



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Agenda

5:30 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 about making public comments.

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 MAKE A PUBLIC COMMENT:

To participate in the public comment portion(s) of the meeting, call in as an audience member as the presentation is wrapping up. Be sure to mute/silence any external audio on your end to reduce feedback (if you are viewing the live proceedings on YouTube, mute the YouTube video; you will be able to hear the meeting audio through the phone while you are on the line).

Press *9 from your phone to indicate that you would like to speak. When you are invited to speak, the meeting host will grant you speaking permission, calling on you by the last four digits of your phone number. Please begin by stating your first and last name, and city of residence for the record. After you have shared your comment, hang up. If you wish to comment on a later item, simply re-dial to rejoin the meeting for any subsequent comment period(s).

April 14 Council Meeting: Dial 346 248 7799. Enter Meeting ID 559 664 810 and press #. Enter Meeting Password 236090 and press #. When asked for a participant ID, press #.

Decorum

The Council requests that citizens help maintain the decorum of the meeting by turning off electronic devices, being respectful to the Council and others, and refraining from applauding during the proceedings of the meeting.

Opening Ceremony

Roll Call

Prayer

Pledge of Allegiance

Public Comment

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

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

Please limit your comments to two minutes.

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

Action Agenda

1. A resolution appropriating \$4,900,526 in the Airport Fund for the acquisition of land near the airport and authorizing an interfund loan from the Energy Fund as a funding source, applying to fiscal year ending June 30, 2020. (20-067)
2. An ordinance amending the zone map classification of approximately 0.34 acres of real property, generally located at 164 S 400 W, from Residential Conservation (RC) to Low Density Residential (LDR). Franklin Neighborhood. (PLRZ20200041)
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 Esast 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)
6. An ordinance amending Provo City Code regarding beer licenses and regulations to streamline it and bring it into alignment with state regulations. (20-076)
7. An ordinance amending Provo City Code regarding beer licenses and regulations to create a Class "F" beer license for restaurants with ancillary breweries. (20-057)

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

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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 5:30:00 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: JOHNB
Department: Administrative Services
Requested Meeting Date: 04-14-2020

SUBJECT: A resolution appropriating \$4,900,526 in the Airport Fund for the acquisition of land near the airport and authorizing an interfund loan from the Energy Fund as a funding source, applying to fiscal year ending June 30, 2020. (20-067)

RECOMMENDATION: Approve the appropriation.

BACKGROUND: The Administration recommends the purchase of 29.64 acres of property adjacent to the airport. The property is located immediately east of Duncan Aviation and shares the property line with the Airport on the east, west, and south.

The purchase price for the property is \$165,000 per acre (appraised value) with a total purchase price including closing costs \$4,900,526 to be appropriated in the Airport. The funding will come from an interfund loan from the Energy Fund.

The current owner of the property has a number of agricultural leases on the property and suspects that there are people living on the property. There have been reports of illegal activities occurring on the property including actions that violate the standards of the Federal Aviation Administration (FAA).

The proposed purchase of the property will qualify to be used as a match for future FAA airport projects. The land currently owned by the City that is available to be used as a match for future projects is \$400,000, and it is expected it would be used very quickly with the terminal and other airport expansion projects on the horizon. If the proposed property purchase is not approved, the City would need to provide a cash match for future FAA airport projects once the \$400,000 is used.

FISCAL IMPACT: The term of the loan will be ten years with a level principal payment (\$490,053) and a variable interest rate equal to the monthly State Pool interest rate. The loan will be repaid through Airport revenues and a transfer from the General Fund.

PRESENTER'S NAME: John Borget, Director of Administrative Services

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-067



Department of Administrative Services
MEMORANDUM

To: Municipal Council
From: John Borget
Subject: Airport Property Purchase
Date: March 12, 2020
CC: Mayor Kaufusi, Wayne Parker

The Administration is recommending the purchase of 29.64 acres of property adjacent to the airport. The property located immediately east of Duncan Aviation and shares the property line with the Airport on the east, west and south.

The purchase price for the property is \$165,000 per acre (appraised value) with a total purchase price including closing costs \$4,900,526 to be appropriated in the Airport. The funding will come from an interfund loan from the Energy Fund. The term of the loan will be ten years with a level principal payment (\$490,053) and a variable interest rate equal to the monthly State Pool interest rate. The loan will be repaid through Airport revenues and a transfer from the General Fund.

The current owner of the proposed property has a number of agricultural leases on the property with suspicion that there are people living on the property. There have been reports of illegal activities occurring on the property including actions that violate FAA standards.

The purchase of the proposed property will qualify to be used as a match for future FAA airport projects. The current land owned by the City that is available to be used as a match for future projects is \$400,000 and it is expected it would be used very quickly with the terminal and other airport expansion projects on the horizon. If the proposed property purchase is not approved, the City would need to provide a cash match for future FAA airport projects once the \$400,000 is used.

1 RESOLUTION 2020-.

2
3 A RESOLUTION APPROPRIATING \$4,900,526 IN THE AIRPORT FUND
4 FOR THE ACQUISITION OF LAND NEAR THE AIRPORT AND
5 AUTHORIZING AN INTERFUND LOAN FROM THE ENERGY FUND AS A
6 FUNDING SOURCE, APPLYING TO FISCAL YEAR ENDING JUNE 30,
7 2020. (2020 - XXX)

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9 WHEREAS, the Municipal Council of Provo City Corporation has received a
10 recommendation from the Provo City Public Works Department that \$4,900,526 be appropriated
11 in the Airport Fund for the acquisition of land near the airport; and

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13 WHEREAS, the appropriation will be funded through a \$4,900,526 interfund loan from
14 the Energy Fund to the Airport Fund, the term of the loan will be ten years with a level principal
15 payment (\$490,053) and a variable interest rate equal to the monthly State Pool interest rate. The loan
16 will be repaid through Airport revenues and a transfer from the General Fund; and

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18 WHEREAS, on March 31, 2020, the Municipal Council met to ascertain the facts
19 regarding this matter and receive public comment, which facts and comments are found in the
20 public record of the Council's consideration; and

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22 WHEREAS, all persons for and against the proposed appropriation and interfund loan
23 were given an opportunity to be heard; and

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25 WHEREAS, after considering the Mayor's recommendation, and facts and comments
26 presented to the Municipal Council, the Municipal Council finds the proposed appropriation
27 interfund loan reasonably further the health, safety, and general welfare of the citizens of Provo
28 City.

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

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33 PART I:

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35 The Mayor is hereby authorized to appropriate \$4,900,526 in the Airport Fund applying
36 to the fiscal year ending June 30, 2020.

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38 PART II:

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40 A \$4,900,526 interfund loan from the Energy Fund to the Airport Fund is hereby
41 authorized.

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44 PART III:

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46 This resolution shall take effect immediately.

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48 END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: NLA
Department: Development Services
Requested Meeting Date: 03-31-2020

SUBJECT: An ordinance amending the zone map classification of approximately 0.34 acres of real property, generally located at 164 S 400 W, from Residential Conservation (RC) to Low Density Residential (LDR). Franklin Neighborhood. (PLRZ20200041)

RECOMMENDATION: The Planning Commission has recommended approval (6:0).

BACKGROUND: Rob Slater requests a zone change from the RC zone to the LDR zone for his property at 164 South 400 West. The applicant plans of demolishing the existing home and building three single-family homes on the site. The current zoning would allow the applicant one unit while approval an LDR zone would allow up to five units. The single-family home that is currently on the property was built in 1885.

Two conditions exist on this property. First, the size of the property, at 14, 810 square feet, is larger than most in the area. Second, the home on the property is in disrepair and would be very costly to try to rehabilitate. The restrictions of the RC zone would limit redevelopment to the single-family home. The location of the property is on the edge of the Franklin Neighborhood and a half block away from the Downtown Neighborhood. The related concept plan shows a front facing home on 400 West with a driveway on the north side to access two other detached single-family homes. The total project shows ten off-street parking spaces and over six thousand square feet of open space.

FISCAL IMPACT: None

PRESENTER'S NAME: Aaron Ardmore (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20200041



**Planning Commission Staff Report
Hearing Date: March 25, 2020**

*ITEM #4 Rob Slater requests a Zone Change from Residential Conservation (RC) to Low Density Residential (LDR) to build three single-family residences on .34 acres, located at 164 S 400 W. Franklin Neighborhood. Aaron Ardmore (801) 852-6404
aardmore@provo.org PLRZ20200041

Applicant: Rob Slater

Staff Coordinator: Aaron Ardmore

Parcel ID#: 04:046:00108

***Council Action Required:** Yes

Related Application(s): PLCP20200043

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 1, 2020 at 6:00 p.m.*
2. **Recommend Denial** of the proposed zone map amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

Relevant History: This property has held a single-family home since 1885. The home has become dilapidated and in disrepair. The current owner lives in the home to the north and has applied for this zone change to improve the property.

Neighborhood Issues: The neighborhood had a meeting on March 4, and is generally in favor of the zone change.

Summary of Key Issues:

- The request would allow for three new single-family homes to be built on the property.
- The neighborhood is supportive of this request.
- The concept plan shows the ability to meet the standards of the LDR zone.

Staff Recommendation: That the Planning Commission recommend approval to the Municipal Council of the zone change request from RC to LDR.

OVERVIEW

Rob Slater is requesting a zone change from the RC zone to the LDR zone for his property at 164 South 400 West. The proposal conceives of demolishing the existing home and building three single-family homes on the site. The current zoning would allow the applicant one unit, while approval of an LDR zone would allow up to five units.

The single-family home that is currently on the property was built in 1885. Two conditions exist on this property. One, the size of the property, at 14, 810 square feet, is larger than most in the area. Second, the home on the property is in disrepair and would be very costly to try to rehabilitate. The restrictions of the RC zone would limit redevelopment to the single-family home. The location of the property is on the edge of the Franklin neighborhood, and a half block away from the Downtown neighborhood.

The related concept plan shows a front facing home on 400 West, with a driveway on the north side to access two other detached single family homes. The total project shows ten off-street parking spaces and over six thousand square feet of open space.

FINDINGS OF FACT

1. The property is currently zoned RC.
2. The General Plan designates this property as Residential.
3. The zone change to the LDR zone includes a concept plan of three single-family homes.

ANALYSIS

1. 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 for the amendment is to provide more affordable or diverse housing options in this part of the City.

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

Staff feels that above public purpose is valuable, and that the property size and proximity to the Downtown provide a good opportunity for an increased use on the site.

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

The General Plan anticipates diverse housing types and housing affordability. In addition, as Planning Staff has reviewed the older neighborhoods around Downtown, the replacement of the RC zone has been an ongoing goal. Specifically, the General Plan has a goal to “encourage the development of various types of housing inventory,” which can be met by this proposal without creating incongruent housing types.

(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 is no such timing or sequencing provision that would apply to this proposal.

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

The proposed amendment should not hinder or obstruct attainment of the General Plan’s articulated policies.

(f) Adverse impacts on adjacent land owners.

Adverse impacts on the approval of this zone change could include increased traffic.

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

The General Plan and zoning have been verified for correctness.

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

There is no conflict between the map and policies.

CONCLUSIONS

Staff has reviewed this zone map amendment along with it’s concept plan against General Plan and zoning regulations and has found that this property provides a great opportunity for a local property owner to find the best use for a underutilized parcel, while helping the City to establish more diversity of housing types around the Downtown area.

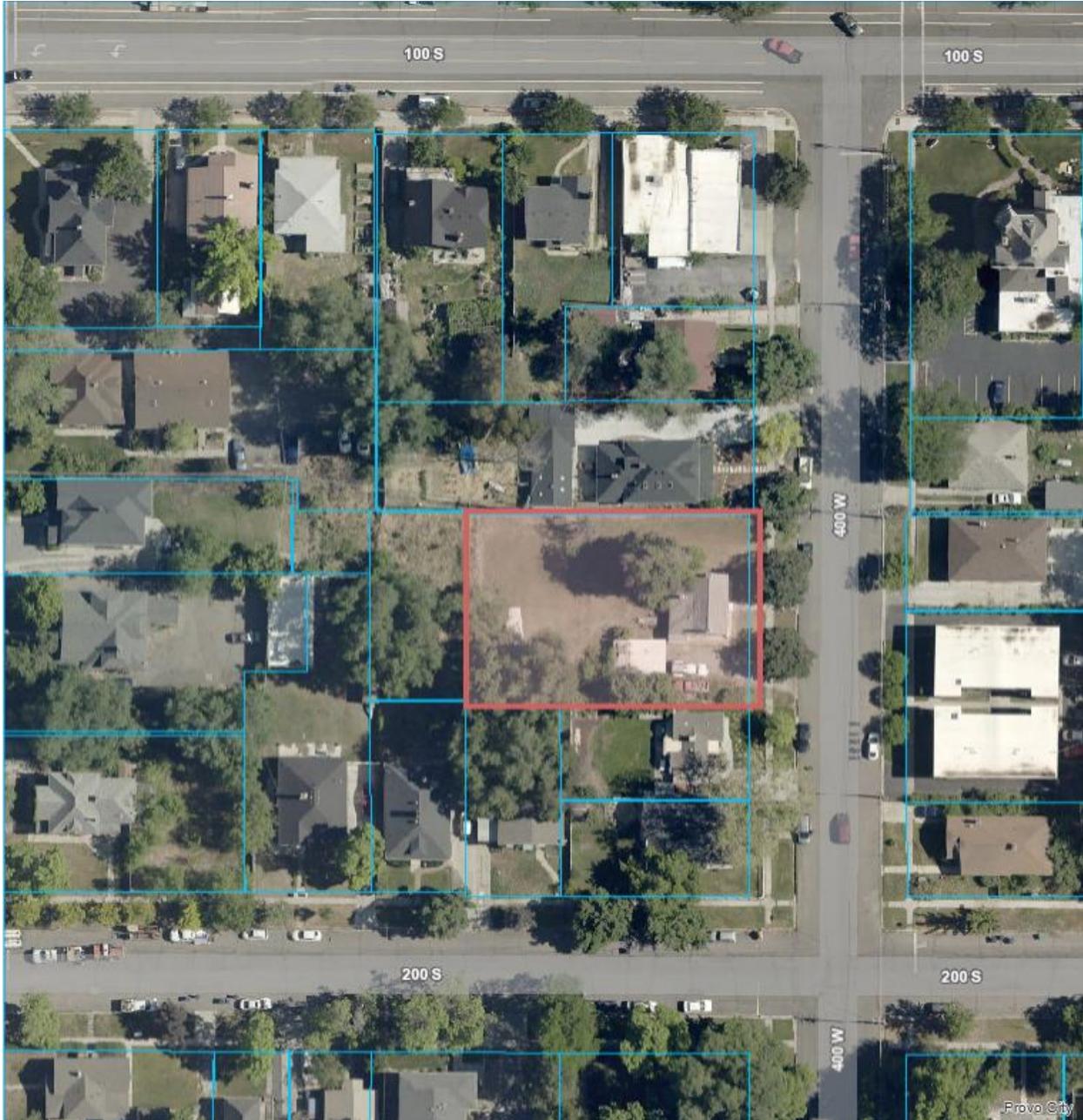
RECOMMENDATION

That the Planning Commission recommend approval to the Municipal Council of the zone change request from RC to LDR.

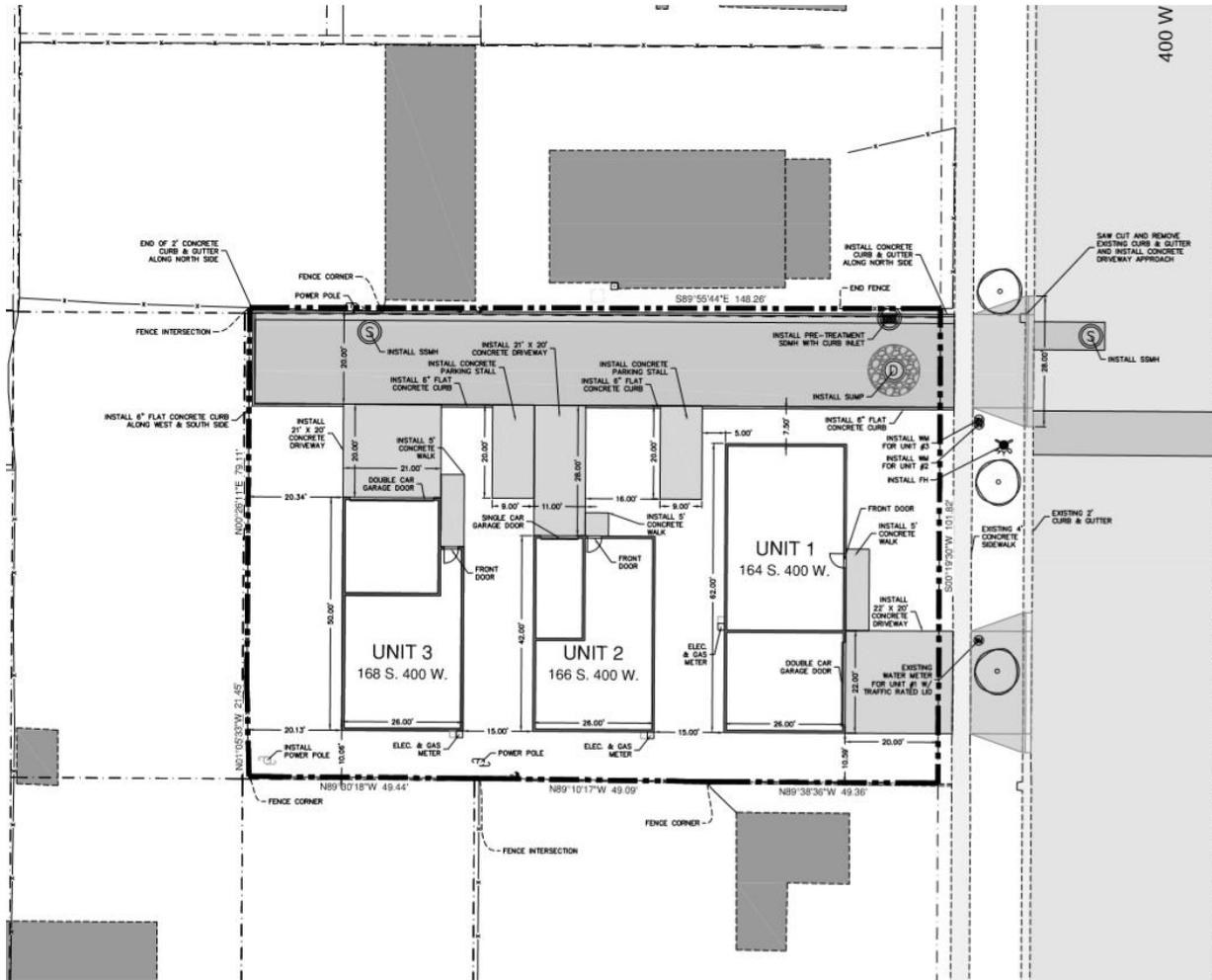
ATTACHMENTS

1. Proposed Zone Change Area
2. Proposed Site Plan

ATTACHMENT #1 – PROPOSED ZONE CHANGE AREA



ATTACHMENT #2 – PROPOSED SITE PLAN



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ORDINANCE 2020-

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.34 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 164 S 400 W, FROM RESIDENTIAL CONSERVATION (RC) TO LOW DENSITY RESIDENTIAL (LDR). (PLRZ20200041)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 0.34 acres of real property, generally located at 164 S 400 W (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended from Residential Conservation (RC) to Low Density Residential (LDR); and

WHEREAS, on March 25, 2020, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and at such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0; and

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

WHEREAS, on 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) the Zone Map of Provo, Utah should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

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

PART I:

The classification on the Zone Map of Provo, Utah is hereby amended from the Residential Conservation (RC) Zone to the Low Density Residential (LDR) Zone for approximately 0.34 acres of real property generally located at 164 S 400 W, as described herein.

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

48 unconstitutional or invalid, the remainder of the ordinance shall not be affected
49 thereby.

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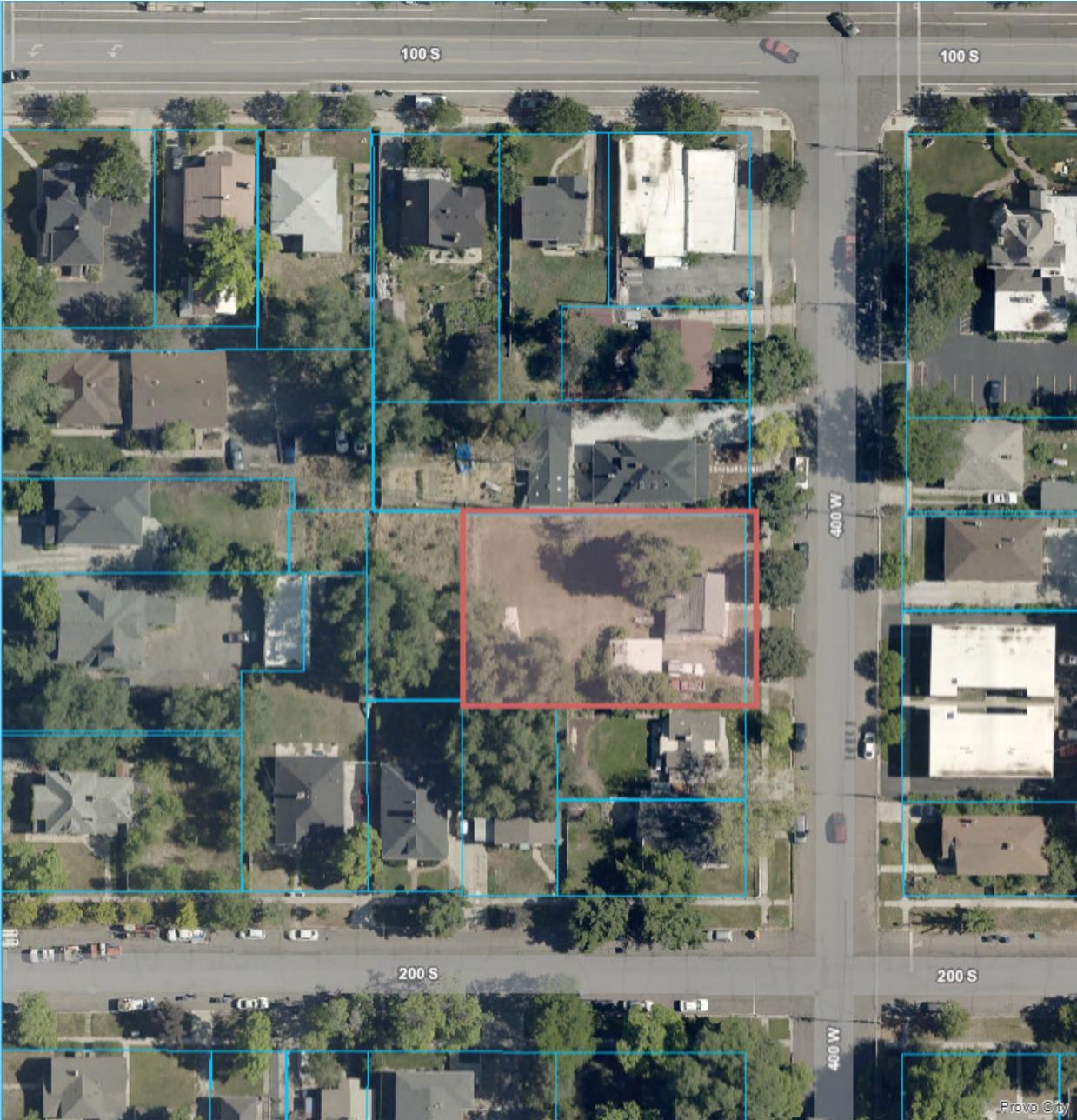
51 C. The Municipal Council hereby directs that the official copy of the Zone Map of
52 Provo City, Utah be updated and codified to reflect the provisions enacted by this
53 ordinance.

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

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58 END OF ORDINANCE.

Exhibit A



COM NE COR LOT 8, BLK 49, PLAT A, PROVO CITY SURVEY; W 9 RDS; S 6 RDS; E 9 RDS; N 6 RDS TO BEG.
AREA .34 ACRE.



Provo City Planning Commission

Report of Action

March 25, 2020

*ITEM 4 Rob Slater requests a Zone Change from Residential Conservation (RC) to Low Density Residential (LDR) to build three single-family residences on .34 acres, located at 164 S 400 W. Franklin Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20200041

The following action was taken by the Planning Commission on the above described item at its regular meeting of March 25, 2020:

POSITIVE RECOMMENDATION

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

Motion By: Dave Anderson

Second By: Laurie Urquiaga

Votes in Favor of Motion: Dave Anderson, Laurie Urquiaga, Deborah Jensen, Lisa Jensen, Maria Winden, Russell Phillips
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.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the LDR Zone is described in the attached Exhibit A. COM NE COR LOT 8, BLK 49, PLAT A, PROVO CITY SURVEY; W 9 RDS; S 6 RDS; E 9 RDS; N 6 RDS TO BEG. AREA .34 ACRE.

RELATED ACTIONS

The Planning Commission approved the related concept plan as item #5, file #PLCP20200041.

APPROVED/RECOMMENDED OCCUPANCY

- 3 Single-Family Units

APPROVED/RECOMMENDED PARKING

- 10 Parking Spaces

DEVELOPMENT AGREEMENT

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

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following: Staff gave an overview of the proposal, including the public purpose of the zone change and the ability for the concept to meet the zoning codes of the LDR zone.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 03/04/2020. The project was well received by those in attendance.

NEIGHBORHOOD AND PUBLIC COMMENT

- Neighbors or other interested parties were present or addressed the Planning Commission.
- Dennis Snow stated that the property should provide one or two homes at most, but not three.
- Dave Horn stated he liked the plans, but would prefer only two units on the property.

APPLICANT RESPONSE

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

- The applicant stated his reasons for the proposal; to improve the neighborhood and provide more housing.
- Open spaces will be common areas, without fences.
- He hopes for owner-occupied, family residents for the dwellings.
- Parking will be for individual units.

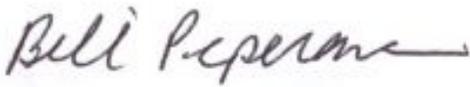
PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Planning Commission liked the proposal and thought it was good infill development that was context sensitive and scaled for the neighborhood. The Commission asked questions about the height of the concept, parking for each unit, whether the existing home was historically protected, and if the elevations could change. PC verified that the project will still need to apply for final project plan and subdivision applications and that owner-occupancy could not be enforced by zoning code. They also verified with the applicant that trees and shrubs will try to be protected/provided.



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 Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS



WELCOME HOME

PLANNING COMMISSION

March 25, 2020

ITEM 4*

Rob Slater requests a Zone Change from Residential Conservation (RC) to Low Density Residential (LDR) to build three single-family residences on .34 acres, located at 164 S 400 W.

