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PROVO MUNICIPAL COUNCIL

Regular Meeting Minutes

5:30 PM, Tuesday, April 14, 2020

Room 200, Municipal Council Chambers

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

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

Council Attorney Brian Jones

Council Executive Director Cliff Strachan

Conducting: Council Chair George Handley

Prayer – Bill Fillmore

Pledge of Allegiance – Shannon Ellsworth

Public Comment

There was no public comment.

Action Agenda

- Ordinance 2020-10 amending the zone map classification of approximately 0.34 acres of real property, generally located at 164 S 400 W, from Residential Conservation (RC) to Low Density Residential (LDR). Franklin Neighborhood. (PLRZ20200041)**

Motion: An implied motion to adopt Ordinance 2020-10, as currently constituted, has been made by council rule.

Aaron Ardmore, Provo City Planner, presented. The property was located in the Franklin Neighborhood at 167 South 400 West, just south of the Provo City offices. The development would include three single-family, detached homes, with the first unit facing the street and the other two units accessible by a driveway. Concerns about compliance with the Franklin Neighborhood Plan were raised at the last hearing because the future land use for this property showed R1-6A, rather than LDR. The Franklin Plan itself, regardless of the zone, recommended

three single-family detached homes in that location. The R1-6A zone would allow up to four dwellings. Staff felt this proposal fit the character of the neighborhood and met the goals of the plan by bringing in new housing stock.

The developer proffered a development agreement which would limit the development to three single-family homes, require the first home to face 400 West, prohibit rentals, create a homeowners association (HOA), and include CC&Rs (conditions, covenants, and restrictions). The developer assured the City he would sell the homes with the intent that they be owner occupied and not rentals.

In response to a question from Ms. Ellsworth, Mr. Ardmor said he was not aware of any development agreement prohibiting rentals which could be enforced. Mr. Peperone stated that the only way to enforce rental restrictions was through FHA housing requirements.

Chair Handley invited public comment.

Heidi Green, Provo, lived directly south of the proposed development. She recently sent an email to councilors summarizing her concerns. She carried the burden of this proposed project because she lived closest to the development. Parking was an issue in that area. She was a single mother raising children and felt her privacy would be lost. She urged councilors to visit the neighborhood to see what it was like.

There were no more public comments. Chair Handley invited council discussion.

Ms. Ellsworth felt the development was sensitive to the context of the area. She appreciated the developer was willing to work with the City and some of the neighbors. She did not see any threats to safety and there appeared to be adequate parking. She recommended removing the clause in the development agreement about prohibiting rentals if they could not enforce it.

Mr. Harding said it was a good proposal. It was the type of infill they were looking for in this area. He felt this area should have been zoned LDR in the Franklin Neighborhood Area Plan. During a zoning conference he attended about four years ago, the presenter gave a list of what not to do with planning. He said if public officials go through the exercise of planning and putting documents together, they should follow them. They should not make changes as soon as the ink was dry. Staff felt that, even though this proposal did not fit in with the zone shown on the future land use map, it did meet the spirit of the plan and followed the guiding principles in the plan. Mr. Harding said that was his biggest concern about approving the zone change.

Chair Handley asked Mr. Slater (the developer) a question about the rental clause in the development agreement. He also invited Mr. Slater to speak about the development.

Mr. Slater said he lived just north of the property. If his property was included in the HOA he could be influential in enforcing the no rental clause. Building three homes instead of two homes was also discussed. If he built two homes, they would be larger homes with accessory

apartments. This would give the development a higher density and would create parking issues.

Chair Handley recognized the merits of the proposal and was persuaded by the numbers given. It was not higher in density than what was currently allowed. If this allowance was granted, would it set a precedent for other developments?

Mr. Slater said the Franklin Neighborhood Plan was a solid plan. This was a unique situation because the strip of blocks along 100 south were adjacent to the Downtown Neighborhood. This development was right across from the city center and would promote economic growth in the downtown area.

In response to a request from Mr. Harding, Mr. Ardmore reviewed three conditions in the development agreement. They included:

- Would not build more than three single-family, detached homes on the parcel.
- The front home and associated garage would face 400 West.
- They would establish an HOA and CC&Rs that would prohibit rentals.

