DISTANCE OF 254.65 FEET; THENCE NORTH A DISTANCE OF 94.51 FEET; THENCE S.81°28'58"W. A DISTANCE OF 185.37 FEET; THENCE N.03°30'59"E. A DISTANCE OF 149.75 FEET, THENCE N.00°11'17"W. A DISTANCE OF 166.04 FEET; THENCE N.75°49'35"E. A DISTANCE OF 88.06 FEET; THENCE S.73°57'14"E. A DISTANCE OF 72.58 FEET; THENCE S.58°37'51"E. A DISTANCE OF 30.01 FEET; THENCE S.11°57'06"E. A DISTANCE OF 35.01 FEET; THENCE N.89°59'56"E. A DISTANCE OF 547.07 FEET; TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

WEST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 1069.68 FEET; THENCE N.11°57'06"W. A DISTANCE OF 35.01 FEET; THENCE N.58°37'51"W. A DISTANCE OF 30.01 FEET; THENCE N.73°57'14"W. A DISTANCE OF 72.58 FEET; THENCE S.75°49'35"W. A DISTANCE OF 341.80 FEET; THENCE SOUTH A DISTANCE OF 7.81 FEET; THENCE S.89°59'56"W. A DISTANCE OF 302.01 FEET TO THE POINT OF BEGINNING.

THENCE S.18°37'01"E. A DISTANCE OF 87.84 FEET; THENCE N.71°59'29"E. A DISTANCE OF 9.52 FEET; THENCE S.23°14'23"W. A DISTANCE OF 90.04 FEET; THENCE S.03°29'21"W. A DISTANCE OF 23.28 FEET, THENCE S.81°27'23"W. A DISTANCE OF 87.43 FEET; THENCE S.03°29'23"W. A DISTANCE OF 149.95 FEET; THENCE N.81°33'03"E. A DISTANCE OF 340.24 FEET; THENCE S.00°06'41"E. A DISTANCE OF 222.49 FEET, THENCE S.81°36'59"W. A DISTANCE OF 295.44 FEET; THENCE N.79°57'18"E. A DISTANCE OF 9.35 FEET; THENCE N.02°34'04"E. A DISTANCE OF 15.15 FEET; THENCE S.80°51'59"W. A DISTANCE OF 168.92 FEET; THENCE N.05°00'01"E. A DISTANCE OF 575.19 FEET; THENCE N.89°59'56"E. A DISTANCE OF 167.89 FEET TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, _____ HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF _____ AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTED (1953) 10–3–1 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREAFTER AS THE _____ _____ .

THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK–RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH–PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY–COUNTY ENGINEER SEAL	CLERK–RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING–LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802–8992

Provo City Planning Commission

Report of Action

March 08, 2023

*ITEM 1	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 8, 2023:

RECOMMENDED APPROVAL

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Melissa Kendall
Second By: Jeff Whitlock
Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Robert Knudsen, Jeff Whitlock, Daniel Gonzales, Raleen Wahlin, and Andrew South

Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE ANNEXED

The property to be annexed is described in the attached Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Public Works Department wants an acknowledgement from, or agreement with, the Smiths essentially acknowledging they will not receive additional utility services from the city upon annexation. The Power Department wants powerline easements on future plats involving the subject property.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.
- Steve Turley expressed a desire for the city to not bring in the proposed annexation without requiring utilities. He also said there is a recorded restrictive covenant against all or some of the subject property that could be impacted through the annexation. The restrictive covenant is referred to as a Declaration of Zoning Lot, which was signed in 2004.

CONCERNS RAISED BY PUBLIC

The only comments staff received from the public are related to the comment above from Steve Turley.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Ginny Smith said this annexation will help them to maintain their agricultural pursuits on their property, as well as help keep their property safer with better police protection through the city.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen suggested zoning, the issue with the restrictive covenant referenced by Mr. Turley, and development issues are interesting, but not relevant to their decision tonight because there is no development being proposed.
- The restrictive covenant issue can be addressed at the Council level.
- Commissioner Jensen suggested we typically do not like patch work annexations, but it is adjacent to land within the city. We are not dealing with a county island.
- Commissioner Gonzales requested the following finding be included in their motion: The property is mainly used for agricultural purposes, namely fruit growing, and the applicant intends to continue to use the property for agricultural operations.
- Commissioner Kendell recommended the Commission recommend approval of the annexation with Commissioner Gonzales's finding. The motion was seconded by Commissioner Whitlock. The motion was approved 7-0.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 522.61 FEET TO THE POINT OF BEGINNING.

THENCE S.40°39'08"E. A DISTANCE OF 93.56 FEET; THENCE SOUTH A DISTANCE OF 174.45 FEET; THENCE S.60°11'51"W. A DISTANCE OF 159.91 FEET; THENCE N.84°31'24"W. A DISTANCE OF 175.38 FEET; THENCE N.30°47'15"W. A DISTANCE OF 145.16 FEET, THENCE SOUTH A DISTANCE OF 29.50 FEET; THENCE S.09°48'22"E. A DISTANCE OF 123.03 FEET; THENCE S.89°59'58"W. A DISTANCE OF 254.65 FEET; THENCE NORTH A DISTANCE OF 94.51 FEET; THENCE S.81°28'58"W. A DISTANCE OF 185.37 FEET; THENCE N.03°30'59"E. A DISTANCE OF 149.75 FEET, THENCE N.00°11'17"W. A DISTANCE OF 166.04 FEET; THENCE N.75°49'35"E. A DISTANCE OF 88.06 FEET; THENCE S.73°57'14"E. A DISTANCE OF 72.58 FEET; THENCE S.58°37'51"E. A DISTANCE OF 30.01 FEET; THENCE S.11°57'06"E. A DISTANCE OF 35.01 FEET; THENCE N.89°59'56"E. A DISTANCE OF 547.07 FEET;
TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

WEST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 8, 2023

***ITEM 1**	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Applicant: Ginny Smith

Staff Coordinator: Brandon Larsen

Property Owners: Ginny and Scott Smith, Provo City, Utah County, and Provo Canyon Estates LLC

Parcel ID#: 200140054, 200140081, 200140082, 200140083, 200140091, and 200140092

Acreage: 9.1 acres

Number of Properties: 6

General Plan Designation: Residential and Agricultural

Related Applications: None

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 22, 2023, at 6:00 P.M.

2. Recommend *Denial* of the proposed annexation. This recommendation would be inconsistent with the staff report. The Planning Commission must make specific findings that the proposal does not meet City Code requirements.

Relevant History: None

Neighborhood Issues: None

Summary of Key Issues:

- A small portion of unincorporated land is proposed to be annexed into Provo City.
- All land proposed to be annexed appears to have an associated Residential land use designation, except for Parcel 200140054, which is home to a city utility facility, and a portion of Parcel 200140081, which is owned by Provo Canyon Estates LLC.

Recommended Action:
Recommend approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

OVERVIEW

This item is an annexation request for property located at 5500 N Canyon Road. The subject area is located just south of the Indian Road Trailhead and east of University Avenue. The total property proposed for annexation equals approximately 9.1 acres. There are two areas of this annexation, which are separated by approximately 200 feet. Canyon Road runs through the westerly portion of the annexation area. A portion of Canyon Road is owned by Utah County. They have prepared a deed to transfer this land to Provo City upon recordation of the proposed annexation plat. The applicant owns property in both of the small areas shown on the annexation plat. The westerly area includes the applicant's home, a portion of Canyon Road, and a city utility facility. The easterly area includes agricultural land owned by the applicant, a city utility facility, and a small parcel owned by Provo Canyon Estates LLC. A portion of an access road runs through the Provo Canyon Estates parcel.

The subject area is located within “Area Five” on the city’s Annexation Policy Map. A portion of Appendix C: Annexation Map and Policies sets forth the following regarding “Area Five”:

> *“Area Five is bounded on the west and south by existing Provo City limits, and on the east by the Uinta National Forest boundary. Existing water pressure zones can serve this area to an elevation of approximately 4,876 feet. Area Five can be served by gravity wastewater systems, but main lines would have to be extended into the area from existing lines several thousand feet away. Development in sizeable portions of this area would be subject to the city’s Hillside Development Standards, as well as the Critical Hillside Overlay (CH) Zone. The General Plan Map calls for residential development in a portion of this area; however, any property identified as Agriculture on the map should be included in the OSPR zone upon being annexed. Any future development project requiring a rezone from the OSPR Zone would be required to demonstrate a substantial benefit to the city and would be subject to the requirements of the Critical Hillside Overlay Zone.”*

§14.02.080 provides the following regarding the zoning of annexed property: *“any property in the process of annexation, or annexed to or consolidated to Provo City subsequent to the effective date of this Section, shall be deemed to be classified in accordance with the lowest density zone allowed by the land use designation set forth for the subject property in the Provo City General Plan.”*

The westerly area, as well as Parcel 200140082 and the western most portion of Parcel 200140081, has a Residential land use designation on the General Plan Map. Provo City Parcel 200140054, as well as the majority of Parcel 200140081, has an Agricultural land use designation.

The applicant desires to have agricultural zoning for her property. Staff recommends A1.1 (Agricultural, 1-ac) zoning for the land owned by Smith. Such zoning is less intense than the least intense residential zone (One-Family Residential – R1.2 Zone, 20,000 SF). Staff recommends A1.5 (Agricultural, 5-ac) zoning for the more easterly Parcels 200140054 and 200140081—to match the adjacent agricultural zoning. All agricultural zoning in the broader vicinity is A1.5.
There is no proposed development plan in connection with this annexation.

FINDINGS OF FACT

- The subject property is within “Area Five” of the Provo City Annexation Policy Map.
- The majority of the subject land is designated as “Residential” in the Provo City General Plan.
- The Provo City parcel, as well as a majority of the Provo Canyon Estates parcel, has an “Agricultural” land use designation.

CONCLUSIONS

In its review and evaluation of this request, Development Services Staff believes the proposed annexation is consistent with the adopted Annexation Plan and will be a benefit to the City.

RECOMMENDATION

Recommend Approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

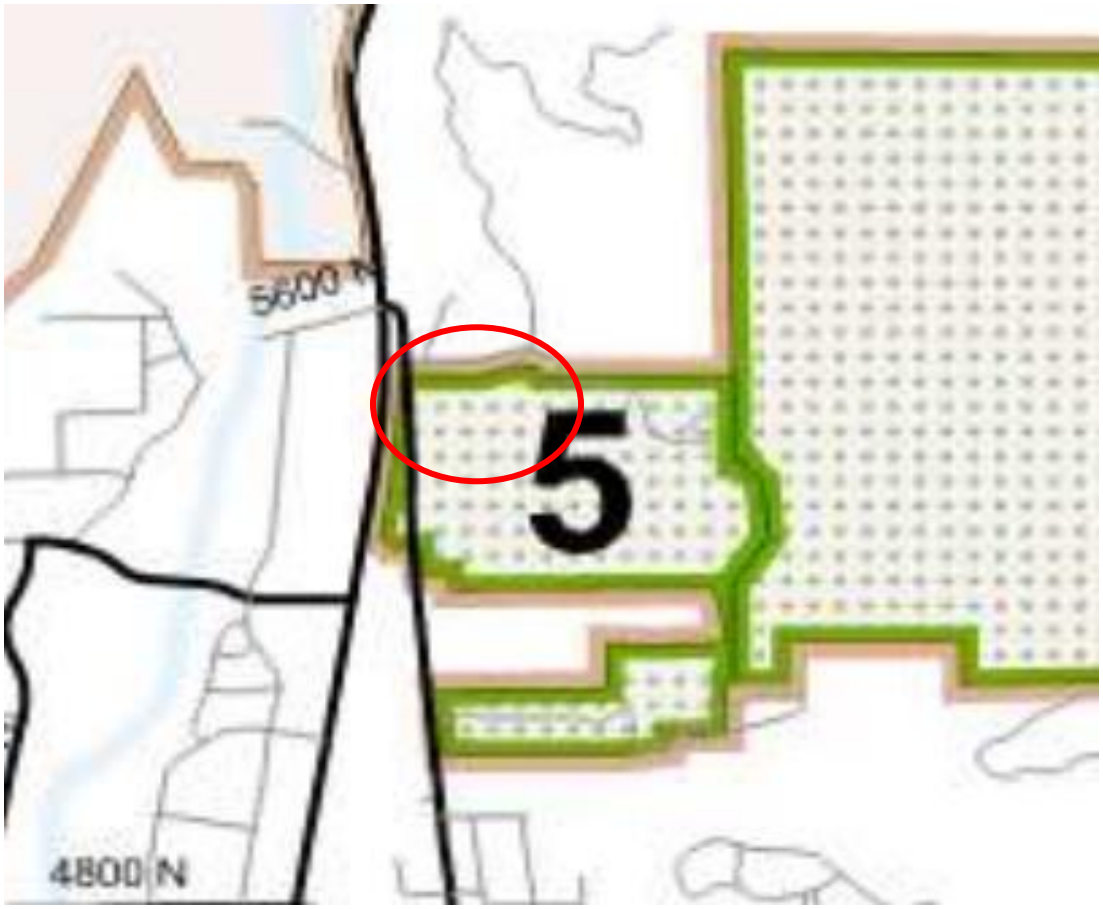
ATTACHMENTS

1. Location Map
2. Annexation Policy Map
3. Annexation Plat Map
4. General Plan Map
5. Public Works Staff Report

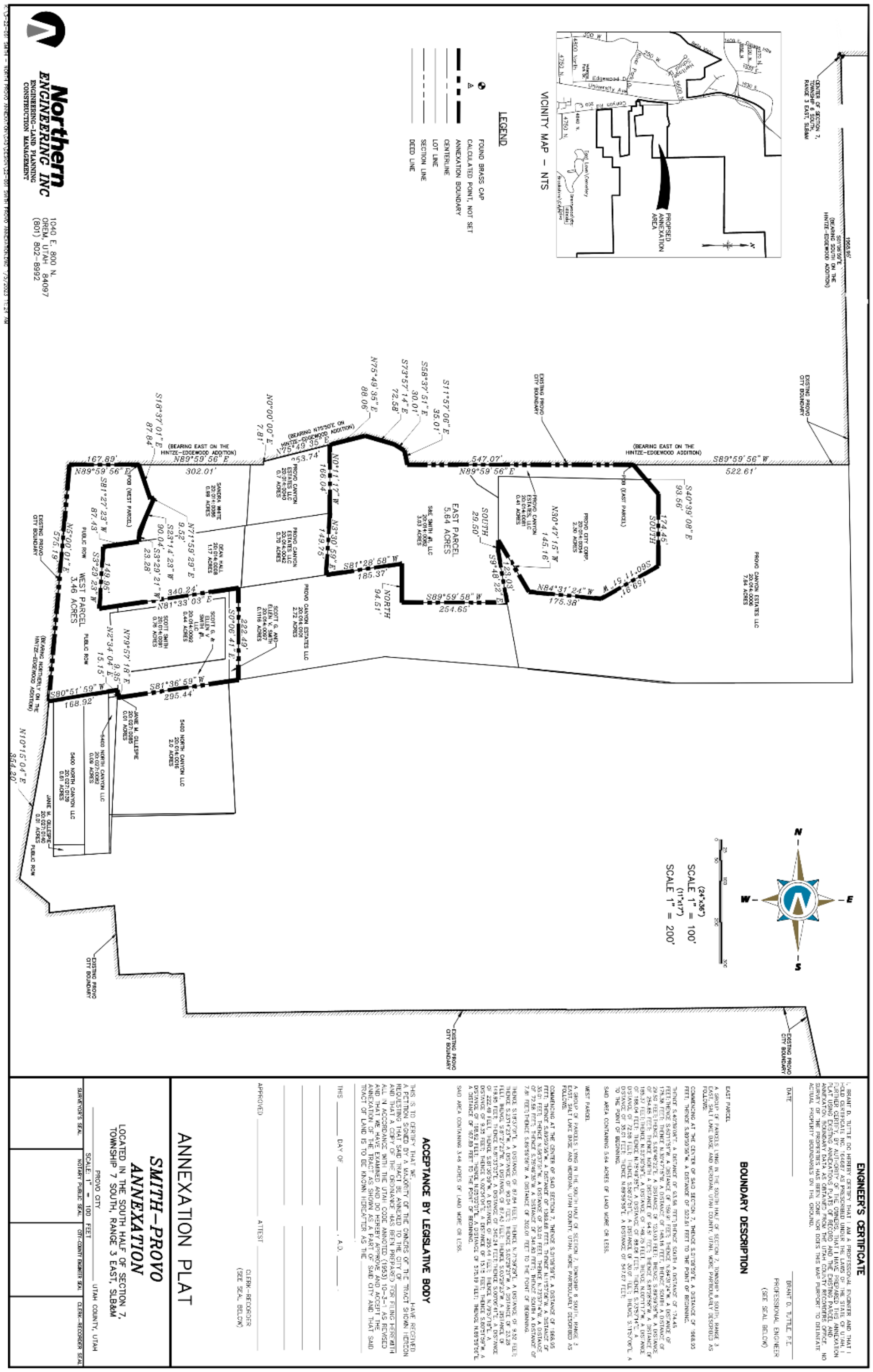
Attachment 1: Location Map



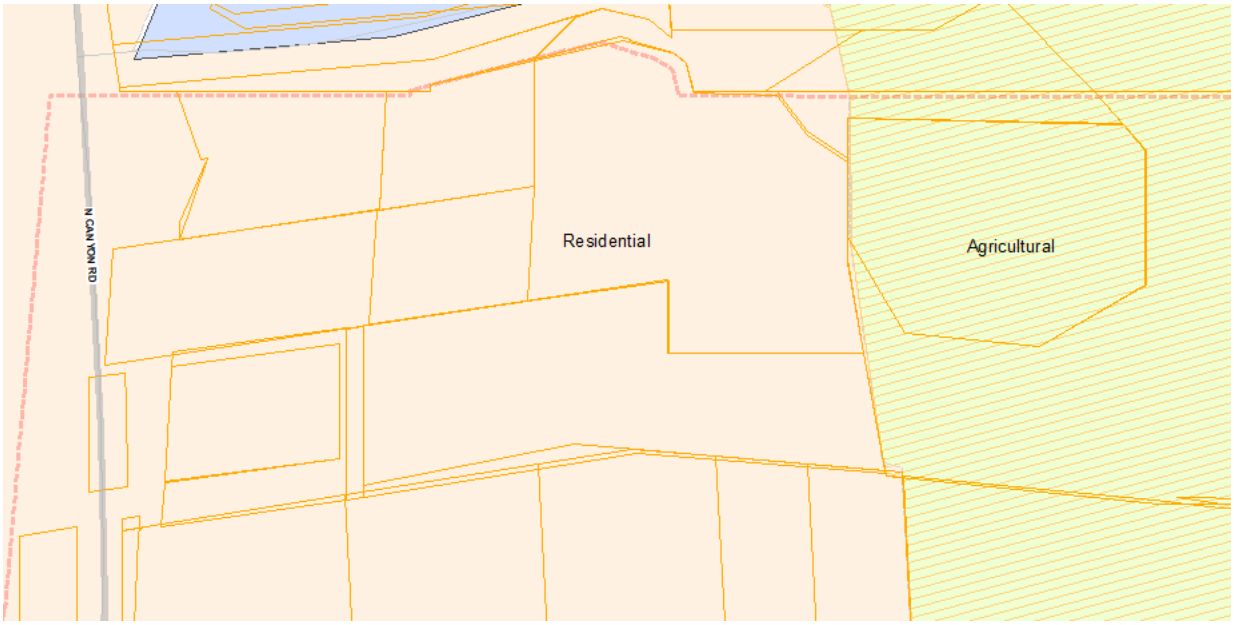
Attachment 2: Annexation Policy Map



Attachment 3: Annexation Plat Maps



Attachment 4: General Plan Map



Attachment 5: Public Works Staff Report

PUBLIC WORKS
TEL 801 852 6780
1377 S 350 E
PROVO, UT 84606

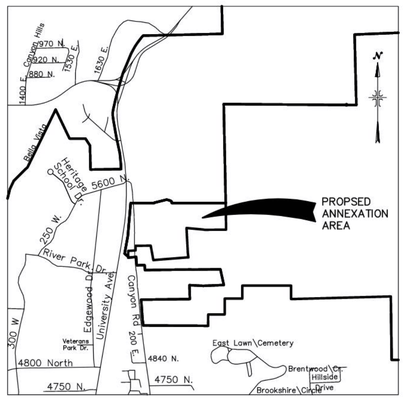
Public Works Staff Report
Hearing Date: 3/8/2023

Annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd.

Item #1 Summary:
Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Staff Recommendation:
Public Works staff has major concerns with the requested action. Sewer, water and storm drain service systems are not available throughout this annexation area.

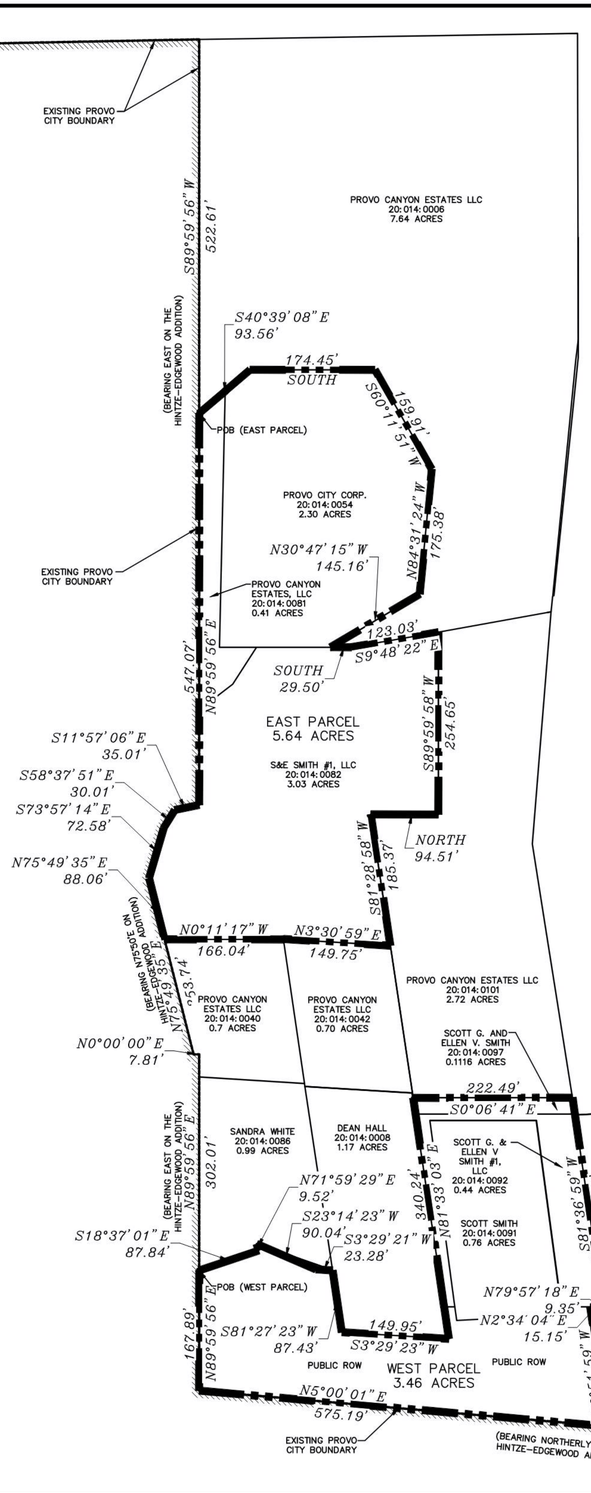
Dave Decker, Public Works Director
David Day, Development Engineering Coordinator

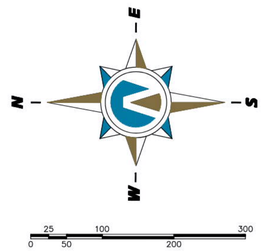


VICINITY MAP – NTS

LEGEND

- FOUND BRASS CAP
- CALCULATED POINT, NOT SET
- ANNEXATION BOUNDARY
- CENTERLINE
- LOT LINE
- SECTION LINE
- DEED LINE





(24"x36")
SCALE 1" = 100'
(11"x17")
SCALE 1" = 200'

ENGINEER'S CERTIFICATE

I, BRANT D. TUTTLE DO HEREBY CERTIFY THAT I AM A PROFESSIONAL ENGINEER AND THAT I HOLD CERTIFICATE NO. 164687 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY, BY AUTHORITY OF THE OWNERS, THAT I HAVE PREPARED THIS ANNEXATION PLAT USING EXISTING ANNEXATIONS PLATS OF RECORD AND THE EXISTING PARCEL AND ANNEXATION BOUNDARY DATA AS OBTAINED FROM THE UTAH COUNTY RECORDERS OFFICE. NO SURVEY OF THE PROPERTIES HAS BEEN DONE NOR DOES THIS MAP PURPORT TO DELINEATE ACTUAL PROPERTY BOUNDARIES ON THE GROUND.

DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK-RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH–PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	CLERK-RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING–LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802-8992

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 8, 2023

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Applicant: Ginny Smith

Staff Coordinator: Brandon Larsen

Property Owners: Ginny and Scott Smith, Provo City, Utah County, and Provo Canyon Estates LLC

Parcel ID#: 200140054, 200140081, 200140082, 200140083, 200140091, and 200140092

Acreage: 9.1 acres

Number of Properties: 6

General Plan Designation: Residential and Agricultural

Related Applications: None

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 22, 2023, at 6:00 P.M.

2. Recommend *Denial* of the proposed annexation. This recommendation would be inconsistent with the staff report. The Planning Commission must make specific findings that the proposal does not meet City Code requirements.

Relevant History: None

Neighborhood Issues: None

Summary of Key Issues:

- A small portion of unincorporated land is proposed to be annexed into Provo City.
- All land proposed to be annexed appears to have an associated Residential land use designation, except for Parcel 200140054, which is home to a city utility facility, and a portion of Parcel 200140081, which is owned by Provo Canyon Estates LLC.

Recommended Action:
Recommend approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

OVERVIEW

This item is an annexation request for property located at 5500 N Canyon Road. The subject area is located just south of the Indian Road Trailhead and east of University Avenue. The total property proposed for annexation equals approximately 9.1 acres. There are two areas of this annexation, which are separated by approximately 200 feet. Canyon Road runs through the westerly portion of the annexation area. A portion of Canyon Road is owned by Utah County. They have prepared a deed to transfer this land to Provo City upon recordation of the proposed annexation plat. The applicant owns property in both of the small areas shown on the annexation plat. The westerly area includes the applicant's home, a portion of Canyon Road, and a city utility facility. The easterly area includes agricultural land owned by the applicant, a city utility facility, and a small parcel owned by Provo Canyon Estates LLC. A portion of an access road runs through the Provo Canyon Estates parcel.

The subject area is located within “Area Five” on the city’s Annexation Policy Map. A portion of Appendix C: Annexation Map and Policies sets forth the following regarding “Area Five”:

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The applicant desires to have agricultural zoning for her property. Staff recommends A1.1 (Agricultural, 1-ac) zoning for the land owned by Smith. Such zoning is less intense than the least intense residential zone (One-Family Residential – R1.2 Zone, 20,000 SF). Staff recommends A1.5 (Agricultural, 5-ac) zoning for the more easterly Parcels 200140054 and 200140081—to match the adjacent agricultural zoning. All agricultural zoning in the broader vicinity is A1.5.
There is no proposed development plan in connection with this annexation.

FINDINGS OF FACT

- The subject property is within “Area Five” of the Provo City Annexation Policy Map.
- The majority of the subject land is designated as “Residential” in the Provo City General Plan.
- The Provo City parcel, as well as a majority of the Provo Canyon Estates parcel, has an “Agricultural” land use designation.

CONCLUSIONS

In its review and evaluation of this request, Development Services Staff believes the proposed annexation is consistent with the adopted Annexation Plan and will be a benefit to the City.

RECOMMENDATION

Recommend Approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

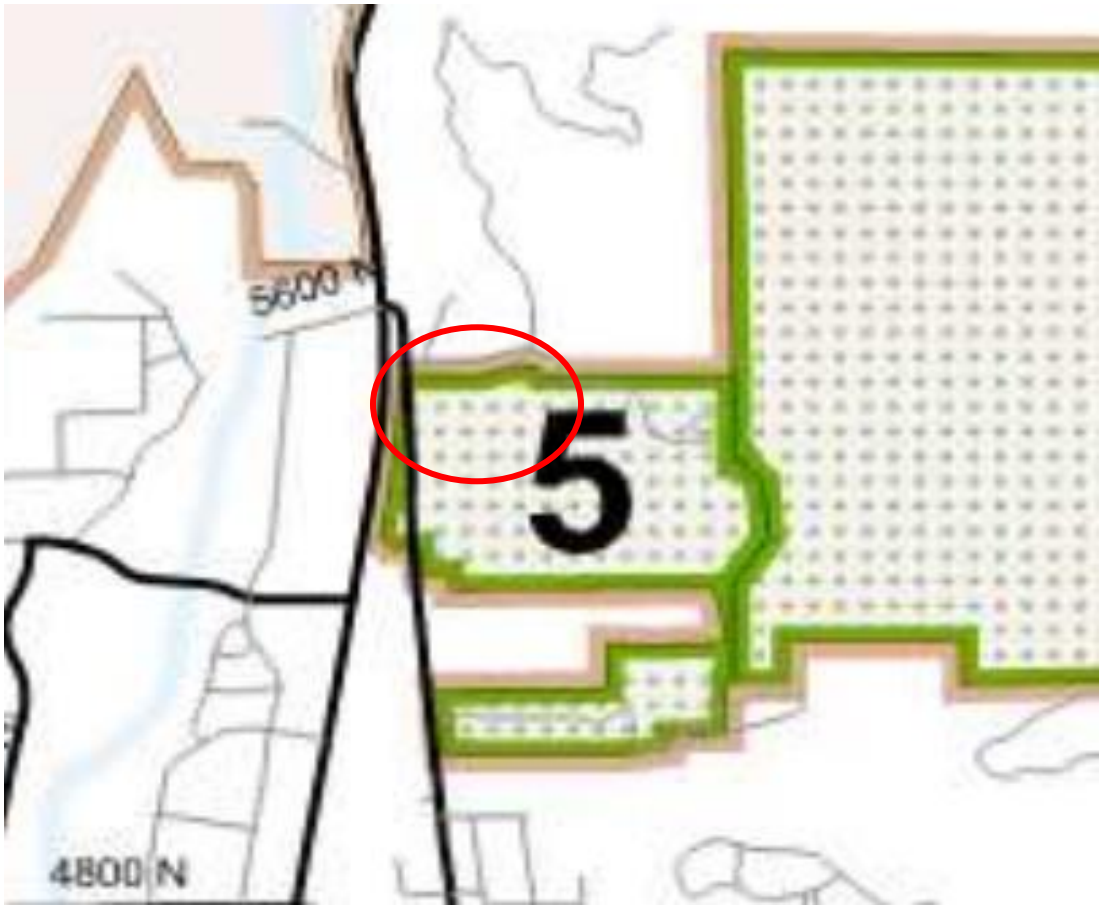
ATTACHMENTS

1. Location Map
2. Annexation Policy Map
3. Annexation Plat Map
4. General Plan Map
5. Public Works Staff Report

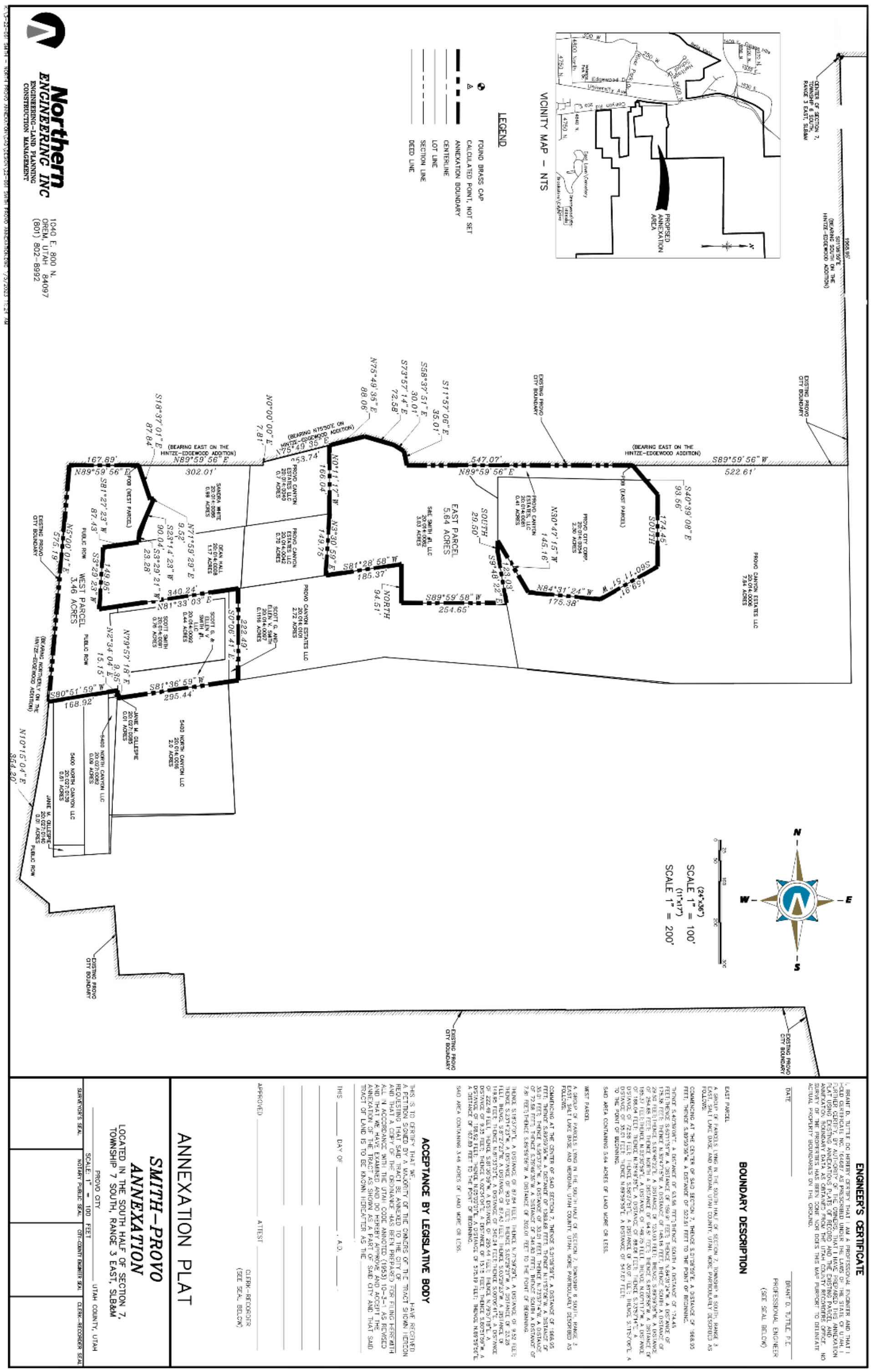
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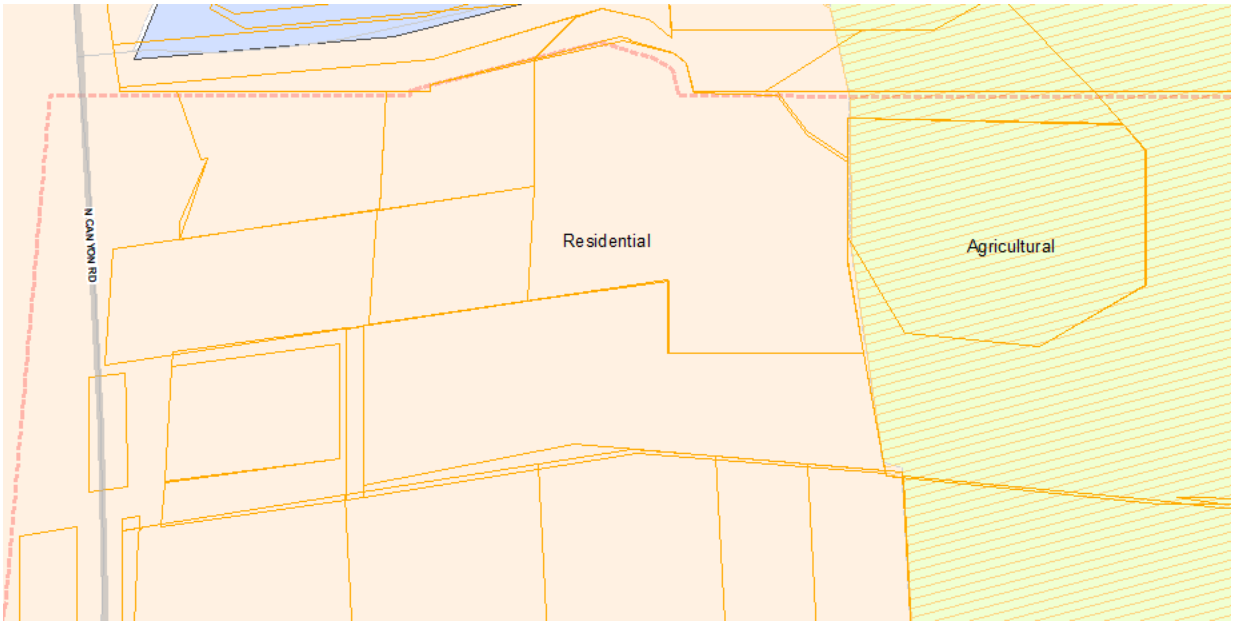
Attachment 2: Annexation Policy Map



Attachment 3: Annexation Plat Maps



Attachment 4: General Plan Map



Attachment 5: Public Works Staff Report

PUBLIC WORKS
TEL 801 852 6780
1377 S 350 E
PROVO, UT 84606

Public Works Staff Report
Hearing Date: 3/8/2023

Annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd.

Item #1 Summary:
Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Staff Recommendation:
Public Works staff has major concerns with the requested action. Sewer, water and storm drain service systems are not available throughout this annexation area.

Dave Decker, Public Works Director
David Day, Development Engineering Coordinator

TO:

UTAH LIEUTENANT GOVERNOR'S OFFICE
350 North State Street, Suite 220
P.O. Box 142325
Salt Lake City, Utah 84114-2325

NOTICE OF IMPENDING BOUNDARY ACTION

Smith-Provo Annexation to Provo City

Please take notice of the Smith-Provo Annexation. The Annexation was approved by Ordinance No.20___-___, and, No. 20___-___, and was adopted on the 18th day of July, 2023, by the Provo City Council, as per § 10-2-407(6), UCA. As required by § 67-1a-6.5(3)(e)(i), UCA, we certify that Provo City has met all requirements for approval of the Annexation. Accordingly, we request the Lieutenant Governor to issue a certificate of annexation, as per § 10-2-425, UCA.

In accordance with UCA 10-2-425(4)(b), the effective date of the annexation shall be the date of the lieutenant governor's issuance of the certificate of annexation.

ATTEST:

_____
Heidi Pepinos, City Recorder

PROVO CITY COUNCIL:

_____
Katrice McKay, Chair

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JBLARSEN
Department: Recorder
Requested Meeting Date: 07-18-2023

SUBJECT: A RESOLUTION APPROVING THE PETITION TO ANNEX APPROXIMATELY 5.64 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 5500 NORTH CANYON ROAD. NORTH TIMPVIEW NEIGHBORHOOD (PLANEX20230020)

RECOMMENDATION: To be heard at the July 18, 2023, Work and Council Meeting. Please see supporting documents.

BACKGROUND: This item is an annexation request for property located at approximately 5500 N Canyon Rd. The total acreage is approximately 5.64 contiguous acres (east property). The subject area is located just south of Indian Road Trailhead and east of Canyon Road. The property lies approximately one-half mile south of Provo Canyon, and 800 feet from the boundary of Orem City. There are agricultural buildings and city infrastructure on the subject property.

FISCAL IMPACT:

PRESENTER'S NAME: Brandon Larsen, 801-852-6408, jblarsen@provo.org

REQUESTED DURATION OF PRESENTATION: 5

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: The subject property is included in Area 5 of the City's Annexation Policy Plan map. The westerly portion of the property owned by the Smiths and Provo Canyon Estates has a residential land use designation. The easterly portion of the property owned by Provo City and Provo Canyon Estates has an agricultural land use designation.

CITYVIEW OR ISSUE FILE NUMBER: PLANEX20230020

RESOLUTION 2023-____.

A RESOLUTION APPROVING THE PETITION TO ANNEX APPROXIMATELY 5.64 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 5500 NORTH CANYON ROAD. NORTH TIMPVIEW NEIGHBORHOOD (PLANEX20230020)

WHEREAS, on May 2, 2023, the Municipal Council approved a resolution accepting an annexation petition for further consideration regarding 9.1 acres of property generally located at 5500 North Canyon Road; and

WHEREAS, it was found that the original annexation petition needed to be split into two separate annexations of approximately 3.46 acres and 5.64 acres, respectively, as the entire approximately 9.1 acres of land is not contiguous;

WHEREAS, this resolution pertains to the annexation of that portion of the original petition consisting of 5.64 acres, as shown in the attached Exhibit A; and

WHEREAS, after splitting the petition, all other necessary steps have been taken and, pursuant to Utah Code 10-2-407(6), if no timely protests against the proposed annexation have been filed, the Municipal Council may approve the annexation; and

WHEREAS, no timely protests were filed against the proposed annexation; and

WHEREAS, on March 8, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a 7:0 vote; and

WHEREAS, on July 18, 2023, the Municipal Council held a public hearing to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, all persons for and against the proposed annexation were given an opportunity to be heard; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds that approval of this annexation would reasonably further the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Mayor is hereby authorized to negotiate and execute an annexation agreement as proposed by the annexation petitioner, consistent with those commitments and representations made by the applicant and the applicant's representatives in the Council Meeting of July 18, 2023 and in form substantially similar to the draft attached hereto as Exhibit B, an executed copy of which shall be attached hereto as Exhibit C after execution.

PART II:

Subject to the execution of the annexation agreement described in Part I, the Municipal Council hereby approves the annexation of approximately 5.64 acres of property generally located at 5500 North Canyon Road, as shown in the attached Exhibit A. The effective date of the Council's approval shall be the date of final execution of the annexation agreement.

PART III:

A. Except as otherwise stated in Part II, this resolution shall take effect immediately.

B. Notwithstanding any provision or language to the contrary in this resolution, if the annexation agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this resolution, the entire resolution shall expire, becoming null and void as if it had never been approved.