Franklin Neighborhood

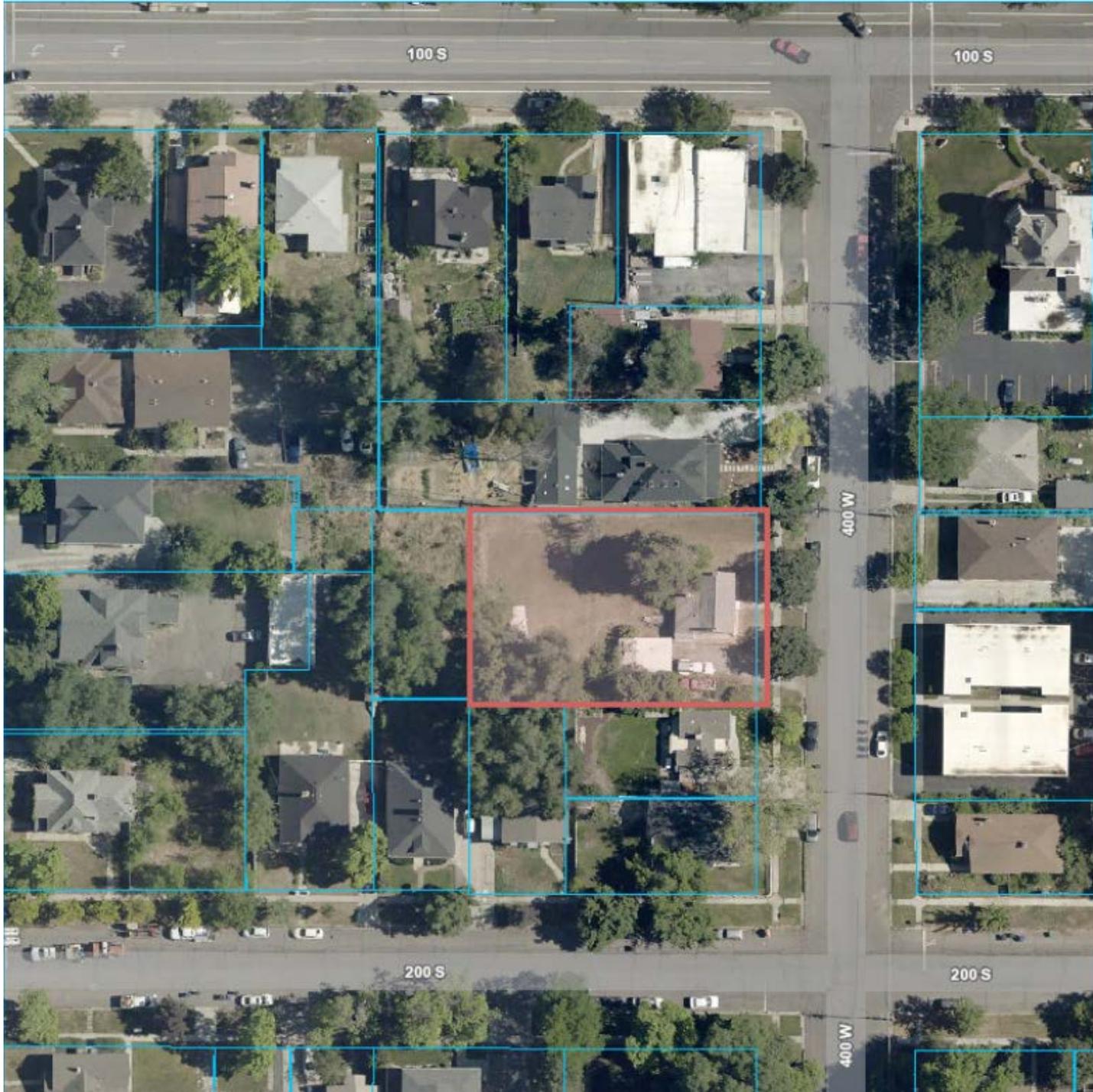
PLRZ20200041

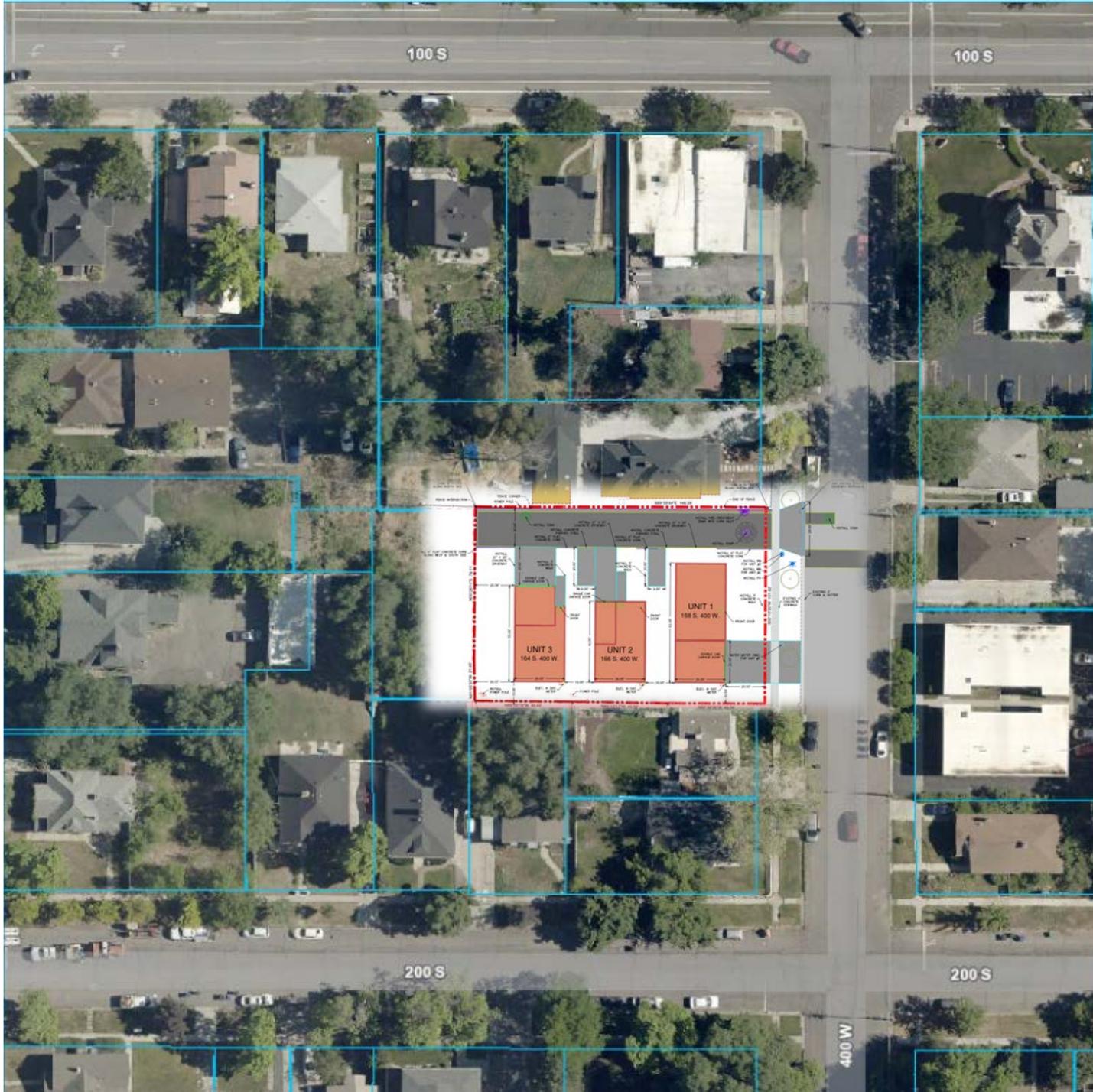
ITEM 4*

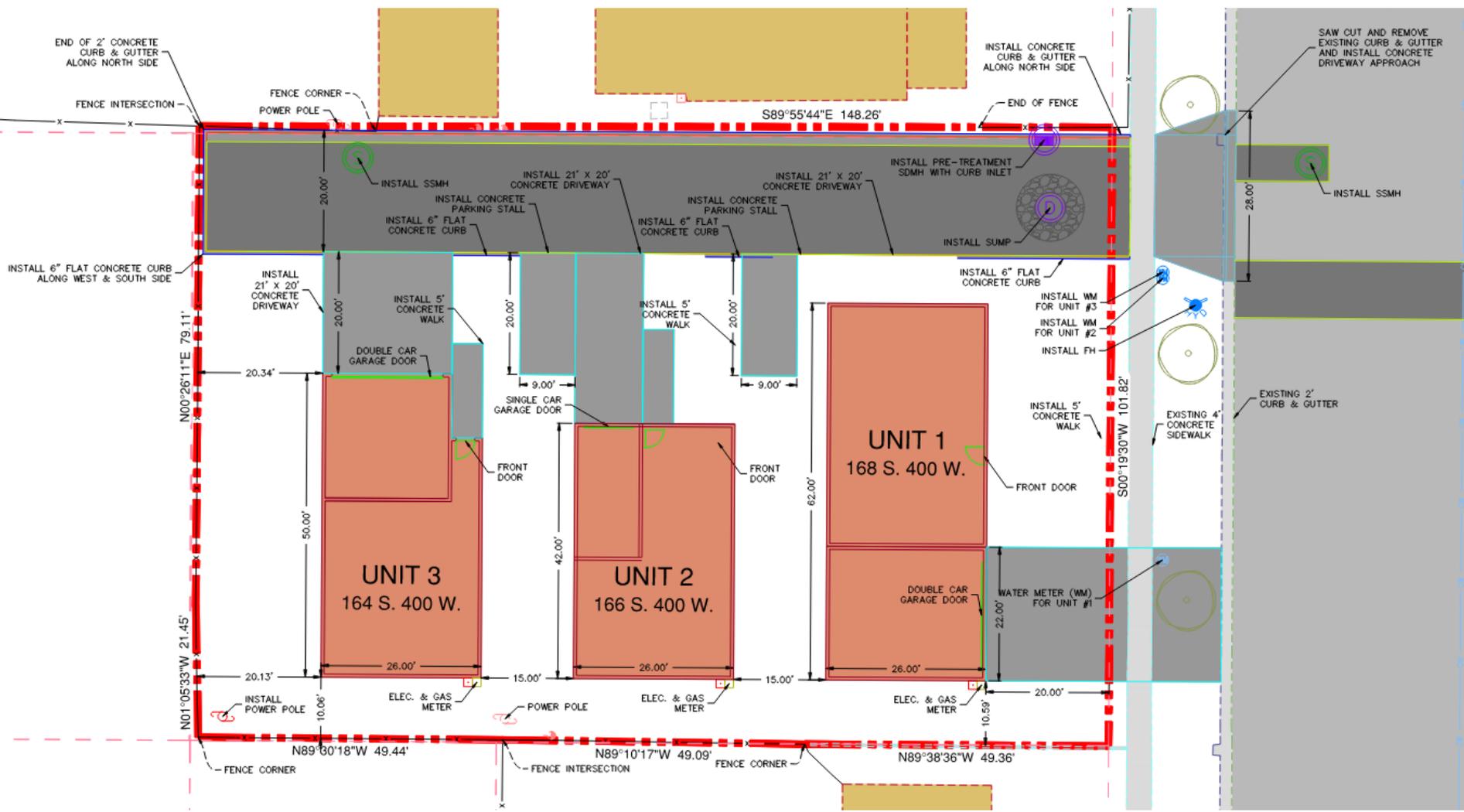
Rob Slater requests a Zone Change from Residential Conservation (RC) to Low Density Residential (LDR) to build three single-family residences on .34 acres, located at 164 S 400 W.

Franklin Neighborhood

PLRZ20200041









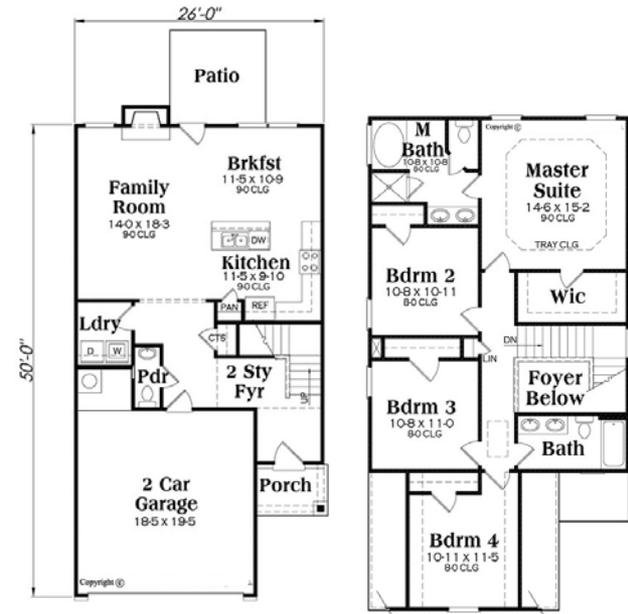
Unit 1



Unit 2



Unit 3



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: 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: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20200077



**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



(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 *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) 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.
- 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 occurring 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 opportunities 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 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.

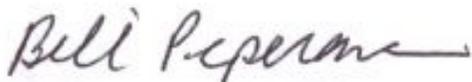
PLANNING COMMISSION DISCUSSION

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 occurring 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 opportunities 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.



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,

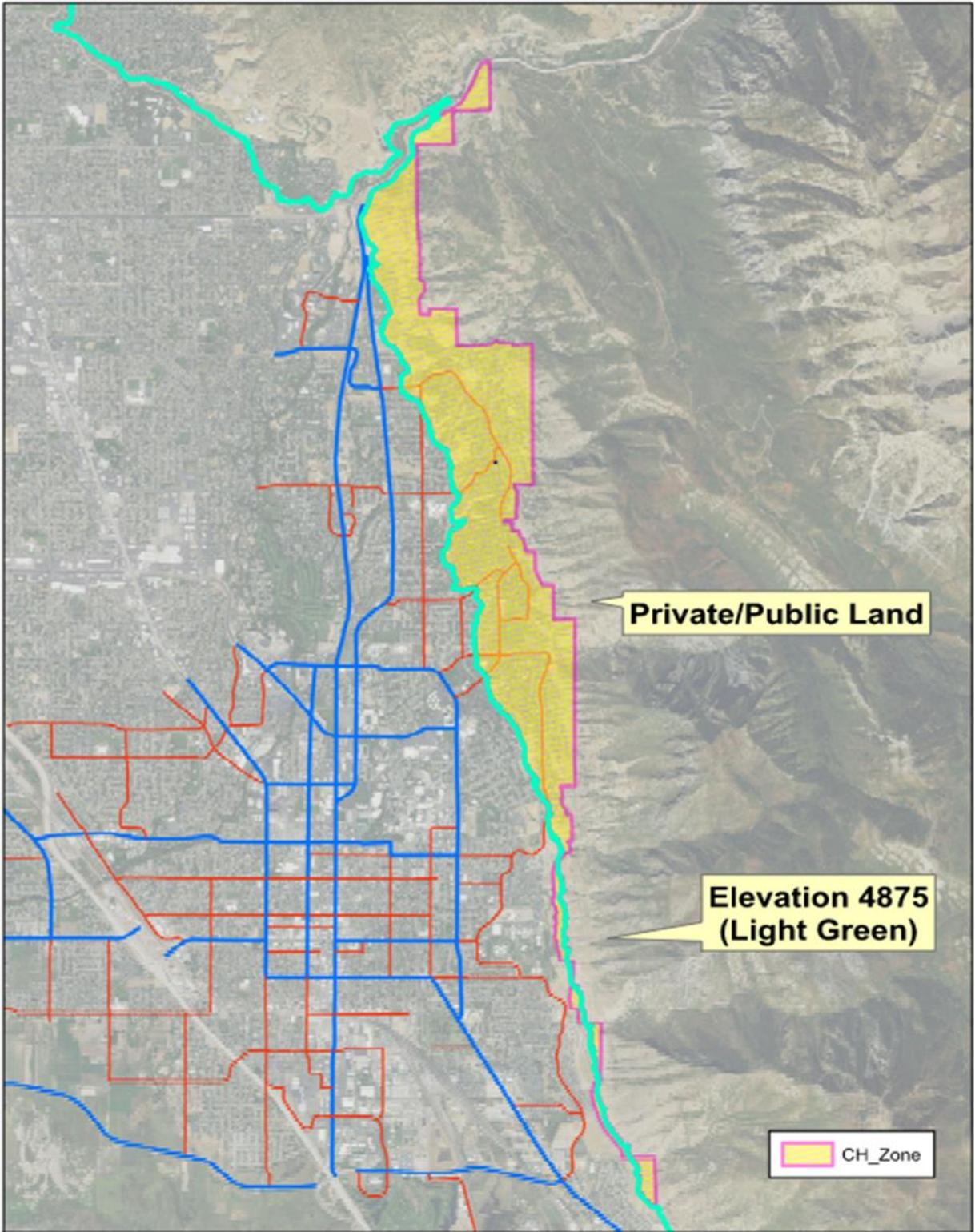
A handwritten signature in black ink that reads "Brandon Larsen". The signature is written in a cursive, flowing style.

Brandon Larsen

Planner

(801)852-6408

jb Larsen@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.

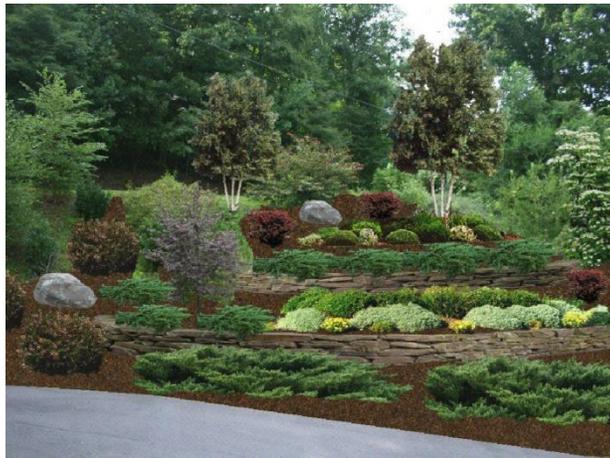
- (1) All development in the CH Zone shall comply with the applicable grading and drainage requirements of Title 15 of the Provo City Code, except that the provisions of this Chapter shall supersede any conflicting provisions in Title 14 or 15 of the Provo City Code.
- (2) Structures shall be set back 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 *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) 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. Brush, 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) 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) 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.

1
2
3 **Chapter 14.33A**
4 **CH - CRITICAL HILLSIDE OVERLAY ZONE**

5
6 **Sections:**

- 7 14.33A.010 Purpose and Objectives.
8 14.33A.020 Definitions.
9 14.33A.030 Use in Combination.
10 14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
11 14.33A.050 Permitted Uses.
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14 14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
15 14.33A.090 Limits of Disturbance(LOD).
16 14.33A.100 Slope Protection and Stability.
17 14.33A.110 Detention Basin Design.
18 14.33A.120 Ridgelines.
19 14.33A.130 Streets and Access.
20 14.33A.140 Trails.
21 14.33A.150 Fences.
22 14.33A.160 Tree and Vegetation Protection.
23 14.33A.170 Geological and Natural Hazards.
24 14.33A.180 Stream Corridor and Wetland Protection.
25 14.33A.190 Traffic Requirements.
26 14.33A.200 Parking Requirements.
27 14.33A.210 Design Standards.
28 14.33A.220 Cluster Developments.
29 14.33A.230 Other Requirements.
30

31
32 **14.33A.010 Purpose and Objectives.**
33

34 The Critical Hillside (CH) Overlay Zone is established to provide prudent development
35 standards to help protect the sensitive hillside areas of Provo City’s east bench. The
36 requirements of the CH Overlay Zone impose additional or prevailing requirements to those
37 required by the underlying zone. The provisions of this zone are intended to aid in the
38 protection of ridgelines, to support the stability of slopes, and to protect existing public
39 accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The
40 provisions of this zone help preserve existing vegetation and require the reestablishment of
41 vegetation areas disturbed in the development process. Design standards are included herein
42 to preserve and complement the natural beauty and ecological health of Provo’s hillside
43 areas. The requirements of this zone consider the potential slope, fire, and natural hazards
44 associated with the hillside areas and require mitigation of these hazards in the development
45 process.
46

47
48 **14.33A.020 Definitions**
49

50 For the purpose of this Chapter, the following words and terms shall be defined, as follows:
51

52 **“Approved fire protection plan”** means the fire protection plan approved by the applicable
53 fire authority.
54

55 **“Bench”** means a naturally occurring broad, generally flat, elevated terrace landform with an
56 abrupt slope on one side.
57

58 **“Caliper”** means a standard trunk diameter measurement for nursery grown trees taken six
59 (6) inches above the ground for trees up to and including four (4) inch caliper size, and
60 twelve (12) inches above the ground for larger size trees.
61

62 **“Defensible space”** means the required space between a structure and wildland area that,
63 under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a
64 structure.
65

66 **“Density Bonus”** means a residential density increase—beyond the density allowed by the
67 underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as
68 set forth in this Chapter.
69

70 **“Drip line”** means a vertical line extending from the outermost edge of the tree canopy or
71 shrub branch to the ground.
72

73 **“Hard surface”** means asphalt or concrete or similar impervious materials.
74

75 **“Limits of disturbance (LOD)”** means the area(s) in which construction and development
76 activity are to be contained, including development and construction of the main building,
77 accessory structures, and recreation areas. The following need not be included in limits of
78 disturbance:
79

80 (a) Up to ten feet of paved or unpaved shoulders for driveways.
81

82 (b) Areas consisting of natural ponds, streams, trees, and other vegetation where no
83 grading work is done.
84

85 **“Natural open space”** means land in a predominantly open and undeveloped condition that
86 is suitable for any of the following: natural areas; wildlife and native plant habitat; important
87 wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land
88 disturbance; or trails for non-motorized activities.
89

90 **“Net developable acreage”** means land that possesses all of the following characteristics:

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

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

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

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

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

102 **“Non-Sight-Obscuring Fencing”** means fencing that is more than fifty percent 50% open.

103

104 **“Open Space”** means any area of a lot that is completely free and unobstructed from any
105 man-made structure or parking areas.

106

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

114

115 **“Overlay zone”** means a zoning district that encompasses one or more underlying zones and
116 that imposes additional or alternative requirements to that required by the underlying zone.

117

118 **“Ridge”** means the elongated crest at the apex or uppermost point of the intersection
119 between two opposite slopes of a hill or mountain.

120

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

124

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

128

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

132
133 **“Stream”** means a body of flowing water; natural water course containing water at least
134 intermittently.

135
136 **“Stream Corridor”** means the corridor defined by a constant or intermittent stream’s
137 ordinary high water mark.

138
139 **“Tree”** means a woody plant with a distinct central trunk.

140
141 **“Vegetation”** Means living plant material, including but not limited to trees, shrubs, flowers,
142 grass, herbs, and ground cover.

143
144 **“Water-wise plant species”** means low water use plants, trees, shrubs, and ground cover.

145
146

147 **14.33A.030 Use in Combination.**

148

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

158
159

160 **14.33A.040 Development in Critical Hillside (CH) Overlay Zone.**

161

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

164

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

168

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

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(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.

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

217
218 (3) Upon request of the applicant, and only for those properties developed prior to
219 establishment of the CH Zone, the Development Services Director may offer relief of the
220 standards in this Section by up to ten percent (10%), only if he/she finds one of the following
221 circumstances applies:

- 222
223 (a) The adjustment is designed to yield more effective preservation of existing mature trees,
224 vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or
225 (b) Strict application of the standard(s) would prohibit any development on the site.

226
227
228 **14.33A.100 Slope Protection and Stability.**

229
230 (1) All development in the CH Zone shall comply with the applicable grading, fill, cutting,
231 excavation, relocation of material, and drainage requirements of Title 15, as well as any such
232 requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter
233 shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.

234
235 (2) Structures shall be set back from ascending or descending slopes greater than thirty
236 percent (30%) in accordance with the requirements of the currently adopted building code.

237
238 (3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a
239 slope greater than thirty percent (30%) must remain in natural private or natural public open
240 space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of
241 Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside
242 slopes that exceed thirty percent (30%).

243
244 (4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied
245 contour of the surrounding terrain.

246
247 (5) Notwithstanding the requirements in Subsection (4), immediately above, the use of
248 terraced retaining walls is permitted to reduce the steepness of man-made slopes and to
249 provide planting pockets conducive to re-vegetation. The following requirements apply for
250 terraced retaining walls and vertical walls:

251
252 (a) Terraces created between retaining walls shall be permanently landscaped or re-
253 vegetated.

254 (b) Retaining walls shall be faced with stone or earth-colored materials similar to the
255 surrounding natural landscape.

256
257 (c) Vertical walls are only allowed if approved by the City Engineer and if the following
258 criteria are met:

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(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



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(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 opportunities for planting pockets.)

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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

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

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



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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



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(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.)

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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.

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

380
381 (i) In the CH Zone, the City Engineer may allow the use of street- or road-side swales, or
382 other similar street construction convention, instead of curb and gutter, when he/she
383 determines that such swales, or other similar road construction convention, will provide a
384 more efficient, safe, or practical means of managing water runoff related to a street or
385 road.

386
387 (6) Any development that abuts on public land that has an existing access to the public land
388 shall maintain the access by providing a public access road through the development to the
389 public land.

390
391 (7) Figure 14.33A.7: Roads in the CH Zone Following Natural Contours—Permitted
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(This road follows the natural contours of the land.)

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



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404

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

14.33A.140 Trails and Public Accesses.

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406
407

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

408
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410
411
412

(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%).

413
414
415

(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%).

416
417
418

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

419
420
421
422

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

423
424
425

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

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(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:

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(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

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

476
477 (b) Significant trees removed from within the LOD shall be replaced as set forth in this
478 Chapter.

479
480 (c) No trees or vegetation may be removed solely for the purpose of providing open
481 views to or from structures on a site or solely for the purpose of replacing them with
482 different species.

483
484 (d) Appropriate defensible space surrounding a structure is established in the Utah
485 Wildland-Urban Interface Code (WUI). In order to account for trees that must be
486 removed to comply with the applicable requirements of the WUI, the applicant shall
487 submit a copy of the approved fire protection plan, along with development plans that
488 incorporate the approved fire protection plan, to the Development Services Director for
489 review.

490
491 (e) The following is a list of additional situations when tree and vegetation removal is
492 permitted:

493
494 (i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect
495 public health, safety, and welfare.

496
497 (ii) The selective and limited removal of trees or vegetation necessary to obtain clear visibility at
498 driveways or intersections, to install utilities, to perform authorized field survey work, or to
499 protect structures from fire consistent with the Utah Wildland-Urban Interface Code.

500 (2) Replacement of Significant Trees

501
502 (a) When a significant tree is removed from inside the established LOD, which removal
503 is not required by WUI standards, the developer shall replace such tree(s) on the lot,
504 according to the following schedule and requirements:

505
506 (i) A significant tree that is removed shall be replaced by two (2) trees with a
507 minimum size of two (2) inch caliper for deciduous trees and a minimum height of
508 six (6) feet for coniferous trees in locations on the lot, as set forth in the required
509 revegetation, tree Reestablishment, and land reclamation plan.

510
511 (ii) Replacement trees shall be maintained through an establishment period of at least
512 two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of
513 the value of all replacement trees guaranteeing their health and survival during the
514 establishment period.

515
516 (b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as
517 areas of trees with canopies that cover eighty percent (80%) of the area, and is not

518 suitable to the planting of replacement trees, the requirement to plant replacement trees
519 requirement may be waived by the Development Services Director.

520
521 (3) Revegetation, Tree Reestablishment, and Land Reclamation Plan

522
523 (a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for
524 any lot or parcel of land that will be altered from its natural condition. This plan must be
525 stamped by an engineer and landscape architect licensed in the State of Utah. The plan
526 shall incorporate and be in harmony with the approved fire protection plan, and shall
527 establish a timeframe for revegetation that is acceptable to the City, and take into account
528 optimal seasonal growing conditions.

529
530 (b) The revegetation, tree reestablishment, and land reclamation plan shall contain the
531 following:

532
533 (i) Scale and north arrow;

534
535 (ii) Location and dimensions of the property;

536
537 (iii) Type, size, number, and location of any vegetation and trees to be planted;

538
539 (iv) Demonstration that all new trees are spaced no closer than twenty feet on center;

540
541 (v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure
542 that vegetation is successful;

543
544 (vi) Incorporation of applicable information from the approved fire protection plan;

545
546 (vii) A note that establishes a timeframe for revegetation that is acceptable to the
547 City and that takes into account optimal seasonal growing conditions;

548
549 (viii) A note detailing compliance with the Vegetation Clearance Guidelines of the
550 Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire
551 Resistive Species list in the Wildland-Urban Interface Code;

552
553 (ix) Irrigation plan to demonstrate water-wise irrigation of the revegetated,
554 reestablished, or reclaimed area; and

555
556 (x) Any other information necessary to show compliance with this Subsection (3).

557
558 (c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant
559 species and materials characteristic of the disturbed area; however, this requirement shall
560 not preclude a property owner from establishing non-native or non-water-wise adapted
561 plant species within: (1) a five [5] foot wide perimeter around the edge of all structures
562 and (2) planting beds located not more than thirty (30) feet from the main building(s).

563

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

568
569 (e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with
570 deep rooting characteristics shall be utilized to minimize erosion and reduce surface
571 runoff. The planting basin shall be kept level with a raised berm around the base of the
572 plant to help retain moisture.

573
574 (f) Topsoil that is removed during construction may be conserved for later use on areas
575 requiring revegetation or landscaping, such as cut-and-fill slopes.

576
577 (g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All
578 disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection
579 (3).

580
581 (h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for
582 improvements related to the revegetation, tree reestablishment, and land reclamation plan
583 shall be submitted and remain in place until all work has been completed and final
584 inspection made.

585
586 (4) Tree and Vegetation Protection

587
588 (a) Prior to any development activities, the applicant shall submit a tree and vegetation
589 protection plan. This plan must be stamped by an engineer and landscape architect
590 licensed in the State of Utah and incorporated into the approved, final development plans.
591 The tree and vegetation protection plan shall contain the following:

592
593 (i) Scale and north arrow

594
595 (ii) Location and dimensions of the property;

596
597 (ii) Limits of disturbance (LOD);

598
599 (iii) Fencing or other separation methods to delineate the LOD;

600
601 (iv) Location and size of all existing vegetation, including trees;

602
603 (v) Identification of vegetation and trees to be retained;

604
605 (vi) Fencing around each significant tree and around stands of trees;

606
607 (vii) A note detailing the measures that shall be taken to ensure that protected
608 vegetation will be guarded against grading, soil compaction, trenching, or other
609 development activity that could have an adverse effect on such vegetation; and

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(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



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650

(This dwelling is setback more than fifty [50] feet horizontally
from the ordinary high-water mark of a stream corridor.)

651

652

653

Figure 14.33A.10

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656

657

658 (This dwelling is not setback more than fifty [50] feet horizontally
659 from the ordinary high-water mark of a stream corridor.)
660

661
662 (b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
663 horizontally from the delineated edge of a wetland.
664

665 **14.33A.190 Traffic Requirements.**

666
667 Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of
668 the Provo City Code.
669

670
671 **14.33A.200 Parking Requirements.**

672
673 (1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:
674

675 (a) A snow storage area shall have an area that is at least twenty percent (20%) of the
676 area of the outdoor parking facility.
677

678 (b) A snow storage area shall be sited in a manner that is accessible and usable for snow
679 plow equipment.
680

681 (c) Snow storage shall not encumber required parking spaces or encroach into sidewalk
682 or pedestrian pathways.
683

684 (d) Snow storage areas shall be clearly visible and identifiable in winter conditions.
685

686 (e) Snow storage areas shall not be located on top of storm drain inlets.
687

688 (2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of
689 the Provo City Code.
690

691 (3) See Section 14.33A.210 of the Provo City Code for design standards for parking.
692

693
694 **14.33A.210 Design Standards.**
695

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

699
700 (2) Buildings

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

702
703 (a) Buildings shall be designed to follow natural contours rather than modifying the land
704 to accept a building design not tailored to the site. (See Figure 14.33A.11: Buildings to
705 Follow Natural Contours—Permitted and Figure 14.33A.12: Buildings to Follow Natural
706 Contours—Not Permitted).

707
708 Figure 14.33A.11

709



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(This home was sited to follow the natural contour of the land.)

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717

Figure 14.33A.12



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732

(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.

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

735
736 (f) Flammable wood roofing shingles are prohibited.
737

738 (3) Landscaping

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

741
742 (a) Landscaping shall incorporate natural features such as trees, significant vegetative
743 patterns, interesting land forms, rocks, water, views, and orientation. (See Figure
744 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure
745 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).
746

747 Figure 14.33A.13
748
749



750
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752
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756

(The landscaping of this property incorporates natural features and land forms.)

Figure 14.33A.14



757
758

(Besides the trees in the background, the natural features that once existed on this property were cleared away and not incorporated into the landscaping.)

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762

(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).

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769

(4) Fencing

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771

The following fencing design standards apply in the CH Zone:

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773

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

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- (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

782 (viii) Powder or dull coat chain link fencing (permitted only for telecommunications
783 facilities, public utility compounds, and other related or similar facilities).

784
785 (b) The following fencing materials are prohibited in the CH Zone:

- 786 (i) Solid board;
- 787 (ii) Concrete or concrete block;
- 788 (iii) Plywood; and
- 789 (iv) Painted materials.

790

791 (5) Parking

792 The following parking design standards apply in the CH Zone:

793

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

798

799 Figure 14.33A.15



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801

802 (This parking lot was screened with trees and vegetation
803 and is compatible with the natural environment.)

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Figure 14.33A.16

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(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.

