



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, October 29, 2019

Room 200, Municipal Council Chambers

351 W. Center Street, Provo, UT 84601

Opening Ceremony

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

| | |
|---|-------------------------------|
| Council Member David Sewell | Council Member David Knecht |
| Council Member George Handley | Council Member Gary Winterton |
| Council Member Vernon K. Van Buren | Council Member George Stewart |
| Council Executive Director Cliff Strachan | Mayor Michelle Kaufusi |
| Council Attorney Brian Jones | |

Conducting: Council Vice Chair Kay Van Buren

Excused: Council Member David Harding and Chief Administrative Officer Wayne Parker

Prayer

Sam Omen

Pledge of Allegiance

Jason Bakow

Approval of Minutes

- **September 24, 2019 Council Meeting**

The September 24, 2019 meeting minutes were approved by unanimous consent.

Public Comment ([0:10:03](#))

Prior to public comment, Vice Chair Van Buren took a moment to congratulate Bryce Mumford, Senior Council Policy Analyst, for his new position as the Chief Deputy County Executive with Cache County.

Council Executive Director, Clifford Strachan, explained that Mr. Mumford had been with the Council for just over seven years. He said his confidence and professionalism would be greatly missed.

Brian Jones, Council Attorney, read the public comment preamble.

Kaye Nelson, Provo resident, told the Council that she and several neighbors formed a group called Proactive Provo. They were a pro-growth and non-profit organization. She said at 7 p.m. the TERRA Developers would present a new plan at their neighborhood meeting. Proactive Provo sent a letter to

Council asking that approval of this development be delayed. She thought the City needed to value and protect the open and green spaces, these areas were precious to Provo residents. Ms. Nelson said her group understood the need for housing and growth, but it should be affordable and sustainable. She hoped the City would follow the General Plan guidelines regarding the protection of open spaces within Provo.

Vice Chair Van Buren noted that item 11 would not be voted on but there would be a public hearing.

Angela Mourik of Provo was also a member of the group Proactive Provo. She said many of the goals of her group were already in place in the City's General Plan. Ms. Mourik quoted section 4.4.3. of the General Plan which described working with others to protect, preserve, and restore natural resources. She said the desires of the City's General Plan and the mission of Proactive Provo align themselves by asking how does this look going forward and is the outcome of the project aligned with the goals of the General Plan? She concluded that it was easier to preserve than to restore.

Sam Omen, Vice Chair of Maeser Neighborhood, thanked the Fire Dept for saving their green space after a gas line had been severed. The problem was resolved without incident. Mr. Omen also thanked Fire Chief James Miguel for following up on recent fire code complaints.

Jay Goodliffe, Provo resident, read the following statement:

My name is Jay Goodliffe, and I am a resident of Edgemont Neighborhood. I am here to talk about three lessons learned from the sale of Timp Kiwanis Bounous Park.

First lesson: responsibility.

I am a Scoutmaster and a Counselor for the Citizenship in the Community Merit Badge. One of the requirements of the merit badge is to choose an issue important to the community and identify who is responsible for that issue. Earlier this year, a scout asked me if the mayor was responsible for Bounous Park. I replied that the mayor said it was in the city council's hands (never mind her veto power). The scout then asked if the city council was responsible. I replied that city council members had directed the neighborhood to talk to the school board, since they wanted to buy the park. The scout thought he had the answer: the school board was responsible. I told the scout that school board members said we should talk to the city council, since the city owns the park. The scout decided to choose a different issue.

Do you see the problem? Somehow, a \$2 million park was sold, and no one is responsible or accountable.

Second lesson: keeping obligations.

In the meeting where the city council voted to sell Bounous park without an agreement, a city council member informed the neighborhood that we did not have a right to a public park. When Provo City states contractually that they will keep land as a city park "in perpetuity," should I expect that contract to be upheld by the city? The answer is no. So why do you expect citizens to keep any of their contractual obligations to the city?

Third lesson: public participation.

Some people here were elected after the process of selling the park had begun. After the election, I sent an email asking about the status of the process to those newly elected. Here is part of an email that I received back: "I voiced my strong opinion as soon as I was officially sworn in but at that point it was too late."

This was January 24, 2018, before the land was surplussed, before neighborhood meetings, before the environmental assessment drafts, and before city council meetings. Yet at that point, "it was too late." I didn't believe it. And the neighborhood repeatedly showed up to meetings thinking that our participation would make a difference. But it didn't. That politician was right: This was a done deal from start to finish, and all of that public participation by the neighborhood was an empty ritual.

