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PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, February 04, 2020

Room 200, Municipal Council Chambers

351 W. Center Street, Provo, UT 84601

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth

Councilor Bill Fillmore

Councilor George Handley

Councilor David Harding

Councilor Travis Hoban

Councilor David Sewell

Councilor David Shipley

Mayor Michelle Kaufusi

Chief Administrative Officer Wayne Parker (5:45 PM)

Council Attorney Brian Jones

Council Executive Director Cliff Strachan

Conducting: Council Chair George Handley

Prayer – Dixon Holmes

Pledge of Allegiance – Paul McGuire

Presentations, Proclamations, and Awards

1. A presentation regarding Citizen Connect. (20-033) ([0:12:42](#))

Mayor Kaufusi introduced Nicole Martin, Provo's Public Information Officer. Ms. Martin explained to that recently every Provo resident received by mail a communication packet and newsletter called *Citizen Connect*. She reviewed the branding concept with Council and explained that her primary goal was to always improve communication with Provo's citizens.

Approval of Minutes – January 7, 2020

The meeting minutes were approved by unanimous consent.

Public Comment ([0:31:45](#))

Brian Jones, Council Attorney, read the public comment preamble. Chair Handley opened public comment.

Pam Jones, Provo, shared feedback about the Citizen Connect packet she recently received. She enjoyed the magnet with helpful contact numbers but disliked the loose-leaf pages. She also thought the 3-1-1 contact phone number was overused.

Denell Bennett, Orem, spoke to Council about how tiny homes could be used to help the homeless population transition to housing. Ms. Bennett provided her contact information in case anyone had had follow-up questions.

Action Agenda

2. An ordinance amending Provo City Code relating to floor area ratio, setback, and buffer yard requirements in the Research and Business Park (R&BP) Zone. Citywide Application. (PLOTA20190425) ([0:38:30](#))

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

Dustin Wright, Planner, presented. The applicant had requested an amendment to Provo City Code 14.44.050 (Tract and Lot Area, Yard, Coverage, and Height Requirements). These requirements apply to the Research and Business Park Zone. This zone is only located in the Riverbottoms Neighborhood at the Riverwoods Business Park. The proposed request would remove the maximum floor area ratio requirement for a structure, which was 30%.

The proposed amendment would add a provision to allow the Development Services Director the ability to modify setbacks and perimeter buffer yards in the zone if certain conditions are met.

Other requirements for building height, setbacks, and open space would still limit the building's footprint and preserve open space on the lot.

There were no concerns from planning staff.

Chair Handley opened public comment.

Mike Roan, Riverside Neighborhood Chair, was concerned about the businesses having adequate parking to avoid spillover into the neighborhoods.

There were no other comments from the public. Chair Handley closed public comment. He invited the applicant to speak but they were not available.

Councilor Sewell wanted to know more about the clause that would allow the Development Services Director to reduce setbacks. Mr. Wright asked for the area map to be displayed. There was 20-foot setback on one side and a 40-foot setback on the side near the street. He said that even if they were reduced by 10 feet, applicants would still have to maintain the open space requirement. Mr. Wright did not have concerns about allowing some flexibility for setbacks.

Councilor Harding had concerns with the latter portion of the applicant's proposal, specifically reducing the setbacks. There was no limit to how much it could be reduced. Because this was the first hearing, he wanted to continue the item to the next meeting.

Councilor Ellsworth wanted to ensure the Planning Commission's recommendations had been incorporated into the proposal, specifically regarding erosion control. Brian Jones, Council Attorney, asked for the draft ordinance to be displayed and pointed out where this had been included.

4. A public hearing regarding extending parking restrictions in the Foothills Permit Parking area. (20-023) ([0:50:20](#))

[Item 4 on the agenda was presented prior to item 3.]

Ruth Thomas, Foothills Neighborhood Chair, presented. The Nantucket Condominiums were located at about 820 North and 950 East, they were near Kiwanis Park, BYU, and Wasatch Elementary. Residents of the complex were having difficulty finding on-street parking near their home due to many non-residents parking along 820 North from 900 E to Kiwanis Park.

Additionally, within this small stretch of road, Ms. Thomas said there were three parking signs, and each had different hours or restrictions, it was confusing. The neighbors hoped to incorporate this area into the Foothills parking permit area.

Councilor Harding asked who would be permitted to park in the permit area. Ms. Thomas said it was the homeowner at the corner of 900 East and 820 North and the residents of Nantucket who were asking for this change.

Chair Handley asked if there was a motion to direct the parking coordinator to undertake a study to assess this amendment.