827 (1) The Planning Commission may approve a request for the clustering of a proposed
828 development in the CH Zone—at a greater density than what is allowed in the underlying
829 zone, only if all of the following standards are met:
830

831 (a) The applicant shall submit a report that has been stamped by an engineer and
832 landscape architect licensed in Utah that attests the clustering proposal will have no
833 adverse impact on adjacent properties, or, if such impacts are anticipated, such report
834 will detail these impacts and recommend mitigation measures, such as landscape,
835 screening, illumination standards, and other design features. If impacts are anticipated,
836 as set forth in the above-mentioned report, the applicant shall enter into an agreement
837 with the City to implement and maintain appropriate mitigation measures, approved by
838 the City Engineer, to buffer and protect adjacent properties from the proposed clustered
839 development. The developer’s Utah licensed engineer and landscape architect shall
840 verify that the recommended mitigation measures have been incorporated into the
841 development. The responsibility—through-out the development process—for verifying
842 mitigation measures shall be the responsibility of the developer’s Utah licensed engineer
843 and landscape architect;
844

845 (b) The Planning Commission, based upon the findings of a report submitted by the
846 applicant and stamped by an engineer and landscape architect licensed in the State of
847 Utah, finds that the clustering proposal, compared with a conventional development,
848 better attains the policies and objectives of the CH Zone, such as providing more natural
849 open space, preserving existing trees and vegetation coverage, and preserving sensitive
850 environmental areas such as stream corridors, geological sensitive areas, prominent
851 ridgelines, wetlands, and steep slopes;
852

853 (c) The Design Review Committee issues an opinion that the architecture, height,
854 building materials, building colors, and other design features of the development blend
855 with the surrounding natural landscape and are compatible with adjacent properties or
856 development; and
857

858 (d) All other applicable requirements of this zone, the underlying zone, and this Title are
859 met.
860

861 (2) Cluster developments shall meet the following design standards and applicants for such
862 shall provide the written opinion of a landscape architect and/or engineer licensed in the State
863 of Utah that the following design standards have been met:
864

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



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(This development was clustered and preserved significant areas of open space.)

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



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(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.



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

1
2 **Chapter 14.33A**
3 **CH - CRITICAL HILLSIDE OVERLAY ZONE**
4

5
6 **Sections:**

- 7 14.33A.010 Purpose and Objectives.
8 14.33A.020 Definitions.
9 14.33A.030 Use in Combination.
10 14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
11 14.33A.050 Permitted Uses.
12 14.33A.060 Development Standards.
13 14.33A.070 Provision of Facilities.
14 14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
15 14.33A.090 Limits of Disturbance (LOD).
16 14.33A.100 Slope Protection and Stability.
17 14.33A.110 Detention Basin Design.
18 14.33A.120 Ridgelines.
19 14.33A.130 Streets and Access.
20 14.33A.140 Trails.
21 14.33A.150 Fences.
22 14.33A.160 Tree and Vegetation Protection.
23 14.33A.170 Geological and Natural Hazards.
24 14.33A.180 Stream Corridor and Wetland Protection.
25 14.33A.190 Traffic Requirements.
26 14.33A.200 Parking Requirements.
27 14.33A.210 Design Standards.
28 14.33A.220 Cluster Developments.
29 14.33A.230 Other Requirements.
30

31
32 **14.33A.010 Purpose and Objectives.**
33

34 The Critical Hillside (CH) Overlay Zone is established to provide prudent development
35 standards to help protect the sensitive hillside areas of Provo City's east bench. The
36 requirements of the CH Overlay Zone impose additional or prevailing requirements to those
37 required by the underlying zone. The provisions of this zone are intended to aid in the
38 protection of ridgelines, to support the stability of slopes, and to protect existing public
39 accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The
40 provisions of this zone help preserve existing vegetation and require the reestablishment of
41 vegetation areas disturbed in the development process. Design standards are included herein
42 to preserve and complement the natural beauty and ecological health of Provo's hillside
43 areas. The requirements of this zone consider the potential slope, fire, and natural hazards
44 associated with the hillside areas and require mitigation of these hazards in the development
45 process.
46

47
48 **14.33A.020 Definitions**
49

50 For the purpose of this Chapter, the following words and terms shall be defined, as follows:
51

52 **"Approved fire protection plan"** means the fire protection plan approved by the applicable
53 fire authority.
54

55 **"Bench"** means a naturally occurring broad, generally flat, elevated terrace landform with an
56 abrupt slope on one side.
57

58 **"Caliper"** means a standard trunk diameter measurement for nursery grown trees taken six
59 (6) inches above the ground for trees up to and including four (4) inch caliper size, and
60 twelve (12) inches above the ground for larger size trees.
61

62 **"Defensible space"** means the required space between a structure and wildland area that,
63 under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a
64 structure.
65

66 **"Density Bonus"** means a residential density increase—beyond the density allowed by the
67 underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as
68 set forth in this Chapter.
69

70 **"Drip line"** means a vertical line extending from the outermost edge of the tree canopy or
71 shrub branch to the ground.
72

73 **"Hard surface"** means asphalt or concrete or similar impervious materials.
74

75 **"Limits of disturbance (LOD)"** means the area(s) in which construction and development
76 activity are to be contained, including development and construction of the main building,
77 accessory structures, and recreation areas. The following need not be included in limits of
78 disturbance:
79

80 (a) Up to ten feet of paved or unpaved shoulders for driveways.
81

82 (b) Areas consisting of natural ponds, streams, trees, and other vegetation where no
83 grading work is done.
84

85 **"Natural open space"** means land in a predominantly open and undeveloped condition that
86 is suitable for any of the following: natural areas; wildlife and native plant habitat; important
87 wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land
88 disturbance; or trails for non-motorized activities.
89

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

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

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

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

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

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

102 **“Non-Sight-Obscuring Fencing”** means fencing that is more than fifty percent 50% open.
103

104 **“Open Space”** means any area of a lot that is completely free and unobstructed from any
105 man-made structure or parking areas.

106

107 **“Ordinary High Water Mark”** means the line on the bank to which the high water of a
108 stream ordinarily rises annually in seasons, as indicated by changes in the characteristics of
109 soil, vegetation, or other appropriate means that consider the characteristics of the
110 surrounding areas. Where the ordinary high water mark cannot be found, the top of the
111 channel bank shall be used in place of the ordinary high water mark. In braided channels, the
112 ordinary high water mark, or substitute channel bank, shall be measured so as to include the
113 entire stream feature.
114

115 **“Overlay zone”** means a zoning district that encompasses one or more underlying zones and
116 that imposes additional or alternative requirements to that required by the underlying zone.
117

118 **“Ridge”** means the elongated crest at the apex or uppermost point of the intersection
119 between two opposite slopes of a hill or mountain.

120

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

124

125 **“Significant trees”** means live trees of six-inch caliper or greater, groves of five or more
126 smaller live trees, or clumps of live oak or maple covering an area of fifty square feet to the
127 drip line perimeter.
128

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

132

133 **“Stream”** means a body of flowing water; natural water course containing water at least
134 intermittently.

135

136 **“Stream Corridor”** means the corridor defined by a constant or intermittent stream’s
137 ordinary high water mark.

138

139 **“Tree”** means a woody plant with a distinct central trunk.

140

141 **“Vegetation”** Means living plant material, including but not limited to trees, shrubs, flowers,
142 grass, herbs, and ground cover.

143

144 **“Water-wise plant species”** means low water use plants, trees, shrubs, and ground cover.
145

146

147 **14.33A.030 Use in Combination.**

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149 The CH Zone shall overlay and be used in combination with existing conventional zones or
150 project specific zones. If there is a conflict between the provisions in this Chapter and the
151 requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall
152 take precedence. The CH Zone shall not be applied to any land as an independent zone.
153 Property to which the CH Zone has been applied shall be developed only in conformance
154 with the applicable, approved project plan, subdivision, or other approved development
155 plans. Written references to a zone that is overlain by the CH Zone, including those on the
156 Zone Map of Provo City, shall include the underlying zone, along with the acronym of the
157 overlay zone, e.g., R110CH.
158

159

160 **14.33A.040 Development in Critical Hillside (CH) Overlay Zone.**

161

162 (1) All development in the CH Zone, including, but not limited to, grading, clearing, and
163 excavation, shall comply with the applicable provisions of this Chapter.
164

165 (2) The submittal of maps, plans, narratives, or any other document necessary to
166 demonstrate compliance with this Chapter shall be submitted to the Coordinator Review
167 Committee for review.
168

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

- 173
174 (4) The provisions of this Chapter shall shall not apply in the following situations:
175
176 (a) for lots created prior to the effective date of the ordinance establishing the Critical
177 Hillside (CH) Overlay Zone;
178
179 (b) for parcels (not lying in a development plat) developed prior to the effective date of
180 the ordinance establishing the Critical Hillside (CH) Overlay Zone; and
181
182 (c) for additions to a one-family dwelling and accessory structures permitted after the
183 effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so
184 long as the addition or accessory structure does not extend outside the limits of
185 disturbance established when the dwelling was originally permitted.

186 **14.33A.050 Permitted Uses.**

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188
189 Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the
190 provisions of the underlying zone with which the CH Zone has been combined.
191

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193 **14.33A.060 Development Standards.**

194
195 Development in the CH Zone shall conform to the development standards required by the
196 provisions of the underlying zone with which the CH Zone is combined.
197

198
199 **14.33A.070 Provision of Facilities.**

200
201 The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City
202 Code, shall be met.
203

204
205 **14.33A.080 Project Plan Approval/Design Review/Design Guidelines.**

206
207 See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280,
208 Section 14.34.285, and Section 14.34.287, Provo City Code.
209

210
211 **14.33A.90 Limits of Disturbance (LOD).**
212

213 (1) Limits of disturbance shall be located and identified on development plans indicating the
214 specific area(s) of a property where construction and development activity shall be contained
215

216 (2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than
217 forty (40) percent of a lot or parcel may be included in the LOD.
218

219 (3) Upon request of the applicant, and only for those properties developed prior to
220 establishment of the CH Zone, the Development Services Director may offer relief of the
221 standards in this Section by up to ten percent (10%), only if he/she finds one of the following
222 circumstances applies:
223

224 (a) The adjustment is designed to yield more effective preservation of existing mature
225 trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the
226 site; or
227

228 (b) Strict application of the standard(s) would prohibit any development on the site.
229

230
231 **14.33A.100 Slope Protection and Stability.**
232

233 (1) All development in the CH Zone shall comply with the applicable grading, fill, cutting,
234 excavation, relocation of material, and drainage requirements of Title 15, as well as any such
235 requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter
236 shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.
237

238 (2) Structures shall be set back from ascending or descending slopes greater than thirty
239 percent (30%) in accordance with the requirements of the currently adopted building code.
240

241 (3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a
242 slope greater than thirty percent (30%) must remain in natural private or natural public open
243 space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of
244 Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside
245 slopes that exceed thirty percent (30%).
246

247 (4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied
248 contour of the surrounding terrain.
249

250 (5) Notwithstanding the requirements in Subsection (4), immediately above, the use of
251 terraced retaining walls is permitted to reduce the steepness of man-made slopes and to
252 provide planting pockets conducive to re-vegetation. The following requirements apply for
253 terraced retaining walls and vertical walls:
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255 (a) Terraces created between retaining walls shall be permanently landscaped or re-
256 vegetated.

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- (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.)

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



(Wall is not constructed of earth-colored materials and does not provide opportunities for planting pockets.)

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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

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

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(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.)

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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.

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(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.)

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



(This structure has been sited on a ridgeline.)

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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.

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(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



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

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



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(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:

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433

- 434 (a) The trail must be constructed according to the applicable Provo City Public Works
 435 and Parks and Recreation Department standards;
 436
 437 (b) The dedicated trail right-of-way is a minimum of 20 feet;
 438
 439 (c) The trail improvements and right-of-way must be dedicated to the City prior to
 440 issuance of any building permits within the development; and
 441
 442 (d) Such trail, or portion thereof, shall be part of a planned City trail system.
 443
 444 (3) After having received the opinion of the Parks and Recreation Department Director and
 445 the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the
 446 Mayor may reject a proffered trail dedication, if it makes any one or more of the following
 447 findings regarding the proffered dedication:
 448
 449 (a) Trail maintenance is not feasible.
 450
 451 (b) The trail dedication length is less than 660 feet.
 452
 453 (c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited
 454 to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a
 455 trail for public use, as per the opinion of the City Engineer.
 456
 457 (4) Legally established public accesses shall not be included within the limits of disturbance
 458 (LOD) of any development or lot. Legally established public accesses shall be located and
 459 identified on recorded development plats and approved development plans.

461 **14.33A.150 Fences.**

462 The following fencing requirements apply in the CH Zone:

- 463
 464 (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front
 465 yards and along roadways, shall be non-sight-obscuring fencing and have a maximum
 466 height of five (5) feet; however, livestock fencing may have a maximum height of six (6)
 467 feet.
 468
 469 (b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements
 470 of Section 14.34.100 of the Provo City Code shall be met.
 471
 472 (c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.
 473
 474

475 **14.33A.160 Tree and Vegetation Protection.**

476 (1) Tree/Vegetation Removal
 477
 478
 479

- 480 (a) No trees or vegetation may be removed outside the approved LOD unless specifically
 481 exempted by this Chapter.
 482
 483 (b) Significant trees removed from within the LOD shall be replaced as set forth in this
 484 Chapter.
 485
 486 (c) No trees or vegetation may be removed solely for the purpose of providing open
 487 views to or from structures on a site or solely for the purpose of replacing them with
 488 different species.
 489
 490 (d) Appropriate defensible space surrounding a structure is established in the Utah
 491 Wildland-Urban Interface Code (WUI). In order to account for trees that must be
 492 removed to comply with the applicable requirements of the WUI, the applicant shall
 493 submit a copy of the approved fire protection plan, along with development plans that
 494 incorporate the approved fire protection plan, to the Development Services Director for
 495 review.
 496
 497 (e) The following is a list of additional situations when tree and vegetation removal is
 498 permitted:
 499
 500 (i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect
 501 public health, safety, and welfare.
 502
 503 (ii) The selective and limited removal of trees or vegetation necessary to obtain
 504 clear visibility at driveways or intersections, to install utilities, to perform authorized
 505 field survey work, or to protect structures from fire consistent with the Utah
 506 Wildland-Urban Interface Code.
 507
 508 (2) Replacement of Significant Trees
 509
 510 (a) When a significant tree is removed from inside the established LOD, which removal
 511 is not required by WUI standards, the developer shall replace such tree(s) on the lot,
 512 according to the following schedule and requirements:
 513
 514 (i) A significant tree that is removed shall be replaced by two (2) trees with a
 515 minimum size of two (2) inch caliper for deciduous trees and a minimum height of
 516 six (6) feet for coniferous trees in locations on the lot, as set forth in the required
 517 revegetation, tree Reestablishment, and land reclamation plan.
 518
 519 (ii) Replacement trees shall be maintained through an establishment period of at least
 520 two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of
 521 the value of all replacement trees guaranteeing their health and survival during the
 522 establishment period.
 523

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

528
529 (3) Revegetation, Tree Reestablishment, and Land Reclamation Plan
530

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

537
538 (b) The revegetation, tree reestablishment, and land reclamation plan shall contain the
539 following:

540 (i) Scale and north arrow;

541 (ii) Location and dimensions of the property;

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

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

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

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

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

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

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

554 (x) Any other information necessary to show compliance with this Subsection (3).
555

556 (c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant
557 species and materials characteristic of the disturbed area; however, this requirement shall
558 not preclude a property owner from establishing non-native or non-water-wise adapted
559

569 plant species within: (1) a five [5] foot wide perimeter around the edge of all structures
570 and (2) planting beds located not more than thirty (30) feet from the main building(s).
571

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

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

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

582 (g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All
583 disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection
584 (3).

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

589 (4) Tree and Vegetation Protection
590

591 (a) Prior to any development activities, the applicant shall submit a tree and vegetation
592 protection plan. This plan must be stamped by an engineer and landscape architect
593 licensed in the State of Utah and incorporated into the approved final development plans.
594 The tree and vegetation protection plan shall contain the following:
595

596 (i) Scale and north arrow

597 (ii) Location and dimensions of the property;

598 (iii) Limits of disturbance (LOD);

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

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

601 (vi) Identification of vegetation and trees to be retained;

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

- 615 (vii) A note detailing the measures that shall be taken to ensure that protected
- 616 vegetation will be guarded against grading, soil compaction, trenching, or other
- 617 development activity that could have an adverse effect on such vegetation; and
- 618
- 619 (viii) Any other information necessary to show compliance with this Subsection (4).
- 620
- 621 (b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip
- 622 zone—shall be placed around each significant tree (that will not be removed) and around
- 623 stands of twelve or more smaller trees.
- 624
- 625 (c) No construction, grading, equipment or material storage, or any other activity is
- 626 allowed within the drip zone of protected trees, and the fencing must remain in place until
- 627 all land alteration, construction, and development activities are completed.
- 628

629 **14.33A.170 Sensitive Lands.**

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

632 **14.33A.180 Stream Corridor and Wetland Protection.**

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

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

641 (3) The following setback requirements apply:

- 642 (a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
- 643 horizontally from the ordinary high-water mark of stream corridors. (See Figure
- 644 14.33A.9: Setback from Stream Corridor—Permitted and Figure 14.33A.10: Setback from
- 645 Stream Corridor—Not Permitted).
- 646

647 Figure 14.33A.9

655
656



657
658 (This dwelling is setback more than fifty [50] feet horizontally
659 from the ordinary high-water mark of a stream corridor.)
660

661 Figure 14.33A.10



662
663
664
665
666 (This dwelling is not setback more than fifty [50] feet horizontally
667 from the ordinary high-water mark of a stream corridor.)
668

- 669 (b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
- 670 horizontally from the delineated edge of a wetland.
- 671
- 672

673 **14.33A.190 Traffic Requirements.**

674

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

677

678

679 **14.33A.200 Parking Requirements.**

680

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

682

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

685

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

688

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

691

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

693

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

695

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

698

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

700

701

702 **14.33A.210 Design Standards.**

703

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

707

708 (2) **Buildings**

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

710

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

715

716

717

Figure 14.33A.11



718

719

(This home was sited to follow the natural contour of the land.)

720

721

722

723

724

725

Figure 14.33A.12



726

727

(This land was modified to accept a building design not tailored for the site.)

728

729

730

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

731

732

733

734

- 735 (c) Rooflines and building mass shall echo the angles and shapes repeated in the natural
 736 landscape.
 737
 738 (d) Building mass and wall lines shall be broken up to complement natural settings and
 739 slopes.
 740
 741 (e) The use of building materials in colors that blend harmoniously with the surrounding
 742 natural settings is required. Brash, contrasting color combinations are prohibited.
 743
 744 (f) Flammable wood roofing shingles are prohibited.
 745

746 (3) Landscaping

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

- 749
 750 (a) Landscaping shall incorporate natural features such as trees, significant vegetative
 751 patterns, interesting land forms, rocks, water, views, and orientation. (See Figure
 752 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure
 753 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).
 754
 755
 756
 757

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;

- 795 (ii) Concrete or concrete block;
- 796 (iii) Plywood; and
- 797 (iv) Painted materials.

798
799 (5) Parking

800 The following parking design standards apply in the CH Zone:

- 801
- 802 (a) When visible from public streets and private development roads, parking facilities
- 803 shall be screened to blend into the natural environment. (See Figure 14.33A.15:
- 804 Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking
- 805 Facilities—Not Permitted).

806
807 Figure 14.33A.15



808
809 (This parking lot was screened with trees and vegetation
810 and is compatible with the natural environment.)

811
812
813
814 Figure 14.33A.16



816
817 (This parking lot was not screened with trees and vegetation
818 and does not blend into the natural environment.)

819
820
821 (6) Utility Infrastructure

822 In so far as possible, utility infrastructure, including water tanks, shall be screened, from
823 public rights-of-way, or designed to blend into the natural environment. However, such
824 screening or design (to blend into the natural environment) shall not compromise
825 maintenance access to such facilities.
826

827
828 (7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster
829 developments.
830

831
832 **14.33A.220 Cluster Developments.**

833
834 (1) The Planning Commission may approve a request for the clustering of a proposed
835 development in the CH Zone—at a greater density than what is allowed in the underlying
836 zone, only if all of the following standards are met:
837

- 838
- 839 (a) The applicant shall submit a report that has been stamped by an engineer and
- 840 landscape architect licensed in Utah that attests the clustering proposal will have no
- 841 adverse impact on adjacent properties, or, if such impacts are anticipated, such report
- 842 will detail these impacts and recommend mitigation measures, such as landscape,
- 843 screening, illumination standards, and other design features. If impacts are anticipated,
- 844 as set forth in the above-mentioned report, the applicant shall enter into an agreement
- 845 with the City to implement and maintain appropriate mitigation measures, approved by
- 846 the City Engineer, to buffer and protect adjacent properties from the proposed clustered
- 847 development. The developer's Utah licensed engineer and landscape architect shall

848 verify that the recommended mitigation measures have been incorporated into the
849 development. The responsibility—through-out the development process—for verifying
850 mitigation measures shall be the responsibility of the developer's Utah licensed engineer
851 and landscape architect;

852
853 (b) The Planning Commission, based upon the findings of a report submitted by the
854 applicant and stamped by an engineer and landscape architect licensed in the State of
855 Utah, finds that the clustering proposal, compared with a conventional development,
856 better attains the policies and objectives of the CH Zone, such as providing more natural
857 open space, preserving existing trees and vegetation coverage, and preserving sensitive
858 environmental areas such as stream corridors, geological sensitive areas, prominent
859 ridgelines, wetlands, and steep slopes;

860
861 (c) The Design Review Committee issues an opinion that the architecture, height,
862 building materials, building colors, and other design features of the development blend
863 with the surrounding natural landscape and are compatible with adjacent properties or
864 development; and

865
866 (d) All other applicable requirements of this zone, the underlying zone, and this Title are
867 met.

868
869 (2) Cluster developments shall meet the following design standards and applicants for such
870 shall provide the written opinion of a landscape architect and/or engineer licensed in the State
871 of Utah that the following design standards have been met:

872
873 (a) The undeveloped area of the development site shall be preserved as active or passive
874 natural open space. Natural open space areas shall provide contiguity with adjacent
875 natural open space and/or conservation areas; protect unique natural, historical, or
876 cultural site features and resources; avoid fragmentation of open space areas within the
877 site; and preserve existing, legal public access.

878
879 (b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be
880 separated from other residential clusters by a minimum of one-hundred (100) feet.

881
882 (c) The layout of a cluster development shall protect significant natural resources within
883 the proposed development. Natural resources include riparian areas, wetlands, ecological
884 resources, and steep slopes and ridgelines. The overall site design shall employ the site's
885 natural topography to hide multiple residential clusters from the sight of adjacent clusters.

886
887 (d) Cluster development shall preserve the following:

888
889 (i) Open sky backdrop above those ridgelines designated for protection by the
890 Planning Commission; and

891
892 (ii) Significant views of the natural landscape as viewed from adjacent streets.

893
894 (3) Figure 14.33A.17: Development—Permitted

895



896

897 (This development was clustered and preserved significant areas of open space.)

898

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

900



901

902

903

904

905

906

907

908

909

14.33A.230 Other Requirements.

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

- 910 (2) Landscaping. In addition to the landscaping requirements of this Chapter, development
911 in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City
912 Code, as well as any landscaping requirements of the underlying zone.
913
- 914 (3) Trash Storage (see Section 14.34.080, Provo City Code).
915
- 916 (4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light
917 emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.
918

ITEM 2*

Provo City Council requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

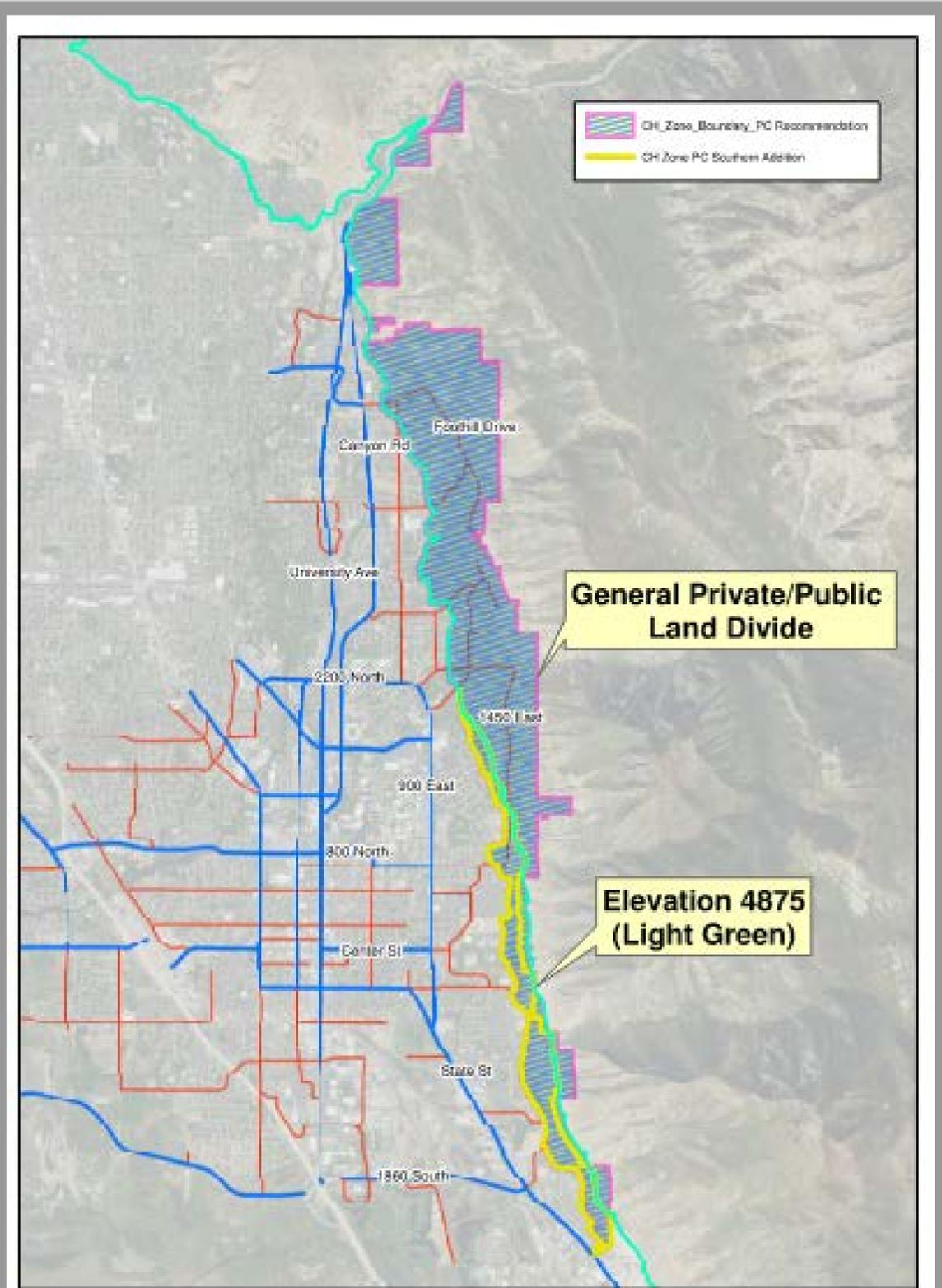
Citywide application

PLRZ20200078

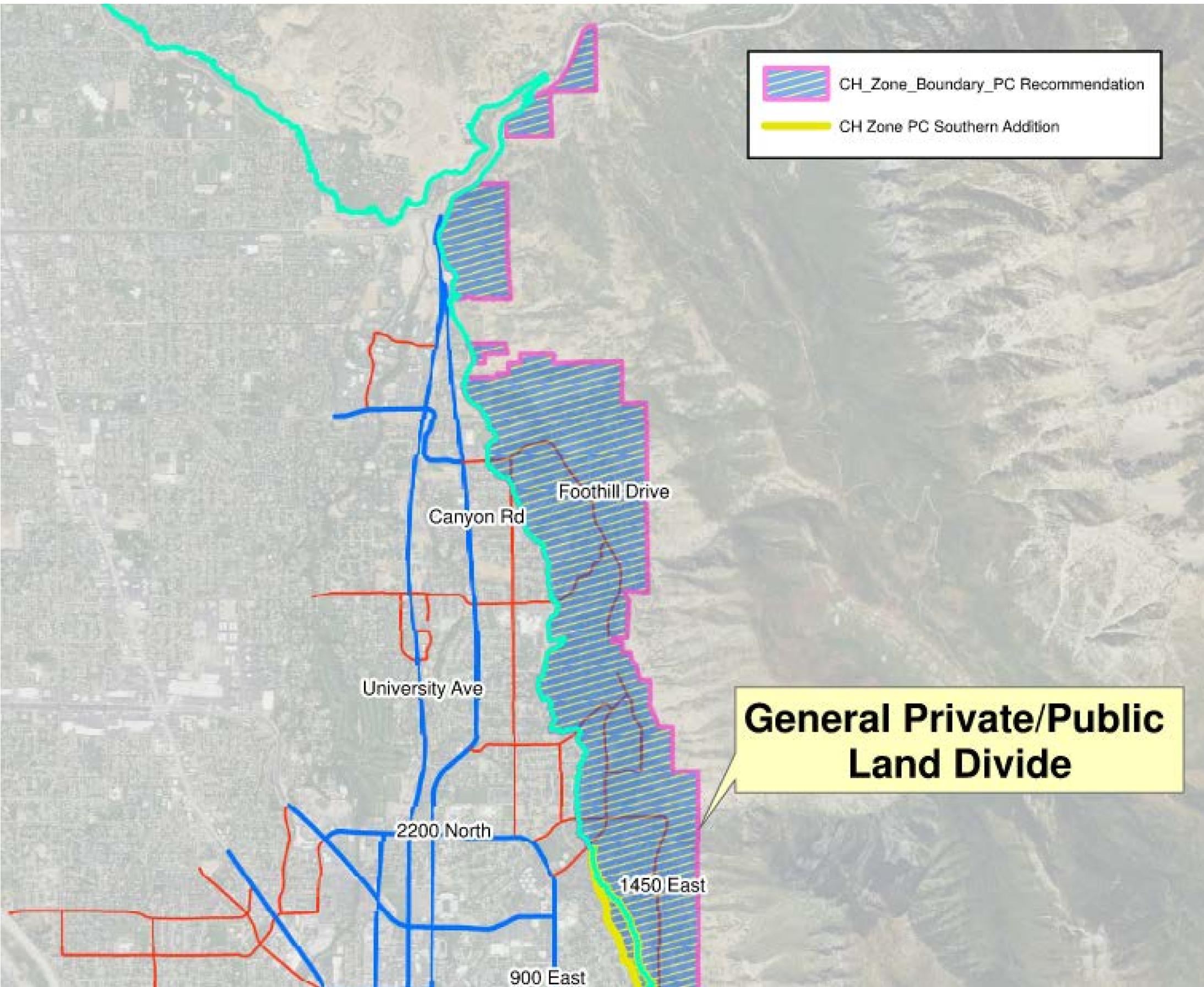
ITEM 2*

Critical Hillside (CH) Overlay Zone

- CH Zone Boundaries:
 - Proposed area of applicability:
 - Between Elevation 4875 (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

