



## **PROVO MUNICIPAL COUNCIL**

### **Regular Meeting Agenda**

5:30 PM, Tuesday, November 13, 2018

Room 200, Municipal Council Chambers

Municipal Council Chambers, 351 W. Center Street, 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

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

A presentation of the Employee of the Month for October 2018

### **Public Comment**

### **Action Agenda**

1. An ordinance to amend the General Plan Map regarding land west of the I-15 freeway and south of the Provo River. Lakewood, Sunset, Provo Bay, and Fort Utah Neighborhoods. (PLGPA20180225)
2. A resolution approving an Environmental Assessment and a proposed Land and Water Conversion Fund property conversion. (17-036)
3. An ordinance amending the Zone Map Classification of approximately 5.89 acres located at 1437 E 2300 N from Public Facilities (PF) to Residential Agricultural (RA). Rock Canyon neighborhood. (PLRZ20180239)
4. **\*\*CONTINUED\*\*** An ordinance amending Provo City Code Section 15.03.020(3) to update 2018 standards to 2019 standards. Citywide impact. (PLOTA20180348)
5. **\*\*ITEM WITHDRAWN\*\*** An ordinance amending Section 14.06.020 to redefine "Family" to include four unrelated individuals. Citywide application. (PLOTA20180169)

## 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/OnBaseAgendaOnline>

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

The next scheduled Regular Council Meeting will be held on 11/20/2018 5:30:00 PM at 11/20/2018 5:30:00 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".*



**Planning Commission Hearing  
Staff Report  
Hearing Date: September 12, 2018**

**ITEM #5\*** The West Side Citizen Advisory Committee requests a General Plan amendment for adoption of a new future Land Use Map that includes Provo City lands west of the I-15 Freeway, and south of the Provo River. Lakewood, Sunset, Provo Bay and Fort Utah neighborhoods. Brian Maxfield (801) 852-6429 PLGPA20180225

<p><u>Applicant:</u> West Side Citizen Advisory Committee</p> <p><u>Staff Coordinator:</u> Brian Maxfield</p> <p><u>Acreage:</u> just over 6500 acres.</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 October 10 at 5:00 P.M.</i></p> <p>2. <b>Deny</b> the requested variance. <i>This action <u>would not be consistent with the recommendations of the Staff Report.</u> The Board of Adjustment should <u>state new findings.</u></i></p>	<p><u>Relevant History:</u> A Neighborhood Plan for the Fort Utah, Provo Bay, Sunset, and Lakewood Neighborhoods was begun several years ago. Adoption of the proposed Land Use Plan would be a significant step toward the adoption of the larger Southwest Area Neighborhood Plan.</p> <p><u>Neighborhood Issues:</u> Citizen input has been sought and received regarding a number of issues. Very few issues have been identified. Most of these are addressed in the staff report.</p> <p><u>Summary of Key Issues:</u> Appropriateness of proposed Land Uses</p> <p><u>Staff Recommendation:</u> Recommend <b>approval</b> of the Land Use Map for the Southwest Area Neighborhoods, as indicated in the attached Exhibit "A." However, if significant public input is given and the Planning Commission feels a continuance would be appropriate, Staff would suggest continuance.</p> <p><i>Recommendation for approval <u>would be consistent with the recommendations of the Staff Report.</u></i></p>
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**OVERVIEW AND BACKGROUND**

The West Side Citizen Advisory Committee has been meeting since the first of this year to finalize the development of the Southwest Area Neighborhood Plan. Although the remainder of the document is soon forthcoming, the Committee's belief is that since the Land Use Plan is the

heart and core of the document and directs much of the written text in the full document, it would be appropriate to have that portion of the plan reviewed and adopted first.

The Southwest Area Neighborhood Plan encompasses four of the City's neighborhoods: Fort Utah, Provo Bay, Sunset, and Lakewood. It is one of several combined neighborhood plans undertaken by the City in cases where several individual neighborhoods share similar characteristics, issues and challenges. As a mid-range planning tool, it is adopted as a supplement to the Provo City General Plan.

The plan was originally begun in April of 2014, and has also involved an original committee and a second committee formed by the Municipal Council. Following input and direction from the Council at the end of last year, Community Development Staff organized the current Committee at the beginning of this year. Made up of residents, business owners, and representatives from the Planning Commission and the associated group of neighborhood chairs, the Committee began by examining the current plans and documents relating to the area. The Committee then worked to identify and assess past development activity, as well as current economic and social conditions. Once that was concluded, an extensive examination began regarding land suitability, opportunities and potential for development. Overall, major consideration in the development of the Land Use Plan included:

- Anticipating the development needs of the relevant neighborhoods, the entire area, and the City as a whole;
- Identifying development issues;
- Identifying opportunities for and constraints to development;
- Identifying areas which are suitable/unsuitable for different types of development;
- Analyzing and proposing ways in which the area should develop over time; and
- Establishing appropriate policies and standards to guide development.

The proposed Land Use Plan attached to this report, is the result of several committee revisions, as well as revisions made following periods of public input. While not every issue could be addressed in a means favorable to everyone providing input, the committee believes the plan provides the best alternatives and recommendations regarding the future development of this portion of the City. The following gives some detail regarding the proposed land uses designation.

### ***RESIDENTIAL***

Over half of the area included within the various land use designations, is planned for residential. The plan includes a general Single-family Residential designation (R), as well as Low Density Residential (LDR) and Medium Density Residential (MDR) designations. The differences in those designations include variations in both density and types of allowable residential units.

**(RA) Residential Agricultural** is intended to allow for small hobby farm type uses, where agricultural activities (mainly an increased animal allowance) exceed what would be found with standard residential uses.

**(R) General Residential** is intended to principally allow for single-family detached dwellings at a density of up to 4 units per acre. Considerations can also be given to attached single-family units as part of a planned residential type development. The “R” designation has generally been given to all areas suitable for residential development, and not included within the areas designated for higher density residential development.

**(LDR) Low Density Residential** are intended as “node” areas that would follow the allowances of the City’s current LDR Zoning allowance of a density of up to 15 units per acre, but with a minimum of three housing types dispersed through the particular LDR area. Areas designated for LDR Development are located at three of the intersections along the Lakeview Parkway, and between the large regional commercial area and the Lakewood Subdivision area. LDR is also the residential designation within areas designated as Neighborhood Mixed-Use.

**(MDR) Medium Density Residential** represents the highest residential density allowed in the Southwest Area, but only occurs in conjunction with the Village Center designation, north of Center Street, and between Geneva Road and the I-15 Freeway. The MDR area is intended to have a mix of 4-5 housing types and follow the City’s current MDR Zone, allowing an overall density of up to 30 units per acre.

## **COMMERCIAL**

**Neighborhood Mixed-Use** are 3 to 5 acre sites intended to allow and encourage the development of smaller scale retail and office commercial uses, adjoined by twin homes, bungalow courts, or similar scale developments providing a transition toward lower density residential areas. Anticipated commercial uses include gas stations and convenience stores at the site adjoining the parkway (2050 West), while interior uses may include more localized retail and office users.

**Village Center** is a designation used to convey the allowance for a larger scale mix of commercial and residential uses than would be found in the Neighborhood Centers. The only area with that designation is located at the intersection of Center Street and Geneva Road. A major intent of the designation is to provide for a grocery center and associated retail users. However, it is also intended that the Village Center will provide a core activity center for the community, through site amenities and distinctive design features.

**Commercial** is a designation for an area of approximately 24 acres, located at the northwest corner of Provo’s southern I-15 Interchange. The intent of this area is to allow for larger scale retail users whose marketing area generally extends beyond Provo’s boundaries.

## **INDUSTRIAL / COMMERCIAL**

**Airport Compatible Industrial/Commercial** is intended to provide areas for light manufacturing and business park uses, especially those which can take advantage of the available airport facilities and access to the Lakeview Parkway. This designation applies to approximately 200 acres east of the airport, about 152 acres north of the airport, and a small 10 acre pocket of land framed by the Lakeview Parkway, Center Street and 3110 West. All three areas are within the Airport Overlay which is meant to restrict uses that would not be compatible with airport operations. As with the designation within the current General Plan, residential uses have been one of those restricted uses as the noise and activities associated with an airport have been found to often cause conflicts with residential uses.

### ***AGRICULTURE***

Much discussion has been held regarding the desire to maintain agricultural uses. Although not indicated by the proposed Land Use Plan, the sensitive areas south of the Lakeview Parkway will retain an allowance agricultural uses, the same as they do on the current General Plan. However, unlike the current General Plan, the proposed Land Use Plan also includes agricultural designations for other significant areas. The intent of designating areas for agricultural use is to further preserve ongoing agricultural operations as well as provide and maintain areas for small scale hobby farms.

**RA Residential Agricultural areas** are included in various small pockets of from 6 to 17 acres. Because of their generally small minimum lot size, these properties are basically residential properties that allow limited agricultural use, and generally serve as transition areas at the edge of residential areas.

**A1.1 designated area** runs west from Center Street, along 3110 West to 280 South. The area consists principally of the 5 lot Fullmer Subdivision plus 3 or 4 additional one acre lots. The intent is to maintain this area for what are commonly termed small hobby farms or ranchettes. Although the number of additional homes that could be added to this area is very limited, the designated area could conceivably be expanded further to the east by the property owners, into the area otherwise designated for residential development.

