



## **PROVO MUNICIPAL COUNCIL**

### **Work Meeting**

2:00 PM, Tuesday, September 24, 2019

Room 310, City Conference Room

351 W. Center Street, Provo, UT 84601

### **Agenda**

#### **Roll Call**

#### **Prayer**

#### **Approval of Minutes**

May 21, 2019 Work Meeting

#### **Business**

1. A discussion regarding the carryover of certain Fiscal Year 2018-2019 budget amounts into Fiscal Year 2019-2020. (19-098)
2. A discussion regarding defining over-occupancy as a nuisance. (19-094)
3. A discussion regarding proposed amendments to Personnel Policies in Title 4. (19-082)
4. A discussion regarding an improvement agreement to construct a road in the Mountain Vista Business Center. (19-099)

#### **Policy Items Referred from the Planning Commission**

5. A discussion regarding a zone change of approximately one acre of real property, generally located at 674 E 3230 N from Residential Agriculture (RA) to One-Family Residential (R1.10). Edgemont Neighborhood. (PLRZ20190175)
6. A discussion regarding proposed ordinance amendments regarding accessory apartments. City-wide application. (PLOTA20190120)

#### **Business**

7. A discussion regarding recommendations from the Sign Ordinance Committee. (19-102)

## **Closed Meeting**

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with § 52-4-204 and 52-4-205 et. seq., Utah Code.

## **Adjournment**

Informal discussion may be held in the Council Conference Room between 4:30 PM and 5:30 PM.

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>

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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 10/8/2019 at 5:30 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.

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# *Pending minutes – awaiting approval*



## **PROVO MUNICIPAL COUNCIL Work Meeting Minutes**

1:00 PM, Tuesday, May 21, 2019  
Room 310, Provo City Conference Room  
351 W. Center Street, Provo, UT 84601

### **Agenda (0:00:00)**

#### **Roll Call**

The following elected officials were present at the meeting:

Council Chair David Harding, conducting  
Council Vice-chair Kay Van Buren  
Councilor Gary Winterton  
Councilor David Sewell  
Councilor David Knecht  
Councilor George Stewart  
Councilor George Handley  
Mayor Michelle Kaufusi

#### **Prayer**

The prayer was given by Wayne Parker, Chief Administrative Officer.

#### **Business**

##### **1. A presentation regarding the Municipal Wastewater Planning Program Annual Report. (19-064) (0:04:33)**

Rebecca Andrus, Engineer, provided background information on the report, which is required by the State to ensure that disposal of wastewater is managed according to the State standards and discharge permitting process. The Sewer System Management Plan and System Evaluation and Capacity Assurance Program (SECAP) documents are required elements of the report. Ms. Andrus acknowledged that the Council has supported Public Works in adjusting sewer rates to more accurately reflect the costs associated with the system. The 2018 report did not reflect the full impact of these changes, as the rate adjustments were still in progress.

Ms. Andrus highlighted several sections of the report and responded to questions from Councilors. Regarding the sewer system obstruction statistics, Provo did not have any class 1 overflows in the main lines system in the City, which was excellent. Despite the age of the water reclamation facility, Public Works was well in compliance with the permit requirements. As part of the SECAP document, the Water Resources staff completed a wastewater flow capacity study. Ms. Andrus highlighted several details of the existing sewer capacity map of the city.

Councilor David Knecht asked about sump pumps and how the City evaluated the impacts of

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those pumps. Ms. Andrus explained that the study examined whether sites within the system had experienced direct inflow or indirect inflow, which can distinguish between the inflow impacts of a rainstorm versus those of a sump pump in a residence. Ms. Andrus highlighted other methodology that the Water Resources staff employ to make similar assessments.

Councilor David Harding asked about the impacts of previously low utility rates to the incidence of overflows in the wastewater system. Ms. Andrus indicated that the reporting requirement was not in place until 2012, with a compliance period of several years; the City's first report was filed in 2015. The City had some data from before the requirement was put in place and by this estimate, the City's sewer service has improved. Mr. Harding asked additional questions about the cost assessments presented earlier in the slideshow. The sinking fund question has not yet been established, but it has been planned in the next several years in the Capital Improvement Plan (CIP). As far as a CIP reserve fund, the actual reserve fund has not yet been put in place.

Ms. Andrus also answered a question from Mr. Harding regarding the total cost for a replacement system. In the master plan, the consultants had estimated a \$2.5 million cost for 50 years to do a total system replacement. The total figure has fluctuated somewhat, which is why there was not a firm response to this item in the report; as Public Works continues to update the master plan, this figure will be refined. Councilor Gary Winterton also asked a question regarding spring runoff; Gary Calder, Water Resources Division Director, expressed that the cooler spring has lengthened the period of time when runoff is typically occurring. ***Presentation only. This item was already scheduled for the Council Meeting on May 21, 2019.***

### **2. A presentation on the Parks and Recreation Department and potential budget impacts. (19-004) (0:26:23)**

Scott Henderson, Parks and Recreation Director, presented. Mr. Henderson shared an overview of his presentation and invited his associates to present on elements related to their operations.

Bryce Merrill, Recreation Center Manager, and Mr. Henderson highlighted recent successes for the Recreation Center and recreation programming in Provo City, including:

- Membership and admissions constitute 93% of their revenues.
- The Triple Play program has resulted in continued increase in memberships; they have seen approximately a 2.2% increase year over year in membership, with a slight drop in daily passes. This is in part due to the recent opening of the Springville Recreation Center.
- Higher overall member counts and higher daily total traffic.
- Triple Play allows recreation center members to use services at the Seven Peaks Ice Arena and East Bay Golf Course for free or for a reduced rate. The two other facilities have seen approximately 73,000 recreation center visits in the first year of the Triple Play program.
- Despite losing some Springville and Spanish Fork users, there has been an 800-resident-member increase, which is the largest year-over-year increase the Recreation Center has seen. Parks and Recreation feels this is a success toward their most important mission of connecting with Provo residents.
- Overview of added amenities and revenue opportunities at various facilities
- Facility improvements to create a consistent patron experience between facilities
- Senior and student passes and programming

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Mr. Henderson shared other budget highlights for the upcoming fiscal year:

- The only budget supplemental request was the remaining half of funding for the quarterly activity guide, which has been the top marketing success for informing and educating the public about the Parks and Recreation Department's programs. A potential revenue source to fund this request is the revenue from cell towers located in City parks.
- Spring Creek Park and related operations expansion
- Seven Peaks Ice Arena lobby redesign
- East Bay Golf Course redesign in conjunction with the medical school development
- Potential impacts to the Covey Center during city hall and public facilities construction
- Regional Sports Park development
- Provo River Trail improvements (RAP-tax funded)
- Unlimited play center (RAP tax and CDBG funds) at North Park, which would introduce a playground and space for children of all abilities

Councilors shared comments on the Parks and Recreation Department's programs and successes. Councilor Gary Winterton asked how often the department evaluated their fees and he asked for additional clarification on their finances. Wayne Parker, CAO, explained that the recreation center bond was on a property-tax-based repayment schedule and therefore it was appropriate for the recreation center operations to be a part of the General Fund. Mr. Parker clarified that there would be concerns if the recreation center were being used for income-generating purposes outside of its normal purpose; because all the programs offered by the recreation center were public services, there were not any issues with the programming run by Parks and Recreation. Councilor David Harding asked about market studies/rates for recreation center passes. Staff explained that there was a 20-25% differential between Provo residents and non-residents; since non-residents did not contribute via the property tax bond, there was a marginal increase to their overall membership rate. For senior and adaptive programming, non-residents can participate, but had to pay a non-resident fee. *Presentation only.*

### **3. A presentation on the Human Resources Department and potential budget impacts. (19-004) ([1:03:56](#))**

Daniel Softley, Human Resources Division Director, presented. Mr. Softley highlighted elements of the Human Resources budget, noting that wages were a significant factor in the budget, accounting for \$40.4 million of the total for full-time wages. This figure includes the 2.5% annual merit increase for eligible full-time employees, as well as the means to implement changes resulting from the annual pay grade study.

Mr. Softley highlighted other elements of the HR budget, including:

- Career series advancement
- Continued funding of retirement programs and 2% 401k match
- Budgeted increase to health insurance in line with the Milliman Medical Index (Mr. Softley clarified that the total budgeted \$13.5 million included enterprise fund employees)
- New Accidental Death and Dismemberment (AD&D) coverage, with additional coverage for public safety employees for line-of-duty accidents
- Workers compensation and added safety efforts with reporting and modified duty
- Funded new Full-Time Employees positions in the Police Department

## *Pending minutes – awaiting approval*

- Programs and policies including educational assistance, employee recognition, service awards, annual sick leave buyout, proposed changes to accrual policies (front-loading of sick and vacation accruals for new employees), and a new parental leave program

Mr. Softley responded to questions from Councilors. Regarding a question from Councilor David Knecht, Mr. Softley provided information about how pay ranges and grades work and how the rate study impacts these. Councilor George Handley asked about the various tiers of the Utah Retirement System, which Mr. Softley explained in more detail. Mr. Softley shared details about the program and policy changes, noting that Mayor Michelle Kaufusi and the City Administration have been very supportive of efforts such as the new parental leave. ***Presentation only.***

#### **4. A presentation regarding an appropriation of \$119,238 in the Airport Fund and \$775,000 in the Water Resources Fund, applying to fiscal year ending June 30, 2019. (19-061) ([1:24:08](#))**

Jimmy McKnight, Public Works Financial Analyst, presented on these appropriations for the current fiscal year:

- \$119,238 in the Airport Fund
  - \$98,238 airport revenue bond interest for the Duncan Aviation project
    - This was planned for, but inadvertently omitted in the approved budget.
  - \$21,000 appropriated from fund balance to replace airport security fencing after construction of the UVU parking lot
- \$775,000 in the Water Resources Fund
  - \$75,000 appropriated from fund balance for airport contract services
  - \$200,000 for well development
  - \$500,000 for aquifer storage and recovery studies (phase 1 of ASR projects)

Mr. McKnight explained that the Water Resources division had received higher than anticipated revenues, resulting in a higher fund balance. Public Works uses conservative estimates in projecting revenues, as weather and other factors can impact usage and can result in reduced revenue. Mr. McKnight also highlighted an item which was scheduled for the Council Meeting that evening regarding a principal interest payment for stormwater. ***Presentation only. This item was already scheduled for the Council Meeting on May 21, 2019.***

#### **5. A presentation regarding code enforcement. (19-065) ([1:31:40](#))**

Carrie Walls, Zoning Administrator, outlined the areas of enforcement and provided information about rates of different types of enforcement for the last three years and year-to-date information for 2019. Ms. Walls felt that rates of occupancy compliance was an indication that implementation of the rental and disclosure document has been effective. Ms. Walls also highlighted improvements with the code enforcement officers with their newly instituted uniforms. The Zoning division has also worked to create a database of abandoned or vacant properties in conjunction with the Community-Oriented Policing and Customer Service departments. This has been an effective tool to allow COP officers to monitor the security of such properties from vandalism or squatters. It has also allowed Zoning to oversee overall maintenance of the property if there is an absentee property owner. They intend to continue such collaborative efforts across departments.

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Ms. Walls shared details on a recent initiative to improve the quality of rental properties in the city. The Leisure Village mobile home park, off Geneva Road and close to the Provo River, is the first area of focus. The Zoning division will work their way through that mobile home park to ensure whether or not housing units are in violation of zoning codes and to help improve the quality of life for the residents there. Most of the mobile home parks are not in the best condition, while some are in good condition. They hope to improve the overall quality of life in these areas, and to establish standards for the tenants and property owners to understand. There has been a lot of police activity in the Leisure Village area, as well as illegal activities such as people living in sheds; by focusing on this area, Ms. Walls hopes they can encourage residents, tenants, and owners to improve the general standard in the mobile home park.

Councilors discussed code enforcement efforts, sharing comments and asking questions, including:

- Councilor Gary Winterton complimented the zoning staff on their understanding approach to individual circumstances. He felt this went a long way in fostering trust with residents.
- In response to a question from Mr. Winterton, Ms. Walls highlighted some resources such as Redevelopment Agency funds available to owner-occupants, Habitat for Humanity's mobile tool shed, and neighborhood opportunities to participate in cleanup projects. Ms. Walls emphasized that her staff's number one goal was compliance, but that they work to assist and guide residents as best they can to resources and other people or organizations who can help them to reach a state of compliance.
- Several Councilors asked about turnover of enforcement staff and whether salary was a factor. Ms. Walls explained that a higher salary may have influenced some staff, but she explained that the nature of the work was often thankless and therefore had a lot of turnover. On good days, it can be very rewarding work based on positive interactions with the public and residents who zoning staff have been able to help. Councilors George Stewart and David Sewell specifically expressed support of exploring a plan to promote tenure and longevity (compensation and other factors).
- Mr. Winterton asked about anonymous reporting of zoning issues. Ms. Walls and Gary McGinn, Community Development Director, explained how the ability to report complaints anonymously assisted the Zoning division's effectiveness. Brian Jones, Council Attorney, explained that typically prosecution was based on the report and research of the code compliance officers. The accused had a right to know who was reporting the accusation; if zoning officers could not corroborate the existence of a violation, then information may be needed from the complainant's account to proceed with prosecution. Mr. McGinn explained that many violations are only discovered through an anonymous report to Zoning.
- Councilor David Harding expressed that the end goal for adding more zoning officers was to encourage greater degrees of compliance. Ms. Walls explained how a higher level of staffing allowed them to increase outreach and informational efforts to educate the public.
- Councilor David Knecht noted that the Council wanted to conduct a housing audit, which would be an advantageous tool in identifying owner-occupied versus rental units.
- Mr. Harding observed that the City's ability to maintain compliance in the community was connected to the effectiveness of the City in addressing affordable housing. Mr. Harding shared feedback on the public expectations from the Zoning division and how to build trust both with residents submitting complaints and those working toward reaching compliance.
- Councilor George Stewart observed the shift in dynamic that occurred after recent outreach efforts; it seemed that the public was much more engaged in voluntary compliance.

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Ms. Walls explained that they were transitioning to using ‘code compliance officers’; they felt that compliance has a more positive connotation than enforcement and she hoped that residents had positive experiences with the Zoning division. Ms. Walls also expressed the need and desire to hire code compliance officers who speak Spanish. Overall, Ms. Walls felt that continuity in staffing would be the most helpful overall for their continued success, but that staffing was harder to control and anticipate. Staff are currently stretched thin covering the caseload of the two vacant positions. Ms. Walls also highlighted some additional changes she would like to see, including expanded certification and training for code officers and some adjustments in the city code to make various provisions more objective for enforcement purposes. Mr. McGinn explained that as the Zoning division has become more involved with licensing, it has shifted the landscape of their hiring process due to the change to job requirements; a large part of what Zoning staff do involves researching property uses, land uses, and licensing requirements. ***Presentation only.***

### **6. A presentation regarding the implementation of the General Plan. (19-066) (2:51:18)**

Cliff Strachan, Council Executive Director, presented. Mr. Strachan thanked Rachel Woerner, Council Intern, and Hannah Salzl, Policy Analyst, who have completed much of the work to prepare this review and evaluation. Mr. Strachan noted that this was the first comprehensive review of all the implementation steps. Of the implementation steps, 28 items were completed, 345 were ongoing, 13 were currently in progress, and 34 items were not yet started. Mr. Strachan noted that there were budget implications for different projects and different implementation steps; some that have not been started may be addressed in future budget proposals. Mr. Strachan highlighted notes for goals which were categorized as not started. Mr. Strachan also expressed appreciation to the Administration and department directors for their cooperation and assistance in conducting this review; it was a lengthy process and they have made a great team effort. ***Presentation only.***

## **Policy Items Referred from the Planning Commission**

### **7. A discussion regarding the adoption of a Supplementary Residential (S) Overlay Zone in a One-Family Residential (R1.8) Zone located at approximately 244 E 2100 N. Pleasant View Neighborhood. (PLRZ20190094) (3:04:16)**

Dustin Wright, Planner, presented on this request for an overlay zone for 32 homes in the Pleasant View Neighborhood. The Planning Commission recommended approval.

Councilor Gary Winterton expressed that he was generally supportive of the proposed change, but he was concerned about the potential to create non-conforming uses with the probable changes and recommendations coming forward from the Housing Committee regarding the A and S overlay. Brian Jones, Council Attorney, clarified that the changes to the Rental Dwelling License process would not be impacted by a non-conforming use status; it was a licensing requirement that would be required of any rental. Several other Councilors asked questions regarding the pending legislation with the A and S overlay and Mr. Jones elaborated on considerations with the timing of the other changes. Several Councilors asked questions and shared comments about parking. Mr. Jones clarified that an accessory dwelling unit can only have 2 people under the new legislation, unless they could identify that there was sufficient required parking for 4 people.

## *Pending minutes – awaiting approval*

Councilor George Handley shared a concern from Rachel Luke, Rock Canyon Neighborhood Chair, regarding parking on 2320 North. Mr. Handley didn't know whether this specific proposal would impact 2320 North, but he wanted to acknowledge Ms. Luke's concerns and ask to the degree that the Council felt those concerns were legitimate, what should be done to rectify them. Councilors David Knecht and David Sewell felt that it could be a good opportunity to address the ongoing concerns on 2320 North. Mr. Sewell felt, however, with the majority of homes in the affected area of the Pleasant View Neighborhood in support, it was important not to delay. Councilor David Harding echoed concerns about the parking and traffic on 2320 North. Councilors discussed several ideas for mitigating the ongoing concerns, but noted that exploring a viable solution would likely take more time. Mr. Winterton noted that this item was scheduled at the Council Meeting that evening and he wondered whether it should be continued.

**Motion:** George Stewart moved (a) to continue that hearing of this item, with Council Chair David Harding announcing before the Council Meeting public comment period that the item has been continued; (b) to take public comment as part of the presentation for item 13 on the Council Meeting agenda; and (c) to indicate that when the item comes back to a future Council Meeting there will be a full opportunity to participate in the public hearing process. Seconded by David Knecht.

**Vote:** Approved 7:0.

### **8. A discussion regarding a General Plan amendment to add the Utah Transit Authority Station Area Plan to the Downtown Master Plan as an appendix. City-wide impact. (PLGPA20190059) ([3:34:45](#))**

Javin Weaver, Planner, presented. Mr. Weaver explained that when the Downtown Master Plan had been adopted several years ago, it had referenced transit-oriented areas. Mr. Weaver shared elements of the UTA Station Area Plan, which showed a concept plan and site diagram for a potential 20-year build-out. Councilors shared comments and asked questions. Several Councilors expressed concern about owner-occupancy in the area and whether the ITOD zone should be adjusted to require some kind of permanent residency. Councilor David Harding noted that perhaps that should be addressed separately; he felt that including this plan as a component of the Downtown Master Plan would help communicate to developers what the City hopes to see in the area. *Presentation only. This item was already scheduled for the Council Meeting on May 21, 2019.*

### **9. A discussion regarding a zone change from Regional Shopping (SC3) to Health Care Facilities Zone (HCF) for 22.12 acres, and to Campus Mixed Use (CMU) for 8.94 acres, located at 178 E 1860 S. East Bay Neighborhood. (PLRZ20180321) ([3:42:06](#))**

Josh Yost, Planner, presented. This zone change has been requested to facilitate the development of the medical school in East Bay, which follows on the heels of a General Plan amendment which was previously approved by the Council. Mr. Yost said that one Planning Commissioner had expressed concern about the designation for housing in the area; specifically, their concerns stemmed from the amount of rental housing being developed in the City and whether this specific site were a suitable location for housing, due to the seeming isolation from amenities, daily needs, and the lack of proximity to other residences. Besides this concern, the proposal received an otherwise positive recommendation from the Planning Commission.

## *Pending minutes – awaiting approval*

Councilors asked additional questions about the proposal and shared comments, including:

- Councilor Gary Winterton asked about drainage and sewer issues with the property. Mr. Yost indicated that the developer has proffered a development agreement to formalize their commitment to handle the required infrastructure improvements. There were some significant on- and off-site utility demands that would need to be constructed, having not been originally contemplated for this area.
- Councilor David Harding acknowledged the concerns raised by the Planning Commissioner regarding the suitability of the area for housing. Mr. Harding felt that the City should be careful about creating pockets or islands of residential areas, where nothing in the surrounding area was intended or designed for residential use. Mr. Harding felt that this situation was different, as it was student housing located next to the school. With the proximity to UVX, residents could be connected to the needed goods and services. He was concerned, though, if other residents chose to live there if not associated with the school. He was confident that the operators of the medical school would maintain a high caliber of housing, as it served as a gateway to their medical school.
- Mr. Winterton asked about the density. Mr. Yost explained that the developer has made changes to the proposal consistent with forthcoming changes to the Campus Mixed Use zone. The density would have a feel similar to that of Joaquin Village and Liberty Place.