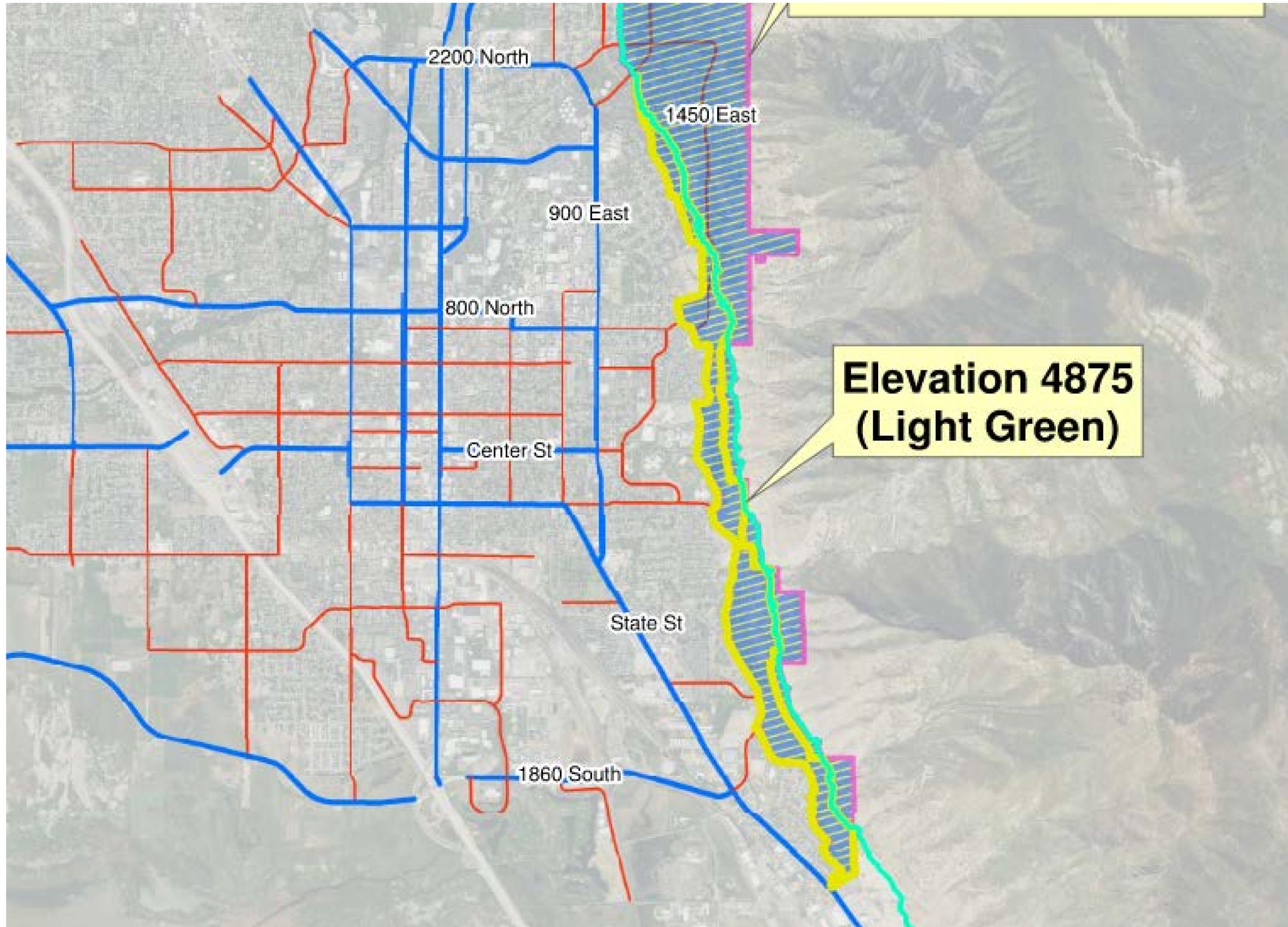


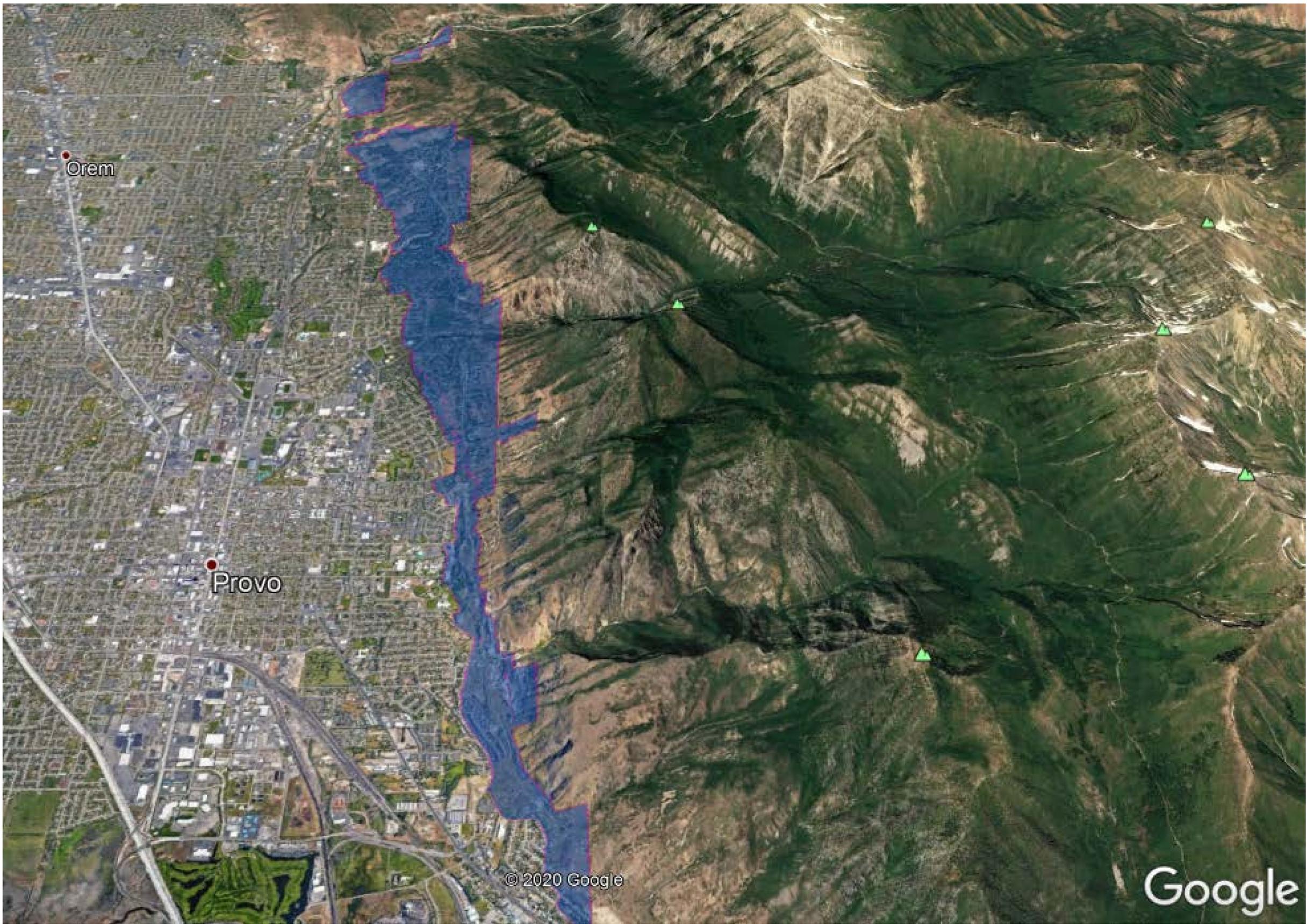
**Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries**



- CH_Zone_Boundary_PC Recommendation
- CH Zone PC Southern Addition

**General Private/Public
Land Divide**





Orem

Provo

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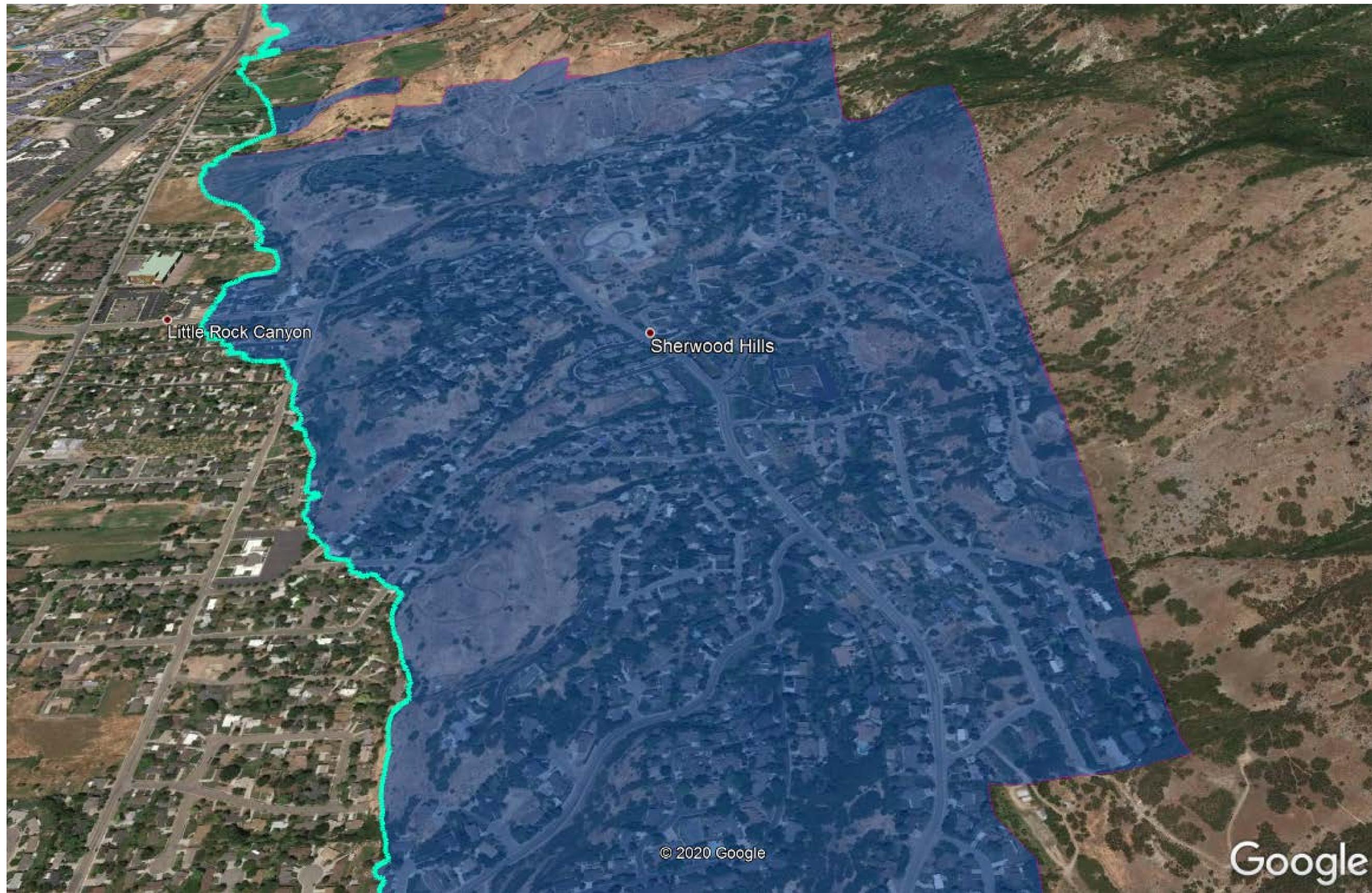


River Bottoms



Orchard North

River Bottoms



Little Rock Canyon

Sherwood Hills



Edgemont

Indian Hills

Rock Canyon

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Oak Hills



Foot Hills

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Provost South

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Google



Spring Creek

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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.05040 Development in the Critical Hillside (CH) Overlay Zone.
- 14.33A.06050 Permitted Uses.
- 14.33A.070060 Development Standards.
- 14.33A.080070 Provision of Facilities.
- 14.33A.090080 Project Plan Approval/Design Review/Design Guidelines.
- 14.33A.0100090 Limits of ~~Development Disturbance~~(LOD).
- 14.33A.110100 Slope Protection and Stability.
- 14.33A.120110 Detention Basin Design.
- 14.33A.130120 Ridgelines.
- 14.33A.140130 Streets and Access.
- 14.33A.150140 Trails.
- 14.33A.160150 Fences.
- 14.33A.170160 Tree and Vegetation Protection.
- 14.33A.180170 Geological and Natural Hazards.
- 14.33A.190180 Stream Corridor and Wetland Protection.
- 14.33A.200190 Traffic Requirements.
- 14.33A.210200 Parking Requirements.
- 14.33A.220210 Design Standards.
- 14.33A.230220 Cluster Developments.
- 14.33A.240230 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.

131 “Water-wise plant species” means low water use plants, trees, shrubs, and ground cover.
132
133

134 **14.33A.030 Use in Combination.**

136 The CH Zone shall overlay and be used in combination with existing conventional zones or
137 project specific zones. If there is a conflict between the provisions in this Chapter and the
138 requirements of Title 14 or 15 of the Provo City Code, the requirements of this Chapter shall
139 take precedence. The CH Zone shall not be applied to any land as an independent zone.
140 Property to which the CH Zone has been applied shall be developed only in conformance
141 with the applicable, approved project plan, subdivision, or other approved development
142 plans. Written references to a zone that is overlain by the CH Zone, including those on the
143 Zone Map of Provo City, shall include the underlying zone, along with the acronym of the
144 overlay zone, e.g., R110CH.
145
146

147 **14.33A.040040 Development in Critical Hillside (CH) Overlay Zone.**

148 (1) All development in the CH Zone, including, but not limited to, grading, clearing, and
149 excavation, shall comply with the applicable provisions of this Chapter.
150

151 (2) The submittal of maps, plans, narratives, or any other document necessary to
152 demonstrate compliance with this Chapter shall be submitted to the Coordinator Review
153 Committee for review.
154

155 (3) Notwithstanding any other provision in Title 14 or 15 of the Provo City Code, all
156 proposals for residential and nonresidential developments in the CH Zone, as well as all
157 proposals for main buildings, except for one-family detached dwellings, shall obtain a
158 recommendation from the Design Review Committee.
159
160

161 **14.33A.060050 Permitted Uses.**

162 Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the
163 provisions of the underlying zone with which the CH Zone has been combined.
164
165

166 **14.33A.070060 Development Standards.**

167 Development in the CH Zone shall conform to the development standards required by the
168 provisions of the underlying zone with which the CH Zone is combined.
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175 **14.33A.070 Provision of Facilities.**

176
177 ~~(1) The requirements of the Adequate Public Facilities section of Chapter 15.03, Provo City~~
178 ~~Code, shall be met.~~
179

180 **14.33A.09090 Project Plan Approval/Design Review/Design Guidelines.**

181 See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280,
182 Section 14.34.285, and Section 14.34.287, Provo City Code.
183

184 **14.33A.10090 Limits of Disturbance (LOD).**

185 (1) Limits of disturbance shall be located and identified on development plans indicating the
186 specific area(s) of a property where construction and development activity shall be contained
187 ~~(See Figure 14.33A.6: Limits of Disturbance).~~
188

189 (2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than
190 forty (40) percent of a lot or parcel may be included in the LOD.
191

192 (3) Upon request of the applicant, and only for those properties developed prior to
193 establishment of the CH Zone, the Development Service Director may offer relief of the
194 standards in this Section by up to ten percent (10%), only if he/she finds one of the following
195 circumstances applies:
196

197 (a) The adjustment is designed to yield more effective preservation of existing mature
198 trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the
199 site; or
200

201 (b) Strict application of the standard(s) would prohibit development on the site.
202
203
204

205 **14.33A.110100 Slope Protection and Stability.**

206 (1) All development in the CH Zone shall comply with the applicable grading, fill, cutting,
207 excavation, relocation of material, and drainage requirements of Title 15, as well as any such
208 requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter
209 shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.
210

211 (2) Structures shall be set back from ascending or descending slopes greater than thirty
212 percent (30%) in accordance with the requirements of the currently adopted building code.
213
214
215
216

217 (3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a
218 slope greater than thirty percent (30%) must remain in natural private or natural public open
219 space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of
220 Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside
221 slopes that exceed thirty percent (30%).
222

223 (4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied
224 contour of the surrounding terrain.
225

226 (5) Notwithstanding the requirements in Subsection (4), immediately above, the use of
227 retaining walls is permitted to reduce the steepness of man-made slopes and to provide
228 planting pockets conducive to re-vegetation. The following requirements apply for retaining
229 walls and terracing:
230

231 (a) Terraces created between retaining walls shall be permanently landscaped or re-
232 vegetated.
233

234 (b) Retaining walls shall be faced with stone or earth-colored materials similar to the
235 surrounding natural landscape.
236

237 (c) All applicable building code requirements must be met and applicable permits
238 obtained.
239

240 (d) Figure 14.33A.1: Terracing and Retaining Wall--Permitted
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242



243 (e) Figure 14.33A.2: Terracing and Retaining Wall--Not Permitted
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14.33A.140110 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



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



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14.33A.140120 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.

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



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



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14.33A.140130 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.~~

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

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

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

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

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

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

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

341 ~~(7) A development that would produce 250 vehicle trips per day or more of ten (10) or more~~
342 ~~lots, or ten (10) or more dwelling units, shall have at least two (2) points of ingress and~~
343 ~~egress. All developments shall be connected to the City's street system at two (2) different~~
344 ~~access locations.~~

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

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

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

370

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

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

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



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14.33A.140140 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%).

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

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

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

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

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

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

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

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

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

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

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

415 (a) Trail maintenance is not feasible.

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

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

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

14.33A.140150 Fences.

439

440
 441 The following fencing requirements apply in the CH Zone:
 442
 443 (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front
 444 yards and along roadways, shall be non-sight-obscuring fencing and have a maximum
 445 height of five (5) feet; however, livestock fencing shall have a maximum height of six (6)
 446 feet.
 447
 448 (b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements
 449 of Section 14.34.100 of the Provo City Code shall be met.
 450
 451 (c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.
 452
 453
 454 **14.33A.170160 Tree and Vegetation Protection.**
 455
 456 (1) Tree/Vegetation Removal
 457
 458 (a) No trees or vegetation may be removed outside the approved LOD unless specifically
 459 exempted by this Chapter.
 460
 461 (b) Significant trees removed from within the LOD shall be replaced as set forth in this
 462 Chapter.
 463
 464 (c) No trees or vegetation may be removed solely for the purpose of providing open
 465 views to or from structures on a site or solely for the purpose of replacing them with
 466 different species.
 467
 468 (d) Appropriate defensible space surrounding a structure is established in the Utah
 469 Wildland-Urban Interface Code (WUI). In order to account for trees that must be
 470 removed to comply with the applicable requirements of the WUI, the applicant shall
 471 submit a copy of the approved fire protection plan, along with development plans that
 472 incorporate the approved fire protection plan, to the Development Service Director for
 473 review.
 474
 475 (e) The following is a list of additional situations when tree and vegetation removal is
 476 permitted:
 477
 478 (i) The removal of dead or naturally fallen trees or vegetation to protect public
 479 health, safety, and welfare.
 480
 481 (ii) The selective and limited removal of trees or vegetation necessary to obtain
 482 clear visibility at driveways or intersections, to install utilities, to perform authorized

483 field survey work, or to protect structures from fire consistent with the Utah
 484 Wildland-Urban Interface Code.
 485
 486 (2) Replacement of Significant Trees
 487
 488 (a) When a significant tree is removed from inside the established LOD, which removal
 489 is not required by WUI standards, the developer shall replace such tree(s) on the lot,
 490 according to the following schedule and requirements:
 491
 492 (i) A significant tree that is removed shall be replaced by two (2) trees with a
 493 minimum size of two (2) inch caliper for deciduous trees and a minimum height of
 494 six (6) feet for coniferous trees in locations on the lot, as set forth in the required
 495 revegetation, tree Reestablishment, and land reclamation plan.
 496
 497 (ii) Replacement trees shall be maintained through an establishment period of at least
 498 two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of
 499 the value of all replacement trees guaranteeing their health and survival during the
 500 establishment period.
 501
 502 (b) If the remainder of the lot outside the approved LOD is heavily wooded, defined as
 503 areas of trees with canopies that cover eighty percent (80%) of the area, and is not
 504 suitable to the planting of replacement trees, the requirement to plant replacement trees
 505 requirement may be waived by the Development Service Director.
 506
 507 (3) Revegetation, Tree Reestablishment, and Land Reclamation Plan
 508
 509 (a) A revegetation, tree reestablishment, and land reclamation plan shall be submitted for
 510 any lot or parcel of land that will be altered from its natural condition. This plan must be
 511 stamped by an engineer licensed in the State of Utah. The plan shall incorporate and be in
 512 harmony with the approved fire protection plan, and shall establish a timeframe for
 513 revegetation that is acceptable to the City, and take into account optimal seasonal
 514 growing conditions.
 515
 516 (b) The revegetation, tree reestablishment, and land reclamation plan shall contain the
 517 following:
 518
 519 (i) Scale and north arrow;
 520
 521 (ii) Location and dimensions of the property;
 522
 523 (iii) Type, size, number, and location of any vegetation and trees to be planted;
 524
 525 (iv) Demonstration that all new trees are spaced no closer than twenty feet on center;
 526

527 (v) Illustration of how the site will be re-contoured with sufficient topsoil to ensure
 528 that vegetation is successful;
 529
 530 (vi) Incorporation of applicable information from the approved fire protection plan;
 531
 532 (vii) A note that establishes a timeframe for revegetation that is acceptable to the
 533 City and that takes into account optimal seasonal growing conditions;
 534
 535 (viii) A note detailing compliance with the Vegetation Clearance Guidelines of the
 536 Wildland-Urban Interface Code and confirming that all new trees are on the Utah Fire
 537 Resistive Species list in the Wildland-Urban Interface Code; and
 538
 539 (ix) Any other information necessary to show compliance with this Subsection (3).
 540
 541 (c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant
 542 species and materials characteristic of the disturbed area; however, this requirement shall
 543 not preclude a property owner from establishing non-native or non-water-wise adapted
 544 plant species within: (1) a five [5] foot wide perimeter around the edge of all structures
 545 and (2) planting beds located not more than thirty (30) feet from the main building(s).
 546
 547 (d) Any slope exposed or created in the development process shall be landscaped or
 548 revegetated with dryland trees and plant material. New vegetation shall be equivalent to
 549 or exceed the amount and erosion-control characteristics of the original vegetation cover
 550 in order to mitigate adverse environmental and visual effects.
 551
 552 (e) On man-made slopes of twenty-five percent (25%) or greater, plant materials with
 553 deep rooting characteristics shall be utilized to minimize erosion and reduce surface
 554 runoff. The planting basin shall be kept level with a raised berm around the base of the
 555 plant to help retain moisture.
 556
 557 (f) Topsoil that is removed during construction may be conserved for later use on areas
 558 requiring revegetation or landscaping, such as cut-and-fill slopes.
 559
 560 (g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All
 561 disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection
 562 (3).
 563
 564 (h) A performance bond, as per the provisions of Title 15 of the Provo City Code, for
 565 improvements related to the revegetation, tree reestablishment, and land reclamation plan
 566 shall be submitted and remain in place until all work has been completed and final
 567 inspection made.
 568
 569 (4) Tree and Vegetation Protection
 570
 571 (a) Prior to any development activities, the applicant shall submit a tree and vegetation
 572 protection plan. This plan must be stamped by an engineer licensed in the State of Utah

573 and incorporated into the approved, final development plans. The tree and vegetation
 574 protection plan shall contain the following:
 575
 576 (i) Scale and north arrow
 577
 578 (ii) Location and dimensions of the property;
 579
 580 (iii) Limits of disturbance (LOD);
 581
 582 (iii) Fencing or other separation methods to delineate the LOD;
 583
 584 (iv) Location and size of all existing vegetation, including trees;
 585
 586 (v) Identification of vegetation and trees to be retained;
 587
 588 (vi) Fencing around each significant tree and around stands of trees;
 589
 590 (vii) A note detailing the measures that shall be taken to ensure that protected
 591 vegetation will be guarded against grading, soil compaction, trenching, or other
 592 development activity that could have an adverse effect on such vegetation; and
 593
 594 (viii) Any other information necessary to show compliance with this Subsection(4).
 595
 596 (b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip
 597 zone—shall be placed around each significant tree (that will not be removed) and around
 598 stands of twelve or more smaller trees.
 599
 600 (c) No construction, grading, equipment or material storage, or any other activity is
 601 allowed within the drip zone of protected trees, and the fencing must remain in place until
 602 all land alteration, construction, and development activities are completed.
 603

604 **14.33A.190170 Sensitive Lands.**

605 The Sensitive Lands requirements of Chapter 15.05 of the Provo City Code, including those
 606 related to geological and natural hazards, shall be met.
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 610

611 **14.33A.190180 Stream Corridor and Wetland Protection.**

612
 613 (1) No development activity may be conducted that disturbs, removes, fills, dredges, clears,
 614 destroys, or alters, stream corridors or wetlands, including vegetation, except for restoration
 615 and maintenance activities allowed by the Provo City Code, and applicable state or federal
 616 law.
 617

618 (2) Stream corridor and wetland area delineation shall be performed by an engineer licensed
 619 in the State of Utah who has demonstrated experience and expertise to conduct the required
 620 site analysis, using or operating in accordance with any applicable, current federal manuals,
 621 requirements, and laws.
 622
 623 (3) The following setback requirements apply:
 624
 625 (a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
 626 horizontally from the ordinary high-water mark of stream corridors. (See Figure
 627 14.33A.9: Setback from Stream Corridor—Permitted and Figure 14.33A.10: Setback from
 628 Stream Corridor—Not Permitted).
 629



630
 631 Figure 14.33A.9
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634
 635 Figure 14.33A.10
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638
 639 (b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
 640 horizontally from the delineated edge of a wetland.
 641

642 **14.33A.200190 Traffic Requirements.**

643
 644 Development in the CH Zone is subject to the traffic study requirements of Chapter 15.03 of
 645 the Provo City Code.
 646

647 **14.33A.210200 Parking Requirements.**

- 648
 649 (1) Outdoor parking facilities shall provide adequate snow storage areas, as set forth below:
 650
 651 (a) A snow storage area shall have an area that is at least twenty percent (20%) of the
 652 area of the outdoor parking facility.
 653
 654 (b) A snow storage area shall be sited in a manner that is accessible and usable for snow
 655 plow equipment.
 656
 657 (c) Snow storage shall not encumber required parking spaces or encroach into sidewalk
 658 or pedestrian pathways.
 659
 660 (d) Snow storage areas shall be clearly visible and identifiable in winter conditions.
 661
 662 (e) Snow storage areas shall not be located on top of storm drain inlets.
 663

664
 665 (2) Development in the CH Zone is subject to the parking requirements of Chapter 14.37 of
 666 the Provo City Code.
 667

668 (3) See Section 14.33A.210 of the Provo City Code for design standards for parking.
 669

670 **14.33A.220210 Design Standards.**

671
 672 (1) In the event that the design standards of this Section conflict with the other design
 673 standards and guidelines of Title 14 or Title 15, Provo City Code, the standards of this
 674 Section shall take precedence.
 675
 676

677 (2) Buildings

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

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(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

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Figure 14.33A.12

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

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(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

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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

756 (5) Parking
757 The following parking design standards apply in the CH Zone:

758 (a) When visible from public streets and private development roads, parking facilities
759 shall be screened to blend into the natural environment. (See Figure 14.33A.15:
760 Screening Parking Facilities—Permitted and Figure 14.33A.16: Screening Parking
761 Facilities—Not Permitted).
762
763



764
765 Figure 14.33A.15
766
767
768



769
770 Figure 14.33A.16
771
772
773

774 (6) Utility Infrastructure
775 The following utility infrastructure design standards apply in the CH Zone:

776
777 (a) In so far as possible, utility infrastructure, including water tanks, shall be screened,
778 from public rights-of-way, or designed to blend into the natural environment. However,
779 such screening or design (to blend into the natural environment) shall not compromise
780 maintenance access to such facilities.

