PROVO MUNICIPAL COUNCIL

Work Meeting

12:00 PM, Tuesday, April 14, 2020
Electronic meeting: https://www.youtube.com/user/provocitycouncil

This meeting will be conducted entirely via electronic means. Due to the risks of public gatherings associated with the spread of COVID-19, Governor Gary Herbert has waived the anchor location and other requirements for public meetings/noticing, as outlined in Executive Order 2020-05. The meeting will be available to the public for live broadcast and on-demand viewing at: https://www.youtube.com/user/provocitycouncil. If you do not have access to the Internet, you can join via telephone following the instructions below.

For more information regarding the City Community Safety Plan for COVID-19 and related City facility closures, please visit: https://www.provo.org/city-services/covid19

To listen to the meeting by phone: April 14 Work Meeting: Dial 346-248-7799. Enter Meeting ID 483 172 721 and press #. Enter Meeting Password 752184 and press #. When asked for a participant ID, press #.

Agenda

Roll Call
Prayer

Business

1. A presentation from Provo Power regarding their 5-year Strategic Plan and their Action Plans. (20-066)

Administration

2. A presentation regarding the adoption of policies allowing for the use and establishment of Public Infrastructure Districts (PIDs). (20-063)

Policy Items Referred from the Planning Commission

3. An ordinance amending Provo City Code to establish a Critical Hillside Overlay (CH) Zone. Citywide application. (PLOTA20200077)

4. An ordinance amending the Zone Map classification of multiple East Bench properties to include them in the Critical Hillside Overlay (CH) Zone. Citywide application. (PLRZ20200078)

5. An ordinance amending the Provo City General Plan relating to the Transportation Master Plan. Citywide application. (PLGPA20200038)

Business

6. A discussion regarding a policy statement asking the Administration to pursue alternate fuel vehicles where possible when purchasing new vehicles for the city's fleet. (20-075)

7. Ordinances amending Provo City Code regarding beer regulations to streamline it and bring it into alignment with state regulations (20-076) and amending Provo City Code regarding beer licenses and regulations to create a Class "F" license. (20-057)

8. A discussion regarding Council Budget Priorities for Fiscal Year 2020-2021. (20-007)

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

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

Materials and Agenda: agendas.provo.org
Council meetings are broadcast live and available later on demand at youtube.com/user/ProvoCityCouncil
To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next scheduled Council Meeting will be held on 4/21/2020 12:00:00 PM. The meeting will be streamed on YouTube, 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 at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/user/ProvoCityCouncil. Closed-captioning is available on YouTube.

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

Pursuant to Executive Order 2020-05, certain requirements of Utah Code 52-4-202 and 52-4-207 have been waived. There will be no anchor location for this meeting; it will be conducted exclusively using online means and will be available to view on YouTube at youtube.com/user/ProvoCityCouncil. This meeting was noticed in compliance with Executive Order 2020-05, which supersedes some requirements listed in 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. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMAGNESS
Department: Council
Requested Meeting Date: 04-14-2020

SUBJECT: A presentation from Provo Power regarding their 5-year Strategic Plan and their Action Plans. (20-066)

RECOMMENDATION: Presentation only.

BACKGROUND: Provo Power recognizes that in order to serve the community successfully far into the future, they must invest in new technologies, promote renewable energy resources, maintain a qualified workforce, and develop the flexibility and vision to adapt to a fast-changing electric utility marketplace.

During the Summer of 2019, Provo Power developed its 2020-2025 Strategic Plan and defined Strategic Priorities which the organization must address in order to reach defined goals and achieve its vision:

"Provo Power shall be at the forefront in providing reliable energy services to enhance the quality of life for our community."

Travis Ball, the Director of Provo Power, will review their Strategic Priorities, Goals, and Action Plans.

FISCAL IMPACT: None

PRESENTER'S NAME: Travis Ball

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-066

Provo Power

Strategic Plan 2020-2025



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Introduction: A Proud History and Bright Tomorrow

Provo Power provides reliable electricity with superior customer service at competitive rates to the residents and businesses in Provo, Utah. The utility operates and maintains over 35,000 meters, 380 miles of distribution lines, 48 miles of high voltage distribution lines, and 18 substation transformers.

With more than 60 employees and approximately 45 line trucks, bucket trucks, pickup trucks, and other heavy equipment, Provo Power is the largest municipally-owned electric utility in Utah. One of six members receiving wholesale power supply and other services from the Utah Municipal Power Agency (UMPA), Provo Power takes pride in offering the most reliable electrical service in the state and is working to be the top provider in the nation.

The utility deployed recently an Advanced Metering Infrastructure (AMI) network featuring technological advances that offer many benefits to customers. The AMI network connects meters in every home and business in the community with 2-way communications for measuring electrical consumption. Customers may now monitor their own electrical consumption and use this data to promote energy conservation and cost savings. In addition, the AMI network enables Provo Power to monitor the status of the distribution system and deploy crews and effect repairs quickly and efficiently.

Provo Power is a major proponent of solar and other renewable energy sources, including the provision of Solar Generation/ Net Metering. For a homeowner investing in solar panels, the utility reimburses the customer for any excess power that their solar system contributes to the electric grid, while collecting payment for the electric power the home uses when the rooftop solar system is offline.





Preserving the Benefits of Community-Owned Utilities

Powering Provo since 1940



Throughout much of the 1930s, the citizens of Provo fought an epic legal battle for the community to own its power plant and electric distribution system. The effects of the Great Depression were keenly felt in Provo. Citizens saw municipal ownership as the key to providing proper service to customers and job security for local workers. Ultimately, the community prevailed. Provo began excavation on a new power plant and purchased the local distribution system from Utah Power & Light. On April 1, 1940, Provo Power went on-line.



For nearly eighty years, Provo Power has delivered electric utility services that are community owned, customer focused, locally controlled, and operated on a not-for-profit basis. This structure means that Provo Power tailors its utility operations and services to the needs and preferences of the local community. The benefits of living and working in the community include utility rate stability, support for local jobs, policies that are in line with community priorities, and financial support for local government functions. Because it's community-owned, Provo Power provides reliable customer service, affordable rates, and economic development opportunities while being held accountable by friends and neighbors. Above all, Provo Power maintains its commitment to providing innovative, competitively priced, reliable, safe, and environmentally responsible electric service. The utility strives to provide best-in-class operations and serve as a trusted resource for utility services and community support.

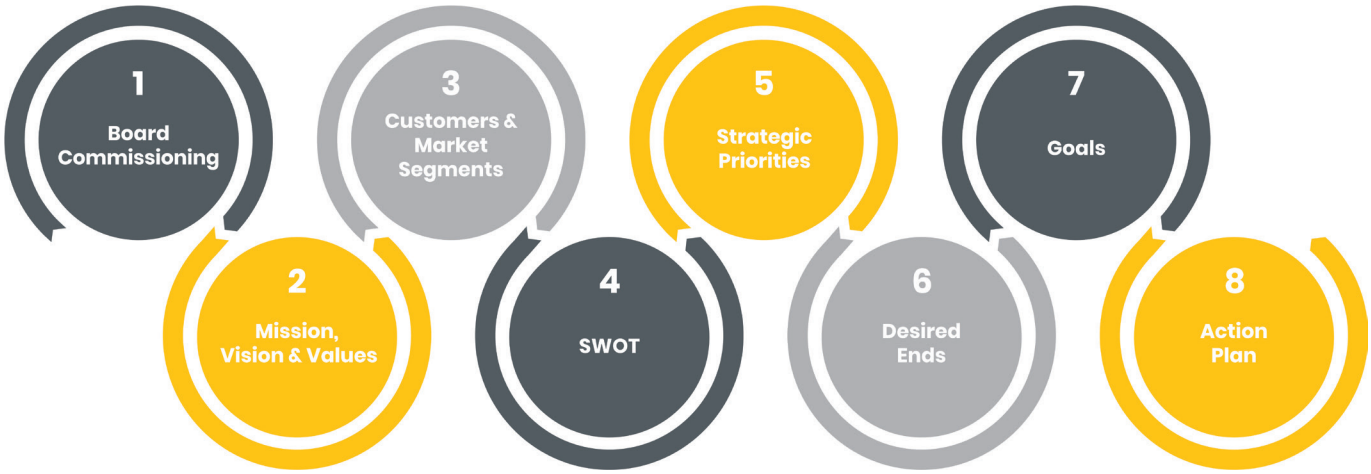
Strategic Planning Process

The leadership of Provo Power recognizes that in order to serve the community successfully far into the future, the utility must invest in new technologies, promote renewable energy resources, maintain a qualified workforce, and develop the flexibility and vision to adapt to a fast-changing electric utility marketplace.

Provo Power selected Hometown Connections, Inc., a leading provider of management consulting services to community-owned utilities and municipalities, to facilitate development of a comprehensive strategic plan with city leaders and staff.

The utility hosted a series of workshops with employees, management, board members, and community leaders to develop its vision, mission, and values; review organizational strengths, weaknesses, opportunities, and threats; identify key strategic issues for the next five years; develop objectives to achieve the strategic goals; and identify success measures to track the progress of the strategic plan.

To obtain input from customers and the community about the Strategic Plan, Provo Power met with approximately 60 citizens representing the majority of the neighborhoods in Provo and conducted a survey during the Public Power Fair. The feedback collected was positive and reinforced that the strategic priorities Provo Power is focusing on for the upcoming years is important to customers and the community.



Vision, Mission, and Values

Central to Provo Power's planning for the future is ensuring all efforts align with its enduring vision, mission, and values.





Vision Statement

Provo Power shall be at the forefront in providing reliable energy services to enhance the quality of life for our community.

Mission Statement

We provide reliable energy services through investing in employees, infrastructure, technology, and community outreach. We are proactive stewards of the environment while maintaining our fiscal responsibility to the citizens of Provo.

Core Values

Customer Care: We strive to provide sound solutions through innovation, education, and continuous improvement to care for our customers' needs and expectations.

Financial Sustainability: We set an equitable rate structure that allows us to invest wisely in infrastructure, operations, and technology, while contributing to the City's financial health.

Valued Workforce: We care for our employees and their development. We provide advancement opportunities, are concerned for their personal and family wellness, and strive to create a respectful and positive work environment where employees are committed to empowering Provo.

Trusted Community Resource: We are the community resource for energy related services, information, and education.

Safety: We are committed to protecting our employees and the public through a proactive safety culture.

Innovation: We use advanced infrastructure and technology to enhance our operations to provide reliable energy services to our community while being environmental stewards.

Strengths, Weaknesses, Opportunities, and Threats

A foundational element of the strategic plan is identifying Provo Power's strengths in the marketplace, its vulnerabilities, and its opportunities. The following lists the highlights of the SWOT analysis conducted.

Strengths

- Outstanding reliability, ranking in the top 25% of all power companies in the U.S.
- Cost competitiveness and high quality customer service.
- Effective budgeting and contributions to the city general fund.
- Strong, experienced leadership with good working relationship with elected officials.
- Focus on employee safety, competitive wages and benefits, and positive work environment.
- Growing population and supportive citizens.
- Diverse power supply portfolio with potential to increase use of renewable resources.
- Net Metering program for rooftop solar.
- New building and sound capital improvement program.
- State-of-the-art technology, including integrated advanced metering, geographic information systems, outage management, and distribution automation systems.

Weaknesses

- Susceptibility to cyber and physical security threats.
- Insufficient regulatory influence at the state and federal levels.
- Environmental concerns, including ability to adapt to renewable resources, the impact of pricing on renewables, and the long-term effect of customers seeking alternative energy sources.
- The city's economic growth is limited by lack of space to expand geographically
- Aging infrastructure.
- Rate structures are less dynamic than are offered by other utilities.
- Lack of public awareness of the services that Provo Power provides.
- Low number of residents opting in to receiving statements by email, tying utility to printing and mailing costs.
- Sharing customer service and billing with water and other city utilities makes it difficult to highlight the performance and services of Provo Power.
- Understanding of the future of energy and maintaining the flexibility to pivot as industry changes demand.
- Customers looking to pay online and take advantage of their AMI data must use two different log-in systems.

Strengths, Weaknesses, Opportunities, and Threats

Opportunities

- A new plant in West Valley with UMPA which is a great source of power and revenue.
- Combining AMI system with meter data management to support time-of-use rates and incentives for customers to use power at non-peak hours.
- Promoting renewable resources and moving to cleaner/ green power as demand expands for electric vehicles, heat pumps, and battery storage.
- Improved reliability and efficiency through investment in new technologies, system automation.

Threats

- Heavy reliance on power generated by natural gas places utility at financial risk if wholesale costs go up.
- Expanding use of alternative energy sources and micro grids, driving customers to purchase less from Provo Power and limiting transfers to the city general fund.
- Cyber criminals threatening the city with ransomware attack, service interruption.
- Expense of warding off cyber-attacks.
- Regulatory demands from state or federal agencies.
- Departure of senior employees and managers due to retirement.



Strategic Priorities and Actions

To take advantage of its organizational strengths and address opportunities for growth and improvement, Provo Power identified five strategic priorities to serve as the framework for its strategic plan and created detailed actions for each priority.

Workforce

We have a workplace culture that attracts and retains professional, competent, and dedicated employees.

Actions

1. Attract employees by creating partnerships with local schools and universities.
2. Create a program where employees are recognized for exceptional work.
3. Create a think tank to discuss and implement energy services for future innovation.
4. Develop comprehensive training program for each division in department.
5. Develop employee orientation program for Provo Power.

Technology

We use technology to be the most reliable energy services provider in the nation.

Actions

1. Implement faulted circuit indicators that support remote communications and integration.
2. Replace electromechanical relays with solid state programmable relays.
3. Install switches that support source automation and Supervisory Control and Data Acquisition (SCADA) integration.
4. Upgrade existing SCADA infrastructure.
5. Integrate AMI data with SCADA and Outage Management System (OMS).
6. Implement cybersecurity protocols for operations.

Communication and Outreach

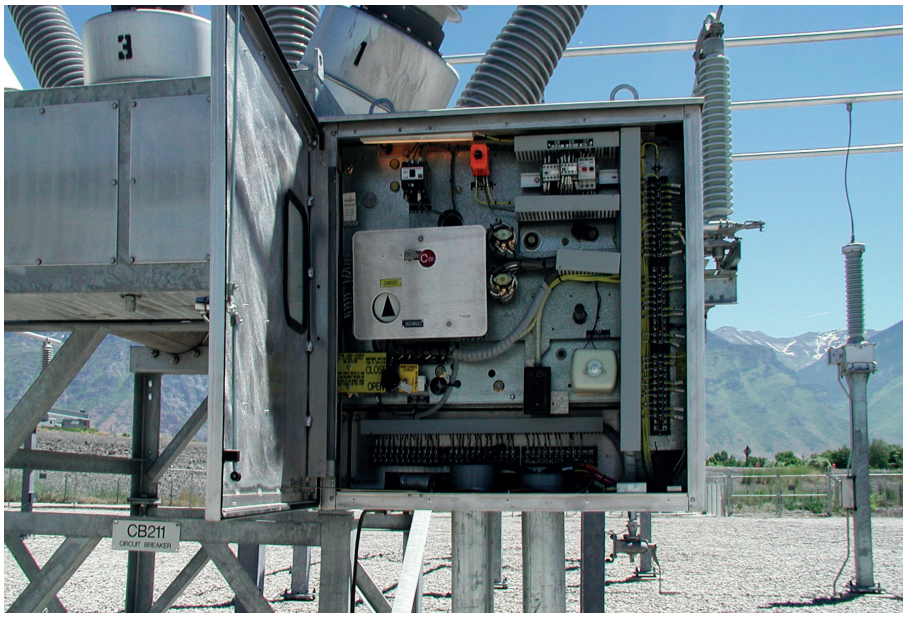
We will obtain our customers' trust through effective outreach programs and open communication.

Actions

- Develop a communications plan for outage notifications.
- Develop community programs & outreach.
- Improve partnership with Customer Service.
- Review and update websites.

Strategic Priorities and Actions





Infrastructure

We are committed to the continuous improvement of our equipment and infrastructure to provide the most reliable energy services to our customers.

Actions

1. Implement and update the Capital Improvement Plan (CIP).
2. Improve routine maintenance program and efforts.
3. Encourage inclusion of renewable resources in our power supply portfolio.

Fiscal Viability

We have competitive and flexible rates that adequately fund our budgetary priorities and insulate us from changes in the energy market.

Actions

1. Develop practices with the Finance Department to facilitate transparency with the Energy Board and the public.
2. Align annual rates and budgets to ensure a reasonable rate of return that will enable Provo Power to achieve its goals.
3. Perform cost of service studies every 3 years to ensure our rate structure spreads costs equitably across customer classes.

Conclusion: Focused on a Future of Excellence

Using the 2020-2025 Strategic Plan as its guide, Provo Power will evaluate technology advancements and infrastructure improvements, customer service programs, human resources policies, and financial management strategies that will enable Provo Power to chart a course for a successful long-term future. Provo Power will use the plan to develop specific tactics for operational planning, employee engagement, new customer initiatives, and a capital improvement program. Provo Power will also follow the plan's guidelines when monitoring regulatory and industry changes, exploring growth opportunities, and setting internal goals. The framework of the plan will support Provo Power's core focus on continued delivery of reliable and competitive utility services. The Provo Power governing board and staff will review on a regular basis the progress of the plan implementation.



Acknowledgements

The strategic planning process captured the "voice" of the Provo community through the presence of the Advisory Team. The Advisory Team provided guidance on the strategic direction, identified roadblocks and gave input during the planning process. Provo Power thanks the members of the Advisory Team for their efforts and participation:

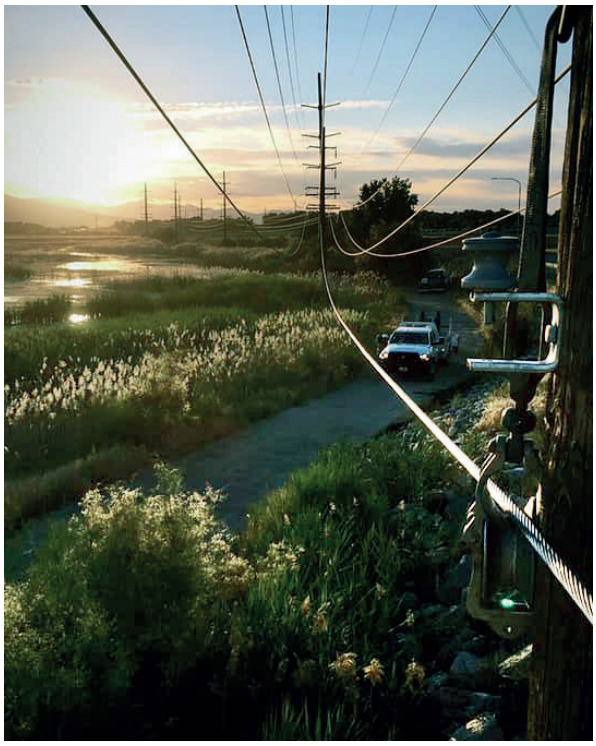
- **Bill Hultersum,** President & CEO, United Way of Utah County, former Energy Board Member
- **Cheryl Taylor,** Energy Board Member
- **Julie Radle,** Assistant Director, Honors Program-Brigham Young University, Energy Board Member
- **Ned Hill,** Former Dean of Marriott School of Business-Brigham Young University, Energy Board Chair
- **Gary Winterton,** Provo City Council Member, Energy Board Member
- **Gary McGinn,** Community and Neighborhood Services Director, Provo City
- **Austin Taylor,** Parking and Sustainability Coordinator-Community and Neighborhood Services, Provo City

Comprised of Provo Power's management and staff representatives, the Planning Team (PT) developed the components of the Strategic Plan and are leading the implementation of the strategic and action plans. The PT is ultimately responsible for executing the actions necessary to move forward the strategic priorities defined.

Provo Power thanks the members of the PT for their dedication and participation in developing the 2020-2025 Strategic Plan and for leading the efforts to achieve Provo Power's vision and mission:

- **Travis Ball**
- **Charlie Fuller**
- **Chaz Addis**
- **Brett Davis**
- **Ryan Spencer**
- **Scott Bunker**
- **Kat Linford**
- **Peggy Andersen**
- **Alfonso Cardenas**
- **Tad Smallcomb**
- **Titus Bills**
- **Randy Barney**
- **Rebecca Hunt**





PROVO POWER
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Provo, UT 84601
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Provo Power

Tactical Action Plan 2020-2025



Community Resource • Customer Care • Innovation

20 provo POWER 25

Financial Sustainability • Valued Workforce • Safety



Mission Statement:

We provide reliable energy services through investing in employees, infrastructure, technology, and community outreach. We are proactive stewards of the environment while maintaining our fiscal responsibility to the citizens of Provo.

PROVO POWER

ACTION PLANS

Introduction

During the Summer of 2019, Provo Power developed its 2020 – 2025 Strategic Plan and defined Strategic Priorities the organization must address in order to reach defined goals and achieve its vision:

Provo Power shall be at the forefront in providing reliable energy services to enhance the quality of life for our community.

These Actions Plans are the companion document to Provo Power's five-year Strategic Plan and identifies the specific activities and tasks to be performed over the course of the next 12 months and beyond.

Calendar year 2020 will be the first year of implementing Provo Power's five-year Strategic Plan, and it will continue to be a year of learning and change.

The following table summarizes the Action Plans for each of Provo Power's Strategic Priorities.

Summary – Strategic Priorities, Goals and Actions

STRATEGIC PRIORITY	GOALS	ACTIONS
Workforce We have a workplace culture that attracts and retains professional, competent, and dedicated employees.	Provo Power's goal for the Workforce Strategic Priority is: To achieve 90% employee satisfaction levels on surveys conducted bi-annually.	1. Attract employees by creating partnerships with local schools and Universities. 2. Create a program where employees are recognized for exceptional work. 3. Create a think tank to discuss and implement Energy Services for future innovation. 4. Develop comprehensive training program for each division in department. 5. Develop employee orientation program for Provo Power.
Technology We use technology to be the most reliable energy services provider in the nation.	Provo Power's goal for the Technology Strategic Priority are: • For the Customer Average Interruption Duration Index (CAIDI) to be 120 minutes per outage. • To have remotely accessible, highly secure, extremely stable functional and consistent Supervisory Control and Data Acquisition (SCADA) interface.	1. Implement faulted circuit indicators that support remote communications and integration. 2. Replace electromechanical relays with solid state programmable relays. 3. Install switches that support source automation and Supervisory Control and Data Acquisition (SCADA) integration. 4. Upgrade existing SCADA infrastructure. 5. Integrate AMI data with SCADA and Outage Management System (OMS).
Communication & Outreach We will obtain our customers' trust through effective outreach programs and open communication.	Provo Power's goals for the Communication and Outreach Strategic Priority is: To increase customer satisfaction to 90% and understanding of who Provo Power is and what services we provide.	1. Develop a Communications Plan for Outage Notifications. 2. Develop Community Programs & Outreach. 3. Improve partnership with Customer Service. 4. Review and update websites.

Infrastructure

We are committed to the continuous improvement of our equipment and infrastructure to provide the most reliable energy services to our customers.

Provo Power's goals for the Infrastructure Strategic Priority are:

- To achieve and improve reliability metrics including:
- System Average Interruption Duration Index (SAIDI) is 12 minutes per customer.
- System Average Interruption Frequency Index (SAIFI) is 0.11 outage per customer.
- CAIDI is 120 minutes per customer.

1. Implement and update the Capital Improvement Plan (CIP)
2. Improve routine maintenance program and efforts.
3. Encourage inclusion of renewable resources in our power supply portfolio.

Fiscal Viability

We have competitive and flexible rates that adequately fund our budgetary priorities and insulate us from changes in the energy market.

Provo Power's goals for the Fiscal Viability Strategic Priority are:

- To follow financial best practices as established by the Federal Energy Regulatory Commission (FERC).
- That the 5-year financial projection demonstrates a consistent 180-day cash reserve, a debt service coverage ratio of 2 or greater, and less than a 50% depreciated system.
- Rates are +-10% of the mean for comparison municipalities.

1. Develop practices with the Finance Department to facilitate transparency with the Energy Board and the public.
2. Align annual rates and budgets to ensure a reasonable rate of return that will enable Provo Power to achieve its goals.
3. Perform cost of service studies every 3 years to ensure our rate structure spreads costs equitably across customer classes

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DIXONH
Department: Mayor Office
Requested Meeting Date: 04-14-2020

SUBJECT: A presentation regarding the adoption of policies allowing for the use and establishment of Public Infrastructure Districts (PIDs). (20-063)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: The developers of the medical school and medical school housing at the golf course will be building a public road as a part of the access off of Lakeview Parkway. A significant portion of this new road, which will also include several utility lines, will pass through the former golf course, which is also a former land fill. It has been determined that all former land fill material within the road right of way profile will be required to be removed and hauled away. It is estimated this will cost upwards of $10 Million. The developer is looking for ways to pay for this large cost item and spread the payment of this work over time.

Utah Senate Bill 228 (Public Infrastructure Districts Act) took effect on May 14, 2019. This legislation created a funding mechanism for land developers to fund public infrastructure and attach the cost of the improvement to the property tax assessment through the creation of an independent taxing entity. The purpose of this item is to inform the Municipal Council of the implication and issues revolving around this funding mechanism.

FISCAL IMPACT: No direct or indirect cost to Provo, but for staff time vetting this request

PRESENTER'S NAME: Dixon Holmes and Randall Larsen

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-063

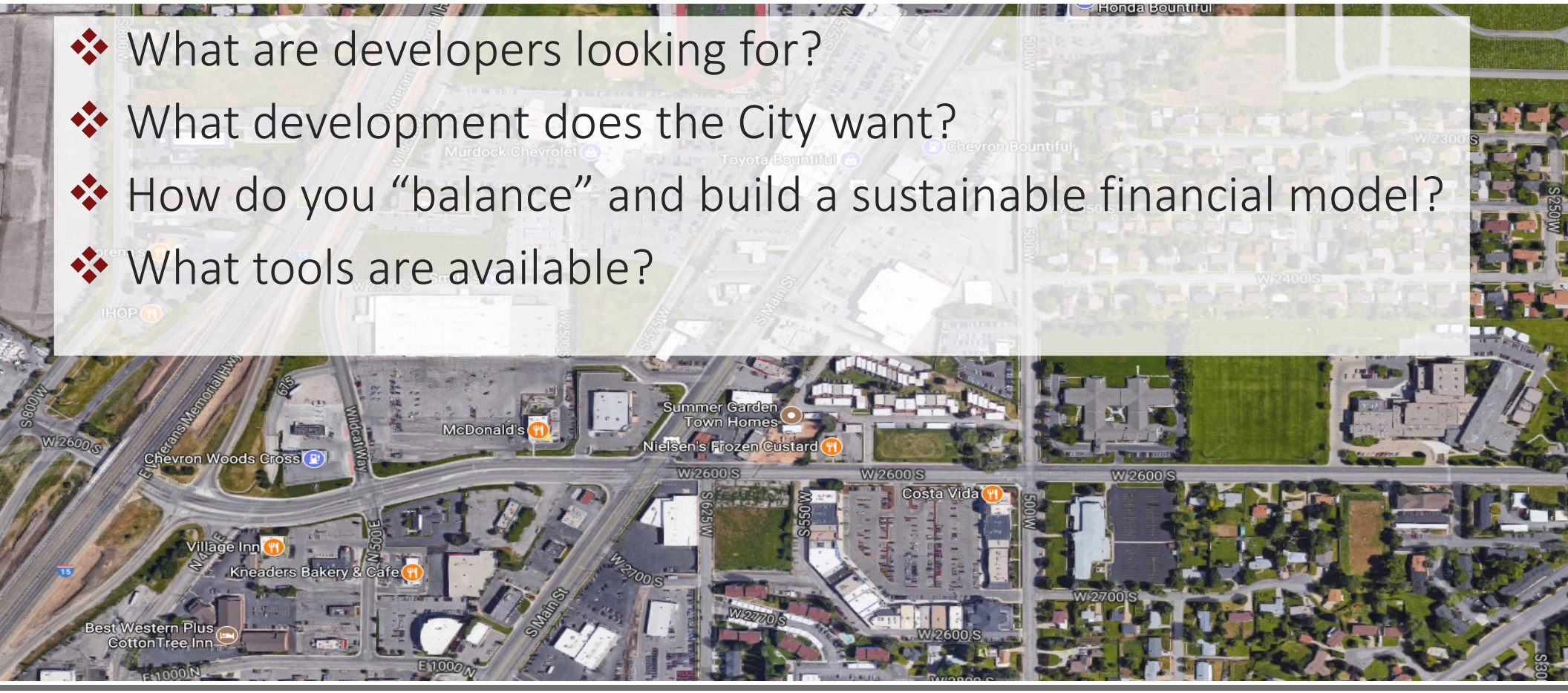
ECONOMIC DEVELOPMENT

Public Infrastructure Districts

ZIONS PUBLIC FINANCE

Creating a Balanced Economy

- What are developers looking for?
- What development does the City want?
- How do you “balance” and build a sustainable financial model?
- What tools are available?



- City Vision
- Developer Vision





Public Infrastructure Districts

- Senate Bill 228
  - Cities and Counties create
  - Legally separate governmental entity
  - Debt issuer and off balance sheet
  - Secured by
    - Assessments
    - Property taxes within PID

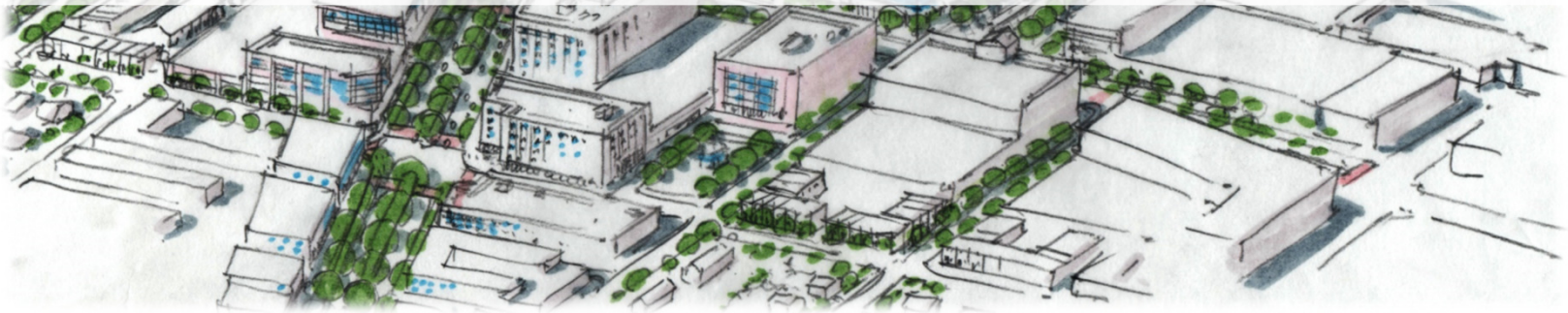




Public Infrastructure Districts

- Creation
  - At discretion of City or County and with limitations imposed
  - Limitations should be thoroughly vetted by advisor and bond counsel
  - Governing Document act as a “master” agreement with interlocal spelling out specific interactions between creator and PID
  - Board from initial property owners and elected thereafter as available
- Property tax
  - Limited at time of creation
  - As value changes, the tax rate moves with the market
  - Capped at .0015

- Debt issued by a PID
  - Special Assessment or Limited Tax General Obligation bonds
  - Limit GO bonds means limited
    - Values drop, revenue drops, bondholders wait for payment (40 years max)
  - Investor base limited to 144A-type investors or $500,000 denominations
  - Rates higher than municipality secured bonds



- Things to consider
  - Statute sets outer limits that are constrained by Governing Document
  - City or County
    - Dictate board terms and processes
    - Set tax levy limits
    - Limit amount, timing, terms, frequency of debt authorized
    - Dictate PID lifespan
    - Allow combination with TIF or other tools
    - Determine interaction with impact fees

ZIONS PUBLIC FINANCE

One South Main Street, 18th Floor

801.844.7373

UTAH SENATE BILL 228 – PUBLIC INFRASTRUCTURE DISTRICT ACT

Senate Bill 228 grants Cities and Counties in Utah the power to create Public Infrastructure Districts (PIDs) to finance public infrastructure for new development. This infrastructure may be financed by issuing bonds repayable from property taxes or assessments on the property owners of the development. PIDs are an exciting new economic development tool for Cities and Counties along with property owners. -- *SB 228 became effective on May 14, 2019.*

Summary

- PIDs are local districts under Title 17B and constitute independent political subdivisions, as such they are not a component unit of the City or County that creates the PID (Creating Entity).
- Debt issued by PIDs is not a liability of the Creating Entity or the State, therefore PID debt is a non-balance sheet item.
- Debt is repaid solely from a Limited Property Tax or Assessments imposed by the PID.
- Formation requires 100% consent of property owners and any voters in the PID boundaries.
- PIDs have fairly broad powers to finance public infrastructure of many types generally including any improvement that will be owned by a state or local government, including the PID.
- PIDs have authority to finance capital costs of improvements in an energy assessment area, commonly referred to as Property Assessed Clean Energy (PACE) improvements.

PID Formation and Governance

PIDs are formed similarly to other local districts except for the additional requirement of consent of 100% of property owners and voters within PID boundaries. The creation of a PID is at the discretion of the Creating Entity. We recommend that each potential Creating Entity adopt standard policies for how it will evaluate all PID requests in light of its overall objectives. Negotiations with any property owner on a PID request should require legal representation of counsel to the City, with all costs paid by the property owner and not contingent on a successful PID creation. Creating Entities may also consider utilizing a financial advisor under similar circumstances. We recommend that property owners applying for a PID also obtain their own legal representation.

In addition to the statutory requirements, PIDs are governed by a Governing Document agreed to at the time of creation with the Creating Entity. The Governing Document may include limitations on the powers of the PID, establish reporting requirements, establish debt and mill rate levy limits, in addition to other limitations in accordance with the Creating Entity's policies and objectives. The Governing Document is enforced contractually through an Interlocal Agreement between the Creating Entity and the PID. Again here, the Creating Entity and the property owner should each be represented by counsel at the expense of the property owner.

PIDs are governed by a Board initially appointed by the Creating Entity with initial members being property owners or designated representatives of property owners. The appointed Board then transitions to an elected board after new electors reside or own property in the PID, as established in the Governing Document.

Debt Issuance

In addition to special assessment and standard general obligation bonds, PIDs may issue limited tax bonds which are repaid from a limited ad valorem property tax not to exceed more than 15 mills (or any lower limit established in the Governing Document or bond documents). In the event the proceeds of the limited tax are insufficient to meet annual debt service as it comes due, the bondholder has no statutory remedy to require additional taxes or fees of the PID, nor statutory recourse to the property or the property owner. Limited tax bonds must mature within 40 years of issuance and unlike general obligation bonds, are not constrained by a ratio compared to fair market value. The statute limits sale of limited tax bonds to qualified institutional buyers or to be sold in denominations of $500,000.

Considerations for the Creating Entity in Drafting the Governing Document:

- The statute only establishes the outer limits of what a PID can do, the Creating Entity may consider additional limits to each PID in the Governing Document.
- Board member term lengths and transition to elected board seats, including the possibility of divisions and interlinked PIDs for phases of development.
- Improvements that the Creating Entity will allow the PID to finance (can be used in conjunction with the development agreement to finance improvements/benefits to the property owner and the Creating Entity).
- Establish a mill rate limit appropriate to accomplish financing of approved improvements.
- Establish standards for general obligation bonding, procurement (including requiring third-party engineer certifications as to fair market value for acquisitions of improvements by PID), PID lifespan and dissolution if no activity within a certain timeframe, etc.
- Creating Entity input into any enhanced disclosure to future property owners.
- Proper legal tax analysis over all Governing Document negotiations to ensure eligibility for desired tax-exempt financing and that the PID constitutes a "separate political subdivision" for tax purposes.
- Ability to leverage with TIF, assessment, and other economic development revenues.
- Interaction with capital facility plans and impact fees.

For further information, please contact:

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Rely on Gilmore Bell's combined 135 years of experience in assisting local governments across Utah.

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Model Creating Entity Policy Document

This model policy document was created by Gilmore & Bell, P.C. and is not intended to address all of the needs and concerns of each municipality or county ("Creating Entity") considering the creation of a public infrastructure district ("PID"). The policies and goals of each Creating Entity are likely to be unique to that entity. As such, Creating Entities are strongly encouraged to consult with us or other experienced counsel to ensure that their policies and objectives are met. The creation of a PID will also require legal expertise familiar with PIDs, local district law, and public finance law to ensure that the Creating Entity will retain separate entity status from the PID in order to retain its liability defense and ensure that PID debts are not a balance sheet item for the Creating Entity. In addition, this expertise is necessary to ensure that the PID's bonds are eligible for tax exemption.

The attorneys at Gilmore & Bell, P.C. have over 135 years of experience in assisting local governments across Utah and were deeply involved in drafting the Public Infrastructure District Act and working with the Utah League of Cities and Towns, Utah Association of Counties, and the Utah Association of Special Districts to ensure the legislation met their policy objectives. We would welcome the opportunity to discuss PIDs with your entity and to establish a model policy addressing your specific circumstances and needs.

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[Creating Entity]
[Department Name]

POLICY STATEMENT:
ESTABLISHING PUBLIC INFRASTRUCTURE DISTRICTS

The magnitude of local and regional infrastructure needed in the Creating Entity's new development areas and in redevelopment areas requires that a broad range of financing tools be available to finance that infrastructure. This policy statement addresses the criteria under which the Creating Entity will consider applications for proposed Public Infrastructure Districts (the "District"). Compliance with these criteria shall not obligate the Creating Entity to approve formation of the District. The Governing Document will be subject to approval by the Creating Entity in both form and substance. The criteria are intended to serve as guidelines for the review of letters of intent and Governing Documents.

The policy statement has three sections:

1. **Process for applying including fees charged**
2. **The Creating Entity's decision-making criteria**
3. **Governing Document requirements**

I. Process and Fees

Any proposed Public Infrastructure District will be considered in relation to the best interests of the Creating Entity. Such interests include using the most appropriate financing mechanism for the type and magnitude of the improvements to be financed and appropriate governance mechanism. If through the review process, a Public Infrastructure District is determined to be the most appropriate mechanism, the process, the criteria, and requirements provided herein will apply, unless otherwise waived by the Creating Entity.

A. Letter of intent to form a Public Infrastructure District

The applicant shall submit a letter of intent containing the following information in summary form. This letter will be used by staff to make a preliminary determination about the appropriateness of a District and must be submitted prior to submittal of a draft Governing Document. A positive staff response to the Letter of Intent does not assure approval of the Governing Document.

Letter of Intent contents:

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development;

2. Summary of needed infrastructure, services and facilities:

    a. Currently expected development scenario;

    b. Required local and regional infrastructure and facilities for such development;

c. Regional and local infrastructure the proposed District is to provide;

d. Estimated construction costs for the proposed District improvements;

e. General description of phasing of construction based on development projections; and

f. A sample plan of finance depicting the possible sources and uses of funds for the District.

3. Proposed timeline for District creation.

4. Acknowledgement that a consent must be signed prior to the hearing date for the governing document by all property owners and registered voters, if any, within the proposed District boundaries approving of the creation of the proposed District and consenting to the issuance of debt in an amount sufficient for the proposed plan of financing.

5. Disclosure of any conflicts of interest between the applicant and the officers and employees of the Creating Entity.

6. Copies of signed engagement letters between the applicant and applicable consultants and legal counsel retained by the Creating Entity and/or the proposed District whereby applicant agrees to pay fees related to the review of the application and governing document.

B. Review Process

1. The District Advisory Committee ("DAC") is a Creating Entity committee that advises the Mayor, Creating Entity Council and other policy-makers about district issues. The DAC includes representatives of the departments of [Community Planning and Development, Law, Revenue, Public Works and Budget and Management,] as well as other agencies as needed.

   The DAC will review the letter of intent utilizing these criteria to determine whether or not to direct the applicant to proceed with preparation of a draft Governing Document for submittal. Conceptual approval does not assure approval of the governing document.

C. Governing Document

1. If the concept for the District as contained in the letter of intent is approved, the applicant shall submit a draft Governing Document to the Creating Entity's Management Office.

2. The draft Governing Document will be reviewed by the DAC for compliance with the criteria and requirements contained herein. The DAC will discuss with appropriate policy-makers issues that arise during this drafting period to have such issues resolved.

3. The final Governing Document will be forwarded to Creating Entity Council for action through the standard Creating Entity and statutory processes.

D. Fees

No request to create a Public Infrastructure District shall proceed until the fees set forth herein are provided for. All checks are to be made payable to _____ and sent to the _____ Office.

1. Letter of Intent: A Letter of Intent is to be submitted to the Creating Entity Managers Office and a $_____ fee shall be paid at the time of submittal of the Letter to cover the cost of staff review.

2. If the applicant proceeds to the submittal of a Governing Document an application fee of $_____ shall be submitted concurrent with the draft Governing Document

3. Other Expenses: In the event the costs of review exceed the application fee, the applicant for a District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the Creating Entity in the process of reviewing the draft Governing Document prior to adoption, documents related to a bond issue and other such fees and expenses as may be necessary to interface with such District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

II. Criteria for Evaluating Proposed Public Infrastructure Districts

A. Public Benefit

Formation of a District bestows certain benefits on the District's proponents and is expected to provide public benefit consistent with the Creating Entities policy goals. Components of public benefit to be considered may include:

1. Resulting development that is in conformance with the Municipality's Comprehensive Plan and all applicable supplements;

2. Provision of and/or contribution to needed regional and sub-regional infrastructure;

3. Sustainable design including multimodal transportation, water conserving landscape design, thoughtful development phasing, green building design, and formation of and participation in transportation management programs;

4. Mixed-use development that includes a variety of housing types and prices, a range of employment opportunities, retail and consumer services, and civic amenities; and

5. High quality site and building design, including street connectivity, multimodal street design, durable construction materials, and pedestrian-friendly building design.

B. Evaluation Criteria

These criteria provide thresholds for consideration. Compliance with some or all of these criteria is desired; however, alternative approaches may be considered.

1. Districts should not include land that is already included within the boundaries of another public infrastructure district without express provision in an adopted Governing Document.

In such cases, the relationship with the existing districts must be addressed in the Governing Document.

2. A District planning to levy more than __ mills of tax in the District for repayment of limited tax bonds will not be considered without sufficient justification as to why additional mills are necessary and reasonable for the development.

3. There must be a demonstrated public benefit directly resulting from the creation of the District and its undertakings as described in the Governing Document.

C. Evaluation of Applicant

The following criteria relating to the applicant and the development will be considered:

1. Historical performance of the applicant (within and outside of the Creating Entity);

2. The current proposed plan of finance of the District;

3. The current development plans relationship to the master plans of the Creating Entity; and

4. The regional or overall benefits to the Creating Entity from the proposed plan of finance.

III. Governing Document Requirements

In addition to statutory requirements, a Governing Document memorializes the understandings between the District and the Creating Entity, as well as the considerations that compelled the Creating Entity to authorize the formation of the District. The Governing Document for the proposed District shall not contain and will be reviewed for compliance with the following policies and requirements.

A. District Description

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development scenario (land uses by type and intensity and general urban design character);

2. Description of the public benefit resulting from the creation of the District and its undertakings;

3. Description of proposed development within the boundaries of the proposed District including general distribution of land uses and densities and phasing of development;

4. If the District boundaries overlap with another district, an explanation of the relationship between the districts;

5. Itemization and description of all needed infrastructure (both regional and local) and facilities in the District's area;

6. Estimated construction costs of such infrastructure;

7. General description of phasing of construction based on development projections and phasing;

8. Provide the following financial plan information:

    a. Proforma financial overview of total costs and total revenues from all revenue sources;

    b. An example plan of finance showing a proposal of how the proposed financing might take place, recognizing that the actual financing terms and structure will be approved by the board of trustees of the District (the "Board") within the parameters of this Governing Document;

    c. Anticipated maximum or fixed maximum mill levy required to meet debt service of the District;

    d. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area;

    e. Comparison of the mill levies of similar taxing entities in the area;

    f. Proposed operating budgets for the District's first three years of existence; and

    g. Any other forms of public financing and assistance being sought, including assessment areas.

9. Description of the ultimate ownership and provision for the ongoing operating and maintenance costs for infrastructure.

10. Description of any proposed divisions and an inclusion/exclusion process as appropriate.

11. Proposed governance plan, including Board structure and to transition from appointed Board to elected Board.

B. Requirements and Expectations

1. The planned ownership of the Improvements, including any relationship with an existing statutory district must be addressed in the Governing Document.

2. All debt issued by the District for which a tax is pledged to pay the debt service shall meet the requirements of all applicable statutes.

3. Land, easements or improvements to be conveyed or dedicated to the Creating Entity and any other local government entity shall be conveyed in accordance with the related standards at no cost to the Creating Entity.

4. All public infrastructure within the District which will be connected to and owned by another public entity shall be subject to all design and inspection requirements and other standards of such public entity.

5. The District shall not pledge as security any land, assets or funds to be transferred to the Creating Entity.

6. The District shall be subject to Creating Entity zoning, subdivision, building codes, and all other applicable Creating Entity ordinances and regulations. Approval of the Governing Document shall not bind the Creating Entity to approve other matters which the District or developer may request.

7. The District shall pay all fees and expenses as provided in the Governing Document.

8. The District may not double tax, whether by mill levy, assessment, impact fees, or any combination thereof; any end user for the costs of Improvements.

C. Disclosure and Reporting Requirements

Disclosure of the existence of the District to property owners and potential property owners within the District is important and the following actions to be taken by each District shall be included in the Governing Document.

1. Within 30 days after the formation of the District, the Board shall record a notice with the county recorder:

   a. Containing a description of the boundaries of the District;

   b. Stating that a copy of the Governing Document is on file at the office of the Creating Entity;

   c. Stating that the District may finance and repay infrastructure and other improvements through the levy of a property tax;

   d. Stating the maximum rate that the District may levy; and

   e. If applicable, stating that the debt may convert to general obligation debt and outlining the provisions relating to conversion.

2. At least annually following the formation of the District, the District shall notify (by mail, e-mail, or posting to the District's website) property owners in the District of the existence of the District and of the next scheduled meeting of the Board of the District. Such meeting shall occur at least 30 days and not more than 60 days following the date of the notice. Such notification shall include names and addresses of the Board of Directors and officers, the address, telephone and fax numbers, and e-mail address of the District, and shall include reference to the existence of a District file maintained by the Creating Entity as described below.

3. The District shall provide the following information to the Creating Entity Manager's Office on an annual basis, and the District shall create and maintain a file for public review of the following information.

    a. Annual District budget;

    b. Annual audited financial statements of the District;

    c. Total debt authorized and total debt issued and presently planned debt issuances;

    d. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;

    e. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;

    f. List of current interlocal agreements, if changed (to be delivered to the Creating Entity upon request);

    g. List of all current contracts for services or construction (to be delivered to the Creating Entity upon request);

    h. Official statements of current outstanding bonded indebtedness, if not previously received by the Creating Entity;

    i. Current approved Governing Document, if changed; and

    j. District Office contact information.

4. The following shall be considered significant changes to the Governing Document, thereby requiring approval by the Creating Entity:

    a. Exclusion or inclusion of property without Governing Document and Statute required approvals;

    b. Change in the maximum mill levy;

    c. [Consolidation with any other district;] and

    d. Change in the dissolution date.

Submittal Instructions

Annual Financial Information: Submit one copy of each of the annual financial information, as described in ____ to:

[Enter Creating Entity Manager Address]

All other documents: Submit letters of intent, draft Governing Documents, and all other documents (with the required number of copies) to:

[Enter Creating Entity Manager Address]

Further Information: For additional information please contact the Creating Entity's Manager's Office at the address or telephone number shown below.

[Enter Creating Entity Manager Contact Information]

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Model Governing Document

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[MODEL GOVERNING DOCUMENT]

MODEL GOVERNING DOCUMENT
FOR
_____ PUBLIC INFRASTRUCTURE DISTRICT

[CREATING ENTITY], UTAH

Prepared

by

[NAME OF PERSON OR ENTITY]
[ADDRESS]
[ADDRESS]

[DATE]

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I. INTRODUCTION

A. Purpose and Intent.

The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Governing Document, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Governing Document. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements. The District is not being created to provide any ongoing operations and maintenance services.

B. Need for the District.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. Objective of the City Regarding District's Governing Document.

The City's objective in approving the Governing Document for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties and at a tax mill levy no higher than the Maximum Debt Mill Levy for commercial and residential properties, and/or repaid by Assessments. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

This Governing Document is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs. [**Operational activities are allowed, but only through an Interlocal Agreement with the City or relevant public entity.**]

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt[**, and if the District has authorized operating functions under an Interlocal Agreement, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs**].

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Assessments or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy on taxable properties and which shall not exceed the Maximum Debt Mill Levy Imposition Term on taxable properties. It is the intent of this Governing Document to assure to the extent possible that no taxable property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no taxable property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the cost of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Governing Document, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

[Annexation Area Boundaries: means the boundaries of the area described in the Annexation Area Boundary Map which have been approved by the City for annexation into the District upon the meeting of certain requirements.

Annexation Area Boundary Map: means the map attached hereto as **Exhibit C-2**, describing the property proposed for annexation within the District.]

Approved Development Plan: means a Preliminary Development Plan or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development for property within the District Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Assessment: means assessments levied in an assessment area created within the District.

Board: means the board of trustees of the District.

Bond, Bonds or Debt: means bonds or other obligations, including loans of any property owner, for the payment of which the District has promised to impose an *ad valorem* property tax mill levy, and/or collect Assessments.

City: means [Creating Entity], Utah.

City Code: means the City Code of [Creating Entity], Utah.

City Council: means the City Council of [Creating Entity], Utah.

District: means the _____ Public Infrastructure District.

District Area: means the property within the Initial District Boundary Map [and the Annexation Area Boundary Map].

Division: means a Division of the District as described in Section III and mapped in **Exhibit C-3**.

[End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.][Term not currently used]

Fees: means any fee imposed by the District for administrative services provided by the District.

Financial Plan: means the Financial Plan described in Section VIII which describes (i) the potential means whereby the Public Improvements may be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year.

General Obligation Debt: means a Debt that is directly payable from and secured by ad valorem property taxes that are levied by the District and does not include Limited Tax Debt.

Governing Document: means this Governing Document for the District approved by the City Council.

Governing Document Amendment: means an amendment to the Governing Document approved by the City Council in accordance with the City's ordinance and the applicable state law and approved by the Board in accordance with applicable state law.

Initial District Boundaries: means the boundaries of the area described in the Initial District Boundary Map.

Initial District Boundary Map: means the map attached hereto as **Exhibit C-1**, describing the District's initial boundaries.

Limited Tax Debt: means a debt that is directly payable from and secured by ad valorem property taxes that are levied by the District which may not exceed the Maximum Debt Mill Levy.

Local District Act: means Title 17B of the Utah Code, as amended from time to time.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as set forth in Section VIII.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy [for any given series of bonds] [on a particular property] as set forth in Section VIII.D below.

Municipal Advisor: means a consultant that: (i) advises Utah governmental entities on matters relating to the issuance of securities by Utah governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Project: means the development or property commonly referred to as _____.

PID Act: means Title 17B, Chapter 2a, Part 12 of the Utah Code, as amended from time to time.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Local District Act, except as specifically limited in Section V below to serve the future taxpayers and inhabitants of the District Area as determined by the Board.

[Regional Improvements: means Public Improvements and facilities that benefit the District Area and which are to be financed pursuant to Section VII below.]

State: means the State of Utah.

Taxable Property: means real or personal property within the District Area subject to ad valorem taxes imposed by the District.

Trustee: means a member of the Board.

Utah Code: means the Utah Code Annotated 1953, as amended.