Mr. Harding said the City would not need to enforce the rental prohibition, other than to establish that the HOA and CC&Rs have been put into place. Mr. Harding said that, over the past few years, the owner-occupancy rate in this area had dropped from forty percent to thirty percent. The neighborhood is looking for housing types that would support owner occupancy. He felt the homes, as proposed, would bring in long-term residents.

In reference to the non-renter provision in the development agreement, Mr. Fillmore said that any member of an HOA could enforce CC&Rs. Since the developer would be included in the HOA, we could amend the development agreement to require the developer to enforce the non-rental provision.

Ms. Ellsworth said that a pro home ownership bias seemed to be an anti-renter policy. We were trying to manipulate the market and keep certain people outside of our community. She hoped we would move away from such policies.

Chair Handley said trying to enforce a policy that required owner occupied housing was not possible in this fragile economy. He said renting and stability were not necessarily equal. The quality of the housing brought stability. He would prefer taking the language prohibiting rentals out of the development agreement.

Mr. Sewell expressed support for the Franklin Neighborhood Plan. The plan should be modified before approving zone changes that were not aligned with the plan. He referenced Matt Taylor's email that stated home ownership in the area had declined from 40 percent to 31 percent over the years. Mr. Sewell said we do not want to enforce home ownership, but in this area, we should encourage it.

Motion: Councilor Ellsworth made a motion to approve the agreement but without the HOA and negative rental restriction.

Mr. Jones clarified that the implied motion did not include a development agreement. The implied motion would be just to approve the rezone. There would need to be a motion made to substitute the alternate version which was shown on the screen. The alternate version included the development agreement.

Ms. Ellsworth retracted her motion.

Mr. Slater said the average non-owner occupancy in the downtown area was around 30 percent, but the Franklin Neighborhood was much higher. The development agreement was not intended to attack rentals, but to keep Franklin at median instead of above median of non-owner occupancy.

Motion: Councilor Harding made a motion to amend the implied motion to refer to the alternate version that was on the screen. The alternate version would request that the mayor negotiate and execute a development agreement as proposed by the applicant. The motion was seconded by Councilor Fillmore.

Mr. Jones clarified that the motion would include the provision prohibiting renting.

In response to a question from Chair Handley, Mr. Jones said if a councilor was not in favor of the development agreement, they should vote against this motion. If they were in favor of a development agreement that did not include the renter language, they should make a substitute motion to approve the development agreement version of the ordinance, but to withdraw the renter prohibition.

Motion: Chair Handley made a substitute motion to approve the ordinance with the development agreement, but withdraw the renter prohibition from the agreement. The motion was seconded by Councilor Fillmore.

In response to a question from Ms. Ellsworth, Mr. Jones said the substitute motion would not include an HOA because it was associated with the renter provision.

Chair Handley called for a vote on the substitute motion. Mr. Jones reminded the councilors they were not voting on the zone change, just amending the ordinance to include the development agreement. If the motion passes, the council would then vote on the implied motion to adopt the ordinance.

Vote: The motion was approved 5:2 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Shipley in favor. Councilors Harding and Sewell were opposed.

Chair Handley called for a vote on the implied motion for the rezone.

Vote: The motion was approved 5:2 with Councilors Ellsworth, Fillmore, Handley, Hoban, and Shipley in favor. Councilors Harding and Sewell were opposed.

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

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

Brandon Larsen, Provo City Planner, presented. Mr. Larsen said the next two items were related. The first item was a text amendment creating a new chapter in Title 14 of the Provo City Code. The intent was to establish new requirements to protect the hillside area. The new requirements would consider the aesthetics and ecology of the area. He noted that Salt Lake County and Park City had good examples of this type of ordinance.