781
782 (67) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster
783 developments.
784
785

786 **14.33A.240220 Cluster Developments.**

787
788 (1) The Planning Commission shall approve a request for the clustering of a proposed
789 development in the CH Zone—at a greater density than what is allowed in the underlying
790 zone, only if all of the following standards are met:
791

792 (a) The applicant shall submit a report that has been stamped by an engineer licensed in
793 Utah that attests the clustering proposal will have no adverse impact on adjacent
794 properties, or, if such impacts are anticipated, such report will detail these impacts and
795 recommend mitigation measures, such as landscape, screening, illumination standards,
796 and other design features. If impacts are anticipated, as set forth in the above-mentioned
797 report, the applicant shall enter into an agreement with the City to implement and
798 maintain appropriate mitigation measures, approved by the City Engineer, to buffer and
799 protect adjacent properties from the proposed clustered development. The developer's
800 Utah licensed engineer shall verify that the recommended mitigation measures have
801 been incorporated into the development. The responsibility—through-out the
802 development process—for verifying mitigation measures shall be the responsibility of
803 the developer's Utah licensed engineer;
804

805 (b) The Planning Commission, based upon the findings of a report submitted by the
806 applicant and stamped by an engineer licensed in the State of Utah, finds that the
807 clustering proposal, compared with a conventional development, better attains the
808 policies and objectives of the CH Zone, such as providing more natural open space,
809 preserving existing trees and vegetation coverage, and preserving sensitive
810 environmental areas such as stream corridors, geological sensitive areas, prominent
811 ridgelines, wetlands, and steep slopes;
812

813 (c) The Design Review Committee issues an opinion that the architecture, height,
814 building materials, building colors, and other design features of the development blend
815 with the surrounding natural landscape and are compatible with adjacent properties or
816 development; and
817

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

820
821 (2) Cluster developments shall meet the following design standards and applicants for such
822 shall provide the written opinion of a landscape architect and/or engineer licensed in the State
823 of Utah that the following design standards have been met:
824

825 (a) The undeveloped area of the development site shall be preserved as active or passive
826 natural open space. Natural open space areas shall provide contiguity with adjacent
827 natural open space and/or conservation areas; protect unique natural, historical, or
828 cultural site features and resources; avoid fragmentation of open space areas within the
829 site; and preserve existing, legal public access.
830

831 (b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be
832 separated from other residential clusters by a minimum of one-hundred (100) feet.
833

834 (c) The layout of a cluster development shall protect significant natural resources within
835 the proposed development. Natural resources include riparian areas, wetlands, ecological
836 resources, and steep slopes and ridgelines. The overall site design shall employ the site's
837 natural topography to hide multiple residential clusters from the sight of adjacent clusters.
838

839 (d) Cluster development shall preserve the following:
840

- 841 (i) Open sky backdrop above those ridgelines designated for protection by the
842 Planning Commission; and
843
- 844 (ii) Significant views of the natural landscape as viewed from adjacent streets.
845

846 (3) Figure 14.33A.17: Development—Permitted.
847



848

849

850 (4) Figure 14.33A.18: Development—Not Permitted.
851



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14.33A.240230 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 Esast Bench properties to include them in the Critical Hillside Overlay (CH) Zone. Citywide application. (PLRZ20200078)

RECOMMENDATION: 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: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20200078



**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 4875¹ 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.

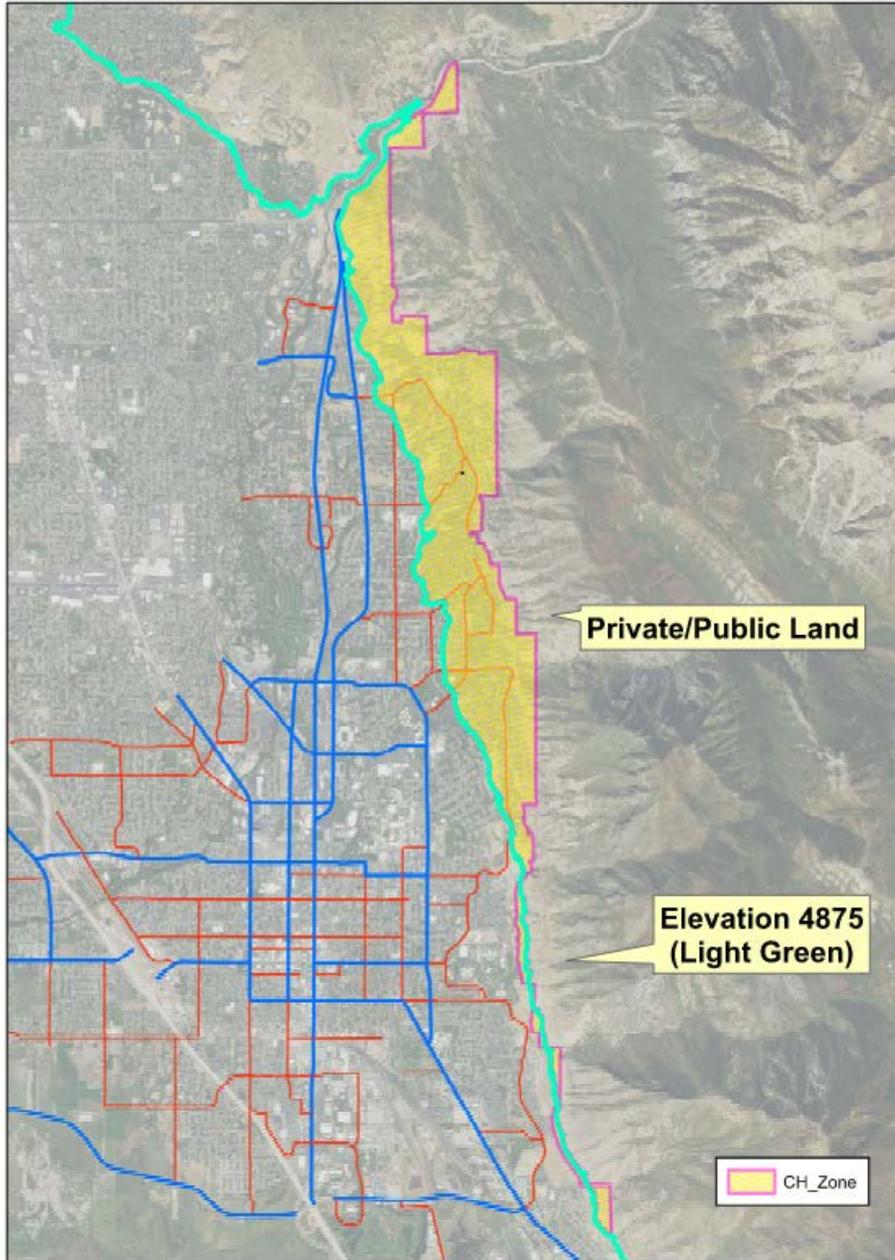
STAFF RECOMMENDATION

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**

ORDINANCE 2015-

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)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for multiple parcels of real property, generally on the East Bench (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended to add the Critical Hillside Overlay (CH) Zone designation to said properties; and

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

WHEREAS, 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) the Zone Map of Provo, Utah should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

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

PART I:

The classification on the Zone Map of Provo, Utah is hereby amended to apply the Critical Hillside Overlay (CH) Zone to multiple properties on the East Bench, as shown on Exhibit A.

PART II:

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

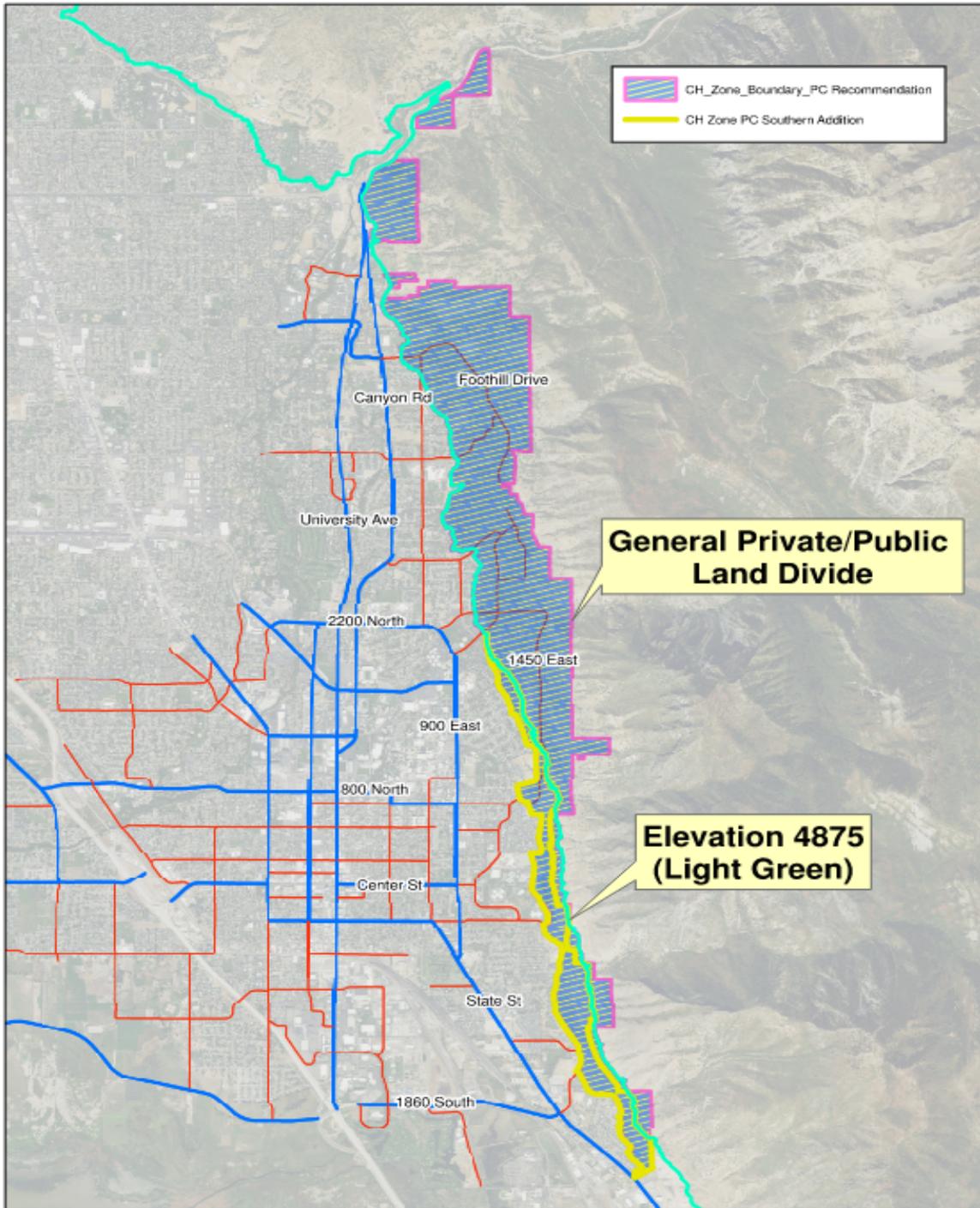
41 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be
42 severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or
43 invalid, the remainder of the ordinance shall not be affected thereby.

44
45 C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City,
46 Utah be updated and codified to reflect the provisions enacted by this ordinance.

47
48 D. This ordinance shall take effect immediately after it has been posted or published in
49 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah
50 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

51
52 END OF ORDINANCE

EXHIBIT A – ZONE MAP



**Critical Hillside (CH) Overlay Zone
Proposed Zone Boundaries**



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

1
2 **Chapter 14.33A**
3 **CH - CRITICAL HILLSIDE OVERLAY ZONE**
4

5
6 **Sections:**

- 7 14.33A.010 Purpose and Objectives.
8 14.33A.020 Definitions.
9 14.33A.030 Use in Combination.
10 14.33A.040 Development in the Critical Hillside (CH) Overlay Zone.
11 14.33A.050 Permitted Uses.
12 14.33A.060 Development Standards.
13 14.33A.070 Provision of Facilities.
14 14.33A.080 Project Plan Approval/Design Review/Design Guidelines.
15 14.33A.090 Limits of Disturbance (LOD).
16 14.33A.100 Slope Protection and Stability.
17 14.33A.110 Detention Basin Design.
18 14.33A.120 Ridgelines.
19 14.33A.130 Streets and Access.
20 14.33A.140 Trails.
21 14.33A.150 Fences.
22 14.33A.160 Tree and Vegetation Protection.
23 14.33A.170 Geological and Natural Hazards.
24 14.33A.180 Stream Corridor and Wetland Protection.
25 14.33A.190 Traffic Requirements.
26 14.33A.200 Parking Requirements.
27 14.33A.210 Design Standards.
28 14.33A.220 Cluster Developments.
29 14.33A.230 Other Requirements.
30

31
32 **14.33A.010 Purpose and Objectives.**
33

34 The Critical Hillside (CH) Overlay Zone is established to provide prudent development
35 standards to help protect the sensitive hillside areas of Provo City's east bench. The
36 requirements of the CH Overlay Zone impose additional or prevailing requirements to those
37 required by the underlying zone. The provisions of this zone are intended to aid in the
38 protection of ridgelines, to support the stability of slopes, and to protect existing public
39 accesses. Trees and other vegetation provide earth-stabilizing and aesthetic benefits. The
40 provisions of this zone help preserve existing vegetation and require the reestablishment of
41 vegetation areas disturbed in the development process. Design standards are included herein
42 to preserve and complement the natural beauty and ecological health of Provo's hillside
43 areas. The requirements of this zone consider the potential slope, fire, and natural hazards
44 associated with the hillside areas and require mitigation of these hazards in the development
45 process.
46

47
48 **14.33A.020 Definitions**
49

50 For the purpose of this Chapter, the following words and terms shall be defined, as follows:
51

52 **"Approved fire protection plan"** means the fire protection plan approved by the applicable
53 fire authority.
54

55 **"Bench"** means a naturally occurring broad, generally flat, elevated terrace landform with an
56 abrupt slope on one side.
57

58 **"Caliper"** means a standard trunk diameter measurement for nursery grown trees taken six
59 (6) inches above the ground for trees up to and including four (4) inch caliper size, and
60 twelve (12) inches above the ground for larger size trees.
61

62 **"Defensible space"** means the required space between a structure and wildland area that,
63 under normal conditions, creates a sufficient buffer to slow or halt the spread of wildfire to a
64 structure.
65

66 **"Density Bonus"** means a residential density increase—beyond the density allowed by the
67 underlying zoning—obtained by constructing and dedicating a trail or trailhead to the City, as
68 set forth in this Chapter.
69

70 **"Drip line"** means a vertical line extending from the outermost edge of the tree canopy or
71 shrub branch to the ground.
72

73 **"Hard surface"** means asphalt or concrete or similar impervious materials.
74

75 **"Limits of disturbance (LOD)"** means the area(s) in which construction and development
76 activity are to be contained, including development and construction of the main building,
77 accessory structures, and recreation areas. The following need not be included in limits of
78 disturbance:
79

80 (a) Up to ten feet of paved or unpaved shoulders for driveways.
81

82 (b) Areas consisting of natural ponds, streams, trees, and other vegetation where no
83 grading work is done.
84

85 **"Natural open space"** means land in a predominantly open and undeveloped condition that
86 is suitable for any of the following: natural areas; wildlife and native plant habitat; important
87 wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land
88 disturbance; or trails for non-motorized activities.
89

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

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

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

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

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

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

102 **“Non-Sight-Obscuring Fencing”** means fencing that is more than fifty percent 50% open.

103

104 **“Open Space”** means any area of a lot that is completely free and unobstructed from any
105 man-made structure or parking areas.

106

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

114

115 **“Overlay zone”** means a zoning district that encompasses one or more underlying zones and
116 that imposes additional or alternative requirements to that required by the underlying zone.

117

118 **“Ridge”** means the elongated crest at the apex or uppermost point of the intersection
119 between two opposite slopes of a hill or mountain.

120

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

124

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

128

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

132

133 **“Stream”** means a body of flowing water; natural water course containing water at least
134 intermittently.

135

136 **“Stream Corridor”** means the corridor defined by a constant or intermittent stream’s
137 ordinary high water mark.

138

139 **“Tree”** means a woody plant with a distinct central trunk.

140

141 **“Vegetation”** Means living plant material, including but not limited to trees, shrubs, flowers,
142 grass, herbs, and ground cover.

143

144 **“Water-wise plant species”** means low water use plants, trees, shrubs, and ground cover.

145

146

147 **14.33A.030 Use in Combination.**

148

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

158

159

160 **14.33A.040 Development in Critical Hillside (CH) Overlay Zone.**

161

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

164

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

168

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

- 173
174 (4) The provisions of this Chapter shall shall not apply in the following situations:
175
176 (a) for lots created prior to the effective date of the ordinance establishing the Critical
177 Hillside (CH) Overlay Zone;
178
179 (b) for parcels (not lying in a development plat) developed prior to the effective date of
180 the ordinance establishing the Critical Hillside (CH) Overlay Zone; and
181
182 (c) for additions to a one-family dwelling and accessory structures permitted after the
183 effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone, so
184 long as the addition or accessory structure does not extend outside the limits of
185 disturbance established when the dwelling was originally permitted.

186 **14.33A.050 Permitted Uses.**

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188
189 Uses permitted in the CH Zone shall be limited to those listed as permitted uses by the
190 provisions of the underlying zone with which the CH Zone has been combined.
191

192
193 **14.33A.060 Development Standards.**

194
195 Development in the CH Zone shall conform to the development standards required by the
196 provisions of the underlying zone with which the CH Zone is combined.
197

198
199 **14.33A.070 Provision of Facilities.**

200
201 The requirements of the *Adequate Public Facilities* section of Chapter 15.03, Provo City
202 Code, shall be met.
203

204
205 **14.33A.080 Project Plan Approval/Design Review/Design Guidelines.**

206
207 See Sections 15.03.020, 15.03.300 and 15.03.310, Chapter 14.04A, Section 14.34.280,
208 Section 14.34.285, and Section 14.34.287, Provo City Code.
209

210
211 **14.33A.90 Limits of Disturbance (LOD).**
212

- 213 (1) Limits of disturbance shall be located and identified on development plans indicating the
214 specific area(s) of a property where construction and development activity shall be contained
215
216 (2) Limits of disturbance for a single lot or parcel may be segmented; however, no more than
217 forty (40) percent of a lot or parcel may be included in the LOD.
218
219 (3) Upon request of the applicant, and only for those properties developed prior to
220 establishment of the CH Zone, the Development Services Director may offer relief of the
221 standards in this Section by up to ten percent (10%), only if he/she finds one of the following
222 circumstances applies:
223
224 (a) The adjustment is designed to yield more effective preservation of existing mature
225 trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the
226 site; or
227
228 (b) Strict application of the standard(s) would prohibit any development on the site.
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231 **14.33A.100 Slope Protection and Stability.**

232
233 (1) All development in the CH Zone shall comply with the applicable grading, fill, cutting,
234 excavation, relocation of material, and drainage requirements of Title 15, as well as any such
235 requirements in Title 18, of the Provo City Code, except that the provisions of this Chapter
236 shall supersede any conflicting provisions in Title 14, 15, or 18 of the Provo City Code.
237

238 (2) Structures shall be set back from ascending or descending slopes greater than thirty
239 percent (30%) in accordance with the requirements of the currently adopted building code.
240

241 (3) Unless expressly allowed in Title 14 or Title 15 of the Provo City Code, all areas with a
242 slope greater than thirty percent (30%) must remain in natural private or natural public open
243 space; however, no portion of this Chapter shall be interpreted to eliminate the provisions of
244 Chapter 15.05 of this Code that allow for exceptions for grading and developing hillside
245 slopes that exceed thirty percent (30%).
246

247 (4) All cut, filled, and graded man-made slopes shall be re-contoured to the natural, varied
248 contour of the surrounding terrain.
249

250 (5) Notwithstanding the requirements in Subsection (4), immediately above, the use of
251 terraced retaining walls is permitted to reduce the steepness of man-made slopes and to
252 provide planting pockets conducive to re-vegetation. The following requirements apply for
253 terraced retaining walls and vertical walls:
254

- 255 (a) Terraces created between retaining walls shall be permanently landscaped or re-
256 vegetated.

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- (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.)

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



(Wall is not constructed of earth-colored materials and does not provide opportunities for planting pockets.)

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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

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

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(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.)

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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.

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(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.)

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



(This structure has been sited on a ridgeline.)

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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.

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(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



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(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.)

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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:

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- 434 (a) The trail must be constructed according to the applicable Provo City Public Works
 435 and Parks and Recreation Department standards;
 436
 437 (b) The dedicated trail right-of-way is a minimum of 20 feet;
 438
 439 (c) The trail improvements and right-of-way must be dedicated to the City prior to
 440 issuance of any building permits within the development; and
 441
 442 (d) Such trail, or portion thereof, shall be part of a planned City trail system.
 443
 444 (3) After having received the opinion of the Parks and Recreation Department Director and
 445 the City Engineer regarding the benefit and feasibility of a proffered trail dedication, the
 446 Mayor may reject a proffered trail dedication, if it makes any one or more of the following
 447 findings regarding the proffered dedication:
 448
 449 (a) Trail maintenance is not feasible.
 450
 451 (b) The trail dedication length is less than 660 feet.
 452
 453 (c) A natural hazard, or the susceptibility to a natural hazard, including, but not limited
 454 to slope, cliff, rock fall, or landslide, cannot reasonably be mitigated to safely operate a
 455 trail for public use, as per the opinion of the City Engineer.
 456
 457 (4) Legally established public accesses shall not be included within the limits of disturbance
 458 (LOD) of any development or lot. Legally established public accesses shall be located and
 459 identified on recorded development plats and approved development plans.

461 **14.33A.150 Fences.**

462 The following fencing requirements apply in the CH Zone:

- 463
 464 (a) All fencing outside the designated LOD of a parcel or lot, as well as fencing in front
 465 yards and along roadways, shall be non-sight-obscuring fencing and have a maximum
 466 height of five (5) feet; however, livestock fencing may have a maximum height of six (6)
 467 feet.
 468
 469 (b) Notwithstanding the provisions of Subsection (a), the clear vision area requirements
 470 of Section 14.34.100 of the Provo City Code shall be met.
 471
 472 (c) See Section 14.33A.210 of the Provo City Code for design standards for fencing.
 473
 474

475 **14.33A.160 Tree and Vegetation Protection.**

476 (1) Tree/Vegetation Removal
 477
 478
 479

- 480 (a) No trees or vegetation may be removed outside the approved LOD unless specifically
 481 exempted by this Chapter.
 482
 483 (b) Significant trees removed from within the LOD shall be replaced as set forth in this
 484 Chapter.
 485
 486 (c) No trees or vegetation may be removed solely for the purpose of providing open
 487 views to or from structures on a site or solely for the purpose of replacing them with
 488 different species.
 489
 490 (d) Appropriate defensible space surrounding a structure is established in the Utah
 491 Wildland-Urban Interface Code (WUI). In order to account for trees that must be
 492 removed to comply with the applicable requirements of the WUI, the applicant shall
 493 submit a copy of the approved fire protection plan, along with development plans that
 494 incorporate the approved fire protection plan, to the Development Services Director for
 495 review.
 496
 497 (e) The following is a list of additional situations when tree and vegetation removal is
 498 permitted:
 499
 500 (i) The removal of invasive, dead, or naturally fallen trees or vegetation to protect
 501 public health, safety, and welfare.
 502
 503 (ii) The selective and limited removal of trees or vegetation necessary to obtain
 504 clear visibility at driveways or intersections, to install utilities, to perform authorized
 505 field survey work, or to protect structures from fire consistent with the Utah
 506 Wildland-Urban Interface Code.
 507
 508 (2) Replacement of Significant Trees
 509
 510 (a) When a significant tree is removed from inside the established LOD, which removal
 511 is not required by WUI standards, the developer shall replace such tree(s) on the lot,
 512 according to the following schedule and requirements:
 513
 514 (i) A significant tree that is removed shall be replaced by two (2) trees with a
 515 minimum size of two (2) inch caliper for deciduous trees and a minimum height of
 516 six (6) feet for coniferous trees in locations on the lot, as set forth in the required
 517 revegetation, tree Reestablishment, and land reclamation plan.
 518
 519 (ii) Replacement trees shall be maintained through an establishment period of at least
 520 two (2) years. The applicant shall post a bond in the amount of ten percent (10%) of
 521 the value of all replacement trees guaranteeing their health and survival during the
 522 establishment period.
 523

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

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

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

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

537 (i) Scale and north arrow;

538 (ii) Location and dimensions of the property;

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

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

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

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

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

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

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

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

552 (c) All disturbed areas shall be re-vegetated using native or water-wise adapted plant
553 species and materials characteristic of the disturbed area; however, this requirement shall
554 not preclude a property owner from establishing non-native or non-water-wise adapted
555

569 plant species within: (1) a five [5] foot wide perimeter around the edge of all structures
570 and (2) planting beds located not more than thirty (30) feet from the main building(s).

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

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

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

581 (g) Tree cutting for utility corridors shall be minimized to reduce visual impacts. All
582 disturbed areas shall be re-vegetated in accordance with the provisions of this Subsection
583 (3).

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

588 (4) Tree and Vegetation Protection

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

593 (i) Scale and north arrow

594 (ii) Location and dimensions of the property;

595 (iii) Limits of disturbance (LOD);

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

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

598 (vi) Identification of vegetation and trees to be retained;

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

- 615 (vii) A note detailing the measures that shall be taken to ensure that protected
- 616 vegetation will be guarded against grading, soil compaction, trenching, or other
- 617 development activity that could have an adverse effect on such vegetation; and
- 618
- 619 (viii) Any other information necessary to show compliance with this Subsection (4).
- 620
- 621 (b) Fencing—at the edge of the individual or outermost (if a stand of trees) tree's drip
- 622 zone—shall be placed around each significant tree (that will not be removed) and around
- 623 stands of twelve or more smaller trees.
- 624
- 625 (c) No construction, grading, equipment or material storage, or any other activity is
- 626 allowed within the drip zone of protected trees, and the fencing must remain in place until
- 627 all land alteration, construction, and development activities are completed.
- 628

629 **14.33A.170 Sensitive Lands.**

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

632 **14.33A.180 Stream Corridor and Wetland Protection.**

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

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

641 (3) The following setback requirements apply:

- 642 (a) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
- 643 horizontally from the ordinary high-water mark of stream corridors. (See Figure
- 644 14.33A.9: Setback from Stream Corridor—Permitted and Figure 14.33A.10: Setback from
- 645 Stream Corridor—Not Permitted).
- 646

647 Figure 14.33A.9

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656



657
658 (This dwelling is setback more than fifty [50] feet horizontally
659 from the ordinary high-water mark of a stream corridor.)
660

661 Figure 14.33A.10



662
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664
665
666 (This dwelling is not setback more than fifty [50] feet horizontally
667 from the ordinary high-water mark of a stream corridor.)
668

- 669 (b) All buildings, structures, and parking lots shall be set back at least fifty (50) feet
- 670 horizontally from the delineated edge of a wetland.
- 671
- 672

673 **14.33A.190 Traffic Requirements.**

674

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

677

678

679 **14.33A.200 Parking Requirements.**

680

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

682

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

685

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

688

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

691

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

693

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

695

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

698

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

700

701

702 **14.33A.210 Design Standards.**

703

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

707

708 (2) **Buildings**

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

710

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

715

716

717

Figure 14.33A.11



718

719

(This home was sited to follow the natural contour of the land.)

720

721

722

723

724

725

Figure 14.33A.12



726

727

(This land was modified to accept a building design not tailored for the site.)

729

730

731

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

732

733

734

- 735 (c) Rooflines and building mass shall echo the angles and shapes repeated in the natural
 736 landscape.
 737
 738 (d) Building mass and wall lines shall be broken up to complement natural settings and
 739 slopes.
 740
 741 (e) The use of building materials in colors that blend harmoniously with the surrounding
 742 natural settings is required. Brash, contrasting color combinations are prohibited.
 743
 744 (f) Flammable wood roofing shingles are prohibited.
 745

746 (3) Landscaping

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

- 749
 750 (a) Landscaping shall incorporate natural features such as trees, significant vegetative
 751 patterns, interesting land forms, rocks, water, views, and orientation. (See Figure
 752 14.33A.13: Incorporation of Natural Features into Landscaping—Permitted and Figure
 753 14.33A.14: Incorporation of Natural Features into Landscaping—Not Permitted).
 754
 755
 756
 757

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;

- 795 (ii) Concrete or concrete block;
- 796 (iii) Plywood; and
- 797 (iv) Painted materials.

798
799 (5) Parking

800 The following parking design standards apply in the CH Zone:

- 801
- 802 (a) When visible from public streets and private development roads, parking facilities
- 803 shall be screened to blend into the natural environment. (See Figure 14.33A.15:
- 804 Screening Parking Facilities--Permitted and Figure 14.33A.16: Screening Parking
- 805 Facilities—Not Permitted).

806
807 Figure 14.33A.15



808
809 (This parking lot was screened with trees and vegetation

810 and is compatible with the natural environment.)

811
812
813
814
815 Figure 14.33A.16



816
817 (This parking lot was not screened with trees and vegetation

818 and does not blend into the natural environment.)

819
820
821 (6) Utility Infrastructure

822 In so far as possible, utility infrastructure, including water tanks, shall be screened, from

823 public rights-of-way, or designed to blend into the natural environment. However, such

824 screening or design (to blend into the natural environment) shall not compromise

825 maintenance access to such facilities.

826
827
828 (7) See Section 14.33A.220, Provo City Code, for design standards applicable to cluster

829 developments.

830
831
832 **14.33A.220 Cluster Developments.**

833 (1) The Planning Commission may approve a request for the clustering of a proposed

834 development in the CH Zone—at a greater density than what is allowed in the underlying

835 zone, only if all of the following standards are met:

- 836 (a) The applicant shall submit a report that has been stamped by an engineer and
- 837 landscape architect licensed in Utah that attests the clustering proposal will have no
- 838 adverse impact on adjacent properties, or, if such impacts are anticipated, such report
- 839 will detail these impacts and recommend mitigation measures, such as landscape,
- 840 screening, illumination standards, and other design features. If impacts are anticipated,
- 841 as set forth in the above-mentioned report, the applicant shall enter into an agreement
- 842 with the City to implement and maintain appropriate mitigation measures, approved by
- 843 the City Engineer, to buffer and protect adjacent properties from the proposed clustered
- 844 development. The developer's Utah licensed engineer and landscape architect shall

848 verify that the recommended mitigation measures have been incorporated into the
849 development. The responsibility—through-out the development process—for verifying
850 mitigation measures shall be the responsibility of the developer's Utah licensed engineer
851 and landscape architect;

852
853 (b) The Planning Commission, based upon the findings of a report submitted by the
854 applicant and stamped by an engineer and landscape architect licensed in the State of
855 Utah, finds that the clustering proposal, compared with a conventional development,
856 better attains the policies and objectives of the CH Zone, such as providing more natural
857 open space, preserving existing trees and vegetation coverage, and preserving sensitive
858 environmental areas such as stream corridors, geological sensitive areas, prominent
859 ridgelines, wetlands, and steep slopes;

860
861 (c) The Design Review Committee issues an opinion that the architecture, height,
862 building materials, building colors, and other design features of the development blend
863 with the surrounding natural landscape and are compatible with adjacent properties or
864 development; and

865
866 (d) All other applicable requirements of this zone, the underlying zone, and this Title are
867 met.

868
869 (2) Cluster developments shall meet the following design standards and applicants for such
870 shall provide the written opinion of a landscape architect and/or engineer licensed in the State
871 of Utah that the following design standards have been met:

872
873 (a) The undeveloped area of the development site shall be preserved as active or passive
874 natural open space. Natural open space areas shall provide contiguity with adjacent
875 natural open space and/or conservation areas; protect unique natural, historical, or
876 cultural site features and resources; avoid fragmentation of open space areas within the
877 site; and preserve existing, legal public access.