*Presentation only. This item was already scheduled for the Council Meeting on May 21, 2019.*

**10. A discussion on a zone change request from One-Family Residential (R1.10) to Light Manufacturing (M1) for approximately 7.7 acres of land located at approximately 1060 E 1320 S. Spring Creek Neighborhood. (PLRZ20190117) ([3:51:02](#))**

Dustin Wright, Planner, presented. The property in question was subdivided from the Pro-Steel property. The Southeast Area Neighborhood Plan suggests medium-density residential as the goal in this area and the City rezoned the property from M1 to R1.10 to preserve residential uses until a plan for medium-density residential was submitted. The applicant has requested to change it back to M1, but does not yet have a project plan proposal. Staff felt that the proposal was not consistent with the neighborhood plan and the Planning Commission has recommended denial. Councilor David Knecht shared insight from the neighborhood meeting; the applicant has made this request at a previous time and the Council denied the request before. *Presentation only. This item was already scheduled for the Council Meeting on May 21, 2019.*

### **Closed Meeting**

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with § 52-4-204 and 52-4-205 et. seq., Utah Code. *None requested.*

### **Adjournment**

*Adjourned by unanimous consent.*

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** DMORTENSEN  
**Department:** Finance  
**Requested Meeting Date:** 09-24-2019

**SUBJECT:** A discussion regarding the carryover of certain Fiscal Year 2018-2019 budget amounts into Fiscal Year 2019-2020. (19-098)

**RECOMMENDATION:** Information only, no action required.

**BACKGROUND:** Provo City's Fiscal Year 2018-2019 budget ordinance allows for the carryover of certain approved unused budgeted amounts into Fiscal Year 2019-2020. All unused capital improvement fund budgets may be carried into the new year. Unused budget amounts from all other funds may also be carried over into the new year with the approval of the Mayor. The purpose of this presentation is to inform the City Council of the amount and nature of the capital improvement and operating carryovers.

**FISCAL IMPACT:** No impact on budget totals.

**PRESENTER'S NAME:** David Mortensen

**REQUESTED DURATION OF PRESENTATION:** 15 Minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-098

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** BMUMFORD  
**Department:** Council  
**Requested Meeting Date:** 09-24-2019

**SUBJECT:** A discussion regarding defining over-occupancy as a nuisance. (19-094)

**RECOMMENDATION:** Information only. If Council is interested in moving this to a Council Meeting for formal action, a motion will be required.

**BACKGROUND:** In Provo City Code there are differing items which have been listed as a "nuisance." There are advantages that Provo City Enforcement gains by having over-occupancy on the list of nuisances. By placing over-occupancy as a nuisance creates a more effective way to enforce.

**FISCAL IMPACT:** None

**PRESENTER'S NAME:** Marcus Draper

**REQUESTED DURATION OF PRESENTATION:** 20 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-094

### **7.01.020. Nuisances Defined.**

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

- (1) A condition that causes visual blight, is offensive to the senses, creates a harborage for rodents or pests, or detrimentally affects property in the surrounding neighborhood or community.
- (2) A condition that impairs the reasonable and lawful use of property.
- (3) A condition that unreasonably or unlawfully affects the health or safety of one or more persons.
- (4) A fire hazard as defined in the Uniform Fire Code.
- (5) Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
- (6) Noxious weeds located on vacant lots or other property, along public sidewalks or outer edge of any public street, or weeds in any other location which constitutes an unreasonable fire hazard or is contrary to the purpose of this Chapter.
- (7) Keeping or storing of any refuse and waste matter which interferes with the reasonable enjoyment of nearby property.
- (8) Polluted or stagnant water which constitutes an unhealthy or unsafe condition.
- (9) Accumulation of soil, litter, debris, plant trimmings, or trash, on sidewalks, in vestibules, doorways, passages, breezeways, parking areas or any public right-of-way or alley.
- (10) Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.
- (11) Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, ponds, abandoned foundations or excavations, or improperly maintained pools in violation of Section 14.34.210, Provo City Code.
- (12) Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.

(13) Any front yard or street side yard area which causes excessive dust due to non-maintenance or other cause, or which contains the accumulation of debris.

(14) The keeping, storing, depositing or accumulating on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights-of-way.

(15) The leaving of any garbage can or refuse container in the street, other than on collection day, for more than twenty-four (24) hours after collection day.

(16) Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery.

(17) Improper maintenance of a sign; or signs which advertise a business that is no longer operating on the property or advertising a product that is no longer sold on the property.

(18) Improper storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles or vehicle parts, including recreational vehicles.

(19) Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

(20) Graffiti which remains on the exterior of any building, fence, sign or other structure and is visible from a public street.

(21) Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

(a) Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;

(b) Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of Title 14, Provo City Code, or any use of land, buildings or premises in violation of Title 15, Provo City Code;

(c) Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or other conditions violate conditions as listed in Subsection (1) above;

(d) Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair.

(e) Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass;

(f) Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to violate Subsection (1) above; and

(g) Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by Provo City.

(22) Occupancy of any dwelling in excess of the permissible occupancy limits.

(2223) Any violation of the Provo City Code expressly declared to be a public nuisance.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** WAYNEP  
**Department:** Mayor Office  
**Requested Meeting Date:** 09-24-2019

**SUBJECT:** A discussion regarding proposed amendments to Personnel Policies in Title 4. (19-082)

**RECOMMENDATION:** Discuss needed changes to Title 4 to bring the code into harmony with current administrative policies and practices.

**BACKGROUND:** This is a continuation of a discussion from the Work Session on July 9, 2019.

As the Administration was preparing for implementing changes to leave policies that were proposed with the annual budget this year, we noted a number of inconsistencies between current practices and some older provisions of the Municipal Code in Title 4. Many of the personnel provisions in Title 4 are no longer in alignment with standard personnel policies and administrative practices and are somewhat antiquated. Daniel Softley would like to visit with the Council about some of these specific inconsistencies and propose some text changes to Title 4 for future council action. He will bring a specific list to the meeting for discussion and to get direction. A few of these include:

- A provision that "total remuneration" to employees cannot exceed the amount in the pay plan when for many years bonuses, temporary acting pay, sick leave buy back and other programs technically are not in alignment with the code
- Leave administration practices that have evolved over time that are no longer technically in compliance with older provisions of the code
- A requirement that all new employees start at step 1 of their ranges while for at least 20 years, starting wage for a new employee has been based on experience, market and other factors that have helped us attract and retain quality employees. The police lateral program established last year, for example, would not be in keeping with the strict interpretation of Title 4.

We will be prepared to go through all of these issues and seek direction from the Council members in preparing changes to Title 4 for consideration at the following Council meeting.

**FISCAL IMPACT:** None

**PRESENTER'S NAME:** Daniel Softley

**REQUESTED DURATION OF PRESENTATION:** 20 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
Vision 2030: Goal 14.4 - Promote strategies to ensure a highly trained, dedicated and fairly compensated group of public employees in Provo.

**CITYVIEW OR ISSUE FILE NUMBER:** 19-082

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ORDINANCE 2019-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING  
PERSONNEL POLICIES IN TITLE 4. (19-082)

WHEREAS, there is a proposal to amend Provo City Code Title 4 (Personnel Regulations) to bring code into harmony with current administrative policies and practices; and

WHEREAS, with the change in code, the administration would implement changes to leave policies and several other inconsistencies that have resulted over the years as personnel policies have been updated; and

WHEREAS, on September 24, 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) an amendment to Provo City Code Title 4 (Personnel Regulations) 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 Title 4 (Personnel Regulations) 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.

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

45

46 END OF ORDINANCE.

Chapter #11  
**APPEALS TO THE CIVIL SERVICE COMMISSION**

11-1. EMPLOYEE APPEALS. Any person in the Civil Service who is suspended for a period which exceeds three days or 24 working hours, reduced, demoted, or removed may within five (5) days after notice of such action, appeal to the Commission.

11-2. APPLICANTS AND ELIGIBLES APPEALS. Any applicant for examination and any eligible candidate may appeal to the Commission from any order of the Director entered under these rules by which the applicant or candidate was affected adversely.

11-3. NOTICE OF APPEAL. A signed written notice of appeal must be filed with the secretary of the Commission. The Notice shall show wherein it is contended the action (if other than for a suspension, reduction, demotion or dismissal) adversely affects the appellant.

11-4. JURISDICTION. The Commission shall first make a determination as to its jurisdictional rights to hear the particular matter and if it determines that it has the jurisdiction to proceed, shall notify the employee, the department Chief and the Director of the time and place of the holding of a hearing.

11-5. POWERS OF COMMISSION. For good cause shown, upon written petition duly filed and served on the adverse party, or on its own motion, the Commission may make such orders as it deems necessary extending the time limit by these rules within which any party shall be required to act except the time to appeal, and may require or permit the taking of depositions, the preservation of the evidence, the subpoenaing of witnesses, the assignment of a pre-hearing investigation and such other matters or things as it deems necessary or desirable for the best interest of the parties, the public, and for the full hearing and determination of the matters. The Commission may hold a pre-hearing conference to frame the issue to be tried and to explore the possibility of obtaining admissions of fact from either party, and if such conference is held, it shall enter an order stating the issues and any admission or stipulations of fact. In framing the issues it may, in the interest of justice and when it deems such action to be for the good of the service, consider any relevant issues. All matters before the commission shall be decided by the preponderance of the evidence.

11-6. HEARING-PROCEDURE. The hearing of said matter shall be at a time, place, and day fixed by the Commission, before such member or members of the Commission who may be delegated to hear the same. The Commission shall determine at the hearing the procedure to be followed, which except as herein otherwise provided, as nearly as the Commission shall deem practicable, shall follow the Utah Rules of Civil Procedure. Said hearing shall be informal or formal to be determined by the Commission and shall be conducted in such a manner as to determine reasonably the facts and circumstances related to the action under review. If a formal hearing is deemed necessary, see formal hearing guidelines attached to these regulations. Such hearing shall be open to the public, and any party may be represented by legal counsel. The department Chief shall be represented by the City Attorney.

11-7. DECISION-SCOPE OF ORDER OR REVIEW. The Commission shall fully hear and determine matters appealed to it and it may not only determine the factual questions involved, but also whether or not the facts justify the action taken by the appointing authority. The Commission shall have the power to either affirm the department Chief or to reverse the charges made by the department Chief but this power shall not be construed to confer upon the Commission the right to impose a new or different penalty than that imposed by the department Chief.

11-8. COMMISSION'S FINDINGS. The finding and decision of the Commission shall be made in writing and shall be certified to the department Chief from whose order the appeal is taken.

11-9. RECORDING OF PROCEEDINGS. Every hearing shall be electronically recorded. The recording shall be preserved for five (5) years and shall not be opened for inspection except by order of the Commission or of a court of competent jurisdiction.

11-10. EVIDENCE. At all hearings, the Commission shall determine the admissibility of evidence and shall use as near as it deems practicable the rules of evidence followed in the Courts of Utah.

11-11. SWEARING OF WITNESSES. Every witness at a hearing before the Commission shall first be sworn to testify truthfully as provided in Utah State Code. The oath may be administered by a member of the Commission.

11-12. HEARING BEFORE LESS THAN A QUORUM-PROCEDURE. The Commission may in its discretion order that the hearing of any appeal be conducted by one of the Commissioners. Where such hearing is conducted by one commissioner, final determination of the appeal shall be made by a quorum of the Commission from the files, reported transcripts, or record of testimony, and the exhibits introduced at said hearing.

11-13. DECISION. Following deliberation by the Commission, which may be held in closed session, the Commission shall announce a decision and issue a written findings of fact and the decision in the action. The Commission may direct the prevailing party to draft findings of fact and the decision for review and adoption by the Commission. A majority of the Commission may render the decision.

11-14. FURTHER APPEAL. The decision of the Commission shall be binding, unless appealed within ten (10) days by either party to the Mayor, who shall review the appeal for procedural correctness and may either affirm or remand the decision of the Commission. The subsequent decision of the Mayor shall thereafter be binding upon all of the parties.

  
\_\_\_\_\_  
Commission Chair

  
\_\_\_\_\_  
Date

Provo City  
Human Resources  
**MEMORANDUM**

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**To:** Provo City Municipal Council  
**From:** Daniel Softley, Human Resources Director   
**Subject:** *Summary of Proposed Title 4 Changes*  
**Date:** September 17, 2019

As a follow up to our previous discussions, I have reviewed Title 4 of the Provo City Code and am proposing several amendments that (1) clarify that personnel policies apply to both classified and unclassified civil service; (2) consolidate language regarding unclassified civil service into one section; (3) update the list of department heads in conjunction with the recent implementation of development services; (4) make reference to personnel policies for leave accrual rates and usage guidelines rather than restating them in City code, including adding language requiring Council appropriation if future changes impact the budget; and (5) make non-substantive changes for clarity and to be consistent with existing practice and policy. Although there are minimal substantive changes, I have prepared this summary memo to assist you in discerning between what language has been added and what has just been moved to another section.

**Reorganizing Sections of Title 4**

- Title 4 currently has separate sections for *Classified Civil Service*, *Unclassified Civil Service* (includes rules and practices that also apply to the Classified Civil Service), *Unclassified Civil Service Appeals*, and *Pay Plans*.
- Proposal moves all Unclassified Civil Service language into one section and creates a separate Employee Rules and Practices section that covers all employees.
- Green font means the language has not changed but is being moved from a different section of the Code.

**Retitled Department Director to Department Head**

- Change made throughout Title 4 to be consistent internally and with State Code.

**4.01.010 Classified Civil Service**

- Listed what actions can be appealed (copied language from adopted civil service rules).

**4.02 Unclassified Civil Service**

- Updated list of department heads.
- Added existing language about grievance procedures and appeal boards from 4.03.

#### **4.03 Employee Rules and Practices**

- Added existing language about employee rules (such as leaves, residency, etc....) from 4.02.
- Removed specific accrual rates for leaves in favor of reference to “approved rates specified in Provo City Personnel Policy. This is similar to the State’s practice. Added language requiring Council appropriation if future changes exceed approved budget.
- Employees immediately eligible to use vacation from date of hire.
- Employees ineligible to receive payout of unused sick and vacation leave balances upon termination if they have not completed new hire probation. Change made in response to the City’s new policy of front-loading the first 6 months of leave at the time of hire.

#### **4.04 Pay Plans**

- Made several minor changes for sake of clarity, including (1) authorizing department heads to place new hires in pay range based on experience rather than requiring placement at the first step; (2) clarifying that total remuneration refers to base pay; (3) referring to personnel policy for how to enact transfers, demotions, and promotions; (4) clarifying that all overtime worked must be paid; (5) clarifying that non-executive employees can also be designated as FLSA exempt; and (6) allowing the occupational index to be revised throughout the year and approved annually by the Council.
- Raised limit on comp time accrual balances to be consistent with personnel policy.

Thank you for your review of the proposed changes. I look forward to discussing them with you in more detail during Council meeting.

## LEAVES OF ABSENCE

It is the policy of Provo City to grant extended leaves of absence to qualified employees under circumstances that will not be adverse to the interests of the City, or as may be required by law. Leaves granted under provisions of the Family and Medical Leave Act of 1993 (FMLA) are not covered under this policy but are regulated by Policy #019A.

### 1. **Conditions**

a. Any full-time regular employee with one (1) year of continuous service, unless otherwise provided by policy, may be granted a leave of absence of the types specified herein at the discretion of the Department Director. Leaves of absence will not exceed one (1) year in duration unless otherwise specified and approved.

b. Requests for leaves of absence or extensions of leaves should, when possible, be made thirty (30) days prior to commencement of leave on forms provided by the Human Resources Division. All requests must be approved by the Department Director and the Human Resources Division. Employees must report any change in status of their need for leave or their intentions to return to work to the Human Resources Division.

c. Except as may otherwise be specified in this policy, employees will not receive compensation, leave accumulations, or City contributions to benefits during unpaid leaves of absence. Also except as provided by policy, if leave without pay is to exceed twenty-one (21) consecutive calendar days, the anniversary and review date(s) of the affected

employee will be adjusted forward an amount of time equivalent to the length of the leave of absence.

d. Prior to the start of any unpaid leave of absence, an employee must use all accrued vacation leave and compensatory time. (Note: This stipulation does **not** apply to Worker's Compensation related leave per Policy #021, or unpaid military leave as discussed herein.)

e. During any leave of absence without pay, an employee will be allowed to continue his/her group medical, dental, and life insurance coverages by paying the full (employee and employer) amount of the premium due. The employee will assume all responsibility should coverage be allowed to lapse during a leave of absence. Lapses in coverage may create "pre-existing condition" liabilities for the employee.

f. Employees returning from a leave of absence will be reinstated to the same job or to an equivalent job with equivalent status and pay, as required by law. If the same job or one of equivalent status and pay is not available because of a reduction in force, the employee will be treated in the same manner as though he/she were not on leave at the time of the reduction in force. (See Policy #034, Personnel Reduction Procedures.)

g. Employees on an approved leave of absence may not perform work for any other employer during the leave, except for military leaves.

h. An employee on leave of absence may not move in and out of pay status at his/her own convenience, and if he/she fails to return to work at the conclusion of a leave of absence or any approved extension, the employee will be considered to have voluntarily terminated employment with Provo City.

## 2. **Categories of Leave**

a. Parent Leave. The City desires to provide additional, paid leave to full-time

employees for the birth or adoption of a child. Employees are eligible upon hire; no minimum time in service is required. Such leave, if eligible, will run concurrently with FMLA. As with FMLA, it is expected the employee intends to return to City employment upon completion of the leave. Employees who fail to do so, or who terminate employment within thirty (30) days after returning from such leave, may be required to refund the value of the paid leave provided.

(1) An employee who gives birth to a child (the “birthing parent”) will be eligible for 120 hours of paid time (159 for Fire Service personnel on modified work schedules) to recover from the birth (birthing-related medical leave or Birthing Parent Leave). Such time will apply to the first 120 hours (or 159 as applicable) of leaves used (excluding holiday as referenced below) and cannot extend past 8 weeks from the date of the birth.

(2) The birthing parent, or an employee with whom a child is placed for adoption or whose spouse or legal partner gives birth (the “non-birthing parent”) will be eligible for 40 hours (or 53 for Fire Service personnel on modified work schedules) of paid time (Parent Leave). Such time must be fully used within 4 weeks from: the conclusion of the Birthing Parent Leave, for the birthing parent; or the date of the birth or adoptive placement of the child(ren), for the non-birthing parent(s).

(3) The following conditions will apply to leave under this section:

(a) must be formally requested as part of the leave application;

(b) will be provided as used; will not be banked, converted to other leave types, or paid out in lieu of time off;

(c) is not considered as time worked for purposes of computing overtime.

(4) If an observed holiday falls within a Parent Leave period, it will be taken as holiday and not count toward the parent-time hour allotment. (This does not apply to public safety personnel who receive up-front holiday hours per policy #017.)

(5) Any additional leave time needed will be governed by the applicable Personnel Policy(ies).

b. Post-FMLA Leave. An employee may be granted an unpaid Post-FMLA leave beyond the twelve (12) week FMLA entitlement, up to one year, for the same family or medical purpose as the FMLA leave and at the discretion of the Department Director and the Division Director - Human Resources. Said Directors must make a determination of need and a finding that the City service will not be adversely affected. Provo City will not guarantee reinstatement to the same or an equivalent position, nor continuation of paid benefits, beyond the twelve (12) week FMLA entitlement except as provided in this policy. Continuation of COBRA coverage can be provided during Post-FMLA leave, if the employee elects to pay all related premium costs.

c. Organ Donor Leave. An employee who serves as a bone marrow or human organ donor shall be granted leave for the donation and recovery as provided herein. Such leave will be treated as sick time off and be governed by Policies #15, Sick Leave, and #019A, Family and Medical Leave, as eligible. If an employee does not have sufficient leave accumulations, unpaid or donated leave may be requested as provided by policy.

(1) An employee who serves as a bone marrow donor shall be granted a leave of absence of up to seven (7) calendar days as necessary for the donation and recovery from the donation.

(2) An employee who serves as a donor of a human organ shall be granted

a leave of absence of up to thirty (30) calendar days as necessary for the donation and recovery.

d. Court Leave. An employee may be granted court leave in obedience to an official notice or subpoena to serve as a prospective or active juror, or as a witness in a court action to which he/she is not a party. The notice or subpoena must be shown to the employee's supervisor as soon as possible to allow sufficient time to accommodate the absence.

