



PROVO MUNICIPAL COUNCIL

Work Meeting

1:30 PM, Tuesday, June 02, 2020

Electronic meeting: <https://www.youtube.com/user/provocitycouncil>

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

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

To listen to the meeting by phone: June 02 Work Meeting: Dial 346-248-7799. Enter Meeting ID 827 2597 7977 and press #. When asked for a participant ID, press #.

Agenda

Roll Call

Prayer

Approval of Minutes

January 22, 2020 Legislative Breakfast

Business

1. A presentation from the Provo School District. (20-092)
2. A discussion on the proposed FY 2021 budget. (20-008)
3. A discussion regarding beer licensing regulations and density restrictions. (20-077)

Policy Items Referred from the Planning Commission

4. Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood Neighborhood (PLRZ20200079)

5. An Ordinance Text Amendment request to add the Very Low Density Residential (VLDR) zone to the Provo City Code as Chapter 14.14F. Citywide application (PLOTA20200120)

Closed Meeting

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

Adjournment

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

Materials and Agenda: agendas.provo.org

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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 6/16/2020 12:00:00 PM. The meeting will be streamed on YouTube, unless otherwise noticed. The Work Meeting start time is to be determined (typically between 12:00 and 4:00 PM) and will be noticed at least 24 hours prior to the meeting.

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

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aides and services) during this meeting are invited to notify the Provo Council Office at 351 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/user/ProvoCityCouncil. Closed-captioning is available on YouTube.

Notice of Telephonic Communications

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

Notice of Compliance with Public Noticing Regulations

Pursuant to Executive Order 2020-05, certain requirements of Utah Code 52-4-202 and 52-4-207 have been waived. There will be no anchor location for this meeting; it will be conducted exclusively using online means and will be available to view on YouTube at youtube.com/user/ProvoCityCouncil. This meeting was noticed in compliance with Executive Order 2020-05, which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

Pending minutes – awaiting approval



PROVO MUNICIPAL COUNCIL Legislative Breakfast Minutes

7:00 AM, Wednesday, January 22, 2020
Room 310, Provo City Conference Room
351 W. Center Street, Provo, UT 84601

Agenda ([0:00:00](#))

Roll Call

The following elected officials were present:

Council Chair George Handley, conducting
Council Vice-chair David Harding
Councilor Shannon Ellsworth
Councilor William Fillmore
Councilor David Sewell
Councilor David Shipley
Senator Deidre Henderson
Senator Curt Bramble
Representative Norm Thurston
Representative Marsha Judkins

Excused: Councilor Travis Hoban, Mayor Michelle Kaufusi, Deputy Mayor Isaac Paxman, and Representative Adam Robertson

Prayer

The prayer was offered by Brian Jones, Council Attorney.

Business

1. Discussion items from Legislators ([0:10:05](#))

Council Chair George Handley welcomed the legislators and thanked them for attending. He invited the legislators to share discussion topics of interest with the Council.

Senator Curt Bramble shared an update on the tax reform bill, as well as the current citizen referendum process. Many legislators felt that there had not been sufficient or robust discussion of the proposal. Sen. Bramble also shared information about a resolution encouraging the Utah League of Cities and Towns to examine the sales tax break-down and how changes to it would impact municipalities throughout the State. Councilor David Harding noted the relationship between tax revenue and housing affordability. Councilor David Sewell asked about a market facilitator and the relationship with collecting online sales tax for small businesses.

Representative Norm Thurston shared details about a bill to reduce the cost of insulin, which would be his primary focus during the upcoming legislative session. Representative Marsha

Pending minutes – awaiting approval

Judkins did not think any of her initiatives would negatively impact Provo. She was working on a bill regarding data gathering for prosecutors, which would simply require a certain standard and policies for data that is collected.

The legislators expressed that during the session, they are incredibly busy. They invited and encouraged the Councilors to contact them directly on their cell phones; they wanted to maintain direct contact with City officials, as the concerns of the City are helpful for them to know.

Mr. Harding highlighted significant concerns about the towing bill. He thanked the legislators, particularly Rep. Judkins for championing the opposition to this. Mr. Harding felt that while much of the most egregious content has been removed, the compromise bill still contained many objectionable items. Brian Jones, Council Attorney, shared his concern about the content; it was problematic that a major proponent of its contents was Leo Lines, who owns a towing company. Mr. Lines and Representative Cory Maloy had proposed content that ran afoul of what UDOT recommended for a universal towing signage scheme.

Mr. Handley asked about tier-3 gasoline and whether the legislators would champion a bill promoting tier-3 gasoline or requiring more explicit signage. Rep. Judkins expressed surprise that businesses have not already done so, as many people care about clean air and would be apt to patronize those businesses. Sen. Bramble expressed that Utah is still at the forefront of having refineries in Utah making tier-3 gas available. Sen. Bramble expressed that the legislators were supportive of finding an appropriate way for the State to be involved. Councilor Shannon Ellsworth said that there were two non-profits, Envision Utah and LDS Earth Stewardship, which were working on creating awareness and an app for where to find tier-3 gasoline.

2. Discussion items from the Council (0:46:45)

Ms. Ellsworth asked the legislators about their thoughts on Salt Lake City hosting the Olympics in 2030 or 2034. The Legislature previously passed a resolution in support of this. Senator Deidre Henderson expressed that they have been supportive of the proposal in the past. Councilor Bill Fillmore noted that the 2002 Olympic Games required massive transportation funding from the State. Sen. Bramble serves on the State's sports commission and shared insight on what positions Utah as a unique venue to host the games—much of the needed facilities and infrastructure are already in place. Many athletes already train at the Olympic Sports Center in Park City. Rep. Thurston expressed that transportation would likely be a key factor in the image Utah presents. There may be some areas where they will need to shore up the infrastructure, but there was broad support at the legislature.

Mr. Handley asked about the future of mass transit and light-rail expansion. The legislature has had debates on whether they want UTA (currently functioning as a service district with its own funding mechanisms) to be a state agency under UDOT (and therefore receive funding through the state legislature). The legislators all agreed that double-tracking should be the highest priority of UTA and was a key component in addressing growth in the Wasatch Front. Mr. Handley commented on major areas of Provo that are not accessible by mass transit. As developers wished to increase density in key areas, it was critical that these areas be serviced by UTA but they are routinely faced with this catch-22.

Pending minutes – awaiting approval

Councilors shared feedback with the legislators regarding ongoing frustration with the losses in property tax due to not having automated inflation adjustments. School districts have the ability to have inflation automated automatically and cities and counties would simply like the same ability. It is frustrating to go through the truth-in-taxation process for what amounts to minimal updates that do not dramatically impact the average taxpayer. Meanwhile, the losses from inflation continue to impact the city's revenue sources. Councilors also commented on the political complications of holding truth-in-taxation. Part of the complication for Provo is the large proportion of tax-exempt/non-profit land holdings in the city, which are not assessed for property taxes.

Mr. Fillmore asked the legislators whether they had updates regarding the inland port and how it would impact Utah County. The legislators did not have any specific updates to share and it was too soon to know what the impacts would be for Utah County. The legislators were excited about the prospects of the airport expansion in Provo and what that would mean for the region. Regarding a question about UVU expansion and enrollment, several legislators expressed that UVU leadership was interested in continuing growth.

Sen. Bramble asked about the latest with the City center construction. Wayne Parker, CAO, shared an update on the process, which was currently in the schematic design phase with construction to launch in the spring. The building should be ready to occupy in early 2022.

Chair Handley thanked the legislators for joining the Council. The Council appreciates the invitation to contact the legislators directly.

Adjournment

Adjourned by unanimous consent.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: JMAGNESS
Department: Council
Requested Meeting Date: 06-02-2020

SUBJECT: A presentation from the Provo School District. (20-092)

RECOMMENDATION: Presentation only.

BACKGROUND: The Superintendent of Provo School District will be giving an update about what is happening with the district. He will talk about the impacts the district is dealing with and how they plan to move forward in fall will classes.

FISCAL IMPACT: none

PRESENTER'S NAME: Keith Rittell, Provo School District Superintendent

REQUESTED DURATION OF PRESENTATION: 30 minutes.

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-092

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: JMAGNESS
Department: Council
Requested Meeting Date: 06-02-2020

SUBJECT: A discussion on the proposed FY 2021 budget. (20-008)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: The council has adopted the FY 2021 tentative budget and is preparing to hold hearings on the proposed FY 2021 budget. There are items in the budget that still need to be addressed. One item is the Tier II retirement enhancement for public safety, and the city picking up the entire amount.

FISCAL IMPACT:

PRESENTER'S NAME: Cliff Strachan, Executive Director of the Council

REQUESTED DURATION OF PRESENTATION: 60 minutes.

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-008

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: HSALZL
Department: Council
Requested Meeting Date: 06-02-2020

SUBJECT: A discussion regarding beer licensing regulations and density restrictions.
(20-077)

RECOMMENDATION: Discussion and feedback.

BACKGROUND: Staff asked the Council members to take a survey to list their preferences in regard to the different proposals put forth by the brewpub licensing subcommittee. We plan to go over those results as well as take a second look at the proposals to give direction to the subcommittee so they can move forward.

FISCAL IMPACT: TBD

PRESENTER'S NAME: Cliff Strachan, Executive Director of the Council and Councilor David Harding and Councilor Shannon Ellsworth

REQUESTED DURATION OF PRESENTATION: 60 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 20-077

Justification for F License:

Brewpubs (a restaurant that sells beverages brewed on the premises, with no off-site or post-venue consumption) are prohibited from selling in excess of 30% of total sales as beer or alcohol, like restaurants. However, brewpubs are different from restaurants because of their ancillary production of beer, specialized manufacturing equipment, purchase and storage of raw materials, and skilled workers, that are not otherwise employed in traditional restaurants or typical food preparation. See below for source, Brewers Association, letter.

*“This proposal covers restaurant breweries, or brewpubs. These businesses have a mix of activities including those that overlap with both restaurants (7225) and breweries (31212). Although overlapping on many aspects of food preparation and service with other restaurant classifications, brewpubs are unique in that they are manufacturing-service hybrids, taking on the primary production of beer and malt beverages in-house. **As such, this means a portion of their production is wholly differentiated from other restaurants, requiring specific licensing and regulation, the hiring of workers with specific skills, specialized manufacturing equipment, and the purchase of raw materials that would otherwise not be used in restaurants or food preparation.**”*

“Restaurants do produce many goods in-house, such as bread, but these products are primarily produced on the same equipment, with the same ingredients, by the same workers as other food production that occurs at the establishment. In contrast, breweries will be overseen by specialized workers hired for brewing alone, on specialized capital equipment with no other restaurant purposes, and with raw materials such as hops that have no other broader application within the restaurant setting. They are also far more likely to sell that manufactured product, namely beer, outside of their four walls than restaurants are with any product.

“As such the production of beer for onsite sale makes these businesses clearly differentiated from the larger classification, while the restaurant component keeps brewpubs distinct from the larger brewery sector (NAICS 31212). In addition, in most U.S. states, brewpubs will have separate licensing requirements, providing different manufacturing and sales rights than restaurants have more broadly. This is also true at the federal level, where brewpubs are required to obtain an Alcohol and Tobacco Tax and Trade Bureau (TTB) permit and follow rules and regulations set by the TTB.”

Source: Brewers Association, letter to the Office of Management and Budget, April 2020, emphasis added

Proposed Restrictions for F License:

Removed from Proposal
Restriction 1: Employees under the age of 21 cannot work as brewers or participate in the brewing process.
Updated Rationale: Redundant with state law.
Rationale: This is based on the State’s law that those under 21 cannot drink and in keeping with this protection for young people this restriction aims to reduce their exposure to the beer manufacturing process. Many State laws aim to keep minors from access and exposure to beer and alcohol. Multiple reports show the health effects, injury, and social consequences of under-age drinking.

Source: "...the rate of alcohol-related traffic crashes is greater for drivers ages 16 to 20 than for drivers age 21 and older (4). Adolescents also are vulnerable to alcohol-induced brain damage, which could contribute to poor performance at school or work. In addition, youthful drinking is associated with an increased likelihood of developing alcohol abuse or dependence later in life." [National Institute of Alcohol Abuse and Alcoholism](#)

Precedent: [Utah State Code](#)

Updated Restriction 2: Brewpubs cannot produce more than 1,500 barrels of beer a year. A barrel is equivalent to 31 gallons.

Original Restriction 2: Brewpubs cannot produce more than 15,000 barrels of beer a year. A barrel is equivalent to 31 gallons.

Update Rationale: Per recommendation of Mark Isaac (manager at The Mix) and Hannah Salzl.

"Mr. Isaac thought 15,000 barrels was very high. The committee briefly discussed a 1,500-barrel limit, which would not be a problematic limit for brewpubs locally." -staff notes, 5/14/2020

Rationale: Maintains the integrity and purpose of the zones by limiting manufacturing and production in commercial, mixed use, and semi-residential zones. Ensures the subordinate relationship of the ancillary use.

Rely on a production volume threshold to distinguish between "micro" and "conventional" versions of this use. "For microbreweries, 15,000 barrels per year is a common threshold, which corresponds to the American Brewers Association's defined limit for a microbrewery."

Define brewpubs as a distinct use, with the intent to distinguish between accessory- and primary-use brewing facilities. Stipulate that beer production in a brewpub must be accessory to the restaurant, and cap the volume of beer produced annually.

Source: Zoning Practice, March 2014, American Planning Association, Issue Number 3, Practice Microbreweries.

Precedent: Examples of Use Definitions Brewpub:

1. A retail establishment that manufactures not more than 9,000 barrels of malt liquor on its licensed premises each calendar year. (Aurora, Colorado)
2. A restaurant that brews beer as an accessory use, either for consumption on-site or in hand-capped, sealed containers in quantities up to one-half barrel sold directly to the consumer. Production capacity is limited to 5,000 barrels of beverage (all beverages combined) per year. The area used for brewing, bottling, and kegging shall not exceed 30 percent of the total floor area of the commercial space. A barrel is equivalent to 31 gallons. (Plainfield, Illinois)
3. A restaurant-brewery that sells 25 percent or more of its beer on-site. The beer is brewed primarily for sale in the restaurant and bar. The beer is often dispensed directly from the brewery's storage tanks. Where allowed by law, brewpubs often sell beer "to go" or distribute to off-site accounts. (Brewers Association)

4. A restaurant with facilities for the brewing of beer for on-site consumption and retail sale at the restaurant. A brewpub must derive at least 40 percent of its gross revenue from the sale of food. (Goodyear, Arizona)
5. A restaurant featuring beer that is brewed on-site. (Memphis-Shelby County, Tennessee)

Restriction 3 (no change): Prohibit all outdoor equipment and storage for brewpubs.

Updated Rationale: “Most zones in which a restaurant can go would already have a prohibition for outside storage. However, I think it would be good to have that requirement in the licensing provisions just in case we missed anything.” feedback from Gary McGinn.

Rationale: “Outdoor storage can be an uninviting eyesore, especially in pedestrian-oriented areas. And left unattended, production waste may produce foul odors and attract vermin.” APA

Source: Zoning Practice, March 2014, American Planning Association, Issue Number 3, Practice Microbreweries.

Precedent:

1. Covington, Kentucky, flatly prohibits all outdoor equipment and storage for brewpubs and microbreweries (§§6.28.02– 03).
2. Dallas permits microbreweries and microdistilleries to store spent grain outside in silos or containers, provided the storage is screened from view (C51A-4.210(b) (4)(E)(ii)(cc)).
3. Novi, Michigan, prohibits all outdoor storage for brewpubs and microbreweries, with the exception of storage in tractor trailers for a period less than 24 hours (§§1501.11.b and 1501.12.b).

Restriction 4 (no change): The area used for brewing, bottling, and keging shall not exceed thirty percent (30%) of the total floor area of the commercial space.