III. BOUNDARIES

The area of the Initial District Boundaries includes approximately _____ (___) acres [and the total area proposed to be included in the Annexation Area Boundaries is approximately _____ (___) acres]. A legal description of the Initial District Boundaries [and the Annexation Area Boundaries] is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1**, [and a map of the Annexation Area Boundaries is attached hereto as **Exhibit C-2]**. It is anticipated that the District's boundaries may change from time to time as it undergoes annexations and withdrawals pursuant to Section 17B-2a-1204, Utah Code, subject to Article V below.

The District shall further be divided into Divisions, with each Division being relatively equal in number of eligible or potential eligible voters after taking into account existing or potential developments which, when completed, would increase or decrease the population within the District. A map of the initial Division boundaries is attached hereto as **Exhibit C-3**. It is anticipated that the Division boundaries may change from time to time as District

boundaries change and as determined by the Board, not more than once every four years in accordance with 17B-2a-1205, Utah Code.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The District Area consists of approximately _____ (___) acres of _____ land. The current assessed valuation of the District Area is $[0.00] for purposes of this Governing Document and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately _____ (___) people.

Approval of this Governing Document by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Governing Document or any of the exhibits attached thereto, unless the same is contained within an Approved Development Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Governing Document Amendment.

The District shall have the power and authority to provide the Public Improvements within and without the boundaries of the District as such power and authority is described in the Local District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate public entity or owners association in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. **[The District shall be authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise required to be dedicated to the City or other public entity, including, but not limited to street improvements (including roads, curbs, gutters, culverts, sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements), traffic and safety controls, retaining walls, park and recreation improvements and facilities, trails, open space, landscaping, drainage improvements (including detention and retention ponds, trickle channels, and other drainage facilities), irrigation system improvements (including wells, pumps, storage facilities, and distribution facilities), and all necessary equipment and appurtenances incident thereto.] [All parks and trails owned by the District shall be open to the general public and Non-District [Creating Entity] residents, subject to the rules and regulations of the District as adopted from time to time.]** Trails which are interconnected with a city or regional trail system shall be open to the public

free of charge and on the same basis as residents and owners of taxable property within the District.

2. [Improvements Limitation. Notwithstanding the provisions of Section V.A.1 above, the District shall not be authorized to finance the costs of _____. [Insert any prohibited improvements/facilities here].

3. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

4. Procurement. The District shall be subject to the Utah Procurement Code, Title 63G, Chapter 6a. Notwithstanding this requirement, the District may acquire completed or partially completed improvements for fair market value as reasonably determined by [any one of][a surveyor or engineer that the District employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements][the Board][the City Council].

5. [Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of a Municipal Advisor substantially as follows:

> We are [I am] a Municipal Advisor within the meaning of the District's Governing Document.
>
> We [I] certify that (1) the net effective interest rate to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.]

6. Annexation and Withdrawal.

(a) The District shall not include within any of their boundaries any property outside the District Area without the prior written consent of the City. [The City, by resolution, has consented to the annexation of any area within the Annexation Area Boundaries into the District. Such area may only be annexed upon the District obtaining consent of all property owners and registered voters, if any, within the area proposed to be annexed and the passage of a resolution of the Board approving such annexation.

(b) The City, by resolution, has consented to the withdrawal of any area within the District Boundaries from the District. Such area may only be withdrawn upon the District obtaining consent of all property owners and registered voters, if any, within the area

proposed to be withdrawn and the passage of a resolution of the Board approving such annexation.

(c) Any annexation or withdrawal shall be in accordance with the requirements of the PID Act.

(d) Upon any annexation or withdrawal, the District shall provide the City a description of the revised District Boundaries.

(e) Annexation or withdrawal of any area in accordance with V.A.6(a) and (b) shall not constitute an amendment of this Governing Document.]

7. [Overlap Limitation. The District shall not consent to the organization of any other [public infrastructure district] district organized under the PID Act within the District Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.]

8. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Development Plan, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Assessments used for the purpose of repayment of Debt.

9. Total Debt Issuance Limitation. The District shall not issue Debt in excess of _____ Dollars ($_____). This amount excludes any portion of bonds issued to refund a prior issuance of debt by the District.

10. Bankruptcy Limitation. All of the limitations contained in this Governing Document, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Governing Document with conditions pursuant to Section 17B-2a-1204(4), Utah Code. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Governing Document Amendment; and

(b) Are, together with all other requirements of Utah law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Governing Document and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Governing Document Amendment.

11. Governing Document Amendment Requirement.

(a) This Governing Document has been designed with sufficient flexibility to enable the District to provide required facilities under evolving circumstances without the need for numerous amendments. Actions of the District which violate the limitations set forth in V.A.1-9 above or in VIII.B-G. shall be deemed to be material modifications to this Governing Document and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

(b) Subject to the limitations and exceptions contained herein, this Governing Document may be amended by passage of a resolutions of the City and the District approving such amendment.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the District Area and is approximately _____ Dollars ($_____).

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and/or any other applicable public entity and shall be in accordance with the requirements of the Approved Development Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

VI. THE BOARD OF TRUSTEES

A. Board Composition. The Board shall be composed of [3][5] Trustees who shall be appointed by the City Council pursuant to the PID Act. Trustees 1, 2, and 3 shall represent Divisions 1, 2, and 3, respectively [with Trustee[s] [3] [4 and 5] being at large seats [could also represent Divisions as desired or all seats could be at large]]. Trustee terms shall be staggered with initial terms as follows: Trustee[s] 1 [and 4] shall serve an initial term of [4] years; Trustees 2 and 3 [and 5] shall serve an initial term of [6] years. In accordance with the PID Act, appointed Trustees shall not be required to be residents of the District.

B. Transition to Elected Board. Respective board seats shall transition from appointed to elected seats according to the following milestones:

1. Trustee 1. Trustee 1 shall transition to an elected seat upon Division 1 _____.

2. Trustee 2. Trustee 2 shall transition to an elected seat upon Division 2 _____.

3. Trustee 3. Trustee 3 shall transition to an elected seat upon Division 3 _____.

4. [Trustee 4. Trustee 4 shall transition to an elected seat upon the District _____.

5. Trustee 5. Trustee 5 shall transition to an elected seat upon the District _____.]

No transition pursuant to this Section shall become effective until the next scheduled regular election of the District.

C. Reelection and Reappointment. Upon the expiration of a Trustee's respective term, any seat which has not transitioned to an elected seat shall be appointed by the City Council pursuant to the PID Act and any seat which has transitioned to an elected seat shall be elected pursuant to an election held for such purpose. In the event that no qualified candidate files to be considered for appointment or files a declaration of candidacy for a seat, such seat may be filled in accordance with the Local District Act.

D. Vacancy. Any vacancy on the Board shall be filled pursuant to the Local District Act.

E. Compensation. Only Trustees who are residents of the District may be compensated for services as Trustee. Such compensation shall be in accordance with State Law.

F. Conflicts of Interest. Trustees shall disclose all conflicts of interest. Any Trustee who discloses such conflicts in accordance with 17B-2a-1205 and 67-16-9, Utah Code, shall be entitled to vote on such matters.

VII. [REGIONAL IMPROVEMENTS

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment and a contribution to the funding of the Regional Improvements and fund the administration and overhead costs related to the provisions of the Regional Improvements.]

VIII. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Assessments and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed _____ Dollars ($_____) and shall be permitted to be issued on a schedule and in such year or years as the District determine shall

meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. Any portion of bonds issued to refund a prior issuance of debt by the District shall not count against the permitted total Debt. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes to be imposed upon all Taxable Property within the District and Assessments. [The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, penalties, or charges, including as provided in Section 17B-2a-1210, Utah Code, as amended from time to time.]

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Governing Document, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

(a) The "Maximum Debt Mill Levy" shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Limited Tax Debt shall be _____ (___) mills; provided that such levy shall be subject to adjustment as provided in Section 17B-2a-1207(8), Utah Code.

(b) Such Maximum Debt Mill Levy may only be amended pursuant to a Governing Document Amendment and as provided in Section 17B-2a-1205, Utah Code.

D. Maximum Debt Mill Levy Imposition Term.

[[Alt 1]Each bond issued by the District shall mature within ____ (__) years from the date of issuance of such bond. In addition, no mill levy may be imposed for the repayment of a series of bonds after a period exceeding [forty (40)] years from the date of issuance of such bond (the "Maximum Debt Mill Levy Imposition Term").] [[Alt 2]The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses which exceeds _____ (___) years after the year of the initial imposition of such mill levy [**unless a majority of the Board are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings**].]

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service. [The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Assessments, penalties, or charges, including as provided in Section 17B-2a-1210, Utah Code, as amended from time to time.] Except as described in Section VIII.C(a), the

debt service mill levy in the District shall not exceed the Maximum Debt Mill Levy or, the Maximum Debt Mill Levy Imposition Term, except for repayment of General Obligation Debt [**or pursuant to an Interlocal Agreement between the District and the City for Regional Improvements**].

The District shall not be permitted to charge an End User the costs of any portion of a Public Improvement for which such End User has already paid or is presently obligated to pay through any combination of mill levy, Assessment, or impact fee. This provision shall not prohibit the division of costs between mill levies, Assessments, or impact fees, but is intended to prevent double taxation of End Users for the costs of Public Improvements.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

> By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Governing Document for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Governing Document shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

G. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Governing Document. Approval of this Governing Document shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Governing Document be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be _____ Dollars ($_____), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed. The first year's operating budget is estimated to be approximately _____

Dollars ($_____) which is anticipated to be derived from property taxes and other revenues.

IX. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Manager's Office no later than _____ of each year following the year in which the District was created.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.

2. List of current interlocal agreements, if changed (to be delivered to the Creating Entity upon request);

3. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;

4. District office contact information;

5. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;

6. A summary of any litigation which involves the District Public Improvements as of December 31 of the prior year;

7. Status of the District's construction of the Public Improvements as of December 31 of the prior year and listing all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year;

8. A table summarizing total debt authorized and total debt issued by the District as well as any presently planned debt issuances;

9. Official statements of current outstanding bonded indebtedness, if not previously provided to the Creating Entity;

10. The assessed valuation of the District for the current year;

11. Current year budget including a description of the Public Improvements to be constructed in such year;

12. Audit of the District's financial statements, for the year ending December 31 of the previous year;

13. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument; and

14. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

X. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

XI. DISCLOSURE TO PURCHASERS

Within thirty (30) days of the City adopting a resolution creating the District, the Board shall record a notice with the recorder of _____. Such notice shall (a) contain a description of the boundaries of the District, (b) state that a copy of this Governing Document is on file at the office of the City, (c) state that the District may finance and repay infrastructure and other improvements through the levy of a property tax; (d) state the Maximum Debt Mill Levy of the District; and (d) if applicable, stating that the debt may convert to general obligation debt and outlining the provisions relating to conversion. Such notice shall further be filled with the City. [Include additional City requested notice requirements – REPC, etc.]

XII. INTERLOCAL AGREEMENT

The form of the Interlocal Agreement required by the City Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The District shall approve the Interlocal Agreement in the form attached as **Exhibit D** at its first Board meeting after its organizational election. Failure of the District to execute the Interlocal Agreement as required herein shall constitute a material modification and shall require a Governing Document Amendment. The City Council shall approve the Interlocal Agreement in the form attached as **Exhibit D** at the public hearing approving the Governing Document.

XIII. CONCLUSION

[It is submitted that this Governing Document for the District, establishes that:

1. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

2. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

3. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.

4. The creation of the District is in the best interests of the area proposed to be served.

{DO WE NEED/WANT SUCH FINDINGS?}]

EXHIBIT A

Legal Descriptions

EXHIBIT B

[Creating Entity] Vicinity Map

EXHIBIT C-1

Initial District Boundary Map

EXHIBIT C-2

Annexation Area Boundary Map

EXHIBIT C-3

Division Boundaries Map

EXHIBIT D

Interlocal Agreement between the District and [Creating Entity]

[GOVERNING DOCUMENT]

INTERLOCAL AGREEMENT BETWEEN

THE [CREATING ENTITY], UTAH
AND
_____ PUBLIC INFRASTRUCTURE DISTRICT

THIS AGREEMENT is made and entered into as of this ___ day of _____, _____, by and between the [Creating Entity], a home-rule municipal corporation of the State of Utah ("City"), and _____ PUBLIC INFRASTRUCTURE DISTRICT, a political subdivision of the State of Utah (the "District"). The City and the District are collectively referred to as the Parties.

RECITALS

WHEREAS, the District was organized to provide to exercise powers as are more specifically set forth in the District's Governing Document approved by the City on _____ ("Governing Document"); and

WHEREAS, the Governing Document makes reference to the execution of an Interlocal Agreement between the City and the District; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Interlocal Agreement ("Agreement").

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The District shall dedicate the Public Improvements (as defined in the Governing Document) to the City or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized, but not obligated, to own Public Improvements not otherwise required to be dedicated to the City or other public entity, and all necessary equipment and appurtenances incident thereto.

All parks and trails owned by the District shall be open to the general public and Non-District City residents, subject to the rules and regulations of the District as adopted from time to time. Trails which are interconnected with a city or regional trail system shall be open to the public free of charge and on the same basis as residents and owners of taxable property within the District.

2. **[Corresponding Limitation Section Here.]**

3. Construction Standards. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction, as applicable. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

4. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of a Municipal Advisor substantially as follows:

> We are [I am] a Municipal Advisor within the meaning of the District's Governing Document.
>
> We [I] certify that (1) the net effective interest rate to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

5. Inclusion Limitation. The District shall not include within any of their boundaries any property outside the District Area without the prior written consent of the City. The District shall not include within any of its boundaries any property inside the inclusion area boundaries without the prior written consent of the City except upon petition of the surface property owners of 100 percent of such property and/or 100 percent of registered voters within the area to be included, as applicable, as provided in Section 17B-2a-1204(3), Utah Code.

6. [Overlap Limitation. The District shall not consent to the organization of any other public infrastructure district organized under the PID Act within the District Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.]

7. Initial Debt. On or before the effective date of approval by the City of an Approved Development Plan (as defined in the Governing Document), the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any fees used for the purpose of repayment of Debt.

8. Total Debt Issuance. The District shall not issue Debt in excess of _____ Dollars ($_____). This amount excludes any portion of bonds issued to refund a prior issuance of debt by the District.

9. Bankruptcy. All of the limitations contained in this Governing Document, including, but not limited to, those pertaining to the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term have been established under the authority of the City

to approve a Governing Document with conditions pursuant to Section 17B-2a-1204(4), Utah Code. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Governing Document Amendment; and

(b) Are, together with all other requirements of Utah law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Governing Document and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Governing Document Amendment.

10. Dissolution. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

11. Disclosure to Purchasers. Within thirty (30) days of the City adopting a resolution creating the District, the Board shall record a notice with the recorder of _____. Such notice shall (a) contain a description of the boundaries of the District, (b) state that a copy of this Governing Document is on file at the office of the City, (c) state that the District may finance and repay infrastructure and other improvements through the levy of a property tax; (d) state the Maximum Debt Mill Levy of the District; and (d) if applicable, stating that the debt may convert to general obligation debt and outlining the provisions relating to conversion. Such notice shall further be filled with the City. [Include additional City requested notice requirements – REPC, etc.]

12. Governing Document Amendment Requirement. Actions of the District which violate the limitations set forth in V.A.1-9 or VIII.B-G of the Governing Document shall be deemed to be material modifications to the Governing Document and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

13. Annual Report. The District shall be responsible for submitting an annual report to the City Manager's Office no later than _____ of each year following the year in which the District was created, containing the information set forth in Section VIII of the Governing Document.

14. Regional Improvements. The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment and a

contribution to the funding of the Regional Improvements and fund the administration and overhead costs related to the provisions of the Regional Improvements.

15. Maximum Debt Mill Levy.

(a) The "Maximum Debt Mill Levy" shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Limited Tax Debt shall be _____ (___) mills; provided that such levy shall be subject to adjustment as provided in Section 17B-2a-1207(8).

(b) Such Maximum Debt Mill Levy may only be amended pursuant to a Governing Document Amendment and as provided in Section 17B-2a-1205.

16. Maximum Debt Mill Levy Imposition Term. [[Alt 1]Each bond issued by the District shall mature within ____ (__) years from the date of issuance of such bond. In addition, no mill levy may be imposed for the repayment of a series of bonds after a period exceeding [forty (40)] years from the date of issuance of such bond (the "Maximum Debt Mill Levy Imposition Term").] [[Alt 2]The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses which exceeds _____ (___) years after the year of the initial imposition of such mill levy [**unless a majority of the Board are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings**].]

17. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: _____ Public Infrastructure district

Attn:
Phone:
Fax:

To the City: [Creating Entity]
[Creating Entity], UT 84____
Attn:
Phone:
Fax:

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after

deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

18. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Governing Document.

19. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

20. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

21. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Utah.

22. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

23. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

24. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the City shall be for the sole and exclusive benefit of the District and the City.

25. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

27. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

28. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Governing Document.

[SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

_____ PUBLIC
INFRASTRUCTURE DISTRICT

By: _____
President

Attest:

_____
Secretary

[Creating Entity], UTAH

By: _____
_____, Mayor

Attest:

By: _____
Its: _____

APPROVED AS TO FORM: _____

GILMORE BELL

15 West South Temple, Suite 1450
Salt Lake City, Utah 84101-1531

(801) 364-5080 / (801) 364-5032 FAX / gilmorebell.com

Model Creating Entity Policy Document

This model policy document was created by Gilmore & Bell, P.C. and is not intended to address all of the needs and concerns of each municipality or county ("Creating Entity") considering the creation of a public infrastructure district ("PID"). The policies and goals of each Creating Entity are likely to be unique to that entity. As such, Creating Entities are strongly encouraged to consult with us or other experienced counsel to ensure that their policies and objectives are met. The creation of a PID will also require legal expertise familiar with PIDs, local district law, and public finance law to ensure that the Creating Entity will retain separate entity status from the PID in order to retain its liability defense and ensure that PID debts are not a balance sheet item for the Creating Entity. In addition, this expertise is necessary to ensure that the PID's bonds are eligible for tax exemption.

The attorneys at Gilmore & Bell, P.C. have over 135 years of experience in assisting local governments across Utah and were deeply involved in drafting the Public Infrastructure District Act and working with the Utah League of Cities and Towns, Utah Association of Counties, and the Utah Association of Special Districts to ensure the legislation met their policy objectives. We would welcome the opportunity to discuss PIDs with your entity and to establish a model policy addressing your specific circumstances and needs.

For further information, please contact:

Randall Larsen | Gilmore & Bell, P.C.
15 West South Temple, #1450
Salt Lake City, Utah 84101
Direct: (801) 258-2722 | Mobile: (801) 541-1108
rlarsen@gilmorebell.com

Aaron Wade | Gilmore & Bell, P.C.
15 West South Temple, #1450
Salt Lake City, Utah 84101
Direct: (801) 258-2730
awade@gilmorebell.com

[Creating Entity]
[Department Name]

POLICY STATEMENT:
ESTABLISHING PUBLIC INFRASTRUCTURE DISTRICTS

The magnitude of local and regional infrastructure needed in the Creating Entity's new development areas and in redevelopment areas requires that a broad range of financing tools be available to finance that infrastructure. This policy statement addresses the criteria under which the Creating Entity will consider applications for proposed Public Infrastructure Districts (the "District"). Compliance with these criteria shall not obligate the Creating Entity to approve formation of the District. The Governing Document will be subject to approval by the Creating Entity in both form and substance. The criteria are intended to serve as guidelines for the review of letters of intent and Governing Documents.

The policy statement has three sections:

1. **Process for applying including fees charged**
2. **The Creating Entity's decision-making criteria**
3. **Governing Document requirements**

I. Process and Fees

Any proposed Public Infrastructure District will be considered in relation to the best interests of the Creating Entity. Such interests include using the most appropriate financing mechanism for the type and magnitude of the improvements to be financed and appropriate governance mechanism. If through the review process, a Public Infrastructure District is determined to be the most appropriate mechanism, the process, the criteria, and requirements provided herein will apply, unless otherwise waived by the Creating Entity.

A. Letter of intent to form a Public Infrastructure District

The applicant shall submit a letter of intent containing the following information in summary form. This letter will be used by staff to make a preliminary determination about the appropriateness of a District and must be submitted prior to submittal of a draft Governing Document. A positive staff response to the Letter of Intent does not assure approval of the Governing Document.

Letter of Intent contents:

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development;

2. Summary of needed infrastructure, services and facilities:

    a. Currently expected development scenario;

    b. Required local and regional infrastructure and facilities for such development;

c. Regional and local infrastructure the proposed District is to provide;

d. Estimated construction costs for the proposed District improvements;

e. General description of phasing of construction based on development projections; and

f. A sample plan of finance depicting the possible sources and uses of funds for the District.

3. Proposed timeline for District creation.

4. Acknowledgement that a consent must be signed prior to the hearing date for the governing document by all property owners and registered voters, if any, within the proposed District boundaries approving of the creation of the proposed District and consenting to the issuance of debt in an amount sufficient for the proposed plan of financing.

5. Disclosure of any conflicts of interest between the applicant and the officers and employees of the Creating Entity.

6. Copies of signed engagement letters between the applicant and applicable consultants and legal counsel retained by the Creating Entity and/or the proposed District whereby applicant agrees to pay fees related to the review of the application and governing document.

B. Review Process

1. The District Advisory Committee ("DAC") is a Creating Entity committee that advises the Mayor, Creating Entity Council and other policy-makers about district issues. The DAC includes representatives of the departments of [Community Planning and Development, Law, Revenue, Public Works and Budget and Management,] as well as other agencies as needed.

   The DAC will review the letter of intent utilizing these criteria to determine whether or not to direct the applicant to proceed with preparation of a draft Governing Document for submittal. Conceptual approval does not assure approval of the governing document.

C. Governing Document

1. If the concept for the District as contained in the letter of intent is approved, the applicant shall submit a draft Governing Document to the Creating Entity's Management Office.

2. The draft Governing Document will be reviewed by the DAC for compliance with the criteria and requirements contained herein. The DAC will discuss with appropriate policy-makers issues that arise during this drafting period to have such issues resolved.

3. The final Governing Document will be forwarded to Creating Entity Council for action through the standard Creating Entity and statutory processes.

D. Fees

No request to create a Public Infrastructure District shall proceed until the fees set forth herein are provided for. All checks are to be made payable to _____ and sent to the _____ Office.

1. Letter of Intent: A Letter of Intent is to be submitted to the Creating Entity Managers Office and a $_____ fee shall be paid at the time of submittal of the Letter to cover the cost of staff review.

2. If the applicant proceeds to the submittal of a Governing Document an application fee of $_____ shall be submitted concurrent with the draft Governing Document

3. Other Expenses: In the event the costs of review exceed the application fee, the applicant for a District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the Creating Entity in the process of reviewing the draft Governing Document prior to adoption, documents related to a bond issue and other such fees and expenses as may be necessary to interface with such District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

II. Criteria for Evaluating Proposed Public Infrastructure Districts

A. Public Benefit

Formation of a District bestows certain benefits on the District's proponents and is expected to provide public benefit consistent with the Creating Entities policy goals. Components of public benefit to be considered may include:

1. Resulting development that is in conformance with the Municipality's Comprehensive Plan and all applicable supplements;

2. Provision of and/or contribution to needed regional and sub-regional infrastructure;

3. Sustainable design including multimodal transportation, water conserving landscape design, thoughtful development phasing, green building design, and formation of and participation in transportation management programs;

4. Mixed-use development that includes a variety of housing types and prices, a range of employment opportunities, retail and consumer services, and civic amenities; and

5. High quality site and building design, including street connectivity, multimodal street design, durable construction materials, and pedestrian-friendly building design.

B. Evaluation Criteria

These criteria provide thresholds for consideration. Compliance with some or all of these criteria is desired; however, alternative approaches may be considered.

1. Districts should not include land that is already included within the boundaries of another public infrastructure district without express provision in an adopted Governing Document.

In such cases, the relationship with the existing districts must be addressed in the Governing Document.

2. A District planning to levy more than __ mills of tax in the District for repayment of limited tax bonds will not be considered without sufficient justification as to why additional mills are necessary and reasonable for the development.

3. There must be a demonstrated public benefit directly resulting from the creation of the District and its undertakings as described in the Governing Document.

C. Evaluation of Applicant

The following criteria relating to the applicant and the development will be considered:

1. Historical performance of the applicant (within and outside of the Creating Entity);

2. The current proposed plan of finance of the District;

3. The current development plans relationship to the master plans of the Creating Entity; and

4. The regional or overall benefits to the Creating Entity from the proposed plan of finance.

III. Governing Document Requirements

In addition to statutory requirements, a Governing Document memorializes the understandings between the District and the Creating Entity, as well as the considerations that compelled the Creating Entity to authorize the formation of the District. The Governing Document for the proposed District shall not contain and will be reviewed for compliance with the following policies and requirements.

A. District Description

1. Description of District area including size, location, area context (significant natural and man-made features, major public improvements, adjacent development), development history, and proposed development scenario (land uses by type and intensity and general urban design character);

2. Description of the public benefit resulting from the creation of the District and its undertakings;

3. Description of proposed development within the boundaries of the proposed District including general distribution of land uses and densities and phasing of development;

4. If the District boundaries overlap with another district, an explanation of the relationship between the districts;

5. Itemization and description of all needed infrastructure (both regional and local) and facilities in the District's area;

6. Estimated construction costs of such infrastructure;

7. General description of phasing of construction based on development projections and phasing;

8. Provide the following financial plan information:

    a. Proforma financial overview of total costs and total revenues from all revenue sources;

    b. An example plan of finance showing a proposal of how the proposed financing might take place, recognizing that the actual financing terms and structure will be approved by the board of trustees of the District (the "Board") within the parameters of this Governing Document;

    c. Anticipated maximum or fixed maximum mill levy required to meet debt service of the District;

    d. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area;

    e. Comparison of the mill levies of similar taxing entities in the area;

    f. Proposed operating budgets for the District's first three years of existence; and

    g. Any other forms of public financing and assistance being sought, including assessment areas.

9. Description of the ultimate ownership and provision for the ongoing operating and maintenance costs for infrastructure.

10. Description of any proposed divisions and an inclusion/exclusion process as appropriate.

11. Proposed governance plan, including Board structure and to transition from appointed Board to elected Board.

B. Requirements and Expectations

1. The planned ownership of the Improvements, including any relationship with an existing statutory district must be addressed in the Governing Document.

2. All debt issued by the District for which a tax is pledged to pay the debt service shall meet the requirements of all applicable statutes.

3. Land, easements or improvements to be conveyed or dedicated to the Creating Entity and any other local government entity shall be conveyed in accordance with the related standards at no cost to the Creating Entity.

4. All public infrastructure within the District which will be connected to and owned by another public entity shall be subject to all design and inspection requirements and other standards of such public entity.

5. The District shall not pledge as security any land, assets or funds to be transferred to the Creating Entity.

6. The District shall be subject to Creating Entity zoning, subdivision, building codes, and all other applicable Creating Entity ordinances and regulations. Approval of the Governing Document shall not bind the Creating Entity to approve other matters which the District or developer may request.

7. The District shall pay all fees and expenses as provided in the Governing Document.

8. The District may not double tax, whether by mill levy, assessment, impact fees, or any combination thereof; any end user for the costs of Improvements.

C. Disclosure and Reporting Requirements

Disclosure of the existence of the District to property owners and potential property owners within the District is important and the following actions to be taken by each District shall be included in the Governing Document.

1. Within 30 days after the formation of the District, the Board shall record a notice with the county recorder:

   a. Containing a description of the boundaries of the District;

   b. Stating that a copy of the Governing Document is on file at the office of the Creating Entity;

   c. Stating that the District may finance and repay infrastructure and other improvements through the levy of a property tax;

   d. Stating the maximum rate that the District may levy; and

   e. If applicable, stating that the debt may convert to general obligation debt and outlining the provisions relating to conversion.

2. At least annually following the formation of the District, the District shall notify (by mail, e-mail, or posting to the District's website) property owners in the District of the existence of the District and of the next scheduled meeting of the Board of the District. Such meeting shall occur at least 30 days and not more than 60 days following the date of the notice. Such notification shall include names and addresses of the Board of Directors and officers, the address, telephone and fax numbers, and e-mail address of the District, and shall include reference to the existence of a District file maintained by the Creating Entity as described below.

3. The District shall provide the following information to the Creating Entity Manager's Office on an annual basis, and the District shall create and maintain a file for public review of the following information.

    a. Annual District budget;

    b. Annual audited financial statements of the District;

    c. Total debt authorized and total debt issued and presently planned debt issuances;

    d. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;

    e. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;

    f. List of current interlocal agreements, if changed (to be delivered to the Creating Entity upon request);

    g. List of all current contracts for services or construction (to be delivered to the Creating Entity upon request);

    h. Official statements of current outstanding bonded indebtedness, if not previously received by the Creating Entity;

    i. Current approved Governing Document, if changed; and

    j. District Office contact information.

4. The following shall be considered significant changes to the Governing Document, thereby requiring approval by the Creating Entity:

    a. Exclusion or inclusion of property without Governing Document and Statute required approvals;

    b. Change in the maximum mill levy;

    c. [Consolidation with any other district;] and

    d. Change in the dissolution date.

Submittal Instructions

Annual Financial Information: Submit one copy of each of the annual financial information, as described in ____ to:

[Enter Creating Entity Manager Address]

All other documents: Submit letters of intent, draft Governing Documents, and all other documents (with the required number of copies) to:

[Enter Creating Entity Manager Address]

Further Information: For additional information please contact the Creating Entity's Manager's Office at the address or telephone number shown below.

[Enter Creating Entity Manager Contact Information]

Public Infrastructure Districts

Introduction to Senate Bill 228



Codified as Title 17B, Chapter 2a, Part 12



This bill grants cities and counties (Creating Entity) the power to create Public Infrastructure Districts (PIDs) to finance public infrastructure for new development and redevelopment



PIDs can issue debt repayable from property taxes or assessments on the property owners within its boundaries



PIDs can be an effective tool to the interests of both municipalities and property owners when potentially competing interests are balanced

PID Features

- Local district under Title 17B
- Independent political subdivision
  - PID debt is not a liability or a balance sheet item of the Creating Entity
  - Defaults by PID taxpayers not enforced by municipality
- Governed by own board
- Creates new tax revenue stream rather than reallocation of existing taxes

PID Creation and Powers

PID Creation

- At the discretion of the Creating Entity
- Requires consent of 100% of property owners and voters within the PID boundaries
- Costs of Creating Entity counsel in evaluating PID to be paid by the property owner

PID Powers

- Broad powers to finance public infrastructure of many types, generally including any improvement that will be owned by a state or local government, including the PID
- Powers may be limited by the Creating Entity in the governing document entered into at creation

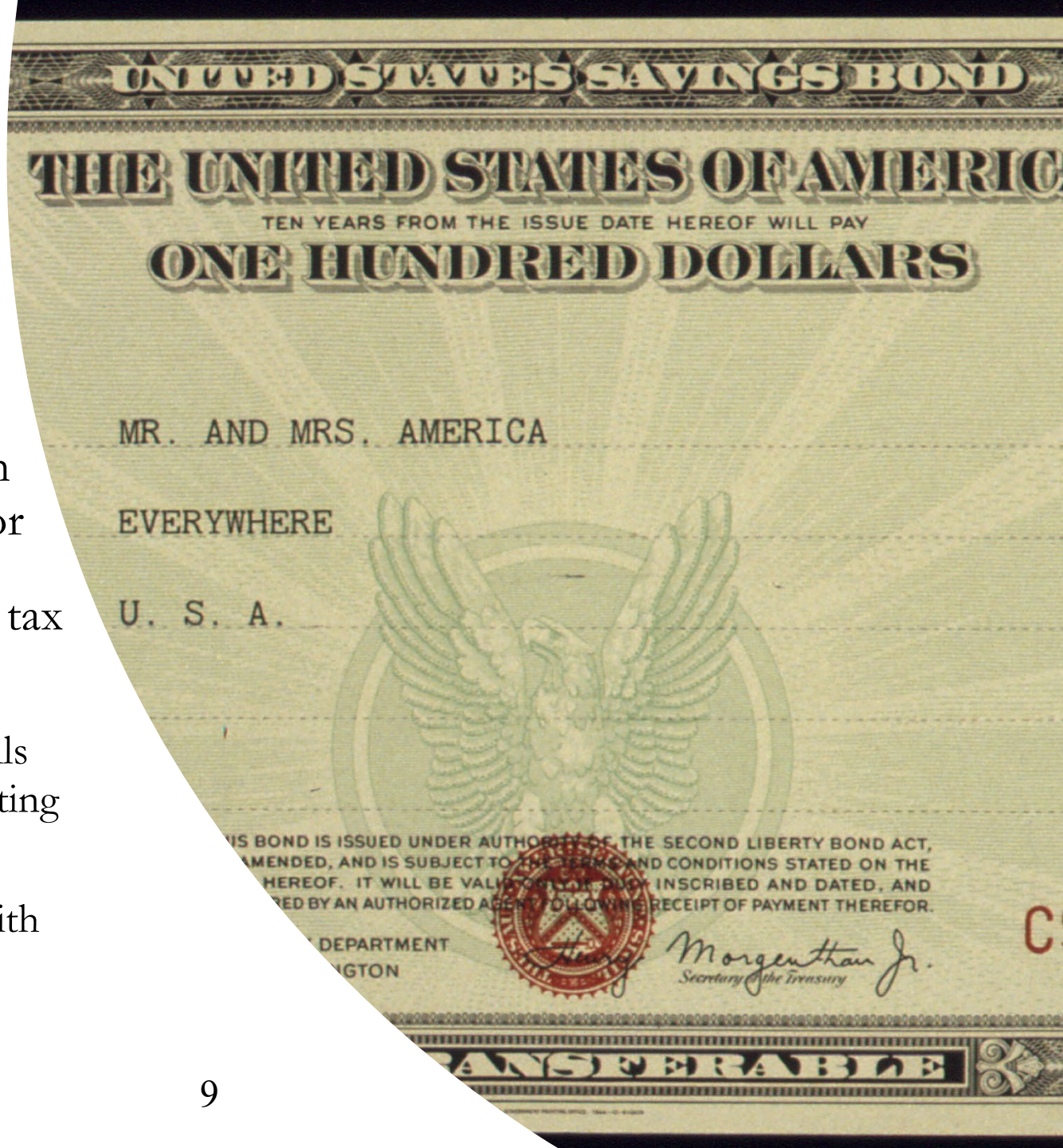
PID Governance

- PIDs are governed by a board with members initially comprised of property owners or their designated representatives
- Board will transition to an elected board as electors reside in the PID, as provided in the Governing Document
- Board authority constrained by the limitations established in the Governing Document



Limited Tax Bonds

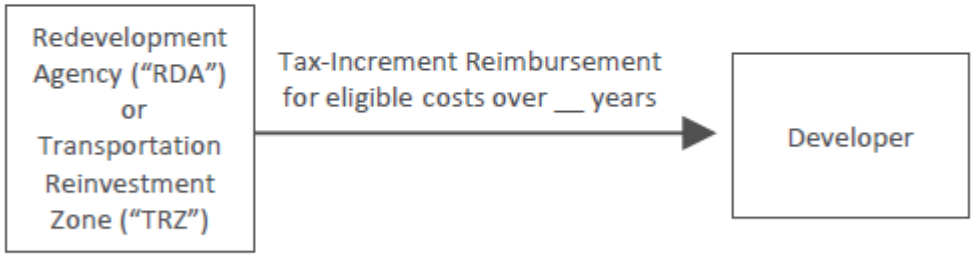
- ✓ Fixed rate bonds, generally for 30 year term
- ✓ Not subject to a fair market value ratio prior to issuance
- ✓ Repaid from a limited ad valorem property tax
  - ✓ Tax payment pegged to taxable value of property
  - ✓ Statutorily, this rate may not to exceed 15 mills
  - ✓ A lower limit may be established by the Creating Entity in the Governing Document or in the bond documents
  - ✓ New revenue source, no need to negotiate with school district, RDA, etc.



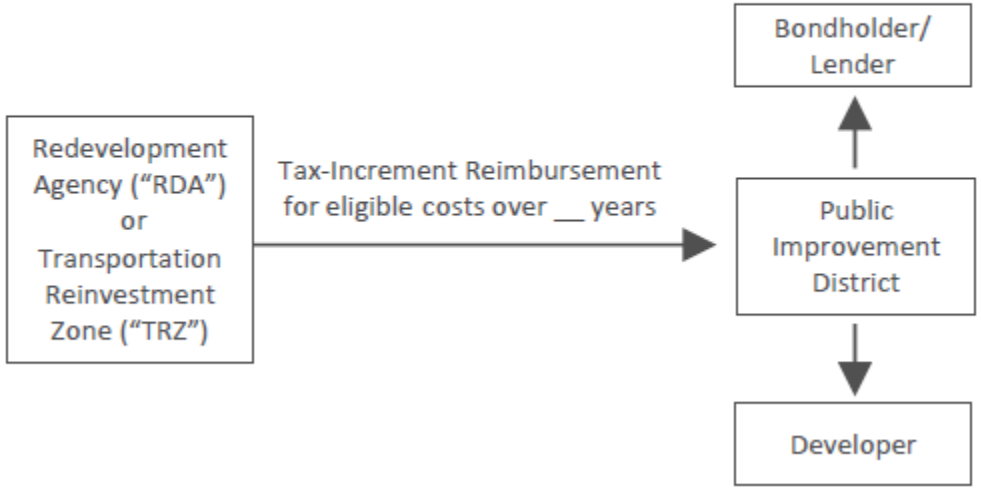
PID Interaction with Tax Increment Finance

- PIDs can act as the counterparty to RDA revenues, thereby creating a tax exempt borrower to capitalize the increment without having 3rd party debt on RDA balance sheet
- PIDs bring additional revenues to the project from benefitted property owners whereas TIF involves reallocating tax revenue from other entities

Current/Traditional Plan



Public Infrastructure District involvement in Tax-Increment Finance





Considerations for the Creating Entity in Drafting the Governing Document

- The statute only establishes the outer limits of what a PID can do, greater limitations or requirements may be imposed by the Creating Entity
- Engage counsel to ensure proper legal and tax analysis over negotiations to ensure:
  - ✓ eligibility for tax-exempt financing
  - ✓ that the PID will constitute a "separate political subdivision" for tax purposes
- Creating Entity will want to adopt standard policies for evaluating all PID requests in light of its objectives

Considerations for the Creating Entity in Drafting the Governing Document, *continued*

- Consider what types of infrastructure the Creating Entity wants to allow the PID to finance
- Establish a mill rate limit appropriate to accomplish financing of approved improvements
- Establish Standards for:
  - ✓ Procurement
  - ✓ Transition to elected Board
  - ✓ PID lifespan and dissolution
  - ✓ Notice to future property owners



Questions?



THANK YOU

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PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: NLA
Department: Development Services
Requested Meeting Date: 04-14-2020

SUBJECT: An ordinance amending Provo City Code to establish a Critical Hillside Overlay (CH) Zone. Citywide application. (PLOTA20200077)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening. The Planning Commission has recommended approval (6:0).

BACKGROUND: Following discussions after complications with the gravel pit, the Foothills Protection Committee and Planning staff prepared a proposed set of hillside requirements and development standards to help protect hillside areas of Provo City. Staff felt that an overlay zone approach was best for adding hillside requirements. The proposed requirements and standards would overlay the existing zoning of a property; in other words, this proposal would add additional zoning requirements for a given parcel in addition to the requirements of the underlying zone.

Feedback from multiple City departments was considered in the drafting of this proposal. The proposal includes, among other things, requirements related to limits of disturbance or LOD (identification of the limited area of a lot that can be encroached upon by development activity), slope protection and stability, detention basin design, ridgelines, trails, streets and access, fences, vegetation protection, stream corridor and wetlands protection, design standards, and development clustering. Multiple graphical illustrations of requirements are included in the proposal for the sake of facilitating comprehension of the requirements. Further, this proposal has a companion zone map amendment application. With the zone map amendment application, staff has proposed the inclusion of certain properties in the CH Zone. Included in the proposal is an amendment to Chapter 14.01, Provo City Code, to limit development east of the proposed CH Zone.

FISCAL IMPACT:

PRESENTER'S NAME: Brandon Larsen (801) 852-6408 jblarsen@provo.org

REQUESTED DURATION OF PRESENTATION: 45 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20200077

Development Services

Planning Commission Staff Report Hearing Date: April 1, 2020

***ITEM # 1** Provo City Council Office requests an ordinance amendment to establish the Critical Hillside (CH) Overlay Zone to provide development standards to help protect the sensitive hillside areas of Provo City's east bench. Citywide Impact. Brandon Larsen (801) 852- 6408 jblarsen@provo.org PLOTA20200077

Applicant: Provo City Council

Staff Coordinator: Brandon Larsen

Parcel ID#: Citywide

*Council Action Required: Yes

Related Application: PLRZ20200078 (Critical Hillside [CH] Overlay Zone, Map Amendment)

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 22, 2020 at 6:00 P.M.* It is possible to call a special Planning Commission meeting prior to April 22, 2020, to further consider this item. The date of Wednesday, April 8, 2020, could be considered for a special Planning Commission meeting.

2. **Recommend Denial** of the proposed ordinance amendment. *This action would not be consistent with the recommendations of the Staff Report. In the event of a recommendation of denial, the Planning Commission should establish new findings.*

Relevant History: The Provo City Council has asked the Development Services Department to prepare a draft ordinance—for their consideration—that proposes development standards to help protect hillside areas in the City and address hillside development concerns, such as protection of ridgelines, stability of slopes, protection of existing public accesses, and preservation of the natural beauty of foothill areas.

Neighborhood Issues: This is a city-wide application. Staff has received requests for information for this application from the public, but has not received any feedback from citizens or neighborhood chairs.

Summary of Key Issues:

- The City Council has asked the Development Services Department to propose hillside development requirements for their consideration.
- Staff has drafted the Critical Hillside (CH) Overlay Zone. This zone, if adopted, would overlay the existing zone of a given parcel.
- The CH Zone includes development standards related to, among other things, slope stability, streets, vegetation preservation, ridgeline development, design standards, and development clustering.

Staff Recommendation: Staff recommends forwarding a positive recommendation of the language proposed in Attachment 1, establishment of the Critical Hillside (CH) Overlay Zone.

OVERVIEW

Based on the request of the City Council, staff has prepared a proposed set of hillside requirements and development standards to help protect hillside areas of Provo City. Staff felt that an overlay zone approach was best for adding hillside requirements. The proposed requirements and standards would overlay the existing zoning of a property; in other words, this proposal would add additional zoning requirements for a given parcel—in addition to the requirements of the underlying zone. Feedback from multiple City departments and the Provo City Foothill Protection Committee, which committee includes multiple members of the City Council, was considered in the drafting of this proposal.

The proposal includes, among other things, requirements related to limits of disturbance or LOD (identification of the limited area of a lot that can be encroached upon by development activity), slope protection and stability, detention basin design, ridgelines, trails, streets and access, fences, vegetation protection, stream corridor and wetlands protection, design standards, and development clustering.

Multiple graphical illustrations of requirements are included in the proposal for the sake of facilitating comprehension of the requirements. Further, this proposal has a companion zone map amendment application. With the zone map amendment application, staff has proposed the inclusion of certain properties in the CH Zone.

Included in the proposal is an amendment to Chapter 14.01, Provo City Code, to limit development east of the proposed CH Zone.

FINDINGS

- The Critical Hillside (CH) Zone is an overlay zone that would overlie the existing zoning of a property.
- The purpose of this zone is to add development standards for hillside areas of Provo City.
- Feedback from multiple City departments and the Foothill Preservation Committee was considered in the drafting of this proposal.
- There is a companion zone map amendment application that proposes the inclusion of certain properties into the CH Zone.

ANALYSIS

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

Before recommending an amendment to this Title (Title 14), the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the

goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan: **(responses in bold)**

(a) Public purpose for the amendment in question: **The public purpose is to promote safer, more ecologically friendly, and more appealing development in the hillside areas of the City.**

(b) Confirmation that the public purpose is best served by the amendment in question: **The proposal establishes prudent standards for hillside development (these standards do not preclude development in hillside areas). The preservation of the natural beauty of hillside areas in the City is better ensured with the adoption of this proposal.**

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives: **The proposal appears to be in harmony with the policies, goals, and objectives of the General Plan.**

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated: **There appear to be no "timing and sequencing" concerns with this proposal.**

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies: **The proposal does not appear to be out of harmony with the policies of the General Plan.**

(f) Adverse impacts on adjacent landowners: **The provisions of the CH Zone appear to support a reduction in the potential adverse impacts that development can have on adjacent landowners. The provisions would support safer, more ecologically sound, and aesthetically pleasing development.**

CONCLUSIONS

If adopted, the proposed Critical Hillside (CH) Overlay Zone would provide prudent development standards to help protect the sensitive hillside areas of Provo City. The provisions of this zone could be used as a tool to protect valued viewsheds and to promote greater public access to mountain open space.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Municipal Council approval of the proposed ordinance amendment found in Attachment 1, establishment of the Critical Hillside (CH) Overlay Zone.

ATTACHMENTS

Attachment 1 – Proposed Text Amendment: Critical Hillside (CH) Overlay Zone (14.33A) and addition of Section 14.01.085

…

14.01.085 Hillside Development

No permit shall be issued for residential, commercial, professional office, manufacturing, industrial, or mixed-use development east of the Critical Hillside (CH) Overlay Zone.

…

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Area of Applicability.
14.33A.050 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.060 Permitted Uses.
14.33A.070 Development Standards.
14.33A.080 Provision of Facilities.
14.33A.090 Project Plan Approval/Design Review/Design Guidelines.
14.33A.100 Limits of Development (LOD).
14.33A.110 Slope Protection and Stability.
14.33A.120 Detention Basin Design.
14.33A.130 Ridgelines.
14.33A.140 Streets and Access.
14.33A.150 Trails.
14.33A.160 Fences.
14.33A.170 Tree and Vegetation Protection.
14.33A.180 Geological and Natural Hazards.
14.33A.190 Stream Corridor and Wetland Protection.
14.33A.200 Traffic Requirements.
14.33A.210 Parking Requirements.
14.33A.220 Design Standards.
14.33A.230 Cluster Developments.
14.33A.240 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%).

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"**Ridgeline**" means a line connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream Corridor" means the corridor defined by a stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.050 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

14.33A.060 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.070 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.080 Provision of Facilities.

(1) The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

(2) The minimum water tank size to service a public water system shall be 500,000 gallons.

14.33A.090 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.100 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained. (See Figure 14.33A.6: Limits of Disturbance).

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Service Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit development on the site.

14.33A.110 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

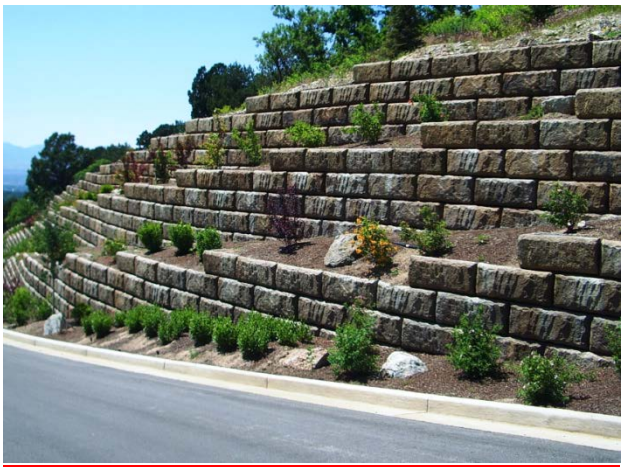
(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for retaining walls and terracing:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.
(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) All applicable building code requirements must be met and applicable permits obtained.

(d) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(e) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



14.33A.120 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the

volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Figure 14.33A.3: Detention Basin Design--Permitted



(f) Figure 14.33A.4: Detention Basin Design--Not Permitted



14.33A.130 Ridgelines.

(1) No development may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

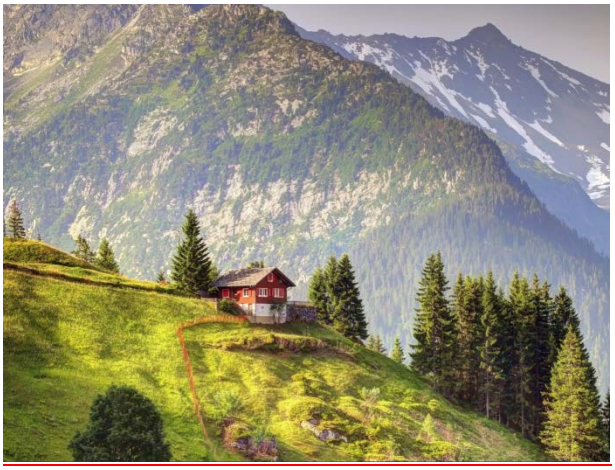
(2) No development may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(3) The designation of any ridgeline for protection by the City shall occur in conjunction with the rezoning of a property to the CH Zone.

(4) Figure 14.33A.5: Ridgeline Development--Permitted



(5) Figure 14.33A.6: Ridgeline Development—Not Permitted



14.33A.140 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards*

section of Chapter 15.03, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) A private development road(s) may be utilized for access to and through a development in the CH Zone if the City Engineer determines that applicable Public Works standards will be met.

(4) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(5) Grading hillside slopes that exceed thirty percent (30%) is permitted for the construction of streets, roads, alleys, or driveways, only if the City Engineer makes all of the following findings:

(a) No alternate location for the street, road, alley, or driveway is feasible;

(b) All applicable Public Works standards will be met; and

(c) No more than ten percent (10%) of a street, road, alley, or driveway shall cross slopes exceeding thirty percent (30%).

(d) The grading of a slope that exceeds thirty percent (30%) shall not result in creating an arterial or collector street with a slope greater than eight percent (8%), a local street with a slope greater than twelve percent (12%), nor a driveway with a slope greater than fifteen percent (15%), unless allowed by the provisions of Title 15, Provo City Code.

(6) A minimum thirty (30) foot easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(7) A development that would produce 250 vehicle trips per day or more shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations.

(8) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(9) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(10) All streets and roads shall be designed to meet the standards required for streets in all other areas of the City; however, interior development streets shall comply with the current T*ypical Street Sections* maintained by the Public Works Department for *Local Street (Parking on one side)*, except that sidewalks shall be required on only one side of the street.

(11) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(12) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



14.33A.150 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the City Council may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.160 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing shall have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.170 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Service Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Service Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code; and

(ix) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.180 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.190 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, using or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).



Figure 14.33A.9

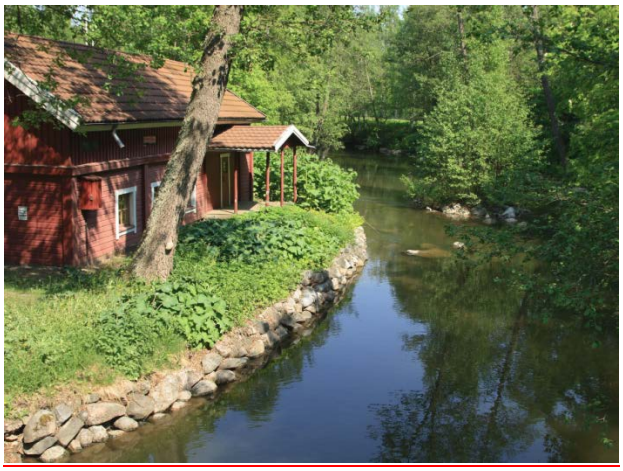


Figure 14.33A.10

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.200 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.210 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.220 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).



Figure 14.33A.11



Figure 14.33A.12

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).



Figure 14.33A.13



Figure 14.33A.14

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood
(ii) Brick
(iii) Rock
(iv) Stone
(v) Pre-cast fences or walls textured and colored to imitate any of the above materials
(vi) Wrought iron
(vii) Vinyl rail
(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board
(ii) Concrete or concrete block
(iii) Plywood
(iv) Painted materials

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).