END OF RESOLUTION.

Exhibit A

Smith-Provo Annexation, 5.64 Acres



SMITH-PROVO ANNEXATION



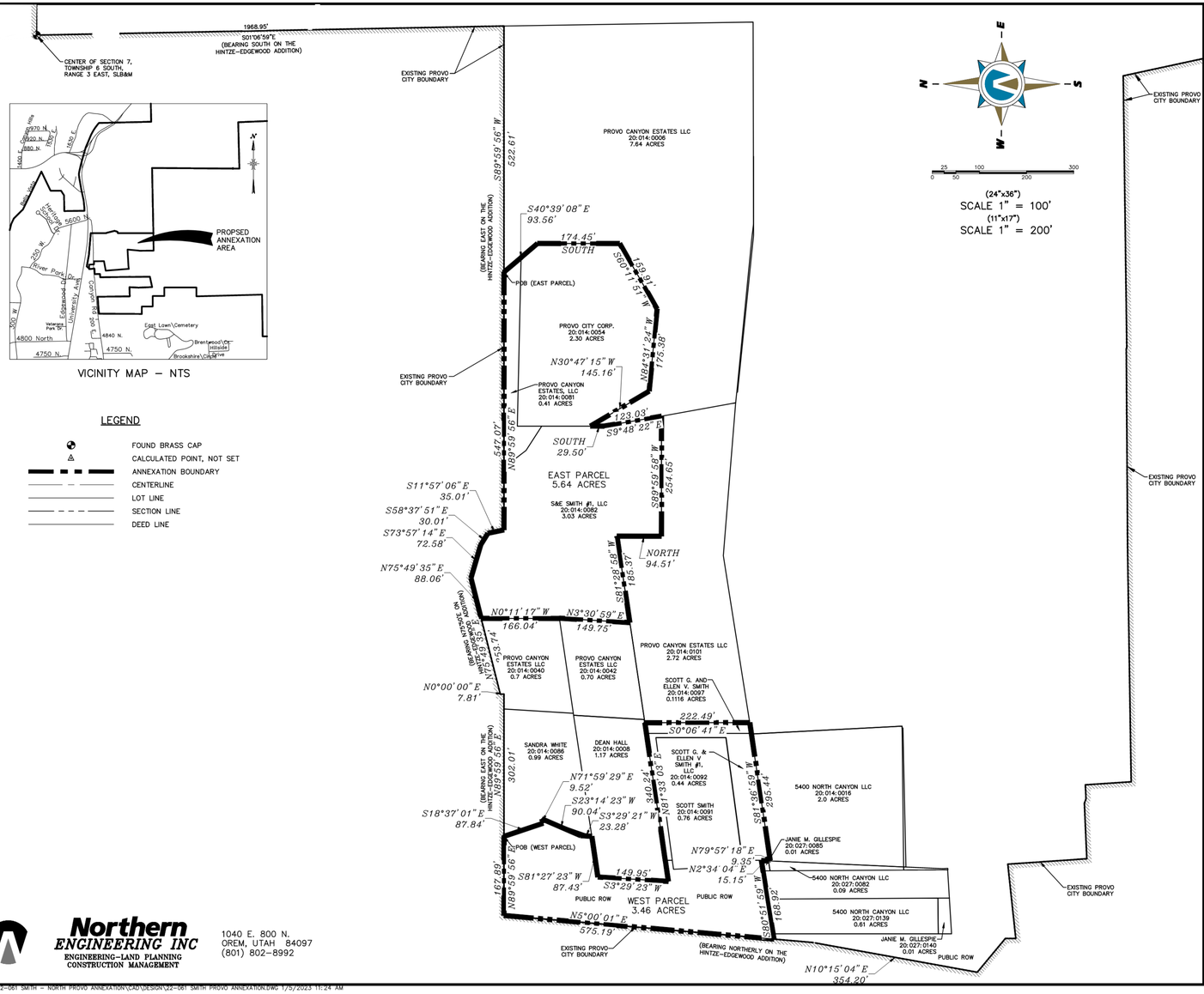
Vicinity

Smith-Provo Vicinity and Zoning Map



Vicinity





ENGINEER'S CERTIFICATE

I, BRANT D. TUTTLE DO HEREBY CERTIFY THAT I AM A PROFESSIONAL ENGINEER AND THAT I HOLD CERTIFICATE NO. 164687 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY, BY AUTHORITY OF THE OWNERS, THAT I HAVE PREPARED THIS ANNEXATION PLAT USING EXISTING ANNEXATIONS PLATS OF RECORD AND THE EXISTING PARCEL AND ANNEXATION BOUNDARY DATA AS OBTAINED FROM THE UTAH COUNTY RECORDERS OFFICE. NO SURVEY OF THE PROPERTIES HAS BEEN DONE NOR DOES THIS MAP PURPORT TO DELINEATE ACTUAL PROPERTY BOUNDARIES ON THE GROUND.

DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 522.61 FEET TO THE POINT OF BEGINNING.

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SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

WEST PARCEL

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SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, _____ HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF _____ AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTED (1953) 10–3–1 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREAFTER AS THE _____ _____ .

THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK–RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH–PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY–COUNTY ENGINEER SEAL	CLERK–RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING–LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802–8992

Provo City Planning Commission

Report of Action

March 08, 2023

*ITEM 1	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 8, 2023:

RECOMMENDED APPROVAL

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Melissa Kendall
Second By: Jeff Whitlock
Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Robert Knudsen, Jeff Whitlock, Daniel Gonzales, Raleen Wahlin, and Andrew South

Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE ANNEXED

The property to be annexed is described in the attached Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Public Works Department wants an acknowledgement from, or agreement with, the Smiths essentially acknowledging they will not receive additional utility services from the city upon annexation. The Power Department wants powerline easements on future plats involving the subject property.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.
- Steve Turley expressed a desire for the city to not bring in the proposed annexation without requiring utilities. He also said there is a recorded restrictive covenant against all or some of the subject property that could be impacted through the annexation. The restrictive covenant is referred to as a Declaration of Zoning Lot, which was signed in 2004.

CONCERNS RAISED BY PUBLIC

The only comments staff received from the public are related to the comment above from Steve Turley.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Ginny Smith said this annexation will help them to maintain their agricultural pursuits on their property, as well as help keep their property safer with better police protection through the city.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen suggested zoning, the issue with the restrictive covenant referenced by Mr. Turley, and development issues are interesting, but not relevant to their decision tonight because there is no development being proposed.
- The restrictive covenant issue can be addressed at the Council level.
- Commissioner Jensen suggested we typically do not like patch work annexations, but it is adjacent to land within the city. We are not dealing with a county island.
- Commissioner Gonzales requested the following finding be included in their motion: The property is mainly used for agricultural purposes, namely fruit growing, and the applicant intends to continue to use the property for agricultural operations.
- Commissioner Kendell recommended the Commission recommend approval of the annexation with Commissioner Gonzales's finding. The motion was seconded by Commissioner Whitlock. The motion was approved 7-0.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

EAST PARCEL

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DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 8, 2023

***ITEM 1**	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Applicant: Ginny Smith

Staff Coordinator: Brandon Larsen

Property Owners: Ginny and Scott Smith, Provo City, Utah County, and Provo Canyon Estates LLC

Parcel ID#: 200140054, 200140081, 200140082, 200140083, 200140091, and 200140092

Acreage: 9.1 acres

Number of Properties: 6

General Plan Designation: Residential and Agricultural

Related Applications: None

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 22, 2023, at 6:00 P.M.

2. Recommend *Denial* of the proposed annexation. This recommendation would be inconsistent with the staff report. The Planning Commission must make specific findings that the proposal does not meet City Code requirements.

Relevant History: None

Neighborhood Issues: None

Summary of Key Issues:

- A small portion of unincorporated land is proposed to be annexed into Provo City.
- All land proposed to be annexed appears to have an associated Residential land use designation, except for Parcel 200140054, which is home to a city utility facility, and a portion of Parcel 200140081, which is owned by Provo Canyon Estates LLC.

Recommended Action:
Recommend approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

OVERVIEW

This item is an annexation request for property located at 5500 N Canyon Road. The subject area is located just south of the Indian Road Trailhead and east of University Avenue. The total property proposed for annexation equals approximately 9.1 acres. There are two areas of this annexation, which are separated by approximately 200 feet. Canyon Road runs through the westerly portion of the annexation area. A portion of Canyon Road is owned by Utah County. They have prepared a deed to transfer this land to Provo City upon recordation of the proposed annexation plat. The applicant owns property in both of the small areas shown on the annexation plat. The westerly area includes the applicant's home, a portion of Canyon Road, and a city utility facility. The easterly area includes agricultural land owned by the applicant, a city utility facility, and a small parcel owned by Provo Canyon Estates LLC. A portion of an access road runs through the Provo Canyon Estates parcel.

The subject area is located within “Area Five” on the city’s Annexation Policy Map. A portion of Appendix C: Annexation Map and Policies sets forth the following regarding “Area Five”:

> *“Area Five is bounded on the west and south by existing Provo City limits, and on the east by the Uinta National Forest boundary. Existing water pressure zones can serve this area to an elevation of approximately 4,876 feet. Area Five can be served by gravity wastewater systems, but main lines would have to be extended into the area from existing lines several thousand feet away. Development in sizeable portions of this area would be subject to the city’s Hillside Development Standards, as well as the Critical Hillside Overlay (CH) Zone. The General Plan Map calls for residential development in a portion of this area; however, any property identified as Agriculture on the map should be included in the OSPR zone upon being annexed. Any future development project requiring a rezone from the OSPR Zone would be required to demonstrate a substantial benefit to the city and would be subject to the requirements of the Critical Hillside Overlay Zone.”*

§14.02.080 provides the following regarding the zoning of annexed property: *“any property in the process of annexation, or annexed to or consolidated to Provo City subsequent to the effective date of this Section, shall be deemed to be classified in accordance with the lowest density zone allowed by the land use designation set forth for the subject property in the Provo City General Plan.”*

The westerly area, as well as Parcel 200140082 and the western most portion of Parcel 200140081, has a Residential land use designation on the General Plan Map. Provo City Parcel 200140054, as well as the majority of Parcel 200140081, has an Agricultural land use designation.

The applicant desires to have agricultural zoning for her property. Staff recommends A1.1 (Agricultural, 1-ac) zoning for the land owned by Smith. Such zoning is less intense than the least intense residential zone (One-Family Residential – R1.2 Zone, 20,000 SF). Staff recommends A1.5 (Agricultural, 5-ac) zoning for the more easterly Parcels 200140054 and 200140081—to match the adjacent agricultural zoning. All agricultural zoning in the broader vicinity is A1.5.
There is no proposed development plan in connection with this annexation.

FINDINGS OF FACT

- The subject property is within “Area Five” of the Provo City Annexation Policy Map.
- The majority of the subject land is designated as “Residential” in the Provo City General Plan.
- The Provo City parcel, as well as a majority of the Provo Canyon Estates parcel, has an “Agricultural” land use designation.

CONCLUSIONS

In its review and evaluation of this request, Development Services Staff believes the proposed annexation is consistent with the adopted Annexation Plan and will be a benefit to the City.

RECOMMENDATION

Recommend Approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

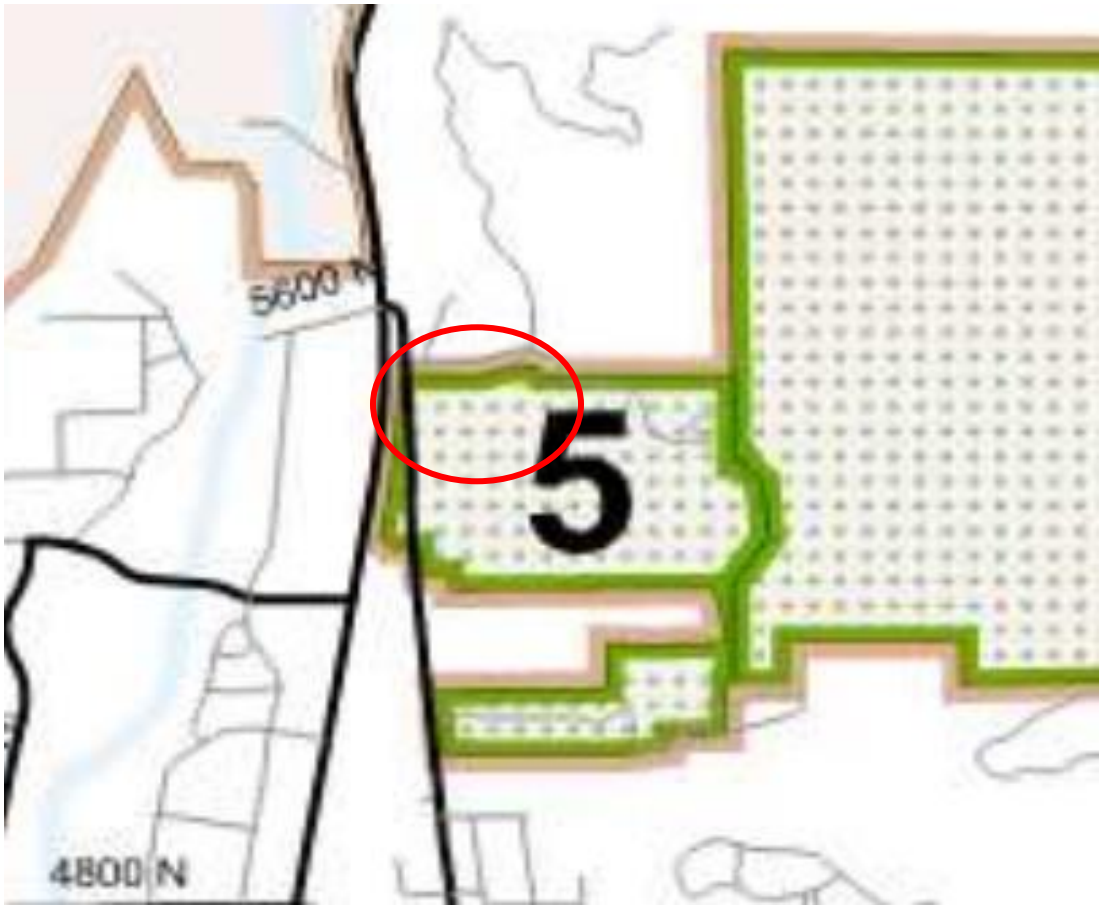
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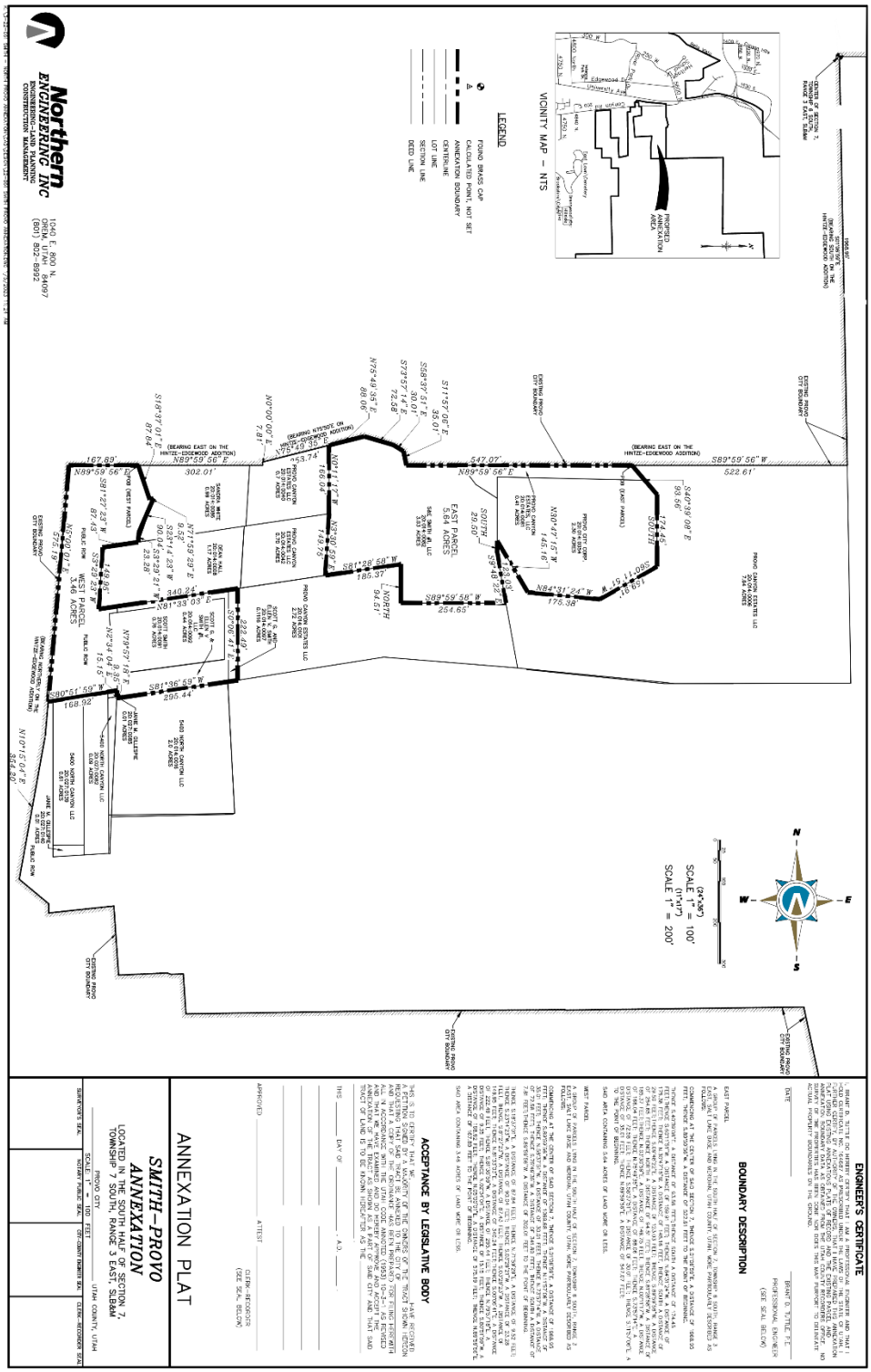
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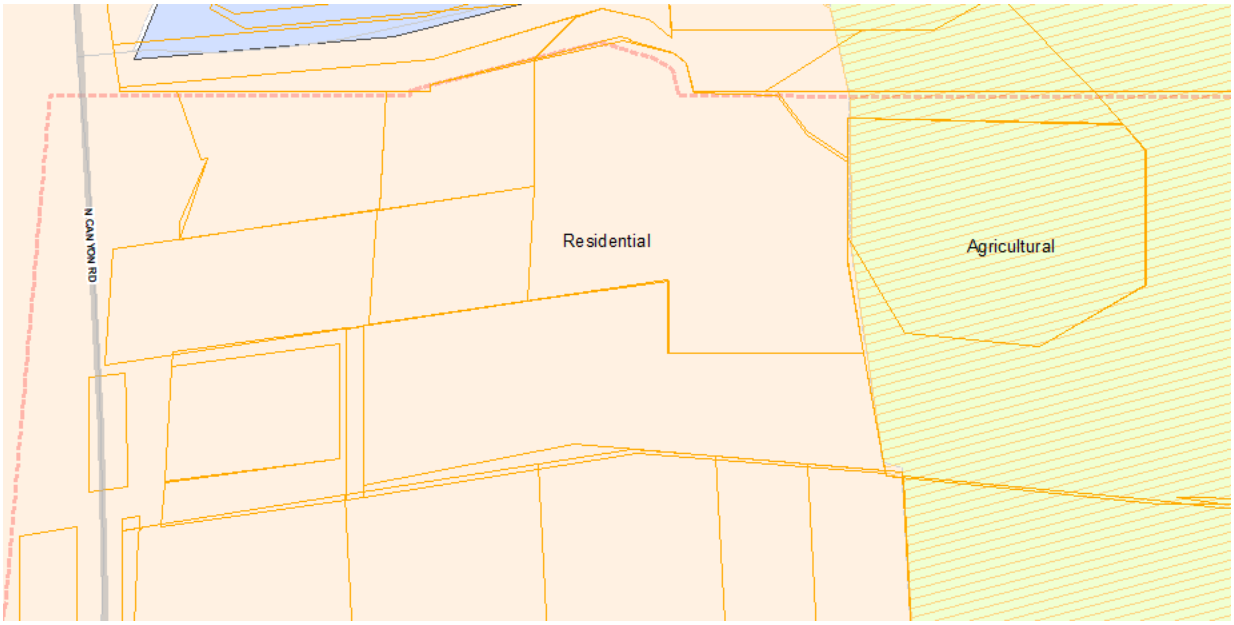
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Attachment 4: General Plan Map



Attachment 5: Public Works Staff Report

PUBLIC WORKS
TEL 801 852 6780
1377 S 350 E
PROVO, UT 84606

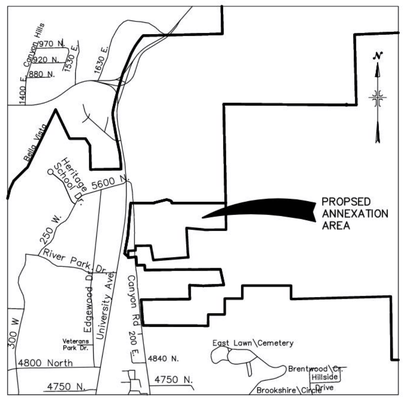
Public Works Staff Report
Hearing Date: 3/8/2023

Annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd.

Item #1 Summary:
Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Staff Recommendation:
Public Works staff has major concerns with the requested action. Sewer, water and storm drain service systems are not available throughout this annexation area.

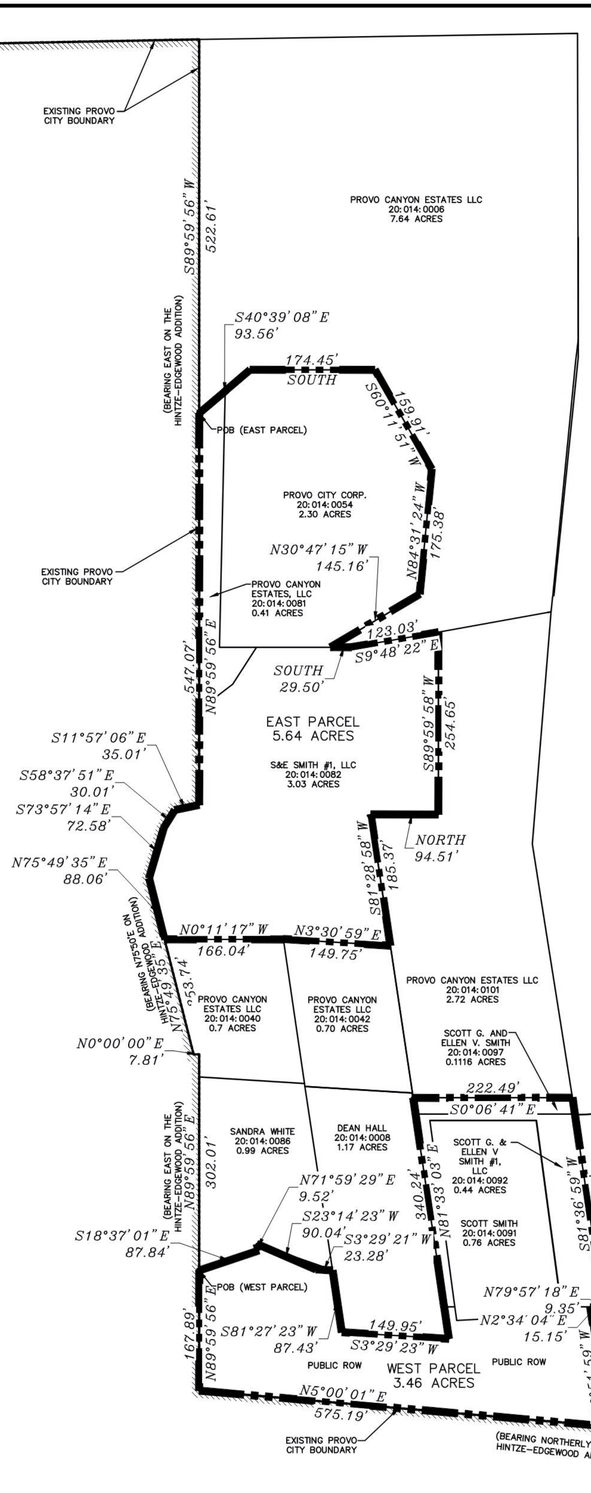
Dave Decker, Public Works Director
David Day, Development Engineering Coordinator

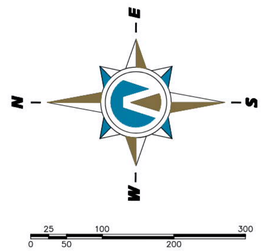


VICINITY MAP – NTS

LEGEND

- FOUND BRASS CAP
- CALCULATED POINT, NOT SET
- ANNEXATION BOUNDARY
- CENTERLINE
- LOT LINE
- SECTION LINE
- DEED LINE





(24"x36")
SCALE 1" = 100'
(11"x17")
SCALE 1" = 200'

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DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

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ACCEPTANCE BY LEGISLATIVE BODY

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THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK-RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH–PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

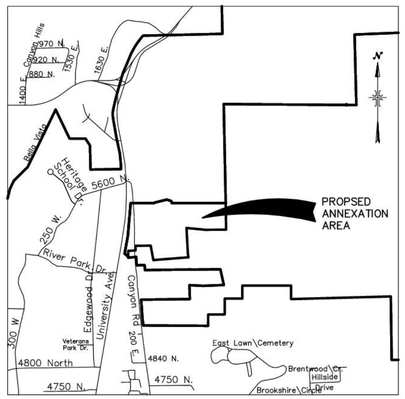
PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	CLERK-RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING–LAND PLANNING
CONSTRUCTION MANAGEMENT

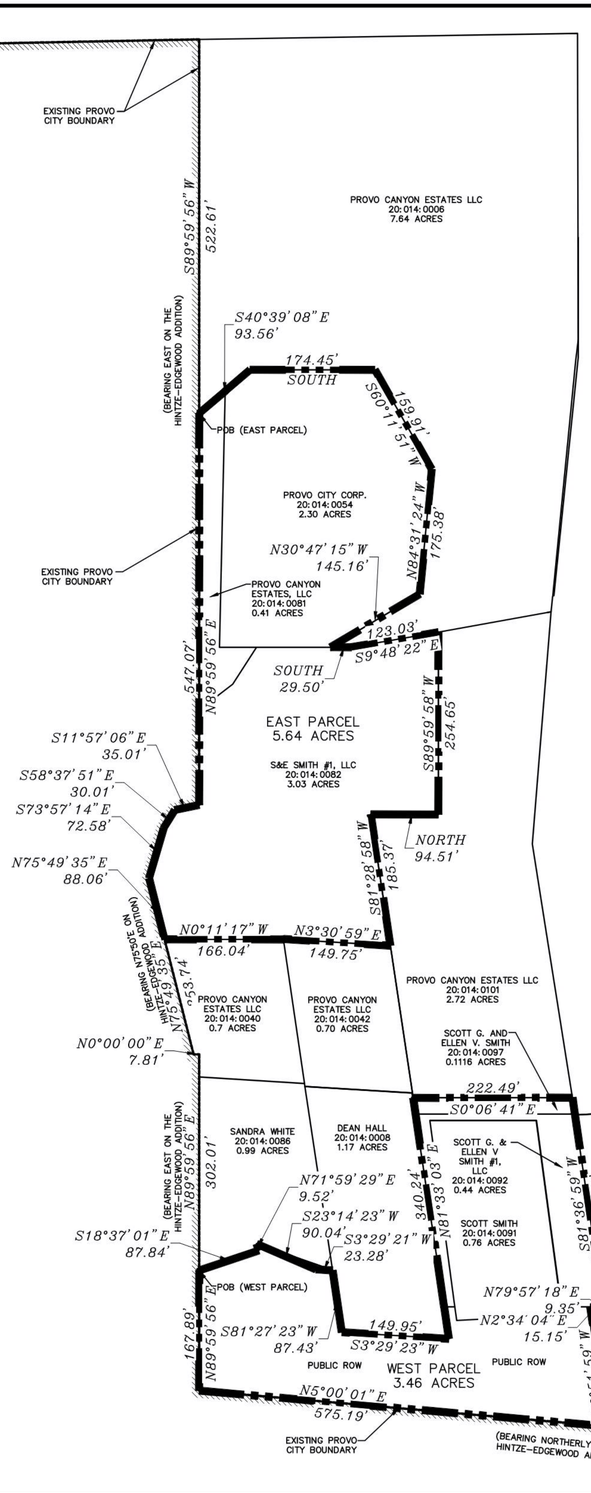
1040 E. 800 N.
OREM, UTAH 84097
(801) 802-8992

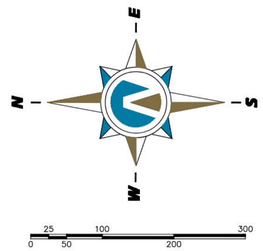


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THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK-RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH–PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	CLERK-RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING–LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802-8992

TO:

UTAH LIEUTENANT GOVERNOR'S OFFICE
350 North State Street, Suite 220
P.O. Box 142325
Salt Lake City, Utah 84114-2325

NOTICE OF IMPENDING BOUNDARY ACTION

Smith-Provo Annexation to Provo City

Please take notice of the Smith-Provo Annexation. The Annexation was approved by Ordinance No.20___-___, and, No. 20___-___, and was adopted on the 18th day of July, 2023, by the Provo City Council, as per § 10-2-407(6), UCA. As required by § 67-1a-6.5(3)(e)(i), UCA, we certify that Provo City has met all requirements for approval of the Annexation. Accordingly, we request the Lieutenant Governor to issue a certificate of annexation, as per § 10-2-425, UCA.

In accordance with UCA 10-2-425(4)(b), the effective date of the annexation shall be the date of the lieutenant governor's issuance of the certificate of annexation.

ATTEST:

_____
Heidi Pepinos, City Recorder

PROVO CITY COUNCIL:

_____
Katrice McKay, Chair

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 07-18-2023

SUBJECT: AN ORDINANCE AMENDING PROVO CITY CODE TO EXPAND PROHIBITIONS ON DEPOSITING MATERIALS ON SIDEWALKS AND STREETS AND TO REGULATE STREET PARKING OF RECREATIONAL VEHICLES, BOATS, AND TRAILERS.

RECOMMENDATION: To be heard at the July 18, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: The Parking Division is requesting approval of text amendments to Provo City code 9.15 adding any obstructions that are unsightly or render travel on the sidewalk or roadway unsafe. The current code list yard debris but does not specify obstructions.

FISCAL IMPACT:

PRESENTER'S NAME: Sandy Bussio, Parking Program Manager

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20230103

ORDINANCE 2023-.

AN ORDINANCE AMENDING PROVO CITY CODE TO EXPAND PROHIBITIONS ON DEPOSITING MATERIALS ON SIDEWALKS AND STREETS AND TO REGULATE STREET PARKING OF RECREATIONAL VEHICLES, BOATS, AND TRAILERS. (23-054)

WHEREAS, it is proposed the Provo City Code be amended to expand and clarify restrictions on depositing materials on streets and sidewalks and to further regulate the parking of recreational vehicles, boats, and trailers on city streets.

WHEREAS, on July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 9.15.230 is hereby amended as set forth in Exhibit A.

PART II:

Provo City Code Section 9.31.055 is hereby enacted as set forth in Exhibit B.

PART III:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

9.15.230 Depositing Material on Streets Prohibited.

(1) It shall be unlawful for any person to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings, ~~or~~ rubbish ~~of any kind.~~ or any other obstruction which shall render such highway or sidewalk unsafe or unsightly or shall interfere with travel thereon.

(2) Any person violating Subsection (1) of this Section shall be civilly liable for the cost of cleaning the subject street, gutter, sidewalk, or public place. Criminal proceedings under Subsection (1) of this Section shall not be a condition precedent to a civil claim under this Subsection (2) of this Section. Provo City may bring a claim under this Subsection if it cleans the subject property.

Exhibit B

9.31.055 Using Streets for Parking of Recreational Vehicles, Trailers, and Boats.

(1) It is unlawful for any person to park a recreational vehicle, trailer, boat, or similar conveyance whether attached or unattached to a motor vehicle, upon any public street or alley for more than seventy-two (72) consecutive hours. Any of the above which are moved from a parking spot and then reparked on the same block face within seventy-two (72) hours from the time of said removal shall be deemed to have been continuously parked. For purposes of this section, the term "block face" shall have the same meaning as in Section 14.06.020.

(2) Notwithstanding Subsection (1), a person may park a recreational vehicle, trailer, boat, or similar conveyance on a public street or alley for longer than seventy-two (72) consecutive hours if, and only if, the following conditions are met:

(a) The person is in possession of a valid permit issued by the Parking Services Division in accordance with subsection (3);
(b) It is parked in a manner that is in compliance with all City and State laws and statutes. Trailers, boats, or vehicles found in violation may be subject to citations and the permit may be revoked;
(c) It is parked in front of a property/dwelling/residence that the permit holder owns or rents or is owned or rented by someone the permit holder is visiting; and
(d) The trailer, boat, or vehicle is not lived in or used as a dwelling during the time it is parked.

(3) A permit issued for a recreational vehicle, trailer, boat, or similar conveyance:

(a) May only be requested by, and issued to, the registered owner of the trailer, boat, or vehicle, or an applicant with a notarized power of attorney from the registered owner;
(b) May not be issued for a period in excess of seven (7) days;
(c) Shall specify the location and the trailer, boat, or vehicle to which it pertains, the date and time permitted parking may begin, and the date and time the permit expires;
(d) Is valid only for the trailer, boat, or vehicle, the location, and the times specified;
(e) May not be issued with respect to the same trailer, boat, or vehicle more than six (6) times within any twelve (12) month period;
(f) May not be issued for any period that commences less than seventy-two (72) hours after a previous permit for the same trailer, boat, or vehicle has expired; and
(g) May be revoked for abuse, misuse, ineligibility, or other good cause.

(4) For purposes of this Section, the terms "boat," "recreational vehicle," and "trailer" shall have the same meaning as in Provo City Code Section 14.06.020.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: June 14, 2023

*ITEM # 1 Development Services requests Ordinance Text Amendments to Chapters 9.15 (Use of Sidewalks and Streets) and 9.31 (Parking Regulations) to clarify regulations for street parking. Citywide Application. Sandy Bussio (801) 852-7162 sbussio@provo.org PLOTA20230103

Applicant: Development Services

Staff Coordinator: Sandy Bussio

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is June 28, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested ordinance text amendments. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History:
Items left on sidewalks or side of roadways obstructing pedestrian and vehicle traffic have been reported to the Parking Division. Changes to this ordinance include any obstruction, not only yard waste.

The Parking Division receives numerous complaints about trailers and RVs parked on the public street for extended periods of time. Currently trailers, RV's and vehicles are all under the same code (9.31.050) requiring vehicles to move a minimum of 400 feet and then being able to repark at the same location for 72 hours.

Neighborhood Issues: These changes would affect all neighborhood districts in Provo.
This clarifies that all obstructions on sidewalks and highways that interfere with travel or are unsightly are a violation. Preventing trailers and RVs from being stored on the public street would provide parking for vehicles that are being regularly used.

These amendments were discussed in Neighborhood District 1 meeting on May 25. They will be discussed in Neighborhood District 3 on June 8th.

Summary of Key Issues:

- Any obstruction would not be allowed on the sidewalk or roadway. This adds clarification to the existing code.
- Owner's use of on-street parking to park trailers and RVs for up to seven (7) days would be allowed with a permit obtained through the parking department.
- A new ordinance would allow owners to park trailers and RVs to load and unload for up to seventy-two (72) but would require they be removed from the roadway even if having moved the 400 feet required for a vehicle.
- Neighborhoods would have on-street parking available to vehicles that are being used on a regular basis.

Staff Recommendation:
Staff recommends that the Planning Commission recommend approval to the City Council on both ordinance requests.

OVERVIEW

The Parking Division is requesting approval of text amendments to Provo City code 9.15 adding any obstructions that are unsightly or render travel on the sidewalk or roadway unsafe. The current code list yard debris but does not specify obstructions.

The photos shown are of objects that block sidewalks for pedestrians. The photos also show single-axle trailers that are not required to have registration or license plates. Without a license plate or VIN parking enforcement is unable to issue a citation.

Complaints of trailers and RVs being parked on public roadways for extended periods of time are being received by the Parking Division regularly. These types of trailers are not moving a minimum of 400 feet within a seventy-two (72) hour period or being used on a regular basis.

FINDINGS OF FACT

- Trailers and RVs are regularly parked on the public street for longer than 72 hours.
- Sidewalks are sometime obstructed, causing potential hazards for pedestrians.

STAFF ANALYSIS

Section 14.02.020(2) establishes criteria for these types of amendments for staff to evaluate the proposal. The code section below (with staff responses in bold) further addresses the staff's opinion on this proposed amendment.

> Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
>
> (a) Public purpose for the amendment in question.

Staff response: The public purpose of the amendments is to prevent obstructions on the sidewalk and roadway that could be a hazard to public safety. Also, this will prevent the owner of a trailer or RV's from using the roadway for storage.

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

Staff response: The proposed amendment will prevent potential hazards on the city sidewalk and roadway for pedestrians and vehicular travel. This will also prevent storage of trailers and RVs on neighborhood streets.

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

Staff response: Preventing obstructions for pedestrians on sidewalks allowing a more walkable community. This will also allow for on-street parking for vehicles that are being used on a regular basis.

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

Staff response: This will create a more walkable community.

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

Staff response: There will be none.

(f) Adverse impacts on adjacent landowners.

Staff response: There will be no adverse impacts on adjacent landowners.

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

Staff response: Staff have verified the correctness of the zoning and General Plan in relation to this request.

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

Staff response: There is no such conflict.

CONCLUSIONS

Staff have seen more walkable neighborhoods recently and want to ensure the safety of pedestrians. Keeping sidewalks and roadways safe and clear is a high priority. Our objective is to keep walkable neighborhoods and parking on roadways for vehicles that are being used regularly.

Trailers and RVs should be stored on private property if not actively being loaded or unloaded. Staff would propose that these amendments are approved.

ATTACHMENTS

1. **Proposed Amendment 9.15**
2. **Photos Related to 9.15**
3. **Proposed Language 9.31**
4. **Photos Related to 9.31**

Attachment 1 – Proposed Amendment 9.15

9.15.230

Depositing Material on Streets Prohibited.

(1) It shall be unlawful for any person to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings, ~~or~~ rubbish ~~of any kind~~. or any other obstruction which shall render such highway or sidewalk unsafe or unsightly or shall interfere with travel thereon.

(2) Any person violating Subsection (1) of this Section shall be civilly liable for the cost of cleaning the subject street, gutter, sidewalk, or public place. Criminal proceedings under Subsection (1) of this Section shall not be a condition precedent to a civil claim under this Subsection (2) of this Section. Provo City may bring a claim under this Subsection if it cleans the subject property.

(Am 1988-37)

Attachment 2 – Photos Related to 9.15









Attachment 3 – Proposed Language 9.31

9.31.055 Using Streets for Parking of Recreational Vehicles, Boats, and Trailers.

(1) It is unlawful for any person to park a recreational vehicle, trailer, boat, or similar conveyance whether attached or unattached to a motor vehicle, upon any public street or alley for more than seventy-two (72) hours. Any of the above which are moved from a parking spot and then reparked on the same block face within seventy-two (72) hours from the time of said removal shall be deemed to have been continuously parked. For purposes of this section, the term "block face" shall have the same meaning as in Section 14.06.020.

(2) Notwithstanding Subsection (1), a person may park a recreational vehicle, trailer, boat, or similar conveyance on a public street or alley for longer than seventy-two (72) hours if, and only if, the following conditions are met:

(a) With a permit issued by the Parking Services Division in accordance with subsection (3).
(b) For a period not to exceed seven (7) days;
(c) If it is parked in a manner that is in compliance with all City and State laws and statutes. Trailers, boats, or vehicles found in violation may be subject to citations and having their permit revoked;
(d) It is parked in front of a property/dwelling/residence that the permit applicant owns or rents, or that of a property/dwelling/residence owned or rented by someone the applicant is visiting; and
(e) If the trailer, boat, or vehicle is not lived in or used as a dwelling during the time it is parked.

(3) A permit issued for a recreational vehicle, trailer, boat, or similar conveyance:

(a) May only be requested by, and issued to, the registered owner of the trailer, boat, or vehicle, or an applicant with a notarized power of attorney from the registered owner;
(b) Shall specify the location and the trailer, boat, or vehicle to which it pertains, the date and time permitted parking may begin, and the date and time the permit expires;
(c) Is valid only for the trailer, boat, or vehicle, the location, and the times specified;
(d) May not be issued with respect to the same trailer, boat, or vehicle more than six (6) times within any twelve (12) month period;
(e) May not be issued for any period that commences less than seventy-two (72) hours after a previous permit for the same trailer, boat, or vehicle has expired; and
(f) May be revoked for abuse, misuse, ineligibility, or other good cause.

9.31.130 Definitions.

For the purposes of this Chapter the following terms, phrases, words, and their derivation shall have the meaning given herein.

"Boat" means every type of watercraft used or capable of being used as a means of transportation on water.

"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use and capable of human habitation, which contains cooking, eating, sleeping, and/or sanitary facilities, and that is either self-propelled or pulled by another vehicle. This includes, but is not limited to, the following:

(a) a travel trailer;
(b) a camping trailer;
(c) a motor home;
(d) a fifth wheel trailer; and
(e) a camping van.

"Trailer" means a vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and constructed so that no part of its weight rests upon the towing vehicle.

Attachment 4 – Photos Related to 9.31

















provo

WELCOME HOME

PLANNING COMMISSION

June 14, 2023

*ITEM 1

Development Services requests Ordinance Text Amendments to Chapters 9.15 (Use of Sidewalks and Streets) and 9.31 (Parking Regulations) to clarify regulations for street parking.

Citywide Application

PLOTA20230103

Proposed Text Amendment 9.15

Adding any obstruction would not be allowed on the sidewalk or roadway.

9.15.230

Depositing Material on Streets Prohibited.

(1) It shall be unlawful for any person to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings, ~~or~~ rubbish ~~of any kind~~. or any other obstruction which shall render such highway or sidewalk unsafe or unsightly or shall interfere with travel thereon.