**A1.10 designated areas** consist of about 90 acres on the west side of the Lakeview Parkway, and approximately 80 acres in the areas north side. The area on the west runs between Center Street and 550 South, and extends west from the Parkway to approximately 3500 West. The eastern portion runs between 280 and 550 South, and east from the Parkway to about 2600 West. Both areas are beneath the Airport Overlay, but the agricultural use should present no conflict with the operation of the airport.

### ***PARKS, TRAILS & OPEN SPACE***

Almost all areas indicated on the Land Use Plan as Parks, already exist, with the following two exceptions:

**Regional Park** represents the ground the City is purchasing and planning on developing as a regional sports park, along with other active and passive uses.

**Big Dry Creek** is noted as it provides a tremendous opportunity as a unifying feature for future residential areas between 1100 and 1600 West, and between 1150 South and the Lakeview Parkway.

### **TRANSPORTATION**

The Land Use Plan follows the City's adopted Master Transportation plan for the area, but with some alignment changes on the as yet, unbuilt collector streets in the southwest portion of the plan. In the proposed Land Use Plan, an alignment change is proposed for 1150 South as it proceeds west from 2050 West, as well as a new collector street being proposed as a separation between the Airport Industrial/Commercial areas and the Regional Park. Two additional east-west collector streets are also proposed to segment the Airport Industrial/Commercial site east of the Lakeview Parkway, allowing better access for the heavier traffic anticipated with those uses.

Although showing 500 West as a collector street is not a change from the existing Master Transportation Plan, many comments from residents reflected their concern over the street's increased traffic and speeds following its connection to the Lakeview Parkway. Because those issues are related more directly to the City's Master Transportation Plan that is currently being updated, staff believes the issues and concerns could be better and more directly addressed through the review and approval of that plan.

### **CONCLUSIONS**

Adoption of the Land Use Plan for the Southwest Area Neighborhood Plan will help the City be better prepared for the future growth demands in the area. It will also serve to aid the completion of the full Southwest Area Neighborhood Plan.

### **RECOMMENDATION**

Recommend **approval** of the Land Use Map for the Southwest Area Neighborhoods, as indicated in the attached Exhibit "A."

However, staff notes that if further changes to the plan are desired by the Planning Commission due to public input or the Commission's own desires, Staff suggests that the item should be continued so an amended plan can be brought before the Planning Commission.

### **ATTACHMENTS**

- Exhibit "A"

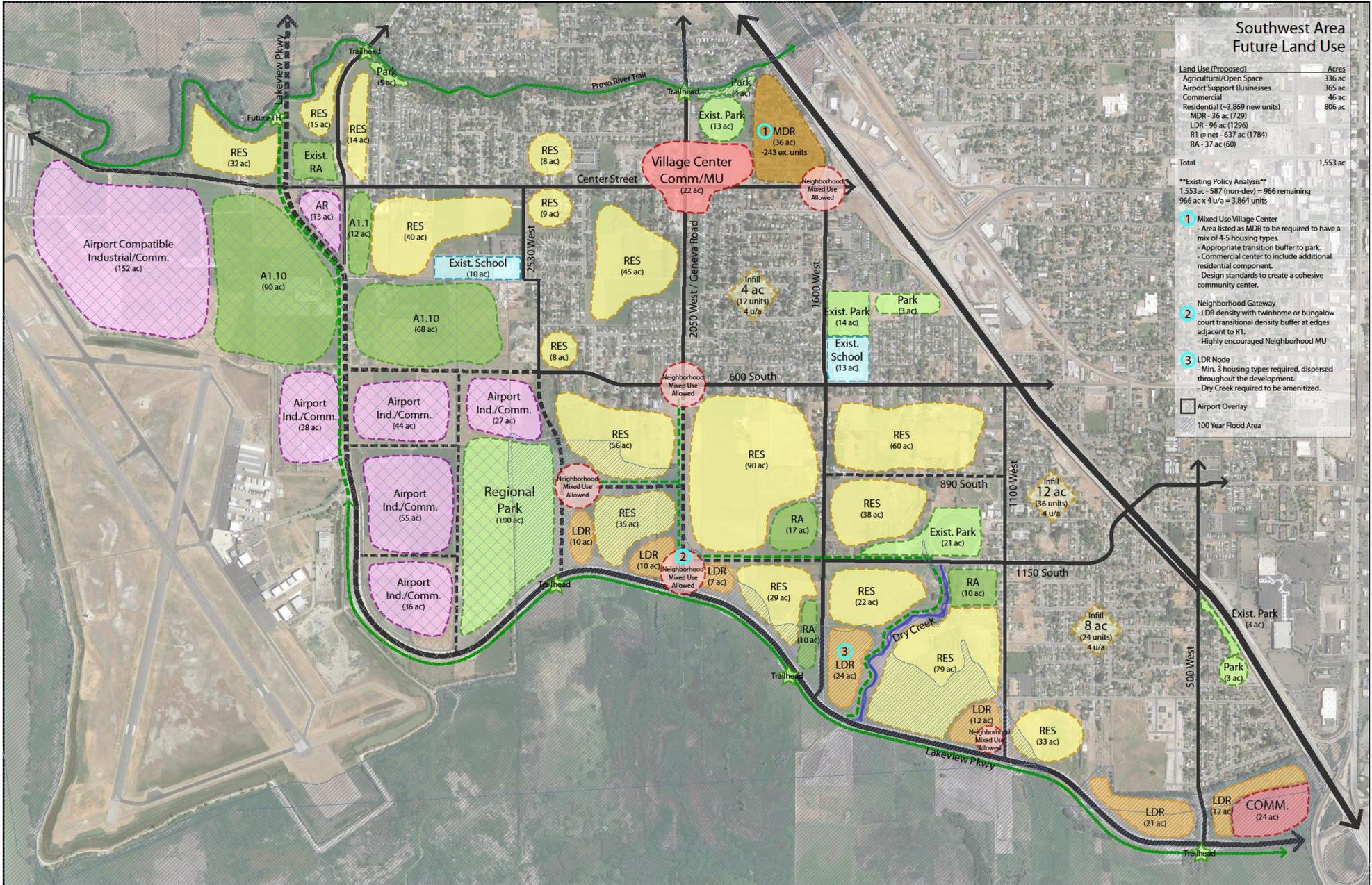
# Southwest Area Future Land Use

Land Use (Proposed)	Acres
Agricultural/Open Space	336 ac
Airport Support Businesses	365 ac
Commercial	46 ac
Residential (~3,869 new units)	806 ac
MDR - 36 ac (729)	
LDR - 96 ac (1296)	
R1 @ net - 637 ac (1784)	
RA - 37 ac (60)	
<b>Total</b>	<b>1,553 ac</b>

**\*\*Existing Policy Analysis\*\***  
 1,553ac - 587 (non-dev) - 966 remaining  
 966 ac x 4 u/a = 3,864 units

- 1 Mixed Use Village Center**
  - Area listed as MDR to be required to have a mix of 4-5 housing types.
  - Appropriate transition buffer to park.
  - Commercial center to include additional residential component.
  - Design standards to create a cohesive community center.
- 2 Neighborhood Gateway**
  - LDR density with twinhome or bungalow court transitional density buffer at edges adjacent to R1.
  - Highly encouraged Neighborhood MU
- 3 LDR Node**
  - Min. 3 housing types required, dispersed throughout the development.
  - Dry Creek required to be amenitized.

Airport Overlay  
 100 Year Flood Area



ORDINANCE 2018-

AN ORDINANCE TO AMEND THE GENERAL PLAN MAP REGARDING LAND WEST OF THE I-15 FREEWAY AND SOUTH OF THE PROVO RIVER. LAKEWOOD, SUNSET, PROVO BAY, AND FORT UTAH NEIGHBORHOODS. (PLGPA20180225)

WHEREAS, it is proposed to amend the General Plan Map regarding land west of the I-15 freeway and south of the Provo River, which is intended to be the next step required leading up to the adoption of the larger Southwest Area Neighborhood Plan; and

WHEREAS, the Provo City General Plan is a comprehensive, long-range statement of goals and related policies to guide future growth and development of Provo City and serves as a guide to establish policies and procedures for growth, development, conservation, and location of various land use activities within the City; and

WHEREAS, the purpose of the amendment is to clarify the future land uses on the west side of Provo City to guide decisions regarding the rezoning of property and development in the area; and

WHEREAS, a citizen group comprised of the Southwest Area Representative and neighborhood chairs from the Fort Utah, Lakewood, Provo Bay, and Sunset Neighborhoods convened to draft proposed amendments to the General Plan Map based on the Westside Development Policies approved by the Provo Municipal Council at the May 2, 2017 Work Meeting; and

WHEREAS, on September 12, 2018 and October 10, 2018, the Planning Commission held a duly noticed public meeting to consider the proposed amendment of the Provo City General Plan and after such meeting the Planning Commission recommended approval to the Municipal Council by a vote of 5:2, including the recommendation that the RES designation on the Map be defined as four units per acre as a net acreage calculation, rather than a gross acreage calculation; and

WHEREAS, on October 23, 2018 and November 13, 2018, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the General Plan Map

40 should be amended as proposed, and (ii) the proposed amendment reasonably furthers the health,  
41 safety, and general welfare of the citizens of Provo City.

42

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

45

46 PART I:

47

48 The Provo City General Plan Map is hereby amended regarding land west of the I-15  
49 freeway and south of the Provo River as described in Exhibit A.