878
879 (b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be
880 separated from other residential clusters by a minimum of one-hundred (100) feet.

881
882 (c) The layout of a cluster development shall protect significant natural resources within
883 the proposed development. Natural resources include riparian areas, wetlands, ecological
884 resources, and steep slopes and ridgelines. The overall site design shall employ the site's
885 natural topography to hide multiple residential clusters from the sight of adjacent clusters.

886
887 (d) Cluster development shall preserve the following:

888
889 (i) Open sky backdrop above those ridgelines designated for protection by the
890 Planning Commission; and

891
892 (ii) Significant views of the natural landscape as viewed from adjacent streets.

893
894 (3) Figure 14.33A.17: Development—Permitted

895



896

897 (This development was clustered and preserved significant areas of open space.)

898

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

900



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14.33A.230 Other Requirements.

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

- 910 (2) Landscaping. In addition to the landscaping requirements of this Chapter, development
911 in the CH Zone must meet the applicable requirements of Chapter 15.20 of the Provo City
912 Code, as well as any landscaping requirements of the underlying zone.
913
- 914 (3) Trash Storage (see Section 14.34.080, Provo City Code).
915
- 916 (4) Lighting. Streetlights shall be hooded and direct light to the ground to alleviate light
917 emanation into sensitive areas. Light poles shall be no higher than twenty (20) feet.
918

ITEM 2*

Provo City Council requests a Zone Map Amendment to include multiple east bench properties in the Critical Hillside (CH) Overlay Zone.

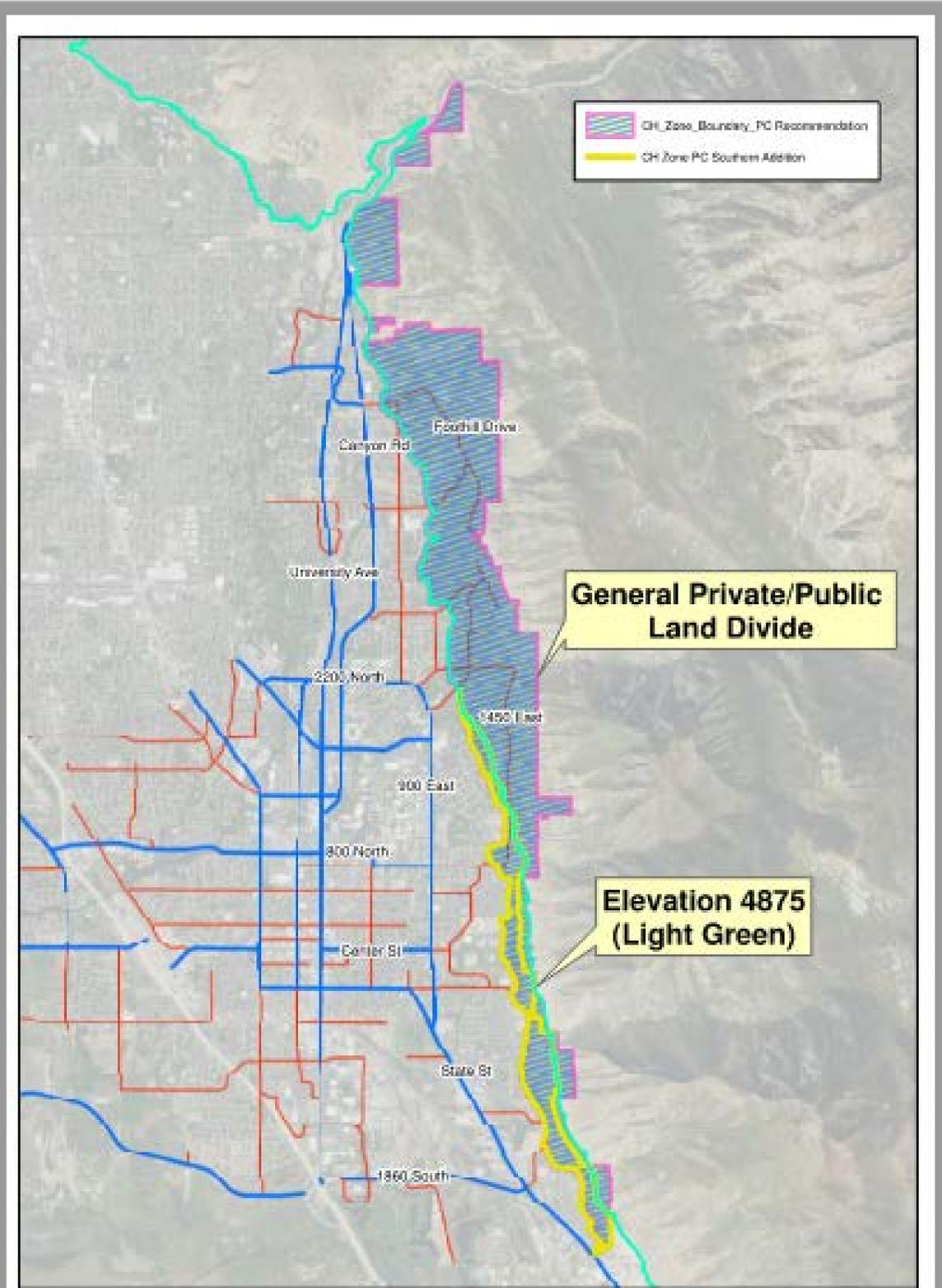
Citywide application

PLRZ20200078

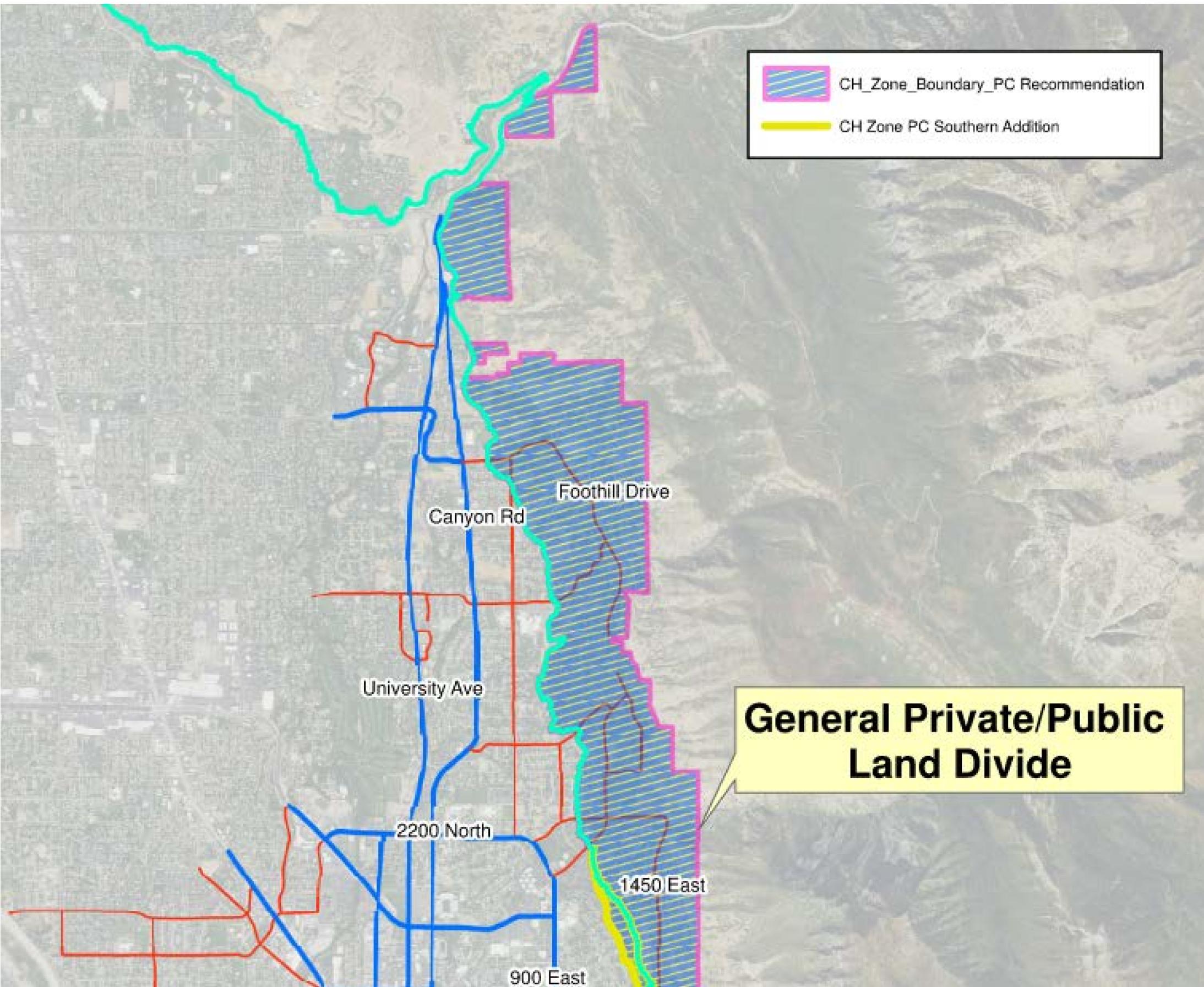
ITEM 2*

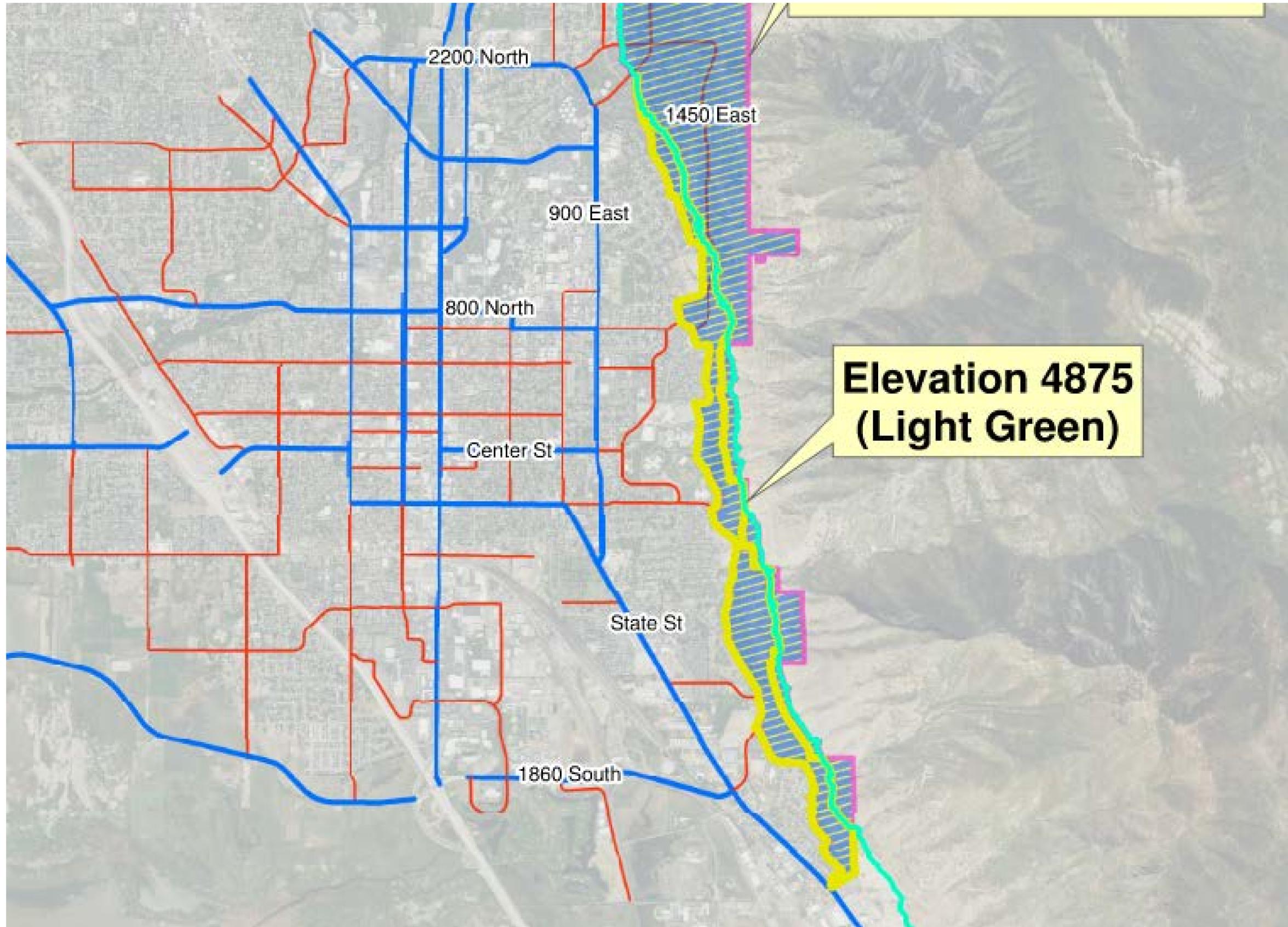
Critical Hillside (CH) Overlay Zone

- CH Zone Boundaries:
 - Proposed area of applicability:
 - Between Elevation 4875 (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**





