PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo
Provo City Stormwater Service District

Regular Meeting Agenda

5:30 PM, Tuesday, May 02, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

The in-person meeting will be held in the **Council Chambers**. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If you do not have access to the Internet, you can join via telephone following the instructions below.

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

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

May 02 Council Meeting: Dial 346 248 7799. Enter Meeting ID 857 3661 8492 and press #. When asked for a participant ID, press #. To join via computer, visit zoom.us and enter the meeting ID and passcode 255675.

Decorum

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

Opening Ceremony
Roll Call
Prayer
Pledge of Allegiance
Presentations, Proclamations, and Awards

1. FIRST Lego League – Cookies and Milk Presentation (23-011)

2. Provo School District Center for Advanced Professional Studies (CAPS) Public Service Announcement on anti litter campaign (23-011)

3. A presentation recognizing Provology graduates. (23-011)

4. Special Recognition of the Provo City Information Systems Division from Mayor Michelle Kaufusi for exceptional service during the new City Hall move and Provo Airport Terminal technology upload (23-011)

Public Comment

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

Please state your name and city of residence into the microphone.
Please limit your comments to two minutes.
State Law prohibits the Council from acting on items that do not appear on the agenda.

Redevelopment Agency of Provo

5. A presentation of the proposed tentative budget for the Redevelopment Agency of Provo. (23-008)

Provo City Stormwater Service District

6. A presentation of the proposed tentative budget for the Provo City Stormwater Service District. (23-008)

Provo City Council Action Agenda

7. A presentation on the proposed tentative budget for Provo City for Fiscal Year 2023-2024. (23-008)

8. A resolution consenting to the appointment of individuals to the Energy Board. (23-005)

9. A resolution authorizing the Mayor to submit an application for a Utah County Municipal Recreation Grant to be used for restroom and playground improvements at Rock Canyon Park. (23-044)

10. A resolution appropriating $1,060,000 in the Mountain Vista Fund for completing the Mountain Vista Business Park Road construction project. (23-006)

11. A resolution accepting an annexation petition for further consideration for approximately 9.1 acres of property generally located at 5500 N Canyon Road. North Timpview Neighborhood. (PLANEX20230020)

12. An ordinance amending the General Plan Map classification of approx. 0.23 acres of real property, generally located at 2050 North Canyon Road, from Commercial (C) to Residential (R). Pleasant View Neighborhood. (PLRZ20220301)

13. An ordinance amending the Zone Map of approx. 0.48 acres, located at 2050 N Canyon Road, from General Commercial (CG) and Two Family Residential (R2PD) to Medium Density Residential (MDR) & authorizing a related development

agreement. (PLRZ20220302)

14. **CONTINUED**Steven Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street. Provo Bay Neighborhood. PLRZ20210271

15. **CONTINUED**Provo City Development Services requests approval of General Plan Text Amendments to Appendix C (Annexation Map and Policies) in order to update zoning standards for agricultural lands. Citywide Application. PLGPA20230063

16. **CONTINUED**Provo City Development Services requests Text Amendments to Section 14.34.060 (Location of Boats, Boat Trailers, and Travel Trailers). Citywide Application. PLOTA20230034

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: provo.org/government/city-council/meet-the-council

Materials and Agenda: agendas.provo.org
Council meetings are broadcast live and available later on demand at youtube.com/ProvoCityCouncil
To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next Council Meeting will be held on Tuesday, May 16, 2023. The meeting will be held in the Council Chambers, 445 W. Center Street, Provo, UT 84601 with an online broadcast. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are 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 aids and services) during this meeting are invited to notify the Provo Council Office at 445 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/ProvoCityCouncil.

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

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 05-02-2023

SUBJECT: FIRST Lego League – Cookies and Milk Presentation (23-011)

RECOMMENDATION: Presentation only.

BACKGROUND: FIRST Lego League introduces science, technology, engineering, and math (STEM) to children ages 4-16 through fun, exciting hands-on learning. Founded in 1998, the program was designed to engage children in playful and meaningful learning while helping them discover the fun in science and technology. FIRST LEGO League inspires teams to research, build, and experiment, and by doing so, live the entire process of creating ideas, solving problems, and overcoming obstacles, while gaining confidence in their abilities to positively use technology. Participants gain real-world problem solving experience through a guided, global robotics program, helping today's students and teachers build a better future together. Friendly competition is at the heart of Challenge, as teams of students engage in research, problem-solving, coding, and engineering.

