



## PROVO MUNICIPAL COUNCIL

### Regular Meeting Agenda

5:30 PM, Tuesday, March 19, 2024

Council Chambers

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](https://www.youtube.com/provocitycouncil) and [facebook.com/provocouncil](https://www.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).

**March 19 Council Meeting:** Dial **346 248 7799**. Enter Meeting ID 874 4492 2096 and press **#**. When asked for a participant ID, press **#**. To join via computer, visit [zoom.us](https://zoom.us) and enter the meeting ID and passcode: **616109**.

#### 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

#### Presentations, Proclamations, and Awards

1 Provo City Employee of the Month Award – March 2024

2 Swearing in of new Firefighters (24-008)

- 3 BYU Geospatial Services Class Report of Provo City Tree Cover (24-008)
- 4 Mecha Knights FIRST Tech Challenge Robotics presentation and discussion of STEM in the community (24-008)

## **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**

- 5 A resolution appointing individuals to the Board of the Metropolitan Water District of Provo (24-005)
- 6 An ordinance creating a Department of Human Resources (24-034)
- 7 An ordinance amending Provo City Code regarding Defined Nuisances - Citywide Application (PLOTA20230293)
- 8 An ordinance repealing a prior Zone Map Change Ordinance, amending the Zone Map classification of real property generally located at 2050 North Canyon Road, and authorizing a related Development Agreement - Pleasant View Neighborhood (PLRZ20220302)

## **Adjournment**

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

Materials and Agenda: [agendas.provo.org](http://agendas.provo.org)

Council meetings are broadcast live and available later on demand at [youtube.com/ProvoCityCouncil](https://youtube.com/ProvoCityCouncil). To send comments to the Council or weigh in on current issues, visit [OpenCityHall.provo.org](http://OpenCityHall.provo.org).

The next Council Meeting will be held on Tuesday, April 16, 2024. 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 [rcaron@provo.org](mailto:rcaron@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](https://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](http://agendas.provo.org). Council meeting agendas are available through the Utah Public Meeting Notice website at [utah.gov/pmn](http://utah.gov/pmn), which also offers email subscriptions to notices.

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** KNEVES  
**Department:** Mayor Office  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** Provo City Employee of the Month Award - March 2024

**RECOMMENDATION:** The Provo City Police Department has selected an employee who embodies the city's standard of Exceptional Care for an Exceptional Community. This employee will be recognized during the upcoming meeting in March.

**BACKGROUND:** Each month, a department director within the city is tasked with nominating an employee who has shown exceptional care for our exceptional community. This recognition serves to highlight and celebrate the dedication and commitment of individuals who go above and beyond in their service to our community.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Mayor Kaufusi / Chief Beebe

**REQUESTED DURATION OF PRESENTATION:** 5 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:**

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** CHILL  
**Department:** Fire  
**Requested Meeting Date:** 03-05-2024

**SUBJECT:** Swearing in of new Firefighters (24-008)

**RECOMMENDATION:** Recognition and swearing in of new firefighters

**BACKGROUND:** A brief ceremony to welcome our new employees, honoring those who serve the community

**FISCAL IMPACT:** None

**PRESENTER'S NAME:** Jeremy Headman, Fire Chief

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
N/A

**CITYVIEW OR ISSUE FILE NUMBER:** 24-008



## **Badge Pinning Ceremony**

**March 19, 2024 at 5:30 PM**  
**City Center Council Chambers**

**Provo Fire & Rescue welcomes our new Firefighters**

**Bryce Hardy**

**Zac Mortimer**

**Hayden Andersen**

**Program**

**Welcome**

**Chief Headman**

**Presentation of Colors/Pledge**

**Introduction of Honorees**

**Chief Headman**

**Presentation of Badges**

**Deputy Chief Anderson**

**Pinning Of Badges**

**Oath of Office by Heidi Allman**

**Closing Remarks**

**Please join us to celebrate**

**Light Refreshments immediately following in the Community Room**

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** RCARON  
**Department:** Council  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** BYU Geospatial Services Class Report of Provo City Tree Cover (24-008)

**RECOMMENDATION:** Presentation Only

**BACKGROUND:** Teresa Gomez and her class of BYU students preformed some impressive map analysis to get a baseline for our tree canopy coverage across the city, which was a crucial missing piece of the Conservation and Resiliency Plan. The Mayor's Sustainability Committee (which includes Councilors Handley and Whipple) suggested giving them a few minutes in a Council Meeting to share their data and give the Council the opportunity to thank them publicly.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Teresa Gomez, BYU Library Geospatial Services and Training

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

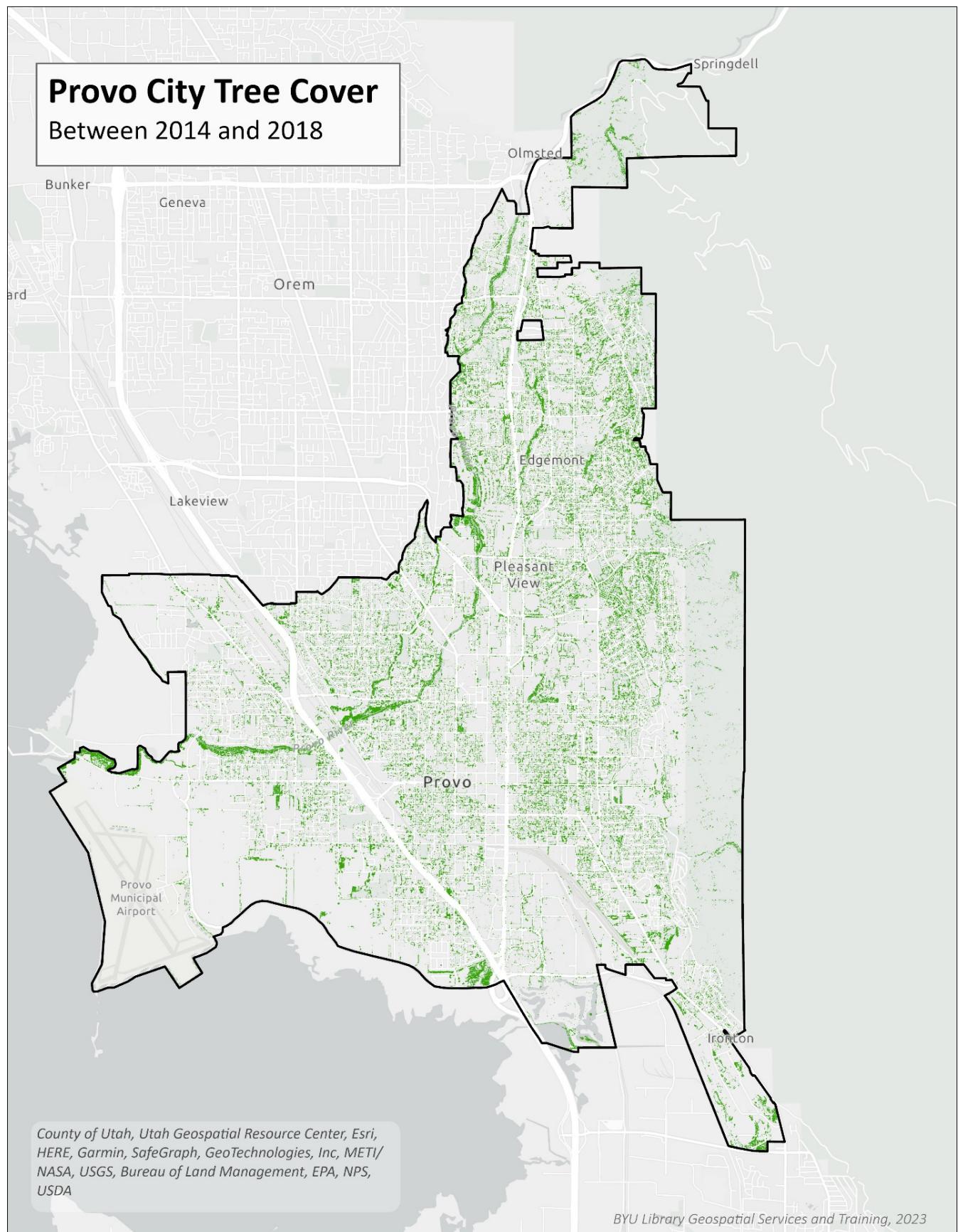
**CITYVIEW OR ISSUE FILE NUMBER:** 24-008

## Report of Provo City Tree Cover

Brigham Young University Geospatial Services

At the request of Provo City Sustainability Committee and Mayor Kaufusi, BYU Geospatial Services has performed an analysis to determine the tree cover available in Provo. We began our process by gathering the most recent available LiDAR data for Provo, along with imagery corresponding to this time frame. The latest LiDAR we found was recorded in 2014, which clearly only gives the opportunity for a rough estimate of the current tree cover throughout Provo. The LiDAR was acquired from USGS EarthExplorer. The imagery used was a group of NAIP images from 2018, which were acquired through the UGRC website. The decision to use 2018 imagery paired with 2014 LiDAR was driven primarily by two factors: that the 2018 imagery was higher quality than 2014 and that 2014 was the most recent available LiDAR for Provo. A change analysis showed that, despite the time difference, there was not significant enough tree loss or gain in those four years to make the analysis inaccurate.

The analysis we conducted consisted of deriving two separate datasets and overlaying them to estimate tree cover. The first dataset we isolated used LiDAR points with multiple returns, meaning they bounced off more than one surface before returning to the LiDAR sensor. Using LAS filters in ArcGIS Pro, we removed all single returns, leaving objects such as trees, gutters, and construction cranes alone in the LiDAR dataset. These points were exported to a raster layer, and then to a polygon layer. The second dataset we isolated was the areas with high NDVI (Normalized Difference Vegetation Index) values, which were areas with lots of green vegetation. This included not only trees, but also grass, bushes, and shrubs. These areas were extracted from the NAIP images and converted to polygons as well. Once both datasets were acquired, they were overlayed with each other to get the area that was both tree-like in the LiDAR data and vegetated. The resulting polygon layer was dissolved, and area was calculated as a percent of the total area of Provo City that was requested (a large part in the mountains was removed, as well as a portion near Utah Lake). The total percent of Provo covered in trees was calculated to be approximately 17.09%. As previously mentioned, this is an estimate based on data that is not current, so the actual tree cover in Provo likely varies  $\pm 2\%$  from our findings. A map of tree-cover is provided on the next page of this document.





# PROVO CITY TREE COVER ESTIMATE THE POWER OF MAPS

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BYU LIBRARY GEOSPATIAL SERVICES AND  
TRAINING

# BYU LIBRARY GEOSPATIAL SERVICES AND TRAINING

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# THE POWER OF MAPS

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Maps are windows into information that allows you to explore the world, visualize data, and see trends to engage more productively. Maps can spark curiosity, provide insight, spur people to action, and help build solutions toward a better future.