The CH overlay zone would not preclude development in the CH zone. The underlying zones would not be changed. The overlay would include additional requirements for any development. Mr. Larsen reviewed some of the requirements in the proposed overlay zone:

- Limits of Disturbance (LOD). In order to keep the open feel of the foothills, only 40 percent of property could be developed. Developers would be required to designate the area on a lot where development would take place (the LOD). Development must not occur outside the LOD. They could still have utilities constructed in those open areas.
- Slope Protection Requirements. This amendment would not replace Title 15, which referenced the engineering aspects of developing in the foothills. With few exceptions, all areas with a slope greater than 30 percent should remain in natural private or natural public open space. No development should be located within 100 feet from either side of a ridgeline designated for protection by the City. This requirement would not include benches. The proposed changes were more for appearance to help the development blend in with natural surroundings
- Detention Basins. The detention basins should blend with nature, not just a grassy bowl. They should be more like a pond in a natural setting with natural vegetation that was drought tolerant.
- Streets. Streets should follow natural contours and not impact the environment.
- Trail and Trailhead Dedication. Trails were an important part of the foothills. This would not require, but would encourage dedication of trails in the area to the City. Dedication of trails would be in exchange for a density increase of up to 10 percent.
- Tree and Vegetation Protection. Developers should preserve significant trees on the property. The development should be a wild land, urban interface so as not to add fire concerns in the foothills.
- Design Standards. Design standards should incorporate natural features and follow natural contours. Proposed fencing should be open in order to prevent blocking views. Parking and utilities should be screened.

- Clustering Requirements. Clustering developments would have additional requirements. This included having an engineering report showing that they would be putting forward a better product than they would following the regular requirements.

Chair Handley opened public comment. Seeing no comments, he closed the public comment period. He noted councilors had received several emails, which was a great way for residents to share their concerns with the Council.

Chair Handley said there were areas in the northeast foothills with preexisting roads and trails. Some were formally on maps, such as the Bonneville Shore Trail, and others were just formed over time by continued use. He asked Mr. Larsen what the status of roads would be in the proposed amendment. Mr. Larsen said public access would need to be identified on recorded plats and plans. All legal public access now available would have to be kept open in the development.

Ms. Ellsworth had concerns that she expressed during the work session. Some of her concerns centered around retaining walls and mounds of dirt that supported power line infrastructure. She hoped they would be addressed by staff and the Foothill Committee.

Mr. Sewell said he had spoken with several property owners who would be impacted by this legislation. He asked staff to reach out to them to help address their concerns.

Mr. Harding said that clustering was his main concern. He hoped staff and/or the Foothills Committee would consider those.

Chair Handley said this item would be continued for another week. This was just one piece of a larger puzzle that needed to be completed. The plan needed to be comprehensive and forward thinking in order to establish and define the City's relationship with foothills and canyons.

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

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

Mr. Larsen said the CH Overlay boundary was difficult to define. They chose to use an elevation of 4,857 feet along the east side of the zone because that was the highest elevation which allowed the city to provide water infrastructure. They also used a divide between public and private land along the eastern boundary of the foothills area. They included all the private parcels in the overlay zone, with the exception of BYU property and a small portion of land adjacent to the Spring Dell development in Provo Canyon. When presented to the Planning Commission, they identified areas in the south end of Provo that had not been included in the overlay zone. Approximately 2,060 acres of the City were included in the proposed boundaries. One deviation from the boundaries included the State Hospital Property. Their property ran up

the mountain quite a ways. If we included this property there would be quite a bit of undevelopable land in the CH zone.

Mr. Hoban asked how many property owners in the open spaces would be impacted by the CH overlay zone. Mr. Larsen said several would be impacted, he was not sure of the numbers. The idea was not to limit development, it would just be subject to additional design and preservation restrictions.

Mr. Hoban asked what percentage of the space would be undevelopable due to being on a steep slope or too close to a river. Mr. Peperone said they needed to know which property owners he was referring to. They would use the city's topographical map to show areas that were 30 percent or more. That was existing code in Title 15, this ordinance was not adding to that. Staff would work with existing property owners about the restrictions on their property.

Chair Handley invited public comment. There was no response to the request. He said there had been a number of emails sent to councilors. He invited them to look at those before the next meeting.

Mr. Jones noted that this item needed to be continued also because it applied to the map that had not been approved.

4. Ordinance 2020-11 amending the Provo City General Plan relating to The Transportation Master Plan. Citywide application. (PLGPA20200038)

Motion: An implied motion to adopt Ordinance 2020-11, as currently constituted, has been made by council rule.

