



**PROVO MUNICIPAL COUNCIL
REDEVELOPMENT AGENCY OF PROVO
PROVO CITY STORMWATER SERVICE DISTRICT
Regular Meeting Agenda**

****REVISED* to add Item 3***

5:30 PM, Tuesday, May 14, 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).

May 14 Council Meeting: Dial 346 248 7799. Enter Meeting ID 892 1024 9710 and press #. When asked for a participant ID, press #. To join via computer, visit zoom.us and enter the meeting ID and passcode: **435824**.

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 – May 2024
- 2 Recognition of the Spring 2024 Provology Graduates

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

- 3 A resolution to place a 0.061 acre parcel of property located generally at 480 West Center Street on the Surplus Property List and authorize the Mayor to dispose of the property (24-047)
- 4 An ordinance amending the Zone Map Classification of real property, generally located at 1354 N Geneva Rd, from the Agricultural (A1.5) Zone to the One-Family Residential (R1.8) Zone – Lakeview North Neighborhood (PLRZ20240018)
- 5 A resolution approving an amended development agreement related to property generally located at 2050 North Canyon Road – Pleasant View Neighborhood (PLRZ20220302)
- 6 A resolution approving the appropriation of \$200,000 in the Legacy CIP Fund for a Zoning re-write (24-006)
- 7 A resolution approving the appropriation of \$28,400 in the General Fund for Slate Canyon Parking Enforcement costs (24-006)
- 8 A resolution tentatively adopting a proposed budget for Provo City for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 (24-007)

Stormwater Service District

- 9 A resolution tentatively adopting a proposed budget for the Provo City Stormwater Service District for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 (24-007)

Redevelopment Agency of Provo

- 10 A resolution tentatively adopting a proposed budget for the Redevelopment Agency of Provo City for the fiscal year beginning July 1, 2024 and ending June 30, 2025 (24-007)

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, June 4, 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 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: KNEVES
Department: Mayor Office
Requested Meeting Date: 05-14-2024

SUBJECT: Provo City Employee of the Month - May 2024

RECOMMENDATION: The Provo City Energy 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 on May 14.

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 / Travis Ball

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: HWALSTAD
Department: Mayor Office
Requested Meeting Date: 05-14-2024

SUBJECT: Recognition of the Spring 2024 Provology Graduates

RECOMMENDATION: Graduation ceremony for Spring 2024 participants. Scott Henderson and the Mayor will recognize the participants for completing the course.

BACKGROUND: Provology is a course to educate Provo residents about how the city runs. They are recognized for completing the 12-week course.

FISCAL IMPACT:

PRESENTER'S NAME: Scott Henderson and Mayor Kaufusi

REQUESTED DURATION OF PRESENTATION: 8 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER:

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: TARAR
Department: Development Services
Requested Meeting Date: 01-01-2018

SUBJECT: A resolution to place a 0.061 acre parcel of property located generally at 480 West Center Street on the Surplus Property List and authorize the Mayor to dispose of the property (24-047)

RECOMMENDATION: Recommend approval of a resolution to place 0.061 acres of vacant land at 480 West Center on the surplus property list and authorize the Mayor to sell it according to Provo City Code Section 3.04.030.

BACKGROUND: Provo City acquired the subject property after a lien was placed on the property for the cost of demolition of the building which was previously located on the property. This property was condemned due to the deteriorating condition of the building, and it was deemed uninhabitable. The property owner deeded the property to Provo City in lieu of payment of the lien. It has been used as a temporary storage structure for the Parks Department, but otherwise it has been sitting vacant for many years. Provo City has now been approached by Provo Cinema, LLC, who is interested in acquiring the property for a community theater. The property has been appraised at \$120,000.

FISCAL IMPACT: Revenue of \$133,000

PRESENTER'S NAME: Tara Riddle

REQUESTED DURATION OF PRESENTATION: 10 Minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

The suggested use of the property as a community theater is compatible with the general plan, policies, goals, and objectives.

CITYVIEW OR ISSUE FILE NUMBER: 24-047

RESOLUTION 2024 -

Approved as to form: ___

A RESOLUTION TO PLACE A 0.061 ACRE PARCEL OF PROPERTY LOCATED GENERALLY AT 480 WEST CENTER STREET ON THE SURPLUS PROPERTY LIST AND AUTHORIZE THE MAYOR TO DISPOSE OF THE PROPERTY. (24-047)

RECITALS:

Provo City (the “City”) owns a 0.061 acre parcel of property located generally at 480 West Center Street and identified as a portion of Utah County Tax ID # 04:066:0026, which is further described in Exhibit A; and,

This property is vacant and has not been identified for future use by Provo City; and

Provo City desires to sell this property for future development; and

The Mayor has recommended that this parcel be placed on the surplus property list and sold subject to the requirements of Provo City Code 3.04.030; and

On May 14, 2024, the Municipal Council held a duly noticed public meeting to receive public comment and ascertain the facts regarding this matter, which facts and comments are found in the meeting record; and,

After considering the facts and comments presented to the Municipal Council, the Council finds (i) the real Property described in Exhibit A should be added to the Surplus Property List for sale subject to the conditions set forth below, and (ii) the sale of such Property reasonably 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:

The real Property described in the attached Exhibit A is placed on the Surplus Property List and the Mayor is authorized to dispose of the property by selling the property subject to the requirements of Provo City Code 3.04.030.