### Things To Do in Downtown Provo

Web Mapping Application

Created: Feb 27, 2019

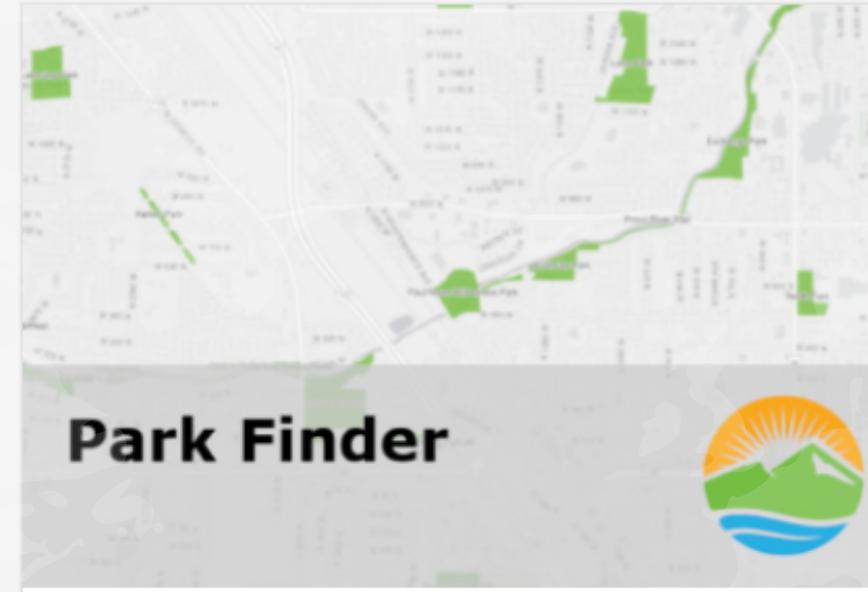
Updated: Jan 31, 2024

View count: 18,657

downtownprovo



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### Park Finder

Web Experience

Created: Jul 19, 2023

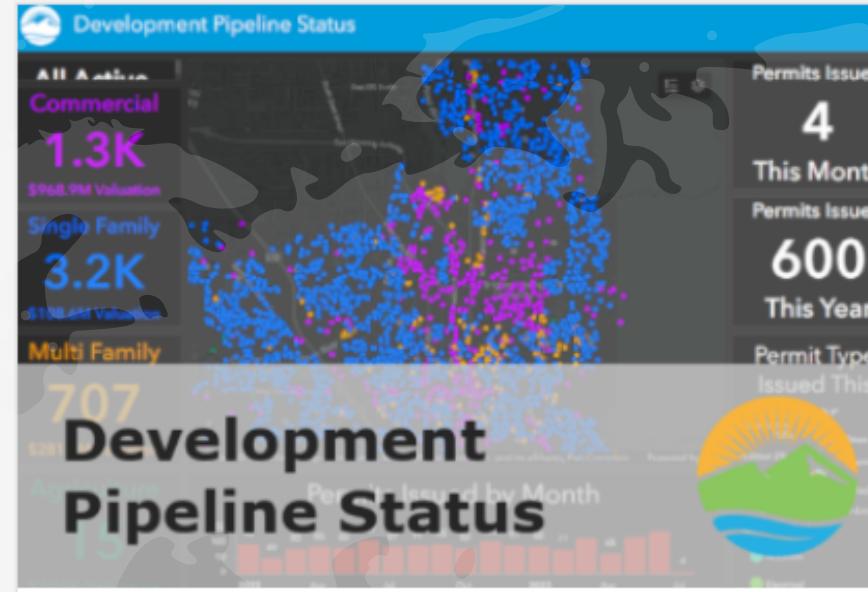
Updated: Dec 5, 2023

View count: 7,809

gtueller\_provo



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### Development Pipeline Status

Dashboard

Created: May 25, 2022

Updated: Jul 6, 2023

View count: 5,225

gtueller\_provo



### Zoning

Web Experience

Created: Jun 15, 2023

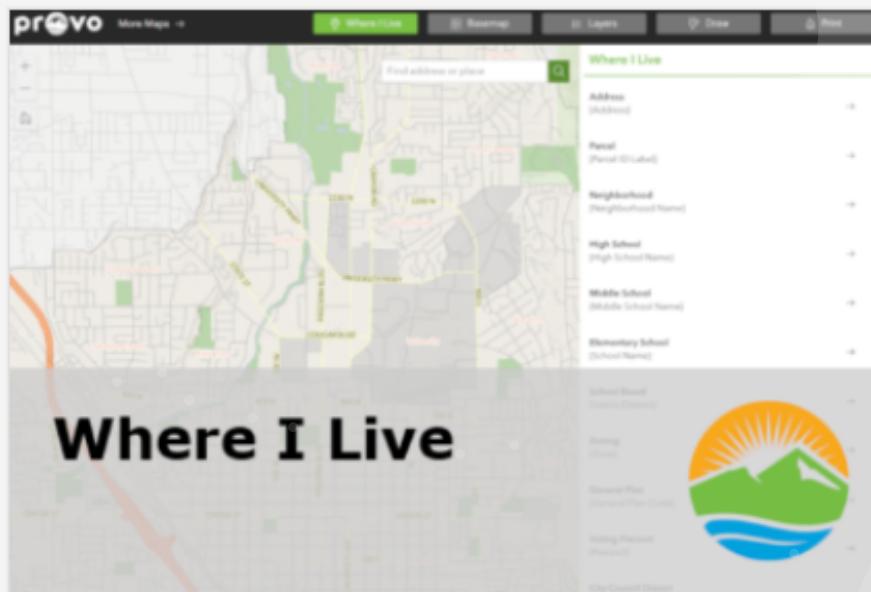
Updated: Jun 21, 2023

View count: 4,192

gtueller\_provo



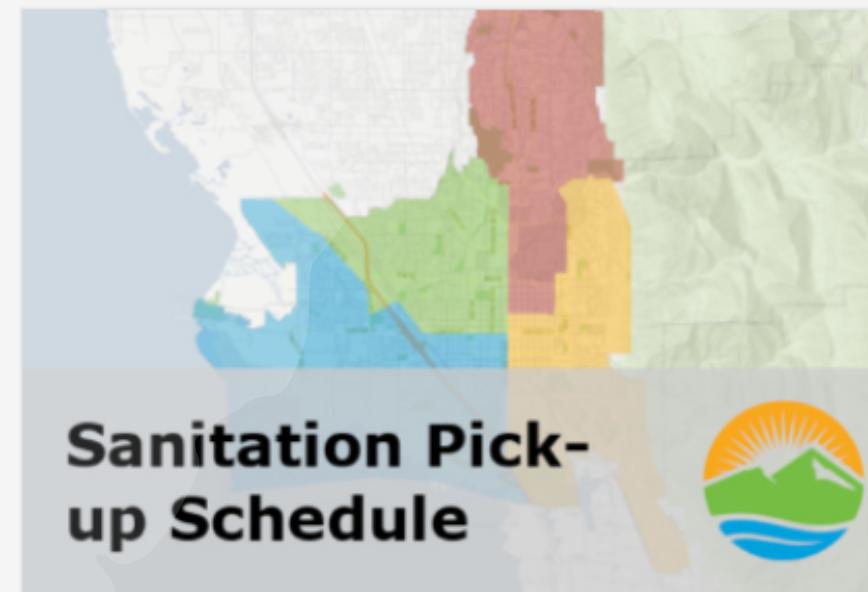
...