FISCAL IMPACT: N/A

PRESENTER'S NAME: tbd

REQUESTED DURATION OF PRESENTATION: 13 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-011

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DIXONH
Department: Mayor Office
Requested Meeting Date: 05-02-2023

SUBJECT: Provo School District Center for Advanced Professional Studies (CAPS) Public Service Announcement on anti litter campaign (23-011)

RECOMMENDATION: Presentation only

BACKGROUND: Provo City School District Center for Advanced Professional Studies (CAPS) is a high school program designed to propel students into a bright future through immersion in a professional culture by solving real world problems using industry standard tools. Additionally, CAPS participants are mentored by actual employees.

Tonight, two students from the CAPS program will present a brief video and infographics on an anti litter campaign.

FISCAL IMPACT: N/A

PRESENTER'S NAME: Dixon Holmes, Assistant CAO

REQUESTED DURATION OF PRESENTATION: 5 miuntes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Keep Provo clean, beautification

CITYVIEW OR ISSUE FILE NUMBER: 23-011

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DIXONH
Department: Mayor Office
Requested Meeting Date: 05-02-2023

SUBJECT: A presentation recognizing Provology graduates. (23-011)

RECOMMENDATION: Presentation only

BACKGROUND: Provology is a fun and interactive class where Provo residents have the opportunity to learn about many Provo city departments and the role they play in city operations.

Participants learn from representatives from departments such as Energy, Customer Service, Airport, Parks and Recreation, and hear from members of the City Council, and the Mayor's office. In this course citizens will take a behind the scenes look at the services offered and have the chance to ask questions and take facility tours.

This presentation is recognizing Spring 2023 Provology graduates.

FISCAL IMPACT: none

PRESENTER'S NAME: Dixon Holmes, Assistant CAO

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Citizen involvement

CITYVIEW OR ISSUE FILE NUMBER: 23-011

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DIXONH
Department: Mayor Office
Requested Meeting Date: 01-01-2018

SUBJECT: Special Recognition of the Provo City Information Systems Division from Mayor Michelle Kaufusi for exceptional service during the new City Hall move and Provo Airport Terminal technology upload (23-011)

RECOMMENDATION: The Mayor will present a recognition of the employees in this division

BACKGROUND: Mayor Kaufusi intends to recognize the IS Division for their hard work in transferring all of the network and computer technology infrastructure and hardware from the old building to the new City Hall. In addition, she will also recognize the IS Division in bringing online the technology infrastructure and hardware for the new Provo Airport Terminal.

FISCAL IMPACT: N/A

PRESENTER'S NAME: Mayor Michelle Kaufusi

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: employee recognition and retention

CITYVIEW OR ISSUE FILE NUMBER: 23-011

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 05-03-2022

SUBJECT: A presentation of the proposed tentative budget for the Redevelopment Agency of Provo. (23-008)

RECOMMENDATION: Presentation only

BACKGROUND: As part of the annual budgeting process, the administration will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY23-24 budget for the Redevelopment Agency of Provo.

FISCAL IMPACT:

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

REQUESTED DURATION OF PRESENTATION: 15 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 05-03-2022

SUBJECT: A presentation of the proposed tentative budget for the Provo City Stormwater Service District. (23-008)

RECOMMENDATION: Presentation and discussion

BACKGROUND: As part of the annual budgeting process, the administration will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY23-24 budget for the Provo City Stormwater Service District.

FISCAL IMPACT:

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

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MDAYLEY
Department: Council
Requested Meeting Date: 05-02-2023

SUBJECT: A presentation on the proposed tentative budget for Provo City for Fiscal Year 2023-2024. (23-008)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: As part of the annual budgeting process, the Mayor will present the proposed tentative budget for the upcoming fiscal year. Over the next two months, the Council will meet to discuss the budget, make changes, and vote on and adopt a final FY23-24 budget for Provo City.