Motion: Councilor Sewell moved to direct the Parking Coordinator to undertake a study to assess this amendment. Councilor Ellsworth seconded the motion.

Councilor Harding recognized the purpose for this meeting was to assess the level of interest in this proposal. He asked Ms. Thomas what her perception of public interest was. She responded that she had a petition with signatures from 20 residents of the Nantucket Condos, but it had not been discussed by the larger neighborhood.

Councilor Fillmore wanted to know why there was inadequate parking for the residents of the Nantucket Condominiums. Ms. Thomas was under the impression the management company only allowed one assigned space per unit, and the other spaces were dedicated for visitors.

Chair Handley called for a vote on the motion.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Harding, Hoban, Sewell and Shipley in favor.

3. An ordinance amending the General Plan designation of approx. 151 acres, generally located between 300 E. and 1000 E. and between 4800 N. and 6000 N., from Agricultural (A) to Residential (R). North Timpview Neighborhood. (PLGPA20190352) ([0:58:17](#))

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

Brian Maxfield, Planning Supervisor, presented the proposal. Bob Jones has requested that the Land Use Element and Map of the General Plan be amended to facilitate his planned Terra development. This amendment would change the land use designations for 11 properties totaling 151 acres (in Provo City

and in unincorporated Utah County areas) from Agricultural to Residential. The area included in the proposal is in a Developmental Sensitive overlay area, which would still remain in place if the General Plan designation were changed to Residential. This process would facilitate future annexation.

This proposal was continued in the Planning Commission on December 4, 2019 to allow the applicant and staff more time to prepare and review, especially regarding the requirement that the Agricultural designation should "protect agricultural uses from encroachment ... until such time as residential, commercial, or industrial uses in such areas become necessary and desirable." On January 22, 2020, the Planning Commission recommended approval (6:2).

There had been two formal neighborhood meetings in addition to several informal meetings between the developer and smaller groups. Debate was largely centered around the aesthetic and environmental impact.

The applicant, Bob Jones, was invited to present to Council ([1:03:51](#)). He discussed the history of the property and the current zoning. Mr. Jones tried to clarify some of the misunderstandings he thought people had about his development.

Councilor Hoban asked Mr. Jones about his intention to develop the Utah County portion of his property with or without this proposal being approved. Mr. Jones said the decision to develop the Utah County portion of the property had been made and he would proceed with development either way. Further, he stated he would not need any approvals from Utah County and could start building as soon as the snow cleared. Mr. Jones noted his infrastructure cost would increase if not built within a municipality, so he would want to take advantage of three units per acre density. Mr. Hoban asked if the County's green space requirements would still be applicable. Mr. Jones said he was unsure, but if they did, he was confident he could still provide green space even with three units per acre.

If the property were not annexed into Provo, Mr. Jones would need to enter into a utility agreement in order to provide utilities. He said his preference would be to enter into an agreement with either Orem or Provo. He noted that Orem City had already informed him they were not interested in an agreement.

Councilor Ellsworth asked Mr. Jones several questions regarding the placement of potential water tanks. Mr. Jones pointed out possible spots where tanks could be built and suggested this would also help the City to meet their future water needs. He said he was once told if they provided 2 million gallons of water tank capacity, his project would be accepted.

Councilor Fillmore asked whether Mr. Jones needed any further approval from Utah County, Mr. Jones said the zoning was fully approved. Mr. Fillmore was under the impression Mr. Jones would be required to get a utility agreement with either Provo City or Orem City before the county would allow him to proceed. Mr. Jones said this was incorrect but would not discuss the issue further because he believed that someone from Provo City told someone at Orem City not to conduct business with him. He said even without Provo or Orem, there were still three other options for utilities.

Chair Handley invited Bonnie Marrow, North Timpview Neighborhood Chair, to speak. ([1:31:17](#))

Ms. Marrow said she spent many hours on this project trying to find some consensus. There had been many neighborhood meetings to discuss this plan, but they had never been presented with an official plan and there had been various proposals given to different people. Ms. Marrow felt some neighbors

wanted the land to remain vacant and to preserve the scenery and open space. She said there were others who wanted this approved because they worried about personal property rights.

Ms. Marrow had a series of questions about the project:

1. Was there enough infrastructure to develop in the County, and if so, how many homes?
2. If development in the County proceeds, would the school tax dollars go to Alpine School District while the children attend Provo City schools?
3. If developed in the County would there be public access for hiking and trails?

Ms. Marrow also discussed a situation that had occurred several years earlier when there was a fire spreading across the hill and there was confusion about which properties were in the City and which were County. She hoped the City would always just put out the fire and bill the County later.