PART II:

This resolution takes effect immediately.

END OF RESOLUTION.

EXHIBIT "A"

LEGAL DESCRIPTION

Commencing South 0 degrees 21' 3" East .54 feet and North 89 degrees 38' 57" East 89 feet from the Southwest Corner of Block 71, Plat A, Provo City Survey; thence East 27 feet; thence North 99 feet; thence West 27 feet; thence South 99 feet to the beginning. Area = 0.061 AC.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: NROBISON
Department: Development Services
Requested Meeting Date: 05-14-2024

SUBJECT: An ordinance amending the Zone Map Classification of real property, generally located at 1354 N Geneva Rd, from the Agricultural (A1.5) Zone to the One-Family Residential (R1.8) Zone - Lakeview North Neighborhood (PLRZ20240018)

RECOMMENDATION: To be heard at the May 14th Work and Council Meetings. Please see supporting documents.

BACKGROUND: Roger Dudley is requesting approval to subdivide one lot in the Agricultural (A1.5) to three lots in the Residential (R1.8) zone. There is one single-family home on the property with four additional sheds. One of the sheds would need to be torn down in order to be in compliance with residential setbacks. The applicant has spoken with UDOT and would be given two access points onto Geneva Road, so two of the properties would need to share a driveway entrance.

FISCAL IMPACT: None

PRESENTER'S NAME: Nancy Robison

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20240018

Provo City Planning Commission

Report of Action

April 24, 2024

ITEM 1 Dudley & Associates requests a Zone Map Amendment from the A1.5 (Agricultural) Zone to the R1.8 (One Family Residential) Zone in order to create a 3 lot single family subdivision, located at 1342 North Geneva Road. Lakeview North Neighborhood. Nancy Robison (801) 852- family subdivision, located at 1342 North Geneva Road. Lakeview North Neighborhood. Nancy Robison (801) 852-6417 nrobison@provo.org
PLRZ20240018

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 24, 2024:

RECOMMENDED APPROVAL WITH CONDITIONS

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application.
Conditions of Approval: Fulfill all CRC Comments

Motion By: Lisa Jensen

Second By: Robert Knudsen

Votes in Favor of Motion: Jonathan Hill, Melissa Kendall, Robert Knudsen, Daniel Gonzales, Lisa Jensen, Andrew South, Barbara DeSoto

Daniel Gonzales 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 R1.8 Zone is described in the attached Exhibit A.

APPROVED/RECOMMENDED OCCUPANCY

3 lots

Single Family Home

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

- There are remaining issues from the Coordinator Review Committee (CRC) review that need to be resolved.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 02/21/2024.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following: Roger Dudley stated that the owners would pipe the current irrigation ditch.

PLANNING COMMISSION DISCUSSION

The question was asked why they weren't asking for a higher density or why they weren't creating smaller lots, that still meet the R1.8 zone. The applicant stated they wanted to stay consistent with the zones around the land. The Planning Commission also felt this met the goals in the General Plan and fits the surrounding area.



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 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

***ITEM 1** Dudley & Associates requests a Zone Map Amendment from the A1.5 (Agricultural) Zone to the R1.8 (One-Family Residential) Zone in order to create a 3-lot single-family subdivision, located at 1342 North Geneva Road. Lakeview North Neighborhood. Nancy Robison (801) 852-6417 nrobison@provo.org PLRZ20240018

OVERVIEW

Roger Dudley is requesting approval to subdivide one lot in the Agricultural (A1.5) to three lots in the Residential (R1.8) zone. There is one single-family home on the property with four additional sheds. One of the sheds would need to be torn down in order to be in compliance with residential setbacks. The applicant has spoken with UDOT and would be given two access points onto Geneva Road, so two of the properties would need to share a driveway entrance.