### Where I Live

Where I Live

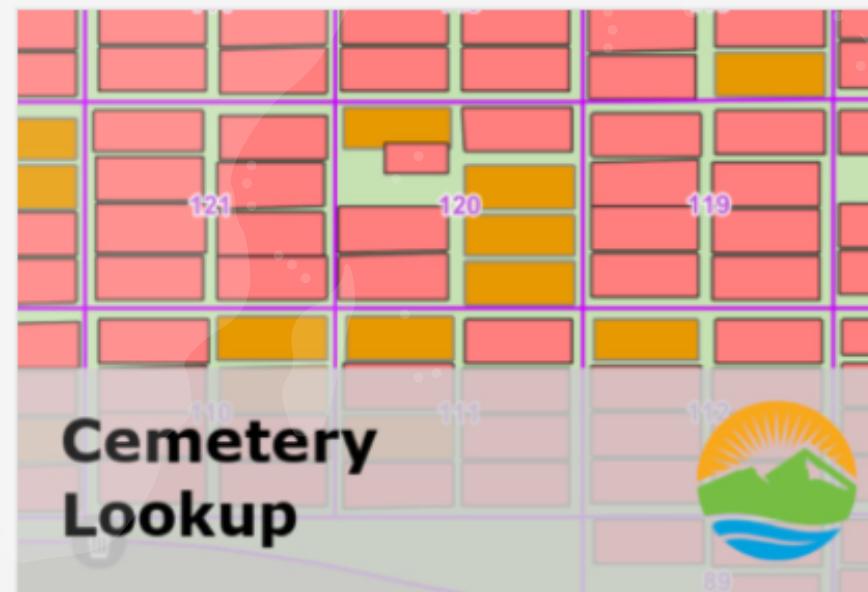
Web Experience



### Sanitation Pick-up Schedule

Sanitation Schedule

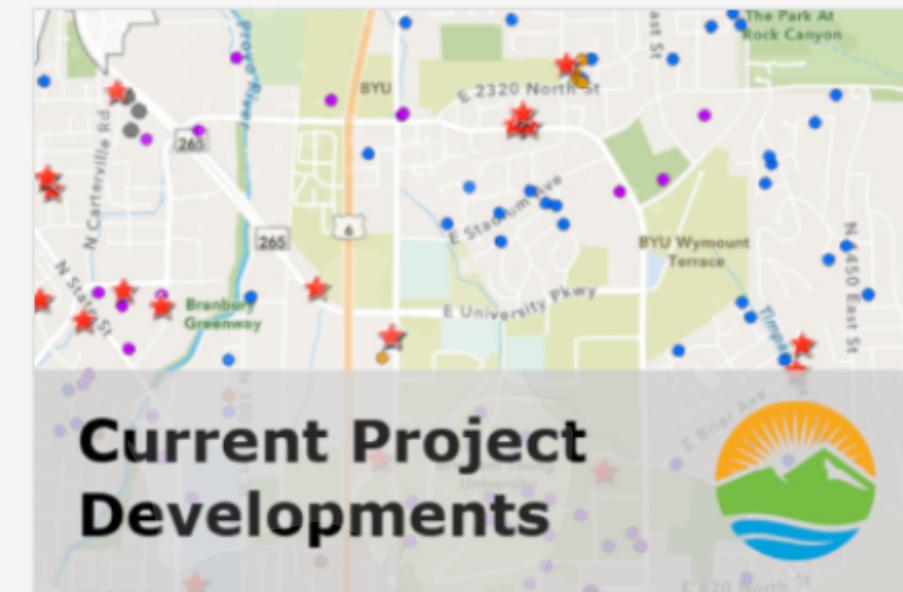
Web Experience



### Cemetery Lookup

Cemetery Lookup Map

Web Experience



### Current Project Developments

Current Projects

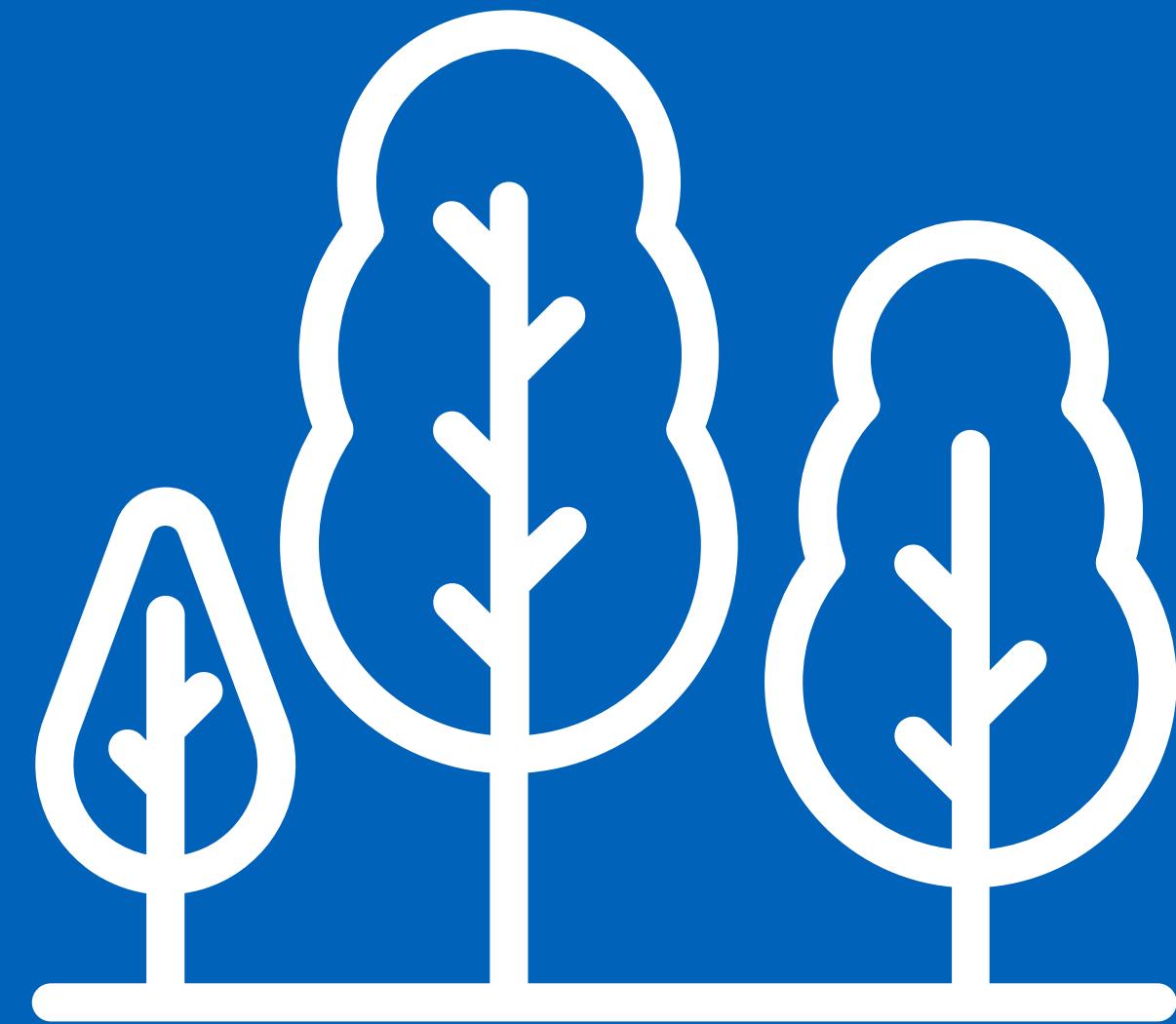
Web Experience

# GEOGRAPHIC INFORMATION SYSTEMS

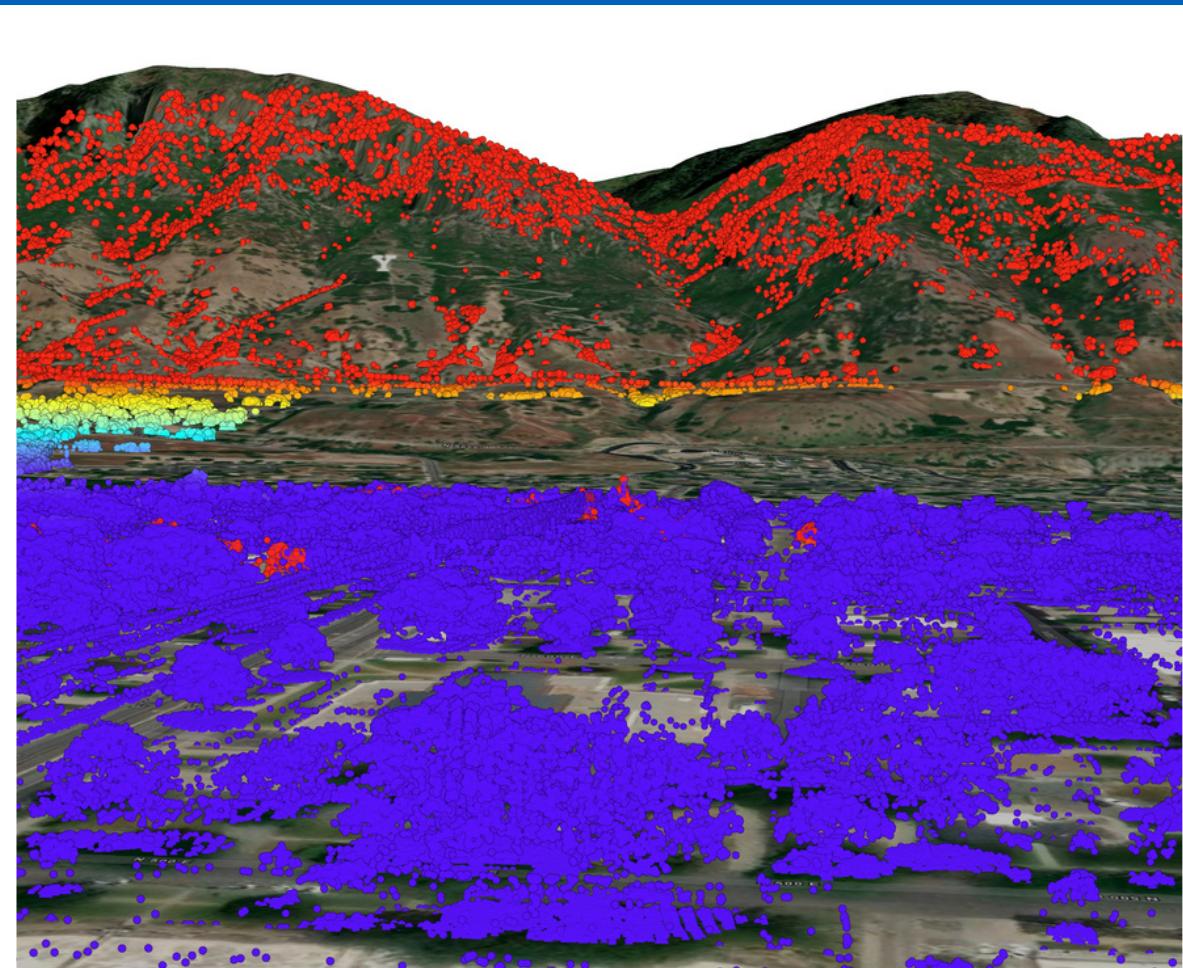
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A spatial system that creates,  
manages, analyzes, and maps  
all types of data.