Shane Winters, Provo City Engineer, presented. This item was first presented to councilors in March. Since that time there had been dialog and feedback from councilors and residents. Mr. Winters gave a brief summary on the status of the transportation plan. The process began more than two years ago. Some of the processes they went through included:

- A complete revision to the street typical sections.
- Reduced street typical widths while still protecting right-of-way.
- Adopted a portion of the transportation plan, which included the capital facilities plan.
- Worked through and updated the impact fee analysis for transportation.
- Held three open houses and worked extensively with the community and community chairs to address their concerns.
- Held nine Transportation and Mobility Advisory Committee (TMAC) meetings to obtain their comments and feedback.
- Presented at nine city council meetings and work sessions to address the councils concerns.

Mr. Winters reported they had a positive recommendation from TMAC and the Planning Commission. At this point, they had identified four areas of concern that would require future transportation studies:

- 2230 North Corridor;
- 820 North Corridor (including the railroad crossing);
- East-West Connectivity (including 500 North, 500 South, 900 South);
- Encourage Less Auto-Centric Plans.

Staff had provided current recommendations for changes to the draft transportation plan. They are looking for adoption of the proposed master plan, which included adjustments relating to council concerns.

Chair Handley invited public comment.

Daniel Jensen, a resident on 2230 North, felt the city should study improvements on University Parkway, between 900 East and University Avenue, as a possible alternative to 2230 North.

With no more public comments, Chair Handley invited council discussion.

Ms. Ellsworth expressed concerns about the overall connectivity in southeast Provo. If they are not addressed in this plan, what other recourse do they have to improve, and plan for, connectivity? Mr. Winters said they were recommending a Provo travel demand modeling study. The study would look at specific areas of concern that had been brought to their attention. Those concerns included (but were not limited to) 900 South, 600 South, and 500 North. The study would be ready for the next master plan update in five years.

Ms. Ellsworth asked if there was still some flexibility with the proposed transportation plan, or were the recommendations set in stone. Mr. Winters said they would focus on projects in Phase 1 of the plan. The other phases were general in nature and not a priority. As they move forward with Phase 1 projects, they look at them in the context of the area. Not only from an auto point of view, but also from other forms of transportation. The council and TMAC would have further input on what those projects look like and the costs associated with them.

Mr. Hoban appreciated staff addressing their concerns with the plan. He understood it would never be perfect. He was at the point where he was comfortable supporting approval of the plan. It will serve as a working document for the city and will be reviewed in five years. It was time for the General Plan to be updated and this plan would help in that process.

In response to a question from Mr. Harding, Mr. Jones replied that the implied motion applied to an ordinance that did not include the changes discussed by Mr. Winters. He recommended making a motion to amend the ordinance to include an Exhibit A, which would include a link to the updated plan.

Motion: Councilor Harding made a motion to amend the ordinance to refer to an Exhibit A, and to attach Exhibit A, the amended master plan, as discussed. The motion was seconded by Councilor Hoban.

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

5. Ordinance 2020-12 amending Provo City Code regarding beer licenses and regulations to streamline it and bring it into alignment with state regulations. (20-076)

Motion: An implied motion to adopt Ordinance 2020-12, as currently constituted, has been made by council rule.

Brian Jones, Deputy City Attorney, presented. Mr. Jones said that the proposed ordinance did not have anything to do with the brewpub proposal. When the alcohol licensing committee was discussing brewpub issues it was recognized there were a number of places in our ordinance that conflicted with state code or was duplicative of state code. The committee reviewed the beer license chapter and proposed the amendments to the code.

Chair Handley invited public comment. With no response to the request, he brought it back to the council for discussion.

Mr. Harding felt this was a good ordinance and would make it easier for our business owners to understand and comply with the requirements.

With no further discussion, Chair Handley called for a vote on the implied motion.

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

6. Ordinance 2020-13 amending Provo City Code regarding beer licenses and regulations to create a Class "F" beer license for restaurants with ancillary breweries. (20-057)

Mr. Jones stated this ordinance applied directly to brewpubs. It provided a new section to Chapter 6.14, creating a Class F beer license allowing businesses to brew beer on the premises. Beer brewed in the restaurant can only be consumed and sold on the premises. Establishments with a Class F license would also have to comply with the other beer license regulations.

