



## **PROVO MUNICIPAL COUNCIL**

### **Regular Meeting Agenda**

5:30 PM, Tuesday, March 19, 2019  
Room 200, 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

### **Public Comment**

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

Please state your name and city of residence into the microphone.

Please limit your comments to two minutes.

State Law prohibits the Council from acting on items that do not appear on the agenda.

### **Action Agenda**

1. An ordinance to amend Downtown Streetscape standards to clarify right-of-way improvements for 100 West. City-wide Impact. (PLOT20190007)
2. A resolution appropriating \$162,200 from wildfire response revenues in the Fire Department General Fund for expenses related to equipment and facility improvements applying to the fiscal year ending June 30, 2019. (19-034)
3. An ordinance amending the official Neighborhood Map. North Timpview and Riverbottoms Neighborhoods. (19-039)
4. An ordinance amendment Provo City Code regarding the sale of dogs, cats, and rabbits at commercial animal establishments. (19-030)
5. An ordinance amending Provo City Code to repeal and remove references to the Student of Higher Education and Young Adult Advisory Board. (19-033)

6. **\*\*CONTINUED\*\*** An ordinance correcting deficiencies in the Campus Mixed Use Zone pertaining to design regulation identified by Community Development. (PLOT20190025)
7. **\*\*CONTINUED\*\*** An ordinance amending the Zone Map classification for approx. 3.724 acres of real property generally located at 2400 N 650 E to include a PD Performance Development Overlay Zone in the R1.10 Zone. Rock Canyon Neighborhood. (PLRZ20190029)
8. A resolution regarding site and process selection for a new water reclamation facility. (19-037)
9. A resolution regarding loan authorization for the first phase of a new water reclamation facility. (19-038)

## Adjournment

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

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

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

The next scheduled Council Meeting will be held on 4/9/2019 5:30:00 PM at 4/9/2019 5:30:00 PM in the Council Chambers, 351 West Center Street, Provo, unless otherwise noticed. The Work Meeting start time is to be determined (typically between 12:00 and 4:00 PM) and will be noticed at least 24 hours prior to the meeting.

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

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative 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. Council meetings are broadcast live and available for on demand viewing at [youtube.com/user/ProvoCityCouncil](https://youtube.com/user/ProvoCityCouncil).

### Notice of Telephonic Communications

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

### Notice of Compliance with Public Noticing Regulations

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

Network for public internet access: *Provo Guest*, password: *provoguest*



## Planning Commission Staff Report Hearing Date: February 27, 2019

**\*ITEM # 1** The Community Development Department requests an amendment to the Downtown Streetscape Standards to clarify right-of-way improvements for 100 W Street as redevelopment takes place. City-wide impact. Javin Weaver (801) 852-6413 PLOTA20190007

|   |   |
|---|---|
| <p><b>Applicant:</b> Community Development Department</p> <p><b>Staff Coordinator:</b> Javin Weaver</p> <p><b>Parcel ID#:</b> City Wide</p> <p><b>*Council Action Required:</b> Yes</p> <p><b>Related Application(s):</b> PLGPA20190008</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 March 13, 2019 at 6:00 p.m.</i></p> <p>2. <b>Recommend Denial</b> of the proposed ordinance amendment. <i>This would be <u>a change from the Staff recommendation</u>; the Planning Commission should <u>state new findings</u>.</i></p> | <p><b>Relevant History:</b> The Downtown Streetscape Standards were adopted on January 19, 2016.</p> <p><b>Neighborhood Issues:</b> No neighborhood issues have been brought to staff's attention.</p> <p><b>Summary of Key Issues:</b></p> <ul style="list-style-type: none"><li>• The proposal is to add a section of standards for the 100 West corridor.</li><li>• The document is to be amended to reflect standards that more suitable.</li><li>• The proposed ordinance is aligned with the General Plan</li></ul> <p><b>Staff Recommendation:</b> That the Planning Commission recommend to the Municipal Council approval of the proposed ordinance amendment.</p> |
|---|---|

### **OVERVIEW**

The Community Development Department has proposed to amend the Provo Downtown Streetscape Standards. This amendment is to further the goals and objectives of the Downtown Master Plan and General Plan. One goal from these plans is to encourage streets that reflect and reinforce a sense of place. Staff has identified that additional standards to the 100 West section would reinforce the street as a pedestrian corridor.

Items in the Downtown Streetscape Standards that are to be amended are the Installation Standards pavement pattern section and corner detailing to illustrate more detailed diagrams, combine the section referencing Amenity Selections and Minimum Spacing Standards for Amenities table in the document, and the Design Guidelines sections to provide clarity to the frontage, pedestrian, amenity, buffer and street zone sections.

Standards to be added to the proposed 100 West section would include a change of color/finish on items in the amenity selections to PMS299 (see attachment 8), the addition of flowering street trees to create an alternative row of trees, a reduced amount of spacing between each street tree, removal of tree grates, the addition of shrubs and flowers to be planted in the planter box, the addition of midblock crossings, pedestrian activity node at the midblock crossing (see attachment 6), an option to have public art in form of a sculpture on the corners, a pavement pattern section (see attachment 10), corner detailing to illustrate the wider sidewalk and wayfinding signs similar in size as the Arrival Information Sign (see attachment 5).

By changing the color/finish of the amenities to PMS299 creates uniqueness to the corridor that is not found anywhere else in the city. This will help to give the 100 West corridor an identity. The elimination of tree grates is due to the larger sidewalk on the east side of 100 West. The tree grates will be removed on the west side of 100 West to create uniformity. The reduction in spacing between planter boxes allows for the street trees to create a canopy. There are no setback requirements for buildings in the General Downtown, Downtown Core, or Interim Transit Oriented Development zones. Thus, planting a large tree next to a building with zero setbacks creates a problem. By planting a smaller type of tree more frequently along the walkway still creates the canopy over the sidewalk with a reduction in the tree coming in contact with a building. Midblock crossings like those found on Center Street create a walkable environment in accessing either side of the street (see attachment 2). By having a large open space at the midblock crossing allows for a pedestrian activity node to be installed. Something to give people a reason to be outside and enjoy the open environment (see attachment 6). Incorporating the names of cross streets into the sidewalk at intersection brings cohesiveness to the downtown area and pioneer neighborhoods that have this currently existing (see attachment 7). The wayfinding sign would be placed best at terminus of 100 West at 100 South and 600 South. This way people downtown and at the Provo Station would be able to know where the corridor leads.

## **FINDINGS OF FACT**



1. The Downtown Streetscape Standards were adopted January 19, 2016.
2. Long-range vision and planning documents adopted by Provo City encourage the enhancement of the downtown through development design standards
3. Goal 2.4.1.4 listed in the General Plan calls for providing bicycle and pedestrian-friendly streets and paths throughout the City with an emphasis on areas of high pedestrian activity.
4. Goal 2.4.1.2 listed in the General Plan calls for providing direct routes from key locations in the City by promoting the use of alternative methods of transportation.
5. Goal 2.4.3 listed in the General Plan calls for modifying current street standards and encourage utilization of design tools to promote complete street design in appropriate areas of the City

### **STAFF ANALYSIS**

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

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

- (a) *Public purpose for the amendment in question.*  
**To establish clear expectations to the Downtown Streetscape Standards that reflects a changing built environment and encourages the use of 100 West as a pedestrian corridor.**
- (b) *Confirmation that the public purpose is best served by the amendment in question.*  
**By having clear standards for the Downtown Streetscape Standards, particularly the 100 West corridor, developers and City staff can more easily work through the project review process with a level of certainty towards staff expectations.**
- (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*

**The proposed amended standards intend to meet the General Plan policy to “define the desired urban form with emphasis on enhancing the pedestrian scale and relationship to the planned environment through carefully articulated form and standards.”**

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

**There are no timing and sequencing issues with the proposed changes.**

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

**The proposed amended standards will promote rather than hinder the articulated policies of the General Plan.**

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

**No conflicts have been identified as these standards will be imposed on new development.**

## **CONCLUSIONS**

The adoption of an amended streetscape design will establish clear expectation for the standards and particularly the 100 West corridor. The establishment of these standards will ensure that the long-term goals of the City are met. Evaluating the proposal as a whole, staff supports the proposed ordinance text amendment.

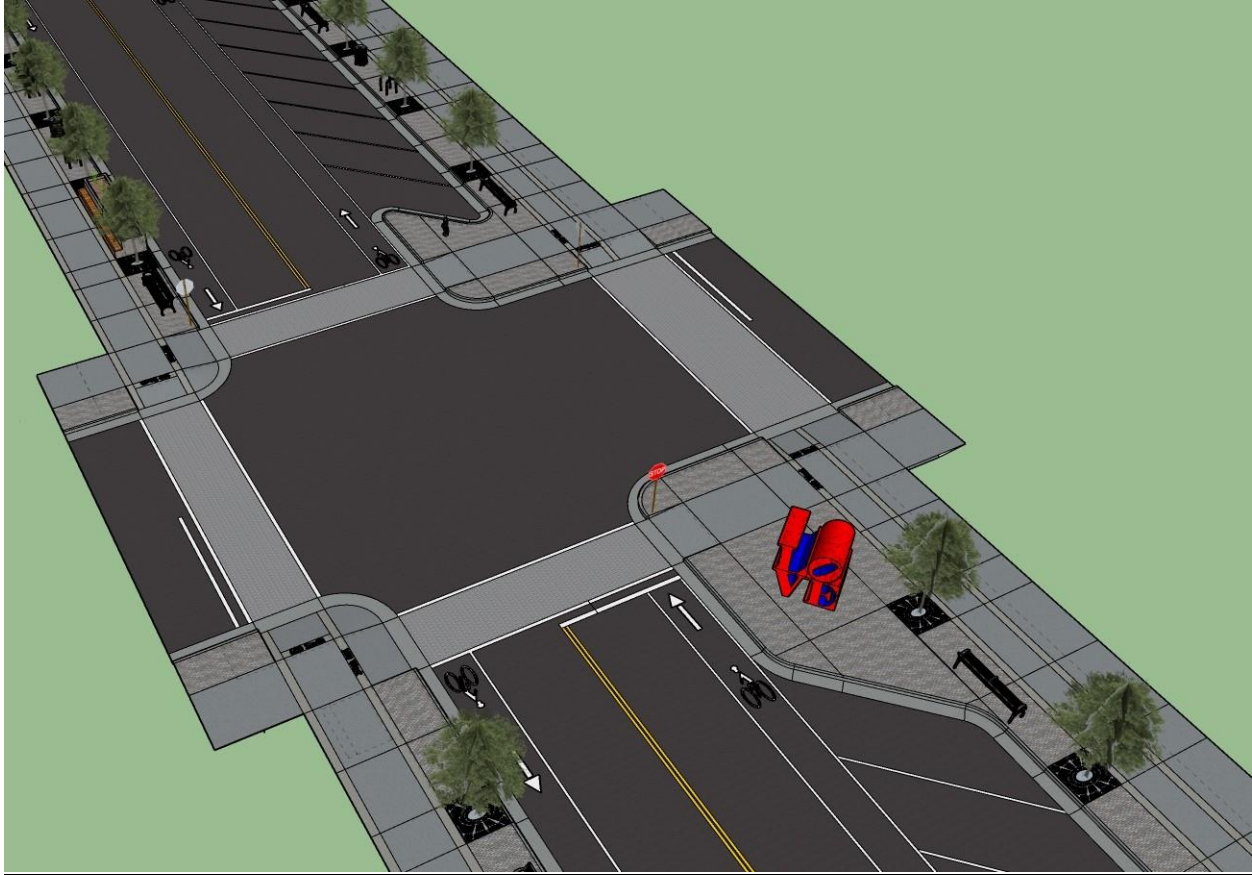
## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the Municipal Council approval of the proposed ordinance text amendment.

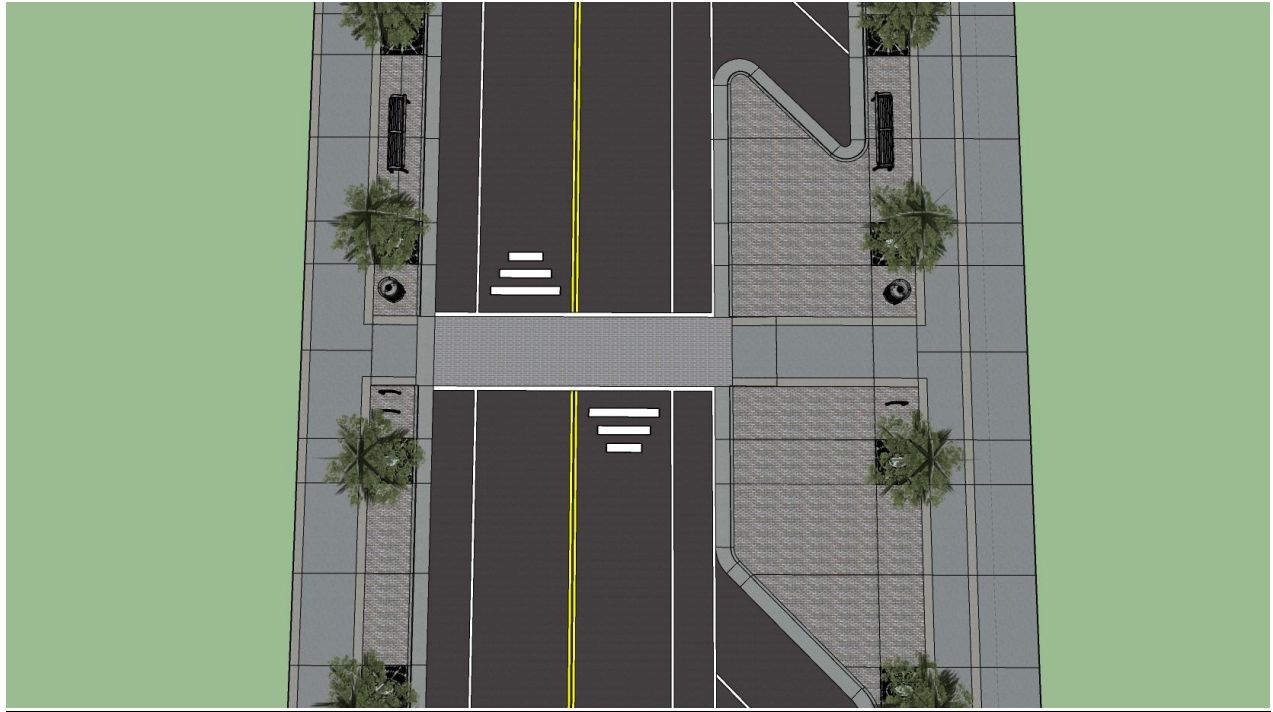
## **ATTACHMENTS**

- 1 – 100 West Design Concept**
- 2 – Midblock Crossing Concept**
- 3 – 100 West/300South Concept**
- 4 – 100 West Concept with Parking Ramp**
- 5 – Pedestrian Wayfinding Sign Example**
- 6 – Pedestrian Activity Node Example**
- 7 – Street Name Imprinted in Sidewalk**
- 8 – Example of PMS299**
- 9 – Example of 100 West Standard Paver Layout Pattern**

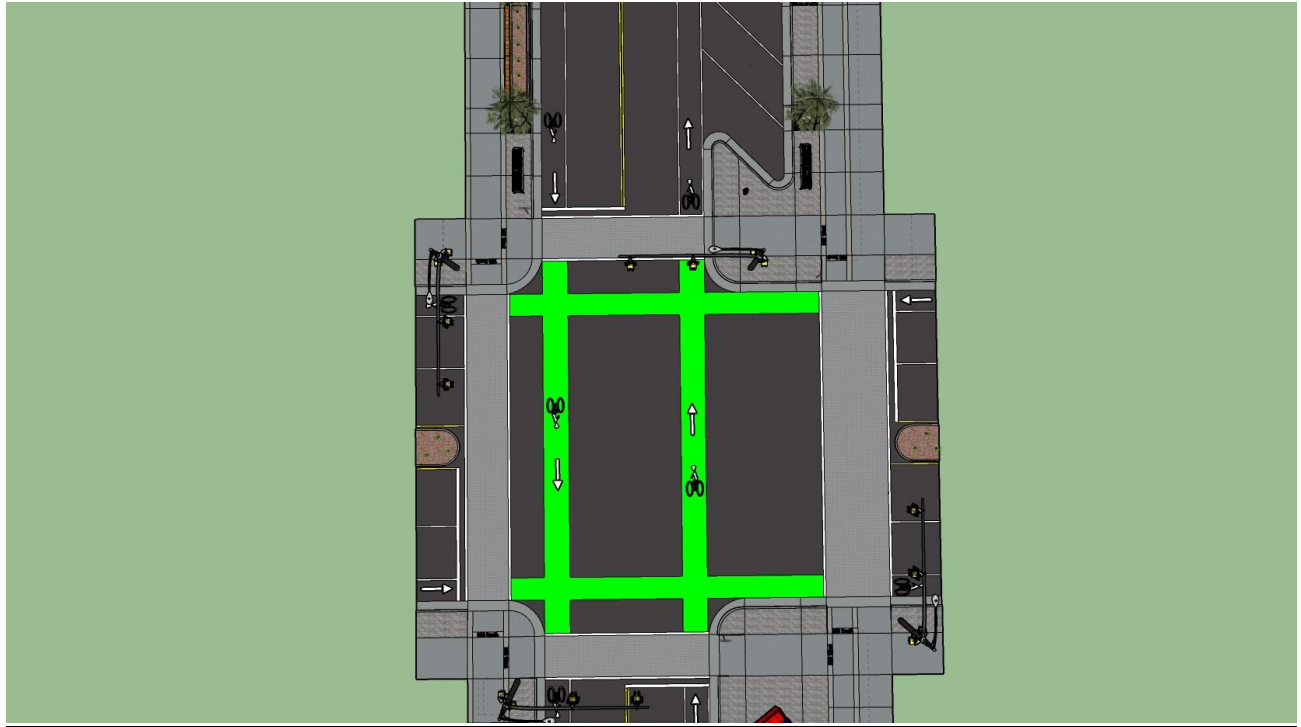
**Attachment 1 – 100 West Design Concept**



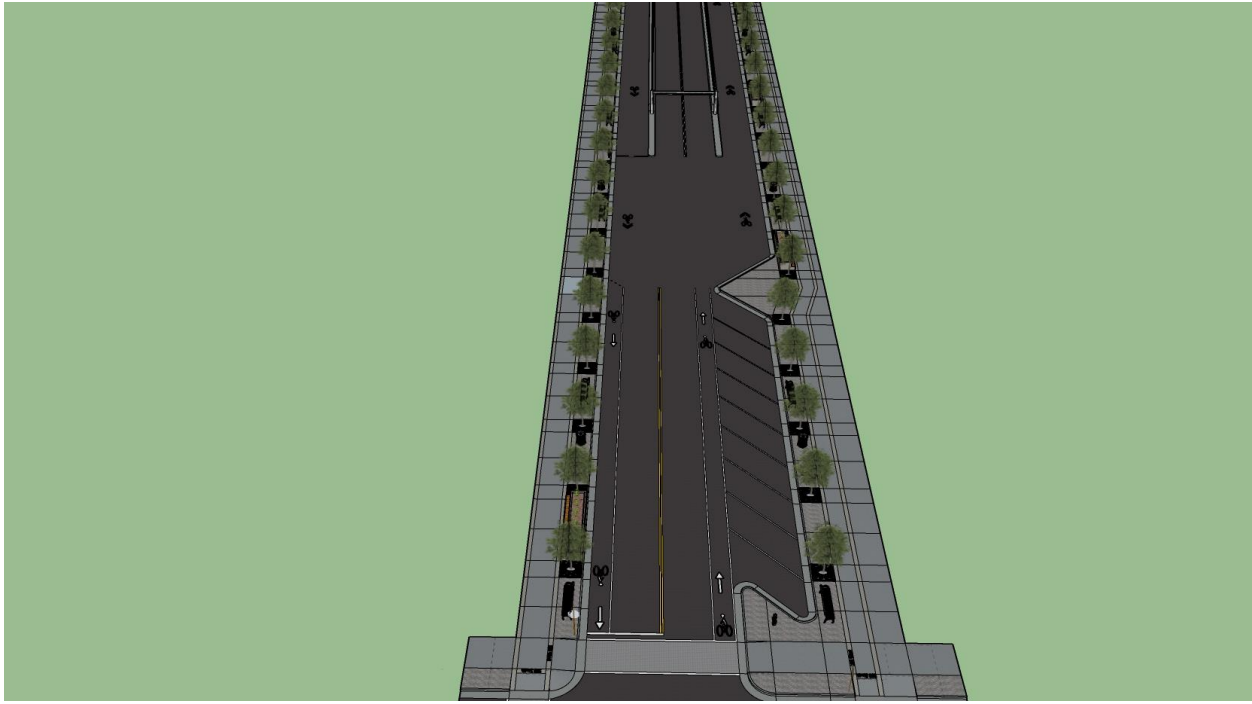
**Attachment 2 – Midblock Crossing Concept**