50

51 PART II:

52

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

55

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

60

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

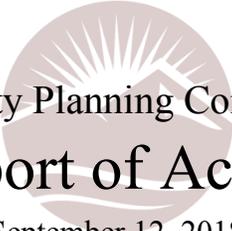
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64 D. This ordinance shall take effect immediately after it has been posted or published  
65 in accordance with Utah Code 10-3-711, presented to the Mayor in accordance  
66 with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

67

68 END OF ORDINANCE.

69



Provo City Planning Commission

# Report of Action

September 12, 2018

PLGPA20180225

The West Side Citizen Advisory Committee requests a General Plan amendment for adoption of a new future Land Use Map that includes Provo City lands west of the I-15 Freeway, and south of the Provo River. Lakewood, Sunset, Provo Bay and Fort Utah neighborhoods. Brian Maxfield (801) 852-6429

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The following action was taken by the Planning Commission on the above described item at its regular meeting of September 12, 2018:

## CONTINUED

On a vote of 5:0, the Planning Commission continued the above noted application to the Commission's next regular meeting as a study item. The Planning Commission asked that the West Side Steering Committee meet before the next Planning Commission meeting to discuss possible changes to the Land Use Map that were suggested to the Planning Commission

Motion By: Shannon Ellsworth

Second By: Robert Knudsen

Votes in Favor of Motion: Shannon Ellsworth, Robert Knudsen, Jamin Rowan, Deborah Jensen, Russ Phillips  
Deborah Jensen was present as Chair.

### **STAFF PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Bill Peperone reviewed the process in the development of the proposed Land Use Plan. He also presented comments received prior to the meeting including a recommendation of the Lakewood Chair, Becky Bogdin, to consider moving the Neighborhood Mixed-Use node located on the Parkway at 1100 West, to the 1600 West intersection. Mr. Peperone also mentioned that since the Transportation Master Plan is currently being updated, consideration should be given in both plans to a more curved connection directly joining the future collector shown at approximately 900 South and 2050 West, and the existing 1150 South/1600 West intersection.

### **CITY DEPARTMENTAL ISSUES**

- There are no outstanding departmental issues at this time

### **NEIGHBORHOOD MEETING DATE**

- Neighborhood Meetings have been held in the Lakewood, Sunset, Provo Bay, and Fort Utah Neighborhoods.

### **NEIGHBORHOOD AND PUBLIC COMMENT**

- The Neighborhood Chairs and/or vice chairs from most of the involved neighborhoods were present and addressed the Planning Commission during the public hearing.
- Most of the West Side Citizens Advisory Committee members were present, and spoke to the resulting land use proposals.

### **PUBLIC COMMENTS**

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:

- Aaron McCullough, Provo Bay Vice-Chair and Committee Member, emphasized the amount of time put into the plan and that it involved a broad spectrum of people. He also stated his support for higher density in some areas such as along Geneva Road.
- Jonathan Hill, Fort Utah Neighborhood Chair and Committee Member, felt the proposed residential densities clustered around transportation nodes was the right way to go and believes the proposed density is pushing the edge of where people would be upset if it were any higher.
- Tom Halladay, Committee Member, stated that he concurs with a lot of what's been said about the higher density in places like along Geneva Road, with a more rural concept in other areas. He would like to see an allowance for Airport Compatible Industrial/Commercial Uses to be extended further along Center Street.
- Beth Alligood, Southwest Area Council Chair and Committee Member, said she supports and fought to get the MDR area along Geneva Road. She especially likes the proposed trail system and feels overall that the proposed plan is a good plan.
- Becky Bogdin, Lakewood Neighborhood Chair, stated her concerns about the visual impact raising the regional commercial and associated higher density residential would have on the Lakewood Subdivision. As the area east of 500 West attends Franklin Elementary, she stated the school area can't absorb any more apartments.
- David Arnold, Committee Member, emphasized the travel barriers to the east (I-15 and railroad tracks) and that 500 West will eventually need to be widened. He felt the proposed land use was pretty solid and thought the west side did not need to aspire to be the rich side of town. He most like the mixed-use nodes and felt the higher density areas made sense.
- Dixon Homes, Provo City Economic Development Director, stated his concurrence with Mr. Halladay's request to extend the Airport Compatible Industrial/Commercial area further east along Center Street. He stated that we should not shrink the Regional Commercial area to less than now proposed and that the associated residential should be MDR. He also stated the regional commercial should be enlarged to include about 30-40 acres on the south side of the Parkway, across from the other regional commercial area.
- Kelly Watson, representing Bach Homes, stated they have the regional commercial property under contract and the site is not viable for commercial because of neighborhood opposition. They would instead build a mixed residential community that would attract families with 3 & 4 bedroom units.
- George Carter, an area resident and farmer, was very much in favor of getting a grocery store for the area. As a farmer with a large amount of property in the area, he stated that the Parkway had cut off water so that, although they can still grow alfalfa, they can no longer grow shallow root crops like corn. Without the irrigation water, there is no ability to continue farming.
- Marsha Judkins, the State Representative for House District 61, stated her support to maintain agricultural land and spoke how she would like to put funding into the State's McAllister Fund to purchase development rights and allow farming to continue in the area.
- Mac Carter, an area resident and farmer, stated the entire 300-400 acres remaining in agricultural use was nothing compared to the amount of land in real farming areas. He further stated there was no reason to designate agricultural land on the plan if they can keep on farming anyway, as it makes it harder to change later. Mr. Carter also suggested more high density along Geneva Road.

### **APPLICANT RESPONSE**

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

- Besides changes recommended in the received comments
- Staff will meet with the West Side Advisory Committee next week to have them review suggested modifications.

## PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Russ Phillips spoke about his concerns that the proposed A1.1 area would not allow further lot splits. He wondered if perhaps an RA (Residential Agriculture) designation would be more appropriate for that area, and maybe also include as part of a larger RA area, the land directly to the east and shown as Residential.
- Jamin Rowan commented that he liked the spread of unit types and densities, but wondered why only one MDR area? He stated it seemed like MDR would be more appropriate next to the Regional Commercial and possibly even some of the areas along the Parkway.
- Brian Smith stated that this area of Provo is different from Downtown, and the strength of Provo is that there are different neighborhoods. We need to think of this as creating neighborhood character verses neighborhood density.
- Shannon Ellsworth made the motion to allow a new draft map to be proposed and we (Planning Commission) can study it further at our next study session.

## APPLICANT RESPONSE

Bill Peperone asked that based on the input received, would the Planning Commission be open to staff reviewing the proposed Land Use Map with the West Side Committee, and make the map the subject of the next study session?



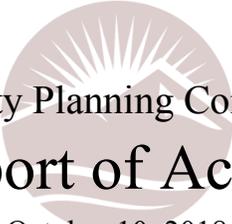
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Director of Community Development

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.).



Provo City Planning Commission

# Report of Action

October 10, 2018

The West Side Citizen Advisory Committee requests a General Plan amendment for adoption of a new future Land Use Map that includes Provo City lands west of the I-15 Freeway, and south of the Provo River. Lakewood, Sunset, Provo Bay and Fort Utah neighborhoods. Brian Maxfield (801) 852-6429 PLGPA20180225

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The following action was taken by the Planning Commission on the above described item at its regular meeting of October 10, 2018:

## RECOMMENDED APPROVAL

On a vote of 5:2, the Planning Commission recommended that the Municipal Council adopt the General Plan Land Use Map for the Southwest Area Neighborhood Plan, based on the efforts made by the Committee, Neighbors, and Staff to address the future development of the area. The Planning Commission recommended that the RES designation on the Map be defined as four units per acre as a net acreage calculation, rather than a gross acreage calculation. This recommendation is consistent with the recommendation of the West Side Advisory Committee.

Motion By: Russ Phillips

Second By: Robert Knudsen

Votes in Favor of Motion: Russ Phillips; Robert Knudsen; David Anderson; Andrew Howard; Maria Winden.

Votes Opposed: Shannon Ellsworth; Jamin Rowan.

David Anderson was present as Chair.

### **STAFF PRESENTATION**

Staff provided details of the changes made to the proposed Land Use Plan since the September 12, 2018 Planning Commission meeting, and since meeting again with the West Side Advisory Committee.

### **CITY DEPARTMENTAL ISSUES**

- There are no outstanding departmental issues at this time

### **NEIGHBORHOOD MEETING DATE**

- Neighborhood Meetings have previously been held in the Lakewood, Sunset, Provo Bay, and Fort Utah Neighborhoods.

### **NEIGHBORHOOD AND PUBLIC COMMENT**

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Comments made during the public hearing included the following:

- Becky Bogdin, Lakewood Neighborhood Chair and Committee Member, expressed her continued concern for the proposed location for the commercial area at 1100 West and the Lakeview Parkway as she believes it will cause a conflict with the possible middle-school location on the School District property at 900 South and 1100 West.
- Becky Bogdin also asked that the commercial node east of 500 East and north of the Lakeview Parkway be reduced in size because a commercial node was added south of the Lakeview Parkway.
- Eric Chase, Vice-chair for the North Park Neighborhood, spoke in favor of the plan and the need to meet the commercial need of the west side on the west side.

- Beth Alligood, Southwest Area Council Representative and Committee Member, spoke about MAG's plans to widen Geneva Road to 5 lanes and that it will eventually extend south to the Lakeview Parkway. She thought some higher density areas might be further considered along that section of 2050 West. She also felt there needs to be a strong walkability component, and consideration for additional greenways and trails. She stated she is still against expanding the commercial area to the south side of Lakeview Parkway as she believes it will otherwise be hard to hold the line against it going west of 500 West.
- Evan Johnson stated that he appreciates the flexibility in the plan and emphasized the need for day to day livability. He also believes the commercial node should remain at 1100 West. He stated that the neighborhood commercial nodes offer a more walkable community in the future.
- Tracy Allison said her back yard is against the northeastern airport related use area and asked that her area be adequately addressed when the business area is developed.
- Dixon Homes, the City's Economic Development Director and as a former area resident, said the plan is not perfect and will likely change before the area is built out, but it's a good plan and should go forward.
- Kelly Watson, representing Bach Homes who are buying the regional commercial corner and associated LDR area, believes there should be flexibility in the amount of regional commercial area, and that a further transition of MDR housing between the commercial area and the LDR area would be appropriate, creating more of a mixed-use area.