FISCAL IMPACT: presentation on the proposed tentative budget for Provo City for Fiscal Year 2023-2024

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

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: EVANDERWERKEN
Department: Council
Requested Meeting Date:

SUBJECT: A resolution consenting to the appointment of individuals to the Energy Board. (23-005)

RECOMMENDATION: Approve resolution.

BACKGROUND: Mayor Kaufusi has recommended that two members of the Energy Board, Gary Winterton and Julie Radle, be reappointed to terms expiring December 31, 2026. Gary Winterton currently serves as the Chair of the Energy Board.

FISCAL IMPACT:

PRESENTER'S NAME: Mayor Michelle Kaufusi

REQUESTED DURATION OF PRESENTATION: 5 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-005

RESOLUTION 2023-

A RESOLUTION CONSENTING TO THE APPOINTMENT OF INDIVIDUALS TO THE ENERGY BOARD. (23-005)

WHEREAS, the Mayor, acting pursuant to her statutory authority, has recommended two reappointments to the Energy Board as detailed below; and,

WHEREAS, on May 2, 2023, the Municipal Council met to ascertain the facts regarding this matter, which facts are found in the public record of the Council's consideration; and

WHEREAS, after considering the Mayor's recommendation and facts presented to the Municipal Council, the Council (i) consents to the board appointment set forth below and (ii) finds such appointment will reasonably further the health, safety and general welfare of the citizens of Provo City.

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

PART I:

1. Pursuant to Provo City Code Section 12.01.030, the Municipal Council consents to the appointment of the individuals listed below to serve on the Energy Board for the prescribed term:

Appointee's Name	Board	Term Expiration Date
Gary Winterton	Energy Board	December 31, 2026
Julie Radle	Energy Board	December 31, 2026

2. Following said appointment, there are 7 members on the Energy Board, as shown on the attached Exhibit A.

PART II:

This resolution and the board and commission appointment indicated herein shall take effect immediately.

END OF RESOLUTION.

EXHIBIT A[1]
ENERGY BOARD APPOINTMENTS

Name	Seat	Term Expiration Date[2]	Appointing Resolution
Gary Winterton	1	12/31/2026	attached
Erin Hernandez	2	12/31/2025	2022-03
Cheryl Taylor	3	12/31/2023	2019-62
Ned Hill	4	12/31/2023	2019-62
Julie Rash	5	12/31/2025	2022-03
Carol-Lyn Jardine	6	12/31/2025	2022-03
Julie Radle	7	12/31/2026	attached

[1] This Exhibit includes the Energy Board appointees in the resolution to which it is attached. Anyone not so appointed should be removed from the Exhibit.
[2] Four-year staggered terms.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DOUGR
Department: Parks and Rec
Requested Meeting Date: 01-01-2018

SUBJECT: A resolution authorizing the Mayor to submit an application for a Utah County Municipal Recreation Grant to be used for restroom and playground improvements at Rock Canyon Park. (23-044)

RECOMMENDATION: Request advancement to 5/2/23 Council meeting for approval of 2023 Utah County Municipal Grant

BACKGROUND: Parks & Recreation requsts resolution authorizing use of 2023 Utah County Recreation Grant for improvement of restrooms and playgrounds at Rock Canyon Park. See attached project description.

FISCAL IMPACT:

PRESENTER'S NAME: Doug Robins, Asst. Parks and Recreation Director

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
The project will be completed in the summer of 2023. This project meets objectives of the following documents:
• Provo City General Plan
o WC1 - Strive for equitable distribution of local services that serve all residents and businesses.
o WC 4 - Maintain the current standard of facilities to the community.

• Provo Parks & Recreation Master Plan
• Parks & Recreation Capital Improvement Plan - 2023

CITYVIEW OR ISSUE FILE NUMBER: 23-044

RESOLUTION 2023-.