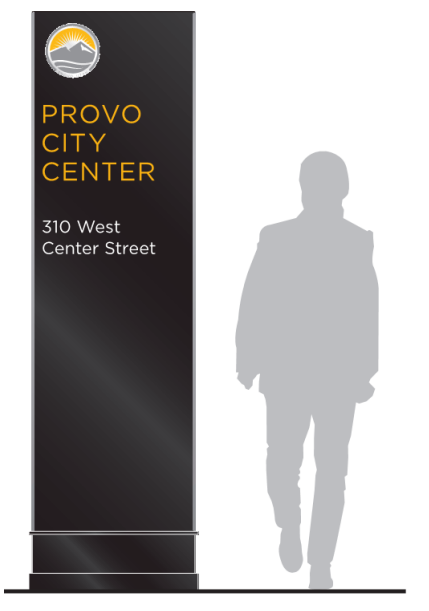
**Attachment 3 – 100 West/300 South Design Concept**



**Attachment 4 - 100 W Concept with Parking Ramp**



**Attachment 5 – Pedestrian Wayfinding Sign Example**





**Attachment 6 – Pedestrian Activity Node Example**





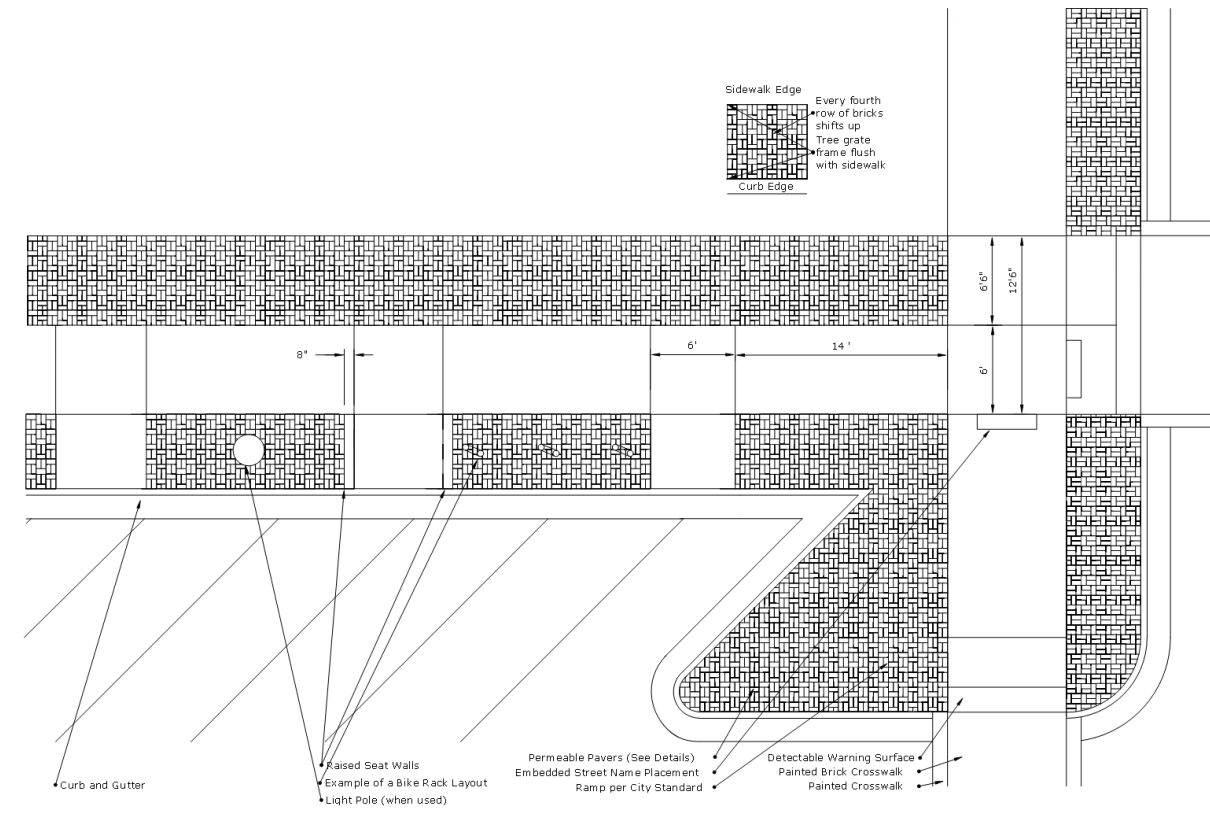
**Attachment 7 – Street Name Imprinted in Sidewalk**



**Attachment 8 – Example of PMS299**



## Attachment 9 – Example of 100 West Standard Paver and Layout Pattern



ORDINANCE 2018-.

AN ORDINANCE TO AMEND APPENDIX I (DOWNTOWN STREETSCAPE STANDARDS) OF THE GENERAL PLAN TO CLARIFY RIGHT-OF-WAY IMPROVEMENTS FOR 100 WEST. CITY-WIDE IMPACT. (PLOT20190007)

WHEREAS, it is proposed to amend Appendix I (Downtown Streetscape Standards) of the General Plan to clarify right-of-way improvements for 100 West as redevelopment takes place; and

WHEREAS, the Downtown Streetscape Standards further the goals and objectives of the Downtown Master Plan and the General Plan; and

WHEREAS, the amendment further clarifies the standards for right-of-way improvements along 100 West and encourages street designs that reflect a sense of place and reinforces 100 West as a pedestrian corridor; and

WHEREAS, on February 27, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed amendment of the Provo City General Plan, Appendix I (Downtown Streetscape Standards) and after such meeting the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

WHEREAS, on March 5, 2019 and March 19, 2019, 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 Downtown Streetscape Standards should be amended as proposed, and (ii) the proposed amendment reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

Appendix I (Downtown Streetscape Standards) of the General Plan is hereby amended as set forth in Exhibit A.

PART II:

41  
42 A. If a provision of this ordinance conflicts with a provision of a previously adopted  
43 ordinance, this ordinance shall prevail.

44  
45 B. This ordinance and its various sections, clauses and paragraphs are hereby  
46 declared to be severable. If any part, sentence, clause or phrase is adjudged to be  
47 unconstitutional or invalid, the remainder of the ordinance shall not be affected  
48 thereby.

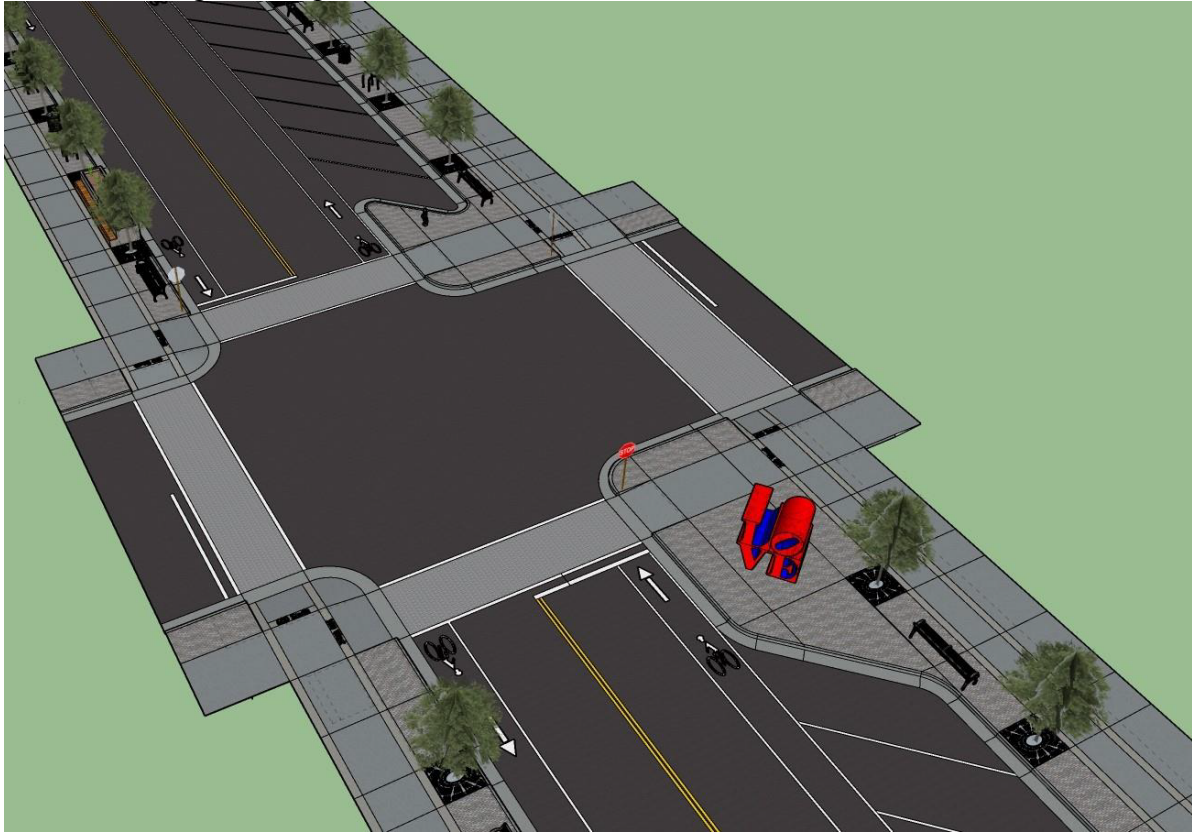
49  
50 C. The Municipal Council hereby directs that the official copy of the Provo City  
51 Code be updated to reflect the provisions enacted by this ordinance.

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

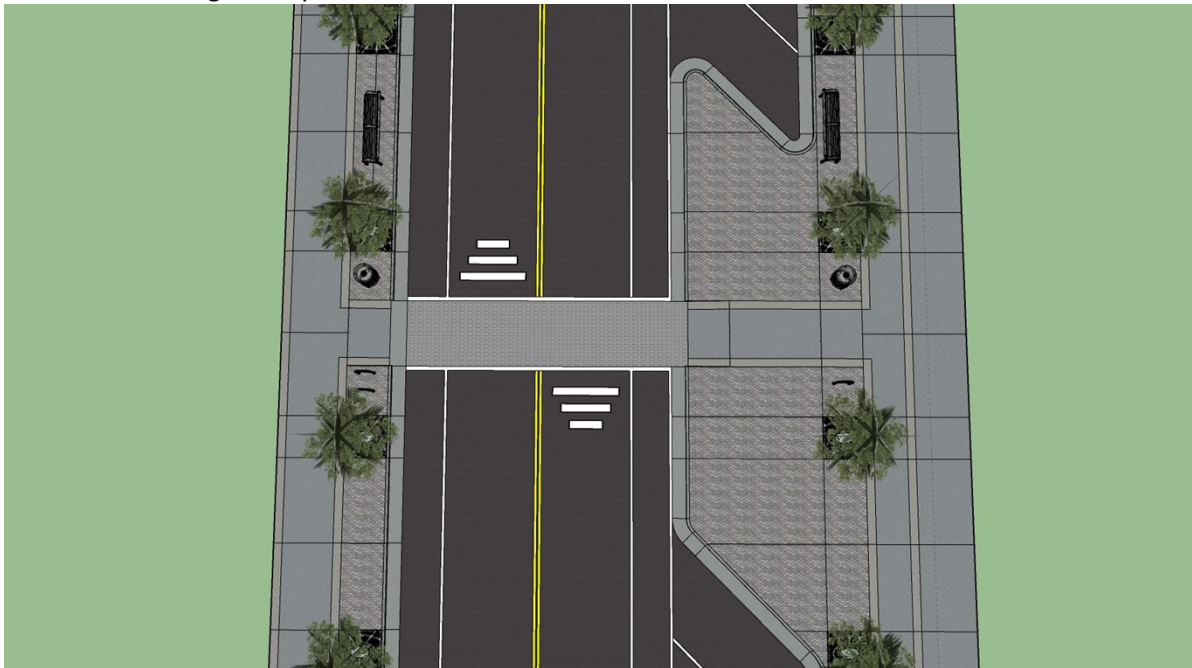
56  
57 END OF ORDINANCE.

Exhibit A

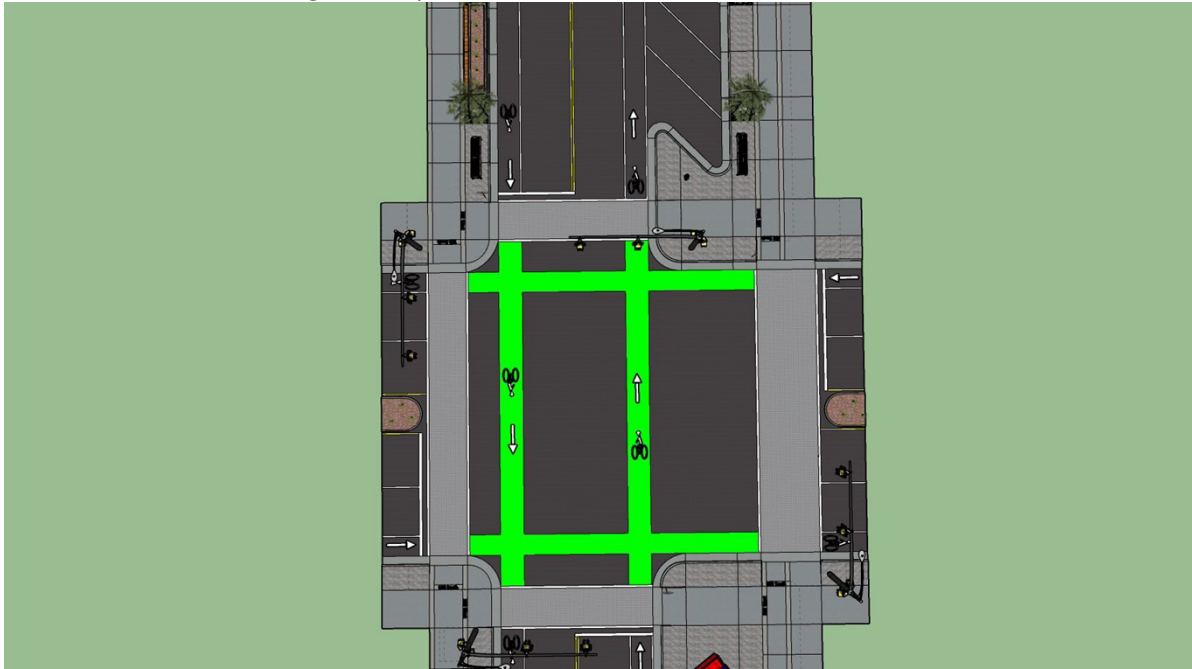
100 West Design Concept



Midblock Crossing Concept

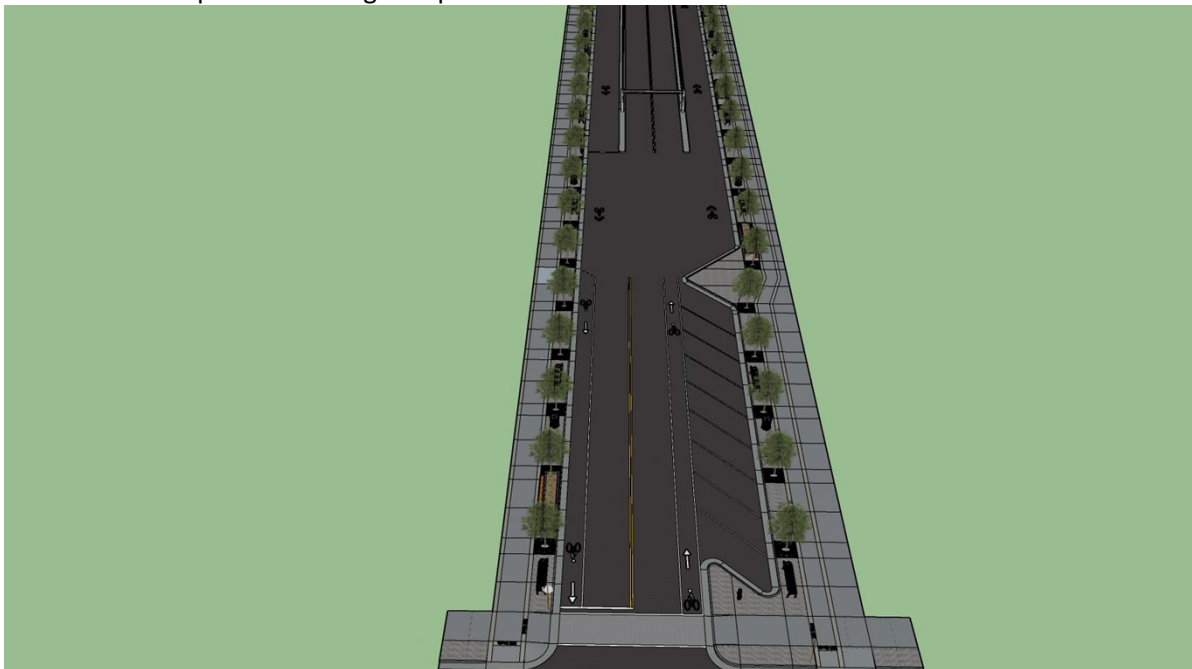


66 100 West/300 South Design Concept



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69 100 West Concept with Parking Ramp



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72 Pedestrian Wayfinding Sign Example





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74 Pedestrian Activity Node Example



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Street Name Imprinted in Sidewalk

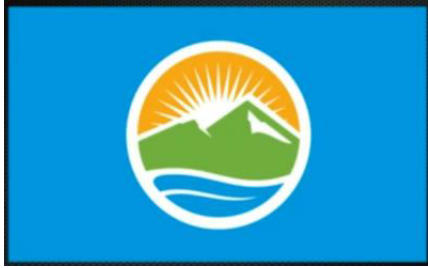


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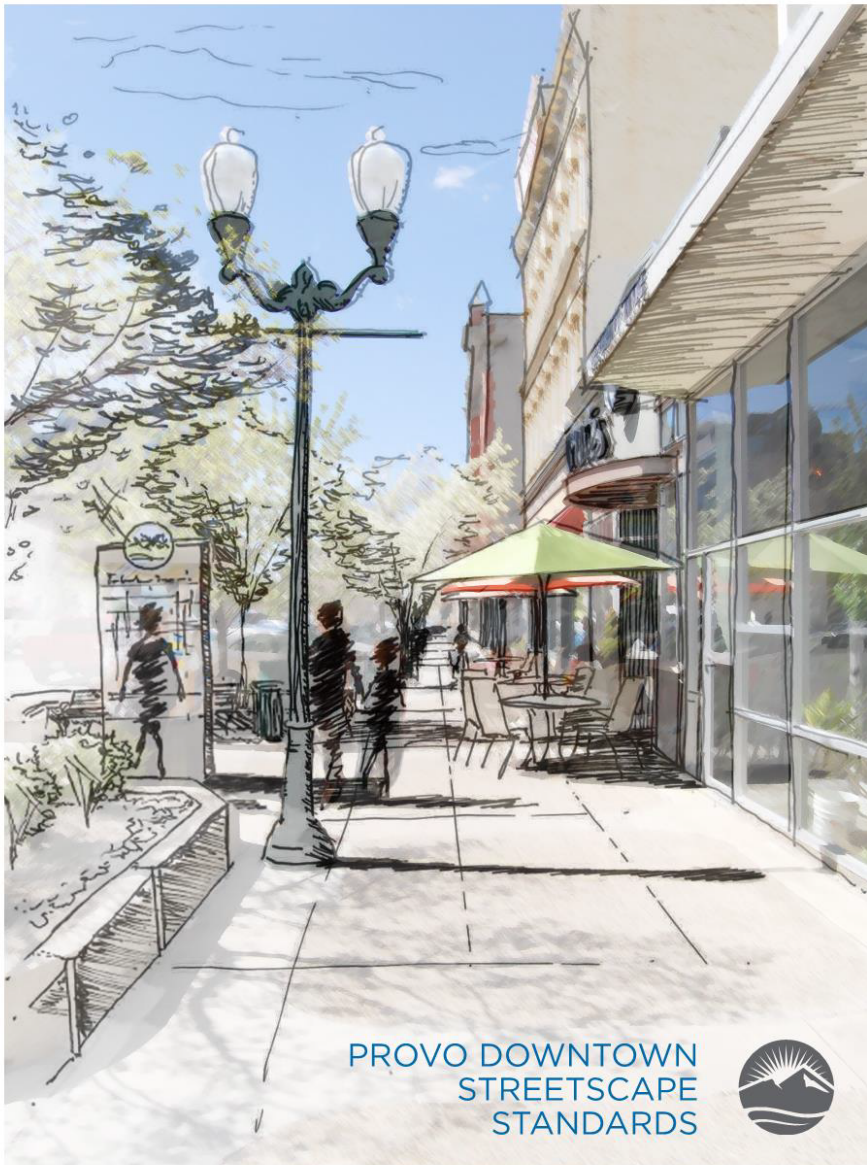
81 Example of Provo Blue



