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PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Minutes

5:30 PM, Tuesday, December 01, 2020

Room 200, Municipal Council Chambers

Electronic meeting: 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

Council Executive Director Cliff Strachan

Chief Administrative Officer Wayne Parker

Council Attorney Brian Jones

Conducting: Council Chair George Handley

Prayer

Councilor Shannon Ellsworth

Pledge of Allegiance

Councilor Travis Hoban

Public Comment ([0:13:51](#))

Chantel Wood, Provo, spoke in favor of ranked choice voting and asked the council to consider adopting this for the next municipal election.

Consent Agenda ([0:18:13](#))

- 1. Resolution 2020-43 adopting the 2021 Council regular meeting schedule. (20-145)**

Resolution 2020-43 was approved by unanimous consent.

Action Agenda

- 2. Resolution 2020-44 supporting the preservation of Bridal Veil Fall for natural scenic and recreational purposes. (20-246) ([0:19:30](#))**

Motion: An implied motion to adopt Resolution 2020-44, as currently constituted, has been made by council rule.

Chair Handley presented the resolution. Utah County Commission was considering a conservation easement for Bridal Veil Falls and was planning to discuss the easement, along with other proposals for the county-owned property, during a public hearing on December 9, 2020. By passing the proposed

resolution the Provo City Council is showing their support to maintain Bridal Veil Falls in its natural state for the enjoyment of Provo City and Utah County residents and the countless visitors who come to see Bridal Veil Falls.

Chair Handley noted that a number of emails had been received in favor of preservation. He opened public comment, there was no response.

Councilor Harding said there was a lot that was still unknown about this proposal. They all agreed it needs to be preserved, but he was hesitant to call on the County Commission to create a conservation easement when there were still details to be worked out. He thought they should encourage them to preserve it and then consider an easement after careful study.

Councilor Fillmore supported the resolution. He acknowledged they did not have a final vote on the matter, but given the circumstances, he thought a conservation easement was the best option for one of the most pristine and beautiful spots in Utah. Councilor Ellsworth and Council Sewell echoed Mr. Fillmore's comments.

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.

3. Ordinance 2020-53 amending Provo City Code regarding permitted uses in the Neighborhood Shopping Center (SC1), Community Shopping Center (SC2), And Regional Shopping Center (SC3) Zones and related provision. Citywide Application. (PLOTA20190429) (0:27:48)

Motion: An implied motion to adopt Ordinance 2020-53, as currently constituted, has been made by council rule.

Javin Weaver, Planner, presented. The Community and Neighborhood Services Department was proposing to amend Title 14 of the Provo City Code to consolidate the permitted uses and shift multiple conditional uses to permitted uses in the SC1 Neighborhood Shopping Center, SC2 Community Shopping Center, and SC3 Regional Shopping Center zones.

Within the permitted and conditional uses in each zone there is a four-digit number attached to the land use type. The four-digit number comes from the Provo City Standard Land Use Code (SLU). Planning Staff saw the need to analyze the permitted and conditional uses within the Shopping Center (SC) zones and think critically about which SLU code would require conditions to be placed upon it and which would not. If no conditions were to be placed upon the land use, then it should be moved to the permitted uses.

There were currently 25 permitted and 63 conditional uses in the SC1 zone; 53 permitted and 28 conditional uses in the SC2 zone; and 59 permitted and 27 conditional uses in the SC3 zone.

Some of the SLUs that were being proposed to change from conditional to permitted were the following:

- 5300: General Merchandise
- 5400: Food
- 5900: Miscellaneous Retail Trade

- 7100: Cultural Activities

The increase of SLU codes to the SC zones would not only increase the opportunity for business to occur within Provo City, but would provide jobs and tax revenue for Provo City. This change of permitted uses allowed for a more user-friendly ordinance that staff and the public can use and understand more clearly.

Chair Handley opened public comment, there was no response.

Councilor Harding appreciated the hard work that had gone into this effort. He thought this would improve the City's approach to conditional uses.

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.