Updated Rationale: “If we are ok with restaurants selling their beer (whole sale and retail) for off premise consumption, then it is likely that they might have a brewing, bottling, and keging area larger than 30% of total floor space.” feedback from Gary McGinn

“Mr. Peterson said that he was texting the prospective applicant, and they were not thrilled about the 30% footprint limit, so the limits were realistic.” -staff notes, 5/14/2020

Rationale: Define brewpubs as a distinct use, with the intent to distinguish between accessory- and primary-use brewing facilities by quantifying this subordinate relationship by limiting the percentage of floor area or sales attributable to the brewery component of the business. Additional interior storage may be necessary if outside storage is prohibited, per Restriction 3.

Source: Zoning Practice, March 2014, American Planning Association, Issue Number 3, Practice Microbreweries.

Precedent:

1. Novi, Michigan, stipulates that no more than 50 percent of the gross floor space in a brewpub shall be used for brewing (§1501.11.e).

2. Asheville, North Carolina, limits microbreweries to 4,000 square feet of floor area in two specific office districts (§17-16- 1(c)(43)a.3).
3. Columbia, South Carolina, limits microbrewery production to 1,000 barrels per year in three lower-intensity commercial and mixed use districts (§17-290(2)).
4. “Both Strap Tanks reported that their brewing equipment is only about 10-15% of their footprint and that this is fairly standard for most brewpubs. 30% seems very reasonable.” -Hanah Salzl, analyst research.

Updated Restriction 5: Permit no more than two (2) Class F licenses per a single incident of a zone, excluding manufacturing zones.

Original Restriction 5: Require a minimum separation between similar uses, not to be less than 200 feet, except in manufacturing zones, and permit no more than three (3) Class F licenses per a single incident of a zone, excluding manufacturing zones.

Updated Rationale: Per recommendation of Mr. Shipley.

With only 5 occurrences of these zones, as of 5/14/2020, there could be max 10 permitted in the City. Fewer than 15 permitted with the original Restriction 5. Two would not create a district and would allow brewpubs to co-locate at a foodcourt or shared accommodating place for restaurants in the mall.

“Mr. Peterson also had some concerns about the proximity limit because there are already so few places in the Downtown where a new alcohol outlet could be opened. Mr. Isaac and Mr. Bowles thought the distance requirement was simple and easy to understand. Mr. Bowles advised extreme caution about things like proximity limits without some explicit exceptions.” -staff notes, 5/14/2020

Rationale: Prevent an over-concentration of brewpubs in a specific district or non-manufacturing zone. Maintain the integrity of a commercial, mixed-use, or semi-residential zone but limiting the concentration of manufacturing and production as a permitted ancillary uses.

Source: Zoning Practice, March 2014, American Planning Association, Issue Number 3, Practice Microbreweries.

Precedent:

1. Novi, Michigan, requires microbreweries to be separated from one another by at least 2,500 feet (§1501.12.h).
2. Bismarck, North Dakota, requires property owner consent as a condition of approval for microbreweries located within 300 feet of a lot line for any school, church, library, or hospital (§14-03-08.4.u.1).

Restriction 6 (no change): Must have an off-street or alley-accessible loading dock. Restrict service truck loading and unloading to the hours between 8 a.m. and 8 p.m.

Updated Rationale: “No concerns. I think any Brewpub would want to have off-street loading.” feedback from Gary McGinn.

"Mr. Peterson was initially concerned about this requirement given the limited space in the Downtown, but the prospective applicant was not worried. They would want off-street loading regardless." -staff notes, 5/14/2020

Rationale: Require brewpubs to be good neighbors by minimizing traffic congestion or limiting noise during certain times of the day.

Source: Zoning Practice, March 2014, American Planning Association, Issue Number 3, Practice Microbreweries.

Precedent:

1. Asheville, North Carolina, stipulates that all microbreweries must have an off-street or alley-accessible loading dock (§17-16-1(c)(43)a.4).
2. St. Petersburg, Florida, discourages microbrewery access and loading from streets and requires any street-facing loading bays to keep their doors closed at all times, except when actively in use. The city also restricts service truck loading and unloading to the hours between 8 a.m. and 8 p.m., Monday through Saturday, and between 11 a.m. and 7 p.m. on Sundays and national holidays (§§16.50.045.4–6).
3. "Both Strap Tanks said they have separate pallet entrances off-street for their facilities and that this is also fairly standard, depending on the age of the brewpub." -Hanah Salzl, analyst research.

Proposal to Require City Council Approval for Local Consent of New State Liquor Licenses in Areas of Provo with High Alcohol Outlet Density

Part of the State's system for regulating access to alcoholic beverages is that written consent from the local authority must be received before a state liquor license will be granted. In 2012, the Council delegated the responsibility for granting the local consent to "the Mayor and/or the Mayor's designee". This proposal would establish alcohol outlet density thresholds above which the Council would need to authorize the granting of local consent.

The proposal is based on (1) the CDC recommendation to use licensing and zoning to limit alcohol outlet density and (2) the premise that at some point the City may want to consider not granting additional local consent if the alcohol outlet density at the new proposed location is too great. This proposal would establish a City policy for when local consent decisions must be made before the public in an open meeting with the City Council.

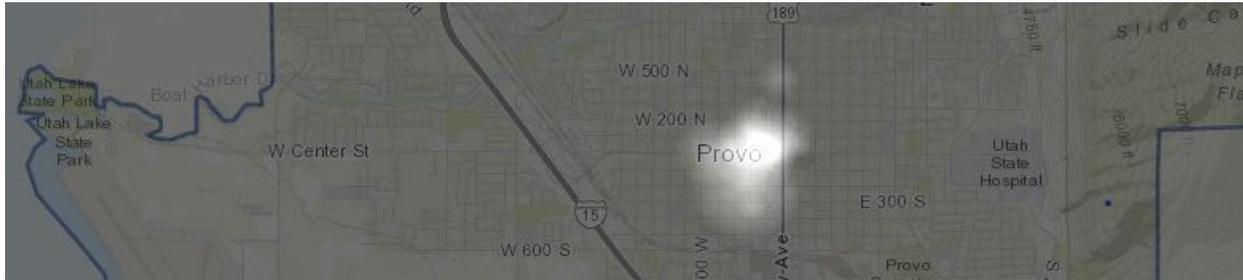
The weighting of outlets for the purpose of the density calculation as well as the thresholds are based on the classes of liquor licenses as defined by the State.

Some advantages of this proposal

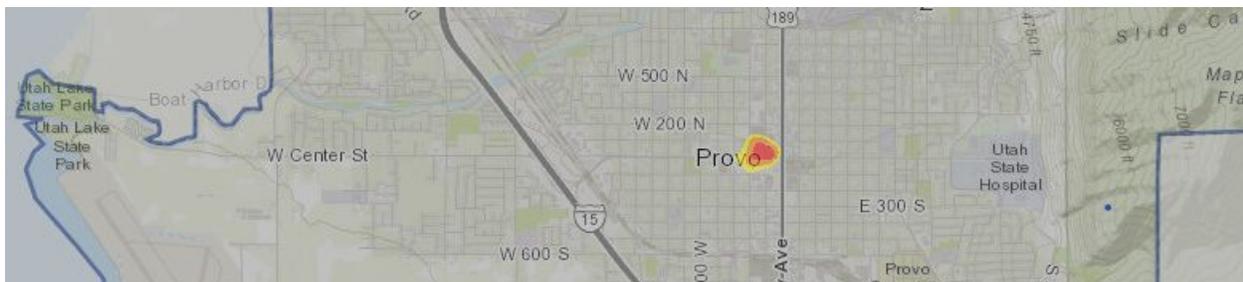
- Aligned with the recommendations by the CDC.
- Provides structure and flexibility.
 - It provides an incentive for prospective alcohol outlets to space out and avoid areas of concentration while still allowing applicants to make a case for why they should be given local consent at their preferred location if they so desire.
 - It creates a publicly-visible policy framework for evaluating requests for local consent.
 - There are many parameters in both the measurement of the alcohol outlet density and the thresholds which allow the framework to be optimized to the policy goals.
 - The framework can be adjusted in the future as conditions or preferences change.
- Transparent and business-friendly.
 - It is not an additional regulation on businesses. There are no ongoing burdens for compliance for the businesses nor ongoing enforcement efforts for the City. It is simply a policy regarding how requests for local consent are handled.

- Applications for a new alcohol outlet in an area with an alcohol outlet density already greater than the agreed-upon threshold would need to be considered in a public meeting.
- A publicly available map would clearly indicate areas in the city where alcohol outlet density would require new applications to be considered by the Council. This would prevent surprises for applicants and the public.

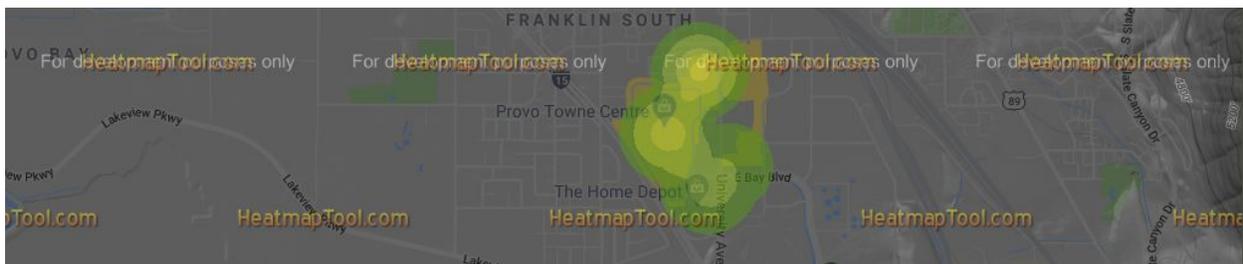
An early effort to create an alcohol outlet density map based on current state liquor licensees in the downtown Provo is shown below.



By applying the thresholds, areas that would require Council consideration of requests for local consent can be shown:



A similar look was made of the East Bay neighborhood which found that the alcohol outlet density was much lower than in Downtown. This is mapped below with a different tool.



References:

- <https://www.cdc.gov/alcohol/index.htm> , Alcohol and Public Health
- <https://www.cdc.gov/alcohol/fact-sheets/prevention.htm> , Preventing Excessive Alcohol Use: Evidence-based strategies and resources...
- <http://www.thecommunityguide.org/alcohol/outletdensity.html> , Regulation of Alcohol Outlet Density
- <https://www.cdc.gov/alcohol/pdfs/CDC-Guide-for-Measuring-Alcohol-Outlet-Density.pdf> , Guide for Measuring Alcohol Outlet Density

Outline of the Proposal

1. The Provo Municipal Council must approve the granting of local consent for a state liquor license if the alcohol outlet density at the proposed address, as calculated in (3), is greater than than the threshold listed in (4) for the requested liquor license type.

2. Within 10 business days of being notified of the change in the status of a state liquor license within the city limits, Provo City will publish an updated alcohol density map which shows the areas above the various alcohol outlet density thresholds.

3. The alcohol outlet density is determined for any location by summing the distance, in feet, that that location is within any radius of impact of an alcohol outlet. The radius of impact of an alcohol outlet is determined by the state liquor license type:

Beer-only Restaurant = 400 ft

Limited-service Restaurant = 600 ft

Full-service Restaurant = 800 ft

Private Club = 1200 ft

State Liquor Store = 1600 ft

4. The alcohol outlet density threshold, beyond which local consent for a new state liquor license will not be granted without Municipal Council approval, is listed below for the various types of state liquor licenses:

Beer-only Restaurant = 3200

Limited-service Restaurant = 2800

Full-service Restaurant = 2400

Private Club = 1600

Variations to consider:

1. The numerical values of the radii of impact and consent thresholds.
2. An increase in the radius of impact or decrease in the threshold for restaurants that have brewing as an ancillary use.
3. A significant decrease in the radius of impact or increase in the threshold for Private Clubs that have membership requirements that make them functionally not public bars.
4. Reducing the thresholds by half for all locations outside of the DT1, DT2, and SC3 zones.

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: NLA
Department: Development Services
Requested Meeting Date: 06-02-2020

SUBJECT: Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood Neighborhood (PLRZ20200079)

RECOMMENDATION: To be heard at the June 2, 2020 Work & Council Meeting. Please see supporting documents.

BACKGROUND: This item is the proposed rezoning of approximately 18.5 acres from the RA Residential Agricultural and the A1.5 Agricultural Zones to the R1.7 Single-family Residential zone. The rezoning would facilitate the development of a residential subdivision that would contain approximately 54 single-family residential lots. The current land use designation for the project is Residential, as shown on both the General Plan Map and the Southwest Area Land Use Map. The proposed concept plan would comply with the maximum density of 4 units per acre (net) called out in the Westside Development Policies. The Westside Development Policies, though not yet adopted, were considered and used in the development of the adopted Southwest Area Land Use Plan.

FISCAL IMPACT:

PRESENTER'S NAME: Brian Maxfield (801) 852-6429 bmaxfield@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20200079



**Planning Commission Staff Report
Rezone
Hearing Date: May 27, 2020**

***ITEM #5** Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood Neighborhood. Brian Maxfield (801) 852-6429 bmaxfield@provo.org PLRZ20200079

Applicant: Chris Ensign

Staff Coordinator: Brian Maxfield

Property Owners: Jolene H Kogianes;
Duane and Dannelle Smith;

Parcel ID#: 21:051:0031; 21:051:0036;
21:052:0010; 21:052:0063

Current Zone: RA and A1.5

Proposed Zone: R1.7

General Plan Des.: Residential

Acreage: 18.5

Number of Properties: 4

Development Agreement Proffered: No

Council Action Required: Yes

ALTERNATIVE ACTIONS

1. **Recommend Denial** of the proposed rezoning based on specific findings of the Planning Commission. *This action would not be consistent with the recommendation of the Staff Report.*
2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is June 10, 2020, 6:00 p.m.*

Current Legal Use:

Two active and one abandoned residential dwellings; agricultural grazing and other agricultural uses.

Relevant History:

The proposed rezoning of this property was originally submitted a couple of years ago, but was delayed by the developer due to the City not being able to confirm its ability to provide sewer capacity for developments in the southwest area of the city.

Neighborhood Issues:

Neighborhood meetings were held in 2016 and most recently, on January 25, 2018. The applicant did not contact the neighborhood for an additional meeting. Neighborhood comments and concerns generally have been relative to timing issues between the proposed development and the future development of adjacent properties.