Chair Handley opened public comment. ([1:37:56](#))

Craig Christensen, Provo, felt strongly about preserving open space in the foothills. He also thought the foothill preservation ordinance and Foothill Neighborhood Plan should be finalized before an exception like this was considered.

Kay Nelson, Provo, wanted to preserve the foothills for future generations. She discouraged the rezone and asked for more time to finalize the foothill preservation ordinance and Foothill Neighborhood Plan.

Sharron Memmott, Provo, asked Council to postpone rezoning this land until the foothill preservation ordinance and Foothill Neighborhood Plan were complete. She chose to live in this area because of the open space but it was quickly disappearing.

Todd Franks, Provo, asked the anyone in attendance who was in favor of preserving the foothills to stand; most of the attendees stood. He felt strongly about preserving the foothills for health reasons. Mr. Franks also wanted to allow time to finish the foothill preservation ordinance and Foothill Neighborhood Plan.

Susan Christensen, Provo, was concerned about this development because she feared homes slipping off the hillside, as had happened on Mile High Drive.

Alex Grow, Provo, asked Council to support this project. His family had the opportunity to sell property to Mr. Jones and he would personally benefit from the development. Further, he believed this was an opportunity to improve water pressure in the area, at Mr. Jones' expense. Mr. Grow believed there was a lot of misinformation circulating amongst the opponents of this project.

Jane Wilson, Provo, was concerned the land was seismically active. She worried about protecting water resources and did not know where the water would come from. Luxury housing was not needed in Provo. This development would adversely affect the wildlife population in the area.

Candace Jacobsen, Provo, spoke about the geological stability of the land. There were parts of the hillside that were not suitable for anything other than agriculture use. Increased traffic on Canyon Road would also be an issue, especially at the intersection near the mouth of the canyon. She asked for this to be continued until the foothill preservation ordinance and Foothill Neighborhood Plan were complete.

Scott G. Smith, Provo, owned and lived on 51 acres of farmland next to the proposed development. His property shared 4,200 feet of border with the development. He said the development would create a new urban agriculture interface that would likely introduce interfere with his property and livelihood. Mr. Smith would not provide access through his property to Bob Jones for the purpose of connecting with the U.S. Forrest Service land to the east. His land was protected from easements because of its APA status.

Jenny Smith, Provo, implored Council to keep the dual agricultural and developmentally sensitive designation for this land. She believed this was the appropriate designation for this land. Ms. Smith asked council to support legal buffers between agricultural areas and new developments.

Michael Overson, Provo, was the son-in-law to Scott and Jenny Smith and was familiar with working on their land. He asked Council to consider the impact this would have on the flora and fauna, earth, people, and systems of the balanced environment of their neighborhood.

Alice Overson, Provo, worked on her family's fruit farm located next to the proposed project area. She was appreciative of the General Plan designation that covered their property, she thought it helped to protect their property from encroachment. Ms. Overson hoped that whatever decision Council made would continue to protect and support their property and family business.

Peter Vogel, Orem, told Council he treasured Provo Canyon and the foothills for their open space and beauty. He said the destruction of open space would violate the natural beauty of Provo. Mr. Vogel was also concerned about access to Bonneville Shoreline Trail.

Janene Gillespie, Provo, noted this project area was private property and anyone using it to recreate was trespassing. There had been no farming on this property for over a decade. Sherwood Hills once looked like this area, but they were allowed to develop. Whether Mr. Jones develops on the City or County portion of the property, it would likely be perceived as Provo, so the City should take this opportunity to have a say in how it is developed.

Brian Gillespie, Provo, had 2,000 feet of property that borders the proposed development. He felt there were some misconceptions about the development. If approved, this project could provide more access to the open spaces and trails. Mr. Gillespie urged to Council to change the General Plan so they could proceed with getting additional details about the project in the form of staff reports.

Stan Smith, Provo, was a proponent of property rights and was in favor of the development. Some of the land being used in the project was owned by Mr. Smith. He wanted to see the neighborhood grow in a way that would benefit Provo.

Russ Loveless, Provo, agreed with Stan Smith's comments. He also owned property in the area near the development. He thought if it was going to be developed, it should be done in a thoughtful and beautiful way.

Tony Brown, Provo, said part of his land borders part of Mr. Jones' proposed development. He was in favor of this amendment. Mr. Brown appreciated that Mr. Jones was willing to include open spaces and trails in his proposal.

Hunter Gibson, Provo, did not believe that luxury housing was necessary or desirable in the area. Ms. Gibson enjoyed running in the area and wanted to continue to enjoy the unobstructed views.

