



## **PROVO MUNICIPAL COUNCIL**

### **Regular Meeting Agenda**

5:30 PM, Tuesday, November 14, 2017  
Room 200, Municipal Council Chambers  
351 West Center, Provo, UT 84601

### **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

Neighborhood Spotlight: Maeser Neighborhood

### **Presentations, Proclamations, and Awards**

1. A presentation of the Employee of the Month for November 2017.

### **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.

### **Consent Agenda**

### **Action Agenda**

2. A resolution requesting approval from the Utah Division of Water Quality for a variance from Technology-based Phosphorous Effluent limits under R317-1-3.3.C.d and R317-1-3.3.C.e for the Provo City Wastewater Reclamation Facility. (17-128)
3. An ordinance amending Provo City Code to allow Commercial and Industrial Energy customers to obtain a license to generate electric energy in excess of 25kW. Citywide impact. (17-130)

4. An ordinance requesting a street vacation for 40 East from 3700 North to 3800 North, and for 3800 North from University Avenue to 40 East. Riverbottoms Neighborhood. (17-0001SV)
5. An ordinance amending Provo City Code to clarify minimum required submittals for Project Plan Reviews. Citywide impact. (17-0018OA)
6. An ordinance enacting a new Provo City Code provision regarding rental contracts. (17-104)
7. **\*\*This item has been continued\*\*** A resolution amending the General Plan by deleting Appendix C-3 "Residential Agricultural Specific Development Plan" as pertaining to the proposed land use for property located on both sides of Lakeshore Drive between approximately 120 North and 400 North. Fort Utah Neighborhood. (17-0003GPA)
8. **\*\*This item has been continued\*\*** An ordinance amending the Zone Map Classification of approximately 23.8 acres of real property, generally located on both sides of Lakeshore Drive between approximately 120 North and 400 North, from Agriculture (A1.10) and (A1.5) zones to Residential, Performance Development (R1.10PD) zone. Fort Utah Neighborhood. (17-0006R)

## Adjournment

If you have a comment regarding items on the agenda, please email or write to Council Members. Their contact information is listed on the Provo website at: <http://provo.org/government/city-council/meet-the-council>

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Materials and Agenda: <http://publicdocuments.provo.org/sirepub/meet.aspx>

Council Blog: <http://provocitycouncil.blogspot.com/>

The next scheduled Regular Council Meeting will be held on 11/21/2017 at 5:30 PM in the Council Chambers, 351 West Center Street, Provo, unless otherwise noticed. The Work Session meeting start times is to be determined and will be noticed at least 24 hours prior to the meeting time, but typically begins between 1:00 and 4:00pm.

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

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aides and services) during this meeting are invited to notify the Provo Council Office at 351 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email [evanderwerken@provo.org](mailto:evanderwerken@provo.org) at least three working days prior to the meeting. The meeting room in Provo City Center is fully accessible via the south parking garage access to the elevator. The Council Meeting is also broadcast live Provo Channel 17 at <https://www.youtube.com/user/ProvoChannel17>. For access to past Work and Council Meetings, go to playlists on <https://www.youtube.com/user/ProvoChannel17>.

### 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 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at [council.provo.gov](http://council.provo.gov). Council Meeting agendas are available through the Utah Public Meeting Notice website at [pmn.utah.gov](http://pmn.utah.gov). Email subscriptions to the Utah Public Meeting Notice are available through their website.

*Network for public access is "Provo Guest", password "provoguest".*



# Provo City Municipal Council

Staff Memorandum

## Nutrient Limit Variance Letter

October 17, 2017

|                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Presenter</b><br/><a href="#">Shane Jones</a></p> <p><b>Time for Presentation</b><br/>40 min</p> <p><b>IssueFile #</b><br/>17-128</p> | <p><b>Item Short Title</b><br/>A discussion on a request for variance from Technology-Based Phosphorus Effluent Limits for the Wastewater Reclamation Facility (17-128)</p> <p><b>Intended Outcome of Discussion/Requested Action</b><br/>The Nutrient Limit Variance letter needs to be sent to the State Division of Drinking Water before January 1, 2018 with a resolution by the Council authorizing it. This item will be on the November 14<sup>th</sup> Council Meeting agenda.</p> <p><b>Background</b><br/>The Public Works Department would like to request a variance from the State's Technology-Based Phosphorus Effluent Limits (TBPEL) in relation to the Provo Wastewater Reclamation Facility.</p> <p>Provo City staff met with Utah Division of Water Quality (DWQ) staff on September 6, 2017 to discuss options for obtaining a variance. Based on guidance received at this meeting, Provo City is requesting a variance from an administrative rule which requires the Provo Water Reclamation Plant to reduce the concentration of Phosphorus in Plant effluent to 1 mg/l by January 1, 2020.</p> <p>Please see the variance letter for additional information.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

1 RESOLUTION 2017-.

2  
3 A RESOLUTION REQUESTING APPROVAL FROM THE UTAH DIVISION  
4 OF WATER QUALITY FOR A VARIANCE FROM TECHNOLOGY-BASED  
5 PHOSPHORUS EFFLUENT LIMITS UNDER R317-1-3.3.C.d AND R317-1-  
6 3.3.C.e FOR THE PROVO CITY WASTEWATER RECLAMATION  
7 FACILITY. (17-128)

8  
9 WHEREAS, the City of Provo owns and operates a waste water treatment facility (the  
10 Plant) wherein collected waste water is treated and discharged into Utah Lake via the Provo Bay;  
11 and

12  
13 WHEREAS, the State of Utah, Division of Water Quality (DWQ), adopted Rule R317-1-  
14 3 titled "Requirements for Waste Discharges;" and

15  
16 WHEREAS, the State of Utah, Division of Water Quality, has established Technology-  
17 Based Phosphorus Effluent Limits (TBPEL) as a part of Rule R317-1-3; and

18  
19 WHEREAS, Provo City contracted with Water Works Engineers, LLC on September 10,  
20 2014 to complete a comprehensive assessment and master plan (the Plan) for the Plant; and

21  
22 WHEREAS, the Plan is nearing completion and has identified that a significant amount  
23 of infrastructure at the Plant has reached or is beyond its useful life; and

24  
25 WHEREAS, the construction of a new plant at a new location is under serious  
26 consideration; and

27  
28 WHEREAS, the deadline for achieving the TBPEL is January 1, 2020 unless a variance  
29 is granted; and

30  
31 WHEREAS, Provo City needs time to consider and evaluate all options for the removal  
32 of Phosphorus to meet the TBPEL, including the construction of a new plant; and

33  
34 WHEREAS, Provo City desires to pursue projects that will best meet the needs of the  
35 Plant and meet the TBPEL; and

36  
37 WHEREAS, Provo City has exercised due diligence toward the construction of a  
38 treatment facility designed to meet the TBPEL in completing the Plan; and

39

40 WHEREAS, there are a number of innovative options for meeting the TBPEL through  
41 commensurate phosphorus reduction; and

42  
43 WHEREAS, Provo City is desirous of obtaining from the State of Utah, Division of  
44 Water Quality, a variance for TBPEL until all options for meeting the TBPEL can be thoroughly  
45 evaluated.

46  
47 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as  
48 follows:

- 49  
50 PART I:  
51  
52 1. A request for a variance from the TBPEL shall be submitted to the State of Utah,  
53 Division of Water Quality.  
54  
55 2. Provo City hereby commits to establishing and pursuing a plan to meet the TBPEL by  
56 January 1, 2025 as required and allowed under Administrative Rule R317-1-3  
57 “Requirements for Waste Discharges.”  
58

59 PART II:  
60  
61 This resolution shall take effect immediately.  
62

63 END OF RESOLUTION.



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

Erica Gaddis, PhD  
State of Utah Department of Environmental Quality  
Division of Water Quality  
195 North 1950 West  
Salt Lake City, UT 84114  
August 23, 2017

Subject: Request for Variance from Technology-Based Phosphorus Effluent Limits under R317-1-3.3.C.d and R317-1-3.3.C.e for the Provo City Wastewater Reclamation Facility

Dear Dr. Gaddis:

Provo City is submitting this request for a variance from the Technology-Based Phosphorus Effluent Limits (TBPEL) under the guidelines established in the Utah Administrative Code (UAC) 317-1-3.3.C. Provo City staff met with Utah Division of Water Quality (DWQ) staff on September 6, 2017 to discuss options for obtaining a variance. Based on guidance received at this meeting, Provo City is requesting a variance in accordance with the provisions included in UAC R317-1-3.3.C.d and R317-1-3.3.C.e.

**R317-1-3.3.C.d** – The provisions for a variance under this section require the City to “demonstrate that a commensurate phosphorus reduction can be achieved in receiving waters using innovative alternative approaches such as water quality trading, seasonal offsets, effluent reuse, or land application.” The City’s understanding, based on communications with DWQ staff, is that the goal of the TBPEL regulation as it applies to the Provo Wastewater Reclamation Facility (WRF), is to lower the phosphorus level in Utah Lake, and does not have to be tied to the wastewater facility compliance point. Provo is working with various consultants, private companies, and local and state entities to investigate alternatives that will create a commensurate phosphorus reduction in Utah Lake. These alternatives need to be thoroughly vetted, and many include complex agreements that will take significant time to complete. In pursuing this course, Provo will work closely with DWQ to establish milestones and decision points to ensure that Provo City complies with the provisions of the TBPEL regulation found in UAC 317-1-3.3.

**R317-1-3.3.C.e** – As outlined in this provision, Provo City is in the process of completing its “due diligence toward construction of a treatment facility designed to meet the TBPEL.” To date, Provo City has completed the development of planning documents for the upgrade of the City’s wastewater treatment capabilities including process evaluations, phasing and scheduling plans, and funding evaluations. This effort has resulted in the creation of the following planning documents:

**1. Provo Water Reclamation Facility Master Plan (Provo WRF Master Plan)**

The Provo WRF Master Plan documents the evaluation of the performance of the existing Provo WRF as well as process upgrades that may be completed to meet the TBPEL. In addition to phosphorus removal to meet the TBPEL, the evaluation includes the analysis of processes for the removal of phosphorus to lower levels than are currently required in anticipation of future regulations that may establish more stringent effluent discharge limits. Based on the charter document for the Utah Lake Water Quality Study, it is Provo’s understanding that additional nutrient limits will not be implemented for treatment facilities on Utah Lake until 2030.

The Provo WRF Master Plan also includes a phasing plan that outlines the dates and timeframes for the upgrade and expansion of the existing Provo WRF to meet the TBPEL.

**2. Provo Water Reclamation Facility Preliminary Plant Relocation Evaluation**

Provo City is considering the option of constructing a new treatment facility in the existing location or near Utah Lake. This option is being considered based on the assessment of the age and condition of the existing Provo WRF, and the estimated cost of refurbishment. The Site Relocation Evaluation includes an analysis of options for construction of a new facility. These include the construction of a smaller facility (approximately 6 mgd capacity) that will be expanded in phases until the new facility and collection system are fully established and the existing Provo WRF can be decommissioned. During the interim condition, both the new and existing facilities will be in operation and will meet the TBPEL jointly in accordance with the water quality trading provision of UAC 317-1-3.3.C.d.

**3. Provo Waste Water Treatment Modifications Schedule and Phasing Plan**

The Schedule and Phasing plan expands on the phasing presented in the Provo WRF Master Plan to show the project timeline for key projects for the upgrade of the existing Provo WRF and the construction of a new water reclamation facility. The phasing plan includes key analysis timeframes and the required timing for key decisions. Of critical importance is the timeframe for the City to make a final decision on its selected strategy for meeting the TBPEL. It is the intent of the City to follow the timelines presented in the plan to complete the projects outlined therein.

**4. Provo Wastewater Treatment Modifications Project Funding Plan**

- The Project Funding Plan has been developed based on the cost estimates developed for the upgrade of the existing Provo WRF and the construction of a new treatment facility. The funding plan includes the rate increases that have been approved by the Provo City Council to fund the projects, and presents the revenue that will be received by the City in relation to the capital that will be expended by the City to complete the required projects.
5. Provo City Council resolution confirming the request for a variance in accordance with the provisions included in UAC R317-1-3.3.C.d and R317-1-3.3.C.e.

Provo City is investing significant effort into the evaluation of wastewater treatment options that will meet the current and future needs of its community. The decision between the upgrade of the existing facility and the construction of a new facility is one that is being thoroughly investigated. It is the intent of the City to complete this investigation as outlined in the Schedule and Phasing Plan, and proceed with the design and construction of the projects necessary to meet the TBPEL as outlined therein.

Sincerely,

David Decker, PE  
Public Works Director

Attachments:

Provo Water Reclamation Facility Master Plan  
Provo Water Reclamation Facility Preliminary Site Relocation Evaluation  
Provo Wastewater Treatment Modifications Schedule and Phasing Plan  
Provo Wastewater Treatment Modifications Project Funding Plan

# Provo City Power

Staff Memorandum

## Above 25 kW Distributed Generation

10/17/17

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| <p><b>Department Head</b><br/>Travis Ball<br/>801-852-6801</p> <p><b>Presenter</b><br/>Travis Ball<br/>801-852-6801</p> <p><b>Required Time for Presentation</b><br/>15 minutes</p> <p><b>Is This Time Sensitive</b><br/>Yes / No</p> <p><b>Case File # (if applicable)</b><br/>XX-XXX</p> | <p><b>Purpose of Proposal</b></p> <ul style="list-style-type: none"><li>• Allow commercial and industrial customers to interconnect distributed generation with utility system at over 25 kW.</li></ul> <p><b>Action Requested</b></p> <ul style="list-style-type: none"><li>• Modify City Code 12.03.080 to allow generation of electric energy greater than 25 kW.</li></ul> <p><b>Relevant City Policies</b></p> <ul style="list-style-type: none"><li>• See above</li></ul> <p><b>Budget Impact</b></p> <ul style="list-style-type: none"><li>• Revenue neutral</li></ul> <p><b>Description of this item (at least 2 paragraphs)</b></p> <p>This is to help Council Members to have a clear understanding of what your item is. The UMPA board met on September 27<sup>th</sup> and approved the concept for providing a way for commercial and industrial customers to install solar greater than 25 kW. The idea is to let customers sell all of their generation to UMPA under a Power Purchase type agreement and the city would continue to provide all power to the customer utilizing the existing retail rate. This would incentivize solar installations while protecting utility and city budgets taking into consideration transfers.</p> <p>The City code would need to be modified in order to allow this to take place. It will also need to change in order for BYU to complete installation of their Combined Heat and Power generator on campus and interconnect the Olmsted Hydro plant located at the mouth of the canyon to Provo City Power.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Compatibility with the General Plan policies, goals, and objectives:**

How does your proposal/project help fulfill elements of the General Plan? Please reference specific paragraphs and/or sections from the plan, including relevant implementation steps from Chapter 13.

- Allows large customers to participate in green technologies.





35 PART II:

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

39

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

44

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

47

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

51 .

52

53 END OF ORDINANCE.

## EXHIBIT A

### **12.03.080. Generation or Transmission of Electricity by Entities Other than Provo City.**

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(1) Electric energy may not be generated in Provo City without a license therefor.

(2) A license for the generation of electric energy ~~less than 25kW~~ by an entity other than Provo City or an interlocal entity of which Provo City is a member may be issued by the Director of the Energy Department [\(herein "the Director"\) only in accordance with this section](#). The applicant shall complete and submit the license application for consumer generation to the Department. The Department shall have thirty (30) days to review the license application and either issue a license or deny the license request. The Department's denial of a license application may be appealed to the Mayor within thirty (30) calendar days from the date written notice of denial is sent by the Department. The successful applicant/licensee shall comply with the other requirements of this Section prior to construction or installation of any equipment necessary for the generation of electric energy. A license may be issued if the Director finds the following:

(a) That the proposed activity will conform to all local, state and federal requirements applicable to such activities;

(b) That the proposed activity will not result in any increased technical or financial burden on the electric system or operations of the Department of Energy beyond that normally associated with distributed generation facilities that are designed and installed in accordance with industry standards; and

(c) That the proposed activity will not be detrimental to the health, safety and general welfare of the residents of Provo City or the employees of the Department.

(3) The Director may refuse to issue a license where the exercise of that power is not contrary to applicable state or federal law.

(4) Each license shall be subject to the following regulations:

(a) Provo City may at any reasonable time inspect any facilities of the applicant/licensee which are directly or indirectly used in the licensed activity.

(b) Provo City may impose any condition on the issuance or continuation of a license which is necessary to:

(i) Maintain the integrity and reliability of the Provo City electric system; or

(ii) Maintain the health, safety and general welfare of the residents of Provo City or the employees of the Department in relation to the proposed activity.

(c) The violation of any condition imposed on the issuance or continuation of a license shall be a basis for revoking the license to which it applies.

(d) Provo City may impose an initial fee and annual fees upon the licensee, the amount of which may include all costs incurred by Provo City which are associated with the licensing and regulatory functions described in this Section.