Figure 14.33A.15

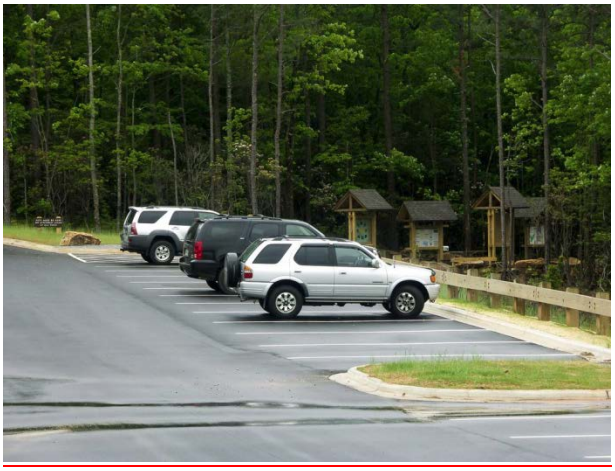


Figure 14.33A.16

(6) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.230 Cluster Developments.

(1) The Planning Commission shall approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(4) Figure 14.33A.18: Development—Not Permitted.



14.33A.240 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

ORDINANCE 2020-.

AN ORDINANCE AMENDING PROVO CITY CODE TO ESTABLISH A CRITICAL HILLSIDE OVERLAY (CH) ZONE. CITYWIDE APPLICATION. (PLOTA20200077)

WHEREAS, it is proposed that Provo City Code Chapter 14.33A be enacted to create a Critical Hillside Overlay (CH) Zone;

WHEREAS, on April 1, 2020, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

WHEREAS, on April 14, 2020, 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) Provo City Code should be amended as described herein 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:

Provo City Code Chapter 14.33A is hereby enacted as set forth in Exhibit A.

PART III:

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

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

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

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

END OF ORDINANCE.

Exhibit A

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
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14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Bench" means a naturally occuring broad, generally flat, elevated terrace landform with an abrupt slope on one side.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Density Bonus" means a residential density increase—beyond the density allowed by the underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as set forth in this Chapter.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%), unless an exception to permitted slope is obtained, as may be allowed in Title 14 or 15 of the Provo City Code.

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.
(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.
(d) Is not a right-of-way or road.
(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridge" means the elongated crest at the apex or uppermost point of the intersection between two opposite slopes of a hill or mountain.

"**Ridgeline**" means a line, designated for protection by the City, connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another. A bench is not a ridgeline.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream" means a body of flowing water; natural water course containing water at least intermittently.

"Stream Corridor" means the corridor defined by a constant or intermittent stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

(4) The provisions of this Chapter shall shall not apply in the following situations:

(a) for lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;

(b) for parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone; and

(c) for additions to a one-family dwelling and accessory structures permitted after the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so long as the addition or accessory structure does not extend outside the limits of disturbance established when the dwelling was originally permitted.

14.33A.050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.90 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained.

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of terraced retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for terraced retaining walls andvertical walls:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.
(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) Vertical walls are only allowed if approved by the City Engineer and if the following criteria are met:

(i) The applicant provides documentation, which has been stamped by an engineer or landscape architect licensed in the State of Utah, that demonstrates an environmental, aesthetic, or safety concern with installing retaining walls on the subject property.

(ii) The vertical wall shall be constructed of earth-colored materials similar to the surrounding natural landscape.

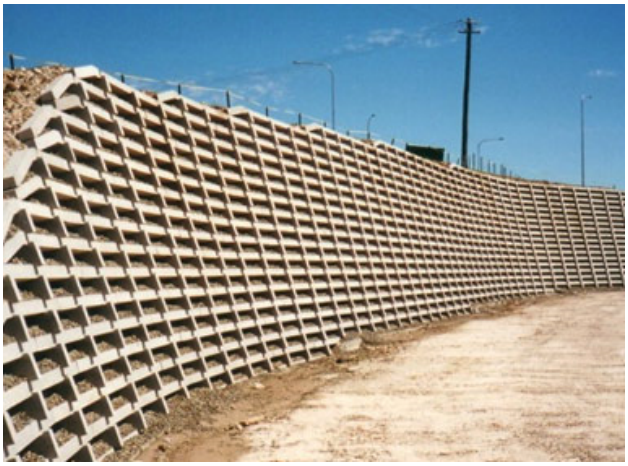
(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(Terraced retaining walls constructed with earth-colored materials similar to the surrounding natural landscape. Terraces are used as planting pockets.)

(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



(Wall is not constructed of earth-colored materials

and does not provide opportunites for planting pockets.)

14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Vegetation and trees planted and established in connection with a detention basin shall be drought-tolerant, firewise vegetation permitted through an approved fire protection plan.

(f) Figure 14.33A.3: Detention Basin Design--Permitted



(This is a free form basin that fits in the natural surroundings.)

(g) Figure 14.33A.4: Detention Basin Design--Not Permitted



This is not a free form basin and is without natural side slopes. Little or no vegetation has been established to give it a natural appearance.)

14.33A.120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the City.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(These structures have been sited significantly lower than the ridgeline.)

(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



(This structure has been sited on a ridgeline.)

14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(4) A development of thirteen (13) or more lots, or thirteen (13) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations. This requirement for second access shall supercede any conflicting second access requirement in the Provo City Code.

(5) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(6) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(This road follows the natural contours of the land.)

(8) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



(This road has excessive cuts and does not follow the natural contour of the land.)

14.33A.140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the Mayor may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing may have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Services Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Services Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code;

(ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated, reestablished, or reclaimed area; and

(x) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, following, or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).

Figure 14.33A.9



(This dwelling is setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

Figure 14.33A.10



(This dwelling is not setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings
The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to

Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).

Figure 14.33A.11



(This home was sited to follow the natural contour of the land.)

Figure 14.33A.12



(This land was modified to accept a building design not tailored for the site.)

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).

Figure 14.33A.13



(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood;
(ii) Brick;
(iii) Rock;
(iv) Stone;
(v) Pre-cast fences or walls textured and colored to imitate any of the above materials;
(vi) Wrought iron;
(vii) Vinyl rail; or
(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board;
(ii) Concrete or concrete block;
(iii) Plywood; and
(iv) Painted materials.

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).

Figure 14.33A.15



(This parking lot was screened with trees and vegetation and is compatible with the natural environment.)

Figure 14.33A.16



(This parking lot was not screened with trees and vegetation
and does not blend into the natural environment.)

(6) Utility Infrastructure

In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and this Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological

resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(This development was clustered and preserved significant areas of open space.)

(4) Figure 14.33A.18: Development—Not Permitted.



(This development was not clustered; little open space exists in the area.)

14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

Development Services

Memo

To: Provo City Planning Commission

From: Brandon Larsen, Development Services Department

Date: March 18, 2020

RE: Critical Hillside (CH) Overlay Zone

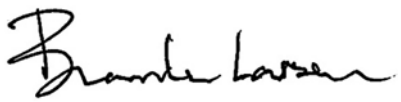
Attached to this memo is the proposed text for the Critical Hillside (CH) Overlay Zone. The objective of this proposed overlay zone is to protect hillside areas of Provo's east bench and establish prudent development standards for those areas in the zone.

The City Council has indicated that consideration of this proposal is a high priority and that they would like to be able to act on a proposal before the end of April. Typically, a draft ordinance will be reviewed by the applicable City departments prior to it being turned over to the Planning Commission for review. However, considering the apparent time-sensitive nature of this application, staff thought it would be wise to get this to the Planning Commission, as soon as possible (while department reviews proceed).

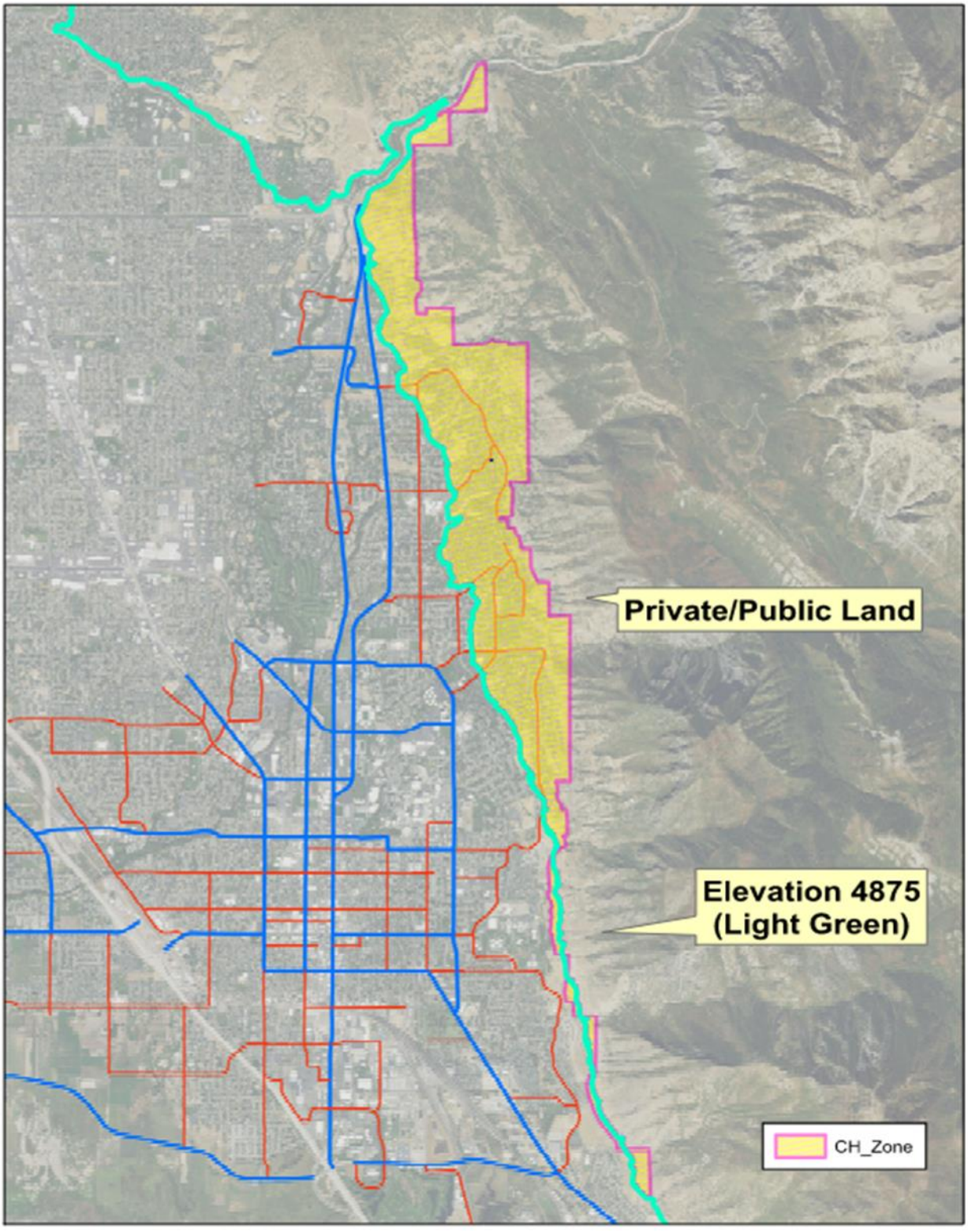
Also, I have attached a draft map showing the area of the City proposed to be included in the CH Zone. The land lying between Elevation 4875 (a key Provo City elevation related to the delivery of water) and a line that generally follows the division between private and public land ownership on the east bench is proposed to be included in the CH Overlay Zone.

Your input on the proposed text, as well as the land to include in the CH Zone is requested. This will be on the April 1, 2020 Planning Commission meeting agenda. If there are any questions, please feel free to contact me or Bill Peperone. Feedback before the April 1st meeting is appreciated.

Respectfully,



Brandon Larsen
Planner
(801)852-6408
jblarsen@provo.utah.gov



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Area of Applicability.
14.33A.050 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.060 Permitted Uses.
14.33A.070 Development Standards.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Development (LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines and to support the stability of slopes. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, recreation areas, utilities, services, driveways, septic tank drain fields and related system requirements, storm drainage, and other similar services or improvements. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%).

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream Corridor" means the corridor defined by a stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance

with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.050 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

14.33A.060 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.070 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.090 Limits of Development (LOD).

(1) Limits of development shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained. (See Figure 14.33A.6: Limits of Disturbance).

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, the Development Service Director shall offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;

(b) The adjustment is designed to yield less visual impact on the property or on the surrounding area; or

(c) Strict application of the standard(s) would render a site undevelopable.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading and drainage requirements of Title 15 of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space.

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Use of retaining walls is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for retaining walls and terracing:

(a) If a single retaining wall is used, one vertical retaining wall up to eight (8) feet in height is permitted to reduce cut and fill.

(b) Terracing is limited to two walls with a maximum vertical height of six (6) feet each. The width of a terrace shall be a minimum of a one-to-one ratio with the height of the wall. Terraces are measured from the back of the lower wall to the face of the upper wall. Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

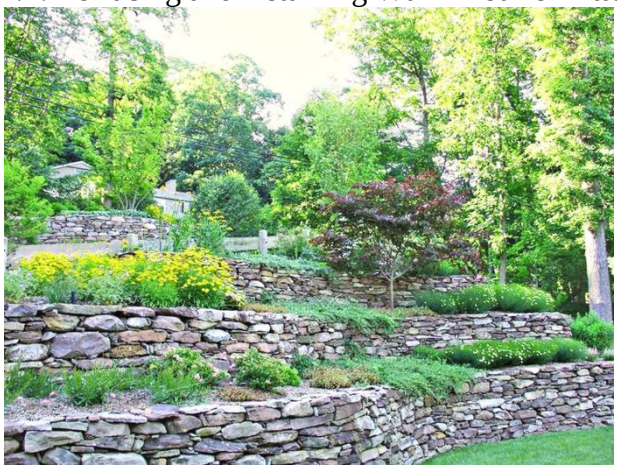
(c) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Figure 14.33A.3: Detention Basin Design--Permitted



(f) Figure 14.33A.4: Detention Basin Design--Not Permitted



14.33A.120 Ridgelines.

(1) No development may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(2) The designation of any ridgeline for protection by the Planning Commission shall occur in conjunction with the rezoning of a property to the CH Zone.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) A private development road(s) may be utilized for access to and through a development in the CH Zone if the City Engineer determines that applicable Public Works standards will be met.

(4) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(5) Grading hillside slopes that exceed thirty percent (30%) is permitted for the construction of streets, roads, alleys, or driveways, only if the City Engineer makes all of the following findings:

(a) No alternate location for the street, road, alley, or driveway is feasible;

(b) All applicable Public Works standards will be met; and

(c) No more than ten percent (10%) of a street, road, alley, or driveway shall cross slopes exceeding thirty percent (30%).

(6) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

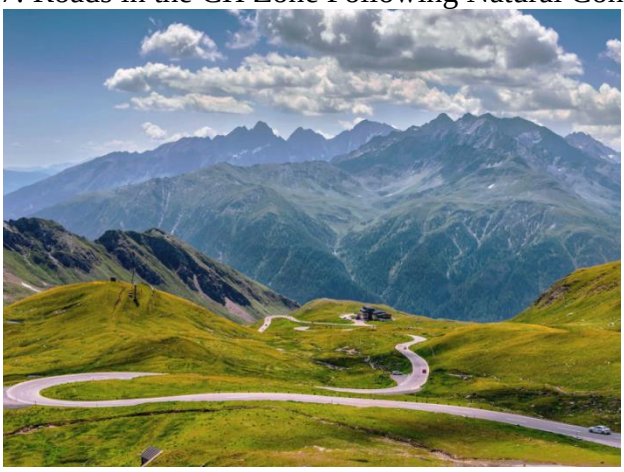
(7) A development of ten (10) or more lots, or ten (10) or more dwelling units, shall have at least two points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations.

(8) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(9) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(10) All streets and roads shall be designed to meet the standards required for streets in all other areas of the City; however, interior development streets shall comply with the current T*ypical Street Sections* maintained by the Public Works Department for *Local Street (Parking on one side)*, except that sidewalks shall be required on only one side of the street.

(11) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours--Permitted



(12) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



14.33A.140 Trails.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Public Works standards;

(b) The required trail right-of-way is 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the City Council may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing shall have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Service Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Service Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code; and

(ix) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or adapted plant species and materials characteristic of the disturbed area.

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Geological and Natural Hazards.

The applicable requirements of Chapter 15.05 of the Provo City Code, related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, using or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A. 9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).



Figure 14.33A.9



Figure 14.33A.10

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).



Figure 14.33A.11



Figure 14.33A.12

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).



Figure 14.33A.13



Figure 14.33A.14

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood

(ii) Brick

(iii) Rock

(iv) Stone

(v) Pre-cast fences or walls textured and colored to imitate any of the above materials

(vi) Wrought iron

(vii) Vinyl rail

(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board

(ii) Concrete or concrete block

(iii) Plywood

(iv) Painted materials

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).



Figure 14.33A.15



Figure 14.33A.16

(6) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission shall approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards,

and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; and avoid fragmentation of open space areas within the site.

(b) Mo more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Where possible, a cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(4) Figure 14.33A.18: Development—Not Permitted.



14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.050 Permitted Uses.
14.33A.060 Development Standards.
14.33A.070 Provision of Facilities.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Disturbance(LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Bench" means a naturally occuring broad, generally flat, elevated terrace landform with an abrupt slope on one side.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Density Bonus" means a residential density increase—beyond the density allowed by the underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as set forth in this Chapter.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%), unless an exception to permitted slope is obtained, as may be allowed in Title 14 or 15 of the Provo City Code.

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridge" means the elongated crest at the apex or uppermost point of the intersection between two opposite slopes of a hill or mountain.

"**Ridgeline**" means a line, designated for protection by the City, connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another. A bench is not a ridgeline.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream" means a body of flowing water; natural water course containing water at least intermittently.

"Stream Corridor" means the corridor defined by a constant or intermittent stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

(4) The provisions of this Chapter shall shall not apply in the following situations:

(a) for lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;

(b) for parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone; and

(c) for additions to a one-family dwelling and accessory structures permitted after the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so long as the addition or accessory structure does not extend outside the limits of disturbance established when the dwelling was originally permitted.

14.33A.050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.90 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained.

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of terraced retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for terraced retaining walls andvertical walls:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) Vertical walls are only allowed if approved by the City Engineer and if the following criteria are met:

(i) The applicant provides documentation, which has been stamped by an engineer or landscape architect licensed in the State of Utah, that demonstrates an environmental, aesthetic, or safety concern with installing retaining walls on the subject property.

(ii) The vertical wall shall be constructed of earth-colored materials similar to the surrounding natural landscape.

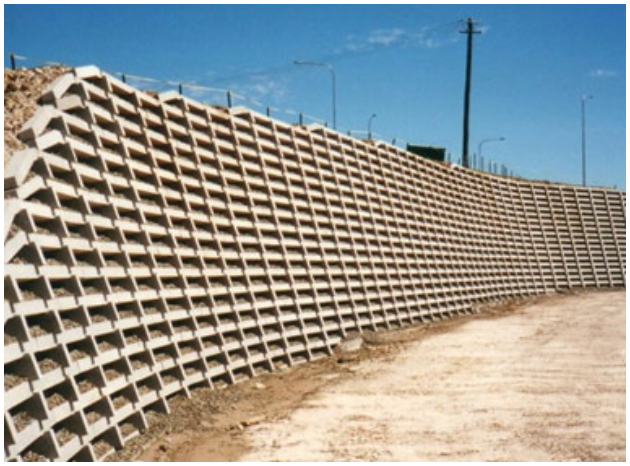
(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(Terraced retaining walls constructed with earth-colored materials similar to the surrounding natural landscape. Terraces are used as planting pockets.)

(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



(Wall is not constructed of earth-colored materials
and does not provide opportunites for planting pockets.)

14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Vegetation and trees planted and established in connection with a detention basin shall be drought-tolerant, firewise vegetation permitted through an approved fire protection plan.

(f) Figure 14.33A.3: Detention Basin Design--Permitted



(This is a free form basin that fits in the natural surroundings.)

(g) Figure 14.33A.4: Detention Basin Design--Not Permitted



This is not a free form basin and is without natural side slopes. Little or no vegetation has been established to give it a natural appearance.)

14.33A.120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the City.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(These structures have been sited significantly lower than the ridgeline.)

(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



(This structure has been sited on a ridgeline.)

14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(4) A development of thirteen (13) or more lots, or thirteen (13) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations. This requirement for second access shall supercede any conflicting second access requirement in the Provo City Code.

(5) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(6) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(This road follows the natural contours of the land.)

(8) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



(This road has excessive cuts and does not follow the natural contour of the land.)

14.33A.140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the Mayor may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing may have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Services Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not

suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Services Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code;

(ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated, reestablished, or reclaimed area; and

(x) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, following, or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).

Figure 14.33A.9



(This dwelling is setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

Figure 14.33A.10



(This dwelling is not setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).

Figure 14.33A.11



(This home was sited to follow the natural contour of the land.)

Figure 14.33A.12



(This land was modified to accept a building design not tailored for the site.)

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).

Figure 14.33A.13



(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood;

(ii) Brick;

(iii) Rock;

(iv) Stone;

(v) Pre-cast fences or walls textured and colored to imitate any of the above materials;

(vi) Wrought iron;

(vii) Vinyl rail; or

(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board;

(ii) Concrete or concrete block;

(iii) Plywood; and

(iv) Painted materials.

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).

Figure 14.33A.15



(This parking lot was screened with trees and vegetation and is compatible with the natural environment.)

Figure 14.33A.16



(This parking lot was not screened with trees and vegetation and does not blend into the natural environment.)

(6) Utility Infrastructure

In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and this Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(This development was clustered and preserved significant areas of open space.)

(4) Figure 14.33A.18: Development—Not Permitted.



(This development was not clustered; little open space exists in the area.)

14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

provo

WELCOME HOME

PLANNING COMMISSION

April 1, 2020

ITEM 1*

Provo City Council requests an ordinance amendment to establish the Critical Hillside (CH) Overlay Zone to provide development standards to help protect the sensitive hillside areas of Provo City's east bench.

Citywide Impact

PLOTA20200077

ITEM 1*

Critical Hillside (CH) Overlay Zone

- New overlay zone proposed for east bench areas of City
- Salt Lake County's *Foothills and Canyons Overlay Zone* (FCOZ) --good example
- Development is not precluded in the CH Zone
- CH Zone Requirements:
  - Objective: Protect hillside areas of Provo's east bench and establish prudent development standards for those areas in the zone
  - Overlay zone = requirements that overlay or are in addition to the requirements of the underlying zone
  - The permitted uses are those of the underlying zone
- Limits of disturbance (LOD) = Designated area on a lot where development will occur
  - Development must not occur outside the LOD

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Slope protection requirements
    - With very few exceptions, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space
    - No development may be located within one-hundred (100) feet from either side of the crest of a ridgeline designated for protection by the City
    - Walls to blend with natural landscape
  - Detention basins
    - Basins designed to match natural surroundings
  - Ridgelines
    - Development setback off ridgelines
  - Streets
    - Streets to follow natural contours

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Trail and trailhead dedications
    - Density bonus of up to 10% for trail and trailhead dedications to the City
  - Tree and vegetation protection
    - Significant trees are required to be replaced
    - Wild-land Urban Interface
    - Revegetation, Tree Reestablishment, and Land Reclamation Plan
    - Tree and Vegetation Protection Plan
  - Design Standards
    - Buildings designed to follow natural contours and to blend with natural settings
    - Landscaping incorporates natural features
    - Parking and utilities screened

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.050 Permitted Uses.
14.33A.060 Development Standards.
14.33A.070 Provision of Facilities.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Disturbance(LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Bench" means a naturally occuring broad, generally flat, elevated terrace landform with an abrupt slope on one side.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Density Bonus" means a residential density increase—beyond the density allowed by the underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as set forth in this Chapter.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%), unless an exception to permitted slope is obtained, as may be allowed in Title 14 or 15 of the Provo City Code.

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridge" means the elongated crest at the apex or uppermost point of the intersection between two opposite slopes of a hill or mountain.

"**Ridgeline**" means a line, designated for protection by the City, connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another. A bench is not a ridgeline.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream" means a body of flowing water; natural water course containing water at least intermittently.

"Stream Corridor" means the corridor defined by a constant or intermittent stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

(4) The provisions of this Chapter shall shall not apply in the following situations:

(a) for lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;

(b) for parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone; and

(c) for additions to a one-family dwelling and accessory structures permitted after the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so long as the addition or accessory structure does not extend outside the limits of disturbance established when the dwelling was originally permitted.

14.33A.050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.90 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained.

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of terraced retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for terraced retaining walls and vertical walls:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) Vertical walls are only allowed if approved by the City Engineer and if the following criteria are met:

(i) The applicant provides documentation, which has been stamped by an engineer or landscape architect licensed in the State of Utah, that demonstrates an environmental, aesthetic, or safety concern with installing retaining walls on the subject property.

(ii) The vertical wall shall be constructed of earth-colored materials similar to the surrounding natural landscape.

(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(Terraced retaining walls constructed with earth-colored materials similar to the surrounding natural landscape. Terraces are used as planting pockets.)

(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



(Wall is not constructed of earth-colored materials and does not provide opportunites for planting pockets.)

14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Vegetation and trees planted and established in connection with a detention basin shall be drought-tolerant, firewise vegetation permitted through an approved fire protection plan.

(f) Figure 14.33A.3: Detention Basin Design--Permitted



(This is a free form basin that fits in the natural surroundings.)

(g) Figure 14.33A.4: Detention Basin Design--Not Permitted



This is not a free form basin and is without natural side slopes. Little or no vegetation has been established to give it a natural appearance.)

14.33A.120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the City.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(These structures have been sited significantly lower than the ridgeline.)

(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



(This structure has been sited on a ridgeline.)

14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(4) A development of thirteen (13) or more lots, or thirteen (13) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations. This requirement for second access shall supercede any conflicting second access requirement in the Provo City Code.

(5) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(6) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(This road follows the natural contours of the land.)

(8) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



(This road has excessive cuts and does not follow the natural contour of the land.)

14.33A.140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the Mayor may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone:

(a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing may have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Services Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Services Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code;

(ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated, reestablished, or reclaimed area; and

(x) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted

plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, following, or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).

Figure 14.33A.9



(This dwelling is setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

Figure 14.33A.10



(This dwelling is not setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings
The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).

Figure 14.33A.11



(This home was sited to follow the natural contour of the land.)

Figure 14.33A.12



(This land was modified to accept a building design not tailored for the site.)

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).

Figure 14.33A.13



(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood;

(ii) Brick;

(iii) Rock;

(iv) Stone;

(v) Pre-cast fences or walls textured and colored to imitate any of the above materials;

(vi) Wrought iron;

(vii) Vinyl rail; or

(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board;

(ii) Concrete or concrete block;
(iii) Plywood; and
(iv) Painted materials.

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).

Figure 14.33A.15



(This parking lot was screened with trees and vegetation and is compatible with the natural environment.)

Figure 14.33A.16



(This parking lot was not screened with trees and vegetation and does not blend into the natural environment.)

(6) Utility Infrastructure

In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall

verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and this Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(This development was clustered and preserved significant areas of open space.)

(4) Figure 14.33A.18: Development—Not Permitted.



(This development was not clustered; little open space exists in the area.)

14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

ITEM 2*

Provo City Council requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

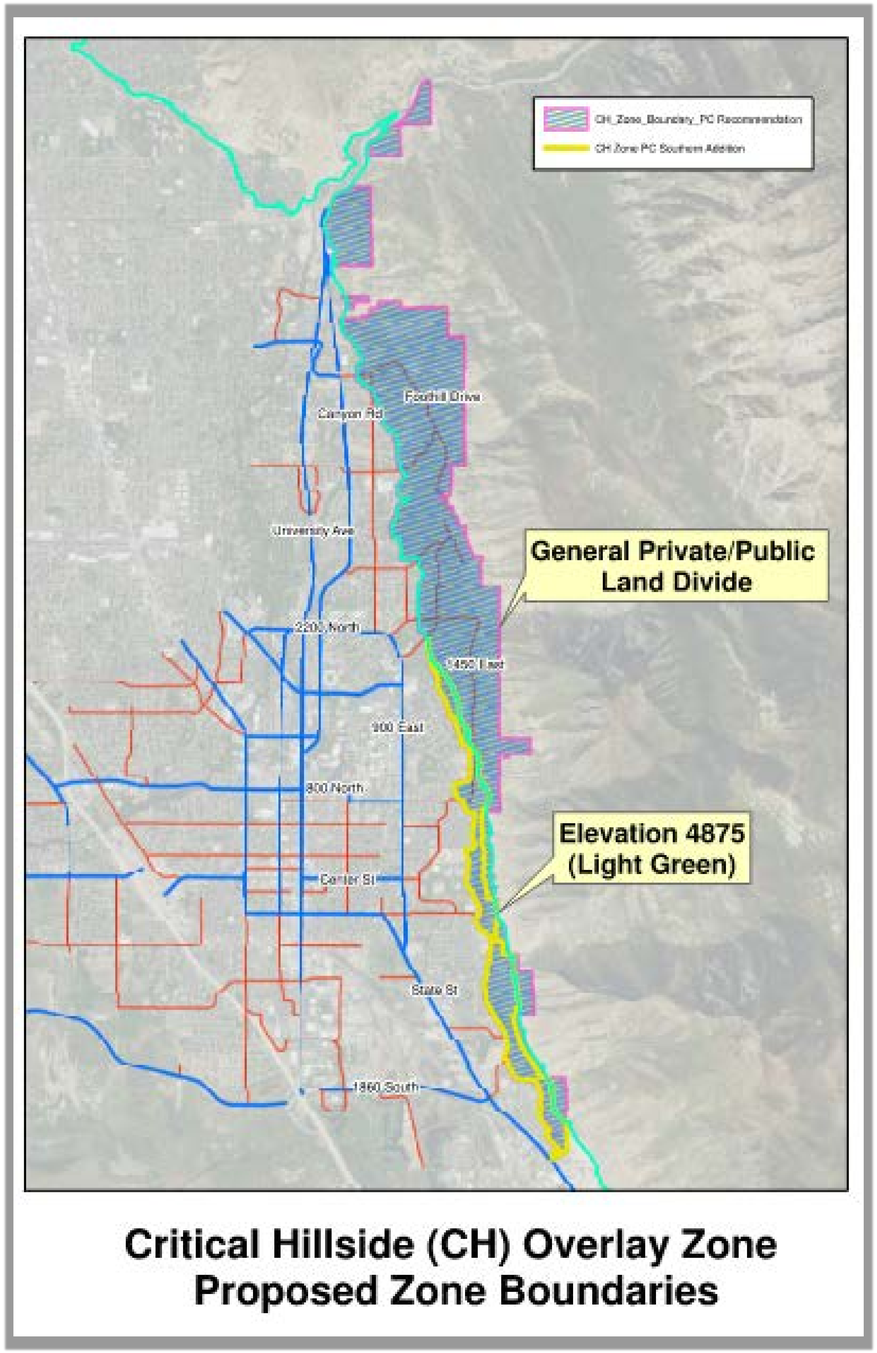
Citywide application

PLRZ20200078

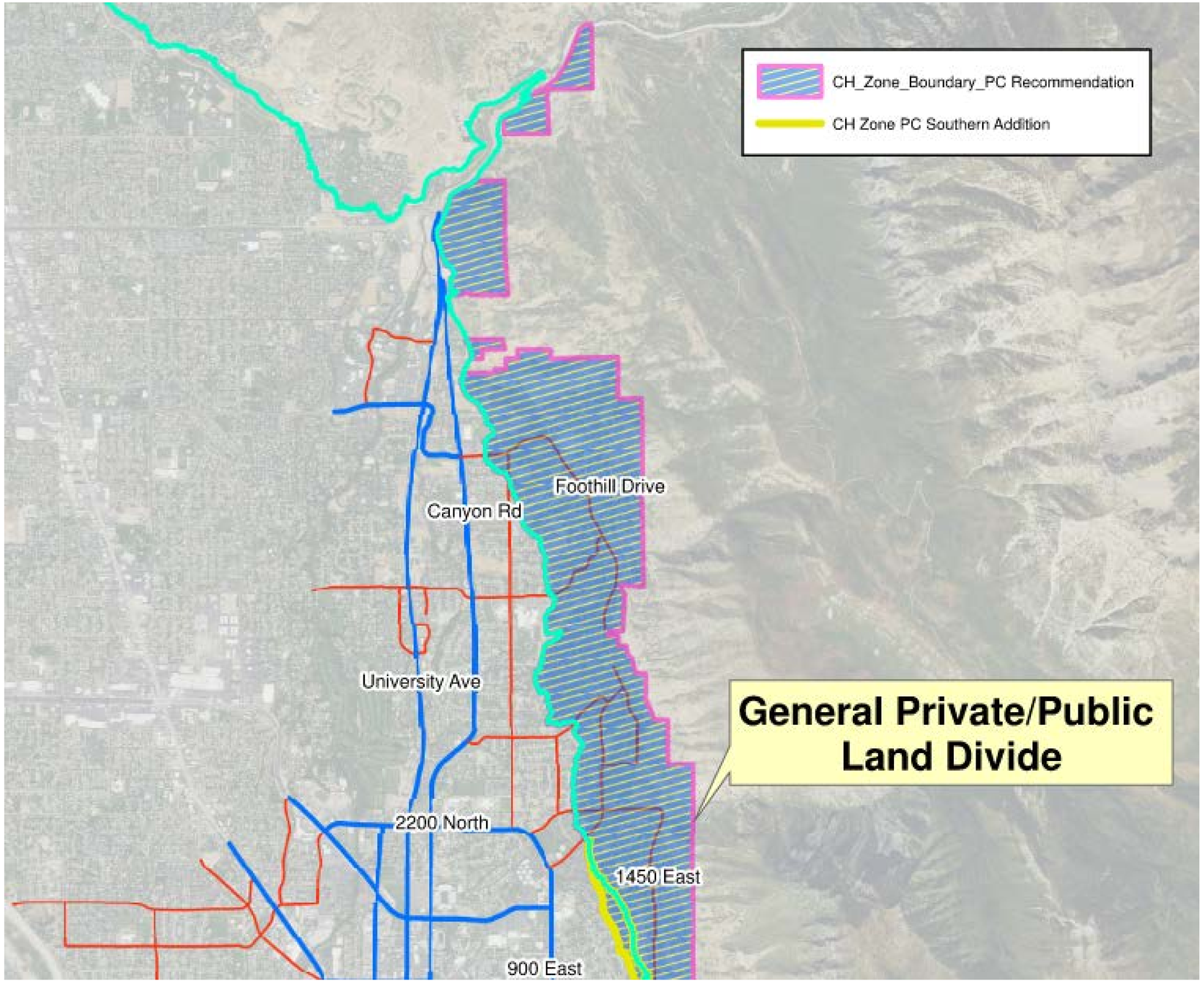
Critical Hillside (CH) Overlay Zone

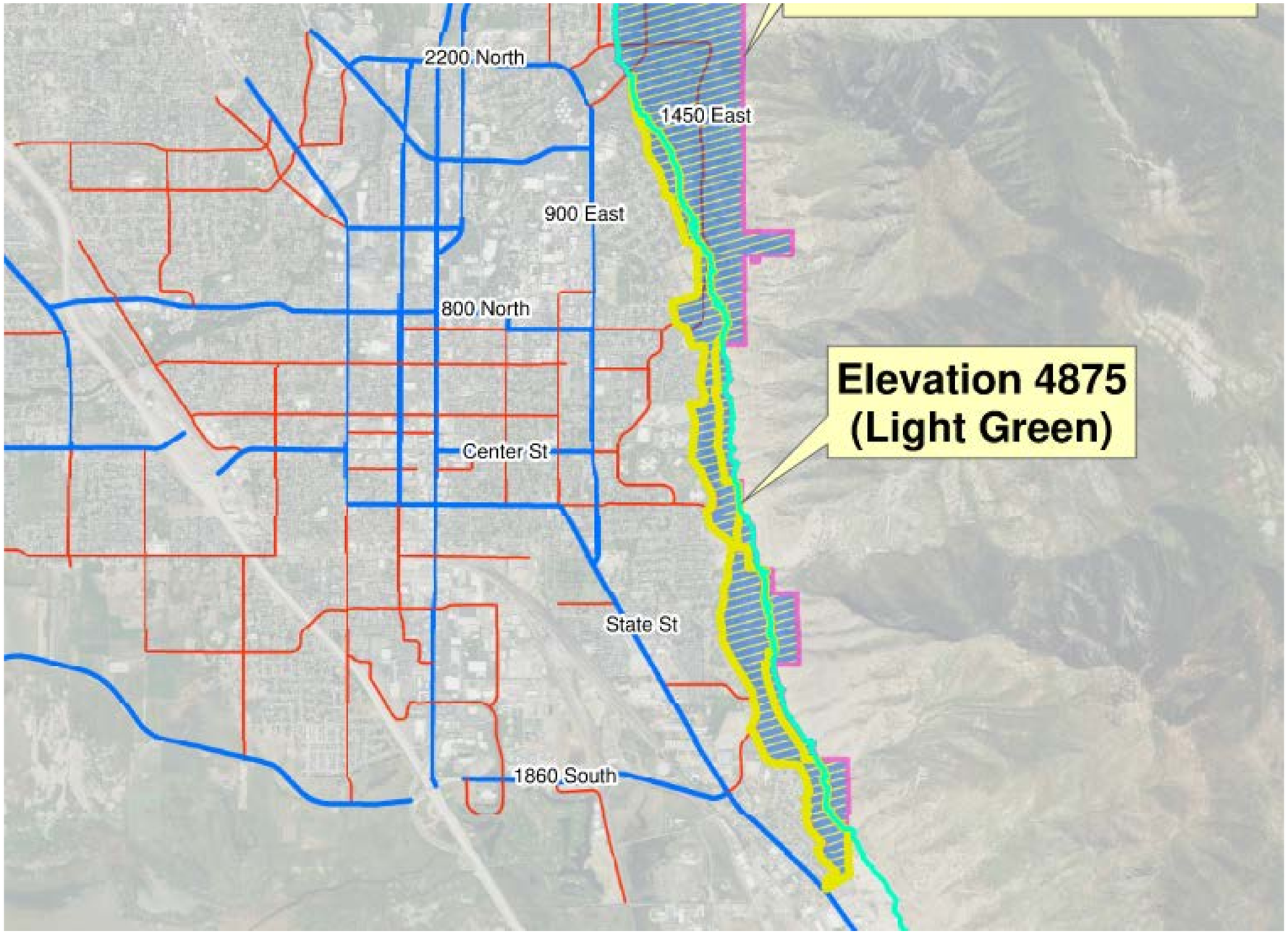
ITEM 2*

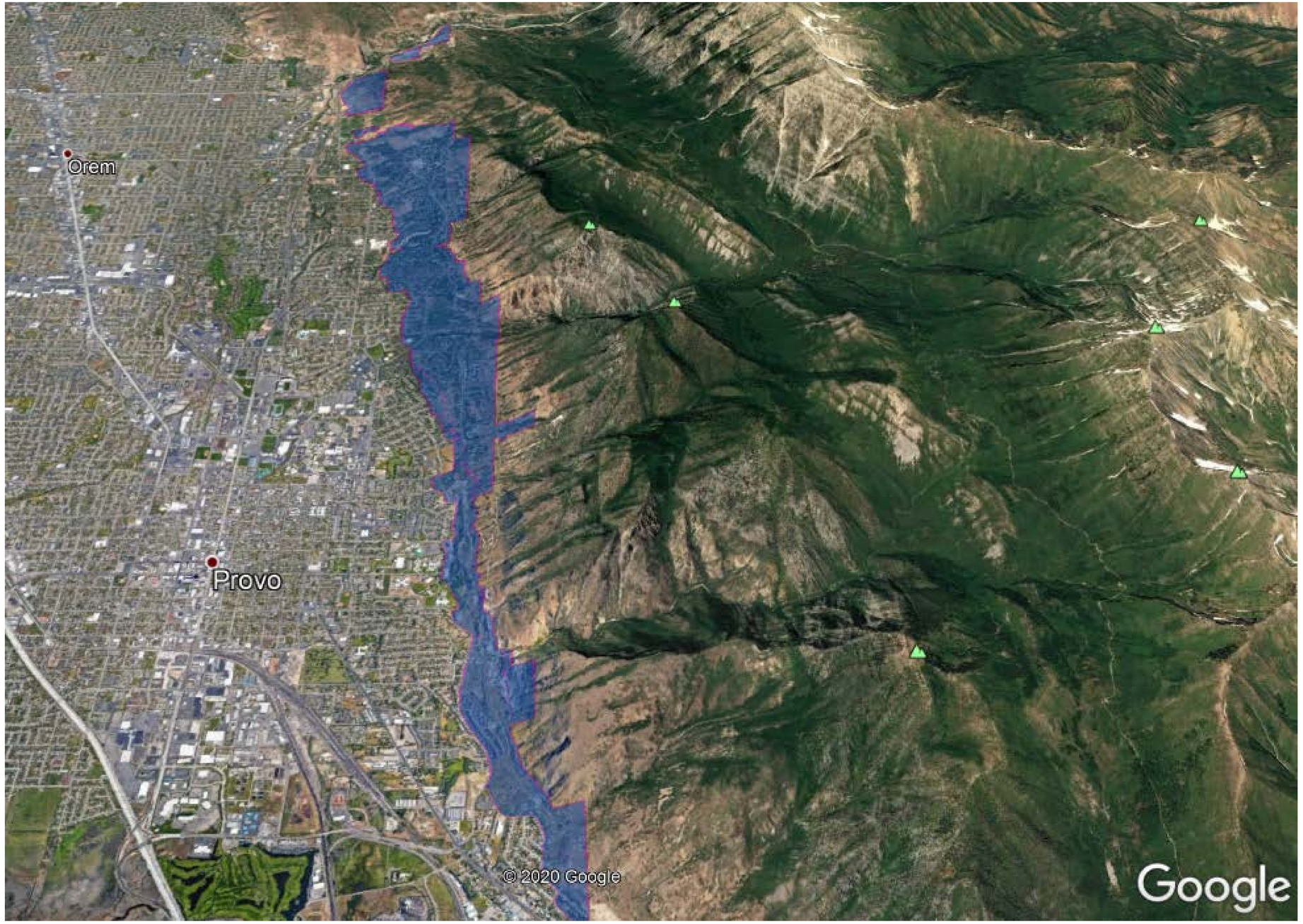
- CH Zone Boundaries:
  - Proposed area of applicability:
    - Between Elevation 4875 (key elevation for providing water in the City) and a line dividing private and public property
    - Addition recommended by the Planning Commission
      - ➢ Comprised of additional hillside areas on south side of City
    - The Elevation 4750 was used (in place of the line dividing private and public land) to cut-through the Utah State Hospital property
  - Approximately 2060 acres of the City are included in the proposed boundaries



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

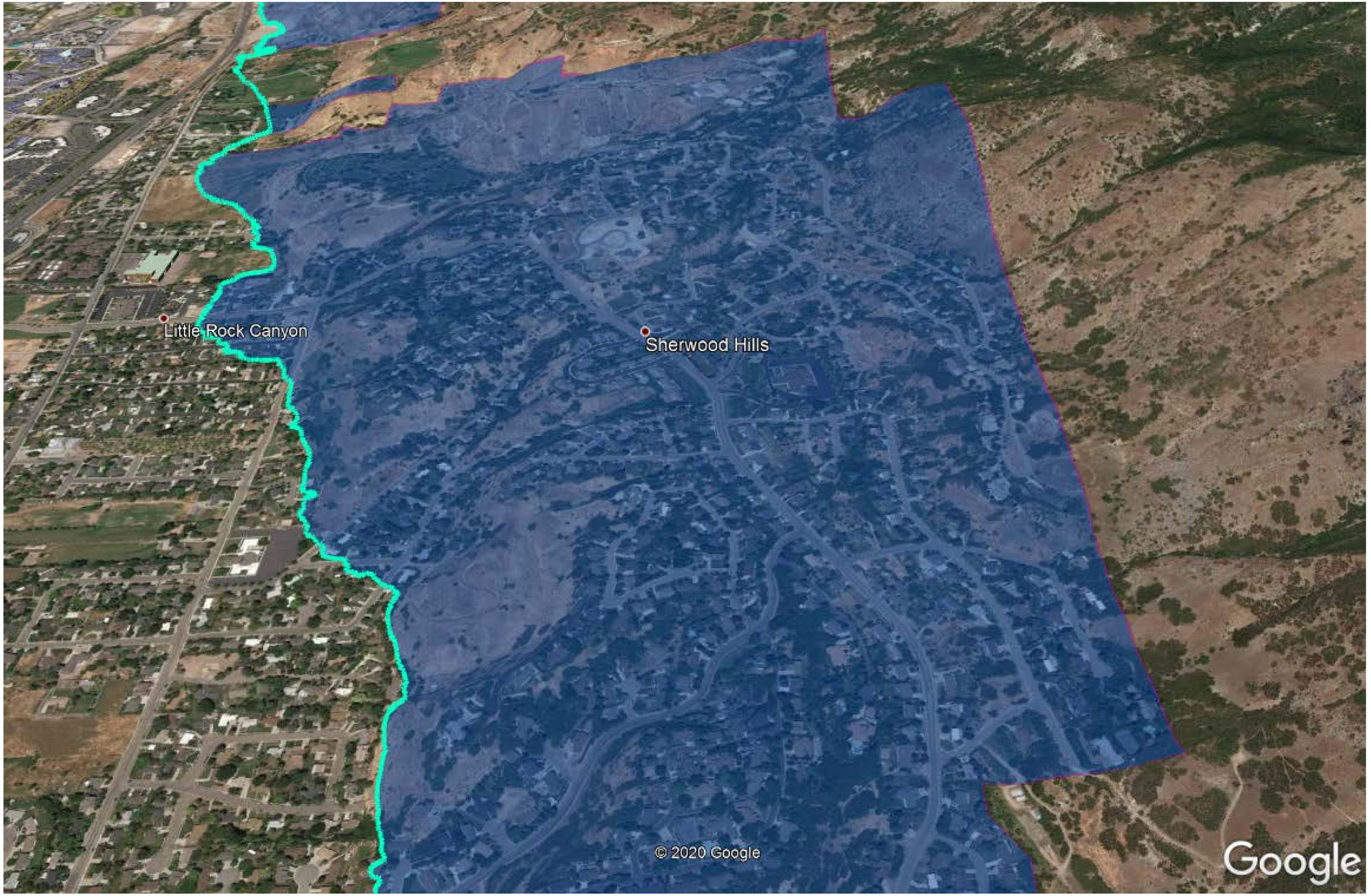

CH_Zone_Boundary_PC Recommendation
CH Zone PC Southern Addition
Foothill Drive
Canyon Rd
University Ave
2200 North
1450 East
900 East
General Private/Public Land Divide


2200 North
1450 East
900 East
800 North
Center St
State St
1860 South
Elevation 4875
(Light Green)

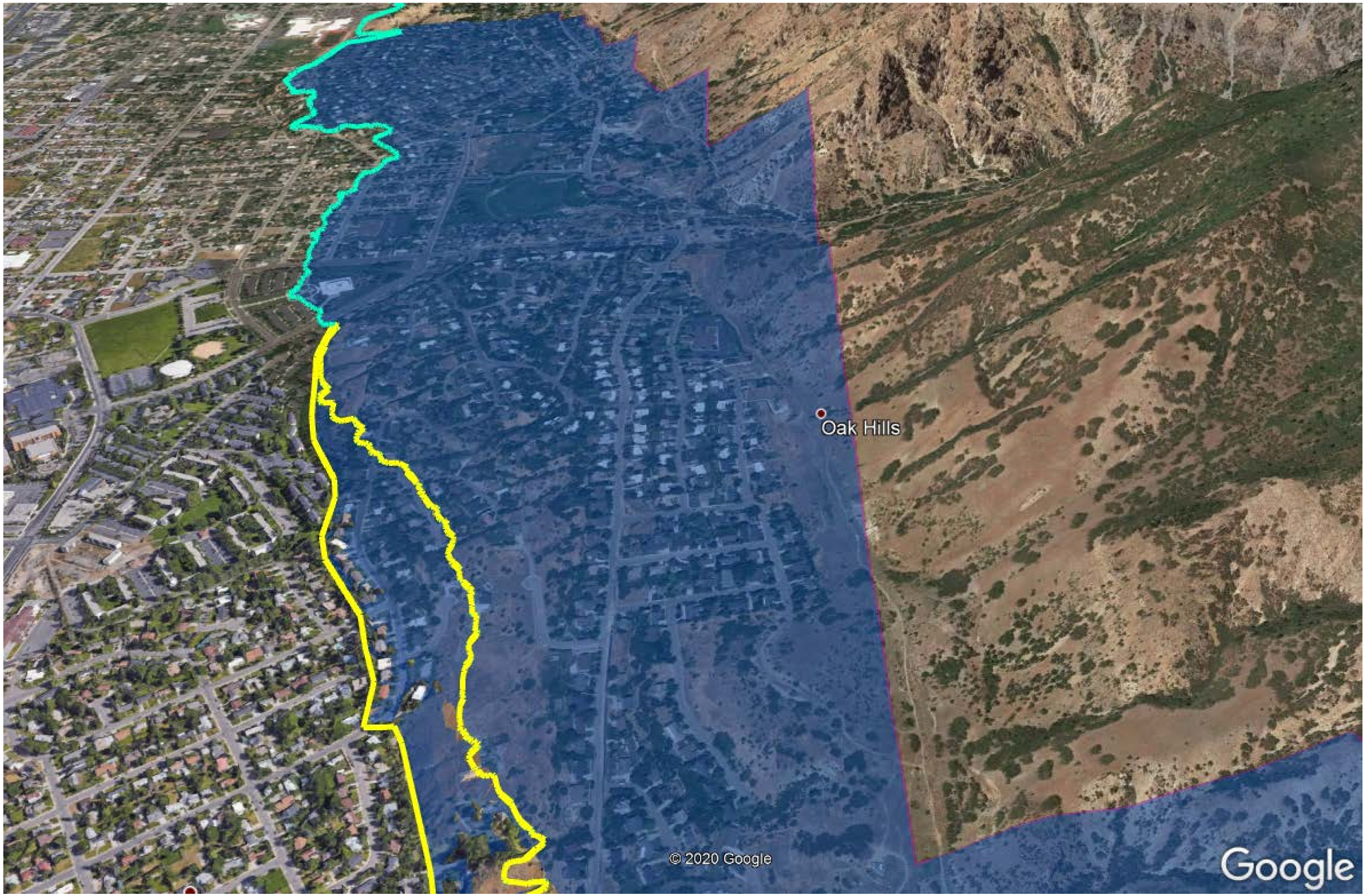

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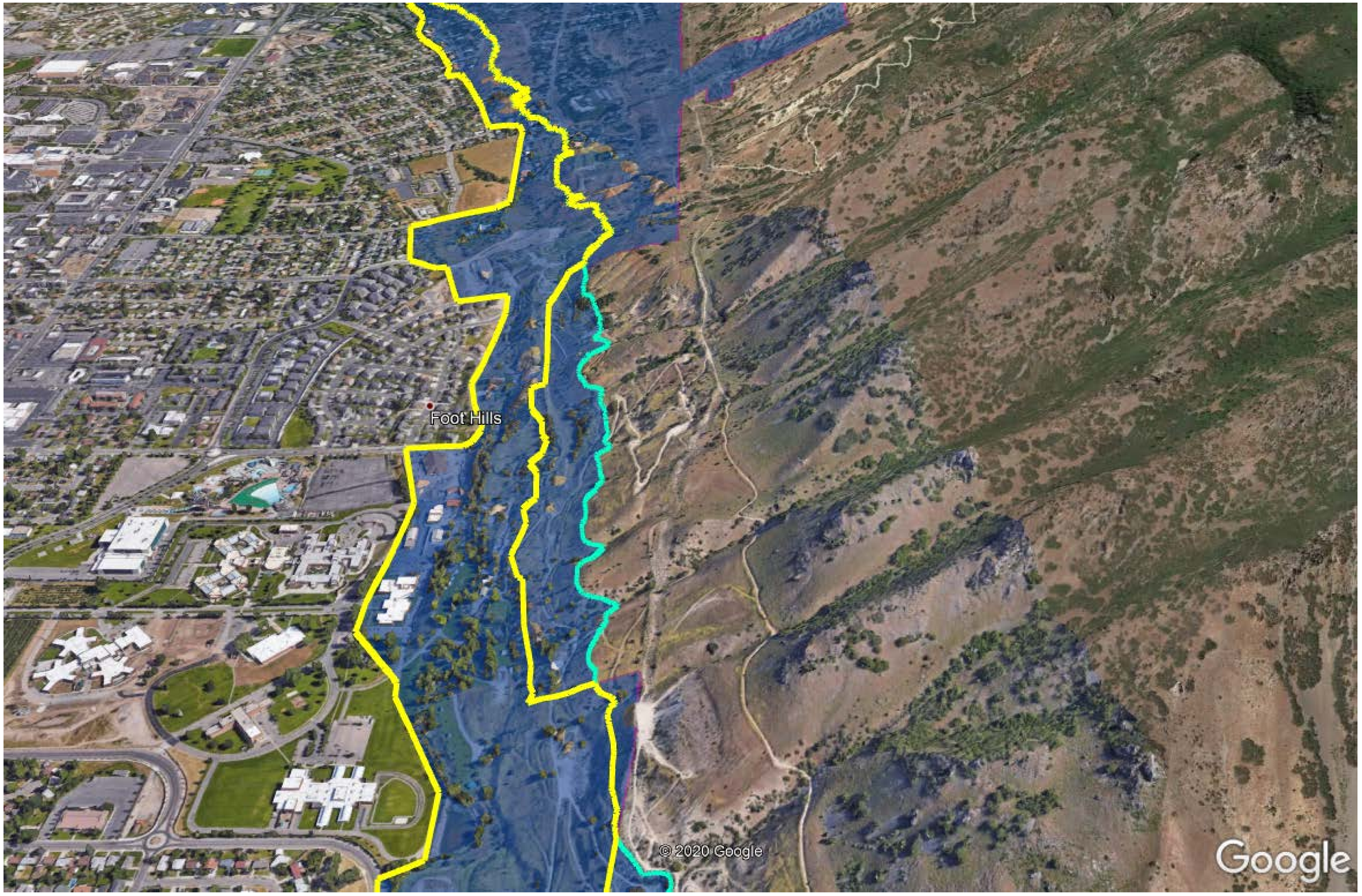

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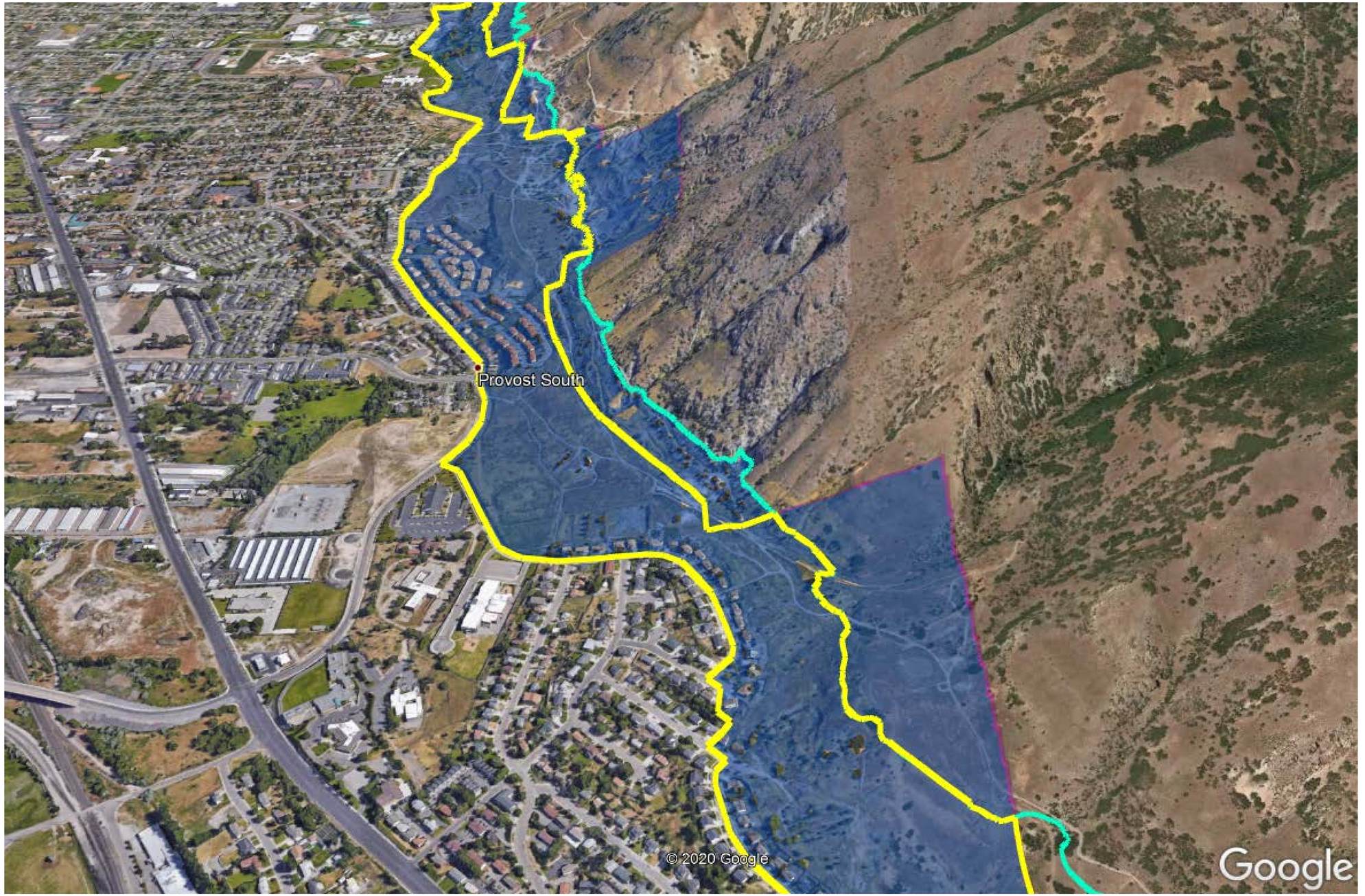

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Edgemont
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Provo City Planning Commission

Report of Action

April 1, 2020

Item 1* Provo City Council Office requests an ordinance amendment to establish the Critical Hillside (CH) Overlay Zone to provide development standards to help protect the sensitive hillside areas of Provo City's east bench. Citywide Impact. Brandon Larsen (801) 852- 6408 jblarsen@provo.org PLOTA20200077

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 1, 2020:

RECOMMEND APPROVAL

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

Motion By: Lisa Jensen
Second By: Laurie Urquiaga
Votes in Favor of Motion: Maria Winden, Andrew Howard, Deborah Jensen, Robert Knudsen, Laurie Urquiaga, and Lisa Jensen
Deborah Jensen was present as Chair.