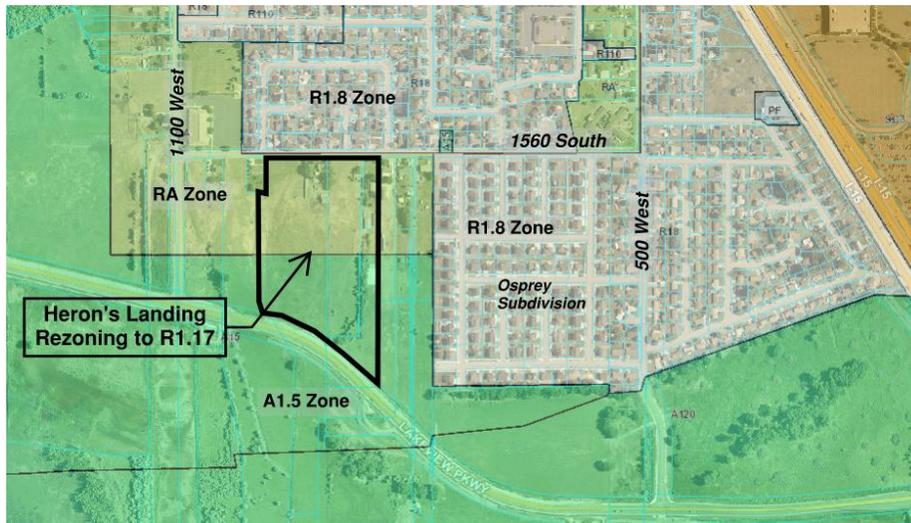
Staff Issues: None

Staff Recommendation:

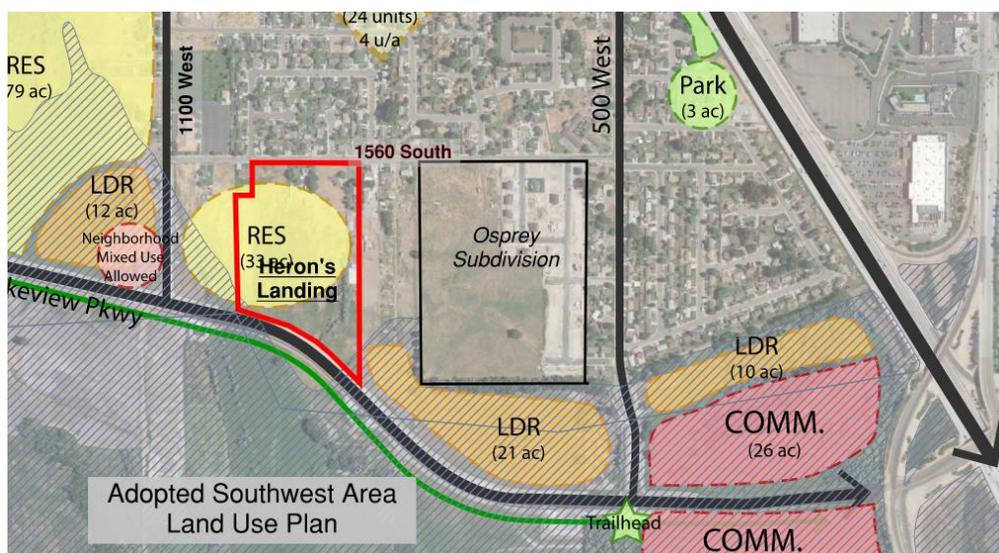
That the Planning Commission recommend approval of the proposed rezoning of the subject properties to the R1.7 zone, and that the Planning Commission approve the subdivision concept plan, subject to the proposed rezoning.

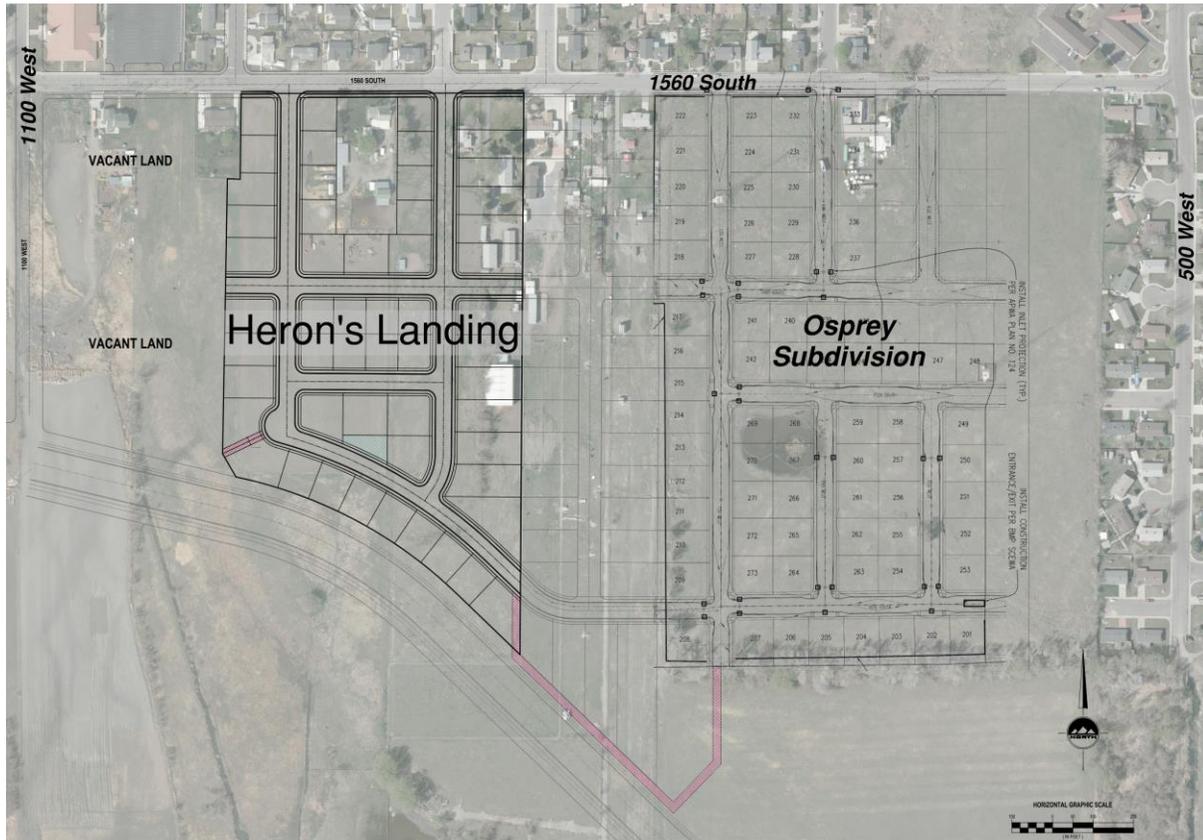
OVERVIEW

This item is the proposed rezoning of approximately 18.5 acres from the RA Residential Agricultural and the A1.5 Agricultural Zones to the R1.7 Single-family Residential zone. The rezoning would facilitate the development of a residential subdivision that would contain approximately 54 single-family residential lots.



The current land use designation for the project is Residential, as shown on both the General Plan Map and the Southwest Area Land Use Map. The proposed concept plan would comply with the maximum density of 4 units per acre (net) called out in the Westside Development Policies. The Westside Development Policies, though not yet adopted, were considered and used in the development of the adopted Southwest Area Land Use Plan.





The proposed subdivision is done in a gridded layout with two connections to 1560 South at 810 West and approximately 950 West. Stubbed roads provide for future connections to both the east and west. The eastern stub roads are envisioned to connect to 1660 South and 1820 South in the Osprey subdivision. A concept of the future buildout is included with this report. Like other concept plans, the areas to the east are not required to develop as shown, but are illustrated to indicate how the area could possibly develop and how the roadways could connect in the future.

GENERAL PLAN POLICIES

Adopted General Plan Polices related to this request include:

- 1.4.8.1 Encourage new, one-family detached neighborhoods.
- 1.4.8.2 Identify and reserve areas suitable for family housing.

FINDINGS OF FACT

- 1. The General Plan designates this property as Residential.
- 2. The subject properties are currently zoned RA and A1.5.
- 3. The zone change to the R1.7 includes a concept plan for residential density of 4 or less units per acres.

STAFF ANALYSIS

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

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

(a) Public purpose for the amendment in question.

To provide for residential development that would provide for needed housing, in compliance with General Plan policies and the Southwest Area Land Use Plan.

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

The R1.7 zone would allow for the development of single-family, detached dwellings.

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

The R1.7 zone would allow for the residential development of the property as envisioned by the Southwest Area Land Use Plan as well as addressing General Plan Policies 1.4.8.1 and 1.4.8.2 in providing for new, one-family detached dwellings that provide for family housing.

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

The property is adjacent to or within reasonable proximity to existing utility lines.

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

No hindrance or obstruction is anticipated by staff.

(f) Adverse impacts on adjacent land owners.

Although adverse impacts resulting from the rezoning may include conflicts between agricultural and residential uses, staff believes sufficient safeguards are in place through city ordinances and State Law to protect the continuing agricultural use of the

adjacent and nearby properties until such time as their owners desire to develop their properties.

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

The adopted Southwest Area Land Use Plan provided a recent review of land uses in this area, and confirmed a residential land use designation was the correct designation for this area.

(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 believes there is no conflict between the two documents.

Neighborhood Issues. There are three principal issues the neighborhood has brought up concerning the proposed development. Two of those are based on a reading of the Westside Area Policy that was used by the planning committee in creating the Southwest Area Land Use Plan. Although the Westside Area Policy has not been adopted as an element of the City's General Plan, the document does provide guidance as indicated by the following section headings from that plan. Staff has also included and highlighted particular policies that it deemed to be related to this rezoning application and the accompanying concept plan (the entire policy is included with this report as Attached 1):

- 1. Preserve Provo's agricultural heritage and support agriculture for as long as farmers choose to farm:**
2. Preserve and Create Quality Usable Open Space
- 3. Encourage Sustainable Residential Development Patterns**
 - a. Establish ordinances to require a mix of housing types, lot sizes, and designs to accommodate various stages of life.
 - b. Detached single-family homes should be the predominant housing type** and the use of other types should augment and not detract from the single-family feel of the area.
 - c. Housing types should be mixed without barriers separating types or densities.
 - d. The scale and style of residences should enhance the surrounding area, regardless of housing type.
 - e. Create design standards for important road corridors in southwest Provo.
 - f. The overall density of the area should average four units to the acre.**
4. Promote Development of Commercial Amenities and Employment Opportunities in Appropriate Locations
5. Create a Robust Transportation Network
- 6. Require Proper Integration and Sequencing of Development**

- a. **The full block should be considered when rezoning away from agricultural uses**
- b. **Conceptual Integrated Development Plan for the entire block should be required for zone change applications.**
- c. **Discourage rezoning of land that is surrounded by agricultural zoning.**
- d. **Development may be limited or deferred depending on the availability of adequate municipal infrastructure (such as sewer, storm drainage, water, etc.).**

7. Restrict Development in Wetlands and other Environmentally Sensitive Areas

The highlighted sections include two of the concerns presented by the neighborhood, namely: “6a” - not including the full block area within the development; and “6c” - the rezoning of land surrounded by agricultural zoning. In the case of “6a,” staff strongly believes the policy presents an ideal desire, but is in most cases impracticable in its implementation for at least three reasons: 1) There is no desire or means to force others to participate in developing their property against their desire; 2) The current City policy is to only rezoning areas where a development proposal is included; and, 3) Doing so could conflict with Policy #1: “Preserve Provo’s agricultural heritage and support agriculture for as long as farmers choose to farm.”

Regarding Policy 6c, it should be noted the subject properties are not technically surrounded by agricultural properties as residential zoning adjoins the properties on the north side. Staff also does not believe the rezoning of the subject properties would fall under the term “leap frogging” as existing utility services are adjacent or located nearby the proposed development area. Although the development of adjacent property is desirable, requiring a property owner to wait on developing their property until the adjacent property develops, would allow the situation where one property owner could indefinitely hold up the desired development of large areas of the city. Instead, staff believes this stated policy applies to the situation where a proposed development is in a more isolated location, some distance away from existing development and utility services.

A third concern expressed by the neighborhood involves the building up of the height of the dwellings above that of surrounding properties. The reason for bringing fill in to increase the height of the properties is due to the City requirement that any habitable floor elevation be one foot above the Utah Lake flood level. Therefore, the only likely way this impact could be eliminated is for all of the properties to be developed together. However, like the other issues mentioned previously, concurrent development of adjoining properties represents more of a desire that is not usually practical in its execution.

CONCLUSIONS

The goal in having a General Plan is to eventually realize the land use generally specified on its land use plan. In accordance with the City’s current land use plan, the designated goal for these properties is for them to be residentially developed. City policy and ordinances also include the allowance for and continued support of existing agricultural uses, but with the allowance for the

owner of agricultural land to pursue a change to the identified land use when the owner no longer desires to continue the agricultural use.

Impacts to neighborhoods occur from new development, and will continue especially as an area transitions from agricultural to residential use. Where any impact can be minimized or otherwise mitigated, that will continue to be pursued by City staff through the actual review and approvals for the subdivision.

STAFF RECOMMENDATION

That the Planning Commission recommend approval of the proposed rezoning of the subject properties to the R1.7 zone, and that the Planning Commission approve the subdivision concept plan, subject to the proposed rezoning.

EXHIBIT "A"

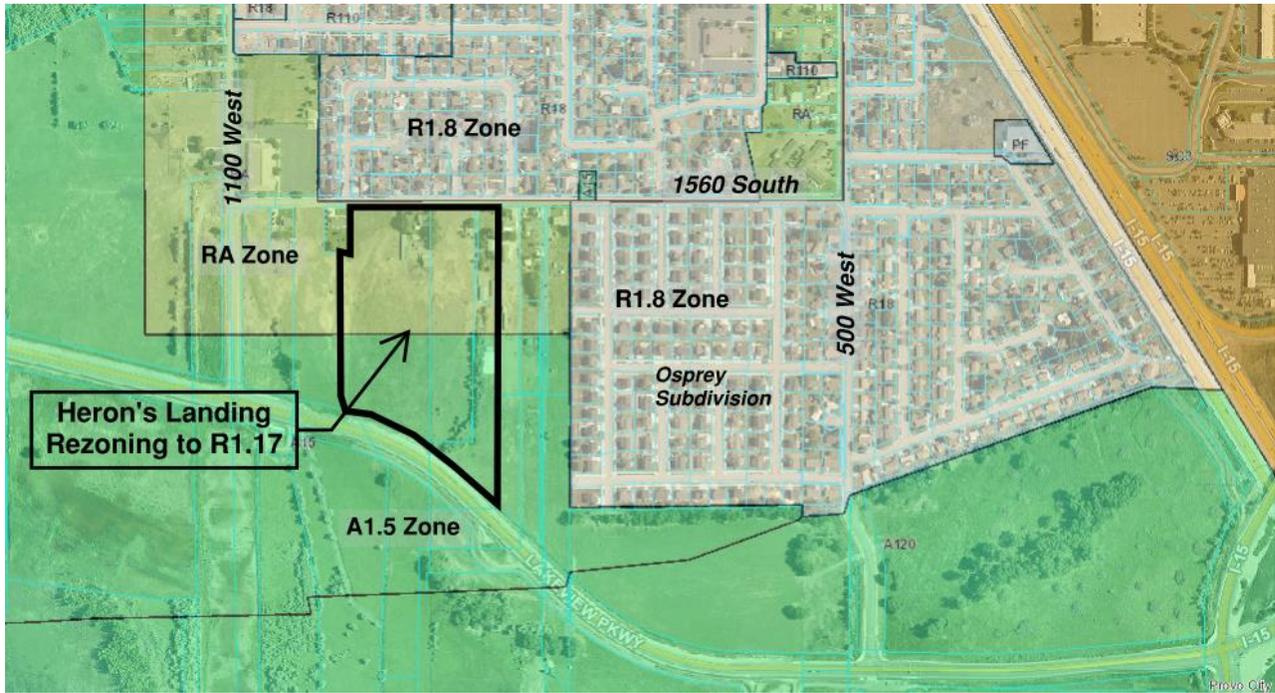


EXHIBIT "B"

Legal Description

Beginning at a point on the Southerly Right-of-Way Line of 1560 South Street, said point being North 89°46'32" East 520.75 feet and South 1,571.60 feet from the Northwest Corner of Section 13, Township 7 South, Range 2 East, Salt Lake Base and Meridian; and running;

thence South 00°22'30" West 1,386.83 feet to a point on the Northerly Right-of-Way of Lakeview Parkway;

thence North 46°05'32" West 219.72 feet along the Northerly Right-of-Way of said Lakeview Parkway;

thence Northwesterly 200.53 feet along the arc of a 1,115.00 foot radius curve to the left (center bears South 43°54'37" West and the chord bears North 51°14'31" West 200.26 feet with a central angle of 10°18'15") along the Northerly Right-of-Way of said Lakeview Parkway;

thence Northwesterly 420.53 feet along the arc of a 1,115.00 foot radius curve to the left (center bears South 33°26'03" West and the chord bears North 67°22'14" West 418.05 feet with a central angle of 21°36'35") along the Northerly Right-of-Way of said Lakeview Parkway;

thence North 30°00'00" West 66.07 feet;

thence North 01°00'00" East 678.84 feet;

thence South 87°55'40" East 31.51 feet;

thence North 00°39'33" East 211.70 feet to a point on the Southerly Right-of-Way of said 1560 South Street;

thence North 89°57'00" East 382.00 feet along the Southerly Right-of-Way of said 1560 South Street;

thence North 89°44'57" East 314.66 feet along the Southerly Right-of-Way of said 1560 South Street to the point of beginning.