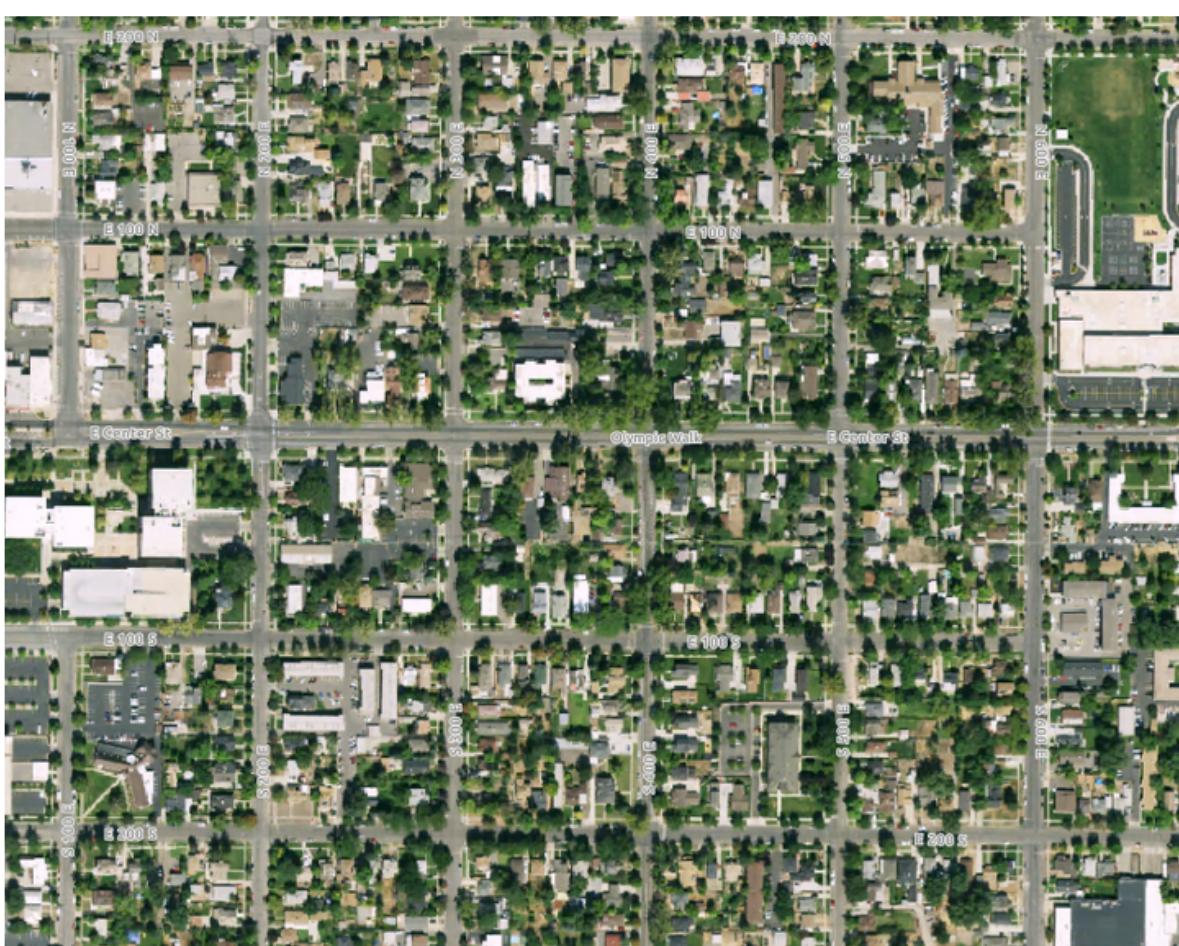
# CALCULATING PROVO CITY TREE COVERAGE



# Lidar Data



# Aerial Imagery



# Image Classification



# TREE COVER ANALYSIS

## Data we used

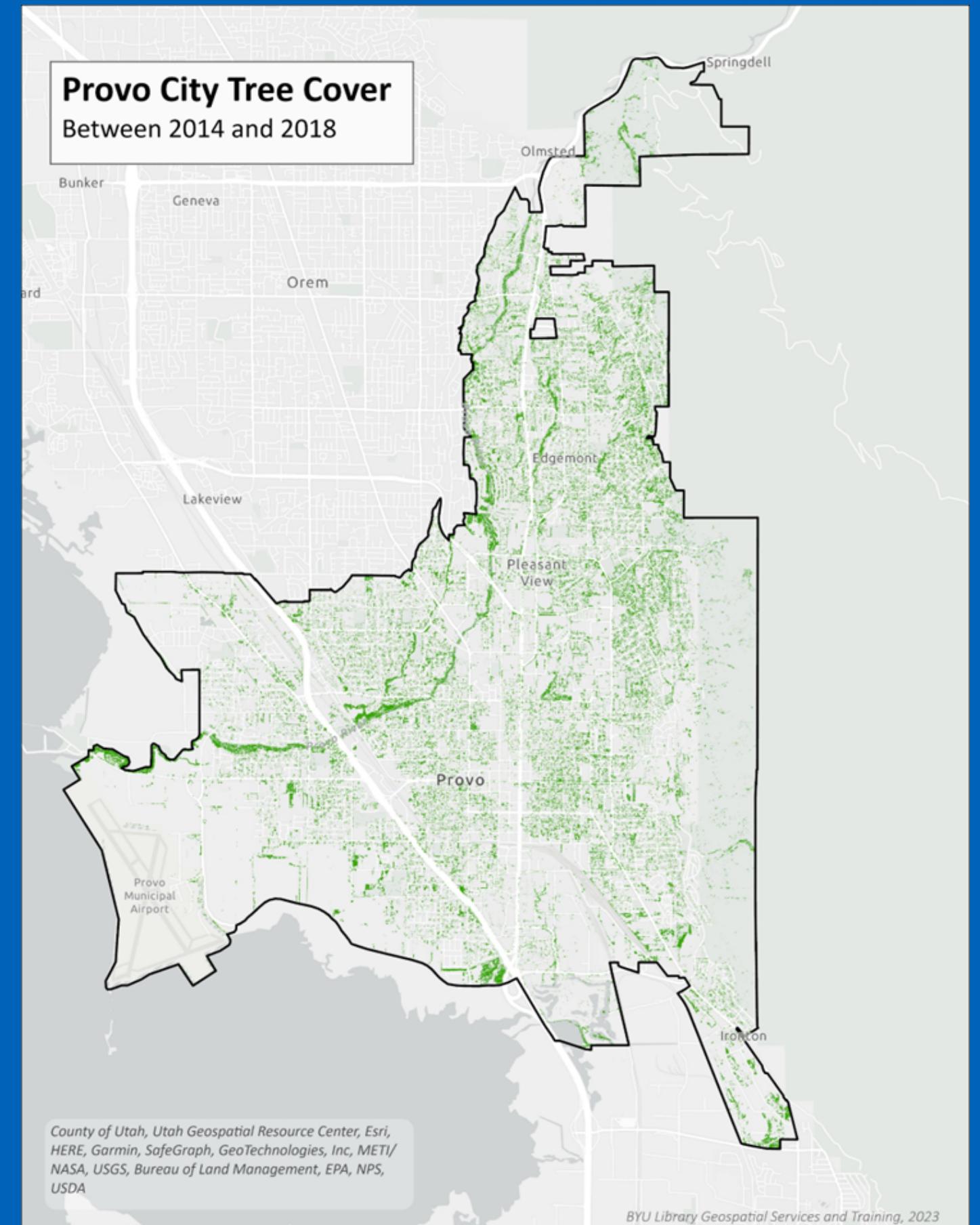
- Lidar, NAIP image

## What we did

- Isolate tree points in lidar
- Isolate living vegetation in imagery
- Combine to get only the trees
- Calculate percent area of Provo City covered by trees

## Results

- About 17.1% tree cover



# LAND COVER CLASSIFICATION

## Data we used

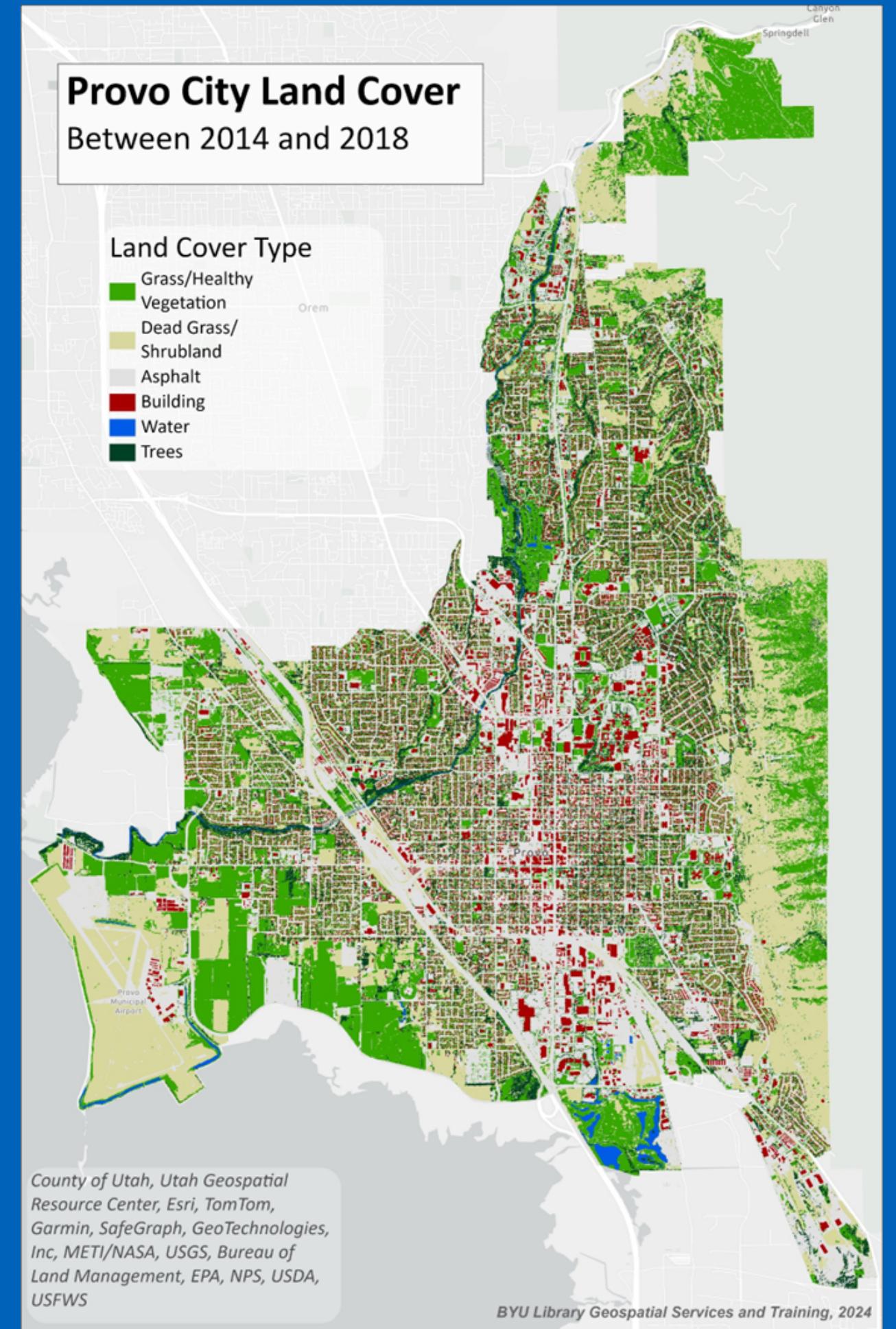
- Tree cover
- Building footprints
- Satellite imagery

## What we did

- Used classification tools to show areas of trees, buildings, asphalt, water, grass, etc.

## Results

- Grass/Healthy Vegetation: 24.7%
- Dead Grass/Shrubland: 23%
- Asphalt: 32.9%
- Buildings: 9.2%
- Water: 0.64%





**BYU STUDENTS  
ARE PART OF  
PROVO AND ARE  
COMMITTED TO SERVE IN  
THE COMMUNITY**



# Where can you find us?

HBLL 2482

GEOSPATIAL@BYU.EDU

(801) 422-6726

GIS.BYU.EDU

INST: HBLLGEOSPATIAL

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** RCARON  
**Department:** Council  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** Mecha Knights FIRST Tech Challenge Robotics presentation and discussion of STEM in the community (24-008)

**RECOMMENDATION:** Presentation Only

**BACKGROUND:** Mecha Knights Outreach Coordinator Kathryn Thompson volunteered her group to present at a City Council Meeting earlier this year, after meeting Councilor Becky Bogdin during a robotics competition. They are a FIRST Tech Challenge robotics team from Provo, Utah and based at Freedom Preparatory Academy. They began as a competition team in 2019 and have continued to learn principles in STEM and outreach so that they can connect with the community. They currently have 15 competition team members, 2 main coaches, and 10 mentors that come frequently, and are always looking for new sponsors, mentors, and ways to reach out to the community.