### **APPLICANT RESPONSE**

Key points addressed in staff response to questions from the Planning Commission and Neighborhood comments included the following:

- The boundaries of the land use designations are flexible. Boundary lines do not follow parcel lines.
- Clarified that the airport area would also allow various retail uses.
- Clarified that the Planning Commission should state in their motion as to whether the overall 4.0 units per acre residential density means a net acreage or a gross acreage. The Committee recommendation had been to set the density as a net acreage calculation.
- David Day of the City's Engineering Department explained that there is still limited capacity in the system and that their department will present those capacities to the Council within the next few weeks.

### **PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

- Jamin Rowan stated his concerns regarding sustainability in the residential not having to be subsidized because of its relatively low density, and that the rest of Provo would be subsidizing much of the resulting development in the Southwest Area. He suggested that maybe LDR should be changed to MDR, and MDR changed to HDR on the land use designations.
- Shannon Ellsworth stated she likes the idea of preserving Big Dry Creek. She is sometimes caught between property rights and a holistic solution.
- Maria Winden asked that if a plan were presented that was so outstanding, does the plan allow for boundary and density flexibility?
- Dave Anderson stated that he likes the format of the Land Use Map where it doesn't follow property lines, allowing a little give and take such as even like Bach Homes is thinking. He also stated that sometimes property needs to sit vacant until the proper use is ready to be developed on the site. He recognizes that development in this area will evolve over time, but that this will be one of the few parts of the city where we'll see lower density development happen.
- The Planning Commission included in their motion that they are accepting this plan based on four units per acre as a net calculation for the RES designation.

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.).

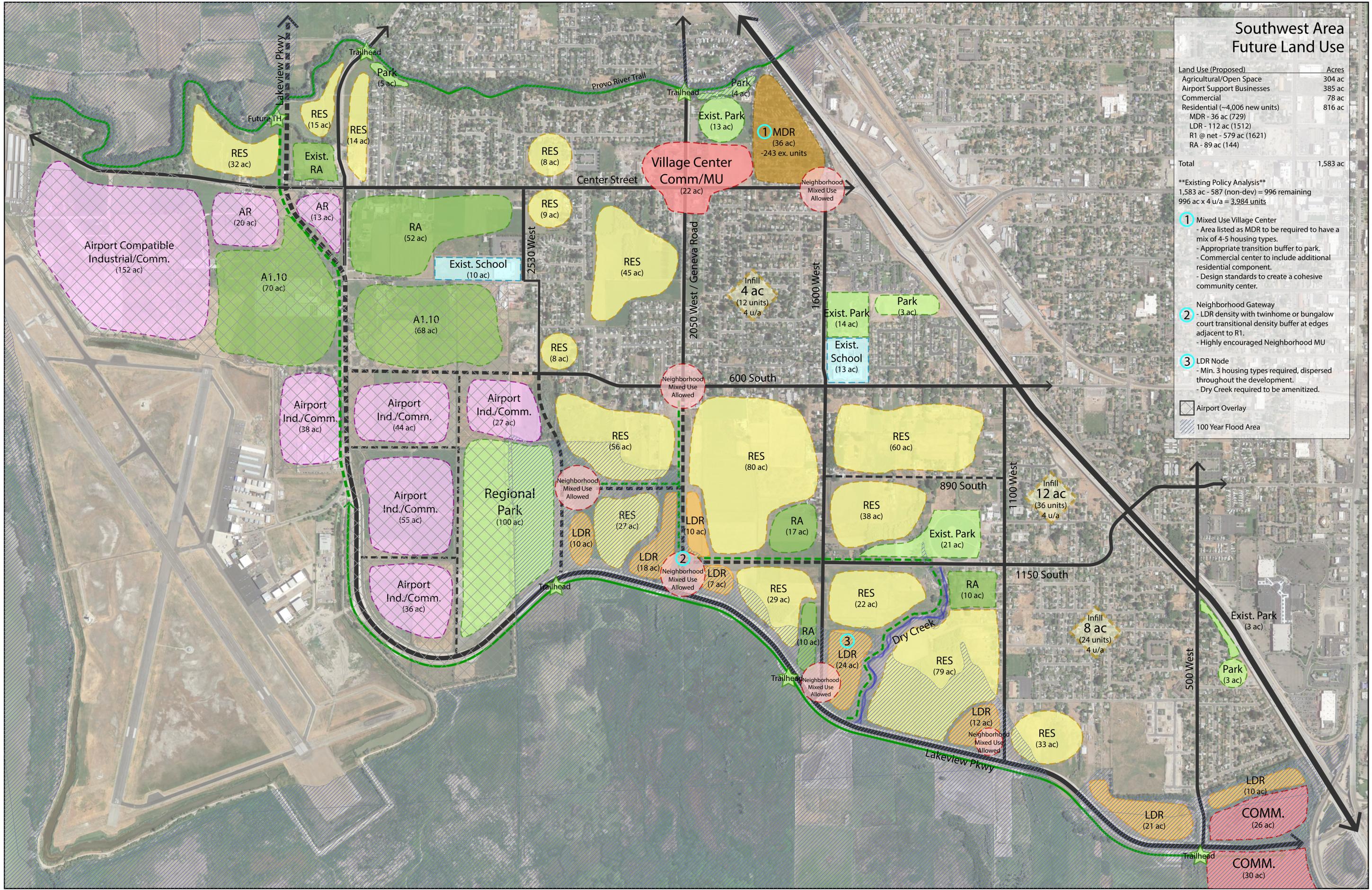
# Southwest Area Future Land Use

Land Use (Proposed)	Acres
Agricultural/Open Space	304 ac
Airport Support Businesses	385 ac
Commercial	78 ac
Residential (~4,006 new units)	816 ac
MDR - 36 ac (729)	
LDR - 112 ac (1512)	
R1 @ net - 579 ac (1621)	
RA - 89 ac (144)	
<b>Total</b>	<b>1,583 ac</b>

**\*\*Existing Policy Analysis\*\***  
 1,583 ac - 587 (non-dev) = 996 remaining  
 996 ac x 4 u/a = 3,984 units

- 1** Mixed Use Village Center
  - Area listed as MDR to be required to have a mix of 4-5 housing types.
  - Appropriate transition buffer to park.
  - Commercial center to include additional residential component.
  - Design standards to create a cohesive community center.
- 2** Neighborhood Gateway
  - LDR density with twinhome or bungalow court transitional density buffer at edges adjacent to R1.
  - Highly encouraged Neighborhood MU
- 3** LDR Node
  - Min. 3 housing types required, dispersed throughout the development.
  - Dry Creek required to be amenitized.

 Airport Overlay  
 100 Year Flood Area



West Side Development Policies		West Side Land Use Map			Notes
		Aligns	Conflicts	TBD/Unsure	
1	Preserve Provo's agricultural heritage and support agriculture for as long as farmers choose to farm:	x			
a	Approve the creation of a Provo Agricultural Commission to support local commercial and non-commercial agriculture.	x			Don Jarvis on the Committee and on the Provo Ag Commission
b	Request that the Provo Agricultural Commission identify obstacles to the success of current and prospective farmers, including non-traditional farmers, and recommend ways to remove these obstacles.	x			Don Jarvis was on the Committee who developed the West Side Land Use Map and is aware of the obstacles current farmers face
c	Request that the Provo Agricultural Commission explore tools for agricultural preservations. These tools may include: conservation easements, transfers of development rights, community land trusts, a privately funded farmland trust fund, and Utah's "Agricultural Protection" Program.	x			Don Jarvis was on the West Side Land Use Map Committee and is presently exploring tools for ag preservation
d	Encourage the Provo Agricultural Commission to improve the productive use of agricultural land.	x			
e	Encourage Development-Supported Agriculture and Agritourism to help preserve Provo's agricultural heritage.	x			Henry McCoard's land has ropes course and corn maze, West Side Committee felt that qualifies as agritourism
f	Encourage our state lawmakers to increase funding for the LeRay McAllister Fund.	x			Marsha Judkins spoke about petitioning the state for LeRay McAlisster Fund Assistance at the Planning Commission
g	Protect agricultural operations from the impact of residential encroachment.	x			
h	Identify agricultural land owners, have their properties listed on development maps to better avoid encroachment onto agricultural lands.	x			
2	Preserve and create quality usable open space	x			
a	Update and utilize the Parks and Recreation Master Plan to provide developed parks and open space that satisfy a range of leisure and recreational needs.	x			Don't know if the Parks and Rec Master Plan has been updated, but the present plan does a lot to identify open space and new, additional parks are identified
b	Preserve and develop natural amenities for sustained enjoyment by the community. Examples include the Provo River and banks, the Provo River Delta, Utah Lake shoreline, and wetlands.	x			Wetlands and agriculture south of the West Side Connector should be untouched by the improvements proposed by this map.
c	Provide parks and trails of different uses and sizes.	x			Numerous parks and trails are identified for development
d	Encourage agritourism as a means to provide agriculturally themed open space			x	<b>TBD</b> - Henry McCoard's property is intended, in the short-term, to be used for agritourism. Does that one property meet the desire to "encourage agritourism"?
e	Usable neighborhood open space should be an integral part of neighborhood design or combined to serve larger areas than the immediate development.			x	<b>TBD</b> - As the plan is developed further and the text of the General Plan is updated, this should be included in the text language of the General Plan update, and should be part of the review of every planned development
3	Encourage sustainable residential development patterns	x			
a	Establish ordinances to require a mix of housing types, lot sizes, and designs to accommodate various stages of life.	x			Mixed use, and different Residential and Agriculture types
b	Detached single-family homes should be the predominant housing type and the use of other types should augment and not detract from single-family feel of the area.	x			The plan calls for primary Single-Family Residential and is the predominant housing type, even though it calls for a few areas of LDR and MDR
c	Housing types should be mixed without barriers separating types or densities.	x			
d	The scale and style of residences should enhance the surrounding area, regardless of housing types			x	<b>TBD</b> - This is really a function of the development phase, but mention should be made of this in the text of the General Plan update.
e	Create design standards for important road corridors in southwest Provo.			x	<b>TBD</b> - This is a function of the development phase. If there is a desire for a specific design standard, it should be mentioned in the General Plan text update.
f	The overall density of the area should average four units to the acre.	x			This was a discussion point in the Planning Commission. For RES, the designation is four units per acre as the NET designation
4	Promote development of commercial amenities and employment opportunities in appropriate locations	x			There are commercial amenities identified on the map
a	Regional commercial uses may be located adjacent to the I-15 or within the Airport Related Activities district.	x			