The City or the employee may request an excuse from jury duty if, in the opinion of the Department Director, the employee's absence would create serious operational difficulties.

An employee serving as a juror or a witness is entitled to paid leave; however, employee must provide the payroll department with a copy of their jury check upon receipt. The employee's next regular paycheck will be reduced by such amount. Said fees may be retained by an employee if he/she chooses to use accrued vacation leave or compensatory time while on jury or witness duty in lieu of receiving paid time.

Notation will be made on the time and attendance report for the days of court leave granted to the employee while absent from his/her regularly scheduled duties.

If the employee is not selected to serve as a juror or is released from testimony, he/she is required to return directly to duty if released during scheduled working hours.

Court Leave will not be granted for an appearance related to a civil or criminal case in which the employee has a direct interest; nor will Court Leave be granted for appearances in which the employee is paid an expert witness fee or which are part of the employee's official duties with the City of Provo.

e. Military Leave. An employee receiving orders for military duty should give

notice to the City as far in advance as is reasonable under the circumstances. Notice may be oral or written by the employee or on the employee's behalf by an "appropriate officer" that is a commissioned, warrant, or non-commissioned officer. The City may also contact an appropriate officer for clarification and/or confirmation.

(1) Annual Paid Military Training: Any full-time regular employee who is a member of a reserve unit of the United States Armed Forces or State National Guard shall be permitted up to three (3) weeks (or its equivalent\*) of paid leave per calendar year at an annual encampment or training. Such time does not apply to Active Duty/Extended Leave.

\* **Equivalent** = 120 hours for conventionally scheduled workers; 159 hours for Firefighters; and 128 hours for Police Officers assigned alternative work periods available under the Fair Labor Standards Act, Section 7(k).

In order to receive the applicable paid leave time, the employee must provide Human Resources **AND** his/her Department Director official written notice prior to the leave from an appropriate officer, otherwise the time off will be unpaid or employee can elect to use accrued leave time (other than sick leave). Compensation will be subject to timely compliance with the provisions of this policy. The respective department will not submit the employee's time for pay, absent his/her compliance.

Compensation shall be at the employee's regular base rate of pay from the City. No salary may be claimed for non-working days spent in training.

(2) Extended Leave: A leave of absence of up to five (5) years will be granted to any employee who enters any branch of the United States Armed Services or is called up to active or extended duty. Employees will have the option of using their accumulated vacation and compensatory time as needed to supplement their military

income, or retaining their unused leave balances until such time as they return to employment. The employee will be reinstated to his/her former position or to a comparable position if application for re-employment is made within 90 calendar days of the date of an honorable discharge or a return from active to reserve status.

Retirement, medical/health insurance coverage, leave accruals, and other similar vested benefits will be maintained by the City during the time an employee is on paid military leave. During out-of-pay status, employees performing military service may elect to continue their health plan coverage for up to 24 months at their own expense as provided by USERRA and administrated by the City's COBRA administrator. Retirement contributions, seniority, and status will be retained in accordance with USERRA guidelines.

If a holiday occurs while an employee is on paid military leave, the day will be counted as military leave, and the employee will be allowed to take another day off in lieu of the holiday upon returning from military duty.

Military leave will not be considered hours worked for the purposes of computing overtime.

Should a conflict in City policy arise, the City will comply with USERRA guidelines.

f. Educational Leave. Upon written application, a full time regular employee, at the discretion of the Department Director, may be granted educational leave without pay for a period not to exceed 90 calendar days without prejudice to his/her status. Employees must first use all available accrued vacation leave and compensatory leave to be eligible to receive such leave status. No vacation leave, sick leave, or holiday pay credit will accrue during any such leave. The employee will, within 30 days after the beginning of such leave, furnish proof to the Department Director from the institution

attended that he/she is enrolled as a student in good standing.

g. Time-Off to Vote. Employees may be granted time off during working hours to vote on an election day. Leave will be given with pay if the employee applies for such time off prior to the day of the election and receives supervisor approval for the actual time he/she will be absent from employment. Voting absences of two (2) hours or less will not be charged against leave accruals of the employee.

For positions designated as emergency response or where coverage requirements for critical services exist, registered employees residing outside Provo city limits may be given time while on duty to obtain and vote by absentee ballot. Absentee ballots may be downloaded from the Internet or are available at the Utah County Building at 100 East Center Street, Provo, Utah, 84606. Employees will need to make arrangements with their supervisor to vote or obtain an absentee ballot.

h. Funeral Leave. Where death occurs in the immediate family of an employee, the Department Director may authorize a maximum of three (3) working days (36 duty hours for Firefighters) leave with pay, which leave shall be charged to the employee's option of accumulated sick leave, vacation leave, or compensatory time. For funeral leave purposes only, immediate family will mean spouse, parent, sibling, child, grandchild, grandparent, aunt, uncle, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law and sister-in-law.

  
\_\_\_\_\_  
Mayor Michelle G. Kaufusi

5.15.19  
\_\_\_\_\_  
Date

# LEAVE REQUESTS

Employee Name \_\_\_\_\_ Date \_\_\_\_\_

Department \_\_\_\_\_ Job Title \_\_\_\_\_

I request time off work for the following reason(s):

## FMLA LEAVE REQUEST

**FAMILY MEDICAL LEAVE ACT (FMLA):** The City provides 12 workweeks of Family and Medical Leave of absence without pay to eligible employees who are temporarily unable to work due to:

- \_\_\_ the birth or adoption of a child or placement of a child for adoption or foster care;  
\_\_\_ to include Parent Leave as provided for in policy (being expressly requested as signified here);
- \_\_\_ the care for a spouse, son, daughter or parent with a serious health condition; or,
- \_\_\_ a serious health condition making the employee unable to perform one or more of the essential functions of his/her job.
- \_\_\_ a spouse, son, daughter or parent called to active military duty in the Armed Forces
- \_\_\_ the care of a covered service member who is a spouse, son, daughter or parent shall be entitled to a total of 26 workweeks of FMLA during a 12-month period.

The employee ordinarily must provide 30 day's advance notice for FMLA leave. Provo City is required to maintain group health insurance coverage for an employee on FMLA leave on the same terms as if the employee continued working. Employees on paid leave will have insurance premiums deducted from their paycheck as usual. **Employees who are on unpaid FMLA leave will be required to pay their share of health insurance premiums.** Employees using FMLA must exhaust all accrued leave as part of the family leave prior to going on unpaid leave. Any employee who terminates within thirty (30) days of returning from FMLA leave without pay will be required to refund the cost of health benefits paid during said leave.

Only the above mentioned circumstances qualify an employee to take FMLA. The Provo City FMLA policy prohibits employees from pursuing other employment or education while on FMLA. An employee who fraudulently obtains FMLA is not protected by FMLA's job restoration or health benefit provisions.

***MEDICAL CERTIFICATION IS REQUIRED WITHIN 15 DAYS OF FMLA APPROVAL***

## NON-FMLA LEAVE REQUEST

**REASON FOR OTHER LEAVE:** \_\_\_\_\_

Comments: \_\_\_\_\_

Leaves of absence are not regarded as an acquired right by employees and are granted only when City service will not be adversely affected. Such leave will not be granted unless there is a positive expectation that the employee will return to work at the end of said leave. If granted, the leave of absence is not to exceed one (1) year unless otherwise approved.

Birthing Parent Leave, if applied, must be used prior to other leave types. Leave without pay may not be granted until all accrued vacation leave and compensatory time have been used. No leave types, including holiday, will accrue during unpaid leaves of absence. If unpaid leave exceeds 21 calendar days, the anniversary date and evaluation date for merit increases will be adjusted forward accordingly.

Anticipated Begin Date: \_\_\_\_\_ Anticipated Return Date: \_\_\_\_\_

I certify I am eligible for the above leave requested. I have read and understand the conditions noted above.

\_\_\_\_\_  
Employee's Signature

## **SICK LEAVE**

Sick leave is a form of insurance to protect the employee from loss of income due to illness, injury, or family emergency. Sick leave is earned and accumulated so the employee will have pay during leave for a bona fide condition specified herein, up to the amount of time indicated in his/her sick leave balance.

### **1. Accrual**

a. Eligible employees working on a full-time basis will accrue 3.6924 hours per biweekly pay period (96 hours annually). Fire Service personnel on modified work schedules will accrue 5.5386 hours per biweekly pay period (144 hours annually). All accruals are prorated based on eligible employees receiving a full 80 hours (106 for Fire Service personnel) of paid time in a pay period.

b. Newly-hired full-time employees will receive the equivalent of 13 pay periods of sick leave accruals at the commencement of employment. Sick leave will then start to accrue at the rate specified above on the 14th pay period of full-time employment.

c. Sick leave will accrue without limit.

### **2. Use**

a. Sick leave is to be used as time off with pay for legitimate absences for any of the reasons set forth herein. The practice of using sick leave before it is placed in the employee's leave bank is not permitted.

b. Upon approval of the Department Director or a designee, accrued sick leave will

be granted to an employee only for the following:

(1) To recover from or receive treatment for a personal medical or dental condition of the employee,

(2) To care for a newborn child or a newly adopted child, or

(3) To care for an immediate family member's (spouse, child, or parent) health condition.

An employee needing to use sick leave for situations stated in paragraphs (1), (2), or (3) above may be eligible for benefits provided by the Family and Medical Leave Act (FMLA) of 1993. (See Personnel Policy #19A, Family and Medical Leave)

c. An employee who is absent for a legitimate sick leave purpose is required to arrange for a telephone report to his/her supervisor within one hour of the beginning of the work day. Any employee absent at the start of his/her shift due to a personal illness or injury who recovers sufficiently during the course of the shift to report for work is required to do so. In such a situation, the employee involved will be charged only for actual sick leave used.

d. An employee absent for a legitimate sick leave purpose must use accrued sick leave for that purpose unless otherwise provided for in policy. Upon exhaustion of all accrued sick leave, the employee may utilize accrued vacation or compensatory time.

e. If an observed holiday falls within a sick leave period, it will be taken as holiday and not count as sick time. (This does not apply to public safety personnel who receive up-front holiday hours per policy #17)

f. Sick leave will not be granted to any terminating employee who becomes sick after the last day worked.

g. Any employee willfully abusing sick leave privileges or using sick leave for an unauthorized reason will be subject to disciplinary action. Authorization for outside employment may be revoked if such employment activity impedes the employee's recovery and return to City employment. (See Personnel Policy #52, Conflicts of Interest)

### 3. **Physician's Certificate**

a. The Department Director and supervisor are charged with the responsibility of approving or not approving sick leave requests. Evidence in the form of a physician's certificate **must** be submitted to the employee's department upon returning to work when there is an absence of five (5) or more consecutive days, and/or whenever there is reason to believe that sick leave privileges are being abused. A supervisor may require the submission of a physician's certificate following an absence of three (3) or more days if, in his/her judgement, the circumstances of the absence warrant it. Any approved absence beyond the accrued sick leave credit will be charged to the employee's accrued compensatory time and/or vacation leave accumulations until all such balances have been exhausted. Upon expenditure of all paid leave accruals, the Mayor or Chief Administrative Officer may, upon Department Director recommendation, authorize a leave-without-pay status not to exceed one (1) year. (For Family and Medical Leave Act provisions, see Policy #19A)

b. In no case will sick leave be granted where an employee fails to obtain and submit, where required, a physician's certificate.

c. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual except as specifically

allowed by this law. To comply with this law, employees should not provide any genetic information when responding to any request for medical information. "Genetic Information" as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

#### 4. **Entitlement**

a. Except as herein provided, all employees will be paid annually on or before the twentieth day of December, 50% of sick leave accrued and not used for the previous 12-month period ending the twenty-third pay period in November. The remaining 50% of unused sick leave accruals during the previous 12-month period shall remain in the accumulated total. An exception to this buyout is provided to employees with less than 200 hours of accrued sick leave as of the annual buyout calculation date. These employees may elect not to be paid any accrued and unused sick leave during the time period described above. The election shall be made by notifying the Human Resources Division in writing prior to the calculation date. In calculating payment under this section, any sick leave used in the 12-month period for on-the-job injuries, funeral, and/or donated leave shall not be included in the calculation of the annual buyout provided the previous year's accumulated total is sufficient to cover such time.

b. Any eligible employee who voluntarily resigns or retires in good standing or from City employment with less than twenty (20) active, full-time years of City service shall receive payment for twenty-five percent (25%) of total unused sick leave accrued. Such

payment will be at the employee's base rate on the last day worked prior to termination.

c. Any employee who is laid off due to a reduction in force or who voluntarily resigns or retires from City employment in good standing with twenty (20) or more active, full-time years of City service shall receive payment of a sum equal to fifty percent (50%) of unused sick leave accruals at the employee's base rate on the last day worked prior to termination.

d. In the event of an employee's death while in City service, the employee's beneficiaries or estate shall be entitled to a sum equal to fifty percent (50%) of unused sick leave accruals at the base rate of the employee at the time of his/her death.

e. An employee discharged for cause, or an employee who has not successfully completed an original probationary period, shall not be eligible for any sick leave buyout.

## **5. Leave Donation**

a. A leave transfer program is established whereby sick leave, vacation leave, or compensatory time may be donated by individual employees from their option of personal leave accruals to another employee who is experiencing a medical emergency. A medical emergency must be documented by a physician, be likely to require an employee's absence from duty, and result in loss of income because of the unavailability of accrued sick, vacation, and compensatory time. Donation of leave is contingent upon proper application and subject to the approval of the employee's Department Director.

b. A potential leave recipient may receive up to 200 hours of donated leave for any given medical emergency. Any donations beyond 200 hours in any given medical emergency will require approval of the Mayor or Chief Administrative Officer. The potential recipient must exhaust all available vacation, sick, and compensatory accruals

before becoming eligible for donated leave. Individual employee donations will be accomplished through deductions from leave accruals at the time of the biweekly payroll and on such forms as the Director may specify. Donations may not exceed 40 hours per donor per medical emergency, and the donor may donate only unused sick, vacation, or compensatory leave that is in his/her account at the time of donation. No donated leave may be restored to the donor once it is transferred.

c. A potential leave recipient must, if medically capable, submit a written application to his/her Department Director. This application must include documentation from a physician indicating the employee's inability to perform the duties of the position, the prognosis, anticipated duration of the condition, if it is a recurring condition, and the approximate frequency of the medical emergency.

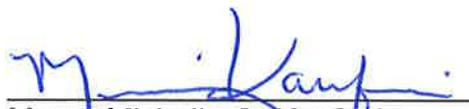
d. The Department Director will review the leave transfer application to determine the severity of the hardship situation, whether the medical emergency could have been foreseen by the employee, and the extent to which the hardship situation is within the control of the employee. A copy of the application, including the Department Director's decision and all affidavits for donated sick leave, will be forwarded to Payroll.

e. The leave recipient is required, if medically capable, to submit to his/her Department Director a report on the status of the medical emergency on biweekly intervals. Failure to do so may be cause to suspend leave privileges.

f. Leave accrued while using donated leave will be used by the leave recipient before further donated time is used.

g. Leave recipient status ends on the date set forth on the application for donated leave, or at the end of the pay period in which the leave recipient notifies the Department

Director that his/her medical emergency is over. If the leave recipient terminates employment during the period of medical emergency, donated leave will not be included in any lump-sum payment pursuant to Section 4 of this policy.

  
\_\_\_\_\_  
Mayor Michelle G. Kaufusi

7 - 1 - 2019  
Date

## VACATION LEAVE

The purpose of the vacation leave benefit is to allow each employee time away from their job for rest, recreation, and pursuit of non-employment objectives.

### 1. Accrual

a. Eligible employees working on a full-time basis for their first five years of employment will earn vacation leave at the rate of 3.8462 hours per biweekly pay period.

Commencing on the first day of the sixth year of full time regular employment, each eligible employee in the City service will earn vacation leave at the rate of 4.4616 hours per biweekly pay period.

Commencing on the first day of the eleventh year of full time regular employment, each eligible employee in the City service will earn vacation leave at the rate of 5.3847 hours per biweekly pay period.

Commencing on the first day of the sixteenth year of full time regular employment, each employee in the City service will earn vacation leave at the rate of 6.9231 hours per biweekly pay period.

All accruals are prorated based on eligible employees working a full 80-hour pay period.

Adjusted accrual rates are maintained for Fire Service personnel on modified work schedules as follows:

Eligible employees working on a full-time basis for their first five years of

employment will earn vacation leave at the rate of 5.7693 hours per biweekly pay period.

Commencing on the first day of the sixth year of full time regular employment, vacation leave will be earned at the rate of 6.6924 hours per biweekly pay period.

Commencing on the first day of the eleventh year of full time regular employment, vacation leave will be earned at the rate of 8.077 hours per biweekly pay period.

Commencing on the first day of the sixteenth year of full time regular employment, vacation leave will be earned at the rate of 10.3847 hours per biweekly pay period.

b. Newly-hired full-time employees will receive the equivalent of 13 pay periods of vacation leave accruals at the commencement of employment. Vacation leave will then start to accrue at the rate specified above on the 14th pay period of full-time employment.

c. An employee shall accrue vacation leave as set forth herein, but shall reduce total accrued leave to 320 hours (480 hours for Fire Service personnel on modified work schedules) no later than December 31 of each calendar year. The employee may accrue leave in excess of 320 hours after the reduction deadline, but must again reduce to the 320 hour limit by the following reduction deadline. Accrued leave unused and in excess of 320 hours as of the reduction deadline shall be forfeited.

## 2. Use

a. Vacation leave is available for use once placed into an employee's leave bank. It shall not be used prior to its accumulation.

b. The time when vacation leave will be taken is determined by the Department Director after considering department operational needs. The Department Director will provide opportunity for each employee to use vacation leave each year at least to the extent of the employee's vacation rate of accrual.

c. The Department Director may require an employee to take vacation leave whenever in his/her judgement such action would be in the best interest of the employee and/or the City.

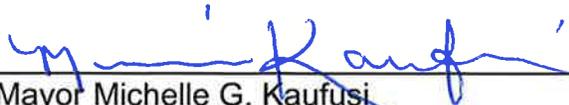
d. Observed holidays falling within a vacation leave period will be taken as holiday and not charged as vacation time. (This does not apply to public safety personnel who receive up-front holiday hours per policy #17)

e. Terminating or retiring employees will not be allowed to use any accumulated vacation leave benefits following the last day in which they physically report for duty. An exception may be granted by the Mayor or Chief Administrative Officer for situations in which the separation of employment has been necessitated by the employee's personal serious medical condition.

**3. Entitlement**

a. Upon separation from service for any cause, an employee will be paid in lump sum 100% of any unused, vacation leave accumulated through the last day worked provided the employee has successfully completed the original probation period. Such payment shall be at the employee's base rate on the last day worked prior to termination.

b. In the event of the death of a person while in the employ of the City, this lump sum payment shall be made to the employee's beneficiaries or estate.

  
\_\_\_\_\_  
Mayor Michelle G. Kaufusi

7-1-2019  
\_\_\_\_\_  
Date

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** HSALZL  
**Department:** Council  
**Requested Meeting Date:** 09-24-2019

**SUBJECT:** A discussion regarding an improvement agreement to construct a road in the Mountain Vista Business Center. (19-099)

**RECOMMENDATION:** Information only. This item is scheduled to be heard in the Council Meeting this evening.

**BACKGROUND:** Economic Development has requested a discussion regarding a resolution authorizing the Mayor to sign an improvement agreement with Scannell Properties and Hall Labs, a developer who is purchasing over 60 acres of land at the Mountain Vista Business Center and their long-term tenant. As a matter of sequence, Provo City will sell the parcel to Hall Labs who in turn will sell it to Scannell Properties. They intend to develop a business park consistent with the rest of the surrounding business park. Their plans for the 130,000 square foot building are currently in the development review process.

A new road will need to be constructed to access the interior of the parcel. The project is anticipated to cost \$3.6 million, with half coming from a matching grant with the U.S. Department of Commerce Economic Development Administration (EDA). The City will use a portion of the proceeds from the sale of the land to pay the remaining half (\$1.8). Hall Labs will purchase the parcel before the construction of the road, but would like an improvement agreement with the City. The City has already signed a Notice of Award with the EDA and so would not be committing any more to Hall than has already been committed to the EDA.

In order to facilitate the sale before the Work and Council Meetings on September 24, Economic Development has prepared a Memorandum of Understanding. The memorandum states the following, among other things:

1. Provo City has signed a Notice of Award with the EDA for the construction of the road,
2. the road in on our Local and Collector Street Master Plan, and
3. Provo City intends to build the road to the interior of the parcel as described above.