STAFF ANALYSIS

In analyzing any rezone request for housing, staff are encouraged to reference the questions asked in on page 45 of the General Plan (Chapter 4 – Housing). Those questions are as follows: (**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)? **Single family homes on these lots could be a mix of different types. Because of the size of the lots, the homes could still accommodate ADU's. The plan does not address infill development since it is a rezone of agricultural property. The third strategy is met by the proposal as the plan exists with only single-family homes.**
- Are utilities and streets currently within 300 feet of the property proposed for rezone? **Yes, access and utilities would come from Geneva Road.**
- Would the rezone exclude land that is currently being used for agricultural use? **The land is currently zoned Agriculture 1.5**
- Does the rezone facilitate housing that has reasonable proximity (1/2 mile) to public transit stops or stations **There is a bus stop just over ½ mile away.**
- Does the rezone encourage development of environmentally or geologically sensitive, or fire or flood prone, lands? **No, the land does not contain any hazards.**
- Would the proposed rezone facilitate the increase of on-street parking within 500 feet of the subject property? **No, the proposal has sufficient off-street parking for the number of proposed units to meet code and keep vehicles off the streets.**
- Would the rezone facilitate a housing development where most of the housing units are owner-occupied? Is that applicant willing to guarantee such? **Yes, the proposed development would be single family homes.**
- Would the proposed rezone facilitate a housing development where at least 10% of the housing units are attainable to those making 50-79% AMI? **Potentially, because of the option of ADU's. The applicant hasn't proposed any type of affordable units.**

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 residential lots on the west side of Provo.

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

Staff response: Staff believes that the proposed zone change, and related concept plan do help to meet the stated purposes above.

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

Staff response: Chapter Four identifies goals for housing related to the proposal, including “allow for different types of housing in neighborhoods and allow for a mix of home sizes at different price points.” These lots at 8000 sq ft could accommodate a mix of home sizes.

(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: The proposed zone change will not hinder or obstruct attainment of the General Plan policies.

(f) Adverse impacts on adjacent landowners.

Staff response: The only impact associated with this request to the surrounding properties would be a small increase of traffic in the area.

(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.