West Side Development Policies		West Side Land Use Map			Notes
		Aligns	Conflicts	TBD/Unsure	
b	Neighborhood and Community Shopping zones may be located at or adjacent to arterial or collector streets.	x			
c	Design, scale and intensity of commercial zones or properties should transition to adjacent residential uses to minimize impact on the residential use.			x	<b>TBD</b> - This is a function of the development phase. However, mention of this intention should be made clear in the General Plan text update as it is not clear from the map that these "transitions" are in place.
5 Create a robust transportation network		x			Trails, road grid, etc. This plan accounts for many modes of transport
a	Update the Transportation Master Plan to accommodate the changing needs of southwest Provo.			x	<b>TBD</b> - Until the Transportation Master Planning process is complete, this will remain In process
b	The planned collector road network should be built as development occurs. No development should interrupt the collector road network.	x			
c	Update the Provo City Major & Local Street Plan to include a network of proposed local streets to ensure connectivity in between the land between collector and arterial roads.	x			Westside Connector and Lakeview Parkway
d	Utilize Complete Streets Policies to ensure all modes of transportation are considered.	x			A more appropriate title for this might be, "Ensure all modes of transportation are accounted for on the Land Use Map to ensure a robust transportation network." It would seem the West Side Land Use Map intends to comply with this goal.
e	Utilize the Transportation Master Plan to identify corridors that should have sufficient right-of-way to accommodate public transit			x	<b>TBD</b> - Until the Transportation Master Planning process is complete, this will remain In process
f	Lakeview Parkway is to be maintained as an arterial roadway with limited access.	x			
6 Require proper integration and sequencing of development		x			As development occurs, the General Plan text is of utmost import to ensure this goal is accomplished
a	The full block should be considered when rezoning away from agricultural uses			x	<b>TBD</b> - This is a function of the development phase. However, mention should be made of this in the text of the General Plan update.
b	Conceptual Integrated Development Plan for the entire block should be required for zone change applications.			x	<b>TBD</b> - This is a function of the development phase. However, mention should be made of this in the text of the General Plan update.
c	Discourage rezoning of land that is surrounded by agricultural zoning.		x		Since nearly the entire west side of Provo is currently zoned as agriculture, this seemingly contradicts with this entire process.
d	Development may be limited or deferred depending on the availability of adequate municipal infrastructure (such as sewer, storm drainage, water, etc.)	x			Moratorium on development currently in place and will not progress until the "adequate municipal infrastructure" is in place.
7 Restrict development in Wetlands and other Environmentally Sensitive Areas				x	<b>Unsure</b> - I assume this has been followed, but don't know the wetland areas well enough
a	Land south and west of the Lake View Parkway up to Center Street (excepting the airport protection area) should be preserved for open space and agricultural uses		x		The most recent iteration of the map project a commercial development south of the West Side Connector at the south I-15 interchange
b	No development should occur in flood prone areas unless the risks can be mitigated. Plans for mitigation should be reviewed for adequacy by the Provo City Engineer and any State or Federal regulatory agency with jurisdiction to ensure that sensitive lands are appropriately developed to protect people, property or significant natural features. Mitigation plans should not adversely affect adjacent properties.	x			The flood prone-area is identified on the map. If development is to occur in those areas, city ordinance has protections in place to ensure that the overall area of these flood-prone tracts of land are raise to meet engineering standards.

1 RESOLUTION 2018-.

2  
3 A RESOLUTION APPROVING AN ENVIRONMENTAL ASSESSMENT  
4 REGARDING A PROPOSED LAND AND WATER CONSERVATION FUND  
5 PROPERTY CONVERSION. (17-036)  
6

7 WHEREAS, Provo School District (“PSD”) desires to expand their ownership of land  
8 adjacent to Timpview High School to accommodate growth and has approached Provo City (“the  
9 City”) with a proposal to purchase Timp-Kiwanis (Bounous) Park (“TKP”) located at 3250 North  
10 650 East, Provo, Utah; and  
11

12 WHEREAS, the City used Land and Water Conservation Fund (LWCF) funds to acquire  
13 the property in 1967 with the purpose of improving the property by providing open space for a  
14 park, which included picnic facilities, a ball field, tennis courts, tot lot, and a pavilion on site, with  
15 additional plans to lay sprinklers and extend sewer lines to create a new restroom facility; and  
16

17 WHEREAS, in reviewing the PSD proposal, staff at the City discovered that the TKP  
18 property is out of compliance with the LWCF requirements, as the result of which the City is  
19 ineligible to receive LWCF funds until it remedies the situation; and  
20

21 WHEREAS, in order to sell the property to PSD, the TKP property would need to be  
22 converted according to LWCF regulations; and  
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24 WHEREAS, the City desires to be proactive to remedy the recently discovered non-  
25 compliance with LWCF regulations by proposing to convert the property, which includes doing  
26 an environmental assessment; and  
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28 WHEREAS, the final Environmental Assessment has been completed and submitted to the  
29 Municipal Council for authorization to be submitted to state and federal authorities for approval;  
30 and  
31

32 WHEREAS, a duly noticed public comment period began on July 30, 2018, and ended on  
33 August 29, 2018 to give citizens, partner agencies, and other interested parties an opportunity to  
34 provide comment on the proposed Environmental Assessment; and  
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36 WHEREAS, on August 21, 2018, October 23, 2018, and November 13, 2018, the  
37 Municipal Council met to ascertain the facts regarding this matter and receive public comment,  
38 which facts and comments are found in the public record of the Council’s consideration; and  
39

40 WHEREAS, all persons for and against the proposed LWCF property conversion were  
41 given an opportunity to be heard; and  
42

43 WHEREAS, after considering the facts and comments presented to the Provo Municipal  
44 Council, the Council finds that approval and submission of the Environmental Assessment  
45 reasonably furthers the health, safety and general welfare of the citizens of Provo City.  
46

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

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49 PART I:

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51 1. The Environmental Assessment, as shown in the attached Exhibit A, is hereby authorized  
52 and adopted.

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54 2. The Mayor is authorized to (i) submit the Environmental Assessment to the Utah State  
55 Parks and Recreation Department and (ii) execute appropriate certifications in conjunction with  
56 this submittal.

57

58 PART II:

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60 This resolution shall take effect immediately.

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62 END OF RESOLUTION.



## Planning Commission Staff Report Rezone

Hearing Date: October 24, 2018

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**\*ITEM #1** George Bills requests a Zone Change from Public Facilities (PF) to Residential Agricultural (RA) for 5.89 acres located at 1437 E 2300 N. Rock Canyon neighborhood. Aaron Ardmore (801) 852-6404 PLRZ20180239

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**Applicant:** George Bills at Gardner & Associates

**Staff Coordinator:** Aaron Ardmore

**Property Owner:** RANGER STATION LLC

**Parcel ID#:** 20:045:0018

**Acreage:** 5.89

**Number of Properties:** 1

**Number of Lots:** 3

### ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is November 14<sup>th</sup> at 5:00 P.M.*

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

**Current Legal Use:** The property is currently a mostly vacant parcel that contains a storage building for the US Forest Service.

**Relevant History:** The property was acquired by an LLC, which is represented by the applicant. The applicant submitted a zone change request and a proposed subdivision plan to split the property into three single-family lots. Planning Commission recommended approval to the Council. The Council continued the item so the applicant could find a new solution. The applicant has now requested the RA zone along with a development agreement restricting all agricultural animal rights.

**Neighborhood Issues:** The applicant met with staff and the neighbors to the west to discuss concerns about building placement and view corridors.

### Summary of Key Issues:

- The proposed zone would change from Public Facilities to Residential Agricultural – half-acre minimum lot size.
- The applicant would subdivide the property into three lots.
- The General Plan for this property is Residential.

**Staff Recommendation:** That the Planning Commission forwards a Positive Recommendation to the Municipal Council.

## **OVERVIEW**

Gardner & Associates is requesting a zone change on behalf of the property owner at 1437 East 2300 North, from the Public Facilities (PF) zone to the Residential Agricultural (RA) zone. The proposed zone restricts residential use to one dwelling per half acre.