Tiffany Pilar, Provo, agreed with Ms. Gibson's comments. She said hiking in the open space was much more enjoyable than hiking near buildings.

Tamela Blake, Provo, enjoyed being surrounded by the mountains and beauty of Provo. She thought it was necessary to preserve this land and optimize green space. Ms. Blake said a recent survey indicated Provo residents wanted more parks and trails.

Merritt Gordon, Provo, boarded his horses near this property. He owned a home in the tree streets on a double lot but had no expectations of being able to build on the second lot. He said it was a risk to buy property that was not zoned exactly how you want it. Mr. Gordon did not foresee development of the U.S. Forrest Service lands anytime in the future. He was in favor of preserving the agricultural overlays.

John Bennion, Provo, said communities had the right to establish conditions and plans, even on private land. He did not think this change was in the best interest of the community. Now was the time to stop development of the foothills and protect it for the future.

Clark Christensen, Provo, said development of agricultural land degrades the quality of life. He understood the need for moderate income housing but did not think high income housing was necessary.

Wilfred Baird, Provo, was from the Edgemont area. He said with each development the access to trails was impeded. He had walked across this land for 50 years to access water but was told he could no longer walk there because he never filed a right-of-way with the state.

Susan Porter, Provo, enjoyed feeling like she lived near the country. It was therapeutic to have open spaces. She was concerned about the density of this project and potential traffic increases on Canyon Road and the intersection at the north end of Canyon Road.

Kathy Jackson, Provo, asked when the development of open space would stop. She was in favor of keeping open space and wildlife. She said Mr. Jones knew what zone the property was designated as when he bought the property.

Richard Pratt, Provo, said there were two options. The first option was to deny the request and Mr. Jones would still develop the county portion of the request and the city would have no control. The second option was to approve it and have control in how it is development.

Mike Roan, Provo, asked for a map to be displayed. He showed a large area to the east of Mr. Jones' land that was in the long-range plan to be annexed into Provo. To the south of this, he noted the border of Provo went further east. Mr. Roan said it was important to consider how this development would fit into Provo's long-range plan.

Boyd Blake, Provo, said decisions made today should not be based upon decisions made 40 years ago. He disagreed with Mr. Roan's comments. He urged Council to finish the neighborhood plan before making any decisions. Mr. Blake said it was okay to say no and plan for the future.

Kaci Watkins, Provo, said the Mill Race development would provide housing for 1500 residents of Provo. It was being built in a place where it fit, and the infrastructure was in place. She worried the cost of providing infrastructure for this development too much.

Rachel Luke, Provo, spoke in favor of the amendment but had questions. She wondered if Mr. Jones could in fact develop on the County portion of the land without further approval. It was also unknown whether there would be public access to trails if Mr. Jones decided to build a gated community. Regardless, Ms. Luke thought it would be in Provo's best interest for the Council to approve this and be in control of the development. There were rumors the property taxes would not be enough to cover the cost of infrastructure, Ms. Luke wanted to see the actual numbers. She suggested preserving property and open space that was already owned by the City.

There were no other comments from the public. Chair Handley closed public comment. ([2:41:28](#))

Chair Handley offered Mr. Jones an opportunity to respond to the comments that had been made.

Mr. Jones was frustrated that people wanted this request denied just because they enjoyed looking at the property. He said he was more than willing to sell the property to anyone who could afford it, with a price tag of \$45 million.

Mr. Jones said if the Council denied the request, he would continue development with the County. He estimated there would be 700 units; but if the City approved this request, he would scale back to 260 units.

School district funding was not an issue, according to Mr. Jones. The money would go to the County and be distributed appropriately.

Mr. Jones was annoyed that many of those who commented did not stay to see the outcome. Chair Handley had to remind Mr. Jones to stay focused on the issue at hand.

Mr. Jones acknowledged there were issues with shifting and movement on Mile High Drive; he said if it happened on his property, he would be financially responsible, not the City. Regarding claims of the land being seismically active, he said he had been prohibited from conducting a geological study.

Regardless of the Council's decision, Mr. Jones would proceed with developing on the County portion of his land. He reminded Council that he had offered water tanks, improvement and realignment on North Canyon Road, sewer improvements, public access to trails, etc. Mr. Jones said these were expensive items that are usually funded by taxpayers, but he was willing to foot this expense.

Mr. Sewell asked Mr. Jones how he planned to build 700 units on the County portion of the land; this number did not calculate with the zoning and acreage. Mr. Jones explained it would depend on other landowners.