(e) A license for the generation of less than 25kW is subject to the following additional conditions:

(i) The license is conditioned upon the licensee entering into the standard "Net Metering Agreement" between the licensee and the City;

(ii) The licensee shall adhere to the current "Net Metering Standards" adopted by the Department. Any failure to comply with these standards will result in an immediate suspension of the license and disconnection from the City's electrical system without advanced notice to licensee. Within five (5) business days of the suspension and disconnection, the Department shall issue written notice to the licensee who must remedy the violation before the generation will be connected to the City's electrical system and/or reinstatement of the license. The licensee shall be responsible for the Department's actual costs to enforce this Section; and

(iii) The billing of such licensees shall be governed by either Subsection (5) or Subsection (6), in accordance with the terms of those Subsections.

(f) A license for the generation of 25kW or more is subject to the following additional conditions:

(i) Only industrial and commercial electric service account holders are eligible for such a license;

(ii) Before such a license may be issued, the applicant must enter into an agreement, in a form approved by the Director, to sell all the electric energy generated by the licensee to the Utah Municipal Power Agency;

(iii) Termination of said agreement with the Utah Municipal Power Agency, or failure by the licensee to adhere to the terms of said agreement, shall be grounds for the Director to revoke the license; and

(iv). Such licensees shall be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to the category of service accounts of which the licensee is a part.

(5) Residential service accounts licensed to generate electricity in Provo City that meet the criteria in Subsections (5)(a) and (b) of this Section shall be governed by Subsection (5)(c) of this Section:

(a) The account owner, as of October 4, 2016:

(i) Was licensed under this Section;

(ii) Had applied for a license under this Section; or

(iii) Had executed with a company that installs distributed generation systems a contract that obligated the account owner to purchase and install such a system and the account owner meets all other requirements for issuance of a license under this Section; and

(b) A residential account owner who meets the criteria in Subsection (5)(a) of this Section is nevertheless eligible to be billed as described in Subsection (5)(c) of this Section only so long as:

(i) The system used to generate electricity is the same system that met the criteria in Subsection (5)(a) of this Section. If that system has been subsequently replaced, including upgrades or repairs that essentially constitute a replacement of the system, the account owner is no longer eligible;

(ii) The account owner is the same individual that met the eligibility requirements in Subsection (5)(a) of this Section or meets the eligibility requirements to be a transferee in Section [12.02.030](#)(7)(a) or (b), Provo City Code; and

(iii) The account owner is generating electricity at the same physical address that met the eligibility requirements in Subsection (5)(a) of this Section or meets the eligibility requirements to be a transferee in Section [12.02.030](#)(7)(c), Provo City Code. An account owner generating electricity at a different physical address that meets the requirement in this subparagraph only by virtue of Section [12.02.030](#)(7)(c), Provo City Code, is only eligible if the account owner has physically moved the actual generation system from the original physical address.

(c) Such accounts shall:

(i) Be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part;

(ii) Be credited for the electricity that is generated and transmitted to the Department at the same rates that apply to the charges described in Subsection (5)(c)(i) of this Section;

(iii) Carry over any total electricity credit resulting when the credits under Subsection (5)(c)(ii) of this Section exceed the charges under Subsections (5)(c)(i) and (iv) of this Section to successive billing cycles until the billing cycle that includes February 28th in any year, at which time any remaining credit shall lapse; and

(iv) Be subject to all other charges, fees, and rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part.

(6) Residential service accounts licensed to generate electricity in Provo City that do not meet the criteria in Subsection (5) of this Section shall:

(a) Be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part;

(b) Be credited for the electricity that is generated and transmitted to the Department at the rate defined for the crediting of residential electricity generation in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council;

(c) Carry over any total credit resulting when the credits under Subsection (6)(b) of this Section exceed the charges under Subsections (6)(a) and (d) of this Section to successive billing cycles until the billing cycle that includes February 28th in any year, at which time any remaining credit shall lapse; and

(d) Be subject to all other charges, fees, and rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part.

(7) This Section shall be interpreted in a manner consistent with the provisions of applicable state and federal law.

(8) This Section shall not apply to the generation or transmission of electric energy by Provo City or any interlocal entity of which Provo City is a member.

(9) This Section shall not apply to the temporary generation of electric energy for emergency or standby purposes, except as noted below.

(a) All emergency or standby generation shall not be interconnected with Provo City's power system at any time. A positive, physical means of transferring and separating loads between normal and alternate sources of supply must be used to prevent inadvertent interconnection.

(b) All emergency or standby generation shall comply with the provisions of the latest revision of the National Electric Code.

(10) Nothing in this Section shall be construed to mean that the Municipal Council may not amend, enact, or repeal any provision of the Provo City Code or any portion of the Consolidated Fee Schedule so as to create, modify, or terminate any fee, rate, charge, service class, rate schedule, or rate structure for electrical service, including, but not limited to, implementing entirely new ways of monitoring and charging for the use of the Department's electrical service and/or electrical system. Unless specifically and expressly provided otherwise, any such changes shall be applicable to every service account affected by the terms of the change.

## UTAH MUNICIPAL POWER AGENCY AND MEMBER CITY

### SOLAR POWER PROGRAM PROGRAM GUIDELINES

#### **A. Overview of Program.**

This Solar Power Program (Solar Program) gives Commercial and Industrial Customers the opportunity to sell Solar Power to Utah Municipal Power Agency (Agency) under a long-term power sales contract. This Solar Program is designed solely for Commercial and Industrial Customers located within the Member Cities that are 1) in good standing with the Member Electric Utility; 2) build and operate solar generating facilities greater than 25 kW and less than 750 kW, and 3) are willing to comply with the terms and condition of this Solar Program.

The Agency is looking for clean renewable electric power to supplement its power supply to its members. This Solar Program gives Customers the opportunity to tap the potential of solar generation to help supply a portion of the Customer's energy and demand with the support of the Agency and Member Electric Utility.

This Solar Program applies to a Solar Facility that is located at the Customer's Service Address and that has a total capacity of more than 25 kW and not greater than 750 kW. Solar customers with smaller solar generators of less than 25 kW must comply with the Member Electric Utility's Net-Metering Policy. The Agency and its Member Electric Utility currently do not have a policy permitting interconnection of solar generators having a capacity of more than 750 kW. Solar Projects greater than 750 kW will be considered on a case-by-case basis.

The Agency is an all requirements supplier of electricity to its Member Cities of Levan, Manti, Nephi, Provo, Salem and Spanish Fork. For purposes of this Solar Program, the Agency will be the buyer of all solar generation from the Customer. The Agency's Member Electric Utility will continue to be the seller of all electricity at its current and applicable electric rate for the Customer.

The capitalized terms in this Solar Program, its Guidelines, and attachments are defined in Attachment A.

The Agency will accept applications under this Solar Program on a first-come, first-served basis. The Agency may, at any time, cease to accept applications and no longer offer this Solar Program, or modify the solar rate for any reason. The Application Form is attached as Attachment B.

Upon approval of the Application, the Customer will execute a Solar Power Sales Agreement (Power Sales Agreement) as shown in draft form as Attachment C. This requires the Agency to purchase and the Customer to sell all the electricity delivered to the system from the Solar Facility for the estimated useful life of the Facility or to the term of the

Power Sales Agreement. The Agency will receive all renewable energy credits associated with the generation as a condition of the Power Sales Agreement.

In addition, the Customer will execute an Interconnection Agreement (Interconnection Agreement) as shown in draft form as Attachment D. This provides for the Customer Solar Facility's design specifications and interconnection to the Member Electric Utility's System. The Interconnection Agreement provides for the installation of a Production Meter, which is a separate meter that measures the generation from the Solar Facility. The Solar Power delivered to the Agency is a source of power like any other source of power generated or purchased by the Agency.

The Customer's sale of Solar Power to the Agency and interconnection to the Member Electric Utility's system does *not* change the Customer's electric bill and rate from the Utility. The Member Electric Utility will continue to sell and the Customer will continue to buy retail electricity in the same manner and at the same rate as the Customer did prior to entering the Solar Program. This electricity will be measured through the Customer's Service Meter.

The Agency will pay for all electricity generated under this Solar Program at the following Rate: \$.0622/kWh. This Rate and Solar Program is subject to change at the sole discretion of Agency's Board of Directors and by any participating Member City. However, any approved and executed agreements with Customers will be subject to the terms and conditions, including the agreed upon Rates for the term of the Agreements.

**B. System and Circuit Limitations on Renewable Energy Connections.**

The Member Electric Utility's System and the individual circuits within the System are sized for safe and efficient delivery of power. The addition of Renewable Generation can possibly overload and damage the System's equipment because of, among other things, the dramatic and unpredictable fluctuations in the production from Renewable Generation. Therefore, the Agency and its Member may reject a Solar Facility if the Facility would exceed the limitations of the System as a whole or the individual circuit that serves the proposed Solar Facility. In such a case, the Customer may request from the Agency and its Member, at the Customer's expense, a system study that identifies System Upgrades that may resolve these limitations. The Agency and its Member, in their discretion, may approve the Solar Facility based upon the Customer paying for the system study and any recommended System Upgrades.

Because of these system and circuit limitations, completed Applications are accepted and considered on a first-come first-served basis. A completed Application includes all supporting documentation and information reasonably requested by the Agency.

**C. Terms of Sales Agreement and Interconnection Agreement.**

It is anticipated that the Agreements executed by the Parties will be substantially the same as these drafts. However, the Agency's General Manager and Member Electric Utility's Manager have the authority to modify the terms of a specific Agreement to

address a Customer's or Member's special circumstances without materially changing the framework, intent, and terms of the draft Agreements.

**D. Sales Price for Energy Produced by Customer's Solar Facility.**

The Rate for the energy from the Customer's Solar Facility is based on an assessment of the benefits and avoided costs that solar generation provides to the Agency. Through this assessment, the Agency seeks to assure that the Customer with a Solar Facility is not subsidizing or being subsidized by other Customers.

Having assessed these benefits and avoided costs, the Agency determines a value for the Solar Power and sets an energy rate, expressed in cents per kilowatt-hour (kWh). The energy rate is based on the typical design standards, location, and normal generation curves for solar production in this region. The Agency's General Manager may lower the Rate if the solar production can be shown that it does not adhere to the design factors, standards, and specifications used in the assessment study.

**E. Steps in Program Approval and Installation Process.**

The following is a summary of the steps that the Customer must complete to qualify for and participate in the Solar Program:

1. Submission of Application and Application Fee. The Customer submits a completed Application (Attachment B) and pays the Application Fee. The completed Application includes all information required by the Application and its instructions, including the design of the Solar Facility

2. Preliminary Engineering Review. The Agency and its Member City will review the Application and supporting documentation to determine whether the Solar Facility would exceed the Member's System and circuit limitations and to identify any System Upgrades that would permit the safe and efficient interconnection of the Facility. The cost of the preliminary engineering review is included in the Application Fee.

3. Design Review and Approval. Upon completion of the preliminary engineering review, the Agency and its Member will complete its design review and will notify the Customer: (a) that the Application has been approved subject to reasonable conditions including the installation of System Upgrades at the Customer's expense or (b) that the Application has been rejected and the reasons for the rejection.

4. Post-Application Approval - Agreements and Fees.

a. The Customer will execute the Power Sales Agreement and Interconnection Agreement that govern the construction, operation, and maintenance of the Solar Facility and the purchase and sale of the Solar Power. The executed Agreements shall govern the parties and supersede and replace these Guideline and description of the Solar Program except to the extent that the Agreements incorporate the Solar Program and its Guidelines.

b. The Customer pays the Member Electric Utility for the estimated cost to make required System Upgrades.

5. Construction of Facility and System Upgrades. The Customer constructs the Solar Facility in a manner consistent with the approved design, the Agreements, Interconnection Standards, industry standards for solar facilities, and applicable building and electrical codes. The Member City constructs the System Upgrades, if any.

6. Testing and Permit to Operate. Upon completion of construction, the Customer tests the Solar Facility to insure compliance with Agreements including applicable codes and submits proof of compliance to the Agency and its Member. If the Facility is in compliance, the Agency and its Member will issue a Permit to Operate and install the Production Meter. The Customer may then close the disconnection switch and begin production.

7. Operation and Maintenance. The Customer and the Agency and its Member will operate and maintain their respective facilities in a manner consistent with the Agreements including Manufacturer Directions and applicable electric codes.

8. Sale/Purchase of Power. As provided in the Power Sales Agreement, the Customer shall sell and the Agency shall purchase all Solar Power delivered from the Facility for the Agreement's term.

**F. Qualifications to Participate in Solar Program.**

A Customer wishing to participate in the Solar Program must satisfy the following requirements:

1. Commercial or Industrial Class Customer. The Customer must be in good standing as a Commercial or Industrial Class of Customer within the Member City and remain as such class of Customer at the location of the Solar Facility during the term of the Agreements.

2. Technical/Operational Expertise. The Customer must provide documentation showing that the Customer's project development team is qualified to design, construct, operate, and maintain the Solar Facility.

3. Solar Generator Capacity. The proposed Solar Facility must be a solar photovoltaic generator with a capacity of not less than 25 kW or greater than 750 kW. The Solar Facility must be equipped with a smart inverter that permits remote control by the Agency.

4. Agency System and Circuit Limitations. Aggregate total Renewable Generation permitted on the Member Electric Utility's System is 15% of the System's peak demand and on individual circuits is 15% of the circuit's peak demand. If the proposed Solar Facility exceeds either of these limitations, the Customer may pay the cost of System

Upgrades to mitigate the system or circuit impacts of the Solar Facility. In some cases, these system and circuit limitations may prevent additional Solar Facilities from being connected to the System or a circuit.

5. Solar Facility Location and Land Use Compliance. The Solar Facility shall be located on property: (a) where the Member City provides the Customer retail service, (b) that Customer owns or has the right to use for the Solar Facility for not less than the Facility's estimated useful life, and (c) that the land use authority or other governmental authority has approved as a location for a Solar Facility.

6. Application, Agreements, and Fees. The Customer must: (a) submit a completed Application including all supporting documentation and any additional information reasonably required by the Agency and its Member, (b) execute and deliver, upon the approval of the Application, a Sales Agreement and Interconnection Agreement, and (c) must timely pay all fees and costs due the Agency and Member City.

7. Construction, Operation, and Maintenance of Solar Facility. The Customer shall, at its own cost: (a) construct, operate, and maintain the Solar Facility in a manner consistent with the Agreements, Interconnection Standards, and the Program Standards including all applicable permitting, building codes, planning and land use requirements, and (b) deliver and sell all of the output from the Solar Facility to the Agency.

8. Insurance. The Customer shall provide proof of liability insurance appropriate for the size of the Solar Facility. A certificate of insurance shall name the Agency and Member City as additional insureds.

9. Permit to Operate. The Customer shall notify the Agency and Member City of completion of the Solar Facility and provide proof that the Facility was constructed and operates in compliance with the Agreements. If the Solar Facility is in compliance, the Agency and Member City will install the Production Meter and will issue a Permit to Operate. The Customer may then close the disconnect switch and operate the Facility connected to the System.

#### **G. Disconnection and Discontinuance of Service.**

The Agency and Member City may disconnect the Solar Facility if its operation is not consistent with the Agreements or adversely affects other customers. In addition, the Agency and Member City may disconnect the Solar Facility if the Customer transfers the Facility or the property where the Facility is located, unless the new owner satisfies the Program requirements and acknowledges and accepts the terms and conditions of the Agreements and has qualified personnel to operate the Solar Facility.

#### **H. Customer Fees and Costs.**

There is a cost to the Agency and Member Cities for implementing, administering, and managing the program and systems impacts. These costs are not fully recovered in the proposed fees and represent a reasonable portion and accounting for said services. The

Member City may have other building, inspection, and administrative fees not included in the Solar Program. We advise the Customer to contact the City building and permitting office prior to the start of their project to learn all the costs and procedures.

The following fees are approved by the governing boards of the Agency and Member City:

1. Application Fee. The Application Fee is \$300. This fee is to accompany the completed Application (Attachment B) from the Customer to Member City. This Application Fee may be waived at the sole discretion of Member City for any non-profit or governmental Customers. The fee may be changed from time to time by the Agency and Member City.
2. Engineering Fee. The cost of engineering to review the application and system impacts will be covered in the Application Fee.
3. System Upgrade Costs. The costs for upgrading the electrical system will be determined during the Application review and returned to the Customer in the approved Application. The System Upgrade Costs will be paid to the Member City in advance of starting any work by the Customer.
4. Final Inspection and Commissioning Fees. Prior to connecting the Solar Facility to the electric system and commencing operation, the Customer must request and pay a final inspection fee of \$200 to Member City. This inspection fee may be waived at the sole discretion of Member City for any non-profit or governmental Customers.
5. Additional Engineering and Inspection Fees. If Member City occurs additional engineering, inspecting, processing or unusual expenses during the construction and commissioning of the Customer's Solar Facility, the Customer will be invoiced and reimburse Member City prior to connecting the Solar Facility for actual expenses of said additional services.