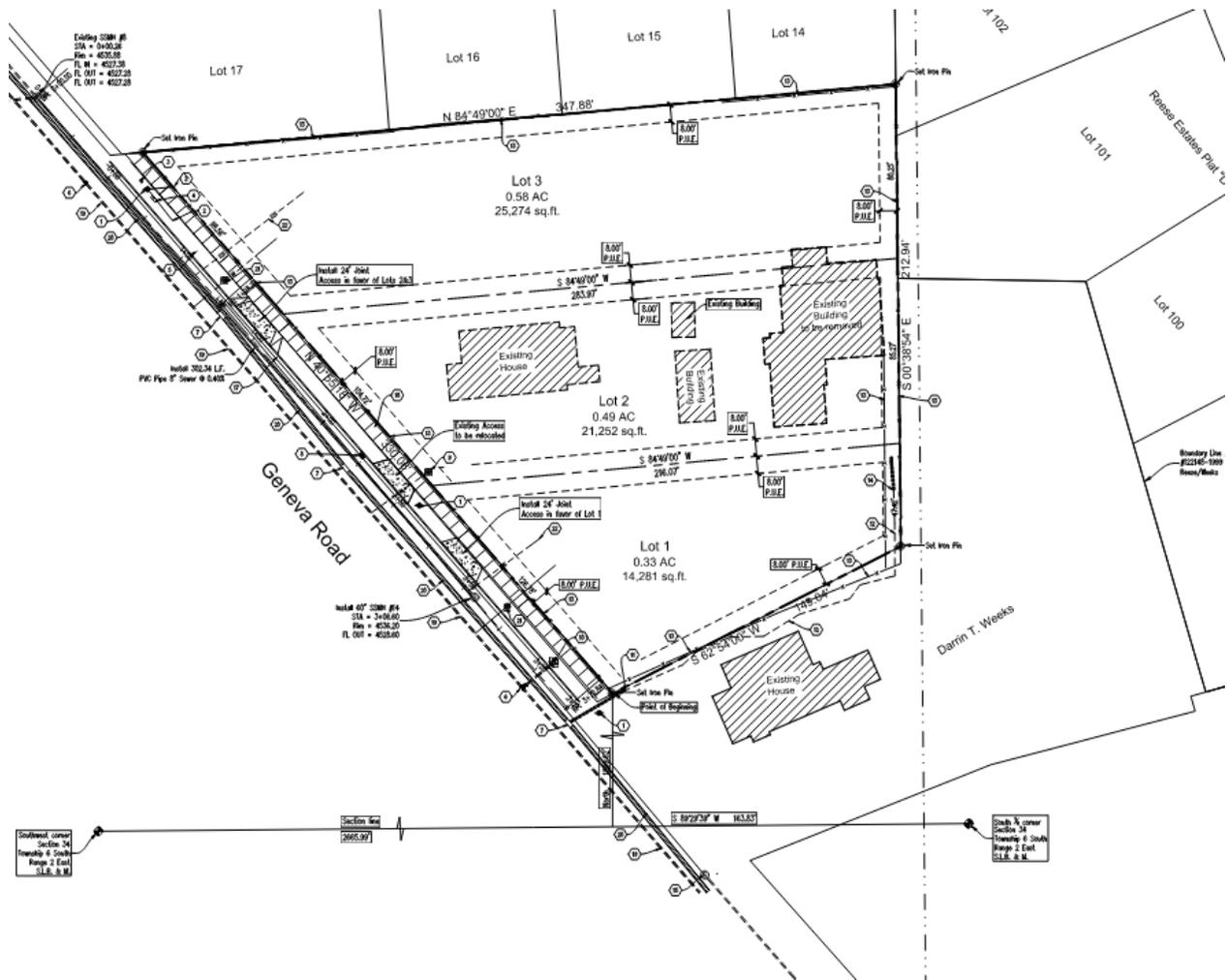
CONCLUSIONS

Planning staff is pleased to see development in this area and would recommend approval. Creating this subdivision is in line with the General Plan for more residential units. It will create three lots with over 14,000 sq ft each. Additionally, they have permission from UDOT to create one more driveway entrance onto Geneva Road.

ATTACHMENTS

1. Property Map
2. Site Plan
3. Property Photos

ATTACHMENT 2 – SITE PLAN



ATTACHMENT 3 – PROPERTY PHOTOS





ORDINANCE 2024-____.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF REAL PROPERTY, GENERALLY LOCATED AT 1354 N GENEVA RD, FROM THE AGRICULTURAL (A1.5) ZONE TO THE ONE-FAMILY RESIDENTIAL (R1.8) ZONE. LAKEVIEW NORTH NEIGHBORHOOD. (PLRZ20240018)

RECITALS:

It is proposed that the classification on the Provo Zoning Map for approximately 1.4 acres of real property, generally located at 1354 N Geneva Rd (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), be amended from the Agricultural (A1.5) Zone to the One-Family Residential (R1.8) Zone; and

On April 24, 2024, the Planning Commission held a public hearing to consider the proposal, and after the hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 7:0 vote; and

The Planning Commission’s recommendation was based on the project design presented to the Commission; and

On May 14th, 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 Provo Zoning Map 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:

The classification on the Provo Zoning Map is amended from the Agricultural (A1.5) Zone to the One-Family Residential (R1.8) Zone for the real property described in this ordinance.

PART II:

- 41 A. If a provision of this ordinance conflicts with a provision of a previously adopted
42 ordinance, this ordinance controls.
43
- 44 B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part,
45 sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of
46 the ordinance is not affected by that determination.
47
- 48 C. This ordinance takes effect immediately after it has been posted or published in accordance
49 with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code
50 Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.
51
- 52 D. The Municipal Council directs that the Provo Zoning Map be updated and codified to
53 reflect the provisions enacted by this ordinance.
54

EXHIBIT A – ZONE MAP

EXHIBIT B – LEGAL DESCRIPTION

COM S 487.07 FT & W 2984.11 FT FR E 1/4 COR. SEC. 34, T6S, R2E, SLB&M.; N 84 DEG 49' 0" E 193.66 FT; N 84 DEG 48' 59" E 80.01 FT; N 84 DEG 49' 1" E 70.46 FT; S 0 DEG 37' 40" E 214.73 FT; S 62 DEG 54' 0" W 144.64 FT; N 40 DEG 55' 18" W 330.22 FT TO BEG.