The 8 members of the team coming to present: Kayden Asay, Kathryn Thompson, Amanda Patrick, Parker Taylor, Kiya Asay, Aliyah Smith, Caylee Smith, and Hyrum Brown.

**FISCAL IMPACT:** N/A

**PRESENTER'S NAME:** Kathryn Thompson, Outreach Coordinator

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** 24-008

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** RCARON  
**Department:** Council  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** A resolution appointing individuals to the Board of the Metropolitan Water District of Provo (24-005)

**RECOMMENDATION:** Appoint the three applicants whose applications were received in a timely manner and who meet the qualifications for the position according to the statutory process in state code.

**BACKGROUND:** There are currently 3 vacancies on the Metropolitan Water Board. The Council Office followed the statutory process for posting and advertising these vacancies. Three applicants submitted applications during the prescribed window of time (closed at 5:00PM on Monday, March 11, 2024): Jared Oldroyd, Kristina Davis, and Richard Brimhall.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Brian Jones, City Attorney

**REQUESTED DURATION OF PRESENTATION:** 5 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** 24-005

## RESOLUTION 2024-\_\_\_\_\_.

A RESOLUTION A RESOLUTION APPOINTING INDIVIDUALS TO THE  
BOARD OF THE METROPOLITAN WATER DISTRICT OF PROVO. (24-005)

## RECITALS:

The Municipal Council, acting pursuant to Utah Code § 17B-2a-604(2) is responsible to appoint members of the board of trustees of the Metropolitan Water District of Provo; and

On March 19, 2024, the Municipal Council met to consider 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

After considering the facts presented to the Municipal Council, the Council finds that (i) the action proposed herein should be approved as described, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:

## PART I:

1. The citizens whose names appear below are appointed to serve on the Board of Trustees of the Metropolitan Water District of Provo for the term shown:

| <u>Appointee's Name</u> | <u>Ending</u>     |
|-------------------------|-------------------|
| Richard Brimhall        | December 31, 2027 |
| Kristina Davis          | December 31, 2027 |
| Jared Oldroyd           | December 31, 2027 |

2. Following said appointments, there are currently 7 members on the Metropolitan Water Board, as shown on the attached Exhibit A.

## PART II:

This resolution takes effect immediately.

**EXHIBIT A<sup>1</sup>**

**METROPOLITAN WATER BOARD APPOINTMENTS**

| <b>Name</b>      | <b>Seat</b>               | <b>Term Expiration Date</b> | <b>Appointing Resolution</b>  |
|------------------|---------------------------|-----------------------------|-------------------------------|
| Wood Miller      | 1                         | 12/31/2025                  | 2022-13                       |
| Dennis Weir      | 2                         | 12/31/2025                  | 2022-13                       |
| Jared Oldroyd    | 3                         | 12/31/2027                  | 2020-08 & Attached resolution |
| Richard Brimhall | 4                         | 12/31/2027                  | 2020-08 & Attached resolution |
| Ryan York        | 5 – Public Works official | N/A                         | N/A                           |
| Robin Roberts    | 6                         | 12/31/2025                  | 2022-13                       |
| Kristina Davis   | 7                         | 12/31/2027                  | 2023-22 & Attached resolution |

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<sup>1</sup> This Exhibit includes the Metropolitan Water Board appointees in the resolution to which it is attached. Anyone not so appointed should be removed from the Exhibit.

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** BRIANJ  
**Department:** Legal  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** An ordinance creating a Department of Human Resources (24-034)

**RECOMMENDATION:** Amend City code to move the Division of Human Resources, currently within the Department of Administrative Services, to its own department.

**BACKGROUND:** Prior to 2010, Human Resources was its own City department, as were the various current divisions of the Department of Public Works. In 2010, Human Resources was consolidated as a Division with the Department of Administrative Services. Recent discussions have made it clear that as a best practice, it is better if Human Resources is its own department and if the director of Human Resources is not subject to another department director. Accordingly, it is proposed to change it back to its own department.

**FISCAL IMPACT:** There will be a salary adjustment for the Division Director as the position is promoted to Department Director.

**PRESENTER'S NAME:** Scott Henderson, Chief Administrative Officer

**REQUESTED DURATION OF PRESENTATION:** 10 min

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
Compatible with transparency and responsibility in governance as it complies with established best practices.

**CITYVIEW OR ISSUE FILE NUMBER:** 24-034

## ORDINANCE 2024-\_\_\_\_\_.

AN ORDINANCE CREATING A DEPARTMENT OF HUMAN RESOURCES.  
(24-034)

## RECITALS:

It is proposed that the Division of Human Resources, currently constituted within the Department of Administrative Services, be changed to its own City department as the Department of Human Resources; and

On March 19, 2024, 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

After considering the facts presented to the Municipal Council, the Council finds that (i) Provo City Code should be amended as set forth below, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah ordains as follows:

## PART I:

Provo City Code Titles 2 and 4 are amended as shown in Exhibit A.

## PART II:

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

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### **2.10.100 Department of Administrative Services.**

The Director of Administrative Services shall have charge of and responsibility for the following:

**(1) ~~The Division of Human Resources, including:~~**

- ~~(a) the administration of all personnel functions of the City;~~**
- ~~(b) providing staff and clerical support for wage and salary administration, recruitment, testing and selection, fringe benefit administration, classifications of positions, organizational analysis, productivity analysis and employee training; and~~**
- ~~(c) providing staff and clerical support for the Civil Service Commission in fulfilling its duties as provided under State law.~~**

**(2) The Division of Finance, including central support and financial services required by City operations, including purchasing, cash management and investment, accounting, inventory control, and licensing.**

- (a) The Director of the Department of Administrative Services or the Mayor's designee within this department shall perform those duties set forth in the Uniform Fiscal Procedures Act for Utah Cities, except those duties specifically delegated to the Budget Officer and as assigned by the Mayor.
- (b) The functions of City Treasurer shall be assigned to the department under the administrative direction of the director. The City Treasurer shall:
  - (i) supervise collection of all taxes, assessments, fines, forfeitures, service charges, intergovernmental revenue, licenses, fees, and other revenues of the City as provided for by applicable laws the Provo City Code and other ordinances;
  - (ii) be responsible for disposition of City revenues;
  - (iii) provide for investment of idle cash;
  - (iv) make all disbursements of funds of the City, subject to budget appropriations;
  - (v) keep an accurate and detailed accounting of all transactions, receipts, disbursements, and other matters within the Treasurer's charge as provided in the Uniform Fiscal Procedures Act for Utah Cities and as the City may by the Provo City Code, other ordinance, or resolution direct;

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- (vi) maintain legally required balances in sinking fund accounts, and special improvement district guarantees funds account;
- (vii) record the bond of the City Recorder as required by Section [10-3-825](#), Utah Code, as amended;
- (viii) execute all checks of the City consistent with State law;
- (ix) conduct internal audit services;
- (x) collect all special improvement assessments and foreclose all delinquencies therein; and
- (xi) any other matter prescribed by State law.

(c) The Budget Officer shall have charge of and be responsible for:

- (i) performing trend analysis such as future revenue projections; and
- (ii) coordinating the preparation, evaluation and monitoring of the City's operating and capital budgets, subject to the final review and adoption by the Mayor and the Municipal Council.

(32) The Division of Facilities, which shall include the general supervision, maintenance, up-keep, and control of all City building operations and maintenance as designated by the Mayor.

(43) The Provo City Justice Court, which shall include the supervision and operation of the Justice Court in accordance with State law, local ordinance, and direction from the Administrative Office of the Courts.

(54) The Division of Information Systems, which shall provide information systems services to all departments of the City. Functions of the Division of Information Systems shall include the protection, maintenance, and operation of computer systems and communication systems, and development and review of software. The division shall also evaluate and recommend the use of technology to facilitate cost effective use and efficient delivery of City services.

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## **2.10.120 Department of Human Resources.**

The Director of Human Resources has charge of and responsibility for:

- (a) the administration of all personnel functions of the City;
- (b) providing staff and clerical support for wage and salary administration, recruitment, testing and selection, fringe benefit administration, classifications of positions, organizational analysis, productivity analysis, and employee training; and

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(c) providing staff and clerical support for the Civil Service Commission in fulfilling its duties as provided under State law.

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#### **4.02.010 Unclassified Civil Service – Created – Rules and Regulations.**

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(3) The following positions within Provo City are hereby declared to be administrative department heads and exempt from unclassified civil service: Police Chief, Fire Chief, City Attorney, Director of Public Works, Director of Administrative Services, Director of Energy, Director of Library Services, Director of Parks and Recreation, Director of Customer Service, Director of Human Resources, and the Director of Development Services. The Council Executive Director position is a department head of a nonadministrative department and is also exempt from unclassified civil service. At the discretion of the Mayor and with the advice and consent of the Municipal Council, one (1) person may be appointed to hold two (2) or more department head responsibilities; and the department head shall be compensated at the rate applicable to the highest paid department head position over which the person is placed in charge.

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#### **4.03.030**

##### **Vacation Leave, Sick Leave, Leaves of Absence, and Reinstatement.**

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###### **(2) Sick Leave.**

(a) Eligible employees working on a full-time basis shall accrue sick leave at the approved rate specified in Provo City Personnel Policy. Any change to the approved accrual rate must be accomplished within the existing authorized budget or be brought to the Council for appropriation. Sick leave accrual for eligible employees shall be prorated based on accounting for a full eighty (80) hours, or one hundred six (106) hours for Fire Service personnel on a modified work schedule, of paid time in a biweekly pay period. Each employee of the City service may use accrued sick leave from the date of employment, including during the probationary period.

(b) Except as otherwise provided in this Subsection (2), each employee shall be paid annually, on or before the twentieth day of December, fifty percent (50%) of sick leave accrued and unused during the previous twelve (12) month period ending the twenty-third pay period of the calendar year. In figuring the payment under this Section, any sick leave used, other than for on-the-job injuries, funeral, and donated leave, shall be considered as coming from the current twelve (12) month period and not from previous years' accrued sick leave. An employee with

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less than two hundred (200) hours of accrued sick leave as of the annual buyout calculation date may elect to not be paid any accrued and unused sick leave during the time period described above. The election shall be made by notifying the Human Resources [DivisionDepartment](#) in writing prior to the calculation date.

...