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ORDINANCE 2017-

AN ORDINANCE REQUESTING A STREET VACATION FOR 40 EAST FROM 3700 NORTH TO 3800 NORTH, AND FOR 3800 NORTH FROM UNIVERSITY AVENUE TO 40 EAST. RIVERBOTTOMS NEIGHBORHOOD. (17-0001SV)

WHEREAS, it is proposed that the Municipal Council vacate 40 East from 3700 North to 3800 North, and 3800 North from University Avenue to 40 East to facilitate the Olde Ivy development proposal; and

WHEREAS, the item is associated with a rezone action that was approved on June 6, 2017 for the Olde Ivy development proposal; and

WHEREAS, on April 12, 2017, the Planning Commission held a duly noticed public hearing to consider the proposal, and after such hearing the Planning Commission recommended approval to the Municipal Council by a vote of 5:0; and

WHEREAS, on November 14, 2017, the Municipal Council held a duly noticed public hearing to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the hearing records; and

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

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds (i) that the street vacation should be approved as described in Exhibit A and (ii) the proposed public street vacation reasonably furthers the health, safety and general welfare of the citizens of Provo City.

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

PART I:

Provo City Corporation hereby vacates its property interest in 40 East from 3700 North to 3800 North, and 3800 North from University Avenue to 40 East, Provo, Utah, as described in the attached Exhibit A.

PART II:

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

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

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50 C. The Municipal Council hereby directs that this Ordinance remain uncodified.

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

55  
56 END OF ORDINANCE.

57





Provo City Planning Commission

# Report of Action

April 12, 2017

ITEM 10 Elliott Smith requests a Street Vacation for 40 East from 3700 North to 3800 North. **Riverbottoms Neighborhood**. 17-0001SV, Brian Maxfield, 801-852-6429

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2017:

## RECOMMEND APPROVAL

On a vote of 5:0, the Planning Commission recommended the Municipal Council approve the above noted application, with the description to be prepared upon final approval of the associated project plan.

Motion By: Ed Jones

Second By: Dave Anderson

Votes in Favor of Motion: Ed Jones, Dave Anderson, Deborah Jensen, Brian Smith, Jamin Rowan.

*Jamin Rowan was present as Chair.*

The motion 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.

### **RELATED ACTIONS**

Proposed rezoning (17-0003R) of the associated site, and the associated project plan approval (17-0006PPA).

### **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. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- The street vacation would be needed with the relocation of the intersection of 40 East Street with 3700 North Street.
- The street vacation cannot be properly described until approval of the final project plan.
- The street vacation will not be forwarded to the Municipal Council until such time as the final project plan is approved.

### **NEIGHBORHOOD MEETING DATE**

- Several neighborhood meetings have been held regarding the development of the associated site.

### **NEIGHBORHOOD AND PUBLIC COMMENT**

- The Neighborhood Chair was present and addressed the Planning Commission during the public hearing. He stated there was generally no opposition to this request.
- Multiple Neighborhood Chair(s) were present and addressed the Planning Commission. However, their comments were more directed toward the associated rezoning and site plan and not this particular item.
- Neighbors or other interested parties were present and addressed the Planning Commission. However, their comments were more directed toward the associated rezoning and site plan and not this particular item.

### CONCERNS RAISED BY PUBLIC

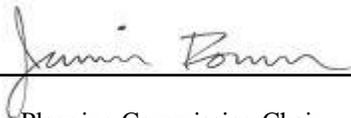
Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- There were no concerns expressed by the public regarding this particular item.

### PLANNING COMMISSION DISCUSSION

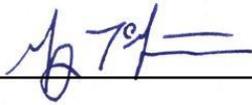
Key points discussed by the Planning Commission included the following:

- Other than questions regarding the form of the motion to be made, there was no further discussion regarding this particular item.



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Planning Commission Chair



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Director of Community Development

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

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

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, 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.).



**Planning Commission  
Staff Report  
Street Vacation  
Hearing Date: April 12, 2017**

**ITEM 10** Elliott Smith requests a Street Vacation for 40 East from 3700 North to 3800 North.  
**Riverbottoms Neighborhood.** 17-0001SV, Brian Maxfield, 801-852-6429

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>Applicant:</u> Elliott Smith<br/>Staff Coordinator: Brian Maxfield</p> <p><u>Property Owner:</u> Provo City</p> <p><u>Council Action Required:</u> Yes</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <p>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is April 26, 2017, 5:30 p.m.</i></p> <p>2. <b>Recommend Denial</b> of the proposed Street Vacation. <i>This would be a change from the Staff recommendation; the Planning Commission should <u>state new findings</u>.</i></p> | <p><u>Associated Applications:</u><br/>This application is associated with the Rezoning (17-0003R) and Project Plan Approval (17-0006PPA) for the Olde Ivy development proposal.</p> <p><u>Relevant History:</u><br/>The roadway was dedicated in December 2015.</p> <p><u>Neighborhood Issues:</u><br/>To date, no comments have been received by staff.</p> <p><u>Summary of Key Issues:</u><br/>Final description of area to be vacated in conjunction with Final Project Plan Approval for the Olde Ivy Development.</p> <p><u>Staff Recommendation:</u><br/><b>Recommend Approval</b> of the proposed Street Vacation, in conjunction with Final Project Plan Approval. <i>This action <u>would be consistent with the recommendation of the Staff Report</u>. Any additional changes should be stated with the motion.</i></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**OVERVIEW**

This item is associated with the Rezoning (17-0003R) and Project Plan Approval (17-0006PPA) for the Olde Ivy development proposal. It involves a vacation of portions of 3800 North and/or 40 East which were dedicated to the City in December 2015.

**GENERAL PLAN POLICIES**

The key policies adopted for the Riverbottoms neighborhood, and listed within the City's General Plan, includes the following directed specifically to this site:

10. *Commercial zoning for 3.25 acres of land located at the northeast corner of 3700 North and University Ave. should not be granted until two access points for the property are approved by the appropriate agencies and included on a preliminary plan. One access point should be from University Ave. and one access point should be from 3700 North Street. The future 3900 North Street should not be used as the University Avenue access.*

#### **FINDINGS OF FACT**

- The roadway was dedicated in December 2015.
- The roadway corresponds to Key Policy #10 for the Riverbottoms Neighborhood, as listed in the City's General Plan.
- The roadway alignment was considered temporary, until a site plan for the adjoining property can be approved which would incorporate any realignment or other changes.
- No vacation or change in the entry from University Avenue is included in the consideration.

#### **STAFF ANALYSIS**

In order to create and adopt the most efficient and desired site plan for this site, allowances to the realignment of the dedicated roadway may be necessary in accordance with the approved project plan.

#### **CONCLUSIONS**

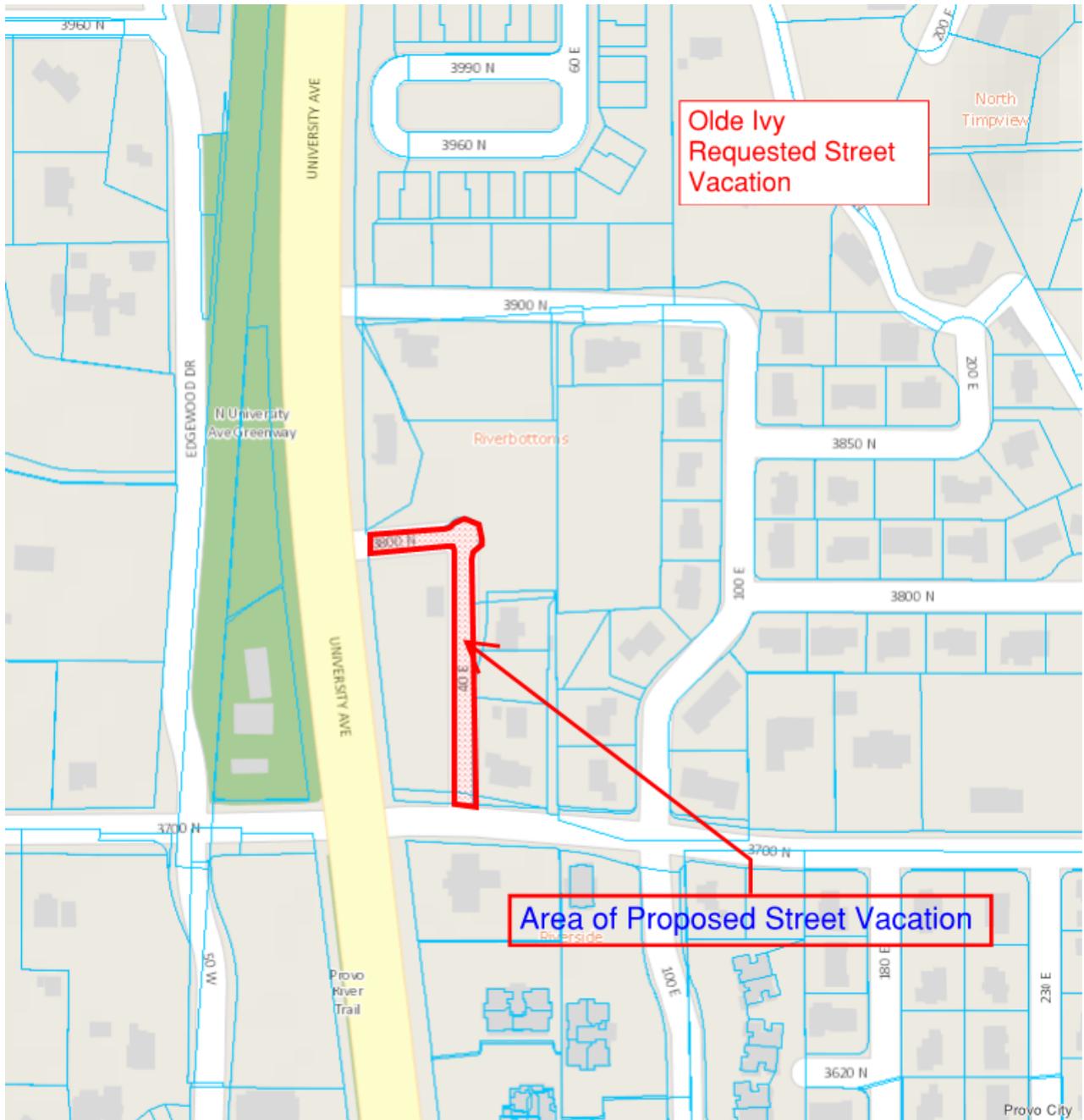
Staff believes that even though the resulting realignment cannot be finalized until the Project Plan nears final approval, it would be proper for the Planning Commission to review and make a general recommendation to the Municipal Council. If the associated rezoning is approved, that recommendation will be forward to Council for a Public Hearing at a later date.

#### **STAFF RECOMMENDATION**

With an approval of the associated rezoning and project plan, staff believes the vacation can be executed without any adverse impact on adjoining properties. Because the final description of area to be vacated will be determined with the final Project Plan Approval for the Site, the recommendation of the Planning Commission will not be forwarded until a final description can be prepared in conjunction with Final Project Plan Approval for the development of the property.

#### **STAFF RECOMMENDATION**

**Recommend Approval** of the proposed Street Vacation, in conjunction with Final Project Plan Approval.





## NOTICE OF PUBLIC HEARING BEFORE THE PLANNING COMMISSION

The Provo City Planning Commission will hold a public hearing on Wednesday, April 12, 2017, at 5:30 p.m. in the Municipal Council Chambers of the Provo City Center, located at 351 West Center Street. The items listed below will be discussed, and anyone interested is invited to attend and provide comment. Preceding the public hearing, dinner will be provided to Planning Commission members at 4:30 p.m. in the Community Development Conference Room, located at 330 West 100 South. The Planning Commission dinner is open to the public; however, formal presentation of items, public comment and actions will be reserved for the public hearing at 5:30 p.m. in the Municipal Council Chambers. Planning Commission hearings can be viewed live on Channel 17 or linked from the Provo City website at <http://provo.org/city-services/channel-17>.

### Study Item

ITEM 1 Joaquin Neighborhood Plan Implementation Appendix

### Public Hearings

- ITEM 1\* Steven Sweetwood requests a Zone Change from the Heavy Commercial (CM) Zone to the Low Density Residential (LDR) Zone for 0.279 acres of property located at 801 West 500 South. **Franklin Neighborhood.** 16-0013R, Josh Yost, 801-852-6408. ***This item was continued from the March 22, 2017 Planning Commission Hearing.***
- ITEM 2 Steven Sweetwood requests Project Plan Approval for a four townhome units located at 801 West 500 South in a proposed Low Density Residential (LDR) Zone. **Franklin Neighborhood.** 16-0024PPA, Josh Yost, 801-852-6408. ***This item was continued from the March 22, 2017 Planning Commission Hearing.***
- ITEM 3\* Ken Menlove requests Street Vacation of 1780 South running west from Industrial Parkway to facilitate development of self-storage units on 4.79 acres of land in the Planned Industrial Commercial Zone. **East Bay Neighborhood.** 16-0002SV, Robert Mills, 801-852-6407. ***This item was continued from the March 22, 2017 Planning Commission Hearing.***
- ITEM 4 Ken Menlove requests Project Plan Approval for self-storage units on 4.79 acres of land located at 1780 South Industrial Parkway in the Planned Industrial Commercial Zone. **East Bay Neighborhood.** 16-0016PPA, Robert Mills, 801-852-6407. ***This item was continued from the March 22, 2017 Planning Commission Hearing.***
- ITEM 5\* David Gardner requests an Ordinance Amendment to add SLU #1113 for accessory dwelling units to an industrial use in the Manufacturing Park (MP) Zone. **Rivergrove Neighborhood.** 17-0002OA, Austin Corry, 801-852-6413
- ITEM 6 The Provo City Community Development Department requests an Ordinance Amendment to Section 14.49.020(3) to allow the Low Density Residential (LDR), Medium Density Residential (MDR), and High Density Residential (HDR) Zones to be permitted for the Special Development Plan Overlay Zone. **City-Wide Impact.** 17-0003OA, Brian Maxfield, 801-852-6429
- ITEM 7\* Elliott Smith requests an amendment to the General Plan text regarding land use for the northeast corner of 3700 North University Avenue to allow retail commercial, professional office, and residential land uses. **Riverbottoms Neighborhood.** 17-0001GPA, Brian Maxfield, 801-852-6429

- ITEM 8\* Elliott Smith requests a Zone Change from A1.5 to Specialty Support Commercial (SSC), Professional Office (PO), and LDR Low Density Residential with a Specific Development Plan (SDP) Overlay for four acres of land located at the northeast corner of 3700 North University Avenue. **Riverbottoms Neighborhood**. 17-0003R, Brian Maxfield, 801-852-6429
- ITEM 9 Elliott Smith requests Project Plan Approval for four acres of land located at the northeast corner of 3700 North University Avenue for commercial, professional office, and residential uses. Project Plan Approval is subject to rezoning. **Riverbottoms Neighborhood**. 17-0006PPA, Brian Maxfield, 801-852-6429
- ITEM 10 Elliott Smith requests a Street Vacation for 40 East from 3700 North to 3800 North. **Riverbottoms Neighborhood**. 17-0001SV, Brian Maxfield, 801-852-6429
- ITEM 11\* PEG Development requests an Ordinance Amendment to Section 14.50(22) of the Provo City Code to allow an apartment complex buffered by single family lots located between 4750 and 4800 North, and between approximately 245 West and University Avenue in the PRO-R22 Zone. **Riverbottoms Neighborhood**. 16-0024OA, Brian Maxfield, 801-852-6429
- ITEM 12 PEG Development requests Project Plan Approval for a residential development that includes apartment units and single-family lots at a combined density of up to 28 units per acre located between 4750 and 4800 North, and between approximately 245 West and University Avenue in the PRO-R22 Zone. Project Plan Approval is subject to amendment of the PRO-R22 Zone. **Riverbottoms Neighborhood**. 16-0030PPA, Brian Maxfield, 801-852-6429

Items noted on this agenda with a star (\*) require a public hearing and legislative action by the Municipal Council. The Council hearing dates will be noticed 14 days prior to the Council meeting in the legal notices of the Daily Herald. Council agendas can be viewed at the Provo City Council web site on the Thursday prior to the Council meeting at <http://publicdocuments.provo.org/sirepub/meet.aspx>. For more information, call (801) 852-6120.

Items on this agenda without a star (\*) are administrative and require the approval only the Planning Commission. Decisions on the unmarked items may be appealed to the Board of Adjustment by making application with the Community Development Department by 6:00 p.m. **within 14 days of the Planning Commission decision.**

Copies of the agenda materials, public hearing procedure, and staff recommendations are available the week of the hearing at reasonable cost in the Community Development office between the hours of 7:00 a.m. and 6:00 p.m., Monday through Thursday. Agendas and staff recommendations are also generally available on the Provo City Community Development web site the week of the meeting at [provo.org/planningcommission](http://provo.org/planningcommission).

Provo City will make reasonable accommodations for all citizens interested in participating in this meeting. If assistance is needed to allow participation at this meeting, please call the Community Development Department at (801) 852-6400 before 12:00 p.m. the day before the meeting to make arrangements.