Contains 803,603 square feet or 18.448 acres.

ATTACHMENT 1

2/28/2017 The Westside Planning Committee, after considering comments received at the stakeholders' meeting held 2/16/2017 and online at Open City Hall concerning draft policy statements, amended and approved the policy statements herein.

Westside Development Policies

As Recommended by the Westside Planning Committee

Purpose

The purpose of these policies is to guide development in southwest Provo in order to promote a smart, sustainable, vibrant community that offers a high quality of life for current and future residents while respecting Provo's agricultural heritage.

Policies

1. Preserve Provo's agricultural heritage and support agriculture for as long as farmers choose to farm:
 - a. Approve the creation of a Provo Agricultural Commission to support local commercial and non-commercial agriculture.
 - b. Request that the Provo Agricultural Commission identify obstacles to the success of current and prospective farmers, including non-traditional farmers, and recommend ways to remove these obstacles.
 - c. Request that the Provo Agricultural Commission explore tools for agricultural preservation. These tools may include: conservation easements, transfers of development rights, community land trusts, a privately funded farmland trust fund, and Utah's "Agricultural Protection" Program.
 - d. Encourage the Provo Agricultural Commission to improve the productive use of agricultural land.
 - e. Encourage Development-Supported Agriculture and Agritourism to help preserve Provo's agricultural heritage.
 - f. Encourage our state lawmakers to increase funding for the LeRay McAllister Fund.
 - g. Protect agricultural operations from the impact of residential encroachment.
 - h. Identify agricultural land owners, have their properties listed on developmental maps to better avoid encroachment onto agricultural lands.
2. Preserve and Create Quality Usable Open Space

- a. Update and utilize the Parks and Recreation Master Plan to provide developed parks and open space that satisfy a range of leisure and recreational needs.
 - b. Preserve and develop natural amenities for sustained enjoyment by the community. Examples include the Provo River and banks, the Provo River Delta, Utah Lake shoreline, and wetlands.
 - c. Provide parks and trails of different uses and sizes.¹
 - d. Encourage agritourism as a means to provide agriculturally themed open space.
 - e. Useable neighborhood open space should be an integral part of neighborhood design or combined to serve larger areas than the immediate development.
3. Encourage Sustainable Residential Development Patterns
 - a. Establish ordinances to require a mix of housing types, lot sizes, and designs to accommodate various stages of life.
 - b. Detached single-family homes should be the predominant housing type and the use of other types should augment and not detract from the single-family feel of the area.
 - c. Housing types should be mixed without barriers separating types or densities.
 - d. The scale and style of residences should enhance the surrounding area, regardless of housing type.
 - e. Create design standards for important road corridors in southwest Provo.
 - f. The overall density of the area should average four units to the acre.
4. Promote Development of Commercial Amenities and Employment Opportunities in Appropriate Locations
 - a. Regional commercial uses may be located adjacent to the I-15 or within the Airport Related Activities district.
 - b. Neighborhood and Community Shopping zones may be located at or adjacent to arterial or collector streets.
 - c. Design, scale and intensity of commercial zones or properties should transition to adjacent residential uses to minimize impact on the residential use.
5. Create a Robust Transportation Network
 - a. Update the Transportation Master Plan to accommodate the changing needs of southwest Provo.

¹ Examples include neighborhood parks, pedestrian, equestrian, and bike trails, community/school gardens, a regional sports park, a farm-themed park, and the Provo Beach concept.

- b. The planned collector road network should be built as development occurs. No development should interrupt the collector road network.
 - c. Update the Provo City Major & Local Street Plan to include a network of proposed local streets to ensure connectivity in between the land between collector and arterial roads.
 - d. Utilize Complete Streets Policies to ensure all modes of transportation are considered.
 - e. Utilize the Transportation Master Plan to identify corridors that should have sufficient right-of-way to accommodate public transit.
 - f. Lakeview Parkway is to be maintained as an arterial roadway with limited access.
6. Require Proper Integration and Sequencing of Development
- a. The full block should be considered when rezoning away from agricultural uses
 - b. Conceptual Integrated Development Plan for the entire block should be required for zone change applications.
 - c. Discourage rezoning of land that is surrounded by agricultural zoning.²
 - d. Development may be limited or deferred depending on the availability of adequate municipal infrastructure (such as sewer, storm drainage, water, etc.).
7. Restrict Development in Wetlands and other Environmentally Sensitive Areas
- a. Land south and west of the Lake View Parkway up to Center Street (excepting the airport protection area) should be preserved for open space and agricultural uses.
 - b. No development should occur in flood-prone areas unless the risks can be mitigated. Plans for mitigation should be reviewed for adequacy by the Provo City Engineer and any State or Federal regulatory agency with jurisdiction to ensure that sensitive lands are appropriately developed to protect people, property or significant natural features. Mitigation plans should not adversely affect adjacent properties.

² That is, no leap frog development.

ORDINANCE 2020-

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 18.5 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 901 WEST 1560 SOUTH, FROM RESIDENTIAL AGRICULTURAL (RA) AND AGRICULTURAL (A1.5) TO ONE- FAMILY RESIDENTIAL (R1.7)). LAKEWOOD NEIGHBORHOOD. (PLRZ20200079)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 18.5 acres of real property, generally located at 901 W 1560 S (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 Agricultural (RA) and Agricultural (A1.5) to One-Family Residential (R1.7); and

WHEREAS, on May 29, 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, the Planning Commission’s recommendation was based on the project design presented to the Commission; and

WHEREAS, on June 2, 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 Agricultural (RA) and Agricultural (A1.5) Zones to the One-Family Residential (R1.7) Zone for approximately 18.5 acres of real property generally located at 901 W 1560 S, as described herein.

40 PART II:

41

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

44

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

48

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

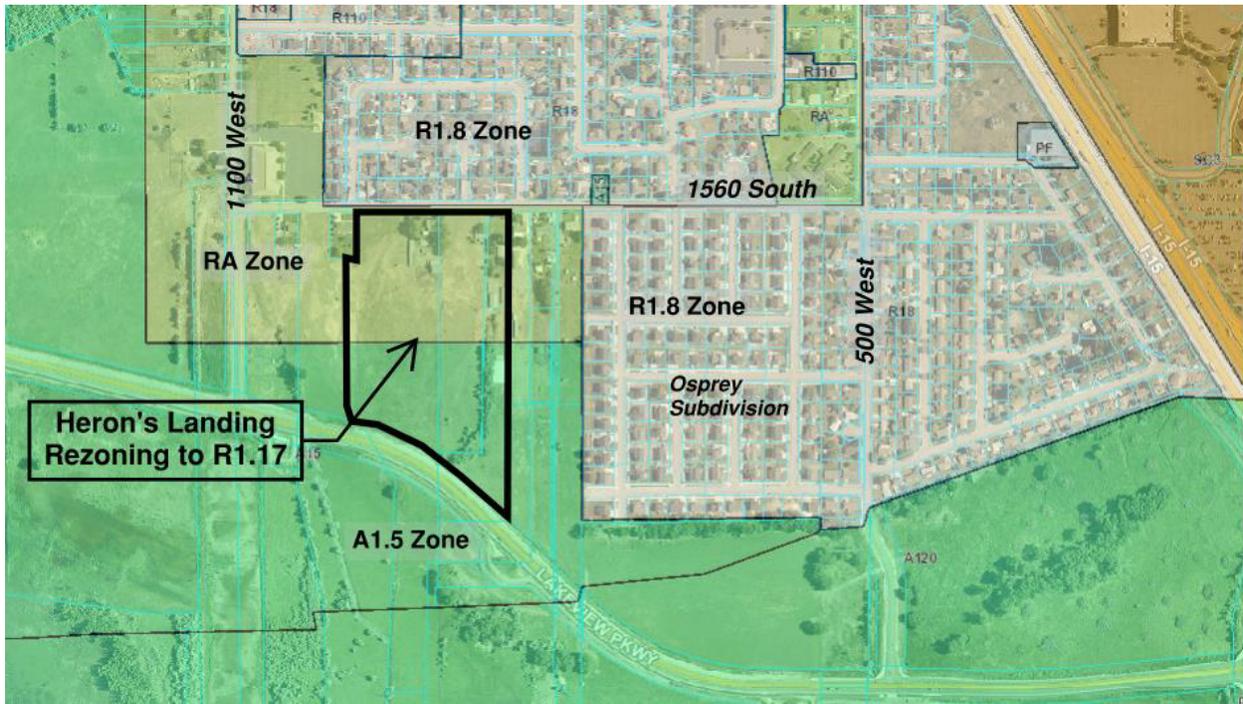
51

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

55

56 END OF ORDINANCE

EXHIBIT A – ZONE MAP



Beginning at a point on the Southerly Right-of-Way Line of 1560 South Street, said point being North 89°46'32" East 520.75 feet and South 1,571.60 feet from the Northwest Corner of Section 13, Township 7 South, Range 2 East, Salt Lake Base and Meridian; and running;

thence South 00°22'30" West 1,386.83 feet to a point on the Northerly Right-of-Way of Lakeview Parkway;

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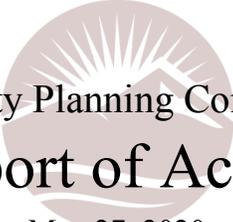
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Contains 803,603 square feet or 18.448 acres.



Provo City Planning Commission

Report of Action

May 27, 2020

Item 5* Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood neighborhood. Brian Maxfield (801) 852-6429 bmaxfield@provo.org PLRZ20200079

The following action was taken by the Planning Commission on the above described item at its regular meeting of May 27, 2020:

**RECOMMENDED APPROVAL of the proposed Rezoning;
APPROVED the Subdivision Concept Plan, subject to the Council's
approval of the rezoning.**

On a vote of 6:0, the Planning Commission recommended approval of the proposed rezoning and approved the concept plan for the Heron's Landing subdivision.

Motion By: Andrew Howard

Second By: Robert Knudsen

Votes in Favor of Motion: Lisa Jensen; Dave Anderson; Robert Knudsen; Laurie Urquiaga; Andrew Howard; Deborah Jensen.

Deborah Jensen was present as Chair.

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:

- Current zoning of the property and the land use designation of the area on the Southwest Area Neighborhood Land Use Map.
- The layout and connectivity of the proposed development.
- Previous delays to the project were principally due to the sewer capacity issues in the western areas of the city, and that those issues have now been adequately addressed.
- The desirability, but the inability to force the entire area to develop at once.
- Why the proposal should not considered leap-frogging.
- The need for fill material to be brought in, especially in the southern portion of the site.

CITY DEPARTMENTAL ISSUES

None that would hinder the rezoning from going forward. Because of the fill that will be needed on the site, resulting drainage and storm water runoff will need to be examined closely at the time of the preliminary plat approval for the development.

NEIGHBORHOOD MEETING DATE

This project was reviewed during at least two previous neighborhood meetings, with the last Neighborhood Meeting review of the project in January 2018. The site and area were also included in meetings dealing with the adoption of the Southwest Area Land Use Plan toward the end of 2018.

NEIGHBORHOOD AND PUBLIC COMMENT

Several neighborhood comments were received by staff and distributed to the Planning Commission prior to the meeting. Comments from the Lakewood Neighborhood Chair, Becky Bogdin were forwarded to the Planning Commission relating to some of the above concerns. During the meeting Ms. Bogdin spoke to her concern about the project not being presented again to the neighborhood since the most recent presentation had been in January 2018. She also brought up her concerns about the project being a “leap-frog” development. She also expressed her concern about the large amount of fill-material needed for the site.

CONCERNS RAISED BY PUBLIC

Concerns expressed in submitted comments included flooding and groundwater; loss of farmland, the timing of the development given the current economy; resulting traffic impacts; wildlife impacts; and impacts from dust during construction. Pam Argyle called during the meeting and asked if a traffic study had been done regarding 1560 South.

APPLICANT PRESENTATION AND RESPONSE

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

- A summary of the considerations made in the proposed layout and the utility connections for the project.
- The applicant stated he believed he had received usable input and feedback from the neighborhood at previous neighborhood meetings and the other meetings regarding the development of the Southwest Area Neighborhood Plan. He stated that much of that input was incorporated into the current design and density of the project.

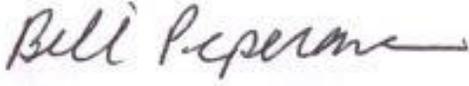
PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Planning Commission asked questions of staff regarding most of the items of concern mentioned in the various submitted comments including wetland and ground water issues; bird habitat; sewage capacity and servicing; street access and emergency access issues.
- Staff stated the opinion that this is not leap frog development because this project is adjacent to R1.8 zoning and development to the north.
- The Planning Commission noted this area is planned by the Southwest Area Plan to be residentially developed. Robert Knudsen, stated that the adjoining agriculturally zoned areas are actually pasture and not farming areas in the sense of crop production.
- The issue of any need for an additional neighborhood meeting was also discussed, with most, if not all Commissioners expressing their belief the proposal has addressed many of the past concerns; that it presents a well laid out project; that it meets the direction of the Southwest Area Plan; and, that an additional presentation to the neighborhood would not yield any additional information or identify any impact that had not yet considered. It was noted that the current plan has the fewest lots of several previous plans that were considered. This is the first plan to show four units per acre as a NET calculation.



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.).

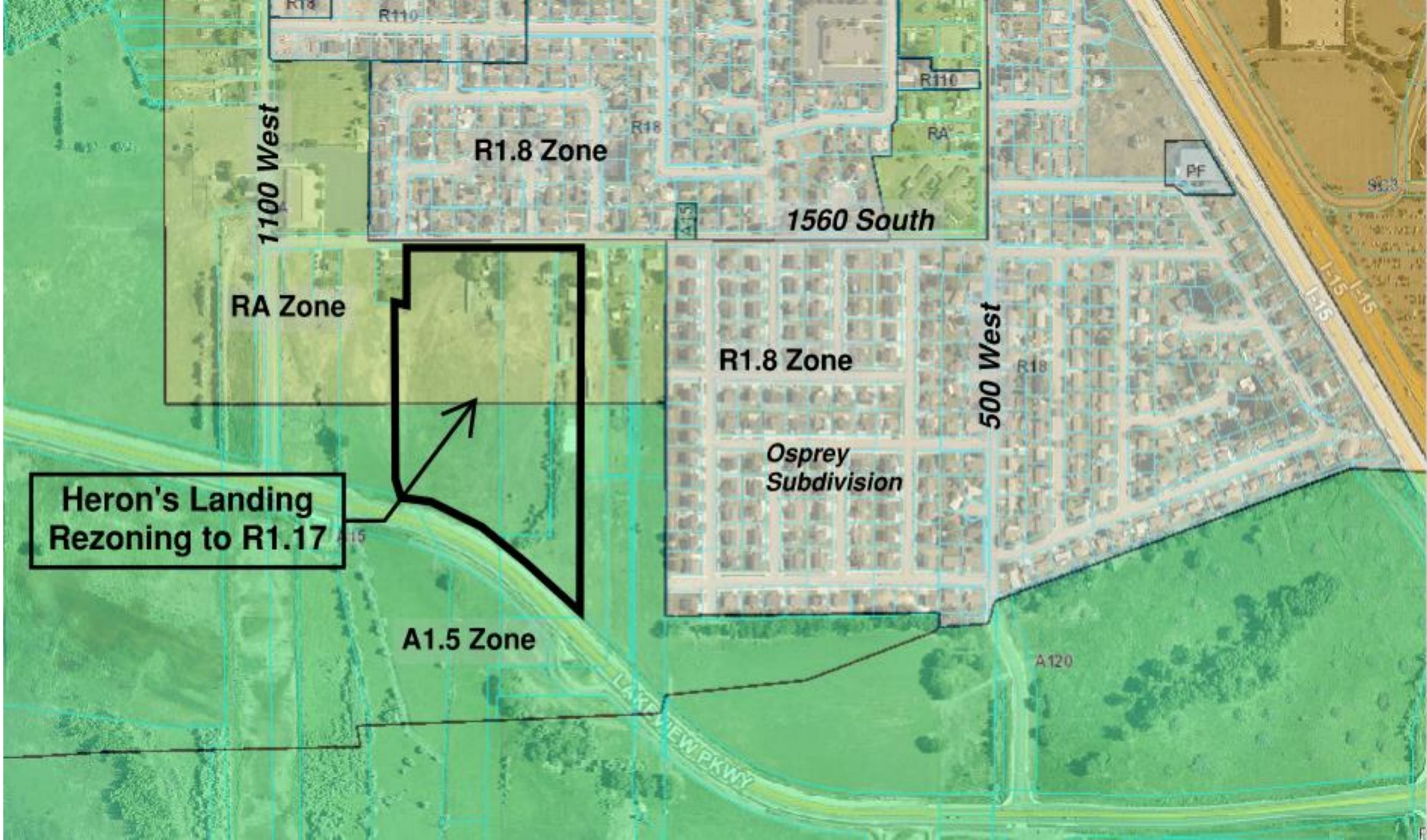
BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

ITEM 5*

Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S.