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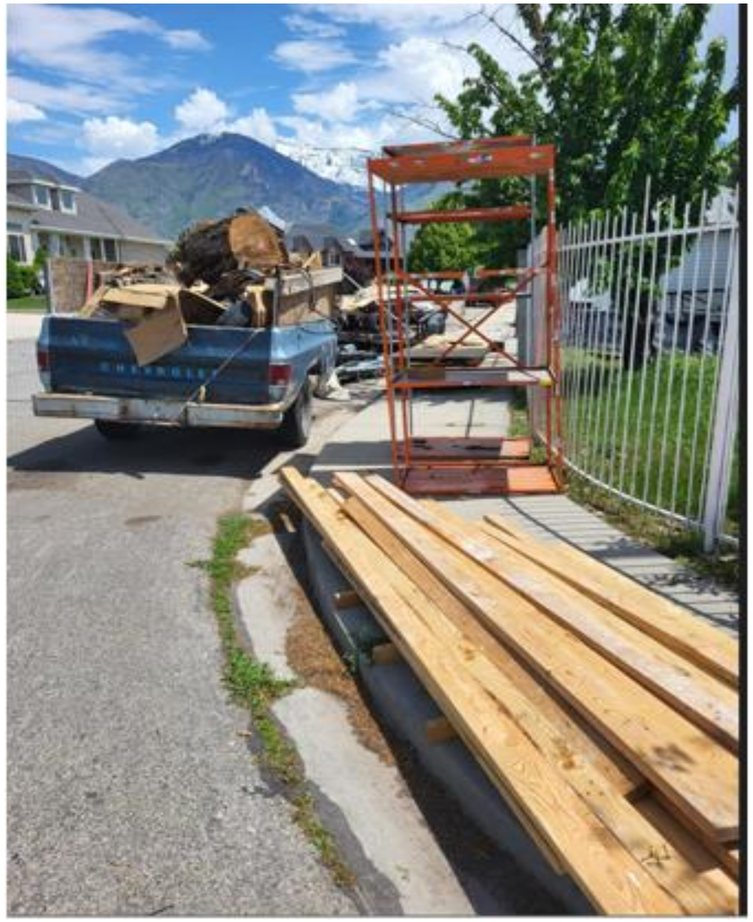
Proposed Text Amendment 9.15

Obstructions on the
sidewalk and highway.









Proposed Language 9.31

9.31.055
Using Streets for Parking of Recreational Vehicles, Boats, and Trailers.

(1) It is unlawful for any person to park a recreational vehicle, trailer, boat, or similar conveyance whether attached or unattached to a motor vehicle, upon any public street or alley for more than seventy-two (72) hours. Any of the above which are moved from a parking spot and then reparked on the same block face within seventy-two (72) hours from the time of said removal shall be deemed to have been continuously parked. For purposes of this section, the term "block face" shall have the same meaning as in Section 14.06.020.

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(a)With a permit issued by the Parking Services Division in accordance with subsection (3).
(b)For a period not to exceed seven (7) days;
(c)If it is parked in a manner that is in compliance with all City and State laws and statutes. Trailers, boats, or vehicles found in violation may be subject to citations and having their permit revoked;
(d)It is parked in front of a property/dwelling/residence that the permit applicant owns or rents, or that of a property/dwelling/residence owned or rented by someone the applicant is visiting; and
(e)If the trailer, boat, or vehicle is not lived in or used as a dwelling during the time it is parked.

(3) A permit issued for a recreational vehicle, trailer, boat, or similar conveyance:

(a)May only be requested by, and issued to, the registered owner of the trailer, boat, or vehicle, or an applicant with a notarized power of attorney from the registered owner;
(b)Shall specify the location and the trailer, boat, or vehicle to which it pertains, the date and time permitted parking may begin, and the date and time the permit expires;
(c)Is valid only for the trailer, boat, or vehicle, the location, and the times specified;
(d)May not be issued with respect to the same trailer, boat, or vehicle more than six (6) times within any twelve (12) month period;
(e)May not be issued for any period that commences less than seventy-two (72) hours after a previous permit for the same trailer, boat, or vehicle has expired; and
(f)May be revoked for abuse, misuse, ineligibility, or other good cause.

9.31.130
Definitions.

For the purposes of this Chapter the following terms, phrases, words, and their derivation shall have the meaning given herein.

"Boat" means every type of watercraft used or capable of being used as a means of transportation on water.

"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use and capable of human habitation, which contains cooking, eating, sleeping, and/or sanitary facilities, and that is either self-propelled or pulled by another vehicle. This includes, but is not limited to, the following:

(a) a travel trailer;
(b) a camping trailer;
(c) a motor home;
(d) a fifth wheel trailer; and
(e) a camping van.

"Trailer" means a vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and constructed so that no part of its weight rests upon the towing vehicle.

Proposed Language 9.31

Using streets for the parking of Recreational Vehicles, Boats, and Trailers.













PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 07-18-2023

SUBJECT: An ordinance amending the Zone Classification of approx 1.36 acres located between 5065 N Canyon Rd & 5075 N Canyon Rd, From One-Family Residential (R1.20) to One-Family Residential (R1.10). N Timpview Neighborhood. (PLRZ20230073)

RECOMMENDATION: To be heard at the July 18, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: The applicant is requesting approval to rezone the three properties from the single-family residential R1.20 zone to the R1.10 zone to allow for greater flexibility in lot configuration.
The proposed rezone will consist of three parcels totaling approximately 1.36 acres of land that is all owned by the applicant. No new lots are being created as part of the rezone request. Each lot has an existing single-family home built on the lot.
The proposed rezone is supported by the General Plan Map as a residential land use.

FISCAL IMPACT:

PRESENTER'S NAME: Dustin Wright, Planner (801) 852-6414 dwright@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20230073

ORDINANCE 2023-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 1.36 ACRES OF REAL PROPERTY, GENERALLY LOCATED BETWEEN 5065 N CANYON ROAD AND 5075 N CANYON ROAD, FROM ONE-FAMILY RESIDENTIAL (R1.20) TO ONE-FAMILY RESIDENTIAL (R1.10). NORTH TIMPVIEW NEIGHBORHOOD. (PLRZ20230073)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 1.36 acres of real property, generally located between 5065 N Canyon Road and 5075 N Canyon Road (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended from One-Family Residential (R1.20) to One-Family Residential (R1.10); and

WHEREAS, on June 14, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal, and after such hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 6:0 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The classification on the Zone Map of Provo, Utah is hereby amended from the One-Family Residential (R1.20) Zone to the One-Family Residential (R1.10) Zone for approximately 1.36

acres of real property generally located between 5065 N Canyon Road and 5075 N Canyon Road, as described herein.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

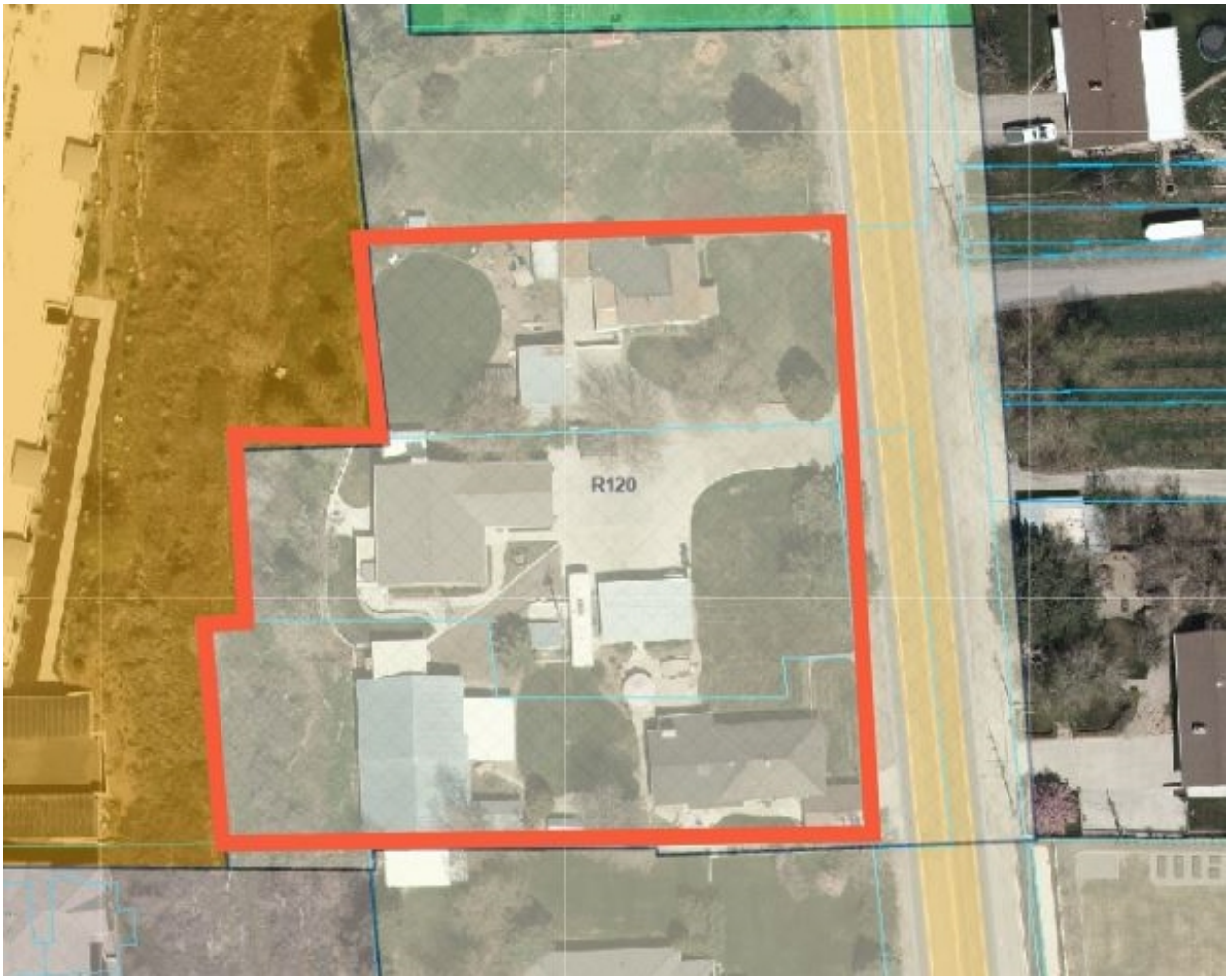
B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE

EXHIBIT A – ZONE MAP



DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: June 14, 2023

*ITEM # 3 Boyd Loveless requests a Zone Map Amendment from the R1.20 zone to the R1.10 zone for three existing residential properties, located between 5065 N Canyon Road and 5075 N Canyon Road. North Timpview Neighborhood. Dustin Wright (801) 852-6414 dwright@provo.org PLRZ20230073

Applicant: Boyd Loveless

Staff Coordinator: Dustin Wright

Property Owner: LOVELESS, BOYD H & SHARON H (ET AL)

Parcel ID#: 20:027:0088 - 45:160:0001 - 34:458:0002

Acreage: 1.36
Number of Properties: 3
Current Zone: R1.20
Proposed Zone: R1.10
Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider the information presented. The next available meeting date is June 28, 2023, at 6:00 p.m.

2. **Recommend denial** of the requested Rezone Application. This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.

Current Legal Use:
Single-family residential.

Relevant History:
These three lots were created before they were annexed into the city, so they do not meet current lot frontage requirements.

Neighborhood Issues:
This item was discussed at a district meeting on May 25, 2023, with 12 in support and none opposed.
The item has also been placed on Open City Hall.

Summary of Key Issues:

- The proposed rezone is supported by the General Plan Map as a residential land use.
- The lots are nonconforming to the lot width requirements. This zone change would bring them closer into compliance because the R1.10 requirement is ten feet less than the R1.20 requirement.
- The applicant owns all three properties. No new lots are being proposed as part of the rezone. The property owner would like to realign property lines in the future and the lot size requirement in the R1.10 would allow the flexibility needed for that.

Staff Recommendation:
Recommend approval of the requested Rezone Application to the Municipal Council.

BACKGROUND

The applicant is requesting approval to rezone the three properties from the single-family residential R1.20 zone to the R1.10 zone to allow for greater flexibility in lot configuration.

The proposed rezone will consist of three parcels totaling approximately 1.36 acres of land that is all owned by the applicant. No new lots are being created as part of the rezone request. Each lot has an existing single-family home built on the lot.

The proposed rezone is supported by the General Plan Map as a residential land use.

The current zone and the proposed zone are subzones of the R1 zone. The R1.20 zone differs from the R1.10 zone in just a few things. The minimum lot size requirement is 20,000 square feet in the R1.20 and 10,000 square feet in the R1.10 zone. Lot width and depth are ten feet shorter in the R1.10 zone. Two of the lots do not meet the requirement of the zone now and are therefore called “nonconforming lots” meaning that that they do not meet or conform to the minimum zoning requirements. Since the lots are nonconforming to the lot width requirements now, this zone change would bring them closer into compliance because of the shorter R1.10 requirement. The applicant plans to realign the lot lines after the rezone to make the lots conforming.

FINDINGS OF FACT

Sec. 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

> Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
>
> (a) Public purpose for the amendment in question.

Staff response: The proposed zone change will provide a zone that is compatible with the surrounding built environment.

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

Staff response: The proposed rezone will bring the existing uses more into compliance with the minimum lot requirements and maintain a land use that is compatible with surrounding uses.

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

Staff response: Rezoning the property will continue to align with the residential designation from the General Plan map for this area.

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

Staff response: The proposed rezone would not affect the timing and sequencing of the General Plan.

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

Staff response: The proposed rezone would not be much of a change from the current zone or existing land uses on the property. There are not any articulated policies in the General Plan that this request would hinder.

(f) Adverse impacts on adjacent land owners.

Staff response: The proposed use of the property would not have any additional impacts on the surrounding property that are not already existing. The property has existing homes on each lot. There could be a potential to possibly add new a new lot, but it would have to meet the same requirements as the adjacent R1.10 zoned property.

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

Staff response: The land use map from the General Plan has been reviewed and found to be correct for this area.

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

Staff response: There are no conflicts noted by staff.

STAFF ANALYSIS

These three lots front on Canyon Road, which is classified as a major arterial road. The property to the north is R1.20 and currently is vacant land. The property to the east has single family homes and is not part of Provo City. To the south and southeast, the property is R1.10. The property to the west is apartments and condominiums in the PRO A10 and MDR zones.

A concept plan has not been included along with this rezone because the zone being asked for is not much different than the current zone and that the property is already developed.

Staff finds that this rezone is in line with the General Plan and that there was support from those in attendance at the district meeting where this item was discussed. Staff finds that this rezone would be appropriate for this location and help bring the properties more into compliance with the R1 zone lot width requirement.

STAFF RECOMMENDATION

Recommend approval of the requested Rezone Application to the Municipal Council.

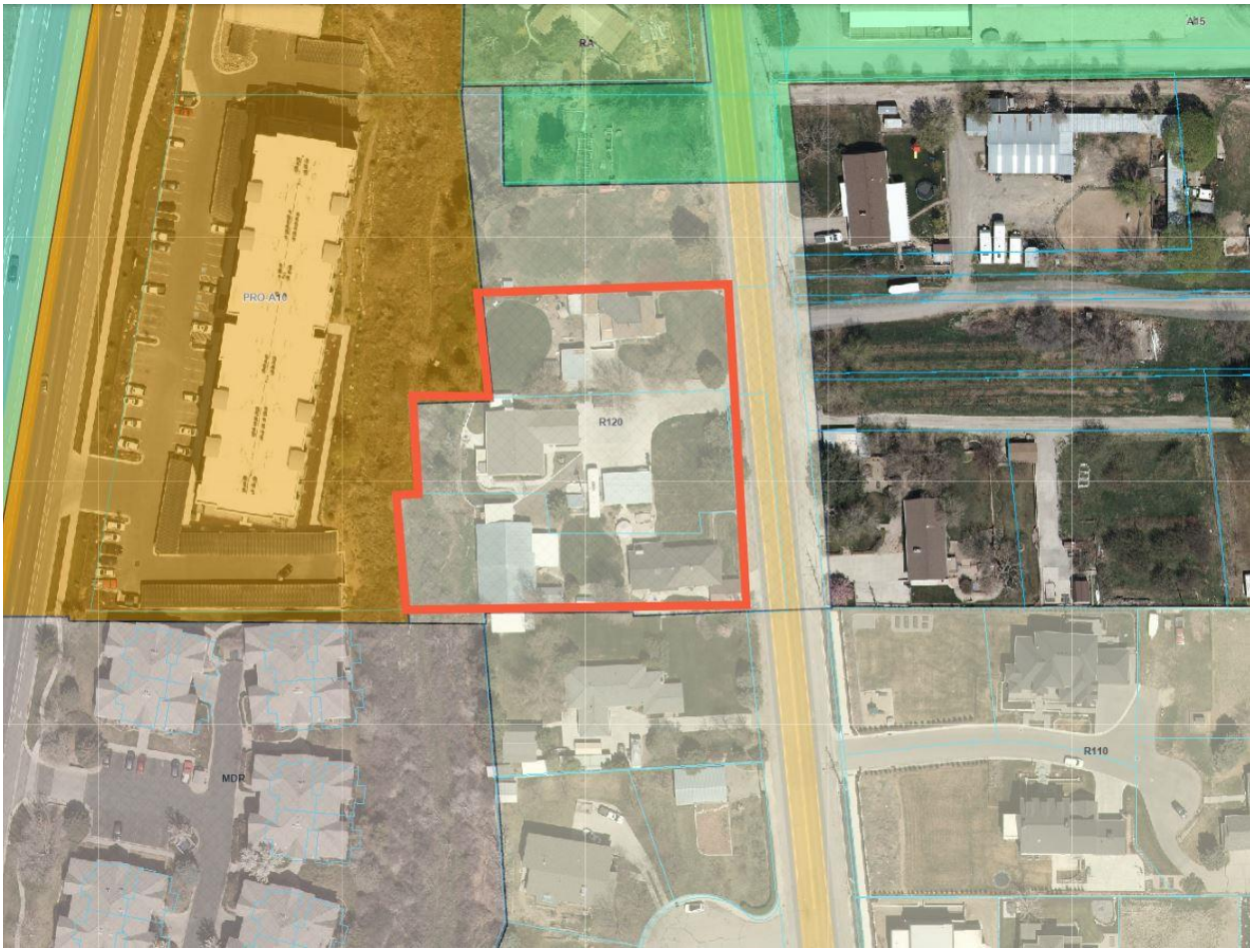
ATTACHMENTS

1. **Aerial of Site**
2. **Current Zone Map**
3. **General Plan Map**

Attachment 1 – Aerial of Site



Attachment 2 – Current Zone Map



Attachment 3 – General Plan Map



provo

WELCOME HOME

PLANNING COMMISSION

June 14, 2023

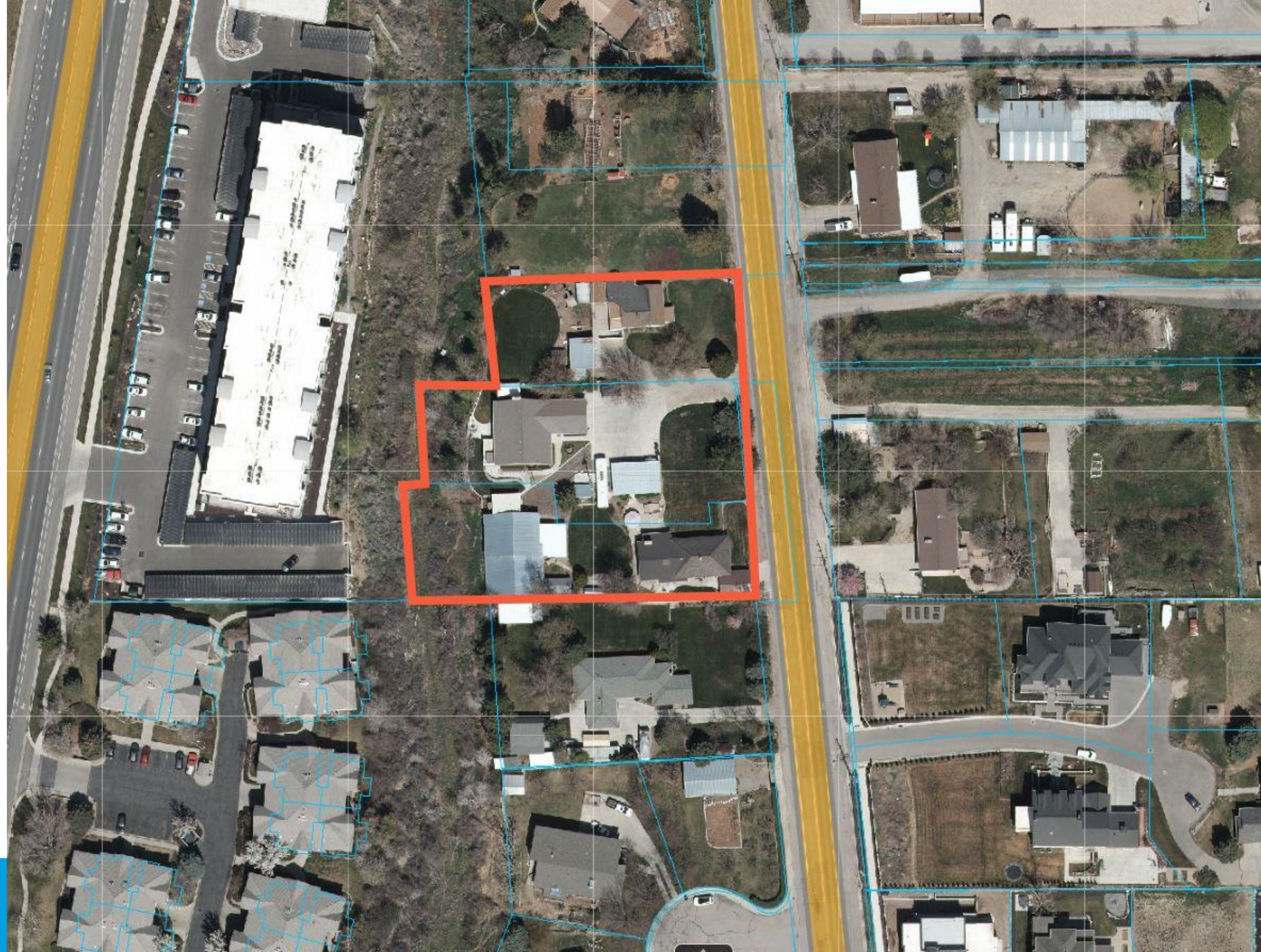
*ITEM 3

Boyd Loveless requests a Zone Map Amendment from the R1.20 zone to the R1.10 zone for three existing residential properties, located between 5065 N Canyon Road and 5075 N Canyon Road.

North Timpview Neighborhood

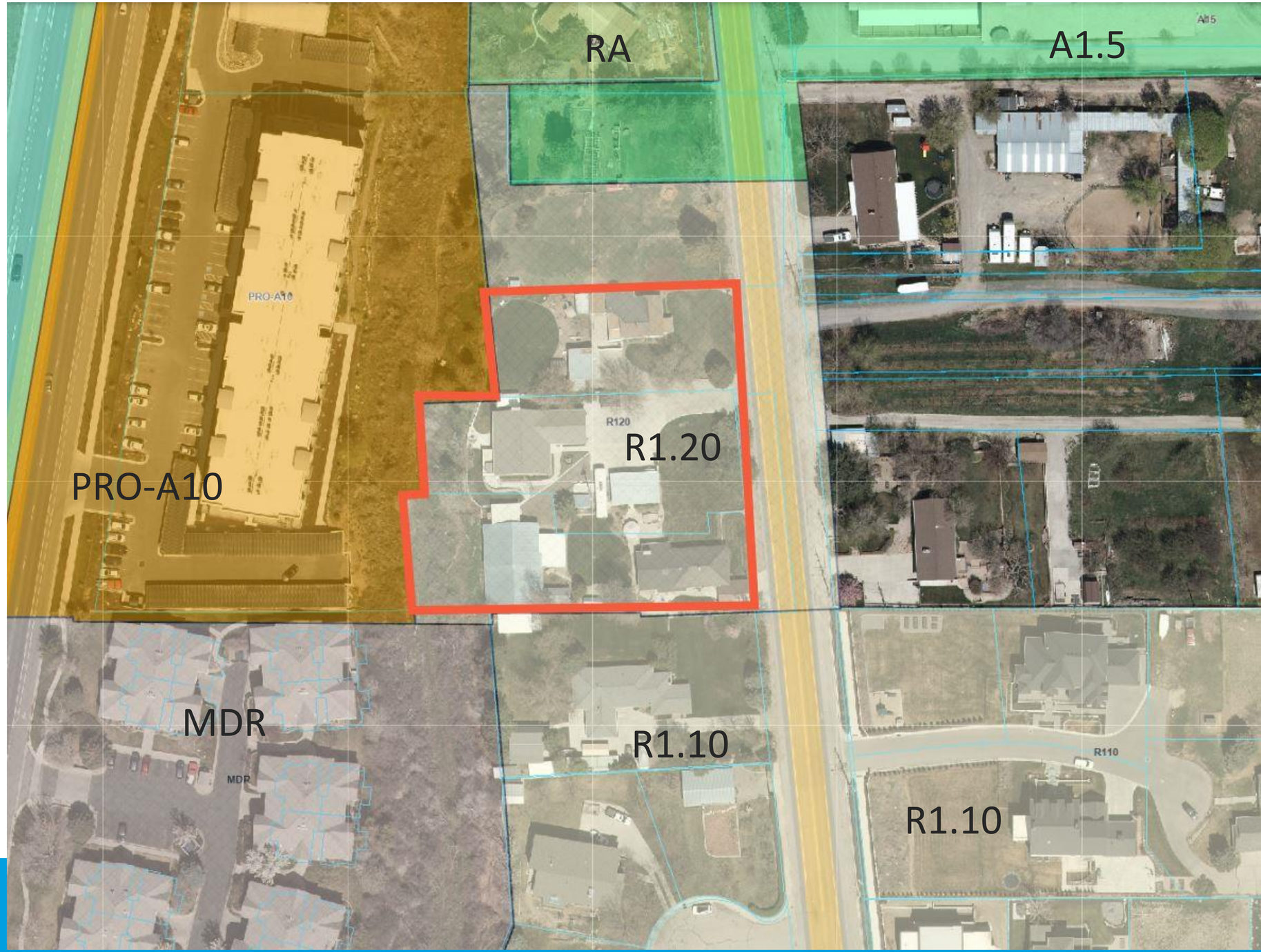
PLRZ20230073

5065-5075 N Canyon Rd.



Zone Map

Rezone
from R1.20
to R1.10



General Plan Map



Provo City Planning Commission

Report of Action

June 14, 2023

*Item 3 Boyd Loveless requests a Zone Map Amendment from the R1.20 zone to the R1.10 zone for three existing residential properties, located between 5065 N Canyon Road and 5075 N Canyon Road. North Timpview Neighborhood. Dustin Wright (801) 852-6414 dwright@provo.org PLRZ20230073

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 13, 2022:

RECOMMENDED APPROVAL

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Conditions of Approval:
N/A

Motion By: Daniel Gonzales
Second By: Raleen Wahlin
Votes in Favor of Motion: Daniel Gonzales, Raleen Wahlin, Lisa Jensen, Robert Knudsen, Melissa Kendall, Jeff Whitlock
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the R1.10 Zone is described in the attached Exhibit A.

RELATED ACTIONS

N/A

APPROVED/RECOMMENDED OCCUPANCY

*Type of occupancy: Family

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, findings of fact, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on May 25, 2023.

NEIGHBORHOOD AND PUBLIC COMMENT

- There was nobody from the public to comment on this item.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- No comments from the public were made.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- The applicant discussed the history of the homes and plans to bring the lots into compliance with city codes.
- The applicant discussed how the properties are currently being used and how there is an accessory structure on one that would remain.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- There may be potential to have an additional lot or two created in the future due to the lower lot acreage requirement of the proposed zone. If this were to happen, it was discussed how it would still fit in well with the surrounding residential uses.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center St, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

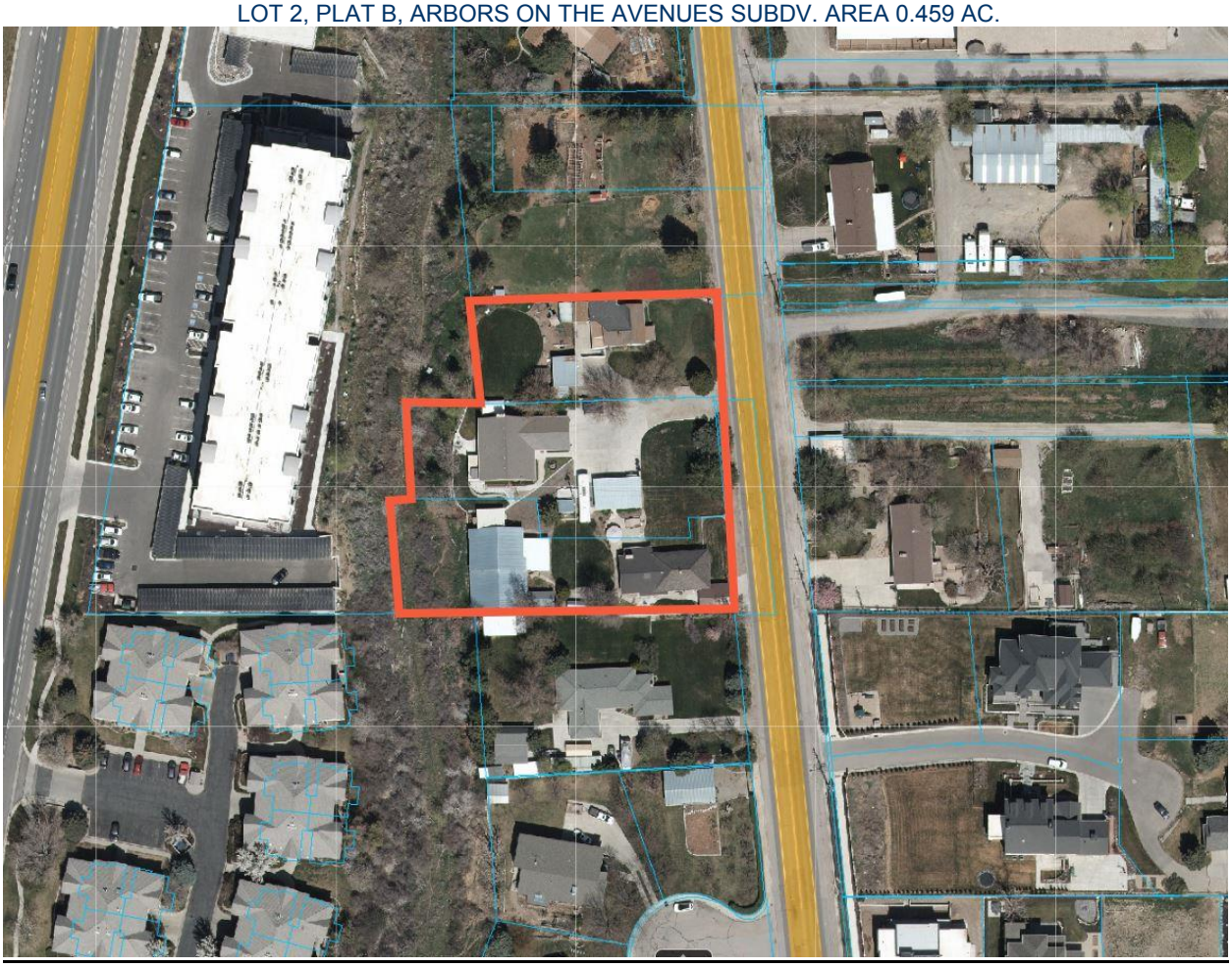
BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

20:027:0088
COM N 1158.31 FT & E 712.87 FT FR W 1/4 COR. SEC. 18 T6S R3E SLB&M.; N 5 DEG 50' 9" W 80.38 FT; N 88 DEG 16' 10" E 72.16 FT; N 88 DEG 7' 42" E 120.72 FT; S 5 DEG 50' 0" E 80.6 FT; S 88 DEG 16' 10" W 191.84 FT TO BEG. AREA 0.355 AC.

45:160:0001
LOT 1 PLAT A LOVELESS. AREA 0.538 AC.

34:458:0002
LOT 2, PLAT B, ARBORS ON THE AVENUES SUBDV. AREA 0.459 AC.



PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 05-02-2023

SUBJECT: An ordinance amending the zone map class. of approx. 2 acres of property, located at 2075 W Center Street, from One-Family Residential (R1.8) to Mixed Use (MU) & authorizing and related development agreement. Provo Bay Neighborhood. (PLRZ20210271)

RECOMMENDATION: Vote for denial or approval.

BACKGROUND: Steve Turley is requesting approval of a zone change at 2075 West Center Street that would replace approximately 2 acres of the existing R1.8 (One-Family Residential) zone on the north portion of the parcel with the MU (Mixed Use) zone and leave the remainder of the lot as undeveloped R1.8 zoned land.
The property is surrounded by mostly detached one-family dwellings, with R1.8 zoning to the west and south and R1.8PD zoning to the southeast. The property to the south of this lot is currently vacant, and there is a PF zone on one parcel to the east for a fire station. To the north and northeast of the property is the CG zone which includes the 7-11 and some vacant commercial parcels that are home to temporary commercial uses at times. The dominant land use in this area are single-family homes, with around forty (40) one family detached dwellings within five-hundred feet (500') of the subject property.

FISCAL IMPACT:

PRESENTER'S NAME: Aaron Ardmore, Planning Supervisor (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20210271

ORDINANCE 2022-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY TWO (2) ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 2075 WEST CENTER STREET, FROM ONE FAMILY RESIDENTIAL (R1.8) TO MIXED USE (MU) AND AUTHORIZING A RELATED DEVELOPMENT AGREEMENT. PROVO BAY NEIGHBORHOOD. (PLRZ20210271)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 2 acres of real property, generally located at 2075 West Center Street (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended from One Family Residential (R1.8) to Mixed Use (MU); and

WHEREAS, on April 18, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended denial to the Municipal Council by a 3:3 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on May 2, 2023 and July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah, should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Mayor is hereby authorized to negotiate and execute a development agreement as proposed by the applicant for this zone change, consistent with those commitments described in the development agreement and the representations made by the applicant and the applicant's

representatives in the Council Meeting of May 2, 2023 and in form substantially similar to the draft attached hereto as Exhibit C, an executed copy of which shall be attached hereto as Exhibit D after execution.

PART II:

The classification on the Zone Map of Provo, Utah is hereby amended from the One-Family Residential (R1.8) Zone to the Mixed Use (MU) Zone for approximately 2 acres of real property generally located at 2075 West Center Street, as described herein. The effective date of this zone map change shall be the date of final execution of the development agreement described in Part I.

PART III:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified to reflect the provisions enacted by this ordinance.

D. Except as otherwise stated in Part II, this ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this ordinance, the entire ordinance shall expire, becoming null and void as if it had never been approved. Because the zone classification change contemplated in Part II cannot come into effect if the Development Agreement is not executed, neither the applicant nor any successor(s) in interest shall have any vested rights under this ordinance if it expires.

END OF ORDINANCE

EXHIBIT A – ZONE MAP

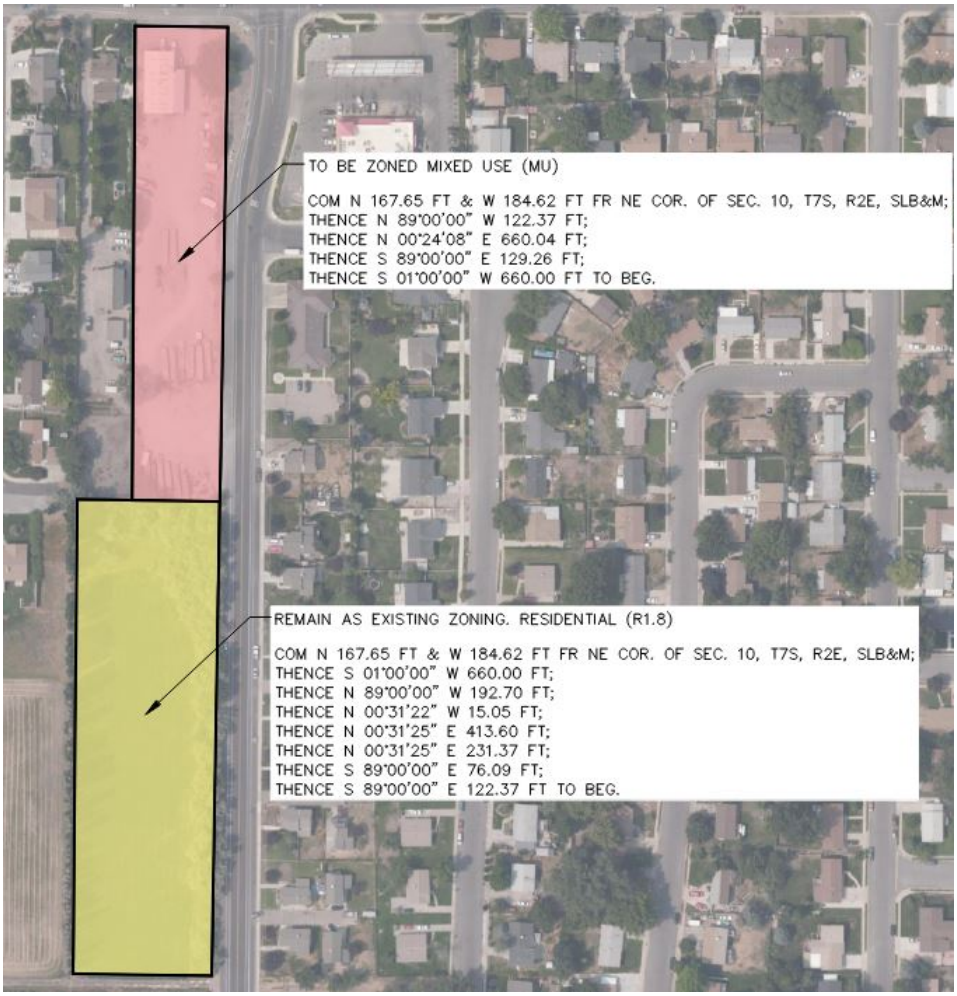


EXHIBIT C – DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2023 (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long-range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

a. ROOFTOP AMENITY – The Project shall include rooftop amenities. The rooftop amenity space shall not be less than the minimum square footage required for recreational amenities in Section 14.14D.120(1). The rooftop amenities shall include at least all of the following elements: patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage.

b. CONDOMINIUM PLATTING & CONSTRUCTION – Developer intends Project to be a Condominium Project within the meaning of Provo City Code Chapter 15.06. Developer shall comply with all requirements of Chapter 15.06 for a Condominium Project.

Commented [BJ1]: Previous language didn't seem to clearly proffer anything except platting.

c. ELECTRIC VEHICLE (EV) CHARGING STATIONS – All covered parking stalls will be wired for and capable of EV charging.

d. BICYCLE-FRIENDLY PROJECT – the site will include bike lockers and a bicycle repair facility.

e. Certificates of Occupancy – Developer acknowledges and agrees that no certificate of occupancy will be issued by Provo unless all the requirements of this Section have been met.

Commented [BJ2]: This seems to need more details. Does the Concept Plan show planned covered parking? How many covered parking stalls are planned?

Commented [BJ3]: Same kind of comment. Are the bike lockers and repair facility on the concept plan? If not, how many, where located, what does the repair facility consist of, etc.? For example is the repair facility a bike holder with a pump attached like on the Provo river trail, is it a manned shop with tools, equipment, and a service provider, etc.?

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide

recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney
445 West Center Street, Suite 300
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting

party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

Exhibit A

Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00’00” W 122.37 FT;
THENCE N 00°24’08 E 660.04 FT;
THENCE S 89°00’00” E 129.26 FT;
THENCE s 01°00’00” W 660.00 FT TO BEG

Exhibit B

Concept Plan



1 SCHEMATIC SITE PLAN
SCALE: 1/32" = 1'-0"

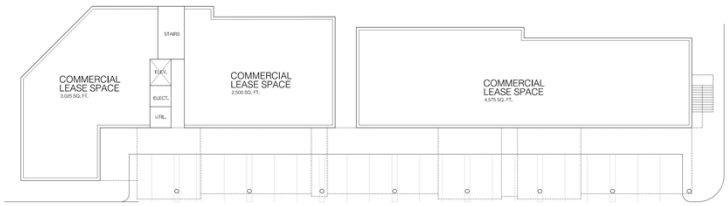
PROJECT NO	22.112
DWN BY / CHK BY	
TITLE	SCHEMATIC SITE PLAN
SHEET #	A100

CHRONOLOGY

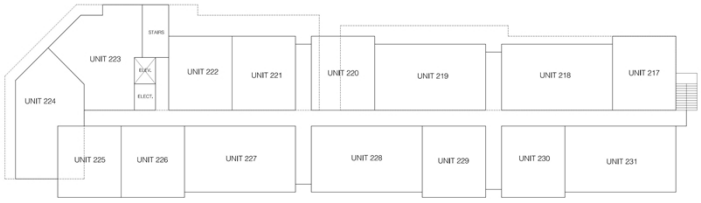
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P801.487.0775 | WWW.LAYTONDAVISARCHITECTS.COM

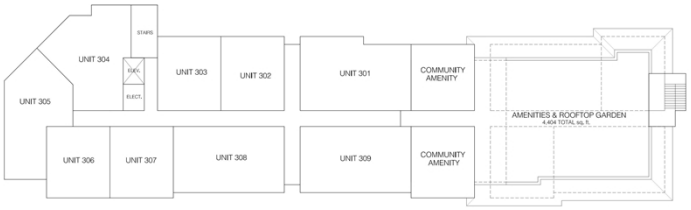
PROJECT DATE
05.12.2023



NORTH BUILDING - MAIN FLOOR PLAN



NORTH BUILDING - SECOND FLOOR PLAN



NORTH BUILDING - THIRD FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
NORTH - MAIN AND SECOND FLOOR PLANS

24X36 SHEET #
A101

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

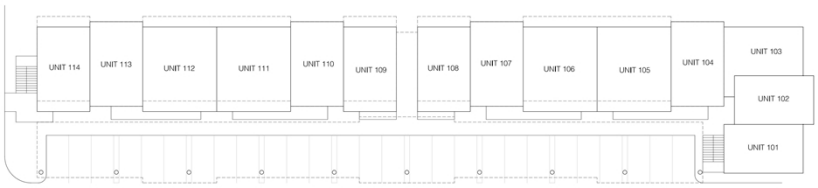
CHRONOLOGY

PROJECT NO
22.112

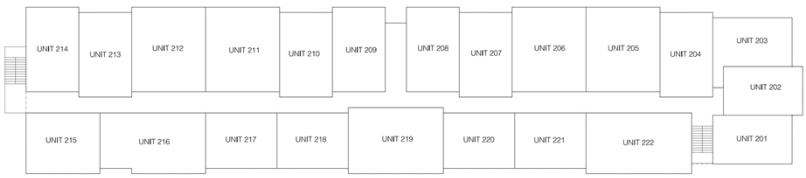
DWN BY/ CHK BY
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TITLE
NORTH - THIRD FLOOR PLAN

24X36 SHEET #
A102



SOUTH BUILDING - MAIN FLOOR PLAN



SOUTH BUILDING - SECOND FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

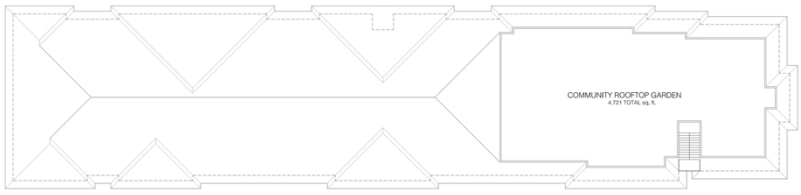
CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
SOUTH - MAIN AND SECOND FLOOR PLANS

24X36 SHEET #
A103



SOUTH BUILDING - THIRD FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
SOUTH - THIRD FLOOR PLAN

24X36 SHEET #
A104

Planning Commission Hearing Staff Report Hearing Date: April 12, 2023

***ITEM #5** Steve Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street. Provo Bay Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20210271

Applicant: Steve Turley

Staff Coordinator: Aaron Ardmore

Property Owner: LL Income - Miscellaneous Properties LLC

Parcel ID#: 21:038:0083

Acreage: 5.20

Number of Properties: 1

ALTERNATIVE ACTIONS

1. **Recommend Approval** of the requested zone change. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023.*

3. **Recommend Denial** of the requested zone change. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The property is mostly vacant land with a legal, nonconforming commercial trucking business on the north.