By order of the Provo City Planning Commission  
Published in "The Daily Herald"  
Alyssa Roth, Secretary, (801) 852-6424



**PROVO CITY CORPORATION  
COUNCIL OFFICE**

Municipal Council Meeting Agenda  
November 14, 2017

**NOTICE OF PUBLIC HEARING BEFORE THE  
MUNICIPAL COUNCIL**

Notice is hereby given that the Municipal Council of Provo, Utah will hold a public hearing on these items on Tuesday, November 14, 2017 beginning at 5:30 p.m. in the Council Chambers located at the Provo City Center Building, 351 West Center Street. Anyone interested is invited to attend.

An ordinance vacating the public street of 40 East from 3700 North to 3800 North. Riverbottoms Neighborhood. (17-0001SV)

By order of the Provo City Municipal Council  
Elizabeth VanDerwerken, Executive Assistant,  
(801) 852-6120

Legal Notice 15906 Published in The Daily  
Herald October 25, 2017



Provo City Planning Commission

# Report of Action

November 8, 2017

ITEM 1\* Provo City Community Development Department requests an amendment to Sections 15.03.300; 15.03.310; and 15.04.130 of the Provo City Land Use and Development Ordinances, to clarify minimum required submittals for Project Plan Reviews. **City-Wide Impact.** 17-00180A, Austin Corry, 801-852-6413

The following action was taken by the Planning Commission on the above described item at its regular meeting of November 8, 2017:

## RECOMMEND APPROVAL

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

Motion By: Jamin Rowan

Second By: Andrew Howard

Votes in Favor of Motion: Andrew Howard, Shannon Ellsworth, Dave Anderson, Jamin Rowan, Deon Turley, Brian Smith  
*Dave Anderson 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.

### STAFF PRESENTATION

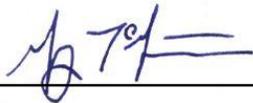
The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

### CITY DEPARTMENTAL ISSUES

- Public Works has expressed concern that they believe the amendment removes requirements.

### NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.
- This item was City-wide or affected multiple neighborhoods.
- No comments were made during the public comment period.



Director of Community Development

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

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

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, 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**



**Planning Commission  
Staff Report  
Ordinance Amendment  
Hearing Date: November 8, 2017**

**ITEM 1\*** Provo City Community Development Department requests an amendment to Sections 15.03.300; 15.03.310; and 15.04.130 of the Provo City Land Use and Development Ordinances, to clarify minimum required submittals for Project Plan Reviews. **City-Wide Impact.** 17-0018OA, Austin Corry, 801-852-6413

**Applicant:** Provo City Comm. Dev. Department

**Staff Coordinator:** Austin Corry

**\*Council Action Required:** Yes

**ALTERNATIVE ACTIONS**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is December 13, 2017, at 5:30 p.m.*
2. **Recommend Denial** of the proposed ordinance amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

**Relevant History:** The Municipal Council has established a Development Approval Process Review Committee (DAPR) to identify ways that the approval process could be refined to be more efficient for applicants and staff. One of the considerations of this committee is the amount of information required by each application, especially those requiring Council action. The DAPR Committee has provided the following recommendation to the Code to eliminate confusion as to the amount of information required for Council consideration.

**Neighborhood Issues:** No feedback has been received from any of the neighborhood chairs regarding this application.

**Summary of Key Issues:**

- Current ordinance has an extensive list of items that “may” be required
- Confusion as to required vs. potential items could result in applicants spending more time and money than necessary preparing submittals.

**Staff Recommendation:**

That Planning Commission **Recommend Approval** of the proposed ordinance amendment.

*This action would be consistent with the recommendation of the Staff Report. Any additional changes should be stated with the motion*

## **OVERVIEW**

The Municipal Council has created the Development Approval Process Review Committee (DAPR) to consider ways that the current review and approval process for land use applications can be expedited and more efficient. In the recent past, the DAPR Committee has discussed the sections of Provo City Code which are under consideration with this proposed amendment.

Section 15.03.300, 15.03.310, and 15.04.130 of the Provo City Code identify a checklist of items that apply to applications, specifically, Concept Plan Approval, Final Plan Approval, and Preliminary Subdivision Approval applications, respectively.

Each of these sections includes two paragraphs. The first paragraph identifies items that are required in all instances for an application to be considered. The second paragraph includes a list of items that the City may request/require if it is determined that such information is necessary for the City to make a determination on the application. These lists, in all instances, include language to suggest it is not comprehensive and does not preclude the City for asking for something that is not on the list. Section 15.03.140, Final Subdivision Approval, is not included in this amendment because existing language in that section already reflects the same result the proposed amendment is intending to achieve.

In the past, many applicants and City staff have misunderstood the distinction between these two paragraphs and the result has been a tendency for staff to request information or for an applicant to feel inclined to provide information from the second paragraph, regardless of whether the information is pertinent to the application. The result can have significant time and financial hardships on applicants that are not imperative for the Council to make the applicable decision or staff to appropriately make a determination that the project complies with ordinances and adopted standards.

In reviewing this code language, the DAPR Committee has determined that this confusion could be reduced by removing the lengthy list of “may be required” items and providing a simple statement that notes if something additional is necessary, the City may request it. This language removes significant amounts of code text without altering the current process or regulation in any way and without precluding the City from requesting anything that has previously been on the list.

## **FINDINGS OF FACT**

1. The Development Approval Process Review Committee was established to analyze existing review processes.
2. The Development Approval Process Review Committee intends to clarify expectations for applicants.
3. The proposed amendment removes language that has been determined unnecessary to the review process.
4. The proposed amendment does not preclude the City from requesting any information necessary to verify an applications conformance with City policies, ordinances, or standards.

## **STAFF ANALYSIS**

1. Provo City Public Works has noted that they have major concerns with the amendment as proposed through the CRC process. Those concerns are shown in attachment #2 of this report.
2. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

*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.*

**Response: The amendment would clarify expected submittal requirements as part of Concept Plan, Final Plan, and Preliminary Subdivision applications.**

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

**Response: The proposed amendment would reduce the time and financial impact on an applicant while still providing the necessary**

**information for the Municipal Council to make applicable decisions related to land use applications.**

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

**Response: The DAPR Committee Mission Statement establishes the following goal to “create standards for desired outcomes and service levels...The resulting standards should also yield a process that quickly yet robustly evaluates the quality of a proposal and how it fits into Provo’s vision.” The proposed amendment is intended to clarify expectations and eliminate production of unnecessary information while still achieving the same level of service.**

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

**Response: Timing and sequencing provisions are not related to the context of this proposed ordinance amendment.**

- e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan’s articulated policies.*

**Response: Staff has not identified any articulated policies that would be hindered by the proposed amendment.**

- f) *Adverse impacts on adjacent land owners.*

**Response: Not Applicable.**

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

**Response: Not Applicable.**

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

**Response: Not Applicable.**

## **CONCLUSIONS**

All departments within the Coordinator Review Committee have reviewed the proposed language which was developed by the DAPR Committee. Staff, with the exception of Public Works, has found the proposed amendment to be consistent with the established policies and believes the proposed amendment helps to clarify the application process without hindering the ability for staff to effectively and efficiently review applications for compliance. The noted concerns from Public Works have been included for the Planning Commission and Municipal Council's consideration of this item.

## **STAFF RECOMMENDATION**

That Planning Commission **recommend approval** of the proposed ordinance amendment.

**ATTACHMENT #1 – PROPOSED AMENDMENT LANGUAGE**

1 **15.03.300. Concept Plan Submittal Requirements.**

2 (1) Concurrent with any request to rezone or annex property, a concept plan application shall be  
3 submitted to the Community Development Department.

4 (a) Any development plan that includes a subdivision shall comply with this Section and  
5 Chapter 15.04, Provo City Code.

6 (2) A concept plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

7 (a) The developer has signed an application form and submitted it to the City;

8 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

9 (c) The developer has submitted to the City a plan in an approved electronic format showing the  
10 proposed development layout, drawn to scale, and the following information:

11 (i) A tabulation of the total acreage of the site and the percentages thereof to be designated  
12 for various uses, i.e., parking, residential units, open space, public streets, private streets,  
13 landscaping, etc.

14 (ii) Proposed circulation pattern including private driveways, public and private streets,  
15 pedestrian paths, location of parking spaces and ingress or egress.

16 (iii) ~~Parks, common open spaces, playgrounds, school sites, and other public or private~~  
17 ~~recreation facilities and improvements proposed within the proposed development.~~  
18 **A**  
19 **conceptual integrated development plan meeting the requirements of Provo City Code Section**  
20 **15.04.030.**

20 (iv) General location of all dwellings and other structures in the proposed development, and  
21 an indication of proposed population densities and building densities (units per net acre).

22 (v) Preliminary elevations or perspectives of all building types proposed within the  
23 development including floor plans.

24 (vi) An ~~workable~~ infrastructure plan for providing necessary streets, water, sewer, storm  
25 drainage, and electrical distribution for the entire tract including the point from which said  
26 services are to be extended.

27 (3) Based on the size, scope or complexity of the development proposal, staff may **require any other**  
28 **information necessary to ensure that the proposed project complies with applicable requirements of the**  
29 **Provo City Code and standards and specifications adopted by the City.** ~~any or all of the following~~  
30 ~~additional information in order to obtain concept plan approval:~~

31 ~~(a) A complete and accurate legal description of the property;~~

32 ~~(b) A preliminary title search showing legal ownership of the property. If the applicant is not the~~  
33 ~~property owner, the applicant shall also provide written proof that the applicant has sufficient legal~~  
34 ~~claim on the property, and each parcel therein, to proceed with development plans;~~

35 ~~(c) A grading plan of the entire site with contour intervals no greater than two (2) feet, and~~  
36 ~~identifying natural slopes of thirty percent (30%) or greater;~~

37 ~~(d) A preliminary subdivision plat, if required by the City Engineer, meeting the requirements of~~  
38 ~~Section 15.04.130, Provo City Code;~~

39 ~~(e) Landscaping plans showing the types and sizes of plants and materials to be used;~~

40 ~~(f) A draft of the covenants, conditions and restrictions;~~

41 ~~(g) A phasing plan with a construction timetable for all phases;~~

42 ~~(h) A preliminary traffic study as directed by the City Engineer;~~

43 ~~(i) Any other information that is deemed pertinent to the project.~~

44 ...

45 **15.03.310. Final Project Plan Submittal Requirements.**

---

46 (1) No building or structure shall be erected or substantially altered and no nonstructural improvements  
47 shall be made to open land unless a final project plan is approved by the Coordinator Review Committee.

48 (2) A final project plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

49 (a) The developer has signed an application form and submitted it to the City;

50 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

51 (c) The developer has submitted to the City a final project plan in an approved electronic format  
52 including the following information:

53 (i) Detailed site plan, including:

54 (A) Dimensions of existing and proposed property lines;

55 (B) Distance from buildings to property lines;

56 (C) Square footage of existing and proposed structures;

57 (D) Use of existing and proposed structures;

58 (E) Trash storage container location, size, and how enclosed;

59 (F) Designations of common open spaces and special use areas;

60 (G) Proposed street, sidewalk and driveway layout;

61 (H) A tabulation of the total acreage of the site and the percentages thereof to be  
62 designated for various uses (e.g., parking, buildings, open space, streets, etc.);

63 (I) Any dimensions or notations necessary to exhibit compliance with applicable  
64 ordinances.

65 (ii) Parking plan information, including:

- 66 (A) Parking space analysis (proposed and required);
- 67 (B) Parking space dimensions, including back up area;
- 68 (C) Ingress and egress;
- 69 (D) Parking for persons with disabilities; and
- 70 (E) Location of supporting columns in structured parking;
- 71 (iii) Building design plan information, including:
- 72 (A) Exterior elevations of proposed buildings, indicating roofing materials, type of
- 73 construction, exterior materials and colors;
- 74 (B) Conceptual sign plans;
- 75 (C) Total square footage for all floors, including rough floor plans; and
- 76 (D) Note all existing buildings proposed for use or for demolition.
- 77 (iv) Detailed landscaping plans meeting the requirements of Section 15.20.050, Provo City
- 78 Code.
- 79 (v) Utility plan, including location and size of existing and proposed main lines and services.
- 80 (3) Based on the size, scope or complexity of the development staff may require any other information
- 81 required to ensure that the proposed project complies with applicable requirements of the Provo City
- 82 Code and standards and specifications adopted by the City. the following additional information:
- 83 ~~(a) A certified survey of the property showing any survey conflicts with adjoining properties, any~~
- 84 ~~discrepancies between the survey descriptions and existing fence lines, and any overlaps with~~
- 85 ~~adjoining property descriptions;~~
- 86 ~~(b) Location of all fire hydrants within five hundred (500) feet or fire suppression methods;~~

- 87 ~~(c) Locations of existing and proposed easements or rights-of-way;~~
- 88 ~~(d) Location of power, telephone and cable facilities;~~
- 89 ~~(e) Proposed density for each phase;~~
- 90 ~~(f) An existing features site analysis plan including steep slopes, wetlands, watercourses, drainage~~  
91 ~~channels, one hundred (100) year floodplains, potential landslide areas, fault lines, rock fall areas,~~  
92 ~~woodlands, tree lines, open fields or meadows, scenic views, outcrops, roads, power lines and~~  
93 ~~trails;~~
- 94 ~~(g) Utility plan, including location and size of existing and proposed main lines and services;~~
- 95 ~~(h) Fully executed declaration of covenants, conditions, and restrictions, together with open space~~  
96 ~~easements and other bonds, guarantees, or agreements as required herein or as deemed~~  
97 ~~necessary by the Planning Commission and/or the City Attorney to meet the objectives of this~~  
98 ~~Chapter;~~
- 99 ~~(i) Subdivision plat, if required by the City Engineer, including all necessary information;~~
- 100 ~~(j) Traffic study;~~
- 101 ~~(k) Drainage plans and a storm water pollution prevention plan (SWPPP);~~
- 102 ~~(l) A grading plan of the entire site with contour intervals no greater than one (1) foot, and~~  
103 ~~identifying natural slopes of thirty percent (30%) or greater, and identifying quantities of borrowed or~~  
104 ~~excess material;~~
- 105 ~~(m) Proof of single ownership or control of the subject property by title report, deeds, etc.;~~
- 106 ~~(n) Market study or cost/benefit study;~~
- 107 ~~(o) Phasing plan and/or schedule for the completion of landscaping, parking, street improvements,~~  
108 ~~and other improvements and amenities that are guaranteed by bonds or other securities; and~~

109 ~~(p) Any other information required to ensure that the proposed project complies with applicable~~  
110 ~~requirements of the Provo City Code and standards and specifications adopted by the City.~~

111 ...

112 **15.04.130. Preliminary Subdivision Plan.**

---

113 (1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3)  
114 acres or greater or ten (10) lots or greater.

115 (2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City  
116 Code, when:

117 (a) The developer has signed an application form and submitted it to the City;

118 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

119 (c) The developer has submitted to the City a plan, in an approved electronic format, showing the  
120 proposed development layout, drawn to scale, and the following information:

121 (i) ~~North point, scale and date;~~ A complete and accurate legal description;

122 (ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor  
123 of the development, and the owners of the land immediately adjoining the land to be  
124 subdivided;

125 (iii) Proposed name of the development;

126 (iv) The location of the development as forming a part of the larger tract or parcel where the  
127 plan submitted covers only a part of the developer's tract;

128 (v) A conceptual integrated development plan meeting the requirements of Section 15.04.030,  
129 Provo City Code;

130 (vi) A ~~preliminary~~ preliminary infrastructure plan for providing necessary streets, water, sewer, storm  
131 drainage, and electrical distribution for the entire tract including the point from which said  
132 services are to be extended;

133 (vii) A summary indicating the total area within the development, total area and dimensions of  
134 each lot, and proposed net density of the development.

135 (3) Based on the size, scope or complexity of the development proposal, staff may require any other  
136 information required to ensure that the proposed project complies with applicable requirements of the  
137 Provo City Code and standards and specifications adopted by the City. ~~or all of the following additional~~  
138 ~~information in order to obtain preliminary subdivision plan approval:~~

139 ~~(a) The legal description, and information sufficient to accurately locate property shown on the plan,~~  
140 ~~with reference to survey markers, monuments, or section corners;~~

141 ~~(b) The location, width and other dimensions of existing and/or proposed streets, lots, buildings,~~  
142 ~~alleys, easements, parks and other open spaces (primary and secondary conservation areas) with~~  
143 ~~proper labeling of spaces to be dedicated to the public;~~

144 ~~(c) All wetlands and/or subsurface drainage systems;~~

145 ~~(d) Preliminary grading plans showing areas of proposed cut and fill including:~~

146 ~~(i) Existing and proposed contours;~~

147 ~~(ii) Identify natural slopes of thirty percent (30%) or greater;~~

148 ~~(iii) Quantities of borrowed or excess material;~~

149 ~~(e) A vegetation plan showing existing vegetation to remain and the size, type and location of~~  
150 ~~vegetation to be replaced;~~

151 ~~(f) A storm water pollution prevention plan;~~

152 ~~(g) Letter of agreement from the owner of any irrigation ditch, canal or other such waterway passing~~  
153 ~~through the proposed development;~~

154 ~~(h) Estimated total peak water demand on the City water system expressed in gallons per day and~~  
155 ~~estimated peak hourly demand with fire flow requirements shown in gallons per minute;~~

- 156 ~~(i) Estimated total peak sewer flow to be treated by the City treatment facilities expressed in gallons~~  
157 ~~per day;~~
- 158 ~~(j) Estimated maximum flow (one hundred (100) year storm) through any natural courses lying~~  
159 ~~within the area to be developed;~~
- 160 ~~(k) A utility maintenance agreement for all private utility systems; and~~
- 161 ~~(l) Any other information that is deemed pertinent to the project.~~
- 162 ...