Although I opposed the outcome, and thought the process was manipulated, perhaps these are the saddest lessons of this experience: no one is responsible, we should not expect the city to follow the rule of law, and public participation is an empty ritual.

I hope that by bringing this to your attention, you will provide more positive lessons in future Provo City governance.

There were no other comments from the public.

Action Agenda

1. Resolution 2019-54 requesting the recertification of the Provo City Justice Court by the Utah Judicial Council. (19-112) ([0:21:07](#))

Motion: An implied motion to adopt Resolution 2019-54, as currently constituted, has been made by council rule.

John Borget, Administrative Service Director, presented. Mr. Borget explained there was a requirement to recertify justice courts every four years. The Provo City Justice Court's certification would expire in January of 2020. He had submitted to Council a packet of information completed by ReAnnun Newton, Justice Court Administrator, and Judge Romney. Along with the packet of information was an affidavit, an opinion letter from the City's Chief Prosecutor, Steven Shriner, and resolution that needed to be adopted by City Council confirming this process. Mr. Borget stated the Justice Court was well run.

Vice Chair Van Buren opened public comment, there was no response.

Mr. Winterton asked how often judges were elected and how many there were. Mr. Borget responded there was only on Judge but there were situations that would allow for other judges to cover when Judge Romney is unavailable. Mr. Winterton asked how often Judge Romney was reconfirmed but the answer to this question was not readily available. Mr. Jones, Council Attorney, explained there was a process to remove judges in District Courts, but he was uncertain if it applied to this situation. Mr. Winterton stated his approval and appreciation of Judge Romney.

Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

2. Resolution 2019-55 of the Provo City Municipal Council authorizing the acceptance of a Utah State Infrastructure Bank Fund Loan for the Airport. (19-087) ([0:25:35](#))

Motion: An implied motion to adopt Resolution 2019-55, as currently constituted, has been made by council rule.

Brian Torgersen, Division Director of Public Services, explained this resolution would authorize Mayor Kaufusi to enter into an agreement with UDOT for a \$5 million state loan for the new airport terminal project. The interest rate was 2.1 percent with a five-year repayment schedule; repayment would begin following the completion of the project.

Mr. Van Buren asked if terms were negotiable. Mr. Torgersen explained that Mayor Kaufusi would be authorized to negotiate when the project would be considered complete. The interest rate and term were set by the Transportation Commission when they approved the loan application.

Vice Chair Van Buren opened public comment.

Sam Omen, Provo, asked if the interest would begin accruing when project is complete or when the loan is funded. Mr. Torgersen thought the interest would begin accruing when the project is complete, but he would look into this further and report back to Council.

There was no further discussion. Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

3. Resolution 2019-56 appropriating \$98,432 in the General Fund for an Economic Development Director position in the Development Services Department. (19-111) ([0:29:16](#))

Motion: An implied motion to adopt Resolution 2019-56, as currently constituted, has been made by council rule.

David Mortensen, Budget officer, explained this request would appropriate \$95,432 from the general fund to the Development Services Department for the purpose of an Economic Development Director.

Vice Chair Van Buren opened public comment, there was no response. He called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

4. Ordinance 2019-48 amending Provo City Code to correct and update Section 3.08.010 (Officials' Oaths and Bonds Required). (19-113) ([0:30:39](#))

Motion: An implied motion to adopt Ordinance 2019-48, as currently constituted, has been made by council rule.

Brian Jones, Council Attorney, presented the ordinance. This item had been explained in more detail during the work meeting. This was an update to bring City Code into compliance with State Code regarding oaths and bonds.

Mr. Sewell asked which City Officials were required to post bonds. Mr. Jones responded that State Code previously required certain employees to post a bond, but state code had been updated to allow cities to satisfy this requirement through their insurance. Mr. Jones listed the following employees who were required to be insured and take an oath:

- | | | |
|-----------------|------------------------|------------------|
| • Mayor | • Council Members | • CAO |
| • City Recorder | • Deputy Mayor | • City Engineer |
| • Police Chief | • Fire Chief | • Treasurer |
| • City Attorney | • Department Directors | • Budget Officer |

Vice Chair Van Buren opened public comment, there was no response. He called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

5. Ordinance 2019-49 to amend Provo City Code to identify zones where cannabis production is permitted. Citywide application. (PLOTA20190365) ([0:33:10](#))

Motion: An implied motion to adopt Ordinance 2019-49, as currently constituted, has been made by council rule.