A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION FOR A UTAH COUNTY MUNICIPAL RECREATION GRANT TO BE USED FOR RESTROOM AND PLAYGROUND IMPROVEMENTS AT ROCK CANYON PARK. (23-044)

WHEREAS, it is proposed that the Mayor be authorized to submit an application for a Utah County Municipal Recreation Grant to be used for a new restroom and playground at Rock Canyon Park; and

WHEREAS, the Utah County Commission has determined that available funds will be divided among municipalities based on US Census population estimates; and

WHEREAS, the total funding available for the 2023 Utah County Municipal Recreation Grant for Provo City is $113,594; and

WHEREAS, the funds for this grant program come from the Tourism, Recreation, Culture and Convention Tax pursuant to Section 59-12-601 et seq., Utah Code Annotated, 1953 as amended, and Section 21.4.1 et seq., Utah County Code; and

WHEREAS, on May 2, 2023, the Municipal Council held a noticed public meeting to ascertain facts regarding this matter, which facts are found in the meeting records; and

WHEREAS, after considering the facts represented to the Municipal Council, the Council finds (i) the Mayor should be authorized to submit the proposed grant application, and (ii) such action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

The Mayor is hereby authorized to sign the Utah County Municipal Recreation Grant Application and submit it to the Utah County Commission for consideration to be used for a improved restrooms and playgrounds at Rock Canyon Park.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

provo PARKS & RECREATION	**Playground and Restroom Improvements Rock Canyon Park 2023**	
	Location:	Rock Canyon Park
	Recreation Grant Amount:	$113,594
	Project Construction Start/completion:	August 2022 – July 2023

Rock Canyon Park was constructed in 1994 and has become one of the most utilized and valued parks in Provo. Parks & Recreation is updating the 29-year-old playgrounds and enhancing restroom facilities on the east side of the park.

Public playgrounds have an expected service life of 15 years, and as playgrounds age, manufacturers discontinue components, making repair parts obsolete. Due to these unavailable parts, several climbers were missing, and platform openings were covered with plywood to prevent falls. The old equipment was removed and will be updated with contemporary equipment that will meet national safety standards and provide enhanced play value.

Parks & Recreation worked collaboratively with a resident design committee to select new play equipment. They chose new "adventure style" play structures, with a variety of new features including a zip-line, climbers, bridges, platforms, ladders, and multiple slides. New accessible surfacing will be installed to accommodate children of all abilities.

Restroom facilities have been relocated to a more central location near the playground. These new facilities will provide more capacity, improved accessibility, and water/energy saving fixtures.

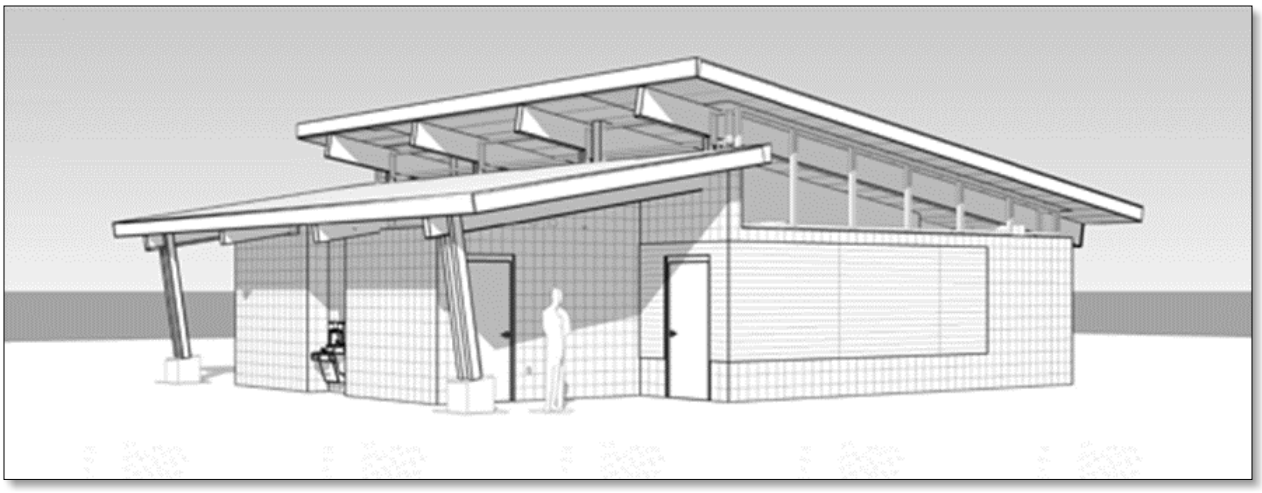


Professional architectural and equipment specialists designed with the latest efficiency, accessibility, and safety standards, and contractors are now on site constructing the improvements.