Timing is of the essence because this property falls within a federally establish Opportunity Zone which provides major tax relief for capital gains investments. However, there are also established timeframes for deploying capital which Hall Labs and Scannell Properties are fast approaching.

Economic Development is certain that the sale of the land would proceed if there were no need for the road.

**FISCAL IMPACT:** \$1.8 million

**PRESENTER'S NAME:** Dixon Holmes and Camille Williams

**REQUESTED DURATION OF PRESENTATION:** 20 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-099

1 RESOLUTION 2019-

2  
3 A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT  
4 REGARDING CONSTRUCTION OF A ROAD IN THE MOUNTAIN VISTA  
5 BUSINESS CENTER. (19-099)  
6

7 WHEREAS, Hall Property Holdings has been in negotiation to purchase approximately  
8 57.9 acres of real property generally located in the southern portion of the Mountain Vista  
9 Business Center which it is negotiating to then sell to SPHL Properties, LLC (Scannell  
10 Properties); and  
11

12 WHEREAS, Scannell Properties has submitted development plans for a business park  
13 consistent with the rest of the surrounding business park for the development review process; and  
14

15 WHEREAS, the property under negotiation will require the construction of a city road  
16 that is anticipated to cost \$3.6 million, for which Provo City has been awarded a matching grant  
17 from the United States Department of Commerce Economic Development Administration to pay  
18 \$1.8 million; and  
19

20 WHEREAS, it is proposed that the City enter into an improvement agreement with Hall  
21 Property Holdings and Scannell Properties regarding the construction of the road; and  
22

23 WHEREAS, on September 24, 2019, the Municipal Council met to ascertain the facts  
24 regarding this matter and receive public comment, which facts and comments are found in the  
25 public record of the Council's consideration; and  
26

27 WHEREAS, after considering the facts and comments presented to the Municipal  
28 Council, the Municipal Council finds the proposed Improvement Agreement reasonably furthers  
29 the health, safety, and general welfare of the citizens of Provo City.  
30

31 NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as  
32 follows:  
33

34 PART I:  
35

36 The Mayor is hereby authorized to sign the Improvement Agreement with Hall Property  
37 Holdings, LLC and SPHL Properties, LLC as set forth in Exhibit A.  
38

39 PART II:  
40

41 This resolution shall take effect immediately.  
42

43 END OF ORDINANCE.

GRANT  COOPERATIVE AGREEMENT

**FINANCIAL ASSISTANCE AWARD**

FEDERAL AWARD ID NUMBER  
05-01-05894; URI:112132

RECIPIENT NAME  
**Provo City Corporation**

PERIOD OF PERFORMANCE  
**August 15, 2018 - February 15, 2023**

STREET ADDRESS  
**351 West Center Street**

FEDERAL SHARE OF COST  
\$ **1,819,227**

CITY, STATE, ZIP CODE  
**Provo, Utah 84601**

RECIPIENT SHARE OF COST  
\$ **1,819,228**

AUTHORITY  
**Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 5301-5305)**

TOTAL ESTIMATED COST  
\$ **3,638,455**

CFDA NO. AND NAME  
**11.300, Public Works**

PROJECT TITLE  
**Mountain Vista Business Park infrastructure improvements**

This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.

- DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS (31 March 2017)
- R & D AWARD
- FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE
- SPECIAL AWARD CONDITIONS
- LINE ITEM BUDGET
- 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101
- 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES
- MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIAL AWARD CONDITION.
- OTHER(S): EDA Standard Terms and Conditions for Construction Projects (February 12, 2016)

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SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER

**Angela B. Martinez, Regional Director**

*Angela B. Martinez*

DATE

**08/15/18**

PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

**Dixon Holmes, Division Director of Economic Development**

*Dixon Holmes*

DATE

*Sept 4, 2018*



United States Department of Commerce  
Economic Development Administration  
Denver Regional Office  
1244 Speer Boulevard, Suite 431  
Denver, Colorado 80204

August 15, 2018

In reply refer to:  
Investment No.: 05-01-05894

Dixon Holmes  
Division Director of Economic Development  
Provo City Corporation  
351 West Center Street  
Provo, Utah 84601

Dear Mr. Holmes:

The Department of Commerce's Economic Development Administration (EDA) has approved your application for a \$1,819,227 EDA investment for the infrastructure improvements to the Mountain Vista Business Park.

Enclosed are two signed copies of the Financial Assistance Award. Your agreement to the terms and conditions of the award should be indicated by the signature of your principal official on each of the signed copies of the Financial Assistance Award. One of the executed copies should be returned to the Economic Development Administration. If not signed and returned within 30 days of receipt, EDA may declare the Award null and void.

Please do not make any commitments in reliance on this award until you have carefully reviewed and accepted the terms and conditions. Any commitments entered into prior to obtaining the approval of EDA in accordance with its regulations and requirements will be at your own risk.

EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Through strategic investments that foster job creation and attract private investment, EDA supports development in economically distressed and other areas of the United States.

EDA shares your expectations regarding the impact of this investment and looks forward to working with you to meet the economic development needs of your community.

Sincerely,

A handwritten signature in black ink that reads "Angela B. Martinez". The signature is written in a cursive style with a large, looping "A" and "M".

Angela B. Martinez  
Regional Director

Cc: Cameron Christensen, Business Development Coordinator  
Trent Thompson, Economic Development Representative

Enclosures

GRANT  COOPERATIVE AGREEMENT

**FINANCIAL ASSISTANCE AWARD**

FEDERAL AWARD ID NUMBER  
05-01-05894; URI:112132

RECIPIENT NAME  
Provo City Corporation

PERIOD OF PERFORMANCE  
August 15, 2018 - February 15, 2023

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SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER

Angela B. Martinez, Regional Director



DATE

08/15/18

PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

Dixon Holmes, Division Director of Economic Development

DATE

GRANT     COOPERATIVE AGREEMENT

**FINANCIAL ASSISTANCE AWARD**

FEDERAL AWARD ID NUMBER  
**05-01-05894; URI:112132**

RECIPIENT NAME  
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OTHER(S): EDA Standard Terms and Conditions for Construction Projects (February 12, 2016)

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SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER

**Angela B. Martinez, Regional Director**



DATE

**08/15/18**

PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

**Dixon Holmes, Division Director of Economic Development**

DATE



**Planning Commission Hearing  
Staff Report  
Hearing Date: September 11, 2019**

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**\*ITEM # 4** Cortney Huber requests a Zone Change from Residential Agriculture (RA) to R1.10 for one acre of property, located at 674 E 3230 N. Edgemont neighborhood.  
PLRZ20190175

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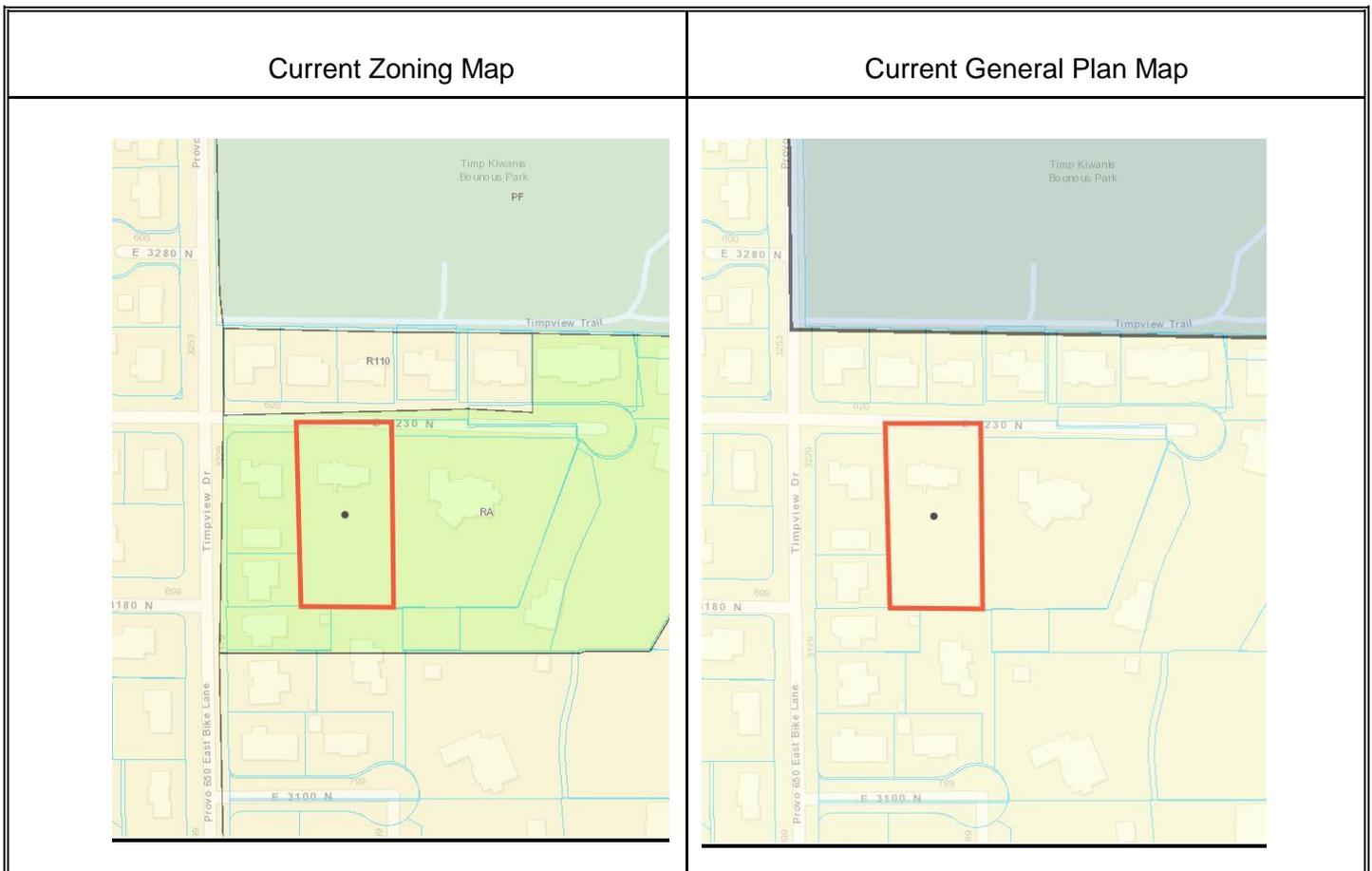
<p>Applicant: Cortney Huber</p> <p>Staff Coordinator: Dustin Wright</p> <p>Property Owner: Huber, Brad &amp; Cortney Parcel ID#:20:034:0010 Acreage:1.00 Number of Properties: 1 Number of Lots: 3 Proposed Council Action Required: Yes</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <p>1. <b><u>Continue</u></b> the item to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is September 25, 2019 6:00 p.m.</i></p> <p>2. Recommend <b><u>denial</u></b> of the requested rezone. <i>This action <u>would not be consistent</u> with the recommendations of the Staff Report. The Planning Commission should <u>state new findings</u>.</i></p>	<p>Current Legal Use: One single-family residential agriculture parcel.</p> <p>Relevant History: The applicant has submitted a subdivision application PLFSUB20190190 for the three lots subject to approval of the rezone.</p> <p>Neighborhood Issues: A neighborhood meeting was held on July 2, 2019. Some neighbors expressed that they did not want to have the property rezoned.</p> <p>Summary of Key Issues:</p> <ul style="list-style-type: none"> <li>• The existing RA zone requires ½ acre lots.</li> <li>• The proposed R1.10 zone would allow the property to be divided into three lots.</li> </ul> <p>Staff Recommendation: That the Planning Commission recommend <b><u>approval</u></b> of the requested rezone from RA to R1.10 to the Municipal Council. <i>This action <u>would be consistent</u> with the recommendations of the Staff Report.</i></p>
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**OVERVIEW**

The applicant currently has a single-family home on an acre of land in the RA zone. The applicant would like to subdivide the lot into three lots. To accomplish this, she is requesting a rezone from RA, that requires half-acre lots, to R1.10, that requires 10,000 square-foot lots.

The existing home on the property would remain and become Lot 1. Two flag lots would be created behind Lot 1 with access from 3230 N. running parallel to the eastern boundary of the property.

The property has RA zone to the east and west and has R1.10 zone to the north and south.



## **RELEVANT HISTORY**

The applicant has submitted a subdivision application for the three lots subject to approval of the rezone.

## **FINDINGS OF FACT**

- RA zone requires half-acre lots (14.09.030).
- R1.10 zone requires 10,000 square foot lots (14.10.030).
- The existing home on the property would meet setback requirements for the R1.10 zone as proposed (14.10.080)
- The two flag lots would comply with 14.34.140 of the Provo City Code.
- A hammerhead on the flag lots will provide fire apparatus turnaround.
- Animals are not permitted in the R1.10 zone.

## **GENERAL PLAN POLICIES**

1.4.8.4 Maintain and encourage good quality, sustainable housing and infill developments.

## **STAFF ANALYSIS**

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

*Upon receipt of a petition by the Planning Commission, the Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010 of this Title and may approve, conditionally approve, or deny the preliminary project plan. Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan: **(Staff responses in bold)***

- (a) *Public purpose for the amendment in question. **The rezone request would allow for infill development that is generally consistent with the surrounding properties.***

- (b) *Confirmation that the public purpose is best served by the amendment in question. **There will be minimal impact created while allowing for infill development of a property that no longer is being used for agricultural use.***
- (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives. **The rezone would promote the goal in 1.4.8.4 to maintain and encourage good quality, sustainable housing and infill developments.***
- (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 seen issues with the timing of the request.***
- (e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies. **There would be no impact to articulated policies.***
- (f) *Adverse impacts on adjacent land owners. **There would be one additional unit allowed than what the existing zone would allow.***
- (g) *Verification of correctness in the original zoning or General Plan for the area in question. **The zoning is correct.***
- (h) *In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies. **N/A***

### **APPLICABLE ZONING CODES**

14.09 - RA zone

14.10 - R1.10 zone

14.34.140 – Flag Lots

### **CONCLUSIONS**

Staff finds that the proposed rezone request would allow for the applicant's property to be subdivided into 3 lots. The two flag lots would a third of an acre not including the pole portion of the lot. Across the street from this property is R1.10 zoning. Existing RA zoned properties will still be zoned RA and are not being altered by this rezone request.

Under the existing RA zone the property would be able to be divided into two lots, one of which would be a flag lot.

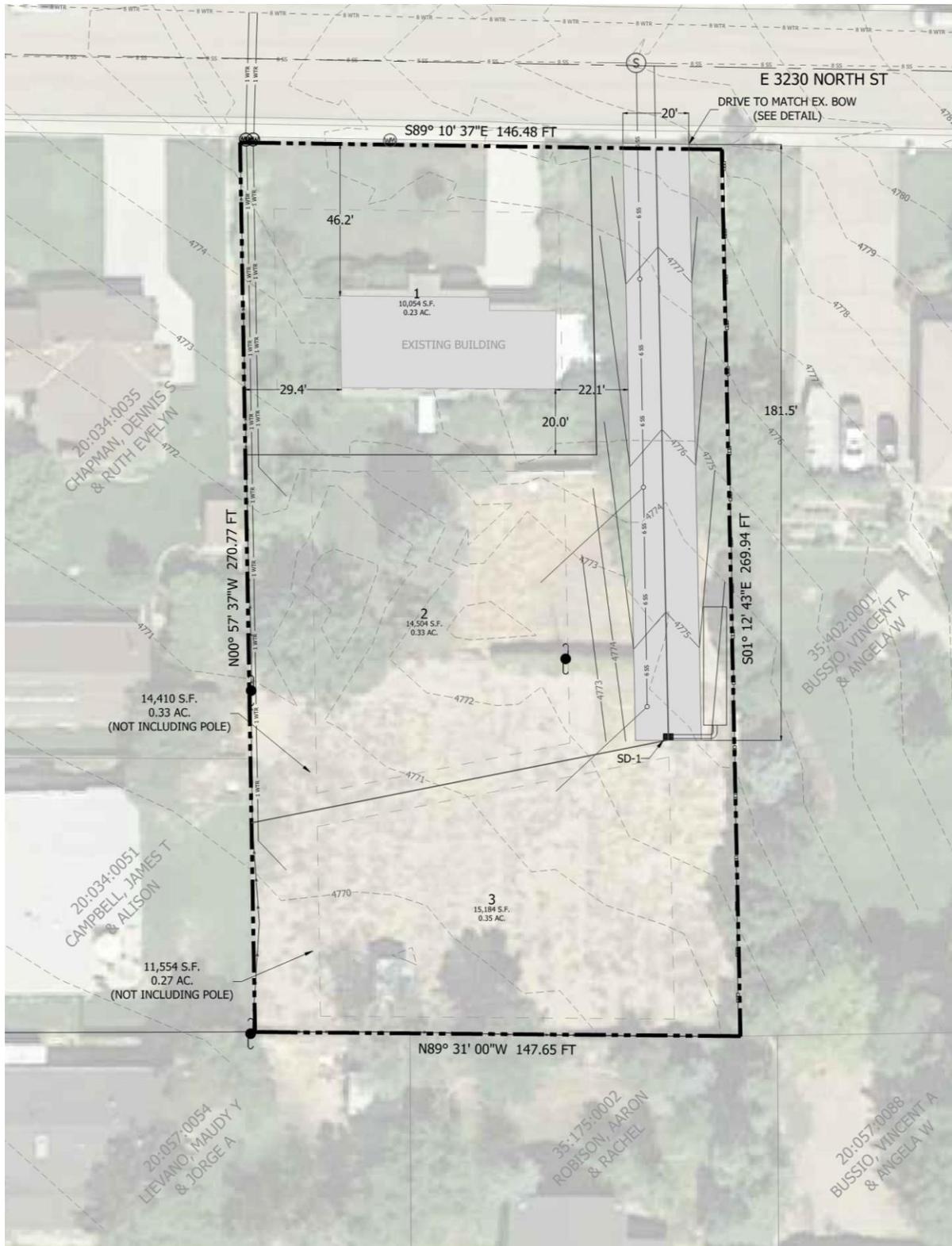
All three lots would comply with the R1.10 zone requirements in 14.10 of the Provo City Code and the requirements for flag lots in 14.34.140 of the Provo City Code.

### **RECOMMENDATION**

That the Planning Commission recommend **approval** of the requested rezone from RA to R1.10 to the Municipal Council. *This action would be consistent with the recommendations of the Staff Report.*

### **ATTACHMENTS**

#### **1. Proposed Lots**



ORDINANCE 2019-

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 1 ACRE OF REAL PROPERTY, GENERALLY LOCATED AT 674 EAST 3230 NORTH, FROM RESIDENTIAL AGRICULTURE (RA) TO ONE-FAMILY RESIDENTIAL (R1.10). EDGEMONT NEIGHBORHOOD. (PLRZ20190175)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 1 acre of real property, generally located at 674 East 3230 North (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 from Residential Agriculture (RA) to One-Family Residential (R1.10); and

WHEREAS, on September 11, 2019, the Planning Commission held a duly noticed public hearing to consider the proposal, and after such hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 6:0 vote; and

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

WHEREAS, on September 24, 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 described herein 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 classification on the Zone Map of Provo, Utah is hereby amended from the Residential Agriculture (RA) to the One-Family Residential (R1.10) Zone for approximately 1 acre of real property generally located at 674 East 3230 North, as described herein.

41 PART II:

42

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

45

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

49

50 C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo  
51 City, Utah be updated and codified to reflect the provisions enacted by this ordinance.