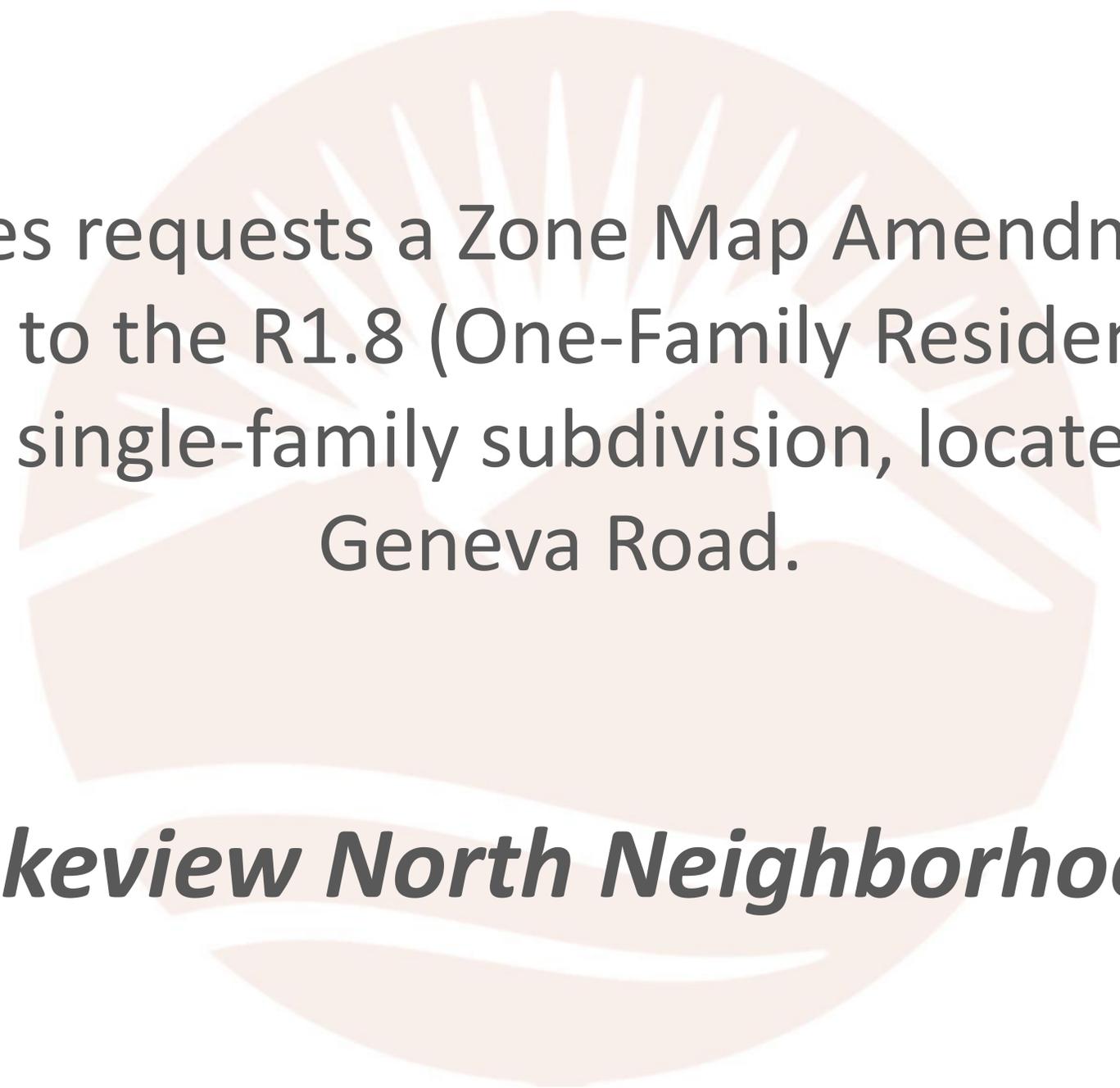
AREA 1.377 AC.



WELCOME HOME

City Council

May 14, 2024



Dudley & Associates requests a Zone Map Amendment from the A1.5 (Agricultural) Zone to the R1.8 (One-Family Residential) Zone in order to create a 3-lot single-family subdivision, located at 1342 North Geneva Road.

Lakeview North Neighborhood

PLRZ20240018





PROVO MUNICIPAL COUNCIL STAFF REPORT



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

SUBJECT: A resolution approving an amended development agreement related to property generally located at 2050 North Canyon Road - Pleasant View Neighborhood (PLRZ20220302)

RECOMMENDATION: To be heard at the May 14, 2024 Work & Council Meetings. Please see supporting documents.

BACKGROUND: Ryan and Jessica Salmon are requesting approval of amendments to the development agreement approved with a previous rezone from the CG and R2PD zones to the MDR zone.

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

Provo City Planning Commission

Report of Action

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 **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

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, façade, 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.



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

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.

***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

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 1/2 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 2 – ZONE MAP



1 RESOLUTION 2024-____.

2
3 A RESOLUTION APPROVING AN AMENDED DEVELOPMENT
4 AGREEMENT RELATED TO PROPERTY GENERALLY LOCATED AT 2050
5 NORTH CANYON ROAD. PLEASANT VIEW NEIGHBORHOOD.
6 (PLRZ20220302)

7
8 RECITALS:

9
10 On May 2, 2023, the Municipal Council passed Ordinance 2023-17, which approved a
11 change in the Provo Zoning Map classification for approximately 0.48 acres of real property,
12 generally located at 2050 North Canyon Road, from the General Commercial (CG) and Two
13 Family Residential (R2PD) Zones to the Medium Density Residential (MDR) Zone, subject to the
14 execution of a related development agreement; and

15
16 Said development agreement was subsequently executed and the approved zone map
17 classification change went into effect; and

18
19 The applicant desires to amend the development agreement and seeks approval of an
20 amended agreement; and

21
22 On May 14, 2024, the Municipal Council met to determine the facts regarding this matter
23 and receive public comment, which facts and comments are found in the public record of the
24 Council's consideration; and

25
26 After considering the facts presented to the Municipal Council, the Council finds that (i)
27 the proposed action should be approved as set forth below, and (ii) such action furthers the
28 health, safety, and general welfare of the citizens of Provo City.