The property owner purchased the land in 2007 in order to create single-family lots at a later date. The applicant has now applied for the necessary zone change and preliminary subdivision that would enable the property to be subdivided.

Lots zoned R1.10 are adjacent to the west of the subject property. These lots were originally part of the subject property. Also to the west is R1.SPD zoning where the lots are 12,000 to 13,000 sf. To the north and east of the subject property is City-owned parkland that is zoned Public Facilities.

The street 2300 North is a collector road and provides the frontage to the subject property.

At the September Municipal Council hearing there was public input regarding impacts corralling of horses have on near-by residential uses. The applicant has revised his request to a RA zone along with limiting all the agricultural animal rights with that zone, so that the property owners can still move forward and the concerns can be alleviated.

## **FINDINGS OF FACT**

1. The property is in the Public Facilities Zone.
2. The General Plan designates the property as Residential.
3. The proposed zone is Residential Agricultural.
4. The General Plan would not need to be amended with a Residential Agricultural zone.
5. RA zones around the City are commonly found adjacent to R1.8 and R1.10 zones.
6. The plan proposes a three-lot subdivision.

## **ANALYSIS**

The proposed zone change would allow the development of the property into residential lots, aligning it with the intent of General Plan. The proposed zone of RA would fit the characteristics of the area, as the property serves as a gateway to the Rock Canyon trailhead. Due to limitation

related to the geography of the property, the proposed zone would most likely limit the property to three lots; but the potential for five lots may be possible.

The RA zone is frequently viewed as a half-way point between residential zoning and agricultural zoning. This is why RA zones are so common adjacent to R1 zones. A review of the City's zoning map shows at least 23 RA zones that are adjacent to R1.8 or R1.10 zones.

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: **(responses in bold)***

*(a) Public purpose for the amendment in question.*

***The proposal allows the property to be developed in an appropriate manner, which will increase the tax base for the City.***

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

***Any higher density residential development or other use for the property would be inappropriate for the site.***

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

***The proposed development meets the General Plan Map designation for the property, and meets the goals in chapter six of the General Plan, specifically in "increasing the amount of owner-occupied housing units."***

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

***There are no relevant timing and sequencing provisions dealing with this proposal.***

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

***The proposed zone change should not hinder or obstruct the General Plan policies, but help to achieve them.***

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

***There would be minimal adverse impacts on adjacent owners, but could include increased traffic and loss of view corridors.***

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

***The zoning and General Plan for the area are correct.***

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

**There are none.**

## **CONCLUSIONS**

Staff feels that the proposed zone is a good fit for the property in enabling it to be developed in accordance with the Provo City General Plan.

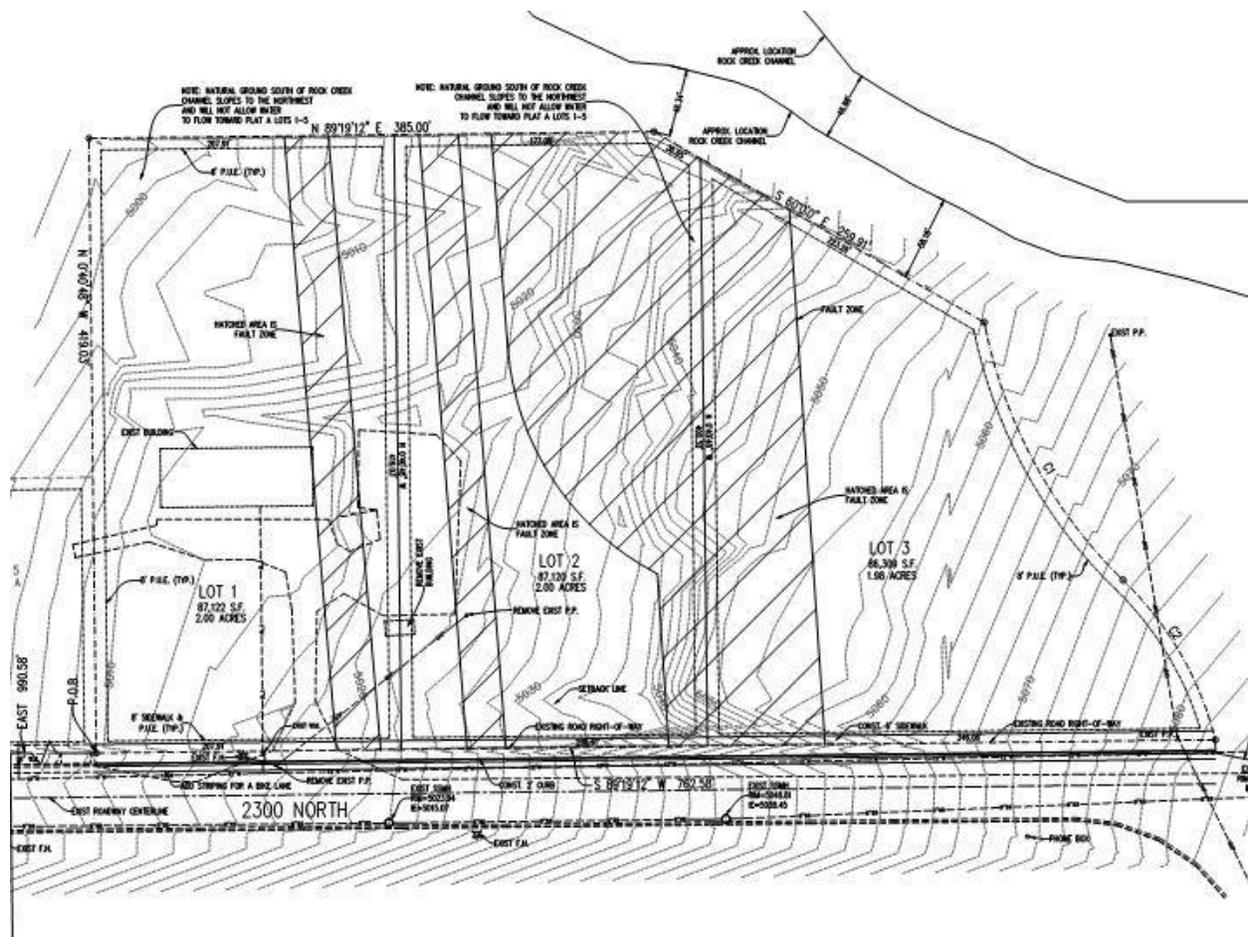
## **ATTACHMENTS**

1. Proposed Zone Change Area
2. Concept Plan

ATTACHMENT 1 – PROPOSED ZONE CHANGE AREA



ATTACHMENT 2 – CONCEPT PLAN





## Provo City Planning Commission

# Report of Action

October 24, 2018

Item 1 George Bills requests a Zone Change from Public Facilities (PF) to Residential Agricultural (RA) for 5.89 acres located at 1437 E 2300 N. Rock Canyon neighborhood. Aaron Ardmore (801) 852-6404 PLRZ20180239

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The following action was taken by the Planning Commission on the above described item at its regular meeting of October 24, 2018:

## POSITIVE RECOMMENDATION WITH CONDITIONS

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application, with the following conditions:

### Conditions of Approval:

1. That the zone change is connected to a development agreement that waives all animal rights associated with the RA Residential Agricultural Zone but to maintain any and all animal rights associated with R1 single-family zoning.

Motion By: Andrew Howard

Second By: Robert Knudsen

Votes in Favor of Motion: Andrew Howard, Robert Knudsen, Shannon Ellsworth, Deborah Jensen, Jamin Rowan  
*Deborah Jensen was present as Chair.*

- Additional Report of Action for item previously continued after a public hearing or other discussion: September 12, 2018.
- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

### **LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED**

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

### **DEVELOPMENT AGREEMENT**

- Applies – a copy is attached.

### **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: An overview of the request for the RA zone and limits proffered by the applicant.

### NEIGHBORHOOD MEETING DATE

- The Neighborhood Chair sent an email that stated the proposed zone change and development agreement satisfied the concerns of the neighborhood, attached as Exhibit B.

### NEIGHBORHOOD AND PUBLIC COMMENT

- Neighbors or other interested parties were present or addressed the Planning Commission with the following questions and concerns:
  - Inquired about the difference between a RA zone and a R1 zone.
  - That a R1 zone would be preferred.
  - Concerns about the possibility of additional lots.
  - Worries about the height and size of accessory buildings.
  - Understanding of what agricultural rights still remained.

### APPLICANT RESPONSE

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

- Stated that the owners wanted the option to build an accessory structure in the future that could possibly house recreational vehicles, but did not have details of the desired building(s) at this time.
- That any development that occurs on the three lots would not be unsightly.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Followed up on the geological issues of the property, which would limit development.
- Addressed the restrictions of the proposed Development Agreement, and that it would restrict animal rights and future subdivisions.
- Confirmed the building height restriction in the RA zone is 35 feet. This is the same building height limitation for all R1 zones.