Brandon Larsen a Planner in Development Services presented the ordinance. Utah Code Section 4-41a-406 had recently been enacted and it dealt with local control of cannabis production. State Code required that cities allow cannabis production in all agricultural and industrial zones unless they otherwise adopt legislation to designate at least one agricultural and one industrial zone for this use. Planning staff proposed adopting a definition for cannabis production establishments and designating the A1.10 (agricultural) and F1 (freeway industrial) zones as the areas where cannabis production would be allowed. The A1.10 zone contained the least amount of land area of all the agricultural zones, staff thought it was a good idea to start small. The F1 zone already allowed for the production of certain drugs.

Vice Chair Van Buren opened public comment and there was no response. There was no council discussion. He called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

6. Resolution 2019-57 of intent to study the creation of a permit parking area on portions of 1625 North, 300 West, and 380 West. Carterville Neighborhood. (19-108) ([0:37:16](#))

Motion: An implied motion to adopt Resolution 2019-57, as currently constituted, has been made by council rule.

Mary Gail, Provo, lived in the Carterville Neighborhood. Neighbors were proposing restricting parking in the streets directly behind the Macy's Grocery Store and 1625 North by the business park. They hoped to restrict parking from 11 p.m. to 6 a.m.

She said there were many students who parked in her neighborhood which caused certain problems for the residents. She explained that students would move garbage containers from the street to make room for parking and their garbage containers would not get emptied. There were also issues with car alarms going off all night and the students were not close enough to hear or disable the alarm. Some neighbors weren't excited about having to pay to park in their own neighborhood, but Ms. Gail thought it seemed like a reasonable solution. She wanted this program to be similar to the one in the Seven Peaks area.

Mr. Winterton asked if the permits would be limited to residents or just homeowners. Ms. Gail said the intent was that residents would be eligible for a permit. An address would be required to validate eligibility.

Mr. Handley had visited previously with Ms. Gail about the need for a permit program. He explained that there were several nearby apartment complexes with overflow parking issues and the result was those cars being parking in the neighborhood. Ms. Gail added that Alpine Village, Cinnamon Tree, and Branbury all charged for parking and this resulted in tenants parking in the neighborhood instead of paying for parking.

Vice Chair Van Buren clarified this resolution indicated the intent to study the possibility of a parking permit program – not to adopt the program. Mr. Van Buren opened public comment.

Sarah Asay, Carterville Neighborhood Chair, spoke in favor of the proposal. She said the neighbors had conducted their due diligence and had been very patient in finding a solution.

There was no other comment from the public. Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

Ms. Gail asked for clarification about the process and what she needed to do next. Mr. Jones explained that Austin Taylor, Parking Coordinator, would be tasked with preparing a report within the next 90 days. He would investigate the cost and impact of the program before reporting back to Council. If the Council decides to move forward following the report, there would be two more hearings before the program could be implemented. Everyone residing within the area would receive notice.

7. Ordinance 2019-50 amending Provo City Code to clarify development landscaping requirements and allow for xeriscape. Citywide application. (PLOT20190280) (0:49:22)

Motion: An implied motion to adopt Ordinance 2019-50, as currently constituted, has been made by council rule.

Javin Weaver, Planner, explained this was a proposal to amend the code to allow for the use of xeric landscaping and artificial turf. The proposed amendments were displayed for the Council. Mr. Weaver believed this would help homeowners and code enforcement by providing additional framework for what is permissible.

Vice Chair Van Buren opened public comment.

Sam Omen, Provo, spoke in favor of these amendments. Although, he noted that he disliked the minimal landscaping at the park located at 300 South and University Avenue; he said it was mostly puncture weeds and trash.

There were no other comments from the public.

Mr. Knecht wanted to address Mr. Omen's comment about the park at 300 South and University. He said this was actually a piece of vacant property located near the CityView Apartments and he was unsure who owned the lot. Bill Peperone, Development Services Director, shared that following the rebuild of 300 South, UDOT had given this excess land to the City with the intent it be used for the public. He said the Parks Department was in the process of determining the best use for the property. In the meantime, Mr. Peperone thought gravel was going to be laid to prevent weeds. He would investigate and report back to Council.

Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

8. Ordinance 2019-51 amending the zone map classification of approximately 11.87 acres of real property generally located at 1400 S State Street from Residential (R1.10) to Medium Density Residential (MDR). Spring Creek Neighborhood. (PLRZ20190154) ([0:57:08](#))

Motion: An implied motion to adopt Ordinance 2019-51, as currently constituted, has been made by council rule.