82

83

84 Provo Downtown Streetscape Standards



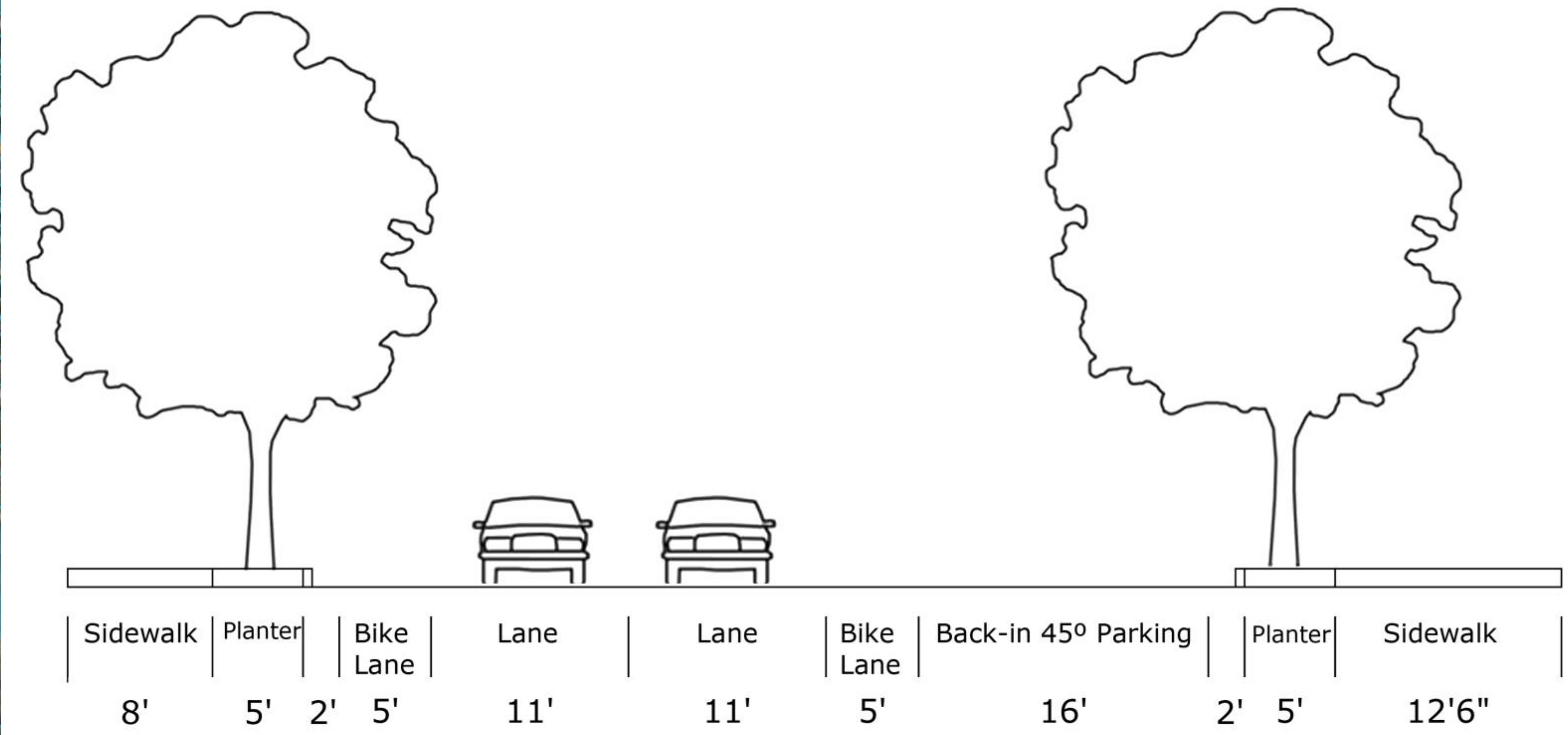
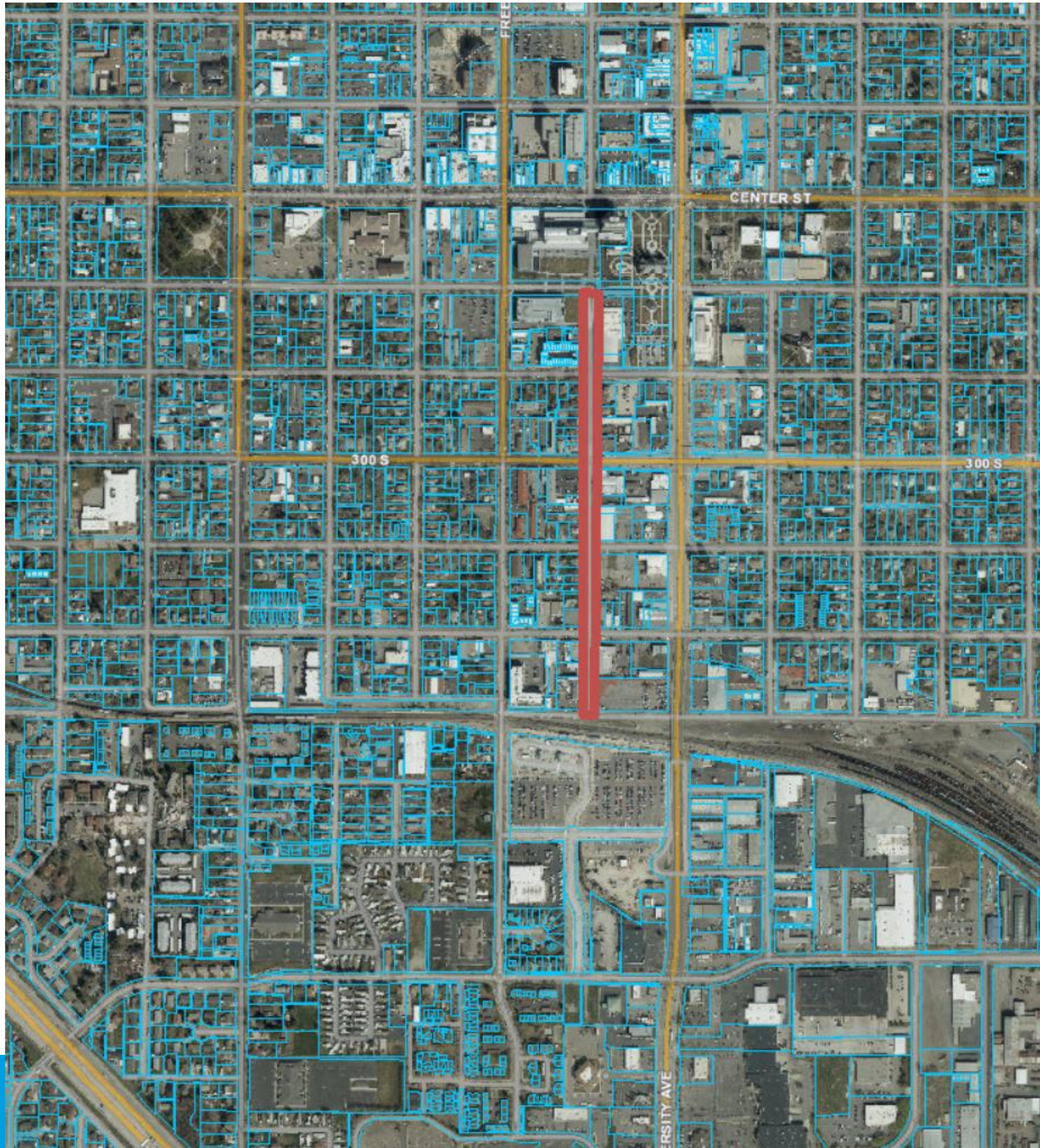
85

## ITEM 1\*

The Community Development Department requests an amendment to the Downtown Streetscape Standards to clarify right-of-way improvements for 100 W Street as redevelopment takes place.