Lakewood Neighborhood

Brian Maxfield



1100 West

R1.8 Zone

1560 South

RA Zone

R1.8 Zone

500 West

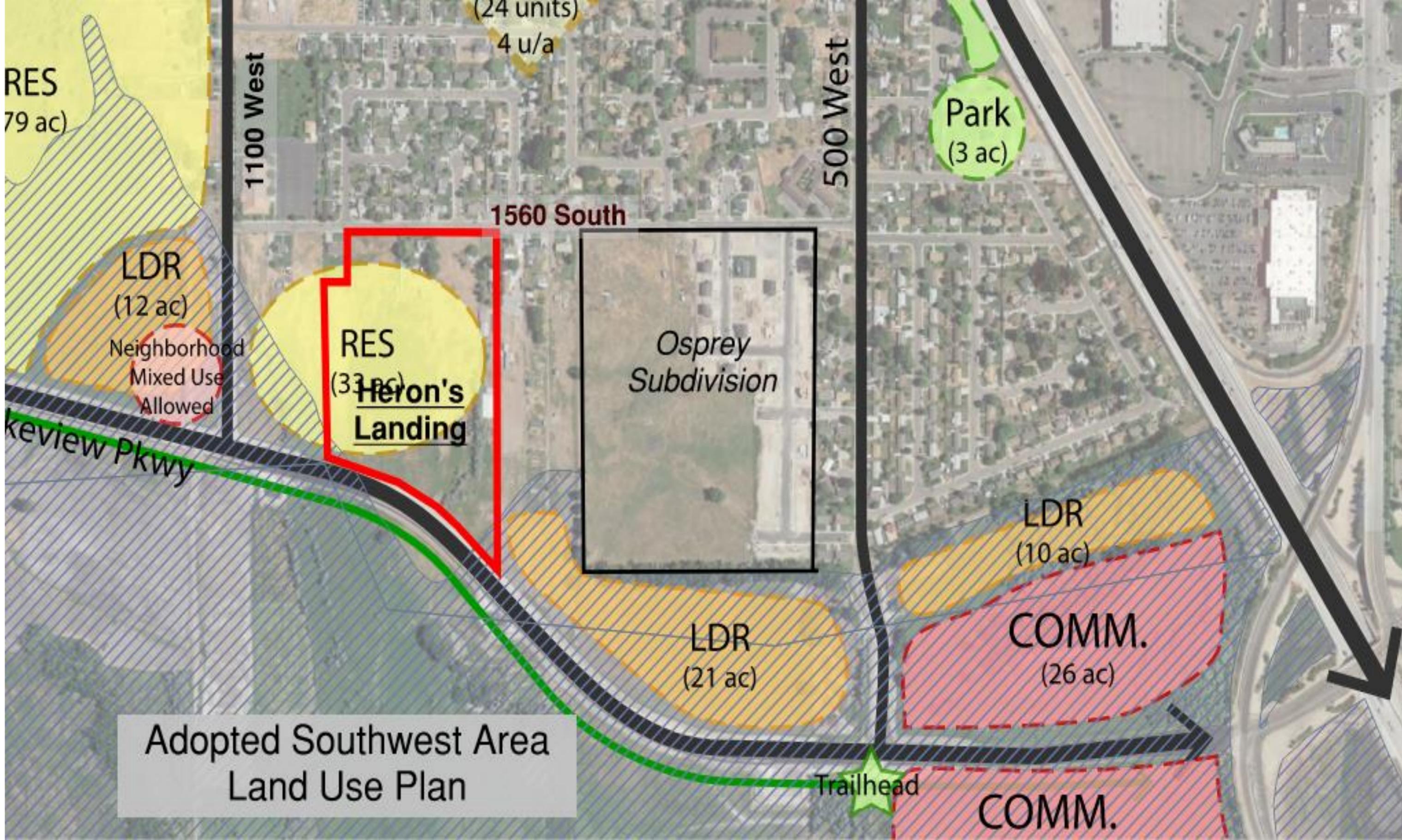
Osprey
Subdivision

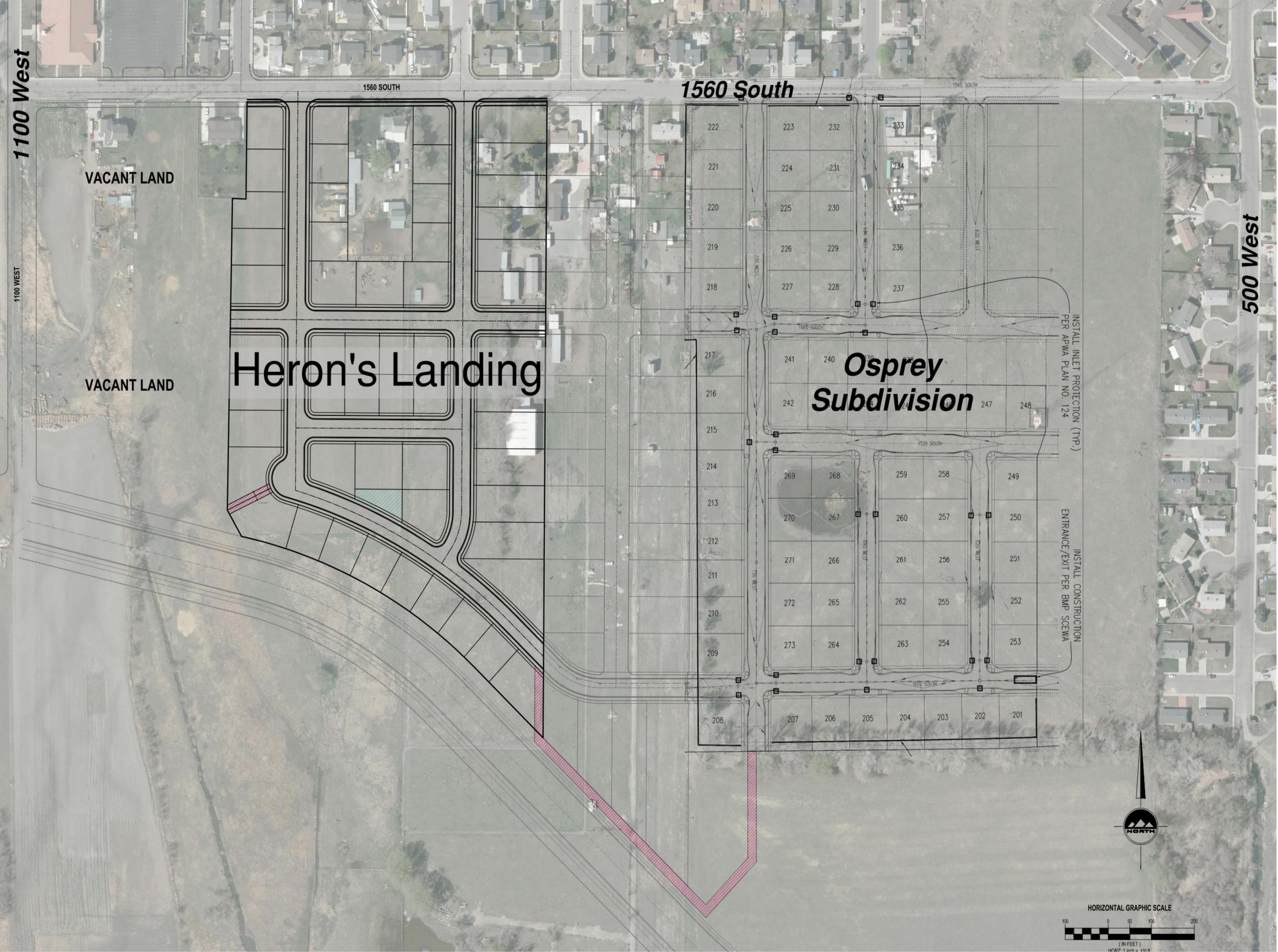
Heron's Landing
Rezoning to R1.17

A1.5 Zone

LAKEVIEW PKWY

A1.20





1100 West

1100 WEST

1560 SOUTH

1560 South

1560 SOUTH

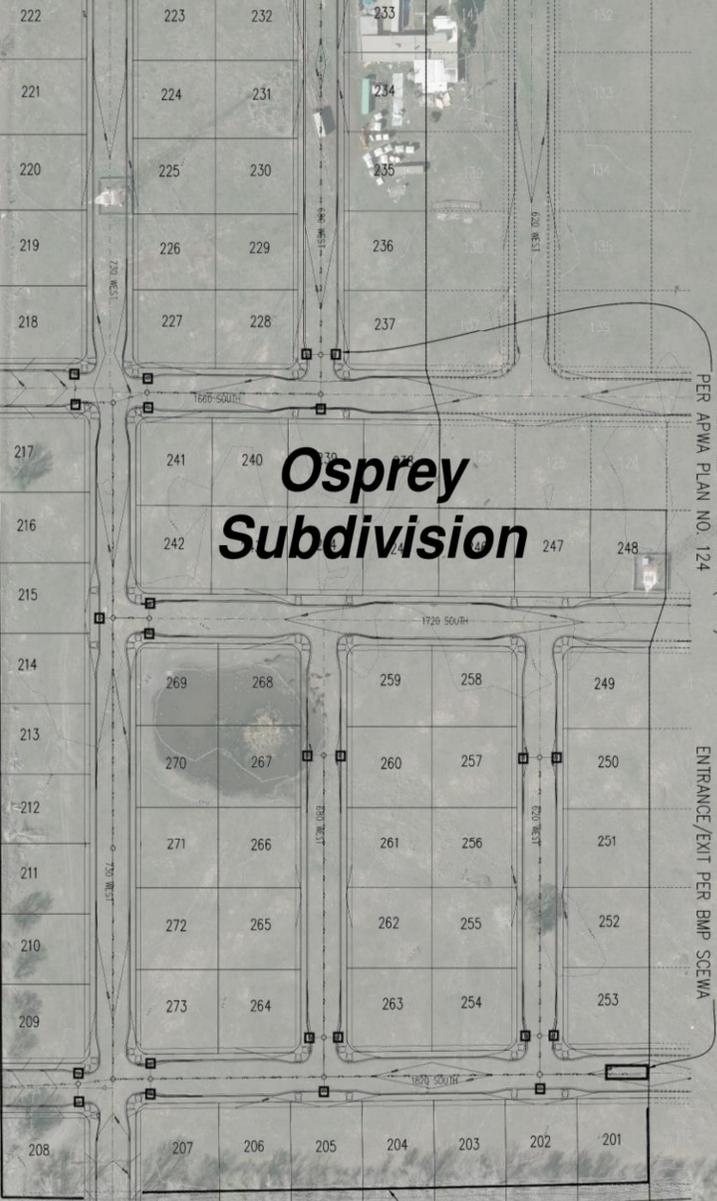
500 West

VACANT LAND

VACANT LAND

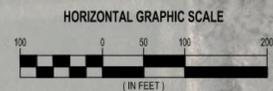
Heron's Landing

Osprey Subdivision



INSTALL INLET PROTECTION (TYP.)
PER APWA PLAN NO. 124

INSTALL CONSTRUCTION
ENTRANCE/EXIT PER BMP SCEWA



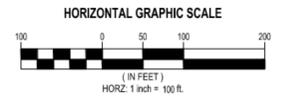


NOTES:

1. PROPERTY IS IN A FILL CONDITION, RANGING FROM 3 TO 6 FEET
2. HOMES ADJACENT TO EXISTING PARCELS SHALL HAVE WALK OUT LOWEST HABITABLE FLOORS OR RETAINING ALONG PROPERTY LINE.
3. ROADWAYS ENDING AT PARCEL BOUNDARY SHALL ALLOW ROOM TO CATCH EXISTING GRADE @ 2:1 MAX. SLOPE OR RETAINING.
4. 55 SINGLE FAMILY LOTS (NET DENSITY = # OF LOTS / NET AREA = 55 / 13.77 ACRES = 3.99 LOTS / ACRE)

INSTALL INLET PROTECTION (TYP)
PER APWA PLAN NO. 124

INSTALL CONSTRUCTION
ENTRANCE/EXIT PER BMP SCENEA





PROVO CITY CORPORATION
DEVELOPMENT SERVICES DEPARTMENT
Planning Commission Agenda
May 27, 2020

NOTICE OF PUBLIC HEARING BEFORE THE PLANNING COMMISSION

The Provo City Planning Commission will hold a public hearing on May 27, 2020 at 6:00 p.m. 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 2020-01. The meeting will be available to the public for live broadcast and on-demand viewing at: <https://www.youtube.com/user/ProvoChannel17>.

For more information on how to participate in this digital meeting go to:
<https://www.provo.org/departments/development-services>.

NOTICE OF PUBLIC MEETING BEFORE PROVO MUNICIPAL COUNCIL

On Tuesday, **June 2, 2020**, at 5:30 p.m. in the Municipal Council Chambers of the Provo City Center, the Provo Municipal Council will consider the items noted below with a star (*). Items noted on the agendas with a star require legislative action by the Municipal Council. Council agendas can be viewed at the Provo City Council web site on the Thursday prior to the Council meeting at <http://agendas.provo.org>. For more information, call (801) 852-6120.

Unmarked items are administrative and require the approval only of the Planning Commission. Decisions on the unmarked items may be appealed to the Board of Adjustment by making application by 6:00 p.m. **within 14 days of the Planning Commission decision.**

Public Hearings

* **Item 5** Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood neighborhood. Brian Maxfield (801) 852-6429
bmaxfield@provo.org PLRZ20200079

Copies of the agenda materials, public hearing procedure, and staff recommendations are available the week of the hearing at reasonable cost in the Community Development office between the hours of 7:00 a.m. and 6:00 p.m., Monday through Thursday. Agendas and staff recommendations are also generally available on the Provo City Development Services web site the week of the meeting at provo.org/planningcommission.

Provo City will make reasonable accommodations for all citizens interested in participating in this meeting. If assistance is needed to allow participation at this meeting, please call the Development Services Department at (801) 852-6400 before 12:00 p.m. the day before the meeting to make arrangements.

By order of the Provo City Planning Commission
Published in "The Daily Herald"
Planning Secretary, (801) 852-6424



From: TFrancis Scheidt

Sent: Tuesday, May 26, 2020 6:36 PM

Subject: Fwd: Item 5 Planning Commission Hearing May 27, 2020

To: Planning Commission Members

To whom it may concern, I write regarding the zoning change request **Item 5 on the Planning Commission agenda for May 27, 2020.**

First, many in the area just became aware of this project upon receipt of a postcard mailed out (postmarked) May 20, 2020 not allowing much time for thoughts of the community.