4. Ordinance 2020-54 Amending Provo City Code to enact The Open Space, Preservation, and Recreation (OSPR) Zone. Citywide Application. (PLOTA20200140) (0:34:11)

Motion: An implied motion to adopt Ordinance 2020-54, as currently constituted, has been made by council rule.

Items four and five were related and Chair Handley read both into items the record.

Javin Weaver, Planner, presented. The Community and Neighborhood Services Department was requesting to amend the Provo City Code to add the Open Space, Preservation & Recreation (OSPR) zone as Chapter 14.33. Open space included parks, golf courses, recreational fields, sensitive lands, and others. Adopting the OSPR zone would encourage preservation of public and private open space within the City. Staff worked closely with the Parks and Recreation Department and City Ombudsman in drafting this zone.

Mr. Weaver showed a comparison of the uses that would be allowed in the OSPR zone compared to the Public Facilities (PF) zone. Most of the parks were currently zoned PF which allowed for uses such as sewage pumping stations; these uses would not be permitted in the OSPR zone. (0:35:35)

There were 104 parcels that would be rezoned, all but one was owned by Provo City, the other was owned by the US Government (Rock Canyon).

The proposed amendment would help to achieve the goals of the City for ecological preservation and the protection of parks. Planning Staff supported this amendment.

Chair Handley opened public comment for both items, there was no response.

Mr. Handley thought this was a wise decision, it would help to make these properties less vulnerable without the use of a preservation easement. This had been discussed at length as part of the Foothills Preservation Committee discussions. He supported both items and encouraged adoption.

Councilor Hoban asked if there was any downside to rezoning these parcels. Mr. Weaver explained that if one of the properties in the OSPR zone applied to change from one permitted use to another, like a park to a cemetery, a hearing would not be required. Chair Handley did not see any downside. But he acknowledged it was not as strong as a conservation easement, which meant future councils could always rezone one of these parcels. It communicated the intent of the Council to preserve these parcels as open space. Councilor Sewell agreed.

Chair Handley called for a vote on Ordinance 2020-54.

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

5. Ordinance 2020-55 amending the Zone Map classification of approx. 1,291 acres of real property located within the boundaries of Provo City, from various zone classifications to Open Space, Preservation and Recreation (OSPR). Citywide Impact. (PLRZ20200304) (0:34:11)

Motion: An implied motion to adopt Ordinance 2020-55, as currently constituted, has been made by council rule.

Mr. Weaver discussed this item with the previous item, see above. The purpose for this item was to apply the newly adopted OSPR zone to 1,291 acres of property.

Chair Handley called for a vote on Ordinance 2020-55.

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

6. Ordinance 2020-56 amending Provo General Plan Sections 1.2.9 And 1.2.10 Related to the Key Land Use Policies (North Area Guiding Principles) And Urban Growth and Land Use Annexation. Citywide Application. (PLGPA20200357) (0:46:17)

Motion: An implied motion to adopt Ordinance 2020-56, as currently constituted, has been made by council rule.

Robert Mills, Planner, presented. This was closely related to the previous two ordinances. The Community and Neighborhood Services Department was requesting to amend the key land use policies in the General Plan related to the Northeast Area Guiding Principles, Policies, and Goals; as well as the Annexation Policy Plan to include guidance on how to apply the proposed Open Space, Preservation, and Recreation (OSPR) zone being considered.

Mr. Mills displayed the Annexation Policy Map. (0:47:07) The committee determined that properties that are privately held should be included in Area Five of the Annexation Policy Map and properties that are publicly held should be included in Area Six. Doing so clearly communicates to landowners and future decision makers the intent of the City to retain those areas for open space preservation and recreational opportunities.

Chair Harding understood the idea behind this amendment. He thought it made sense these properties should default to the OSPR zone should they be annexed into Provo. However, he wanted to be sure they were not setting a policy that these lands would never be developed. Mr. Mills said it would send a

message that these lands are best suited for the OSPR zone, but it would not restrict anyone from applying for another zone in the future, it would still go through the public process and be at the Council's discretion.