Aaron Ardmore, Planner, said this request was related to a proposal for apartment development. There would be 13 apartment buildings, four stories tall, with four units per floor. There were 2.5 parking stalls per unit and 10 percent amenity space. The area was west of the new bus depot along South State Street. The Southeast Neighborhood Plan called for Medium Density Residential (MDR); it was currently zoned R1.10. The Planning Commission had already approved a concept plan but recognized that a full project plan would need to come back to them for review. The applicant requests a zone change from R1.10 to MDR. Mr. Ardmore said the project was aligned with the General Plan and Southeast Area Plan.

Vice Chair Van Buren invited the applicant, John Kollman of Fig Development, to address the Council. Mr. Kollman said they were excited to work within in the City of Provo where their business was based. He offered to answer any questions about the project, there were none.

Vice Chair Van Buren invited the neighborhood chair, Mary Millar, to address the Council, she was not present. He proceeded to open public comment and there was no response.

Clifford Strachan, Council Executive Director, said there had been email communication with Ms. Millar, the neighborhood chair, confirming they were in favor of the project.

Vice Chair Van Buren asked if any Councilor wanted to continue this item for a second hearing. Mr. Knecht commented that this project successfully met expectations of the neighborhood and the lack of discussion signified this.

Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

9. Ordinance 2019-52 to amend Provo City Code to clarify that electronic display and animated signs are prohibited in Agricultural and Residential zones. Citywide application. (PLOTA20190351) ([1:02:28](#))

Motion: An implied motion to adopt Ordinance 2019-52, as currently constituted, has been made by council rule.

Brian Maxfield, Planning Supervisor, presented. He said this item was intended to provide clarification requested by the Council regarding electronic display signs. The intent was to make it clear that animated signs were prohibited in agricultural and residential zones.

Brian Jones, Council Attorney, added that when the change was made in the City to allow electronic display signs to be used by businesses, the intent was to allow that for business uses, but the code did not explicitly restrict it to business and commercial zones.

Vice Chair Van Buren opened the item for public comment, there was no response.

Mr. Winterton wanted to point out that schools were exempt from this code and would be allowed to have this type of sign. Mr. Jones added that the City was prohibited by the State from regulating signs for public schools.

Vice Chair Van Buren asked if any Councilor wanted to continue the item to the next meeting, there was no response. He called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

10. An ordinance amending Provo City Code Section 14.50 to establish the 500 West Medium-Density Mixed-Use Project Redevelopment Option Zone (PRO Zone). Dixon Neighborhood. (PLOTA20180292) ([1:05:32](#))

Motion: An implied motion to adopt the ordinance, as currently constituted, has been made by council rule.

Brian Maxfield, Planning Supervisor, presented. This item was also related to item 11. If approved, item 10 would add the text of the zone to the code and item 11 would apply the text to the property. The property was located at approximately 400 North and 500 West. The property included a duplex that had been built in the 1940's, a medical office with five apartments below was built in 1996, and an apartment building with six units built in 1999.

Mr. Maxfield said the PRO Zone described the permitted uses and had provisions to allow for an overlap of parking use, recognizing that the parking used for the medical clinic had different peak hours than the residential portion. The zone would also allow parking requirements for the medical office to be considered by the number of employees and clientele, rather than the square footage. This property

had been in place for 20 years and the parking had not been an issue and Mr. Maxfield did not feel that six additional units would be problematic.

Mr. Knecht observed that the unusual nature of the property necessitated using a PRO Zone. Mr. Maxfield said staff had looked into creating a mixed-use zone but had not created one yet, so this was the best option. Mr. Knecht said he had a love-hate relationship with PRO Zones. He disliked having so many, but each one of them has allowed the unique property to develop when it would not otherwise be possible.

Planning commission items are traditionally heard twice before being voted on, but if no council requests a second hearing, they are eligible to be voted on during the first hearing. Vice Chair Van Buren stated that Mr. Harding requested by email to continue items 10 and 11 to the next meeting. Mr. Stewart also wanted to continue these items.

Vice Chair Van Buren opened public comment.

Karen Tapahe, Neighborhood Program Coordinator, said that following work meeting she spoke with the neighborhood chair and vice chair and they requested the items be continued so they could have more time to review the proposal.

Vice Chair Van Buren invited the applicant, Dr. Gordon McClean, to speak to the Council.