## **ATTACHMENT #2 – PUBLIC WORKS CRC COMMENTS**

---

Engineering: Shane Winters / Engineer eMail: swinters@provo.utah.gov Phone: 801-852-6742

Major Concerns:

10/10/2017 - Shane Winters:

1. From our understanding changes were to be mostly limited to and address 15.03.300 Concept Plan Submittal Requirements. We have some concerns to the changes to the Final Project Plan Submittal and Preliminary Plan Subdivision Plan. It appears a majority of the proposed changes eliminate much of the public works requirements. Why?
2. The city council has recently adopted Provo City Public Works Department Development Guidelines. The changes proposed are not consistent with this document. I would recommend that either the code changes reference the adopted Public Works Department Development Guidelines for Concept Plan, Preliminary Plan, and Final Project Plan submittals or should include and be consistent with the Public Works requirements from this document.



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

44  
45 C. The Municipal Council hereby directs that the official copy of the Provo City Code be  
46 updated to reflect the provisions enacted by this ordinance.

47  
48 D. This ordinance shall take effect immediately after it has been posted or published in  
49 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah  
50 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

51

52 END OF ORDINANCE.

## EXHIBIT A

### 1 15.03.300. Concept Plan Submittal Requirements.

2 (1) Concurrent with any request to rezone or annex property, a concept plan application shall be  
3 submitted to the Community Development Department.

4 (a) Any development plan that includes a subdivision shall comply with this Section and  
5 Chapter 15.04, Provo City Code.

6 (2) A concept plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

7 (a) The developer has signed an application form and submitted it to the City;

8 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

9 (c) The developer has submitted to the City a plan in an approved electronic format showing the  
10 proposed development layout, drawn to scale, and the following information:

11 (i) A tabulation of the total acreage of the site and the percentages thereof to be designated  
12 for various uses, i.e., parking, residential units, open space, public streets, private streets,  
13 landscaping, etc.

14 (ii) Proposed circulation pattern including private driveways, public and private streets,  
15 pedestrian paths, location of parking spaces and ingress or egress.

16 (iii) ~~Parks, common open spaces, playgrounds, school sites, and other public or private~~  
17 ~~recreation facilities and improvements proposed within the proposed development.~~ **A**  
18 **conceptual integrated development plan meeting the requirements of Provo City Code Section**  
19 **15.04.030.**

20 (iv) General location of all dwellings and other structures in the proposed development, and  
21 an indication of proposed population densities and building densities (units per net acre).

22 (v) Preliminary elevations or perspectives of all building types proposed within the  
23 development including floor plans.

24 (vi) An ~~workable~~ infrastructure plan for providing necessary streets, water, sewer, storm  
25 drainage, and electrical distribution for the entire tract including the point from which said  
26 services are to be extended.

27 (3) Based on the size, scope or complexity of the development proposal, staff may ~~require any other~~  
28 ~~information necessary to ensure that the proposed project complies with applicable requirements of the~~  
29 ~~Provo City Code and standards and specifications adopted by the City.~~ ~~any or all of the following~~  
30 ~~additional information in order to obtain concept plan approval:-~~

31 ~~(a) A complete and accurate legal description of the property;~~

32 ~~(b) A preliminary title search showing legal ownership of the property. If the applicant is not the~~  
33 ~~property owner, the applicant shall also provide written proof that the applicant has sufficient legal~~  
34 ~~claim on the property, and each parcel therein, to proceed with development plans;~~

35 ~~(c) A grading plan of the entire site with contour intervals no greater than two (2) feet, and~~  
36 ~~identifying natural slopes of thirty percent (30%) or greater;~~

37 ~~(d) A preliminary subdivision plat, if required by the City Engineer, meeting the requirements of~~  
38 ~~Section 15.04.130, Provo City Code;~~

39 ~~(e) Landscaping plans showing the types and sizes of plants and materials to be used;~~

40 ~~(f) A draft of the covenants, conditions and restrictions;~~

41 ~~(g) A phasing plan with a construction timetable for all phases;~~

42 ~~(h) A preliminary traffic study as directed by the City Engineer;~~

43 ~~(i) Any other information that is deemed pertinent to the project.~~

44 ...

45 **15.03.310. Final Project Plan Submittal Requirements.**

46 (1) No building or structure shall be erected or substantially altered and no nonstructural improvements  
47 shall be made to open land unless a final project plan is approved by the Coordinator Review Committee.

48 (2) A final project plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

- 49 (a) The developer has signed an application form and submitted it to the City;
- 50 (b) The developer has paid all application fees as evidenced by a receipt from the City; and
- 51 (c) The developer has submitted to the City a final project plan in an approved electronic format
- 52 including the following information:

53 (i) Detailed site plan, including:

54 (A) Dimensions of existing and proposed property lines;

55 (B) Distance from buildings to property lines;

56 (C) Square footage of existing and proposed structures;

57 (D) Use of existing and proposed structures;

58 (E) Trash storage container location, size, and how enclosed;

59 (F) Designations of common open spaces and special use areas;

60 (G) Proposed street, sidewalk and driveway layout;

61 (H) A tabulation of the total acreage of the site and the percentages thereof to be

62 designated for various uses (e.g., parking, buildings, open space, streets, etc.);

63 (I) Any dimensions or notations necessary to exhibit compliance with applicable

64 ordinances.

65 (ii) Parking plan information, including:

66 (A) Parking space analysis (proposed and required);

67 (B) Parking space dimensions, including back up area;

68 (C) Ingress and egress;

69 (D) Parking for persons with disabilities; and

70 (E) Location of supporting columns in structured parking;

- 71 (iii) Building design plan information, including:
- 72 (A) Exterior elevations of proposed buildings, indicating roofing materials, type of  
73 construction, exterior materials and colors;
- 74 (B) Conceptual sign plans;
- 75 (C) Total square footage for all floors, including rough floor plans; and
- 76 (D) Note all existing buildings proposed for use or for demolition.
- 77 (iv) Detailed landscaping plans meeting the requirements of Section 15.20.050, Provo City  
78 Code.

79 (v) Utility plan, including location and size of existing and proposed main lines and services.

80 (3) Based on the size, scope or complexity of the development staff may require any other information  
81 required to ensure that the proposed project complies with applicable requirements of the Provo City  
82 Code and standards and specifications adopted by the City. ~~the following additional information:~~

83 ~~(a) A certified survey of the property showing any survey conflicts with adjoining properties, any~~  
84 ~~discrepancies between the survey descriptions and existing fence lines, and any overlaps with~~  
85 ~~adjoining property descriptions;~~

86 ~~(b) Location of all fire hydrants within five hundred (500) feet or fire suppression methods;~~

87 ~~(c) Locations of existing and proposed easements or rights-of-way;~~

88 ~~(d) Location of power, telephone and cable facilities;~~

89 ~~(e) Proposed density for each phase;~~

90 ~~(f) An existing features site analysis plan including steep slopes, wetlands, watercourses, drainage~~  
91 ~~channels, one hundred (100) year floodplains, potential landslide areas, fault lines, rock fall areas,~~  
92 ~~woodlands, tree lines, open fields or meadows, scenic views, outcrops, roads, power lines and~~  
93 ~~trails;~~

94 ~~(g) Utility plan, including location and size of existing and proposed main lines and services;~~

95 ~~(h) Fully executed declaration of covenants, conditions, and restrictions, together with open space~~  
96 ~~easements and other bonds, guarantees, or agreements as required herein or as deemed~~  
97 ~~necessary by the Planning Commission and/or the City Attorney to meet the objectives of this~~  
98 ~~Chapter;~~

99 ~~(i) Subdivision plat, if required by the City Engineer, including all necessary information;~~

100 ~~(j) Traffic study;~~

101 ~~(k) Drainage plans and a storm water pollution prevention plan (SWPPP);~~

102 ~~(l) A grading plan of the entire site with contour intervals no greater than one (1) foot, and~~  
103 ~~identifying natural slopes of thirty percent (30%) or greater, and identifying quantities of borrowed or~~  
104 ~~excess material;~~

105 ~~(m) Proof of single ownership or control of the subject property by title report, deeds, etc.;~~

106 ~~(n) Market study or cost/benefit study;~~

107 ~~(o) Phasing plan and/or schedule for the completion of landscaping, parking, street improvements,~~  
108 ~~and other improvements and amenities that are guaranteed by bonds or other securities; and~~

109 ~~(p) Any other information required to ensure that the proposed project complies with applicable~~  
110 ~~requirements of the Provo City Code and standards and specifications adopted by the City.~~

111 ...

112 **15.04.130. Preliminary Subdivision Plan.**  
.....

113 (1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3)  
114 acres or greater or ten (10) lots or greater.

115 (2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City  
116 Code, when:

117 (a) The developer has signed an application form and submitted it to the City;

118 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

119 (c) The developer has submitted to the City a plan, in an approved electronic format, showing the  
120 proposed development layout, drawn to scale, and the following information:

121 (i) ~~North point, scale and date;~~ A complete and accurate legal description;

122 (ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor  
123 of the development, and the owners of the land immediately adjoining the land to be  
124 subdivided;

125 (iii) Proposed name of the development;

126 (iv) The location of the development as forming a part of the larger tract or parcel where the  
127 plan submitted covers only a part of the developer's tract;

128 (v) A conceptual integrated development plan meeting the requirements of Section 15.04.030,  
129 Provo City Code;

130 (vi) A ~~preliminary~~ infrastructure plan for providing necessary streets, water, sewer, storm  
131 drainage, and electrical distribution for the entire tract including the point from which said  
132 services are to be extended;

133 (vii) A summary indicating the total area within the development, total area and dimensions of  
134 each lot, and proposed net density of the development.

135 (3) Based on the size, scope or complexity of the development proposal, staff may require any other  
136 information required to ensure that the proposed project complies with applicable requirements of the  
137 Provo City Code and standards and specifications adopted by the City. ~~or all of the following additional~~  
138 ~~information in order to obtain preliminary subdivision plan approval:~~

139 ~~(a) The legal description, and information sufficient to accurately locate property shown on the plan,~~  
140 ~~with reference to survey markers, monuments, or section corners;~~

141 ~~(b) The location, width and other dimensions of existing and/or proposed streets, lots, buildings,~~  
142 ~~alleys, easements, parks and other open spaces (primary and secondary conservation areas) with~~  
143 ~~proper labeling of spaces to be dedicated to the public;~~

144 ~~(c) All wetlands and/or subsurface drainage systems;~~

- 145 ~~(d) Preliminary grading plans showing areas of proposed cut and fill including:~~
- 146 ~~(i) Existing and proposed contours;~~
- 147 ~~(ii) Identify natural slopes of thirty percent (30%) or greater;~~
- 148 ~~(iii) Quantities of borrowed or excess material;~~
- 149 ~~(e) A vegetation plan showing existing vegetation to remain and the size, type and location of~~
- 150 ~~vegetation to be replaced;~~
- 151 ~~(f) A storm water pollution prevention plan;~~
- 152 ~~(g) Letter of agreement from the owner of any irrigation ditch, canal or other such waterway passing~~
- 153 ~~through the proposed development;~~
- 154 ~~(h) Estimated total peak water demand on the City water system expressed in gallons per day and~~
- 155 ~~estimated peak hourly demand with fire flow requirements shown in gallons per minute;~~
- 156 ~~(i) Estimated total peak sewer flow to be treated by the City treatment facilities expressed in gallons~~
- 157 ~~per day;~~
- 158 ~~(j) Estimated maximum flow (one hundred (100) year storm) through any natural courses lying~~
- 159 ~~within the area to be developed;~~
- 160 ~~(k) A utility maintenance agreement for all private utility systems; and~~
- 161 ~~(l) Any other information that is deemed pertinent to the project.~~
- 162 ...



WELCOME HOME

PLANNING COMMISSION

November 8, 2017

# ITEM 1\*



Project Plan Reviews.

***City-Wide Impact***

17-00180A

- - Preliminary Subdivision Plan
    - (3) Based on the size, scope or complexity of the development proposal, staff may **require any other information necessary to ensure that the proposed project complies with applicable requirements of the Provo City Code and standards and specifications adopted by the City.** ~~any of all of the following additional information in order to obtain concept plan approval:~~
  - 15.03.300 Concept Plan
    - Addition of Conceptual Integrated Development Plan
  - 15.03.310 Final Plan
    - Addition of Utility plan to the required section
  - 15.04.130 Preliminary Subdivision
    - Noting that the infrastructure plan is preliminary



**Planning Commission  
Staff Report  
Ordinance Amendment  
Hearing Date: November 8, 2017**

**ITEM 1\*** Provo City Community Development Department requests an amendment to Sections 15.03.300; 15.03.310; and 15.04.130 of the Provo City Land Use and Development Ordinances, to clarify minimum required submittals for Project Plan Reviews. **City-Wide Impact.** 17-0018OA, Austin Corry, 801-852-6413

**Applicant:** Provo City Comm. Dev. Department

**Staff Coordinator:** Austin Corry

**\*Council Action Required:** Yes

**ALTERNATIVE ACTIONS**

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is December 13, 2017, at 5:30 p.m.*
2. **Recommend Denial** of the proposed ordinance amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

**Relevant History:** The Municipal Council has established a Development Approval Process Review Committee (DAPR) to identify ways that the approval process could be refined to be more efficient for applicants and staff. One of the considerations of this committee is the amount of information required by each application, especially those requiring Council action. The DAPR Committee has provided the following recommendation to the Code to eliminate confusion as to the amount of information required for Council consideration.

**Neighborhood Issues:** No feedback has been received from any of the neighborhood chairs regarding this application.

**Summary of Key Issues:**

- Current ordinance has an extensive list of items that “may” be required
- Confusion as to required vs. potential items could result in applicants spending more time and money than necessary preparing submittals.

**Staff Recommendation:**

That Planning Commission **Recommend Approval** of the proposed ordinance amendment.

*This action would be consistent with the recommendation of the Staff Report. Any additional changes should be stated with the motion*

## **OVERVIEW**

The Municipal Council has created the Development Approval Process Review Committee (DAPR) to consider ways that the current review and approval process for land use applications can be expedited and more efficient. In the recent past, the DAPR Committee has discussed the sections of Provo City Code which are under consideration with this proposed amendment.

Section 15.03.300, 15.03.310, and 15.04.130 of the Provo City Code identify a checklist of items that apply to applications, specifically, Concept Plan Approval, Final Plan Approval, and Preliminary Subdivision Approval applications, respectively.

Each of these sections includes two paragraphs. The first paragraph identifies items that are required in all instances for an application to be considered. The second paragraph includes a list of items that the City may request/require if it is determined that such information is necessary for the City to make a determination on the application. These lists, in all instances, include language to suggest it is not comprehensive and does not preclude the City for asking for something that is not on the list. Section 15.03.140, Final Subdivision Approval, is not included in this amendment because existing language in that section already reflects the same result the proposed amendment is intending to achieve.

In the past, many applicants and City staff have misunderstood the distinction between these two paragraphs and the result has been a tendency for staff to request information or for an applicant to feel inclined to provide information from the second paragraph, regardless of whether the information is pertinent to the application. The result can have significant time and financial hardships on applicants that are not imperative for the Council to make the applicable decision or staff to appropriately make a determination that the project complies with ordinances and adopted standards.

In reviewing this code language, the DAPR Committee has determined that this confusion could be reduced by removing the lengthy list of “may be required” items and providing a simple statement that notes if something additional is necessary, the City may request it. This language removes significant amounts of code text without altering the current process or regulation in any way and without precluding the City from requesting anything that has previously been on the list.

## **FINDINGS OF FACT**

1. The Development Approval Process Review Committee was established to analyze existing review processes.
2. The Development Approval Process Review Committee intends to clarify expectations for applicants.
3. The proposed amendment removes language that has been determined unnecessary to the review process.
4. The proposed amendment does not preclude the City from requesting any information necessary to verify an applications conformance with City policies, ordinances, or standards.