Chair Handley opened public comment, there was no response.

In response to Councilor Harding's comment earlier, Councilor Sewell said he did not view this as something that would bind future councils or prevent consideration of rezone requests in the future. Chair Handley agreed and added this sent the message to developers that they were not actively looking for uses other than OSPR.

Mr. Mills said one of the reasons behind this change was because the OSPR zone did not have an inherent development right attached to it; even the least intensive A1.20 and A1.40 agricultural zones had a development right.

Councilor Ellsworth asked what would happen if one of these properties already had a home on the property. Mr. Mills said there was language that said if a landowner intended to be residential upon annexation, then you would be annexed in with a development right.

Brian Jones, Council Attorney, addressed the discussion regarding intent. Discussing the intent was fine, but what really mattered was the text of the ordinance. The proposed amendment to the General Plan included language that said, "any future development project requiring a rezone in the OSPR zone would be required to demonstrate a substantial benefit to the city." This was the message being sent by adopting the ordinance.

He 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.

Item 8 was presented prior to item 7. The ordinance numbering follows the original agenda outline.

8. Ordinance 2020-58 amending Provo City Code to clarify spacing requirements for accessory structures in the Residential Conservation (RC) Zone. Citywide Application. (PLOTA20200291) (1:06:00)

Motion: An implied motion to adopt Ordinance 2020-58, as currently constituted, has been made by council rule.

Dustin Wright, Planner, presented. The requirement for spacing between the main dwelling and an accessory structure in the RC zone was not clear and appeared to imply that the structures would need to be twenty feet apart. Most of the properties in the RC zone are on smaller lots and would not be able to have an accessory structure if they had to be twenty feet back from the main dwelling.

Staff analyzed this and determined that this twenty-foot requirement could not have been the intent and that this proposed change was needed to clarify what the requirement should be for spacing between the main dwelling and an accessory structure. In determining what the spacing requirement should be staff looked at the R1 zone requirements. The R1 zones have a six-foot setback requirement between the main dwelling and the accessory building.

Chair Handley opened public comment, there was no response. There was no council discussion, he 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.

7. Ordinance 2020-57 amending Provo City Code to remove references to “Community Development Director.” Citywide Application. (PLOT20200310) (1:09:54)

Motion: An implied motion to adopt Ordinance 2020-57, as currently constituted, has been made by council rule.

Robert Mills, Planner, presented. The Community Development Department was split into the Community and Neighborhood Services and Development Services Departments on August 29, 2019. This amendment changes all references to “Community Development” to reference the Community and Neighborhood Services or Development Services department instead, according to their separate duties.

Chair Handley opened public comment, there was no response. He 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.

9. Ordinance 2020-59 amending the Zone Map Classification of approximately 0.34 acres of real property, generally located at 590 West 300 South, from Residential Conservation (RC) to Very Low Density Residential (VLDR). Franklin Neighborhood. (PLRZ20200287) (1:11:15)

Motion: An implied motion to adopt Ordinance 2020-59, as currently constituted, has been made by council rule.

Dustin Wright, Planner, presented. The applicant owns a lot with a single-family home and an attached shop located at 590 West 300 South. The property was in the RC Zone. The applicant had submitted a subdivision plat to subdivide the existing lot into two lots, subject to this rezoning to VLDR being approved. The existing shop was located over what would be the new lot line and it would be removed to meet the setback requirements of the new zone.

The applicants, James and Tawn Henrie, offered to answer any questions. Councilor Harding asked if the shop had recently been used. It had been used regularly as a wood shop and for welding, but not commercially for over 30 years.

Chair Handley opened public comment, there was no response.

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.

10. Ordinance 2020-60 amending the Zone Map Classification of approximately 4.6 acres of real property, generally located at 34 S 2530 W, from Agricultural (A1) to Residential (R1.8). Provo Bay Neighborhood. (PLRZ20200156) (1:18:34)

Motion: An implied motion to adopt Ordinance 2020-60, as currently constituted, has been made by council rule.