52

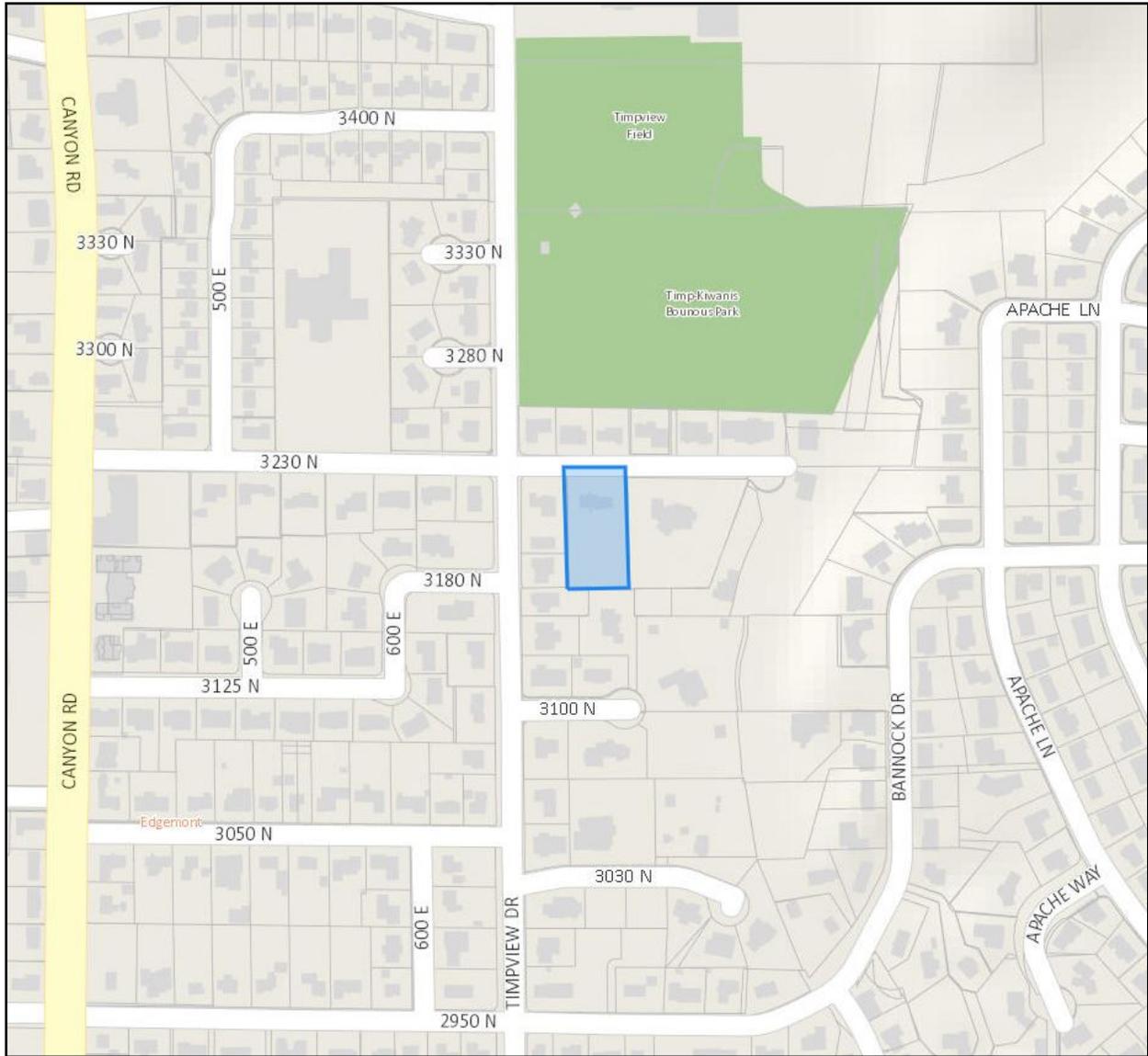
53 D. This ordinance shall take effect immediately after it has been posted or published in  
54 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah  
55 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

56

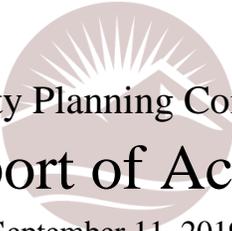
57 END OF ORDINANCE

58  
59

### EXHIBIT A



60



Provo City Planning Commission

# Report of Action

September 11, 2019

\*Item #4 Cortney Huber requests a Zone Change from Residential Agriculture (RA) to R1.10 for one acre of property, located at 674 E 3230 N. Edgemont neighborhood. PLRZ20190175

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The following action was taken by the Planning Commission on the above described item at its regular meeting of September 11, 2019:

## RECOMMENDATION FOR APPROVAL

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

### Conditions of Approval:

None

Motion By: Shannon Ellsworth

Second By: Robert Knudsen

Votes in Favor of Motion: Shannon Ellsworth, Robert Knudsen, Maria Winden, Deborah Jensen, Russ Philips, Laurie Urquiaga

*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.
- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not generally consistent with the Staff analysis and determination.

### LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the R1.10 Zone is described in the attached Exhibit A.

### RELATED ACTIONS

Final Subdivision PLFSUB20190190 is under review by CRC.

### APPROVED/RECOMMENDED OCCUPANCY

Detached single-family homes.

### APPROVED/RECOMMENDED PARKING

Parking to conform with R1.10 zoning requirements.

### **DEVELOPMENT AGREEMENT**

- Does not apply at this stage of review or approval.

### **STAFF PRESENTATION**

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

The applicant currently has a single-family home on an acre of land in the RA zone. The applicant would like to subdivide the lot into three lots. To accomplish this, she is requesting a rezone from RA that requires half acre lots to R1.10 that requires 10,000 square foot lots.

The existing home on the property would remain and become lot 1. Two flag lots would be created behind lot 1 with access from 3230 N. running parallel to the eastern boundary of the property.

The property has RA zone to the east and west and has R1.10 zone to the north and south.

### **CITY DEPARTMENTAL ISSUES**

- CRC approval on this rezone.

### **NEIGHBORHOOD MEETING DATE**

- A neighborhood meeting was held on 07/2/2019.

### **NEIGHBORHOOD AND PUBLIC COMMENT**

- The Neighborhood Vice-Chair was present /addressed the Planning Commission during the public hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

### **CONCERNS RAISED BY PUBLIC**

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

- A letter was received from a neighbor and in attached as exhibit B.
- The neighborhood vice-chair described how the neighborhood meeting went. She stated that the property may not be a full acre and therefore could not be split into two lots under the current zone. Asked if two flag lots could be next to each other. There would need to be some kind of hammerhead for turning around. Asked if the existing home would meet the setbacks of the new zone. Wanted to ensure that the driveway would be on the east side.
- A neighbor that was also at the neighborhood meeting recalled that only a couple of people on the street expressed concerns with the proposed rezone, but for the most part, neighbors are supportive of the rezone.

### **APPLICANT RESPONSE**

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

- Her parents are looking to age in place.
- This lot will allow her parents to build a home on one of the lots and then sell the third lot.
- The lot size would be more manageable for aging couple to maintain.
- The General Plan discusses a need to provide adequate housing for the growing population. This infill will be a responsible reinvestment into the neighborhood without changing the character. The General Plan states the importance of providing an optimal housing inventory so the neighborhood is vibrant and stable. The General Plan also states the goal to maintain and encourage good quality, sustainable housing and infill developments.

### **PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

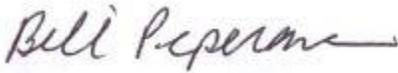
- Rezoning would allow them to get two flag lots instead on just one under the existing zoning.

- The driveway will not be on the west side of the property because there is not enough space for the two flag lots to combine the drive access.
- The cost of the rezone application was \$1,100.
- The lot with the existing home will still be able to comply with setback in the new zone.
- The flag lots will be able to comply with the code requirements.



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Planning Commission Chair



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Director of Development Services

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

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

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

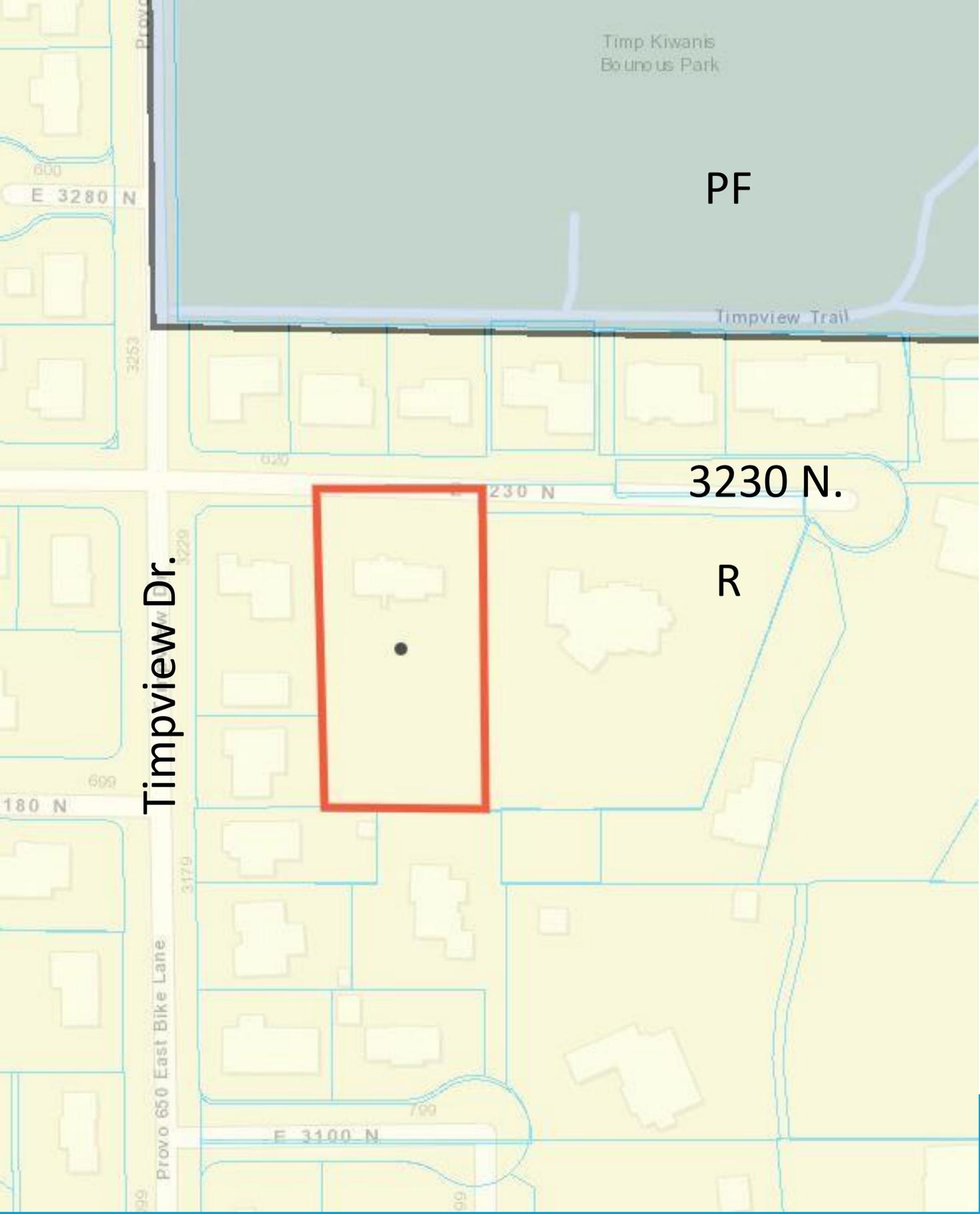
## ITEM 4\*

Cortney Huber requests a Zone Change from Residential Agriculture (RA) to R1.10 for one acre of property, located at 674 E 3230 N.

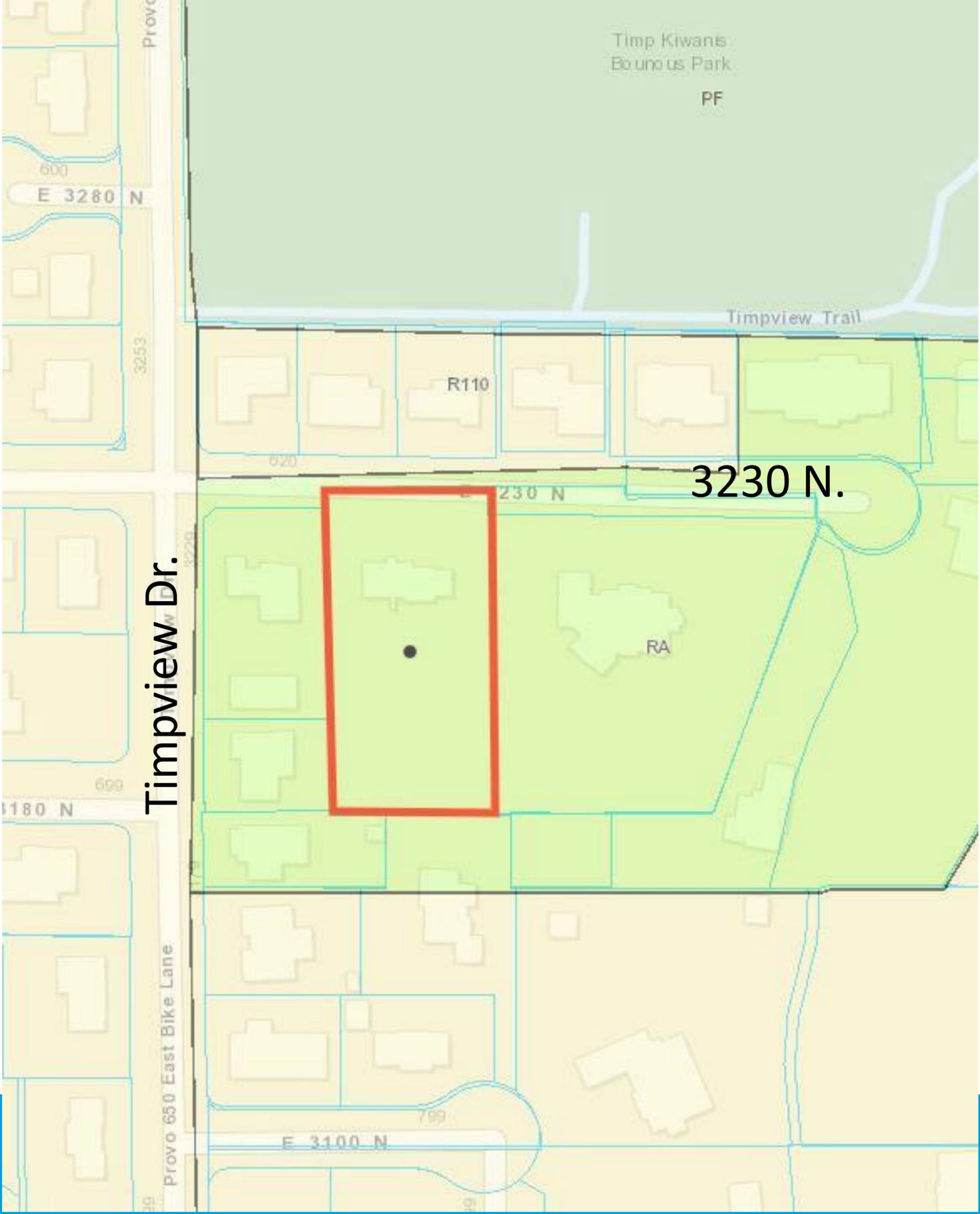
*Edgemont neighborhood*

PLRZ20190175

# General Plan Map



# Zoning Map



3230 N.

E 3230 NORTH ST

DRIVE TO MATCH EX. BOW  
(SEE DETAIL)

S89° 10' 37"E 146.48 FT

46.2'

1  
10,054 S.F.  
0.23 AC.

EXISTING BUILDING

29.4'

22.1'

20.0'

181.5'

20:034:0035  
CHAPMAN, DENNIS S  
& RUTH EVELYN

N00° 57' 37"W 270.77 FT

14,410 S.F.  
0.33 AC.  
(NOT INCLUDING POLE)

2  
14,504 S.F.  
0.33 AC.

35:402:0001  
BUSSIO, VINCENT A  
& ANGELA W

SD-1

20:034:0051  
CAMPBELL, JAMES T  
& ALISON

11,554 S.F.  
0.27 AC.  
(NOT INCLUDING POLE)

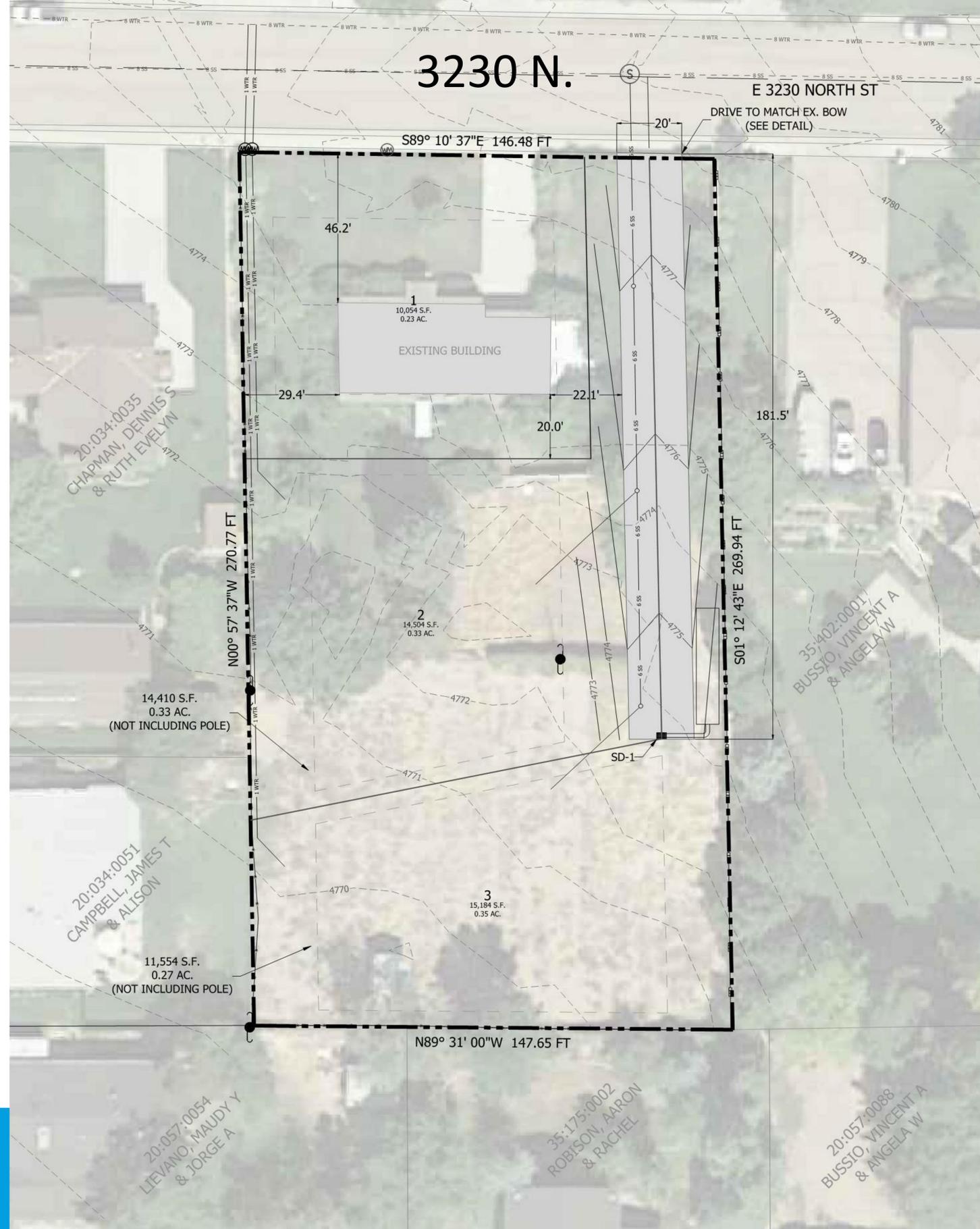
3  
15,184 S.F.  
0.35 AC.