Dr. McClean said there had been two neighborhood meetings about a year ago. The process begun two years prior, but it took some time to find a zone that would fit. Dr. McClean said that at the second meeting, the neighborhood chair was in favor of the proposal. Regardless, he was not opposed to waiting until the next meeting. He took a few minutes to show Council printed plans. He noted the property borders multiple uses with offices on the south and the school on the north. To the west was an R1.6 zone and to the southwest there was a townhome complex. He believed the project was compatible.

Mr. Winterton noted there were protections in the PRO Zone that would prevent heavier use so that in the event Dr. McClean ever sold the property the use could not increase.

- 11. An ordinance amending the zone map classification of approximately one acre of property, generally located at the 385 N 500 W, from Residential Conservation (RC) to a Project Redevelopment Option Zone (PRO Zone). Dixon Neighborhood. (PLRZ20180293) ([1:05:32](#))**

Motion: An implied motion to adopt the ordinance, as currently constituted, has been made by council rule.

Items 10 and 11 were discussed together, refer to item 10. Both items continued to November 12, 2019.

- 12. An ordinance amending Provo City Code regarding Planning Commission approval of reductions in required parking, including for multi-family residential uses. Citywide application. (PLOT20190289) ([1:19:22](#))**

Motion: An implied motion to adopt the ordinance, as currently constituted, has been made by council rule.

Robert Mills, Provo City Planner, presented. This was a request from the Housing Committee to explore options for allowing a reduction in off-street parking when certain conditions are met for multi-family residential uses. There was already an option to have parking reductions for other uses and multi-family projects receiving financial assistance. The reduction would be based upon a transportation demand management program (TDM) and a parking count justification study.

Currently, uses like commercial, industrial, or public facilities could request a reduction through a conditional use permit. However, Mr. Mills said conditional use permits were difficult to disallow; there had to be proof that disallowing the use permit would be hazardous to surrounding properties or people. This would remove the use as a conditional use and include it as part of the project plan approval process.

Applicants would be required to submit a TDM and would also have to designate a space for landscaping or something similar that could be converted into parking if needed later on. The proximity of the project area to employment centers would be taken into consideration. In addition to the TDM, applicants would also need to provide parking justification study to provide support for the proposed TDM measures of the project.

Mr. Mills said that Councilor Harding previously expressed concern about the requirements for projects of a smaller scale because of the cost of the required studies. Mr. Mills said these concerns had been acknowledged, however, parking was also expensive to provide, and they believed the studies were necessary.

This was not an entitlement, or something applied automatically, assured Mr. Mills. This would be judged based upon the specific project. The Planning Commission would judge each project on their own specific merits and context.

The proposed language included a “floor” or an absolute minimum for required parking. The minimum was no less than one space per unit for a one-bedroom unit or 1.5 spaces for a unit with two or more bedrooms.

The Planning Commission was supportive of this proposal and felt it would be a useful tool.

Language had been added to preclude projects with batching singles from receiving this type of reduction. However, there had been discussion about whether that was necessary. Mr. Mills would leave this to Council to discuss.

Mr. Handley thought the Amanda Knight building was a good example of when this type of tool might be helpful. With the amount of oversight provided in the proposal he did not think it was necessary to exclude batching singles. This was a great way to incentivize not using a car. He asked Mr. Mills if he or staff had reservations about this. Mr. Mills thought Councilor Handley made excellent points. He said this had been inserted as a conservative effort by staff. Batching singles were more difficult to enforce and there were typically more parking concerns in neighborhoods with batching singles. Mr. Handley explained that it was probable that batching single units would often be in higher density areas with convenient access to mass transit and would be good candidates for this.

Mr. Knecht agreed with Mr. Handley regarding batching singles. He noted there was already a provision for parking reductions for non-profit groups, he suggested removing that language and including non-profit groups in this same proposal so that everyone had to follow the same requirements.

Vice Chair Van Buren opened public comment.

Sharron Memmott, Provo, had commented on the item in Planning Commission. Ms. Memmott appreciated the minimum parking requirement. She said there was a list of suggested items to include with their transportation study. She suggested requiring a landscape design plan so that there was an area set aside for landscaping and future parking needs, if needed. Ms. Memmott was concerned this might also increase staff's workload.

Paul Evans, Provo, said the opportunity to modify parking for unique situations was a powerful tool and would allow for interesting development options. He suggested adding a scheduled review after several years to ensure each situation was working well.

Mr. Stewart appreciated Mr. Evan's comments. He requested the item be continued to the next meeting.