Dustin Wright, Planner, presented. The applicant was requesting to rezone this property from agricultural to residential to allow for a fifteen-lot single-family subdivision. A concept plan application was submitted with the rezone application. Two new streets would be created as part of the development and were planned in a way they would help with future street connectivity.

The General Plan and the Southwest Area Future Land Use Map would not need to be amended as they show that the desired land use for the property is residential and not agricultural.

The surrounding land uses in the area immediately around the subject property were zoned for R1.8, which is what the applicant was requesting for his property and A1.1, which is what the property was currently zoned.

Chair Handley opened public comment, there was no response.

The applicant, Jake Black, was available to answer questions, but there were none.

Councilor Ellsworth supported the project but hoped future adjacent projects would bring different housing types to the area.

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.

11. Ordinance 2020-61 amending the General Plan Map Designation of real property located at 1555 N Canyon Road from Commercial to Residential. Carterville Neighborhood. (PLGPA20200062) (1:26:00)

Motion: An implied motion to adopt Ordinance 2020-61, as currently constituted, has been made by council rule.

Items 11 and 12 were read into the record and presented together.

Aaron Ardmore, Planner, presented. This was the former Super 8 motel located near BYU campus at 1555 N. Canyon Road. The building had become rundown and the police were frequently called to deal with various issues at this location. The developer was hopeful this would be a better use for the building and provide needed housing in the area. The Planning Commission approved the project plan, pending approval of the zone change and General Plan Map Designation.

Mr. Ardmore reviewed the project plan with the Council and explained what changes had been made since it had initially been denied by the Planning Commission. (1:28:14) The new plans included

adequate parking and the required parking lot landscaping to meet requirements of Section 15.20 of Provo City Code. Staff and the Planning Commission recommended approval.

Chair Handley opened public comment, there was no response.

Councilor Fillmore wanted to understand the parking concerns. Mr. Ardmore explained the applicant's original plans included more units and it was a lower parking ratio. The new proposal included fewer units and the parking ratio was 1.2 parking stalls per unit. Additionally, the owner would implement a parking permit program and each unit would be provided one sticker, and the rest would be available for additional vehicles or visitors. Staff was confident parking was adequate.

The applicant, Mr. Washburn, added this location was very walkable, in close proximity to BYU, and located near UVX.

Chair Handley liked the idea of incentives for those without vehicles. He thought this was an ideal location for those who did not have cars. This neighborhood was already dealing with a parking spillover issue and Councilor Handley noted that most married couples would have two cars, he was cautious about making a decision that would worsen the situation.

Councilor Harding thanked the applicant for working with city staff on this project. He was optimistic about this project.

Chair Handley called for a vote on the implied motion to adopt Ordinance 2020-61.

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

- 12. Ordinance 2020-62 amending the Zone Map Classification of approximately 1.91 acres of real property, generally located at 1555 North Canyon Road, from General Commercial (CG) to Campus Mixed Use (CMU). Carterville Neighborhood. (PLRZ20200085) (1:26:00)**

This item was presented with item 11, Ordinance 2020-61, see above.

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.

- 13. ***CONTINUED**An ordinance amending the Zone Map Classification of approx. 11 acres of real property, located at 1920 W Center Street, from Community Shopping (SC2) to Neigh. Shopping Center (SC1) and Medium Density Residential (MDR).(PLRZ20200282)**
- 14. ***CONTINUED***The Community and Neighborhood Services Dpt requests an Ordinance Text Amendment to correct and update non-substantive references in Titles 6, 14, and 15 of the Provo City Code for improved clarity. Citywide application (PLOT20200309)**

15. *****CONTINUED*** Rezoning of approx. 8.5 acres from CM, RA, R1.6, R1.10, and A1.5 to the MDR Zone, to facilitate the construction of 204 dwelling units, located at approx. 1724 S. State Street. Spring Creek Neighborhood PLRZ20190356**

Adjournment

The meeting was adjourned by unanimous consent at approximately 6:40 p.m.