N89° 31' 00"W 147.65 FT

20:057:0054  
LIEVANO, MAUDY Y  
& JORGE A

35:175:0002  
ROBISON, AARON  
& RACHEL

20:057:0088  
BUSSIO, VINCENT A  
& ANGELA W



**656 East 3230 North  
Provo, UT 84604**

**September 5, 2019**

**Dustin Wright  
Provo Community Development  
330 West 100 South  
Provo, UT 84603**

**Re: Zoning Change 674 East 3230 North**

**Dustin,**

**I purchased my home at 656 East 3230 North in Provo in 1972, primarily because it is a great home and is in an RA zone. Our neighbors, Ken and Ruth Cannon, kept livestock that our children greatly enjoyed and lovingly cared for the property**

**I greatly oppose the request to change from RA to R1.0.1 for the following reasons:**

- 1. A primary concern is public safety and the access to properties on flag-pole shaped lots.**
- 2. I believe allowing the change will adversely affect property values of all other owners on 3230 North east of 650 East**
- 3. As currently submitted the flag-pole street would place streets on three sides of our home. That is not acceptable.**
- 4. The petitioner, C. Huber, has already demonstrated unconcern for neighborhood values by not trimming fenceline bushes and shrubs that now encroach upon our property and allowing the south half of the property to be weed infested, allowing weed seeds to scatter through the neighborhood.**
- 5. Visitor parking to the proposed housing will be compromised due to the flag-pole access. Visitors will then park in the street making trash pickup, mail delivery, and street cleaning hazardous and random.**

**Thank you for your consideration.**

**Sincerely,**

*Jennia S. Chapman*



# Planning Commission Hearing Staff Report Hearing Date: June 12, 2019

**\*ITEM 1** The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as other related code sections pertaining to the S and A overlay zones. City-wide application. Brian Maxfield (801) 852-6429 PLOTA20190120

<p><u>Applicant</u>: Community Development</p> <p><u>Staff Coordinator</u>: Brian Maxfield</p> <p><u>Property Owner</u>: N/A <u>Parcel ID#</u>: City-Wide <u>Acreage</u>: N/A <u>Number of Properties</u>: N/A</p> <p><u>Current Zoning</u>: NA</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 May 8, 2019 at 6:00 P.M.</i></p> <p>2. <b>Recommend denial.</b> <i>This action <u>would not be consistent with the recommendation of the Staff Report.</u> The Planning Commission should <u>state new findings.</u></i></p>	<p><u>Relevant History</u>: This item continued at the April 24<sup>th</sup> and May 22<sup>nd</sup> meetings of the 2019 Planning Commission. Prior to the May 22<sup>nd</sup> meeting the proposed amendment was discussed in detail at the Planning Commission's Study Session.</p> <p><u>Neighborhood Issues</u>: This is a City-Wide issue. Several Neighborhood Chairs have inquired about the proposed amendment, and Paul Evans of the Pleasant View neighborhood submitted comments that were distributed to the Planning Commission and then reviewed in detail at the Planning Commission study session of May 22, 2019.</p> <p><u>Summary of Key Issues</u>: Appropriateness of new allowances regarding detached units and requirements for licensing.</p> <p><u>Related Items</u>: None</p> <p><u>Staff Recommendation</u>: <b>Recommend Approval</b> of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit "B."</p> <p><i>This action <u>would be consistent with the recommendations of the Staff Report.</u></i></p>
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## **OVERVIEW**

This item is an Ordinance Text Amendment to consolidate Chapter 14.30 S - Supplementary Residential Overlay Zone with Chapter 14.46 A - Accessory Apartment Overlay Zone, as well as adopt related amendments. This item was first heard at the April 24, 2019 Planning Commission meeting where it was continued to the May 22, 2019 meeting. The amendment was discussed in detail at the May 22, 2019 Planning Commission's Study Session along with the comments submitted by Paul Evans, the Pleasant View Neighborhood Chair. The item was then continued at the May 22<sup>nd</sup> meeting, to allow time for Staff to present the changes discussed at the study session.

Staff has made changes to the proposed amendment based on comments at the May 22, 2019 study session. These are indicated by the double-underline in blue within the attached Exhibit "B" to set it apart from that of Exhibit "A" that was included in the previous staff report and at the study session. The new changes are of two kinds: The first includes formatting and grammatical changes. These changes are indicated in Exhibit "B," but are not presented in this report.

The second group includes changes that add wording meant to clarify the intent of particular sections. These are further described in the following paragraphs numbered 1 to 3, along with staff's newly proposed changes shown in blue double-underline.

1. Adds "Apartment" after the word "Accessory" in the Title.

### **Chapter 14.30**

#### **S—Supplementary Residential and Accessory Apartment Overlay Zones.**

2. Addition of the term "Accessory Dwelling Unit (ADU)" to the definition section as an equivalent term for "Accessory Apartment."

#### **14.06.020. Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

"**Accessory Apartment**" or "**Accessory Dwelling Unit (ADU)**" means a subordinate residential living area created within conjunction with a one family dwelling which:

- (a) meets the requirements of the applicable zone where the accessory apartment is located; and
  - (b) has an interior connection between the one family dwelling and accessory apartment meets the requirements of Provo City Code Chapter 14.30.
3. Clarification changes added under Subsection "(2) Accessory Apartment Development Standards," located under "Section 14.30.030. Permitted Uses." They are detailed below with their intent and the fully amended text following.

- **(2)(b)(i)**: Changes wording that was awkward as it sounded as if parking might occur on the second floor of a garage or that the required covered parking had the possibility of being converted to living space;
- **(2)(b)(iv)(1)**: Clarifies the minimum lot standard applies to an accessory apartment rather than an accessory structure;
- **(2)(b)(iv)(2)**: Clarifies that a detached accessory apartment is also an accessory structure – basically, a detached accessory apartment can be either a stand-alone accessory structure, or else attached to an existing accessory structure;
- **(2)(b)(iv)(3)**: Clarifies that any accessory structure that is solely an accessory apartment or else an existing accessory structure to which an accessory apartment is added, must have a minimum setback of 10 feet from any property line, regardless of where the apartment is located within the structure;
- **(2)(b)(iv)(7)**: Basically allows shipping containers only as structural components, but must be clad with materials similar to the principal dwelling, and be architecturally compatible with the principal dwelling;
- **(2)(c)**: Clarifies the external evidence of the second unit being “from a street view” and also states “yard areas” instead of “exterior” of the property needed to be maintained.
- **(2)(k)(iii)**: Clarifies that any fee charged for a Rental Dwelling License is for the processing of the license, and not for the inspection of the unit; and,
- **(2)((k)(vi)**: Expands the term “Community Development” to “the Community Development Department.”

(2) Accessory Apartment **Development Standards**. Accessory apartments shall be ~~allowed only in one-family dwellings~~, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in **conjunction with** each one-family dwelling.;

(b) Location. ~~The a~~Accessory apartments may be located **only: in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;**

**(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or accessory unit does not otherwise disrupts required covered parking;**

**(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;**

**(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or**

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory structure apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and no nor less than 200 square feet in area;

(3) The A detached accessory structure apartment or a detached accessory structure containing an accessory apartment shall be setback from any property line a minimum of 10 feet have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations. ~~;~~ and

(k) Rental Dwelling License Accessory Apartment Permit. In accordance with Provo City Code Chapter 6.26, Aany person operating constructing or causing the construction of a one-family dwelling that has an

accessory apartment ~~under this Chapter or any person remodeling or causing the remodeling of a one family dwelling for an accessory apartment, or any person desiring an accessory apartment,~~ shall obtain ~~an accessory apartment permit~~ Rental Dwelling License (RDL) ~~from the Community Development Department.~~ Such ~~license permit~~ shall be in addition to any building permits that may be necessary. Before a ~~n~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

....

(iii) Pay an ~~inspection application~~ fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

....

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an the (S) overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

## **CONCLUSIONS**

Staff believes the proposed amendment, especially in regards to an allowance for detached accessory dwelling units, will work to provide additional and needed affordable housing options for areas in the City that allow accessory dwelling units. As the proposed amendment only affects areas that now allow at least one of the current options, it is not believed the joining of the two overlay zones will create new impacts on adjoining residential areas. Newly proposed areas will need to be examined and evaluated for resulting impacts as part of their approval process.

## **RECOMMENDATION**

**Recommend Approval** of the proposed Ordinance Amendment to consolidate the two current sections of the Zoning Ordinance, as well as the related amendments, as contained in Exhibit "B."

## EXHIBIT "B"

**Zoning Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as related amendments to Chapters 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5), 14.12A.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) regarding Permitted Accessory Uses; 14.32.050. Lot Area Per Dwelling Unit; 14.32.220(5) Caretaker Dwellings as an Accessory Use; 14.34.310-1 Minimum Floor Area; 14.34.440 Second Kitchen in One-family Dwellings; 14.37.060 Parking Spaces Required; 14.37.080 General Provisions; 14.37.100 Parking Design Standards; and 15.04.050 Density and Open Space Determination.**

### **6.02.010. Definitions.**

The following terms as used in this Title shall have the meanings indicated:

...

**"Rental dwelling"** means, ~~except as provided in Subsection (c) of this definition,~~ a building or portion of a building used or designated for use as a residence by one (1) or more persons that is:

- (a) Available to be rented, loaned, leased, or hired out for a period of one (1) month or longer; or
- (b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one (1) month or longer.

~~(c) An accessory apartment in an owner-occupied one family dwelling shall not be deemed a rental dwelling.~~

**"Short-term rental dwelling"** means a building or portion of a building, or a mobile or a manufactured home used, designated or designed for use as a residence by one (1) or more persons that is:

- (a) Available to be rented, loaned, leased, or hired out for a period of less than one (1) month; or
- (b) Arranged, designed, or built to be rented, loaned, leased, or hired out for a period of less than one (1) month.

### **6.26.010. Definitions.**

Words and phrases contained herein which are defined in Chapters [6.01](#) or 6.02 of this Title, or Chapter [14.06](#) of Title [14](#), as amended, shall have the meanings set forth in such chapters. If there is a conflict between definitions contained in Title 14 and definitions contained in this Title, the definitions in this Title shall govern for the purposes of interpreting this Title.

### **14.06.020. Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

**“Accessory Apartment”** or **“Accessory Dwelling Unit (ADU)”** means a subordinate residential living area created ~~within~~ conjunction with a one family dwelling which:

(a) meets the requirements of the applicable zone where the accessory apartment is located; and

(b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

...

**“Family,”** unless otherwise expressly provided in this Title, means:

(a) One (1) individual living alone; or

(b) One (1), but not more than one (1) at the same time, of the following groups of individuals described in Subsection (b)(i) or (ii) of this definition who together occupy a one-family dwelling unit as one (1) nonprofit housekeeping unit and who share common living, sleeping, cooking and eating facilities:

(i) A head of household and:

(A) All persons related to the head of household as a spouse, parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild by blood, marriage, adoption, guardianship, or any other duly authorized custodial relationship; and

(B) Not more than two (2) additional related or unrelated persons, including, but not limited to, personal care or personal service providers; or

(ii) Three (3) related or unrelated individuals and any children of either individual, if any.

(c) In applying this definition the existence of more than one (1) kitchen in a dwelling unit shall create a presumption that two (2) housekeeping units exist in the dwelling.

(d) “Family” does not include:

(i) Batching singles, as defined in this Section, even if related as set forth in Subsection (b)(i)(A) of this definition;

(ii) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;

(iii) Any number of individuals whose association is temporary or seasonal in nature; or

(iv) Any number of individuals who are in a group living arrangement as a result of criminal offenses.

...

#### **14.10.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted

principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.30.030.

...

#### **14.11.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(h) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

#### **14.12.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R2.5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

**14.12A.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R3 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.~~30~~46.030, ~~Provo City Code~~.

...

**14.13.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R4 zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(d) Home occupations subject to the regulations of Provo City Code Chapter 14.41, ~~Provo City Code~~;

...

(g) Accessory dwelling unit in an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14. ~~30~~46.030, ~~Provo City Code~~.

...

**14.14.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the R5 zone, provided they are incidental to and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(b) Swimming pools and incidental bath houses subject to the standards of Provo City Code Section 14.34.210, ~~Provo City Code~~;

...

(f) Accessory dwelling unit in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Section 14.3046.030, ~~Provo City Code~~.

...

### **Chapter 14.30**

#### **S—Supplementary Residential and Accessory Apartment Overlay Zones.**

- 14.30.010. Purpose and Objectives.
- 14.30.020. Use in Combination.
- 14.30.030. Permitted Uses.
- 14.30.040. Development Standards.
- 14.30.050. Area of Zone.
- 14.30.060. Petition for Zone Adoption.
- 14.30.070. Parking Requirements.
- 14.30.080. Nonconforming Uses.
- 14.30.090. Termination of Nonconforming Uses - Recovery of Investment.

#### **14.30.010. Purpose and Objectives.**

(1) The purpose of the Supplementary Residential (S) overlay zone is to recognize the unique character of Provo City as a "university community" and to accommodate supplementary living accommodations in some appropriate one-family residential areas of the community. These provisions are intended to meet community demands for residential accommodations for semi-transient residents in areas of the community adjacent to major educational and institutional uses. This overlay zone is designed to provide an alternative living environment for said semi-transient residents to that normally found within the higher density multiple residential zones. The (S) overlay zone will therefore protect and enhance the desirable aesthetic characteristics of the underlying one-family residential zone. An R1 zone with a Supplementary Residential (S) overlay as described in this Chapter is intended to continue the very low density of an R1 zone. The sole function of the overlay is to permit alternate methods of housing the occupancy otherwise permitted in an R1 zone.

(2) The Accessory Apartment (A) overlay zone is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of an accessory apartment in conjunction with one-family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartments; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.

#### **14.30.020. Use in Combination.**

(1) The ~~Supplementary Residential (S)~~ overlay zones described in this Chapter may be used only in combination with other zones as follows:

(a) the Supplementary Residential (S) overlay zone may be used only in combination with the ~~R1 (One-Family Residential) (R1)~~ zone; and ~~as designated herein~~

(b) the Accessory Apartment (A) overlay zone may be used only in combination with the Agricultural (A1), Residential Agricultural (RA), or One-Family Residential (R1) zones.

(2) The provisions of the ~~(S)~~ overlay zones shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the ~~(S)~~ overlay zones and the provisions of the R1 zone with which it is combined, the provisions of the ~~(S)~~ overlay zones shall be deemed controlling. The ~~(S)~~ overlay zones shall not be applied to any land area as an independent zone.

#### **14.30.030. Permitted Uses.**

(1) Permitted Principal Uses. Principal ~~U~~ses permitted in the ~~Supplementary Residential (S)~~ overlay zones described in this Chapter shall be limited to the following:

(a) Those uses listed as permitted principal uses in the underlying ~~R1~~ zone with which the overlay zone has been combined in accordance with Section 14.30.020; and

(b) Accessory apartments which meet the development standards of Subsection (2) of this Section, with a valid Rental Dwelling License.

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one family dwellings~~, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling;

(b) Location. ~~The a~~Accessory apartments may be located only: in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;

(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or accessory unit does not otherwise disrupts required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory structure apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and ~~no~~ nor less than 200 square feet in area;

(3) ~~The A~~ detached accessory structure apartment or a detached accessory structure containing an accessory apartment shall be setback from any property line a minimum of 10 feet have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations. ~~;~~ ~~and~~

(d) Occupancy. A one-family dwelling with an accessory apartment, which is authorized by and conforms to the requirements set forth in this section, shall, for purposes of this subsection, consist of two component parts: the one-family dwelling; and the accessory apartment. Those two parts shall be occupied as follows:

(i) Except as otherwise provided in subsection (iv), either ~~T~~the one-family dwelling or the accessory apartment shall be the owner's primary residence as defined in Provo City Code Chapter 14.06, Provo City Code. If this requirement is not met, no accessory apartment shall be permitted. The dwelling must be owner-occupied by:

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the head of household by marriage or adoption as a parent, child, grandparent, brother, sister, uncle, aunt, nephew, niece, great grandparent or great grandchild.~~

~~For purposes of this Subsection, two (2) or more of the persons must share the legal relationship of husband and wife, or parent and child or grandparent and child. Such parent or grandparent must actually reside in the subject dwelling as their primary residence.~~

(ii) The occupancy of the one-family dwelling shall be limited to one "family" as that term is defined in Provo City Code Chapter 14.06, except that if the accessory apartment is also occupied, the occupancy of the one-family dwelling shall not include the ~~(C) T~~two additional related or

unrelated individuals described in Provo City Code Section 14.06.020(b)(i)(B) ~~are not permitted under Subsection (2)(d)(i)(A) or (B) of this Section.~~

(iii) Except as permitted by subsection (4)(a) of this Section, ~~t~~The accessory apartment ~~within the structure~~ shall not ~~may~~ be occupied by ~~no~~ more than ~~four~~ two (4~~2~~) related or unrelated adults, with or without minor children.

(iv~~ii~~) Owner occupancy shall not be required when the owner has submitted a temporary absence application prior to beginning the temporary absence and meets the following criteria:

(A) The owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, military service, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or

(B) The owner is placed in a hospital, nursing home, assisted living facility or other similar facility.

(C) Owner occupancy shall have the meaning set forth in Section 14.06.020, Provo City Code.

(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.

(e) Parking. A one-family dwelling with an accessory apartment shall have at least four (4) off-street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off-street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.

(f) Utility Meters. A one-family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.

(g) Addresses. The accessory apartment shall have its own address.

(h) Outside Entrances. Outside entrances to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.

(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.

(j) Kitchens. A one-family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.

(k) Rental Dwelling License Accessory Apartment Permit. In accordance with Provo City Code Chapter 6.26, ~~Any person operating constructing or causing the construction of a one-family dwelling that has~~ an accessory apartment under this Chapter ~~or any person remodeling or causing the remodeling of a one-family dwelling for an accessory apartment, or any person desiring an accessory apartment,~~ shall obtain an ~~accessory apartment permit~~ Rental Dwelling License (RDL) from the Community Development Department. Such ~~license permit~~ shall be in addition to any building permits that may be necessary. Before a ~~an~~ Rental Dwelling License for an accessory apartment ~~permit~~ is issued, the applicant shall:

(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.

(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.

(iii) Pay an inspection application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(iv) Noncompliance with the standards of this Section shall be just cause for the denial or revocation of a ~~an~~ Rental Dwelling License for an accessory apartment ~~permit~~. Revocation shall be in accordance with the license regulations in ~~decided based upon the findings of fact at an administrative hearing before a hearing officer, per Chapter 3.06,~~ Provo City Code Chapters 6.01 and 6.26.

(v) Notwithstanding, Provo City Code Section 6.01.090, ~~T~~the approval of a ~~permit~~ Rental Dwelling License for an accessory apartment shall automatically expire ~~three one~~ (31) years after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new

owner may apply for an extension of such Rental Dwelling License accessory apartment permit.

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an the (S) overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

~~(l) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued. (l) Minimum unit size. An accessory apartment is only permitted if the one-family dwelling unit, not including the accessory apartment, is no smaller than 1200 square feet.~~

(m) Bedrooms. An accessory apartment shall not have more than two bedrooms, except that an accessory apartment for which a Conditional Use Permit has been granted under subsection (4) of this Section to allow occupancy by no more than four (4) related or unrelated adults may have no more than four bedrooms.

(3) Permitted Accessory Uses. Accessory uses permitted in the overlay zones shall be limited to those uses listed as permitted accessory uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020.

(4) Conditional Uses. Except as provided in this subsection (4), conditional uses permitted in the overlay zones shall be limited to those uses listed as permitted conditional uses in the underlying zone with which the overlay zone has been combined in accordance with Section 14.30.020. In addition, the following uses and structures are permitted in the Supplementary Residential (S) overlay zone, but only after a Conditional Use Permit has been approved and subject to the terms and conditions thereof:

(a) In the Supplementary Residential (S) overlay zone only, accessory apartments that are occupied by no more than four (4) related or unrelated adults, with or without minor children, if, and only if, such use:

(i) meets the parking requirements of Subsection (2)(e), including particularly the requirement that the number of off-street parking spaces may not be less than the number of vehicles being maintained on the premises at any time; and

(ii) meets all other development standards of Subsection (2), other than the occupancy limit in Subsection (2)(d)(ii).

#### **14.30.040. Development Standards.**

Each one-family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the overlay zone is combined. ~~All development standards required in the Supplementary Residential (S) overlay zone shall be the same as those required by the provisions of the underlying zone with which the (S) zone is combined.~~

#### **14.30.050. Area of Zone.**

An overlay zone described in this Chapter may only be applied to a contiguous ~~The Supplementary Residential (S) overlay zone shall be applied to a land area of at least ten (10) four (4) acres or more that which~~ contains at least ~~forty (40) sixteen (16)~~ existing dwelling structures; and ~~which that~~ is at least fifty percent (50%) developed. The land area to which any overlay zone described in this Chapter is applied shall be free from islands or peninsulas or any other unreasonable boundary line configurations. Additions to an existing ~~(S)~~ overlay zone are allowed so long as the resulting contiguous land area of an overlay shall be by petition which conforms to all provisions of this Section ~~Chapter~~ except acreage, and number of dwellings.

#### **14.30.060. Petition for Zone Adoption.**

(Rep 2007-32)

#### **14.30.070. Parking Requirements.**

(Am 1990-31, Rep 2013-49)

#### **14.30.080. Nonconforming Uses.**

(Am 2000-15, Rep 2013-49)

#### **14.30.090. Termination of Nonconforming Uses - Recovery of Investment.**

(Enacted 2000-15, Rep 2013-49)

**14.32.020. Permitted Uses.**

...

(5) Permitted Accessory Uses. Accessory uses and structures are permitted in the RC zone, provided they are incidental to, and do not substantially alter, the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, the following:

...

(g) Accessory apartment in conjunction with an owner occupied one-family dwelling subject to the issuance of a building permit and in accordance with the requirements of Provo City Code Chapter Section 14.3046.030, Provo City Code.

...

**14.32.050. Lot Area Per Dwelling Unit.**

On a given lot or parcel, the number of dwelling units (density) shall not be increased beyond the density which legally existed on April 2, 2002 except as provided in this Section.