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

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT
The text of the proposed ordinance amendment is attached as Exhibit A.

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: Overview of proposed amendment and the purpose and objectives of the proposed Critical Hillside (CH) Overlay Zone.

NEIGHBORHOOD MEETING DATE
- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- Rachel Luke, Rock Canyon Neighborhood Chair, expressed concern that those who could be affected by this proposal had not received notice. She felt the requirements of the CH Zone should be placed on undeveloped areas, not developed areas.
- Sharon Memmott, Edgemont Neighborhood Vice Chair, questioned why the boundaries were not proposed farther to the east. She felt there should be a distinction in requirements between home improvements and large developments.
- Kaye Nelson was concerned about the allowance for vinyl fences in the CH Zone and asked for limits on retaining walls.
- Barbara Lopinski expressed concerns about being able to expand her fifty (50) year old home.
- Steve Turley owns three (3) properties previously used for extraction/gravel pits (they may lie in the proposed CH Zone boundaries). He explained that the provisions of the CH Zone may mean that his scarred land will never be reclaimed (he talked about the proposed requirements being a disincentive). He also questioned the use of the Elevation 4875 in the CH Zone boundaries (this elevation is proposed for use because of its connection with the provision of water in the City). He noted that water tanks in the City lie approximately at Elevation 5600.
- Lance Hydrick asked that the CH Zone requirements include a distinction between one (1) lot and the development of multiple lots.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Planning Commission discussed the proposed text of the CH Zone and made recommendations relative to such things as new or revised definitions, allowed walls, use of photographs in the text, a distinction between benches and ridgelines and a desire to allow for bench development, prior created lots, use of plants in relation to detention basins, the role of landscape architects in reviewing documents, second accesses, and the need for irrigation plans in relation to the Revegetation, Tree Reestablishment, and Land Reclamation Plan.



Planning Commission Chair



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

Attachment “A”

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.050 Permitted Uses.
14.33A.060 Development Standards.
14.33A.070 Provision of Facilities.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Disturbance(LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Bench" means a naturally occuring broad, generally flat, elevated terrace landform with an abrupt slope on one side.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Density Bonus" means a residential density increase—beyond the density allowed by the underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as set forth in this Chapter.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%), unless an exception to permitted slope is obtained, as may be allowed in Title 14 or 15 of the Provo City Code.

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the

Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridge" means the elongated crest at the apex or uppermost point of the intersection between two opposite slopes of a hill or mountain.

"**Ridgeline**" means a line, designated for protection by the City, connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another. A bench is not a ridgeline.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream" means a body of flowing water; natural water course containing water at least intermittently.

"Stream Corridor" means the corridor defined by a constant or intermittent stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

(4) The provisions of this Chapter shall shall not apply in the following situations:

(a) for lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;

(b) for parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone; and

(c) for additions to a one-family dwelling and accessory structures permitted after the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so long as the addition or accessory structure does not extend outside the limits of disturbance established when the dwelling was originally permitted.

14.33A.050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.90 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained.

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of terraced retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for terraced retaining walls andvertical walls:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.
(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) Vertical walls are only allowed if approved by the City Engineer and if the following criteria are met:

(i) The applicant provides documentation, which has been stamped by an engineer or landscape architect licensed in the State of Utah, that demonstrates an environmental, aesthetic, or safety concern with installing retaining walls on the subject property.

(ii) The vertical wall shall be constructed of earth-colored materials similar to the surrounding natural landscape.

(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(Terraced retaining walls constructed with earth-colored materials similar to the surrounding natural landscape. Terraces are used as planting pockets.)

(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



(Wall is not constructed of earth-colored materials
and does not provide opportunites for planting pockets.)

14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Vegetation and trees planted and established in connection with a detention basin shall be drought-tolerant, firewise vegetation permitted through an approved fire protection plan.

(f) Figure 14.33A.3: Detention Basin Design--Permitted



(This is a free form basin that fits in the natural surroundings.)

(g) Figure 14.33A.4: Detention Basin Design--Not Permitted



This is not a free form basin and is without natural side slopes. Little or no vegetation has been established to give it a natural appearance.)

14.33A.120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the City.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(These structures have been sited significantly lower than the ridgeline.)

(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



(This structure has been sited on a ridgeline.)

14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(4) A development of thirteen (13) or more lots, or thirteen (13) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations. This requirement for second access shall supercede any conflicting second access requirement in the Provo City Code.

(5) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(6) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(This road follows the natural contours of the land.)

(8) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



(This road has excessive cuts and does not follow the natural contour of the land.)

14.33A.140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the Mayor may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing may have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Services Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in

locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Services Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code;

(ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated, reestablished, or reclaimed area; and

(x) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot

wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, following, or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).

Figure 14.33A.9



(This dwelling is setback more than fifty [50] feet horizontally

from the ordinary high-water mark of a stream corridor.)

Figure 14.33A.10



(This dwelling is not setback more than fifty [50] feet horizontally
from the ordinary high-water mark of a stream corridor.)

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).

Figure 14.33A.11



(This home was sited to follow the natural contour of the land.)

Figure 14.33A.12



(This land was modified to accept a building design not tailored for the site.)

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).

Figure 14.33A.13



(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood;
(ii) Brick;
(iii) Rock;
(iv) Stone;
(v) Pre-cast fences or walls textured and colored to imitate any of the above materials;
(vi) Wrought iron;
(vii) Vinyl rail; or
(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:
(i) Solid board;
(ii) Concrete or concrete block;
(iii) Plywood; and
(iv) Painted materials.

(5) Parking
The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).

Figure 14.33A.15



(This parking lot was screened with trees and vegetation
and is compatible with the natural environment.)

Figure 14.33A.16



(This parking lot was not screened with trees and vegetation
and does not blend into the natural environment.)

(6) Utility Infrastructure

In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the

CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and this Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(This development was clustered and preserved significant areas of open space.)

(4) Figure 14.33A.18: Development—Not Permitted.



(This development was not clustered; little open space exists in the area.)

14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

ITEM 1*

Provo City Council requests an ordinance amendment to establish the Critical Hillside (CH) Overlay Zone to provide development standards to help protect the sensitive hillside areas of Provo City's east bench.

Citywide Impact

PLOTA20200077

ITEM 1*

Critical Hillside (CH) Overlay Zone

- New overlay zone proposed for east bench areas of City
- Salt Lake County's *Foothills and Canyons Overlay Zone* (FCOZ) --good example
- Development is not precluded in the CH Zone
- CH Zone Requirements:
  - Objective: Protect hillside areas of Provo's east bench and establish prudent development standards for those areas in the zone
  - Overlay zone = requirements that overlay or are in addition to the requirements of the underlying zone
  - The permitted uses are those of the underlying zone
- Limits of disturbance (LOD) = Designated area on a lot where development will occur
  - Development must not occur outside the LOD

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Slope protection requirements
    - With very few exceptions, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space
    - No development may be located within one-hundred (100) feet from either side of the crest of a ridgeline designated for protection by the City
    - Retaining walls to blend with natural landscape
  - Detention basins
    - Basins designed to match natural surroundings
  - Ridgelines
    - Development setback off ridgelines
  - Streets
    - Streets to follow natural contours

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Trail and trailhead dedications
    - Density bonus of up to 10% for trail and trailhead dedications to the City
  - Tree and vegetation protection
    - Significant trees are required to be replaced
    - Wild-land Urban Interface
    - Revegetation, Tree Reestablishment, and Land Reclamation Plan
    - Tree and Vegetation Protection Plan
  - Design Standards
    - Buildings designed to follow natural contours and to blend with natural settings
    - Landscaping incorporates natural features
    - Parking and utilities screened

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
~~14.33A.040 Area of Applicability.~~
14.33A.0~~50~~40 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.0~~60~~50 Permitted Uses.
14.33A.~~070~~060 Development Standards.
14.33A.~~080~~070 Provision of Facilities.
14.33A.~~090~~080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.~~0100~~090 Limits of ~~Development~~ Disturbance(LOD).
14.33A.~~110~~100 Slope Protection and Stability.
14.33A.~~120~~110 Detention Basin Design.
14.33A.~~130~~120 Ridgelines.
14.33A.~~140~~130 Streets and Access.
14.33A.~~150~~140 Trails.
14.33A.~~160~~150 Fences.
14.33A.~~170~~160 Tree and Vegetation Protection.
14.33A.~~180~~170 Geological and Natural Hazards.
14.33A.~~190~~180 Stream Corridor and Wetland Protection.
14.33A.~~200~~190 Traffic Requirements.
14.33A.~~210~~200 Parking Requirements.
14.33A.~~220~~210 Design Standards.
14.33A.~~230~~220 Cluster Developments.
14.33A.~~240~~230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%).

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridgeline" means a line connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream Corridor" means the corridor defined by a stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"**Water-wise plant species**" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.~~050~~040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

14.33A.~~060~~050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.~~070~~060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

~~(1)~~ The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.0~~90~~80 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.~~100~~090 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained. ~~(See Figure 14.33A.6: Limits of Disturbance).~~

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Service Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit development on the site.

14.33A.~~110~~100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for retaining walls and terracing:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) All applicable building code requirements must be met and applicable permits obtained.

(d) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(e) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



14.33A.~~120~~110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Figure 14.33A.3: Detention Basin Design--Permitted



(f) Figure 14.33A.4: Detention Basin Design--Not Permitted



14.33A.~~130~~120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

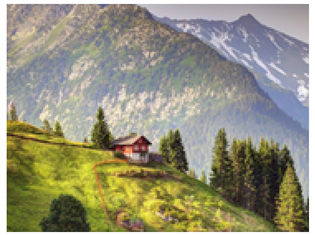
(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the ~~Planning Commission~~City.

(3) The designation of any ridgeline for protection by the City shall occur in conjunction with the rezoning of a property to the CH Zone.

(4) Figure 14.33A.5: Ridgeline Development--Permitted



(5) Figure 14.33A.6: Ridgeline Development—Not Permitted



14.33A.~~140~~130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03, ~~except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code~~.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

~~(3) A private development road(s) may be utilized for access to and through a development in the CH Zone if the City Engineer determines that applicable Public Works standards will be met.~~

(43) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

~~(5) Grading hillside slopes that exceed thirty percent (30%) is permitted for the construction of streets, roads, alleys, or driveways, only if the City Engineer makes all of the following findings:~~

~~(a) No alternate location for the street, road, alley, or driveway is feasible;~~

~~(b) All applicable Public Works standards will be met; and~~

~~(c) No more than ten percent (10%) of a street, road, alley, or driveway shall cross slopes exceeding thirty percent (30%).~~

~~(d) The grading of a slope that exceeds thirty percent (30%) shall not result in creating an arterial or collector street with a slope greater than eight percent (8%), a local street with a slope greater than twelve percent (12%), nor a driveway with a slope greater than fifteen percent (15%), unless allowed by the provisions of Title 15, Provo City Code.~~

~~(6) An minimum thirty (30) foot easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.~~

~~(7) A development that would produce 250 vehicle trips per day or more of ten (10) or more lots, or ten (10) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations.~~

(84) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(95) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

~~(10) All streets and roads shall be designed to meet the standards required for streets in all other areas of the City; however, interior development streets shall comply with the current *Typical Street Sections* maintained by the Public Works Department for *Local Street (Parking on one side)*, except that sidewalks shall be required on only one side of the street.~~

(~~11~~6) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(~~12~~7) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



14.33A.~~150~~140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the City Council may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.~~160~~150 Fences.

The following fencing requirements apply in the CH Zone:

(a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing shall have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.~~170~~160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Service Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized

field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Service Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code; and

(ix) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer licensed in the State of Utah

and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.~~180~~170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.~~190~~180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, using or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).



Figure 14.33A.9

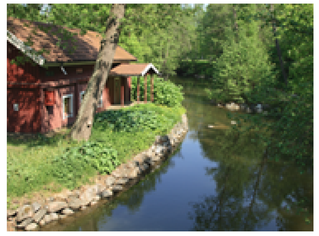


Figure 14.33A.10

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.~~200~~190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.~~210~~200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.~~220~~210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).



Figure 14.33A.11



Figure 14.33A.12

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).



Figure 14.33A.13



Figure 14.33A.14

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood
(ii) Brick
(iii) Rock
(iv) Stone
(v) Pre-cast fences or walls textured and colored to imitate any of the above materials
(vi) Wrought iron
(vii) Vinyl rail
(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board
(ii) Concrete or concrete block
(iii) Plywood
(iv) Painted materials

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).



Figure 14.33A.15

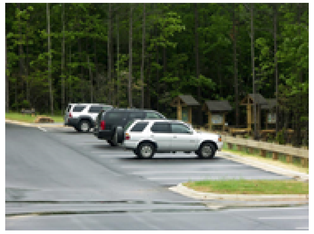


Figure 14.33A.16

(6) Utility Infrastructure

The following utility infrastructure design standards apply in the CH Zone:

(a) In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(~~6~~7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.~~230~~220 Cluster Developments.

(1) The Planning Commission shall approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

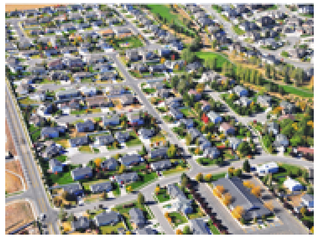
(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(4) Figure 14.33A.18: Development—Not Permitted.



14.33A.~~240~~230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: NLA
Department: Development Services
Requested Meeting Date: 04-14-2020

SUBJECT: An ordinance amending the Zone Map classification of multiple East Bench properties to include them in the Critical Hillside Overlay (CH) Zone. Citywide application. (PLRZ20200078)

RECOMMENDATION: Information only. This item is scheduled to be heard in the Council Meeting this evening. The Planning Commission has recommended approval (6:0).

BACKGROUND: Following the proposed creation of the Critical Hillside Overlay (CH) Zone, the zone must be applied to the appropriate areas. Those parcels proposed to be included in the CH Zone are those lying on the east bench of the city between a line that follows the Elevation 4875 and a line that generally divides private and public land. A few private parcels lie east of the land proposed to be included in the CH Zone. Planning staff propose using a line that follows Elevation 4875 because it is a key elevation related to the City's ability to deliver to water.

It should be noted that the CH Zone ordinance text amendment proposes an amendment to Chapter 14.01 that would limit the uses of parcels lying east of the CH Zone. Further, at least one parcel owned by Provo City was included in the proposed boundaries of the CH Zone because the City anticipates that the property will be developed in the future. The Elevation 4750 was also used in the proposed boundaries (instead of the line between private and public land) to cut through the parcel upon which the Utah State Hospital lies (this parcel extends quite far up the mountainside).

A map illustrating the boundaries of the proposed CH Zone is included in the supplementary materials.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Brandon Larsen (801) 852-6408 jblarsen@provo.org

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20200078

Development Services

Planning Commission Staff Report Hearing Date: April 1, 2020

***ITEM # 2** Provo City Council Office requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone. Citywide application. Brandon Larsen (801) 852-6408 jblarsen@provo.org PLRZ20200078

Applicant: Provo City Council

Staff Coordinator: Brandon Larsen

Parcel ID#: Citywide

*Council Action Required: Yes

Underlying Zoning: Multiple Properties

Underlying General Plan Designation: Multiple Properties

Related Application: PLOTA20200077 (Critical Hillside [CH] Overlay Zone, Ordinance Text Amendment)

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 22, 2020 at 6:00 P.M.* It is possible to call a special Planning Commission meeting prior to April 22, 2020, to further consider this item. The date of Wednesday, April 8, 2020, could be considered for a special Planning Commission meeting.

2. **Recommend Denial** of the proposed ordinance amendment. *This action would not be consistent with the recommendations of the Staff Report. In the event of a recommendation of denial, the Planning Commission should establish new findings.*

Relevant History: The Provo City Council has asked the Development Services Department to prepare a draft ordinance—for their consideration—that proposes development standards to help protect hillside areas in the City and address hillside development concerns.

This application is a companion application to the proposed ordinance text amendment and proposes the inclusion of multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

Neighborhood Issues: This is a city-wide application. Staff has received requests for information for this application from the public, but has not received any feedback from citizens or neighborhood chairs.

Summary of Key Issues:

- The City Council has asked the Development Services Department to propose hillside development requirements for the consideration of the Council. As such, staff has drafted the Critical Hillside (CH) Overlay Zone ordinance text amendment.
- Staff has also prepared a proposed zone map amendment that identifies those properties proposed for inclusion in the CH Zone.
- The properties proposed to be included in the CH Zone are those lying between a line that follows the Elevation 4875 and a line that generally divides public and private lands on the east bench of the City. A few private parcels east of the line that generally divides private and public land are not proposed to be included in the CH Zone.

Staff Recommendation: Staff recommends forwarding a positive recommendation of the zone map amendment proposed in Attachment 1: *Proposed Zone Map Amendment, Inclusion of Multiple East Bench Properties in the Critical Hillside (CH) Overlay Zone*.

OVERVIEW

At the request of the City Council, staff prepared a draft ordinance containing hillside requirements. Staff proposed an overlay zone to administer the proposed regulations. This zone map application is a companion to the ordinance text amendment and proposes the inclusion of multiple east bench parcels in the CH Zone.

Those parcels proposed to be included in the CH Zone are those lying on the east bench of the City that lie between a line that follows the Elevation 4875[1] and a line that generally divides private and public land. Staff proposes using a line that follows Elevation 4875 because it is a key elevation related to the City's ability to deliver to water.

For the other line used for this proposal, staff proposes using a general line between private and public lands. A few private parcels lie east of the land proposed to be included in the CH Zone. It should be noted that the CH Zone ordinance text amendment proposes an amendment to Chapter 14.01 that would limit the uses of parcels lying east of the CH Zone. Further, at least one (1) Provo City owned parcel was included in the proposed boundaries of the CH Zone because the City anticipates that the property will be developed in the future. The Elevation 4750 was also used in the proposed boundaries (instead of the line between private and public land) to cut through the parcel upon which the Utah State Hospital lies (this parcel extends quite far up the mountainside).

A map illustrating the boundaries of the proposed CH Zone is attached at the end of this report.

General Plan Policies

A portion of Section 4.2.3 of the General Plan reads as follows:

> *Hillsides*
> *Areas located generally above the approximate 5,200-foot level of the east bench are designated in the General Plan as Developmentally Sensitive (DS). Proximity to the Wasatch Fault Line contributes to the unstable nature of the land. The existing and future Bonneville Shoreline Trail is just below the actual shoreline and follows the Questar Gas easement, which acts as a buffer and provides transition between the higher slopes and development existing or planned at lower elevations. Land at this altitude along the east bench of Provo has been determined to have a greater incidence of poor stability for construction due to soils, slopes, and faulting. The east-bench DS designation was mapped in general correlation with the 5,200-foot elevation or by concentration of slopes 25 percent or greater, with some adjustment to reflect existing development. Capabilities for providing fire control, water, and other services above the 5,200-foot level are also development impediments. Access to these areas is very limited, and new roads are difficult to construct due to grade limitations and poor soil stability.*

[1] The actual elevation used by the City is 4876, but staff used 4875 to make use of available GIS data.

For these reasons, any new development or construction to be considered for these areas will require geologic and soils testing and slope analysis by a qualified professional to determine suitability for development. As in other areas of the city with steep slopes or other natural limitations, development within these lands is generally subject to the Sensitive Lands Ordinance of Provo City Code Title 15, Land Use and Development. Disturbance of hillsides with slopes greater than 30 percent is prohibited in that ordinance. Other community interests in preserving hillside views from the valley, protecting significant geologic features that give character to the land, and preserving open space may not be related to geologic stability or feasibility of engineering solutions to development. They are, however, considerations that are relevant to the long-term planning of Provo City and may be factors in restricting or limiting development on the hillsides.

Staff Analysis: The requirements of the proposed Critical Hillside (CH) Overlay Zone would give the City additional tools in protecting hillside areas. They would help in guiding proposed development to be safer, and more ecologically and aesthetically pleasing. The requirements support the Sensitive Lands and hazards requirements of Title 15. The proposed requirements will help to protect interesting geological features and preserve important viewsheds. The land proposed for inclusion in the CH Zone appears to be in a hillside area that would greatly benefit from additional hillside requirements to guide any development proposals.

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: **(responses in bold)**

(a) Public purpose for the amendment in question: **The public purpose is to require safer, more ecologically friendly, and more appealing development in the hillside areas of the City.**

(b) Confirmation that the public purpose is best served by the amendment in question: **The proposed zone map amendment would make prudent hillside standards for development applicable to east bench hillside areas.**

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives: **The proposal appears to be in harmony with the policies, goals, and objectives of the General Plan.**

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated: **There appear to be no "timing and sequencing" concerns with this proposal.**

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies: **The proposal does not appear to be out of harmony with the policies of the General Plan.**

(f) Adverse impacts on adjacent landowners: **The provisions of the CH Zone appear to support a reduction in the potential adverse impacts that development can have on adjacent landowners. This proposal would establish the properties that would be benefitted by these additional requirements.**

(g) Verification of correctness in the original zoning or General Plan for the area in question: **This proposal wouldn't change the underlying zoning, but would overlay additional zoning requirements upon the applicable parcels.**

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies: **Staff is aware of no conflict.**

CONCLUSIONS

The proposed zone map amendment would cause the requirements of the Critical Hillside (CH) Overlay Zone (if adopted by the City Council) to be applicable to certain hillside areas of the City. The requirements of the CH Zone—with its provisions for safe, ecologically sound, and aesthetically pleasing hillside development—would be a benefit to the hillside areas included in this proposal.

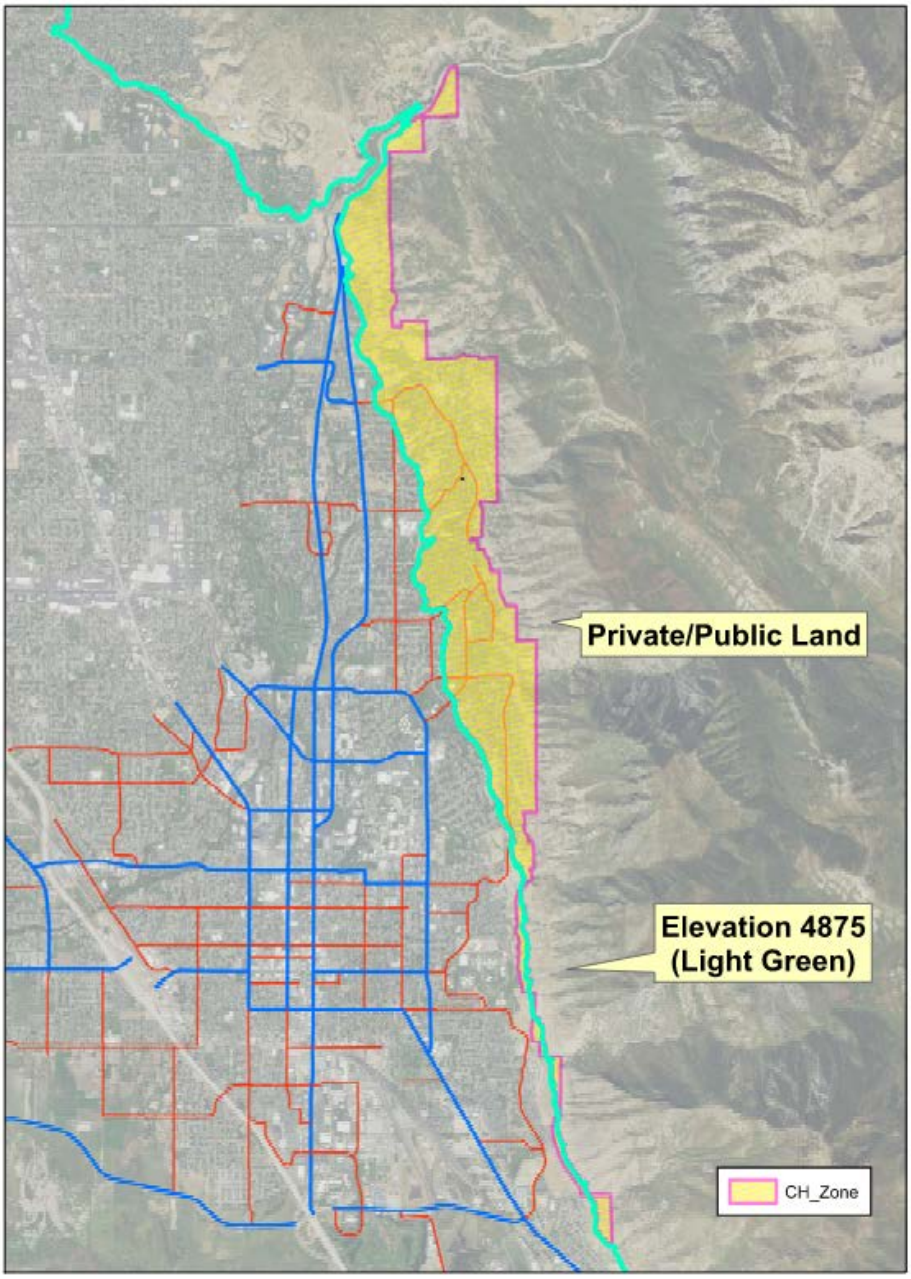
STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Municipal Council approval of the proposed zone map amendment found in Attachment 1, Proposed Zone Map Amendment, Inclusion of Multiple East Bench Properties in the Critical Hillside (CH) Overlay Zone.

ATTACHMENTS

Attachment 1 – Proposed Zone Map Amendment, Inclusion of Multiple East Bench Properties in the Critical Hillside (CH) Overlay Zone.

Attachment 1 – Proposed Zone Map Amendment, Inclusion of Multiple East Bench Properties in the Critical Hillside (CH) Overlay Zone



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

Development Services

Memo

To: Provo City Planning Commission

From: Brandon Larsen, Development Services Department

Date: March 18, 2020

RE: Critical Hillside (CH) Overlay Zone

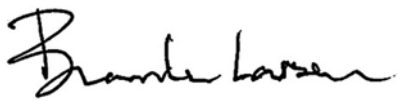
Attached to this memo is the proposed text for the Critical Hillside (CH) Overlay Zone. The objective of this proposed overlay zone is to protect hillside areas of Provo's east bench and establish prudent development standards for those areas in the zone.

The City Council has indicated that consideration of this proposal is a high priority and that they would like to be able to act on a proposal before the end of April. Typically, a draft ordinance will be reviewed by the applicable City departments prior to it being turned over to the Planning Commission for review. However, considering the apparent time-sensitive nature of this application, staff thought it would be wise to get this to the Planning Commission, as soon as possible (while department reviews proceed).

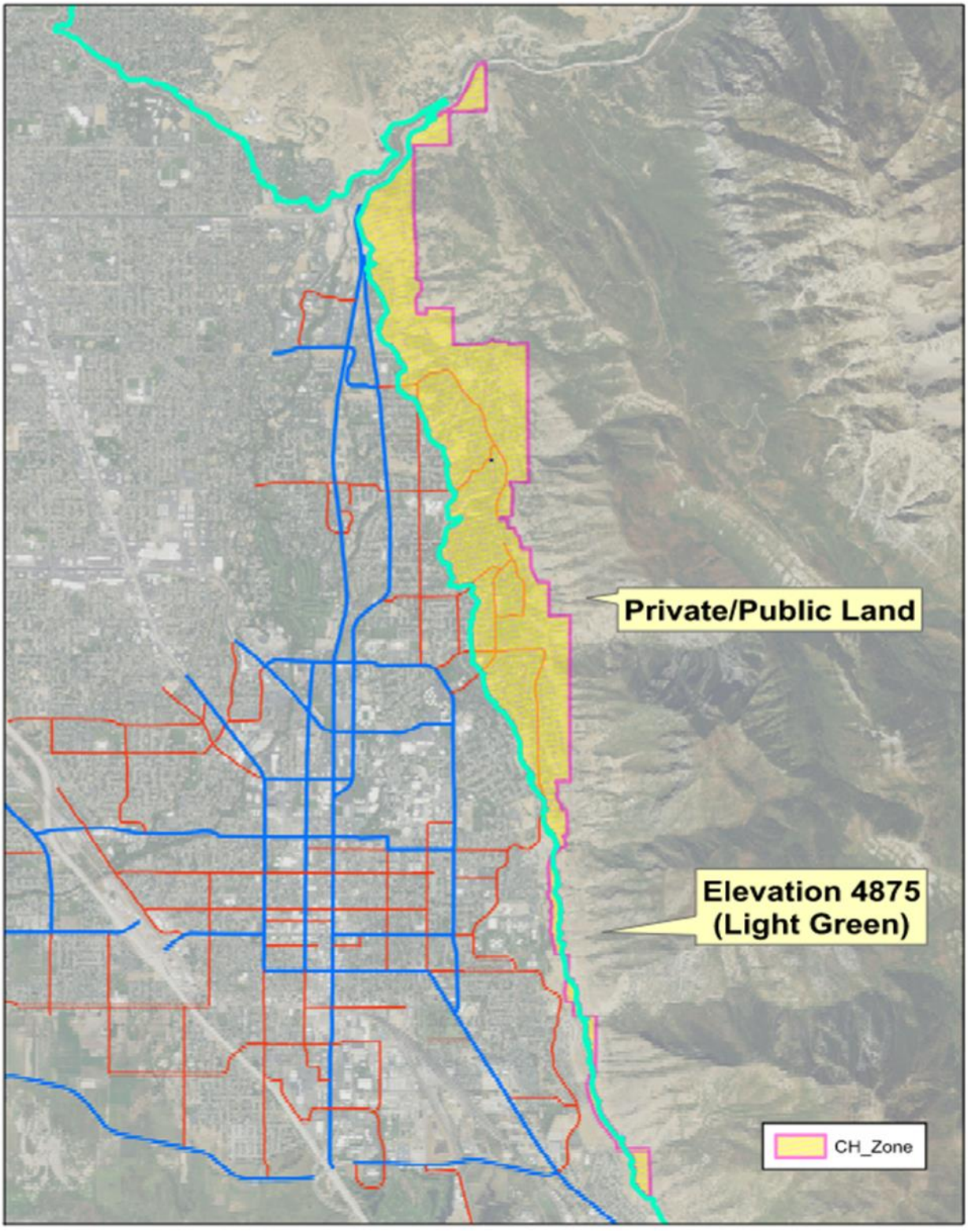
Also, I have attached a draft map showing the area of the City proposed to be included in the CH Zone. The land lying between Elevation 4875 (a key Provo City elevation related to the delivery of water) and a line that generally follows the division between private and public land ownership on the east bench is proposed to be included in the CH Overlay Zone.

Your input on the proposed text, as well as the land to include in the CH Zone is requested. This will be on the April 1, 2020 Planning Commission meeting agenda. If there are any questions, please feel free to contact me or Bill Peperone. Feedback before the April 1st meeting is appreciated.

Respectfully,



Brandon Larsen
Planner
(801)852-6408
jblarsen@provo.utah.gov



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Area of Applicability.
14.33A.050 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.060 Permitted Uses.
14.33A.070 Development Standards.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Development (LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines and to support the stability of slopes. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, recreation areas, utilities, services, driveways, septic tank drain fields and related system requirements, storm drainage, and other similar services or improvements. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%).

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream Corridor" means the corridor defined by a stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance

with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.050 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

14.33A.060 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.070 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.090 Limits of Development (LOD).

(1) Limits of development shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained. (See Figure 14.33A.6: Limits of Disturbance).

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, the Development Service Director shall offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site;

(b) The adjustment is designed to yield less visual impact on the property or on the surrounding area; or

(c) Strict application of the standard(s) would render a site undevelopable.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading and drainage requirements of Title 15 of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space.

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Use of retaining walls is encouraged to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for retaining walls and terracing:

(a) If a single retaining wall is used, one vertical retaining wall up to eight (8) feet in height is permitted to reduce cut and fill.

(b) Terracing is limited to two walls with a maximum vertical height of six (6) feet each. The width of a terrace shall be a minimum of a one-to-one ratio with the height of the wall. Terraces are measured from the back of the lower wall to the face of the upper wall. Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

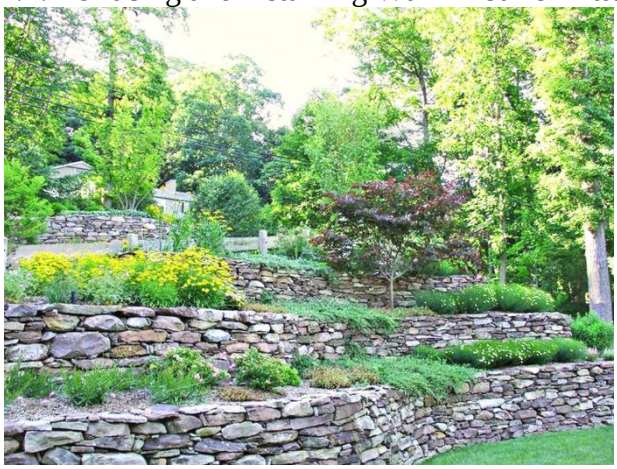
(c) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Figure 14.33A.3: Detention Basin Design--Permitted



(f) Figure 14.33A.4: Detention Basin Design--Not Permitted



14.33A.120 Ridgelines.

(1) No development may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(2) The designation of any ridgeline for protection by the Planning Commission shall occur in conjunction with the rezoning of a property to the CH Zone.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) A private development road(s) may be utilized for access to and through a development in the CH Zone if the City Engineer determines that applicable Public Works standards will be met.

(4) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(5) Grading hillside slopes that exceed thirty percent (30%) is permitted for the construction of streets, roads, alleys, or driveways, only if the City Engineer makes all of the following findings:

(a) No alternate location for the street, road, alley, or driveway is feasible;

(b) All applicable Public Works standards will be met; and

(c) No more than ten percent (10%) of a street, road, alley, or driveway shall cross slopes exceeding thirty percent (30%).

(6) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

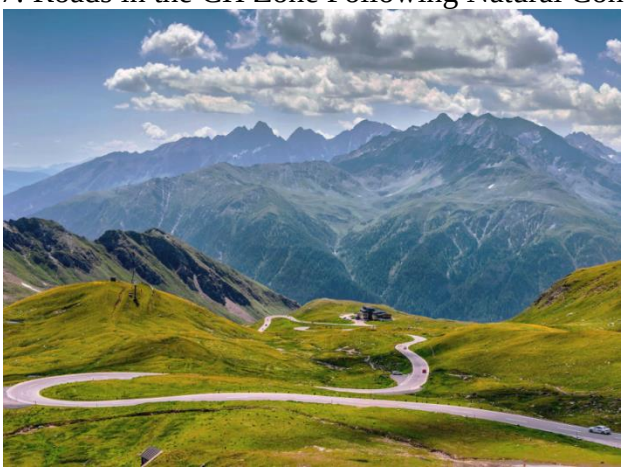
(7) A development of ten (10) or more lots, or ten (10) or more dwelling units, shall have at least two points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations.

(8) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(9) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(10) All streets and roads shall be designed to meet the standards required for streets in all other areas of the City; however, interior development streets shall comply with the current T*ypical Street Sections* maintained by the Public Works Department for *Local Street (Parking on one side)*, except that sidewalks shall be required on only one side of the street.

(11) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours--Permitted



(12) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



14.33A.140 Trails.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Public Works standards;

(b) The required trail right-of-way is 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the City Council may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone: (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing shall have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Service Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of dead or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Service Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code; and

(ix) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or adapted plant species and materials characteristic of the disturbed area.

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Geological and Natural Hazards.

The applicable requirements of Chapter 15.05 of the Provo City Code, related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, using or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A. 9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).



Figure 14.33A.9



Figure 14.33A.10

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings

The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).



Figure 14.33A.11



Figure 14.33A.12

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).



Figure 14.33A.13



Figure 14.33A.14

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood

(ii) Brick

(iii) Rock

(iv) Stone

(v) Pre-cast fences or walls textured and colored to imitate any of the above materials

(vi) Wrought iron

(vii) Vinyl rail

(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board

(ii) Concrete or concrete block

(iii) Plywood

(iv) Painted materials

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).



Figure 14.33A.15



Figure 14.33A.16

(6) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission shall approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards,

and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; and avoid fragmentation of open space areas within the site.

(b) Mo more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Where possible, a cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(4) Figure 14.33A.18: Development—Not Permitted.



14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

provo

WELCOME HOME

PLANNING COMMISSION

April 1, 2020

ITEM 1*

Provo City Council requests an ordinance amendment to establish the Critical Hillside (CH) Overlay Zone to provide development standards to help protect the sensitive hillside areas of Provo City's east bench.

Citywide Impact

PLOTA20200077

ITEM 1*

Critical Hillside (CH) Overlay Zone

- New overlay zone proposed for east bench areas of City
- Salt Lake County's *Foothills and Canyons Overlay Zone* (FCOZ) --good example
- Development is not precluded in the CH Zone
- CH Zone Requirements:
  - Objective: Protect hillside areas of Provo's east bench and establish prudent development standards for those areas in the zone
  - Overlay zone = requirements that overlay or are in addition to the requirements of the underlying zone
  - The permitted uses are those of the underlying zone
- Limits of disturbance (LOD) = Designated area on a lot where development will occur
  - Development must not occur outside the LOD

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Slope protection requirements
    - With very few exceptions, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space
    - No development may be located within one-hundred (100) feet from either side of the crest of a ridgeline designated for protection by the City
    - Walls to blend with natural landscape
  - Detention basins
    - Basins designed to match natural surroundings
  - Ridgelines
    - Development setback off ridgelines
  - Streets
    - Streets to follow natural contours

ITEM 1*

Critical Hillside (CH) Overlay Zone

- CH Zone Requirements, continued:
  - Trail and trailhead dedications
    - Density bonus of up to 10% for trail and trailhead dedications to the City
  - Tree and vegetation protection
    - Significant trees are required to be replaced
    - Wild-land Urban Interface
    - Revegetation, Tree Reestablishment, and Land Reclamation Plan
    - Tree and Vegetation Protection Plan
  - Design Standards
    - Buildings designed to follow natural contours and to blend with natural settings
    - Landscaping incorporates natural features
    - Parking and utilities screened

Chapter 14.33A
CH - CRITICAL HILLSIDE OVERLAY ZONE

Sections:

14.33A.010 Purpose and Objectives.
14.33A.020 Definitions.
14.33A.030 Use in Combination.
14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
14.33A.050 Permitted Uses.
14.33A.060 Development Standards.
14.33A.070 Provision of Facilities.
14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
14.33A.090 Limits of Disturbance(LOD).
14.33A.100 Slope Protection and Stability.
14.33A.110 Detention Basin Design.
14.33A.120 Ridgelines.
14.33A.130 Streets and Access.
14.33A.140 Trails.
14.33A.150 Fences.
14.33A.160 Tree and Vegetation Protection.
14.33A.170 Geological and Natural Hazards.
14.33A.180 Stream Corridor and Wetland Protection.
14.33A.190 Traffic Requirements.
14.33A.200 Parking Requirements.
14.33A.210 Design Standards.
14.33A.220 Cluster Developments.
14.33A.230 Other Requirements.

14.33A.010 Purpose and Objectives.

The Critical Hillside (CH) Overlay Zone is established to provide prudent development standards to help protect the sensitive hillside areas of Provo City's east bench. The requirements of the CH Overlay Zone impose additional or prevailing requirements to those required by the underlying zone. The provisions of this zone are intended to aid in the protection of ridgelines, to support the stability of slopes, and to protect existing public accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The provisions of this zone help preserve existing vegetation and require the reestablishment of vegetation areas disturbed in the development process. Design standards are included herein to preserve and complement the natural beauty and ecological health of Provo's hillside areas. The requirements of this zone consider the potential slope, fire, and natural hazards associated with the hillside areas and require mitigation of these hazards in the development process.

14.33A.020 Definitions

For the purpose of this Chapter, the following words and terms shall be defined, as follows:

"Approved fire protection plan" means the fire protection plan approved by the applicable fire authority.

"Bench" means a naturally occuring broad, generally flat, elevated terrace landform with an abrupt slope on one side.

"Caliper" means a standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for trees up to and including four (4) inch caliper size, and twelve (12) inches above the ground for larger size trees.

"Defensible space" means the required space between a structure and wildland area that, under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a structure.

"Density Bonus" means a residential density increase—beyond the density allowed by the underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as set forth in this Chapter.

"Drip line" means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

"Hard surface" means asphalt or concrete or similar impervious materials.

"Limits of disturbance (LOD)" means the area(s) in which construction and development activity are to be contained, including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:

(a) Up to ten feet of paved or unpaved shoulders for driveways.

(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for non-motorized activities.

"Net developable acreage" means land that possesses all of the following characteristics:

(a) Has an average slope of no more than thirty percent (30%), unless an exception to permitted slope is obtained, as may be allowed in Title 14 or 15 of the Provo City Code.

(b) Is located a minimum distance from any stream corridor or wetland as established in this Chapter.

(c) Is not located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the Planning Commission.

(d) Is not a right-of-way or road.

(e) Is not prohibited from being developed, as per the following: (1) the provisions of Chapter 15.05 of the Provo City Code related to geological and natural hazards, or any other applicable provision of the Provo City Code, or other applicable state or federal law; or (2) a recorded document that Provo City is required to abide by and/or enforce.

"Non-Sight-Obscuring Fencing" means fencing that is more than fifty percent 50% open.

"Open Space" means any area of a lot that is completely free and unobstructed from any man-made structure or parking areas.

"Ordinary High Water Mark" means the line on the bank to which the high water of a stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be used in place of the ordinary high water mark. In braided channels, the ordinary high water mark, or substitute channel bank, shall be measured so as to include the entire stream feature.

"Overlay zone" means a zoning district that encompasses one or more underlying zones and that imposes additional or alternative requirements to that required by the underlying zone.

"Ridge" means the elongated crest at the apex or uppermost point of the intersection between two opposite slopes of a hill or mountain.

"**Ridgeline**" means a line, designated for protection by the City, connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another. A bench is not a ridgeline.

"Significant trees" means live trees of six-inch caliper or greater, groves of five or more smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the drip line perimeter.

"Slope" means the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.

"Stream" means a body of flowing water; natural water course containing water at least intermittently.

"Stream Corridor" means the corridor defined by a constant or intermittent stream's ordinary high water mark.

"Tree" means a woody plant with a distinct central trunk.

"Vegetation" Means living plant material, including but not limited to trees, shrubs, flowers, grass, herbs, and ground cover.

"Water-wise plant species" means low water use plants, trees, shrubs, and ground cover.

14.33A.030 Use in Combination.

The CH Zone shall overlay and be used in combination with existing conventional zones or project specific zones. If there is a conflict between the provisions in this Chapter and the requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall take precedence. The CH Zone shall not be applied to any land as an independent zone. Property to which the CH Zone has been applied shall be developed only in conformance with the applicable, approved project plan, subdivision, or other approved development plans. Written references to a zone that is overlain by the CH Zone, including those on the Zone Map of Provo City, shall include the underlying zone, along with the acronym of the overlay zone, e.g., R110CH.

14.33A.040 Development in Critical Hillside (CH) Overlay Zone.

(1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.

(2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.

(3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all proposals for residential and nonresidential developments in the CH Zone, as well as all proposals for main buildings, except for one-family detached dwellings, shall obtain a recommendation from the Design Review Committee.

(4) The provisions of this Chapter shall shall not apply in the following situations:

(a) for lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;

(b) for parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone; and

(c) for additions to a one-family dwelling and accessory structures permitted after the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so long as the addition or accessory structure does not extend outside the limits of disturbance established when the dwelling was originally permitted.

14.33A.050 Permitted Uses.

Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the provisions of the underlying zone with which the CH Zone has been combined.

14.33A.060 Development Standards.

Development in the CH Zone shall conform to the development standards required by the provisions of the underlying zone with which the CH Zone is combined.

14.33A.070 Provision of Facilities.

The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City Code, shall be met.

14.33A.080 Project Plan Approval/Design Review/Design Guidelines.

See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280, Section 14.34.285, and Section 14.34.287, Provo City Code.

14.33A.90 Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) of a property where construction and development activity shall be contained.

(2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than forty (40) percent of a lot or parcel may be included in the LOD.

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if he/she finds one of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

14.33A.100 Slope Protection and Stability.

(1) All development in the CH Zone shall comply with the applicable grading, fill, cutting, excavation, relocation of material, and drainage requirements of Title 15, as well as any such requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

(2) Structures shall be set back from ascending or descending slopes greater than thirty percent (30%) in accordance with the requirements of the currently adopted building code.

(3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a slope greater than thirty percent (30%) must remain in natural private or natural public open space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside slopes that exceed thirty percent (30%).

(4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied contour of the surrounding terrain.