Councilor Ellsworth voiced her appreciation for Mr. Maxwell and his knowledge of the request and professionalism. She was thankful for those who shared their comments on various platforms. Ms. Ellsworth understood there were many emotions involved with this project. She related to this request because her family had a farm and the neighbors enjoyed looking at the horses on the property. But when her grandparents passed away, it was not up to the neighbors to determine what would happen

with the property and it was ultimately sold. Ms. Ellsworth honored private property rights, but she was not in favor of the General Plan amendment due to the sensitive ecology of the land.

Chair Handley had been involved with the Foothills Protection Committee that had formed a few years earlier in response to the gravel pit at the mouth of the canyon. Through his involvement with the committee he quickly learned there was inadequate specificity in the City's ordinances to protect the foothills. The group studied the foothill protection ordinance that had been adopted by Salt Lake County many years earlier. Mr. Handley thought their ordinance was very clear and had been a helpful tool for the community to understand what should be considered. He said Provo City was in the process of drafting something similar, but it was taking longer than anticipated. Mr. Handley had hoped that the ordinance would be in place before he had to decide on something like Mr. Jones' proposal.

Chair Handley explained this proposal was unique because the land was one of the few areas in the foothills that had not been developed. Because of this, he thought the Council had to be particularly careful because the risk to general safety and welfare was greater.

The General Plan needed an update and had competing values. Mr. Handley shared a few examples of these conflicts. While protecting open space was a priority, so was encouraging development. This made Mr. Handley's decision more difficult. He did not want to disrespect individual property rights but also wanted to preserve natural resources. Ultimately, Councilor Handley thought it was important to allow the foothills protection ordinance to be drafted before any important decisions are made about the foothills.

Councilor Shipley appreciated Councilor Handley's comments and agreed with what he said. Mr. Shipley was supportive of development and growth, but it was important for the Council to be prudent about their decisions, and he felt there was not enough information to determine whether this proposal was necessary or desirable. There needed to be more guidelines to create policy from. Having a construct to operate within was important to Mr. Shipley.

Councilor Harding agreed with much of what had already been discussed by the other Councilors. The City had adopted the General Plan which governed these lands and this proposal would make changes to that plan. He believed that any changes to the General Plan required proper public process. While the plan was outdated, and certain aspects needed to be changed, it was not appropriate to make modifications without a more robust process. He was not in favor of the request.

Councilor Hoban spoke in defense of Mr. Jones. Some purported Mr. Jones was a jerk, but Councilor Hoban thought he was a capitalist, not a jerk. Capitalists were an important part of Provo, but they could sometimes come across as abrasive. Provo needed developers and capitalists to stay relevant. It was important to keep in mind that developers were building the future of Provo. Mr. Hoban supported individual property rights to an extent. This was a complex issue and the logical approach was to adopt the foothills protection ordinance before making a decision as important as this one.

Councilor Fillmore echoed the comments of his fellow Councilors. He did not see an acceptable compromise between the strongly held opposing views that had been expressed and Mr. Jones' request. Mr. Fillmore acknowledged and appreciated that Mr. Jones had volunteered many concessions, but ultimately, this required more research and time.

Councilor Sewell was thankful for the opportunity to be a part of the public process. He was glad there were people who wanted to invest in Provo. He also appreciated the citizens who were passionate about the way Provo would be developed. Councilor Sewell also served on the Foothills Protection Committee and he wanted to see their efforts through before making an important decision like this one. He worried about what might happen on the County portion of the land if this was not approved. Councilor Sewell did not support this request but hoped this decision would not interfere with further discussions about the future of this land.

Councilor Harding agreed that developers were critical for the community. Everything in the built environment was built by a developer. That did not mean that everything proposed was right for the community, which was why he had been elected to consider these proposals. Provo was looking for good partners to help develop the community.

Chair Handley called for a vote on the implied motion.

Vote: The motion failed 0:7 with Councilors Ellsworth, Fillmore, Handley, Harding, Hoban, Sewell and Shipley opposed.

5. *****CONTINUED*** An ordinance amending the Provo City General Plan to rezone properties in the R2.5, R3, and R4. Citywide Application. (PLOTA20190427)**
6. *****CONTINUED*** Comm. & Neighb. Dept. requests an Ord. Text Amnd. to remove the R2.5, R3, R4, R5 and Campus High Density Res. zones from the city code. These zones include sections 14.12, 14.12A, 14.13, 14.14 and 14.14D. Citywide Applic. PLOTA20190428**
7. *****CONTINUED*** The Sign Ordinance Committee requests an Ordinance Text Amendment to Section 14.38.120-140 to clarify sign size requirements. Citywide application PLOTA20190409**

Adjournment

The meeting was adjourned by unanimous consent at approximately 8:43 p.m.