29
30 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:

31
32 PART I:

33
34 The proposed amendment (set forth in Exhibit A) to the Development Agreement
35 previously approved by Ordinance 2023-17 is approved and the Mayor is authorized to execute
36 the amended agreement.

37
38 PART II:

39
40 This resolution takes effect immediately.
41

42
43

EXHIBIT A

[Insert proposed amended Development Agreement]

**DEVELOPMENT AGREEMENT
FOR
Ryan Salmon Canyon Road Development**

(2050 N Canyon Rd)

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into as of the ____ day of _____, 2024 (the “Effective Date”), by and between the Provo City, a Utah municipal corporation, hereinafter referred to as “City,” and Canyon FG 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 .48 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 its 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., Section 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 Medium Density Residential (MDR) Zone, (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. Maximum building height: thirty (30) feet.

- b. Parking density: parking will meet or exceed parking standards outlined in 14.37.060. Additionally, developer will provide ample covered bicycle storage.

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., Section 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: Canyon FG LLC
Attn: Ryan Salmon
1012 Quail Summit Dr.
Provo, UT 84604
Phone: (801) 360-8810

To the City: Provo City
Attention: City Attorney
445 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:

PROVO CITY

ATTEST:

By: _____
City Recorder

By: _____
Mayor Michelle Kaufusi

DEVELOPER:

Canyon FG LLC, a Utah limited liability company

By: _____
Name: Ryan Salmon
Title: Owner/Developer

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

On the ____ day of _____, 2024, 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

Parcel 1: 2048 N Canyon Road, Provo UT

Legal Description: 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.

Parcel 2: 2044 N 150 East, Provo UT

Legal Description: 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.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: KZARBOCK
Department: Finance
Requested Meeting Date: 05-14-2024

SUBJECT: A resolution approving the appropriation of \$200,000 in the Legacy CIP Fund for a Zoning re-write (24-006)

RECOMMENDATION: The Administration recommends that Council approve a \$200,000 appropriation to fund a zoning re-write.

BACKGROUND: In the summer of 2023 continuing to early 2024, the Council discussed the merit of engaging a consultant to aid in a comprehensive zoning rewrite to accomplish a variety of goals in the General and Plan to generally improve the accessibility of the code for staff and applicants. Development Services issued an RFP, received bids, and would like to begin the work on the rewrite.

FISCAL IMPACT: \$200,000

PRESENTER'S NAME: Bill Peperone, Director of Development Services

REQUESTED DURATION OF PRESENTATION: 10 min

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 24-006

1 RESOLUTION 2024-____.
2

3 A RESOLUTION APPROVING THE APPROPRIATION OF \$200,000 IN THE
4 LEGACY CIP FUND FOR A ZONING REWRITE. (24-006)
5

6 RECITALS:
7

8 It is proposed that \$200,000 be appropriated in the Legacy CIP fund to pay for a zoning
9 re-write; and
10

11 The funding source for the appropriation is the Legacy CIP fund balance; and

12 On May 14, 2024, the Municipal Council met to consider the facts regarding this matter
13 and receive public comment, which facts and comments are found in the public record of the
14 Council's consideration; and
15

16 After considering the facts presented to the Municipal Council, the Council finds that (i)
17 the \$200,000 appropriation in the Legacy CIP fund should be approved as described herein, and
18 (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.
19

20 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:
21

22 PART I:
23

24 The Mayor is authorized to appropriate \$200,000 in the Legacy CIP fund.

25 PART II:
26

27 This resolution takes effect immediately.
28



ADMINISTRATIVE
SERVICES
TEL 801 852 6504
351 W CENTER ST
PO BOX 1849
PROVO, UT 84603

NOTICE OF PUBLIC HEARING BEFORE THE PROVO MUNICIPAL COUNCIL

Notice is hereby given that the Municipal Council of Provo, Utah will hold a public hearing on the following item during the Council Meeting that will take place on Tuesday, May 14th, 2024 at 5:30 p.m. in the Council Chambers located at the Provo City Center Building, 445 West Center Street, Provo, Utah. Anyone interested is invited to attend.

Provo City Council will consider an appropriation of \$200,000 in the Legacy CIP fund for a zoning rewrite. The funding source of the appropriation is Legacy CIP fund balance.