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**

## EXHIBIT A

Beginning at a point located North  $00^{\circ}40'48''$  West along section line 1331.76 feet and East 990.58 feet from the Southwest corner of Section 29, Township 6 South, Range 3 East, Salt Lake Base and Meridian; thence North  $00^{\circ}40'48''$  West 419.03 feet; thence North  $89^{\circ}19'12''$  East 385.00 feet; thence South  $60^{\circ}00'00''$  East 259.91 feet to a point on the westerly right-of-way line of a future extension of Foothill Drive; thence along the arc of a 333.00 foot radius curve to the left; 203.61 feet through a central angle of  $35^{\circ}01'57''$  (chord bears South  $28^{\circ}21'18''$  East for 200.45 feet); thence along the arc of a 227.00 foot radius curve to the right, 126.43 feet through a central angle of  $31^{\circ}54'37''$  (chord bears South  $29^{\circ}54'57''$  East for 124.80 feet) to the northerly right-of-way line of 2300 North Street; thence South  $89^{\circ}19'12''$  West along said northerly right-of-way line, 762.58 feet to the point of beginning.

Area = 5.9815 acres (260,552 sq. ft.)

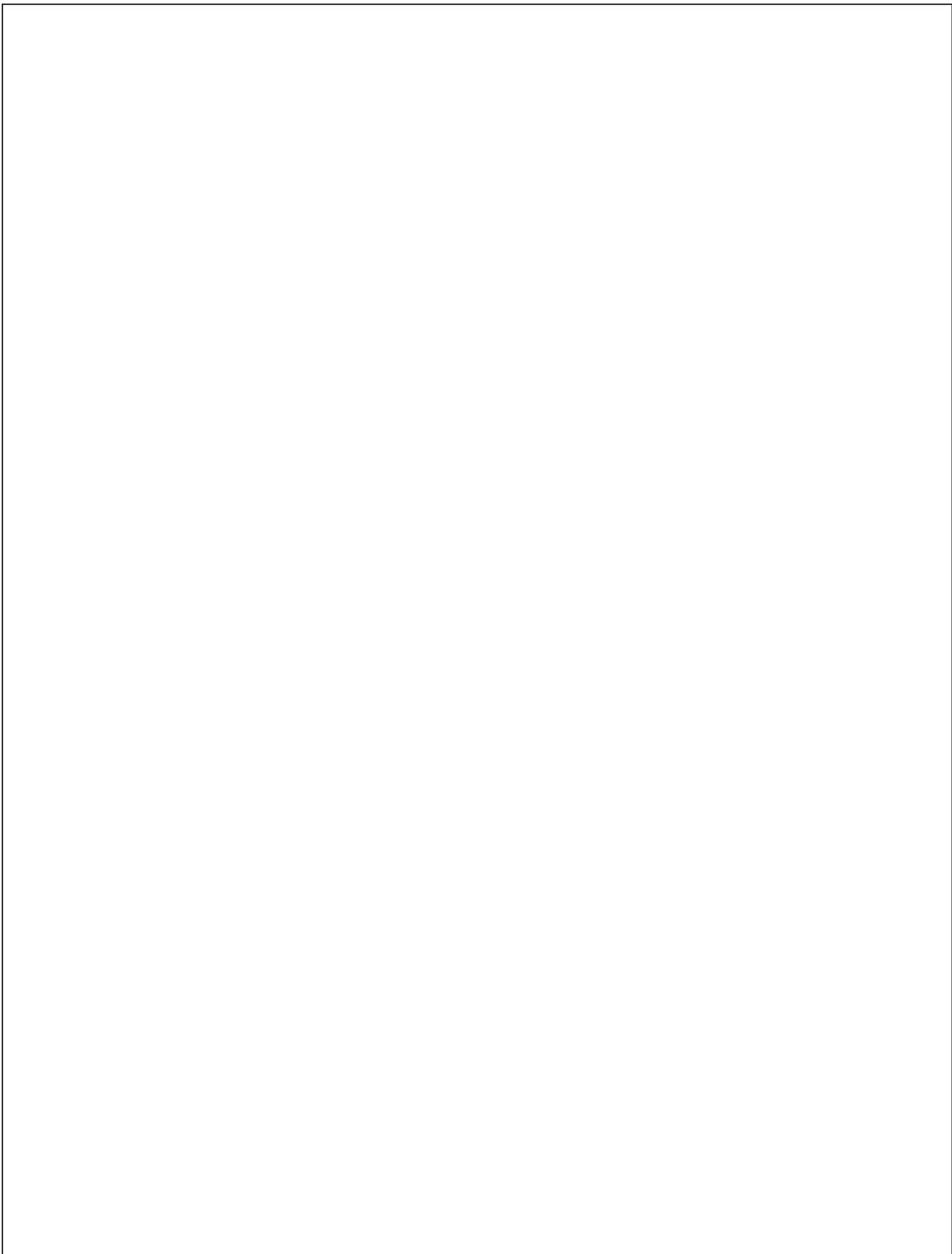


EXHIBIT B

To the Planning Commission:

Upon being elected as neighborhood chair last month, I was apprised at the September 25<sup>th</sup>, 2018 City Council Meeting that there was an intent to have horses on the property located at 1437 E 2300 N. I was asked to get feedback on how the neighborhood would feel about such a proposal. On October 9<sup>th</sup>, I reported that there was a history of horses being directly across the street and the neighborhood requested that they be removed at that time. I have heard back from 26 neighbors now, many who border this property, that they do not want any horses or agricultural animal rights on these lots. 14 neighbors further away from the parcel were in favor of a neighborhood farm.

Reasons cited for not wanting animals of such nature included health concerns, namely asthma and allergies, dust from lack of vegetation, smells, ground water contamination as these lots sit on a mountainside, and bugs. Some stated concerns about impacts to the park and trailhead. I have been told that a development agreement will be attached to this new zone request for Residential Agricultural that will restrict animal rights to what you would find in a R1-10 zone. I have not seen this development agreement yet. With the understanding that agricultural livestock will not be permitted in this area, the neighborhood supports this zone change.

Many thanks,

Rachel Luke

Rock Canyon Neighborhood Chair

ORDINANCE 2018-

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 5.89 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 1437 EAST 2300 NORTH FROM PUBLIC FACILITIES (PF) TO RESIDENTIAL AGRICULTURE (RA). ROCK CANYON NEIGHBORHOOD. (PLRZ20180239)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 5.89 acres of real property, generally located at 1437 East 2300 North (as shown in the attached Exhibit A), be amended from Public Facilities (PF) to Residential Agriculture (RA); and

WHEREAS, on September 12, 2018, the Planning Commission held a duly noticed public hearing to consider the initial proposal and after such hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 6:0 vote; and

WHEREAS, after the Council heard the initial hearing, the developer offered to waive agricultural animal rights and the item was taken back to the October 24, 2018 Planning Commission meeting, where they held a duly noticed second public hearing to consider the proposal and after such hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 5:0 vote; and

WHEREAS, the Planning Commission's recommendation was based on the proposal to sign a development agreement waiving animal rights generally afforded to an agricultural designation and brought a similar project design presentation to the Commission; and

WHEREAS, on September 25, 2018, October 9, 2018, October 23, 2018, and November 13, 2018, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah, should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property shown in the attached Exhibit A 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:

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PART I:

The Mayor is hereby authorized execute a development agreement for this zone change consistent with the attached Exhibit B.

PART II:

The classification on the Zone Map of Provo, Utah is hereby amended from the Public Facilities (PF) Zone to the Residential Agriculture (RA) Zone for approximately 5.89 acres of real property generally located at 1437 East 2300 North, as described in the attached Exhibit A. The effective date of this zone map change shall be the date of final execution of the development agreement described in Part I.

PART III:

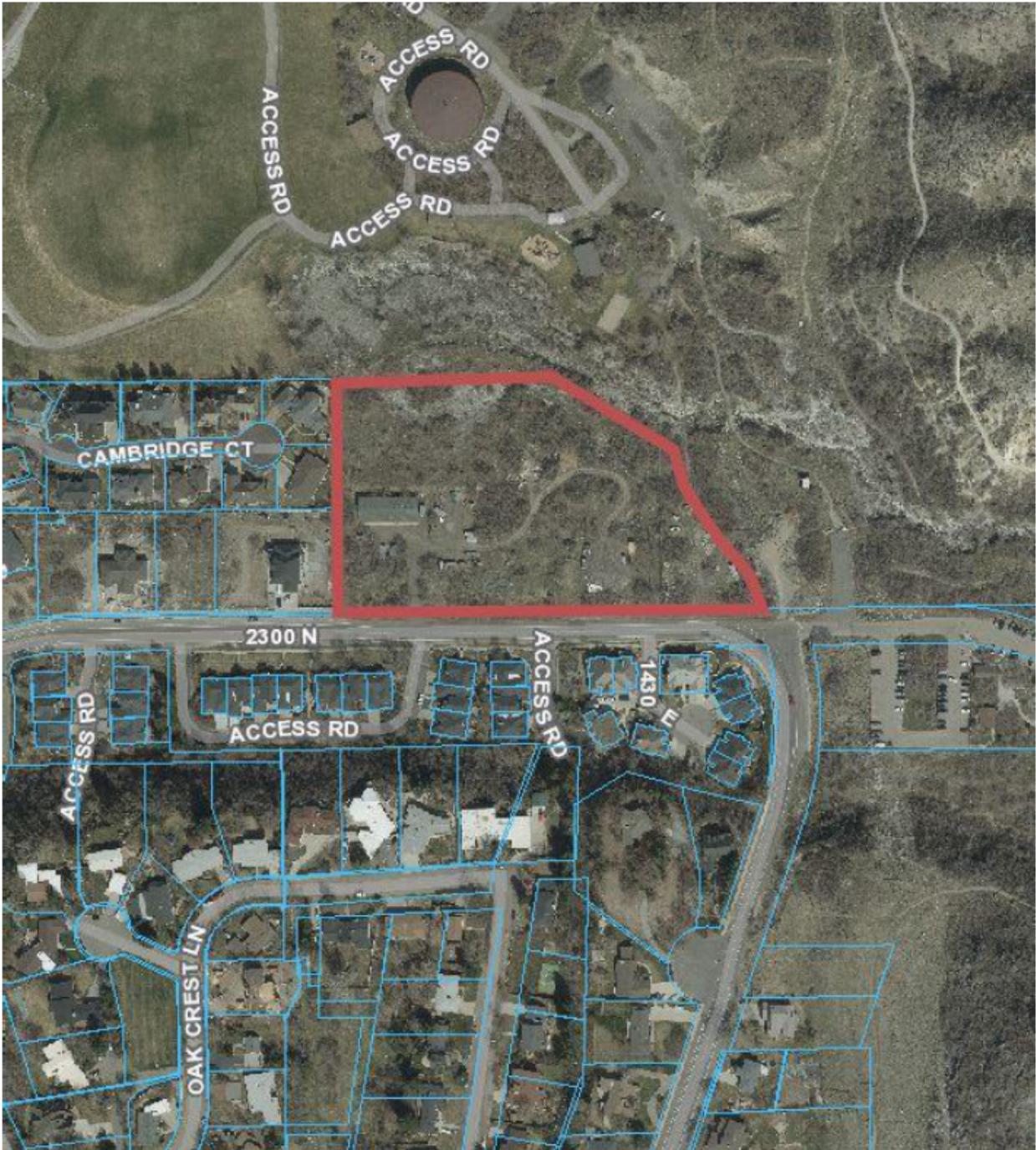
- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.
- B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.
- C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified to reflect the provisions enacted by this ordinance.
- D. Except as otherwise stated in Part II, this ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.
- E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this ordinance, the entire ordinance shall expire, becoming null and void as if it had never been approved. Because the zone classification change contemplated in Part II cannot come into effect if the Development Agreement is not executed, neither the applicant nor any successor(s) in interest shall have any vested rights under this ordinance if it expires.