Relevant History: The zone for the property has been R1.8 since 1974. This area was considered with the Southwest Area Future Land Use Map adopted by the City Council in 2018.This item was continued from the January 11, 2023 PC hearing with specific items to address on a revised concept plan.

Neighborhood Issues: A neighborhood meeting was held for this item on December 2nd, 2021 through an online format, the following concerns have been shared:

- Not enough open space and trees
- Lack of commercial entrance to the street
- Too much parking

Summary of Key Issues:

- The General Plan calls for commercial on the corner and single-family housing of no more than four units per acre on the rest of the property.
- The Mixed-Use zone for the amount of property requested is not supported as it would increase the planned mixed-use by nearly 50% on the parcel and bring densities above four units per acre.
- Staff recommends following the Southwest Area Future Land Use Map for any westside development.

Staff Recommendation: That the Planning Commission recommend that the City Council **approve a zone change, limited to the area shown in the Mixed-Use area in Appendix V of the General Plan**.

OVERVIEW

Steve Turley is requesting approval of a zone change at 2075 West Center Street that would replace approximately 2 acres of the existing R1.8 (One-Family Residential) zone on the north portion of the parcel with the MU (Mixed Use) zone and leave the remainder of the lot as undeveloped R1.8 zoned land.

The property is surrounded by mostly detached one-family dwellings, with R1.8 zoning to the west and south and R1.8PD zoning to the southeast. The property to the south of this lot is currently vacant, and there is a PF zone on one parcel to the east for a fire station. To the north and northeast of the property is the CG zone which includes the 7-11 and some vacant commercial parcels that are home to temporary commercial uses at times. The dominant land use in this area are single-family homes, with around forty (40) one family detached dwellings within five-hundred feet (500') of the subject property.

The concept for the mixed-use portion includes a north building with just over ten thousand (10,000) square feet of ground-floor commercial space with twenty-four (24) residential apartments in the two stories above. The south building plans show another thirty-six (36) residential apartments in a three-story building. The plans also show the required amount of amenity spaces provided through rooftop gardens on both buildings. The applicant has provided a draft development agreement detailing the amenity program that is attached to this report.

The parking requirement for the residential portion alone would be eighty (80) stalls based on the summary of sixty (60) units. These numbers are *with* the code giving a 25% reduction for the MU zone. The concept shows a total of 120 total stalls for the site, that would leave forty (40) stalls for the commercial use, equating to one stall per 252 square feet of commercial space.

STAFF ANALYSIS

In addition to the concerns staff have regarding the extension of the Mixed-Use zone into the second acre, there are still pending review comments that have not been addressed. The concept plan has yet to show the required design corridor standards, residential design standards, and transitional development standards. Staff has made the applicant aware of these issues in review of the concept plan and noted that all relevant codes would need to be complied with at the Project Plan phase if the zone changes are approved.

The Southwest General Plan provides for just over two-thousand multi-family units west of I-15, not including any multi-family units within the mixed-use node at this location. The applicant is proposing to stretch the mixed-use node into what would amount to a

doubling of residential density over two acres and not be in line with the General Plan. Provo has seen multi-family units outpace detached single-family homes over the last several years at a rate of nine to one. With all of the multi-family units the city has approved, stretching a mixed-use node to allow for even more multi-family, to the detriment of single-family lots, does not make sense to staff. Further reducing land slated for single-family homes, as this proposal suggests, does not fall in line with the goals and policies for west-side development. Staff is concerned that the city is becoming more and more out-of-balance in terms of rental units to owner-occupied units and multi-family units compared to single-family homes.

Staff is not in favor of this proposal as shown, especially considering that the applicant has already provided another concept application for a single-family subdivision that meets the current zoning and has been approved by the Coordinator Review Committee (CRC). Alternatively, rezoning only the north one (1) acre would be in line with the General Plan and still provide for a quality mixed-use development on the corner.

Section 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

> Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
>
> (a) Public purpose for the amendment in question.

Staff response: The public purpose for the request is to provide additional commercial and residential opportunities on the west side of Provo.

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

Staff response: While staff may support a zone change for the north part of the property, the public is not best served by carrying that further south on the parcel. The MU zone would allow for increased density that was not accounted for when analyzing the west side for infrastructure limits. There are specific nodes for these densities expressed on the Southwest Area Future Land Use map that amount to around two-thousand multi-family units. Attempting to double the size of this particular node creates a concern that the public would not have the infrastructure to meet demands for the larger area. Additionally, substantially increasing the multi-family node in the highest density permitted on the west side will encourage all other multi-family nodes to also seek expansions. Again, staff suggests that the city not expand multi-family at the expense of single-family.

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

Staff response: As stated earlier, this proposal to extend the MU zone over two acres is not compatible with the General Plan maps, policies, and objectives for this property. Section 1.2.9 states that the overall average density of the west side should average four units per acre, and that the single-family home should be the predominant housing type. Staff would be comfortable with the MU on the north one acre of the property and R1 zoning on the remainder.

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

Staff response: There are no timing and sequencing provisions articulated for this property.

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

Staff response: Approving this request would obstruct attainment for development goals for the rest of the west side. Allowing increased density on this parcel would essentially take it away from those areas that anticipate growth and increased density on the west side.

(f) Adverse impacts on adjacent land owners.

Staff response: There are impacts associated with this request to the surrounding properties, on top of impacts to the entire west side of Provo. The adjacent properties would experience increased traffic and parking demands.

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

Staff response: Staff has verified the correctness of the General Plan and zoning for this area.

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

Staff response: Staff has found no such conflict.

CONCLUSIONS

The proposed zone change does not comply with the General Plan's policies, maps, or appendices. Additionally, the related concept plan shows issues in meeting the proposed zone. The General Plan Appendix V designates specific areas for densities over four units per acre, otherwise we need to hold property owners and developers to that standard on the west side of Provo in order to maintain the ability to provide water and sewer services to all in the City; but also, to hold to existing owners' expectations on how their neighborhoods will develop. The applicant asked that these items come before the Planning Commission and City Council for decision knowing that there is not staff support.

The Planning Commission noted six specific items to be addressed on this project before it came back to them when they continued it at the January hearing. Those items were to:

1. Provide a draft development agreement detailing the amenity space.
2. Have the number of units solidified.
3. Redistribute the number of units (or decrease the number) in the proposal to transition to the south.
4. Provide a plan with no parking reduction request.
5. Put the highest use and most intensity on the north corner.
6. Have verification from Provo City Engineering on preferred access points.

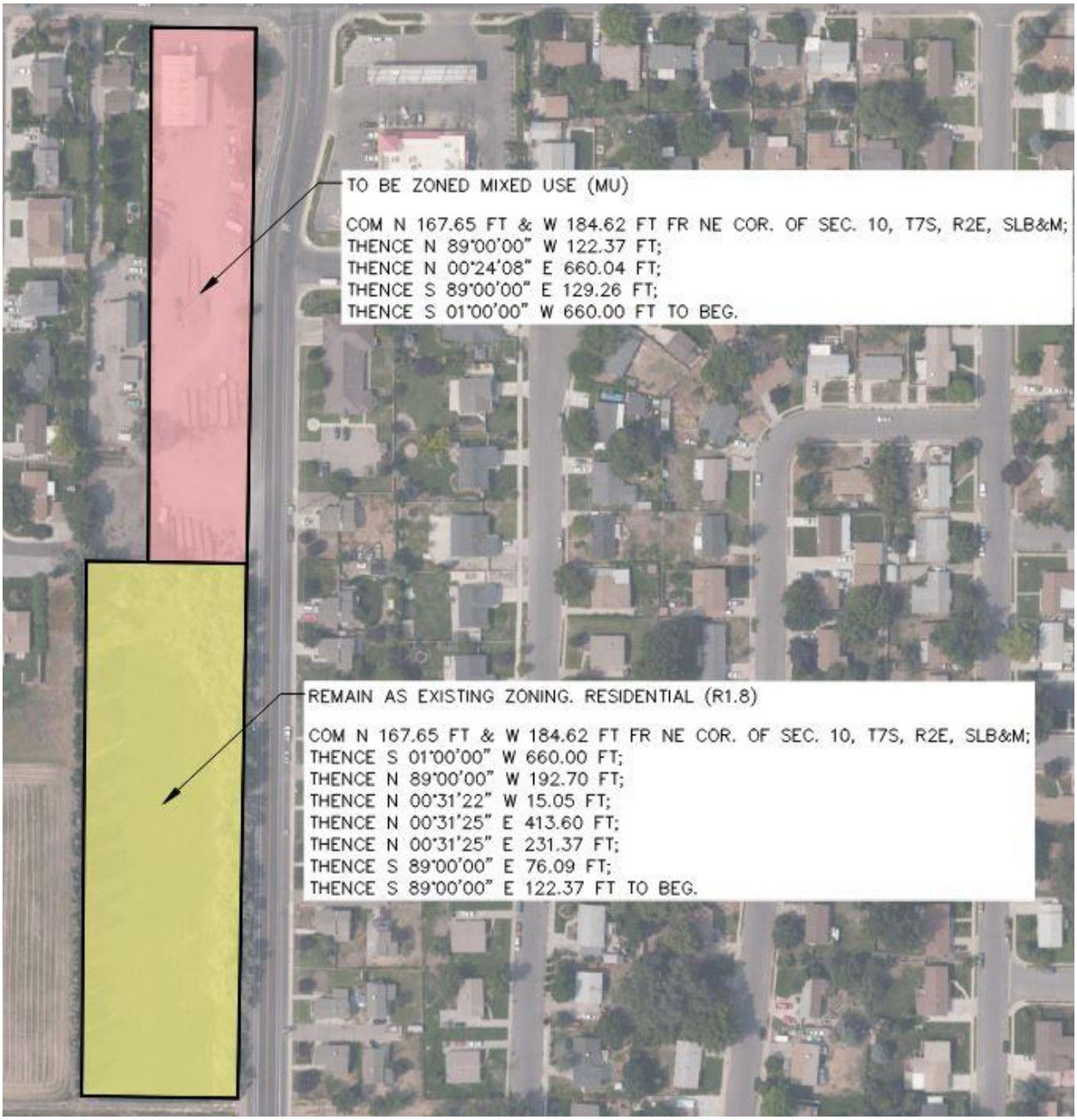
While the applicants have provided a draft development agreement to detail the amenity spaces, they have not provided that content in the plans. Staff feels that the amenities need to be detailed and show some type of coverage from the weather. The other items have been sufficiently addressed in the plans.

Since the rezone request does not comply with the General Plan of the City, staff recommends that the Planning Commission approve a revised zone map amendment, rezoning the portion of this property that lies within the Mixed-Use area of the Southwest Area Future Land Use map (appendix V) of the General Plan.

ATTACHMENTS

1. Proposed Zone Change Map
2. General Plan Map
3. Conceptual Site Plan
4. Concept Plan Summary Table
5. Draft Development Agreement
6. Applicant Submittal

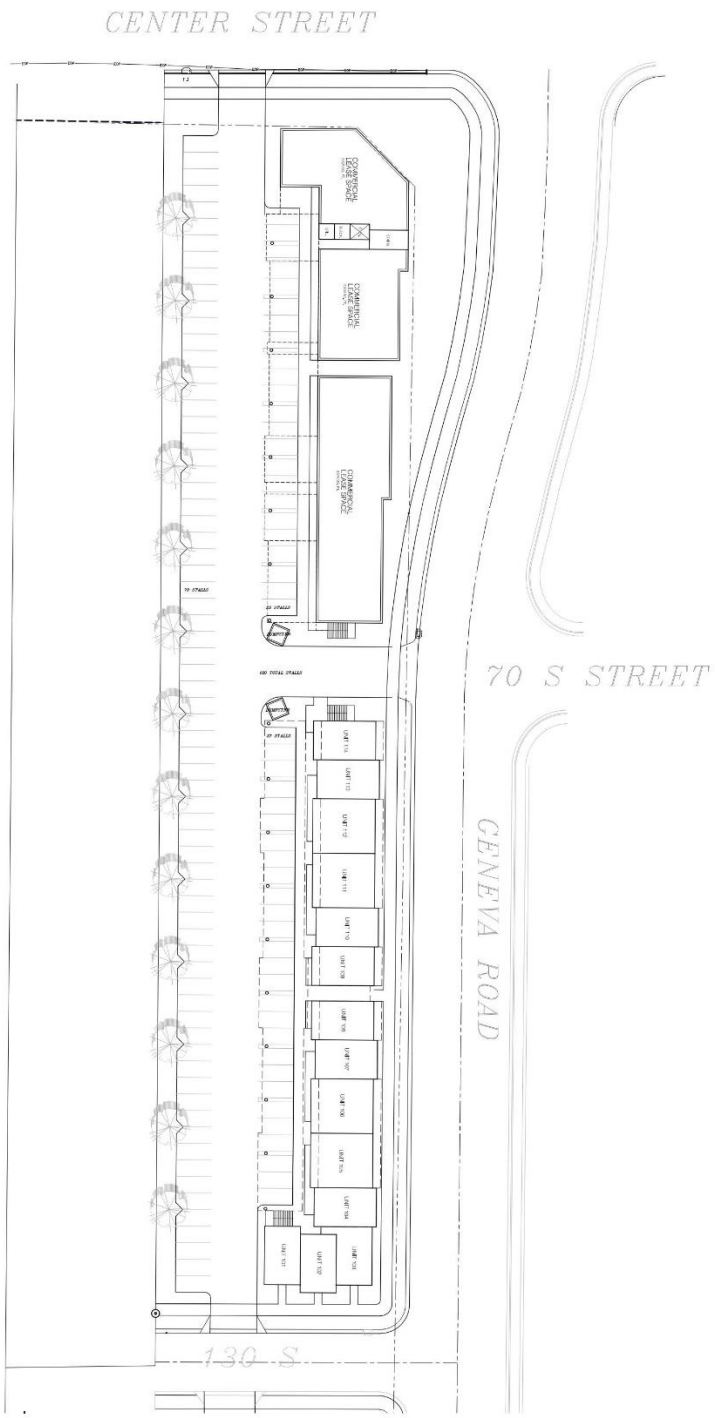
ATTACHMENT 1 – PROPOSED ZONE CHANGE MAP



ATTACHMENT 2 – GENERAL PLAN MAP



ATTACHMENT 3 – CONCEPTUAL SITE PLAN



ATTACHMENT 4 – CONCEPT PLAN SUMMARY TABLE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

ATTACHMENT 5 – DRAFT DEVELOPMENT AGREEMENT LANGUAGE

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

ATTACHMENT 6 – APPLICANT SUBMITTAL

LAKEVIEW CROSSING

Center Street and Geneva Road

Zone Change application: PLRZ20210271
Concept Plan application: PLCP20210398

Applicant Responses to Planning Commission Requests – 1/11/2023

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE 2
2. HAVE THE NUMBER OF UNITS SOLIDIFIED 21
3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH. 28
4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST 33
5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER 37
6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS 39
SUPPLEMENTAL INFORMATION 41
A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN 41
B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY 44

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE

APPLICANT RESPONSE:

Mixed-Use Zones 14.14D.120(1) requires the following:

> "an area equivalent to twenty percent (20%) or more of the residential gross floor area must be developed in recreational amenities, such as a common … rooftop garden, or other amenity."
>
> "Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering place."

The total residential gross floor area of the proposed concept plan equals 45,178 square feet, therefore, based on the 20% amenity requirement, the required amenity area minimum would be 9,036 square feet.

We proffer that a minimum of 9,036 square feet of massed area be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

See draft development agreement, including concept plan, attached.



Image of what rooftop amenity could possibly look like.

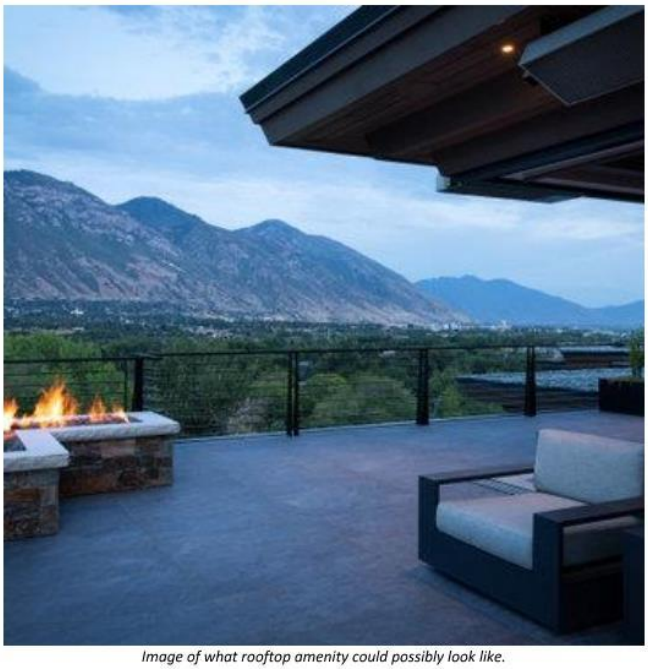
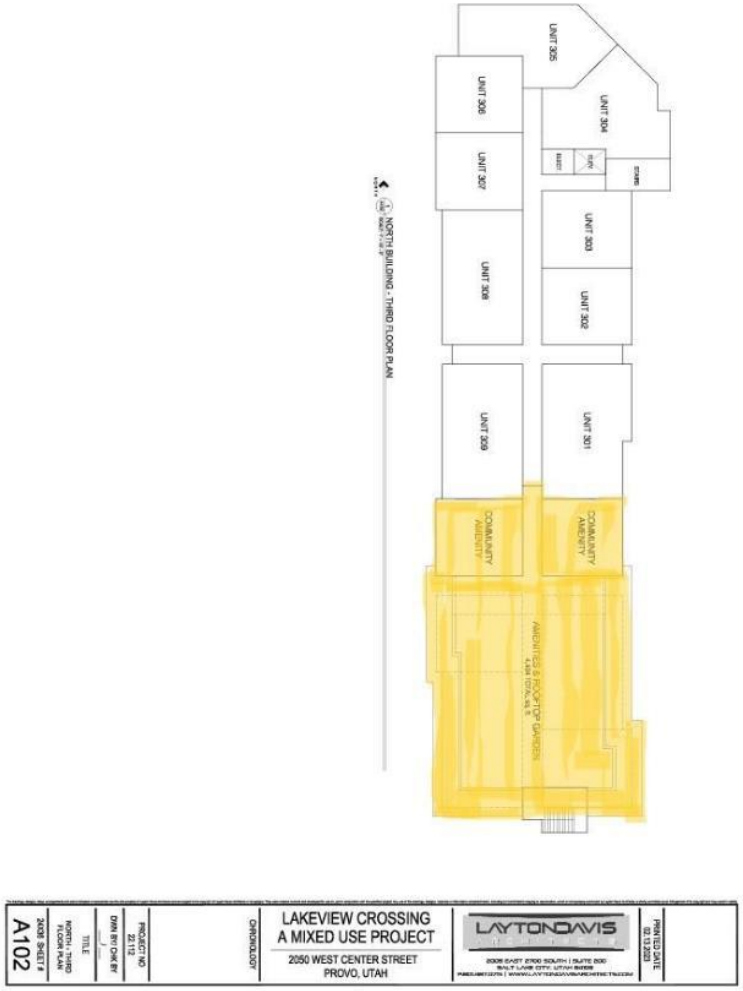


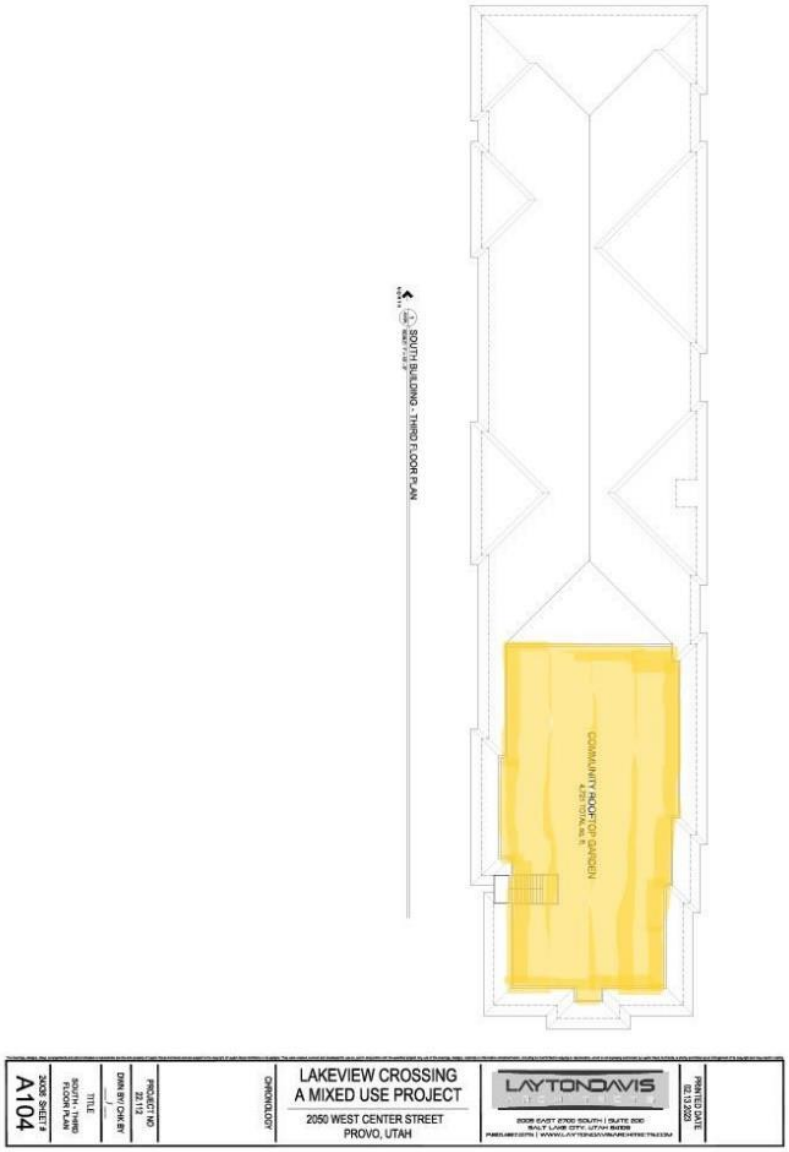
Image of what rooftop amenity could possibly look like.



Image of what rooftop amenity could possibly look like.

CONCEPT PLAN WITH AMENITY AREA HIGHLIGHTED




SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
4,751 TOTAL sq. ft.
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
A104
SHEET #
TITLE
SOUTH - THIRD FLOOR PLAN
DWN BY CHK BY
PROJECT NO
22.113
CHRONOLOGY
PRINTED DATE
02.13.2023

DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

> We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney

351 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not

unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____
City Recorder

By:_____
Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

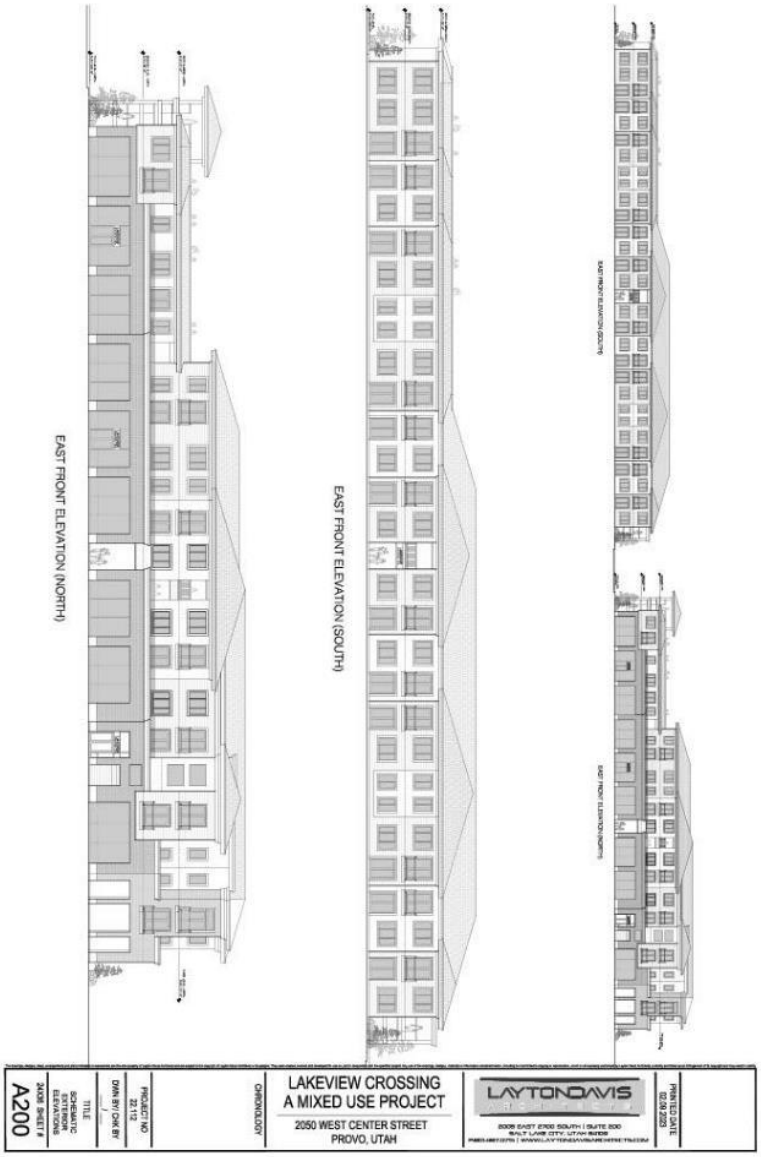
Exhibit A

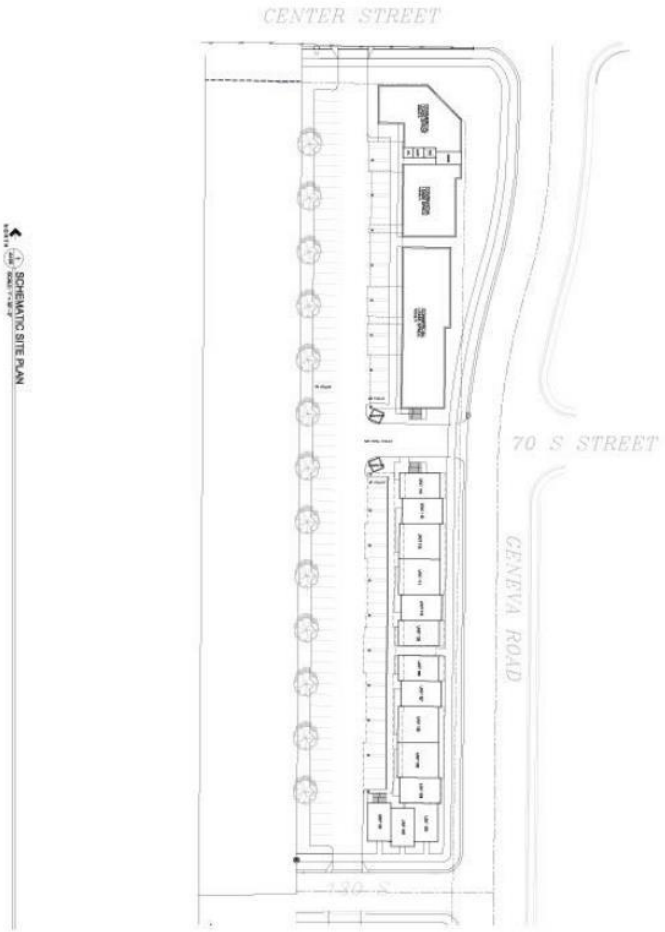
Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00'00" W 122.37 FT;
THENCE N 00°24'08 E 660.04 FT;
THENCE S 89°00'00" E 129.26 FT;
THENCE s 01°00'00" W 660.00 FT TO BEG

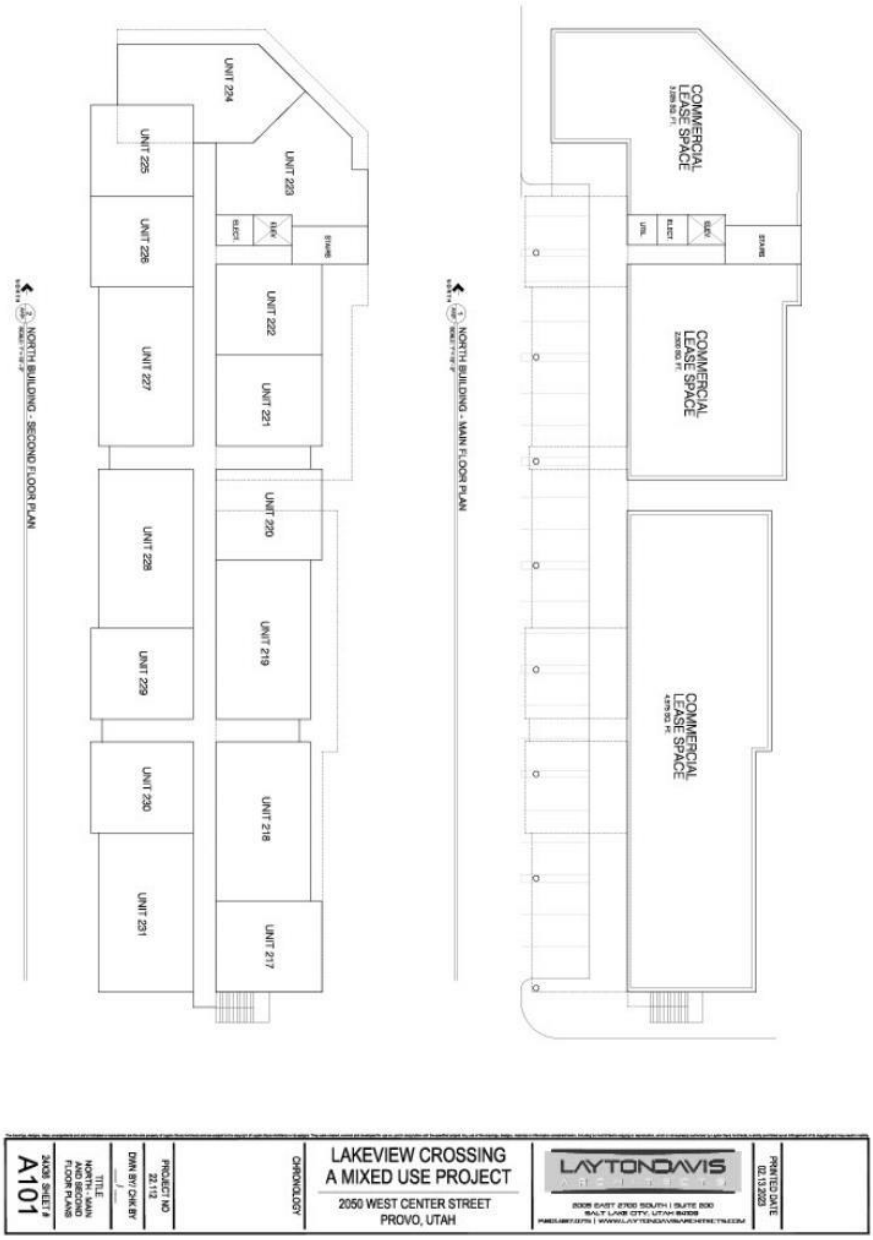
Exhibit B

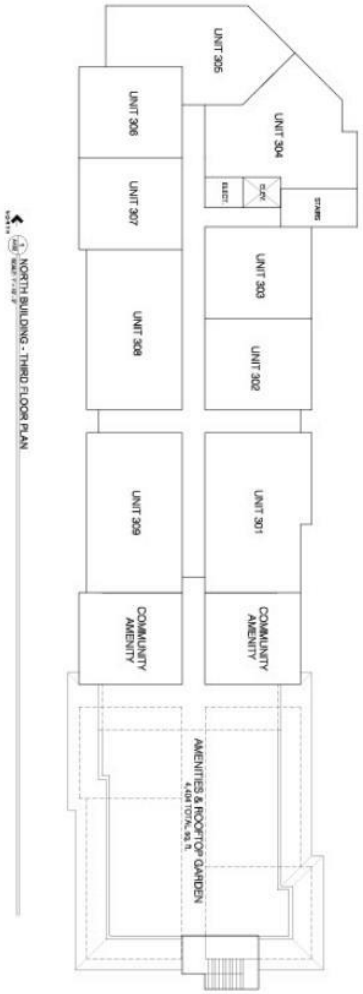
Concept Plan





A100 SHEET #	TITLE: SCHEMATIC SITE PLAN	PROJECT NO: 22.113 / DWN BY / CHK BY: /	CHRONOLOGY	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH LAYTONDAVIS ARCHITECTURE 5006 EAST 2700 SOUTH | SUITE 300 SALT LAKE CITY, UTAH 84109	PRINTED DATE: 02.13.2023


NORTH BUILDING - SECOND FLOOR PLAN
UNIT 224
UNIT 225
UNIT 226
UNIT 227
UNIT 228
UNIT 229
UNIT 230
UNIT 231
UNIT 223
UNIT 222
UNIT 221
UNIT 220
UNIT 219
UNIT 218
UNIT 217
NORTH BUILDING - MAIN FLOOR PLAN
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
NORTH - MAIN AND SECOND FLOOR PLANS
SHEET #
A101
CHRONOLOGY
PRINTED DATE
02.13.2023



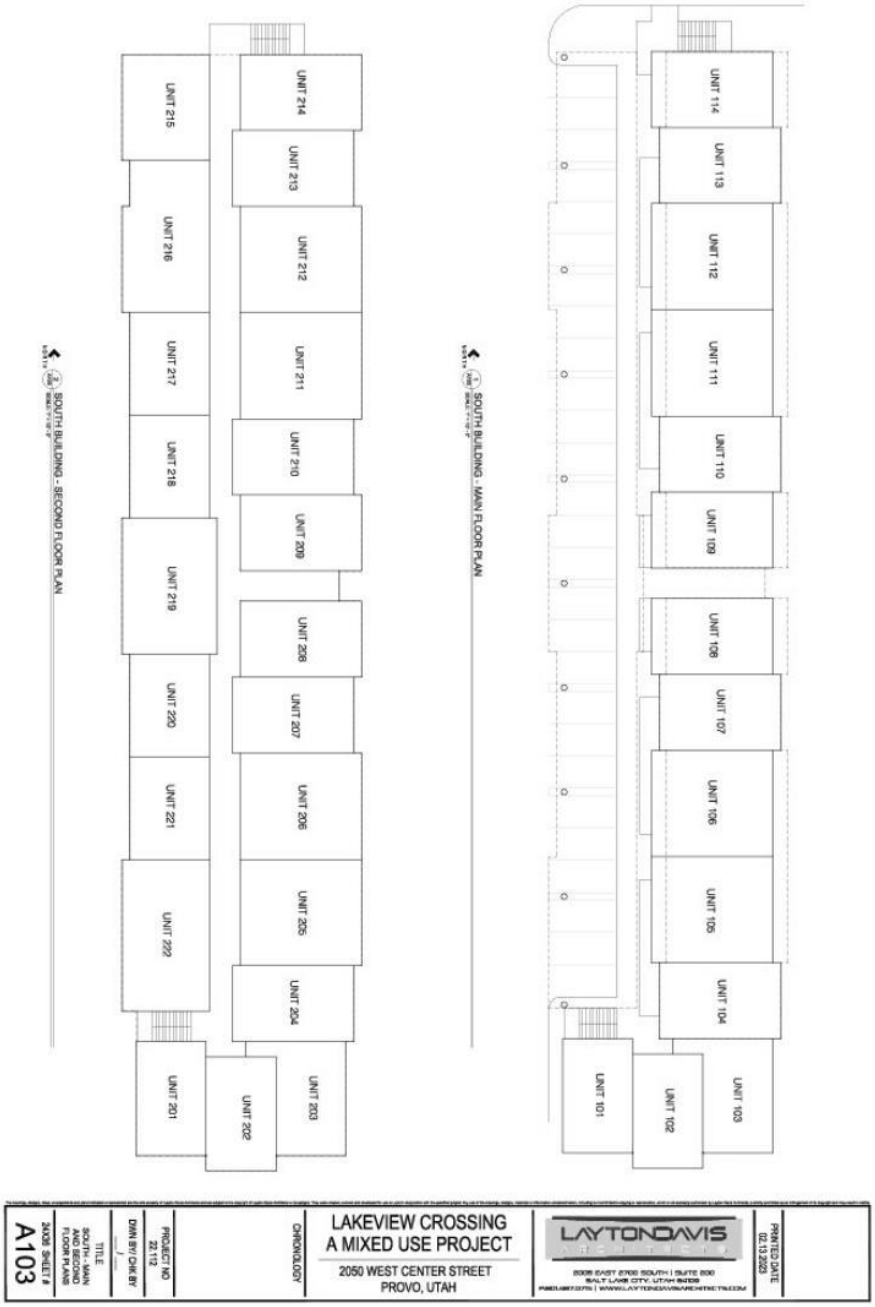
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

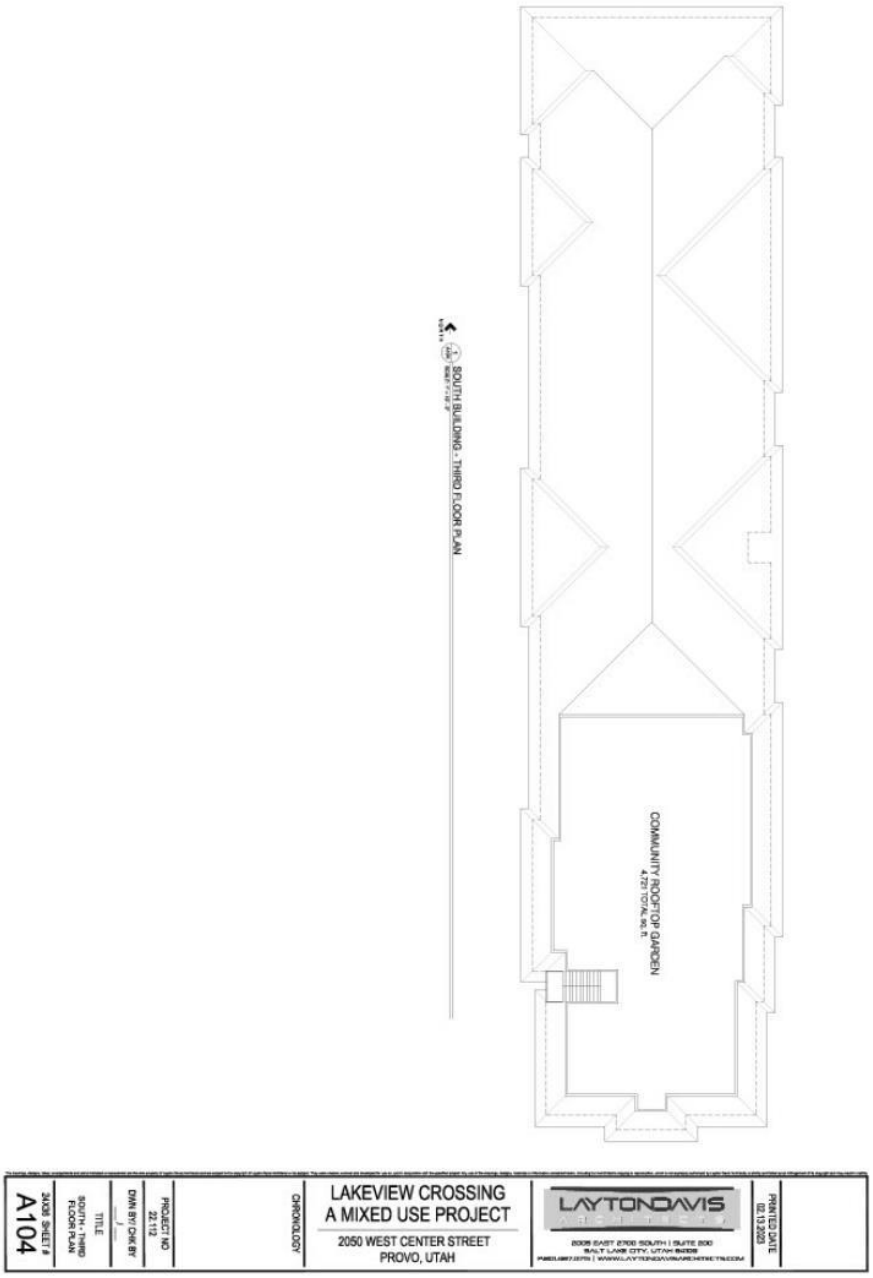
LAYTONDAVIS ARCHITECTURE
8305 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109