(a) Legally existing dwelling units may be replaced with an identical or lesser number of units so long as such replacement meets all other applicable requirements of this Title.

(b) Notwithstanding the density limitation of Subsection (a), an accessory apartment which meets the requirements of this Title may be created in conjunction with ~~within~~ a one-family dwelling even if the date of creation is after April 2, 2002.

**14.34.220. Caretaker Dwellings as an Accessory Use.**

In zones that specifically allow caretaker dwellings as permitted accessory use, such dwellings may be established only if such dwellings:

...

(5) have no associated ~~contain no~~ accessory apartment;

...

**Table 14.34.310-1 Minimum Floor Area**

...

1 For dwellings with an associated accessory apartment, located in the RC or A-overlay or S-overlay zone, the minimum floor areas shown may include the principal living area and the accessory living area, except that any living area within a basement may not be counted toward the minimum main floor area requirement.

...

**14.34.440. Second Kitchen in One-family Dwellings.**

(1) One (1) or more additional kitchen(s) in a one-family dwelling unit shall be allowed only in an A1, RA, R1, or RC zone, including a Performance Development Overlay (PD) zone used in combination with these zones, if all of the following requirements are met:

...

(2) An additional kitchen shall not be established in a one-family dwelling unit which ~~contains~~ is associated with an accessory apartment, whether or not such apartment was established pursuant to Provo City Code Chapter 14.30 (Supplementary Residential ~~(S)~~ and Accessory Overlay Zones) ~~or~~ Chapter ~~14.46~~ (Accessory Apartment (A) Overlay Zone), Provo City Code.

**14.37.060. Parking Spaces Required.**

Except as otherwise provided in this Title, the number of off-street parking spaces for varied uses/areas shall be as follows:

residential

Use

...

RESIDENTIAL DWELLINGS

...

One and two family

## Parking Spaces Required

The greater of tThree (3) spaces per unit, ~~plus~~ or one (1) space per vehicle or recreational vehicle owned or operated by residents. In the R1.10 zone two (2) spaces must be covered; a minimum of one (1) space must be covered for single dwellings in all other residential zones; and two (2) of the six (6) spaces required for duplexes must be covered in their respective zones. See also 14.37.080(1)(c)(i).

**14.37.080. General Provisions.**

The following general provisions shall apply to off-street parking requirements in this Chapter.

(1) Location. Off-street parking facilities shall be located as hereinafter specified:

...

(c) No off-street parking shall be permitted in a required front yard or street side yard, as otherwise stipulated in the respective zones, with the following exceptions:

(i) Parking spaces for a one-family dwelling, a one-family dwelling associated with an accessory apartment, and a two-family dwelling may be located on a driveway in a required front yard, provided:

(A) Such driveway leads to the minimum number of required covered off-street parking spaces which are located behind any required front setback, and

(B) Both parking spaces in each tandem parking area are designated to serve the same dwelling unit.

...

**14.37.100. Parking Design Standards.**

All off-street parking facilities shall be built consistent with Figures 14.37.100(a) through 14.37.100(d) as set forth at the end of this Section and in conformance with the following design standards except as otherwise provided in Subsection (16) of this Section:

...

(9) Tandem parking (front to rear) shall not be permitted, except for a one-family dwelling, one-family dwelling associated with an accessory apartment, and a two-family dwelling when the front and back spaces in each tandem parking area are both designated to serve the same dwelling unit, and the

number of covered spaces required in the respective zone are located behind the front setback.

• • •

## ~~Chapter 14.46~~ ~~A – Accessory Apartment Overlay Zone.~~

- ~~14.46.010. — Purposes and Objectives.~~
- ~~14.46.020. — Use in Combination.~~
- ~~14.46.030. — Permitted Uses.~~
- ~~14.46.040. — Additional Development Standards.~~
- ~~14.46.050. — Area of Zone.~~
- ~~14.46.060. — Petition for Zone Adoption.~~
- ~~14.46.070. — Nonconforming Uses.~~

### ~~14.46.010. Purposes and Objectives.~~

~~The Accessory Apartment overlay zone ("A overlay") is established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of accessory apartment in one family detached dwellings on individual lots. The Accessory Apartment overlay zone is hereby established to promote the use of accessory apartment; to provide flexibility for the changes in household size associated with life cycle; to offer financial security for home buyers; and to offer security against problems associated with frailty in old age.~~

### ~~14.46.020. Use in Combination.~~

~~(1) The Accessory Apartment (A) overlay zone may be used in combination with any of the following zones: A1, RA, R1. The provisions of the (A) overlay zone shall be supplementary to the provisions of the zone with which it is combined. If conflict arises between the provisions of the (A) overlay zone and the provisions of any zone with which it is combined, the provisions of the (A) overlay zone shall be deemed controlling. The (A) overlay zone shall not be applied to any land area as an independent zone.~~

~~(2) The Accessory Apartment overlay zone designation (A) shall become a suffix to the designation of the zone with which it is combined and shall be shown in parentheses. When applied to a land area, said combined designation shall be~~

~~shown on the zone map of Provo City as set forth in the following example: When the Accessory Apartment (A) overlay zone is combined with the one-family Residential (R1) Zone having an eight thousand (8,000) square foot minimum lot size, it shall be designated upon the zone map of Provo City as "R1.8(A)."~~

**~~14.46.030. Permitted Uses.~~**

~~(1) Uses permitted in the Accessory Apartment (A) overlay zone shall be limited to the following:~~

~~—(a) Those uses listed as permitted uses in the underlying zone; and~~

~~—(b) Accessory apartments which meet the development standards of Subsection (2) of this Section.~~

~~(2) Accessory apartments shall be allowed only in one-family dwellings, subject to the following development standards:~~

~~—(a) Number. No more than one (1) accessory apartment shall be permitted in each one-family dwelling.~~

~~—(b) Location. The accessory apartment may be created:~~

~~—(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space, stairs or otherwise disrupts required covered parking; or~~

~~—(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas; or~~

~~—(iii) By an addition to the house, containing an internal connection between the accessory apartment and the principal part of the dwelling unit; provided, that the addition will not alter the one-family character of the building.~~

~~—(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family residence dwelling. There shall be no external evidence of occupancy by more than one (1) family, such as two (2) front doors. The exterior of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations.~~

~~—(d) Occupancy. For purposes of a one family dwelling with an accessory  
—apartment, which is authorized by and conforms to the requirements stated  
in this Section, the following occupancy rules shall apply:~~

~~(i) The dwelling shall be the owner's primary residence as defined  
in Chapter 14.06, Provo City Code. The dwelling must be owner-  
occupied by:~~

~~(A) One (1) person living alone; or~~

~~(B) The head of household and all persons related to the  
head of household by marriage or adoption as a parent,  
child, grandparent, brother, sister, uncle, aunt, nephew,  
niece, great-grandparent or great-grandchild. For purposes  
of this Subsection, two (2) or more of the persons must share  
the legal relationship of husband and wife, or parent and  
child or grandparent and child. Such parent or grandparent  
must actually reside in the subject dwelling as their primary  
residence.~~

~~(C) Two additional unrelated individuals are not permitted  
under Subsection (2)(d)(i)(A) or (B) of this Section.~~

~~(ii) The accessory apartment within the structure may be occupied  
by no more than two (2) related or unrelated adults, with or  
without minor children.~~

~~(iii) Owner occupancy shall not be required when the owner has  
submitted a temporary absence application prior to beginning the  
temporary absence and meets the following criteria:~~

~~(A) The owner has a bona fide, temporary absence of three (3)  
years or less for activities such as temporary job  
assignments, sabbaticals, military service or voluntary  
service (indefinite periods of absence from the dwelling shall  
not qualify for this exception), or~~

~~(B) The owner is placed in a hospital, nursing home, assisted  
living facility or other similar facility.~~

~~(C) Owner occupancy shall have the meaning set forth in  
Section 14.06.020, Provo City Code.~~

~~(D) The owner has resided in the residence for at least one (1) year prior to beginning the temporary absence.~~

~~(e) Parking. A one family dwelling with an accessory apartment shall have at least four (4) off street parking spaces. Two (2) tandem parking spaces (front to rear) shall be permitted when the front and back spaces are both designated to serve either the accessory apartment or the principal part of the dwelling unit. In no case shall the number of off street parking spaces be less than the number of vehicles being maintained on the premises. Parking in the front setback is prohibited unless the driveway leads to required covered parking. Parking shall comply with all other regulations of Chapter 14.37, Provo City Code.~~

~~(f) Utility Meters. A one family dwelling with an accessory apartment shall have one (1) but no more than two (2) meters for each water, gas, and electricity utility service, and each meter shall be in the property owner's name.~~

~~(g) Addresses. The accessory apartment and the principal part of the dwelling unit shall each have its own address.~~

~~(h) Outside Entrances. Any new outside entrance to the accessory apartment shall be on the side or rear of the building. Only one (1) front entrance shall be visible from the front yard.~~

~~(i) Building Codes. All existing construction and remodeling shall comply with building codes in effect at the time of the original construction or remodeling. Newly constructed accessory apartment shall meet current building codes.~~

~~(j) Kitchens. A one family dwelling with an accessory apartment is permitted two (2) kitchens; one (1) for the principal part of the dwelling and one (1) for the accessory apartment. No other kitchens, wet bars or other food preparation areas are permitted. Refer to Chapter 14.06, Provo City Code, Interpretation and Definitions, "Kitchen," for the definition of what constitutes a kitchen per the Provo City Code.~~

~~(k) Accessory Apartment Permit. Any person constructing or causing the construction of a one family dwelling that has an accessory apartment or any person remodeling or causing the remodeling of a one family dwelling for an accessory apartment, or any person desiring an accessory apartment, shall obtain an accessory apartment permit from the~~

~~Community Development Department. Such permit shall be in addition to any building permits that may be necessary. Before an accessory apartment permit is issued, the applicant shall:~~

~~(i) Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings and building entrances, proposed buildings or additions, dimensions from buildings or additions to property lines, the location of parking stalls, and utility meters.~~

~~(ii) Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses. Floor plans must have the interior connection clearly labeled.~~

~~(iii) Pay an application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

~~(iv) Noncompliance with the standards of this Section shall be just cause for the revocation or denial of an accessory apartment permit. Revocation shall be decided based upon the findings of fact at an administrative hearing before a hearing officer per Chapter 3.06, Provo City Code.~~

~~(v) The approval of a permit for an accessory apartment shall automatically expire three (3) years after the date of the approval, or upon transfer of the property to another owner, whichever occurs first; provided, however, that the existing owner may reapply or the new owner may apply for an extension of such accessory apartment permit.~~

~~(vi) The owner shall record a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment is constructed and occupied. This deed restriction shall run with the land as long as the property is in the (A) overlay zone, or otherwise contains an accessory apartment as provided in this Chapter.~~

~~(f) Prior Uses. The Community Development Department shall issue a permit for any accessory apartment existing at the time of the adoption of this Chapter if the following conditions are met:~~

~~(i) The accessory apartment complies with this Title; and~~

~~(ii) A building permit was issued when the accessory apartment was constructed or remodeled. If no building permit was issued at the time of construction or remodeling, the applicant shall pay an inspection fee and the Chief Building Official ("CBO") or his designee shall inspect the accessory apartment for life safety violations. All violations identified by the CBO shall be corrected before a permit is issued.~~

#### ~~**14.46.040. Additional Development Standards.**~~

~~Each one family dwelling with an accessory apartment shall conform to the development standards required by the provisions of the underlying zone with which the (A) zone is combined.~~

#### ~~**14.46.050. Area of Zone.**~~

~~Within any A1, RA, or R1 zone, the Accessory Apartment (A) overlay zone shall be applied only to a land area of four (4) acres or more which contains at least sixteen (16) existing dwelling structures, and which is at least fifty percent (50%) developed. Such land area shall be free from islands or peninsulas or any other unreasonable boundary line configurations.~~

#### ~~**14.46.060. Petition for Zone Adoption.**~~

~~(New 1993-13, Am 1999-56, Rep 2007-14)~~

#### ~~**14.46.070. Nonconforming Uses.**~~

~~Properties nonconforming as to use and occupancy, created by the application of this zone, shall be issued, upon request, a certificate of nonconforming use, which shall permit the continued use of the property as is; provided, that the use complied with all regulations at the time the occupancy was established, and that all necessary permits were obtained.~~

#### **15.04.050. Density and Open Space Determination.**

...

(7) In order to achieve the bonus density allowed by this Section and promote affordable housing, flexibility in housing styles shall be permitted. While dwelling units allowed as part of the base density shall comply with the

provisions of the underlying zoning district, any of the dwelling units to be constructed as a result of a density bonus may be attached units (such as twin homes, condominium units, zero lot line units, patio homes, etc.) or accessory dwelling units. The number of attached units in a structure shall not exceed four (4). No attached units shall be constructed above or below other dwelling units, except that accessory dwelling units, meeting the standards of Provo City Code Chapter 14.3046, Provo City Code, may be located above or below a main dwelling unit or above a garage.

**PROVO CITY CONSOLIDATED FEE SCHEDULE**

...

**COMMUNITY DEVELOPMENT**

...

**Other Community Development Fees**

<del>Accessory Apartment Licensing Inspection License Processing Fee</del>	<del>\$</del>
Bond Release Processing Fee	\$100.00
Time Extension	\$100.00
Demolition Permit	\$100.00
Relocation of a Building	\$100.00
Unauthorized Changes to an Approved Plan	\$500.00

...

ORDINANCE 2019-

AN ORDINANCE TO AMEND PROVO CITY CODE TO CONSOLIDATE CHAPTER 14.30 (S-SUPPLEMENTARY RESIDENTIAL OVERLAY ZONE) WITH CHAPTER 14.46 (A-ACCESSORY APARTMENT OVERLAY ZONE) AND ADOPT RELATED AMENDMENTS. CITY-WIDE APPLICATIONS. (PLOTA20190120)

WHEREAS, it is proposed to amend Provo City Code to consolidate Chapter 14.30 (S-Supplementary Residential Overlay Zone) with Chapter 14.46 (A-Supplementary Residential Overlay Zone) and adopt related amendments to Chapters 6.01 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5), 14.12S.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) (Regarding Permitted Accessory Uses); 14.32.050 (Lot Area per Dwelling Unit); 14.32.220(5) (Caretaker Dwellings as an Accessory Use); 14.34.310-1 (Minimum Floor Area); 14.34.440 (Second Kitchen in One-Family Dwellings); 14.37.060 (Parking Spaces Required); 14.37.080 (General Provisions); 14.37.100 (Parking Design Standards); and 15.04.050 (Density and Open Space Determination); and

WHEREAS, on June 12, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed ordinance amendment to the Provo City Code and after such meeting the Planning Commission recommended approval to the Municipal Council by a vote of 5:1; and

WHEREAS, on June 18, 2019 and September 10, 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 ordinance amendment to the Provo City Code 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:

The Provo City Code Chapter 14.30 is hereby amended as set in Exhibit A.

41 PART II:

42

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

45

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

50

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

53

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

57

58 END OF ORDINANCE.

59



# Provo City Municipal Council

## Staff Memorandum

### A & S Overlay Update

Bryce Mumford, Lead Policy Analyst

Since the Municipal Council met to discuss the Accessory and Supplemental Apartment ordinance amendment during the Work Meeting on August 27, 2019, the Housing Executive Committee has been working to iron out details of the ordinance to respond to some of the concerns with the amendment.

Specifically, the Housing Executive Committee discussed some of the desired policy objectives, discussed some of the questions with regard to the detached accessories and other proposed changes, and clarified differences within the ordinance between Accessory and Supplemental Apartments. This document is intended to bring the Council up to speed on some of these discussions.

#### **Policy Objectives**

The Committee discussed some of the desired policy objectives, how they intend to see this ordinance benefit the City. The following were discussed:

1. Increased safety and welfare for citizens of Provo
2. Promote home ownership
3. Maintain and improve neighborhood health
4. Address housing affordability
5. Provide greater flexibility for residents

#### **Points of Discussion**

The Housing Executive Committee desired to bring clarity to the ordinance and discussed the following with regard to detached accessories:

- **Separate metering requirements** – The intent of this requirement was to ensure permanency of the detached unit. After consulting with utilities representatives, the recommendation is that a property owner may connect to current utilities or build separate utilities as long as there are permanent connections. The following chart provides clarity regarding some of these discussions:

	<b>Attached Accessory</b>	<b>Detached Accessory</b>	<b>Attached, but separate</b>
<b>Utilities</b>	Shared	Shared	Not Allowed
<b>Impact Fees</b>	Only for upgrades	Shall be charged	
<b>Billing/Base</b>	One bill	One bill/base charge for each meter	
<b>Interior connection</b>	Yes	No	

- **Minimum square footage** – The size of the house should only be considered when doing an attached accessory. If the property owner desires to build a detached accessory, minimum square footage requirements don't apply.
- **Setback requirements** – Where setback requirements can be maintained, they should. However, homes with smaller setback requirements are allowed to use grandfathered setbacks if the property owner desires to build in line with current structures.
- **Shipping containers** – The Committee recommends approving shipping containers if they can meet all requirements.
- **Basement and 2<sup>nd</sup> floor restriction** – The Committee recommends tying this restriction to the question of “additional” occupancy:

	<b>A Overlay</b>	<b>S Overlay</b>
<b>Accessory unit on main/ground floor</b>	Allowed	Allowed unless owner wants occupancy for 4 unrelated persons

- **Owner occupancy of main unit** – The committee recommends tying this discussion to the question of “additional occupancy”:

	<b>A Overlay</b>	<b>S Overlay</b>
<b>Owner can live in accessory unit</b>	Allowed	Allowed unless owner wants occupancy of 4 unrelated persons

- **Off-street parking** – There are no changes to current parking standards. The following is designed to help clarify current standards:

<b>Zone(s)</b>	<b>Minimum Standards</b>
One-Family Residential	3 off-street parking spots or as many as vehicles operated
One-Family Residential + A/S Overlay with normal occupancy	4 off-street parking spots or as many as vehicles operated
One-Family Residential + S Overlay with additional occupancy	4 off-street parking spots or as many as vehicles operated

- **Paving Restrictions** – There are no proposed changes to current paving restrictions.



Provo City Planning Commission

# Report of Action

June 12, 2019

\*Item 1 The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as related amendments to Chapters 6.01 or 6.02; Chapter 14.06; Sections 14.10.020(5), 14.11.020(5), 14.12.020(5), 14.12A.020(5), 14.13.020(5), 14.14.020(5), 14.32.020(5) regarding Permitted Accessory Uses; 14.32.050. Lot Area Per Dwelling Unit; 14.32.220(5) Caretaker Dwellings as an Accessory Use; 14.34.310-1 Minimum Floor Area; 14.34.440 Second Kitchen in One-family Dwellings; 14.37.060 Parking Spaces Required; 14.37.080 General Provisions; 14.37.100 Parking Design Standards; and 15.04.050 Density and Open Space Determination. City-wide application. Brian Maxfield (801) 852-6429 PLOTA20190120

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The following action was taken by the Planning Commission on the above described item at its regular meeting of June 12, 2019:

## RECOMMENDED APPROVAL

On a vote of 5:1, the Planning Commission recommended approval of this item to the Municipal Council with a strong recommendation that the staff and Council: Further explore options for parking reductions or developing a process whereby individual property owners might go to reduce requirements depending on their situation; and, to test several properties to better understand potential improvements that would be required for a 20 to 30 year-old accessory apartment to get a Rental Dwelling License.

Motion By: Jamin Rowan

Second By: Dave Anderson

Votes in Favor of Motion: Jamin Rowan; Dave Anderson; Shannon Ellsworth; Robert Knudsen; Deborah Jensen

Votes Opposed: Maria Winden

Deborah Jensen was present as Chair.

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

### **RELATED ACTIONS**

None

### **STAFF PRESENTATION**

Staff presented the proposed changes made to the document in response to the comments from the study session.

### **CITY DEPARTMENTAL ISSUES**

None

### **NEIGHBORHOOD MEETING DATE**

This is a City-wide item

### **NEIGHBORHOOD AND PUBLIC COMMENT**

Paul Evans, chair of the Pleasant View Neighborhood, stated he appreciated the changes made, but that his largest concern is still regarding the new requirement for a rental dwelling license. He suggested the city take a handful of properties to try out the Rental Dwelling Licensing requirements before this ordinance amendment is adopted. The city should have a list of what would be required with a license. The city should also consider flexibility in the off-street parking requirements to not require more off-street parking spaces that are needed for a particular property.

**CONCERNS RAISED BY PUBLIC**

The concerns related by Paul Evans were attached to the staff report.