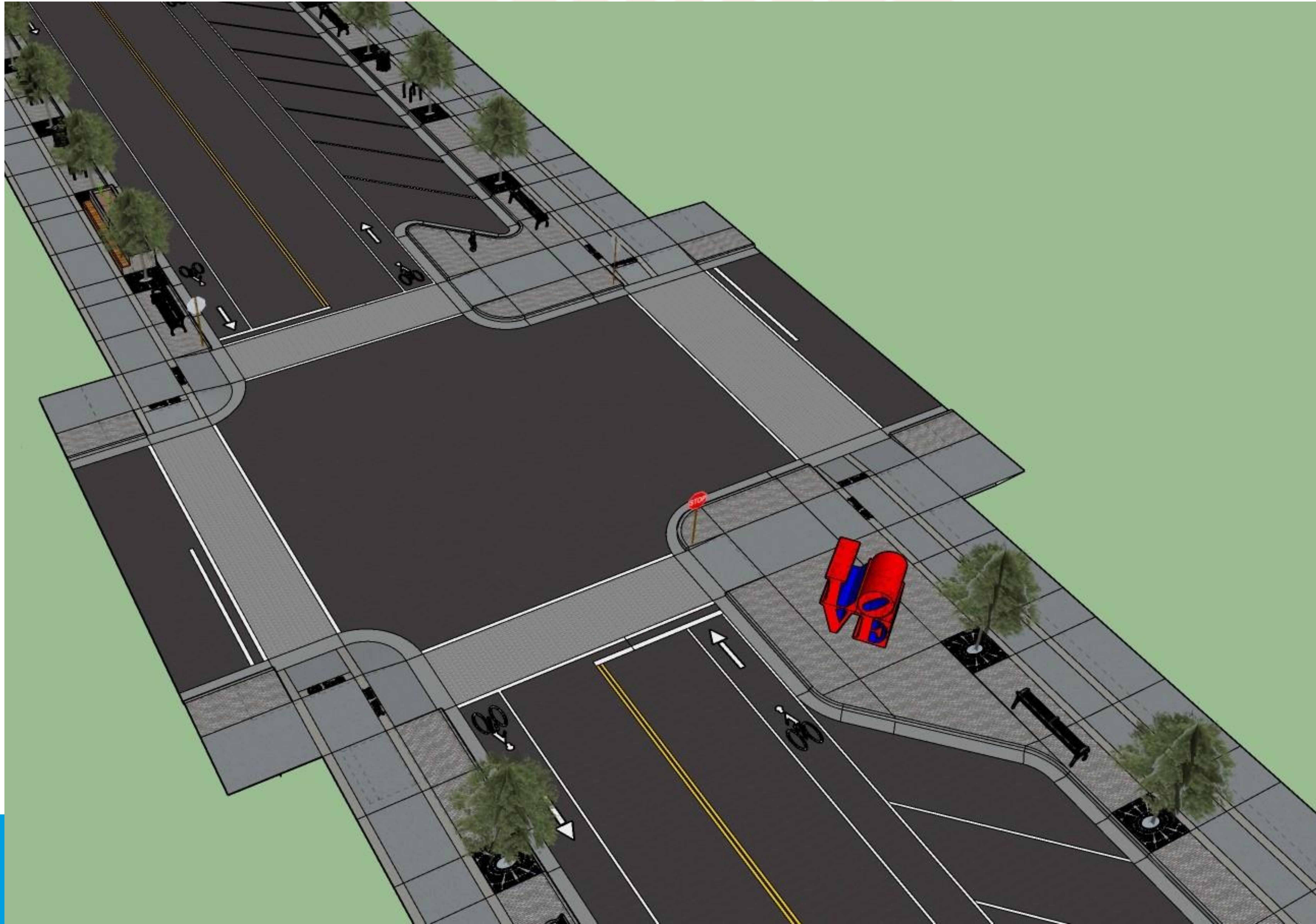
***City-wide impact***  
PLOTA20190007







# 100 West Design Concept



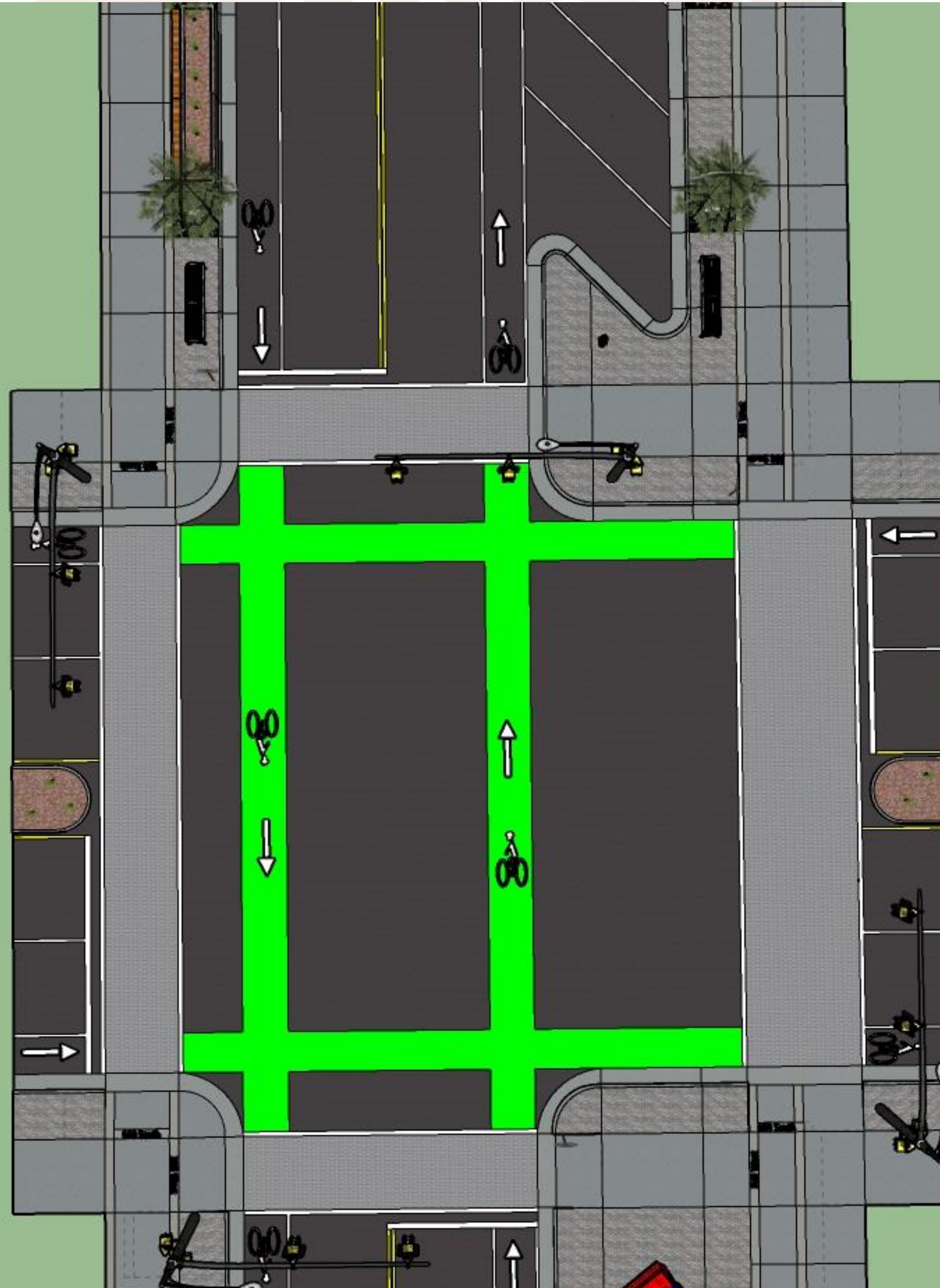


# Midblock Crossing Concept



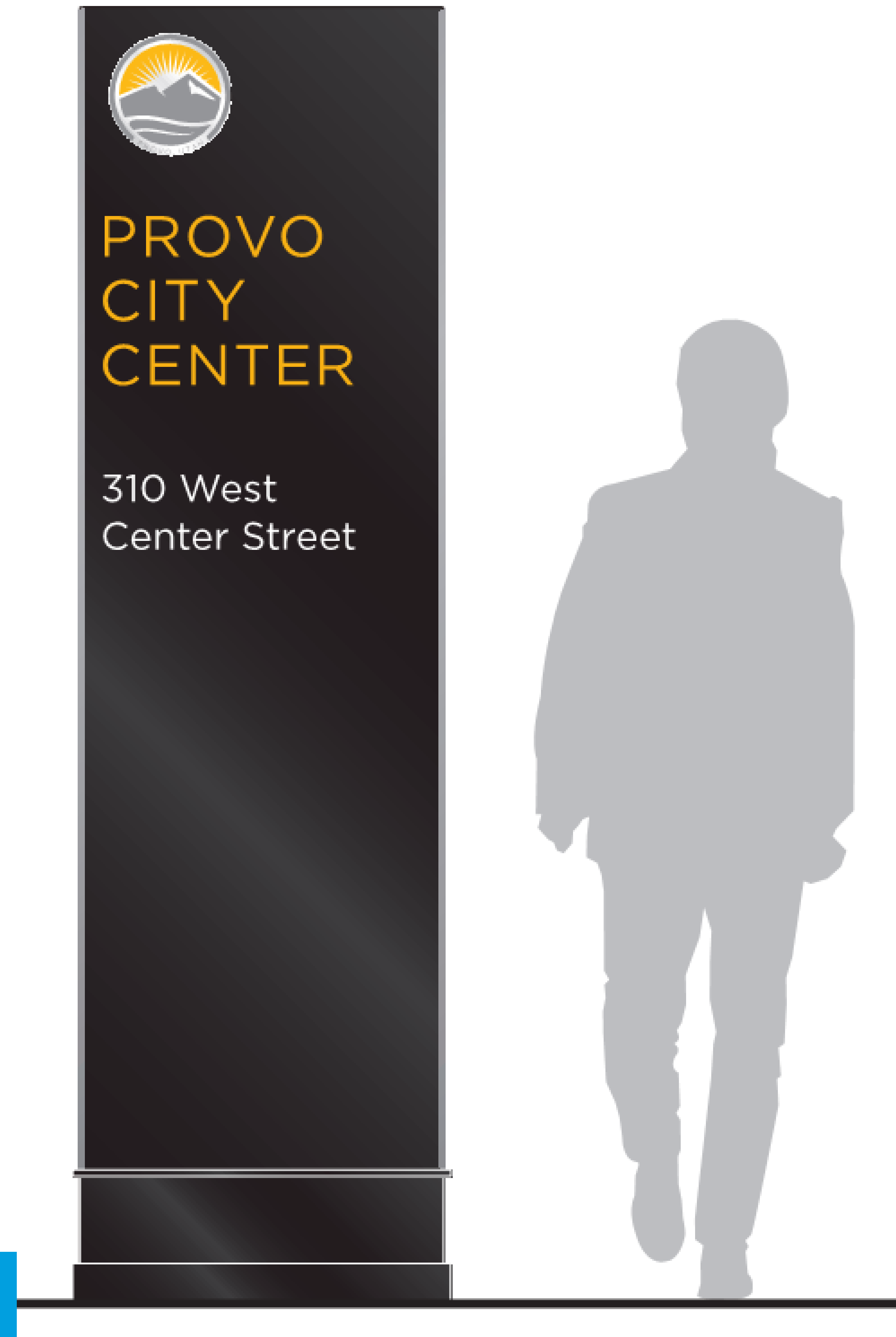


# 100 West/300 South Design Concept





# Pedestrian Wayfinding Sign Example





# Pedestrian Activity Node Example





# Street Name Imprinted in Sidewalk

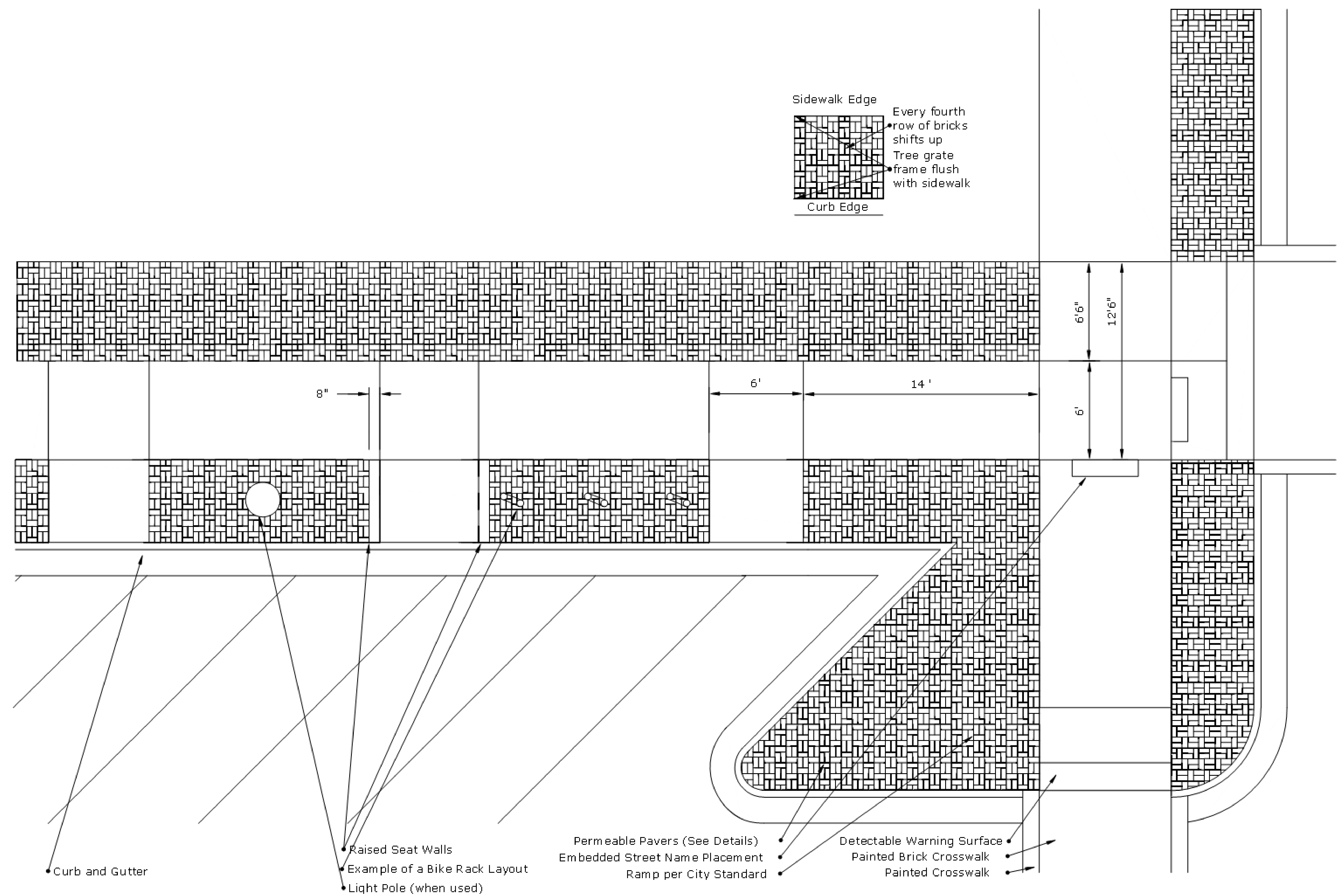




# Example of the Color PMS299



# Example of 100 West Standard Paver and Layout Pattern







## Provo City Planning Commission

# Report of Action

February 27, 2019

\*Item 1 The Community Development Department requests an amendment to the Downtown Streetscape Standards to clarify right-of-way improvements for 100 W Street as redevelopment takes place. City-wide impact. Javin Weaver (801) 852-6413 PLOTA20190007

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 27, 2019:

## POSITIVE RECOMMENDATION

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

Motion By: Jamin Rowan

Second By: Andrew Howard

Votes in Favor of Motion: Dave Anderson, Shannon Ellsworth, Deborah Jensen, Russ Phillips, Andrew Howard, and Jamin Rowan

*Deborah Jensen was present as Chair.*

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

### **PLANNING COMMISSION RECOMMENDED GENERAL PLAN AMENDMENT**

The illustrations for the proposed ordinance text amendment as Exhibit A – E

### **STAFF/APPLICANT PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- The proposed ordinance text amendment is to revise the Downtown Streetscape Standards and add a section pertaining to 100 West Street. The applicable section for 100 West would be from 100 South to 600 South. The document is still under development however, staff is presenting concepts that will be added to the document.
- The revisions to the Downtown Streetscape Standards include clarification on text that was unclear and an improved flow of information.
- The proposed additional section of text for the 100 West section will include a change in the color of amenity finishes, an increase of street trees and types, the addition of midblock crossings, pedestrian node areas, wayfinding signs, pavement pattern, and addition of embedded street names at the corners.
- There will be a midblock and corner layout pattern included.
- The proposed ordinance text amendment aligns with the General Plan.

### NEIGHBORHOOD AND PUBLIC COMMENT

- No neighborhood chairs or public comments were received.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Jamin Rowin expressed great interested in the proposal and thought it would enhance the pedestrian corridor of 100 West. Other Planning Commission members agreed.



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Planning Commission Chair



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Director of Community Development

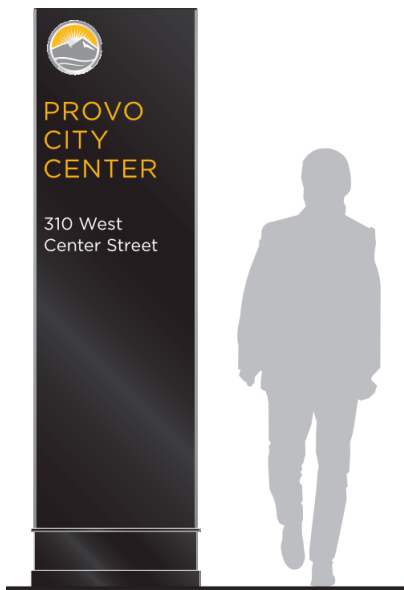
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ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

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

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

**BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS**

## EXHIBIT A



## EXHIBIT B





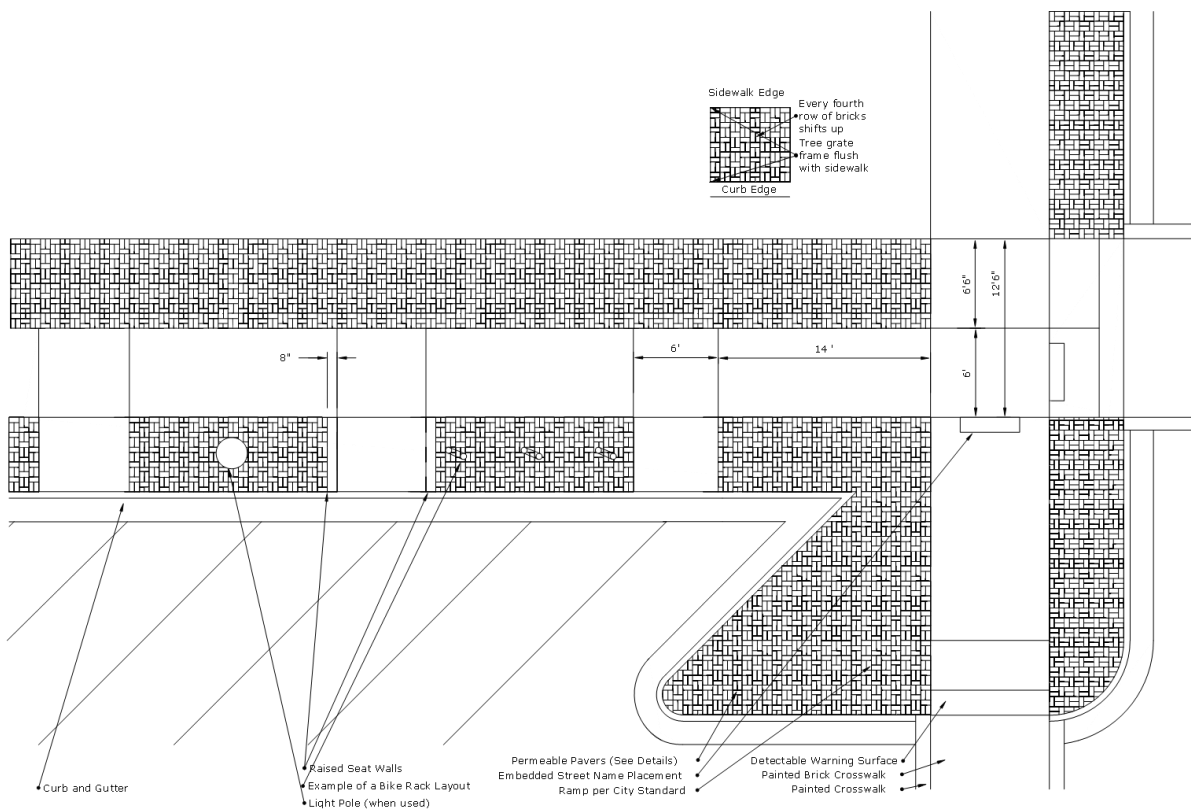
EXHIBIT C



## EXHIBIT D



## EXHIBIT E





# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** DGRABAU  
**Department:** Finance  
**Requested Meeting Date:** 01-01-2018

**SUBJECT:** A resolution appropriating \$162,200 from wildfire response revenues in the Fire Department General Fund for expenses related to equipment and facility improvements applying to the fiscal year ending June 30, 2019. (19-034)

**RECOMMENDATION:** Council appropriation of \$162,200 of excess wildfire revenues for equipment and infrastructure purchases related to fire response improving efficacy, health, and safety.

**BACKGROUND:** This year, the wildland fire season was extremely busy. Provo responded to 21 major fires in the five states. Our total revenue was \$561,000. Our expenses were \$366,000. The total excess revenue in FY2019 was approximately \$195,000.

As the fire department has unmet needs some of which impact firefighters' health and safety. The fire department requests the ability to use much of this new revenue to care for these issues. They are as follows:

Protective Clothing Extractors - Station 3 & 4 \$22,000  
Structure Fire Protective Hoods 160 ea. X \$120 \$19,200  
Breathing apparatus flow tester \$12,000  
Station 3 Protective Clothing Storage \$23,000  
Station 4 Kitchen, Protective Clothing Storage \$45,000  
Water Rescue Equipment 12 people boat \$21,000  
Fire Engine 2 hose \$20,000

These items total \$162,200

We purpose the remaining \$32,500 be used to meet the assistance to firefighter Grant required match.

**FISCAL IMPACT:** 162,200

**PRESENTER'S NAME:** James Miguel

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-034

1 RESOLUTION 2019-.

2  
3 A RESOLUTION APPROPRIATING \$162,200 FROM WILDFIRE RESPONSE  
4 REVENUES IN THE FIRE DEPARTMENT GENERAL FUND FOR  
5 EXPENSES RELATED TO EQUIPMENT AND FACILITY IMPROVEMENTS  
6 APPLYING TO THE FISCAL YEAR ENDING JUNE 30, 2019.  
7

8 WHEREAS, the Municipal Council of Provo City Corporation has received a  
9 recommendation from the Provo City Mayor that \$162,200 be appropriated from wildfire  
10 response revenues in the Fire Department General Fund for expenses related to equipment and  
11 facility improvements; and  
12

13 WHEREAS, the appropriation will be funded by \$162,200 from the excess wildfire  
14 response revenues; and  
15

16 WHEREAS, on March 19, 2018, the Municipal Council met to ascertain the facts  
17 regarding this matter and receive public comment, which facts and comments are found in the  
18 public record of the Council's consideration; and  
19

20 WHEREAS, all persons for and against the proposed appropriation were given an  
21 opportunity to be heard; and  
22

23 WHEREAS, after considering the Mayor's recommendation, and facts and comments  
24 presented to the Municipal Council, the Municipal Council finds the proposed appropriation  
25 reasonably furthers the health, safety, and general welfare of the citizens of Provo City.  
26

27 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah as  
28 follows:  
29

30 PART I:  
31

32 The Mayor is hereby authorized to appropriate \$162,200 from wildfire response revenues  
33 in the Fire Department General Fund.  
34

35 PART II:  
36

37 This resolution shall take effect immediately.  
38

39 END OF RESOLUTION.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** HSALZL  
**Department:** Council  
**Requested Meeting Date:** 03-19-2019

**SUBJECT:** An ordinance amending the official Neighborhood Map. North Timpview and Riverbottoms Neighborhoods. (19-039)

**RECOMMENDATION:** Adopt an ordinance to revise the Riverbottoms and North Timpview Boundaries.

**BACKGROUND:** With the proposed residential development and annexation in this geographic area, realigning the boundaries between North Timpview and Riverbottoms, will move this area into North Timpview where its is both continuous and more homogenous with the surrounding properties, allowing for it to better represented by the Neighborhood Chair and for any issues to be addressed.

This was presented to the Neighborhood Advisory Board (NAB) by Northeast Area Representative Mike Roan. The NAB recommended sending it to the Council for consideration. The provided map shows the current North Timpview Neighborhood boundaries in red and Riverbottoms Neighborhood boundaries in orange. The dotted line indicates the proposed area to be changed from Riverbottoms to North Timpview. The Riverbottoms Neighborhood stretches north of the area shown on this map and it is recommended that that northern portion be moved into the North Timpview Neighborhood if this boundary change is approved.

**FISCAL IMPACT:** NA

**PRESENTER'S NAME:** Karen Tapahe

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-039

ORDINANCE 2019-.

AN ORDINANCE AMENDING THE OFFICIAL NEIGHBORHOOD MAP TO  
ADJUST THE BOUNDARIES OF THE RIVERBOTTOMS AND TIMPVUE  
NEIGHBORHOODS. (19-039)

WHEREAS, it is proposed that the Official Neighborhood Map, as referenced in Provo City Code Section 2.29.010(1), be amended to adjust the boundaries of the Riverbottoms and Timpview Neighborhoods as shown in Exhibit A; and

WHEREAS, the Neighborhood chairs in these respective areas have requested the proposed amendments to the Official Neighborhood Map; and

WHEREAS, on March 19, 2019, 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 neighborhood recommendations and facts and comments presented to the Municipal Council, the Council, finds (i) the Neighborhood boundaries should be adjusted as proposed, and (ii) such action, as set forth below, reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

The Municipal Council hereby amends the Official Neighborhood Map to accurately reflect the boundary adjustments as shown in Exhibit A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance 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 Official Neighborhood Map be updated to reflect the provisions enacted by this ordinance.
- D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