PROJECT NO: 22.13
DWN BY/ CHK BY: ___/___
TITLE: NORTH - THIRD FLOOR PLAN
SHEET #: A102

CHRONOLOGY

PRINTED DATE: 02.13.2023


SOUTH BUILDING - SECOND FLOOR PLAN
UNIT 214
UNIT 213
UNIT 212
UNIT 211
UNIT 210
UNIT 209
UNIT 208
UNIT 207
UNIT 206
UNIT 205
UNIT 204
UNIT 203
UNIT 202
UNIT 201
UNIT 215
UNIT 216
UNIT 217
UNIT 218
UNIT 219
UNIT 220
UNIT 221
UNIT 222
SOUTH BUILDING - MAIN FLOOR PLAN
UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 103
UNIT 102
UNIT 101
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PRINTED DATE
02.13.2023
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
SOUTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET #
A103


SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
A104

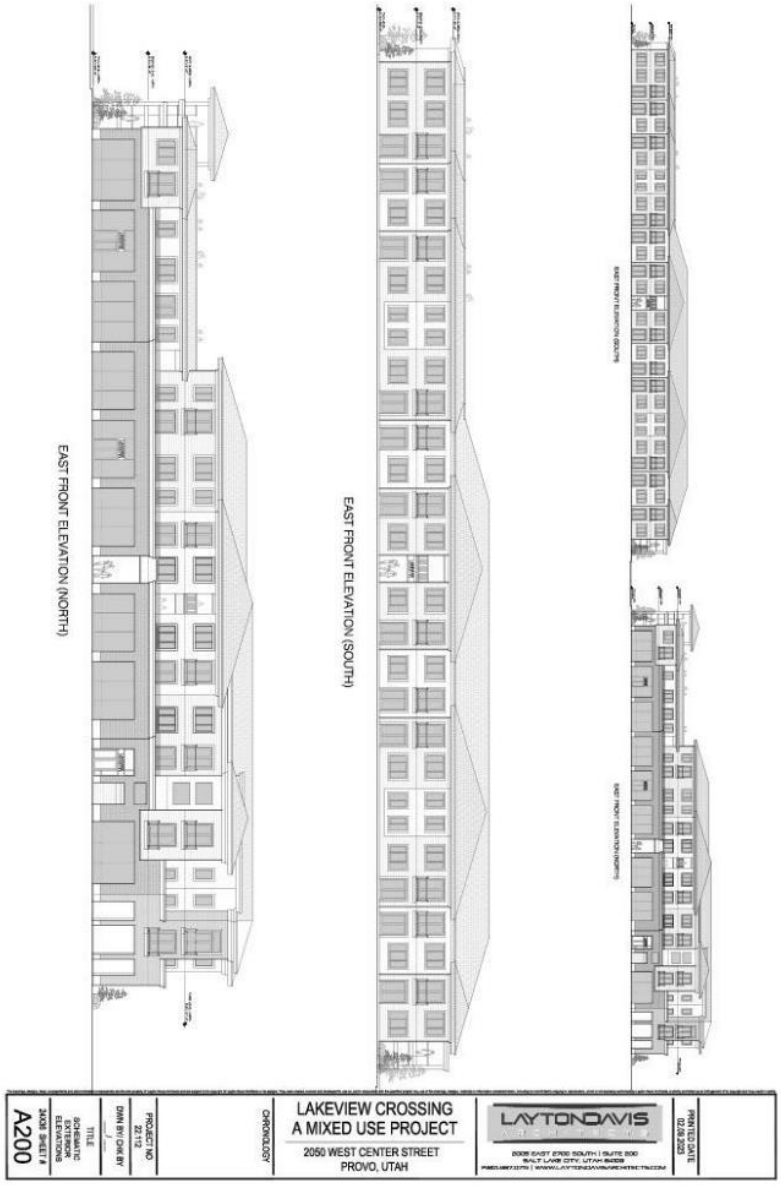
2. HAVE THE NUMBER OF UNITS SOLIDIFIED

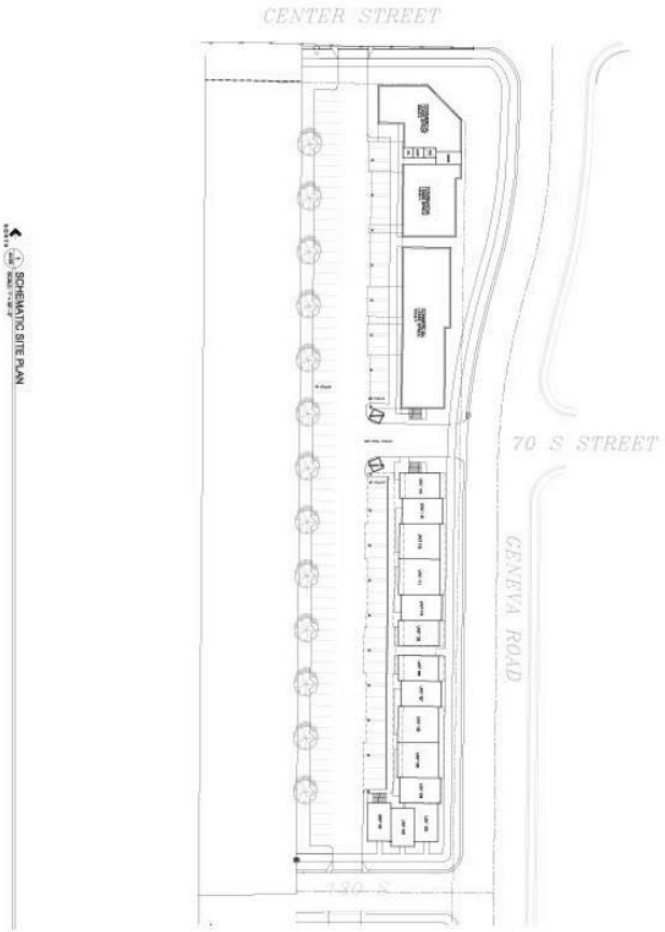
APPLICANT RESPONSE:

	UNIT COUNT
Studio	20
1-Bedroom	20
2-Bedroom	18
3-Bedroom	2
TOTAL	**60**

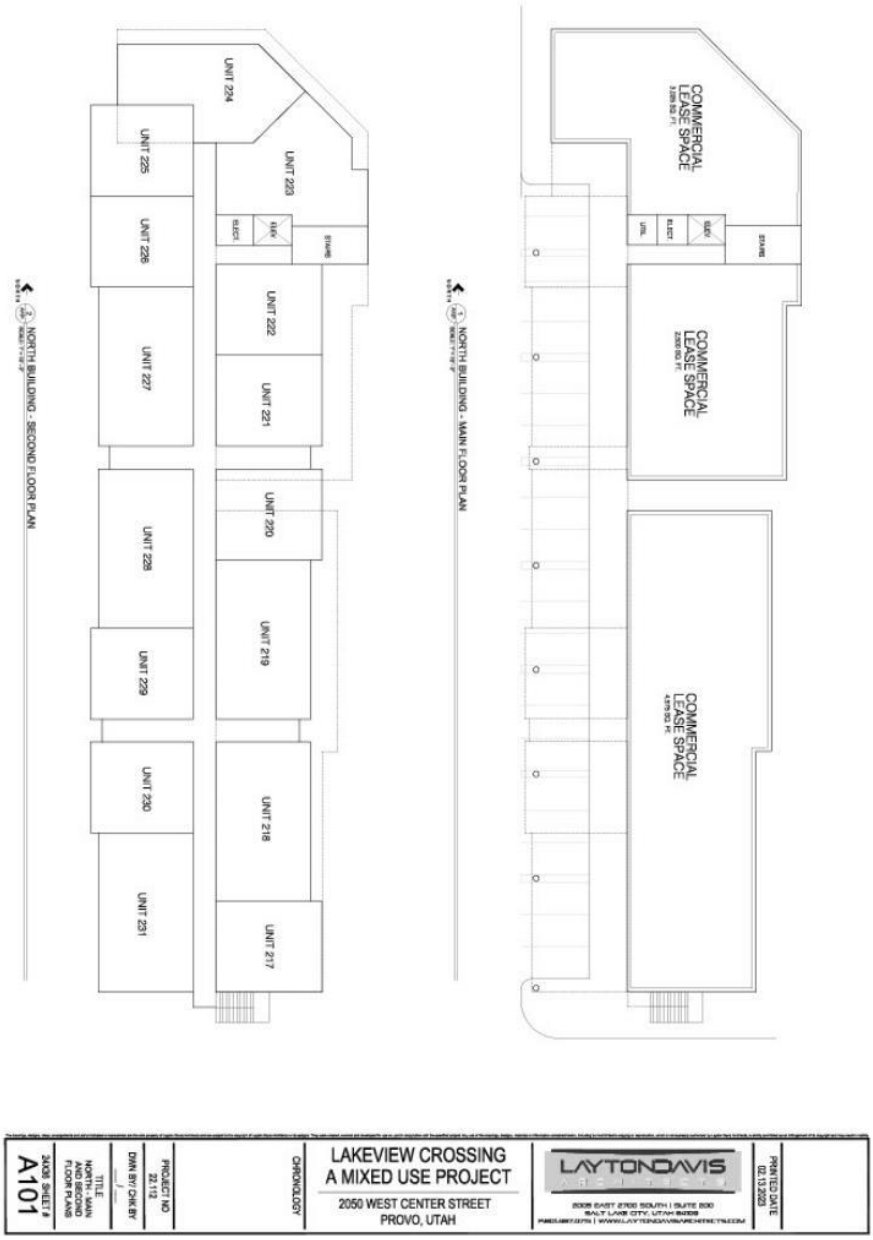
See concept plan attached.

CONCEPT PLAN SHOWING UNITS:





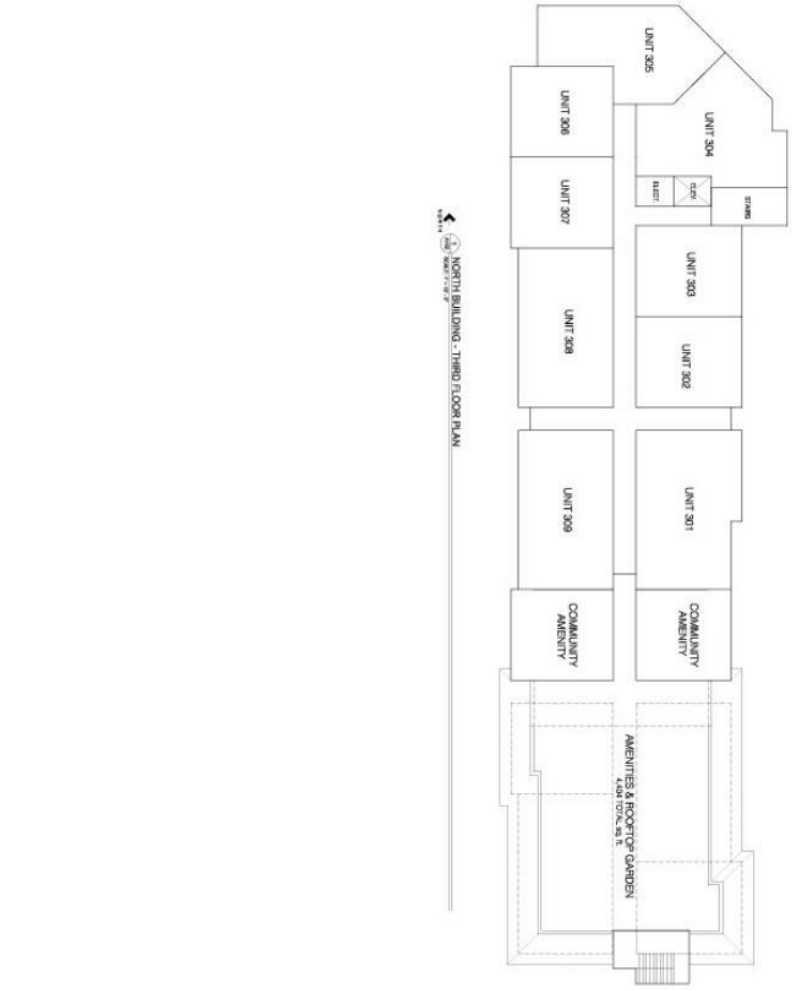
A100 SHEET #	PROJECT NO 22.13	CHRONOLOGY	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH	LAYTONDAVIS 8305 EAST 2700 SOUTH | SUITE 300 SALT LAKE CITY, UTAH 84109	PRINTED DATE 02.13.2023
TITLE SCHEMATIC SITE PLAN	DWN BY / CHK BY				



LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS

PROJECT NO 22.112
DWN BY/ CHK BY
TITLE NORTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET # A101
CHRONOLOGY
PRINTED DATE 02.13.2023



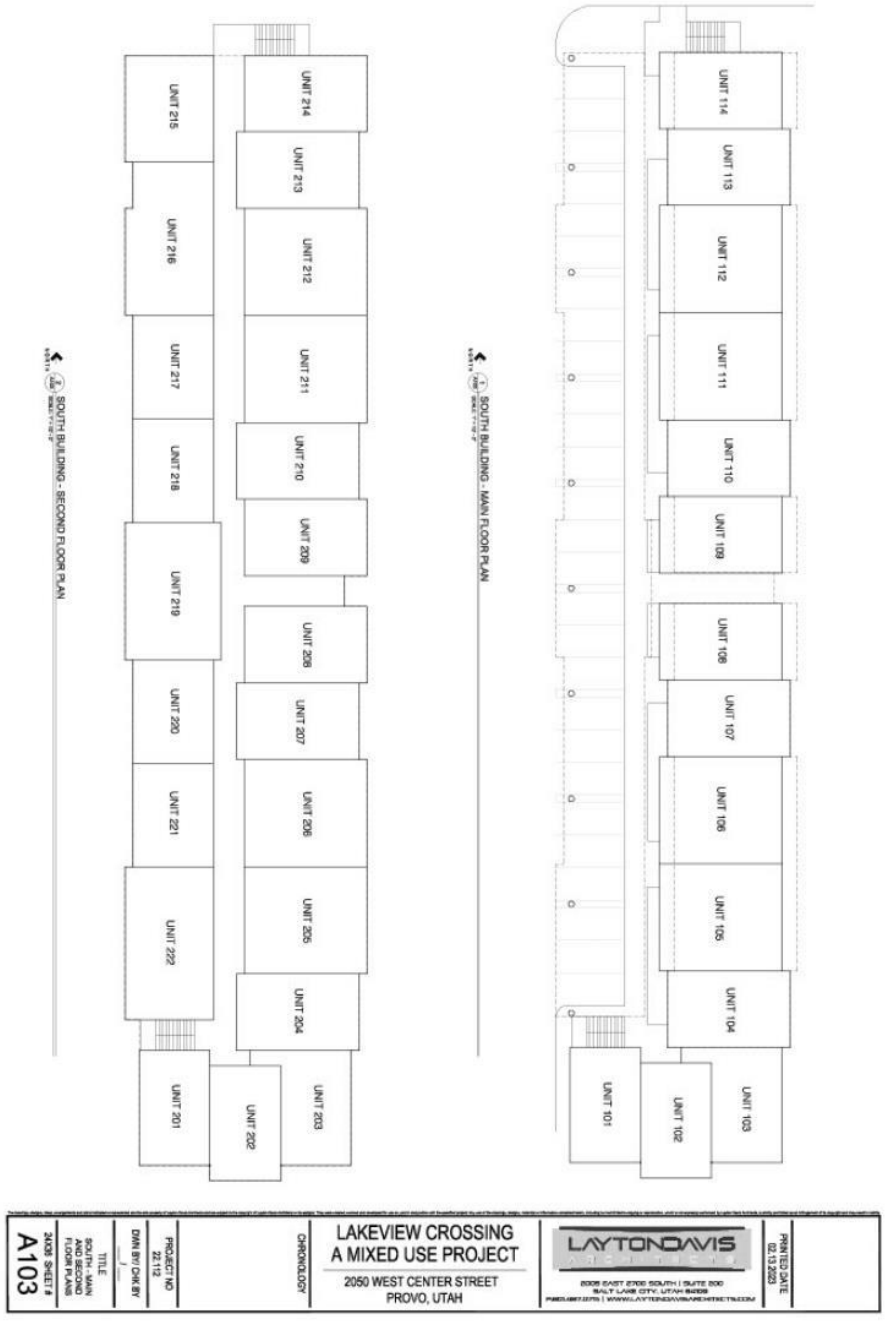
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

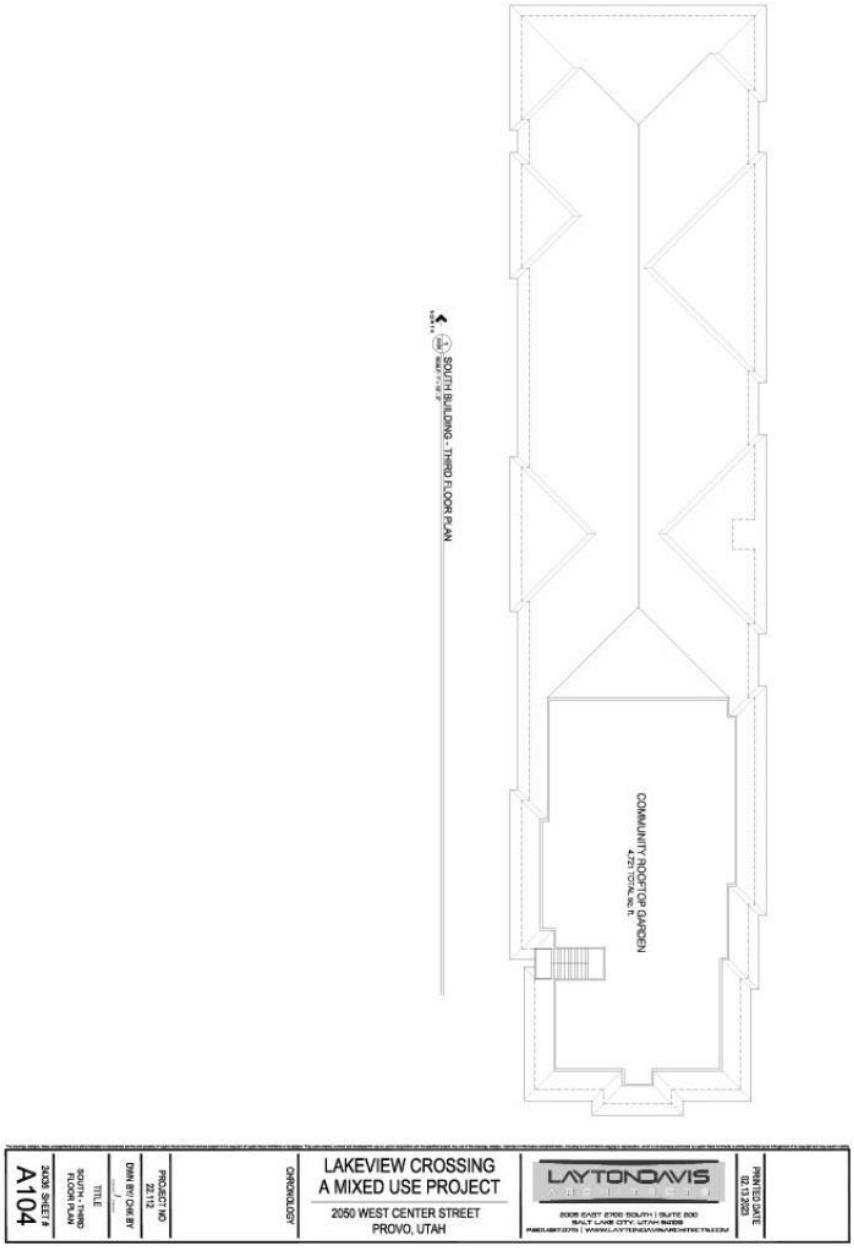
LAYTONDAVIS ARCHITECTS
8308 EAST 6700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84609
PHONE (801) 255-1 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PROJECT NO 22.112
DWN BY/ CHK BY
TITLE NORTH - THIRD FLOOR PLAN
24X36 SHEET # A102

PRINTED DATE 02.13.2023


SOUTH BUILDING - SECOND FLOOR PLAN
UNIT 214
UNIT 213
UNIT 212
UNIT 211
UNIT 210
UNIT 209
UNIT 208
UNIT 207
UNIT 206
UNIT 205
UNIT 204
UNIT 203
UNIT 202
UNIT 201
UNIT 215
UNIT 216
UNIT 217
UNIT 218
UNIT 219
UNIT 220
UNIT 221
UNIT 222
SOUTH BUILDING - MAIN FLOOR PLAN
UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 103
UNIT 102
UNIT 101
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
SOUTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET #
A103
CHRONOLOGY
PRINTED DATE
02.13.2023


SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
4721 TOTAL sq. ft.
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY CHK BY
TITLE
SOUTH - THIRD FLOOR PLAN
SHEET #
A104
PRINTED DATE
02.13.2023
CHRONOLOGY

3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH.

APPLICANT RESPONSE:

North Building: 55% of total project square footage

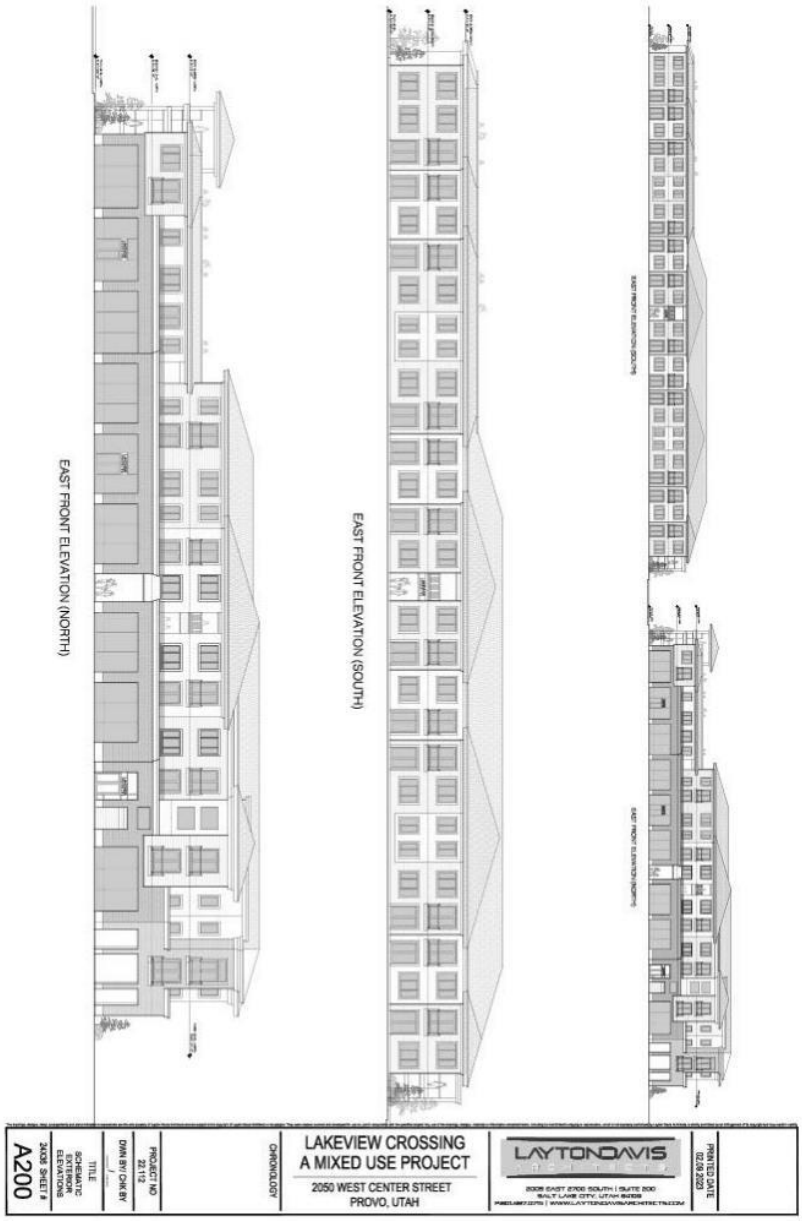
Height:	3 stories
	40' to eave
	47' to ridge
Use:	commercial & residential
Transition:	3 story building to 2 story building

South Building: 45% to total project square footage

Height:	2 stories
	26' to eave
	32' to ridge
Use:	residential only
Transition:	2 story townhome-style units on south elevation facing 130 South Street

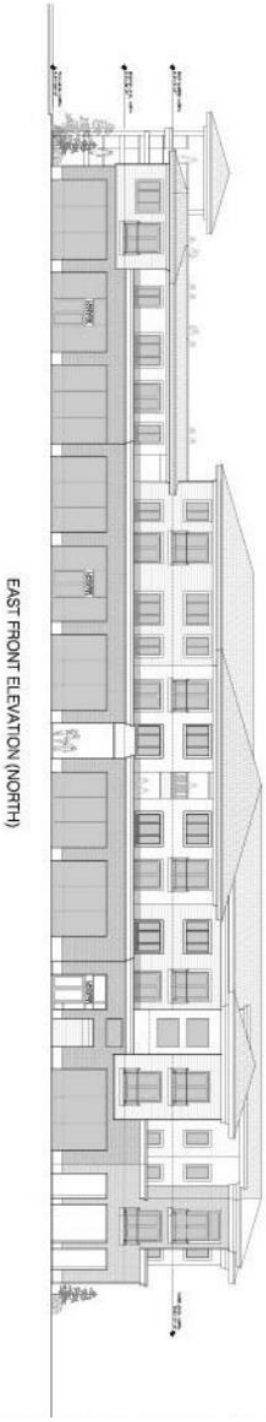
See revised architectural elevations attached.

REVISED ARCHITECTUTRAL RENDERINGS

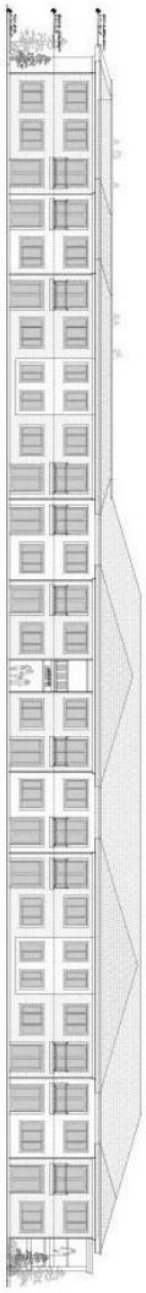




30



EAST FRONT ELEVATION (NORTH)



EAST FRONT ELEVATION (SOUTH)

32

4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST

APPLICANT RESPONSE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

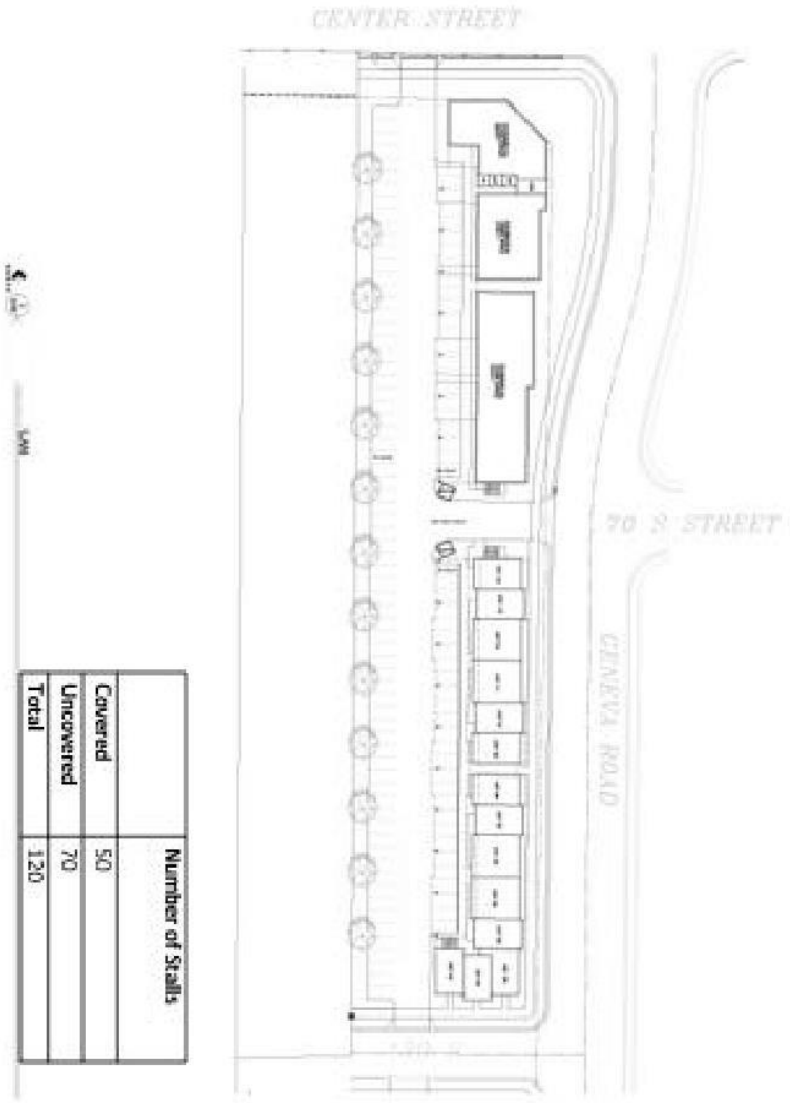
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

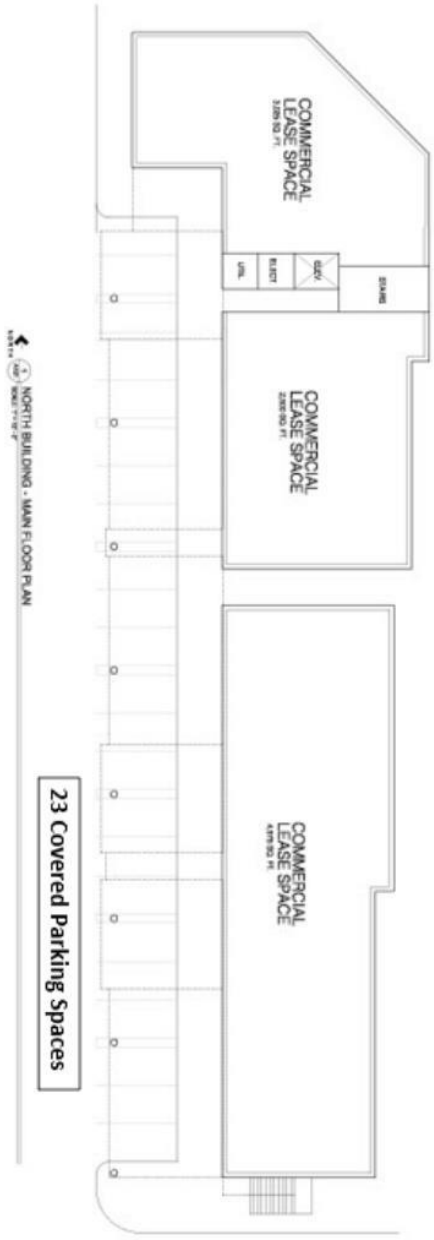
- **No shared use parking reduction request**
- 50 covered parking stalls / 70 uncovered parking stalls
- 25% more parking stalls than parking demand study (Hales Engineering – Report UT22-2389)
- Electric Vehicle (EV) charging - 50 stalls (public charging & private charging)
- Bike lockers & bike repair station
- Public Transit (UTA Route 833)
    - 7 minutes to Provo Airport
    - 10 minutes to Provo Center Station (UVX bus rapid transit line & UTA FrontRunner commuter rail)

See concept site plan and parking detail attached.

CONCEPT SITE PLAN:



Number of Stalls	
Covered	50
Uncovered	70
Total	120


COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
23 Covered Parking Spaces
NORTH BUILDING - MAIN FLOOR PLAN


UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 101
UNIT 102
UNIT 103
SOUTH BUILDING - MAIN FLOOR PLAN
27 Covered Parking Spaces

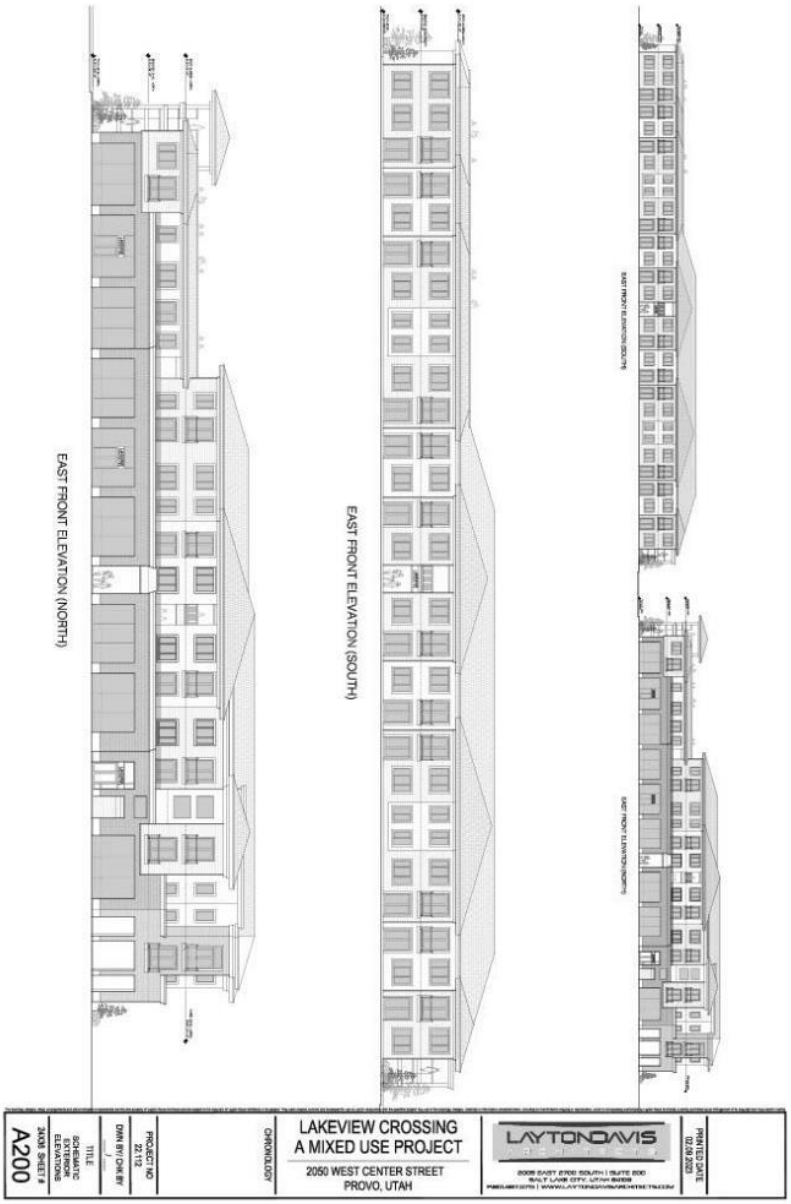
5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER

APPLICANT RESPONSE:

North Building: 55% of total project square footage
Height: 3 stories
40' to eave
47' to ridge
Mixed-Use:
Commercial - 10,100 sqft
Residential - 20,040 sqft

See revised architectural elevation attached.

REVISED ARCHITECTUTRAL RENDERINGS



6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS

APPLICANT RESPONSE

In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
- The proposed driveway accessing Geneva Road (2050 West) is at an acceptable location (where it is aligned with the opposing 70 South Street to the east).
- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street, and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

See email confirmation attached.

ATTACHED EMAIL FROM DAVID DAY

From: David Day <DDay@provo.utah.gov>
Sent: Tuesday, January 24, 2023 11:54 AM
To: Steve Turley <StevenTurley001@msn.com>
Subject: RE: Lakeview Crossing discussion 1/19/2022

Yes

From: Steve Turley <StevenTurley001@msn.com>
Sent: Monday, January 23, 2023 6:29 PM
To: David Day <DDay@provo.utah.gov>
Subject: Lakeview Crossing discussion 1/19/2022

CAUTION: This email originated from outside of Provo's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David,

Thanks for talking me through the accesses on the proposed project at Center Street and Geneva Road last week.

I'm drafting a response to the staff report. Can I include the following?

6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS
APPLICANT RESPONSE:
In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
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- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

SUPPLEMENTAL INFORMATION

A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN

STATEMENT REGARDING COMPLIANCE WITH GENERAL PLAN

Lakeview Crossing @ Center Street & Geneva Road (2050 West), Provo
re-zone and concept plan

Staff maintains that the General Plan only supports changing the existing *R1-8 One-Family Residential Zone* designation to the *Mixed-Use Zone* on the northern-most one acre area (on the corner of Center Street and Geneva Road) of the project, and that any area further south must remain zoned as *R1.8 One-Family Residential*. Support for this determination is based on the strict interpretation of the boundary of land use bubbles on the General Plan's *Southwest Area Future Land Use Map*.

The General Plan's adopted Southwest Neighborhood Plan states the following regarding the Southwest area Future Land Use map:

> *"The boundaries of the illustrated land uses should be viewed as flexible and not hard boundaries in order to allow creativity in the layout and development of a site."*
> Provo City Council Meeting, November 15, 2022 - p. 14

Please further consider the following comment by Bill Peperone, Director of Development Services, when he presented the *Southwest Area Future Land Use Map* to the City Council on November 13, 2018, (when the area plan was approved and adopted):

> *"There's a certain amount of ebb and flow that we expect to go with this. So as development applications come in, it's expected that there's going to be some give and take on the boundaries of all of those areas."*
> Provo City Council Meeting, November 13, 2018 - Bill Peperone (31:48)

Clearly, the land use bubble boundaries in the *Southwest Area Future Land Use Map* are intended to be flexible and are not hard delineations. As stated, these bubble boundaries "should be viewed as flexible and not hard boundaries" and that these boundaries "ebb and flow" and there is "give and take" according to the interpretation and discretion of the Planning Commission and City Council. Regarding projects that may not fit entirely within the land use bubbles, Provo City Councilor David Harding stated the following:

> *"These very specifically were drawn as kind of bubbles. What we are trying to communicate with the community is this is what you can expect. We'd like to communicate to developers this is what we are looking for. Now if you come in with something that doesn't quite fit, but it's aligned with the vision of what we are trying to achieve, great bring it in."*
> Provo City Council Meeting, November 13, 2018 - City Councilor David Harding (1:18:33)

The northern-most one acre of the proposed rezone area lies in the *Village Center / Commercial Mixed-Use* land use bubble. The southern one acre of the proposed rezone area lies in an area that is not included in any land use bubble. In fact, there is approximately 600 feet between the *Village Center / Commercial Mixed-Use* land use bubble to the north and the *Residential* land use bubble to the south. The Staff's position that there is a hard boundary of the north *Village Center / Commercial Mixed-Use* land use bubble but not a hard boundary to the south *Residential* land use bubble is untenable and arbitrary. Such a position would render the 600 feet between land use bubbles as not designated for any land use. Clearly this is not logical.

While the proposed rezone area does not entirely fit within the *Village Center / Commercial Mixed-Use* bubble, the proposed rezone meets the vision that the area is intended to be a mix of well-designed commercial and residential uses. Staff specified that the new *Mixed-Use Zone* should be used for the *Village Center / Commercial Mixed-Use* area and the proposed project concept meets the requirements of this zone.

When the proposed rezone was originally presented to the Planning Commission on March 9, 2022, commissioners provided the following direction:

> *"What you are proposing for the two [acres] on the north doesn't bother me at all. It seems like that is a perfect location for that kind of thing and certainly having higher density housing, if it were on top of the commercial, it would be fine."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:06:00)

> *"We would feel comfortable with the [Mixed-Use Village Center] commercial General Plan designation being rezoned in an area that was larger than the bubble shown on the map because it meets the intent, which is to provide something useful in that commercial node…we actually want it [Mixed-Use Village Center area] to be something useful to the community so allowing [the rezone] to go further than what the bubble shows, would, in my mind, meet that requirement."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Lisa Jensen (2:19:00)

> *"I support what [Commissioner Jensen] has just recommended."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:19:40)

> *"I agree with Commissioner Jensen, it makes more sense to clean things up on the zoning, but to stick strictly to the General Plan just because something is not quite within the bubble doesn't make sense…"*
> Planning Commission Meeting, March 9, 2022 - Commissioner Miles Miller (2:22:19)

> *"A 'village center' to me is a more walkable neighborhood….to see something that meets the corner is a building that helps define the intersection with shops on the bottom with apartments above that to me says: 'village center'… I would love to see something that is actually mixed-use on that corner…to create something a little more walkable, a little more 'mini downtown' feel."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Brian Henrie (2:24:23)

In consideration of the guidance provided by these comments, the request to change the zone designation from the existing *R1-8 One-Family Residential Zone* designation to the proposed *Mixed-Use Zone* allows the two acres at the corner of Center Street and Geneva Road to accommodate a mix of ground-floor commercial uses with higher density residential uses above.

Please also consider that the *Mixed-Use Zone* requires at least 10,000 square feet of commercial uses to facilitate the desired mixed-use walkable community. The parking spaces required to support 10,000 square feet of commercial uses can range from 40 parking spaces (office), 50 spaces (retail), to 100 parking spaces (restaurant). Requiring the minimum of 10,000 square feet of commercial space and even the minimum of 40 parking stalls cannot fit on a single acre site. The combination of requiring the 10,000 square feet of commercial space and the adequate parking requirement necessitates incorporating the additional acreage to the south (logically bounded by 130 South street). Limiting the *Mixed-Use Zone* to only one acre makes development simply impossible. Either rezone both acres, or rezone none and eliminate the opportunity for this corner property to contribute to the *Village Center / Commercial Mixed-Use* area.

In conclusion, Staff maintains that the rezone request does not comply with the General Plan based on the southern one-acre area of the proposed rezone being designated on the *Southwest Future Land Use Map* as limited to residential uses not exceeding three (3) units per acre. This determination is arbitrarily based on strictly defining the boundary of one land use bubble (*Village Center / Commercial Mixed-Use*) to NOT include the southern acre, but fudging the boundary of the other land use bubble (*Residential*) by 600 feet.