Mr. Handley asked if including batching apartments would create too much of a burden. Bill Peperone, Development Services Director, felt strongly about excluding batching singles. His department worked hard to establish the current parking ratio for these projects. He agreed that these projects tend to be located in more walkable locations, but there had been years of problems before finally arriving at a parking standard that worked well for batching singles. Councilor Handley thought it was in the City's interest to allow some discretion and flexibility for larger projects in walkable areas. Mr. Peperone explained this could still be accomplished through the use of PRO Zones.

Mr. Knecht referred to Ms. Memmott's comments and asked in lieu of setting aside land, what other options existed that would give the City reassurance. Mr. Mills said from a site design perspective, it was not always feasible to hold additional space open on the property, so there was a list of options that could be incorporated into different types of projects to utilize to justify a reduction in parking instead of land. Further, Mr. Mills said part of their TDM required the applicant to enter into an agreement with the City that would be recorded against the property and there was a five years sunset clause on the agreement. If after five years there had been no problem with the parking reduction, the applicant could request to utilize the area set aside in a different way. Mr. Knecht thought it was wise to revisit each approved project after a standard period of time, especially those with complaints. He wanted a measure to know if it was working. He understood why Mr. Peperone suggested being conservative with the batching single apartments.

Mr. Winterton noted that other ordinances mandated that Council revisit the issue to ensure it was performing as expected; he asked if that would be necessary with this ordinance. Mr. Mills explained that complaints would be routed through the zoning office first and there would be an established history to prove whether the project was working as intended. He trusted the professional experience of those overseeing the complaints to recognize if there is an issue. Mr. Peperone said within a few years of the project being occupied, they would know whether the parking was adequate. He said they could do scheduled reviews, but he was not sure it was necessary.

Mr. Stewart was cautious about giving too much authority to the administration, he had witnessed this at the federal level. As an elected representative he worried about giving so much power to a non-elected group. He liked the idea of a scheduled review by Council.

Mr. Knecht understood Mr. Stewart's comments and had spoken to a former council member who had the same concerns. Mr. Knecht thought this was a very specific use and it was not carte blanche authority. If the ordinance does not work, adjustments could be made, or the ordinance could be repealed. He thought this was a responsible delegation of power to a trusted Planning Commission and staff.

Mr. Stewart responded to Mr. Knecht's comments and explained that parking had always been a serious issue in Provo. He felt strongly about Council having oversight of any reductions. Mr. Stewart did not feel comfortable leaving this up to the Planning Commission.

Mr. Sewell asked the Council Attorney for his advice. Mr. Jones said that in a city with a different form of government it would not be unusual for the city council to do some of the things the planning commission would do in other cities. But in Provo's form of government, he thought it would be odd for the council to be making decisions that were not legislative in nature. He said PRO Zones and text amendments are typically presented to Council as a legislative function, but to have the Council designate itself as the body that reviews an administrative land use decision seemed unusual.

Mr. Knecht reminded this ordinance set parameters for parking and if there were issues with those parameters, it could be amended or repealed.

Mr. Stewart shared the analogy "it is much harder to get the horse back in the barn once it is out."

Mr. Sewell asked Mr. Peperone to speak about the benefits of the ordinance in comparison to the amount of work it might create for staff. Mr. Peperone said most applicants would request a reduction due to the cost of providing parking, but he did not think it was burdensome on staff because it would be part of the project approval process.

Mr. Knecht asked if the ordinance were passed as written, to exclude batching singles, whether Mr. Peperone would support this ordinance. Mr. Peperone supported it in its current form.

There was no further discussion and the item would be heard again in the next meeting per Mr. Stewart's request.

13. Ordinance 2019-53 amending the General Plan designation of approximately 1.34 acres of real property, generally located at 1900 North Canyon Road, from Commercial (C) to Residential (R). Pleasant View Neighborhood. (PLGPA20190251) ([1:58:15](#))

Motion: An implied motion to adopt Ordinance 2019-53, as currently constituted, has been made by council rule.

Vice Chair Van Buren introduced items 13 and 14 together because they were related.

Robert Mills, Planner, presented. These items had been heard by Council previously and one concern had been the height of the building. Language had been incorporated into a development agreement that would limit the height of the roof to 56 feet with one structural element on the southwest corner

that could exceed this. The building would be four stories tall with a basement. If approved, these items would permit a 121-unit apartment building at the corner of Stadium Avenue and Canyon Road. Staff believed the project was consistent with the general plan and the proposed uses for the site. Mr. Mills said there had been good civil discourse to get the project to this point. The Planning Commission was supportive of both items and recommended approval.