## **STAFF ANALYSIS**

1. Provo City Public Works has noted that they have major concerns with the amendment as proposed through the CRC process. Those concerns are shown in attachment #2 of this report.
2. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

*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.*

**Response: The amendment would clarify expected submittal requirements as part of Concept Plan, Final Plan, and Preliminary Subdivision applications.**

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

**Response: The proposed amendment would reduce the time and financial impact on an applicant while still providing the necessary**

**information for the Municipal Council to make applicable decisions related to land use applications.**

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

**Response: The DAPR Committee Mission Statement establishes the following goal to “create standards for desired outcomes and service levels...The resulting standards should also yield a process that quickly yet robustly evaluates the quality of a proposal and how it fits into Provo’s vision.” The proposed amendment is intended to clarify expectations and eliminate production of unnecessary information while still achieving the same level of service.**

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

**Response: Timing and sequencing provisions are not related to the context of this proposed ordinance amendment.**

- e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan’s articulated policies.*

**Response: Staff has not identified any articulated policies that would be hindered by the proposed amendment.**

- f) *Adverse impacts on adjacent land owners.*

**Response: Not Applicable.**

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

**Response: Not Applicable.**

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

**Response: Not Applicable.**

## **CONCLUSIONS**

All departments within the Coordinator Review Committee have reviewed the proposed language which was developed by the DAPR Committee. Staff, with the exception of Public Works, has found the proposed amendment to be consistent with the established policies and believes the proposed amendment helps to clarify the application process without hindering the ability for staff to effectively and efficiently review applications for compliance. The noted concerns from Public Works have been included for the Planning Commission and Municipal Council's consideration of this item.

## **STAFF RECOMMENDATION**

That Planning Commission **recommend approval** of the proposed ordinance amendment.

**ATTACHMENT #1 – PROPOSED AMENDMENT LANGUAGE**

1 **15.03.300. Concept Plan Submittal Requirements.**

2 (1) Concurrent with any request to rezone or annex property, a concept plan application shall be  
3 submitted to the Community Development Department.

4 (a) Any development plan that includes a subdivision shall comply with this Section and  
5 Chapter 15.04, Provo City Code.

6 (2) A concept plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

7 (a) The developer has signed an application form and submitted it to the City;

8 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

9 (c) The developer has submitted to the City a plan in an approved electronic format showing the  
10 proposed development layout, drawn to scale, and the following information:

11 (i) A tabulation of the total acreage of the site and the percentages thereof to be designated  
12 for various uses, i.e., parking, residential units, open space, public streets, private streets,  
13 landscaping, etc.

14 (ii) Proposed circulation pattern including private driveways, public and private streets,  
15 pedestrian paths, location of parking spaces and ingress or egress.

16 (iii) ~~Parks, common open spaces, playgrounds, school sites, and other public or private~~  
17 ~~recreation facilities and improvements proposed within the proposed development.~~  
18 **conceptual integrated development plan meeting the requirements of Provo City Code Section**  
19 **15.04.030.**

20 (iv) General location of all dwellings and other structures in the proposed development, and  
21 an indication of proposed population densities and building densities (units per net acre).

- 22 (v) Preliminary elevations or perspectives of all building types proposed within the  
23 development including floor plans.
- 24 (vi) An ~~workable~~ infrastructure plan for providing necessary streets, water, sewer, storm  
25 drainage, and electrical distribution for the entire tract including the point from which said  
26 services are to be extended.
- 27 (3) Based on the size, scope or complexity of the development proposal, staff may **require any other**  
28 **information necessary to ensure that the proposed project complies with applicable requirements of the**  
29 **Provo City Code and standards and specifications adopted by the City.** ~~any or all of the following~~  
30 ~~additional information in order to obtain concept plan approval:~~
- 31 ~~(a) A complete and accurate legal description of the property;~~
- 32 ~~(b) A preliminary title search showing legal ownership of the property. If the applicant is not the~~  
33 ~~property owner, the applicant shall also provide written proof that the applicant has sufficient legal~~  
34 ~~claim on the property, and each parcel therein, to proceed with development plans;~~
- 35 ~~(c) A grading plan of the entire site with contour intervals no greater than two (2) feet, and~~  
36 ~~identifying natural slopes of thirty percent (30%) or greater;~~
- 37 ~~(d) A preliminary subdivision plat, if required by the City Engineer, meeting the requirements of~~  
38 ~~Section 15.04.130, Provo City Code;~~
- 39 ~~(e) Landscaping plans showing the types and sizes of plants and materials to be used;~~
- 40 ~~(f) A draft of the covenants, conditions and restrictions;~~
- 41 ~~(g) A phasing plan with a construction timetable for all phases;~~
- 42 ~~(h) A preliminary traffic study as directed by the City Engineer;~~
- 43 ~~(i) Any other information that is deemed pertinent to the project.~~
- 44 ...

45 **15.03.310. Final Project Plan Submittal Requirements.**

---

46 (1) No building or structure shall be erected or substantially altered and no nonstructural improvements  
47 shall be made to open land unless a final project plan is approved by the Coordinator Review Committee.

48 (2) A final project plan application shall vest, for purposes of Section 14.02.130, Provo City Code, when:

49 (a) The developer has signed an application form and submitted it to the City;

50 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

51 (c) The developer has submitted to the City a final project plan in an approved electronic format  
52 including the following information:

53 (i) Detailed site plan, including:

54 (A) Dimensions of existing and proposed property lines;

55 (B) Distance from buildings to property lines;

56 (C) Square footage of existing and proposed structures;

57 (D) Use of existing and proposed structures;

58 (E) Trash storage container location, size, and how enclosed;

59 (F) Designations of common open spaces and special use areas;

60 (G) Proposed street, sidewalk and driveway layout;

61 (H) A tabulation of the total acreage of the site and the percentages thereof to be  
62 designated for various uses (e.g., parking, buildings, open space, streets, etc.);

63 (I) Any dimensions or notations necessary to exhibit compliance with applicable  
64 ordinances.

65 (ii) Parking plan information, including:

- 66 (A) Parking space analysis (proposed and required);
- 67 (B) Parking space dimensions, including back up area;
- 68 (C) Ingress and egress;
- 69 (D) Parking for persons with disabilities; and
- 70 (E) Location of supporting columns in structured parking;
- 71 (iii) Building design plan information, including:
- 72 (A) Exterior elevations of proposed buildings, indicating roofing materials, type of
- 73 construction, exterior materials and colors;
- 74 (B) Conceptual sign plans;
- 75 (C) Total square footage for all floors, including rough floor plans; and
- 76 (D) Note all existing buildings proposed for use or for demolition.
- 77 (iv) Detailed landscaping plans meeting the requirements of Section 15.20.050, Provo City
- 78 Code.
- 79 (v) Utility plan, including location and size of existing and proposed main lines and services.
- 80 (3) Based on the size, scope or complexity of the development staff may require any other information
- 81 required to ensure that the proposed project complies with applicable requirements of the Provo City
- 82 Code and standards and specifications adopted by the City. the following additional information:
- 83 ~~(a) A certified survey of the property showing any survey conflicts with adjoining properties, any~~
- 84 ~~discrepancies between the survey descriptions and existing fence lines, and any overlaps with~~
- 85 ~~adjoining property descriptions;~~
- 86 ~~(b) Location of all fire hydrants within five hundred (500) feet or fire suppression methods;~~

- 87 ~~(c) Locations of existing and proposed easements or rights-of-way;~~
- 88 ~~(d) Location of power, telephone and cable facilities;~~
- 89 ~~(e) Proposed density for each phase;~~
- 90 ~~(f) An existing features site analysis plan including steep slopes, wetlands, watercourses, drainage~~  
91 ~~channels, one hundred (100) year floodplains, potential landslide areas, fault lines, rock fall areas,~~  
92 ~~woodlands, tree lines, open fields or meadows, scenic views, outcrops, roads, power lines and~~  
93 ~~trails;~~
- 94 ~~(g) Utility plan, including location and size of existing and proposed main lines and services;~~
- 95 ~~(h) Fully executed declaration of covenants, conditions, and restrictions, together with open space~~  
96 ~~easements and other bonds, guarantees, or agreements as required herein or as deemed~~  
97 ~~necessary by the Planning Commission and/or the City Attorney to meet the objectives of this~~  
98 ~~Chapter;~~
- 99 ~~(i) Subdivision plat, if required by the City Engineer, including all necessary information;~~
- 100 ~~(j) Traffic study;~~
- 101 ~~(k) Drainage plans and a storm water pollution prevention plan (SWPPP);~~
- 102 ~~(l) A grading plan of the entire site with contour intervals no greater than one (1) foot, and~~  
103 ~~identifying natural slopes of thirty percent (30%) or greater, and identifying quantities of borrowed or~~  
104 ~~excess material;~~
- 105 ~~(m) Proof of single ownership or control of the subject property by title report, deeds, etc.;~~
- 106 ~~(n) Market study or cost/benefit study;~~
- 107 ~~(o) Phasing plan and/or schedule for the completion of landscaping, parking, street improvements,~~  
108 ~~and other improvements and amenities that are guaranteed by bonds or other securities; and~~

109 ~~(p) Any other information required to ensure that the proposed project complies with applicable~~  
110 ~~requirements of the Provo City Code and standards and specifications adopted by the City.~~

111 ...

112 **15.04.130. Preliminary Subdivision Plan.**

---

113 (1) A preliminary subdivision plan shall be furnished for all proposed developments consisting of three (3)  
114 acres or greater or ten (10) lots or greater.

115 (2) A preliminary subdivision plan application shall vest, for purposes of Section 14.02.130, Provo City  
116 Code, when:

117 (a) The developer has signed an application form and submitted it to the City;

118 (b) The developer has paid all application fees as evidenced by a receipt from the City; and

119 (c) The developer has submitted to the City a plan, in an approved electronic format, showing the  
120 proposed development layout, drawn to scale, and the following information:

121 (i) ~~North point, scale and date;~~ A complete and accurate legal description;

122 (ii) The names and addresses of the property owner, developer, the engineer, and/or surveyor  
123 of the development, and the owners of the land immediately adjoining the land to be  
124 subdivided;

125 (iii) Proposed name of the development;

126 (iv) The location of the development as forming a part of the larger tract or parcel where the  
127 plan submitted covers only a part of the developer's tract;

128 (v) A conceptual integrated development plan meeting the requirements of Section 15.04.030,  
129 Provo City Code;

130 (vi) A ~~preliminary~~ preliminary infrastructure plan for providing necessary streets, water, sewer, storm  
131 drainage, and electrical distribution for the entire tract including the point from which said  
132 services are to be extended;

133 (vii) A summary indicating the total area within the development, total area and dimensions of  
134 each lot, and proposed net density of the development.

135 (3) Based on the size, scope or complexity of the development proposal, staff may require any other  
136 information required to ensure that the proposed project complies with applicable requirements of the  
137 Provo City Code and standards and specifications adopted by the City. ~~or all of the following additional~~  
138 ~~information in order to obtain preliminary subdivision plan approval:~~

139 ~~(a) The legal description, and information sufficient to accurately locate property shown on the plan,~~  
140 ~~with reference to survey markers, monuments, or section corners;~~

141 ~~(b) The location, width and other dimensions of existing and/or proposed streets, lots, buildings,~~  
142 ~~alleys, easements, parks and other open spaces (primary and secondary conservation areas) with~~  
143 ~~proper labeling of spaces to be dedicated to the public;~~

144 ~~(c) All wetlands and/or subsurface drainage systems;~~

145 ~~(d) Preliminary grading plans showing areas of proposed cut and fill including:~~

146 ~~(i) Existing and proposed contours;~~

147 ~~(ii) Identify natural slopes of thirty percent (30%) or greater;~~

148 ~~(iii) Quantities of borrowed or excess material;~~

149 ~~(e) A vegetation plan showing existing vegetation to remain and the size, type and location of~~  
150 ~~vegetation to be replaced;~~

151 ~~(f) A storm water pollution prevention plan;~~

152 ~~(g) Letter of agreement from the owner of any irrigation ditch, canal or other such waterway passing~~  
153 ~~through the proposed development;~~

154 ~~(h) Estimated total peak water demand on the City water system expressed in gallons per day and~~  
155 ~~estimated peak hourly demand with fire flow requirements shown in gallons per minute;~~

- 156 ~~(i) Estimated total peak sewer flow to be treated by the City treatment facilities expressed in gallons~~  
157 ~~per day;~~
- 158 ~~(j) Estimated maximum flow (one hundred (100) year storm) through any natural courses lying~~  
159 ~~within the area to be developed;~~
- 160 ~~(k) A utility maintenance agreement for all private utility systems; and~~
- 161 ~~(l) Any other information that is deemed pertinent to the project.~~
- 162 ...

## **ATTACHMENT #2 – PUBLIC WORKS CRC COMMENTS**

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Engineering: Shane Winters / Engineer eMail: swinters@provo.utah.gov Phone: 801-852-6742

Major Concerns:

10/10/2017 - Shane Winters:

1. From our understanding changes were to be mostly limited to and address 15.03.300 Concept Plan Submittal Requirements. We have some concerns to the changes to the Final Project Plan Submittal and Preliminary Plan Subdivision Plan. It appears a majority of the proposed changes eliminate much of the public works requirements. Why?
2. The city council has recently adopted Provo City Public Works Department Development Guidelines. The changes proposed are not consistent with this document. I would recommend that either the code changes reference the adopted Public Works Department Development Guidelines for Concept Plan, Preliminary Plan, and Final Project Plan submittals or should include and be consistent with the Public Works requirements from this document.



TEL 801 852 6140  
351 W CENTER ST  
PO BOX 1849  
PROVO, UT 84603

## Provo City (*Legal*)

Staff Memorandum

### Provo City Code 6.26.150 Ordinance

August 29, 2017

|                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Department Head</b><br/>Robert West<br/>(801) 852-6144</p> <p><b>Presenter</b><br/>Marcus Draper<br/>(801) 852-6158</p> <p><b>Required Time for Presentation</b><br/>15 minutes</p> <p><b>Is This Time Sensitive</b><br/>No</p> <p><b>Case File # (if applicable)</b><br/>XX-XXX</p> | <p><b>Purpose of Proposal</b></p> <ul style="list-style-type: none"><li>• To adopt a new requirement governing rental dwellings in Provo City.</li></ul> <p><b>Action Requested</b></p> <ul style="list-style-type: none"><li>• Approval of the ordinance.</li></ul> <p><b>Relevant City Policies</b></p> <ul style="list-style-type: none"><li>• Provo City Code Enforcement Strategic Plan.</li></ul> <p><b>Budget Impact</b></p> <ul style="list-style-type: none"><li>• Provo City may potentially incur some additional costs in enforcing this new section of the Code and would collect additional revenue through fines and fees assessed in criminal cases.</li></ul> <p><b>Description of this item (at least 2 paragraphs)</b></p> <p>This is to help Council Members to have a clear understanding of what your item is.</p> <ul style="list-style-type: none"><li>• The Provo City Municipal Council previously adopted the Code Enforcement Strategic Plan as a guideline for increased enforcement of the City Code. Goal 2 of the Strategic Plan is to use enhanced regulation and enforcement of rental dwelling licenses to increase compliance among landlords with Provo City occupancy laws. The proposed addition to the City Code would seek to implement this goal.</li></ul> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <ul style="list-style-type: none"><li>• The proposed ordinance would require landlords to have a written contract with any tenant or subtenant leasing from them. The purpose of the ordinance is twofold. First, it educates landlords and tenants regarding the legal requirements regarding the occupancy restrictions of a particular residence. By requiring landlords to provide tenants with a copy of the rental dwelling license application approval letter and the Tenants' Rights and Responsibilities document, both the landlords and the tenants can have a clear understanding of their legal obligations so that they do not unwittingly violate the City Code. Additionally, it provides a way to indirectly enforce occupancy restrictions against landlords who intentionally violate the City Code. Landlords who are willfully violating occupancy restrictions are forced to choose between informing prospective tenants that they are breaking the law or violating this section of the code, as well.</li></ul> |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

ORDINANCE 2017-

AN ORDINANCE ENACTING A NEW PROVO CITY CODE PROVISION  
REGARDING RENTAL CONTRACTS. (17-104)

WHEREAS, the Provo City Council's Zoning Committee has recommended that Provo City Code Section 6.26.150 (Contract Required) be enacted in order to establish requirements of landlords in disclosing zoning rules for the property as part of the written tenant contract; and

WHEREAS, the action is also intended to clearly define the tenants' rights and responsibilities in a document provided by Provo City; and

WHEREAS, the Zoning Committee reasons that this action will educate tenants and landlords and facilitate better zoning self-enforcement; and

WHEREAS, on August 29, 2017, September 19, 2017, October 3, 2017, October 17, 2017, and November 14, 2017, the Municipal Council held duly noticed public meetings to ascertain facts regarding this matter, which facts are found in the meeting records; and

WHEREAS, after considering the Zoning Committee's recommendation and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code Section 6.26.150 should be enacted as recommended by the Zoning Committee and (ii) this action, as set forth below, reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

Provo City Code Section 6.26.150 is hereby enacted as shown in the attached Exhibit A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

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

44

45 D. This ordinance shall take effect on January 1, 2018.

46

47 END OF ORDINANCE.

DRAFT

## EXHIBIT A

### **6.26.150. Contract Required.**

(1) For purposes of this section, the following definitions shall apply:

(a) "Owner" includes any duly authorized agent of a property owner, including an authorized property manager, but does not include a tenant or sublessor.

(b) "Tenant" includes any lessee and/or sublessee.

(c) "Contract" means, at a minimum, a document executed by both the owner and one or more tenants that meets the requirements in subsection (4). It need not contain any additional terms to meet the requirements of this section.