Question: Why the rush to re-zone? In the current state of the economy (Covid-19) a development of this size should be set aside until a better understanding of where Provo and State of Utah is at in the next 12-18 months. What if this developer simply sits on the property for years? Can there be a stipulation if not developed by a set date then a trigger happens where they pay a large sum of \$ to the City to keep the zoning? If not paid the re-zoning rights are then forfeited? My concern is they begin to develop and simply quit mid process leaving vacant land with half finished-basements, lots, etc. which would be a significant liability for the City. Many builders came and left during the last crisis situation in 2008.

From what I understand this home builder is seeking to Re Zone property from A1.5 to R1.7. When this buyer acquired the property I'm sure they were well of the current zoning. Some of us who purchased homes near this property were aware of the A1.5 zoning which impacted our purchase decision. The planning commission needs to be very careful as lawsuits can be brought if the zoning policy is simply changed which negatively may impact many homeowners for the benefit of a large developer. Many are concerned about the sewer, water and losing of farmlands. I for one am not totally against this project. At least it is NOT a bunch of packed in townhomes close to the expanding airport which would be ripe for VRBO investor owned short term rentals which would likely increase crime and make this a more transient neighborhood. Single family residences as planned are much more desirable, though I have some concerns.

A big concern should be traffic in an emergency with about 53 new homes my guess is there will be another 150 cars driving down 1560 S and though the current area each day. As we know 500 W is already getting busy and in emergency situations it will be really tough to get in or out.

As other cities have experienced fires can wipe out entire areas quickly. From a KSL article in October 2018 Utah wildfires burned 485,989 acres in 2018 more than double the amount 220,000 of 2017. In August 2018 Deseret News reported that Utah fires as of August 2018 had seen the greatest loss of property in 15 years. Packed in housing can be catastrophic take California for example in 2018 there were 8,527 fires which caused more than \$3.5 billion in damages. Another concern should be flooding and rising water, this year for example directly across the street on the other side of Lakeview Parkway water levels are very high just drive down Lakeview and take a look. Utah lake is also at high levels. If approved, I strongly believe a road parallel to the Lakeview Parkway running from 500W to 1100 W should be considered. This would allow for another access point to 1100 W directly parallel to Lakeview Parkway and ease traffic and could feed off 1100W onto Lakeview. This developer would lose what appears to be less than 10 home sites, but community safety would be much better.

What consideration has been given to our local schools I assume those buying will or already have children who will need to attend schools in the area. Are the schools ready for the large number of new students? Is Provo trying to build to rapidly to satisfy safety, water, sewer, education and other needs? And if the economy does falter it will be really rough. Is the City ready to handle all this? Inspections, security concerns, sewer and water, crime, etc.

I have also heard of the high priority sewer issue needs dealt with and is very important. I don't have great knowledge on this but from what I read Provo has an aging wastewater plant and has only a few years to get into compliance and Provo's system is at capacity. The last thing we want it the City to be negligent in overlooking this issue in approving development which will complicate this and create further issues. I might be wrong but this to me is a huge concern.

To sum it up here are my concerns:

Need to evaluate the Covid-19 impact on Provo

Overloading streets in and out

Safety in event of emergencies, fires, flooding, etc.

Schools Overflow

Sewer Capacity

In conclusion I think the approval of this should not be granted until more information is gathered and delivered to the community.

Thank you for your time.

Tom

Provo Resident

From: Becky Bogdin
Sent: Tuesday, May 26, 2020 10:45 AM
Subject: Fwd: Heron's Landing

Lakewood Neighborhood

Planning Commission Meeting

May 27, 2020.

Item 5 Chris Ensign requests a zone change from Residential Agricultural (RA) and A1.5 to R1.7 for property located at approximately 901 W 1560 S. Lakewood neighborhood. Brian Maxfield (801) 852-6429 bmaxfield@provo.org PLRZ20200079

Neighborhood Meeting: As of Today, Sunday, May 17, 2020 the developer has not contacted me to set up a neighborhood meeting for this project. If possible, I would like to have a meeting on the project.

History: This project was submitted a few years ago under the name of Heron's Landing by the same Developer, Chris Ensign. There was a neighborhood meeting done on January 25, 2018. The project never moved forward with Planning Commission nor Council. There was a previous neighborhood meeting in 2016 for this same project, Heron's Landing by the same developer, Chris Ensign. This was heard before planning commission, later staff presented this project in Council work meeting on June 6, 2017; however, the project did not move past that point. Where it has been over 2 years since there was a presentation on this project, the neighborhood would like to have a neighborhood meeting presentation on the changes.

Open City Hall: If possible, I would like to set up an open city hall for this project to give the residents an opportunity to comment on the project.

Resident Concerns:

1. Most of the concerns residents have expressed to me are regarding this development as a "leap frog development". Bill Peperone refers to this development as a "leap frog development" in a Provo City Council Work Session, June 6, 2017. <https://www.youtube.com/watch?v=UgEzS3-vlFY>

(3:15:31) 9. A discussion regarding a request for the rezone of 5 properties, totaling approximately 22 acres, from the RA (Residential Agricultural) and A1.5 (Agricultural 5-acre minimum) zones to the R1.8 (Single-Family Residential) zone, located approximately 831 and 1041 West 1560 South to facilitate the development of a residential subdivision with an 8,000 square foot lot size minimum. Lakewood Neighborhood. (16-0012R)

"Leap Frog Developments" are also discussed and discouraged in The Westside Development Policies Adopted by the Provo City Council in 2017:

"6. Require Proper Integration and Sequencing of Development

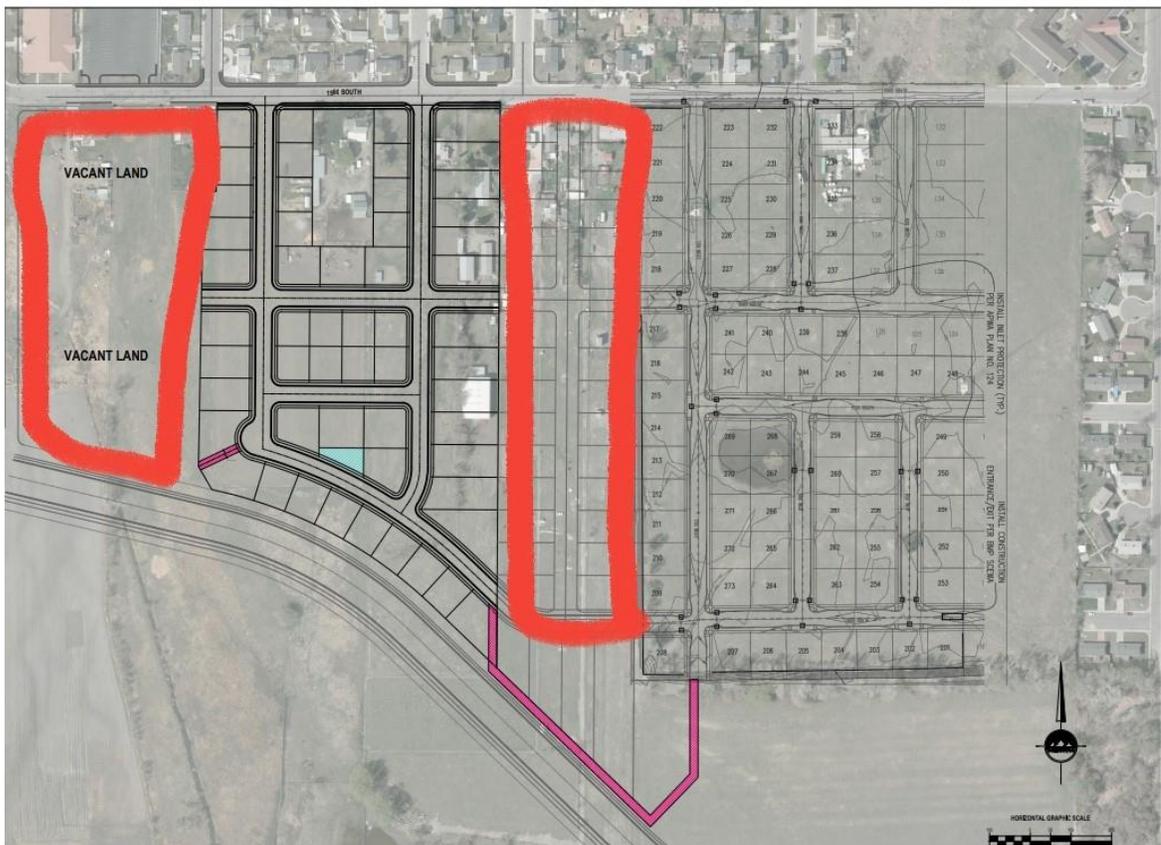
- a. The full block should be considered when rezoning away from agricultural uses
- b. Conceptual Integrated Development Plan for the entire block should be required for zone change applications.

c. Discourage rezoning of land that is surrounded by agricultural zoning.6

d. Development may be limited or deferred depending on the availability of adequate municipal infrastructure (such as sewer, storm drainage, water, etc.).

6 That is, no leap frog development” (Page 3 the document is attached to this email.)

A. The farmers along the southern portion of 1560 South are concerned about how this will effect their land and their ability to raise their animals. This project is located where sewer connections are 3 farms to the east along 1820 south in the Osprey Development. There is also a farm to the west as well. Thus, a development with farms to both the east and the west. The areas circled in red are the current farm lands. I am told the pink line at the bottom of the map is the “temporary” sewer connection. Staff tells me the desired and permanent sewer connection will be under 1820 south when the development of those 3 farms occur.



B. There were a few comments from residents on how leaving the 3 farms to the east (the ones in the middle of this development and the Osprey Development Shown) along with the 1 acre piece within the development itself would present an awkward development pattern.

From speaking with Tony Kigonias, one of the land owners for this project, his property is being sold as part of a divorce. He would like to keep the existing house along with the barn...hence, the 1 acre piece that is left. Tony is in his 80's. The one acre piece is not shown in how it may develop if the family decides to sell that portion for development in the future. With 1560 South being designated a collector road in the Provo City Transportation Master Plan adopted about a month ago, would a driveway even be considered? Would it need to be a culdesac? Would that even be permitted?

Also, the 3 farms to the east of the project are very narrow. From the developer's vision of what might happen if these are to develop, it does not give the Ulauve family...the farm in the middle of the 3...much room for anything but road. Of course, this does NOT dictate to what will happen with this property in the future, however, it does raise questions of what options are left for those farms to the east if this development moves forward?

- C. The development will be required to bring in fill dirt in order to achieve the required Provo City starting building elevation. By allowing this development to move forward it will create high and low points in the land. Having the land develop from the east to the west continuously will only leave one high point to the west instead of one on each side of the development with a valley in between. From the neighborhood meeting in 2016, the developer indicated that he would need to bring in 5 feet of fill at the lowest point of the project to bring it to the starting building elevation. This presented an issue with the Osprey Development. The higher elevation was unable to keep the water on the property. A retaining wall was built.

Here is a photo of the current elevation change from the Osprey Development.



- 2. Residents also have concerns about the loss of farmland
- 3. Residents have concerns about building in this area with as many water issues as this area has.
- 4. Master Planning for the area calls for lots to be .25 acre net. This plan calls for 7,000 square foot lots instead of 10,000 square foot lots. The master plan gives us an expectation of what to expect in this area for growth. Most of the current Lakewood homes are under 2,000 square feet. The hope in this area was for move up homes, something that would give the area a variety of housing types.

The Westside Development Polices state:

3. Encourage Sustainable Residential Development Patterns

- a. Establish ordinances to require a mix of housing types, lot sizes, and designs to accommodate various stages of life.
- b. Detached single-family homes should be the predominant housing type and the use of other types should augment and not detract from the single-family feel of the area.

- c. Housing types should be mixed without barriers separating types or densities.
- d. The scale and style of residences should enhance the surrounding area, regardless of housing type.
- e. Create design standards for important road corridors in southwest Provo.
- f. The overall density of the area should average four units to the acre. (Page 2, included as an attachment)**

South West Area Land Use Map, adopted by Provo City Council 2018 shows the development in the .25 acre net lot (yellow) section of the map. The red circled area is roughly where the proposed development is located. (see attachments for full Land Use Map)



Neighborhood Resident Likes:

1. The Smith Property has a blighted home. This project would clean up that property and place something more desirable on it.



2. Some are very sympathetic towards that Kigonias family. Mrs. Kigonias still lives with her husband, by allowing this development to go forward it would allow her to move out and resolve the divorce.

2/28/2017 The Westside Planning Committee, after considering comments received at the stakeholders' meeting held 2/16/2017 and online at Open City Hall concerning draft policy statements, amended and approved the policy statements herein.

Westside Development Policies

As Recommended by the Westside Planning Committee

Purpose

The purpose of these policies is to guide development in southwest Provo in order to promote a smart, sustainable, vibrant community that offers a high quality of life for current and future residents while respecting Provo's agricultural heritage.

Policies

1. Preserve Provo's agricultural heritage and support agriculture for as long as farmers choose to farm:
 - a. Approve the creation of a Provo Agricultural Commission to support local commercial and non-commercial agriculture.
 - b. Request that the Provo Agricultural Commission identify obstacles to the success of current and prospective farmers, including non-traditional farmers, and recommend ways to remove these obstacles.
 - c. Request that the Provo Agricultural Commission explore tools for agricultural preservation. These tools may include: conservation easements, transfers of development rights, community land trusts, a privately funded farmland trust fund, and Utah's "Agricultural Protection" Program.¹
 - d. Encourage the Provo Agricultural Commission to improve the productive use of agricultural land.
 - e. Encourage Development-Supported Agriculture² and Agritourism³ to help preserve Provo's agricultural heritage.
 - f. Encourage our state lawmakers to increase funding for the LeRay McAllister Fund.⁴
 - g. Protect agricultural operations from the impact of residential encroachment.
 - h. Identify agricultural land owners, have their properties listed on developmental maps to better avoid encroachment onto agricultural lands.

Commented [1]: From Phil Rash: I would still argue for a broader purpose. Perhaps it could be something to the effect- "The purpose of these policies is to guide development in West Provo as it occurs in order to promote a smart, sustainable, vibrant community that offers a high quality of life for current and future residents". Several of the policies already address farmers and farming quite directly. Agricultural preservation is, by all accounts very important and is captured in the specific policies, however, there are more non-farmers living on the west side than farmers. It seems that the overarching purpose of west side planning shouldn't focus on agricultural preservation per se.

From Sarah McNamara: I agree with Phil's broader purpose here.

Commented [2]: from Phil Rash: We've heard from several residents that access to water for irrigation seems to be an issue for those who wish to farm. In fact, a few people indicated that they abandoned farming because they no longer had access to water. I won't pretend to know much about this issue but this seems important. Does there need to be a policy that somehow protects agricultural water rights?

Commented [3]: from Terry Herbert: I think that the property's west of Lakeview road (3110w) should be left open to home building. Someone may want to continue to farm while living there.

¹ Utah Code Title 17 Chapter 41- a law that helps preserve vital food-producing land.

² Development-supported agriculture (DSA) is a movement in real estate development that preserves and invests in agricultural land use. As farmland is lost due to the challenging economics of farming and the pressures of the real estate industry, DSA attempts to reconcile the need for development with the need to preserve agricultural land.

³ Agritourism involves any agriculturally based operation or activity that brings visitors to a farm or ranch.

⁴ The LeRay McAllister Critical Land Conservation Fund is an incentive program providing grants to encourage communities and landowners to work together to conserve their critical lands. The fund targets lands that are deemed important to the community such as agricultural lands, wildlife habitat, watershed protection, and other culturally or historically unique landscapes.