**PLANNING COMMISSION DISCUSSION**

Members of the Planning Commission stated they thought the trial run for RDL licensing would be a good idea. Discussion followed regarding the need for accessory apartments to meet minimum health and safety standards. The Planning Commission also discussed the question of if there is always a need to automatically include on-site parking spaces without understanding if there is an actual need based on the occupancy of the dwelling. And, could the parking requirement be controlled through the licensing? Several Commissioners expressed hesitation in requiring four off-street parking spaces if they are not needed and they were concerned with unnecessary paving of yard space. Comments were also made that much of the parking problem occurs because parking requirements haven't been enforced as well as they should be, such as long-term on-street parking and things like boats and trailers parked in the street.



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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.

## ITEM 1\*

The Community Development Department requests Ordinance Text Amendments to consolidate Chapter 14.30 S-Supplementary Residential Overlay Zone with Chapter 14.46 A-Accessory Apartment Overlay Zone, as well as other related code sections pertaining to the S and A Overlay Zones.

*City-wide application*  
PLOTA20190120

### Current Secondary Unit Allowances

	<b>A Overlay</b>	<b>S Overlay</b>	<b>Elderly (65or +)</b>
<b>Zoning</b>	A-Overlay and RC	S-Overlay	Any Single-Family
<b>Rental Dwelling License</b>	No	No	Registration Only
<b>Inspection Required</b>	At time of Establishment	At time of Establishment	No
<b>Occupancy Allowance</b>	Family or 2 Singles	Family or 4 Singles	Family or 2 Singles
<b>One Unit must be Occupied by Owner</b>	Yes	Yes	Yes
<b>Principal Unit Occupancy by Owner</b>	Yes	Yes	No
<b>Location within a home</b>	Anywhere	Basement or above ground level	Anywhere
<b>Interior Connection Required</b>	Yes	Yes	Yes
<b>Detached Dwelling</b>	No	No	No
<b>Number of Kitchens</b>	2	2	Not Limited
<b>Parking</b>	Minimum 4	Minimum 4	Same as Dwelling

### Combined A- and S-Overlay Changes

	<b>A Overlay</b>	<b>S Overlay</b>	<b>Elderly (65 or +)</b>
<b>Zoning</b>	A-Overlay and RC	S-Overlay	Any Single-Family
<b>Rental Dwelling License</b>	<b><u>Yes</u></b>	<b><u>Yes</u></b>	Registration Only
<b>Inspection Required</b>	<b><u>Every 3 years</u></b>	<b><u>Every 3 years</u></b>	No
<b>Occupancy Allowance</b>	Family or 2 Singles	Family or <b><u>2</u></b> Singles*	Family or 2 Singles
<b>One Unit must be Occupied by Owner</b>	Yes	Yes	Yes
<b>Principal Unit Occupancy by Owner</b>	<b><u>No</u></b>	<b><u>No</u></b>	No
<b>Location within a home</b>	Anywhere	<b><u>Anywhere</u></b>	Anywhere
<b>Interior Connection Required</b>	Yes	Yes	Yes
<b>Detached Dwelling</b>	<b><u>Yes</u></b>	<b><u>Yes</u></b>	No
<b>Number of Kitchens</b>	2	2	Not Limited
<b>Parking</b>	Minimum 4	Minimum 4	Same as Dwelling

1. Adds “Apartment” after the word “Accessory” in the Title.

## Chapter 14.30

### ~~S~~ **Supplementary Residential and Accessory Apartment Overlay Zones.**

2. Addition of the term “Accessory Dwelling Unit (ADU)” to the definition section as an equivalent term for “Accessory Apartment.”

#### **14.06.020. Definitions.**

For the purposes of this Title, certain words and phrases have the following meanings:

“**Accessory Apartment**” or “**Accessory Dwelling Unit (ADU)**” means a subordinate residential living area created ~~within~~ conjunction with a one family dwelling which:

- (a) meets the requirements of the applicable zone where the accessory apartment is located; and
- (b) ~~has an interior connection between the one family dwelling and accessory apartment~~ meets the requirements of Provo City Code Chapter 14.30.

3. Clarification changes added under Subsection “(2) Accessory Apartment Development Standards,” located under “Section 14.30.030. Permitted Uses.” They are detailed below with their intent and the fully amended text following.
- **(2)(b)(i)**: Changes wording that was awkward as it sounded as if parking might occur on the second floor of a garage or that the required covered parking had the possibility of being converted to living space;
  - **(2)(b)(iv)(1)**: Clarifies the minimum lot standard applies to an accessory apartment rather than an accessory structure;
  - **(2)(b)(iv)(2)**: Clarifies that a detached accessory apartment is also an accessory structure – basically, a detached accessory apartment can be either a stand-alone accessory structure, or else attached to an existing accessory structure;
  - **(2)(b)(iv)(3)**: Clarifies that any accessory structure that is solely an accessory apartment or else an existing accessory structure to which an accessory apartment is added, must have a minimum setback of 10 feet from any property line, regardless of where the apartment is located within the structure;
  - **(2)(b)(iv)(7)**: Basically allows shipping containers only as structural components, but must be clad with materials similar to the principal dwelling, and be architecturally compatible with the principal dwelling;
  - **(2)(c)**: Clarifies the external evidence of the second unit being “from a street view” and also states “yard areas” instead of “exterior” of the property needed to be maintained.
  - **(2)(k)(iii)**: Clarifies that any fee charged for a Rental Dwelling License is for the processing of the license, and not for the inspection of the unit; and,
  - **(2)(k)(vi)**: Expands the term “Community Development” to “the Community Development Department.”

(2) Accessory Apartment Development Standards. Accessory apartments shall be ~~allowed only in one-family dwellings~~, subject to the following development standards:

(a) Number. No more than one (1) accessory apartment shall be permitted in conjunction with each one-family dwelling.;

(b) Location. ~~The a~~Accessory apartments may be located only: ~~in a basement or in a second level above ground level if there is a usable interior connection between the accessory apartment and the principal part of the dwelling unit;~~

(i) Over an attached garage, provided the parking within the garage is not eliminated or converted to living space or stairs, or accessory unit does not otherwise disrupts required covered parking;

(ii) Inside the home through an internal conversion of the housing unit maintaining an internal connection between living areas;

(iii) In an addition to the house that has an internal connection between the accessory apartment and the principal part of the dwelling unit; provided that the addition will not alter the one-family character of the building; or

(iv) As a detached accessory structure or within a detached accessory structure located in the rear yard in accordance with the following requirements:

(1) The detached accessory structure apartment shall be permitted only on lots that contain a one-family detached dwelling with a minimum lot size of 6,000 sq. ft.;

(2) The accessory structure in which the accessory apartment is located shall have a building footprint and height less than the main dwelling, but in no case shall the accessory structure be taller than twenty (20) feet and ~~no~~ nor less than 200 square feet in area;

(3) The A detached accessory structure apartment or a detached accessory structure containing an accessory apartment shall be setback from any property line a minimum of 10 feet have a minimum setback of 10 feet from any property line;

(4) The accessory structure shall be architecturally compatible with the main dwelling;

(5) The accessory structure shall be permanently affixed to a site-built foundation and shall be designed in accordance with Provo City adopted building codes;

(6) The accessory structure must be approved for, and permanently connected to, all required utilities; and

(7) Shipping containers shall not be permitted for use as an accessory apartment unless they can meet all building codes; are clad with materials similar to those of the principal dwelling; and the resulting structure is architecturally compatible with the architectural style of the principal dwelling.

(c) Appearance. The accessory apartment shall not alter the appearance of the structure as a one-family dwelling, and ~~does~~ shall not cause the dwelling unit within which the accessory apartment is located to resemble in any degree a side-by-side, side-to-back, back-to-back, or other type of two-family dwelling. There shall be no external evidence from a street view of occupancy by more than one (1) family, such as two (2) front doors on the main dwelling. The ~~exterior~~ yard areas of the property shall be maintained free of weeds, junk, solid waste or other materials constituting a violation of the Provo City Code. An accessory apartment shall not be authorized on a property that has outstanding ordinance violations. ~~;~~ and

(iii) Pay an inspection application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

....

(vi) The owner shall cooperate with the Community Development Department in recording a deed restriction with the County Recorder evidencing the restrictions under which the accessory apartment unit is constructed and occupied. This deed restriction shall run with the land as long as the property is in an ~~the (S)~~ overlay zone described in this Chapter, or otherwise contains an accessory apartment as provided in this Chapter.

<b>Current Secondary Unit Allowances</b>			
	<b>A Overlay</b>	<b>S Overlay</b>	<b>Elderly (65or +)</b>
<b>Zoning</b>	A-Overlay and RC	S-Overlay	Any Single-Family
<b>Rental Dwelling License</b>	No	No	Registration Only
<b>Inspection Required</b>	At time of Establishment	At time of Establishment	No
<b>Occupancy Allowance</b>	Family or 2 Singles	Family or 4 Singles	Family or 2 Singles
<b>One Unit must be Occupied by Owner</b>	Yes	Yes	Yes
<b>Principal Unit Occupancy by Owner</b>	Yes	Yes	No
<b>Location within a home</b>	Anywhere	Basement or above ground level	Anywhere
<b>Interior Connection Required</b>	Yes	Yes	Yes
<b>Detached Dwelling</b>	No	No	No
<b>Number of Kitchens</b>	2	2	Not Limited
<b>Parking</b>	Minimum 4	Minimum 4	Same as Dwelling

<b>Combined A- and S-Overlay Changes</b>			
	<b>A Overlay</b>	<b>S Overlay</b>	<b>Elderly (65 or +)</b>
<b>Zoning</b>	A-Overlay and RC	S-Overlay	Any Single-Family
<b>Rental Dwelling License</b>	<b>Yes</b>	<b>Yes</b>	Registration Only
<b>Inspection Required</b>	<b>Every 3 years</b>	<b>Every 3 years</b>	No
<b>Occupancy Allowance</b>	Family or 2 Singles	Family or <b>2</b> Singles*	Family or 2 Singles
<b>One Unit must be Occupied by Owner</b>	Yes	Yes	Yes
<b>Principal Unit Occupancy by Owner</b>	<b>No</b>	<b>No</b>	No
<b>Location within a home</b>	Anywhere	<b>Anywhere</b>	Anywhere
<b>Interior Connection Required</b>	Yes	Yes	Yes
<b>Detached Dwelling</b>	<b>Yes</b>	<b>Yes</b>	No
<b>Number of Kitchens</b>	2	2	Not Limited
<b>Parking</b>	Minimum 4	Minimum 4	Same as Dwelling

**From:** R Paul Evans [<mailto:evansp@byu.edu>]

**Sent:** Monday, May 27, 2019 6:43 PM

**Subject:** Proposed S and A overlay consolidation and amendment

A Basis for Creating an FAQ for the Proposed S and A Overlay Zone Amendment

Yes, there are things that will remain the same.

Yes, there are things that will change.

Yes, there are things that are still unknown.

Regardless, a change is proposed and neighbors will wonder. There is a need to explain and educate.

Below are some questions that I hope spark the creation of an FAQ sheet or handbook for citizens whose properties will be included in the proposed consolidation and amendment of the S and A overlay zones. Allowing detached apartments is a significant change. Equally significant is the requirement of a rental dwelling license when only a permit and one time inspection was previously required.

The handbook prepared by Salt Lake City after permitting accessory dwelling units (ADU) in all residential zones (or within 1/4 mile of rapid transit?) is a good jumping off point for what Provo City will need. [http://www.slcdocs.com/Planning/Guides/ADU\\_handbook.pdf](http://www.slcdocs.com/Planning/Guides/ADU_handbook.pdf)

Cheers,

R. Paul Evans

Chair, Provo City Pleasant View Neighborhood

## OVEROCCUPANCY

1. Will the provision for detached accessory apartments increase the percentage of one family homes in existing S- and A-overlay zones that legally establish accessory apartments?

There will be an increase in the percentage of homes in existing S- and A-overlay zones that will have an accessory apartment due to the provision of allowing for detached accessory apartments. The amount of increase has not been quantified.

2. Does the presence of an accessory apartment increase the frequency of one family residential properties illegally used as multifamily (e.g., duplex) properties that are not owner occupied.

An increase in homes that have an accessory apartment will result in an increase in homes that will have illegal use as absentee owner defacto duplexes or multifamily properties. The amount of increase has not been quantified.

3. Do the definitions of "family" and "owner occupied" in Provo City Code require updates to assist enforcement by Provo City of one family occupancy in S- and A-overlay zones?

Provo City planning and zoning enforcement consider that the current definitions of "family" and "owner occupied" in Provo City Code are sufficient to pursue successful enforcement.

4. Does Provo City have adequate enforcement and planning staff to protect and enhance the desirable aesthetic characteristics of one family zones with an S- or A-overlay zone?

The current staffing is sufficient and adequate to protect and enhance the desirable aesthetic characteristics of one family zones with an S- or A-overlay zone.

5. Can a property have either a home occupancy conditional use, whether minor or major, or, an accessory apartment? The concentrated impacts of both uses in one property is not seen as enhancing, let alone, protecting the one-family residential zoning.

Provo City Code does not permit a major home occupation permit (significant business activity operating in the home) and an accessory apartment. A minor home occupation permit (little or imperceptible business activity in a home) is allowed with an accessory apartment.

#### DESIRABLE AESTHETIC CHARACTERISTICS

6. Is the owner life cycle of one family residential properties in residential zones with the S- or A-overlay different than comparable one family residential properties in residential zones without the S- and A-overlay in Provo City?

The impact of accessory apartments on the owner life cycle of one family properties in residential zones is not known. Without knowing, it is not possible to evaluate impacts on the desirable aesthetic characteristics of one family neighborhoods.

7. Are property value changes of one family residential properties in residential zones with the S- or A-overlay different than comparable one family residential properties in residential zones without the S- and A-overlay in Provo City?

Differences in property value changes due to accessory apartments is unknown. Without knowing, it is not possible to evaluate impacts on the desirable aesthetic characteristics of one family neighborhoods.

8. Provo City planning staff conclude that the proposed consolidation and amendment of the S- and A-overlay zones will "work to provide additional and needed affordable housing opportunities within the City, without creating an extensive impact on adjoining residential areas." What are three examples of adjoining residential areas in Provo City where there would be no "extensive impact"?

There are no examples of adjoining residential areas in Provo City that will have no "extensive impact".

9. What minimal and moderate impacts are expected on residential areas adjoining S- or A-overlay zones?

There are no examples of minimal and moderate impacts.

10. What are 5 minimal, 5 moderate, and 5 extensive impacts expected on a residential area to which the S- or A-overlay is applied?

There are no examples of minimal and moderate impacts.

[Note: The Planning Commission staff conclude that there will not be extensive impact on adjoining residential areas. Questions 8-10 are intended to explore what are considered to be less than extensive impacts. In doing so, the impacts, minimal or moderate, will be clear to all within an S- and A-overlay zone, and, those adjoining residential areas. The metrics of these questions were meant to elicit a more comprehensive understanding beyond the word "extensive." Examples of what is and what is not extensive impact, and examples of what is and what is not minimal impact are, collectively, a clearer view of the impact.]

## PARKING

11. One family residential properties with or without the S- and A-overlay require a legal off-street parking stall for every vehicle maintained at a residence. What is the recent Provo City track record for enforcing the requirement of a legal off-street parking stall for every vehicle maintained at a one family home?

There is no track record.

12. What is the definition of a "vehicle maintained on the residence"?

There is no definition.

13. Provo City Code does not permit parking in an on street place longer than 72 hours.

"Any vehicle or trailer left parked in a public highway or street in the same place continuously for seventy-two (72) hours and which has not been moved a minimum of four hundred (400) feet prior to returning to the same location." 9.31.050(1)(f). What is the recent Provo City track record for enforcing the 72 hour limit?

There is no track record.

14. How is "same place" different than "same location"?

There is no difference between “same place” and “same location”

## RENTAL DWELLING LICENSE

The requirement for a Rental Dwelling License is a proposed new regulation included in this change to zoning ordinance. Many who have S overlay and A overlay accessory apartments are not familiar with the requirements associated with a Rental Dwelling License. The details and implications of a Rental Dwelling License must be fully discussed and examined.

15. The current S- and A-Overlay does NOT require a rental dwelling license. This proposed consolidation and amendment of the S- and A-overlay zone requires that property owners obtain a rental dwelling license from Provo City. Will properties with current legal accessory apartments be required to obtain a rental dwelling license upon adoption of this ordinance or will the properties be grandfathered as legal nonconforming?

The answer to this is unclear.

16. If legal nonconforming or grandfathered, then how will Provo City track the legal nonconforming status of properties?

The answer to this is unclear.

17. A. If not considered legal nonconforming or grandfathered upon adoption of this ordinance, will existing legal accessory apartment properties be required to meet all standards (building code, contemporaneous inspection, etc.) before issuance of rental dwelling license?

Yes

- B. If yes, will the property owner be informed of the amortization options to meet the "newly" imposed requirements and thus delay the decade in which the improvements must be completed?

The answer to this is unclear.

18. What is the process by which a new owner may apply for an extension of an existing Rental Dwelling License?

The answer to this is unclear.

[Note: Although enabled by the proposed amendments in 14.30.030(2)(k)(iv), there is no reference to elsewhere in Provo City Code where the extension process is enabled. If the license is signed by one entity, how can a different entity extend the license? This seems like a transference of the license.]

19. An inspection is required every three years. What is inspected, the entire property? Just the accessory apartment? What are the criteria examined to pass the inspection. What are the remedies to a failed inspection?
20. In Planning Commission and Municipal Council meetings, Provo City Community Development staff have stated that only a handful of select issues related to life and safety will be absolutely required regardless of when an accessory apartment was legally established during the process of issuing a rental dwelling license and completing an inspection. What is the list of issues?
21. Some homes have created additional living spaces in the past without building permit and in violation of building code and zoning code. If application is made, will these illegal living areas be required to meet Building Code as of the date of application? Why or why not?

#### APPROVAL OF ACCESSORY APARTMENTS

22. What is the closest allowed distance between a detached accessory apartment and a property line?  
  
10 feet
23. Are there any conditions in which a newly established detached accessory apartment can be closer than the minimum distance? If so, what are the conditions?  
  
Yes. The conditions are unknown.
24. What is the maximum height from current grade that a detached accessory apartment can be built?  
  
Unknown
25. Who will determine if the architecture of a proposed detached accessory apartment is consistent with the property? Who can appeal the decision? How can the decision be appealed?
26. Will adjacent property owners and the neighborhood be notified when an application for a detached accessory apartment is received by Provo City?
27. What is the reasoning for prohibiting accessory apartments from the ground level or basement of an attached or detached garage?
28. Who determines whether an addition alters the one family character of the building, and, what are the criteria used to make such a determination?

The answer to this is unclear.

29. What is the definition of "principal part of the dwelling unit"?

The answer to this is unclear.

30. Will properties that had no prior established accessory apartment and/or properties that become zoned with the S- or A-overlay be required to have an accessory apartment that meets current building codes? [this is a repeat, but, the issue deserves a second look]

31. What is the definition of an accessory structure?

The answer to this is unclear.

32. Can an accessory structure also be an accessory building? If so, then is there a difference between buildable and nonbuildable area accessory structure setbacks?

The answer to this is unclear.

33. Is it permissible to place a shipping container inside of an architecturally compatible shell/structure?

The answer to this is unclear.

34. Is it permissible to affix material on the outside of a shipping container to render the structure compatible with the architecture of the main dwelling?

The answer to this is unclear.

35. What is the definition of "exterior of the property"? Is the intent perhaps front yard?

The answer to this is unclear.

36. How is an ordinance violation different from an "outstanding ordinance violation"?

The answer to this is unclear.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** HSALZL  
**Department:** Council  
**Requested Meeting Date:** 09-24-2019

**SUBJECT:** A discussion regarding recommendations from the Sign Ordinance Committee. (19-102)

**RECOMMENDATION:** Information only. This item is scheduled to be heard in the Council Meeting on October 8, 2019.

**BACKGROUND:** The Council tasked the Sign Ordinance Committee with reviewing and updating Provo City Code with regards to electronic signs. The committee has worked since the end of March and identified six areas of sign policy: location, churn, animation, brightness, size, and buffer zones. The committee will present their recommendations regarding location, churn, animation, and size. They have decided not to make any recommendations regarding brightness and buffer zones at this time, but will revisit the issues at a later date.

**FISCAL IMPACT:** TBD

**PRESENTER'S NAME:** Councilor Kay Van Buren

**REQUESTED DURATION OF PRESENTATION:** 40 minutes

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

**CITYVIEW OR ISSUE FILE NUMBER:** 19-101