(d) "Rental dwelling" has the meaning defined in Provo City Code Section 6.02.010, but also includes a mobile home rental dwelling as defined in that section.

(2) Every owner of a rental dwelling shall have a written contract with each adult tenant.

(3) Every adult tenant shall have a written contract with the owner of any rental dwelling.

(4) The contract shall contain the following:

(a) a copy of the rental dwelling license application approval letter for that property;

(b) a copy of the Tenants' Rights and Responsibilities document provided by Provo City;  
and

(c) an acknowledgement by both owner and tenant of tenant's lease of the premises.

(5) The owner shall make the contract available to Provo City officials upon request when reasonable cause exists to believe that there is a violation of this section.

(6) It shall be unlawful for any owner, tenant, or other individual to violate the requirements of this section.

(7) Any owner, tenant, or other individual who intentionally, knowingly, or recklessly violates this section shall be guilty of a Class C misdemeanor.

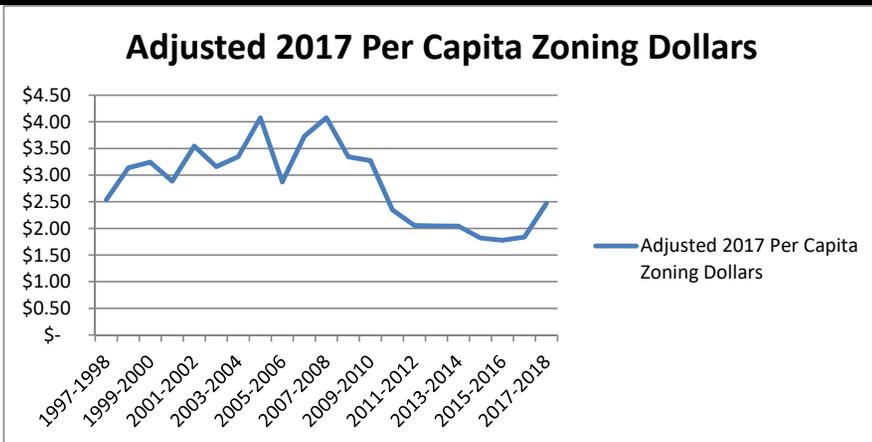
(a) No person shall be in violation of this section unless he intends a violation, is aware that his conduct is reasonably certain to cause a violation of this section, or is aware of, but consciously disregards, a substantial and unjustifiable risk that his conduct will result in a violation of this section.

(b) A person shall not be held liable if a violation of this section results from his criminal or simple negligence.

(c) A second or subsequent conviction under this section shall be a Class B misdemeanor.

(d) For purposes of this section, a plea of guilty or no contest to a violation of this section, which plea is held in abeyance under Utah Code Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

| Fiscal Year | Est. Population | Actual Total Zoning Enforcement Expenditures | Zoning Expenditures Adjusted to 2017 Dollars | Adjusted 2017 Per Capita Zoning Dollars |
|-------------|-----------------|----------------------------------------------|----------------------------------------------|-----------------------------------------|
| 1997-1998   | 106,614         | \$ 175,046                                   | \$ 270,126                                   | 2.53                                    |
| 1998-1999   | 108,875         | \$ 224,639                                   | \$ 341,294                                   | 3.13                                    |
| 1999-2000   | 110,690         | \$ 240,193                                   | \$ 358,928                                   | 3.24                                    |
| 2000-2001   | 105,664         | \$ 209,738                                   | \$ 305,063                                   | 2.89                                    |
| 2001-2002   | 106,950         | \$ 270,327                                   | \$ 379,043                                   | 3.54                                    |
| 2002-2003   | 108,783         | \$ 247,746                                   | \$ 343,458                                   | 3.16                                    |
| 2003-2004   | 110,575         | \$ 273,911                                   | \$ 370,118                                   | 3.35                                    |
| 2004-2005   | 111,718         | \$ 343,317                                   | \$ 455,134                                   | 4.07                                    |
| 2005-2006   | 115,135         | \$ 256,812                                   | \$ 330,636                                   | 2.87                                    |
| 2006-2007   | 116,217         | \$ 349,880                                   | \$ 433,193                                   | 3.73                                    |
| 2007-2008   | 117,791         | \$ 395,720                                   | \$ 479,986                                   | 4.07                                    |
| 2008-2009   | 118,468         | \$ 340,536                                   | \$ 396,097                                   | 3.34                                    |
| 2009-2010   | 119,775         | \$ 336,997                                   | \$ 391,863                                   | 3.27                                    |
| 2010-2011   | 112,945         | \$ 234,095                                   | \$ 265,243                                   | 2.35                                    |
| 2011-2012   | 114,681         | \$ 211,340                                   | \$ 235,616                                   | 2.05                                    |
| 2012-2013   | 115,451         | \$ 218,267                                   | \$ 236,422                                   | 2.05                                    |
| 2013-2014   | 116,366         | \$ 222,960                                   | \$ 237,715                                   | 2.04                                    |
| 2014-2015   | 114,793         | \$ 198,973                                   | \$ 208,843                                   | 1.82                                    |
| 2015-2016   | 115,123         | \$ 194,954                                   | \$ 204,807                                   | 1.78                                    |
| 2016-2017   | 116,868         | \$ 207,364                                   | \$ 214,893                                   | 1.84                                    |
| 2017-2018   | 116,567         | \$ 287,620                                   | \$ 287,620                                   | 2.47                                    |





**Planning Commission  
Staff Report  
Rezone  
Hearing Date: November 8, 2017**

**ITEM 2\*** Kameron Spencer requests a General Plan text amendment to delete Appendix C-3 “Residential Agricultural Specific Development Plan” as pertaining to the proposed Land Use for property located on both sides of Lakeshore Drive between approximately 120 and 400 North. Fort Utah Neighborhood. 17-0003GPA, Brian Maxfield, 801-852-6429

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <p><u>Applicant:</u> Kameron Spencer representing Century Communities</p> <p><u>Staff Coordinator:</u> Brian Maxfield</p> <p><u>Property Owner:</u> Douglas and Bert Halladay; Kyle H &amp; V Ju Swensen</p> <p><u>Parcel ID#:</u> 21:022:0176; 21:022:0168; 21:029:0067; 21:029:0063; 21:029:0078.</p> <p><u>Current Zone:</u> A1.10</p> <p><u>General Plan Designation:</u> C-3 “Residential Agricultural Specific Development Plan” of the General Plan.</p> <p><u>Acreage:</u> 23.8</p> <p><u>Related Items:</u> 17-0006R; 17-0012PPA</p> <p><u>Council Action Required:</u> Yes</p> <p><b>ALTERNATIVE ACTIONS</b></p> <ol style="list-style-type: none"><li>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is December 13, 2017, 5:30 p.m.</i></li><li>2. <b>Recommend Approval</b> of the proposed General Plan Amendment. <i>This action would not be consistent with the staff recommendation and the Planning Commission should state new findings.</i></li></ol> | <p><u>Current Legal Use:</u><br/>Agricultural / Residential Agricultural</p> <p><u>Relevant History:</u></p> <ul style="list-style-type: none"><li>• December 2006 - Adoption of the Residential Agricultural Specific Development Plan</li></ul> <p><u>Neighborhood Issues:</u><br/>Changes in density and resulting traffic</p> <p><u>Summary of Key Issues:</u><br/>Development of Southwest Area Neighborhood Plan</p> <p><u>Staff Recommendation:</u><br/>That the Planning Commission recommend to the Municipal Council <u>denial</u> of the proposed General Plan Amendment to eliminate Appendix C-3 and related references to the Key Land Policies for the Fort Utah Neighborhood until the Southwest Area Neighborhood Plan can be completed or else, in the view of the neighborhood and the City, a desirable land use plan for the site can be designed and presented.</p> |
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## **OVERVIEW**

This item is an amendment to the General Plan, and deals principally with the elimination of the Appendix C-3 Residential Agricultural Specific Development Plan. Appendix C-3 was adopted by the Municipal Council on December 5, 2006 (Resolution 2006-104). The text of Appendix C03 includes a copy of the resolution; an amendment to the listed Key Land Use Policies for the Fort Utah Neighborhood in Chapter 6 of the General Plan; and a site plan layout of the proposed Pelican Creek development for the associated area. The resolution was approved in conjunction with the adoption of Chapter 14.49C SDP-3 Residential Agricultural Specific Development Plan in the Zoning Ordinance. The Key Goals and Policies as listed in paragraphs 5-8 of Appendix C-3 were later reformatted and are now included within the Fort Utah Neighborhood key land policies as follows:

4. The area bounded by Center Street and the Provo River, west of the Lakeside Village Subdivision, within the Residential (R) designation of the Fort Utah Neighborhood, should develop as one-family detached homes with lot sizes of one-half acre or greater, and may include limited animal rights unless a proposed subdivision is designed as a "cluster" type development wherein smaller lots enable the developer to provide a significant amount of common open space. It should be noted that a future collector road is proposed by UDOT to connect into Geneva Road (approximately 2000 North, Provo) and connect to Center Street (Provo) west of 3110 West. The minimum width of right-of-way required will be 100 feet. The exact alignment of the collector road is unknown, therefore, prior to approval of any future development including rezoning of any property in this vicinity, the location of the proposed collector road should be determined. Right-of-way dedication for the proposed road may also be required.
5. The Residential Agricultural Specific Development Plan, adopted by Municipal Council Resolution 2006-104, is included as Appendix C-3 of the General Plan in order to guide development of this area when the Specific Development Plan zone is adopted.
  - a) The three (3) acre parcel identified in the Pelican Creek Specific Development Plan as open space should develop with recreational uses such as an equestrian center, riding park or other similar uses.
  - b) The Master Street Plan indicates that 3110 West, designated as a collector road, will eventually cross northward over the Provo River via a future bridge linked to Lakeshore Drive. The timing of this element will be addressed with each successive phase of the Pelican Creek Specific Development Plan.

As stated, the resolution establishing Appendix C-3 included an illustration of the proposed Pelican Creek Development. That illustration is attached to this staff report. However, it should be noted that only the 9.24 acres included within Phase I of the Pelican Creek Subdivision was ever rezoned to the SDP-3 Zone when that phase of the development was approved in 2007. The remainder of the area contained within the Pelican Creek plan has remained in the A1.10 zone.

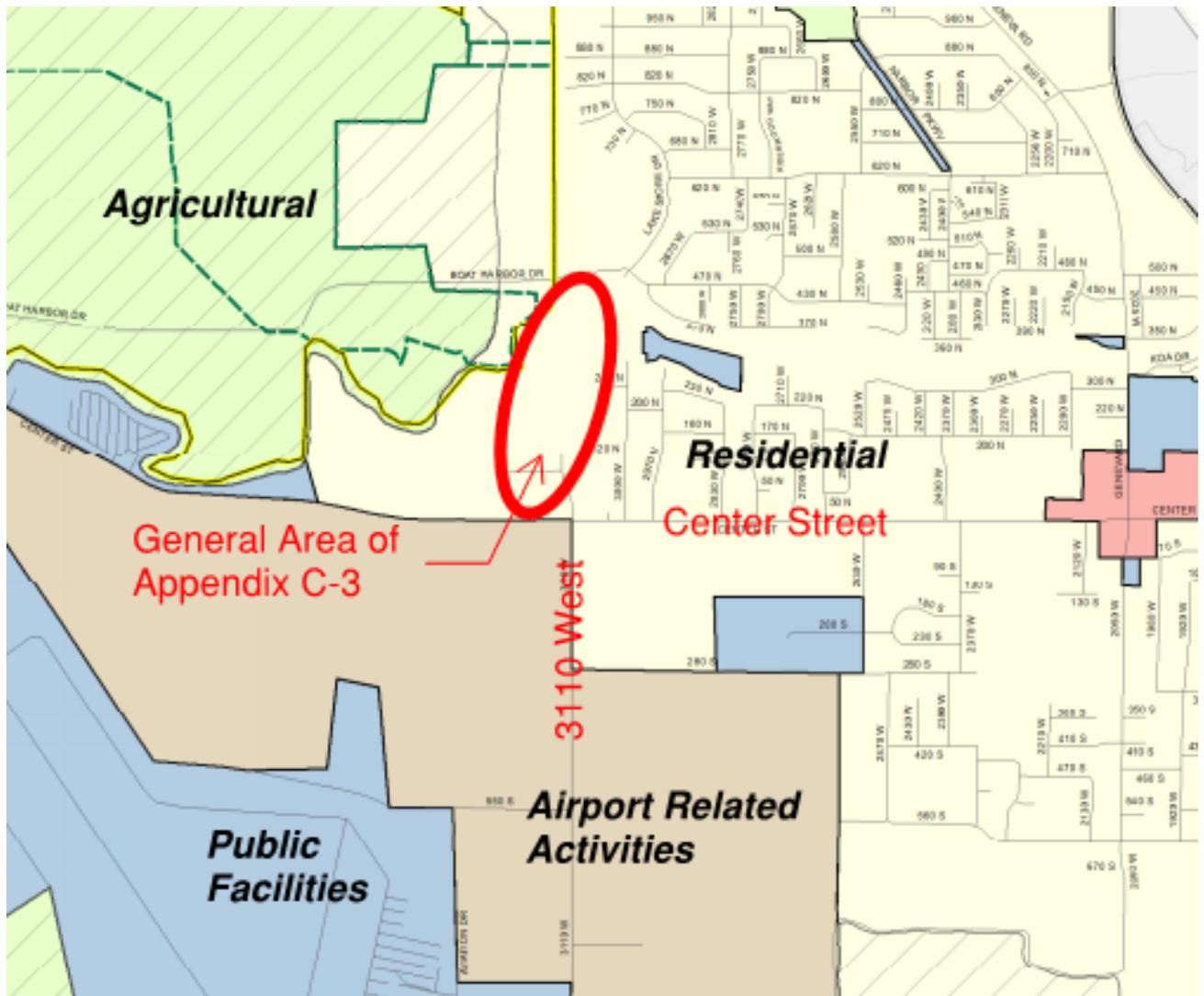
### **STAFF ANALYSIS and CONCLUSION**

Elimination of Appendix C-3 would still address any proposed land use through the General Plan's Land Use Map designation as well as the remaining stated land use policies of the Southwest Area and the Fort Utah Neighborhood. The resulting land use would be "Residential" as illustrated by the Land Use Map of the General Plan, and the key goals and policies of the area and neighborhood would still include the limitation on density of up to 4 units per acre.

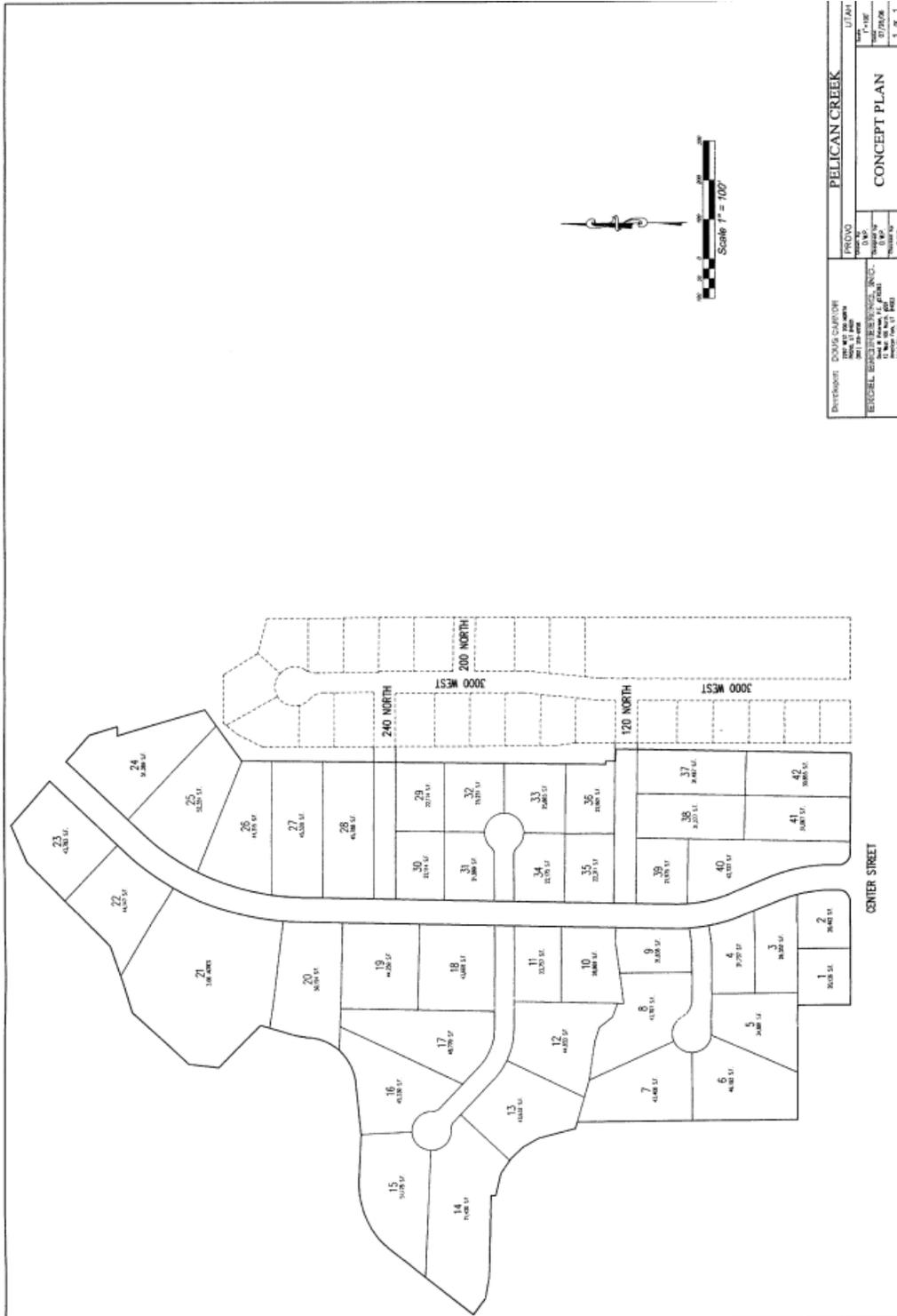
Staff believes there is merit in considering development alternatives for the site other than as proposed by the Pelican Creek Plan. However, staff also believes it would likely be premature to amend the General Plan at this time, until such time as a desirable land use plan for the site can be designed and presented.