#### **4.04.130 Elected Officials Compensation Commission.**

- (1) There is hereby created an Elected Officials Compensation Commission which shall consist of three (3) residents of Provo selected by the Mayor, three (3) residents of Provo selected by a majority of the Municipal Council, and one (1) additional resident of Provo selected by a majority of the other six (6) members of the Commission. Commission members shall be appointed in February of 2017 and thereafter in February every four (4) years.
- (2) The Commission is tasked with reviewing the results of a salary survey conducted by the Human Resources [DivisionDepartment](#) of:
  - (a) Mayoral compensation in cities and counties in Utah with a full-time elected mayor; and
  - (b) Council member compensation in cities and counties in Utah with part-time council members.

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# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** SWILMOTH  
**Department:** Development Services  
**Requested Meeting Date:** 02-20-2024

**SUBJECT:** A discussion regarding an ordinance amending Provo City Code regarding Defined Nuisances. Citywide Application (PLOTA20230293)

**RECOMMENDATION:** To be heard at the February 20, 2024 Work & Council meeting. Please see supporting documents.

**BACKGROUND:** Provo City's Division of Code Enforcement often works with Provo Police when enforcing on properties where both criminal activities and code violations exist. There have been a small number of high-profile cases where the property owner continued to allow various criminal activities to take place. Provo Police were able to take actions against any individuals who were found to be directly involved in such activities, and Code Enforcement was able to address some more minor issues that were found. The problem we discovered was that such persons who were committing criminal activities were continually allowed back into the home by the homeowner, and the neighborhood was greatly concerned with such activities to be allowed to continue. Development Services and Provo Police have discussed various ways to work better together to enforce such violations. We determined that adding various criminal activities to our definition of Nuisance would assist Provo City with holding property owners responsible for allowing such activities to take place on their property, and as such be able to require that the owner abate the nuisance.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Scott Johnson, Zoning Administrator

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** PLOTA20230293

## ORDINANCE 2024-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING DEFINED  
NUISANCES. CITYWIDE APPLICATION. (PLOTA20230293)

It is proposed that Provo City Code Section 7.01.020 be amended to add various additional situations to the defined list of nuisances; and

On March 5, 2024, and March 19, 2024, 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

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

THEREFORE, the Municipal Council of Provo City, Utah ordains as follows:

## PART I:

Provo City Code Section 7.01.020 is 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 prevails.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance is not affected by that determination.
- C. This ordinance takes 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.
- D. The Municipal Council directs that the official copy of Provo City Code be updated to reflect the provisions enacted by this ordinance.

## END OF ORDINANCE

## Exhibit A

42 **7.01.020**

43 **Nuisances Defined.**

44 It shall be unlawful and declared a public nuisance for any person owning, renting, leasing,  
45 occupying, or having charge or possession of any property in the City to allow any of the following  
46 conditions to exist on such property:

47 (1) ...

48 (24) The unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any  
49 controlled substance, precursor, or analog specified in Utah Code Annotated Title 58, Chapter 37,  
50 Utah Controlled Substances Act.

51 (25) Gambling as defined in Utah Code Annotated Title 76, Chapter 10, Part 11, Gambling.

52 (26) Criminal activity that is committed in concert with three or more persons, as defined in Utah  
53 Code Annotated Section 76-3-203.1.

54 (27) Criminal activity that is committed for the benefit of, at the direction of, or in association with any  
55 criminal street gang, as defined in Utah Code Annotated Section 76-9-802.

56 (28) Criminal activity that is committed to gain recognition, acceptance, membership, or increased  
57 status with a criminal street gang, as defined in Utah Code Annotated Section 76-9-802.

58 (29) Prostitution or promotion of prostitution, as defined in Utah Code Annotated Title 76, Chapter  
59 10, Part 13, Prostitution.



DEVELOPMENT SERVICES

# City Council Meeting Staff Report

Meeting Date: 20 Feb 2024

Development Services requests an Ordinance Text Amendment to Section 7.01.020, Provo City Code, to add additional defined nuisances. Citywide Application. Scott Johnson (801) 852-6433 snjohnson@provo.org PLOTA20230293

Applicant: Scott Johnson

Staff Coordinator: Scott Johnson

Property Owner: City Wide

Parcel ID#: Not applicable

Acreage: Not applicable

Number of Properties: City Wide

## **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 5 March 2024 at 6:00 P.M.*
  
2. **Deny** the requested amendment. *This action would not be consistent with the recommendations of the Staff Report. The Council should state new findings.*

**Relevant History:** Provo City's Division of Code Enforcement often works with Provo Police when enforcing on properties where both criminal activities and code violations exist. Development Services and Provo Police have discussed various ways to work better together to enforce such violations. We determined that adding various criminal activities (including various aspects surrounding controlled substances, gambling, criminal gang activities, and prostitution) to our Nuisance Defined section of code would assist Provo City with holding property owners responsible for allowing such activities to take place.

**Summary of Key Issues:** The proposed amendment would allow Provo City to declare a property as a public nuisance for allowing various criminal activities to exist on a property. Each criminal activity listed in the proposed amendment is based on how that activity is defined in the Utah State Code.

**Staff Recommendation:** Staff recommends that the City Council approve the requested text amendment.

## **OVERVIEW**

Provo City's Division of Code Enforcement often works with Provo Police when enforcing on properties where both criminal activities and code violations exist. There have been a small number of high-profile cases where the property owner continued to allow various criminal activities to take place. Provo Police were able to take actions against any individuals who were found to be directly involved in such activities, and Code Enforcement was able to address some more minor issues that were found. The problem we discovered was that such persons who were committing criminal activities were continually allowed back into the home by the homeowner, and the neighborhood was greatly concerned with such activities to be allowed to continue. Development Services and Provo Police have discussed various ways to work better together to enforce such violations. We determined that adding various criminal activities to our definition of Nuisance would assist Provo City with holding property owners responsible for allowing such activities to take place on their property, and as such be able to require that the owner abate the nuisance.

## **FINDINGS OF FACT**

As with all text amendments, Provo City Staff have the responsibility to evaluate the requests against the goals and objectives of the General Plan. Section 14.020.020(2) establishes the criteria for that evaluation, and has been reviewed as follows: **(staff response in bold)**

(a) Public purpose for the amendment in question.

**The public purpose for this amendment is to ensure Provo residents have a safe and healthy community.**

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

**By declaring it a nuisance for properties which allow criminal activities to take place, we will be able to better enforce on properties that cause great public concern.**

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

**The General Plan states the following in Chapter Seven: "Residents should feel safe in their homes and in their community." The proposed changes help to fulfill this statement by adding various criminal activities to the list of nuisances which are deemed to be unlawful and must be abated.**

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

**There are no timing and sequencing provisions related to this request.**

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

**Staff believe that these amendments will only further the policies found in the General Plan, not hinder or obstruct them.**

(f) Adverse impacts on adjacent landowners.

**There should not be any adverse impacts on adjacent landowners due to this code changes.**

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

**Does not apply.**

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

**Does not apply.**

## **CONCLUSIONS**

This proposed change has been reviewed by staff from other city departments, and no concerns were raised. Staff recommends that the City Council approve this proposed amendment.

## **ATTACHMENTS**

1. Proposed Amendment Text

## **Attachment 1 – Proposed Amendment Text**

### **7.01.020**

#### **Nuisances Defined.**

It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the City to allow any of the following conditions to exist on such property:

(1)

...

(24) The unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in Utah Code Annotated Title 58, Chapter 37, Utah Controlled Substances Act.

(25) Gambling as defined in Utah Code Annotated Title 76, Chapter 10, Part 11, Gambling.

(26) Criminal activity that is committed in concert with three or more persons as defined in Utah Code Annotated Section 76-3-203.1.

(27) Criminal activity that is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Utah Code Annotated Section 76-9-802.

(28) Criminal activity that is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Utah Code Annotated Section 76-9-802.

(29) Prostitution or promotion of prostitution as defined in Utah Code Annotated Title 76, Chapter 10, Part 13, Prostitution.



WELCOME HOME

City Council

February 20, 2024

Development Services requests an Ordinance Text Amendment to Section 7.01.020, Provo City Code, to add additional defined nuisances.



*Citywide Application*

PLOTA20230293

## 7.01.020

### **Nuisances Defined.**

It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the City to allow any of the following conditions to exist on such property:

(1)

...

(24) The unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in Utah Code Annotated Title 958, Chapter 37, Utah Controlled Substances Act.

(25) Gambling as defined in Utah Code Annotated Title 76, Chapter 10, Part 11, Gambling.

(26) Criminal activity that is committed in concert with three or more persons as defined in Utah Code Annotated Section 76-3-203.1.

(27) Criminal activity that is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Utah Code Annotated Section 76-9-802.

(28) Criminal activity that is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Utah Code Annotated Section 76-9-802.

(29) Prostitution or promotion of prostitution as defined in Utah Code Annotated Title 76, Chapter 10, Part 13, Prostitution.

# PROVO MUNICIPAL COUNCIL

## STAFF REPORT



**Submitter:** SWILMOTH  
**Department:** Development Services  
**Requested Meeting Date:** 03-19-2024

**SUBJECT:** An ordinance repealing a prior Zone Map Change Ordinance, amending the Zone Map classification of real property generally located at 2050 North Canyon Road, and authorizing a related Development Agreement - Pleasant View Neighborhood (PLRZ20220302)

**RECOMMENDATION:** To be heard at the March 19, 2024 Work & Council Meeting.  
Please see supporting documents.

**BACKGROUND:** Ryan Salmon is requesting approval of a rezone from the CG and R2PD zones to the HDR zone in order to build a twelve-unit apartment building over two properties on North Canyon Road.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Aaron Ardmore, Planning Supervisor

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** PLRZ20220302

## ORDINANCE 2024-\_\_\_\_\_.

AN ORDINANCE REPEALING A PRIOR ZONE MAP CHANGE  
ORDINANCE, AMENDING THE ZONE MAP CLASSIFICATION OF REAL  
PROPERTY GENERALLY LOCATED AT 2050 NORTH CANYON ROAD,  
AND AUTHORIZING A RELATED DEVELOPMENT AGREEMENT.  
PLEASANT VIEW NEIGHBORHOOD. (PLRZ20220302)

## RECITALS:

On May 2, 2023, the Municipal Council passed Ordinance 2023-17, which approved a change in the Provo Zoning Map classification for approximately 0.48 acres of real property, generally located at 2050 North Canyon Road (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached as Exhibit B after the Zone Map has been updated), from the General Commercial (CG) and Two Family Residential (R2PD) Zones to the Medium Density Residential (MDR) Zone; and

Pursuant to the terms of Ordinance 2023-17, that approval was subject to the execution within one year of a proffered development agreement; and

The proffered development agreement was never executed and therefore the zone change never took effect; and

The applicant now desires to make changes to the proffered development agreement and therefore requests approval of the proposed zone change subject to the execution of the proposed alternative development agreement; and

On April 12, 2023, the Planning Commission held a public hearing to consider the original proposal, and after the hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 6:0 vote; and

On March 19, 2024, the Municipal Council met to determine 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

After considering the Planning Commission's recommendation and the facts presented to the Municipal Council, the Council finds that (i) the proposed action should be approved as set forth below, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah ordains as follows:

## PART I:

Ordinance 2023-17, previously approved on May 2, 2023, provided for a zone map classification change that has never gone into effect because it was contingent upon the execution of a development agreement that has never been executed. Ordinance 2023-17 is hereby repealed and is of no effect. This present ordinance replaces Ordinance 2023-17 as the controlling document regarding the zone map classification of the property in question.