(5) Notwithstanding the requirements in Subsection (4), immediately above, the use of terraced retaining walls is permitted to reduce the steepness of man-made slopes and to provide planting pockets conducive to re-vegetation. The following requirements apply for terraced retaining walls and vertical walls:

(a) Terraces created between retaining walls shall be permanently landscaped or re-vegetated.

(b) Retaining walls shall be faced with stone or earth-colored materials similar to the surrounding natural landscape.

(c) Vertical walls are only allowed if approved by the City Engineer and if the following criteria are met:

(i) The applicant provides documentation, which has been stamped by an engineer or landscape architect licensed in the State of Utah, that demonstrates an environmental, aesthetic, or safety concern with installing retaining walls on the subject property.

(ii) The vertical wall shall be constructed of earth-colored materials similar to the surrounding natural landscape.

(d) All applicable building code requirements must be met and applicable permits obtained.

(e) Figure 14.33A.1: Terracing and Retaining Wall--Permitted



(Terraced retaining walls constructed with earth-colored materials similar to the surrounding natural landscape. Terraces are used as planting pockets.)

(f) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted



(Wall is not constructed of earth-colored materials and does not provide opportunites for planting pockets.)

14.33A.110 Detention Basin Design.

(1) If detention basins or other storm and erosion control facilities are utilized or required in the development of a lot or parcel such shall comply with the following design standards:

(a) Detention basins shall be free form, following the natural landforms. If such forms do not exist, the basin shall be shaped to emulate a naturally formed depression.

(b) Redistributing soils from basin construction to natural side slopes around the perimeter of the basin is encouraged. Side slopes are created to filter, redirect, or soften views of the basin. Total screening of basins is not required. Side slopes shall be varied to replicate natural conditions.

(c) Naturalized planting themes are required for basins. Trees and shrubs may be grouped in informal patterns to emulate the natural environment but may not reduce the volume of the basin. However, no trees, shrubs, or other large, woody vegetation on the embankment is permitted. The location and type of vegetation shall allow for access and regular maintenance.

(d) The ground surface of the basin and surrounding disturbed areas shall be covered with native grass mixture or other appropriate groundcover approved by the City Engineer. It is the intent to provide a natural cover that does not require regular mowing or fertilization.

(e) Vegetation and trees planted and established in connection with a detention basin shall be drought-tolerant, firewise vegetation permitted through an approved fire protection plan.

(f) Figure 14.33A.3: Detention Basin Design--Permitted



(This is a free form basin that fits in the natural surroundings.)

(g) Figure 14.33A.4: Detention Basin Design--Not Permitted



This is not a free form basin and is without natural side slopes. Little or no vegetation has been established to give it a natural appearance.)

14.33A.120 Ridgelines.

(1) No development, including utility infrastructure, may break the horizon line, defined as the point where the ridgeline visibly meets the sky as viewed from public rights of way or trails.

(2) No development, including utility infrastructure, may be located within one-hundred feet (map distance) from either side of the crest of a ridgeline designated for protection by the City.

(3) Figure 14.33A.5: Ridgeline Development--Permitted



(These structures have been sited significantly lower than the ridgeline.)

(4) Figure 14.33A.6: Ridgeline Development—Not Permitted



(This structure has been sited on a ridgeline.)

14.33A.130 Streets and Access.

(1) All development in the CH Zone shall comply with the applicable street and access requirements of Titles 14 and 15 of the Provo City Code, including the *Street Standards* section of Chapter 15.03.

(2) Streets, roads, alleys, or driveways shall follow natural contour lines where possible to minimize cuts and fills.

(3) An easement shall be granted to Provo City over and across all private development roads for utility maintenance and fire and emergency access.

(4) A development of thirteen (13) or more lots, or thirteen (13) or more dwelling units, shall have at least two (2) points of ingress and egress. All developments shall be connected to the City's street system at two (2) different access locations. This requirement for second access shall supercede any conflicting second access requirement in the Provo City Code.

(5) Grading for streets, roads, alleys, or driveways is limited to the paved portion of such access and other associated, required access improvements, plus up to an additional ten feet on either side of the pavement and required improvements. However, when developing streets, roads, alleys, or driveways on slopes in excess of twenty-five percent, only the paved portion of the access used for vehicular travel, plus the minimum area for any required, associated access improvements, such as curb, gutter or sidewalk, may be graded. The remainder of the access must be left undisturbed.

(i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or other similar street construction convention, instead of curb and gutter, when he/she determines that such swales, or other similar road construction convention, will provide a more efficient, safe, or practical means of managing water runoff related to a street or road.

(6) Any development that abuts on public land that has an existing access to the public land shall maintain the access by providing a public access road through the development to the public land.

(7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted



(This road follows the natural contours of the land.)

(8) Figure 14.33A.8: Roads in the CH Zone Following Natural Contours—Not Permitted



(This road has excessive cuts and does not follow the natural contour of the land.)

14.33A.140 Trails and Public Accesses.

(1) A density bonus is available, as follows:

(a) A one percent (1%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a hard surface, linear trail for a maximum bonus of ten percent (10%).

(b) A one-half percent (0.5%) density bonus for each one percent (1%) of land developed and dedicated to Provo City for a graveled, linear trail for a maximum bonus of ten percent (10%).

(c) A three percent (3%) density bonus for a public trailhead, dedicated to Provo City that meets the following requirements:

(i) The public trailhead shall have a paved parking lot with a minimum of ten (10) off-street parking spaces.

(ii) The parking lot shall be designed in accordance with Chapter 14.37, Provo City Code.

(d) No development may obtain a density bonus greater than ten percent (10%).

(2) A trail dedicated to the City shall meet the following requirements:

(a) The trail must be constructed according to the applicable Provo City Public Works and Parks and Recreation Department standards;

(b) The dedicated trail right-of-way is a minimum of 20 feet;

(c) The trail improvements and right-of-way must be dedicated to the City prior to issuance of any building permits within the development; and

(d) Such trail, or portion thereof, shall be part of a planned City trail system.

(3) After having received the opinion of the Parks and Recreation Department Director and the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the Mayor may reject a proffered trail dedication, if it makes any one or more of the following findings regarding the proffered dedication:

(a) Trail maintenance is not feasible.

(b) The trail dedication length is less than 660 feet.

(c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a trail for public use, as per the opinion of the City Engineer.

(4) Legally established public accesses shall not be included within the limits of disturbance (LOD) of any development or lot. Legally established public accesses shall be located and identified on recorded development plats and approved development plans.

14.33A.150 Fences.

The following fencing requirements apply in the CH Zone:

(a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front yards and along roadways, shall be non-sight-obscuring fencing and have a maximum height of five (5) feet; however, livestock fencing may have a maximum height of six (6) feet.

(b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements of Section 14.34.100 of the Provo City Code shall be met.

(c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.

14.33A.160 Tree and Vegetation Protection.

(1) Tree/Vegetation Removal

(a) No trees or vegetation may be removed outside the approved LOD unless specifically exempted by this Chapter.

(b) Significant trees removed from within the LOD shall be replaced as set forth in this Chapter.

(c) No trees or vegetation may be removed solely for the purpose of providing open views to or from structures on a site or solely for the purpose of replacing them with different species.

(d) Appropriate defensible space surrounding a structure is established in the Utah Wildland-Urban Interface Code (WUI). In order to account for trees that must be removed to comply with the applicable requirements of the WUI, the applicant shall submit a copy of the approved fire protection plan, along with development plans that incorporate the approved fire protection plan, to the Development Services Director for review.

(e) The following is a list of additional situations when tree and vegetation removal is permitted:

(i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect public health, safety, and welfare.

(ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, to install utilities, to perform authorized field survey work, or to protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

(2) Replacement of Significant Trees

(a) When a significant tree is removed from inside the established LOD, which removal is not required by WUI standards, the developer shall replace such tree(s) on the lot, according to the following schedule and requirements:

(i) A significant tree that is removed shall be replaced by two (2) trees with a minimum size of two (2) inch caliper for deciduous trees and a minimum height of six (6) feet for coniferous trees in locations on the lot, as set forth in the required revegetation, tree Reestablishment, and land reclamation plan.

(ii) Replacement trees shall be maintained through an establishment period of at least two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of the value of all replacement trees guaranteeing their health and survival during the establishment period.

(b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as areas of trees with canopies that cover eighty percent (80%) of the area, and is not suitable to the planting of replacement trees, the requirement to plant replacement trees requirement may be waived by the Development Services Director.

(3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

(a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for any lot or parcel of land that will be altered from its natural condition. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah. The plan shall incorporate and be in harmony with the approved fire protection plan, and shall establish a timeframe for revegetation that is acceptable to the City, and take into account optimal seasonal growing conditions.

(b) The revegetation, tree reestablishment, and land reclamation plan shall contain the following:

(i) Scale and north arrow;

(ii) Location and dimensions of the property;

(iii) Type, size, number, and location of any vegetation and trees to be planted;

(iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

(v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure that vegetation is successful;

(vi) Incorporation of applicable information from the approved fire protection plan;

(vii) A note that establishes a timeframe for revegetation that is acceptable to the City and that takes into account optimal seasonal growing conditions;

(viii) A note detailing compliance with the Vegetation Clearance Guidelines of the Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire Resistive Species list in the Wildland-Urban Interface Code;

(ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated, reestablished, or reclaimed area; and

(x) Any other information necessary to show compliance with this Subsection (3).

(c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted

plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(d) Any slope exposed or created in the development process shall be landscaped or revegetated with dryland trees and plant material. New vegetation shall be equivalent to or exceed the amount and erosion-control characteristics of the original vegetation cover in order to mitigate adverse environmental and visual effects.

(e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with deep rooting characteristics shall be utilized to minimize erosion and reduce surface runoff. The planting basin shall be kept level with a raised berm around the base of the plant to help retain moisture.

(f) Topsoil that is removed during construction may be conserved for later use on areas requiring revegetation or landscaping, such as cut-and-fill slopes.

(g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection (3).

(h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for improvements related to the revegetation, tree reestablishment, and land reclamation plan shall be submitted and remain in place until all work has been completed and final inspection made.

(4) Tree and Vegetation Protection

(a) Prior to any development activities, the applicant shall submit a tree and vegetation protection plan. This plan must be stamped by an engineer and landscape architect licensed in the State of Utah and incorporated into the approved, final development plans. The tree and vegetation protection plan shall contain the following:

(i) Scale and north arrow

(ii) Location and dimensions of the property;

(ii) Limits of disturbance (LOD);

(iii) Fencing or other separation methods to delineate the LOD;

(iv) Location and size of all existing vegetation, including trees;

(v) Identification of vegetation and trees to be retained;

(vi) Fencing around each significant tree and around stands of trees;

(vii) A note detailing the measures that shall be taken to ensure that protected vegetation will be guarded against grading, soil compaction, trenching, or other development activity that could have an adverse effect on such vegetation; and

(viii) Any other information necessary to show compliance with this Subsection (4).

(b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip zone—shall be placed around each significant tree (that will not be removed) and around stands of twelve or more smaller trees.

(c) No construction, grading, equipment or material storage, or any other activity is allowed within the drip zone of protected trees, and the fencing must remain in place until all land alteration, construction, and development activities are completed.

14.33A.170 Sensitive Lands.

The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those related to geological and natural hazards, shall be met.

14.33A.180 Stream Corridor and Wetland Protection.

(1) No development activity may be conducted that disturbs, removes, fills, dredges, clears, destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration and maintenance activities allowed by the Provo City Code, and applicable state or federal law.

(2) Stream corridor and wetland area delineation shall be performed by an engineer licensed in the State of Utah who has demonstrated experience and expertise to conduct the required site analysis, following, or operating in accordance with any applicable, current federal manuals, requirements, and laws.

(3) The following setback requirements apply:

(a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the ordinary high-water mark of stream corridors. (See Figure 14.33A.9: Setback from Stream Corridor--Permitted and Figure 14.33A.10: Setback from Stream Corridor—Not Permitted).

Figure 14.33A.9



(This dwelling is setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

Figure 14.33A.10



(This dwelling is not setback more than fifty [50] feet horizontally from the ordinary high-water mark of a stream corridor.)

(b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet horizontally from the delineated edge of a wetland.

14.33A.190 Traffic Requirements.

Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of the Provo City Code.

14.33A.200 Parking Requirements.

(1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:

(a) A snow storage area shall have an area that is at least twenty percent (20%) of the area of the outdoor parking facility.

(b) A snow storage area shall be sited in a manner that is accessible and usable for snow plow equipment.

(c) Snow storage shall not encumber required parking spaces or encroach into sidewalk or pedestrian pathways.

(d) Snow storage areas shall be clearly visible and identifiable in winter conditions.

(e) Snow storage areas shall not be located on top of storm drain inlets.

(2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of the Provo City Code.

(3) See Section 14.33A.210 of the Provo City Code for design standards for parking.

14.33A.210 Design Standards.

(1) In the event that the design standards of this Section conflict with the other design standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this Section shall take precedence.

(2) Buildings
The following design standards apply for new buildings proposed in the CH Zone:

(a) Buildings shall be designed to follow natural contours rather than modifying the land to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural Contours—Not Permitted).

Figure 14.33A.11



(This home was sited to follow the natural contour of the land.)

Figure 14.33A.12



(This land was modified to accept a building design not tailored for the site.)

(b) The massing or grouping of buildings shall be scaled to harmonize and achieve balance with the natural features of the specific site.

(c) Roof lines and building mass shall echo the angles and shapes repeated in the natural landscape.

(d) Building mass and wall lines shall be broken up to complement natural settings and slopes.

(e) The use of building materials in colors that blend harmoniously with the surrounding natural settings is required. Brash, contrasting color combinations are prohibited.

(f) Flammable wood roofing shingles are prohibited.

(3) Landscaping

The following landscaping design standards apply in relation to permit applications for new main buildings and new developments proposed in the CH Zone:

(a) Landscaping shall incorporate natural features such as trees, significant vegetative patterns, interesting land forms, rocks, water, views, and orientation. (See Figure 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).

Figure 14.33A.13



(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

(b) All disturbed areas shall be re-vegetated using native or water-wise adapted plant species and materials characteristic of the disturbed area; however, this requirement shall not preclude a property owner from establishing non-native or non-water-wise adapted plant species within: (1) a five [5] foot wide perimeter around the edge of all structures and (2) planting beds located not more than thirty (30) feet from the main building(s).

(4) Fencing

The following fencing design standards apply in the CH Zone:

(a) Fencing used to screen patios, other outdoor areas, and service areas within the LOD may be composed of the following fencing materials:

(i) Natural or stained wood;

(ii) Brick;

(iii) Rock;

(iv) Stone;

(v) Pre-cast fences or walls textured and colored to imitate any of the above materials;

(vi) Wrought iron;

(vii) Vinyl rail; or

(viii) Powder or dull coat chain link fencing (permitted only for telecommunications facilities, public utility compounds, and other related or similar facilities).

(b) The following fencing materials are prohibited in the CH Zone:

(i) Solid board;

(ii) Concrete or concrete block;
(iii) Plywood; and
(iv) Painted materials.

(5) Parking

The following parking design standards apply in the CH Zone:

(a) When visible from public streets and private development roads, parking facilities shall be screened to blend into the natural environment. (See Figure 14.33A.15: Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking Facilities—Not Permitted).

Figure 14.33A.15



(This parking lot was screened with trees and vegetation and is compatible with the natural environment.)

Figure 14.33A.16



(This parking lot was not screened with trees and vegetation and does not blend into the natural environment.)

(6) Utility Infrastructure

In so far as possible, utility infrastructure, including water tanks, shall be screened, from public rights-of-way, or designed to blend into the natural environment. However, such screening or design (to blend into the natural environment) shall not compromise maintenance access to such facilities.

(7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster developments.

14.33A.220 Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone—at a greater density than what is allowed in the underlying zone, only if all of the following standards are met:

(a) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall

verify that the recommended mitigation measures have been incorporated into the development. The responsibility—through-out the development process—for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(b) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes;

(c) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development; and

(d) All other applicable requirements of this zone, the underlying zone, and this Title are met.

(2) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be separated from other residential clusters by a minimum of one-hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

(i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and

(ii) Significant views of the natural landscape as viewed from adjacent streets.

(3) Figure 14.33A.17: Development—Permitted.



(This development was clustered and preserved significant areas of open space.)

(4) Figure 14.33A.18: Development—Not Permitted.



(This development was not clustered; little open space exists in the area.)

14.33A.230 Other Requirements.

(1) Signs (see Chapter 14.38, Provo City Code).

(2) Landscaping. In addition to the landscaping requirements of this Chapter, development in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City Code, as well as any landscaping requirements of the underlying zone.

(3) Trash Storage (see Section 14.34.080, Provo City Code).

(4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.

ITEM 2*

Provo City Council requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

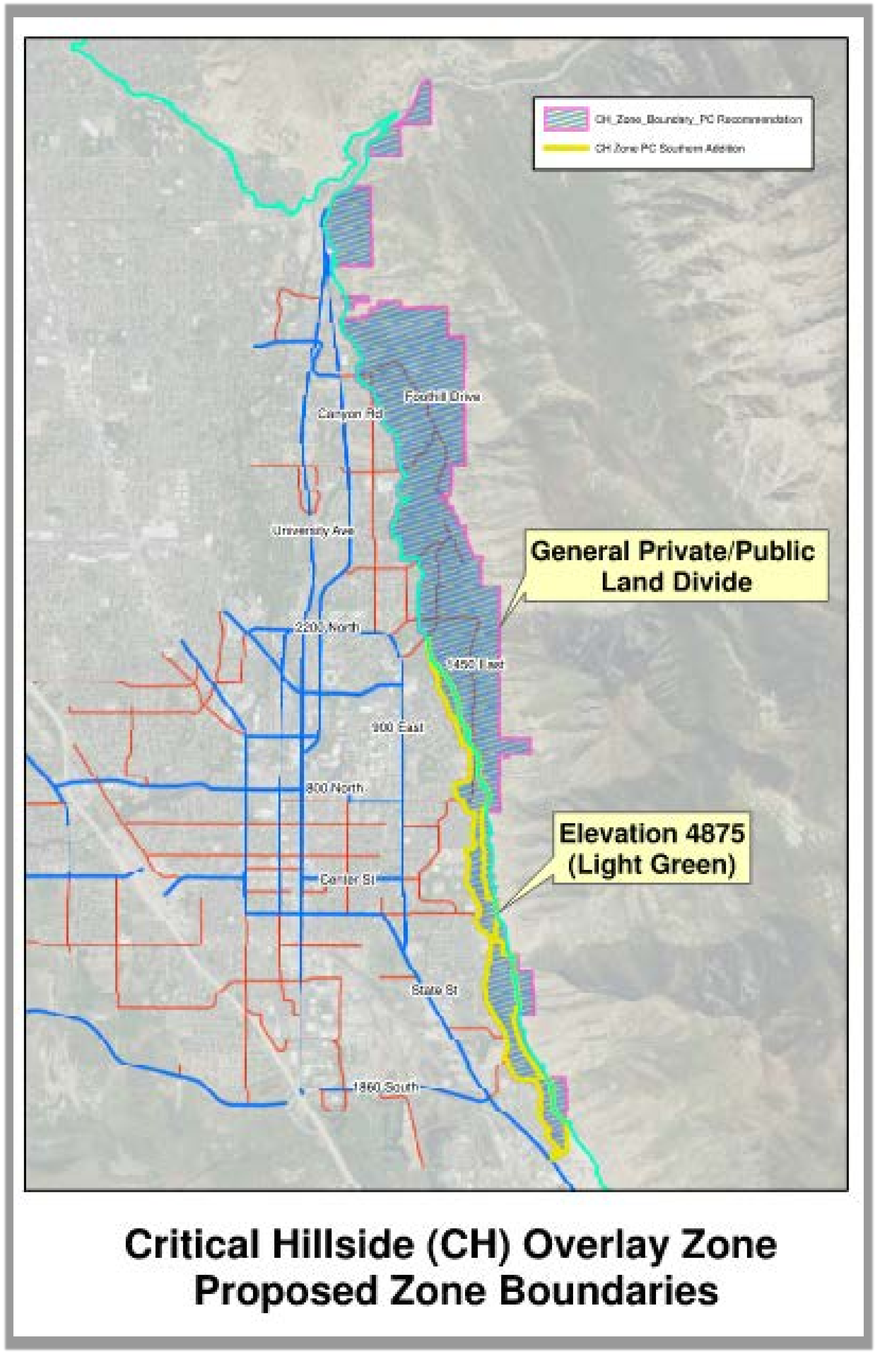
Citywide application

PLRZ20200078

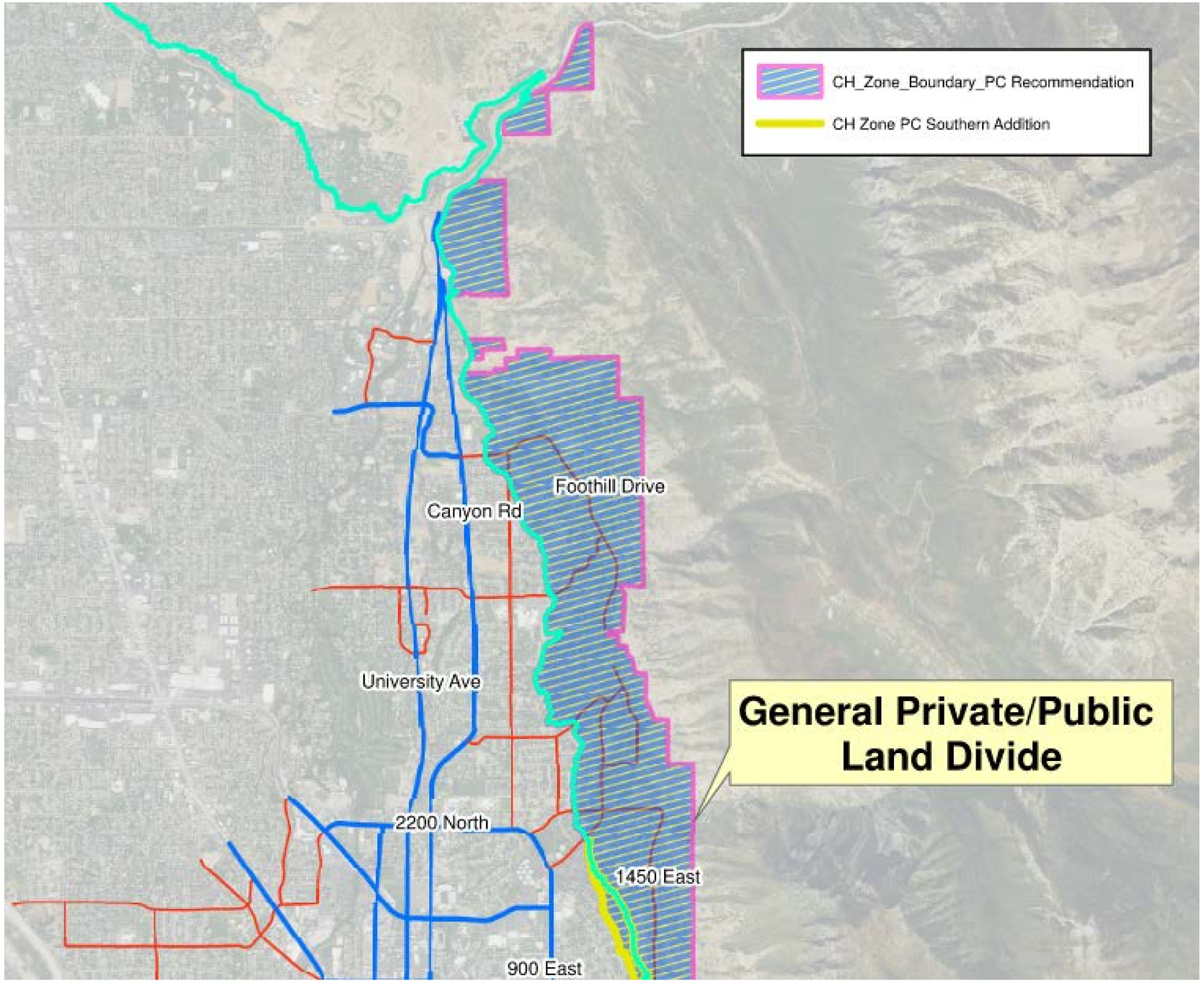
Critical Hillside (CH) Overlay Zone

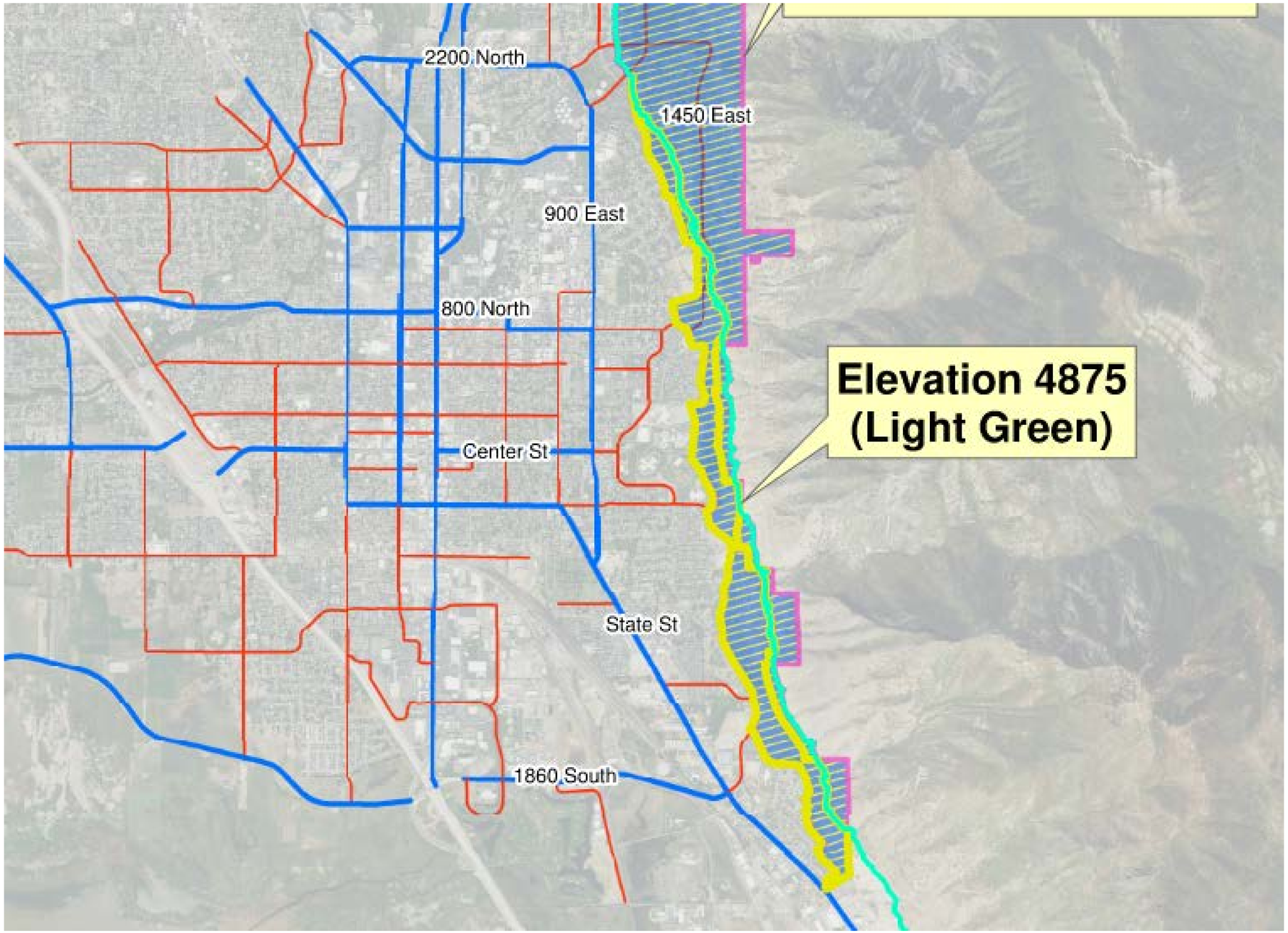
ITEM 2*

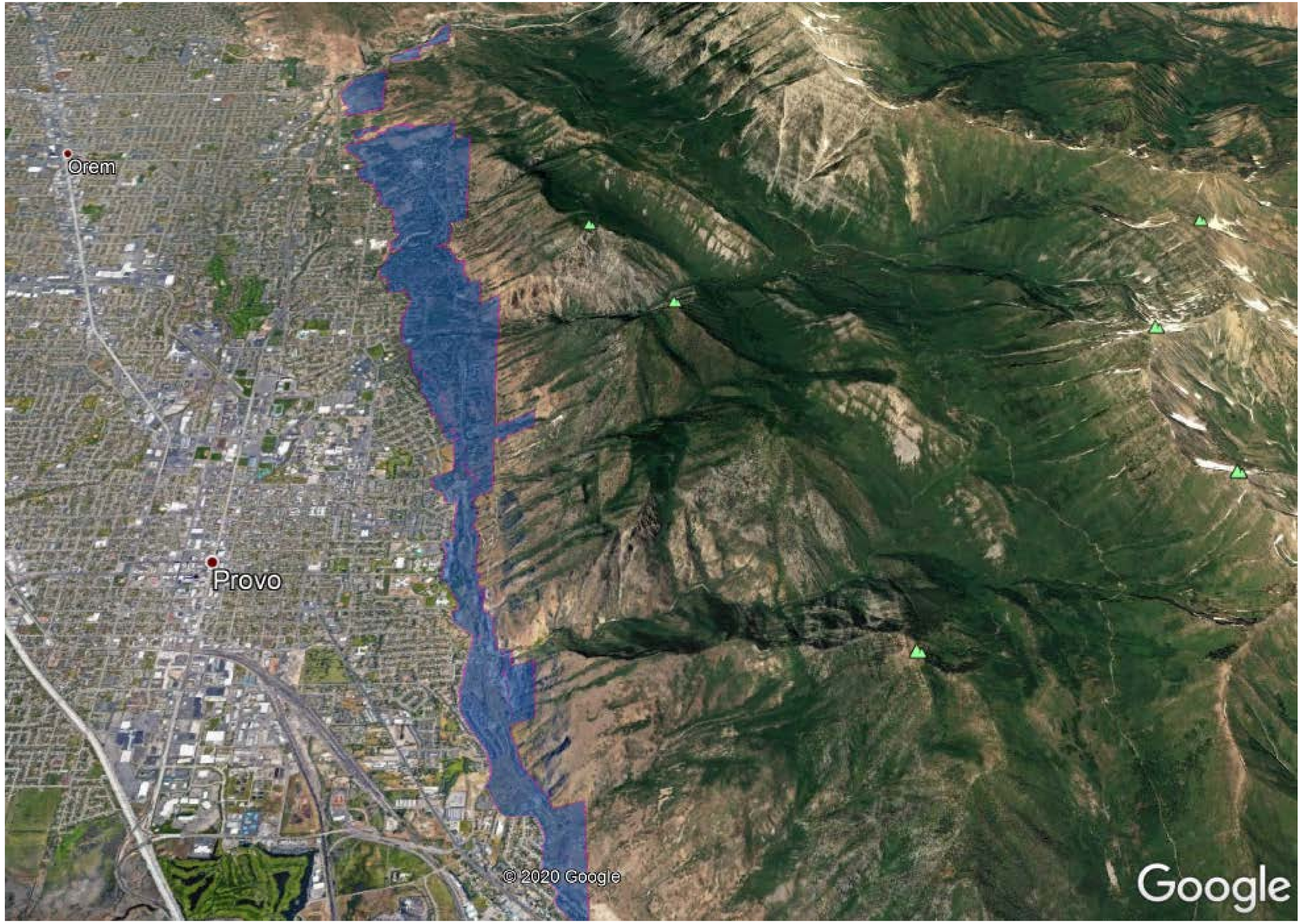
- CH Zone Boundaries:
  - Proposed area of applicability:
    - Between Elevation 4875 (key elevation for providing water in the City) and a line dividing private and public property
    - Addition recommended by the Planning Commission
      - ➢ Comprised of additional hillside areas on south side of City
    - The Elevation 4750 was used (in place of the line dividing private and public land) to cut-through the Utah State Hospital property
  - Approximately 2060 acres of the City are included in the proposed boundaries



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

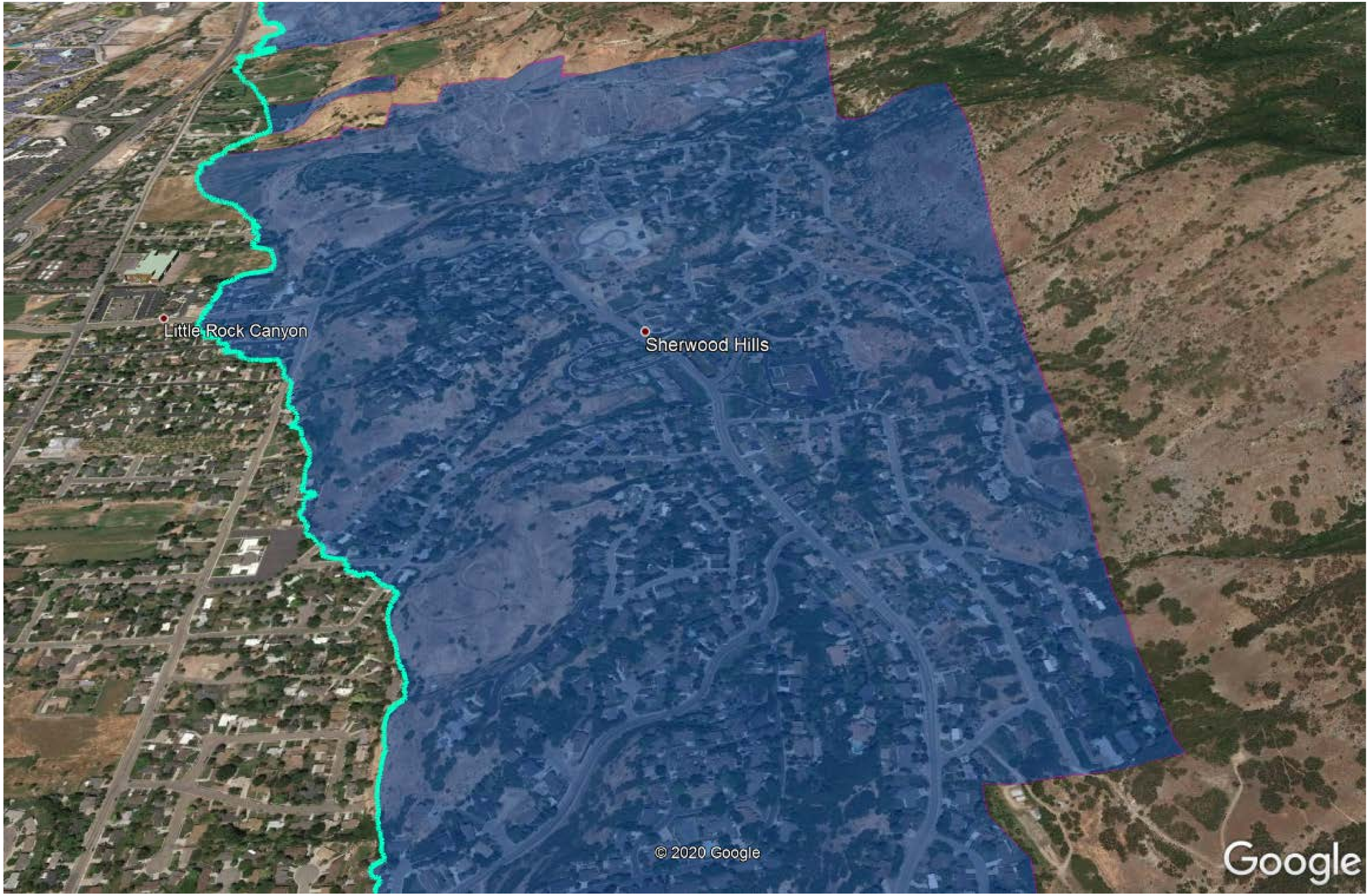

CH_Zone_Boundary_PC Recommendation
CH Zone PC Southern Addition
Foothill Drive
Canyon Rd
University Ave
2200 North
1450 East
900 East
General Private/Public Land Divide


2200 North
1450 East
900 East
800 North
Center St
State St
1860 South
Elevation 4875
(Light Green)

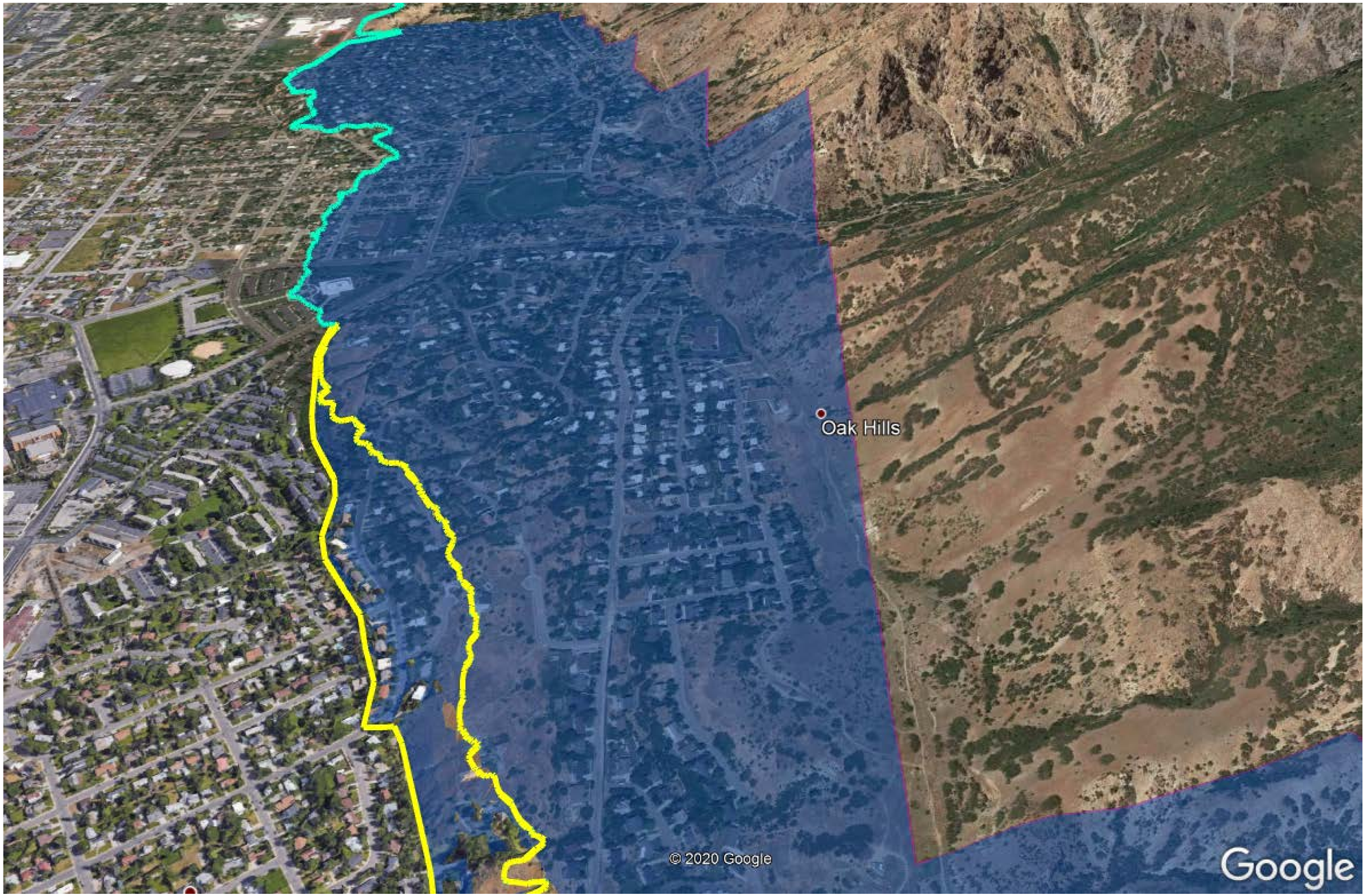

Orem
Provo
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Google

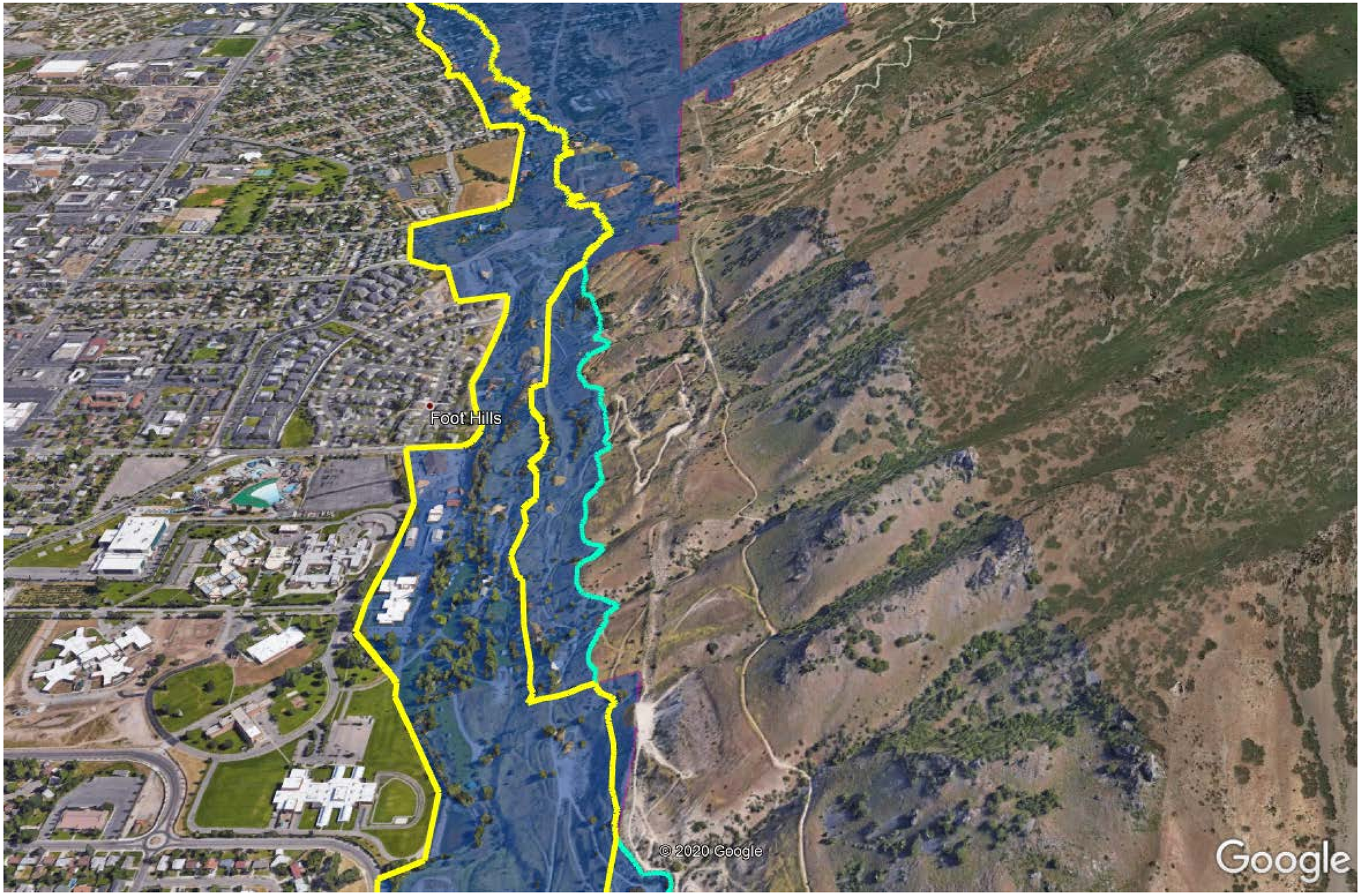

River Bottoms
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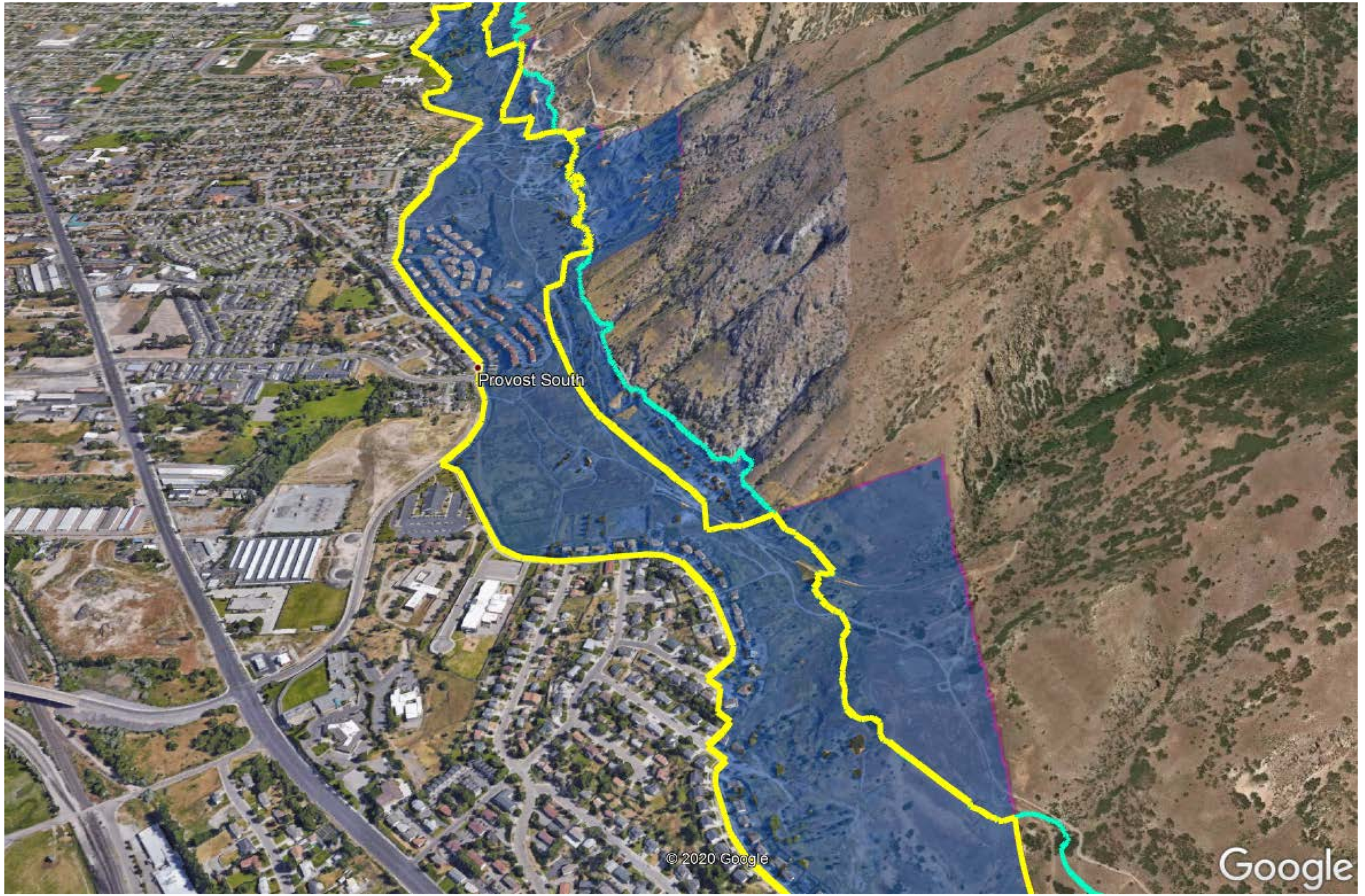

River Bottoms
Orchard North
© 2020 Google
Google


Little Rock Canyon
Sherwood Hills
© 2020 Google
Google

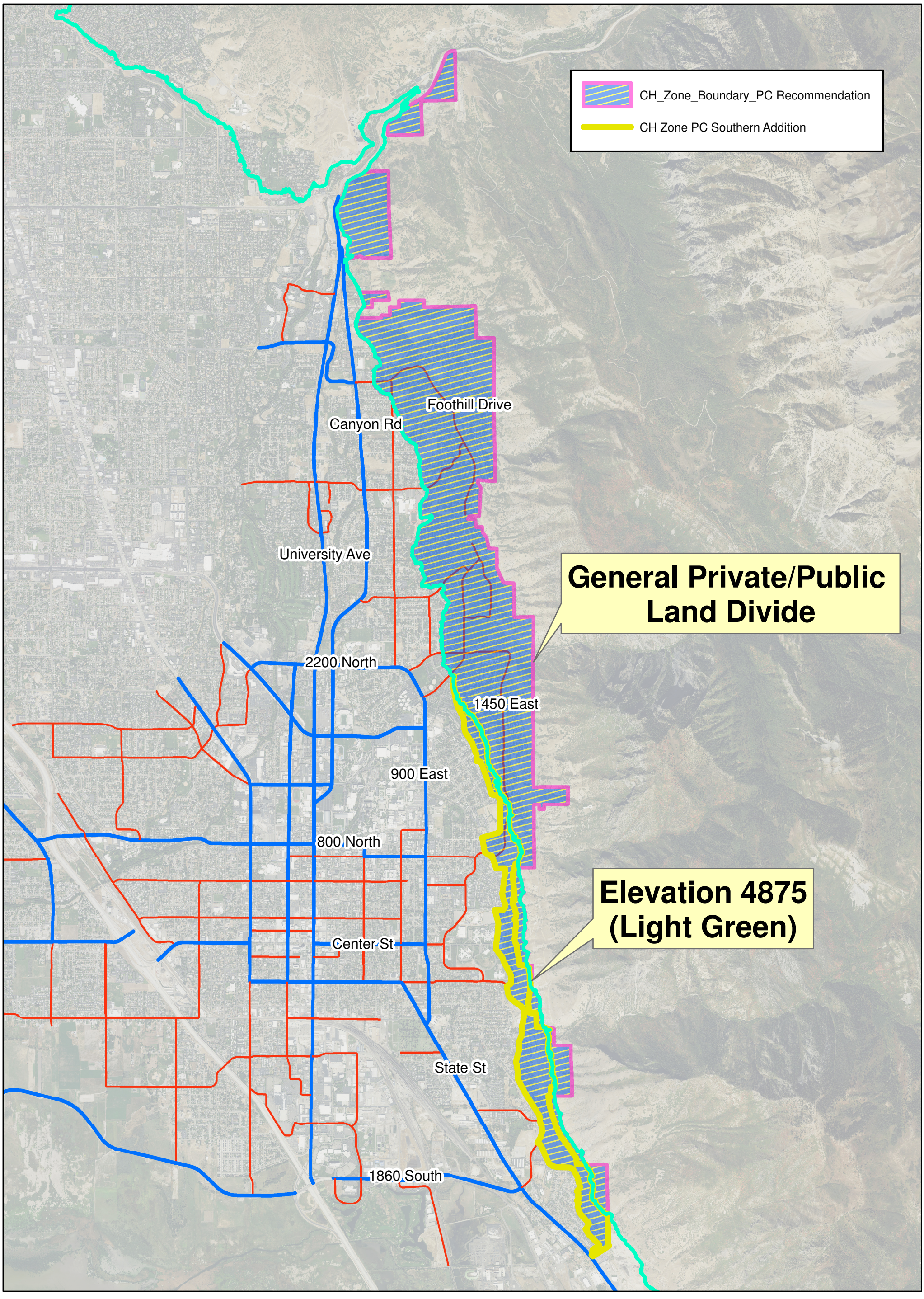

Indian Hills
Edgemont
Rock Canyon
© 2020 Google
Google


Oak Hills
© 2020 Google
Google


Foot Hills
© 2020 Google
Google


Provost South
© 2020 Google
Google


Spring Creek
© 2020 Google
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Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

Provo City Planning Commission

Report of Action

April 1, 2020

Item 2* Provo City Council Office requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone. Citywide application. Brandon Larsen (801) 852-6408 jblarsen@provo.org PLRZ20200078

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 1, 2020:

RECOMMEND APPROVAL

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

Motion By: Maria Winden
Second By: Laurie Urquiaga
Votes in Favor of Motion: Maria Winden, Andrew Howard, Deborah Jensen, Robert Knudsen, Laurie Urquiaga, and Lisa Jensen
Deborah Jensen was present as Chair.