Mr. Winterton asked how the height would be measured. Mr. Mills said it would be measured from grade. He added that this zone traditionally allows for a height of 75 feet.

Vice Chair Van Buren asked the applicant, Dave Hunter, to speak to the Council. Mr. Hunter had been working closely with the neighborhood to arrive at a consensus. He was prepared to sign a development agreement that addressed the concerns discussed. Mr. Hunter was appreciative of Provo City's development approval process. There were two outlying issues, one was the sidewalk. Public Works wanted the curb, a buffer, and then the sidewalk. Mr. Hunter did not think this would be suitable, especially on game days with increased pedestrian traffic. The landscaping in the buffer area would just get trampled. The other issue was getting the mail in an out of the building, but this would be resolved when they have their construction documents designed. Mr. Hunter thought this project would help to address Provo's housing needs.

Mr. Winterton asked how large the apartments would be. Mr. Hunter said they would all be one bedroom and approximately 685 square feet. There were 1.5 parking spaces per unit. Because these were one-bedroom units, Mr. Hunter anticipated it would be occupied by married students.

Councilor Stewart thanked Mr. Hunter for working to genuinely address the neighborhood's concerns.

Vice Chair Van Buren asked the neighborhood chair, Paul Evans, to comment. Mr. Evans was the Pleasant View Neighborhood Chair. He said this had been a journey, but he was happy with the outcome. The overarching effort for the neighborhood had been to envision what the neighborhood would look like in the future. The general plan helps to define the future of the neighborhood by listing the types of zones that were envisioned for the neighborhood. The highest density zone envisioned was R4 which had a height maximum of 55. Mr. Evans felt like the project met the vision. His remaining concerns were the same as Mr. Hunters, mail delivery and sidewalks. He said that every existing development, including the new Stadium Avenue project had a curb, sidewalk, and then landscaping. He asked Council to make sure this stays consistent with the new project.

Mr. Winterton thought a narrow park strip was just difficult to maintain and water.

Vice Chair Van Buren opened public comment.

Marian Monnahan, Provo, was concerned about high density moving into the residential neighborhoods. She hoped this did not set a precedent.

Sharron Memmott, Provo, said citizens trust that the council has their best interest at heart. She was concerned about the zone change to CMU in an area surrounded by residential zones. She said the CMU zone was large and unlimited in scope. Ms. Memmott was She believed this zone should only be used in the core of the campus rather than spreading into established single-family neighborhoods. She worried this decision might make future councils think the intent was to continue with high density use for this

area and others nearby. Ms. Memmott asked the City to protect their investment in a single-family neighborhood.

Warner Woodworth, Provo, was a former BYU professor. He raised his family and hosted exchange students for many years at home in this neighborhood. Mr. Woodworth chose this neighborhood because it was quiet and uncrowded. He said there was still a small group resisting this project. Their neighborhood had been safe and not congested, he said it was a sweet place to live. Previous proposals had been rejected. He feared that approving this project would encourage more large developments. He viewed this as a contradiction to the quiet life he was accustomed to. He said there were plenty of other places in Provo where this type of structure could exist. Mr. Woodworth felt sorrow over this project and wanted a better quality of life. He thought if this project had been proposed in a wealthier neighborhood, it would not be approved.

There were no other comments from the public.

Mr. Knecht noted there had been several comments about how the decisions the Council makes affect the quality of life. He wanted it known that these decisions are not taken lightly. Mr. Knecht said he often loses sleep over these decisions. He would be voting in favor of this development; the city was growing, and this type of development was inevitable. Mr. Knecht took his commitments seriously and being on the Council was not easy.

Mr. Sewell asked to see a copy of the updated development agreement. The development agreement was displayed, and Mr. Jones pointed to paragraph four which listed the requirements that had been discussed by the Council.

The developer and the neighborhood preferred that the sidewalk extend all the way to the curb without a park strip. Mr. Sewell asked if there was anything the Council could do to facilitate this request. Mr. Jones said the development agreement could not change established standards. Mr. Mills clarified the park strip would be seven feet wide with a six-foot sidewalk. There were existing powerlines running through the area which necessitated the park strip. Moving the powerlines would likely be costly for the developer.

Mr. Stewart suggested they should approve the resolution and allow the Mayor to work with Public Works to see if the park strip could be eliminated. He recognized that it could be too expensive to relocate the power poles. Mr. Stewart was careful not to commit to something that may not be possible.