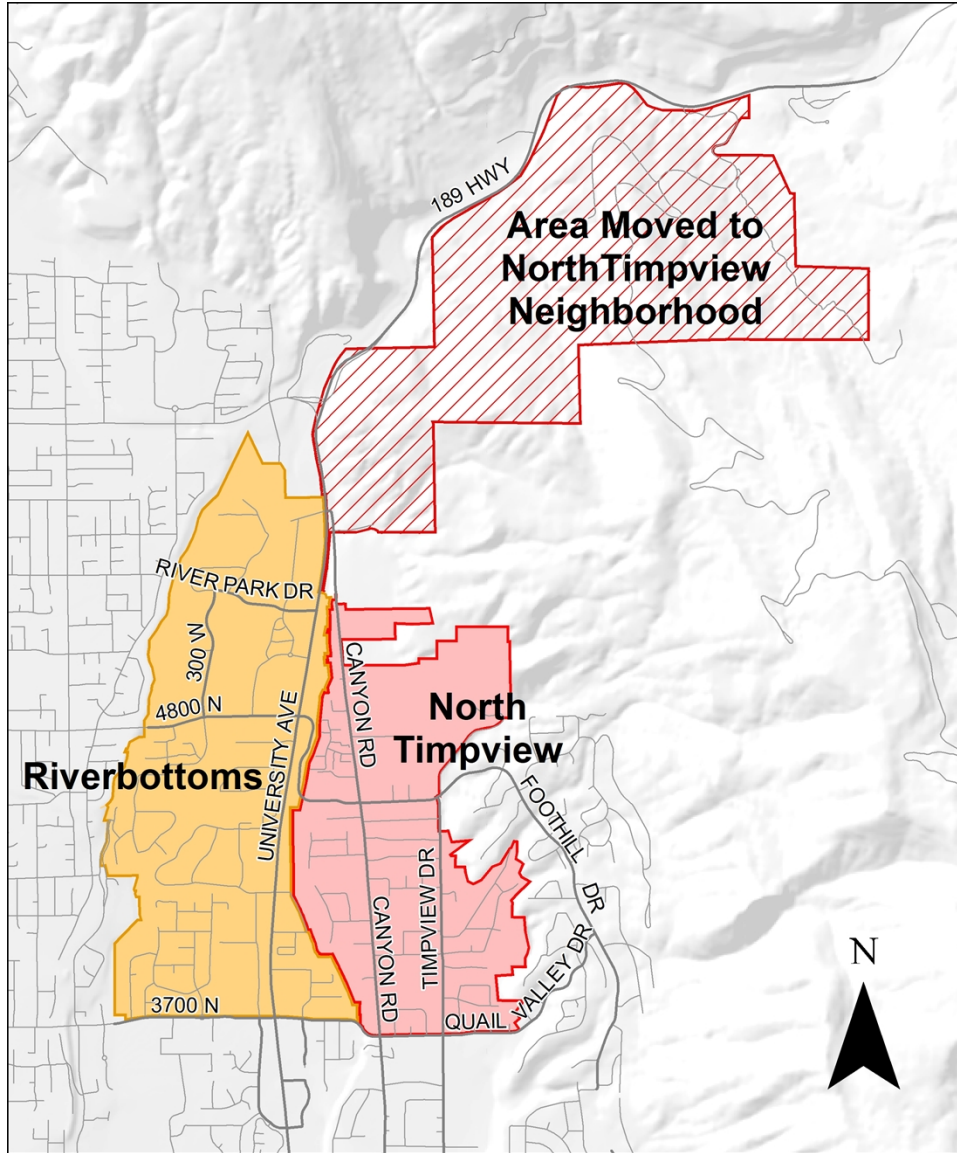
46

47    END OF ORDINANCE.

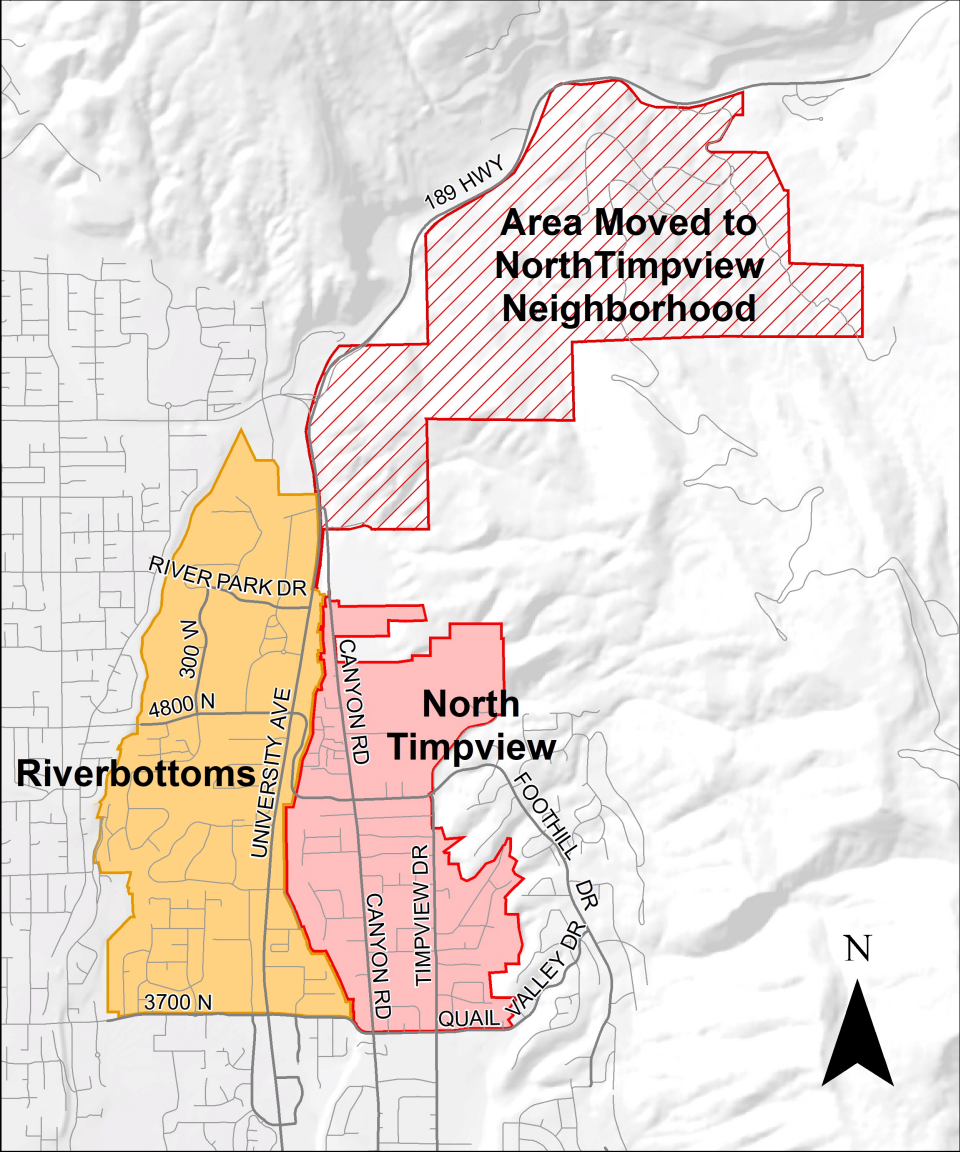


48  
49

# Exhibit A



50



189 HWY

**Area Moved to  
North Timpview  
Neighborhood**

RIVER PARK DR

300 N

4800 N

**Riverbottoms**

UNIVERSITY AVE

CANYON RD

**North  
Timpview**

TIMPVIEV DR

CANYON RD

FOOTHILL DR

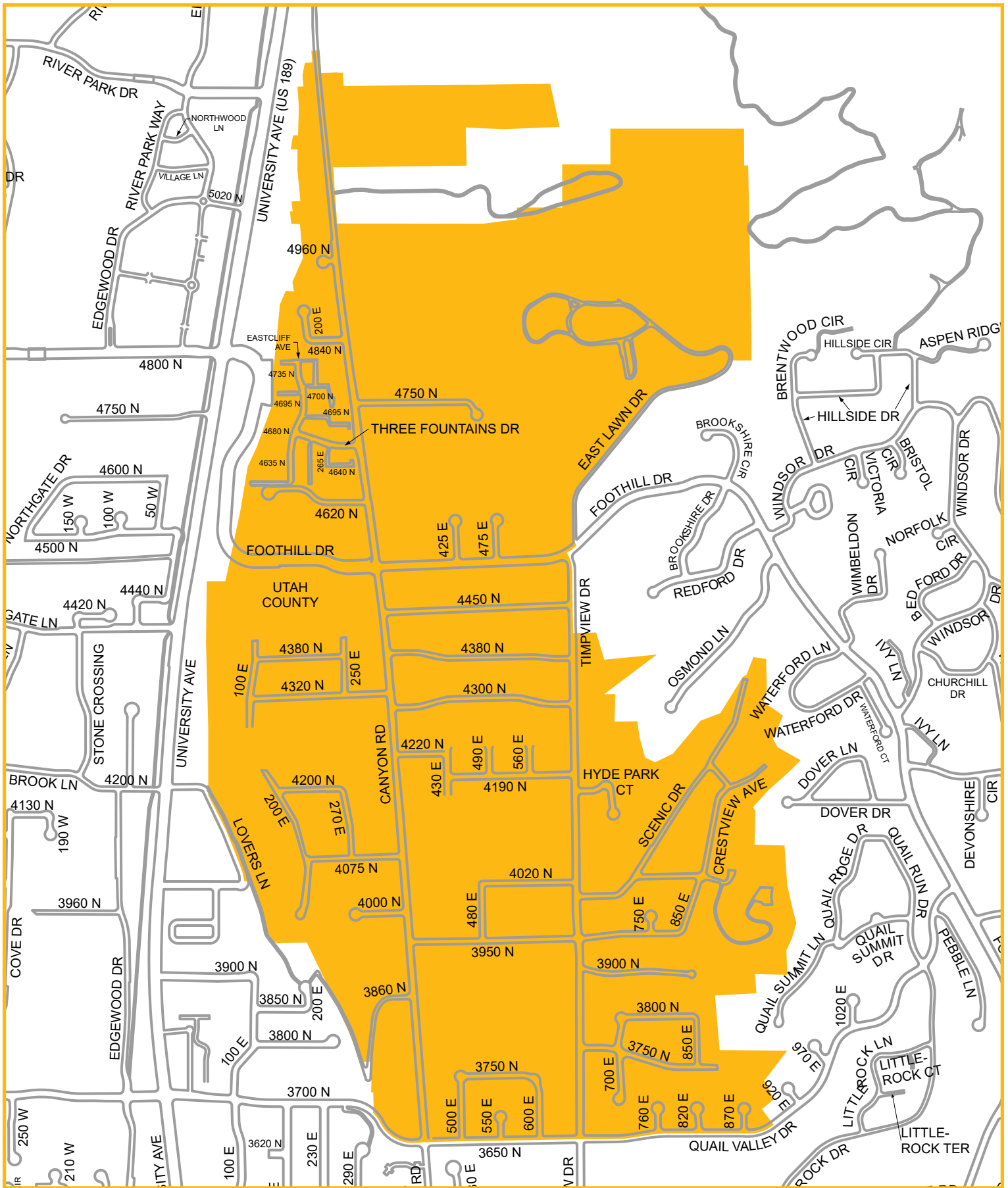
VALLEY DR

3700 N

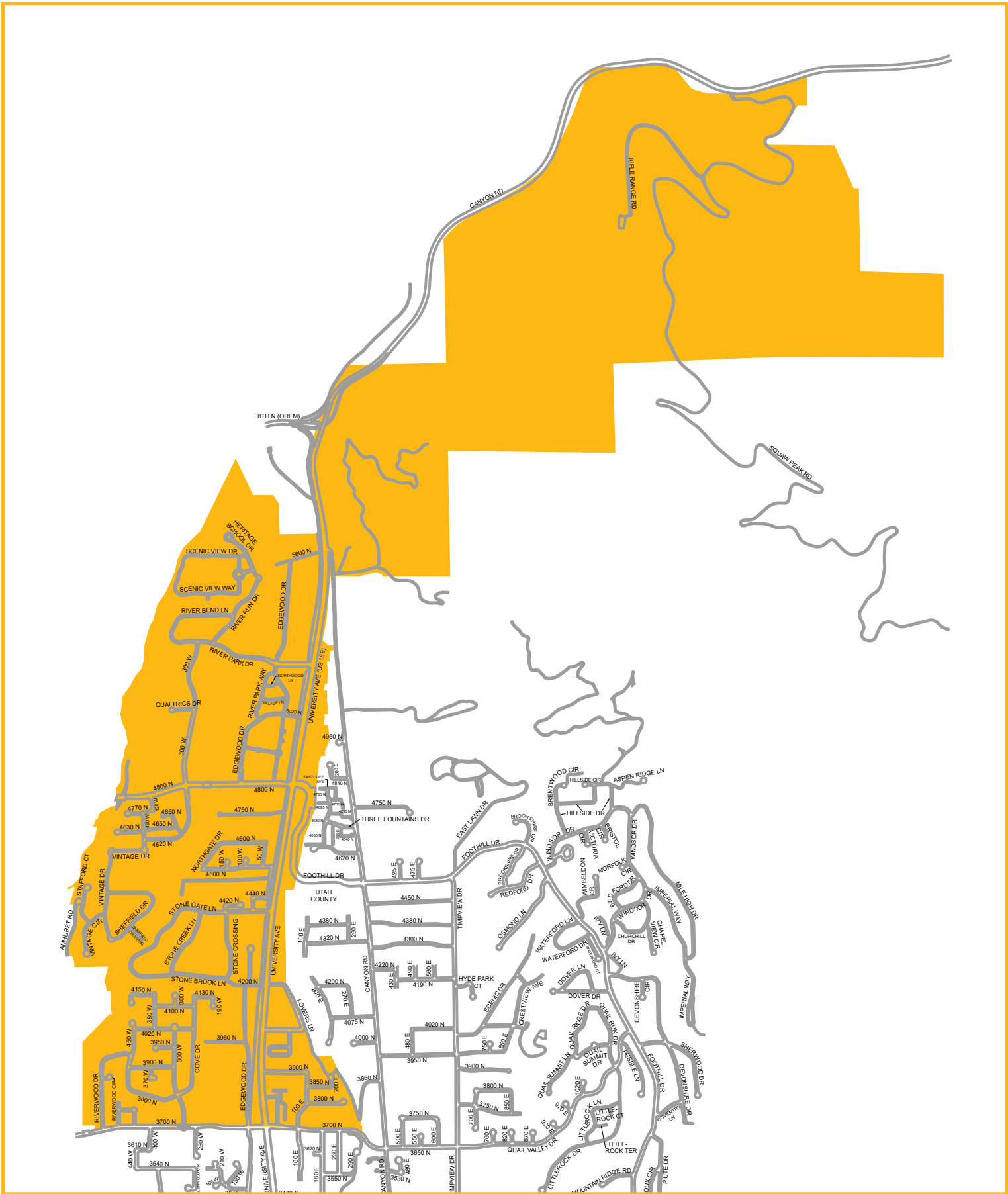
QUAIL

N





# North Timpview



# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** BMUMFORD  
**Department:** COUNCIL  
**Requested Meeting Date:** 03-05-2019

**SUBJECT:** A discussion regarding a proposed ordinance amendment prohibiting the sale of dogs, cats, and rabbits from commercial animal establishments (19-030)

**RECOMMENDATION:** Information and preliminary discussion only. This item is to help make the Council aware of this potential issue and to explore possible policies. This item is scheduled to be heard at the Council Meeting on March 19, 2019.

**BACKGROUND** Some Utah municipalities have passed legislation that prohibits the sale live dogs, cats or rabbits, unless they are sourced from somewhere like a shelter. The primary concerns are the conditions of some "puppy mills" which supply pets to retail pet stores, illnesses that can then be spread to other pets in the community, and the current over supply of pet that fill local animal shelters. The Provo Council is not necessarily concerned about any currently registered pet store in Provo City, but is concerned about new pet stores after seeing other cities in Utah grapple with problems arising from pet stores locating in their limits.

**FISCAL IMPACT:** N/A

**PRESENTER'S NAME:** Cliff Strachan

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-030

ORDINANCE 2019-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING THE  
SALE OF DOGS, CATS, AND RABBITS AT COMMERCIAL ANIMAL  
ESTABLISHMENTS. (19-030)

WHEREAS, the Provo City Council is interested in reducing pet overpopulation and illness and ensuring that animals sold in commercial animal establishments are treated appropriately and humanely; and

WHEREAS, there are many adoptable dogs, cats, and rabbits readily available through shelters and rescue organizations, and retail sales of dogs have led to “puppy mills” with poor conditions for the animals and poor health of animals when they are sold, leading to the spread of illnesses like parvovirus to other animals; and

WHEREAS, several municipalities and counties in Utah have passed similar legislation restricting the sources from which animals may be obtained for sale; and

WHEREAS, this action would make it unlawful for commercial animal establishments within Provo City to sell dogs, cats, or rabbits, unless such animals were obtained from an animal shelter, animal control agency, humane society, or a nonprofit rescue organization; and

WHEREAS, on March 5, 2019 and March 19, 2019, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council’s consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) the amendment to Provo City Code Title 8 should be approved as set forth below, and (ii) this action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

Provo City Code Chapter 8.07 is hereby enacted as follows:

**8.07.010 Commercial animal establishments.**



40 It is unlawful for any person to display, offer for sale, deliver, barter, auction, give away,  
41 transfer, rent, lease, or sell any live dog, cat, or rabbit in any commercial animal  
42 establishment located in Provo City unless the dog, cat, or rabbit was obtained from an  
43 animal shelter, animal control agency, humane society, or a nonprofit animal rescue  
44 organization.

45  
46 **8.07.020 Certificate of source.**

47 All commercial animal establishments selling, or boarding for the purpose of eventual  
48 sale, dogs, cats, or rabbits must maintain a certificate of source for each dog, cat, or  
49 rabbit. A commercial animal establishment must make the certificate of source available  
50 upon request to law enforcement, code compliance officials, or any other City employee  
51 designated by the Mayor to enforce the provisions of this section.

52  
53 **8.07.030 Breeder exemption.**

54 This section does not apply to the act of displaying, offering for sale, delivering,  
55 bartering, auctioning, giving away, transferring, or selling dogs, cats, or rabbits from the  
56 premises on which they were bred and reared.

57  
58 **8.07.040 Public adoption exemption.**

59 This section does not prevent the owner, operator, or employees of a commercial animal  
60 establishment in Provo City from providing space and appropriate care for animals  
61 owned by an animal shelter, animal control agency, humane society, or a nonprofit  
62 animal rescue organization and maintaining those animals at the commercial animal  
63 establishment for the purpose of public adoption.

64  
65 **8.07.050 Penalty.**

66 (1) A violation of this Chapter is a class C misdemeanor.

67  
68 (2) Each dog, cat, or rabbit displayed, offered for sale, delivered, bartered, auctioned,  
69 given away, transferred, rented, leased, or sold in violation of Chapter 8.07 constitutes a  
70 separate offense.

71  
72 **PART II:**

- 73  
74 A. If a provision of this ordinance conflicts with a provision of a previously adopted  
75 ordinance, this ordinance shall prevail.  
76  
77 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be  
78 severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or  
79 invalid, the remainder of the ordinance shall not be affected thereby.  
80

81 C. The Municipal Council hereby directs that the official copy of the Provo City Code be  
82 updated to reflect the provisions enacted by this ordinance.  
83

84 D. This ordinance shall take effect immediately after it has been posted or published in  
85 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah  
86 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.  
87

88 END OF ORDINANCE.  
89

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** EVANDERWERKEN  
**Department:** Council  
**Requested Meeting Date:** 03-19-2019

**SUBJECT:** An ordinance amending Provo City Code to repeal and remove references to the Student of Higher Education and Young Adult Advisory Board. (19-033)

**RECOMMENDATION:** Repeal the chapter addressing the Student of Higher Education and Young Adult Advisory Board.

**BACKGROUND:** Following other recent updates to Provo City Code Title 2 (Government Organizations), the Administration has confirmed that the chapter addressing the Student of Higher Education and Young Adult Advisory Board should be repealed, as the board is no longer functioning.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Brian Jones

**REQUESTED DURATION OF PRESENTATION:** 5 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-033

ORDINANCE 2019-.

AN ORDINANCE AMENDING PROVO CITY CODE TO REPEAL AND REMOVE REFERENCES TO THE STUDENT OF HIGHER EDUCATION AND YOUNG ADULT ADVISORY BOARD. (19-033)

WHEREAS, it is proposed to amend Provo City Code Chapter 2.20 (Permanent City Administrative and/or Council Boards, Commissions, Councils, Agencies, Foundations and Districts) and to repeal Provo City Code Chapter 2.39 (Student of Higher Education and Young Adult Advisory Board) in order to remove references to the Student of Higher Education and Young Adult Advisory Board; and

WHEREAS, the amendment to Provo City Code will update the Provo City Code to remove outdated references; and

WHEREAS, on March 19, 2019, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) Provo City Code Title 2 should be amended as set forth below, and (ii) this action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

Provo City Code Title 2 is hereby amended as set forth in Exhibit A.

PART II:

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

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

46  
47 END OF ORDINANCE.

Exhibit A

...

**Chapter 2.20 Permanent City Administrative and/or Council Boards, Commissions,  
Councils, Agencies, Foundations and Districts**

**2.20.010 Permanent City Administrative and/or Council Boards, Commissions,  
Councils, Agencies, Foundations and Districts Named.**

The Municipal Council on behalf of the City has created the following permanent  
boards, commissions, councils, agencies and districts:

Airport Board (2.21)

Arts Council (2.22)

Board of Adjustment (14.05)

Board of Equalization and Review (2.23)

Classified Civil Service Commission (4.01.010)

Design Review Committee (14.04A)

Energy Board (12.01)

Library Board (2.26)

Landmarks Commission (16.02)

Parks and Recreation Board (2.38)

Planning Commission (14.04)

Provo Youth City Council (4.03)

~~Student of Higher Education and Young Adult Advisory Board (2.39)~~

Transportation and Mobility Advisory Committee (14.04B)

Redevelopment Agency (2.31)

Unclassified Civil Service Appeal Board (4.03)

...

*Chapter 2.39 STUDENT OF HIGHER EDUCATION AND YOUNG ADULT  
ADVISORY BOARD*

**Sections:**

**~~2.39.010 Board Membership.~~**

**~~2.39.020 Purpose and Staffing.~~**

**~~2.39.030 Subcommittees.~~**

~~2.39.010 Board Membership.~~

~~A Student of Higher Education and Young Adult Advisory Board consisting of nine (9) members is hereby established. Each member of the board shall be a student of an institution of higher education and/or a young adult eighteen (18) through thirty (30) years of age. Members shall be appointed by the Mayor, with the advice and consent of the Municipal Council. Each member shall live in Provo City during the term of service. A minimum of five members of the board shall be current students of Brigham Young University (BYU), Utah Valley University (UVU), or other post-secondary institutions located in Utah County. One of these five (5) members shall be recommended by the BYU Student Association president and one shall be recommended by the UVU Student Association president. Each member shall be appointed for a term of two (2) years, except for the representative nominated by the BYU Student Association President and the member nominated by the UVU Student Association President, each of whom shall serve a one (1) year term. The terms of members shall be staggered. Members may be appointed to a term of less than two (2) years when it is necessary to replace a member or provide for staggered terms. Members shall not serve more than two (2) consecutive terms. Additional ex-officio, non-voting, members of the board shall include the Mayor, or the Mayor's designee, and a member of the Municipal Council appointed by the Municipal Council Chair.~~

~~2.39.020 Purpose and Staffing.~~

~~The members of this advisory board shall review, discuss and forward recommendations on issues, concerns, and initiatives of the students of higher educational institutions and other young adults in the Provo community. Issues, concerns, and initiatives, may relate to parking, transportation, transit, off-campus housing, recreational and leisure interests, student service opportunities, reaching out with new media to young adult populations and encouraging civic engagement among young adult age groups. Staffing shall be provided by the Mayor's Office.~~

~~2.39.030 Subcommittees.~~

~~The board may, by majority vote, appoint members and/or non-board members to subcommittees and task forces to study issues and report back to the board.~~

...





## Memo

To: Provo Planning Commission

From: Josh Yost - Staff

Date: February 6, 2019

Re: Planning Commission March 13, 2019, Item 1

---

Community Development has identified deficiencies in the Campus Mixed Use Zone pertaining to design regulation. The zone currently only requires one door on each street frontage, has no habitable first floor requirement or any regulation of windows and visual permeability at the first floor. Staff is studying amendments to the zone to provide sufficient regulation of these design elements. The amendments under consideration include the following.

- A minimum habitable first floor depth as measured from the street facing façade. In the downtown this is 30’.
- A minimum number of pedestrian building entrances. For residential in the downtown an exterior entrance is required for each street facing unit.
- A minimum requirement for first floor windows and openings. The pending Downtown Development Design Standards require 30% of residential frontage to be windows and doors as measured as a percentage of frontage length.
- Any commercial included in the site, whether required or voluntary, to be sited along a street frontage. This will help avoid the undesirable configuration at the Village at South Campus where the commercial space is only accessible from the interior courtyard and has not exposure to or visibility from the street. Commercial space in this zone is intended to be a neighborhood amenity and increase the vibrancy of the district as a whole.
- Regulate site design to ensure parking is located interior to a building or site and that vehicle access is consolidated.

These regulations have ensured a base level of appropriate urban design in the development of new buildings in the downtown area and staff believes they will result in new projects in the CMU zone that properly interact with the public realm and that will increase the vibrancy of this key area.