- This position is contrary to the adopted Southwest Neighborhood Plan (pending adoption by City Council on November 15, 2022).
- This position is contrary to the prior statements made by Staff, Planning Commision, and City Council when this map was being created and adopted.
- This position is contrary to the opinions expressed by a majority of the planning commissioners when they considered this project's rezone request at their March 9, 2022, meeting.

Staff suggests that 'hands are tied' and that the Planning Commission and City Council must interpret the General Plan solely on the arbitrary boundary of a bubble (and curtail development accordingly). The General Plan itself states the opposite and is actually much broader and details greater goals. The General Plan aspires for a vibrant mixed-use node at west Provo's most prominent intersection facilitating the beginnings of a much-desired west-side walkable community. This project creates the desired "mix of retail, office, and higher density residential uses, with attractive site amenities and distinctive design features with a density limit of 30 residential units per acre (see: Southwest Neighborhood Plan, p. 15). It is a choice to encourage and facilitate the creation of mixed retail, office, and residential uses (and extend an arbitrary flexible boundary of a bubble on a map), or hold fast to an arbitrary line of a bubble on a map (and exclude the potential benefits of the proposed mixed-use project). We hope you'll choose to support this project as proposed and begin to realize the Village Center envisioned by Provo's General Plan.

B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY

Planning Commission Meeting-January 11, 2023

1:36:15

Commissioner Whitlock: I had a question for Mr. Day from Public Works. There was a comment made about sewage and I didn't see anything about that in the Staff Report. Is that a concern at all from Public Works about the project?

David Day: No

Commissioner Whitlock: No. OK.

Commissioner Jensen: I think the comment was in relation to the thing we've talked about a lot on the West Side where there's a limit to the number of units that the sewer system can sustain and so that always comes up in just an aside.

Commissioner Whitlock: Yea, and I just wanted to know if it was pertinent to this particular project.

David Day: [inaudible] I should probably come to the microphone, right? David Day with Public Works. Don't let that influence your decision on this. I think that the sewer and water issue is far below what you're contemplating here. So, just don't let that even influence you.

Provo City Planning Commission

Report of Action

April 12, 2023

*ITEM #5	Steven Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street. Provo Bay Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20210271

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2023:

RECOMMENDED DENIAL

On a vote of 3:3, the Planning Commission failed to recommend that the Municipal Council approve the above noted application.

Motion By: Daniel Gonzales (to recommend approval to the City Council)
Second By: Jeff Whitlock
Votes in Favor of Motion: Daniel Gonzales, Jeff Whitlock, Andrew South
Votes Against the Motion: Melissa Kendall, Robert Knudsen, Lisa Jensen
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the MU Zone is described in the attached Exhibit A.

RELATED ACTIONS

The related concept plan request was also voted on at the April 12th Planning Commission hearing and was denied due to a 3:3 split vote (PLCP20210398).

DEVELOPMENT AGREEMENT

- May apply with future approvals.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Planning staff gave an overview of the changes from the last time the item was before the Planning Commission and noted that the specific criteria asked for by the Commission had been addressed. Staff reiterated that there is only support for the north building.

CITY DEPARTMENTAL ISSUES

- There are remaining issues from the Coordinator Review Committee (CRC) review that need to be resolved.
- Important issues raised by other departments – addressed in Staff Report to Planning Commission

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 12/02/2021.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present during the hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Brian Taylor sent a message that he is in support of staff recommendations on this project.
- Rick Cox spoke in favor of the project as proposed as a way to attract more commercial services.
- Dave Lewis spoke in favor of the project for the full two acres.
- Frank Gilbert spoke in favor of the project to bring business to the west side.
- Vicki Gilbert spoke in favor of the project.
- Becky Bogdin agreed with the staff recommendation and wants to stick to the area plan.
- Michael Mitchell spoke in favor of the proposal and stated there would be no issues with traffic.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Steve Turley went into detail on how he has addressed each of the six criteria that the Planning Commission had asked about at the previous hearing.
- Mr. Turley also expressed his opinion on how the plan would meet the General Plan for this property and confirmed with Public Works that the sewer demand would not be an issue if the project were approved.
- Mr. Turley stated that he is not interested in doing only the north building and that parking would not work for the site due to the minimum 10,000 square feet of commercial space and the parking for that use.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission confirmed that there are 24 units proposed on the north, with 36 in the south building.
- Lisa Jensen indicated that the scale of the buildings is fine, but the density limits of the General Plan should be followed.
- Some of the commissioners discussed the southwest plan and noted that there are areas specified for higher density that should be respected, while some others thought that those areas could be adjusted to make the project work.
- Commissioners Jensen and Kendall were expecting a decrease in density after the continuance and thought the project could still be revised to work on the north one acre.
- Commissioners Whitlock and South noted that the project seems to fit and would be a positive for the area.
- The Commission confirmed with David Day that the proposed project would not pose any issues with the sewer demand.



Planning Commission Chair



Director of Development Services

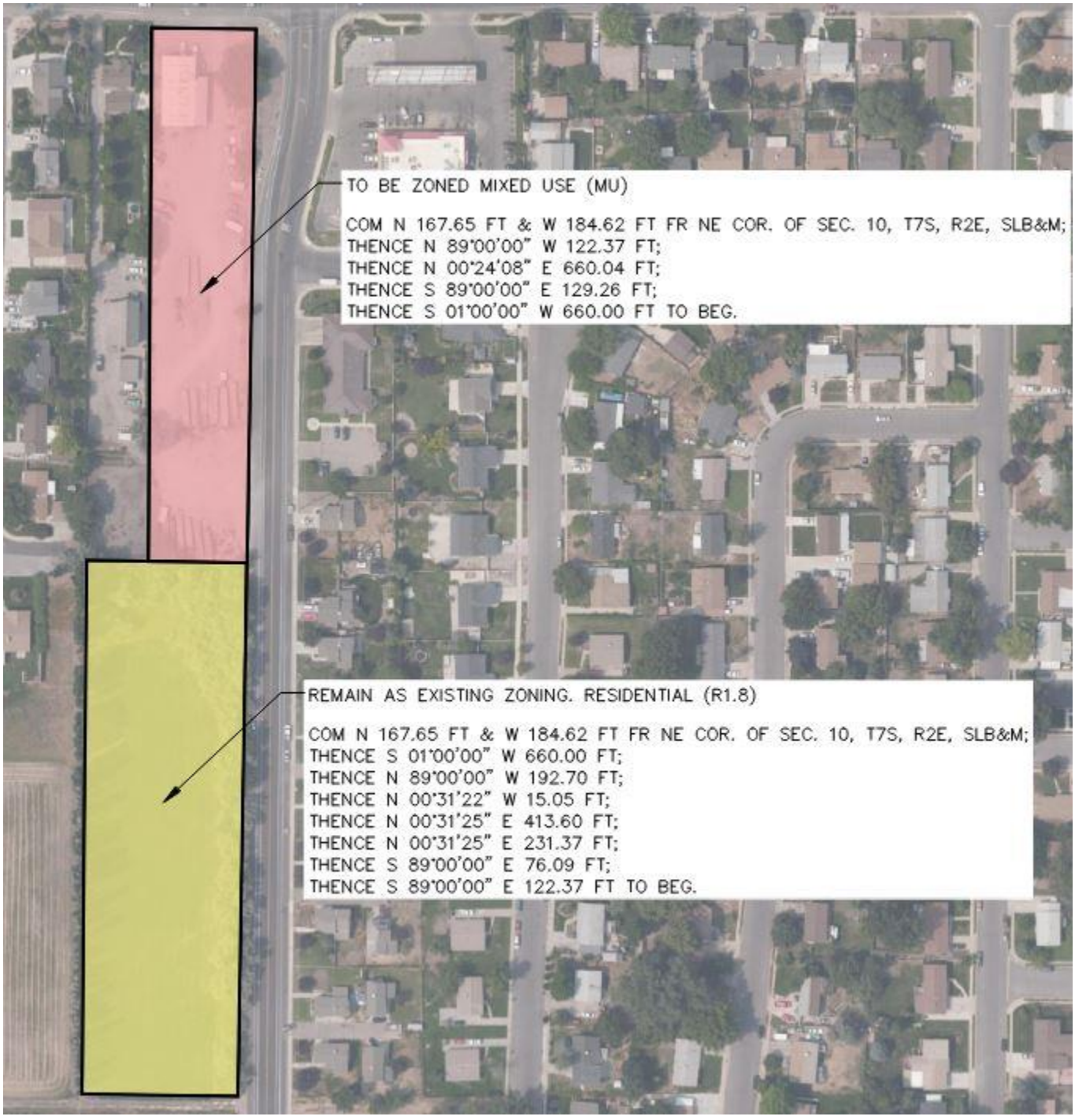
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A


TO BE ZONED MIXED USE (MU)
COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC. 10, T7S, R2E, SLB&M;
THENCE N 89°00'00" W 122.37 FT;
THENCE N 00°24'08" E 660.04 FT;
THENCE S 89°00'00" E 129.26 FT;
THENCE S 01°00'00" W 660.00 FT TO BEG.
REMAIN AS EXISTING ZONING. RESIDENTIAL (R1.8)
COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC. 10, T7S, R2E, SLB&M;
THENCE S 01°00'00" W 660.00 FT;
THENCE N 89°00'00" W 192.70 FT;
THENCE N 00°31'22" W 15.05 FT;
THENCE N 00°31'25" E 413.60 FT;
THENCE N 00°31'25" E 231.37 FT;
THENCE S 89°00'00" E 76.09 FT;
THENCE S 89°00'00" E 122.37 FT TO BEG.

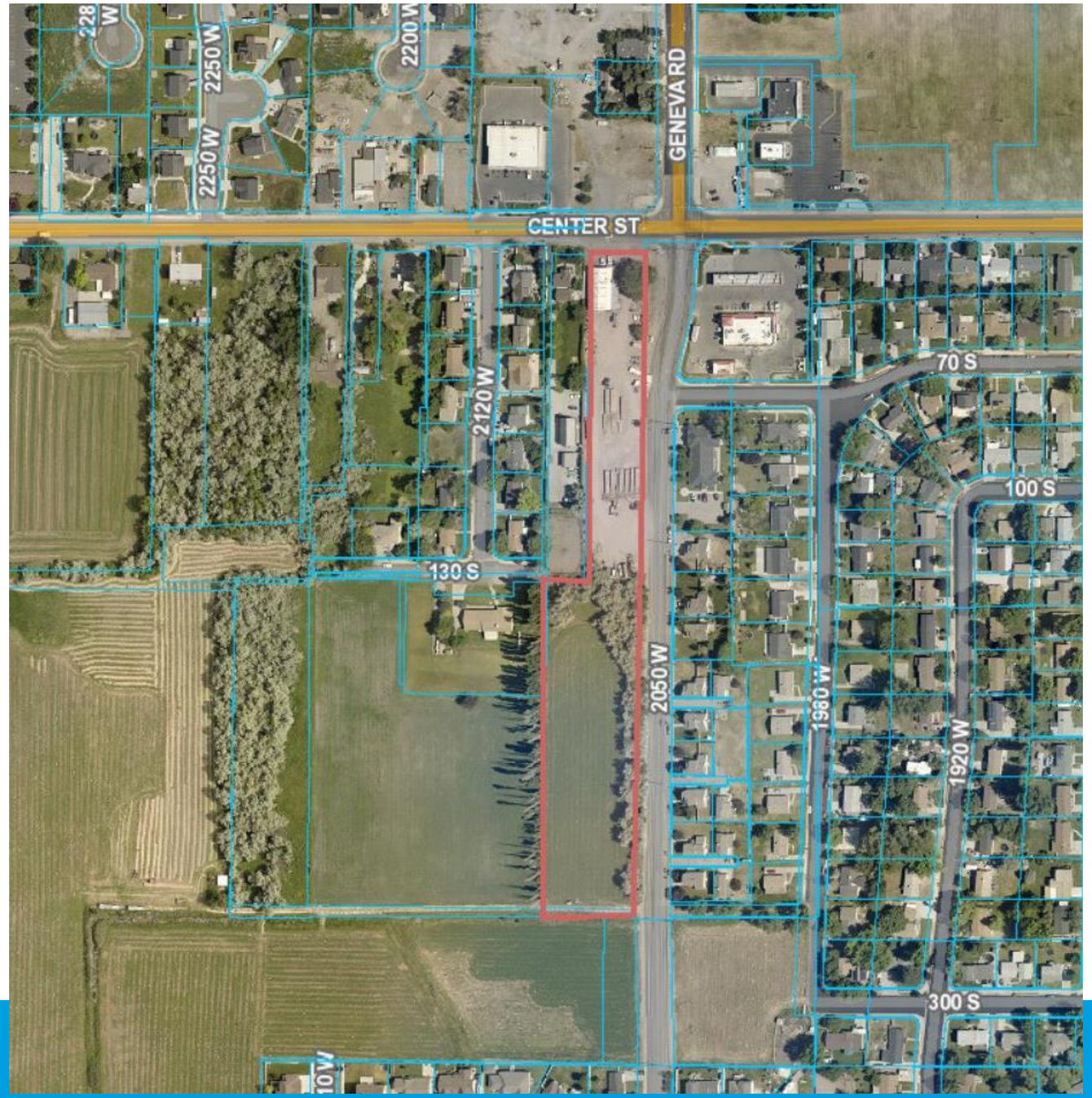
ITEM 5*

Steven Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street.

Provo Bay Neighborhood

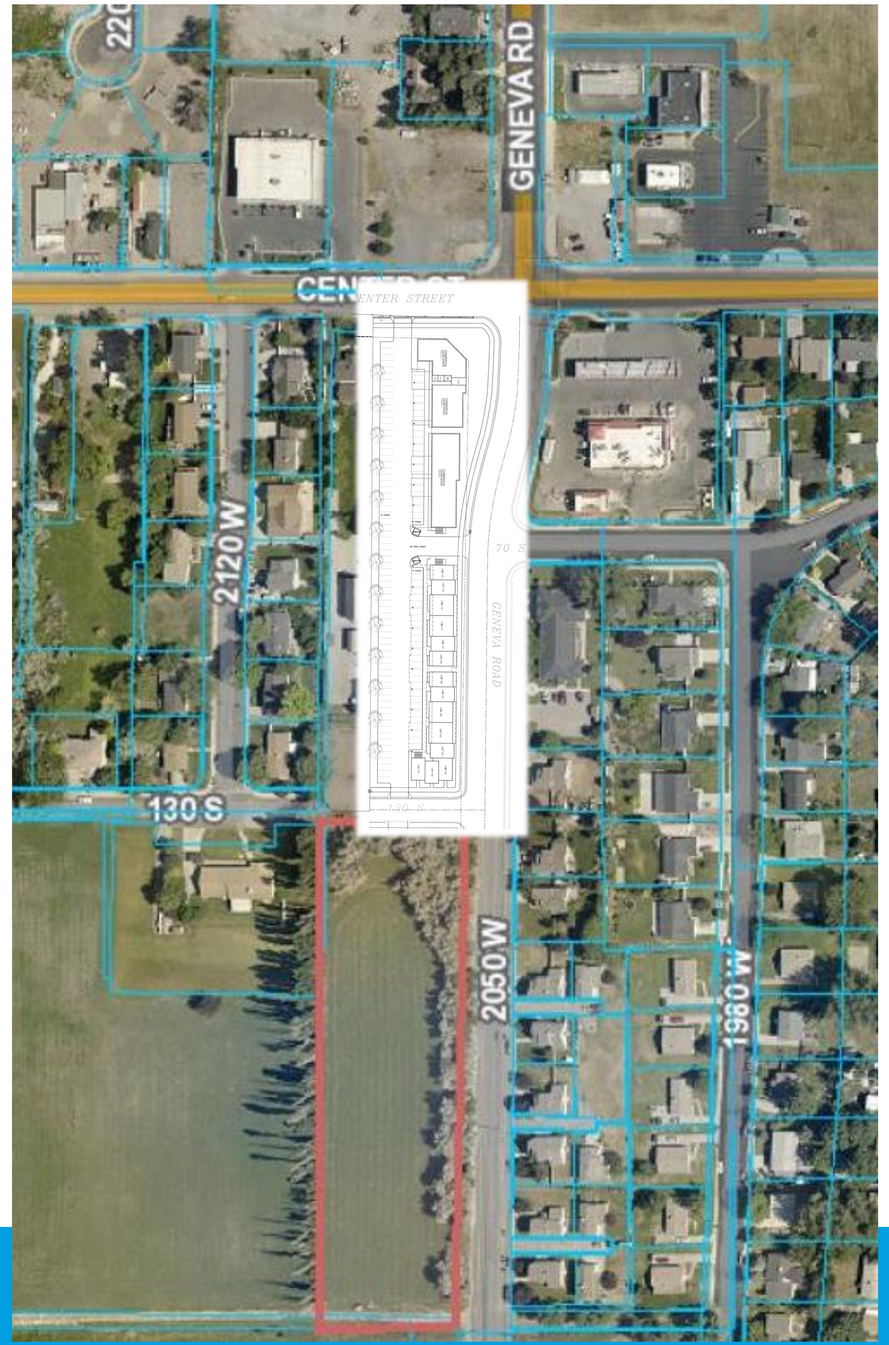
PLRZ20210271

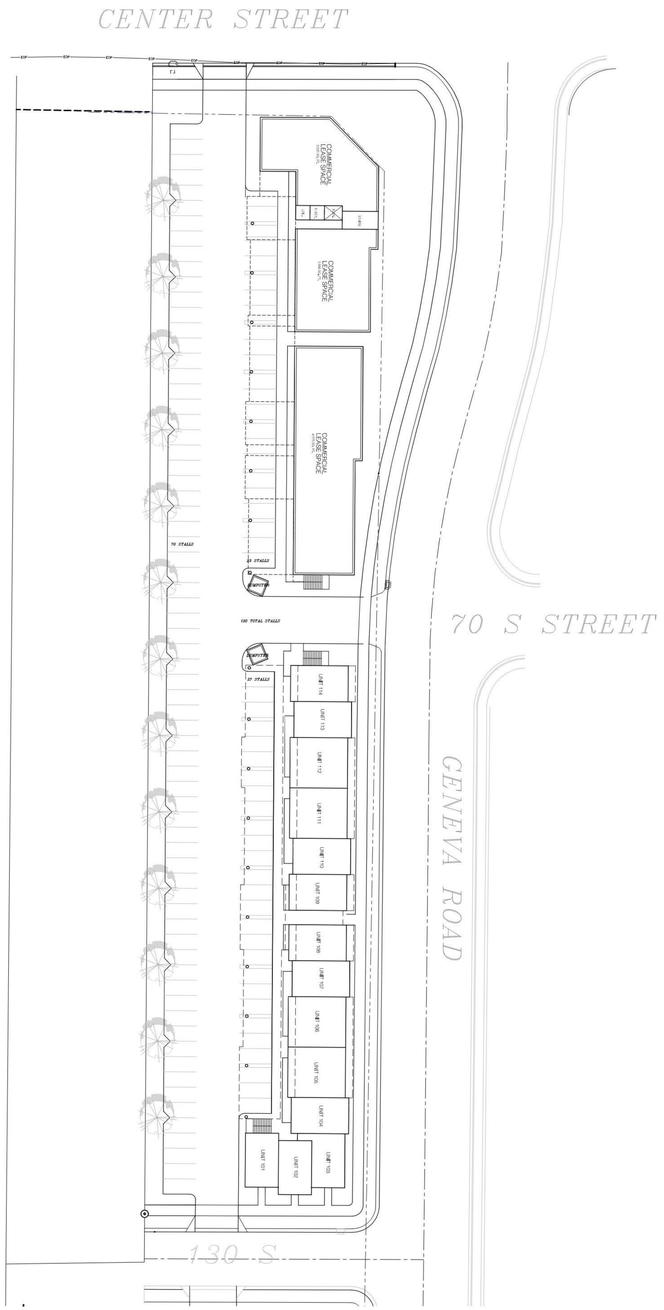
2075 W Center



2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.





2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.

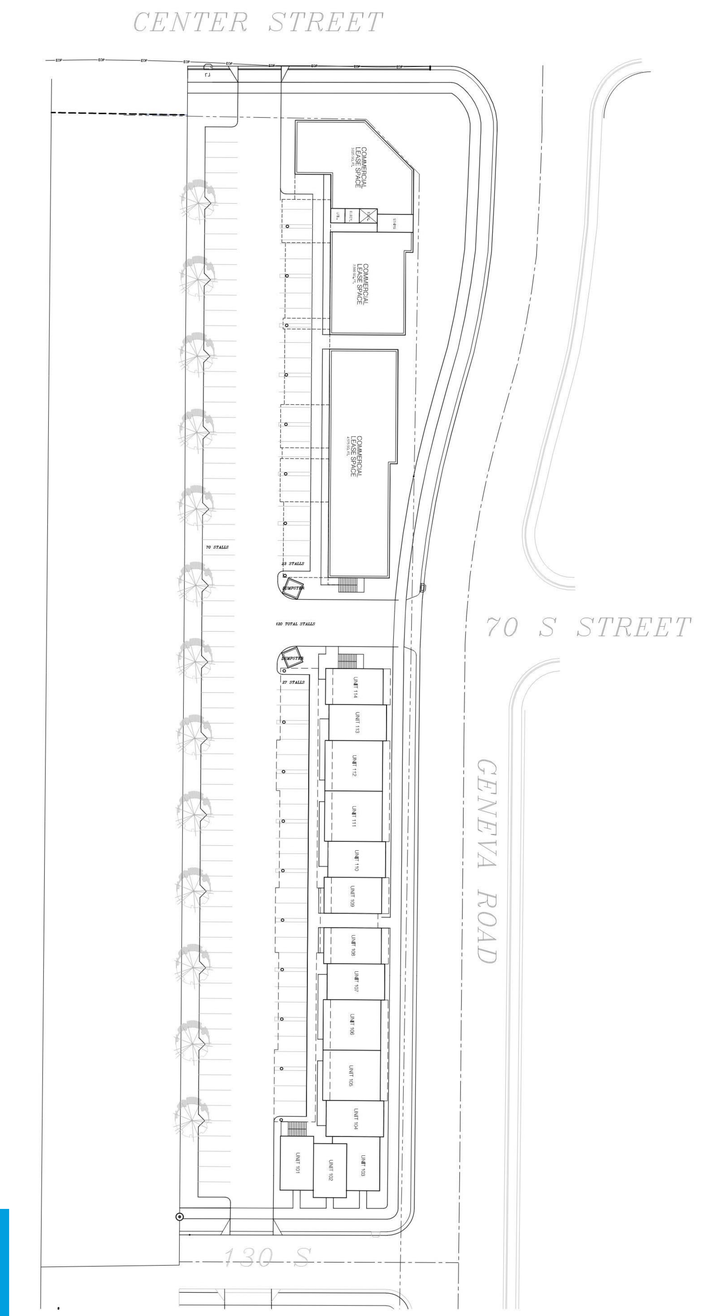
- Revised Plans provide parking to meet code.

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

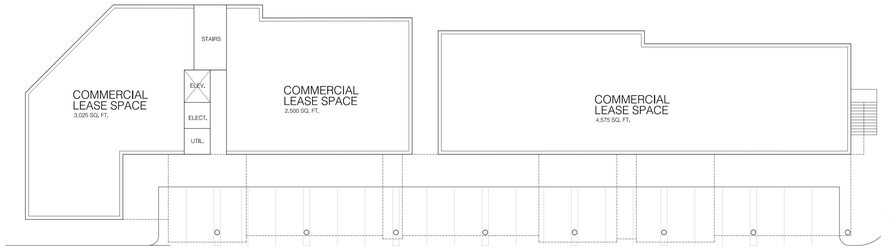
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

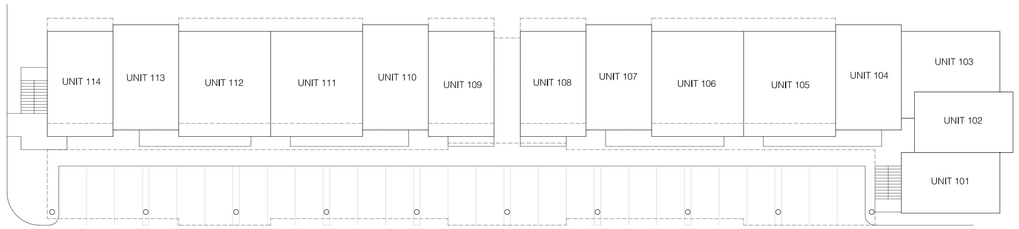


2075 W Center

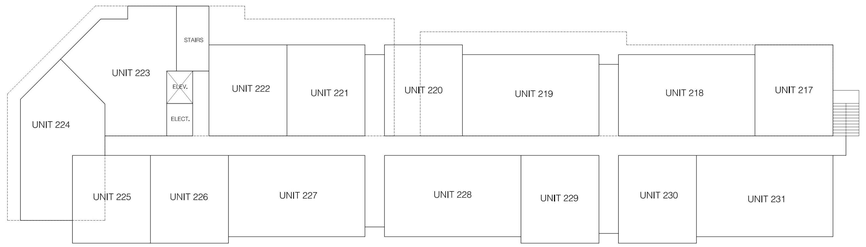
- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Revised Plans provide parking to meet code.
- Floor Plans and Elevations address most of the prior concerns.



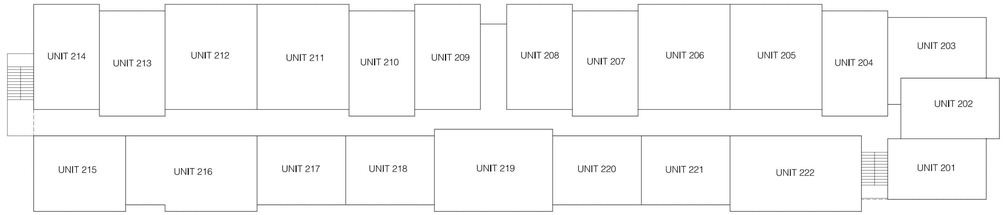
NORTH BUILDING - MAIN FLOOR PLAN



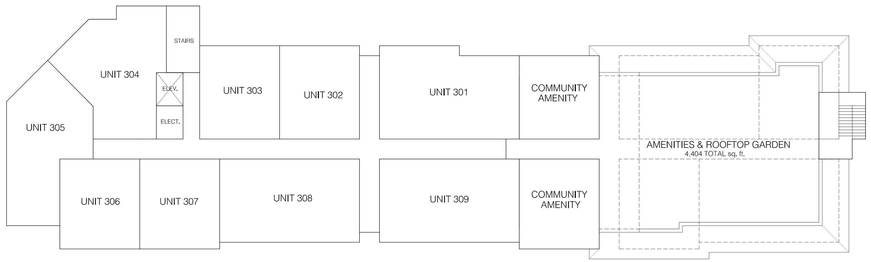
SOUTH BUILDING - MAIN FLOOR PLAN



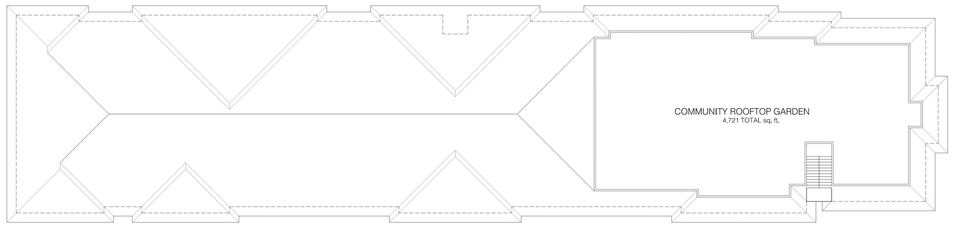
NORTH BUILDING - SECOND FLOOR PLAN



SOUTH BUILDING - SECOND FLOOR PLAN



NORTH BUILDING - THIRD FLOOR PLAN



SOUTH BUILDING - THIRD FLOOR PLAN

2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Revised Plans provide parking to meet code.
- Floor Plans and Elevations address most of the prior concerns.



EAST FRONT ELEVATION (SOUTH)



EAST FRONT ELEVATION (NORTH)



EAST FRONT ELEVATION (SOUTH)

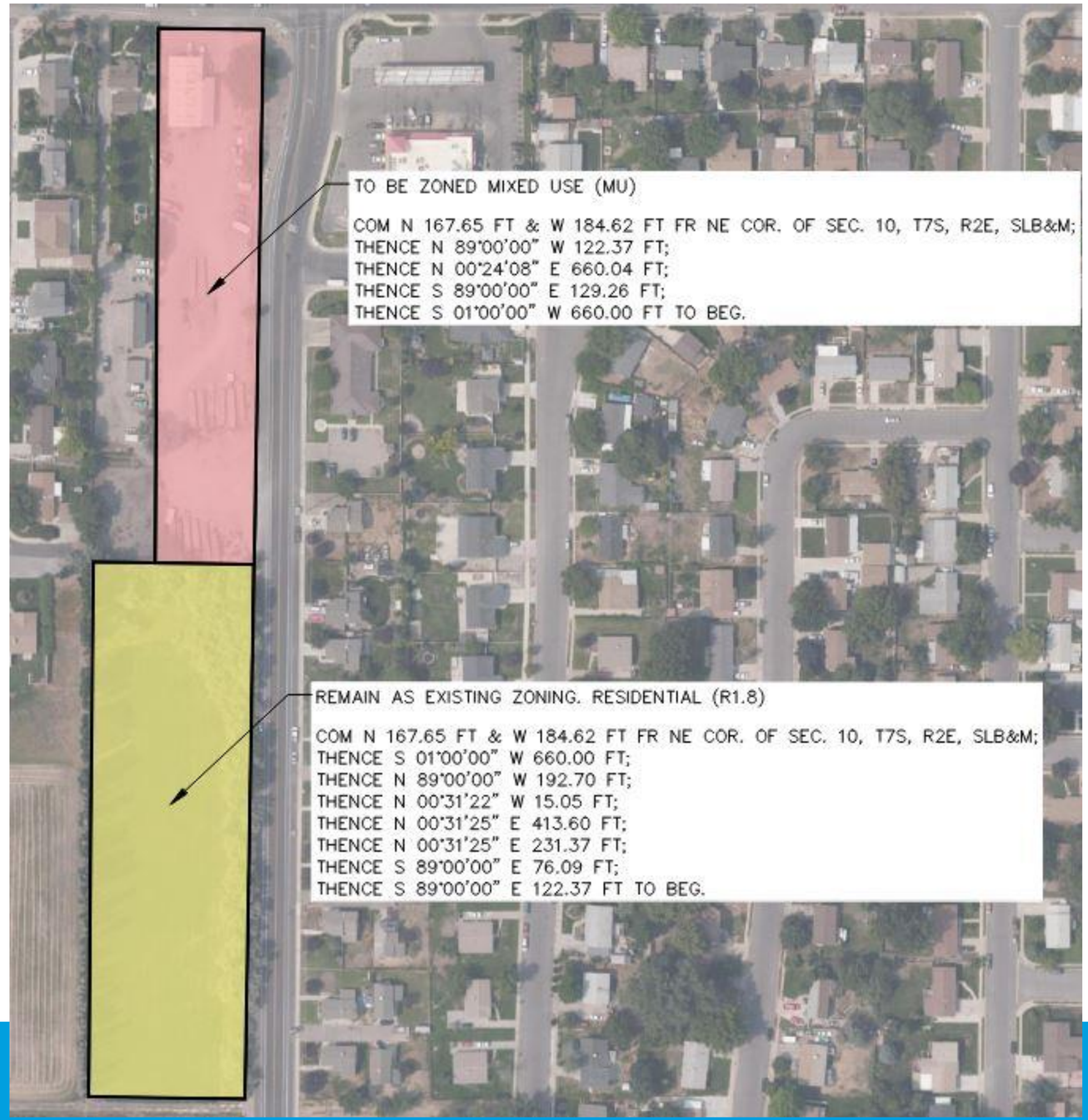


EAST FRONT ELEVATION (NORTH)

2075 W Center

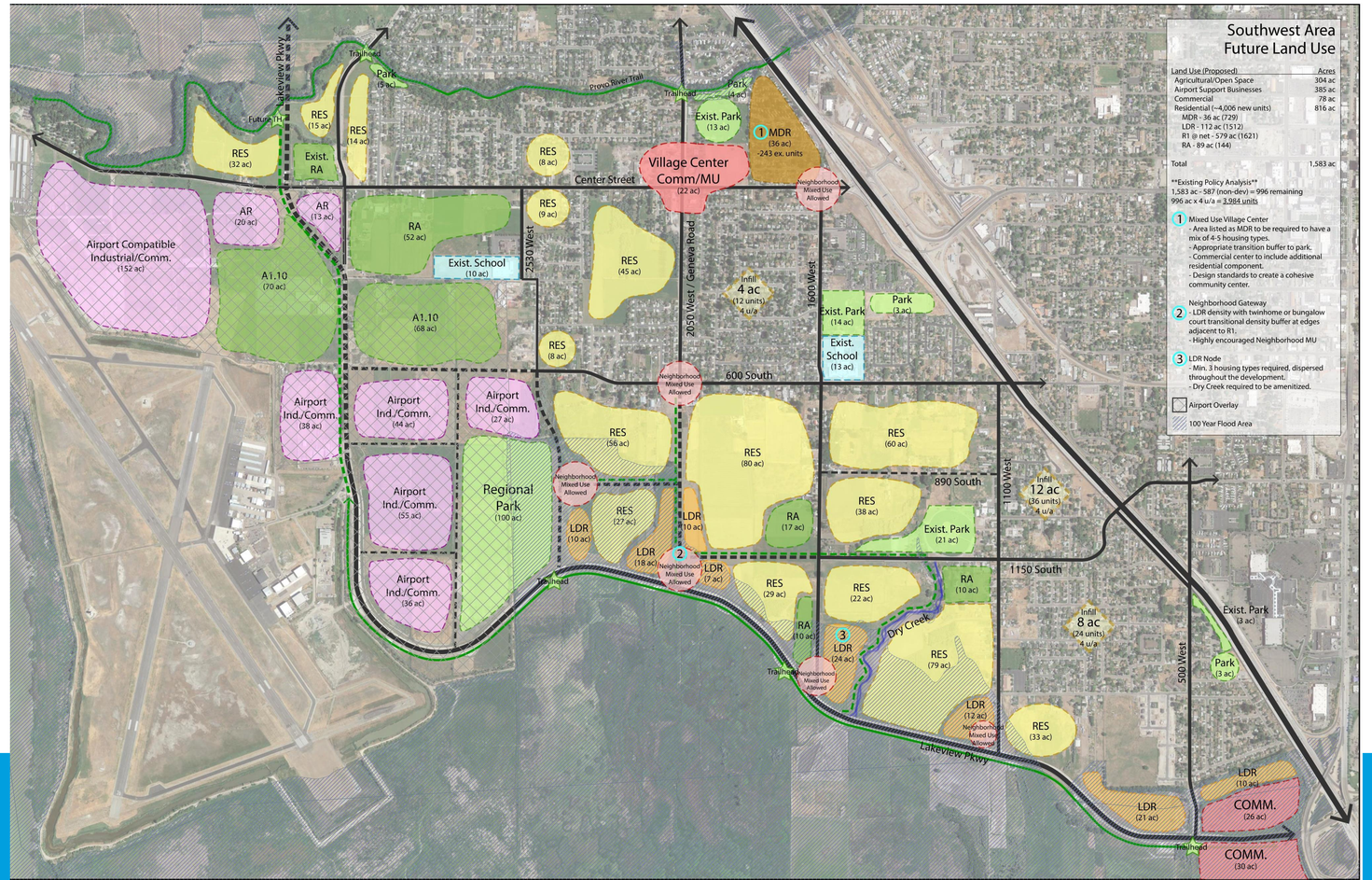
- Concept: 10,100 sq. ft. of commercial space and 60 res. units.

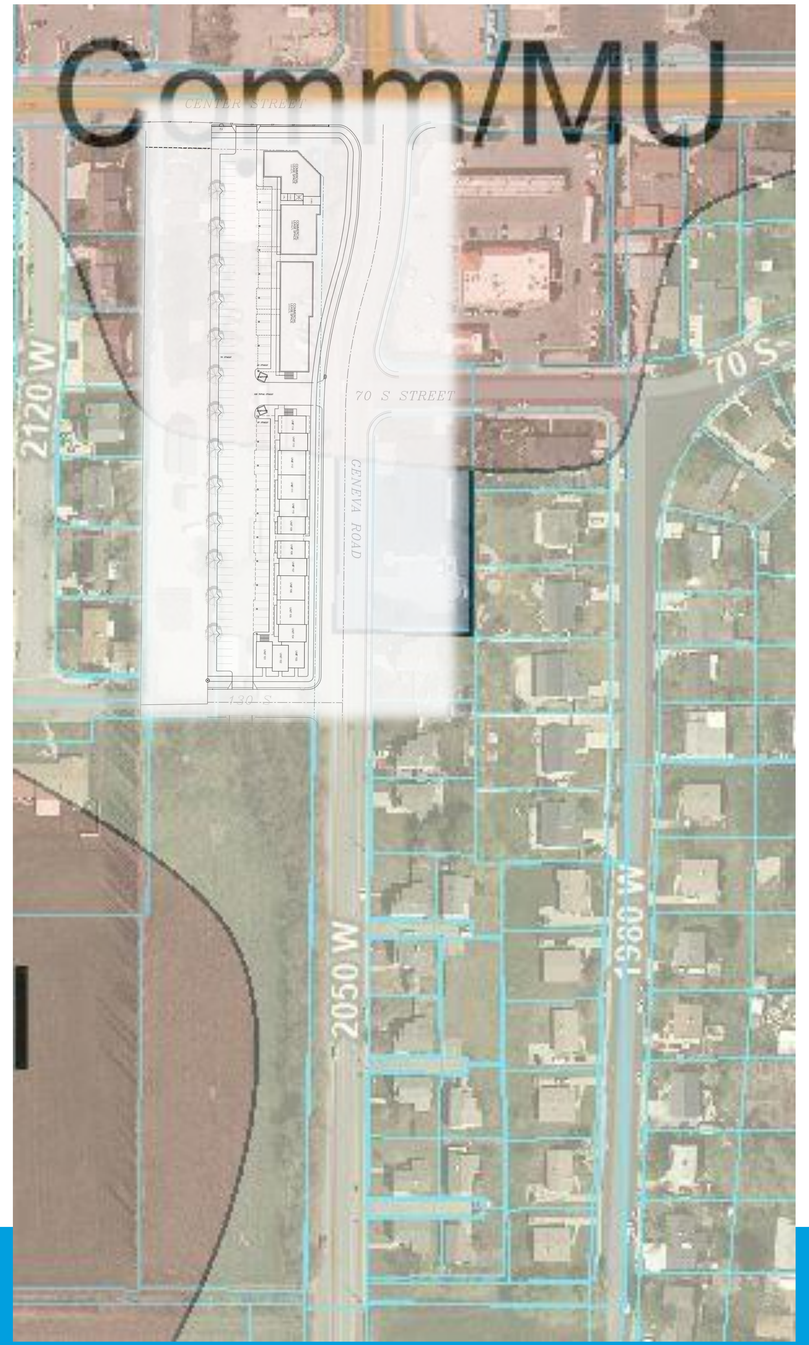
- Zone Change Request: north 2 acres from R1.8 to MU



2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Zone Change Request: north 2 acres from R1.8 to MU
- General Plan: only supports mixed-use on north acre, and 4 units/acre on remainder.





2075 W Center

- Applicant Slides

LAKEVIEW CROSSING

Center Street and Geneva Road

Zone Change application: PLRZ20210271
Concept Plan application: PLCP20210398

Applicant Responses to Planning Commission Requests – 1/11/2023

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE 2

2. HAVE THE NUMBER OF UNITS SOLIDIFIED 21

3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH. 28

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5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER 37

6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS 39

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A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN 41

B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY 44

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE

APPLICANT RESPONSE:

Mixed-Use Zones 14.14D.120(1) requires the following:

> "an area equivalent to twenty percent (20%) or more of the residential gross floor area must be developed in recreational amenities, such as a common … rooftop garden, or other amenity."
>
> "Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering place."

The total residential gross floor area of the proposed concept plan equals 45,178 square feet, therefore, based on the 20% amenity requirement, the required amenity area minimum would be 9,036 square feet.

We proffer that a minimum of 9,036 square feet of massed area be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

See draft development agreement, including concept plan, attached.



Image of what rooftop amenity could possibly look like.

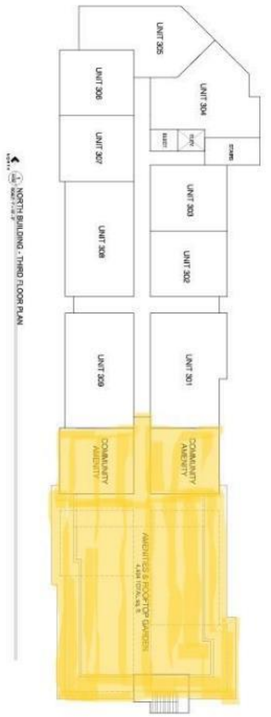


Image of what rooftop amenity could possibly look like.



Image of what rooftop amenity could possibly look like.