Mr. Van Buren asked who would be responsible for the cost of relocating the power lines. Mr. Knecht responded that there had been problems with power lines on 200 West and the lines had to be buried because they were too close to the building, and it had been costly to do so. He wanted to voice his preference to move the lines but understood that practical constraints might limit the outcome. Eliminating the park strip seemed to be a preference, not a necessity. He wanted to leave this decision to the administration. Mr. Winterton replied that the power line issue on 200 West was not due to error by the City.

The developer, Mr. Hunter, was allowed to comment again. He stated that Public Works told him the park strip was a safety issue and was a city-wide requirement for all new developments. Mr. Hunter thought the park strip would not match the sidewalks in the surrounding areas. He acknowledged the

decision to remove the park strip was not his to make, so they could not make this commitment. Mr. Hunter thought with Mr. Peperone's help it might be possible.

Mr. Handley said there were many hardworking neighborhood chairs, Paul Evans was one of them. He also had great respect for Mr. Woodworth who did not agree with the development. Because Mr. Evans and Mr. Woodworth had been the only ones from the neighborhood to comment, it was an interesting situation to have opposing opinions. Mr. Handley did not consider this to be fait accompli but it had been thoroughly vetted, which was important. He was inclined to support the development as a sign of respect for the due diligence that had taken place between the developer and the neighborhood. He did not want someone's quality of life to be compromised by this development, but recognizing that Provo was a growing City, disallowing a variety of housing types and affordability would also have a negative impact. He appreciated the proximity of the development to campus and public transit, it was a walkable neighborhood. Mr. Handley had experience working with married students at BYU and he thought this group of people would be a positive contribution to neighborhood and community. Mr. Handley was comfortable supporting the development.

Mr. Sewell commented on several of the concerns raised. One of the concerns was about setting a precedent for higher density expanding north into other lower density residential areas. He felt like this density was appropriate for this area because of its proximity to the stadium, campus, and mass transit. Another concern related to the potential traffic increase on Canyon Road; it was an arterial road and Mr. Sewell thought it had the capacity to handle an increase. He did not think the people who would live in the development would have any reason to utilize Stadium Avenue which led into the lower-density neighborhood. Lastly, Mr. Sewell wanted to assure Mr. Woodworth the approval of this development had nothing to do with the financial status of the neighborhood.

Vice Chair Van Buren explained these items would be voted on separately. He called for a vote on the implied motion for item 13.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

14. Ordinance 2019-54 amending the Zone Map Classification of approximately 1.34 acres of real property, generally located at 1900 North Canyon Road, from Public Facilities (PF) to Campus Mixed Use (CMU). Pleasant View Neighborhood. (PLRZ20190227) ([1:58:15](#))

Motion: An implied motion to adopt Ordinance 2019-54, as currently constituted, has been made by council rule.

This item had been discussed with the item 13.

As a point of clarification, Mr. Jones explained the Council had been provided with two versions of this ordinance. The implied motion applied the version without the development agreement. If the Council wanted to adopt the version with the development agreement, there would need to be a motion to make this the subject of the implied motion.

Motion: Council Member Sewell moved to substitute the ordinance for the version that included the development agreement. Council Member Handley seconded the motion.

It was clarified that nothing in the development agreement contemplated the park strip and sidewalk. The Council asked the Mayor to work with Public Works and Development Services to see if it was possible to eliminate the park strip. If they find a way to eliminate the park strip, then Exhibit A, the site plan, would be updated.

Vice Chair Van Buren called for a vote on Mr. Sewell's motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

Vice Chair Van Buren called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Council Members Handley, Knecht, Sewell, Stewart, Van Buren and Winterton in favor. Council Member Harding was excused.

15. *****CONTINUED*** Provo City Com Dev Dept requests amendments to Sec 14.34.295 Downtown Development Design Standards to clarify architectural requirements. Downtown, Joaquin, Maeser, Franklin, Timp Neighborhoods. 16-0005OA**
16. *****CONTINUED*** Provo City Public Works Department requests amendments to Section 15.03.020(3) to update 2019 standards to 2020 standards. City-Wide Impact. PLOTA20190366**
17. *****CONTINUED*** The Community Development Department requests approval of the 2019 Moderate Income Housing Plan, which is an update to the existing plan. City-wide. PLGPA20190194**

Adjournment

The meeting was adjourned by unanimous consent at approximately 8:18 p.m.