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

PLANNING COMMISSION RECOMMENDED TEXT AMENDMENT
The proposed boundaries are attached as Exhibit "A."

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: Overview of proposed zone map amendment and the reasoning behind the proposed boundaries.

NEIGHBORHOOD MEETING DATE
- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT
- Steve Turley questioned the use of the Elevation 4875 in the CH Zone boundaries (this elevation is proposed for use because of its connection with the provision of water in the City). He noted that water tanks in the City lie approximately at Elevation 5600.
- Sharon Memmot, Edgemont Vice Chair, questioned why Provo City's South Fork, Provo Canyon parcels were not included in the CH Zone boundaries. She posed the question of why not include land outside Provo City boundaries in the CH Zone.

PLANNING COMMISSION DISCUSSION
Key points discussed by the Planning Commission included the following:

- The Planning Commission discussed the proposed CH Zone boundaries and proposed adding land (with significant slopes) to the CH Zone in the southern portion of the City starting at the intersection of 820 North and Oakmont Lane.



Planning Commission Chair



Director of Development Services

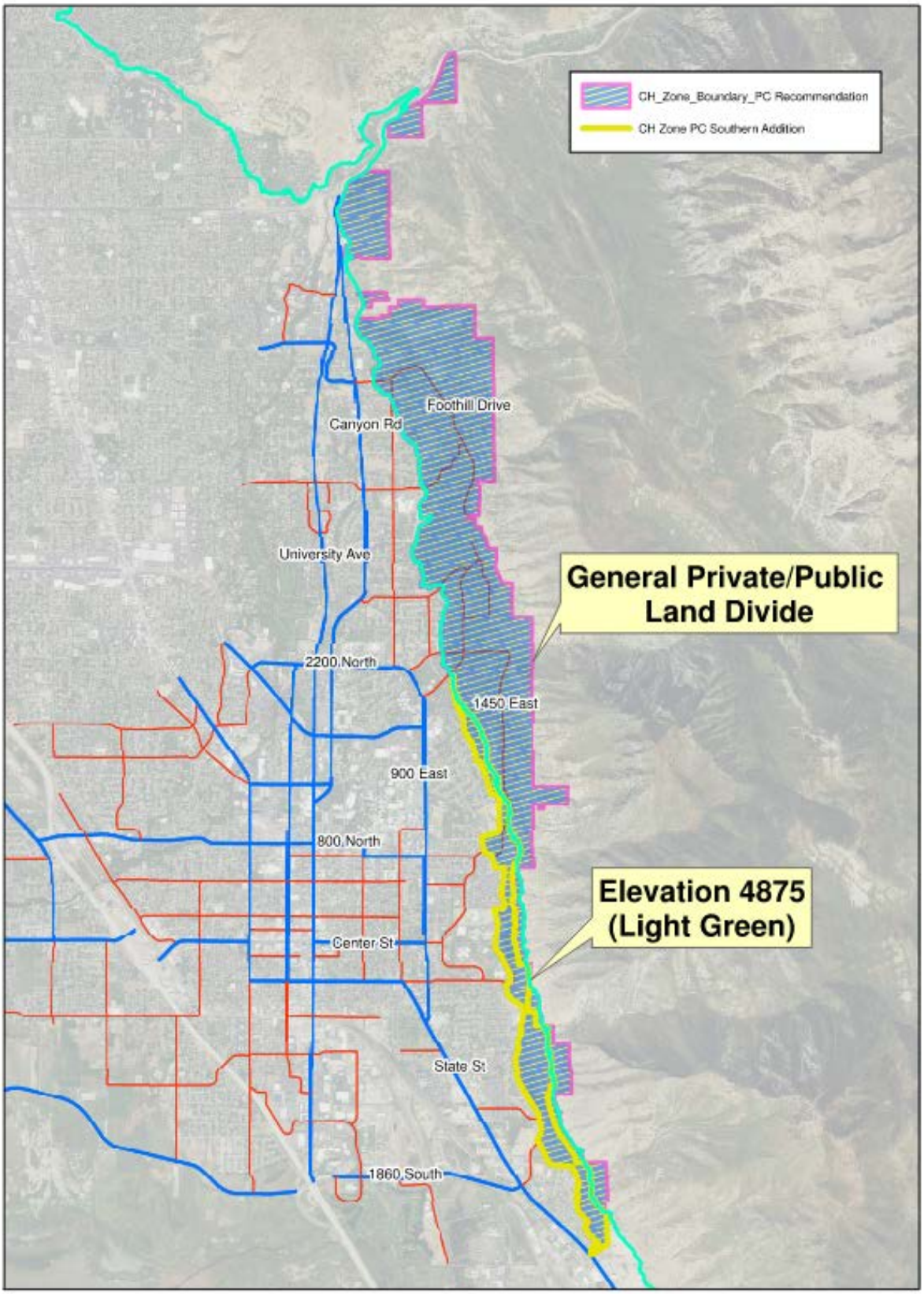
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ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

Appendix “A”



Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

ITEM 2*

Provo City Council requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

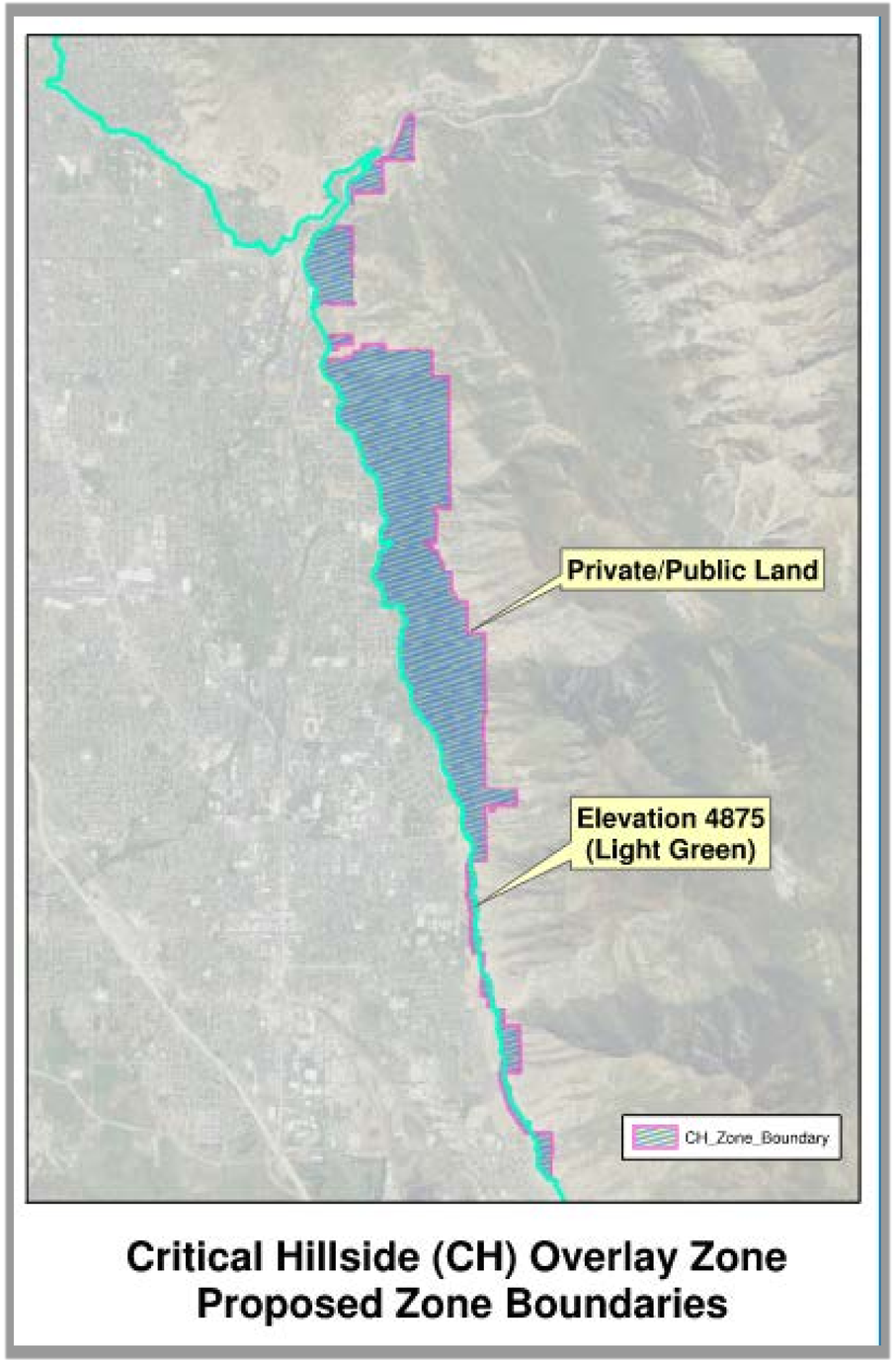
Citywide application

PLRZ20200078

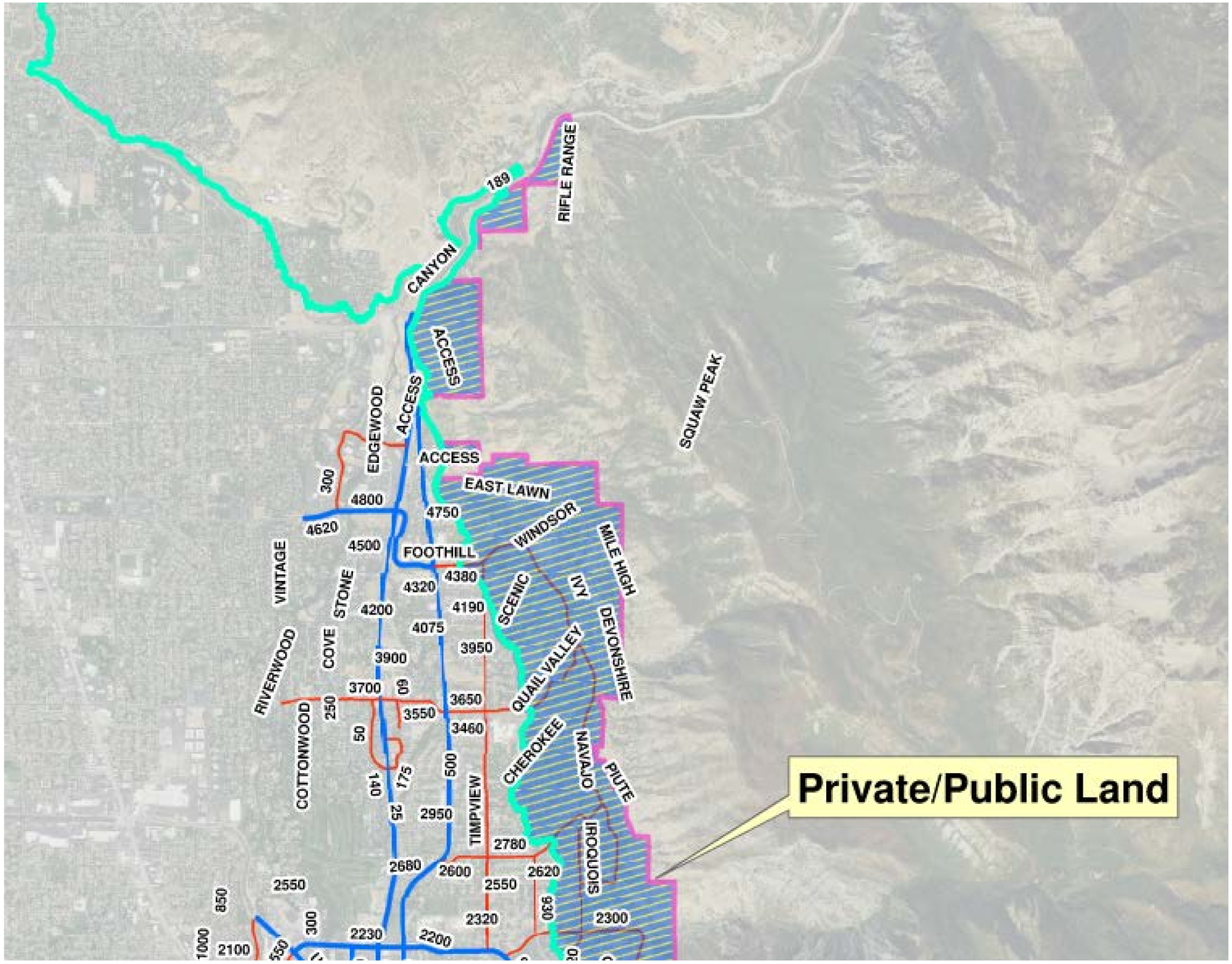
ITEM 2*

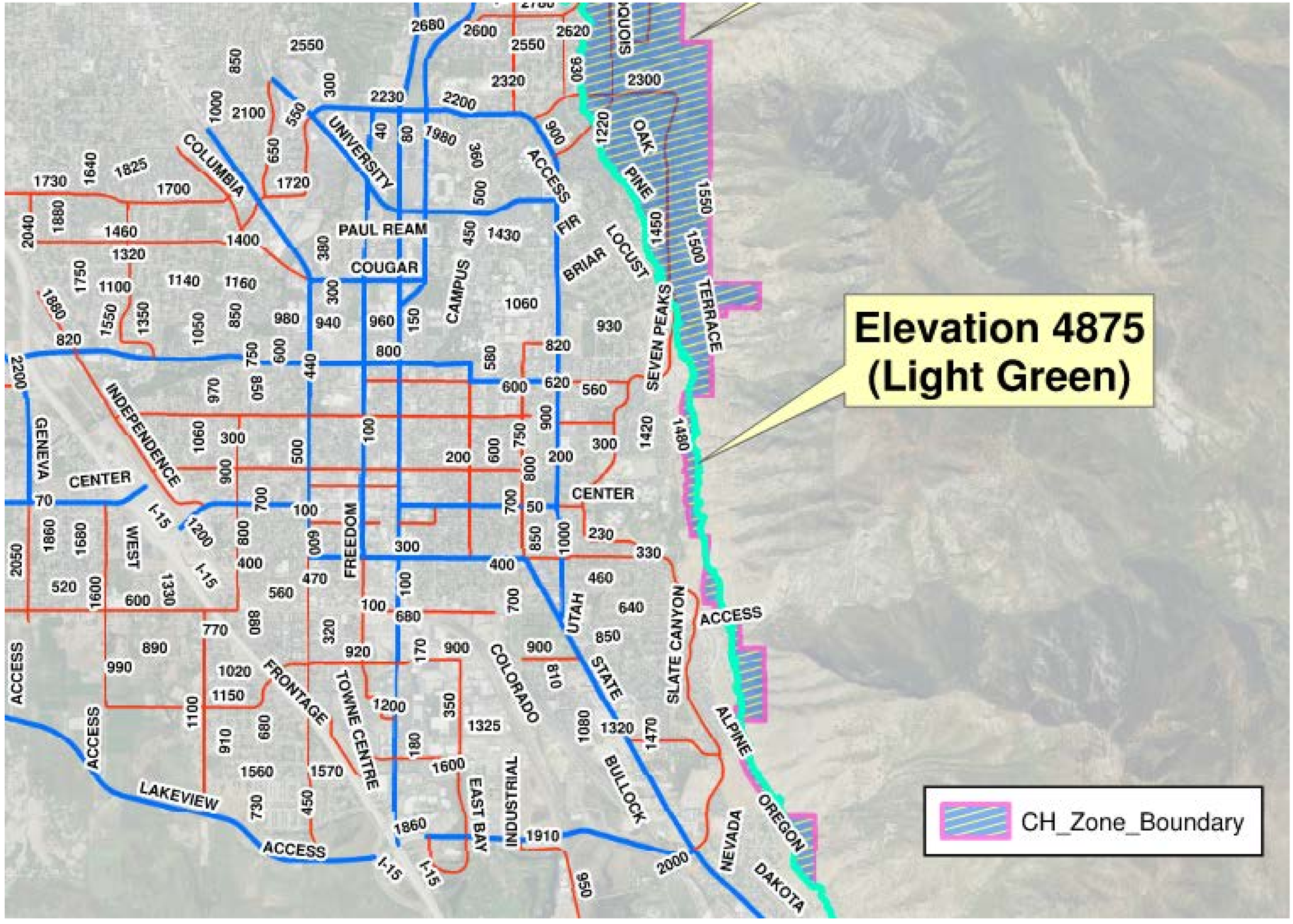
Critical Hillside (CH) Overlay Zone

- CH Zone Boundaries:
  - Proposed area of applicability: between Elevation 4875 and a line dividing private and public property
    - Elevation 4875 is a key elevation in providing water in the City
  - The Elevation 4750 was used (in place of the line dividing private and public land) to cut-through the Utah State Hospital property
- It appears approximately 1720 acres of land are included in the proposed boundaries

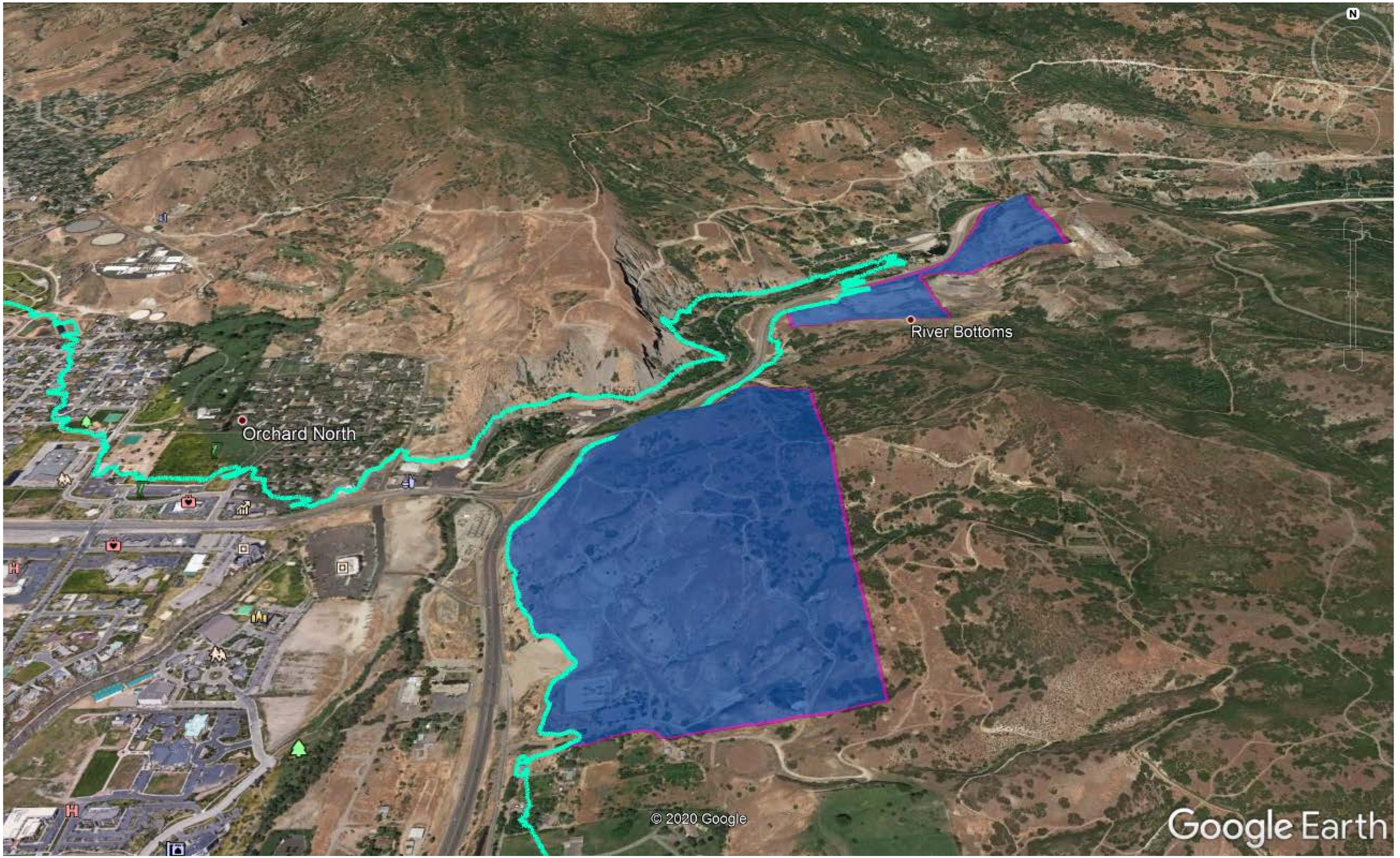


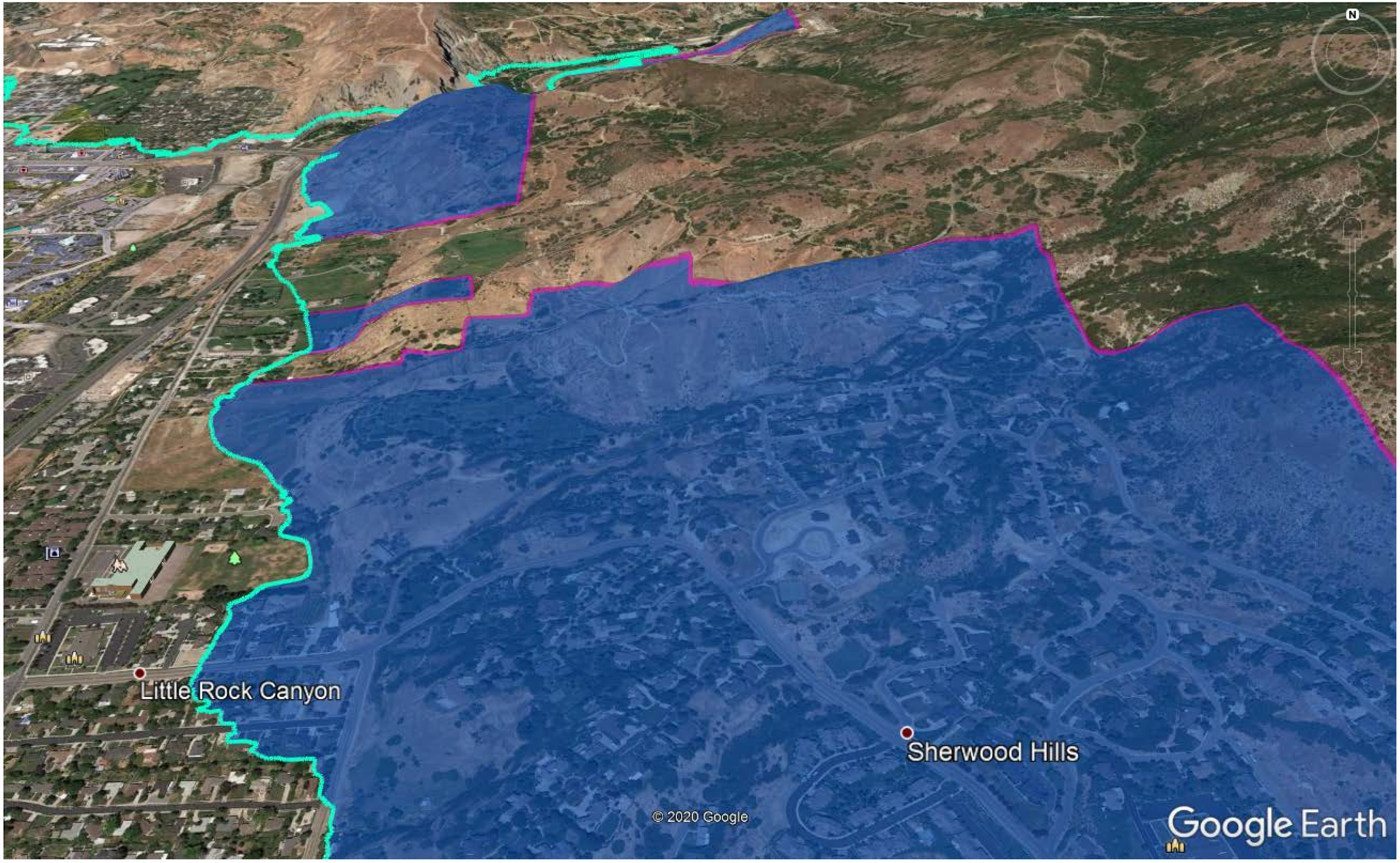
Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries

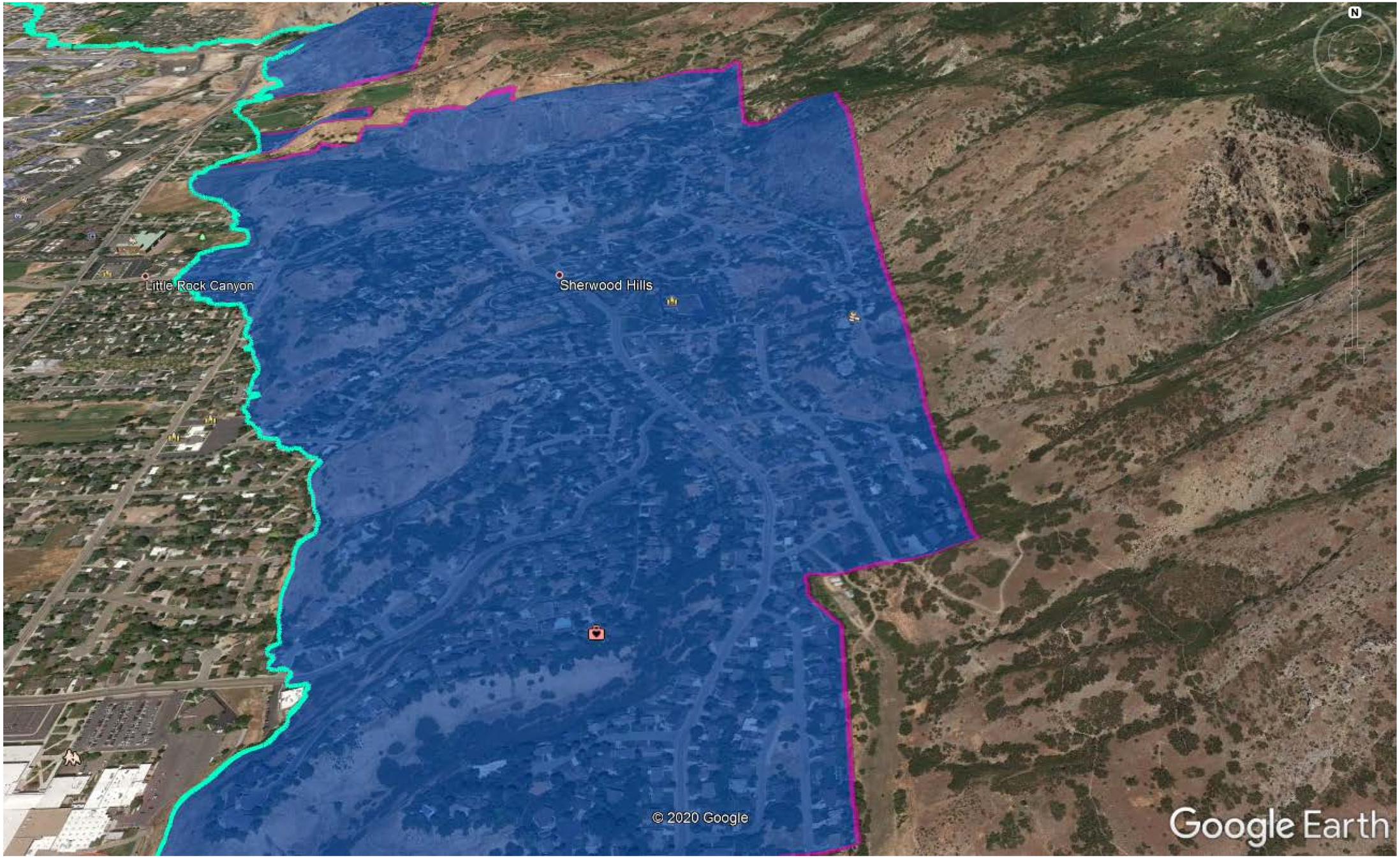

RIFLE RANGE
189
CANYON
ACCESS
ACCESS
EDGEWOOD
ACCESS
SQUAW PEAK
EAST LAWN
WINDSOR
MILE HIGH
FOOTHILL
VINTAGE
STONE
SCENIC
DEVONSHIRE
COVE
QUAIL VALLEY
RIVERWOOD
COTTONWOOD
CHEROKEE
NAVAJO
PIUTE
IROQUOIS
TIMPVIEW
300
4800
4750
4620
4500
4380
4320
4190
4200
4075
3950
3900
3700
3650
3550
3460
250
50
140
175
500
25
2950
2780
2680
2600
2620
2550
2550
850
300
2320
2300
2230
2200
2100
1000
930
Private/Public Land


Elevation 4875
(Light Green)
CH_Zone_Boundary
PAUL REAM
COUGAR
UNIVERSITY
COLUMBIA
ACCESS
FIR
BRIAR
LOCUST
PINE
OAK
SEVEN PEAKS
TERRACE
CAMPUS
INDEPENDENCE
GENEVA
CENTER
WEST
FREEDOM
I-15
UTAH
STATE
SLATE CANYON
ALPINE
COLORADO
FRONTAGE
TOWNE CENTRE
LAKEVIEW
INDUSTRIAL
EAST BAY
BULLOCK
NEVADA
OREGON
DAKOTA

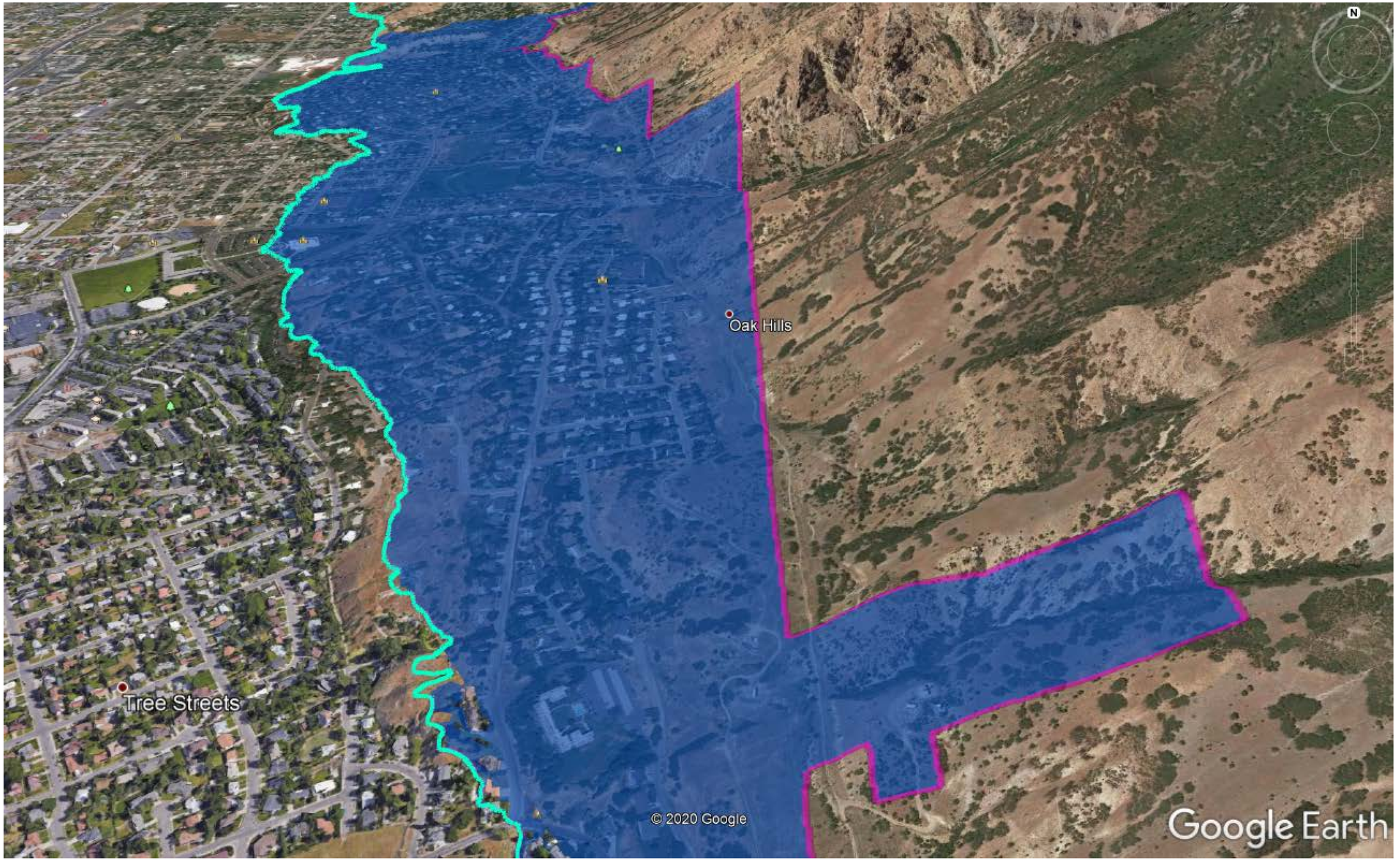

River Bottoms
© 2020 Google
Google Earth

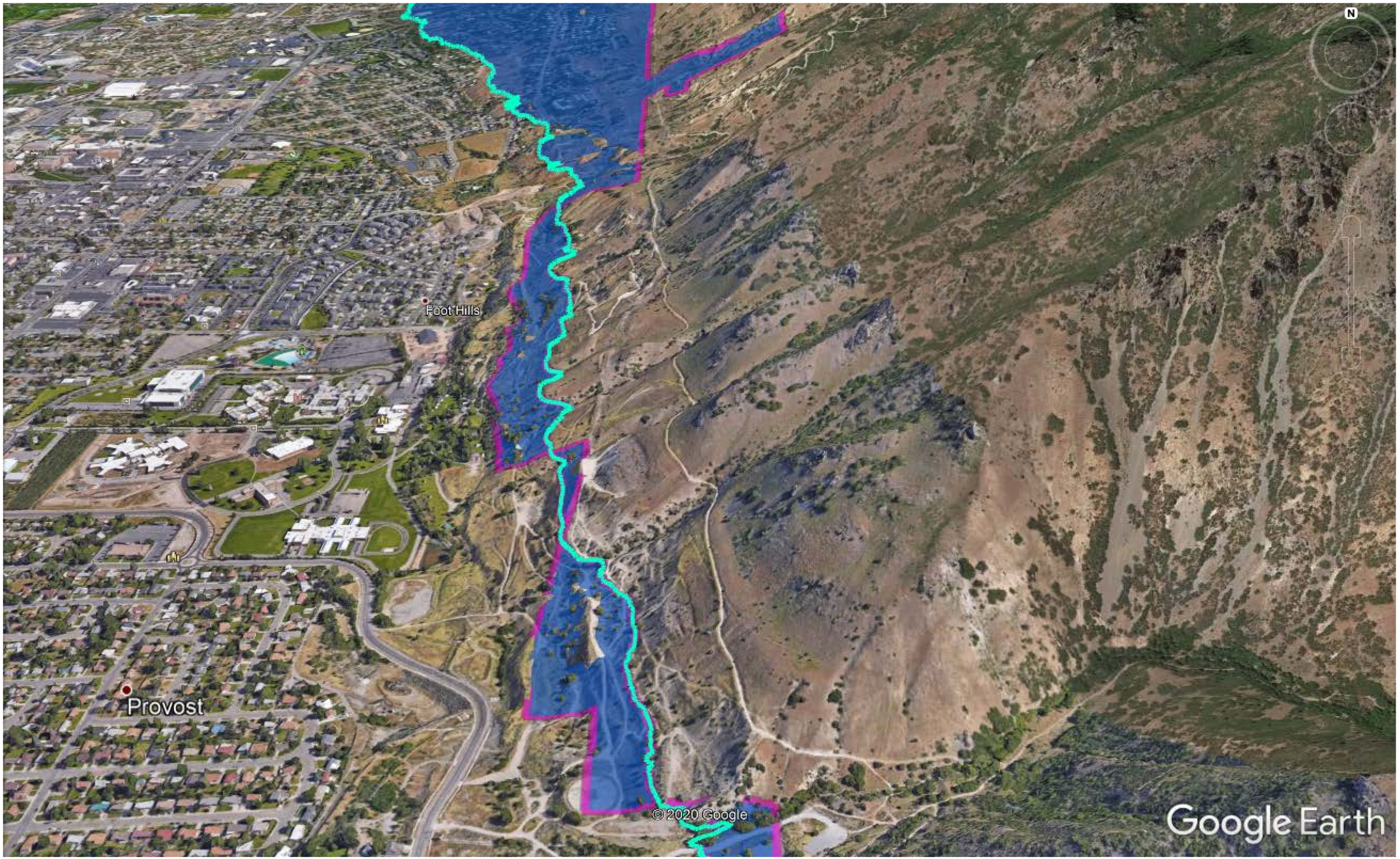

N
River Bottoms
Orchard North
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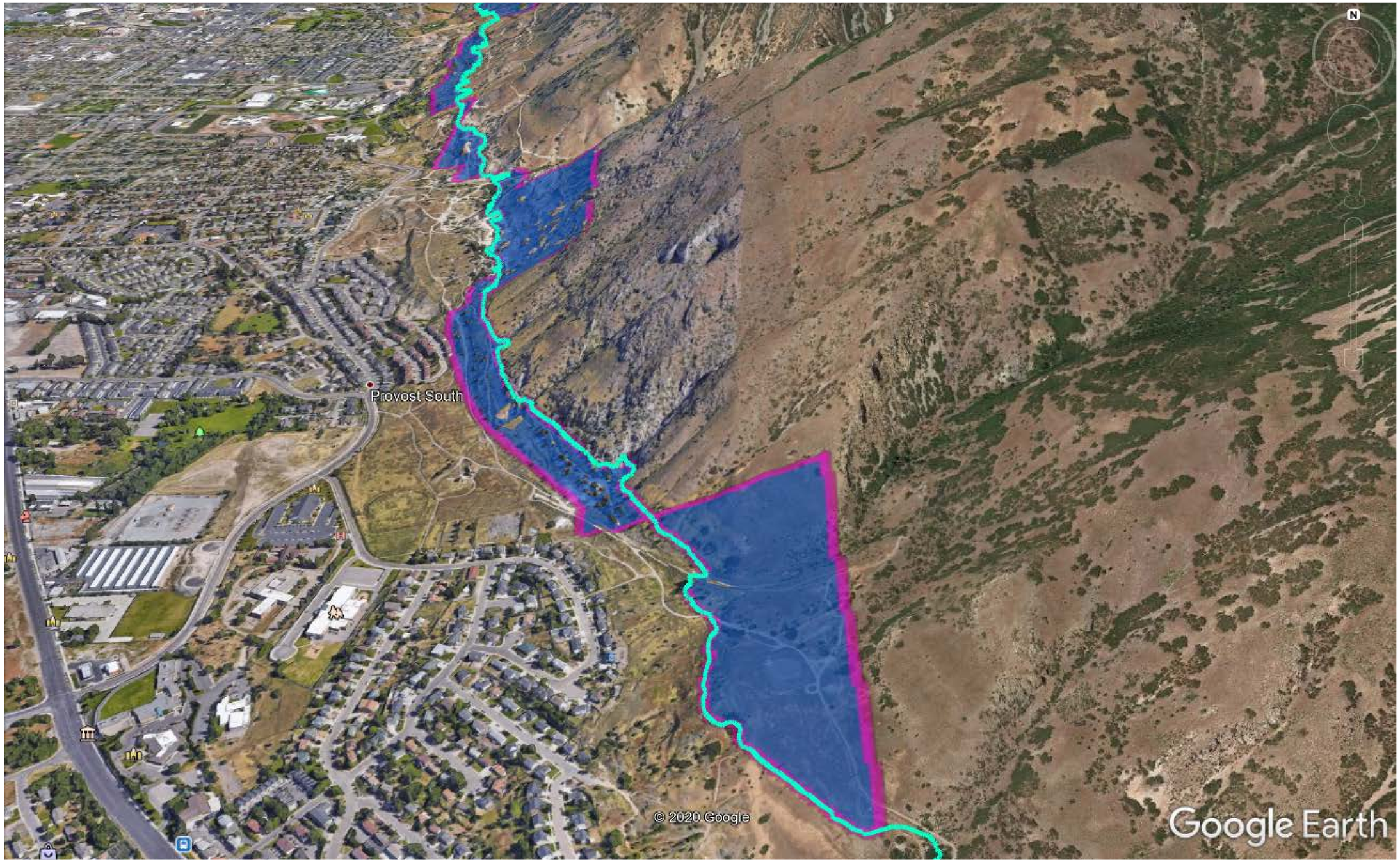

Little Rock Canyon
Sherwood Hills
© 2020 Google
Google Earth


Little Rock Canyon
Sherwood Hills
© 2020 Google
Google Earth


Indian Hills
Rock Canyon
© 2020 Google
Google Earth


N
Oak Hills
Tree Streets
© 2020 Google
Google Earth


Foot Hills
Provost
© 2020 Google
Google Earth


Provost South
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Google Earth

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: NLA
Department: Development Services
Requested Meeting Date: 01-01-2018

SUBJECT: An ordinance amending the Provo City General Plan relating to The Transportation Master Plan. Citywide application. (PLGPA20200038)

RECOMMENDATION: The Planning Commission has recommended approval (4:1) with the following modifications to the Transportation Master Plan Active Transportation:
1. 600 South should be a citywide corridor (blue) instead of a neighborhood corridor.
2. 2500 West corridor should be designated as "neighborhood" (green).
3. 2050 West/Geneva Road should be a citywide corridor (blue).
4. 1600 West should be a neighborhood corridor (green).
5. 1100 West should be a neighborhood corridor (green).
6. 1150 South should be a citywide corridor (blue) that extends to the regional park.

BACKGROUND: Continued from the meetings on March 10, 2020.

The Transportation Master Plan (TMP) is an appendix to the General Plan and provides guidance on future transportation needs within the City. The TMP provides information on current and future transportation conditions to be taken into consideration when reviewing future development projects and capital improvements.

The Public Works Department has contracted with Parametrix to revise and update the TMP, which was adopted in 2011, to reflect existing and future conditions.

They are proposing the following changes with Council approval: **RED** denotes additions to the TMP.

Provo City Transportation Master Plan 2020 Proposed Additions/Changes as of April 7, 2020

1. Add the following to page 115. 6.5 Future Transportation Studies. The Provo TMP is developed to meet the travel demand of Provo's growing population and includes modes for roadway, transit, and active transportation facilities paired with land use. Transportation master plans are regularly updated – usually every five years. During that time transportation projects are designed and constructed. In addition, transportation studies are usually developed and completed as well. These transportation studies include a variety of scope and size ranging from regional studies to signal warrant studies. Table 6.3 Future Transportation Studies includes a list of possible transportation studies between TMP updates.

Table 6.3: Future Transportation Studies

Study Name	Description	Agency
I-15 Provo North Interchange Study	This study will identify long term mobility needs with possible interchange(s) along I-15 from Provo Center Street to University Parkway.	UDOT
Provo Travel Demand Modeling Study	This study could perform travel demand modeling and alternatives for connectivity in areas of central-west, central-south, and southeast Provo (e.g. 500 North, 600 South, 900 South).	Provo
2230 North Corridor Study	This study could identify capacity and safety improvements from University Avenue to 900 East to University Parkway.	Provo
820 North Railroad Crossing Study	This study could look at delay and demand of grade separating the UTA railroad tracks and the Union Pacific Railroad tracks.	Provo

2. Add the following language on page 104 under 5.5 Major Transit Investment Corridors. Recognizing that UTA works with MAG and local government in the planning of transit, mode types, and connections, Provo City is desirous to explore transit connectivity from the Provo Intermodal Center to the Provo Airport.
3. Change the following language on page 104 under 5.5.1 Micro-mobility to 5.6 Micro-mobility.
4. Add the following language on page 104. 5.7 Previous Provo Bicycle Master Plan. The Provo Bicycle Master Plan completed in 2013 was a collaborative process that created a good bicycle plan. Much has been done to implement the concepts and projects from that plan over the past seven years. Chapter 5 – Active Transportation of the Provo City TMP 2020 includes all forms of active transportation (including bicycle, pedestrian, transit, and micro-mobility). However, the Provo Bicycle Master Plan continues to have value and will be utilized as an important reference in the implementation of Chapter 5 of the TMP.
5. Delete Project Number 2.7 on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).
6. Add Project Number 2.7a on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).
7. Add Project Number 2.7b on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).

Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040)[1]

No.	Street Name	From	To	Notes	Estimated Cost
2.1	Lakeview Parkway	1280 North	2000 North	Widen from 3-lane to 5-lane arterial	$4,079,407
2.2	Lakeview Parkway	620 North	1280 North	Widen from 2-lanes to 5-lane arterial	$1,610,335

2.3	Lakeview Parkway	Center Street	620 North	Widen from 3-lane to 5-lane arterial	$2,835,417
2.4	Lakeview Parkway	500 West	Mike Jense Parkway	Widen from 2-lanes to 5-lane arterial	$6,379,666
2.5	550 West	1720 North	1975 North	Widen from 3-lane to 5-lane collector	$1,924,707
2.6	Columbia Lane	Riverside Avenue	Grandview Lane	Widen from 3-lane to 5-lane collector	$1,606,704
~~2.7~~	~~820 North~~	~~Geneva Road~~	~~500 West~~	~~Widen from 2/3-lanes to 5-lane arterial~~	~~$70,425,548~~
2.7a	Provo River Bridge	950 West	800 West	Replace bridge and interim approaches	$12,700,000
2.7b	820 North	Geneva Road	500 West	Capacity, safety, and active transportation improvements[2]	To be determined by future studies[2]
2.8	Seven Peaks Boulevard	700 North	1000 North	New 2-lane collector	$1,215,675
2.9	1600 West	Center Street	600 South	Widen to 3-lane collector	$2,027,475
2.10	Sierra Vista Way	Mountain Vista Parkway	SR-75	New 2-lane local	$1,505,598
2.11	600 South	2470 West	Lakeview Parkway	New 3-lane collector	$2,203,885
2.12	1150 South	1600 West	2050 West	New 3-lane collector	$1,628,476
2.13	1000 South	2050 West	2500 West	New 3-lane collector	$1,475,392
2.14	Draper Lane	820 North	600 South	New 3-lane collector	$9,690,398
2.15	800 North	University Avenue	900 East	Widen from 2/3-lane to 3-lane arterial	$4,686,761
2.16	1720 North	State Street	Riverside Avenue	Widen from 2-lanes to 3-lane collector	$2,663,730
2.17	500 North	900 West	700 East	Widen from 2-lanes to 3-lane minor arterial	$12,662,123
2.18	200 North	500 West	University Avenue	Widen from 2-lanes to 3-lane	$2,453,696

				collector	
2.19	1700 North	Sandhill Road	Geneva Road	New 3-lane collector	$8,542,304
2.20	1680 North	Lakeview Parkway	Geneva Road	New 3-lane minor arterial	2,950,485
Total Phase 2 Cost					**$84,842,234**

[1]All projects require the expenditure approval of the Provo City Council before moving to Phase 1 (2018-2024).
[2]Defined by future studies.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Shane Winters

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLGPA20200038

provo
COMMUNITY AND
NEIGHBORHOOD SERVICES

Planning Commission Hearing
Staff Report
Hearing Date: February 26, 2020

***ITEM #3** The Public Works Department requests a General Plan Amendment for adoption of the 2020 Transportation Master Plan. Citywide application. Robert Mills (801) 852-6407 rmills@provo.org PLGPA20200038

Applicant: Provo City Public Works Department

Staff Coordinator: Robert Mills

***Council Action Required**: Yes

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is March 11, 2020 at 6:00 PM.*

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

Relevant History: The Public Works Department has contracted with Parametrix to revise the current Transportation Master Plan (TMP) for Provo City. The proposed TMP has been reviewed by the Transportation and Mobility Advisory Committee (TMAC). TMAC has made a recommendation to the City Council which is included in this report.

The TMP is an important guiding document for the future transportation needs of the City and is an appendix to the General Plan.

Neighborhood Issues: Parametrix and the Public Works Department have held two previous open houses and the final one will be held on February 20, 2020, which will be prior to the Planning Commission hearing, but after this report is sent to the Planning Commission members.

Staff Recommendation: The Public Works Department is requesting the Planning Commission forward a positive recommendation of the requested General Plan Map Amendment to the Municipal Council.

OVERVIEW

The Transportation Master Plan (TMP) is an appendix to the General Plan and provides guidance on future transportation needs within the City. The Public Works Department has contracted with Parametrix to revise and update the TMP to reflect existing and future conditions. The proposed plan is divided into seven (7) chapters and includes the following chapters.

- Chapter 1 reviews the goals, objectives, and policy statements of the previous TMP and the General Plan, and provides background information on transportation methods.
- Chapter 2 reviews the existing and modeled roadway network conditions with an assessment of levels of service given current and future inputs.
- Chapter 3 reviews safety information derived from crash statistics for vehicles, bicycles, and pedestrians.
- Chapter 4 reviews the roadway network for the City, roadway classifications, cross-sections, and bicycle facilities.
- Chapter 5 incorporates active transportation, which is a new element unique to this TMP update.
- Chapter 6 outlines the Capital Facilities Plan and lists proposed projects in two (2) phases.
- Chapter 7 highlights emerging technologies that should be addressed and planned for with future development.

FINDINGS OF FACT

1. The TMP is an appendix of the General Plan and is mandated to be included in the General Plan by state law.
2. The TMP provides information on current and future transportation conditions to be taken into consideration when reviewing future development projects and capital improvements.
3. The existing TMP was adopted in 2011.
4. TMAC has given a recommendation of approval of the proposed TMP with additional considerations noted in the attached TMAC Meeting Notes from February 11, 2020.

Analysis

Section 14.02.020(1) of the Provo City Code states the following regarding amendments to the Planning and Zoning Title and to the General Plan:

> *"Amendments shall not be made . . . except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors."*

Additionally, guidelines for consideration of an amendment are set forth in Section 14.02.020(2) of the Code and are listed below. Staff analysis is provided after the individual guidelines in **bold**.

(a) Public purpose for the amendment in question.
The amendment is an update to the TMP to help guide future transportation needs for the City.

(b) Confirmation that the public purpose is best served by the amendment in question.
The public purpose is served because the current TMP has not been updated since 2011. Current and future transportation needs have likely changed because of new development and population changes.

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

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.
No conflicts.

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

(f) Adverse impacts on adjacent land owners.
No adverse impacts are anticipated.

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

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.
No such conflict is anticipated.

RECOMMENDATION

The Public Works Department is requesting the Planning Commission forward a positive recommendation of the requested General Plan Map Amendment to the Municipal Council.