2. Preserve and Create Quality Usable Open Space

- a. Update and utilize the Parks and Recreation Master Plan to provide developed parks and open space that satisfy a range of leisure and recreational needs.
- b. Preserve and develop natural amenities for sustained enjoyment by the community. Examples include the Provo River and banks, the Provo River Delta, Utah Lake shoreline, and wetlands.
- c. Provide parks and trails of different uses and sizes.⁵
- d. Encourage agritourism as a means to provide agriculturally themed open space.
- e. Useable neighborhood open space should be an integral part of neighborhood design or combined to serve larger areas than the immediate development.

3. Encourage Sustainable Residential Development Patterns

- a. Establish ordinances to require a mix of housing types, lot sizes, and designs to accommodate various stages of life.
- b. Detached single-family homes should be the predominant housing type and the use of other types should augment and not detract from the single-family feel of the area.
- c. Housing types should be mixed without barriers separating types or densities.
- d. The scale and style of residences should enhance the surrounding area, regardless of housing type.
- e. Create design standards for important road corridors in southwest Provo.
- f. The overall density of the area should average four units to the acre.

4. Promote Development of Commercial Amenities and Employment Opportunities in Appropriate Locations

- a. Regional commercial uses may be located adjacent to the I-15 or within the Airport Related Activities district.
- b. Neighborhood and Community Shopping zones may be located at or adjacent to arterial or collector streets.
- c. Design, scale and intensity of commercial zones or properties should transition to adjacent residential uses to minimize impact on the residential use.

5. Create a Robust Transportation Network

- a. Update the Transportation Master Plan to accommodate the changing needs of southwest Provo.
- b. The planned collector road network should be built as development occurs. No development should interrupt the collector road network.
- c. Update the Provo City Major & Local Street Plan to include a network of proposed local streets to ensure connectivity in between the land between collector and arterial roads.

Commented [4]: from Beth Alligood:

While changing the language to not specifically say multi-family dwellings, I am still against multifamily dwellings. In the SW Area meeting the feedback from the neighborhoods was larger family homes and agricultural preservation being the top things by a wide margin. Compromise is about both parties giving to find a middle ground. There is an understanding that all future houses built cannot all be R1.10 housing. A mixed housing type of R1.10, R1.8, R1.6 and LDR single family residences is an acceptable compromise. It is not a downtown area, it is not an area next to a university, it is not an area next to any major shopping centers. It is farmland, it is a quiet side of town that families can enjoy, it is a place that, from the other policies, we are looking to preserve as open space and to stay farmland. Apartments and condos do not typically fit in an area like that. While we do want to designate transit routes, there is no guarantee that enough transit will come to even sustain apartments and condos.

⁵ Examples include neighborhood parks, pedestrian, equestrian, and bike trails, community/school gardens, a regional sports park, a farm-themed park, and the Provo Beach concept.

- d. Utilize Complete Streets Policies to ensure all modes of transportation are considered.
- e. Utilize the Transportation Master Plan to identify corridors that should have sufficient right-of-way to accommodate public transit.
- f. Lakeview Parkway is to be maintained as an arterial roadway with limited access.

6. **Require Proper Integration and Sequencing of Development**

- a. The full block should be considered when rezoning away from agricultural uses
- b. Conceptual Integrated Development Plan for the entire block should be required for zone change applications.
- c. Discourage rezoning of land that is surrounded by agricultural zoning.⁶
- d. Development may be limited or deferred depending on the availability of adequate municipal infrastructure (such as sewer, storm drainage, water, etc.).

7. **Restrict Development in Wetlands and other Environmentally Sensitive Areas**

- a. Land south and west of the Lake View Parkway up to Center Street (excepting the airport protection area) should be preserved for open space and agricultural uses.
- b. No development should occur in flood-prone areas unless the risks can be mitigated. Plans for mitigation should be reviewed for adequacy by the Provo City Engineer and any State or Federal regulatory agency with jurisdiction to ensure that sensitive lands are appropriately developed to protect people, property or significant natural features. Mitigation plans should not adversely affect adjacent properties.

Commented [5]: from Phil Rash:

Although I am generally in agreement with this section, I don't know that one can draw a hard line on sequencing of development. Landowner "C" may wish to sell or develop long before landowner "B"—perhaps years before. Can we or should we really say that owner "C" must simply wait for a day that might never come? If there is disruption in sequencing, might the developer be required to plan for and pay for necessary infrastructure (correct water line sizes, sidewalks, etc.)? In our last meeting several individuals mentioned that "leapfrogging" already routinely occurs. It seems reasonable that it probably occurs for a reason—sequential development is difficult—and may require some flexibility with a policy that places the extra cost of out-of sequence development on the developer and not the taxpayer.

Commented [6]: from Sarah McNamara:

What is the reasoning behind point 6.3? Is it to not squeeze farmers out? Is it the complaints by others? Just trying to understand this point. Any insight is welcomed!

⁶ That is, no leap frog development.

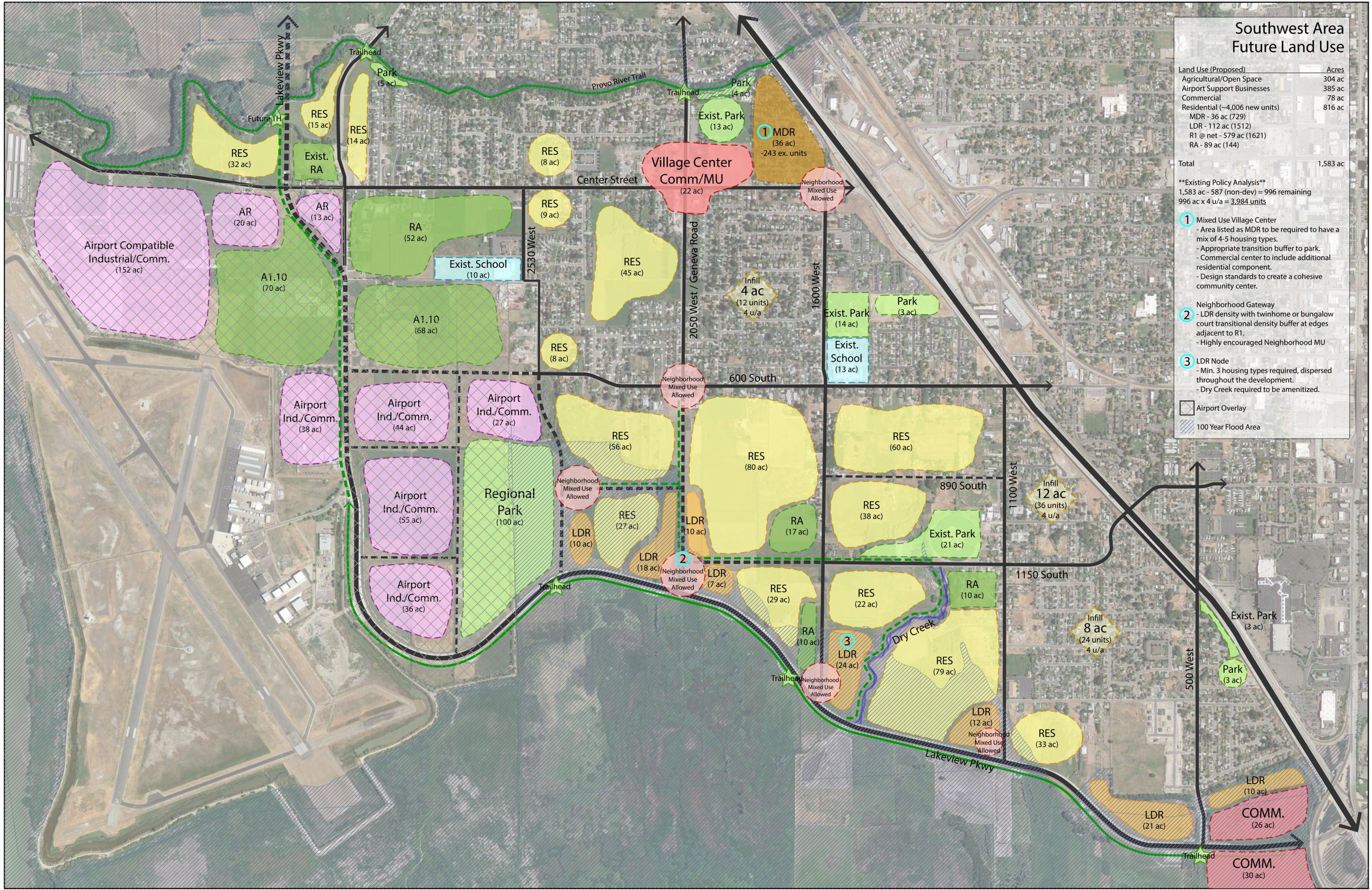
Southwest Area Future Land Use

Land Use (Proposed)	Acres
Agricultural/Open Space	304 ac
Airport Support Businesses	385 ac
Commercial	78 ac
Residential (~4,006 new units)	816 ac
MDR - 36 ac (729)	
LDR - 112 ac (1512)	
R1 @ net - 579 ac (1621)	
RA - 89 ac (144)	
Total	1,583 ac

****Existing Policy Analysis****
 1,583 ac - 587 (non-dev) = 996 remaining
 996 ac x 4 u/a = 3,984 units

- 1** Mixed Use Village Center
 - Area listed as MDR to be required to have a mix of 4-5 housing types.
 - Appropriate transition buffer to park.
 - Commercial center to include additional residential component.
 - Design standards to create a cohesive community center.
- 2** Neighborhood Gateway
 - LDR density with twinhome or bungalow court transitional density buffer at edges adjacent to R1.
 - Highly encouraged Neighborhood MU
- 3** LDR Node
 - Min. 3 housing types required, dispersed throughout the development.
 - Dry Creek required to be amenitized.

 Airport Overlay
 100 Year Flood Area



From: Marcia Ambler

Sent: Tuesday, May 26, 2020 12:13 AM

Subject: Zoning change to property at 901 W 1560 S., Lakewood neighborhood

Dear R. Breen,

Please send this on to the Planning Commission. I live near this zone change area and have some real concerns. I've noticed that developers almost always "inadvertently" create a complex list of "ricochet" effects, and thank goodness we have zoning laws to prevent this. Here are points I'd like you to consider: 1. The property under consideration is an area known for flooding, which works fine for the current use of this property. I'd hate to see someone move into a new house and the very first winter their downstairs bedrooms get flooded. This has been happening in the adjacent development called Osprey Subdivision. It's unsafe and unhealthy, due to mold (like in Katrina.)

2. Also, the traffic is already getting crazy around here with a big growth spurt in the population. And, I honestly don't think that the crucial trunkline has started being designed and built yet. To top it off, covid is rapidly destroying our tax base (small businesses) with little relief in sight. 3. I love to see people get rich! Hit the jackpot! I love when developers can legitimately make a nice killing in new home sales. But, I also hate to see them make tragic errors in housing developments that are being located in a zone that really needs to stay farmland until a LOT of improvements are made to alleviate the hazardous situations. 4. What about the berm out there? That MUST be left in place to protect Osprey Point and also the nearby farmhouses from floodwater seeping over into their property. I live near them and I see the water building each rainy season. It's quite real! 5. What about the sewer situation? It's not good at the present time, and a new development on this sector of acreage will just make it even worse. We are putting the cart before the horse here, and people will pay with very nasty, disgusting, and sad sewer leakages in all the wrong places. Why do we act as if sewers don't even exist and aren't real? They are the backbone of all our homes and businesses. If they go, disease will run rampant...especially during this time of Covid 19 which doesn't seem to be going away, and is readily spread via faulty or poor sewage handling in a city. Now you've seen my 5 points: flooding, traffic, hazardous location for residential, the berm, and the sewer situation. I hope you will give careful consideration to each point and not go forward until there are clear and affordable solutions for each one. And please note: I don't live in Osprey Point or next to the Heron's Landing rezoning section. A new development won't affect me even a small bit. But I do care about other folks, many of whom are good friends of mine. Also, I'd hate to see a sad outcome for owners of the brand new homes. Thank you,

Marcia and Arol Ambler

739 W 1500 S, Provo, UT 84601

You can text or phone me at 801-615-1631 if needed

From: Marcia Ambler

Sent: Tuesday, May 26, 2020 12:32 PM

Subject: rezoning at Heron's Landing

Please send this to the planning committee as well as my previous email. The developers are putting the cart before the horse on the new homes planned for Heron's Landing. I just read the Planning Committee Staff Report of May 27, 2020.

There I saw where it would be ILLEGAL for the DEVELOPER to build there until serious, costly infrastructure problems are fixed: Exhibit A topic 6d of Item 35 page 6 says the development may be limited or DEFERRED until the infrastructure is sufficient and adequate (sewers, roads, flooding problems.) Osprey Point DID get FLOODING and the sewers DID BACK UP!

This proves that Heron's Landing cannot be developed until AFTER the TRUNKLINE is BUILT! There needs to be a traffic light at 1500S and 500W to properly handle rush hour buildups for the current stop sign, even if it only operates at rush hour.

Also, we are already having WIFI problems just since Osprey came it Many work from home online, and can't afford WIFI going out at the worst times.

Thank you for your kind consideration!

Marcia and Arol Ambler, 739 W 1500 S, Provo, UT 84601

Sent: Tuesday, May 26, 2020 9:06 AM

Subject: Public Comment: Item 5 - Zone Change

James of Provo called to say that he's against the zone change from Residential Agricultural (RA) and A1.5 to R1.7 for the property located on 1560 South.

James says it's a place that many geese and cranes stop to feed and he would hate to see it be turned into homes.

From: KENT MORGAN

Sent: Friday, May 22, 2020 11:17 AM

Cc: provolakewoodneighborhood@gmail.com

Subject: Heron's Landing

My name is Kent Morgan, 815 West 1560 South, Provo. I have lived in my house since 1976. I would like to find out what kind of dust control is in place for my home, furnace and air conditioner during the construction of Heron's Landing. I have checked prices of HVAC between \$8,000 and \$15,000 for replacement because I know I will need to replace after your project is complete. I would like to know how and when we will be paid, before, during or after your project. Thank you Kent Morgan

Timestamp	Name	City of Residence	Planning Commission Item #	Comments
5/27/2020 19:36:01	Pam Argyle	Provo	Item 5* - Zone change from RA and A1.5 to R1.7 at 901 W 1560 S	Has a current traffic study been done on 1560 s after the development of Osprey point?
5/27/2020 19:38:09	Pam Argyle	Provo	Item 5* - Zone change from RA and A1.5 to R1.7 at 901 W 1560 S	With the zone change would this lock the developer into 4 per acre?

PROVO MUNICIPAL COUNCIL STAFF REPORT



Submitter: NLA
Department: Development Services
Requested Meeting Date: 06-02-2020

SUBJECT: An Ordinance Text Amendment request to add the Very Low Density Residential (VLDR) zone to the Provo City Code as Chapter 14.14F. Citywide application (PLOTA20200120)

RECOMMENDATION: To be heard at the June 2, 2020 Work & Council Meeting. Please see supporting documents.

BACKGROUND: The Community and Neighborhood Services Department on behalf of the Provo Municipal Council has requested to amend the Provo City Code to add the Very Low Density Residential (14.14F) zone. There is no proposed development requesting to utilize this zone. The proposed zone would have a minimal impact on a neighborhood due to the density limitation and could facilitate as a buffer between One Family Residential (14.10) and Low Density Residential (14.14A) zones. The proposed zone would require the residential units to follow the Residential Design Guidelines which would result in a higher quality of product within the neighborhood.