END OF ORDINANCE

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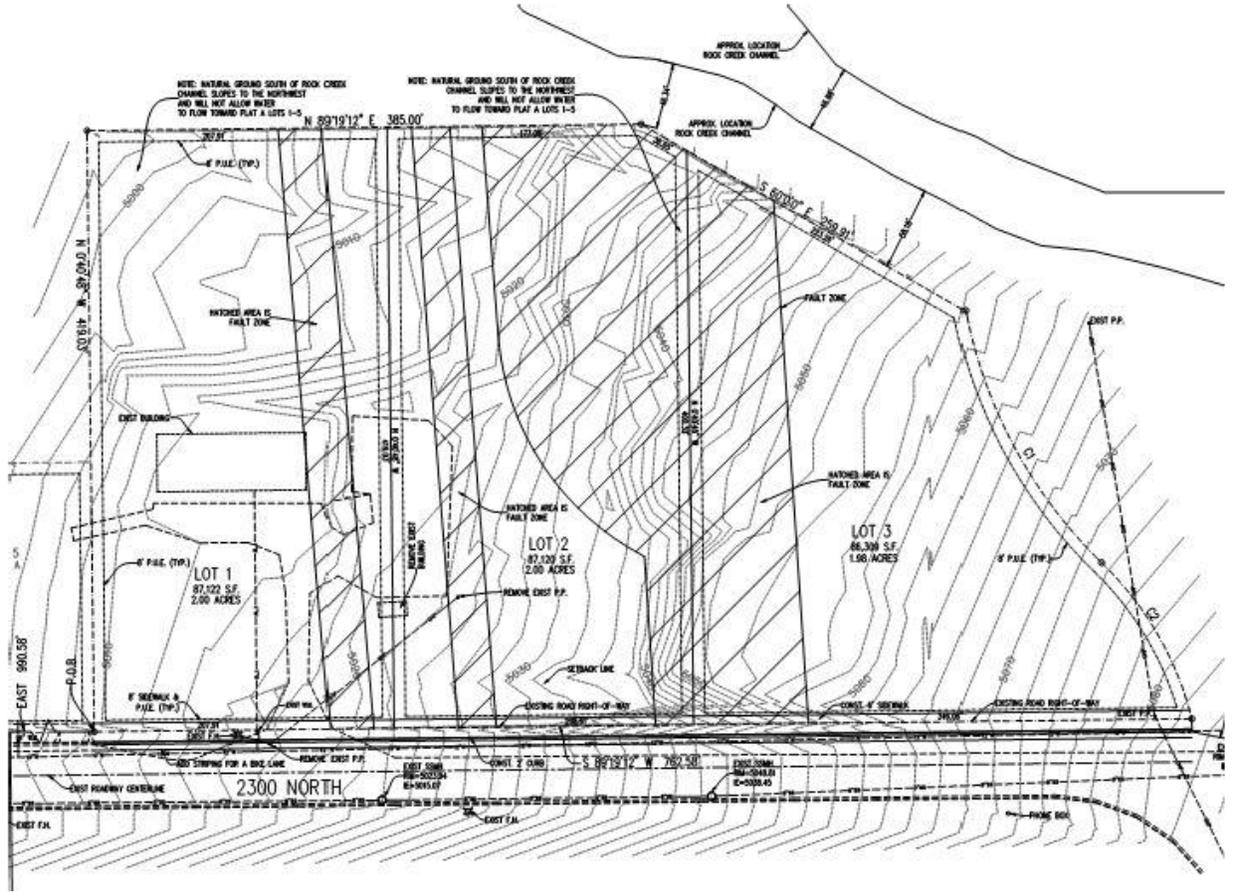
Exhibit A

ATTACHMENT 1 – PROPOSED ZONE CHANGE AREA



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85

ATTACHMENT 2 – CONCEPT PLAN



**DEVELOPMENT AGREEMENT  
FOR  
DEER ISLAND PLAT "B"**

**(1437 E 2300 N)**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Ranger Station LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

**RECITALS**

A. Developer is the owner of approximately 5.89 acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

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

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

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

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

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

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

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

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

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

## AGREEMENT

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

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

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the RA Residential Agricultural Zone, (ii) all other features as generally shown on the Final Plat, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Final Plat as permitted by the aforementioned zoning designations for the Property.

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

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

a. To waive all animal rights associated with the RA Residential Agricultural Zone but to maintain any and all animal rights associated with R1 single-family zoning.

b. To waive all Conditional Uses listed in the RA zone, specifically:

1516 Bed and breakfast inn

- 4700 Communications
- 4814 Electricity regulating substations
- 4818 Small generation
- 4829 Other gas utilities, NEC
- 4834 Water storage as part of a utility system
- 4872 Debris basin (a dam or basin for intercepting debris)
- 4874 Spreading grounds (area for percolating water into underground)
- 6241 Mortuaries
- 6722 Police protection and related activities, branch (office only)
- 6910 Religious activities
- 8221 Veterinarian services
- 8222 Animal hospital

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

6. Vested Rights and Reserved Legislative Powers.

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

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

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;
2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which

are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,
4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.
5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.
6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

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

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

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

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

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

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

The rights and remedies set forth herein shall be cumulative.

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

To the Developer: Ranger Station LLC  
Attn: Brooke Roney  
724 N 1890 W  
Provo, Utah 84601  
Phone: \_\_\_\_\_

To the City: City of Provo  
Attention: City Attorney  
351 W Center Street  
Provo, UT 84601  
Phone: (801) 852-6140

9. General Term and Conditions.

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

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

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

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

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

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

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

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

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

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

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement

shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

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

m. Termination.

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

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

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

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

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

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

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

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

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

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

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

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

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

**CITY:**

CITY OF PROVO

ATTEST:

By: \_\_\_\_\_  
City Recorder

By: \_\_\_\_\_  
Mayor Michelle Kaufusi

**DEVELOPER:**

Ranger Station LLC, a Utah limited liability company

By: \_\_\_\_\_  
Name: Brooke Roney  
Title: \_\_\_\_\_

STATE OF UTAH                    )  
  :ss  
COUNTY OF UTAH                )

On the \_\_\_\_ day of \_\_\_\_\_, 2018, personally appeared before me Brooke Roney, who being by me duly sworn, did say that he is the \_\_\_\_\_ of Ranger Station LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

\_\_\_\_\_  
Notary Public  
Residing at:

## Exhibit A

### Legal Description of the Property

Beginning at a point located North  $00^{\circ}40'48''$  West along section line 1331.76 feet and East 990.58 feet from the Southwest corner of Section 29, Township 6 South, Range 3 East, Salt Lake Base and Meridian; thence North  $00^{\circ}40'48''$  West 419.03 feet; thence North  $89^{\circ}19'12''$  East 385.00 feet; thence South  $60^{\circ}00'00''$  East 259.91 feet to a point on the westerly right-of-way line of a future extension of Foothill Drive; thence along the arc of a 333.00 foot radius curve to the left, 203.61 feet through a central angle of  $35^{\circ}01'57''$  (chord bears South  $28^{\circ}21'18''$  East for 200.45 feet); thence along the arc of a 227.00 foot radius curve to the right, 126.43 feet through a central angle of  $31^{\circ}54'37''$  (chord bears South  $29^{\circ}54'57''$  East for 124.80 feet) to the northerly right-of-way line of 2300 North Street; thence South  $89^{\circ}19'12''$  West along said northerly right-of-way line, 762.58 feet to the point of beginning.  
Area = 5.9815 acres (260,552 sq. ft.)

**Exhibit B**

**Final Plat**