2200 North

1450 East

900 East

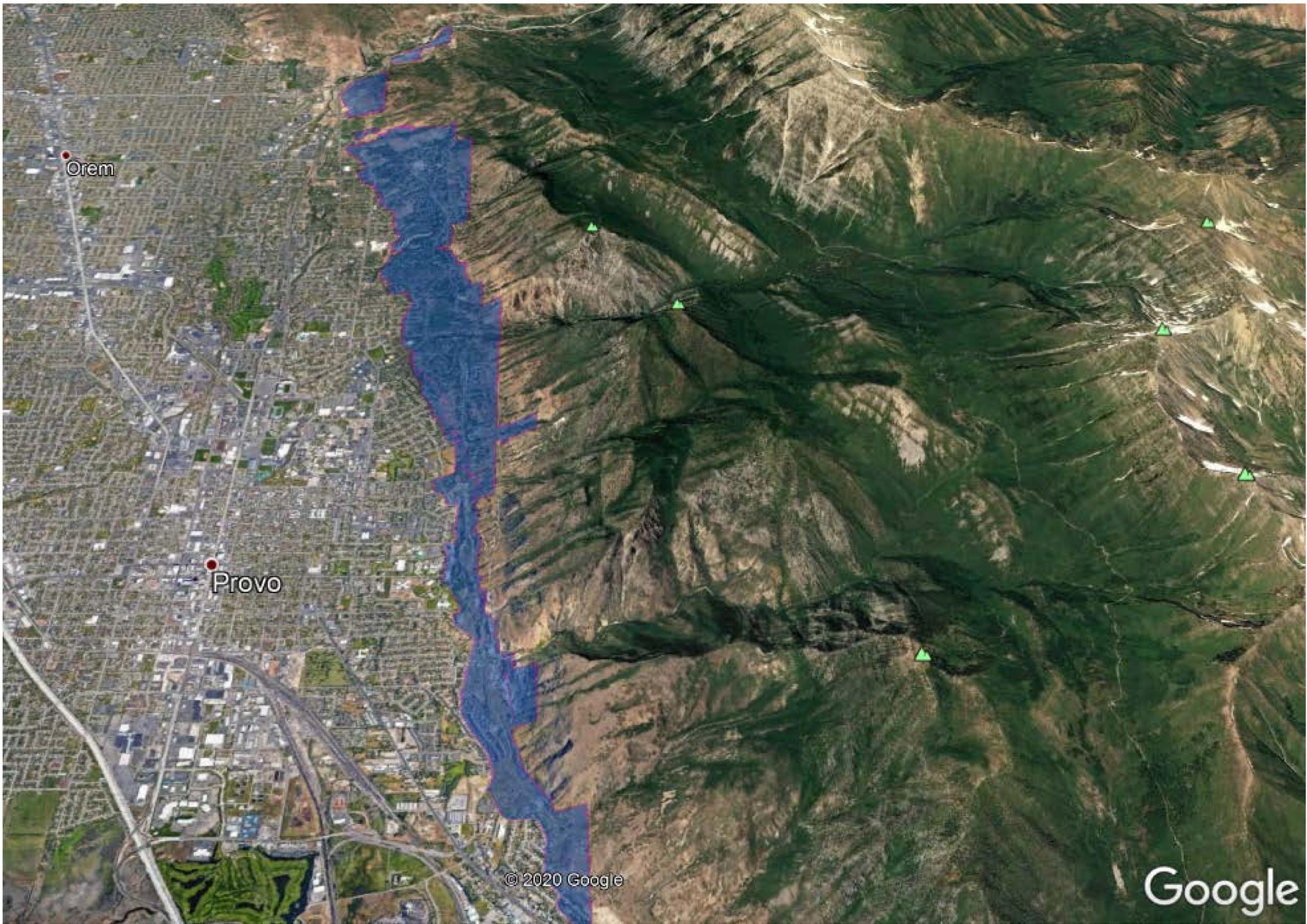
800 North

Center St

State St

1860 South

**Elevation 4875
(Light Green)**

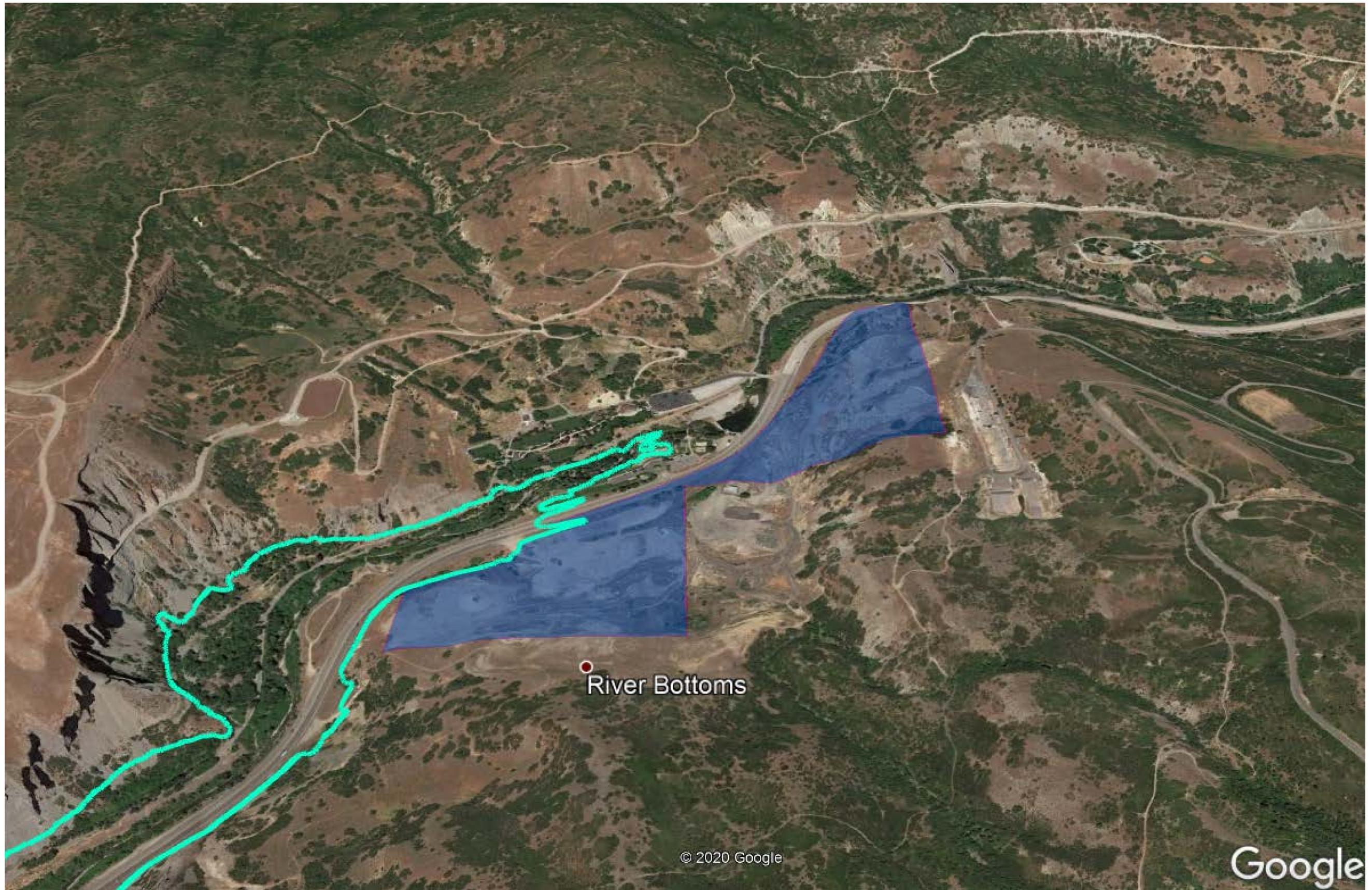


Orem

Provo

© 2020 Google

Google



River Bottoms

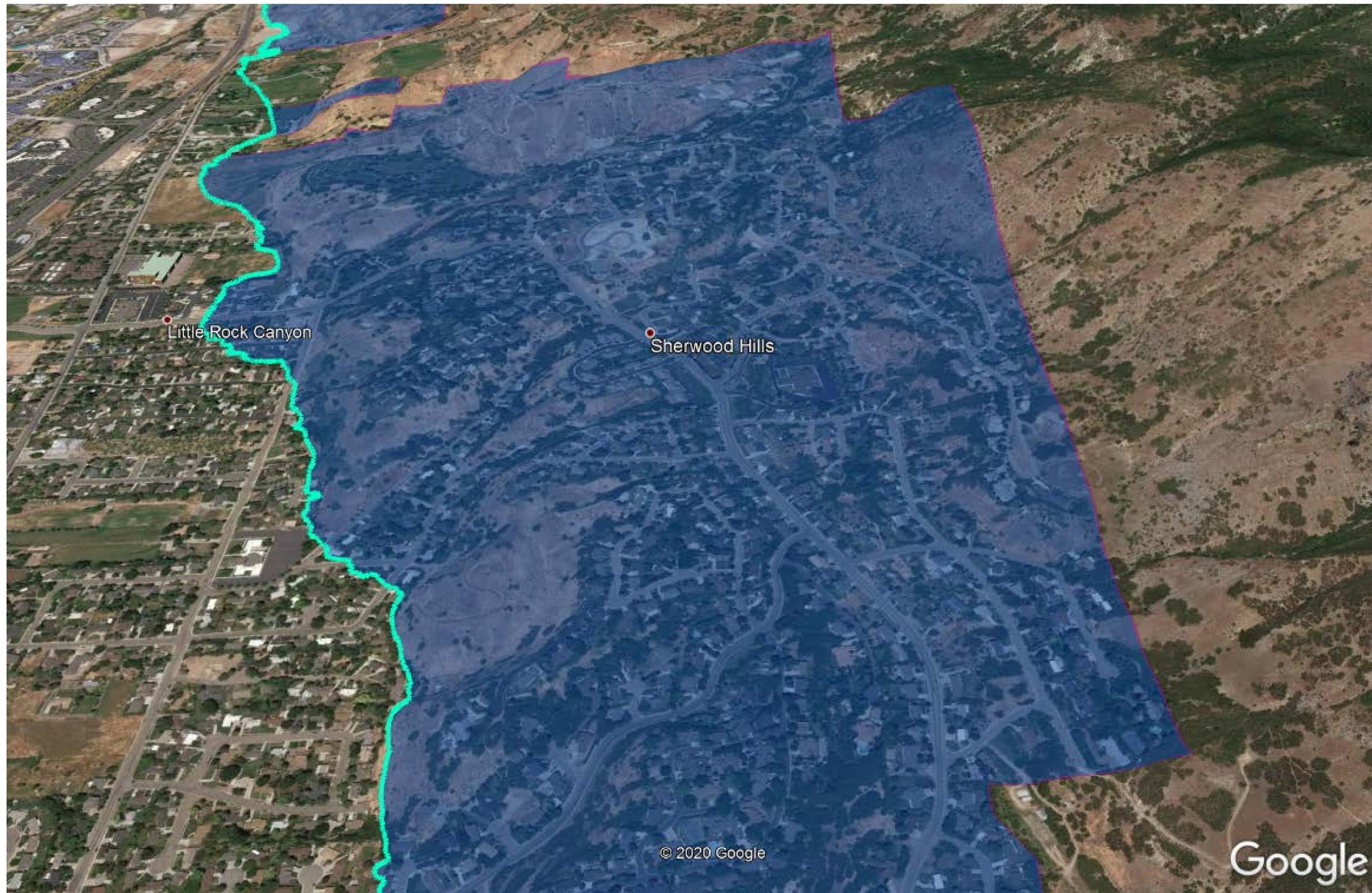


Orchard North

River Bottoms

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Google



Little Rock Canyon

Sherwood Hills

© 2020 Google

Google



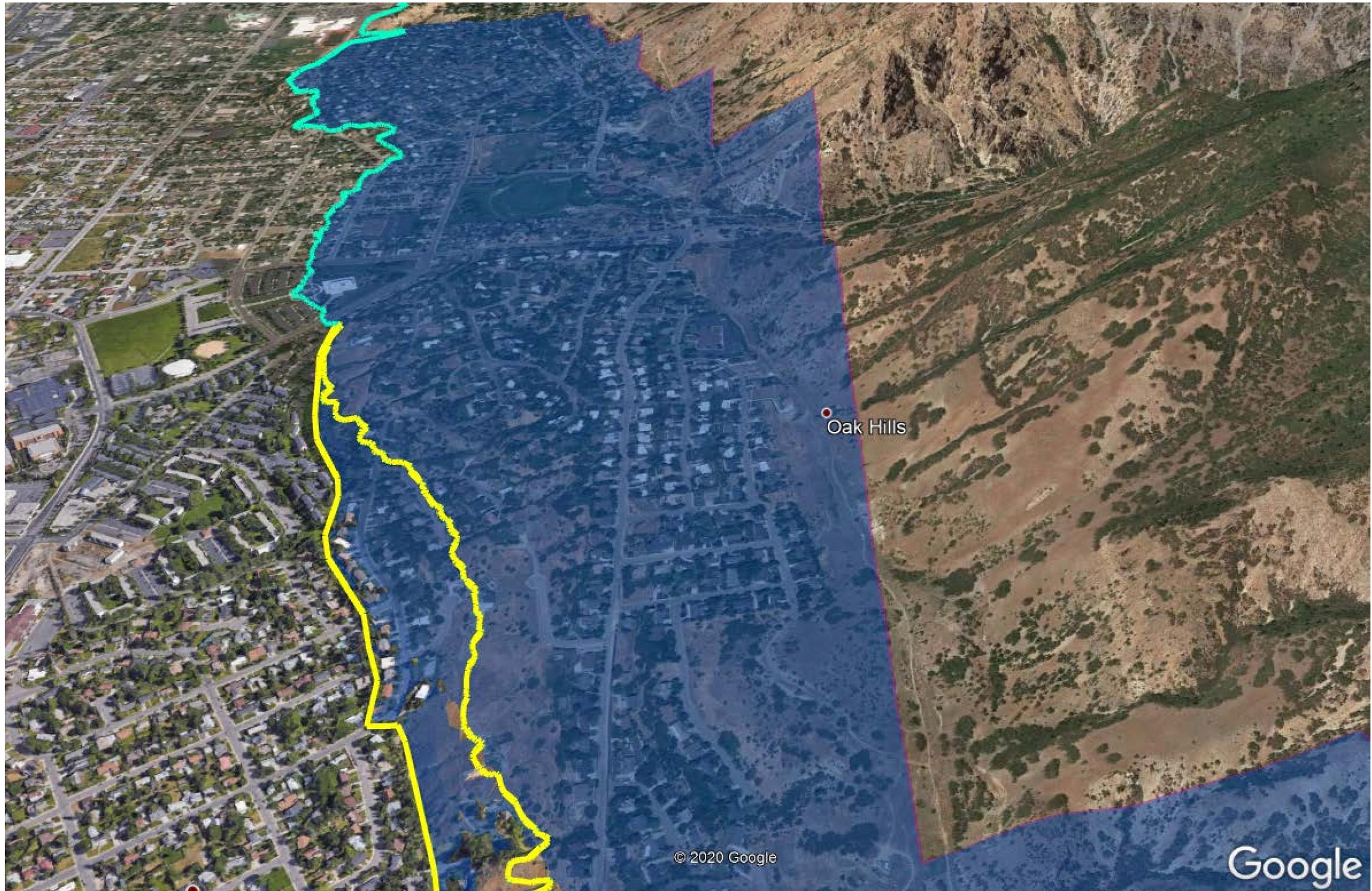
Indian Hills

Rock Canyon

Edgemont

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Google



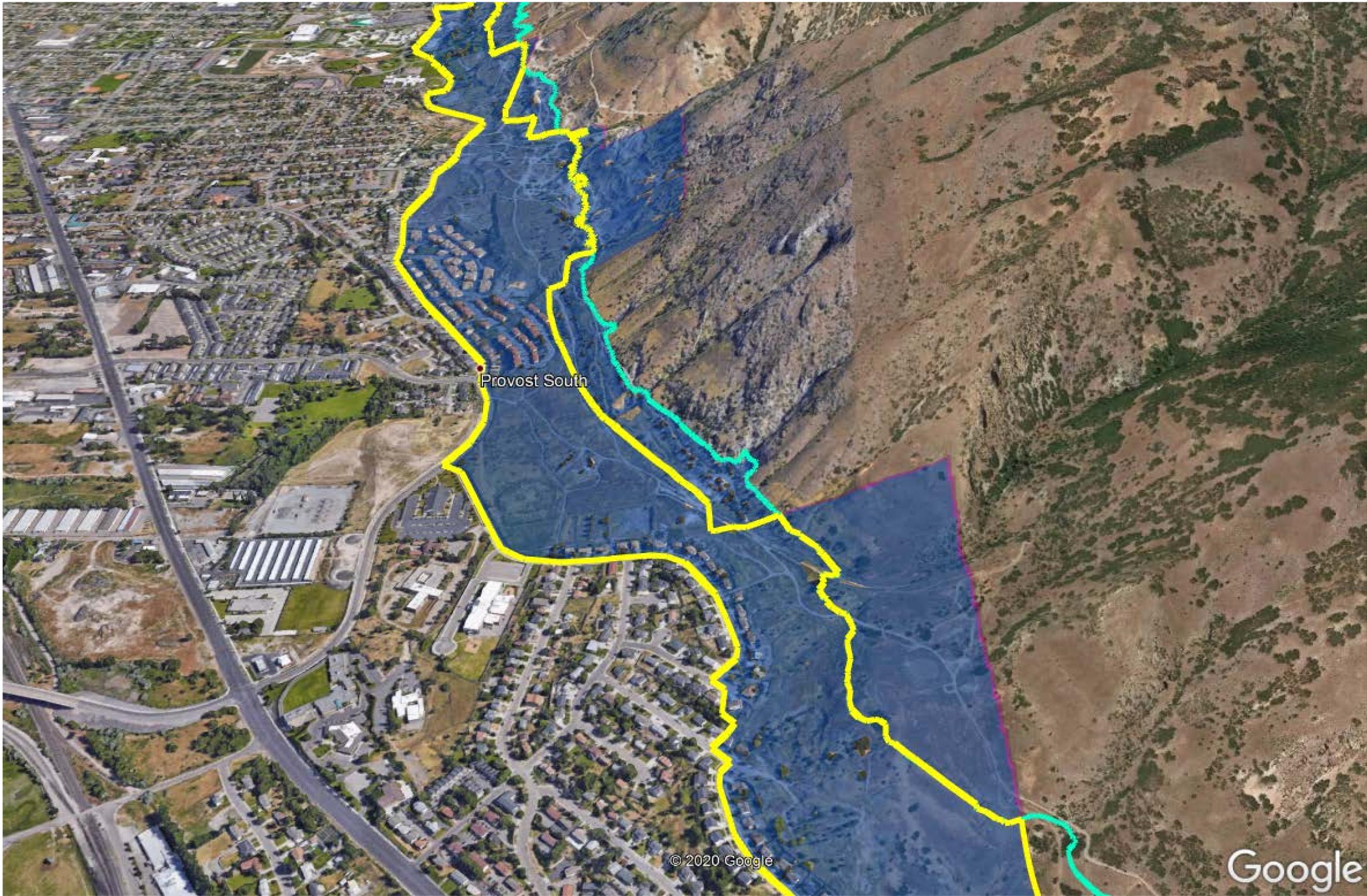
Oak Hills

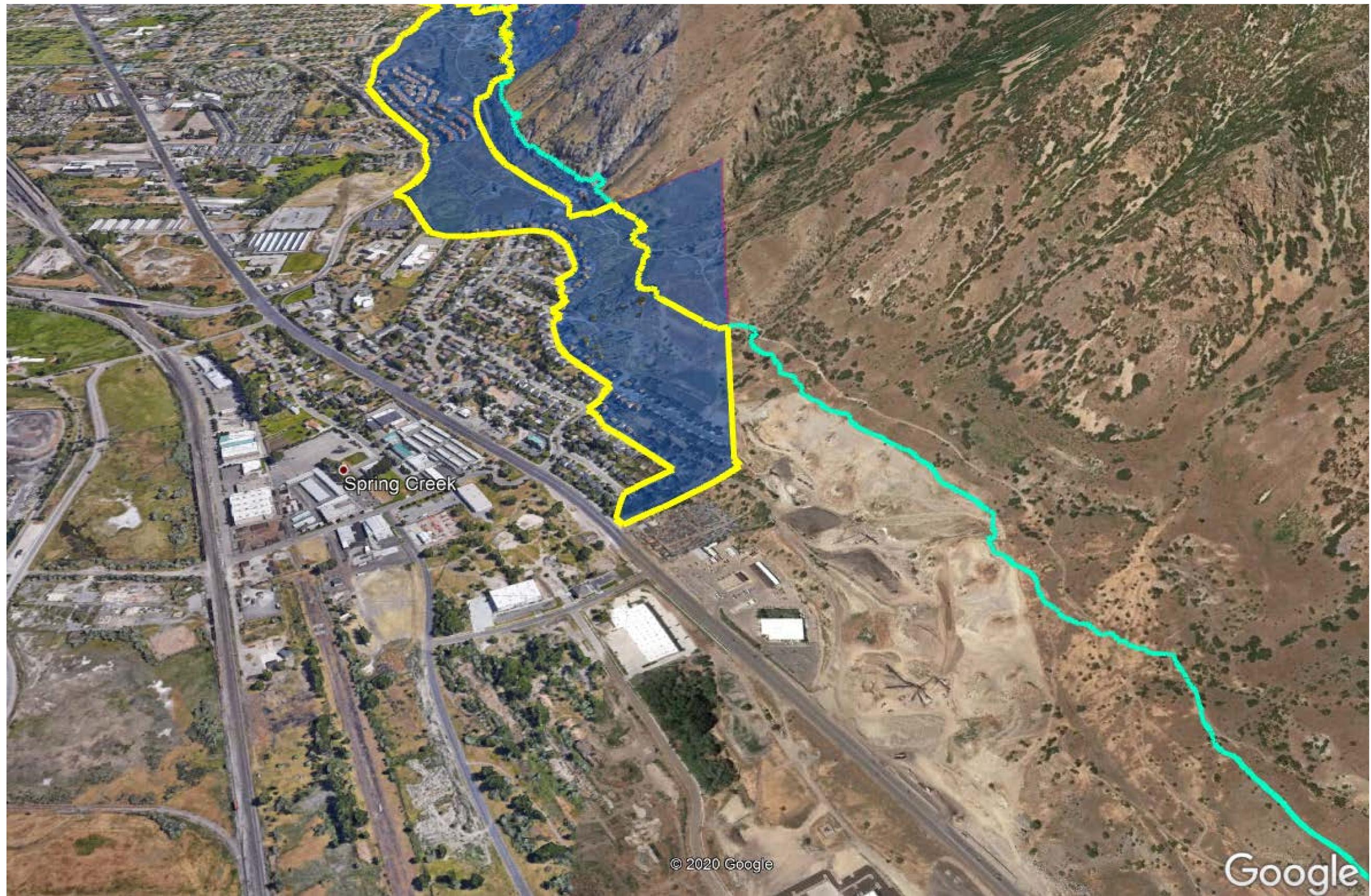


Foot Hills

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Spring Creek



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,

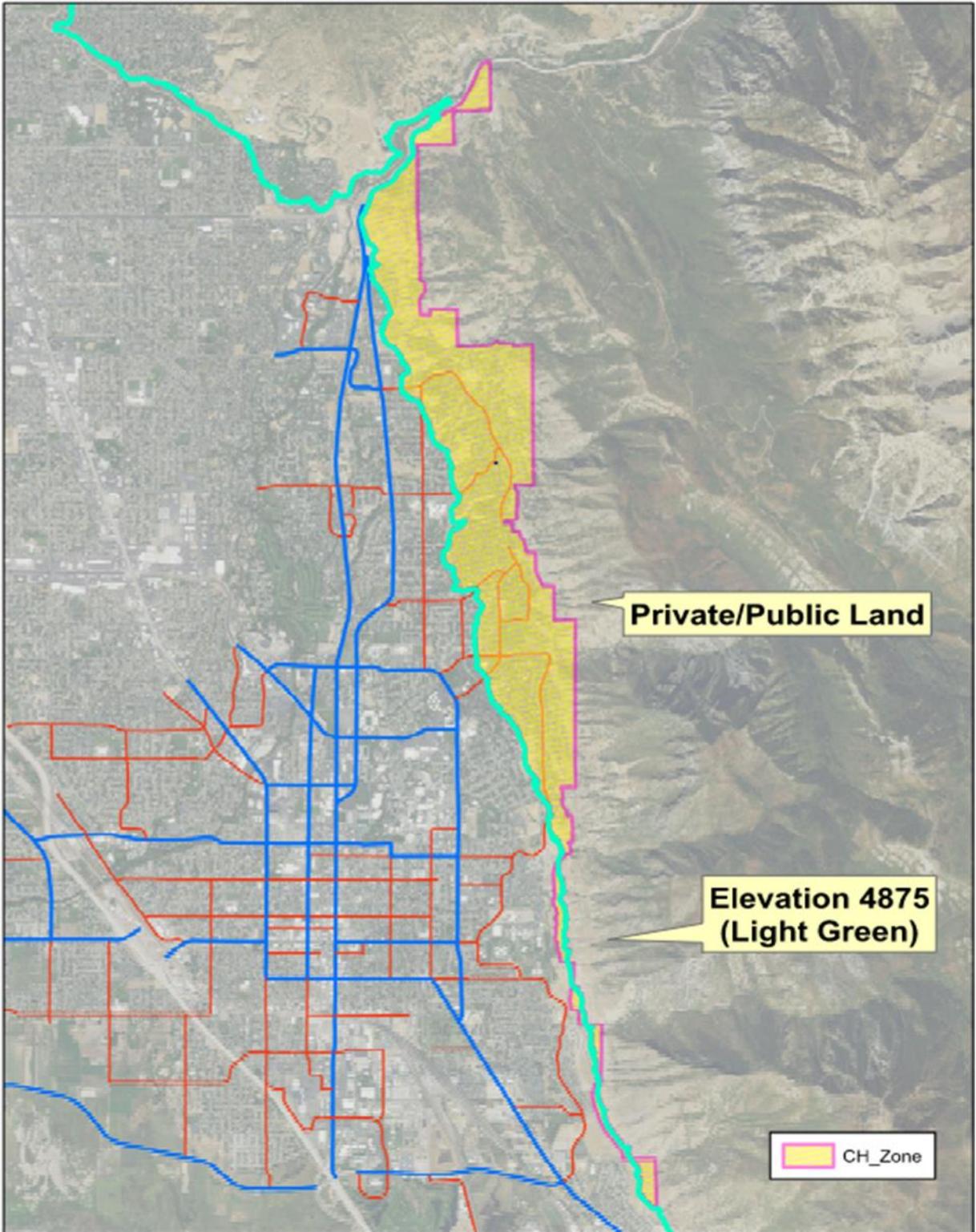
A handwritten signature in black ink that reads "Brandon Larsen". The signature is written in a cursive, flowing style.

Brandon Larsen

Planner

(801)852-6408

jb Larsen@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 *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) 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. Brush, 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) 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) 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.



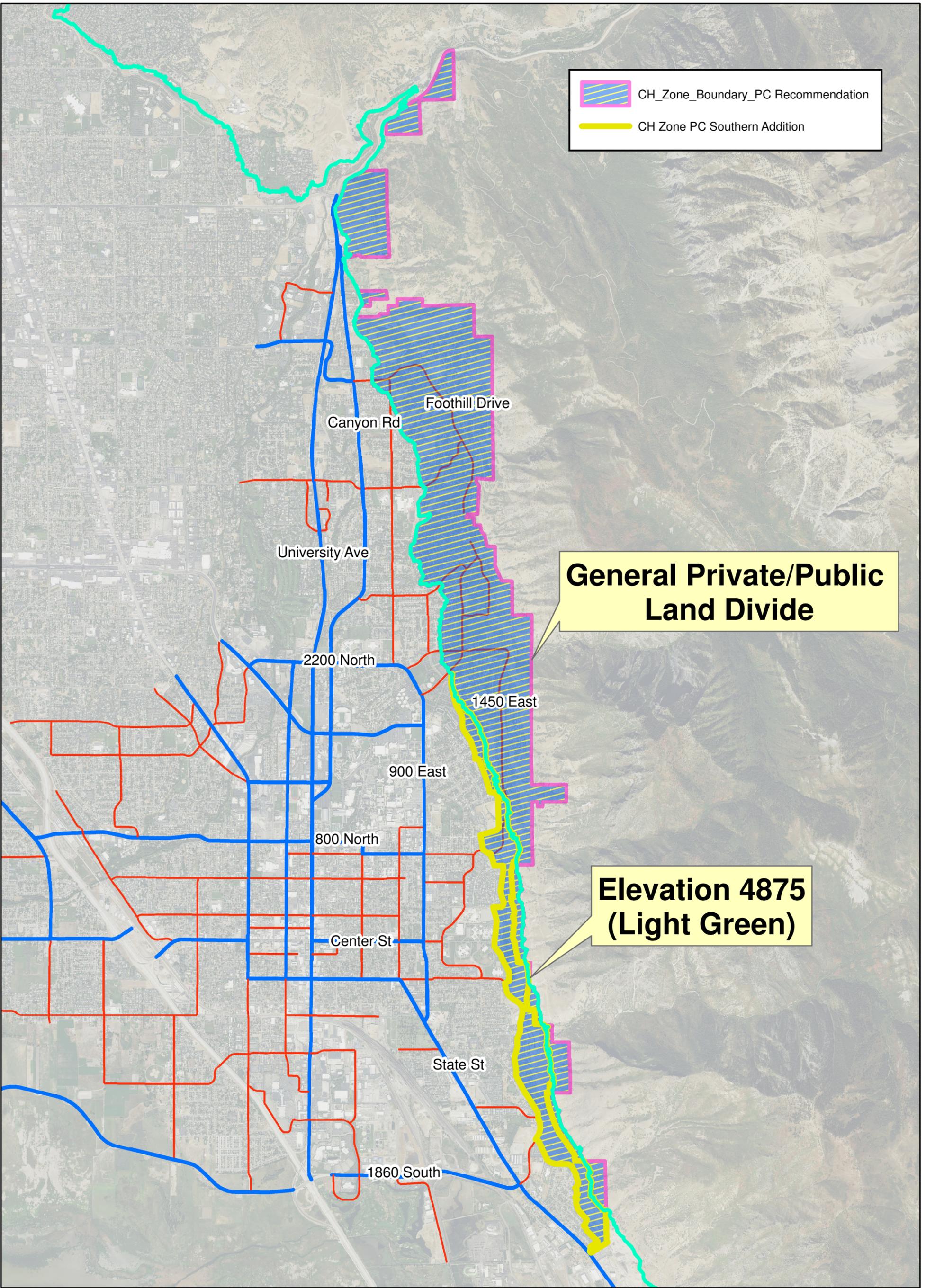
14.33A.230 Other Requirements.

(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.



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.

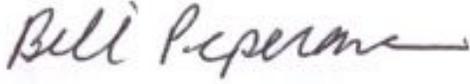
PLANNING COMMISSION DISCUSSION

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

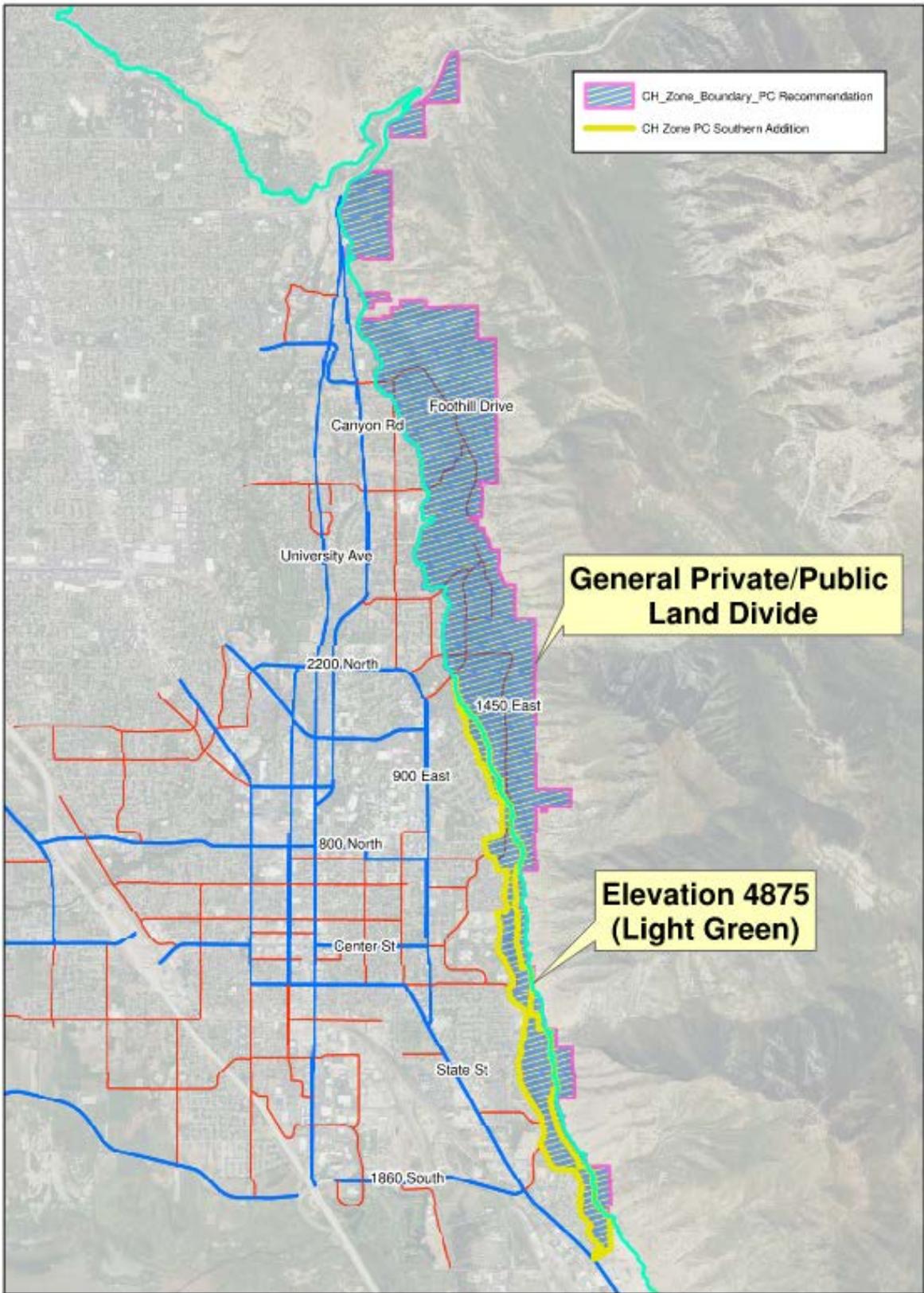
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ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