The meeting will also be available to the public for live broadcast and on-demand viewing at: youtube.com/provocitycouncil. Those who would like to participate in the meeting virtually may do so via Zoom. To join the Zoom meeting, visit zoom.us/join and enter Meeting ID **892 1024 9710** and Passcode **435824**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **892 1024 9710** and press #. Press # again for participant ID. Once connected, press *9 to indicate that you would like to comment. For more information regarding how to comment in the electronic meeting, visit agendas.provo.org and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: MISANDERS
Department: Council
Requested Meeting Date: 05-14-2024

SUBJECT: A resolution approving the appropriation of \$28,400 in the General Fund for Slate Canyon Parking Enforcement costs (24-006)

RECOMMENDATION: Approval of the resolution

BACKGROUND: For the past several meetings, Council has been deliberating on options regarding parking enforcement strategies on Slate Canyon Drive. During the April 30th meeting, a motion was made by Councilor Handley and seconded by Councilor Christensen recommending the Administration implement a parking regulation area with the location and times as recommended in the April 22, 2024 Parking Enforcement memo and a request for Zoning Staff to report back by June 1st on a strategy for increased zoning enforcement and neighborhood education/communication was approved 7:0

This appropriation will allocate funds to make a parking regulation area possible.

FISCAL IMPACT: \$28,400

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: 24-006

1 RESOLUTION 2024-____.
2

3 A RESOLUTION APPROVING THE APPROPRIATION OF \$28,400 IN THE
4 GENERAL FUND FOR SLATE CANYON PARKING ENFORCEMENT
5 COSTS. (24-006)
6

7 RECITALS:
8

9 It is proposed that \$28,400 be appropriated in the general fund to pay for Slate Canyon
10 parking enforcement costs; and
11

12 The funding source for the appropriation is general fund balance; and

13 On May 14, 2024, the Municipal Council met to consider the facts regarding this matter
14 and receive public comment, which facts and comments are found in the public record of the
15 Council's consideration; and
16

17 After considering the facts presented to the Municipal Council, the Council finds that (i)
18 the appropriation should be approved as described herein, and (ii) such action furthers the health,
19 safety, and general welfare of the citizens of Provo City.
20

21 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:
22

23 PART I:
24

25 The Mayor is authorized to appropriate \$28,400 in the general fund.

26 PART II:
27

28 This resolution takes effect immediately.



ADMINISTRATIVE
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PO BOX 1849
PROVO, UT 84603

NOTICE OF PUBLIC HEARING BEFORE THE PROVO MUNICIPAL COUNCIL

Notice is hereby given that the Municipal Council of Provo, Utah will hold a public hearing on the following item during the Council Meeting that will take place on Tuesday, May 14th, 2024 at 5:30 p.m. in the Council Chambers located at the Provo City Center Building, 445 West Center Street, Provo, Utah. Anyone interested is invited to attend.

Provo City Council will consider an appropriation of \$28,400 in the general fund for Slate Canyon parking enforcement costs. The funding source of the appropriation is the general fund balance.

The meeting will also be available to the public for live broadcast and on-demand viewing at: youtube.com/provocitycouncil. Those who would like to participate in the meeting virtually may do so via Zoom. To join the Zoom meeting, visit zoom.us/join and enter Meeting ID **892 1024 9710** and Passcode **435824**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **892 1024 9710** and press #. Press # again for participant ID. Once connected, press *9 to indicate that you would like to comment. For more information regarding how to comment in the electronic meeting, visit agendas.provo.org and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: RCARON
Department: Council
Requested Meeting Date: 05-14-2024

SUBJECT: A resolution tentatively adopting a proposed budget for Provo City for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 (24-007)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: As part of the annual budgeting process, the Mayor will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY24-25 budget for Provo City.

FISCAL IMPACT: TBD

PRESENTER'S NAME: John Borget, Director of Administrative Services and Mayor Kaufusi

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 24-007

1 RESOLUTION 2024-XX

2
3 A RESOLUTION TENTATIVELY ADOPTING A PROPOSED BUDGET FOR
4 PROVO CITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2024 AND
5 ENDING JUNE 30, 2025. (24-007)

6
7 RECITALS:

8
9 The Mayor has prepared a proposed budget for the fiscal year beginning July 1, 2024 and
10 ending June 30, 2025, as set forth in the attached Exhibit A, (the “Proposed Budget”) for Provo
11 City as required by Utah state law; and

12
13 The Proposed Budget, together with supporting schedules and data, will be available for
14 public inspection in the office of the City Recorder as required by law; and

15
16 The Municipal Council will consider formal adoption of the Proposed Budget in public
17 hearings to be held on June 4, 2024 and June 18, 2024; and

18
19 The Municipal Council finds the Proposed Budget should be tentatively adopted as
20 required by Section 10-6-111(3) of the Uniform Fiscal Procedures Act for Utah Cities.