Mr. Fillmore expressed concern that the ordinance did not include the limiting factors they had previously discussed, such as proximity or density limitations. He would prefer that those issues be addressed before adoption of the ordinance. If the ordinance was approved that night, the council could apply an effective date later in the year which would give them time to refine the ordinance.

Chair Handley invited public comment. With no response, Chair Handley invited council discussion.

Mr. Hoban said that regulations concerning density and proximity had been addressed when the land use issue was approved. Also, state code has regulations concerning these issues that would apply. He felt that during the economic climate, opening a brewpub might encourage more business in Provo.

Mr. Sewell said that state code had distance requirements related to proximity to certain types of public facilities. Those included churches, parks, and schools. As far as a population density, he only recalled seeing regulations for bars. He did not believe there was a population based limit for brewpubs and restaurants that served alcohol.

Mr. Harding stated he would support the ordinance but would like to study and more fully prepare a proposal that would address other limitations. If they delayed implementing the ordinance, and a referendum was filed against it, the residents would not be able to vote on this issue until the fall of 2021. He would like the ordinance voted on that night so that if there was a referendum it would be resolved this fall (2020). He would like the subcommittee to continue to look at best practices. He said there was one party that was interested in applying for a brewpub license.

If adopted, Mr. Fillmore wanted the effective date delayed to January 1, 2021 so that, if there was a referendum, the people would know what they were voting on. Many people would like to know what the density regulations would be. If someone filed an application for a brewpub, without having the density regulations defined in the ordinance, they would not be subject to any regulations added later.

Chair Handley felt that an effective date of January 1 was too long to keep everything in limbo. If we had an effective date of August or September it would give us time to draft density requirements.

Mr. Fillmore said he would compromise on an effective date. His preference would be to set the effective date for the end of August and deal with any legal problems created by having someone apply for a license before the ordinance was refined.

Motion: Councilor Fillmore made a motion to amend the effective date of the proposed ordinance to August 30, 2020 and allow the Council sufficient time to address the issue of density limitations.

Mr. Shipley wanted the committee to indicate how long it would take them to make the amendments rather than select an arbitrary effective date.

Mr. Strachan said it would take extra time for the committee to work through some of those issues, which would take the effective date out to July. In terms of starting a new business, he did not think that anything would happen before the summer. That would give the committee time to review the requirements. The reality is, the council would be focused on approving a FY 2021 budget. They would need a couple of months after the budget was approved to put in the

extra work for this ordinance. Although it was very arbitrary, he proposed an effective date of September 1st or October 1st.

Ms. Ellsworth said it was the details of the restrictions that would require many back-and-forth discussions. There were so many different permutations of how this could happen, it would take a couple of months to work through them. She felt it was doable during the next couple of months but agreed that an end of August, first of September effective date would work. If they could get it done sooner, they could amend the effective date.

Mr. Sewell agreed that the end of August or first of September would give them plenty of time. He asked Mr. Jones if amending the effective date if the work was completed was an option.

Mr. Jones said that if a referendum were successful, it might raise issues because they were amending the referendum ordinance.

Chair Handley said he was comfortable with an August 30th deadline. It did not feel like they pulled it out of thin air.

Mr. Harding said the proposed brewpub would be allowed if the subcommittee approved the changes the subcommittee was proposing. By delaying the effective date, all they were doing was putting off a local business that wanted to expand in downtown Provo. He did not see the benefits of delaying the effective date. He said they would have any additional restrictions worked out before another application came in.

Chair Handley did not feel there was enough clarity for the business owner in terms of where they were going to locate. If we did not have the concern about the April 15 deadline for a referendum to qualify for the ballot this year, we would take the needed time to make the amendments. He supported having an effective date moved out a little farther to give them time to address those and other questions. Standing alone, the Class F license did not address all the concerns that the community had. He was not thinking of this as a wedge issue, but as a compromise and bridge-building issue. To the degree that we are allowing it within certain parameters is a health compromise for the community.

Mr. Harding did not see a problem with clarity if the business submitted an application before additional restrictions were in place. The additional restrictions would not apply to them.

Mr. Shipley did not want the restrictions to be used as an excuse to not allow brewpubs.