## Planning Commission Hearing Staff Report Hearing Date: March 13, 2019

**\*ITEM 2** John Dester, representing Georgetown Development, requests approval of a PD Performance Development Overlay Zone for 3.724 acres of property located at approximately 2400 North 650 East in the R1.10 Zone. The approval of the overlay would facilitate the development of five 4-unit clusters of attached single-family dwellings within a planned development. Rock Canyon neighborhood. Brian Maxfield (801) 852-6429 PLRZ20190029

|   |  |
|---|--|
| <p><u>Applicant:</u> John Dester</p> <p><u>Staff Coordinator:</u> Brian Maxfield</p> <p><u>Property Owner:</u> Capsicum Ltd.<br/><u>Parcel ID#:</u>20:061:0045<br/><u>Acreage:</u> 3.62<br/><u>Number of Properties:</u> 1</p> <p><u>Current Zoning:</u> R1.10</p> <p>Council Action Required: Yes</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <p>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is March 27, 2019 at 6:00 P.M.</i></p> <p>2. <b>Recommend denial.</b> <i>This action <u>would not be consistent</u> with the recommendation of the Staff Report. The Planning Commission should <u>state new findings</u>.</i></p> | <p><u>Current Legal Use:</u> Uses allowed in the R1.10 Residential Zone</p> <p><u>Relevant History:</u> None</p> <p><u>Neighborhood Issues:</u> This item was presented at a Neighborhood Meeting last Fall, and again on March 4, 2019. Concerns raised by residents seemed to be centered on traffic, building height, and possible accessory apartment units. To date, no final report from the Neighborhood has been submitted to staff.</p> <p><u>Summary of Key Issues:</u><br/>Issues for this proposed overlay zone are actually tied more properly to the proposed project plan and therefore, are presented and discussed with that item.</p> <p><u>Related Items:</u> The proposed overlay zone requires a project plan to be developed in conformance with provisions of Chapter 14.31 of the Zoning Ordinance. A concept plan for the proposed development of the property is being presented as a separate item, but concurrently with this zoning overlay request.</p> <p><u>Staff Recommendation:</u><br/><b>Approve</b> the PD Performance Development Overlay Zone for the Heirloom Rezoning request for approximately 3.62 acres located at approximately 2400 North 650 East.<br/><br/><i>This action <u>would be consistent</u> with the recommendations of the Staff Report.</i></p> |
|---|--|

## **OVERVIEW**

This item is the approval of a PD Performance Development Overlay Zone on approximately 3.62 acres of property currently zoned R1.10 Residential. Approval of the overlay zone would facilitate the development of five, 4-unit clusters of attached single-family dwellings. Approval of a PD Overlay Zone follows the same process as a rezoning, but requires a concurrent concept plan be approved in conjunction with the zoning overlay.

In Section 14.31.010 Purpose and Objectives, the Zoning Ordinance lists the purpose a Performance Development Overlay Zone as being:

*... to encourage imaginative and efficient utilization of land, to develop a sense of community, and to insure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces, and the clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within the residential areas of Provo City.*

A Performance Development Overlay allows two development options not otherwise allowed by the existing R1.10 Zone. First, it allows attached single-family units rather than requiring all units to be detached dwellings, in order to create an open space area on the property. Second, it allows a bonus density for additional units than would otherwise be realized within a standard subdivision. Details of the proposed project to be developed in conformance with the provisions of the PD Overlay are provided and discussed with the related item for the project plan.

Goal 3.4.1.7 of the General Plan states:

“Offer a range of housing types within neighborhoods that meet the changing needs of an aging population and facilitate long-term residency.”

It is the opinion of staff that the proposed housing development would help to fulfill this goal.

## **FINDINGS OF FACT**

- The property is currently zoned R1.10
- The proposed Heirloom development has been found to meet the allowances and development standards of the PD Overlay Zone

## **APPLICABLE ZONING CODES**

- Chapter 14.10 R - One-family Residential Zone
- Chapter 14.31 PD – Performance Development Overlay Zone

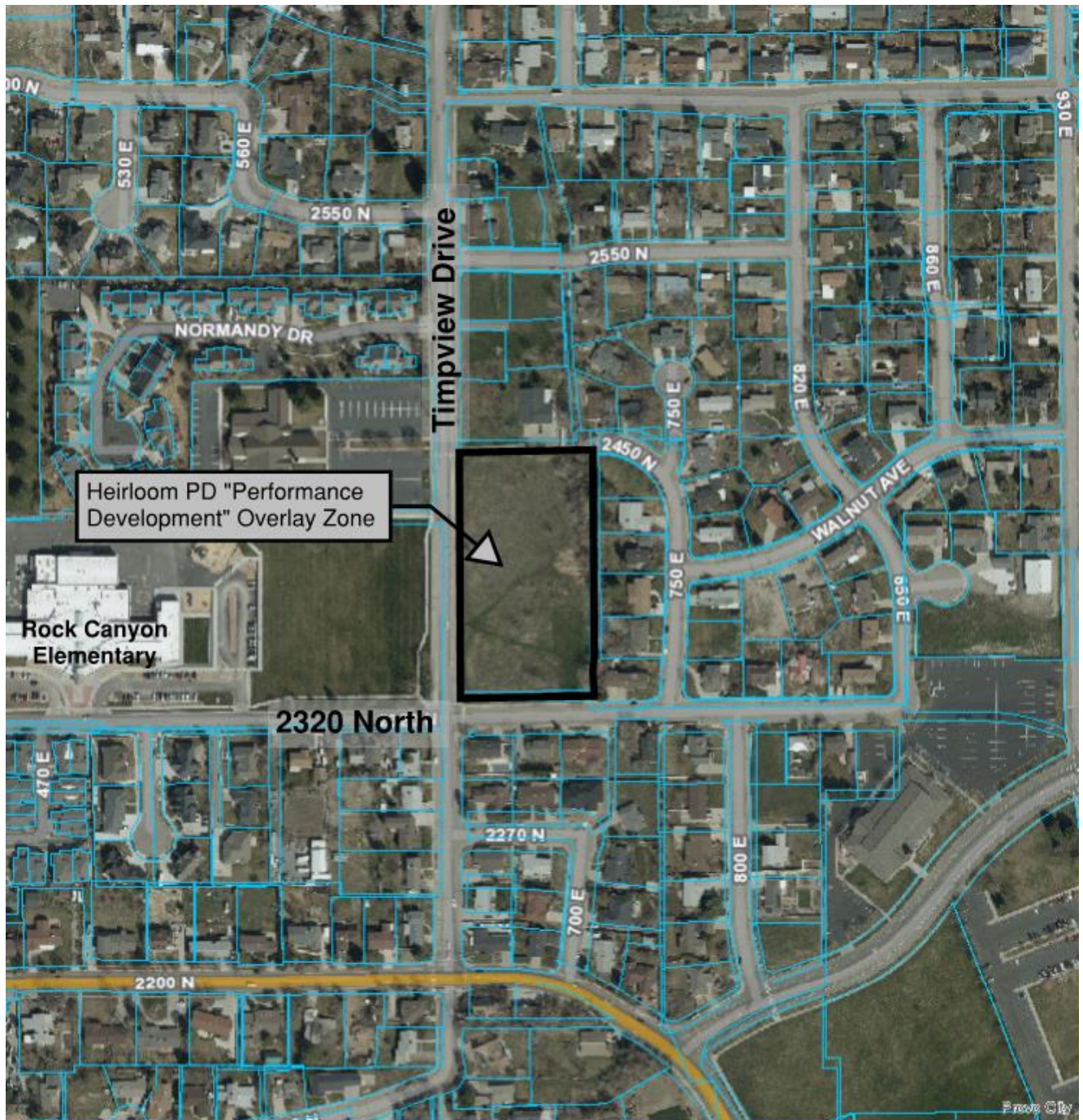
## **CONCLUSIONS**

If it is believed the proposed concept plan presents a desirable and attractive residential development that is compatible with the neighborhood and that it meets the provisions allowed and standards required within the proposed PD overlay zone, the proposed overlay zone should be approved to facilitate that development.



### **RECOMMENDATION**

**Approve** the PD Performance Development Overlay Zone for the Heirloom Rezoning request of approximately 3.62 acres located at approximately 2400 N 650 East.





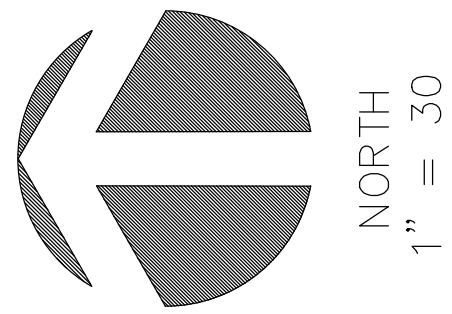


650 EAST

2320 NORTH

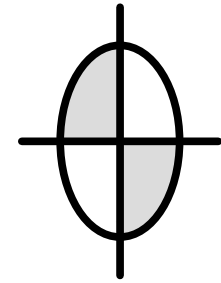
# HEIRLOOM AT ROCK CANYON





# Rock Canyon Heirloom

Provo, Utah



DUDLEY AND ASSOCIATES  
ENGINEERS PLANNERS SURVEYORS  
353 EAST 1200 SOUTH, OREM, UTAH  
801-224-1252

Utah

Rock Canyon Heirloom

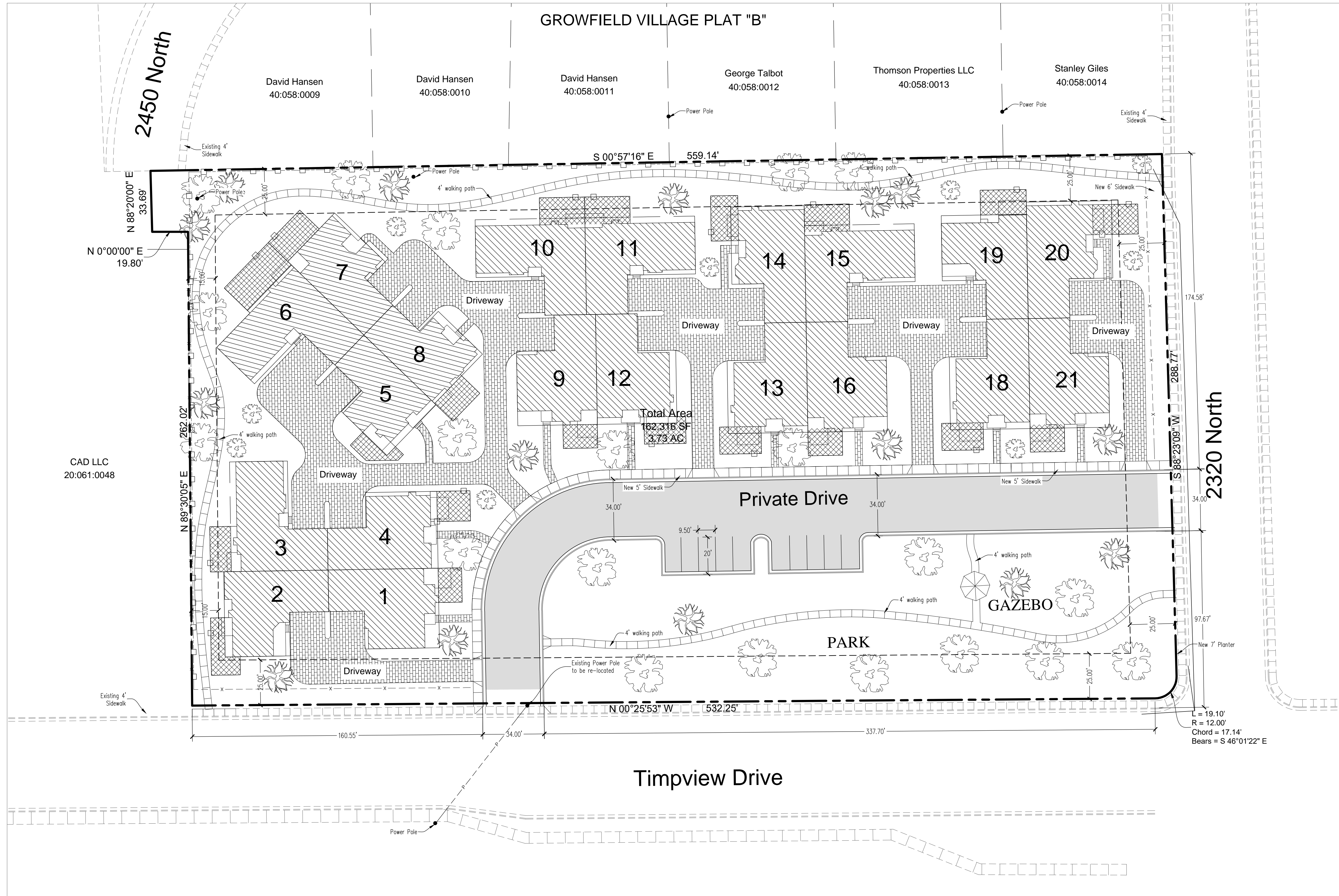
## Site Plan

Provo,

Revisions

Date  
11-7-2018  
Scale  
1" = 30'  
By  
TD  
Tracing No.  
L -

Sheet No.  
C - 1.0



Developer:

Georgetown Development  
2230 North University Parkway Suite 7G  
Provo, Utah 84604  
801-374-0772

Engineer:

Dudley and Associates, Inc.  
353 East 1200 South  
Orem, Utah 84058  
801-224-1252

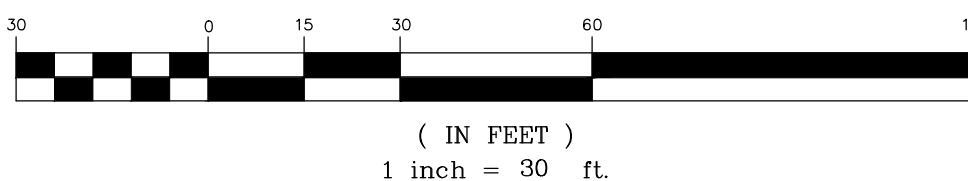
Site Data:

Zone = R1-10  
Total Area = 162,216 sq. ft. 3.72 acres  
Total number of Units = 21  
Parking Requirements = 2.5 spaces/Unit  
Spaces required = 53  
Spaces provided:  
42 Garage spaces  
42 Driveway spaces  
10 guest spaces  
total = 94 parking spaces

|                           | Square Footage | Acreage | Percent of total |
|---------------------------|----------------|---------|------------------|
| Total Area                | 162,216        | 3.72    | 100              |
| Total Building / Pad Area | 38,824         | 0.89    | 24               |
| Total Hard Surface Area   | 49,453         | 1.14    | 31               |
| Total Impervious Area     | 88,277         | 2.03    | 55               |
| Total Landscaped Area     | 73,939         | 1.69    | 45               |

Tabulation Table

GRAPHIC SCALE



CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. The information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.



ORDINANCE 2019-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION FOR APPROXIMATELY 3.724 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 2400 NORTH 650 EAST TO ~~COMBINE~~INCLUDE THEA PD PERFORMANCE DEVELOPMENT OVERLAY ZONE ~~WITHIN~~ THE UNDERLYING R1.10 ZONE. ROCK CANYON NEIGHBORHOOD. (PLRZ20190029)

Comment [BJ1]: This mirrors the language from 14.31.030.

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 3.724 acres of real property, generally located at 2400 North 650 East (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended to ~~combine the include-a~~ PD Performance Development Overlay Zone ~~in~~with the underlying-the R1.10 Zone; and

WHEREAS, on March 13, 2019, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a ~~5:0~~ vote; and

Comment [HS2]: Update after meeting

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

WHEREAS, on March 19, 2019, 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:

PART I:

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



41 the draft Development Agreement attached hereto as Exhibit C and the representations made by  
42 the applicant and the applicant's representatives in the Council Meeting of March 5, 2019 in  
43 form substantially similar to the draft attached hereto as Exhibit C, an executed copy of which  
44 shall be attached hereto as Exhibit D after execution.

45  
46 PART II:  
47

48 The classification on the Zone Map of Provo, Utah is hereby amended to combine  
49 ~~the~~include a PD Performance Development Overlay Zone ~~within~~ the underlying R1.10 Zone for  
50 approximately 3.724 acres of real property generally located at 2400 North 650 East, as  
51 described herein. ~~The effective date of this zone map change shall be the date of final execution~~  
52 ~~of the development agreement described in Part I.~~  
53

54 PART III:  
55

- 56 A. If a provision of this ordinance conflicts with a provision of a previously adopted  
57 ordinance, this ordinance shall prevail.  
58  
59 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be  
60 severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or  
61 invalid, the remainder of the ordinance shall not be affected thereby.  
62  
63 C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo  
64 City, Utah be updated and codified to reflect the provisions enacted by this ordinance.  
65  
66 D. ~~Except as otherwise stated in Part II, t~~This ordinance shall take effect immediately after it  
67 has been posted or published in accordance with Utah Code 10-3-711, presented to the  
68 Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah  
69 Code 10-3-713.

70  
71 ~~Notwithstanding any provision or language to the contrary in this ordinance, if the~~  
72 ~~Development Agreement authorized in Part I has not been fully executed by the~~  
73 ~~necessary parties within one year from the date of the Municipal Council's~~  
74 ~~approval of this ordinance, the entire ordinance shall expire, becoming null and~~  
75 ~~void as if it had never been approved. Because the zone classification change~~  
76 ~~contemplated in Part II cannot come into effect if the Development Agreement is~~  
77 ~~not executed, neither the applicant nor any successor(s) in interest shall have any~~  
78 ~~vested rights under this ordinance if it expires.~~  
79

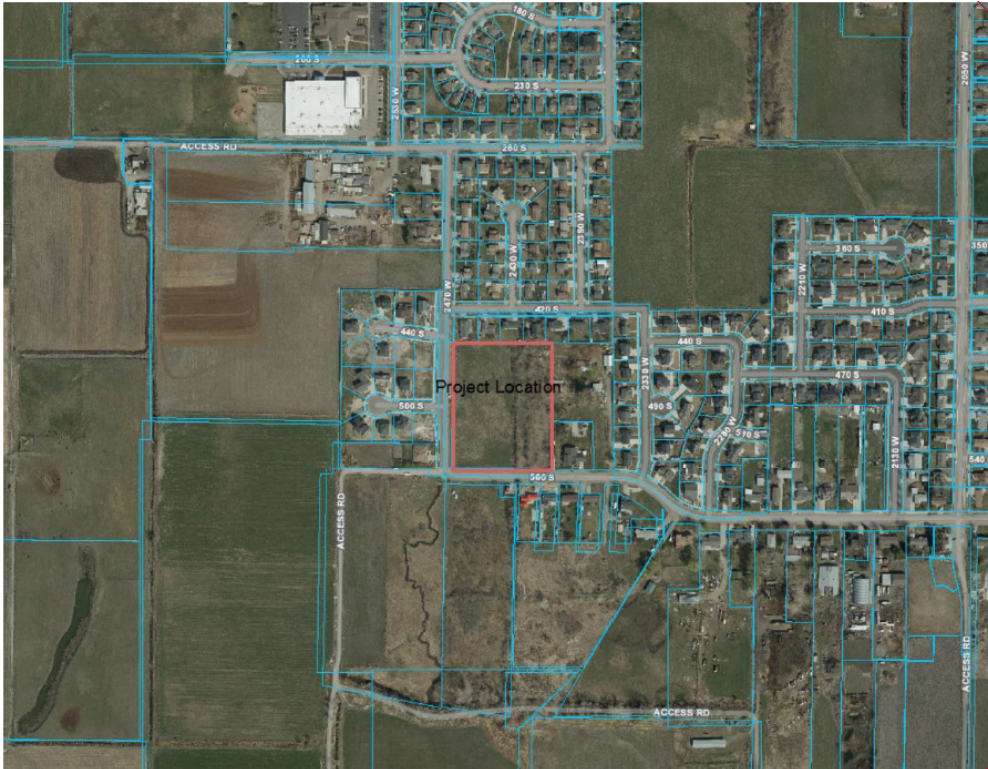
80 END OF ORDINANCE

**Comment [HS3]:** This is from a past example. Approval of a PD Overlay Zone follows the same process as a rezoning, but requires a concurrent concept plan be approved in conjunction with the zoning overlay. Does that need to be included? If so, is here the place to do it? I have not been able to find an example ordinance for this amendment.