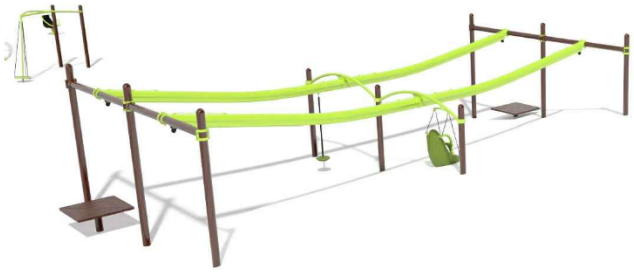
The project will be completed in the summer of 2023. This project meets objectives of the following documents:

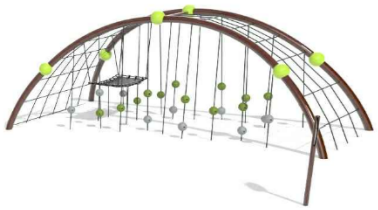
- *Provo City General Plan*
  - WC1 - *Strive for equitable distribution of local services that serve all residents and businesses.*
  - WC 4 - *Maintain the current standard of facilities to the community.*
- *Provo Parks & Recreation Master Plan*
- *Parks & Recreation Capital Improvement Plan - 2023*

Thank you for your consideration of this important project.















COMMUNITY SUPPORTED RAP FUNDED
PROVO PARKS AND RECREATION

PROVO PARKS AND RECREATION
BEST IN UNITED STATES
NATIONAL GOLD MEDAL
AWARD WINNER

COMMISSION FOR ACCREDITATION OF PARK AND RECREATION AGENCIES
CAPRA ACCREDITED

Utah County
HEART of UTAH

Amelia Powers Gardner
Brandon Gordon
Thomas V. Sakievich

Historic Courthouse
51 S University Ave
Provo, UT 84601

Phone: 801-851-8100
Fax: 801-851-8146
www. utahcounty.gov

2023 Municipal Recreation Grant Application

Application deadline is May 30, 2023 @ 5:00p.m.

Municipality: Provo City

Name of Preparer/Contact Person: John Bunderson

Mailing Address: 1417 S. 350 East, Provo, UT 84606

Phone: (801) 852-6643 **E-mail:** jbunderson@provo.org

Grant Amount Requested

(Please refer to this year's funding amount document for your entity's available funding)
Any unused funding will automatically be rolled forward into future years

TOTAL: $ $113,594

Project Name: Rock Canyon Park - Adventure Playground Replacement

Project Location: Rock Canyon Park, 2620 N 1200 EAST, PROVO, UT 84604

Project Type: (Please check all that apply.)

- ❒ Tourism Promotion
- ❒ Tourism Facility
- ❒ Cultural Facility
- ☒ Recreational Facility
- ❒ Convention Facility

*****Please submit a detailed project description with application*****

Date Approved by Municipal Council: _____

_____ _____
Mayor or Administrator Signature **Date**

FOR COMMISSION OFFICE USE ONLY

Application Received by Commission Office	County Attorney Review	Commission Approval/ Agreement #	Agreement Sent to Municipality	Signed Agreement Received by Commission Office	Receipts Received by Commission Office	PO Sent to County Auditor	Funds Paid

provo PARKS & RECREATION	**Playground and Restroom Improvements Rock Canyon Park 2023**	
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	Recreation Grant Amount:	$113,594
	Project Construction Start/completion:	August 2022 – July 2023

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Restroom facilities have been relocated to a more central location near the playground. These new facilities will provide more capacity, improved accessibility, and water/energy saving fixtures.



Professional architectural and equipment specialists designed with the latest efficiency, accessibility, and safety standards, and contractors are now on site constructing the improvements.