FISCAL IMPACT:

PRESENTER'S NAME: Javin Weaver (801) 852-6413 jweaver@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20200120



**Planning Commission
Staff Report
Hearing Date: May 27, 2020**

***ITEM # 2** The Provo Municipal Council requests an Ordinance Text Amendment to add the Very Low Density Residential (VLDR) zone to the Provo City Code as Chapter 14.14F. Citywide application. Javin Weaver (801) 852-6413 jweaver@provo.org PLOTA20200120

Applicant: Community and Neighborhood Services Department

Staff Coordinator: Javin Weaver

Parcel ID#: City Wide

***Council Action Required:** Yes

Related Application(s): None

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is June 10, 2020 at 6:00 p.m.*
2. **Recommend Denial** of the proposed ordinance amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

Relevant History: None

Neighborhood Issues: No neighborhood issues have been brought to staff's attention.

Summary of Key Issues:

- No Key Issues

Staff Recommendation: That the Planning Commission recommend to the Municipal Council approval of the proposed ordinance amendment.

OVERVIEW

The Community and Neighborhood Services Department on behalf of the Provo Municipal Council has requested to amend the Provo City Code to add the Very Low Density Residential (14.14F) zone. There is no proposed development requesting to utilize this zone. The proposed zone would have a minimal impact on a neighborhood due to the density limitation and could facilitate as a buffer between One Family Residential (14.10) and Low Density Residential (14.14A) zones. The proposed zone would require the residential units to follow the Residential Design Guidelines which would result in a higher quality of product within the neighborhood.

FINDINGS OF FACT

1. The proposed ordinance amendment facilitates a decrease amount of residential units than the Low Density Residential (14.14A) zone
2. The proposed ordinance residential density will not exceed 7 dwelling units per acre.
3. The proposed ordinance amendment requires the required open space to be accumulated as to be a functional amenity for the property.

STAFF ANALYSIS

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

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

- (a) *Public purpose for the amendment in question.*
The proposed amendment provides an additional zone for potential residential development within the City. The creation of the VLDR Zone provides a slightly higher density than traditional residential zones while also requiring increased residential amenities.
- (b) *Confirmation that the public purpose is best served by the amendment in question.*

The public purpose is served by providing additional residential units within the City and the zone may act as a buffer between residential zones and lower density residential zones.

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

The General Plan calls for diverse options in housing design in order to accommodate all types of users (value 3.4.1.6), a value for a healthy and livable environment (value 3.4.1).

The General Plan makes note of providing an effective transitional area between residential areas (value 1.4.5.7). This proposed text amendment could function as a transitional zone.

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

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

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

The proposed amended standards will not hinder the articulated policies of the General Plan.

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

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

CONCLUSIONS

The proposed VLDR Zone can allow for additional housing units, various housing types, and infill development which align with the City's goals. The proposed amendment helps to achieve these goals of the City by providing a residential zone with a lower density than the LDR zone, but slightly higher than traditional residential zones. Evaluating the proposal as a whole, staff supports the proposed ordinance text amendment.

STAFF RECOMMENDATION

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

ATTACHMENTS

1 – Very Low Density Residential Zone Proposed Text (14.14F)

Attachment 1 – Very Low Density Residential Zone Proposed Text (14.14F)

Chapter 14.14F

VERY LOW DENSITY RESIDENTIAL ZONE

Sections:

14.14F.010	Purpose and Objectives.
14.14F.020	Permitted Uses.
14.14F.030	Lot Standards
14.14F.040	Prior Created Lots.
14.14F.050	Yard Requirements
14.14F.060	Projections into Yards.
14.14F.070	Building Height
14.14F.080	Project Plan Approval/Design Review/Design Guidelines.
14.14F.090	Other Requirements.
14.14F.100	Notice of Parking and Occupancy Restrictions.

14.14F.010

Purpose and Objectives.

The Very Low Density Residential Zone (VLDR) is established to provide a residential environment within the City which is characterized by attractively landscaped one-family (detached or attached) and two-family residential lots and structures. This zone is intended to permit a residential density less than the Low Density Residential (LDR) zone.

14.14F.020

Permitted Uses.

(1) *Permitted Principal Uses.* The following principal uses, and no others, are permitted in the VLDR zone:

- (a) One-family dwelling - detached;

- (b) One-family dwelling - attached (townhomes), not to exceed seven (7) units in one (1) building;
- (c) Two-family dwellings (subject to the standards of Section [14.34.340](#), Provo City Code);
- (d) Assisted living facilities (subject to the standards of Section [14.34.470](#), Provo City Code);
- (e) Residential facilities for the elderly or disabled (see Section [14.34.230](#), Provo City Code);
- (f) Public utilities and rights-of-way and accompanying infrastructure (local distribution or services only);
- (g) Police protection and related services, branch (office only); and
- (h) Religious activities.

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

- (a) Accessory buildings such as garages, carports, greenhouses, gardening sheds, recreation rooms and similar structures which are customarily used in conjunction with and incidental to a principal use or structure;
- (b) Accessory apartments in existing one-family, detached homes, subject to the requirements of Section 14.30.030, Provo City Code;
- (c) Swimming pools and incidental accessory structures, subject to the standards of Section [14.34.210](#), Provo City Code;
- (d) Home occupations subject to the regulations of Chapter [14.41](#), Provo City Code;
- (e) Storage of materials used to construct a building, including the contractor's temporary office; provided, that such use is on the building site or immediately adjacent thereto; and provided further, that such use shall be permitted only during the construction period and thirty (30) days thereafter; and

(f) Household pets; provided that no more than two (2) dogs and two (2) cats shall be kept at any residence or commercial establishment at any time. Nothing herein shall be construed as authorizing the keeping of any animal capable of inflicting harm or discomfort or endangering the health and safety of any person or property.

14.14F.030

Lot Standards.

Lots within the VLDR zone shall be developed according to the following standards:

(1) Min. Lot Area:	
	One-family detached: 5,000 sf
	Twin home/duplex: 8,000 sf
	One-family attached: 10,000 sf
(2) Housing Density Maximum:	7 dwelling units per gross acre.
(3) Min. Lot Frontage:	35 ft
(4) Min. Lot Width:	40 ft
	Corner Lot: 50 ft
(5) Min. Lot Depth:	90 ft
(6) Max. Lot Coverage:	50%

14.14F.040

Prior Created Lots.

Lots or parcels of land which were created prior to December 12, 1974, shall not be denied a building permit for a single-family dwelling solely for the reason of nonconformance with the parcel requirements of this Chapter.

14.14F.050

Yard Requirements.

Yards shall be provided according to the requirements listed below: (Note: All setbacks are measured from the property line.)

(1) Front Yard:	20 ft
(2) Side Yard, Corner lot	20 ft
(3) Side Yard, Interior:	
One-family detached:	8 ft & 10 ft
All other buildings:	10 ft
(4) Rear Yard:	20 ft
(5) Distance between buildings on the same parcel:	15 ft.

(6) Side Yard - Driveway. (See Section [14.37.100](#), Provo City Code)

(7) The Development Services Director, or designee, may reduce the setbacks of this zone subject to finding that all of the following conditions exist:

- (a) The proposed setback is visually compatible with neighboring development and does not cause an undue burden or harm to the adjacent property;
- (b) The proposed setback does not violate an existing or needed utility easement; and
- (c) The proposed setback does not cause a violation of the International Building Code or the Fire Code.

(8) *Accessory Buildings.*

- (a) Accessory buildings shall be located in the rear yard and may be located no closer to an interior side or rear lot line than five (5) feet, subject to any existing utility easements.
- (b) Accessory buildings on corner lots may be no closer to the side street than the principal structure.

- (c) The maximum height for an accessory building is twelve (12) feet, as measured to the mid-point of a sloped roof.

14.14F.060

Projections into Yards.

- (1) The following structures may be erected on or project into any required yard:
 - (a) Fences (see Section [14.34.500](#), Provo City Code).
 - (b) Landscaping (see Chapter [15.20](#), Provo City Code).
 - (c) Necessary appurtenances for utility service, subject to City approval.
- (2) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.
 - (a) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features;
 - (b) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part; and
 - (c) Stairways, balconies, door stoops, fire escapes, awnings and planter boxes or masonry planters.

14.14F.070

Building Height.

- (1) Maximum building height: thirty (30) ft.
- (2) Maximum main floor elevation: thirty (30) inches above the lowest adjacent street curb elevation.

14.14F.080

Project Plan Approval/Design Review/Design Guidelines.

See Sections [15.03.300](#) and [15.03.310](#), Chapter [14.04A](#), and Section [14.34.287](#), Provo City Code.

14.14F.090

Other Requirements.

- (1) Signs (see Chapter [14.38](#), Provo City Code).
- (2) Landscaping (see Chapter [15.20](#), Provo City Code).
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- (4) Fencing (see Section [14.34.500](#), Provo City Code).
- (5) *Parking, Loading and Access.* Each land use in the VLDR zone shall have automobile parking sufficient to comply with the requirements of Chapter [14.37](#), Provo City Code.
- (6) In any new project consisting of ten (10) or more residential units, an area equivalent to ten percent (10%) of the gross lot area shall be developed in residential amenities, such as a common clubhouse, gym, pool, roof-top garden, or other amenity. Amenities that are enclosed may count towards meeting this provision. Landscaping within the required setbacks shall not be calculated towards meeting this provision.
- (7) In any new project consisting of ten (10) or more residential units, the open space must be massed or accumulated to be functional as a recreational amenity or gathering space.

14.14F.100

Notice of Parking and Occupancy Restrictions.

- (1) Prior to the issuance of a building permit for any multiple residential project over two (2) dwelling units, a contract must be entered into between Provo City and the developer agreeing to a determined occupancy based on a given number of parking spaces. This contract shall be recorded with the Utah County Recorder's Office and shall be a covenant running with the property. A copy of

a recorded deed for the property in question must also be submitted prior to the issuance of a building permit which indicates the maximum allowable occupancy as a deed restriction. Attached to the deed must be a document that separately lists the occupancy according to Provo City Code, the previously mentioned deed restrictions and any other use restrictions pertaining to parking and occupancy such as restrictions of use as noted in condominium covenants. This document must be signed, dated and notarized indicating that the owner acknowledges and agrees to all restrictions and regulations stated on the deed and attachments.

(2) Upon submittal of the documents required in this Section any violation to the restrictions and regulations noted therein will be considered a misdemeanor offense and will be subject to criminal action as provided in Section 1.03.010, Provo City Code.



Provo City Planning Commission

Report of Action

May 27, 2020

Item 2* The Provo Municipal Council requests an Ordinance Text Amendment to add the Very Low Density Residential (VLDR) zone to the Provo City Code as Chapter 14.14F. Citywide application. Javin Weaver (801) 852-6413
jweaver@provo.org PLOTA20200120

The following action was taken by the Planning Commission on the above described item at its regular meeting of May 27, 2020:

POSITIVE RECOMMENDATION

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

Motion By: Dave Anderson

Second By: Lisa Jensen

Votes in Favor of Motion: Dave Anderson, Lisa Jensen, Deborah Jensen, Andrew Howard, Laurie Urquiaga, and Robert Knudsen

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 zone is attached as Exhibit A.

STAFF/APPLICANT PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following: An overview of the request for the Very Low Density Residential zone and limits proffered by the applicant.

- The proposed Very Low Density Residential (VLDR) zone is requested on behalf of the Provo Municipal Council.
- Staff explained the key differences between the proposed VLDR zone and Low Density Residential (LDR) (14.14A) zone.
- The proposed VLDR zone may act as buffer between the One Family Residential (14.10) zone and LDR zone.
- The proposed VLDR zone may be used to rezone parcels within mostly built out neighborhoods.

NEIGHBORHOOD AND PUBLIC COMMENT

- Sharon Memmott, the Edgemont Neighborhood vice chair was present by phone via Zoom and expressed that this proposed VLDR zone would be positive to have as a resource for the developer to use when building adjacent to established neighborhoods. The VLDR title may be misleading to some not understanding what density it allows.

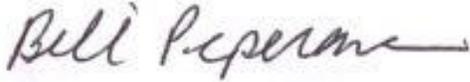
PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Lisa Jensen expressed concern on the name of the proposed zone not being clear.
- Dave Anderson expressed concern that the language of the proposed zone is not user friendly. Staff responded that a future ordinance text amendment would facilitate the jargon found in Title 14 of the Provo City Code.
- Laurie Urquiaga and Deborah Jensen praised the proposed zone for being a positive transition zone between zones and a positive addition to the Provo City Code.



Planning Commission Chair



Director of Development Services Department

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 and Neighborhood 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

Chapter 14.14F

VERY LOW DENSITY RESIDENTIAL ZONE

Sections:

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14.14F.040

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ITEM 2*

The Provo Municipal Council requests an Ordinance Text Amendment to add the Very Low Density Residential (VLDR) zone to the Provo City Code as Chapter 14.14F.

Citywide application

PLOTA20200120

14.14.F

Proposed

Text

Chapter 14.14F

VERY LOW DENSITY RESIDENTIAL ZONE

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- (a) Accessory buildings shall be located in the rear yard and may be located no closer to an interior side or rear lot line than five (5) feet, subject to any existing utility easements.
- (b) Accessory buildings on corner lots may be no closer to the side street than the principal structure.
- (c) The maximum height for an accessory building is twelve (12) feet, as measured to the mid-point of a sloped roof.

14.14F.060

Projections into Yards.

(1) The following structures may be erected on or project into any required yard:

14.14.F

Proposed Text

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- (a) Fences (see Section [14.34.500](#), Provo City Code).
 - (b) Landscaping (see Chapter [15.20](#), Provo City Code).
 - (c) Necessary appurtenances for utility service, subject to City approval.
- (2) The structures listed below may project into a minimum front or rear yard not more than four (4) feet, and into a minimum side yard not more than two (2) feet.
- (a) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features;
 - (b) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part; and
 - (c) Stairways, balconies, door stoops, fire escapes, awnings and planter boxes or masonry planters.

14.14F.070

Building Height.

- (1) Maximum building height: thirty (30) ft.
- (2) Maximum main floor elevation: thirty (30) inches above the lowest adjacent street curb elevation.

14.14F.080

Project Plan Approval/Design Review/Design Guidelines.

See Sections [15.03.300](#) and [15.03.310](#), Chapter [14.04A](#), and Section [14.34.287](#), Provo City Code.

14.14F.090

Other Requirements.

- (1) Signs (see Chapter [14.38](#), Provo City Code).
 - (2) Landscaping (see Chapter [15.20](#), Provo City Code).
 - (3) Trash storage (see Section [14.34.080](#), Provo City Code).
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- (4) Fencing (see Section [14.34.500](#), Provo City Code).

(5) *Parking, Loading and Access.* Each land use in the VLDR zone shall have automobile parking sufficient to comply with the requirements of Chapter [14.37](#), Provo City Code.

(6) In any new project consisting of ten (10) or more residential units, an area equivalent to ten percent (10%) of the gross lot area shall be developed in residential amenities, such as a common clubhouse, gym, pool, roof-top garden, or other amenity. Amenities that are enclosed may count towards meeting this provision. Landscaping within the required setbacks shall not be calculated towards meeting this provision.

(7) In any new project consisting of ten (10) or more residential units, the open space must be massed or accumulated to be functional as a recreational amenity or gathering space.

14.14F.100

Notice of Parking and Occupancy Restrictions.

(1) Prior to the issuance of a building permit for any multiple residential project over two (2) dwelling units, a contract must be entered into between Provo City and the developer agreeing to a determined occupancy based on a given number of parking spaces. This contract shall be recorded with the Utah County Recorder's Office and shall be a covenant running with the property. A copy of a recorded deed for the property in question must also be submitted prior to the issuance of a building permit which indicates the maximum allowable occupancy as a deed restriction. Attached to the deed must be a document that separately lists the occupancy according to Provo City Code, the previously mentioned deed restrictions and any other use restrictions pertaining to parking and occupancy such as restrictions of use as noted in condominium covenants. This document must be signed, dated and notarized indicating that the owner acknowledges and agrees to all restrictions and regulations stated on the deed and attachments.

(2) Upon submittal of the documents required in this Section any violation to the restrictions and regulations noted therein will be considered a misdemeanor offense and will be subject to criminal action as provided in Section [1.03.010](#), Provo City Code.