### **STAFF RECOMMENDATION**

Recommend to the Municipal Council **denial** of the proposed General Plan Amendment to eliminate Appendix C-3 and related references to the Key Land Policies for the Fort Utah Neighborhood until either the Southwest Area Neighborhood Plan can be completed or else, in the view of the neighborhood and the City, a desirable land use plan for the site can be designed and presented.



**Area included within APPENDIX C-3**



**Pelican Creek Plan**





**Planning Commission  
Staff Report  
Rezone  
Hearing Date: November 8, 2017**

**ITEM 3\*** Kameron Spencer requests a Zone Change for 23.8 acres located on both sides of Lakeshore Drive between approximately 120 North to 400 North, from A1.10 Agricultural to R1.10PD Residential. **Fort Utah Neighborhood.** 17-0006R, Brian Maxfield, 801-852-6429

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| <p><u>Applicant:</u> Kameron Spencer representing Century Communities</p> <p><u>Staff Coordinator:</u> Brian Maxfield</p> <p><u>Property Owner:</u> Douglas and Bert Halladay; Kyle H &amp; V Ju Swensen</p> <p><u>Parcel ID#:</u> 21:022:0176; 21:022:0168; 21:029:0067; 21:029:0063; 21:029:0078.</p> <p><u>Current Zone:</u> A1.10</p> <p><u>Proposed Zone:</u> R1.10PD</p> <p><u>General Plan Designation:</u> Residential - however, the property is also included within Appendix C-3 "Residential Agricultural Specific Development Plan" of the General Plan.</p> <p><u>Acreage:</u> 23.8</p> <p><u>Related Items:</u> 17-0003GPA; 17-0012PPA</p> <p><u>Council Action Required:</u> Yes</p> <p><b>ALTERNATIVE ACTIONS</b></p> <ol style="list-style-type: none"><li>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is December 13, 2017, 5:30 p.m.</i></li><li>2. <b>Recommend Approval</b> of the proposed rezoning from A1.10 to R1.10PD. <i>This action would not be consistent with the staff recommendation and the Planning Commission should state new findings.</i></li></ol> | <p><u>Current Legal Use:</u> Agricultural</p> <p><u>Relevant History:</u></p> <ul style="list-style-type: none"><li>• December 2006 - Adoption of the Residential Agricultural Specific Development Plan</li><li>• A neighborhood meeting was held on May 4, 2017 where the initial proposal for an LDR Zone was presented which included townhomes on the western portion of the property.</li><li>• A second neighborhood meeting is being held on Thursday, November 2, 2017 to present the current proposal for R1.10PD zoning and development.</li></ul> <p><u>Neighborhood Issues:</u><br/>Density and resulting traffic</p> <p><u>Summary of Key Issues:</u></p> <ul style="list-style-type: none"><li>• Appropriateness of Requested Zone</li><li>• Appropriateness of PD Overlay Zone</li></ul> <p><u>Staff Recommendation:</u><br/>The Planning Commission recommend to the Municipal Council, <b>denial</b> of the proposed rezoning of approximately 23.8 acres from the A1.10 and A1.5 to the R1.10PD zone with the following findings:</p> <ol style="list-style-type: none"><li>1. The proposed development plan and proposed R1.10PD Zone are not in compliance with the General Plan.</li><li>2. The required and concurrent Concept Plan Approval for a Performance Development Overlay zone is insufficient and not compatible with this site.</li></ol> |
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## **OVERVIEW**

This item is the rezoning of approximately 23.8 acres from the A1.10 Agricultural (10 acre minimum lot size), to the R1.10PD Residential, Performance Development Zone (density based on standard 10,000 square-foot lot subdivision). The rezoning would facilitate the development of 101 single-family detached lots.

The site straddles Lakeshore Drive between approximately 120 North to 400 North. The area directly east of the site is zoned R1.10 and has a developed subdivision (Lakeside Village). To the south, the project borders the Pelican Creek Subdivision which is included within the SDP-3 Zone. The SDP-3 Zone is a Specific Development Plan Zone which specifies ½ acre lots or larger and includes animal rights. To the west of the subject property is the proposed Lakeview Parkway and the Provo River. On the north of the western portion of the proposed rezoning, is a proposed parking area and possible visitor center for the Provo River Delta Restoration project. The northern side of the eastern portion of the proposed rezoning also adjoins the Provo River.

Performance Development (PD) Overlay Zones are to be approved and utilized in combination with existing conventional zones. PD Zones are also only adopted in conjunction with an approved concept plan for the site. A review and recommendation regarding the associated concept plan is presented with Item #3, the Staff Report regarding the Project Plan (File #17-0012PPA).

## **GENERAL PLAN POLICIES**

The staff recommendation regarding the concurrent Agenda Item #1 (File #17-0003GPA) is for denial of the proposed General Plan amendment. Therefore, the following analyzes the proposed rezoning in accordance with the existing General Plan text.

Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of zoning map amendments:

*Upon receipt of a petition by the Planning Commission, the Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010 of this Title and may approve, conditionally approve, or deny the preliminary project plan. 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.

To permit the residential development of an area designated as “Residential” on the General Plan Land Use Map.

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

While the R1.10 zone is consistent with the adjoining zone directly to the east, it would be in conflict with the purpose and intent of the Residential Agricultural Specific Development Plan referred to in Appendix C-3 and made part of the Neighborhood's key goals and policies.

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

The proposed rezoning to R1.10PD would not be compatible with the goals and policies relating to Residential Agricultural Specific Development Plan as contained in Appendix C-3 of the General Plan.

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

The proposed rezoning and development would follow the General Plan's timing and sequencing by developing where streets and utility services currently exist.

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

Development of the property under the proposed zoning amendment would hinder the attainment of the General Plan's articulated policies as contained in Appendix C-3 Residential Agricultural Specific Development Plan.

(f) Adverse impacts on adjacent land owners.

With the proper development of the site under either under the proposed zone or else the existing Pelican Creek Plan, no adverse impacts on adjacent land owners are expected.

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

The current zoning would need to be amended to allow for either the proposed development or that proposed by the Pelican Creek Plan.

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

The Land Use Map of the General Plan indicates "Residential" which conflicts with the Plan Policies as contained in Appendix C-3 Residential Agricultural Specific Development Plan. As noted, precedence is given to the Plan Policies.

### **STAFF ANALYSIS and CONCLUSION**

Unlike a proposed rezoning to a standard R1.10 Zone, the PD Overlay requires much more analysis as to the resulting residential housing mix and design. Therefore, the analysis of this

proposed rezoning is actually contained within the associated Item #3, which presents the concept plan (File #17-0012PPA) to be associated with the PD Overlay Zone.

**14.31.130. Concept Plan Approval.**

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Concurrent with any request to rezone property to the Performance Development Overlay Zone, and prior to final plan approval, a concept plan which meets the requirements of Section 15.03.300, Provo City Code, shall be submitted to the Provo City Planning Commission.

The conclusion of staff (as contained in the concurrent Item #3) is the proposed project plan does not satisfactorily meet the Purpose and Objectives of the PD Overlay Zone. The proposed plan does not provide an imaginative and efficient utilization of land, develop a sense of community, nor insure compatibility with the surrounding neighborhoods and environment. There is no true consolidation of open spaces, and the clustering of dwelling units. Although the proposed project includes a diversity of lot sizes in certain portions of the development, staff believes the development proposal has not shown that it incorporates an identifiable development theme with the elements of usable open spaces, diversity of residential use, site amenities, and attractive entrances as part of the design. As stated within the Purpose and Objectives: "The incorporation of one (1) or two (2) of these elements into a development does not make a PD. The combination of all these elements is necessary for the development of a PD."

**STAFF RECOMMENDATION**

That the Planning Commission recommend to the Municipal Council, **denial** of the proposed rezoning of approximately 23.8 acres from the A1.10 and A1.5 to the R1.10PD zone with the following findings

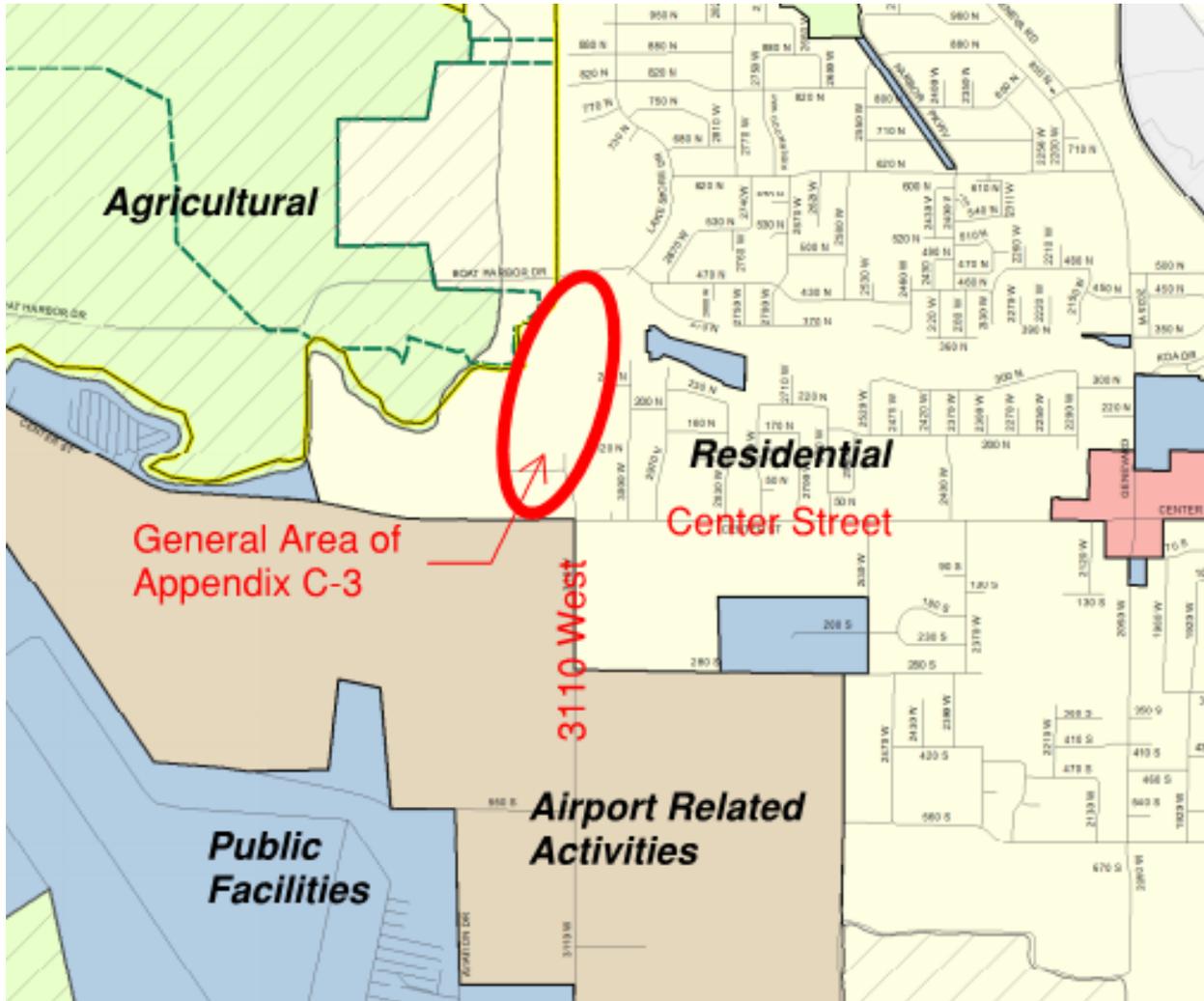
1. The proposed development plan and proposed R1.10PD Zone are not in compliance with the General Plan.
2. The required and concurrent Concept Plan Approval for a Performance Development Overlay zone is insufficient and not compatible with this site.

*This action would be consistent with the recommendation of the Staff Report. Any changes should be stated with the motion.*

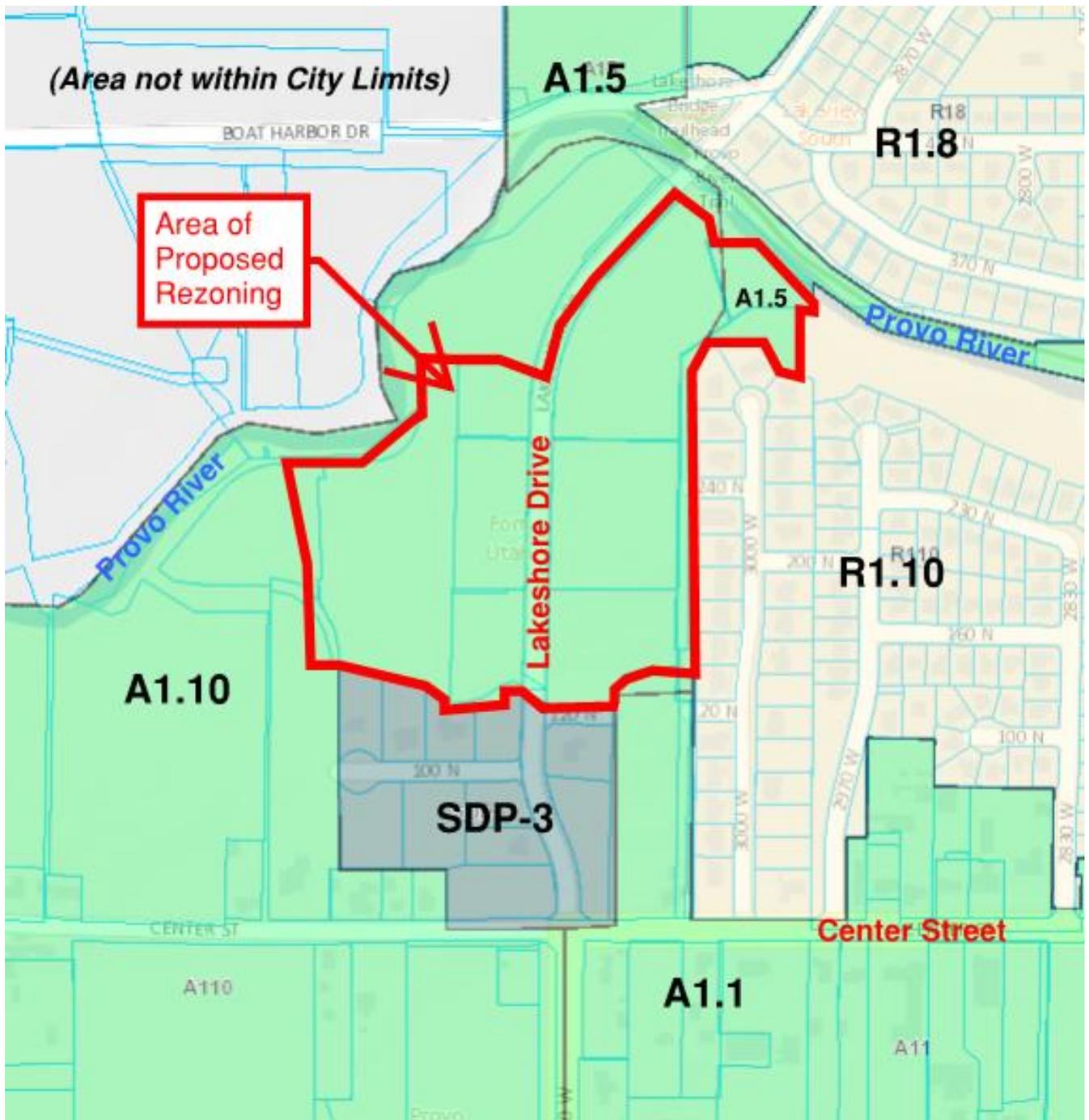


Location Map

*River Glen Rezoning – A1.10 & A1.5 to R1.10PD*



**General Plan – Land Use Map**



Current Zoning