## PART II:

The classification on the Provo Zoning Map is amended from the General Commercial (CG) and Two Family Residential (R2PD) Zones to the Medium Density Residential (MDR) Zone for the real property described in this ordinance.

### PART III:

The Mayor is authorized to negotiate and execute a development agreement as proposed by the applicant for this zone change, consistent with the representations made by the applicant and the applicant's representatives to the Council. The agreement must be in form substantially similar to the draft attached as Exhibit C. An executed copy of the agreement will be attached as Exhibit D after execution. The zone map classification change described in Part II is not effective until the date of final execution of the development agreement.

## PART IV:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance controls.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance is not affected by that determination.
- C. Except as otherwise stated in Part III, this ordinance takes 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.
- D. The Municipal Council directs that the Provo Zoning Map be updated and codified to reflect the provisions enacted by this ordinance.
- E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part III 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 expires, becoming null and void as if it had never been approved.

87 Because the zone map classification change contemplated in Part II cannot come into effect  
88 if the Development Agreement is not executed, neither the applicant nor any successor(s)  
89 in interest has any vested rights under this ordinance if it expires.

Provo City Planning Commission  
**Report of Action**

April 12, 2023

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\*ITEM #8 Ryan Salmon is requesting a Zone Map Amendment from the CG (General Commercial) and R2PD (Two Family Residential) zones to the **MDR (Medium** Density Residential) zone in order to build a new twelve-unit apartment building, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20220302

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

## RECOMMENDED APPROVAL

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application and authorize the Mayor to sign the development agreement.

Motion By: Robert Knudsen

Second By: Jeff Whitlock

Votes in Favor of Motion: Robert Knudsen, Jeff Whitlock, Lisa Jensen, Melissa Kendall, Daniel Gonzales, 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 REZONED**

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

### **RELATED ACTIONS**

The related general plan amendment (PLGPA20220301) and concept plan (PLCP20220303) were also heard at the April 12 Planning Commission hearing, with the general plan amendment recommended for approval and the concept plan being approved.

### **APPROVED/RECOMMENDED OCCUPANCY**

- Twelve (12) units.

### **APPROVED/RECOMMENDED PARKING**

- 18 Total parking stalls required.
- 21 Total parking stalls provided.
- 1.5 Required parking stalls per unit.

### **DEVELOPMENT AGREEMENT**

- Applies - referred applicant to Council Attorney.

### **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. Staff gave an overview of the staff report and indicated that a MDR zone would be supported, and the Director of Development Services will adjust the setbacks with the MDR zone to make the concept work.

### **CITY DEPARTMENTAL ISSUES**

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

## **NEIGHBORHOOD MEETING DATE**

- A neighborhood meeting was held in October 2022.

## **NEIGHBORHOOD AND PUBLIC COMMENT**

- The Neighborhood Chair was present /addressed the Planning Commission during the public 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:

- Paul Evans expressed his appreciation and support for a project that works in the neighborhood and that development agreements provide security for the community.
- Lilly Mott expressed some concern regarding the view from her windows into the project but hopes the development agreement will take care of the major concerns.

## **APPLICANT RESPONSE**

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

- Ryan Salmon stated his reasoning for proposing the project. He also related correspondence from the former neighborhood chair and answered the questions sent with that email.
- Mr. Salmon also discussed his hope to have owner-occupied units and enhance the design as it moves forward.

## **PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen confirmed that the proposed development agreement would hold the development to twelve units, two stories, and site layout. She also noted that a MDR zone could be an option, with the same development agreement.
- Commissioner Kendall and Gonzales confirmed with staff that the development agreement would run with the land.
- Commissioner Jensen appreciated the site plan, facade, and intention to provide owner-occupancy. However, she did have a concern that the garbage truck would have difficulty in the site but noted that can be adjusted in the project plan application.
- Commissioners liked the project and hoped for owner-occupancy in the units as much as possible.
- The commission discussed the characteristics that allow for a small neighborhood commercial property to thrive.



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Planning Commission Chair



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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

COM N 102.58 FT & E 257 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 85.42 FT; E 116 FT; S 83.37 FT; S 88 DEG 59' 3" W 116.02 FT TO BEG. AREA 0.225 AC.

AND

COM N 88 DEG 59' 3" E 257.04 FT & N 20.59 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 77.43 FT; N 88 DEG 58' 57" E 117.12 FT; S 0 DEG 0' 18" W 20.06 FT; S 42 DEG 41' 47" E 2.97 FT; S 4 DEG 14' 47" E 1.79 FT; S 45 DEG 10' 38" E 82.34 FT; N 89 DEG 10' 34" W 177.66 FT TO BEG. AREA 0.254 AC.

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

**\*ITEM #8** Ryan Salmon is requesting a Zone Map Amendment from the CG (General Commercial) and R2PD (Two Family Residential) zones to the HDR (High Density Residential) zone in order to build a new twelve-unit apartment building, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org  
PLRZ20220302

**Applicant:** Ryan Salmon

**Staff Coordinator:** Aaron Ardmore

**Property Owner:** Canyon FG LLC;  
Salmon, Ryan J & Jessica (ET AL)

**Parcel ID#:** 20:050:0029; 20:050:0031

**Acreage:** 0.48

**Number of Properties:** 2

**Number of Units:** 12

**Current Legal Use:** The property at 2050 N Canyon Road is currently a real estate office in the CG (General Commercial) zone; and the legal use of 2044/2046 N Canyon is a two-family dwelling in the R2PD zone.

**Relevant History:** The properties have been zoned CG and R2PD since 1993, and the commercial property has had a variety of uses over the last thirty years. The applicant initially made an application for a three-story, fifteen-unit apartment building, but has worked over the last six months to address neighborhood and staff concerns and now is asking for a two-story, twelve-unit building.

**Neighborhood Issues:** Initial concerns from an October 2022 neighborhood meeting were related to the height, density, and parking for the original concept. There have not been any comments on Open City Hall on the revised concept at the time of this report.

**ALTERNATIVE ACTIONS**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023, at 6:00 P.M.*

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

**Summary of Key Issues:**

- The concept plan layout, density, height, and parking count are being secured by a proposed Development Agreement with the rezone request.
- The plan brings an additional twelve residential units that fit in to the surrounding area.
- The rezone is tied to a General Plan map amendment for 2050 N Canyon Road.

**Staff Recommendation:** Staff recommends that the Planning Commission recommend approval of the zone change subject to approval of a Development Agreement.

## **OVERVIEW**

Ryan Salmon is requesting approval of a rezone from the CG and R2PD zones to the HDR zone in order to build a twelve-unit apartment building over two properties on North Canyon Road. This request is associated with a request to change the General Plan designation of the north property from commercial to residential, and a concept plan that would be tied to this rezone request through a Development Agreement. The reason the HDR zone is being requested for a MDR (Medium Density Residential) zone density project is for the reduced yard requirements in the HDR zone.

The related concept plan proposes an “L-shaped” apartment building fronting Canyon Road, with a surface parking lot hidden behind and accessed off of 2100 North. The building has six, one-bedroom units on each of the two levels, each around eight-hundred (800) square feet. The building elevations show a height of twenty-four feet (24') to the parapet, and just under thirty-feet (30') to the midpoint of the sloped roof features. For context, single-family homes have a permitted height of 35'.

The site includes twenty-one off-street parking spaces and approximately 8,600 square feet of landscape/open space. There is no requirement for amenities for projects under twenty units in the HDR zone, but the applicant has provided landscaped space for around forty-one percent (41%) of the project area.

## **RELEVANT HISTORY**

As stated earlier, the applicant has adjusted his proposed project over the previous six months. The initial concept for three levels, fifteen units, and a reduced parking request raised concerns from the neighborhood and from Provo City Staff. Through discussions with the applicant and three rounds of revised plans with the CRC (Coordinator Review Committee) the project has been able to address concerns with building height, setback, and parking. The applicant has been responsive to staff comments and acknowledges future design details that will need to be addressed in the future Project Plan application if the zone change and General Plan amendment are granted by the City Council.

## **STAFF ANALYSIS**

Analyzing the surrounding area shows a variety of land uses within five hundred feet of the subject property. Overall, there are single-family homes to the west, condos (Garden Villa) to the north and east, and apartments (Stadium 150 and Stadium Garden) to the south; equating to around 118 residential units. Further to the south along Canyon Road there are the Timp Towers apartments and Timpangos Gateway Condominiums; another 178 units between them. The scale for the proposed project would fit well in this corridor. The two-story concept is not as tall to the apartments and condos to the south, and would match the level of the condos to the north and east; with

a height restriction of thirty feet (30'), it would be less than what the single-family homes can be built to in the R1 zoning to the west.

In order to analyze the proposed zone change against the General Plan, staff uses the criteria in Section 14.02.020, 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 applicant has noted that the purpose is “to engage in a redevelopment that significantly improves the aesthetic and use of these otherwise under-utilized properties” and to provide additional housing in the area.

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

**Staff response:** Staff feels that the applicant has worked to provide a project that would help meet the above goals and that the zone map amendment with the proposed development agreement would best meet those goals.

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

**Staff response:** One of the top three land use strategies listed in Chapter Three is to “promote small scale, infill development across the city”. Staff feel this plan is consistent with that strategy, but also is consistent with the goals later on in that chapter to “promote neighborhood scale development in residential areas, including a mix of density” (goal 1c).

(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 proposal is consistent with the relevant implementation matrix on page 92 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 amendment should not hinder or obstruct attainment of the General Plan policies. The zone change away from the General Commercial zone in this case doesn’t have much impact on the economic development goals for the City, as this commercial property has been struggling over the past decade.

(f) Adverse impacts on adjacent land owners.