CONCEPT PLAN WITH AMENITY AREA HIGHLIGHTED



A102

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTON DAVIS



DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney

351 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not

unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

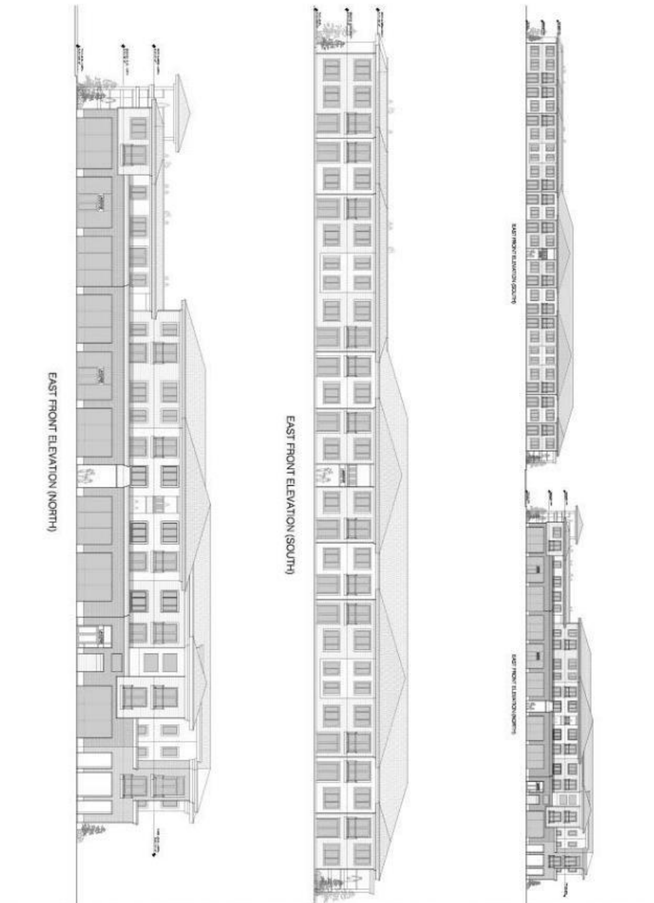
Exhibit A

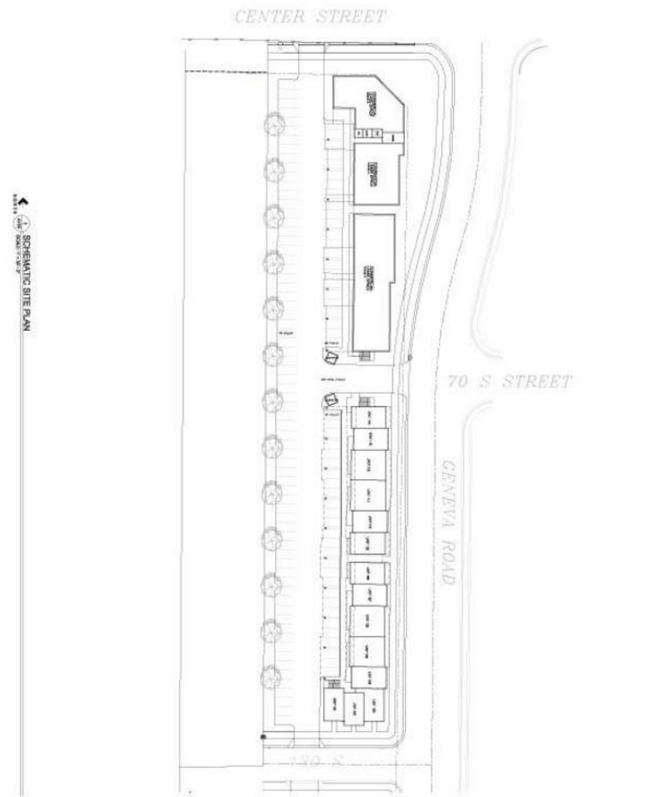
Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00’00” W 122.37 FT;
THENCE N 00°24’08 E 660.04 FT;
THENCE S 89°00’00” E 129.26 FT;
THENCE s 01°00’00” W 660.00 FT TO BEG

Exhibit B

Concept Plan





LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2020

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
NORTH BUILDING
FLOOR PLANS

SHEET #
A101

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2020

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
NORTH - THIRD
FLOOR PLAN

SHEET #
A102

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
3905 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
PHONE:(801)272-2276 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2023

PROJECT NO
22.112
DWN BY/ CHK BY
___/___
TITLE
SOUTH - MAIN & SECOND FLOOR PLANS
SHEET #
A103

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
3905 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
PHONE:(801)272-2276 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2023

PROJECT NO
22.112
DWN BY/ CHK BY
___/___
TITLE
SOUTH - THIRD FLOOR PLAN
SHEET #
A104

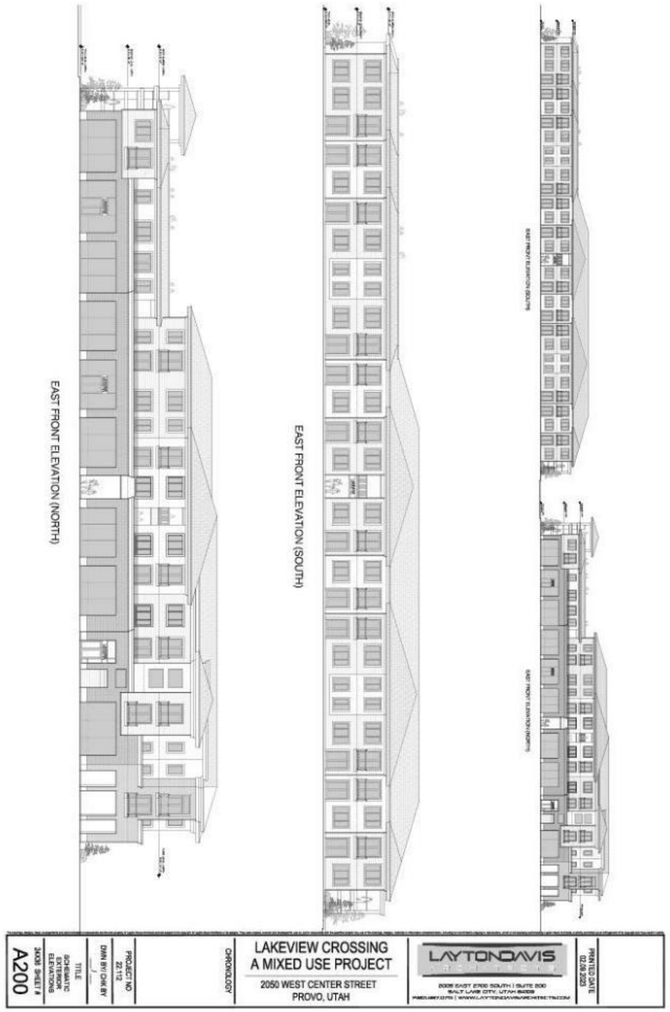
2. HAVE THE NUMBER OF UNITS SOLIDIFIED

APPLICANT RESPONSE:

	UNIT COUNT
Studio	20
1-Bedroom	20
2-Bedroom	18
3-Bedroom	2
TOTAL	**60**

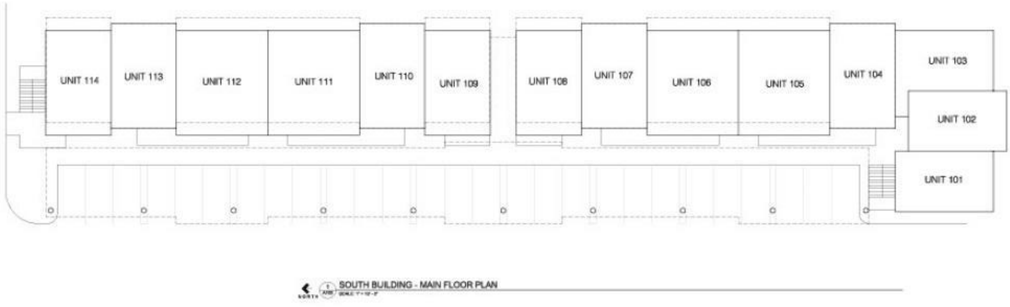
See concept plan attached.

CONCEPT PLAN SHOWING UNITS:

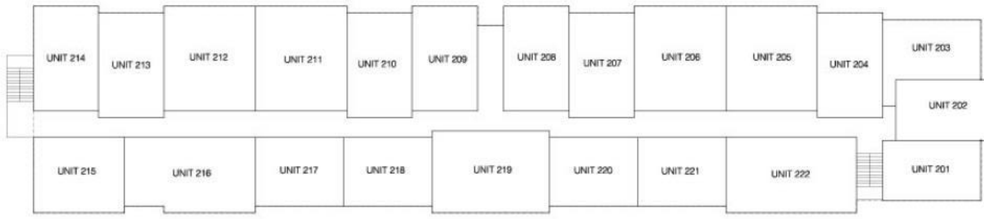


CHRONOLOGY	
	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH
	LAYTONDAVIS ARCHITECTURE 3005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM
PRINTED DATE	02.13.2020
PROJECT NO	22.112
DWN BY | CHK BY	___ | ___
TITLE	SCHEMATIC SITE PLAN
24X36 SHEET #	A100

CHRONOLOGY	
	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH
	LAYTONDAVIS ARCHITECTURE 3005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM
PRINTED DATE	02.13.2020
PROJECT NO	22.112
DWN BY | CHK BY	___ | ___
TITLE	NORTH MAIN AND SECOND FLOOR PLANS
24X36 SHEET #	A101



SOUTH BUILDING - MAIN FLOOR PLAN



SOUTH BUILDING - SECOND FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

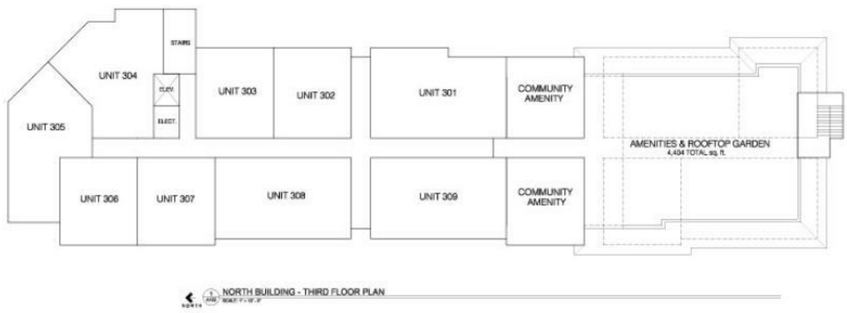
CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
/

TITLE
SOUTH - MAIN
AND SECOND
FLOOR PLANS

24X36 SHEET #
A103



NORTH BUILDING - THIRD FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

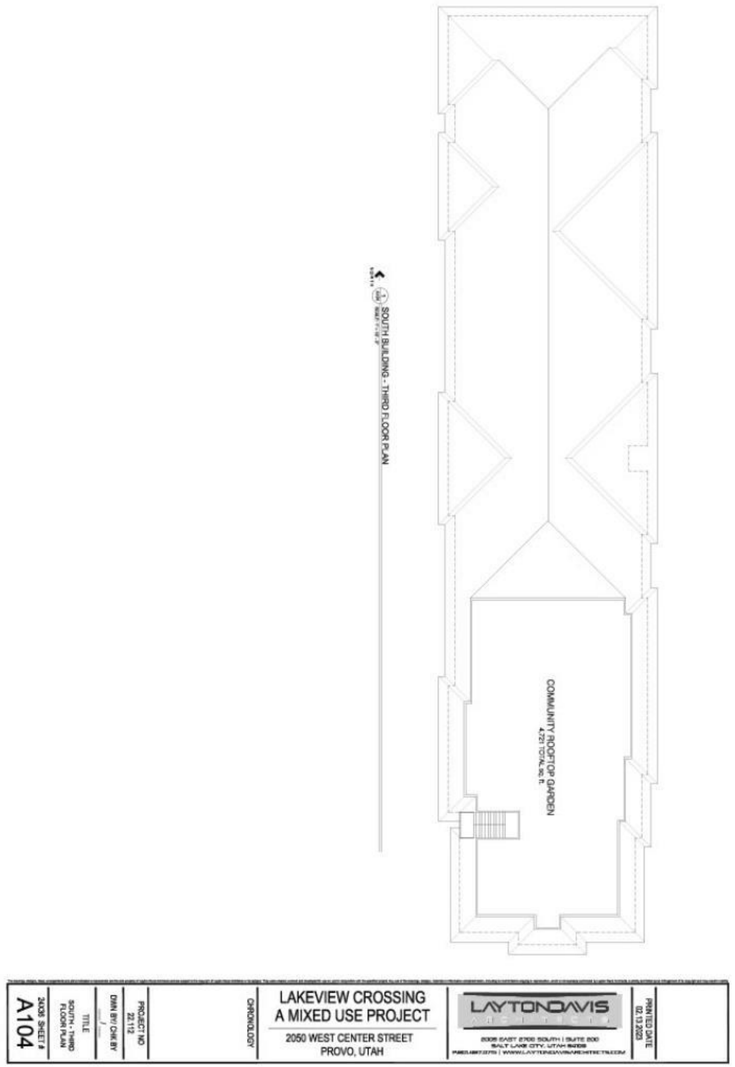
CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
/

TITLE
NORTH - THIRD
FLOOR PLAN

24X36 SHEET #
A102



3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH.

APPLICANT RESPONSE:

North Building: **55% of total project square footage**

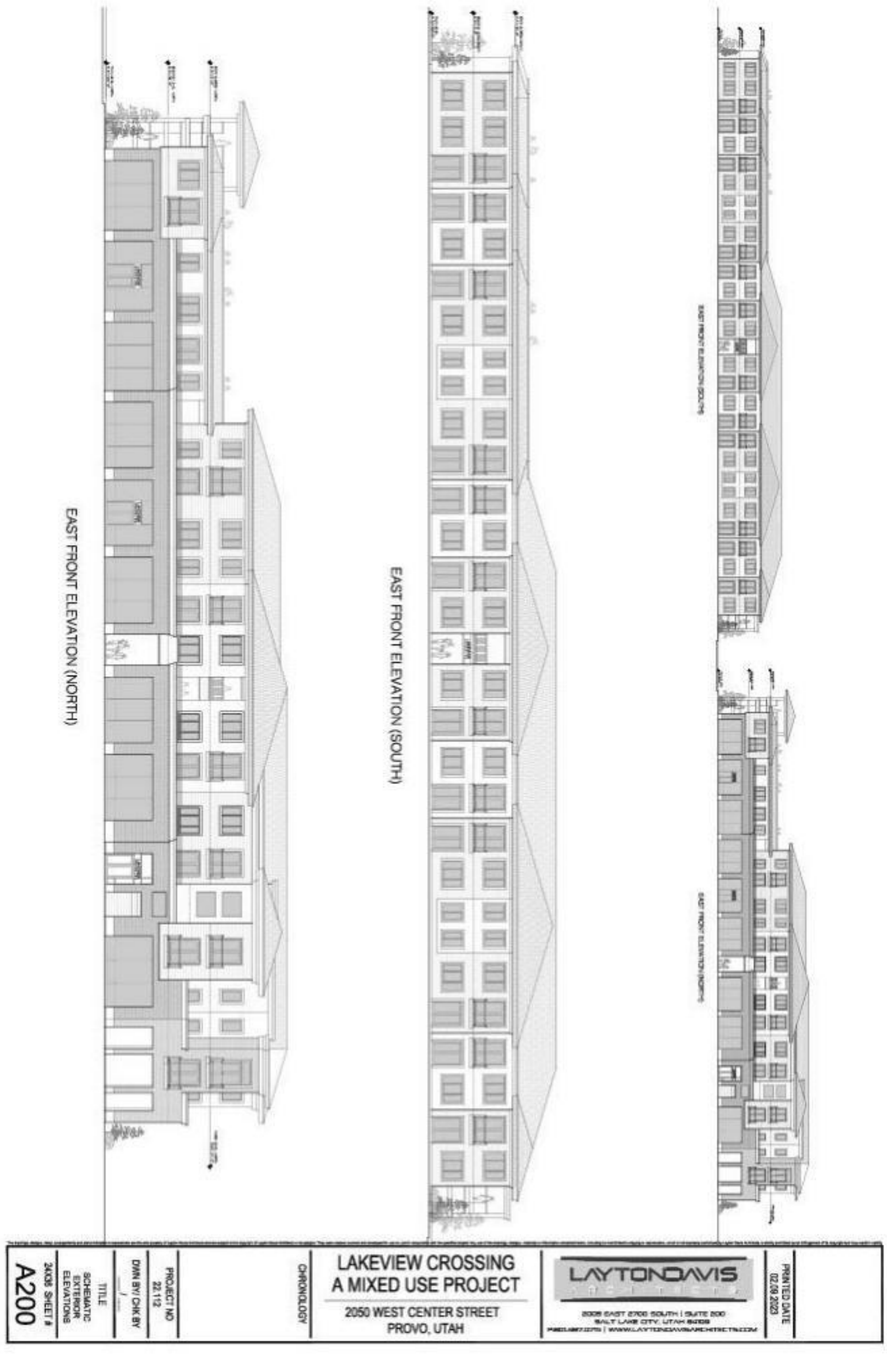
Height:	3 stories
	40′ to eave
	47′ to ridge
Use:	commercial & residential
Transition:	3 story building to 2 story building

South Building: **45% to total project square footage**

Height:	2 stories
	26′ to eave
	32′ to ridge
Use:	residential only
Transition:	2 story townhome-style units on south elevation facing 130 South Street

See revised architectural elevations attached.

REVISED ARCHITECTUTRAL RENDERINGS



EAST FRONT ELEVATION (SOUTH)

EAST FRONT ELEVATION (NORTH)

31



EAST FRONT ELEVATION (NORTH)

32



EAST FRONT ELEVATION (SOUTH)

4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST

APPLICANT RESPONSE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

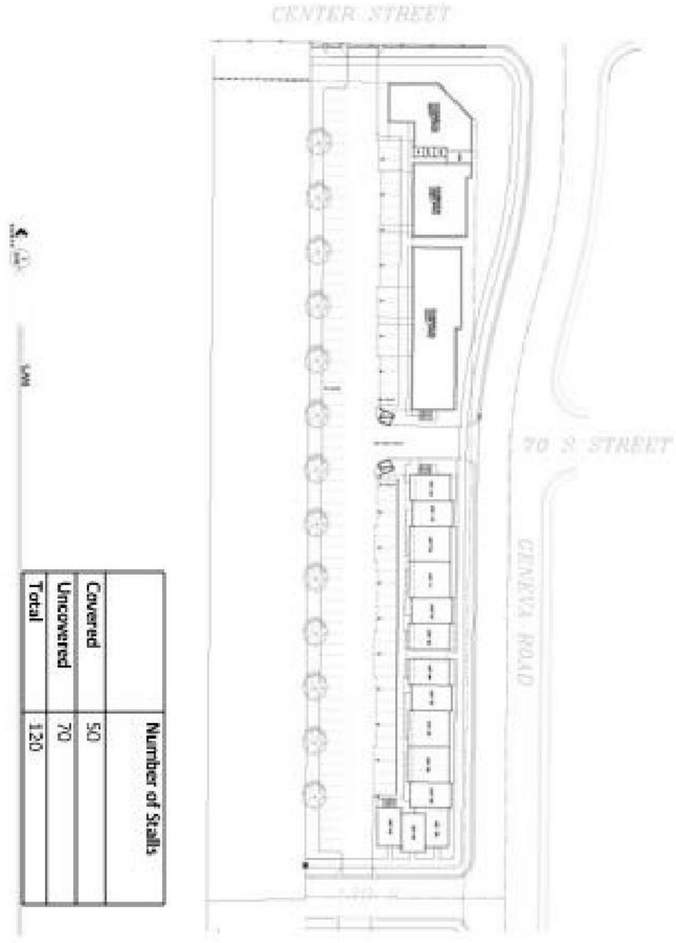
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

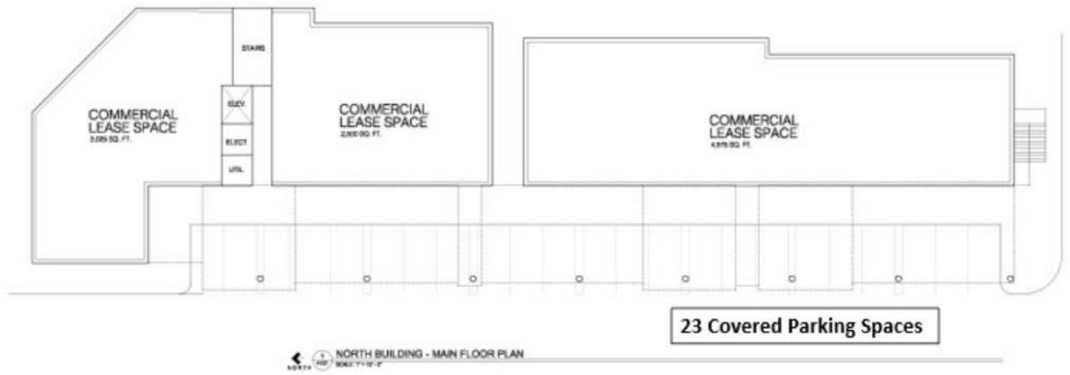
TOTAL PROVIDED	**120**

- **No shared use parking reduction request**
- 50 covered parking stalls / 70 uncovered parking stalls
- 25% more parking stalls than parking demand study (Hales Engineering – Report UT22-2389)
- Electric Vehicle (EV) charging - 50 stalls (public charging & private charging)
- Bike lockers & bike repair station
- Public Transit (UTA Route 833)
    - 7 minutes to Provo Airport
    - 10 minutes to Provo Center Station (UVX bus rapid transit line & UTA FrontRunner commuter rail)

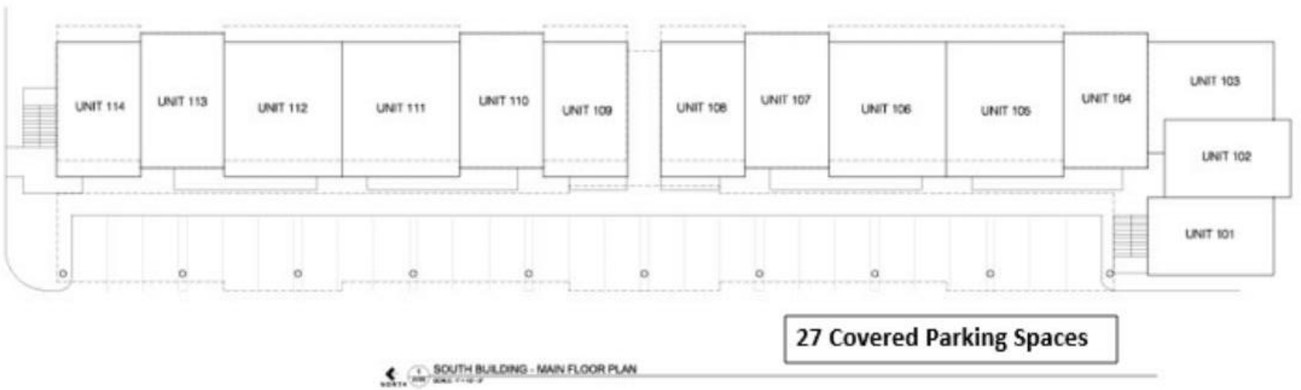
See concept site plan and parking detail attached.

CONCEPT SITE PLAN:





23 Covered Parking Spaces



27 Covered Parking Spaces

5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER

APPLICANT RESPONSE:

North Building: 55% of total project square footage

Height: 3 stories

40’ to eave

47’ to ridge

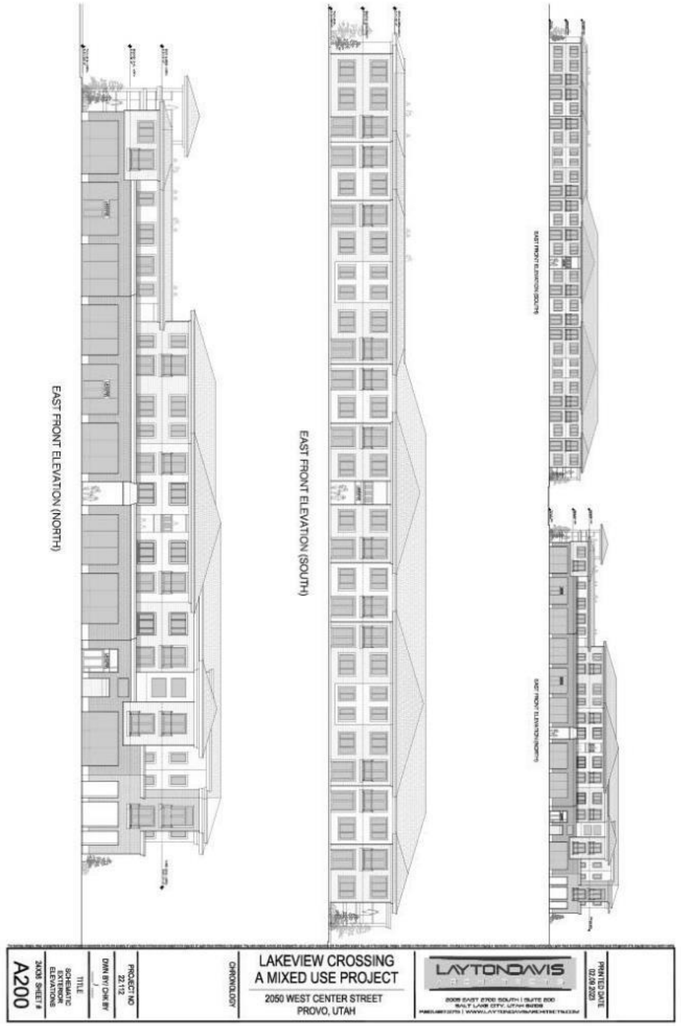
Mixed-Use:

Commercial - 10,100 sqft

Residential - 20,040 sqft

See revised architectural elevation attached.

REVISED ARCHITECTUTRAL RENDERINGS



6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS

APPLICANT RESPONSE

In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
- The proposed driveway accessing Geneva Road (2050 West) is at an acceptable location (where it is aligned with the opposing 70 South Street to the east).
- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street, and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

See email confirmation attached.

ATTACHED EMAIL FROM DAVID DAY

From: David Day <DDay@provo.utah.gov>
Sent: Tuesday, January 24, 2023 11:54 AM
To: Steve Turley <StevenTurley001@msn.com>
Subject: RE: Lakeview Crossing discussion 1/19/2022

Yes

From: Steve Turley <StevenTurley001@msn.com>
Sent: Monday, January 23, 2023 6:29 PM
To: David Day <DDay@provo.utah.gov>
Subject: Lakeview Crossing discussion 1/19/2022

CAUTION: This email originated from outside of Provo's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David,

Thanks for talking me through the accesses on the proposed project at Center Street and Geneva Road last week.

I'm drafting a response to the staff report. Can I include the following?

6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS
APPLICANT RESPONSE:
In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
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- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

SUPPLEMENTAL INFORMATION

A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN

STATEMENT REGARDING COMPLIANCE WITH GENERAL PLAN

Lakeview Crossing @ Center Street & Geneva Road (2050 West), Provo
re-zone and concept plan

Staff maintains that the General Plan only supports changing the existing *R1-8 One-Family Residential Zone* designation to the *Mixed-Use Zone* on the northern-most one acre area (on the corner of Center Street and Geneva Road) of the project, and that any area further south must remain zoned as *R1.8 One-Family Residential*. Support for this determination is based on the strict interpretation of the boundary of land use bubbles on the General Plan's *Southwest Area Future Land Use Map*.

The General Plan's adopted Southwest Neighborhood Plan states the following regarding the Southwest area Future Land Use map:

> *"The boundaries of the illustrated land uses should be viewed as flexible and not hard boundaries in order to allow creativity in the layout and development of a site."*
> Provo City Council Meeting, November 15, 2022 - p. 14

Please further consider the following comment by Bill Peperone, Director of Development Services, when he presented the *Southwest Area Future Land Use Map* to the City Council on November 13, 2018, (when the area plan was approved and adopted):

> *"There's a certain amount of ebb and flow that we expect to go with this. So as development applications come in, it's expected that there's going to be some give and take on the boundaries of all of those areas."*
> Provo City Council Meeting, November 13, 2018 - Bill Peperone (31:48)

Clearly, the land use bubble boundaries in the *Southwest Area Future Land Use Map* are intended to be flexible and are not hard delineations. As stated, these bubble boundaries "should be viewed as flexible and not hard boundaries" and that these boundaries "ebb and flow" and there is "give and take" according to the interpretation and discretion of the Planning Commission and City Council. Regarding projects that may not fit entirely within the land use bubbles, Provo City Councilor David Harding stated the following:

> *"These very specifically were drawn as kind of bubbles. What we are trying to communicate with the community is this is what you can expect. We'd like to communicate to developers this is what we are looking for. Now if you come in with something that doesn't quite fit, but it's aligned with the vision of what we are trying to achieve, great bring it in."*
> Provo City Council Meeting, November 13, 2018 - City Councilor David Harding (1:18:33)

The northern-most one acre of the proposed rezone area lies in the *Village Center / Commercial Mixed-Use* land use bubble. The southern one acre of the proposed rezone area lies in an area that is not included in any land use bubble. In fact, there is approximately 600 feet between the *Village Center / Commercial Mixed-Use* land use bubble to the north and the *Residential* land use bubble to the south. The Staff's position that there is a hard boundary of the north *Village Center / Commercial Mixed-Use* land use bubble but not a hard boundary to the south *Residential* land use bubble is untenable and arbitrary. Such a position would render the 600 feet between land use bubbles as not designated for any land use. Clearly this is not logical.

While the proposed rezone area does not entirely fit within the *Village Center / Commercial Mixed-Use* bubble, the proposed rezone meets the vision that the area is intended to be a mix of well-designed commercial and residential uses. Staff specified that the new *Mixed-Use Zone* should be used for the *Village Center / Commercial Mixed-Use* area and the proposed project concept meets the requirements of this zone.

When the proposed rezone was originally presented to the Planning Commission on March 9, 2022, commissioners provided the following direction:

> *"What you are proposing for the two [acres] on the north doesn't bother me at all. It seems like that is a perfect location for that kind of thing and certainly having higher density housing, if it were on top of the commercial, it would be fine."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:06:00)

> *"We would feel comfortable with the [Mixed-Use Village Center] commercial General Plan designation being rezoned in an area that was larger than the bubble shown on the map because it meets the intent, which is to provide something useful in that commercial node…we actually want it [Mixed-Use Village Center area] to be something useful to the community so allowing [the rezone] to go further than what the bubble shows, would, in my mind, meet that requirement."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Lisa Jensen (2:19:00)

> *"I support what [Commissioner Jensen] has just recommended."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:19:40)

> *"I agree with Commissioner Jensen, it makes more sense to clean things up on the zoning, but to stick strictly to the General Plan just because something is not quite within the bubble doesn't make sense…"*
> Planning Commission Meeting, March 9, 2022 - Commissioner Miles Miller (2:22:19)

> *"A 'village center' to me is a more walkable neighborhood….to see something that meets the corner is a building that helps define the intersection with shops on the bottom with apartments above that to me says: 'village center'… I would love to see something that is actually mixed-use on that corner…to create something a little more walkable, a little more 'mini downtown' feel."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Brian Henrie (2:24:23)

In consideration of the guidance provided by these comments, the request to change the zone designation from the existing *R1-8 One-Family Residential Zone* designation to the proposed *Mixed-Use Zone* allows the two acres at the corner of Center Street and Geneva Road to accommodate a mix of ground-floor commercial uses with higher density residential uses above.

Please also consider that the *Mixed-Use Zone* requires at least 10,000 square feet of commercial uses to facilitate the desired mixed-use walkable community. The parking spaces required to support 10,000 square feet of commercial uses can range from 40 parking spaces (office), 50 spaces (retail), to 100 parking spaces (restaurant). Requiring the minimum of 10,000 square feet of commercial space and even the minimum of 40 parking stalls cannot fit on a single acre site. The combination of requiring the 10,000 square feet of commercial space and the adequate parking requirement necessitates incorporating the additional acreage to the south (logically bounded by 130 South street). Limiting the *Mixed-Use Zone* to only one acre makes development simply impossible. Either rezone both acres, or rezone none and eliminate the opportunity for this corner property to contribute to the *Village Center / Commercial Mixed-Use* area.

In conclusion, Staff maintains that the rezone request does not comply with the General Plan based on the southern one-acre area of the proposed rezone being designated on the *Southwest Future Land Use Map* as limited to residential uses not exceeding three (3) units per acre. This determination is arbitrarily based on strictly defining the boundary of one land use bubble (*Village Center / Commercial Mixed-Use*) to NOT include the southern acre, but fudging the boundary of the other land use bubble (*Residential*) by 600 feet.

- This position is contrary to the adopted Southwest Neighborhood Plan (pending adoption by City Council on November 15, 2022).
- This position is contrary to the prior statements made by Staff, Planning Commision, and City Council when this map was being created and adopted.
- This position is contrary to the opinions expressed by a majority of the planning commissioners when they considered this project's rezone request at their March 9, 2022, meeting.

Staff suggests that 'hands are tied' and that the Planning Commission and City Council must interpret the General Plan solely on the arbitrary boundary of a bubble (and curtail development accordingly). The General Plan itself states the opposite and is actually much broader and details greater goals. The General Plan aspires for a vibrant mixed-use node at west Provo's most prominent intersection facilitating the beginnings of a much-desired west-side walkable community. This project creates the desired "mix of retail, office, and higher density residential uses, with attractive site amenities and distinctive design features with a density limit of 30 residential units per acre (see: Southwest Neighborhood Plan, p. 15). It is a choice to encourage and facilitate the creation of mixed retail, office, and residential uses (and extend an arbitrary flexible boundary of a bubble on a map), or hold fast to an arbitrary line of a bubble on a map (and exclude the potential benefits of the proposed mixed-use project). We hope you'll choose to support this project as proposed and begin to realize the Village Center envisioned by Provo's General Plan.

B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY

Planning Commission Meeting-January 11, 2023

1:36:15

Commissioner Whitlock: I had a question for Mr. Day from Public Works. There was a comment made about sewage and I didn't see anything about that in the Staff Report. Is that a concern at all from Public Works about the project?

David Day: No

Commissioner Whitlock: No. OK.

Commissioner Jensen: I think the comment was in relation to the thing we've talked about a lot on the West Side where there's a limit to the number of units that the sewer system can sustain and so that always comes up in just an aside.

Commissioner Whitlock: Yea, and I just wanted to know if it was pertinent to this particular project.

David Day: [inaudible] I should probably come to the microphone, right? David Day with Public Works. Don't let that influence your decision on this. I think that the sewer and water issue is far below what you're contemplating here. So, just don't let that even influence you.

PLRZ20210271 - Provo Bay Neighborhood

April 27, 2023, 9:05 AM

Contents

i.	Introduction	2
ii.	Summary of statements	3
iii.	Individual statements	4

PLRZ20210271 - Provo Bay Neighborhood

Provo Bay Neighborhood Neighborhood - What do you think about the proposed zone change from residential to commercial for a property at 2075 W Center Street?

Introduction

Provo City residents are encouraged to provide input on new development within the city. We value our residents' opinion and ideas. Your input assists staff in ensuring that all viewpoints are heard and to make them aware of concerns as well as what residents see as a match to the City's vision.

Developer/Applicant
Steven Turley

Project address
2075 W Center Street

Description
Steven Turley requests a zone change from One-Family Residential (R1.8) zone to General Commercial (CG) for approximately one acre, located at 2075 W Center St. in the Provo Bay Neighborhood. This part of the project would have frontage and access to Center Street (to the north) and frontage (but only a single driveway access) on 2050 West (to the east). The Southwest Area Future Land Use Map designates this area as the mixed use village center. The larger project from this applicant includes a mix of commercial uses and several housing types and would transition from higher intensity commercial uses (to the north) gradually to medium and lower density residential (to the south).

The zone change request discussed in the Provo Bay Neighborhood meeting is for the General Commercial zone.

Status
A neighborhood meeting was held in December 2021. The application has been under review of various Provo City departments and will later be heard by the Planning Commission Because it is a zone change, it will also need to be heard by the Provo City Council.

Project Contacts
Planner - Brandon Larsen, 801-852-6404, aardmore@provo.org

Resources
Provo City Zoning Map
Provo City Code
Key Land Use Policies - listed by area and neighborhood (see policies that guide the land use for particular areas of the city)

Provo Bay Neighborhood Meeting about this project

PLRZ20210271 - Provo Bay Neighborhood

Provo Bay Neighborhood Neighborhood - What do you think about the proposed zone change from residential to commercial for a property at 2075 W Center Street?

Summary Of Statements

As of April 27, 2023, 9:05 AM, this forum had:		Topic Start	Topic End
Attendees:	139	December 8, 2021, 3:03 PM	April 26, 2023, 11:59 PM
Statements:	27		
Minutes of Public Comment:	54		

PLRZ20210271 - Provo Bay Neighborhood

Provo Bay Neighborhood Neighborhood - What do you think about the proposed zone change from residential to commercial for a property at 2075 W Center Street?

Individual Statements

Name not shown
more than 2 miles
December 8, 2021, 6:14 PM

There is already limited housing in provo. I think small residential is important for a community in order to allow people with less means to buy land and begin acquiring wealth. Just having larger homes or getting rid of residential homes increases prices/difficulty finding places and so I think it'd be a bad idea and I'd be against changing this zoning

Chris West
more than 2 miles
December 8, 2021, 6:34 PM

My wife and I live in Provo near BYU and are currently students, but we're considering buying a home here after we graduate. When looking it seems that there are more affordable options over on the West side of the freeway, however, there's nothing else over there that I'd want to live near. There are no grocery stores. There aren't many restaurants, gyms, shops, etc. (that I know of). Preferably, some, if not all of these things would be in walking distance to where I live, but, in West Provo this doesn't seem to be the case almost anywhere. I think that this development is a good way to start mixing some commercial into the residential zone in a light and iterative way that would make the amenities of West Provo much more inviting.

Others may be concerned that zoning this as commercial will hurt our ability to provide housing as it will take land away from residential; however, this doesn't actually take any land away from residential zoning. Currently, according to google maps, this area is an empty parking lot looking thing, not housing. Furthermore, this will provide the means to support more housing in this area. The area has lots of space for housing, but for that housing to exist, there needs to be the necessary support system in place: grocery stores, restaurants, shops, in short, commercial services.

7 Supporters

C Mayo
1 to 2 miles
December 8, 2021, 6:54 PM

That corner lot is an existing business office that is low traffic and low commercial value to those of us near it. It is not housing as mentioned in some feedback by folks that don't seem to even live in the area. Some seem to think the city can control housing prices too. Market forces have more bearing, but the city can balance out zoning so that the community can be a bit more sustainable commercially. This zoning change could bring more commercial opportunities to the surrounding area that is so much needed since most of the commercial opportunities on the West side (and the southwest connector especially) are being missed and used for yet more bedroom community growth (Provo becoming a bedroom for other cities it seems). Driving across Provo along a West-East corridor is horrible, so adding a few shops and commercial opportunities to the West side would be wise to allow (or we can keep driving to Orem or Springville which is pretty easy in a lot of cases).

5 Supporters

Name not shown
¼ to ½ mile
December 9, 2021, 10:10 AM

We have a place on Center Street that's very close to your planned development. Although I much prefer open land and larger single family residential lots, I understand that's not realistic for the needs of our community as it's currently and rapidly being developed in other areas on the west side. It appears that your commercial development and dense housing plans are a good fit for that particular location. Good luck with your project.

Name not shown
¼ to ½ mile
December 9, 2021, 10:11 AM

This looks consistent with the area. There is commercial on the other corners around it. I live just a few blocks away and more retail on that piece of land would be welcome.

PLRZ20210271 - Provo Bay Neighborhood

Provo Bay Neighborhood Neighborhood - What do you think about the proposed zone change from residential to commercial for a property at 2075 W Center Street?

1 Supporter

Name not shown
more than 2 miles
December 10, 2021, 1:42 PM

I have heard that this area is in need of a grocery store. If that could happen down there that would be great.

I am in general in favor of mixing more commercial zoning in with residential zoning, to decrease travel time required for daily living needs. However, I am also hopeful that new commercial zoning will be more pedestrian and neighborhood friendly, without requirements for big parking lots that space commercial buildings blocks apart from each other. From what I've read, having more commercial areas built like downtown Provo is the way to go.

If this commercial zoning would result in a commercial area built like Orem, I am opposed.

3 Supporters

Name not shown
1 to 2 miles
December 15, 2021, 11:09 PM

This southwest corner of Center and Geneva as proposed allows for a good transition from Center and Geneva to single family residential. As proposed the commercial on the corner is directly to the west of the gas station, the apartment/condo is directly to the west of the fire station, the townhomes and twin homes are directly to the west of the current cottages. This is a good transition from commercial on the corner and reduced housing as you get closer to the existing single family southwest of the Geneva/Center corner.

Also, Provo City needs to continue negotiations with the Grocery store on the northeast corner of Geneva/Center. Lakeview Provo (west of I-15) would benefit from new and closer grocery and other needed lower impact commercial.

1 Supporter

Name not shown
more than 2 miles
December 16, 2021, 12:12 AM

West Provo is losing to Vineyard and west Orem in Commercial development. More projects like this are necessary to make West Provo attractive as a community.

1 Supporter

Name not shown
more than 2 miles
December 20, 2021, 4:33 PM

super awesome

Name not shown
more than 2 miles
December 21, 2021, 1:02 PM

Increasing the mix of commercial among these residential areas would be beneficial. It would offer closer shopping options for those that live in the area. It would be beautiful to have a new commercial building there to make that part of town look nicer. Great work!

2 Supporters

Aubree Lewis
more than 2 miles
December 21, 2021, 1:48 PM

As a homeowner in Provo (Joaquin Neighborhood) I am supportive of this change. The area seems ideal for Commercial properties and this is a good way to evolve as Provo continues to grow.

1 Supporter

Chad Lewis
more than 2 miles
December 21, 2021, 1:48 PM

We need good growth that will provide jobs. This looks like a great project.

PLRZ20210271 - Provo Bay Neighborhood

Provo Bay Neighborhood Neighborhood - What do you think about the proposed zone change from residential to commercial for a property at 2075 W Center Street?

Ben Lewis
more than 2 miles
December 21, 2021, 1:58 PM

I think think that the area is in need of more commercial opportunities and I think that it fits well with the surrounding area. West Provo and Vineyard are in major need of new commercial developments to bring amenities to the increasing number of residents in twin homes and apartment complexes being built.

2 Supporters

Jackson Lewis
1 to 2 miles
December 21, 2021, 2:11 PM

I think this area of Provo needs this. It needs a few more small commercial building to bring some small companies. Provo also needs to continue to push smiths to build near this listed property

---

Julie Lewis
more than 2 miles
December 23, 2021, 3:41 PM

I think this is the ideal location for light commercial .... A good transition of mixed use housing from light commercial to residential. Brings in more jobs and adds to the spirit of Provo. This is a good move .

Holly Lewis
more than 2 miles
December 24, 2021, 12:25 PM

I think this sounds like a great idea. By having the designated commercial area, it would help alleviate some traffic in the neighborhoods as well as spread the busy consumerism so it's not all in one spot in Provo.

1 Supporter

Kameron Ho Ching
1 to 2 miles
December 27, 2021, 10:54 PM

I just feel like this area of Provo needs more commercial business and activity. More people coming through for commercial reasons would help the community tremendously.

Ana Lewis
more than 2 miles
December 27, 2021, 10:55 PM

This area of Provo would thrive by adding commercial. As the temple in orem is completed and as development continues commercial will be critical!