Mr. Fillmore said that Mr. Shipley's concerns would be addressed by a referendum effort. He wanted to make sure they could put the appropriate conditions on a brewpub license before an application was submitted. If a later effective date was approved, he wanted to make sure that any applicants understood they would be subject to any amendments made before the effective date.

Mr. Harding clarified that, if the ordinance were approved that night without an extended effective date, any restrictions put on at a later date would not apply to applicants. The restrictions would only apply if the application was submitted after any amendments were made.

Chair Handley said that Council Fillmore made a motion to approve the Class F license that night with an effective date of August 30 to give the committee time to deliberate other restrictions. He asked for a second on the motion.

Mr. Sewell seconded the motion.

Chair Handley called for a vote on the motion.

Vote: The motion failed 3:4 with Councilors Fillmore, Handley, and Sewell in favor, and Councilors Ellsworth, Harding, Hoban, Shipley opposed.

Mr. Jones indicated that the council would now vote on the implied motion to adopt the ordinance as written. He noted that the ordinance would not go into effect until after the 15 days the mayor has to sign the ordinance. The ordinance also has to be published and posted before it becomes effective.

He said if there was going to be a referendum, the sponsors had five days to file an application. Mr. McGinn had assured him that, if a referendum application was received, he did not intend to issue any licenses until the signature gathering process has been completed. They would not want to issue the license and then not have the ordinance be valid. The application to start gathering signatures ended in five days.

Amanda Ercanbrack, Provo City Recorder, responded to question about the previous referendum concerning the land use item. The deadline for signature gathering would be April 30.

Mr. Strachan said a referendum on the Class F beer license would have a lower signature threshold than the land use referendum.

Chair Handley said all he wanted was a beer license with clear rules about location and density. He had no intention of trying to put a stranglehold on this, he just wanted to meet the concerns of the community in a fair and clear way. He felt like the vote was asking him to vote in favor of a license without putting other considerations into place. If he knew they had sufficient time to pass additional restrictions before any licenses were issued he would feel more comfortable voting that night.

Mr. Harding said he was highly motivated to propose best practices, as suggested by the CDC, that would address the public safety and public health concerns. They could get it done within a reasonable amount of time.

Chair Handley said that it would be in the interest of those councilors that voted in favor of the brewpub, to make sure there was clarity on these questions. There was a referendum, and whether or not it gets the signatures, it would be an effort of goodwill to address their legitimate questions about safety. As a council, we should do this in a way that shows we are answering those questions, even if people are going to disagree exactly what those parameters should be.

Ms. Ellsworth said they could move it forward more quickly if they did not encumber the subcommittee by also having them create restrictions for other licenses. If they just focused on the F license, they could move more quickly. There was still some disagreement in the subcommittee about whether the CDC regulations were really the best practices for Provo. Provo had very few consumers of alcohol and the CDC regulations addressed excessive alcohol consumption. She did not think a brewpub contributed to excessive alcohol consumption.

Chair Handley said he was not inclined to investigate all the other licenses. That was a bigger question. He felt the state regulations were sufficient in that regard. This legislation was just adding a new kind of business in certain areas of Provo. He did not imagine that the parameters they were looking at would be exhaustive and overly restrictive. They should just be reasonable so that they avoided the possibility of a kind of cluster of brewpubs.

Mr. Harding said there were some details that needed to be worked out in order to bring a coherent and strong proposal to the council. When the CDC talked about alcohol outlet density it was referring to restaurants that sold beer, brewpubs, and bars. Any CDC recommendations referred to all three types of establishments. If we looked at outlet density, it mattered what else was in the vicinity, such as bars. It would not restrict two brewpubs from situating next to each other if there was nothing else around them. The council may put in some type of threshold if you start to get a kind of district where you have bars, brewpubs, and restaurants that sell alcohol all in the same area. The CDC gave good framework to use. It was up to the City to decide what the right threshold was.

Chair Handley agreed that we should consider other alcohol outlets when we determined where brewpubs could be located. He thought that was a Class F license question and did not pertain to the other licenses.