**Staff response:** Staff feel that the ability to guarantee the building height and off-street parking as shown in the concept plan alleviates any possible adverse

**impacts on adjacent land owners with this request. The height is consistent with surrounding allowances and the parking provides more stalls than what is required by code.**

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

**Staff response: Staff has 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: Staff has shown that this rezone will be consistent with the policies of the General Plan, which is important in this case, as the General Plan map for the property is proposed to change with this request.**

In addition to these standards, the General Plan identifies the following criteria for proposed rezone applications for housing developments: **(Staff response in bold)**

- Would the rezone promote one of the top 3 housing strategies?
  - Promote a mix of home types, sizes, and price points
  - Support zoning to promote ADUs and infill development
  - Recognize the value of single-family neighborhoods

**Staff feel that this request meets all three strategies. The proposed rezone would help to promote a mix of home types, sizes, and price points by bringing in a different style of one-bedroom units. It is also recognized that this zone change would bring in an infill development for property that is underutilized. The project also recognizes the value of the nearby single-family neighborhoods by keeping the height of the building consistent with that of those homes.**

- Are utilities and streets currently within 300 feet of the property proposed for rezone?

**The adjacent streets, 2210 North and Canyon Road, have been verified by engineering to be able to handle the additional vehicle trips. Utilities are available in the area but will most likely be upgraded for water service.**

- Would the rezone exclude land that is currently being used for agricultural use?

**There are no agricultural uses in the area.**

- Does the rezone facilitate housing that has reasonable proximity (1/2 mile) to public transit stops or stations?

**Yes, the closest transit stop is at 2230 N Freedom Blvd and is about a ½ mile away, as is the BYU Stadium UVX stop.**

- Would the rezone encourage development of environmentally or geologically sensitive, or fire or flood prone lands? If so, has the applicant demonstrated these issues can reasonably be mitigated?

**No, the request would not encourage development in any hazardous lands.**

- Would the proposed rezone facilitate the increase of on-street parking within 500 feet of the subject property? If so, is the applicant willing to guarantee use of a TDM in relation to the property to reduce the need for on-street parking?

**No, the applicant has provided twenty-one (21) off-street parking spaces on the site when the city code only requires eighteen (18) off-street spaces.**

- Would the rezone facilitate a housing development where a majority of the housing units are owner-occupied? Is the applicant willing to guarantee such?

**These units could be built as condos or apartments. The developer could bring a Project Plan for condo units and a HOA that restricts rental units.**

- Would the proposed rezone facilitate a housing development where at least 10% of the housing units are attainable to those making between 50-97% AMI? Is the applicant willing to guarantee such?

**No, the current proposal would be market-rate.**

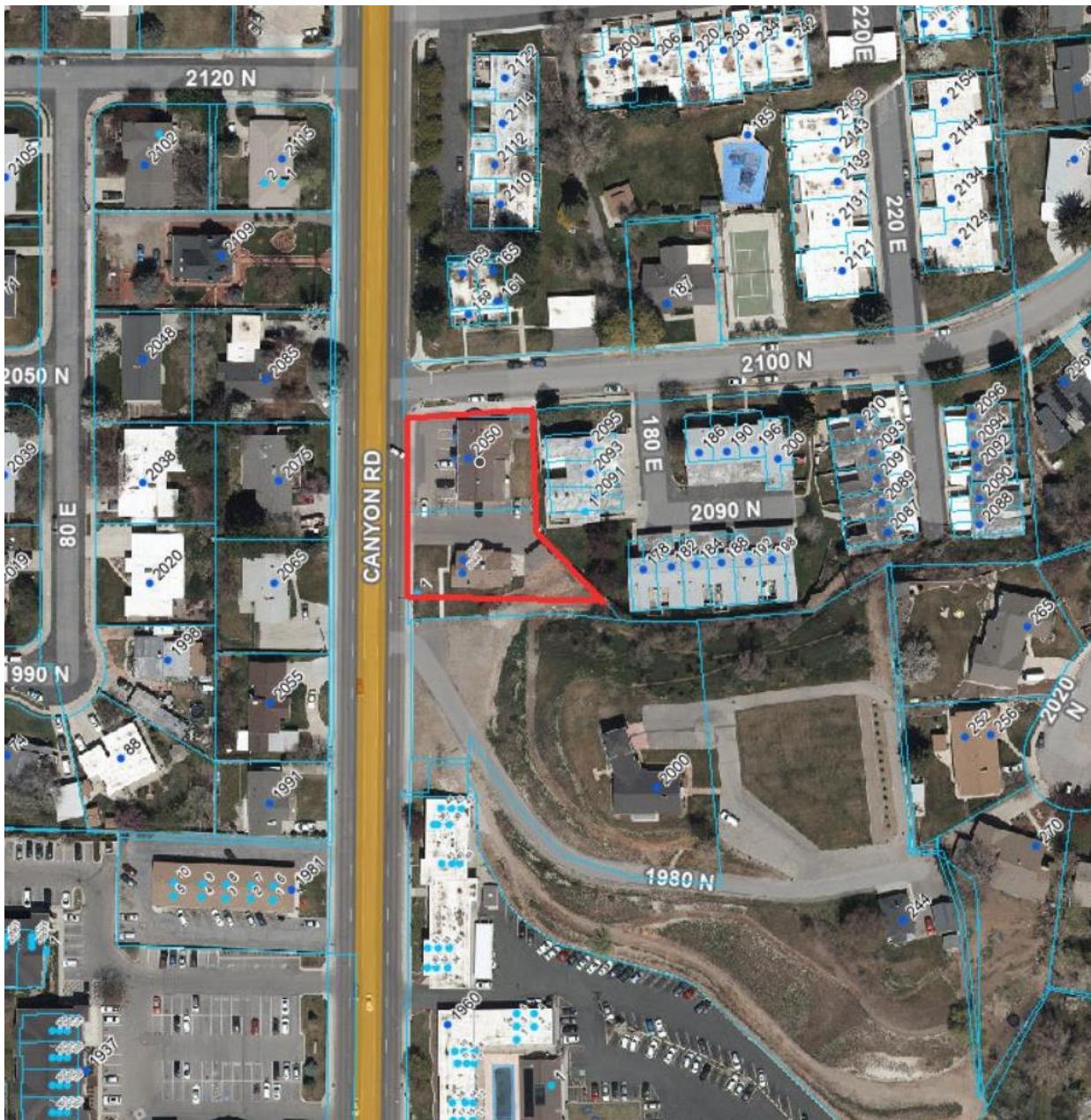
## **CONCLUSIONS**

Staff has appreciated working through the different iterations of this project and believes the current version has addressed the initial concerns. Being able to guarantee the site layout with a limit on the height and number of units, while providing the required parking should be a benefit to the tenants and the area. Additionally, keeping a good percentage of the site as landscaped space helps to provide a more livable apartment for future residents. The scale and design blend with the residential character of the neighborhood more appropriately than the previous proposal. Additionally, various uses have been tried in the commercial building and all have struggled to stay in business.

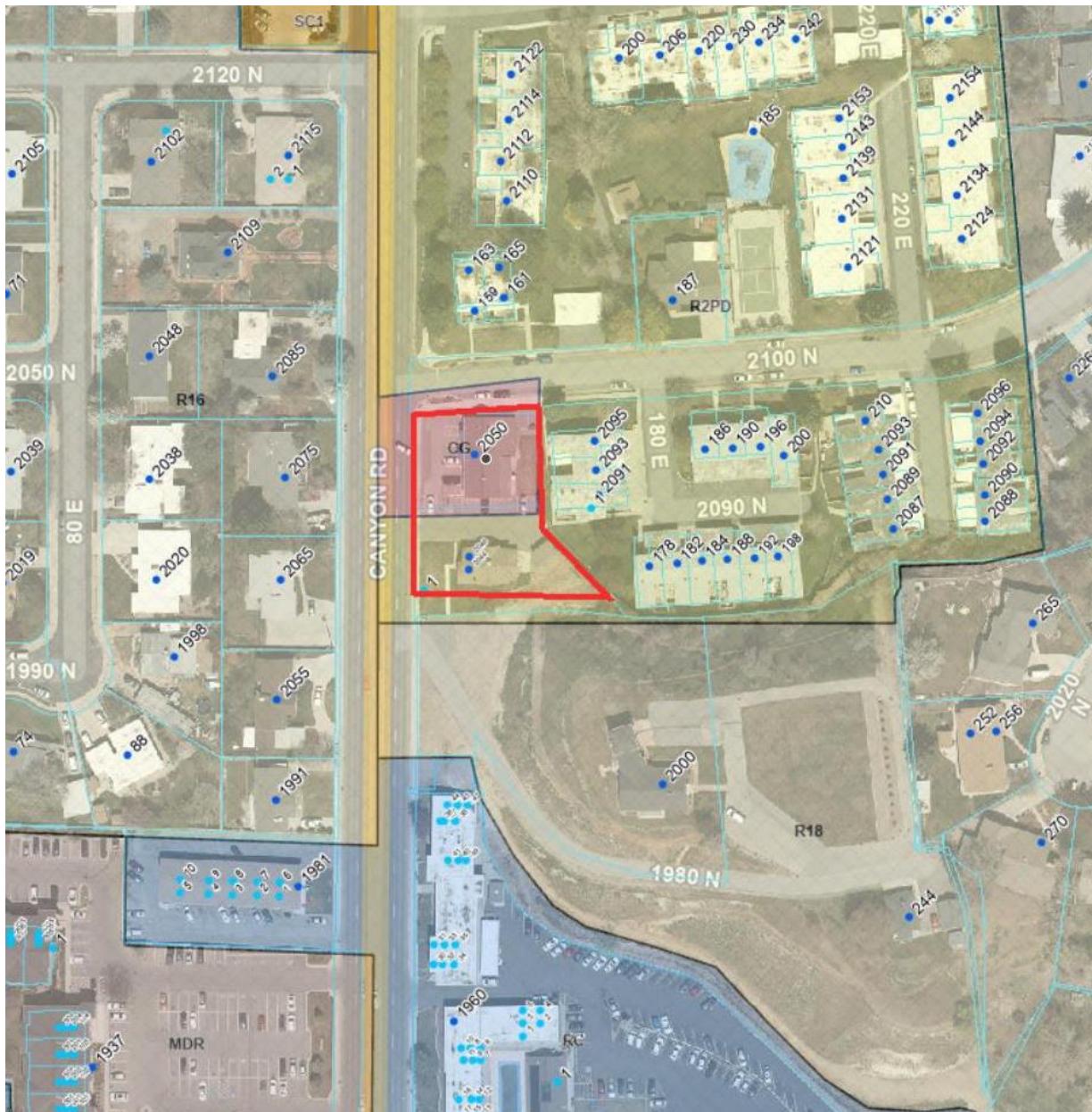
## **ATTACHMENTS**

1. Area Map
2. Zone Map
3. General Plan Map
4. Concept Site Plan

## ATTACHMENT 1 – AREA MAP



ATTACHMENT 2 – ZONE MAP



ATTACHMENT 3 – GENERAL PLAN MAP



## ATTACHMENT 4 – SITE PLAN