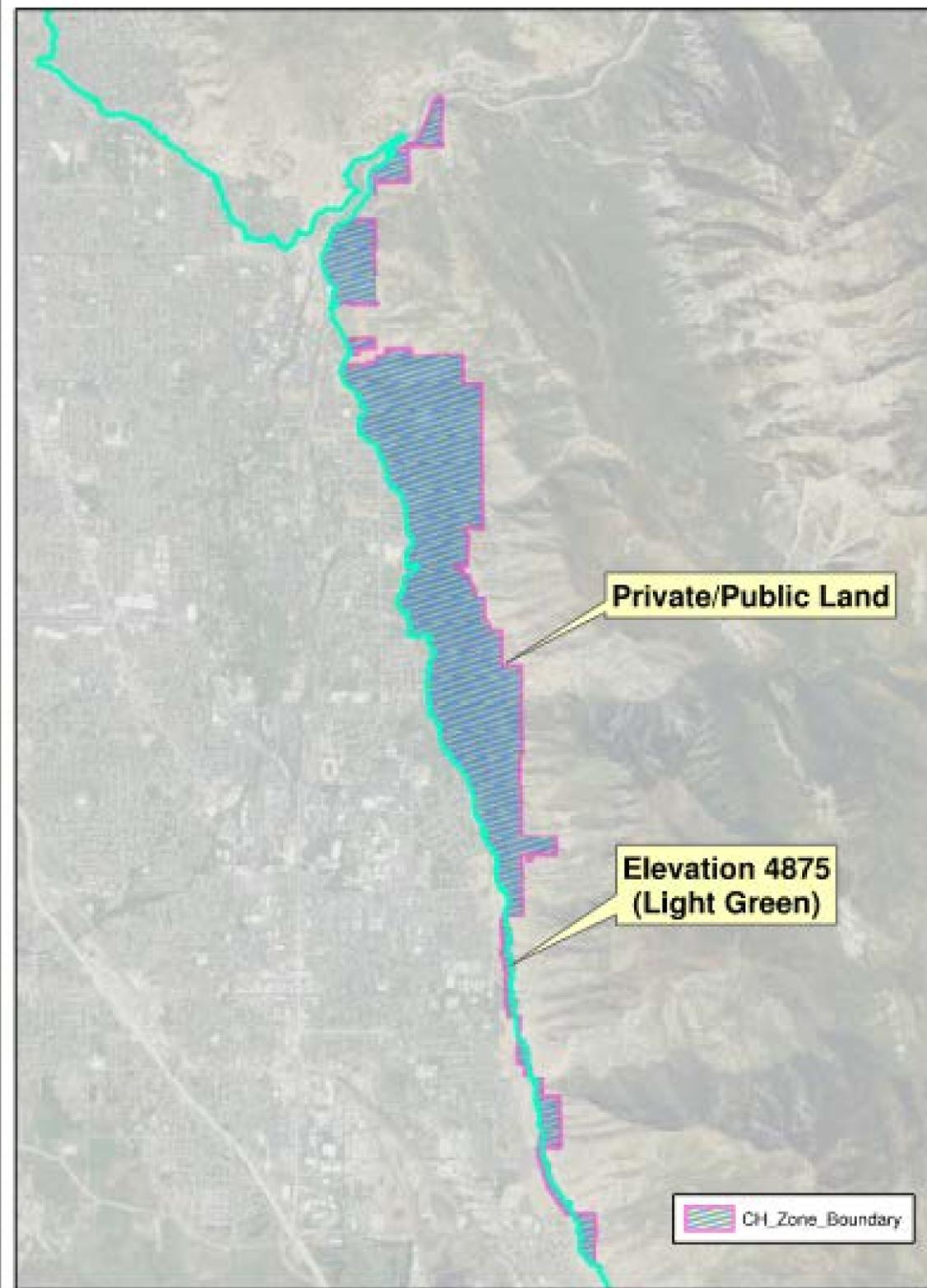
Citywide application

PLRZ20200078

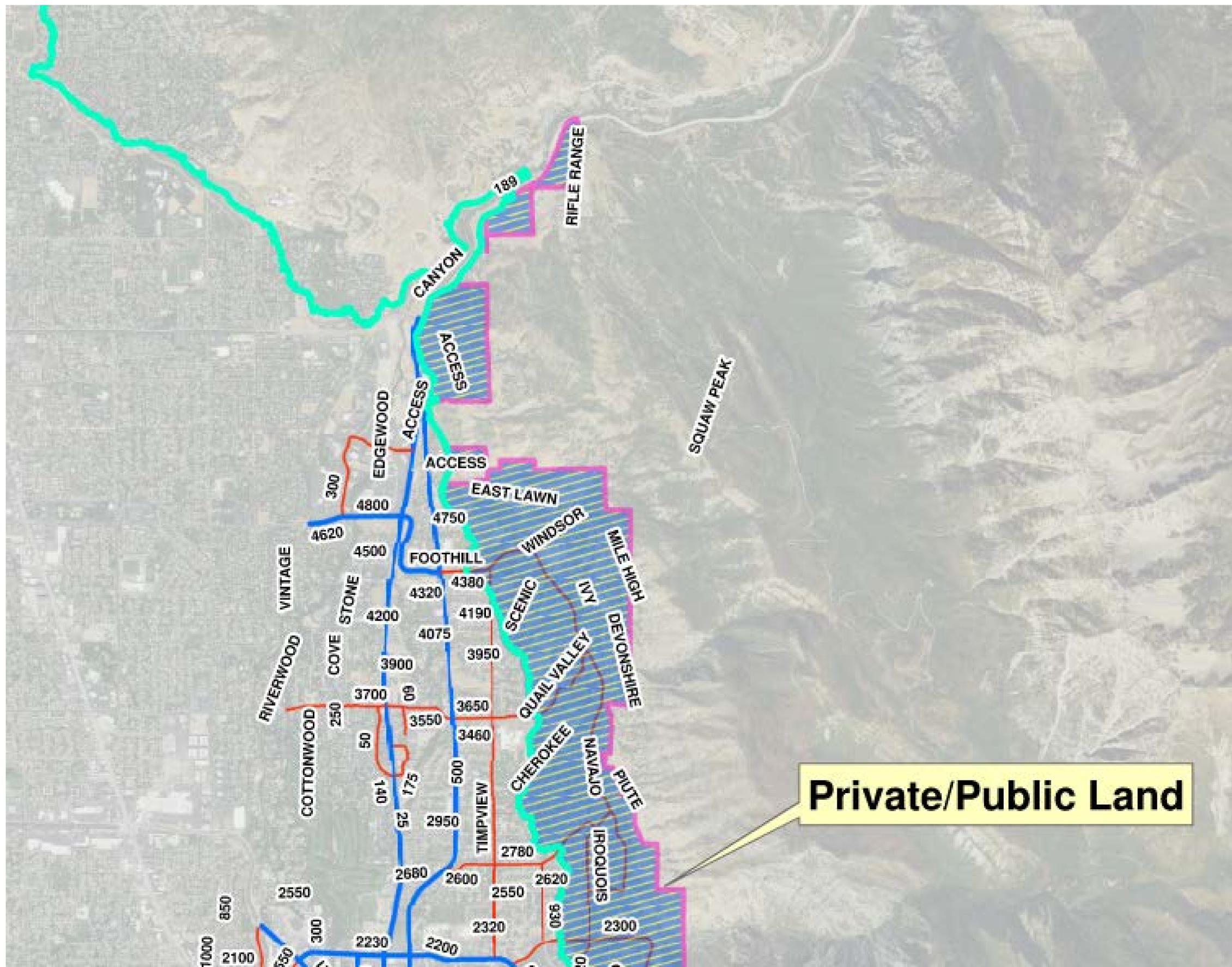
Critical Hillside (CH) Overlay Zone

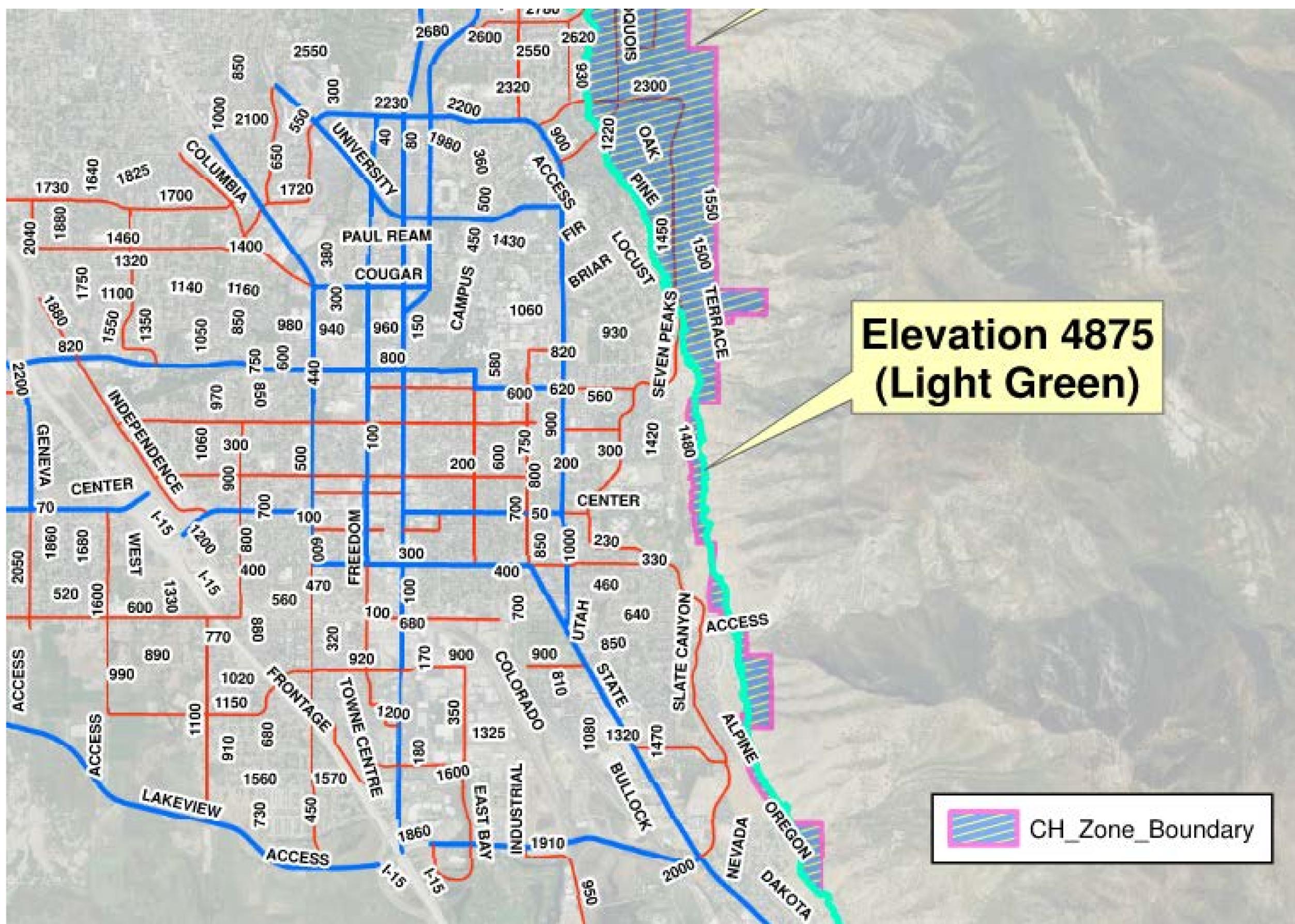
ITEM 2*

- 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**



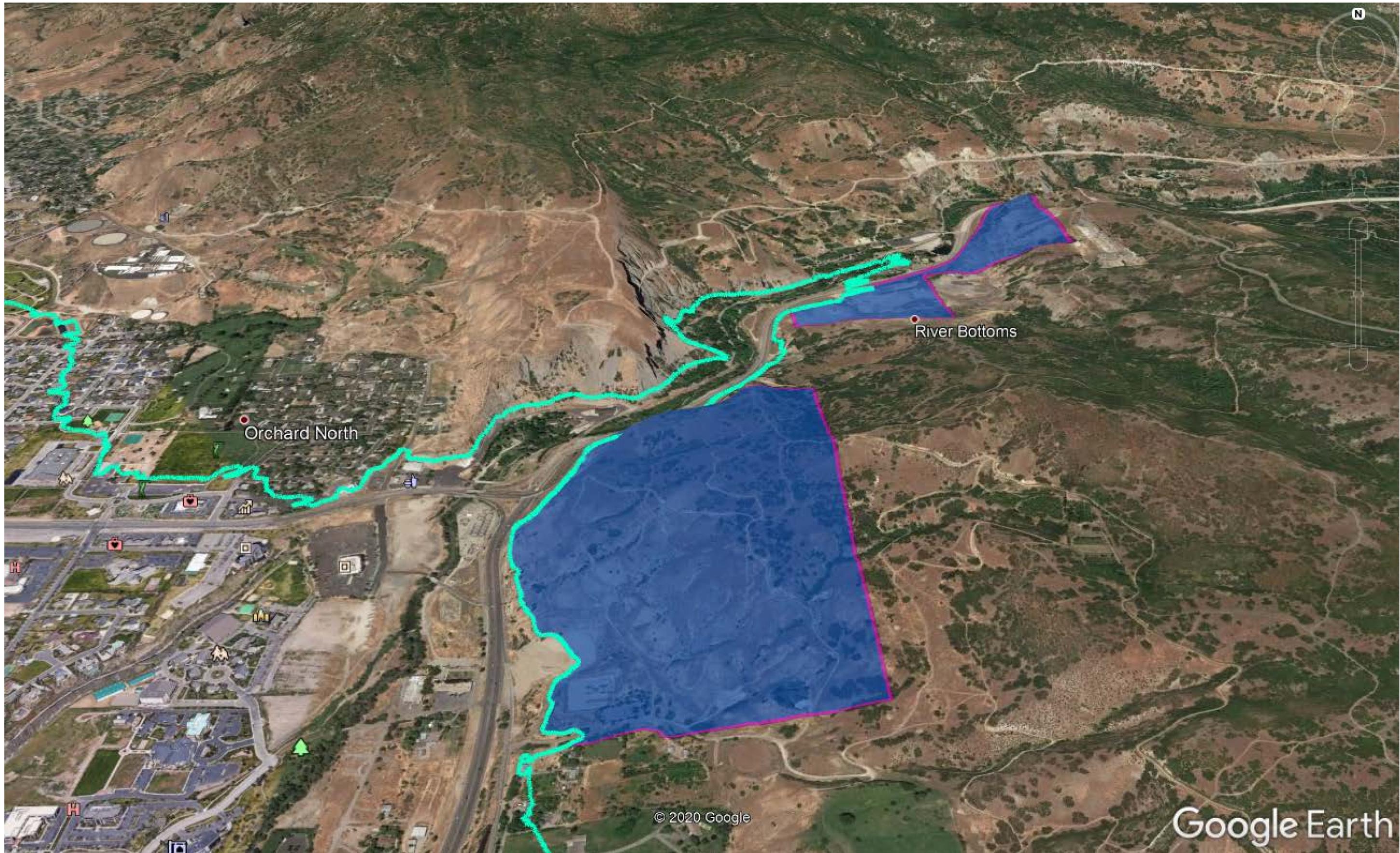




River Bottoms

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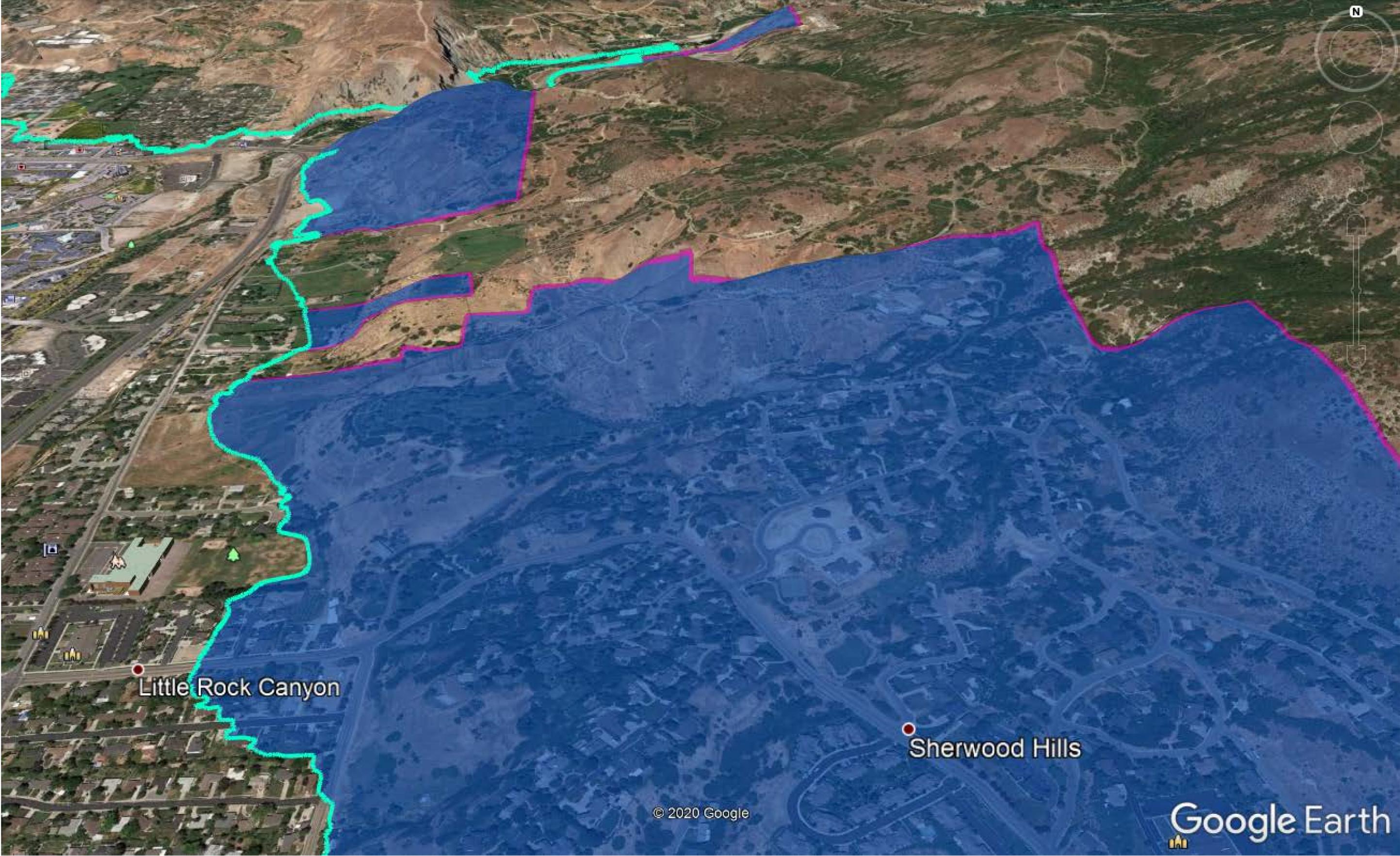


Orchard North

River Bottoms

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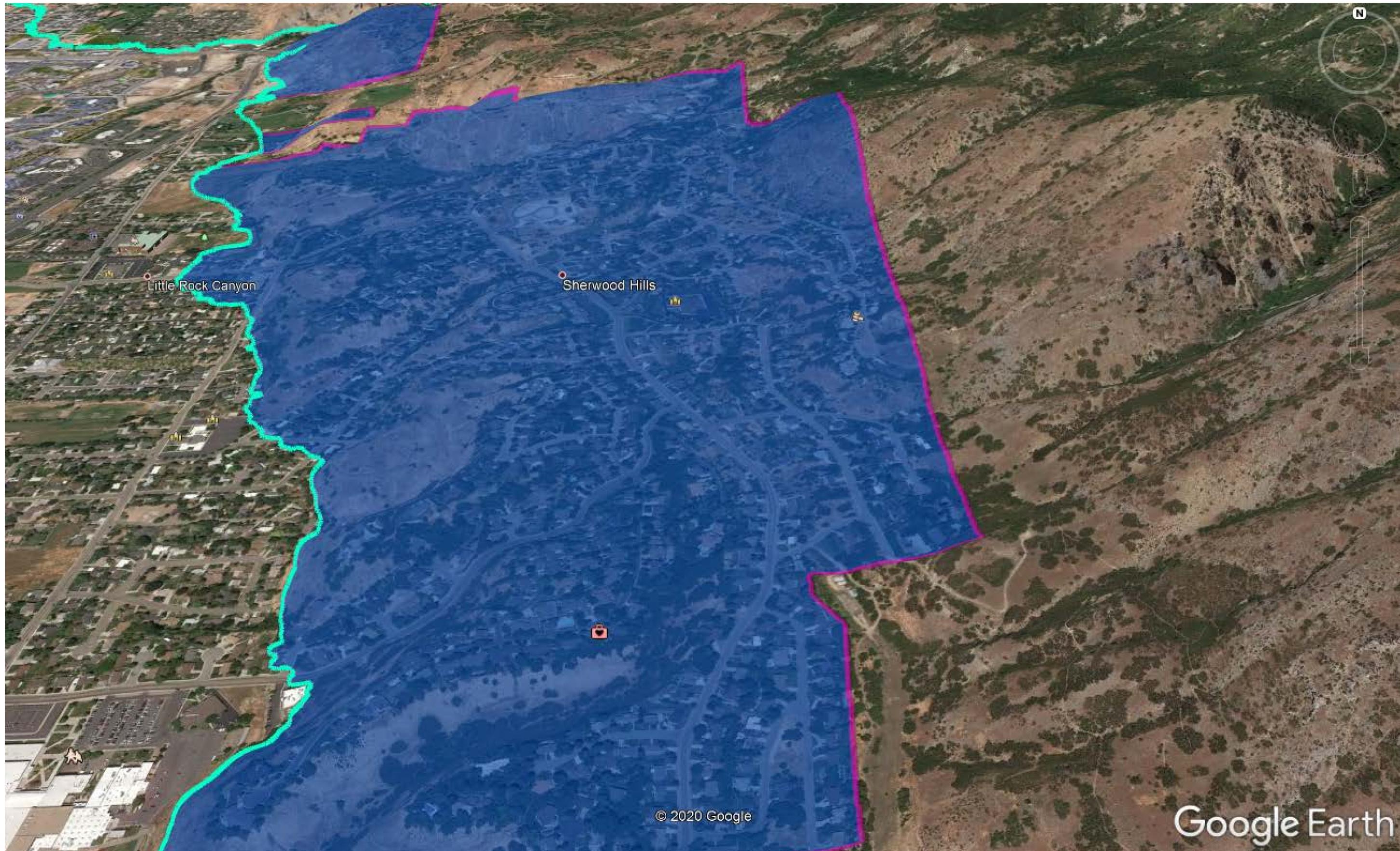


Little Rock Canyon

Sherwood Hills

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Little Rock Canyon

Sherwood Hills

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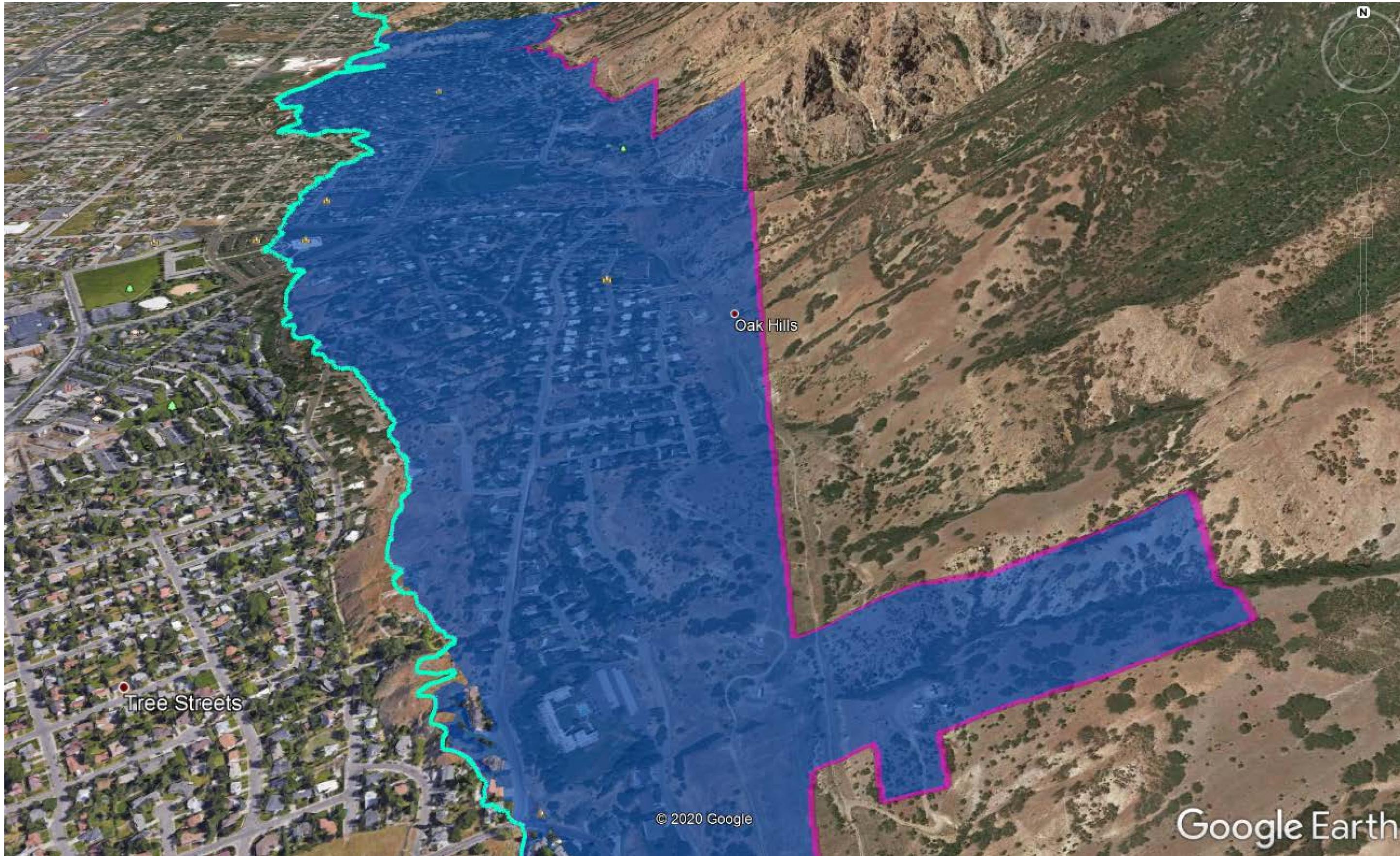


Indian Hills

Rock Canyon

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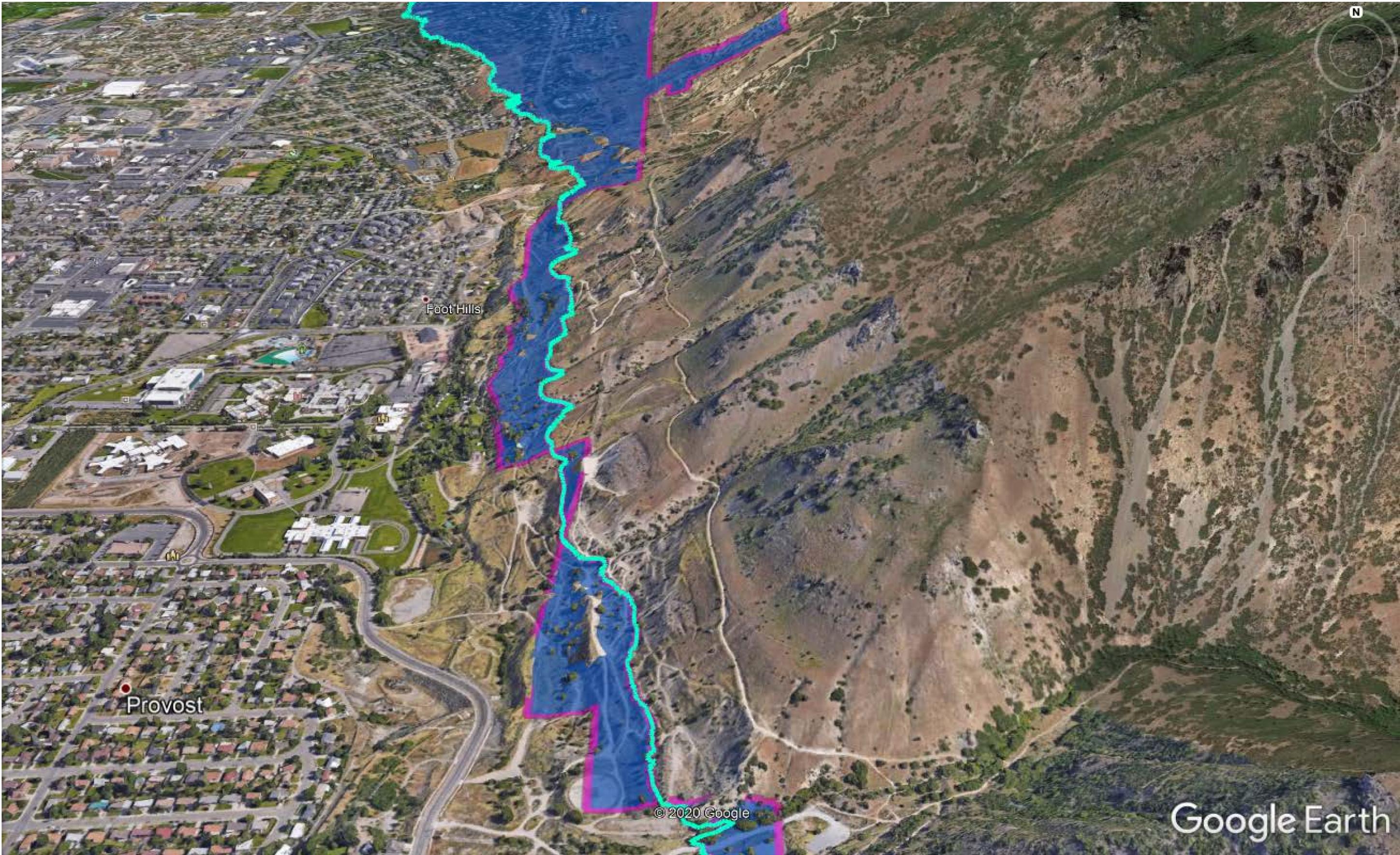


Oak Hills

Tree Streets

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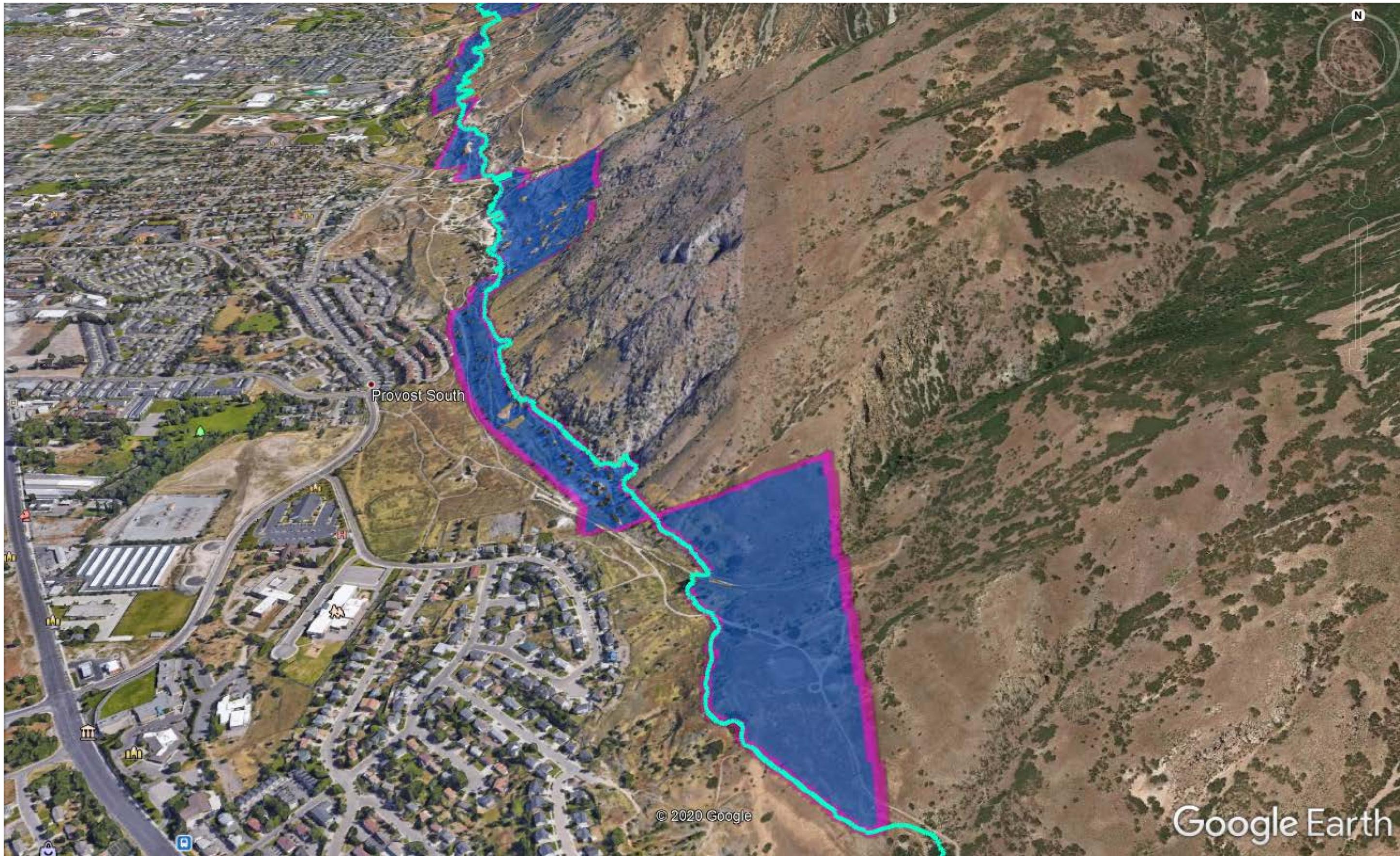


Foot Hills

Provost

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Provost South

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PROVO MUNICIPAL COUNCIL STAFF REPORT



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

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: 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	\$2,835,417

				to 5-lane arterial	
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

¹All projects require the expenditure approval of the Provo City Council before moving to Phase 1 (2018-2024).

²Defined 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



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.

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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:

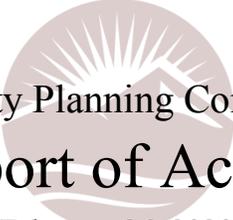
The Provo City General Plan is amended with the adoption of the 2020 Transportation Master Plan, which has been provided to the Municipal Council, is available to the public at Council offices, and at the time of the passage of this ordinance could be viewed in its entirety online at: <https://www.provo.org/Home/ShowDocument?id=18048>

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.

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

49
50 END OF ORDINANCE.



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 of 4:1, 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

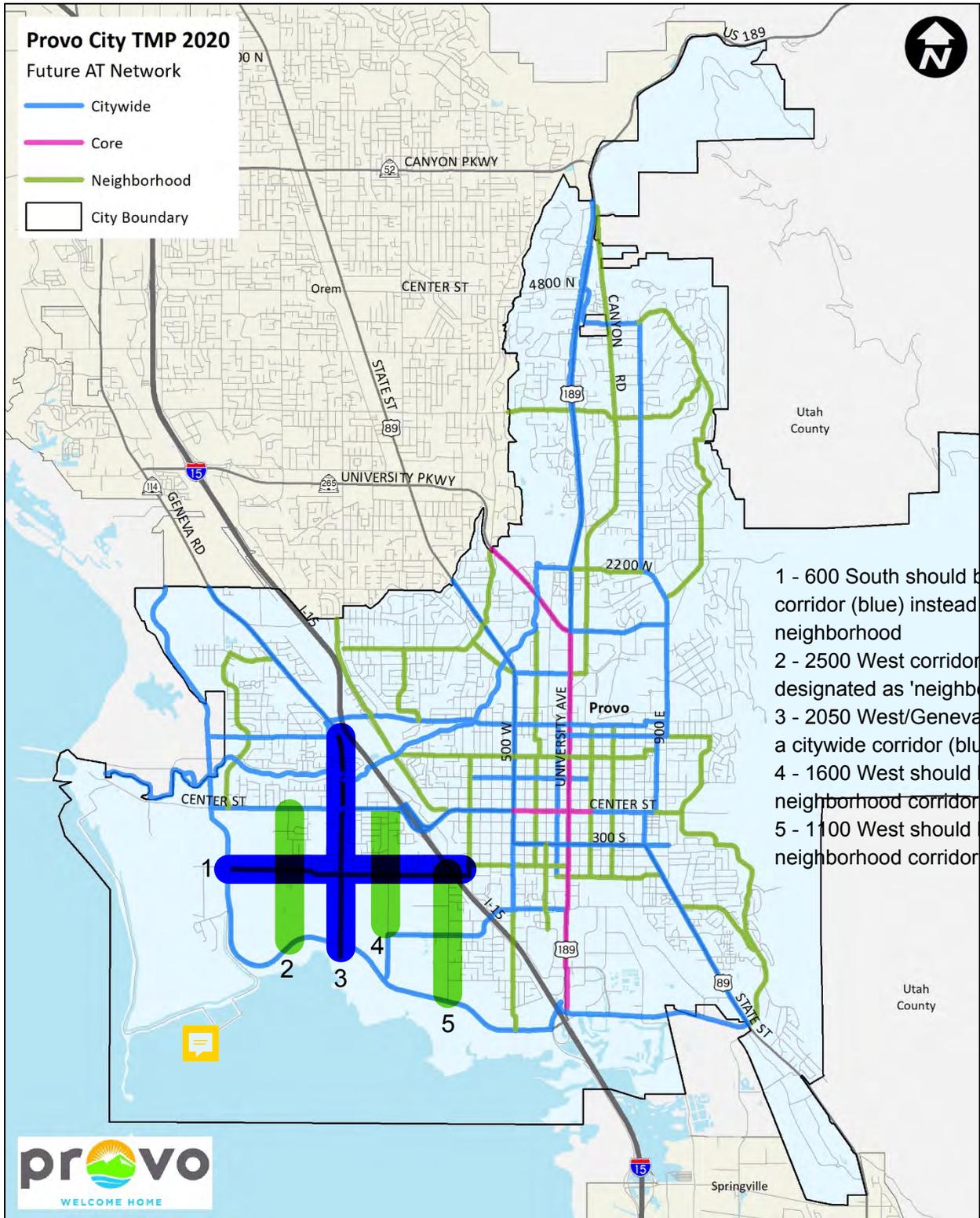
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ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



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: 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: 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:

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
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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	\$8,542,304

				collector	
2.20	1680 North	Lakeview Parkway	Geneva Road	New 3-lane minor arterial	2,950,485
Total Phase 2 Cost					\$84,842,234

¹All projects require the expenditure approval of the Provo City Council before moving to Phase 1 (2018-2024).

²Defined by future studies.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Shane Winters

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLGPA20200038

PROVO MUNICIPAL COUNCIL STAFF REPORT



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

SUBJECT: An ordinance amending Provo City Code regarding beer licenses and regulations to streamline it and bring it into alignment with state regulations. (20-076)

RECOMMENDATION: Approve the ordinance as written.

BACKGROUND: In the Work Meeting on March 10, 2020, 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 was comprised of two Councilors who had voted in favor of the land use decision to permit restaurants with ancillary breweries in certain zones and one who had voted against (February 18, 2020).

The committee 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 recommends that some of the differences be brought into alignment with state code and that the code be streamlined to make it more accessible.

This proposal is separate from the creation of a Class "F" license for restaurants with ancillary breweries, which will be addressed in a separate proposal.

FISCAL IMPACT: None anticipated

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 LICENSES 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.

42 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:~~

APPENDIX A

~~“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](#).

APPENDIX A

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.~~

APPENDIX A

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

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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)

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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

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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)

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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)

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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.¶~~
- ~~(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.¶~~

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(86) 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.

(97) 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.

~~(108) 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.¶¶~~

~~(119) Neither dancing, billiards nor bowling shall be permitted on any premises for which a Class "B" license has been issued.~~

~~(1204) 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.~~

~~(1132) 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.~~

~~(1243) 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)

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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.
- (76) 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)

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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.

[City Website: www.provo.org](http://www.provo.org)

City Telephone: (801) 852-6000

[Code Publishing Company](#)

Provo City Code

Chapter 6.14 BEER LICENSES AND REGULATIONS

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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: HSALZL
Department: Council
Requested Meeting Date: 03-10-2020

SUBJECT: An ordinance amending Provo City Code regarding beer licenses and regulations to create a Class "F" beer license for restaurants with ancillary breweries. (20-057)

RECOMMENDATION: Approve the ordinance as written.

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 has reviewed best practices, state requirements, Provo City Code, and other cities' policies regarding beer licensing. 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) and
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 other potential regulations for brewpubs and other outlets that serve alcohol.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Brian Jones, Deputy City Attorney

REQUESTED DURATION OF PRESENTATION: 20 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 CREATE A CLASS “F” BEER LICENSE FOR RESTAURANTS WITH ANCILLARY BREWERIES. (20-057)

WHEREAS, it is proposed that Provo City Code Section 6.14 (Beer Licenses and Regulations) be amended to create a Class “F” Beer License for restaurants with ancillary breweries; and

WHEREAS, on February 18, 2020, the Municipal Council amended Provo City Code Sections 14.20.020, 14.21A.030, and 14.21B.030 to allow microbrewing as an ancillary use for restaurants in the Regional Shopping Center (SC3), General Downtown (DT1), and Downtown Core (DT2) Zones, with the condition that the ordinance would not take effect until the Municipal Council explicitly authorized the issuance of a beer license to a brewery that is attached and ancillary to a restaurant; 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.

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

45
46 END OF ORDINANCE.

EXHIBIT A

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.
- 6.14.062 Class "F" Beer License.
- 6.14.065 Special Event Permit.
- 6.14.070 License
- 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.
- 6.14.120 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.

(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.

(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 shall be entitled to a Class "B" license.

(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 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.

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)

6.14.062

Class "F" Beer License.

A Class "F" beer license shall entitle the licensee to brew beer on the premises of a restaurant and 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, shall be entitled to a Class "F" license.

6.14.065

Special Event Permit.

(1) A special event permit may be issued to the holder of a Class "B" or Class "F" beer license with respect to the premises to which the Class "B" or Class "F" 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" or Class "F" 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" or Class "F" 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)

6.14.090

Beer License - Disqualifications.

(1) No Class "A", ~~or Class "B", or Class "F"~~ 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",~~ or Class "F" 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)

6.14.120

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) 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.
- (4) No person shall make any false or misleading statement on an application for a beer license.
- (5) 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.
- (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.
- (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.
- (8) 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.
- (9) Neither dancing, billiards nor bowling shall be permitted on any premises for which a Class "B" or Class "F" license has been issued.
- (10) 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) 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) 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.

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.

(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, county, or Provo City regulation governing alcohol sales, shall be grounds for revocation of the licensee's license to sell beer.
- (7) 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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