21
22 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:

23
24 PART I:

- 25
26 1. The Proposed Budget, as set forth in the attached Exhibit A, is tentatively adopted.
27
28 2. The Municipal Council directs that public hearings to consider the Proposed Budget will
29 be held on June 4, 2024 and June 18, 2024 and that notice of both hearings must be
30 published at least seven days prior to the first hearing as required by Section 10-6-113 of
31 the Uniform Fiscal Procedures Act for Utah Cities.

32
33 PART II:

34
35 This resolution takes effect immediately.

36
37 END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: RCARON
Department: Council
Requested Meeting Date: 05-14-2024

SUBJECT: A resolution tentatively adopting a proposed budget for the Provo City Stormwater Service District for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025 (24-007)

RECOMMENDATION: Presentation only.

BACKGROUND: As part of the annual budgeting process, the administration will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY24-25 budget for the Provo City Stormwater Service District.

FISCAL IMPACT: TBD

PRESENTER'S NAME: John Borget, Director of Administrative Services

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 24-007

1 RESOLUTION 2024-SSD-XX

2
3 A RESOLUTION TENTATIVELY ADOPTING A PROPOSED BUDGET FOR
4 THE PROVO CITY STORMWATER SERVICE DISTRICT FOR THE FISCAL
5 YEAR BEGINNING JULY 1, 2024 AND ENDING JUNE 30, 2025. (24-007)

6
7 RECITALS:

8
9 The District Budget Officer has prepared a proposed budget for the fiscal year beginning
10 July 1, 2024 and ending June 30, 2025, as set forth in the attached Exhibit A, (the “Proposed
11 Budget”) for the Provo City Stormwater Service District as required by Utah state law; and

12
13 The Proposed Budget, together with supporting schedules and data, will be available for
14 public inspection in the business offices of the Service District; and

15
16 The Governing Board of the Provo City Stormwater Service District will consider formal
17 adoption of the Proposed Budget in public hearings to be held on June 4, 2024 and June 18,
18 2025; and

19
20 The Governing Board finds the Proposed Budget should be tentatively adopted as
21 required by Utah Code Section 17B-1-607(4).

22
23 THEREFORE, the Governing Board of the Provo City Stormwater Service District
24 resolves as follows:

25
26 PART I:

- 27
28 1. The Proposed Budget, as set forth in the attached Exhibit A, is tentatively adopted.
29
30 2. The Governing Board directs that public hearings to consider the Proposed Budget will
31 be held on June 4, 2024 and June 18, 2024 and that notice of both hearings must be
32 published at least seven days prior to the first hearing as required by Utah Code Section
33 17B-1-609.

34
35 PART II:

36
37 This resolution takes effect immediately.

38
39 END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: RCARON
Department: Council
Requested Meeting Date: 05-14-2024

SUBJECT: A resolution tentatively adopting a proposed budget for the Redevelopment Agency of Provo City for the fiscal year beginning July 1, 2024 and ending June 30, 2025 (24-007)

RECOMMENDATION: Presentation only.

BACKGROUND: As part of the annual budgeting process, the administration will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY24-25 budget for the Redevelopment Agency of Provo.

FISCAL IMPACT: TBD

PRESENTER'S NAME: John Borget, Director of Administrative Services

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 24-007

1 RESOLUTION 2024-RDA-XX

2
3 A RESOLUTION TENTATIVELY ADOPTING A PROPOSED BUDGET FOR
4 THE REDEVELOPMENT AGENCY OF PROVO CITY FOR THE FISCAL
5 YEAR BEGINNING JULY 1, 2024 AND ENDING JUNE 30, 2025. (24-007)

6
7 RECITALS:

8
9 The Executive Director has prepared a proposed budget for the fiscal year beginning July
10 1, 2024 and ending June 30, 2025, as set forth in the attached Exhibit A, (the “Proposed
11 Budget”) for the Redevelopment Agency of Provo City (the “RDA”) as required by Utah state
12 law; and

13
14 The Proposed Budget, together with supporting schedules and data, will be available for
15 public inspection in the office of the Agency Secretary; and

16
17 The Governing Board of the RDA will consider formal adoption of the Proposed Budget
18 in public hearings to be held on June 4, 2024 and June 18, 2024; and

19
20 The Governing Board of the RDA finds the Proposed Budget should be tentatively
21 adopted.

22
23 THEREFORE, the Governing Board of the Redevelopment Agency of Provo City
24 resolves as follows:

25
26 PART I:

- 27
28 1. The Proposed Budget, as set forth in the attached Exhibit A, is tentatively adopted.
29
30 2. The Governing Board of the RDA directs that public hearings to consider the Proposed
31 Budget will be held on June 4, 2024 and June 18, 2024 and that notice of both hearings
32 must be published at least seven days prior to the first hearing as required by Section
33 17C-1-601.5 of the Community Reinvestment Agency Act.

34
35 PART II:

36
37 This resolution takes effect immediately.

38
39 END OF RESOLUTION.