**Comment [BJ4]:** I don't see a requirement that the concept plan be concurrently "approved," only that it be concurrently submitted. In any event, it is submitted to the Planning Commission, not the Council. If the Council doesn't want approve the overlay zone until the concept plan is approved, it's probably better to just wait to approve the ordinance.

**Comment [HS5]:** Update for the concept plan?

**EXHIBIT A – Approximate Location**



**Comment [HS6]:** Update after meeting

**EXHIBIT B – Property Description**

**(To Be Attached after Zone Map is Updated)**

**EXHIBIT C—Draft Development Agreement**

**Exhibit D—Executed Development Agreement**

**(To Be Attached after Execution)**

1 RESOLUTION 2019-.

2  
3 A RESOLUTION OF THE PROVO CITY MUNICIPAL COUNCIL  
4 REGARDING SITE AND PROCESS SELECTION FOR A NEW WATER  
5 RECLAMATION FACILITY. (19-037)  
6

7 WHEREAS, Provo Staff have been collaborating with an expert team of consultants, the  
8 Municipal Council, and the Utah Division of Water Quality (DWQ) to develop a solution for  
9 Provo's Water Reclamation Facility that will address nutrient standards, aging collection system  
10 infrastructure, development pressure on collection system capacity, future water quality  
11 regulations, financial burdens on ratepayers, risk of failure, and other considerations; and  
12

13 WHEREAS, DWQ approved the City's Due Diligence Variance (Variance) to the  
14 Technology Based Phosphorus Effluent Limit (TBPEL), which includes specific milestones for  
15 the City to remain in compliance and requires the phosphorus concentration in the water  
16 reclamation facility's effluent to be below 1 mg/L by January 1, 2025; and  
17

18 WHEREAS, on May 15, 2018, the Municipal Council approved a resolution selecting  
19 New Facility – Phased Implementation as the preferred alternative for the new water reclamation  
20 facility and requested Provo Staff to pursue this option in close coordination with DWQ to meet  
21 all deadlines as described in the Variance; and  
22

23 WHEREAS, Provo Staff has subsequently obtained authorization for funding from the  
24 State Revolving Fund (SRF) to expedite construction of the first phase of the new facility and  
25 engaged an expert team of consultants, including a Program Management Team and a Design  
26 Team, who have met regularly with staff over the past several months to review and finalize site  
27 selection and treatment process recommendations; and  
28

29 WHEREAS, Provo Staff, Program Management, and the Design Team unitedly  
30 recommend that the new Provo Water Advanced Treatment and Resource Recovery Center  
31 (Provo WATRR Center) be placed at the site of the existing water reclamation facility and utilize  
32 Membrane Bioreactor (MBR) technology to achieve both short and long-term water resource  
33 goals; and  
34

35 WHEREAS, the budget for the first phase of Provo WATRR Center is \$~~100-93~~ Million  
36 ~~including-excluding~~ design and management costs and the budget for the buildout is estimated to  
37 be \$220 Million, which will be constructed in multiple phases over the next ten to fifteen years;  
38 and  
39

40 WHEREAS, design costs, management costs and additional wastewater system  
41 improvements including pump stations, interceptor sewers, decommissioning of the old plant,  
42 and collection system rehabilitation total approximately \$57 Million over the next five years; and  
43

44 WHEREAS, the total project budget including the SRF loan application is \$150 Million,  
45 which includes \$78.5 Million of state funding and approximately \$73.5 Million in funding from

46 Provo or other funding sources; and

47  
48 WHEREAS, on February 5, 2019, Provo Staff, the Design Team, and the Program  
49 Manager met with the Municipal Council to discuss these recommendations; and  
50

51 WHEREAS, the Variance requires that by no later than May 1, 2019, Provo shall submit  
52 to DWQ a Municipal Council Resolution instructing the staff to pursue the facility upgrade to the  
53 selected biological phosphorus removal technology with an approximate budget for the upgrade;  
54 and  
55

56 WHEREAS, the next milestone of the Variance requires that by no later than December  
57 1, 2019, Provo shall submit to DWQ a complete Capital Facilities Plan with the selected  
58 biological phosphorus removal technology; and  
59

60 WHEREAS, on March 19, 2019, the Municipal Council met in a public meeting to  
61 ascertain the facts regarding this matter and receive public comment, which facts and comments  
62 are found in the public record of the Council's consideration; and  
63

64 WHEREAS, after considering the recommendation, and facts and comments presented to  
65 the Municipal Council, the Municipal Council finds that selection of the existing site and MBR  
66 treatment reasonably furthers the health, safety, and general welfare of the citizens of Provo City.  
67

68 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah as  
69 follows:  
70

71 PART I:  
72

73 The Municipal Council requests that Provo Staff continue with design and construction of  
74 the new Provo WATRR Center at the existing site utilizing Membrane Bioreactor technology. To  
75 accomplish this, Provo Staff is requested to work closely with DWQ and meet all deadlines as  
76 described in the Variance.  
77

78 The Municipal Council authorizes a budget of \$93 Million for construction of the first  
79 phase of the new Provo WATRR Center and \$57 Million for additional wastewater system  
80 improvements over the next five years as shown in the loan application to the Water Quality  
81 Board and detailed in Provo City's 2020 Wastewater Capital Improvement Plan (CIP).  
82

83 PART II:  
84

85 This resolution shall take effect immediately.  
86

87 END OF RESOLUTION.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** HSALZL  
**Department:** Council  
**Requested Meeting Date:** 03-19-2019

**SUBJECT:** A resolution regarding site and process selection for a new water reclamation facility. (19-037)

**RECOMMENDATION:** Approve a resolution to select the site and process selection for a new water reclamation facility.

**BACKGROUND:** The City's variance from the State of Utah for phosphorous regulations includes several deadlines with which the City must comply. By May 1, 2019, the Department of Water Quality requires a resolution from the Council to select the site and process selection for the Provo Water Advanced Treatment and Resource Recovery Center (Provo WATRR Center). The resolution must also authorize a budget for the first phase (\$93 million). The Council approved a resolution on May 15, 2018 selecting the preferred alternative for the new water reclamation facility, as noted in this resolution. A complete Capital Facilities Plan is not required until December 1, 2019.

**FISCAL IMPACT:** \$93 million

**PRESENTER'S NAME:** Dave Decker

**REQUESTED DURATION OF PRESENTATION:** 30 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-037



# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** HSALZL  
**Department:** Council  
**Requested Meeting Date:** 03-19-2019

**SUBJECT:** A resolution regarding loan authorization for the first phase of a new water reclamation facility. (19-038)

**RECOMMENDATION:** Approve a resolution authorizing the mayor to sign the loan acceptance form for the first phase of a new water reclamation facility.

**BACKGROUND:** On September 11, 2018, the Council instructed the Public Works Department to apply for a State Revolving Fund loan through the Water Quality Board. The Department submitted an application for \$120 million and was authorized for \$75.8 million at 0.5% interest with an additional \$2 million in principal forgiveness. This resolution would authorize Mayor Kaufusi to sign the loan acceptance form.

**FISCAL IMPACT:** \$75.8 million at 0.5% interest with an additional \$2 million in principal forgiveness

**PRESENTER'S NAME:** Dave Decker

**REQUESTED DURATION OF PRESENTATION:** 30 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-038

1 RESOLUTION 2019-.

2  
3 A RESOLUTION OF THE PROVO CITY MUNICIPAL COUNCIL  
4 REGARDING LOAN AUTHORIZATION FOR THE FIRST PHASE OF A  
5 NEW WATER RECLAMATION FACILITY. (19-038)  
6

7 WHEREAS, on September 11, 2018, the Municipal Council requested that Provo Staff  
8 pursue a potential State Revolving Fund (SRF) loan through the Water Quality Board (WQB) to  
9 expedite the first phase of the new water reclamation facility and reduce risk of failure at the  
10 existing facility while mitigating the required rate increases; and  
11

12 WHEREAS, Provo Staff submitted an application to the WQB for \$120 Million; and  
13

14 WHEREAS, Utah Division of Water Quality (DWQ) staff was very supportive of  
15 Provo's application due to the potential water quality benefits and Provo's economic hardship;  
16 and  
17

18 WHEREAS, SRF funding is limited at this time due to several other large loans for  
19 wastewater treatment facilities throughout the state, nevertheless the WQB authorized a \$75.8  
20 Million loan at 0.5% interest with an additional \$2 Million in principal forgiveness; and  
21

22 WHEREAS, Mayor Michelle Kaufusi received an authorization letter for a loan from the  
23 Utah Wastewater Project Assistance Program (Exhibit A) dated February 19, 2019 detailing the  
24 loan requirements and requiring a signature on the acceptance form; and  
25

26 WHEREAS, on March 19, 2019, the Municipal Council met in a public meeting to  
27 ascertain the facts regarding this matter and receive public comment, which facts and comments  
28 are found in the public record of the Council's consideration; and  
29

30 WHEREAS, after considering the recommendation, and facts and comments presented to  
31 the Municipal Council, the Municipal Council finds that moving forward with the loan  
32 reasonably furthers the health, safety, and general welfare of the citizens of Provo City.  
33

34 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah as  
35 follows:  
36

37 PART I:  
38

39 The Municipal Council authorizes Mayor Kaufusi to sign the Project Cost and Loan  
40 Origination Fee Acceptance Form for Projects Funded through the Utah State Revolving Fund.  
41

42 PART II:  
43

44 This resolution shall take effect immediately.  
45





State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

Department of  
Environmental Quality

Alan Matheson  
Executive Director

DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
Director

**FILE COPY**

**EXHIBIT A**

**Water Quality Board**  
Myron E. Bateman, Chair  
Jennifer Grant, Vice-Chair  
Clyde L. Bunker  
Steven K. Earley  
Gregg A. Galecki  
Michael D. Luers  
Alan Matheson  
David C. Ogden  
Dr. James VanDerslice  
Dr. Erica Brown Gaddis  
Executive Secretary

February 19, 2019

Mayor Michelle Kaufusi  
Provo City  
351 West Center  
Provo, UT 84601

Dear Mayor Kaufusi:

Subject: Provo City, Project #262 Authorization Letter  
Utah Wastewater Project Assistance Program

On December 3, 2018, the Utah Water Quality Board (the "Board") authorized a Construction Loan in the amount of \$75,800,000 to Provo City (the "Applicant") to construct a new water reclamation plant (the "Project"). At that time, the Water Quality Board also authorized a Principal Forgiveness/Hardship Grant in the amount of \$2,000,000.

The loan will be secured by a revenue bond issued by the Applicant and purchased by the Board. The retirement period for the bond shall be no more than twenty (20) years from the anticipated Project completion date with an interest rate/hardship grant assessment of 0.5%. The Board will require annual average payments on the bond of approximately \$3,992,117 (*Exhibit #1*). The Principal Forgiveness/Hardship Grant will be secured by the enclosed agreement. Please return the original executed copy of the agreement to:

Marsha Case  
Division of Water Quality  
PO Box 144870  
Salt Lake City, UT 84116

Upon receipt, the agreement will be signed by the Division of Water Quality and will be forwarded to the Utah Division of Finance for final processing.

Special Conditions:

1. Provo must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
2. Provo must pursue and retain remaining funding necessary to fully implement the project.
3. Provo must develop and implement an asset management program that is consistent with EPA's Fiscal Sustainability Plan guidance.

Y905 3.117

This project is authorized subject to the availability of funds. The financial assistance represented by this authorization may be funded, in whole, or in part, from the proceeds of a federal SRF Capitalization Grant (Title VI CWA, CFDA 66.458) to the State of Utah. Under the SRF Capitalization Grant Program, federal funds are to be made available to the State of Utah by way of authorized draws on a letter of credit over the construction period of the Applicant's project. Therefore, this authorization is expressly subject to the continued availability of federal funds through the SRF Capitalization Grant and the letter of credit related thereto. Neither the Water Quality Board nor the State of Utah shall be bound by this authorization or by any obligation to provide further loan funds to, or purchase any bonds from, the Applicant if the SRF Capitalization Grant funds to which this authorization relates are not awarded or if payments under the federal letter of credit are withheld for any reason.

Based on the information presented to the Board, the following sources of funding will be available for the construction of the Project:

| <u>Funding Source</u>       | <u>Cost Sharing</u> | <u>Percent of Project</u> |
|-----------------------------|---------------------|---------------------------|
| Provo Other Funding Sources | \$73,462,000        | 48.6%                     |
| WQB Loan                    | \$75,800,000        | 50.1%                     |
| Principal Forgiveness       | \$ 2,000,000        | 1.3%                      |
| Total                       | \$151,262,000       | 100%                      |

As Applicant of this Project, you will need to complete the following items before the Water Quality Board will purchase your bonds:

1. The State of Utah has assigned William Prater, the State's bond counsel, the responsibility of reviewing all proceedings and documents relating to the sale of bonds to the Board. His address is:

William Prater, L.L.C.  
P.O. Box 71368  
6925 Union Park Center - Suite 265  
Midvale, Utah 84047  
Telephone: (801) 566-8882  
Fax: (801) 566-8884  
Email: bill@billprater.com

The Applicant's bond counsel should submit the following items to William Prater at the times indicated below. A copy of the transmittal letter for the items indicated below must also be sent to the Division of Water Quality to document Project progress.

- a. No later than one week prior to the meeting at which the Applicant intends to adopt its Resolution for the issuance of the bonds, a complete copy of the proposed Resolution shall be submitted for review. Appropriate notice should be

given to notify the public of the meeting at which the governing board intends to adopt the bond resolution.

- b. No later than two weeks after the adoption of the Resolution, the following items shall be submitted:
  - i. A true and complete photocopy of the Resolution as adopted, showing signatures of the appropriate officials of the Applicant on the Resolution and on the Notice of Meeting, Acknowledgment of Notice and Consent, Certificate of Publication, Open Meeting Certificate, and other similar documents relating to the Resolution.
  - ii. If applicable, a true and complete photocopy of the minutes, notices, resolutions and other documents relating to the bond election, showing signatures of the appropriate officials.
  - iii. A true and complete photocopy of the minutes, notices, resolutions and other documents, showing signatures of the appropriate officials, of the proceedings by which the Applicant was created.
  - iv. A complete copy of the proposed documents to be signed at closing, including (but not necessarily limited to) General Certificate, Signature Identification and Non-litigation Certificate, Receipt, Arbitrage Certificate (if required), Applicant Attorney's Non-litigation Certificate, Certificate of the Clerk (or Recorder) as to contents of Bond Transcript File, Escrow Agreement, and the Bond Attorney's Opinion.
  - v. A copy of the sewer use ordinance and rate structure described in paragraph 3 of this letter.
  - vi. A copy of the proposed opinion letter of the Applicant's attorney described in paragraph 6 of this letter.

The procedures for bond approval will be substantially the same as required by the Utah Municipal Bond Act as it applies to cities and towns. The opinion of the bond attorney must accompany delivery of the bonds to the Board before bond proceeds will be released.

As a condition to the acceptance by the Board of a non-voted revenue bond, the issuer must (a) publish notice and conduct a public hearing consistent with the requirements of the Utah Local Government Bonding Act, and (b) mail notices to system users in the issuer's service area informing them of the public hearing. In addition to the time and location of the public hearing, notices mailed to system users shall inform them of the issuer's intent to issue a non-voted revenue bond to the Board, shall describe the face amount of the bond, the rate of interest, the repayment schedule, and shall describe Project impacts. User charge rates and connection fees should be included in that notice, and the notice shall state that system users may respond to the issuer in

writing or in the public hearing. A copy of all written responses and a certified record of a public hearing shall be forwarded to the Board. If the Board feels that there is significant opposition to the proposed Project, or if required by the Utah Local Government Bonding Act, it may be necessary for the issuer to hold a bond election before the Board's funds will be made available.

At or after the closing, the State's bond counsel will bill the Applicant, and the Applicant must pay those legal fees.

At the time of closing, the Applicant shall pay a Loan Origination Fee equal to 1% of the principal loan amount. If the Applicant decides not to build the Project after the Board has authorized the Project, the Applicant will reimburse all costs accruing after the Project Authorization. The Project Cost and Loan Origination Fee Acceptance Form (*Exhibit #2*) must be signed and returned to the Board within three weeks of the date of this letter.

2. Consistent with requirements of the law and the covenants of applicable bond resolutions, the actual payment of funds by the Board to the Applicant will not take place until the Board has assurance the funds will be used for Project costs and the Project will actually be completed. To assure this, all monies to be expended on the Project shall be placed in an escrow account jointly supervised by the Applicant and the Board. A copy of the proposed escrow agreement shall be submitted to the Board and the State's bond counsel for review. If the Project is completed without using all of the escrowed funds, the Board's share of the unused escrowed funds will be applied as a prepayment of principal to shorten the bond repayment term. The Applicant will be required to deposit all of its Project funds in the escrow account at the time of the closing of the loan or make other provisions acceptable to the Board to ensure that funds will be available to complete the project. Disbursements from the escrow account will be reviewed and approved by the Division of Water Quality. A disbursement request form must be completed and submitted along with each request.
3. At the time of the adoption of the bond resolution, or within a reasonable time thereafter (but no later than the pre-closing date), the Applicant shall adopt an ordinance or resolution detailing proper use of the system and establishing reasonable sewer use charges and fees and collection enforcement procedures taking into account all relevant factors, including but not limited to the need to generate sewerage revenues sufficient to meet all payment and funding requirements specified in the bond resolution. A Reserve Fund, equivalent to at least one (1) year's installment on the bond and an Emergency Repair and Replacement Fund, equivalent to one-half (1/2) of one year's installment payment, must be accumulated during the first six (6) years of the repayment period. The sewer rate ordinance or resolution must establish rates sufficient to generate no less than the following amounts:
  - a. An amount calculated to be sufficient to pay operation and maintenance expense of the system.

- b. \$332,676 per month to be placed in a Sinking Fund for the repayment of the obligation (\$3,992,117 average per year).
- c. \$55,446 per month for the first six years to be added to a Reserve Fund until a total of 3,992,117 is accumulated.
- d. \$27,723 per month for the first six years to be added to an Emergency Repair and Replacement Fund until a total of \$ 1,996,058 is accumulated.

A copy of the sewer use and user rate ordinances and/or resolutions as adopted shall be submitted to the Division of Water Quality Board and to the State's bond counsel on or before the pre-closing date.

- 4. The Applicant's contract with its consulting engineer(s) should include the cost of developing complete bidding and contract documents, performing bidding and construction management services, and preparation of an operations and maintenance manual. The engineering contract must be submitted to the Division of Water Quality for review and approval. This requirement is to assure the Board that adequate and appropriate arrangements are made for completing and inspecting the Project within the guidelines set by the Board.
- 5. The Applicant must secure a construction permit for the Project from the Director of the Division of Water Quality prior to soliciting bids. Final bidding and contract documents should be submitted to the Manager of the Engineering Section, Utah Division of Water Quality, for review.
- 6. The Applicant's attorney shall certify the following items in writing to the Water Quality Board:
  - a. The Applicant is a legal entity as of the date of the loan closing.
  - b. The Applicant has valid legal title to the rights-of-way designated and shown on the right-of-way map, including rights-of-way both for the Project to be constructed and the remainder of the existing wastewater system as of the date of the loan closing.
  - c. The bidding and contract documents for the construction of the Project have the proper and legal format and are in compliance with the Utah Code Annotated 1953 (Title 34, Chapter 30).
  - d. Following review by the Applicant's attorney of the completed and executed construction contract, performance and payment bonds, and evidence of necessary insurance, the Applicant's attorney shall furnish to the Water Quality Board his legal opinion that all of such items are legal and binding and in compliance with the Utah Code.