1 Supporter

Kaleb Ho Ching
1 to 2 miles
December 27, 2021, 10:57 PM

This part of Provo needs more commercial building because it is a little run down and there is not a lot of stores close by. Building more buildings will be very effective at this time.

Nikki Holbrook
1 to 2 miles
December 28, 2021, 12:25 PM

I love this neighborhood but I think it needs more stores and shops. It would build a better community and bring some life to this neighborhood. It needs more commercial property

---

Name not shown
1 to 2 miles
January 1, 2022, 5:48 PM

While I support adding more commercial and mixed development to West Provo, the design as proposed is lacking. Trees should be lining the street before the sidewalk, and optimally these stores would have outward

facing doors to the street to make for a more welcoming front akin to downtown. Some parallel parking on the street would add to all of this as well and cut down on parking space down the back. A store on the corner would also add a desirable space for a business with it right on Center.

1 Supporter

Name not shown
more than 2 miles
January 16, 2022, 9:20 PM

This project looks like it would be a positive addition to the neighborhood. The south-west side of town is in desperate need of commercial opportunities and a lower price point for more affordable housing.

3 Supporters

William Taylor
more than 2 miles
February 21, 2022, 4:58 PM

That seems like too much parking for such a small commercial space. I would like to see more open space along the street with more trees. Too often we have commercial areas with few trees along the road and this needs to change. Also, having the stores have an entrance that opens onto the street opens up the area to walkability.

Name not available
March 2, 2022, 5:39 PM

My concern is with parking. Take a look at the Geneva Townhomes development located at the southeast corner of 820 N and Geneva Road. This is a development with a lot of townhomes crammed onto a small block with insufficient parking spaces. It looks a mess. West Provo is not walkable like downtown so you have to anticipate an average of two cars per townhome. Are we talking townhomes with garages? Or townhomes with one dedicated space per residence? West Provo should not become a parking lot for higher-density developments.

Todd Lewis
more than 2 miles
March 9, 2022, 5:14 PM

This is a good project that is supportive to the immediate neighborhood surrounding and would be a great benefit to the city of Provo.

Name not shown
within ¼ mile
March 16, 2022, 2:59 PM

This would a great addition to west Provo! Sure, I could be picky on exactly how it should be, but the reality is that west Provo is seriously lacking in access to stores, restaurants, & shops. This entire intersection needs a facelift, honestly. Let's do it!

1 Supporter

Name not shown
more than 2 miles
March 19, 2023, 11:03 PM

This could be a positive addition to this part of Provo and I am in support. It looks like a lot of the space will be used for parking. Is there a way to design the space such that pedestrian access is placed ahead of cars? With the river trail and baseball fields close by I could foresee these shops having bike or pedestrian traffic if the space is designed in their favor and is not too heavily car-centric. Thank you!

RESOLUTION 2023-.

A RESOLUTION IMPOSING FIRE RESTRICTIONS DUE TO HAZARDOUS ENVIRONMENTAL CONDITIONS. (23-052)

WHEREAS, the Provo fire code official has determined that existing hazardous environmental conditions necessitate certain ignition source restrictions and it has been proposed that Provo City adopt the restrictions in the Notice of Fire Restrictions attached hereto as Exhibit A; and

WHEREAS, Utah Code 15A-5-202.5 provides that a municipal legislative body may prohibit fire ignition based upon such a finding of the fire code official; and

WHEREAS, the Provo City watershed is faced with a significant light fuel load in our wildland urban interface and watershed, that is now drying out; and

WHEREAS, on July 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds that (i) the attached Notice of Fire Restrictions should be approved, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Notice of Fire Restrictions attached hereto as Exhibit A is approved and the restrictions stated therein are implemented. This order is effective until rescinded in writing by the fire code official.

PART II:

This resolution shall take effect immediately.

Exhibit A

Notice of Fire Restrictions

By order of the Provo City Fire Marshal, the following fire restrictions are in place along the Provo City Watershed effective July 20, 2023. Fires are prohibited in the Provo City watershed ***except*** *in approved fire pits located in improved campgrounds and picnic areas, and within permanent fire pits in residential properties*.

The restricted area includes all mountains and canyons beginning at the Springville City line and extends along the east bench of Provo to the Provo City line, then along Provo Canyon up to, and including South Fork.

These restrictions are put in place to protect the Provo City water supply. Due to the drying vegetation following a wetter than normal winter, and the need to protect our wildland urban interface, and available water supply, it is incumbent on each of us to decrease the risk of catastrophic fire.

Provo Fire & Rescue encourages a safe and cautious approach to the use of fire near our canyons and mountains. Fires must be contained in an improved fire ring or pit in improved campgrounds and picnic areas. Violations of this Fire Restriction Order are a Class B Misdemeanor. Questions regarding these fire restrictions may be directed to the Fire Prevention Bureau at Provo Fire & Rescue by calling 801-852-6321 or email at firemarshal@provo.org.

Fire restrictions are effective beginning at noon on Thursday, July 20, 2023. This fire restriction notice is published on Wednesday, July 19, 2023 at 0800.

_____

A. Lynn Schofield
Fire Marshal

provo FIRE&RESCUE

CHIEF JAMES MIGUEL

TEL: 801. 852 .6321
80 S 300 W
PO BOX 1849
PROVO, UT 84601

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_____

A. Lynn Schofield
Fire Marshal

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: June 14, 2023

*ITEM #2 Barry Finch requests an Ordinance Text Amendment to Section 14.08.020 (Permitted Uses in the A1 Zone), to add "Meeting Halls for Rent" as a new conditional use in the A1 (Agricultural) zone. Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230082

Applicant: Barry Finch

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Recommend Approval** of the requested Ordinance Text Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is June 28, 2023 at 6:00 P.M.*

Relevant History: The applicant has owned property in the A1 Zone for many years and is now wanting to find a way to establish a commercial rental venue for his agricultural property. After speaking with staff about what would need to be done, he chose to propose a text amendment to the permitted uses in the A1 zone to allow for his desired use.

Neighborhood Issues: The proposal was discussed at the April 27th District Three neighborhood meeting. The following concerns were raised:

- Does the amendment have to apply to all A1 zones?
- There may be issues with noise, light, and parking issues on adjacent properties.

Summary of Key Issues:

- The applicant, Barry Finch, wants to continue the agricultural uses on his land, so a zone change would not work to allow for the event hall.
- Permitting an event hall or wedding reception center in all A1 Zoned areas could bring adverse impacts to adjacent property owners.
- The proposed use does not fit with the purpose and objectives of the A1 zone.

Staff Recommendation: That the Planning Commission recommends denial of the proposed text amendment.

OVERVIEW

Barry Finch is requesting a text amendment to Section 14.08.020, Provo City Code, to add either “reception centers” or “meeting halls for rent” as conditional uses in the A1 Zone. The request is related to a proposal to build a new commercial structure on the property at 310 South 2470 West to rent out for a variety of events.

Though the applicant is applying for his situation at his property, this request would apply to all A1 zones in Provo, thereby, allowing this new commercial use on any agricultural land in the city.

FINDINGS OF FACT

1. Meeting Halls for Rent (7235) are not a permitted or conditional use in the A1 zone (Section 14.08.020).
2. Meeting Halls for Rent are only permitted by-right or conditionally in the DT1, DT2, and CM zones.

STAFF ANALYSIS

Staff have met with the applicant on several occasions to discuss the options for uses on the applicant’s property. During these discussions staff related some of the major concerns that the city would have with the proposed use being allowed in agricultural areas including traffic, noise, and increased police needs in mainly residential areas. In response to those discussions the applicant provided some suggested mitigating conditions that could be associated with the amendment request. Staff made the applicant aware that these solutions could not overcome staff concerns regarding the stated purpose and objectives of the agricultural zone compared to the proposed use. Section 14.080.010 states that the agricultural zones should “protect agricultural uses from encroachment of urban development” and that any additional uses in the zone should be incidental to agriculture and “not change the basic agricultural character” of these areas of the city. Staff believes that the proposed amendment would do just that.

To further clarify staff position on this request staff will respond to criteria found in Section 14.02.020(2). This code establishes criteria for staff to evaluate text amendments as follows: (staff responses in bold)

> Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
>
> (a) Public purpose for the amendment in question.

Staff response: The applicant has stated that the public purposes for the amendment are to provide farmers with another means of earning money and providing additional venues for the community to use for celebrations.

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

Staff response: Staff does not believe that the proposed amendment is the best way to address the above public purposes. Adding a commercial use to be allowed in all

agricultural zones would likely bring more issues to the neighborhood than it would benefit. Staff have suggested some agricultural related business ideas that could provide additional income for farmers like pumpkin patches, corn mazes, and educational activities that could provide opportunities for the community to come together.

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

Staff response: The applicant did not identify any goals or policies from the General Plan that would be met by the proposed amendment. Staff could not find any alignment with this proposal and the stated General Plan goals.

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

Staff response: There are no timing and sequencing issues related to this request.

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

Staff response: Staff believes that this proposal would hinder attainment of the General Plan policies to conserve agricultural lands, promote a high quality of life for Provo residents, and strike a balanced approach in locating land uses.

(f) Adverse impacts on adjacent land owners.

Staff response: The adverse impacts that staff have identified as possibilities to the applicant are related to the increased vehicular traffic in mostly residential neighborhoods, noise and light complaints in quiet parts of the city, and an increased need for city services. While staff would acknowledge that the mitigation measures proposed by the applicant could be helpful, there are many single-family homes in proximity to Ag zones. The proposed use is highly commercial and would introduce into the neighborhood impacts, like increased traffic, that could not be readily mitigated.

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

Staff response: Staff have verified the zoning and General Plan for the area in question.

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

Staff response: There is not a conflict.

CONCLUSIONS

Staff have concluded that the proposed use just does not align with the purposes of the agricultural zone or the stated goals and objectives of the General Plan and would recommend that the proposed amendment is denied.

ATTACHMENTS

1. **Proposed language**
2. **Applicant email with possible conditions**
3. **Applicant justification statement**
4. **Map of applicant property**

Attachment 1 – Proposed Language

(6) *Conditional Uses.* The following uses and structures are permitted in the A1 zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof and the standards of Section 14.34.250, Provo City Code:

Use No.	Use Classification
1516	Bed and breakfast inn
1902	Ranch or farm employee dwellings (one (1) per ten (10) acres of land area)
4700	Communications
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4833	Water storage as part of a utility system (open reservoirs)
4834	Water storage as part of a utility system (covered including water storage standpipes)
4839	Other water utilities or irrigation, NEC
4871	Channel or right-of-way (predominantly open flume-like structure)
4872	Debris basin (a dam and basin for intercepting debris)
4874	Spreading grounds (area for percolating water into underground)
6722	Police protection and related activities, branch (office only)
7235	Meeting Halls for Rent
7400	Recreation activities

Attachment 2 – Applicant Email With Possible Conditions

June 4th 2023

Provo City Development Services

445 W Center St

Provo, Utah 84601

Dear Mr Bill Peperone and Mr Arron Aremore,

We are requesting a zone amendment that would allow us to build an event barn on our property.

We are currently in an A1 zone and would need to have an amendment to this the agricultural zone in permitted use code 14.08.020, and add to subsection (6) Conditional Uses "Meeting Halls for rent" code 7235.

After our discussion of this with you, Mr. pepperoni, and some members of the city council, it was our sense that the major concerns with these types of events were problems with drugs, violence, and disorderly conduct requiring many calls to the police.

These problems occurred most frequently with events held by the Spanish community.

It is our recommendation that the following points be considered as possible requirements for this amendment.

It is our belief that implementing some or all of these suggestions will help mitigate the concerns the city has about this amendment and help make the events to be safe and enjoyable for all cultures and customs.

Parking

Having knowledge of the Hispanic culture, it is my opinion that many of the problems at these large events occur in the parking lot.

Often, problems are started by people who come, that are not invited guests at the event. They are not invested in the event at all. In fact, in many cases, they aren't even welcome. Their intent is to come to cause problems or just have a look and see what's happening. Therefore to help mitigate these problems

we recommend that the venue owner be required to have a closed or controlled parking lot. This can be accomplished in more than one way.

1. have a parking lot attendant allow entry for every guest.
2. simply closing the gate after guests have arrived.
3. having a parking attendant allow entry to only guest on a guest list

By doing this only people who are invited and invested in the success of the event will be at the event.

Security

We recommend that the venue owner be required to provide security on location from the time the party starts until it ends. Their responsibility would be to patrol the venue both inside and out. They would give special attention to high risk areas such as restrooms, bar area and parking lot. They would be a resource to the host or hostess to remove any persons causing problems.

The number of Security personnel would depend on the size of the event. We recommend one security person for every 75 cars.

Host or Hostess

We recommend that venue owners be required to have a host or hostess. The responsibility of the host or hostess would include the following:

1. ensure that guests are behaving properly at the event.
2. Communicate with client about unruly guess or other problems arising during the event.
3. communicate to security anyone who is acting in a drunken manner, fighting, not getting along, and have them removed by security from the event.
4. ensure that the music is not at an excessive volume.

Control consumption and distribution of Alcoholic Beverages

We recommend that venue owners be Required to provide a licensed bartender.

We also recommend no hard liquor or mixed drinks be provided for guest. Any kind of beer would be acceptable.

We recommend that only beverages in cans or plastic bottles be allowed at the venue. No beverages in a glass container or bottle will be allowed.

Hours of Operation.

Meeting hall will be closed between the hours of 12:30 a.m. and 8:00 a.m.

I hope we have addressed any concerns you might have with our proposal. We feel this will be a good addition to the west side of Provo.

Sincerely,

Barry Finch & Judy Finch

Attachment 3 – Applicant Justification Statement

First, a brief history of farming in Provo as well as explaining the new reality farmers now face.

Farmers in Provo were greatly impacted by the new road beginning in East Bay and continuing to the Provo Airport. The road ended up cutting in half or completely eliminating the majority of farms in west provo. In simple terms, this change forced many farmers to decide whether to sell their property or to come up with other "out of the box" ways to make a living on their farms.

Personally, as a result of the new road I lost the lease I had on the ground owned then by the Church of Jesus Christ of Latter day Saints as it was purchased by Provo City for a future Sports Park. I have established a horse boarding business in my yard to compensate somewhat for the loss of acreage. Still, we feel the need to expand our earning capacity by building a barn that will invite members of the community to hold events at our living, working farm.

Many other farmers have been impacted similarly. I know farmers who have tried a paint gun business on their property, pheasant hunting, corn maze, pumpkin patch, farm tours with kid games and petting zoos, and even a farm related air b and b. Farmers will undoubtedly continue to search for creative ways to include the community in generating income for their families.

In my opinion, Provo City must work with local farmers to help them transition their farms during this unique time period. If this does not happen, it is my opinion that many of the farms that still exist in Provo will be lost to developers.

Citizens of Provo will then lose out on the richness, history and educational opportunities afforded by family farms.

A). Our farm has always been a destination for our community. Each year thousands of people find their way to our farm to buy produce, walk the pumpkin patch, see animals, buy hay etc. We have always welcomed and in fact depended on people coming to our place. So many people have mentioned how they love to come to our farm to experience a bit of farm life. Our farm is a landmark.

We hope to continue that relationship in a way that people have mentioned to us over the years. People have always told us we should invite people down for big family events. As a result we have allowed more than a few weddings and other celebrations at our farm in the past.

B). Many people in Provo yearn for a connection to their local farm. Many people grew up on farms and miss that connection to the land that is felt for many on a spiritual level. Others just are drawn to agriculture, animals and farm life. Now days almost all farm—community relationships have been cut off. If you want to buy something from a farmer you have to do it at a designated time and place; usually a farmers market. Most products are sold roadside by non farmers. Allowing events to happen at the farm would be one way to help in this matter.

C). Allowing our barn would also be a benefit to minorities in our community. Culturally, many weddings are held at LDS chapels. For many this is fine and a blessing to all those who use these chapels comfortably. If you do not

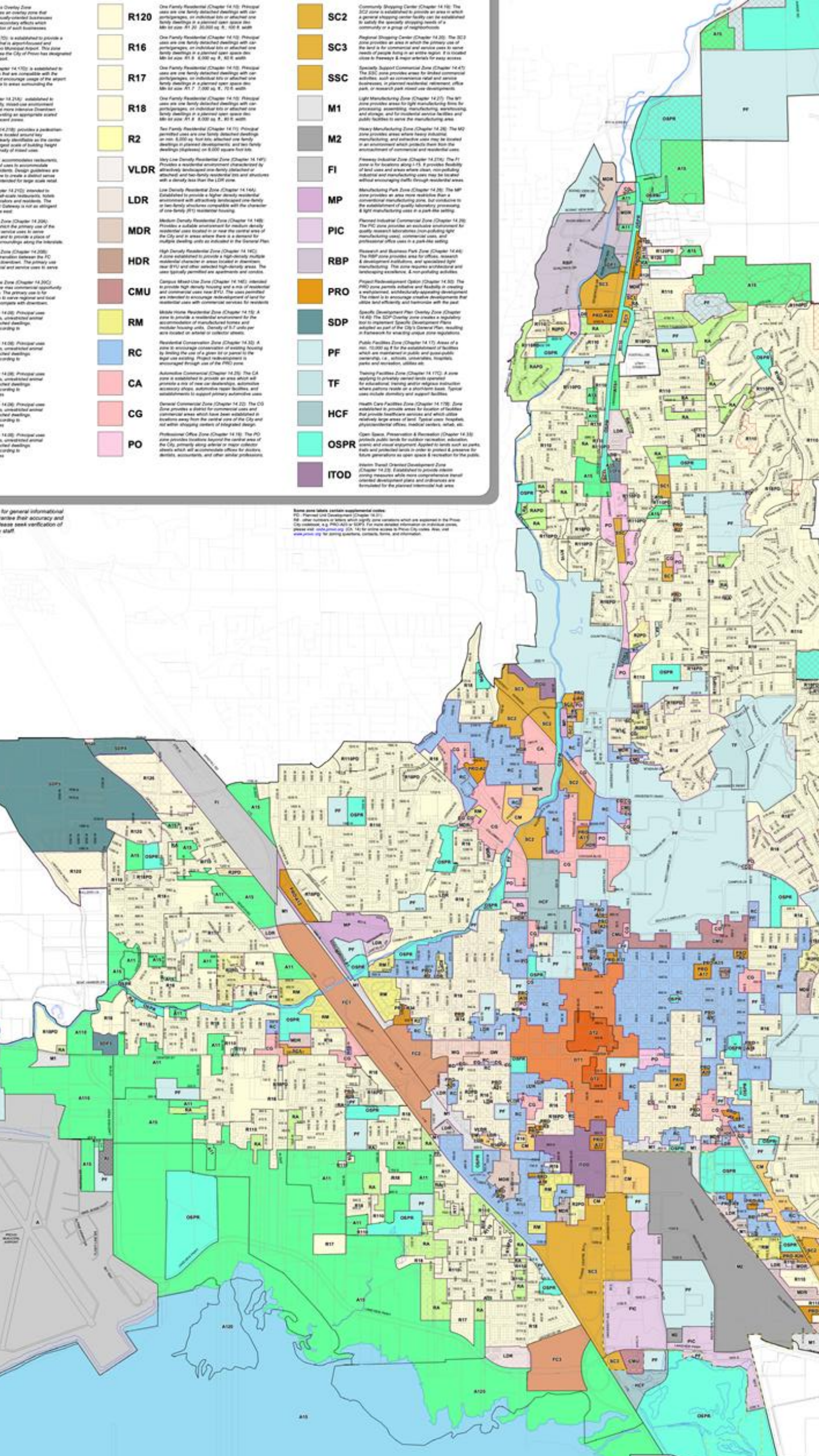
participate with the local Church however, or have a language barrier you may not feel able to reach out to local church leaders to arrange an event. Our barn would be inclusive to all people. We accommodate all cultures and beliefs. We also have fluent Spanish speakers at the farm.

Attachment 4 – Map of Applicant Property



Traditional Farming in Provo is almost GONE




R120
R16
R17
R18
R2
VLDR
LDR
MDR
HDR
CMU
RM
RC
CA
CG
PO
SC2
SC3
SSC
M1
M2
FI
MP
PIC
RBP
PRO
SDP
PF
TF
HCF
OSPR
ITOD


Paul Ream Wilderness Park
CLAS Ropes Course and Canoe Rental
Lowes Xtreme Air Sports
Pioneer Park
Provo
Veterans Memorial Hwy
15
15
ovo Airport pick up
ovo Airport


Lakeside RV Campground
CLAS Ropes Course and Canoe Rental
15
Lowes Xtreme Air Sport
Provo Municipal Airport
Provo Airport pick up
Provo Airport

14.08.010 Purpose and Objectives.

The Agricultural Zone (A1) is established to provide areas in which agricultural pursuits can be encouraged and supported within the municipality. The A1 zone is designed and intended to protect agricultural uses from encroachment of urban development until such time as residential, commercial, or industrial uses in such areas become necessary and desirable. Uses permitted in the A1 zone, in addition to agricultural uses, must be incidental thereto and should not change the basic agricultural character of the zone. Conversion of the agricultural zone to zones allowing urban uses should be accomplished in an orderly and progressive manner, with no “leap-frog” encroachments of such uses or developments into the agricultural area.

The Provo City Code is current through Ordinance 2023-08, passed March 28, 2023.

Disclaimer: The city recorder has the official version of the Provo City Code. Users should contact the city recorder for ordinances passed subsequent to the ordinance cited above.

City Website: www.provo.org
City Telephone: (801) 852-6000
Code Publishing Company, A General Code Company

- The A1 zone is designed and intended to protect agricultural uses from encroachment of urban development
- until such time as residential, commercial, or industrial uses in such areas become necessary and desirable.

Development Services Staff Report Issues

- 1. Impact on Neighbors

- 2. Commercial business on Agricultural zone

1. Impact on Neighbors


280 S
280 S
280 S
S 2470 W
Big rooster roof repair

Development Services Concerns on the neighborhood

- 1. Traffic
- 2. Noise
- 3. Lights


W 200 S St
W 200 S St
Amelia Earhart Elementary
Temporarily closed
Amelia Earhart Field
W 230 S
S 2530 W
S 2370 W
280 S
280 S
S 2470 W
S 2390 W
Big rooster roof repair




280 S
280 S
280
S2470 W
Big rooster roof repair


280 S
280 S
S 2530 W

Positive impact on neighborhood

1. **Preservation of open space**
2. **Preservation of the "Flavor of Agriculture"**
3. **Animals available for public enjoyment**
    - **Horses, lamas, goats, sheep, chickens,**
4. **Family fun and education**
5. **Church and neighborhood events**






PULLING TOGETHER FOR
50
FRANK & BECKY


Excel


PULLING TOGETHER FOR
50
FRANK & BECKY
1973-2023
Oboz

2. Commercial business on Agricultural zone

What is Agritainment, Agritourism

- **Angritainment**, simply providing an opportunity for entertainment in an agricultural setting.
- **Agritourism,** any agriculturally based operation or activity that brings visitors to a farm or ranch

Some Types of Agritourism

- You pick Vegetables
- Pumpkin Patch
- Fresh Pick Flowers
- Farm or Vineyards Tours
- Hay Rides
- Horse Events
- Petting Zoos
- Wedding Venues
- Family Reunions
- Pony Rids
- Christmas Tree Farm
- Agricultural bed and breakfast
- Ect..

Barn Weddings Can Mean Big Income Boosts

Missouri farmers Ron and Diana Mellon have a new cash crop—weddings—and it's yielding big.

By Claire Vath | Photos By Jason Dailey

Sometimes, it just doesn't hurt to ask for what you want.

Before he deployed to Vietnam, Ron Mellon approached the farmer whose land he worked and asked to buy it. The farmer said, "Yes." When Ron asked his wife, Diana, to marry him, she agreed, and the couple exchanged vows in 1971.

AGCO Your Agriculture Company

FARMLIFE™

MENU

- AGCO Customer Stories
- Equipment Focus
- Your Land and Farm

So You Want to Start a Wedding Business?

Tips from those in the know on how to plan, build and keep it manageable and profitable.

By Claire Vath | Photos By Jason Dailey

When Danielle French moved from Toronto about 10 years ago to a 75-acre farm in Pontypool, Ontario, she envisioned her **property and barn used for weddings**, art instruction and culinary classes. French, who owns South Pond Farms believes "barns represent a way of life that is vanishing.... I believe that all social and economic inequalities disappear inside a barn," she says. "People marvel at the structure … and I believe they are hanging onto this beauty."



PennState Extension

Agritainment

Many small-scale and part-time farms may increase income by offering agritainment opportunities.

Updated: September 24, 2013



The concept of family-oriented attractions is not limited to popular landmarks and can include small-scale and part-time farmers or residents with underutilized land looking for an alternative business venture. "Agritainment" is simply providing an opportunity for entertainment in an agricultural setting. Visitors or customers can provide a wide range of revenue-generating opportunities for farms. Agritainment creates the opportunity to entice visitors to your farm, provide education about agriculture, and increase your overall profits. Nationally more than 50,000 farms with farm receipts of nearly $1 billion reported at least a portion of their income as coming from agritainment.

Before starting an agritainment enterprise, you need to consider several business management issues. As with any new business venture, there will be start-up costs (land and facilities) and additional expenses for permits, labor, taxes, and insurance. Also, consider your comfort zone: Do large crowds or a lot of noise and activity make you uncomfortable? Can you multitask and manage effectively? Do you want the responsibility of running this type of business?

Do you want the public to have access to your property and business? For more information on starting or diversifying a business, see Starting or Diversifying an Agricultural Business.

The first step of considering an agritainment enterprise should be to check whether your proposed land use conforms to your local zoning regulations. If your land is enrolled in a program that lowers your property taxes as long you keep it in agricultural use, agricultural reserve use, or forest reserve use (like the Clean and Green Program in Pennsylvania), you should contact your local tax assessors to determine whether the enterprise you are considering will affect your tax status. The original Clean and Green legislation was amended in 2005 to provide that

UTAH RECREATION & TOURISM MATTERS
Institute for Outdoor Recreation and Tourism
UtahState University COOPERATIVE EXTENSION

November 2011 No. IORT/026

Agricultural Tourism & Rural Development:

Developing Value-Added Farm and Ranch Resources to Diversify Operations Beyond Agricultural Production

Steven W. Burr

Many of America's farmers and ranchers have been struggling economically to continue to make their operations viable due to variable prices for agricultural products, fickle markets, changing environmental conditions, and global competition. For agricultural operators experiencing these challenging times, employing an entrepreneurial approach to diversify operations beyond agricultural production, especially related to the development of farm or ranch resources for agricultural tourism or agritourism, can be beneficial. There has been a growing interest among tourists in experiencing the activities of the farm or ranch for agritourism (Burr, 2009), and this is growing nationwide as ag-operators in many states offer a variety of activities and experiences to a visiting public as a way to diversify operations and increase profits (Brown, et al., 2007).

Agricultural entrepreneurs are diversifying their enterprises, and adding value and income by producing for specialty or niche markets, and providing services or experiences for a visiting public. Such strategies are giving some producers a competitive advantage in today's marketplace. Value can be added to various agriculture products produced and sold to increase profit potential through specialized production, packaging, and marketing, such as producing and marketing specialty items—jams, salsas, cheese, honey, cider, wines. Value-added is also providing various services or experiences with a particular product or mode of production, such as direct sales involving "Pick Your Own," farmers markets and roadside stands, and agricultural festivals and special events. Value can also be added by providing various activities and experiences of interest to visitors. Ag-operators can develop agricultural, natural, and heritage resources for outdoor recreation, tourism, and educational opportunities.



"Agritourism includes any income-generating activity conducted on a working farm or ranch for the enjoyment and education of visitors. It includes the interpretation of the natural, cultural, historical, and environmental assets of the land and people working on it" (George et al., 2008). Many ag-operators have amenity resources people value, and can offer opportunities for a diversity of tourism, recreation, and learning experiences. For the visitor, agritourism can be active involvement in a variety of activities and experiences, through actual overnight accommodations on a farm or ranch, such as a dude or guest ranch or bed and breakfast, through heritage and cultural programs, hunting and fishing activities, horseback riding or horse packing, or other guided trips. Agritourism merges the

- According to the 2017 Census of Agriculture, 28,575 farms offered agritourism and recreational services resulting in $949 million in sales.

- agritourism income grew by 67% over 10 years (between 2007 and 2017)

- This information is given by **Fortune Business Insights™**, in a recently published report, titled, "**Agritourism Market Size, Share & Industry Analysis, By Type (Direct-market Agritourism, Education & Experience Agritourism, and Event & Recreation Agritourism), and Regional Forecast, 2020 – 2027**." The report further mentions that the agritourism market size was **USD 69.24 billion** in 2019 and is projected to reach **USD 117.37 billion** by 2027, exhibiting a CAGR of 7.42% during the forecast period (2020-2027).

United States
Department of
Agriculture

Natural
Resources
Conservation Service

Resource Economics
and Social Sciences
Division

May 2001

**Alternative Farm Enterprises –
Agritourism Success Stories**

‘Agritainment,’ Weddings, Reunions, and Organic Dairy Products

Interview with Tony and Carol Azevedo, Double T A-Cres Ranch and Museum, 22368 West 2nd Avenue, Stevinson, CA 95374, 209-634-0187, fax (209) 632-1965



I have sold

- **Vegetables**
- **Hay**
- **Pumpkins**
- **Horses**
- **Cows**
- **And other things**

Now I'm going to sell the farm

- Not to a developer but to the public

Our farm is the product

provo

WELCOME HOME

PLANNING COMMISSION

June 14, 2023

*ITEM 2

Barry Finch requests an Ordinance Text Amendment to Section 14.08.020 (Permitted Uses in the A1 Zone), to add "Meeting Halls for Rent" as a new conditional use in the A1 (Agricultural) zone.

Citywide Application

PLOTA20230082

Proposed Text Amendment

- Adding “Meeting Halls for Rent” (SLU 7235) to list of conditional uses in A1 zone.

(6) Conditional Uses. The following uses and structures are permitted in the A1 zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof and the standards of Section 14.34.250, Provo City Code:

Use No.	Use Classification
1516	Bed and breakfast inn
1902	Ranch or farm employee dwellings (one (1) per ten (10) acres of land area)
4700	Communications
4814	Electricity regulating substations
4818	Small generation
4829	Other gas utilities, NEC
4833	Water storage as part of a utility system (open reservoirs)
4834	Water storage as part of a utility system (covered including water storage standpipes)
4839	Other water utilities or irrigation, NEC
4871	Channel or right-of-way (predominantly open flume-like structure)
4872	Debris basin (a dam and basin for intercepting debris)
4874	Spreading grounds (area for percolating water into underground)
6722	Police protection and related activities, branch (office only)
7235	Meeting Halls for Rent
7400	Recreation activities

Proposed Text Amendment

- Adding “Meeting Halls for Rent” (SLU 7235) to list of conditional uses in A1 zone.

- Staff have several concerns allowing this commercial use in agricultural zones. (example: 310 S 2470 W)



Proposed Text Amendment

- Adding “Meeting Halls for Rent” (SLU 7235) to list of conditional uses in A1 zone.

- Staff have several concerns allowing this commercial use in agricultural zones. (example: 310 S 2470 W)

- Even if some of the adverse impacts could be mitigated, this use does not align with the Agricultural zone or General Plan.

Purpose and Objectives of A1 Zone

The Agricultural Zone (A1) is established to provide areas in which agricultural pursuits can be encouraged and supported within the municipality. **The A1 zone is designed and intended to protect agricultural uses from encroachment of urban development** until such time as residential, commercial, or industrial uses in such areas become necessary and desirable. **Uses permitted in the A1 zone, in addition to agricultural uses, must be incidental thereto and should not change the basic agricultural character of the zone.** Conversion of the agricultural zone to zones allowing urban uses should be accomplished in an orderly and progressive manner, with no “leap-frog” encroachments of such uses or developments into the agricultural area.

General Plan Goals

Chapter 3, Goal #1

Strike a balanced approach in locating land uses that aligns transit, land use, economics, and open space.

Chapter 7, Goal #4

Promote a high quality of life for Provo residents, including our most vulnerable, by ensuring a continued commitment to providing exceptional public safety services.

Chapter 8, Goal #2

Give careful consideration to the conservation of open spaces, scenic areas, and viable agricultural land.

Provo City Planning Commission

Report of Action

June 14, 2023

*ITEM #2	Barry Finch requests an Ordinance Text Amendment to Section 14.08.020 (Permitted Uses in the A1 Zone), to add "Meeting Halls for Rent" as a new conditional use in the A1 (Agricultural) zone. Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230082

The following action was taken by the Planning Commission on the above described item at its regular meeting of June 14, 2023:

CONTINUED

On a vote of 6:0, the Planning Commission continued the above noted application.

Motion By: Melissa Kendall
Second By: Jeff Whitlock
Votes in Favor of Motion: Melissa Kendall, Robert Knudsen, Lisa Jensen, Daniel Gonzales, Raleen Whalin, Jeff Whitlock
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions, and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT
The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION
The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Bill Peperone added to the staff report by relating the general use of agribusinesses already permitted in Provo.

CITY DEPARTMENTAL ISSUES
- Important issues raised by other departments – addressed in Staff Report to Planning Commission

NEIGHBORHOOD MEETING DATE
- A neighborhood meeting was held on 04/27/2023.
- City-wide application: all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT
- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.
- This item was City-wide or affected multiple neighborhoods.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC
Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:
- Adam Finch spoke in favor of the proposal.

APPLICANT RESPONSE
Key points addressed in the applicant's presentation to the Planning Commission included the following:
- Mr. and Mrs. Finch gave a background on farming and now ranching their property with increased difficulties in maintaining that lifestyle as the City grows. Mr. Finch also responded to potential adverse impacts on the neighbors if the proposal was approved. He also explained ideas that would be part of his business if it was allowed.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission discussed available zones for agricultural uses and the application of the proposal as a conditional use.
- The Commission expressed concerns that the universal application of the use could have harmful effects on adjacent properties.
- The process of the Conditional Use Permit was discussed, and what hypothetical conditions could be applied on a case-by-case basis and what could be standard conditions for the use.
- Mr. Knudsen confirmed that the new building the applicant would use for the proposal would have to go through City approval and meet all current codes. He brought up concerns about parking associated with the proposal and the architecture that would be used.
- Mrs. Whalin expressed support for the proposal and imagines that these types of uses on agricultural land will be requested more in the future.
- Mrs. Kendall started a discussion of rezoning the applicant's property into different zones to allow his ranch use on one portion and his desired commercial proposal on the other.
- The Commission discussed possible standard conditions that could help them support the proposal.
- Commissioners discussed a lot of options for conditions and how they can allow it and put enough protections in place with standard conditions.
- The majority of the Commission feels that the proposal meets the agricultural goals of the city and that the associated parking wouldn't create more of a hazard than any other uses that could occur in A1 areas.
- Liquor most likely won't be an option due to DABC standards.

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

That the proposed use is one that should work in agricultural zones as a conditional use, if there were standard conditions applied to each request. Staff and the applicant will need to come back with additional language to address concerns with the requested use. Example standard conditions were offered as follows:

1. Limitations on occupancy based on lot size and/or parking available.
2. Security on site and/or entrance management to the site.
3. Design standards that align with agricultural architecture.
4. Minimum or maximum percentage of the lot dedicated to agriculture versus the event space.
5. Limitations on lighting.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center St, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

(6) *Conditional Uses.* The following uses and structures are permitted in the A1 zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof and the standards of Section 14.34.250, Provo City Code:

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6722	Police protection and related activities, branch (office only)
7235	Meeting Halls for Rent
7400	Recreation activities

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 06-20-2023

SUBJECT: A discussion regarding an update to the RDA bylaws (23-045)

RECOMMENDATION: Discussion only.

BACKGROUND: The Board has expressed a desire to update the RDA bylaws. The draft that will be presented today will include minor clerical updates as well as other more substantive updates as requested by the Board.

FISCAL IMPACT:

PRESENTER'S NAME: Brian Jones, City Attorney

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-045

RESOLUTION 2023-RDA-07-18-1

A RESOLUTION AMENDING THE BYLAWS OF THE REDEVELOPMENT AGENCY OF PROVO CITY CORPORATION. (23-045)

WHEREAS, it is proposed that the bylaws of the Redevelopment Agency of Provo City Corporation (RDA) be amended as shown in Exhibit A; and

WHEREAS, on June 20, 2023, the RDA Board held a work meeting to consider the proposal; and

WHEREAS, on July 18, 2023, the RDA Board met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Board's consideration; and

WHEREAS, after considering the recommendation and facts and comments presented to the RDA Board, the Board finds (i) that the bylaws of the Redevelopment Agency of Provo City Corporation should be amended as proposed, and (ii) such action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Redevelopment Agency Board of Provo City, Utah, as follows:

PART I:

The bylaws of the Redevelopment Agency of Provo City Corporation are hereby adopted as shown in Exhibit A and the previous bylaws are replaced in their entirety.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

EXHIBIT A

BYLAWS OF THE REDEVELOPMENT AGENCY

OF PROVO CITY CORPORATION

Amended July 18, 2023

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Article I - The Agency

Section 1.1. **Name of Agency.** The name of the Agency is the "Redevelopment Agency of Provo City Corporation," in accordance with an ordinance dated March 20, 1972.

Section 1.2. **Governing Board.** The governing body of the Agency is the legislative body of Provo City and is known as the Governing Board of the Redevelopment Agency of Provo City Corporation. The Board is comprised of those persons who are members of the Municipal Council of Provo City, Utah in accordance with state law. The Board determines policy for the Agency, including but not limited to, the appropriation of Agency funds.

Section 1.3. **Quorum.** A majority of the members of the Board constitutes a quorum at a meeting of the Board.

Section 1.4. **Manner of Acting.** An act of the majority of the Board present at a meeting at which a quorum is present is an act of the Board.

Section 1.5. **Seal of Agency.** The Agency has a seal approved by the Board.

Section 1.6. **Offices of Agency.** The principal office of the Agency in the State of Utah is located at:

445 W Center St
Provo, Utah 84601

The principal office of the Board is located at:

Provo Municipal Council Office
445 W Center St
Provo, UT 84601

The Agency may have other offices, either within or without the State of Utah, as the Board designates or as the business of the Agency from time to time requires.

Section 1.7. **Registered Agent.** The registered agent for the Agency and the Agent's principal address is the same person and same address registered for Provo City.

Article II - Officers and Employees

Section 2.1. **Officers.** The Officers of the Agency are a Chair, Vice-Chair, Chief Executive Officer, Director, Secretary and Treasurer. The positions of Chair and Vice Chair are appointed annually at the beginning of each calendar year by majority vote of the Board. The position of Chief Executive Officer is held concurrently by the Mayor of Provo City. The position of the Secretary is held concurrently by the Recorder of Provo City. The position of the Treasurer is held concurrently by the Finance Director of Provo City. The Director is appointed by the CEO, subject to the advice and consent of the Board.

Section 2.2. **Removal.** Except for Board members and the CEO, any Agency officer or agent elected or appointed may be removed by the CEO, subject to the advice and consent of the Board, whenever in the judgment of the CEO the best interest of the Agency is served thereby. All removals are without prejudice to the contract rights, if any, of the person removed.

Section 2.3. **Chair.** The Chair presides at all meetings of the Board and submits recommendations and other information as the Chair considers proper to the Board. The Chair has other duties as determined by the Board.

Section 2.4. **Vice-Chair.** The Vice-Chair of the Agency performs the duties of the Chair in the absence or incapacity of the Chair or as otherwise directed by the Chair or by resolution. In the case of the resignation or death of the Chair, the Vice-Chair will perform such duties as are imposed on the Chair until such time as the Agency elects a new Chair.

Section 2.5. **Chief Executive Officer.** The Chief Executive Officer (CEO) executes all policies of the Board and provides supervision over the administration of the affairs of the Agency and the Agency Director. The CEO may attend meetings of the Board, take part in Board meeting discussions, and freely give advice to the Board, but may not vote on matters before the Board. The CEO signs all contracts, deeds, and other instruments made by the Agency or may authorize the Director to sign.

Section 2.6. **Director.** The Agency Director, under the administrative supervision of the CEO, directs the affairs of the Agency, and prepares all contracts, deeds, and other instruments made by the Agency. The Director is the custodian of the Agency seal and sees that the seal of the Agency is affixed to all documents, as necessary.

Requests for information may be made to the Director by four or more Board members in writing or by the Chair.

Section 2.7. **Secretary.** The Secretary acts as a recorder of the meetings of the Agency, records all votes, keeps a record of the proceedings of the Agency in a journal of proceedings, is the custodian of Agency records, and performs all duties incident to

the office of Secretary.

Section 2.8. **Treasurer.** The Treasurer of the Agency has the care and custody of all Agency funds and deposits them in the name of the Agency in the bank or banks the Agency selects. The Treasurer signs all orders and checks for the payment of money and pays out and disburses such monies under the direction of the Agency Director. The Treasurer keeps regular books of accounts showing receipts and expenditures and renders to the Board at each annual meeting, or more often when requested by the Board, an account of all Agency transactions, and also of the financial condition of the Agency.

Section 2.9. **Employees.** The Agency CEO and Director may from time to time employ such personnel, subject to the Board's approval for budgeting and funding said personnel, as the CEO and Director deem necessary to carry forth and execute the policies, duties and functions prescribed by the Board and the laws of the State of Utah.

Article III – Meetings

Section 3.1. **Annual Meeting.** The Board shall meet at least annually. The annual meeting in June to approve the Agency budget satisfies this requirement.

Section 3.2. **Regular Meetings.** Regular meetings are held concurrently, or immediately after, any regular meeting of the Municipal Council of Provo City, as needed. Requests for Board action may be brought forward by two Board members, the Board Chair, or the Agency CEO.

Section 3.3. **Special Meetings.** The Chair may, when deemed expedient, call a special meeting of the Agency. Notice of a special meeting must be provided to each member of the Board at least two (2) days prior to the date of the special meeting, or as otherwise required by law if the law requires greater notice. Attendance of a member of the Board at a special meeting waives these notice requirements, unless the member objects at the special meeting.

Article IV - Amendments and Miscellaneous Provisions

Section 4.1. **Amendments.** The Agency Bylaws may be amended only with the approval of at least a majority of all the members of the Board. No amendment may be adopted unless at least 24 hours' written notice of the meeting and the contents of the amendment have been previously given to all members of the Board.

These Bylaws were approved and adopted at a meeting of the Governing Board on the 18th day of July, 2023 and are effective as of that date.