ATTACHMENTS

1. 2020 Transportation Master Plan (provided electronically)
2. February 11, 2020 TMAC Meeting Notes

Attachment 1 – 2020 Transportation Master Plan (Provided Electronically)

Attachment 2 – February 11, 2020 TMAC Meeting Notes

TMAC Notes

February 12, 2020, 12:30pm

Provo City Community and Neighborhood Services Conference Room

In Attendance:

- TMAC Members: Joy McMurray, Mitsuru Saito, Clancy Black, James Hamula
- Staff: Austin Taylor, Shane Winters, David Graves, David Day, Robert Mills
- Others: David Shipley(Municipal Council Rep) Rob Slater (representing BikeWalk Provo)

Item One

- Joy moved to select Clancy Black as chair of TMAC; Jim seconded; unanimous
- Mitsuru moved to select Joy as vice chair of TMAC; Jim seconded; unanimous

Item Two

- Austin talked about sections in city code that address the Center Street Pedestrian Mall. Section 9.30 has the bulk of the policies.
- David Graves said that there is not an alternative street suggested for drivers to take in that section of code.
- Public Works engineers conducted a count of cars driving on the Center Street Pedestrian Mall, They found an average of 23,000 cars per day. This count was taken during reconstruction of 500 W while the closest east/west crossings of 500 W were at 800 North and 300 South.
- James likes sending a general policy recommendation to City Council but also thinks that they should send something more tangible. He thinks TMAC should develop a plan that would move toward implementation.
- Joy thinks that Center Street's classification as a pedestrian mall limits east/west mobility by car.
- James thinks that they should make a recommendation for city council to order staff to study the street more to determine what to do with it.
- James suggests that the city should make small changes now to reduce automobile speed and volume and work on long-term solutions to implement Center Street Pedestrian Mall policies.
- TMAC members worked through a recommendation
- Clancy moved to send the recommendation to city council; Mitsuru seconded; unanimous.

Item Three

- Shane Winters said that Public Works has brought the Transportation Master Plan to TMAC nine times for discussion and hopes to pass it through Planning Commission and City Council soon.
- Clancy said that he has concerns that still have not been addressed.

- Shane told Clancy to send those concerns to the Planning Commission in preparation for their review.

Item Four

- Parametrix held an open house about railroad crossings for Public Works.
- Shane said the event had good attendance and presented only data—no proposals for overpasses
- Parametrix is looking at the public comment from that meeting

Item Five

- Postponed for a future meeting

Attachment: Motions made by TMAC members during the meeting which will be forwarded on to the Municipal Council.

Next meeting: Tuesday, March 10, 2020, 12:30pm, Provo City Community and Neighborhood Services Conference Room

Transportation Master Plan

The Transportation and Mobility Advisory Committee forwards a positive recommendation of the draft Transportation Master Plan. We specifically call attention to the following two items:

2200/2230 North Project

Due to the potential impact to city-wide mobility and the local neighborhood significant discussion was had regarding a proposed project on 2200/2230 North. The following key points summarize our findings:

1. This is a critical corridor for east-west mobility
2. A widening project would likely have significant impact to the existing neighborhood
3. The 2040 no-build model does not show deterioration in level of service from existing conditions.
4. Existing observed concerns relate to vehicle speed, side-street congestion (vehicles turning onto 2200/2230 North) and safety of motorists and vulnerable users.
5. University Parkway is a viable, though less convenient, alternative route.

Based on these findings TMAC determined that a project is needed but a widening project does not appear to be the ideal solution. The Transportation Master Plan was therefore updated to show the project as "Safety and Capacity Improvements". Further study will be required to determine the actual scope of improvements. We believe this is the best path forward that addresses mobility for all users in a context-sensitive way.

800/820 North

After review of the data we determined the Phase I improvements to 800 North between 500 West and University Avenue are important to mobility within the City. Phase 2 improvements to 800/820 North west of 500 West warrants further evaluation. This project is in Phase II of the plan providing time for additional study.

Center Street

Center Street warrants further consideration. TMAC has provided a separate recommendation regarding these issues.

Active Transportation

The Transportation Master Plan provides significant guidance regarding the active transportation network, recommended amenities, and proposed projects. Including this as part of the Transportation Master Plan, rather than a separate document, is an important step toward appropriately prioritizing all travel modes. The plan includes dozens of proposed improvements but there are still no reliable funding sources for these improvements. After the plan is adopted we urge the Council to prioritize identification of existing and new funding to address these needs.

Center Street

The Transportation and Mobility Advisory Committee recommends that Provo Municipal Council place renewed emphasis on policies related to downtown Center Street as a pedestrian mall. Chapter 9.30 of the Provo City Code defines the city's current and future vision for Center Street. These policies are supported by the downtown neighborhood and business community. As such, we recommend the City more aggressively pursue changes in support of these policies. We recommend the following actions:

1. Emphasize that Center Street is a destination, not a thoroughfare
2. Implement traffic calming measures to slow vehicles down as they enter and travel through the downtown Center Street area.
3. Operational changes to incentivize use of alternative routes for east-west mobility.
4. Engage in further exploration regarding the following:
    a. Overall east-west mobility in Provo, including but not limited to, the impact of future changes to 500 North and potentially a new I-15 interchange.
    b. The future design of Center Street in terms of the pedestrian environment and traffic operations.

We would like to continue this discussion and have staff update TMAC with progress and ways that the TMAC can support these efforts.

ORDINANCE 2020-.

AN ORDINANCE AMENDING THE PROVO CITY GENERAL PLAN RELATING TO THE TRANSPORTATION MASTER PLAN. CITYWIDE APPLICATION. (PLGPA20200038)

WHEREAS, it is proposed that the Provo City General Plan be amended to adopt the 2020 Transportation Master Plan; and

WHEREAS, on February 26, 2020, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 4:1; and

WHEREAS, on March 10, 2020, March 31, 2020, and April 14, 2020, 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) Provo City Code should be amended as described herein 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 General Plan is amended with the adoption of the 2020 Transportation Master Plan, which has been provided to the Municipal Council, is available to the public at Council offices, and at the time of the passage of this ordinance could be viewed in its entirety online at: https://www.provo.org/Home/ShowDocument?id=18048

PART III:

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

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

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

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

END OF ORDINANCE.

Provo City Transportation Master Plan 2020 Proposed Additions/Changes as of April 7, 2020

1. Add the following to page 115. 6.5 Future Transportation Studies. The Provo TMP is developed to meet the travel demand of Provo's growing population and includes modes for roadway, transit, and active transportation facilities paired with land use. Transportation master plans are regularly updated – usually every five years. During that time transportation projects are designed and constructed. In addition, transportation studies are usually developed and completed as well. These transportation studies include a variety of scope and size ranging from regional studies to signal warrant studies. Table 6.3 Future Transportation Studies includes a list of possible transportation studies between TMP updates.

Table 6.3: Future Transportation Studies

Study Name	Description	Agency
I-15 Provo North Interchange Study	This study will identify long term mobility needs with possible interchange(s) along I-15 from Provo Center Street to University Parkway.	UDOT
Provo Travel Demand Modeling Study	This study could perform travel demand modeling and alternatives for connectivity in areas of central-west, central-south, and southeast Provo (e.g. 500 North, 600 South, 900 South).	Provo
2230 North Corridor Study	This study could identify capacity and safety improvements from University Avenue to 900 East to University Parkway.	Provo
820 North Railroad Crossing Study	This study could look at delay and demand of grade separating the UTA railroad tracks and the Union Pacific Railroad tracks.	Provo

2. Add the following language on page 104 under 5.5 Major Transit Investment Corridors. Recognizing that UTA works with MAG and local government in the planning of transit, mode types, and connections, Provo City is desirous to explore transit connectivity from the Provo Intermodal Center to the Provo Airport.
3. Change the following language on page 104 under 5.5.1 Micro-mobility to 5.6 Micro-mobility.
4. Add the following language on page 104. 5.7 Previous Provo Bicycle Master Plan. The Provo Bicycle Master Plan completed in 2013 was a collaborative process that created a good bicycle plan. Much has been done to implement the concepts and projects from that plan over the past seven years. Chapter 5 – Active Transportation of the Provo City TMP 2020 includes all forms of active transportation (including bicycle, pedestrian, transit, and micro-mobility). However, the Provo Bicycle Master Plan continues to have value and will be utilized as an important reference in the implementation of Chapter 5 of the TMP.
5. Delete Project Number 2.7 on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).
6. Add Project Number 2.7a on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).
7. Add Project Number 2.7b on page 112 Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040).

Table 6.2: Capital Facilities Plan Phase 2 Projects (2025-2040)[1]

No.	Street Name	From	To	Notes	Estimated Cost
2.1	Lakeview Parkway	1280 North	2000 North	Widen from 3-lane to 5-lane arterial	$4,079,407
2.2	Lakeview Parkway	620 North	1280 North	Widen from 2-lanes to 5-lane arterial	$1,610,335
2.3	Lakeview Parkway	Center Street	620 North	Widen from 3-lane to 5-lane arterial	$2,835,417
2.4	Lakeview Parkway	500 West	Mike Jense Parkway	Widen from 2-lanes to 5-lane arterial	$6,379,666
2.5	550 West	1720 North	1975 North	Widen from 3-lane to 5-lane collector	$1,924,707
2.6	Columbia Lane	Riverside Avenue	Grandview Lane	Widen from 3-lane to 5-lane collector	$1,606,704
~~2.7~~	~~820 North~~	~~Geneva Road~~	~~500 West~~	~~Widen from 2/3-lanes to 5-lane arterial~~	~~$70,425,548~~
2.7a	Provo River Bridge	950 West	800 West	Replace bridge and interim approaches	$12,700,000
2.7b	820 North	Geneva Road	500 West	Capacity, safety, and active transportation improvements[2]	To be determined by future studies[2]
2.8	Seven Peaks Boulevard	700 North	1000 North	New 2-lane collector	$1,215,675
2.9	1600 West	Center Street	600 South	Widen to 3-lane collector	$2,027,475
2.10	Sierra Vista Way	Mountain Vista Parkway	SR-75	New 2-lane local	$1,505,598
2.11	600 South	2470 West	Lakeview Parkway	New 3-lane collector	$2,203,885
2.12	1150 South	1600 West	2050 West	New 3-lane collector	$1,628,476
2.13	1000 South	2050 West	2500 West	New 3-lane collector	$1,475,392
2.14	Draper Lane	820 North	600 South	New 3-lane collector	$9,690,398
2.15	800 North	University Avenue	900 East	Widen from 2/3-lane to 3-lane arterial	$4,686,761
2.16	1720 North	State Street	Riverside Avenue	Widen from 2-lanes to 3-lane collector	$2,663,730
2.17	500 North	900 West	700 East	Widen from 2-lanes to 3-lane minor arterial	$12,662,123
2.18	200 North	500 West	University Avenue	Widen from 2-lanes to 3-lane collector	$2,453,696
2.19	1700 North	Sandhill Road	Geneva Road	New 3-lane collector	$8,542,304
2.20	1680 North	Lakeview Parkway	Geneva Road	New 3-lane minor arterial	2,950,485
Total Phase 2 Cost					**$84,842,234**

[1]All projects require the expenditure approval of the Provo City Council before moving to Phase 1 (2018-2024).
[2]Defined by future studies.

Provo City Planning Commission

Report of Action

February 26, 2020

PLGPA20200038 The Public Works Department requests a General Plan Amendment for adoption of the 2020 Transportation Master Plan. Citywide application. Robert Mills (801) 852-6407 rmills@provo.org PLGPA20200038

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 26, 2020:

RECOMMEND APPROVAL

On a vote of4:1, the Planning Commission recommended that the Municipal Council approve the above noted application with the following modifications to the Transportation Master Plan Active Transportation

1. 600 South should be a citywide corridor (blue) instead of a neighborhood corridor.
2. 2500 West corridor should be designated as "neighborhood" (green).
3. 2050 West/Geneva Road should be a citywide corridor (blue).
4. 1600 West should be a neighborhood corridor (green).
5. 1100 West should be a neighborhood corridor (green).
6. 1150 South should be a citywide corridor (blue) that extends to the regional park.

Motion By: Andrew Howard
Second By: Robert Knudsen
Votes in Favor of Motion: Andrew Howard, Robert Knudsen, Maria Winden, and Lisa Jensen
Votes Opposed to Motion: Laurie Urquiaga
Maria Winden was present as Acting Chair.

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

STAFF PRESENTATION TO THE PLANNING COMMISSION

Staff provided details of the proposed Master Plan and the proposed projects within the plan. Staff detailed the addition of a new "Active Transportation" section of the plan and answered questions. Clancy Black, Transportation and Mobility Advisory Committee Chair also addressed the Planning Commission and provided recommendations for expanded areas of the active transportation network. Those suggestions were incorporated as part of the approved motion (also attached to this report).

NEIGHBORHOOD MEETING DATE

- Three Public Open Houses have been held regarding the proposed Transportation Master Plan.

NEIGHBORHOOD AND PUBLIC COMMENT

- Multiple Neighborhood Chair(s) were present or addressed the Planning Commission.
  - Becky Bogdin, Lakewood Neighborhood Chair, spoke generally in favor of the plan but also added that 1150 South should be extended as a citywide corridor for active transportation from 1600 West to the new regional park.
  - Paul Evans, Pleasant View Neighborhood Chair, provided a copy of concerns primarily focused on 2200/2230 North (attached to this report). He supports the change in specific designation from a 5-lane design to a yet-to-be-determined design to address safety and capacity.

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:

- Other comments from the public primarily focused on the desire to not expand 2200/2230 North.

APPLICANT RESPONSE

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

- The applicant responded favorably to the proposed changes to the active transportation corridors.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Ms. Urquiaga commented that she would prefer to continue the item to have more time for further discussion.
- Other members felt that sufficient discussion had occurred and were comfortable moving the item forward with the proposed recommendation and modifications.



Planning Commission Chair



Director of Community and Neighborhood Services

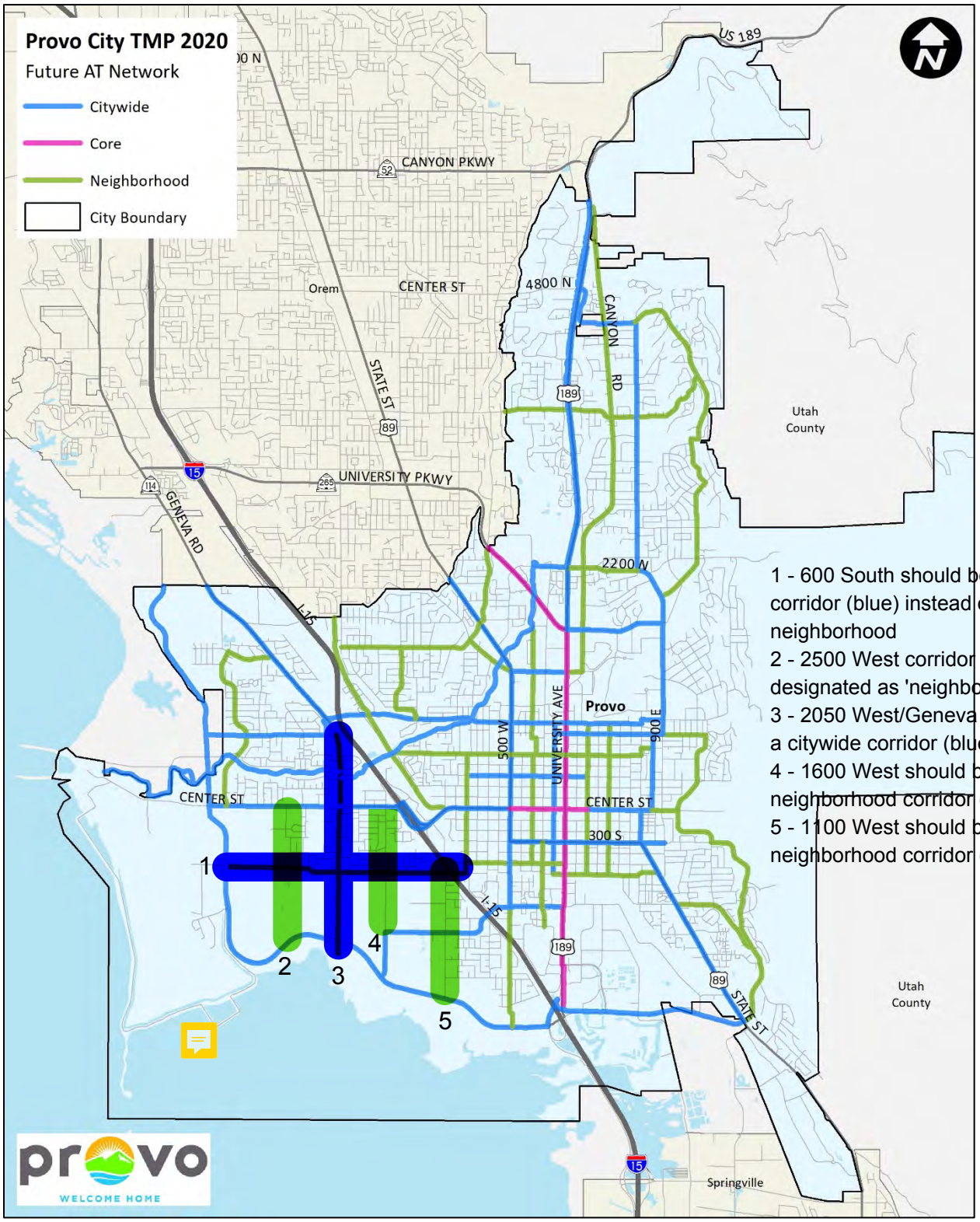
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ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

Figure 5.4: Active Transportation Combined Network



DRAFT Responses to Provo City Council Comments and Questions (March 26, 2020)
The responses to the comments and questions are shown in red.

Comments and Questions from Council Member Dave Harding from March 11, 2020

I'm sorry that I was not able to stay until the end of the discussion last night. I was able to catch pieces of it by streaming it on YouTube. I will be boarding a ship in a little bit, and communication will be spotty at best; I don't know if and when I'll be available. I heard Shane ask that we send in our concerns. So this email is for him, but it is also for the rest of you since the plan needs to be approved by the Council as a whole, and changes shouldn't be made if they don't have the support of the Council.

1. 800/820 N. I am comfortable with the compromise suggested by Wayne. I would love to use $70M transportation dollars elsewhere if it isn't needed. But I'm not convinced that something significant doesn't need to be done on the corridor. I think it would be a bad idea to take it off the plan and only put it back on once we have adequately determined that it is necessary. I appreciate the discussion that took place about the role of 820 N in east/west connectivity. I believe there is another aspect that is very important that I didn't hear discussed. What is our vision for Provo? Who are we? What do we want to be when we grow up? I see Provo as the heart of Utah County, the center of business, education, culture, entertainment. To continue in this role, we need to consider connectivity to other cities, not just connectivity within Provo. Our daytime population swell is predicted to outpace nighttime population growth. If we continue our role as the center of the County, the residential growth in the rest of the County will partially translate to daytime population growth in Provo. We need to plan for ways to bring these people in using transit: Front Runner, UVX, State Street Trax. But we probably will also need another corridor from the freeway to the City core/BYU, and 820 N is perhaps the best option. Other options could be 1460 N, 1700 N, and 2000S/2000N. All of them have problems. 820 N probably has the fewest. Leave it on the plan, but must have explicit Council approval to proceed.

The three questions asked in this paragraph are policy questions for the Provo City Council. However, in reference to the cost estimate of $70 million for the 820 North project from Geneva Road (S.R. 114) to 500 West (U.S. 89), the cost could be lowered by removing the cost of the grade separation ($27 million) over the four railroad tracks reducing the cost estimate to $43 million, consistent with the cost estimate from Mountainland Association of Governments (MAG) Regional Transportation Plan (RTP). A future study could be done to determine the need for the railroad grade separation.

2. 600 S. Take a look at the map. (Page 60) There is a gaping hole in the network at 600 S, just east of I-15. I understand the suggestion that we will look at it and will add it to the TMP at the next update if it is warranted, but I'm not satisfied with it. I really think that there needs to be a dotted line on the plan, not to designate the alignment of the connection between the two halves, but to indicate that something needs to be done to make the connection and that it will

be studied in the future. I think that if it had been on a previous plan, then the "Central Park Station Apartments" may not have been built right up to the tracks, hindering a connection. There is no simple way to connect the halves, but the longer we wait, there harder it gets as the area is redeveloped. It was suggested that "the numbers don't justify it." The same could be said for the number of people crossing I-15 at 1680/1700N, but if the connection was made, I believe people would use it. And as West Provo develops, it will become more and more important for this connection to be made. There are a lot of issues to address here. For people traveling to the intermodal hub from the west, it makes sense to stay south of the tracks. For people continuing on the east, we need to have a straight-as-possible connection to 600 S north of the tracks.

The extension of 600 South from 700 West to Freedom Boulevard north or south of the tracks is difficult at best. This policy made by Provo City dates back to 1909 when 600 South Street was vacated and given to the railroad. However, with the possibility of Utah Transit Authority (UTA) double tracking the FrontRunner tracks, planning for the extension of 600 South on the south side of the tracks does have merit. If double tracking of FrontRunner occurs, it will likely expand south of their existing tracks and therefore would have to purchase many apartments and a couple of businesses along the corridor from 700 West to Freedom Boulevard. However, a dashed blue line showing a future collector could be added now if the City Council wants it keeping in mind the many housing units would need to be purchased and demolished.

There is also no east-west connectivity of collector roadways between 600/900 South to Lakeview Parkway and State Street and Industrial Parkway. The reason for this the old landfill and the two railroad yards.

3. Draper Lane. If I had the time, I would compare the current CIP with last year's CIP (which I inadvertently reviewed) to see if the south end of Draper Lane appears different. But, as of last year, the CIP project showed Draper Lane connecting directly into 600 S. I believe it was a $2.5M project that I couldn't see how it would improve connectivity. It would still have turns and corners and only decreased the distance of the connection that is already there by a little bit. I couldn't see how this justified the cost and the loss of existing housing. When I look at the TMP, it appears to me that the dotted line ends at 700 S. If this is the case, then I don't have any concerns. If the plan is to punch the road through the existing block, then I will need some convincing before I can support it.

The old plan for Draper Lane shows it staying along the railroad tracks going through one existing business and a high-density residential development (below left). The new plan propose is to keep the current alignment of Draper Lane/1100 West and the existing connection to 900 West and 600 South (below right).

Figure 1: Draper Lane Connection Old Plan



Figure 2: Draper Lane Connection New Plan



4. Bicycle Master Plan. When I was on the TMAC, the Council followed our recommendation that the full Bicycle Master Plan be abridged as Chapter 11 in the TMP and that the full BMP be included by reference. I fear that if we don't include a reference to the BMP in the current TMP, then it will become lost and forgotten. There are a lot of important aspects to the BMP that aren't in the proposed TMP. Some aspects may be obsolete now, and it is clear that the proposed TMP will supersede the BMP, but I still think the BMP has a lot to offer and should be included by reference.

The Bicycle Master Plan (BMP) was developed seven years ago. Along with several changes to the baseline condition, there is also new guidance for the development of these plans and facilities both nationally and from the state. Since the development of Provo's BMP, the new trend is to develop active transportations plans that are more inclusive. The Active transportation chapter of the TMP replaces the BMP. Inconsistencies between the new plans and the old would confuse the residents and priorities of the city and make implementation more difficult. However, we recognize the effort and collaboration in developing the BMP and we will continue to use the BMP as a reference. This TMP has two project lists for Phase 1 and Phase 2 along with potential projects that can be done with the needed roadway improvements.

5. Transit. I do feel like this area was a little weak overall. I see why it might be hard to add now, but I would love to see the plan contemplate a transit connection between the intermodal hub and the airport. As the airport expands, it only makes sense to complete the connection for passengers who don't want to park at the airport when they travel. I also think the best way to increase the daytime population that comes to Provo without a car is to build a rail line across the lake and not a road. The rail line should connect at the intermodal hub after passing the airport.

Transit planning is mostly done by UTA in coordination with MAG and local government. A transit connection to the airport was outside the scope of this study. Provo City can work with MAG and UTA on identifying key projects and incorporating those into the next TMP. In the meantime, as we work on revisions to the General Plan, transit related policies could be adopted in the revised General Plan.

Provo is currently home to two major transit investment corridors, FrontRunner (commuter rail) and UVX (bus rapid transit). In the future these major investment corridors will be complimented by additional infrastructure, culminating in a robust multi-modal transportation system. TransPlan50 is the draft regional transportation plan for urbanized Utah County, produced by MAG. The plan consists of a coordinated system of capital-intensive roadway projects, transit improvements, and pedestrian/bicycle facilities programs over the next thirty years. TransPlan50 includes several projects with significant impacts to Provo, including FrontRunner improvements, light rail, bus rapid transit, and core bus routes. Table 1 documents the projects with direct impacts to Provo City.

Table 1: TransPlan50 Transit Projects in Provo

MAG ID	Project Name	Need Phase	Fund Phase	Cost
1	North Commuter Rail Intermittent Double Track	1	2	$113M
2	South Commuter Rail - Payson to Provo	1	1	$252M
5	State Street Bus Rapid Transit - State Street; Provo to American Fork	1	1	$313M
7	Maple Core Bus Route - Spanish Fork to Provo	1	1	$39M
8	Nebo Core Bus Route - Payson to Provo	1	2	$69M
11	North Commuter Rail Electrification and Double Track - Provo to Salt Lake County	2	Unfunded	$689M
12	Central Light Rail Line - Provo to American Fork	2	Unfunded	$1.1B
13	South Light Rail Line - Spanish Fork to Provo	3	Unfunded	834M

6. Focus. I only caught part of the discussion regarding the auto-centric focus of the plan. I do feel like this plan is substantially better than the last plan in this regard. But I agree that it still has a strong auto-centric bias. For example, figure 4.12, on page 70, along with the descriptive text, talks about mobility, and it is clear that by mobility, it is only referring to automobile mobility. "Access" often increases the attractiveness of a road to pedestrians and bicycle

commuters, thereby increasing the mobility of these modes. I don't know what can be done about the auto-centric focus at this point. I just wanted to mention that I also noticed it.

We concur that it is time for a comprehensive General Plan update and that would be the place to address the underlying philosophy of transportation planning to be less auto-centric.

Comments and Questions from Council Member Bill Fillmore from March 12, 2020
Shane, I greatly appreciate your helpful information (and patience) Tuesday night with respect to the City's latest hot topic – the 820 North corridor. Short of a full five-lane corridor from Geneva Road to University Avenue, I would appreciate your thoughts on the viability of a more modest improvement (either temporary or long-term) to 820 North with the following features, which could avoid much of the painful impact on the residents:

The 820 North corridor is without a doubt an important east-west connection. Many people at Tuesday night's meeting called for better east-west connectivity even though they did not want 820 North widened to five lanes. The incremental approach for 820 North would be the following:

- Acquire property to construct new bridge at the Provo River and construct the new bridge.
- Develop a consistent three lane cross-section from Geneva Road to the FrontRunner railroad tracks (west set of tracks).
- Remove parking, remove center turn lane, and acquire property as needed for possible widening to four lane cross-section.
- Acquire property for widening to five lane cross-section and include multi use path along corridor.

Therefore, Provo City Engineering is proposing to divide the 820 North project in Phase 2 (2025-2040) of the Capital Facilities Plan into the three projects as follows:

- Replace and widen the Provo River bridge and both roadway approaches to flatten the curve.
- Widen 820 North to a five lane cross-section and include multi use path along corridor.
- Construct railroad grade separation for the four sets of railroad tracks on 820 North.

1. Eliminate street parking and create a uniform three-lane roadway with a center-left turn lane (including the bridge on-street expansion).

Other than widening the bridge and the section from Geneva Road to the FrontRunner railroad tracks (west set of tracks) on 820 North is already at a consistent three lane cross-section. Therefore, widening 820 North from Geneva Road to the railroad tracks from a two lanes cross-section to a three lane cross-section is needed in the short term while we wait for further information coming from UDOT's I-15 Interchange environmental impact statement.

2. Coordinate the traffic lights/technology for a smoother traffic flow (and thereby shorten the travel time for those hurrying to the hospital).

Traffic signals currently only exist on 820 North at Geneva Road and 500 West. However, Provo continues to examine signal timing on a regular basis for the best traffic mobility. This effort is also coordinated with UDOT.

3. Add bike lane and sidewalk improvements on both sides of the street for all of 820 North.

Bike lanes currently exist on both sides of 820 North from Geneva Road to 500 West. Sidewalks currently exist on both sides of 820 North from the FrontRunner railroad tracks to 500 West.

4. Am I right in my assumption that an enhanced three-lane road will allow us to avoid the pain and expense of any home purchases and any eminent domain necessity? In that regard, how many homes has MAG already purchased along that route, and what would become of them if we never widen the road beyond three lanes?

Because of the needed property to construct a new Provo River bridge and straighten the roadway, property acquisition is needed regardless of a three lane or five lane cross-section. Provo City has purchased approximately five homes along the corridor through MAG's corridor preservation funding process. Currently, the purchased homes are kept up and rented out. If the purchased homes were not used for road widening, the homes then could be used by the Provo Housing Authority for moderate income housing.

5. Can you give us a rough estimate (high-low) for what this lesser, and possibly short-term, approach would cost?

We do not have a cost estimate for that scenario.

I would also appreciate your thoughts on some other considerations:

See comment above regarding incremental approach for 820 North that includes other considerations.

6. What would it cost (high-low) to construct one or more overpasses for the school kids?

Somewhere between $1,000,000 to $2,000,000 each depending on length of the bridge and needed right of way acquisition.

7. Can you give us a rough estimate (high-low) for what an overpass over the railroad tracks might cost?

Somewhere between $27 to $35 million.

8. Can you also give us a rough estimate (high-low) for the possible freeway interchange?

A typical single point urban interchange would be somewhere between $50 to $60 million. However, an interchange at 820 North would be much more expensive due to the closeness of Geneva Road, the four sets of railroad tracks, and the elevation of the ramps. Depending on the

preferred alternative identified in UDOT's environmental impact statement, an interchange between Center Street and University Parkway could be significantly higher than $50 to $60 million.

9. What do we know about the possibility of bringing BRT (or other buses) down 820 North? In that regard, what do you think about a "park and ride" lot off the freeway to the West, to work in conjunction with bus routes from Geneva Road to the hospital, University Avenue, etc.?

UTA has no plans for BRT or other buses on 820 North. Without an interchange and bus service, a park and ride lot would not be feasible. The General Plan update would be a good time to address the issue of transit policy and priorities.

10. What is the current thinking on improving Geneva Road, particularly with the new LDS Temple coming in there?

Geneva Road was already scheduled (MAG's RTP 2019-2030) to be widened to five lanes from Center Street to Lakeview Parkway (2000 North) for $71.2 million. Geneva Road is a state facility (S.R. 114).

11. Has any thought been given to asking Provo School District to alter the school drop-off and/or pick-up times to avoid rush hour traffic?

No there has not.

12. I can't see how this might be feasible, but has any consideration been given to turning 820 North into a one-way street? Obviously, that will only work if there was a nearby alternative to convert to another one-way street going in the opposite direction. Probably wishful thinking.

Due to a lack of close parallel roadways, no consideration to turning 820 North into a one-way street has been discussed.

13. What are the possibilities for spreading the traffic load among other east-west streets, such as 600 South, 500 North, 1460 North, 1700/1740 North and 2000 North?

UDOT is will be moving forward with an environmental impact statement this year to identify options for an interchange or collector distributer system between Provo Center Street and University Parkway and its traffic impact on city streets neighboring I-15.

14. Are we totally committed, in any event, to creating a middle-left turn lane with traffic light on 800 North and 500 West, in order to assist people driving East with easier and faster access to the hospital?

There is currently a center turn lane on 820 North from Independence Avenue to 500 West. The eastbound and westbound movements on 820 both have left turn lanes, right turn lanes, and thru lanes. However, the 820 North/500 West intersection is under construction with the

improvement of U.S. 89. Once construction is completed, signal timing will need to be reviewed and modified for any improvements in signal timing and/or phasing.

15. Some residents have expressed concern with respect to the poor street lighting on 820 North. What are your thoughts/plans on that?

If there are existing concerns with street lighting on 820 North, Provo City Energy and Provo City Public Works should be contacted to review the areas of concern. However, if the 820 North corridor is widened, consistent street lighting would be included in the project at part of the design.

Comments and Questions from Council Member George Handley from March 17, 2020

I wanted to give some thoughts to you about the TMP as a follow up to our meeting last week. I apologize if my comments in the meeting didn't communicate my appreciation for your hard work. I don't pretend to know all of the ramifications of the TMP and the issues that you have tried to confront in writing it, but perhaps my general comments are helpful.

I explained in the meeting my feelings about transportation, so allow me to just reiterate that the general feeling I had reading the TMP was that the active transportation chapter didn't seem as well integrated into the specific plans that were laid out in the remaining chapters. I acknowledge that one of the problems you faced in preparing this was the absence of more clear guidelines from the General Plan, and ideally I would like to table the TMP until we revisit the GP. We are in serious deliberation right now about possibly hiring an outside consultant to help us create a new GP as soon as possible, but even with an accelerated plan that includes outside help, that would likely mean at least a year delay. My thought is that I would like to see some guidelines in the GP that are more specific in terms of goals as they pertain to vehicle miles traveled. In other words, I would love to see a TMP that responds to specific calls for ambitious reorganizing of our transportation infrastructure in our GP so that twenty years from now we can see significant reductions in our dependence on the automobile, even as we are growing as a city. Obviously the overall vehicle miles might still be creeping upward but hopefully in a smaller and smaller proportion to the overall population. In other words, maybe we would need a per capita goal. I don't know what the ideal scenario would be but it seemed to be as we talked that if the city has a stronger set of priorities for improving air quality, including some goals about how our city design, infrastructure, and incentives should help to reduce dependence on cars, the TMP can reflect those ambitions more clearly.

Provo City has already adopted a few segments of the TMP including six new cross-sections with its accompanying eight bicycle infrastructure types, and four median infrastructure types, and the Impact Fee Facilities Plan (IFFP), which is basically Phase 1 of the Capital Facilities Plan listed in Chapter 6. Provo City Engineering is not comfortable delaying the TMP adoption. However, the Administration is committed to working through the General Plan process with

the Council and residents to review city policy on overall transportation strategies that may help resolve the conflicts you mentioned in the next TMP.

So I guess the question is what to do in the meantime? I would welcome your thoughts on that, but I rather like the idea of changing the language more aggressively. Instead of just saying "improve capacity and safety," we might consider goal-oriented language like "Improve east-west mobility, Maintain the neighborhood character, and Improve active transportation facilities." Clancy Black shared with me some language options for each of the more controversial options that seemed preferable to me. Those are obviously competing goals in some ways but if we at least for now identify the competing concerns and we identify in the TMP the goal to reduce, whenever possible, the average vehicle miles or even overall vehicle miles for the city, then at least we have some incentives in the TMP that can be called upon as we get closer to decision-making. My concern is that if we leave it as is, the assumption is that widening streets is always the default option when, in my view, it should be a last resort after we have explored and exhausted alternatives. Can we put language in there that acknowledges that widening roads is very expensive, and perhaps unsustainable financially over the long term, and that we should be very conservative about jumping to that option? I liked the guidelines in 6.4 but there doesn't seem to be a requirement that context specific solutions be produced in each and every case. Those would be my preferences.

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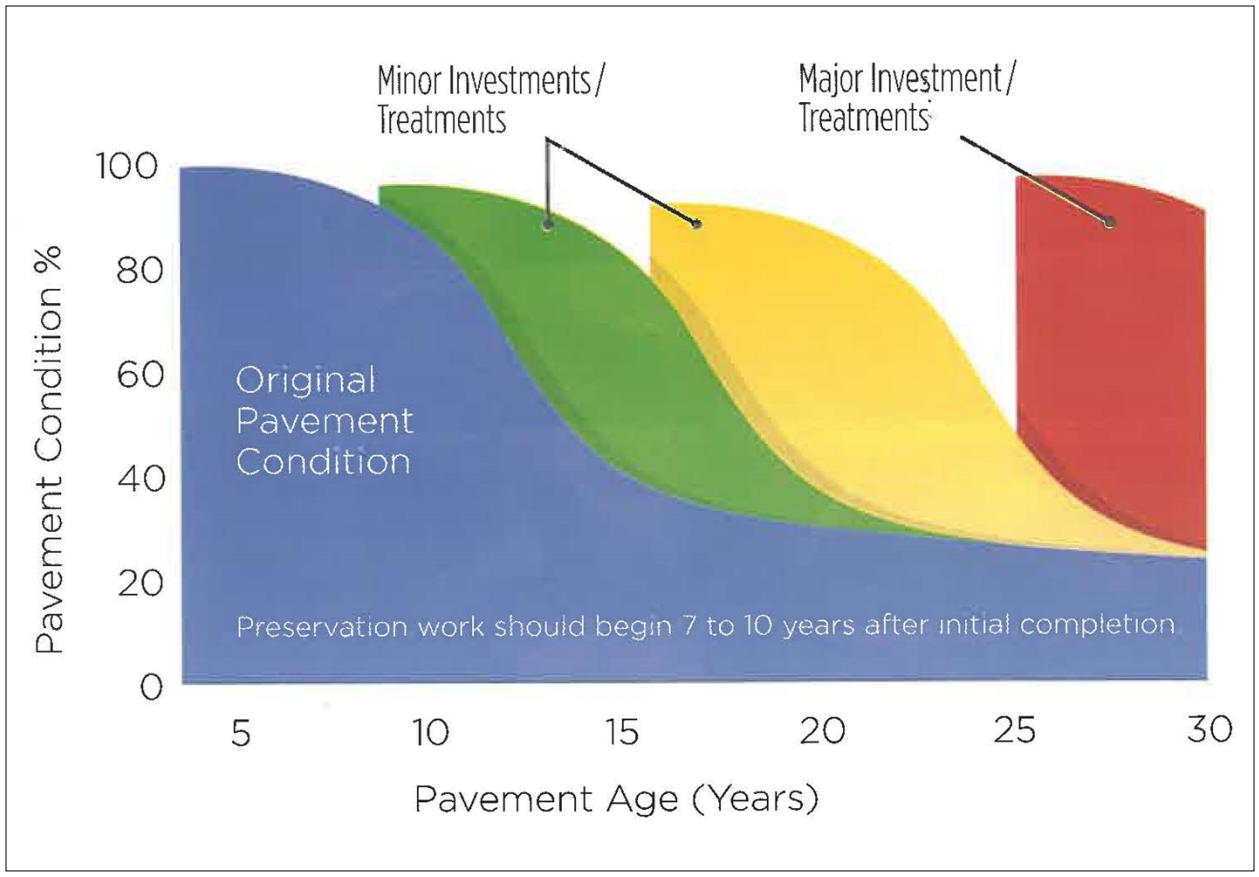
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uncomfortable with the assumption that widened streets should be the default option moving forward about what the city will want or need. I am not seeing an aggressive plan to reduce our dependency on the automobile moving forward and I recognize that this hasn't been a part of our General Plan but it is certainly something that I think we cannot neglect if we want to plan responsibly for the future. Moreover, I think if we are assuming automobiles pay for the construction of streets, what pays for their long-term maintenance? Maybe I am missing something here and would like to understand this better, but everything I have read on the topic seems to indicate that streets have no long-term financial viability. They drain our coffers over time. Now, of course I recognize that we need alternatives to increasing the amount of concrete that we then have to maintain. I would like to figure out what those might be.

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Figure 3



Comments and Questions from Council Member Travis Hoban from March 24, 2020

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DRAFT Responses to Provo City Council Comments and Questions (March 26, 2020)
The responses to the comments and questions are shown in red.

Comments and Questions from Council Member Dave Harding from March 11, 2020

I'm sorry that I was not able to stay until the end of the discussion last night. I was able to catch pieces of it by streaming it on YouTube. I will be boarding a ship in a little bit, and communication will be spotty at best; I don't know if and when I'll be available. I heard Shane ask that we send in our concerns. So this email is for him, but it is also for the rest of you since the plan needs to be approved by the Council as a whole, and changes shouldn't be made if they don't have the support of the Council.

1. 800/820 N. I am comfortable with the compromise suggested by Wayne. I would love to use $70M transportation dollars elsewhere if it isn't needed. But I'm not convinced that something significant doesn't need to be done on the corridor. I think it would be a bad idea to take it off the plan and only put it back on once we have adequately determined that it is necessary. I appreciate the discussion that took place about the role of 820 N in east/west connectivity. I believe there is another aspect that is very important that I didn't hear discussed. What is our vision for Provo? Who are we? What do we want to be when we grow up? I see Provo as the heart of Utah County, the center of business, education, culture, entertainment. To continue in this role, we need to consider connectivity to other cities, not just connectivity within Provo. Our daytime population swell is predicted to outpace nighttime population growth. If we continue our role as the center of the County, the residential growth in the rest of the County will partially translate to daytime population growth in Provo. We need to plan for ways to bring these people in using transit: Front Runner, UVX, State Street Trax. But we probably will also need another corridor from the freeway to the City core/BYU, and 820 N is perhaps the best option. Other options could be 1460 N, 1700 N, and 2000S/2000N. All of them have problems. 820 N probably has the fewest. Leave it on the plan, but must have explicit Council approval to proceed.

The three questions asked in this paragraph are policy questions for the Provo City Council. However, in reference to the cost estimate of $70 million for the 820 North project from Geneva Road (S.R. 114) to 500 West (U.S. 89), the cost could be lowered by removing the cost of the grade separation ($27 million) over the four railroad tracks reducing the cost estimate to $43 million, consistent with the cost estimate from Mountainland Association of Governments (MAG) Regional Transportation Plan (RTP). A future study could be done to determine the need for the railroad grade separation.

2. 600 S. Take a look at the map. (Page 60) There is a gaping hole in the network at 600 S, just east of I-15. I understand the suggestion that we will look at it and will add it to the TMP at the next update if it is warranted, but I'm not satisfied with it. I really think that there needs to be a dotted line on the plan, not to designate the alignment of the connection between the two halves, but to indicate that something needs to be done to make the connection and that it will

be studied in the future. I think that if it had been on a previous plan, then the "Central Park Station Apartments" may not have been built right up to the tracks, hindering a connection. There is no simple way to connect the halves, but the longer we wait, there harder it gets as the area is redeveloped. It was suggested that "the numbers don't justify it." The same could be said for the number of people crossing I-15 at 1680/1700N, but if the connection was made, I believe people would use it. And as West Provo develops, it will become more and more important for this connection to be made. There are a lot of issues to address here. For people traveling to the intermodal hub from the west, it makes sense to stay south of the tracks. For people continuing on the east, we need to have a straight-as-possible connection to 600 S north of the tracks.

The extension of 600 South from 700 West to Freedom Boulevard north or south of the tracks is difficult at best. This policy made by Provo City dates back to 1909 when 600 South Street was vacated and given to the railroad. However, with the possibility of Utah Transit Authority (UTA) double tracking the FrontRunner tracks, planning for the extension of 600 South on the south side of the tracks does have merit. If double tracking of FrontRunner occurs, it will likely expand south of their existing tracks and therefore would have to purchase many apartments and a couple of businesses along the corridor from 700 West to Freedom Boulevard. However, a dashed blue line showing a future collector could be added now if the City Council wants it keeping in mind the many housing units would need to be purchased and demolished.

There is also no east-west connectivity of collector roadways between 600/900 South to Lakeview Parkway and State Street and Industrial Parkway. The reason for this the old landfill and the two railroad yards.

3. Draper Lane. If I had the time, I would compare the current CIP with last year's CIP (which I inadvertently reviewed) to see if the south end of Draper Lane appears different. But, as of last year, the CIP project showed Draper Lane connecting directly into 600 S. I believe it was a $2.5M project that I couldn't see how it would improve connectivity. It would still have turns and corners and only decreased the distance of the connection that is already there by a little bit. I couldn't see how this justified the cost and the loss of existing housing. When I look at the TMP, it appears to me that the dotted line ends at 700 S. If this is the case, then I don't have any concerns. If the plan is to punch the road through the existing block, then I will need some convincing before I can support it.

The old plan for Draper Lane shows it staying along the railroad tracks going through one existing business and a high-density residential development (below left). The new plan propose is to keep the current alignment of Draper Lane/1100 West and the existing connection to 900 West and 600 South (below right).

Figure 1: Draper Lane Connection Old Plan



Figure 2: Draper Lane Connection New Plan



4. Bicycle Master Plan. When I was on the TMAC, the Council followed our recommendation that the full Bicycle Master Plan be abridged as Chapter 11 in the TMP and that the full BMP be included by reference. I fear that if we don't include a reference to the BMP in the current TMP, then it will become lost and forgotten. There are a lot of important aspects to the BMP that aren't in the proposed TMP. Some aspects may be obsolete now, and it is clear that the proposed TMP will supersede the BMP, but I still think the BMP has a lot to offer and should be included by reference.

The Bicycle Master Plan (BMP) was developed seven years ago. Along with several changes to the baseline condition, there is also new guidance for the development of these plans and facilities both nationally and from the state. Since the development of Provo's BMP, the new trend is to develop active transportations plans that are more inclusive. The Active transportation chapter of the TMP replaces the BMP. Inconsistencies between the new plans and the old would confuse the residents and priorities of the city and make implementation more difficult. However, we recognize the effort and collaboration in developing the BMP and we will continue to use the BMP as a reference. This TMP has two project lists for Phase 1 and Phase 2 along with potential projects that can be done with the needed roadway improvements.

5. Transit. I do feel like this area was a little weak overall. I see why it might be hard to add now, but I would love to see the plan contemplate a transit connection between the intermodal hub and the airport. As the airport expands, it only makes sense to complete the connection for passengers who don't want to park at the airport when they travel. I also think the best way to increase the daytime population that comes to Provo without a car is to build a rail line across the lake and not a road. The rail line should connect at the intermodal hub after passing the airport.

Transit planning is mostly done by UTA in coordination with MAG and local government. A transit connection to the airport was outside the scope of this study. Provo City can work with MAG and UTA on identifying key projects and incorporating those into the next TMP. In the meantime, as we work on revisions to the General Plan, transit related policies could be adopted in the revised General Plan.

Provo is currently home to two major transit investment corridors, FrontRunner (commuter rail) and UVX (bus rapid transit). In the future these major investment corridors will be complimented by additional infrastructure, culminating in a robust multi-modal transportation system. TransPlan50 is the draft regional transportation plan for urbanized Utah County, produced by MAG. The plan consists of a coordinated system of capital-intensive roadway projects, transit improvements, and pedestrian/bicycle facilities programs over the next thirty years. TransPlan50 includes several projects with significant impacts to Provo, including FrontRunner improvements, light rail, bus rapid transit, and core bus routes. Table 1 documents the projects with direct impacts to Provo City.

Table 1: TransPlan50 Transit Projects in Provo

MAG ID	Project Name	Need Phase	Fund Phase	Cost
1	North Commuter Rail Intermittent Double Track	1	2	$113M
2	South Commuter Rail - Payson to Provo	1	1	$252M
5	State Street Bus Rapid Transit - State Street; Provo to American Fork	1	1	$313M
7	Maple Core Bus Route - Spanish Fork to Provo	1	1	$39M
8	Nebo Core Bus Route - Payson to Provo	1	2	$69M
11	North Commuter Rail Electrification and Double Track - Provo to Salt Lake County	2	Unfunded	$689M
12	Central Light Rail Line - Provo to American Fork	2	Unfunded	$1.1B
13	South Light Rail Line - Spanish Fork to Provo	3	Unfunded	834M

6. Focus. I only caught part of the discussion regarding the auto-centric focus of the plan. I do feel like this plan is substantially better than the last plan in this regard. But I agree that it still has a strong auto-centric bias. For example, figure 4.12, on page 70, along with the descriptive text, talks about mobility, and it is clear that by mobility, it is only referring to automobile mobility. "Access" often increases the attractiveness of a road to pedestrians and bicycle

commuters, thereby increasing the mobility of these modes. I don't know what can be done about the auto-centric focus at this point. I just wanted to mention that I also noticed it.

We concur that it is time for a comprehensive General Plan update and that would be the place to address the underlying philosophy of transportation planning to be less auto-centric.

Comments and Questions from Council Member Bill Fillmore from March 12, 2020
Shane, I greatly appreciate your helpful information (and patience) Tuesday night with respect to the City's latest hot topic – the 820 North corridor. Short of a full five-lane corridor from Geneva Road to University Avenue, I would appreciate your thoughts on the viability of a more modest improvement (either temporary or long-term) to 820 North with the following features, which could avoid much of the painful impact on the residents:

The 820 North corridor is without a doubt an important east-west connection. Many people at Tuesday night's meeting called for better east-west connectivity even though they did not want 820 North widened to five lanes. The incremental approach for 820 North would be the following:

- Acquire property to construct new bridge at the Provo River and construct the new bridge.
- Develop a consistent three lane cross-section from Geneva Road to the FrontRunner railroad tracks (west set of tracks).
- Remove parking, remove center turn lane, and acquire property as needed for possible widening to four lane cross-section.
- Acquire property for widening to five lane cross-section and include multi use path along corridor.

Therefore, Provo City Engineering is proposing to divide the 820 North project in Phase 2 (2025-2040) of the Capital Facilities Plan into the three projects as follows:

- Replace and widen the Provo River bridge and both roadway approaches to flatten the curve.
- Widen 820 North to a five lane cross-section and include multi use path along corridor.
- Construct railroad grade separation for the four sets of railroad tracks on 820 North.

1. Eliminate street parking and create a uniform three-lane roadway with a center-left turn lane (including the bridge on-street expansion).

Other than widening the bridge and the section from Geneva Road to the FrontRunner railroad tracks (west set of tracks) on 820 North is already at a consistent three lane cross-section. Therefore, widening 820 North from Geneva Road to the railroad tracks from a two lanes cross-section to a three lane cross-section is needed in the short term while we wait for further information coming from UDOT's I-15 Interchange environmental impact statement.

2. Coordinate the traffic lights/technology for a smoother traffic flow (and thereby shorten the travel time for those hurrying to the hospital).

Traffic signals currently only exist on 820 North at Geneva Road and 500 West. However, Provo continues to examine signal timing on a regular basis for the best traffic mobility. This effort is also coordinated with UDOT.

3. Add bike lane and sidewalk improvements on both sides of the street for all of 820 North.

Bike lanes currently exist on both sides of 820 North from Geneva Road to 500 West. Sidewalks currently exist on both sides of 820 North from the FrontRunner railroad tracks to 500 West.

4. Am I right in my assumption that an enhanced three-lane road will allow us to avoid the pain and expense of any home purchases and any eminent domain necessity? In that regard, how many homes has MAG already purchased along that route, and what would become of them if we never widen the road beyond three lanes?

Because of the needed property to construct a new Provo River bridge and straighten the roadway, property acquisition is needed regardless of a three lane or five lane cross-section. Provo City has purchased approximately five homes along the corridor through MAG's corridor preservation funding process. Currently, the purchased homes are kept up and rented out. If the purchased homes were not used for road widening, the homes then could be used by the Provo Housing Authority for moderate income housing.

5. Can you give us a rough estimate (high-low) for what this lesser, and possibly short-term, approach would cost?

We do not have a cost estimate for that scenario.

I would also appreciate your thoughts on some other considerations:

See comment above regarding incremental approach for 820 North that includes other considerations.

6. What would it cost (high-low) to construct one or more overpasses for the school kids?

Somewhere between $1,000,000 to $2,000,000 each depending on length of the bridge and needed right of way acquisition.

7. Can you give us a rough estimate (high-low) for what an overpass over the railroad tracks might cost?

Somewhere between $27 to $35 million.

8. Can you also give us a rough estimate (high-low) for the possible freeway interchange?

A typical single point urban interchange would be somewhere between $50 to $60 million. However, an interchange at 820 North would be much more expensive due to the closeness of Geneva Road, the four sets of railroad tracks, and the elevation of the ramps. Depending on the

preferred alternative identified in UDOT's environmental impact statement, an interchange between Center Street and University Parkway could be significantly higher than $50 to $60 million.

9. What do we know about the possibility of bringing BRT (or other buses) down 820 North? In that regard, what do you think about a "park and ride" lot off the freeway to the West, to work in conjunction with bus routes from Geneva Road to the hospital, University Avenue, etc.?

UTA has no plans for BRT or other buses on 820 North. Without an interchange and bus service, a park and ride lot would not be feasible. The General Plan update would be a good time to address the issue of transit policy and priorities.

10. What is the current thinking on improving Geneva Road, particularly with the new LDS Temple coming in there?

Geneva Road was already scheduled (MAG's RTP 2019-2030) to be widened to five lanes from Center Street to Lakeview Parkway (2000 North) for $71.2 million. Geneva Road is a state facility (S.R. 114).