7. The Applicant shall acquire rights-of-way and easements for construction and ongoing operation and maintenance of the Project facilities. The Applicant, through its engineer, shall furnish its attorney a right-of-way map showing the location of all lagoons, buildings, structures, pipelines, and other pertinent facilities in the Project. The engineer and presiding officer of the Applicant will sign this map.
8. The Applicant must agree to the following requirements of Title VI of the Clean Water Act as applicable throughout the course of the Project:
  - a. Submission of a DUNS number to the Division of Water Quality within 45 days before loan closing.
  - b. Completion of the "MBE/WBE Procurement Annual Report" form for construction services. This should be submitted to the Division of Water Quality two weeks after the end of each reporting period (September 30) during construction.
  - c. Include the following certification in the bond resolution:

"The Issuer agrees, in accepting the proceeds of the Series \_\_\_\_ Bonds, to comply with all applicable state and federal regulations related to the Utah State Revolving Fund administered by the Water Quality Board. These requirements include, but are not limited to, Title VI of the Clean Water Act of 1987, The Single Audit Act of 1996, the Utah Wastewater Loan Program policies and guidelines, the Utah Local Government Bonding Act, the Utah Money Management Act, the Utah Procurement Code and the State of Utah Legal Compliance Audit Guide."
  - d. Compliance with Davis-Bacon Act wages:

"Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code."
  - e. Compliance with American Iron & Steel (AIS) provisions:

P.L. 113-76, Consolidated Appropriations Act 2014, requires Clean Water State Revolving Loan Fund (CWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public treatment works.

f. Compliance with Cost and Effectiveness Analysis

Pursuant to Section 602 (b)(13) of the Federal Water Pollution control Act, the recipient must certify that it has (a) studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity; and (b) selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—

- i. the cost of constructing the project or activity;
  - ii. the cost of operating and maintaining the project or activity over the life of the project or activity; and
  - iii. the cost of replacing the project or activity.
9. The Applicant shall submit a cash drawdown schedule prepared and certified by its consulting engineer that coincides with the rate construction-related Project costs are expected to occur.
10. The Applicant must have an approved Capital Facilities Plan or Engineering Report, as applicable, prior to loan closing.
11. The Applicant is required to submit a plan of operation and an operation and maintenance (O&M) manual according to the following:
- a. Applicants that have not previously operated wastewater facilities of similar magnitude and complexity to the Project are required to submit a plan of operation containing a schedule summarizing appropriate times for essential actions to be taken for facility operation. A draft plan must be submitted to the Division of Water Quality at initiation of construction and approved in final form prior to 50% of construction completion. As a minimum, the plan of operation must include provisions for an operation and maintenance manual, emergency operating and response plan, properly trained management, adequate number and training of operation and maintenance personnel, budget plan for operation and maintenance, operational reports, and start-up procedures.
  - b. An operation and maintenance (O&M) manual which provides long-term guidance for efficient facility operation and maintenance must be submitted and approved in draft and final form prior to 50% and 90% completion, respectively.

In order to facilitate the timely completion of the financial assistance requirements outlined in this letter, a pre-closing conference call shall be held to determine all of the outstanding items. The Applicant and its attorney and engineer should submit to the Division of Water Quality all of the items required by the dates agreed to during the pre-closing conference call and the Applicant's bond attorney should submit to the State's bond counsel the items listed in the subsection "b" of paragraph 1 on or before the due date specified therein so that he can review those items prior to closing.

The final closing on the bond may occur once the Division of Water Quality and the State's bond counsel determine that all of the items listed in this letter have been completed and submitted satisfactorily.

If the Applicant fails to reasonably comply with the Project schedule, this Authorization may be withdrawn. If the Applicant received Planning or Design advances from the Board, withdrawal of this Authorization may authorize the Board to seek repayment of the advance(s) on such terms and conditions as it may determine pursuant to Utah Administrative Code R317-101-9 and R317-101-10.

These requirements will probably not cover all the matters pertaining to your Project. We anticipate that specific questions on matters relating to your Project will arise, and we are confident that a joint cooperative effort can resolve the issues. If you have any questions concerning these requirements, please contact Ken Hoffman (801-536-4313) or Marsha Case (801-536-4315) of the Division of Water Quality.

Sincerely,

Utah Water Quality Board



Erica Brown Gaddis, Ph.D.  
Executive Secretary

EBG:JM:mc:

Enclosure: Principal Forgiveness/Hardship Grant (DWQ-2019-000584)

cc: William Prater, Bond Counsel  
Eric Hunter, Chapman and Cutler

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File: SRF\Provo City Project 262\Administration\Section 1

DWQ-2019-000583

# Exhibit 1

## PROVO CITY

### Bond Repayment Schedule

Principal \$75,800,000

Interest/Hardship  
Assessment 0.50%

Term 20

Avg Annual Pmt \$3,992,117

| Payment Number | Payment Due Date | Principal Due | Principal Payment | Interest/HGA Payment | Total Payment |
|----------------|------------------|---------------|-------------------|----------------------|---------------|
| interest only  | 1-Sep-21         |               |                   | *varies*             | *varies*      |
| interest only  | 1-Sep-22         |               |                   | *varies*             | *varies*      |
| interest only  | 1-Sep-23         |               |                   | *varies*             | *varies*      |
| 1              | 1-Sep-24         | 75,800,000    | 50,000            | 379,000              | 429,000       |
| 2              | 1-Sep-25         | 75,750,000    | 50,000            | 378,750              | 428,750       |
| 3              | 1-Sep-26         | 75,700,000    | 50,000            | 378,500              | 428,500       |
| 4              | 1-Sep-27         | 75,650,000    | 4,000,000         | 378,250              | 4,378,250     |
| 5              | 1-Sep-28         | 71,650,000    | 4,000,000         | 358,250              | 4,358,250     |
| 6              | 1-Sep-29         | 67,650,000    | 4,325,000         | 338,250              | 4,663,250     |
| 7              | 1-Sep-30         | 63,325,000    | 4,350,000         | 316,625              | 4,666,625     |
| 8              | 1-Sep-31         | 58,975,000    | 4,405,000         | 294,875              | 4,699,875     |
| 9              | 1-Sep-32         | 54,570,000    | 4,425,000         | 272,850              | 4,697,850     |
| 10             | 1-Sep-33         | 50,145,000    | 4,450,000         | 250,725              | 4,700,725     |
| 11             | 1-Sep-34         | 45,695,000    | 4,470,000         | 228,475              | 4,698,475     |
| 12             | 1-Sep-35         | 41,225,000    | 4,495,000         | 206,125              | 4,701,125     |
| 13             | 1-Sep-36         | 36,730,000    | 4,510,000         | 183,650              | 4,693,650     |
| 14             | 1-Sep-37         | 32,220,000    | 4,530,000         | 161,100              | 4,691,100     |
| 15             | 1-Sep-38         | 27,690,000    | 4,555,000         | 138,450              | 4,693,450     |
| 16             | 1-Sep-39         | 23,135,000    | 4,580,000         | 115,675              | 4,695,675     |
| 17             | 1-Sep-40         | 18,555,000    | 4,605,000         | 92,775               | 4,697,775     |
| 18             | 1-Sep-41         | 13,950,000    | 4,625,000         | 69,750               | 4,694,750     |
| 19             | 1-Sep-42         | 9,325,000     | 4,650,000         | 46,625               | 4,696,625     |
| 20             | 1-Sep-43         | 4,675,000     | 4,675,000         | 23,375               | 4,698,375     |
| TOTAL          |                  |               | 75,800,000        | 4,612,075            | 80,412,075    |



## EXHIBIT 2

### PROJECT COST AND LOAN ORIGATION FEE ACCEPTANCE FORM FOR PROJECTS FUNDED THROUGH THE UTAH STATE REVOLVING FUND PROGRAM

1. Costs of bond document review by the Water Quality Board and its bond attorney will be billed to the Applicant.
2. Costs related to the project such as administrative review, engineering, investigation, and construction supervision by the Water Quality Board (i.e. Division of Water Quality staff) will be paid from the proceeds of the Loan Origination Fee, which is equal to 1% of the principal loan amount.
3. Cost of engineering, investigation, and construction supervision are considered as follows:
  - a. If the Water Quality Board denies the project or if the Applicant withdraws prior to the preparation of the feasibility report, normal manpower costs incurred by the Department of Environmental Quality during the preliminary investigation of the potential project will not become a charge to the Applicant.
  - b. If the project is authorized by the Water Quality Board, all manpower costs from the beginning of the project will be charged to the project and paid from the proceeds of the Loan Origination Fee.
  - c. If the applicant decides not to build the project after the Water Quality Board has authorized the project, all costs accruing after the authorization will be reimbursed by the Applicant to the Board.

#### ACCEPTANCE:

On behalf of the Applicant, I hereby accept the policy and conditions as enumerated above.

\_\_\_\_\_  
(Name of Applicant)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Presiding Official)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Secretary)

\_\_\_\_\_  
(Date)



## Application Procedures

1. Before a potential applicant invests time and effort to prepare an application, a preapplication meeting is conducted between members of the staff and the potential applicant. To arrange for this meeting, please call John Mackey, Manager, Engineering Section, Division of Water Quality at (801) 536-4347.
2. A completed application must be submitted for staff review. The last two years' financial statements must be posted and available on the web. If the application is for construction funding, an engineering report must be provided for staff review and approval.
3. A staff feasibility report is prepared by the staff and discussed with the applicant.
4. The project is presented to the Water Quality Board for authorization.
5. The engineering contract is reviewed and approved by the staff.
6. After the applicant has prepared an approved design, the project has been bid, the contract is ready to be awarded, and the applicant has completed all of the necessary bonding requirements, the applicant sells a bond to the State of Utah acting through the Water Quality Board and construction may commence.





APPLICATION FORM FOR PROJECT ASSISTANCE  
FROM THE UTAH WATER QUALITY BOARD

Application Number: \_\_\_\_\_  
(LEAVE BLANK-FOR STATE USE ONLY)  
Preapplication Meeting Date: \_\_\_\_\_

PROJECT IDENTIFICATION AND DESCRIPTION

1. APPLICANT Provo City  
(Municipality, Sewer District, Special Improvement District, etc.)  
Address 351 W Center  
City Provo  
State UT Zip Code 84601  
Phone 801-852-7105  
EIN # 87-6000266  
DUNS # 072990542
2. PRESIDING OFFICIAL Michelle Kaufusi, Mayor  
(Name and Title)  
Address 351 W Center  
City Provo  
State UT Zip Code 84601  
Phone 801-852-6108
3. CONTACT PERSON Dave Decker, Public Works Director  
(Name and Title)
4. TREASURER/RECORDER Dan Follett, Treasurer / Amanda Ercanbrack, Recorder  
(Name and Title)
5. CONSULTING ENGINEER \_\_\_\_\_  
(Name and Title)  
Name of Firm \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone \_\_\_\_\_
6. BOND COUNSEL Eric Hunter, Partner  
(Name and Title)  
Name of Firm Chapman and Cutler  
Address 215 South State Street  
City Salt Lake City  
State UT Zip Code 84111

|    |                   |  |          |                   |
|----|-------------------|--|----------|-------------------|
| 7. | FINANCIAL ADVISOR | <u>Brian Baker, Vice President, Zions Public Finance</u> |          |                   |
|    |                   | <i>(Name and Title)</i>                                  |          |                   |
|    | Address           | <u>One South Main Street, 18<sup>th</sup> Floor</u>      |          |                   |
|    | City              | <u>Salt Lake City</u>                                    |          |                   |
|    | State             | <u>UT</u>  | Zip Code | <u>84113-1109</u> |
|    | Phone             | <u>801-844-7381</u>                                      |          |                   |

## 8. DESCRIPTION OF PROJECT SETTING

B. County Utah County

A. Description of the project Construction of a new reclamation plant using best available technology capable of meeting TBPEL water quality regulations by 2025. This plant will be built in phases to meet existing and future flows through build-out. The plant will be constructed over a three year period allowing for the loan to be disbursed incrementally.

(2) Year of completion 2021

(3) Total project cost \$ 120,000,000

C. Explain why project is needed \_\_\_\_\_ The current treatment plant was built in the 1950's and would require major upgrades to maintain long-term operations. Building a new plant with best available technology would meet not only the State's TBPEL regulations but also anticipated future regulations. Seismic, safety, and other concerns would also be addressed with this new facility. The City is also considering recharge or water reuse.

D. State and Federal water quality and public health regulations to be addressed by the project TBPEL nutrient regulations, potential stricter nutrient regulations in the future, and possible regulation of contaminants of emerging concern

- E. What good faith efforts to secure all or part of services and funds from the other funding agencies Provo has increased user rates annually since 2015, changed the rate structure to charge by unit, and is in the process of updating the sewer impact fees. Provo staff also investigated the potential for WIFIA funding for the project.
- 
- 
- F. Public participation City Council Presentations 10/31/2017, 12/5/2017, 2/20/18, 3/20/18, 9/11/18 Regional plant considerations with Springville, Spanish Fork, Mapleton, and DWQ staff.
- 
- (meetings, fact sheets, referenda, etc.)
- G. Describe Demonstrations of Public support for project The City Council has supported Public Works pursuing potential funding options with the Division of Water Quality.
- 

Type of planning document prepared Draft Reclamation Plant Master Plan, Variance Letter and supporting documents, siting study and geotechnical investigation, sewer metering study, draft impact fee and capital facilities plan

*(Facility plan, engineering report, etc.)*

Planning Document Date 2017-2018

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**(Note: Enclose a copy of current planning document.)**

## FINANCIAL ASSESSMENT - ESTIMATED ANNUAL COST OF SEWER SERVICES

### 1. PROJECT COST ESTIMATE

#### A. Construction

|      |  |                       |
|------|--|-----------------------|
| (1)  | Wastewater treatment plant                             | \$ <u>93,000,000</u>  |
| (2)  | Pump stations  | \$ <u>6,716,000</u>   |
| (3)  | Interceptor sewers                                     | \$ <u>31,684,000</u>  |
| (4)  | Collection sewers                                      | \$ _____              |
| (5)  | Small systems (neighborhood or community septic tanks) | \$ _____              |
| (6)  | Land acquisition                                       | \$ <u>0</u>           |
| (7)  | Other (Decommission old plant)                         | \$ <u>2,500,000</u>   |
| (8)  | Other (Collection System Rehab)                        | \$ <u>7,000,000</u>   |
| (9)  | Other (specify)  | \$ _____              |
| (10) | Other (specify)  | \$ _____              |
| (11) | Total construction costs (1.A(11))                     | \$ <u>140,900,000</u> |

#### B. Other Project Costs

|      |                                   |                     |
|------|-----------------------------------|---------------------|
| (1)  | Engineering - Planning            | \$ <u>1,700,000</u> |
| (2)  | Engineering - Design              | \$ <u>3,200,000</u> |
| (3)  | Engineering - CMS                 | \$ <u>4,200,000</u> |
| (4)  | Engineering - Other               | \$ _____            |
| (5)  | Legal - Bonding                   | \$ _____            |
| (6)  | Legal - Rights of Way & Easements | \$ _____            |
| (7)  | Other (specify)                   | \$ _____            |
| (8)  | Other (specify)                   | \$ _____            |
| (9)  | Other (specify)                   | \$ _____            |
| (10) | Other (specify)                   | \$ _____            |
| (11) | Total Other Costs (1.B(11))       | \$ <u>9,100,000</u> |

### 2. ESTIMATED ANNUAL COSTS

#### A. Operation & Maintenance Costs of the Proposed Facility\*

|     |                                       |                             |
|-----|---------------------------------------|-----------------------------|
| (1) | Labor                                 | <u>\$1,900,000</u> per year |
| (2) | Utilities                             | <u>\$1,500,000</u> per year |
| (3) | Materials                             | <u>\$200,000</u> per year   |
| (4) | Contracted services (i.e. laboratory) | <u>\$200,000</u> per year   |
| (5) | Miscellaneous expenses                | <u>\$500,000</u> per year   |
| (6) | Equipment replacement                 | <u>\$1,800,000</u> per year |
| (7) | Total OM&R costs(2.A)(7)              | <u>\$6,100,000</u> per year |

\*Include current O&M costs which will continue with the new facility

B. Existing annual debt service \$660,000 per year  
(for sewer services only, attach a copy of debt authorization schedules)

C. Estimate costs for installation of individual service laterals  
(if the project includes a new collection system) \$ N/A

3. FINANCING THE NEW FACILITIES
- |    |  |                                  |
|----|--|----------------------------------|
| A. | Total construction cost (from 1.A(11))                                   | \$ <u>140,900,000</u>            |
| B. | Other Project Costs (from 1.B.(11))                                      | \$ <u>9,100,000</u>              |
| C. | TOTAL PROJECT COSTS  | \$ <u>150,000,000</u>            |
| D. | Funds available for the project<br>(reserve accounts, contingency, etc.) | \$ <u>30,000,000</u>             |
| E. | Grants (specify agencies and status of funds)                            | \$ _____<br>\$ _____             |
| F. | Other Sources of Funding (specify)                                       | \$ _____<br>\$ _____<br>\$ _____ |
| G. | TOTAL FUNDS AVAILABLE  | \$ <u>30,000,000</u>             |
| H. | AMOUNT TO BE FINANCED (from 3.C - 3.G)                                   | \$ <u>120,000,000</u>            |

4. BOND MARKET FORECAST INFORMATION

Estimated terms your project would be required to meet if project was financed through the sale of a bond on the open market.

Interest Rate 3.75%

Term 20 years

Principal Amount \$120 Million

Source Wastewater revenues

Comments Estimate from Zions Bank Public Finance

5. DEBT STRUCTURE OF YOUR COMMUNITY

Legal general obligation debt limit

- |     |   |                        |       |                         |
|-----|---|------------------------|-------|-------------------------|
| (1) | Assessed Valuation                              | <u>\$8,844,517,604</u> | x 12% | \$ <u>1,051,342,112</u> |
| (2) | Less: Current Annual General Obligation Debt    |                        |       | \$ <u>34,866,822</u>    |
| (3) | Available General Obligation Debt Limit (1)-(2) |                        |       | \$ <u>1,026,475,290</u> |

6. DEMOGRAPHIC OUTLINE

A. Population Estimates

- |     |                              |                |
|-----|------------------------------|----------------|
| (1) | Current Population           | <u>116,868</u> |
| (2) | Population in 2010           | <u>112,488</u> |
| (3) | Estimated Population in 2020 | <u>125,931</u> |

- (4) Planning Year Population 122,039  
 (5) Planning Year 2017  
 (6) Source of Estimates Governor's Office of Management and Budget, Zions Public Finance

B. Current Cost of Sewer Service

- (1) Current basic, monthly user charge  
 Residential \$Based on meter size, see attachment  
 Commercial \$Based on meter size, see attachment  
 Industrial \$Based on meter size, see attachment

- (2) If user charges are based on water usage  
 Base Rate \$ 3.27 / 1,000 Gallons  
 Overage Rate \$                      /                      Gallons

If property tax, or other tax, is levied to fund sewer debt, operation or maintenance

Tax Rate (for sewer only) N/A  
 Assessed Valuation \$                       
 Annual Revenue from Taxes \$ 0

Is sewer service subsidized by any other source of revenue not previously mentioned, please explain

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C. Impact & Hookup Fees

- (1) Current Impact Fee \$1,230, anticipated to be adjusted in 2019  
 (2) Current Hookup Fee \$0  
 (3) Have you completed a Capital Facilities Plan which meets the requirement of the Utah Impact Fee Act?  
 Yes X No

**(Please attach a copy of the Capital Facilities Plan)**

- D. Current number of equivalent residential connections 30,490  
 (1) Last year's annual sewer user charge revenue \$ 11,197,516  
 (2) Last year's annual, residential, user rate \$ \$577.48  
 (3) Revenue Divided by User Rate (1)/(2)\* 19,390  
 \*a rough estimate of residential equivalent connections

E. Median Adjusted Gross Income (to be completed by DWQ staff)

Year                       
 MAGI

|   |  |     |
|---|--|-----|
| F. Major Industries and approximate percent of workforce employed by each |  |     |
| Education   |  | 35% |
| Healthcare  |  | 30% |
| Technology  |  | 20% |
| Retail  |  | 15% |

- G. Please list additional capital intensive projects which your community is planning or will require in the near future? (Please include such needs as schools, roads, water systems, parks, municipal buildings, etc.)

| Project Description                       | Projected Construction Date | Estimated Cost |
|---|-----------------------------|----------------|
| City Hall and Public Safety Headquarters* | Fall 2019                   | \$69,000,000   |


\*General Obligation Bond subject to voter approval in November 2018

- H. Please provide audited financial statements for the past two years and a copy of your current operating budget.
- I. Please provide a copy of your current sewer rate ordinance/resolution and user charge system.

Signature of person responsible for completion of this form



Signature of Authorized Representative



### REMINDER

Have you remembered to enclose the following:

1. Facility Plan or other planning documents.
2. Amortization table for each outstanding debt.
3. Financial statements for the past 2 years plus this year's current budget.  
FY16 CAFR <https://www.provo.org/Home/ShowDocument?id=10990>  
FY17 CAFR <https://www.provo.org/Home/ShowDocument?id=12547>
4. Current sewer rate ordinance/resolution and user charge system.
5. Capital Facilities Plan which meets the Utah Impact Fee Act.
6. Signed Project Cost Acceptance Form (blank form attached to application form)