Mr. Harding said that, right now, bars were not allowed in zones where F licenses were allowed. But, there were zones where bars were allowed in Provo. Was there a point at which we would not allow another bar in a certain area because there too much concentration in that area? Or, not allow a restaurant to sell alcohol if there were already a high number of alcohol outlets in that area. They were not ready to propose density issues right now because there were too many issues to resolve. If they treat the F license all by itself, they would be missing the big picture.

Ms. Ellsworth said that City Creek Mall allowed five or six different establishments within two or three city blocks. That was a great model to emulate. It was a high-end establishment that drove a lot of retail. Why would they add more restrictions to restaurants right now?

Mr. Hoban asked if they could just move forward on this one way or another. He wanted to call for a vote on the motion. In order to do that he made the following motion.

Motion: Councilor Hoban made a motion to end the debate. Council Shipley seconded the motion.

Mr. Fillmore asked if he could make one more comment stating that Provo was not Salt Lake City and brewpubs were not your standard restaurants. Mr. Jones stated that once a motion had been made, there would be no further comments until after the vote.

Chair Handley called for a vote on the motion to end the debate.

Vote: The motion was approved 5:2 with Councilors Ellsworth, Handley, Harding, Hoban, and Shipley in favor. Councilors Fillmore and Sewell were opposed.

Mr. Sewell asked if, by ending debate on the ordinance, it did not allow councilors to explain why they were voted as they did. Mr. Jones said that the vote had to be taken immediately after a motion was made to end the debate. He did not know of anything that would prevent someone, at the pleasure of the other councilors, to explain their vote, after the vote had taken place.

Chair Handley called for a vote on the implied motion.

Vote: The motion was approved 4:3 with Councilors Ellsworth, Harding, Hoban, and Shipley in favor. Councilors Fillmore, Handley, and Sewell were opposed.

Ms. Ellsworth asked if they should revise the alcohol subcommittee to include the entire council since there were so many diverse opinions. Mr. Strachan said the only way to include the entire council would be to discuss the issues in work session. The advantage of having a subcommittee was so they could work through the issues quicker and then present them to the entire council. The council could also hold a special retreat just to discuss this issue.

Chair Handley said he thought a subcommittee working on this would be faster and more efficient. At this point, they had made a fair amount of progress but it might be possible to discuss further changes with the entire council.

Ms. Ellsworth said the subcommittee had been working on this for three months and all they accomplished was creating a Class F license. Other than that, they streamlined other alcohol licenses. They have not created any shape or visions for brewpubs. She felt they should include the rest of the council.

Mr. Strachan said he would work on a schedule with staff and council leadership to get more information and bring it back to the council.

Mr. Harding said the subcommittee was created one month and three days ago. During that time they streamlined the beer license ordinances, created an F license, and set up a framework of what alcohol density could look like. They had done a lot of research into the CDC publications and he felt they had accomplished a lot during that time. They could continue to do so if the council desired.

Mr. Jones said that the committee had been created by a motion and had been given a mandate to study these issues. Also, there was a motion in work session earlier that day giving the committee an assignment to work on the alcohol density questions. If there was a change now to have the entire council address those concerns, it would require a motion.

Mr. Hoban said that if someone on the committee felt they needed more input, he was not opposed to that. He would be supportive of expanding the committee. Sometimes more is less, but in this case, more is more.

Mr. Sewell, a member of the subcommittee, said he would like the committee to continue unless there was a vote by the majority of the council to instruct them otherwise. He clarified that the vote on a motion to close the question and call the question required a two-thirds majority. They actually had that in this case, but in the future he wanted to make sure the councilors were aware of that.

Mr. Shipley said he was aware they had busy weeks ahead discussing budget items but he asked if they could spend 45 minutes to an hour in their next work meeting talking through some of the potential restrictions. He felt there were a couple of different ideas a few weeks back and did not feel they had enough time to flush them out. Also, they needed to come to a consensus on which direction the subcommittee should go.

Mr. Harding said he would be willing to share with the council some of the documents they had been looking at. They were fully open to suggestions from the rest of the council.

Mr. Strachan said they had a very light agenda for the next week so they could schedule 30 to 60 minutes for a discussion on these issues.

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

Adjourn

The meeting was adjourned, by unanimous consent, at 9:01 p.m.