11. Has any thought been given to asking Provo School District to alter the school drop-off and/or pick-up times to avoid rush hour traffic?

No there has not.

12. I can't see how this might be feasible, but has any consideration been given to turning 820 North into a one-way street? Obviously, that will only work if there was a nearby alternative to convert to another one-way street going in the opposite direction. Probably wishful thinking.

Due to a lack of close parallel roadways, no consideration to turning 820 North into a one-way street has been discussed.

13. What are the possibilities for spreading the traffic load among other east-west streets, such as 600 South, 500 North, 1460 North, 1700/1740 North and 2000 North?

UDOT is will be moving forward with an environmental impact statement this year to identify options for an interchange or collector distributer system between Provo Center Street and University Parkway and its traffic impact on city streets neighboring I-15.

14. Are we totally committed, in any event, to creating a middle-left turn lane with traffic light on 800 North and 500 West, in order to assist people driving East with easier and faster access to the hospital?

There is currently a center turn lane on 820 North from Independence Avenue to 500 West. The eastbound and westbound movements on 820 both have left turn lanes, right turn lanes, and thru lanes. However, the 820 North/500 West intersection is under construction with the

improvement of U.S. 89. Once construction is completed, signal timing will need to be reviewed and modified for any improvements in signal timing and/or phasing.

15. Some residents have expressed concern with respect to the poor street lighting on 820 North. What are your thoughts/plans on that?

If there are existing concerns with street lighting on 820 North, Provo City Energy and Provo City Public Works should be contacted to review the areas of concern. However, if the 820 North corridor is widened, consistent street lighting would be included in the project at part of the design.

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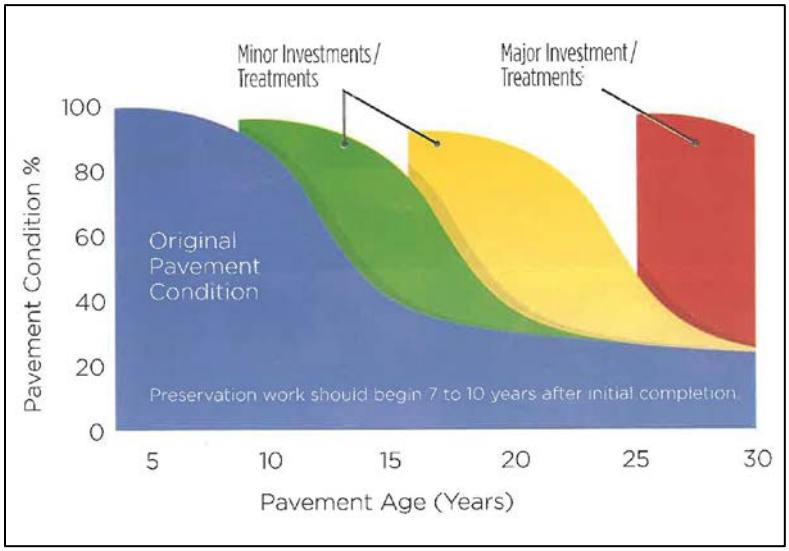
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shows 13,000 vehicles (above capacity) for 820n. That's a significant increase for 820n. I think it's important we understand the rationale for the increase in numbers and if similar changes were applied to other roads or just 820n.

We discovered an error with our base-year correction, which was isolated to the 820 North corridor. The base-year correction is developed based upon base-year model results and real traffic data to account for biases in the model. The error in the correction factor was reducing the volumes on 820 North too much. The primary impact of this is for the segment between Independence Avenue and 500 West, where the level of service (LOS) goes from C to D (grading like a report card). It is important to note that the level of service threshold for Provo is D, so in both cases this segment is at or below capacity. The two segments of 820 North that are over capacity, I-15 to Independence and 500 West to Freedom Boulevard, remain unchanged in both versions of the plan.

The Pleasant View Neighborhood is actively involved in planning for the constantly changing development of Provo City. 2230 North is a street through a one family housing area and a apartment/condominium/medium density area in the Pleasant View neighborhood. We held a neighborhood meeting last night on the proposed language for 2230 North in this 2020 Provo City Transportation Master Plan. After 8 years of meetings with the Mountainland Association of Government, Provo City, and consultants, the neighborhood is supportive of further study to consider safety and capacity. The neighborhood is earnestly opposed to the road being converted to a 5 lane street. The plan for a 5 lane development needs to be removed from the Mountainland Association of Government Transportation Improvement Plan (TIP) and the Mountainland Association of Government TransPlan50 Regional Transportation Plan. The budget of $3.2 million for a 2230 North project is based on a 5 lane road. The budget needs to be changed to "to be determined" or "TBD" until further study to consider safety and capacity.

First of all capacity. Making no changes on 2230 North, the year 2040 model shows no change in capacity needs. In the year 2000 Provo City Transportation Master Plan, the traffic count on 2230 North was over 20,000 vehicles per day. The use of 2230 North has decreased 15% over the past 20 years, not increased. There are some future changes that may impact capacity. First, the Church of Jesus Christ is building a temple in Orem commencing this summer on Geneva Road at the west end of University Parkway. It is thought that some traffic decrease on 2230 North will be seen in two years when patrons from Orem use the Geneva location. Second, BYU will be increasing enrollment by 500 students each year for the next 6 years. This will result in a 10% increase in students from roughly 32,000 to 35,000. We hope that this increased housing need will be met by the high density housing development envisioned for the south side of BYU campus. Third, BYU has announced a plan to build a 170,000 square foot Music Building on the corner of 1100 North and 900 East in the parking lot east of the J. Reuben Clark Law School and south of the Creamery on 9th. The new music building will include a 1000 seat performance hall. Parking for both the Law School and Music Building will be reduced to about 250 stalls losing over half of the current capacity. Furthermore, patrons of the Music Building will not be able to access the building from Cougar Boulevard on the west side but will be funneled to the north and south sides of BYU campus and universally routed onto 900 East. The traffic routing impacts and adjacent parking impacts on residential streets are of great concern and we look forward to continued discussion on solutions before the BYU Music Building Project Plan comes before the Planning Commission. Is this the right time to plan a UVX stop at the BYU Wilkinson Student Center on the round about or alternatively on 900 East as was once envisioned? Transportation Master Plans require master planning with federal, state, municipal, and private entities, and, may take some time but certainly incredible effort.

Second, safety. A traffic warrant study technically justifies a traffic light at the intersection of 2300 North and 2230 North. The same traffic conditions exist for the intersection of North Temple Drive and 900 East. I am not so certain about the warrant for the traffic light on University Parkway south of the Church of Jesus Christ Missionary Training Center at the east side of the intersection of the Marriott Center parking lot. Pedestrians, particularly school children, require safe passage across 2230 North in the vicinity of the intersection with 2300 North. A traffic light at that intersection would certainly increase safe passage for pedestrians. The neighborhood looks forward to working with Provo City Public Works on the planning for safety on 2230 North. There are areas that no street parking could be considered, particularly flanking the 2300 North/2230 North intersections and at elevation transition points on the road. The design of the intersection and the long term plans for 2230 North should be explored before Provo City invests in a traffic signal, an action that will preclude open considerations for the long term viability of the neighborhood and 2230 North as a tree lined residential area. We look forward to further discussion. We are willing and ready to work for a strong neighborhood and a strong Provo City. Thank you to Public Works and Parametrix for developing a Transportation Master Plan that will, overall, take us by walking, or bicycles, or scooters, or private vehicles, or autonomous vehicles and public transportation into a strong future.



WELCOME HOME

PLANNING COMMISSION

February 26, 2020

ITEM 3*

The Public Works Dept requests a General Plan Amendment for adoption of the 2020 Transportation Master Plan.

Citywide application

PLGPA20200038

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMAGNESS
Department: Council
Requested Meeting Date: 04-14-2020

SUBJECT: A discussion regarding a policy statement asking the administration to pursue alternate fuel vehicles where possible when purchasing new vehicles for the city's fleet. (20-075)

RECOMMENDATION: Discussion and approval of a budget statment

BACKGROUND: In the Work Meeting on March 31, 2020, members of the Provo Municipal Council expressed a desire to create a policy statement as part of the Budget Document "Principles of Financial Management" regarding the purchasing alternative fuel vehicles for the Provo City Fleet. The Council has adopted the following statement:

Whereas…
As the Provo City Council, we are guided by the principles of our General Plan related to our stewardship of natural resources and of our quality of life. For this reason, we believe it is our responsibility to promote policies that will specifically contribute to improved air quality in Utah Valley.

Therefore…
It is the policy of Provo City, when replacing automobiles and other fleet vehicles, to purchase electric and other alternative fuel vehicles rather than standard gasoline or diesel vehicles, where not imprudent; and for the Administration to report to the Municipal Council annually on the application of this policy.

FISCAL IMPACT: TBD

PRESENTER'S NAME: George Handley, Council Chair

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-075

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: HSALZL
Department: Council
Requested Meeting Date: 04-14-2020

SUBJECT: Ordinances amending Provo City Code regarding beer regulations to strealine it and bring it into alignment with state regulations (20-076) and amending Provo City Code regarding beer licenses and regulations to create a Class "F" license. (20-057)

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

BACKGROUND: In the Council Meeting on February 18, 2020, the Council amended Provo City Code to permit restaurants with ancillary microbreweries as a permitted use in General Downtown (DT1), Downtown Core (DT2), and Regional Shopping Center zones. The ordinance included a sunrise clause which specified that the ordinance would not take effect until the Council authorized the issuance of a beer license for such restaurants.

In the Work Meeting on March 10, the Council created the Alcohol Licensing Committee "to review current city policy regarding beer licenses, study best practices and options for regulation, recommend city policy and regulations for beer licenses to the council, and make a recommendation or an update by the 21st of April." The committee also compared Provo's beer regulations (Provo City Code 6.14 (https://provo.municipal.codes/Code/6.14.061)) against the state's and found 11 discrepancies, most of which were fairly minor (e.g., volume measurements, outdated definitions, duration of special event permits, etc.). The rule of thumb is that city codes may be more strict than the state, but not less strict.

The committee is now bringing two proposals to the Council:

1. changes to streamline Provo City Code 6.14 and bring it into alignment with state regulations on points where the two differ (such as definitions of beer and the state's more strict ratio of revenue from alcohol sales, which will be addressed in a separate ordinance)
2. the creation of a Class "F" beer license for restaurants with ancillary breweries.

The creation of the brewpub license does not introduce any greater restrictions than are currently found in city code. While additional regulation could be addressed in the future, the proposed amendment is sufficient to create a new license. Because it will

take some time staff to actually make the license available, there is very little chance that a brewpub would apply for a license before these other regulations have been reviewed by the Council. The committee will continue to meet to discuss otherpotential regulations for brewpubs and other outlets that serve alcohol.

FISCAL IMPACT: None anticipated/TBD

PRESENTER'S NAME: Brian Jones, Deputy City Attorney

REQUESTED DURATION OF PRESENTATION: 30 minutes.

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-057

ORDINANCE 2020-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING BEER LICENCES AND REGULATIONS TO STREAMLINE IT AND BRING IT INTO ALIGNMENT WITH STATE REGULATIONS. (20-076)

WHEREAS, it is proposed that Provo City Code Chapter 6.14 (Beer Licenses and Regulations) be amended to streamline the text and bring it into alignment with state regulations; and

WHEREAS, the Municipal Council's ad hoc Alcohol Licensing Committee found Provo City Code had fallen of alignment with state regulations and contained redundant language; and

WHEREAS, on April 14, 2020, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as set forth below; and (ii) such 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 set forth in Exhibit A.

PART I:

Provo City Code Chapter 6.14 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.

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

END OF ORDINANCE.

Chapter 6.14
BEER LICENSES AND REGULATIONS

Sections:

6.14.010 Definitions.
6.14.020 Sales and Consumption of Beer - License Required.
6.14.030 Class "A" Beer License.
6.14.040 Class "B" Beer License.
6.14.050 Class "C" Beer License.
6.14.060 Class "D" Beer License.
6.14.061 Class "E" Beer License.
6.14.065 Special Event Permit.
6.14.070 License Fees.
~~6.14.080 Proximity Restrictions for the Premises of Licensed Beer Retailers.~~¶
6.14.090 Beer License - Disqualifications.
6.14.100 Procedure to Obtain License.
6.14.105 Local Consent for Applications to the Utah Department of Alcoholic Beverage Control.
~~6.14.110 Permit from Utah County Health Department.~~¶
6.14.120 Bond.
6.14.130 Display of License and Fee Refunds.
6.14.140 Regulations.
6.14.150 Required Class "A" Beer Handler's Permit.
6.14.160 Beer Handler's Permit Holder Penalties.
6.14.170 Licensee Penalties.
6.14.180 Right to a Hearing.

6.14.010
Definitions.

Words and phrases used in this Chapter that are defined in Utah Code Title 32B, as amended, shall have the meanings set forth in that Title. ~~The following words and phrases used in this Chapter shall have the following meanings unless a different meaning clearly appears from the context:~~

"Beer" means all products that contain sixty-three one hundredths of one per cent (0.63%) of alcohol by volume or one-half of one percent (.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two tenths of a percent (3.2%) by weight, and are obtained by the fermentation, infusion, or decoction, or of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages, or malt coolers.

"Premises" means any separate room or building, or place therein, where beer is sold or consumed.

"Retail" means any person, firm or corporation engaged in the sale or distribution of beer to the consumer.

"Sell" or **"to sell,"** when used in this Chapter in any prohibition, shall be construed to include: to solicit or receive an order for; to keep or expose for sale; to deliver for value; to peddle; to possess with intent to sell; to traffic in; for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever, to procure or allow to be procured for any other person; and "sale" or "sold," when so used, shall include every act of selling as above defined.

"Wholesale" means any person, firm or corporation other than a brewer or retailer engaged in the importation for sale or in the sale of beer in wholesale or jobbing quantities, or to a retail seller of beer.

(Am 1994-102)

6.14.020
Sales and Consumption of Beer - License Required.

It shall be unlawful and shall constitute an offense of strict liability to sell beer without a license therefore issued by Provo City.

6.14.030
Class “A” Beer License.

A Class “A” beer license shall entitle the licensee to sell beer on the premises described in the license in original containers for consumption off the premises~~; however, it shall be unlawful for the licensee to sell or distribute beer in any container larger than a half gallon~~.

(Am 1987-46)

6.14.040
Class “B” Beer License.

A Class “B” beer license shall entitle the licensee to sell beer for consumption on the premises of a restaurant described in the license. Only bona fide restaurants~~,~~ meeting the requirements set forth in Utah Code Title 32B for a state license to sell beer and the requirements of this Chapter ~~where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations, and at which food sales constitute at least sixty (60) percent of the gross money receipts of the licensee’s restaurant business,~~ shall be entitled to a Class “B” license. ~~Neither dancing, billiards nor bowling shall be permitted on premises for which a Class “B” license has been issued.~~

(Am 1994-102)

6.14.050
Class “C” Beer License.

A Class “C” beer license shall entitle the licensee to sell beer on draft or in original containers ~~not larger than a half gallon~~ for consumption on or off the premises described in the license. No person less than twenty-one (21) years of age may enter into any premises for which a Class “C” license has been issued. ~~Billiards, bowling, sales of food, and incidental dancing for which no separate charge or admission is required are permitted in premises for which a Class “C” license has been issued.~~

6.14.060
Class “D” Beer License.

A Class “D” beer license shall entitle the licensee to sell beer at wholesale, as defined in Utah Code §32B-1-102(13), as amended.

6.14.061
Class “E” Beer License.

(1) No beer may be sold or dispensed to the public on or within any publicly owned convention facilities, publicly owned recreation facilities, or any privately owned sports arenas designed to accommodate more than five thousand (5,000) persons, except by the holder of a Class “E” retail license for such premises or by an operator, manager, food service licensee or employee of such holder. For the purpose of this chapter, “premises” shall not include separately licensed businesses operating within such facilities, which businesses may be subject to other beer and/or alcoholic beverage control requirements.

(2) A Class “E” beer license shall entitle the licensee to sell beer for consumption on publicly owned convention facilities, publicly owned recreation facilities or on privately owned sports arenas designed to accommodate more than five thousand (5,000) persons; provided, however, that no such Class “E” license shall be issued for the sale of beer for consumption on said facilities unless the prospective licensee shall first obtain a concession contract from the public body owning the facility. Under this section no beer shall be dispensed or allowed in original containers, but must first be emptied into suitable temporary containers; and no person under the age of twenty-one (21) years of age may sell or serve beer. With the exception of privately leased suites within the facility, all sales and deliveries under this section shall be made directly to the consumer.

(3) All beer or other alcoholic beverages dispensed within the facility shall be dispensed only by the license holder or its operator, manager, food service licensee or employee. No beer or other alcoholic beverage sold under this license shall be removed from inside the facility except by the license holder or its operator, manager, food service licensee or employee operating in the course of business.

(4) It is unlawful for a Class “E” licensee to sell or dispense beer in original containers or to store or allow storage of beer or other alcoholic beverages in privately leased suites of the

premises unless such dispensing facilities are securely locked and access to the contents is restricted by the licensee to persons twenty-one (21) years of age or older who have duly rented such private suites in which such dispensing facility is located.

(Enacted 2012-06)

6.14.065
Special Event Permit.

(1) A special event permit may be issued to the holder of a Class "B" beer license with respect to the premises to which the Class "B" beer license applies. A special event permit, if issued, may allow dancing by patrons, for which a fee may be charged, on the premises for which a Class "B" license has been issued.

(2) An application for a special event permit shall include the following:

(a) A non-refundable application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council;

(b) The name, address and telephone number of the applicant and the location of the premises for which a Class "B" beer license has been issued;

(c) A statement describing the time, date, location, nature and purpose of the special event for which a permit is requested;

(d) A diagram showing the location at the premises at which dancing by patrons will take place, the location at which restaurant patrons will be seated, and the location at which beer will be sold.

(3) A permit shall be valid for one (1) date only. The application therefor shall not be issued earlier than sixty (60) days before the event date nor later than ten (10) days before the event date.

(4) A special event permit, if issued, may contain conditions and limitations. It shall be unlawful to violate a condition or limitation of a special event permit.

(5) This Section shall be administered pursuant to the provisions of Chapter 6.01, Provo City Code.

(Enacted 1987-50, Am 2004-28, Am 2006-15)

6.14.070
License Fees.

(1) There shall be a non-refundable fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council, which shall be paid at the time of application for a beer license which shall be applied towards the fee for the beer license.

(2) The fee for a beer license, which shall be in addition to any other fee or charge imposed by the Provo City Code or other City ordinance, shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(Am 1997-53, Am 2006-15)

~~6.14.080~~ ¶
~~Proximity Restrictions for the Premises of Licensed Beer Retailers.~~¶

~~No beer license shall be issued to any licensee who fails to comply with the proximity requirements of Section 32B-1-202, Utah Code Annotated 1953, as amended.~~¶

~~(Am 2010-11, Am 2018-13)~~¶

6.14.090
Beer License - Disqualifications.

(1) No Class "A" or Class "B" beer license shall be issued to an applicant if within the previous twelve (12) months the owner, manager or any employee has been convicted of, plead guilty or no contest to (including pleas held in abeyance by the court), or performed the acts constituting, any criminal offense.

(2) Except as provided in Subsection (2)(b) of this Section, no Class "C" or Class "E" beer license shall be issued to an applicant if either the owner, manager or any employee has:

(a) Been convicted of, plead guilty or no contest to (including pleas held in abeyance by the court), or performed the acts constituting assault, aggravated assault, battery, mayhem, murder, manslaughter, kidnapping, aggravated kidnapping, rape, forcible sodomy, aggravated sexual assault, arson, robbery, burglary, or any other offense involving the use

of force or violence against a person. Also, prostitution, gambling, giving a false report to a police officer, the sale, delivery or transportation of an alcoholic beverage, the unlawful possession or use of controlled substances, or any act of moral turpitude.

(b) Provided, however, if the conviction of the subject person is for a misdemeanor and not a felony, or if the actions of the applicant would be considered a misdemeanor and not a felony in the event of criminal proceedings, only convictions or actions occurring within the three (3) years immediately preceding the application shall be considered disqualifying.

(3) No beer license shall be issued to an applicant if the applicant is not fully compliant with applicable federal, state, county, and Provo City regulations.

(Am 1984-54, Am 1987-46, Am 1988-53, Am 2012-06)

6.14.100
Procedure to Obtain License.

Applicants for a beer license shall submit a properly completed application form and the appropriate licensing fee to the Business License Department. The application shall be forwarded to the Chief of Police, who shall endorse thereon whether the applicant has committed one (1) or more of the disqualifying acts described above in this Chapter. In determining whether any such disqualifying act has been committed, a criminal history check of the applicant shall be completed on all applicants for Class "C" and Class "E" licenses and may, in the Chief of Police's discretion, be completed on applicants for Class "A" or Class "B" licenses, including a Utah criminal history check. A material error or omission in the information given on the application form may be the basis for disapproving an application, and no application disapproved for such reason shall be reconsidered for six (6) months. If the endorsement of the Chief of Police does not show the commission of a disqualifying act, and the issuance of the requested license is otherwise consistent with applicable law, the Licensing Clerk shall approve the application and a license shall be issued. If the endorsement of the Chief of Police shows the commission of a disqualifying act, or if the issuance of the requested license would otherwise violate applicable law, the Licensing Clerk shall disapprove the application and a license shall not be issued. Any person, including the applicant, may, within thirty (30) days of final action, request a hearing, pursuant to the provisions of Chapter 3.06, Provo City Code, to review the granting or disapproval of a license.

(Am 1999-24, Am 2012-06)

6.14.105
Local Consent for Applications to the Utah Department of Alcoholic Beverage Control.

When an applicant for a license or permit from the Alcoholic Beverage Control Commission of the Utah Department of Alcoholic Beverage Control requests written consent of the local authority, the Mayor and/or the Mayor's designee shall have authority to grant or deny such consent. Nothing in this Section gives the Mayor or the Mayor's designee authority to grant a permit or license from Provo City to sell any alcoholic beverage except as otherwise provided in this Chapter.

(Enacted 2012-11)

~~6.14.110~~ ¶
~~Permit from Utah County Health Department.~~¶

~~An applicant may be required to procure from the Utah County Health Department a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of beer complies with all health regulations of Provo City and of the State of Utah; and on recommendation of the board of health any license issued may be revoked or suspended when any reasonable order, rule or regulation of the board of health has not been complied with.~~¶

~~(Am 2002-35)~~

6.14.120
Bond.

An applicant for a beer license shall file a cash or corporate bond in the amount of one thousand dollars ($1,000.00) guaranteeing faithful performance of the provisions of this Chapter in favor of Provo City. In the event a license is revoked for a violation of the provisions of this Chapter, the bond shall be forfeited (without any showing of damage or loss) to Provo City.

(Am 2004-28)

6.14.130
Display of License and Fee Refunds.

A license issued pursuant to this Chapter shall be displayed at all times on the licensed premises in a place readily visible to the public. License fees shall not be refunded, except in the event the State of Utah denies a State license to sell beer. In such event and upon request by the applicant, any license fee paid shall be refunded except for the nonrefundable fee required by Section 6.14.070(1), Provo City Code.

(Am 2004-28, Am 2006-15, Am 2016-28)

6.14.140
Regulations.

It shall be unlawful and shall constitute an offense of strict liability to violate any of the following, any one (1) of which shall constitute a sufficient basis for revoking a beer license:

(1) Beer shall not be sold or dispensed in a dance hall.

(2) Beer shall not be sold or dispensed from any drive-up window.

~~(3) Beer shall not be sold by or to any intoxicated person or any person less than twenty-one (21) years of age.¶~~

(43) No person shall obtain a beer license who has committed one (1) or more of the disqualifying acts described in Section 6.14.090, Provo City Code.

(54) No person shall make any false or misleading statement on an application for a beer license.

(65) No person shall be employed or act as a bartender, waitress, or in any other capacity deal with the public in connection with the sale or dispensing of beer who has committed one (1) or more of the disqualifying acts described in Section 6.14.090, Provo City Code.

~~(7) No employee, including a manager, at a licensed premises shall consume or be under the influence of alcohol while on duty (including "breaks") as an employee.¶~~

(~~8~~6) No manager or employee shall, in the licensed premises, violate any provision of this Chapter, commit any criminal act, or knowingly (objective standard) cause a person to, or permit another to, commit a criminal act.

(~~9~~7) Any violation by any person, within a licensed premises, of Chapter 9.11, Provo City Code, Lewdness, Profanity, Nudity, Obscenity and Pornography, and Chapter 9.12, Provo City Code, Unlawful Sex Acts, is prohibited.

(~~10~~8) ~~Days and Hours of Sale:¶~~

~~(a)~~ No Class "A" license holder or any employee or agent of a Class "A" license holder shall sell or offer for sale beer between the hours of 1:00 a.m. and 7:00 a.m. of the same day.

~~(b) No Class "B," Class "C," Class "D" or Class "E" license holder or any employee or agent of a Class "B," Class "C," Class "D" or Class "E" license holder shall sell or offer for sale beer outside of the hours permitted for such sales under Utah Code Title 32B, as amended~~between ~~the hours of 1:00 a.m. and 10:00 a.m. of the same day. Notwithstanding the foregoing, a tavern licensed under this Chapter shall remain open for one (1) hour after the tavern ceases the sale and service of alcoholic beverages during which time a patron of the tavern may finish consuming a single serving of beer not exceeding twenty-six (26) ounces.¶~~

(~~11~~9) Neither dancing, billiards nor bowling shall be permitted on any premises for which a Class "B" license has been issued.

(1~~2~~0~~4~~) Licensed premises shall be kept brightly illuminated at all times while occupied or open for business; and no booth, blind or stall shall be maintained unless all tables, chairs and occupants, if any, therein are kept open to the full view from the main floor of such licensed premises.

(11~~3~~2) All licensed premises shall be subject to inspection by any officer, agent or peace officer of Provo City; and every licensee shall at the request of the same furnish samples of beer which the licensee shall have for sale.

(12~~4~~3) Any violation of Section 9.14.050, Provo City Code, Controlled Substances, within a licensed premises is prohibited.

(Am 1991-59, Am 1992-07, Am 1997-54, Am 2003-45, Am 2004-28, Am 2006-45, Am 2011-26, Am 2012-06)

6.14.150
Required Class "A" Beer Handler's Permit.

~~(1)~~ A licensee involved in the transaction of retail beer sales for off-premises consumption (Class "A" retail sales) shall require any and all employees involved in the transaction of retail beer sales to obtain a beer handler's permit as required in Utah County Code Title 3, as amended. ~~All employees of a licensee involved in the transaction of retail beer sales shall be required to possess and wear a beer handler's permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.~~

~~(2) New employees of a licensee shall obtain a beer handler's permit as set forth in Sections 3-2-19 and 3-2-20, Utah County Code, within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the State Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this Chapter.~~

~~(3) A licensee shall inform the Utah County Health Department of any employee possessing a beer handler's permit whose employment is terminated for conduct that would be punishable under statutes or ordinances regulating alcoholic beverages. Licensees shall permit law enforcement officers and Utah County Health Department employees to conduct random beer handler's permit compliance checks on the licensee's premises.~~

(Enacted 2004-28, Am 2012-06)

6.14.160
Beer Handler's Permit Holder Penalties.

(1) A violation of this Chapter or of any law involving the sale of an alcoholic beverage is a Class B misdemeanor unless otherwise stated in applicable law. Additionally, an employee possessing a beer handler's permit who is convicted of violating any law involving the sale of an alcoholic beverage is not only subject to the penalties associated with a Class B misdemeanor, but may incur a suspension of the employee's beer handler's permit in accordance with applicable laws.

(Enacted 2004-28, Am 2012-06)

6.14.170
Licensee Penalties.

Any violation of this Chapter by a licensee shall subject the licensee to the following penalties:

(1) Upon a first violation of this Chapter the licensee shall be issued a warning.

(2) Upon any violation of this Chapter which occurs within twenty-four (24) months of a prior violation, the licensee shall pay a civil fine of two hundred fifty dollars ($250.00).

(3) Upon any violation of this Chapter which occurs within twenty-four (24) months of two (2) prior violations, the licensee shall pay a civil fine of five hundred dollars ($500.00) and the licensee shall have its license to sell beer suspended for a period of three (3) consecutive days, on a Thursday through Saturday.

(4) Upon any violation of this Chapter which occurs within twenty-four (24) months of three (3) prior violations, the licensee shall pay a civil fine of five hundred dollars ($500.00) and the licensee shall have its license to sell beer suspended for a period of thirty (30) consecutive days. Additionally, the licensee shall be placed on probation for a period of one (1) year. Any violation of this Chapter by the licensee during the period of probation shall result in the revocation of the licensee's license to sell beer. The licensee shall not be eligible to reapply for a new license for at least six (6) months from the date of revocation.

(5) Failure to pay any fine imposed for a violation of any provision of this Chapter within thirty (30) days of the imposition of such fine, shall be grounds for revocation of the licensee's license to sell beer.

(6) Violation of any federal, state, ~~or~~ county, or Provo City regulation governing alcohol sales, shall be grounds for revocation of the licensee's license to sell beer.

(7~~6~~) Nothing in this Chapter shall limit the rights and powers of Provo City to grant, refuse to grant, or revoke a licensee's license to sell beer under this Chapter.

(Enacted 2004-28)

6.14.180
Right to a Hearing.

The licensee shall have the right to request an administrative enforcement hearing to contest the existence of any violation of Section 6.14.150, 6.14.160, or 6.14.170, Provo City Code, or the imposition of any penalty under those same sections by complying with the procedures set forth in Chapter 17.02, Provo City Code.

(Enacted 2004-28)

The Provo City Code is current through Ordinance 2019-66, passed December 10, 2019.

Disclaimer: The city recorder has the official version of the Provo City Code. Users should contact the city recorder for ordinances passed subsequent to the ordinance cited above.

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Provo City Code

Chapter 6.14 BEER LICENSES AND REGULATIONS

Sections:

6.14.010 Definitions.
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6.14.100 Procedure to Obtain License.
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6.14.180 Right to a Hearing.

6.14.010 Definitions.

The following words and phrases used in this Chapter shall have the following meanings unless a different meaning clearly appears from the context:

"Beer" means all products that contain sixty-three one hundredths of one per cent (0.63%) of alcohol by volume or one-half of one percent (.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two tenths of a percent (3.2%) by weight, and are obtained by the fermentation, infusion, or decoction, or of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages, or malt coolers.

S.B. 132 changed the definition to 5% in 2019. The full definition is:

(a) Subject to Subsection (10)(d), "beer" means a product that:
(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and
(ii) is obtained by fermentation, infusion, or decoction of malted grain.
(b) "Beer" may or may not contain hops or other vegetable products.
(c) "Beer" includes a product that:
(i) contains alcohol in the percentages described in Subsection (10)(a); and
(ii) is referred to as:
(A) beer;
(B) ale;
(C) porter;
(D) stout;
(E) lager; or
(F) a malt or malted beverage.
(d) "Beer" does not include a flavored malt beverage.

In addition to the alcohol by volume (ABV), Provo City Code's (PCC) list of definitions is not as thorough as the state's. If the Council preferred to keep the alcohol by weight definition as well, staff could find the equivalent percentages for 5% ABV. However, ABV is the more standard measurement and should be sufficient.

"Premises" means any separate room or building, or place therein, where beer is sold or consumed.

"Retail" means any person, firm or corporation engaged in the sale or distribution of beer to the consumer.

"Sell" or **"to sell,"** when used in this Chapter in any prohibition, shall be construed to include: to solicit or receive an order for; to keep or expose for sale; to deliver for value; to peddle; to possess with intent to sell; to traffic in; for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever, to procure or allow to be procured for any other person; and "sale" or "sold," when so used, shall include every act of selling as above defined.

"Wholesale" means any person, firm or corporation other than a brewer or retailer engaged in the importation for sale or in the sale of beer in wholesale or jobbing quantities, or to a retail seller of beer.

6.14.020 Sales and Consumption of Beer - License Required.

It shall be unlawful and shall constitute an offense of strict liability to sell beer without a license therefor.

6.14.030 Class "A" Beer License. (Off-premise sales – grocery and convenience stores – 32 in Provo)

A Class "A" beer license shall entitle the licensee to sell beer on the premises described in the license in original containers for consumption off the premises; however, it shall be unlawful for the licensee to sell or distribute beer in any container larger than a half gallon.

> The state requires that "An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two-liters. No kegs" (DABC Licensee Handbook: Off-Premise Beer Retailer).
>
> 2 liters = 0.52 gallons
>
> PCC approximately matches the state, but uses a different measurement. It does not mention kegs by name, anything larger than 2 liters or half a gallon would be prohibited.

6.14.040 Class "B" Beer License. (Restaurants – 25 in Provo)

A Class "B" beer license shall entitle the licensee to sell beer for consumption on the premises of a restaurant described in the license. Only bona fide restaurants, where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations, and at which food sales constitute at least sixty (60) percent of the gross money receipts of the licensee's restaurant business, shall be entitled to a Class "B" license.

> The state requirement is 70 percent (DABC Licensee Handbook: Full Service Restaurant). All three state restaurant licenses share this requirement.

Neither dancing, billiards nor bowling shall be permitted on premises for which a Class "B" license has been issued.

> The state prohibits lewd acts, attire, and sexually-oriented conduct of employees and entertainers; gambling; and illegal drugs or drug paraphernalia. Licensee handbooks do not say anything about dancing, billiards, or bowling (Ibid.).

6.14.050 Class "C" Beer License. (Bars – 6 in Provo)

A Class "C" beer license shall entitle the licensee to sell beer on draft or in original containers not larger than a half gallon for consumption on or off the premises described in the license.

> The state requirement is that:
>
> "Light beer may be served in any size container not exceeding 2 liters and on draft. Beer may be sold to an individual patron only in a container that does not exceed one liter. A pitcher (larger than one liter and up to two liters) may only be sold to parties of two or more. Beer may be sold to go in sealed containers" (DABC Bar Establishment Liquor License Summary).
>
> 1 liter = 0.26 gallons or 2.11 pints
>
> 2 liters = 0.52 gallons
>
> PCC approximately matches the state on the half gallon limit, but it does not specify the 1-liter limit for individuals. In this case, the stricter rule (the state's) would still need to be met.

No person less than twenty-one (21) years of age may enter into a premises for which a Class "C" license has been issued. Billiards, bowling, sales of food, and incidental dancing for which no separate charge or admission is required are permitted in premises for which a Class "C" license has been issued.

> The state prohibits lewd acts, attire, and sexually-oriented conduct of employees and entertainers; gambling; and illegal drugs or drug paraphernalia. The license summary (handbook equivalent) does not say anything about dancing, billiards, or bowling (Ibid.).

6.14.060 Class "D" Beer License. (Wholesale – 0 in Provo)

A Class "D" beer license shall entitle the licensee to sell beer at wholesale.

6.14.061 Class "E" Beer License. (Convention Center – 1 in Provo)

> At a state level, the Utah Valley Convention Center has a banquet catering license, which "allows the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for contracted (not open to the general public) banquet activities on the premises of a hotel, resort facility, sports center, or convention center" (DABC On-Premise Banquet License Summary).

(1) No beer may be sold or dispensed to the public on or within any publicly owned convention facilities, publicly owned recreation facilities, or any privately owned sports arenas designed to accommodate more than five thousand (5,000) persons, except by the holder of a Class "E" retail license for such premises or by an operator, manager, food service licensee or employee of such holder. For the purpose of this chapter, "premises" shall not include separately licensed businesses operating within such facilities which businesses may be subject to other beer and/or alcoholic beverage control requirements.

(2) A Class "E" beer license shall entitle the licensee to sell beer for consumption on publicly owned convention facilities, publicly owned recreation facilities or on privately owned sports arenas designed to accommodate more than five thousand (5,000) persons; provided, however, that no such Class "E" license shall be issued for the sale of beer for consumption on said facilities unless the prospective licensee shall first obtain a concession contract from the public body owning the facility. Under this section no beer shall be dispensed or allowed in original containers, but must first be emptied into suitable temporary containers;

> The banquet catering license does not have any requirements about original containers for beer. It only contains the standard language limiting the volume to be sold.

and no person under the age of twenty-one (21) years of age may sell or serve beer. With the exception of privately leased suites within the facility all sales and deliveries under this section shall be made directly to the consumer.

> The banquet catering license does not have this requirement.

(3) All beer or other alcoholic beverages dispensed within the facility shall be dispensed only by the license holder or its operator, manager, food service licensee or employee. No beer or other alcoholic beverage sold under this license shall be removed from inside the facility except by the license holder or its operator, manager, food service licensee or employee operating in the course of business.

(4) It is unlawful for a Class "E" licensee to sell or dispense beer in original containers or to store or allow storage of beer or other alcoholic beverages in privately leased suites of the premises unless such dispensing facilities are securely locked and access to the contents is restricted by the licensee to persons twenty-one (21) years of age or older who have duly rented such private suites in which such dispensing facility is located.

6.14.065 Special Event Permit.

(1) A special event permit may be issued to the holder of a Class "B" beer license with respect to the premises to which the Class "B" beer license applies.

> Since it relates to Class "B" licenses, this is of course unique to Provo. The state's Temporary Special Event Beer Permit is not tethered to any other license.

A special event permit, if issued, may allow dancing by patrons, for which a fee may be charged, on the premises for which a Class "B" license has been issued.

(2) An application for a special event permit shall include the following:

(a) A non-refundable application fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council;

(b) The name, address and telephone number of the applicant and the location of the premises for which a Class "B" beer license has been issued;

(c) A statement describing the time, date, location, nature and purpose of the special event for which a permit is requested;

(d) A diagram showing the location at the premises at which dancing by patrons will take place, the location at which restaurant patrons will be seated, and the location at which beer will be sold.

(3) A permit shall be valid for one (1) date only. The application therefor shall not be issued earlier than sixty (60) days before the event date nor later than ten (10) days before the event date.

> The state's Temporary Special Event Beer Permit is valid for up to 30 days. Applicants must submit the application at least 30 days prior to the event for processing and approval.

(4) A special event permit, if issued, may contain conditions and limitations. It shall be unlawful to violate a condition or limitation of a special event permit.

(5) This Section shall be administered pursuant to the provisions of Chapter 6.01, Provo City Code.

6.14.070 License Fees.

(1) There shall be a non-refundable fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council, which shall be paid at the time of application for a beer license which shall be applied towards the fee for the beer license.

(2) The fee for a beer license, which shall be in addition to any other fee or charge imposed by the Provo City Code or other City ordinance, shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

6.14.080 Proximity Restrictions for the Premises of Licensed Beer Retailers.

No beer license shall be issued to any licensee who fails to comply with the proximity requirements of Section 32B-1-202, Utah Code Annotated 1953, as amended.

6.14.090 Beer License - Disqualifications.

The state requires background checks for anyone who holds at least 20 percent of the company. The state uses the applicant's fingerprints to "continuously check the criminal history records of local and national (FBI) background check databases to determine whether an applicable individual has been

- Convicted of a felony under federal or state law;
- Convicted of a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, or transportation of an alcoholic beverage;
- Convicted of a crime involving moral turpitude;
- Convicted on two or more occasions within the previous five years, driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug."

The applicant must also list all criminal offenses (except minor traffic violations) on the application. This applies to all state licenses that correspond with Provo's licenses, not just Classes "A" and "B" (DABC Bar Application Checklist). This seems to cover the requirements in PCC as well.

(1) No Class "A" or Class "B" beer license shall be issued to an applicant if within the previous twelve (12) months the owner, manager or any employee has been convicted of, plead guilty or no contest to (including pleas held in abeyance by the court), or performed the acts constituting, any criminal offense.

(2) Except as provided in Subsection (2)(b) of this Section, no Class "C" or Class "E" beer license shall be issued to an applicant if either the owner, manager or any employee has:

(a) Been convicted of, plead guilty or no contest to (including pleas held in abeyance by the court), or performed the acts constituting assault, aggravated assault, battery, mayhem, murder, manslaughter, kidnapping, aggravated kidnapping, rape, forcible sodomy, aggravated sexual assault, arson, robbery, burglary, or any other offense involving the use of force or violence against a person. Also, prostitution, gambling, giving a false report to a police officer, the sale, delivery or transportation of an alcoholic beverage, the unlawful possession or use of controlled substances, or any act of moral turpitude.

(b) Provided, however, if the conviction of the subject person is for a misdemeanor and not a felony, or if the actions of the applicant would be considered a misdemeanor and not a felony in the event of criminal proceedings, only convictions or actions occurring within the three (3) years immediately preceding the application shall be considered disqualifying.

6.14.100 Procedure to Obtain License.

Applicants for a beer license shall submit a properly completed application form and the appropriate licensing fee to the Business License Department. The application shall be forwarded to the Chief of Police, who shall endorse thereon whether the applicant has committed one (1) or more of the disqualifying acts described above in this Chapter. In determining whether any such disqualifying act has been committed, a criminal history check of the applicant shall be completed on all applicants for Class "C" and Class "E" licenses and may, in the Chief of Police's discretion, be completed on applicants for Class "A" or Class "B" licenses, including a Utah criminal history check. A material error or omission in the information given on the application form may be the basis for disapproving an application, and no application disapproved for such reason shall be reconsidered for six (6) months. If the endorsement of the Chief of Police does not show the commission of a disqualifying act, and the issuance of the requested license is otherwise consistent with applicable law, the Licensing Clerk shall approve the application and a license shall be issued. If the endorsement of the Chief of Police shows the commission of a disqualifying act, or if the issuance of the requested license would otherwise violate applicable law, the Licensing Clerk shall disapprove the application and a license shall not be issued. Any person, including the applicant, may, within thirty (30) days of final action, request a hearing, pursuant to the provisions of Chapter 3.06, Provo City Code, to review the granting or disapproval of a license.

> This process is unique to Provo, but the Police's endorsement largely duplicates the state's background check. Springville requires that the owner and local manager ("except those required to provide a criminal background check as part of the licensing process with the DABC") "provide a current copy of their criminal history record from the State of Utah, Department of Public Safety, Bureau of Criminal Identification …" (Springville City Code 7-3-106(2)(g)).

6.14.105 Local Consent for Applications to the Utah Department of Alcoholic Beverage Control.

When an applicant for a license or permit from the Alcoholic Beverage Control Commission of the Utah Department of Alcoholic Beverage Control requests written consent of the local authority, the Mayor and/or the Mayor's designee shall have authority to grant or deny such consent. Nothing in this Section gives the Mayor or the Mayor's designee authority to grant a permit or license from Provo City to sell any alcoholic beverage except as otherwise provided in this Chapter.

6.14.110 Permit from Utah County Health Department.

An applicant may be required to procure from the Utah County Health Department a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of beer complies with all health regulations of

Provo City and of the State of Utah; and on recommendation of the board of health any license issued may be revoked or suspended when any reasonable order, rule or regulation of the board of health has not been complied with.

This is unique to Provo City. The state does not require a health inspection as far as I can tell, and they seem to leave it up to individual city and county requirements.

6.14.120 Bond.

An applicant for a beer license shall file a cash or corporate bond in the amount of one thousand dollars ($1,000.00) guaranteeing faithful performance of the provisions of this Chapter in favor of Provo City. In the event a license is revoked for a violation of the provisions of this Chapter, the bond shall be forfeited (without any showing of damage or loss) to Provo City.

This is in addition to the bonds required by the state:

- $10,000 for all bar types
- $10,000 for full restaurants
- $5,000 for beer only or limited service restaurants
- $10,000 for wholesalers
- $10,000 for banquet catering (including convention centers)

6.14.130 Display of License and Fee Refunds.

A license issued pursuant to this Chapter shall be displayed at all times on the licensed premises in a place readily visible to the public. License fees shall not be refunded, except in the event the State of Utah denies a State license to sell beer. In such event and upon request by the applicant, any license fee paid shall be refunded except for the nonrefundable fee required by Section 6.14.070(1), Provo City Code.

6.14.140 Regulations.

It shall be unlawful and shall constitute an offense of strict liability to violate any of the following, any one (1) of which shall constitute a sufficient basis for revoking a beer license:

(1) Beer shall not be sold or dispensed in a dance hall.

This is not a state-wide requirement.

(2) Beer shall not be sold or dispensed from any drive-up window.

This is not a state-wide requirement.

(3) Beer shall not be sold by or to any intoxicated person or any person less than twenty-one (21) years of age.

(4) No person shall obtain a beer license who has committed one (1) or more of the disqualifying acts described in Section 6.14.090, Provo City Code.

(5) No person shall make any false or misleading statement on an application for a beer license.

(6) No person shall be employed or act as a bartender, waitress, or in any other capacity deal with the public in connection with the sale or dispensing of beer who has committed one (1) or more of the disqualifying acts described in Section 6.14.090, Provo City Code.

(7) No employee, including a manager, at a licensed premises shall consume or be under the influence of alcohol while on duty (including "breaks") as an employee.

(8) No manager or employee shall, in the licensed premises, violate any provision of this Chapter, commit any criminal act, or knowingly (objective standard) cause a person to, or permit another to, commit a criminal act.

> I cannot find anything about this in the handbooks and applications, but it seems like a common-sense requirement.

(9) Any violation by any person, within a licensed premises, of Chapter 9.11, Provo City Code, Lewdness, Profanity, Nudity, Obscenity and Pornography, and Chapter 9.12, Provo City Code, Unlawful Sex Acts, is prohibited.

(10) Days and Hours of Sale:

(a) No Class "A" license holder or any employee or agent of a Class "A" license holder shall sell or offer for sale beer between the hours of 1:00 a.m. and 7:00 a.m. of the same day.

> "Beer sales hours and days are determined by "Local Authority". Contact them for this important information" (DABC Licensee Handbook: Off-Premise Beer Retailer).

(b) No Class "B," Class "C," Class "D" or Class "E" license holder or any employee or agent of a Class "B," Class "C," Class "D" or Class "E" license holder shall sell or offer for sale beer between the hours of 1:00 a.m. and 10:00 a.m. of the same day. Notwithstanding the foregoing, a tavern licensed under this Chapter shall remain open for one (1) hour after the tavern ceases the sale and service of alcoholic beverages during which time a patron of the tavern may finish consuming a single serving of beer not exceeding twenty-six (26) ounces.

> Provo requirements for hours during which beer may be served:
>
> - 10:00 AM – 1:00 AM (patrons may finish a single drink until 2 AM) (daily)

Cities' laws may be more strict (but not less strict) than the state. Provo's hours match the states in all but restaurant opening times, where the state's are more strict.

State requirements for hours during which beer may be served:

- Restaurant
  - 11:30 AM – 12:59 PM (weekday)
  - 10:30 AM – 12:59 PM (weekend, state/federal holiday, private event)
- Bar
  - 10:00 AM – 1:00 AM (patrons may finish a single drink until 2 AM) (daily)
- Wholesaler
  - 8:00 AM – 5:00 PM to distributors only (not consumers)
  - 1:00 PM – deliveries to distributors can begin
- Banquet Catering (including convention centers)
  - 10:00 AM – 1:00 AM (patrons may finish a single drink until 2 AM) (daily)

(11) Licensed premises shall be kept brightly illuminated at all times while occupied or open for business; and no booth, blind or stall shall be maintained unless all tables, chairs and occupants, if any, therein are kept open to the full view from the main floor of such licensed premises.

The state requires floor plans but does not specify this requirement.

(12) All licensed premises shall be subject to inspection by any officer, agent or peace officer of Provo City; and every licensee shall at the request of the same furnish samples of beer which the licensee shall have for sale.

(13) Any violation of Section 9.14.050, Provo City Code, Controlled Substances, within a licensed premises is prohibited.

6.14.150 Required Class "A" Beer Handler's Permit.

This section comes word-for-word from Utah County Code 3-2-18. The requirement to obtain and wear a beer handler's permit comes from Utah County, and the permit is obtained from the Utah County Health Department.

The state requires Alcohol Server Training every 3 years for on-premise service. Separate off-premise training required every 5 years for off-premise service (https://abc.utah.gov/training/index.html). The state requires employees to wear a clear and visible nametag (DABC Licensee Handbook: Off-Premise Beer Retailer).

(1) A licensee involved in the transaction of retail beer sales for off-premises consumption (Class "A" retail sales) shall require any and all employees involved in the transaction of retail

beer sales to obtain a beer handler's permit. All employees of a licensee involved in the transaction of retail beer sales shall be required to possess and wear a beer handler's permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

(2) New employees of a licensee shall obtain a beer handler's permit as set forth in Sections 3-2-19 and 3-2-20, Utah County Code, within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the State Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this Chapter.

(3) A licensee shall inform the Utah County Health Department of any employee possessing a beer handler's permit whose employment is terminated for conduct that would be punishable under statutes or ordinances regulating alcoholic beverages. Licensees shall permit law enforcement officers and Utah County Health Department employees to conduct random beer handler's permit compliance checks on the licensee's premises.

6.14.160 Beer Handler's Permit Holder Penalties.

(1) A violation of this Chapter or of any law involving the sale of an alcoholic beverage is a Class B misdemeanor unless otherwise stated in applicable law. Additionally, an employee possessing a beer handler's permit who is convicted of violating any law involving the sale of an alcoholic beverage is not only subject to the penalties associated with a Class B misdemeanor, but may incur a suspension of the employee's beer handler's permit in accordance with applicable laws.

6.14.170 Licensee Penalties.

> These come directly from County Code as well (3-2-22) and are in addition to any penalties from the state.

Any violation of this Chapter by a licensee shall subject the licensee to the following penalties:

(1) Upon a first violation of this Chapter the licensee shall be issued a warning.

(2) Upon any violation of this Chapter which occurs within twenty-four (24) months of a prior violation, the licensee shall pay a civil fine of two hundred fifty dollars ($250.00).

(3) Upon any violation of this Chapter which occurs within twenty-four (24) months of two (2) prior violations, the licensee shall pay a civil fine of five hundred dollars ($500.00) and the licensee shall have its license to sell beer suspended for a period of three (3) consecutive days, on a Thursday through Saturday.

(4) Upon any violation of this Chapter which occurs within twenty-four (24) months of three (3) prior violations, the licensee shall pay a civil fine of five hundred dollars ($500.00) and the licensee shall have its license to sell beer suspended for a period of thirty (30) consecutive days. Additionally, the licensee shall be placed on probation for a period of one (1) year. Any violation of this Chapter by the licensee during the period of probation shall result in the revocation of the licensee's license to sell beer. The licensee shall not be eligible to reapply for a new license for at least six (6) months from the date of revocation.

(5) Failure to pay any fine imposed for a violation of any provision of this Chapter within thirty (30) days of the imposition of such fine, shall be grounds for revocation of the licensee's license to sell beer.

(6) Nothing in this Chapter shall limit the rights and powers of Provo City to grant, refuse to grant, or revoke a licensee's license to sell beer under this Chapter.

6.14.180 Right to a Hearing.

The licensee shall have the right to request an administrative enforcement hearing to contest the existence of any violation of Section 6.14.150, 6.14.160, or 6.14.170, Provo City Code, or the imposition of any penalty under those same sections by complying with the procedures set forth in Chapter 17.02, Provo City Code.

The Provo City Code is current through Ordinance 2019-66, passed December 10, 2019.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMAGNESS
Department: Council
Requested Meeting Date: 04-14-2020

SUBJECT: A discussion regarding Council Budget Priorities for Fiscal Year 2020-2021. (20-007)

RECOMMENDATION: Discuss and identify the Council's budget priorities for the Administration.

BACKGROUND: The Council has the opportunity to identify their budget priorities for FY 2020-2021. Included in this discussion, the Council can address the supplemental requests from other departments. Considering the anticipated decline in revenue, the Council must decide which requests fit with the Council's budgeting priorities for FY 2020-2021 and how best to make up those lost revenues in a way that fits within their overall budget priorities.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Cliff Strachan, Executive Director of Council

REQUESTED DURATION OF PRESENTATION: 45 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-007