The project will be completed in the summer of 2023. This project meets objectives of the following documents:

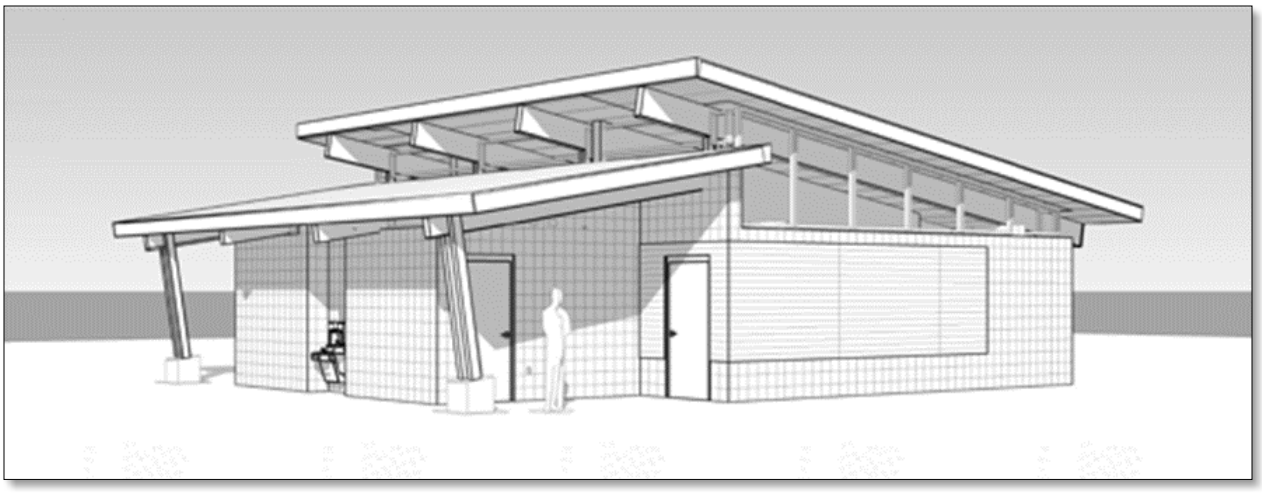
Provo City General Plan

- WC1 - *Strive for equitable distribution of local services that serve all residents and businesses.*
- WC 4 - *Maintain the current standard of facilities to the community.*

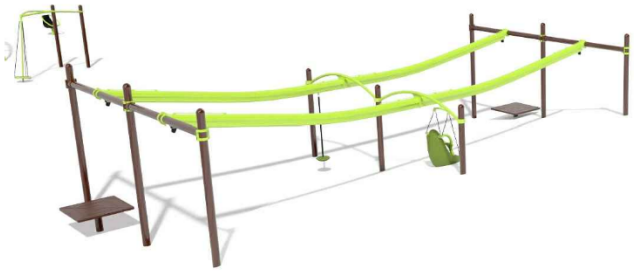
Provo Parks & Recreation Master Plan

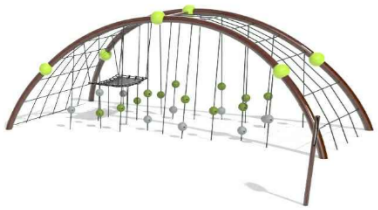
Parks & Recreation Capital Improvement Plan - 2023

Thank you for your consideration of this important project.















COMMUNITY SUPPORTED RAP FUNDED
PROVO PARKS AND RECREATION

PROVO PARKS AND RECREATION
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AWARD WINNER

COMMISSION FOR ACCREDITATION OF PARK AND RECREATION AGENCIES
CAPRA ACCREDITED

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: DIXONH
Department: Mayor Office
Requested Meeting Date: 05-02-2023

SUBJECT: A resolution appropriating $1,060,000 in the Mountain Vista Fund for completing the Mountain Vista Business Park Road construction project. (23-006)

RECOMMENDATION: Budget Appropriation approval of $1,060,000.00 from the Fund Balance of Fund 276 in the Economic Development Division of Development Services. This will be heard during the for a Work Meeting and go to this evening's Council Meeting for approval.

BACKGROUND: In 2018 the Economic Development Division applied for and was granted approval for a matching grant to build half a mile section of road at the Mountain Vista Business Center. This section of road extends south of the roundabout in Mountain Vista Parkway to SR 75, also known as 1400 North in Springville. The grant award was specifically approved for utilities and infrastructure – including road paving, curb and gutter, with sidewalk on one side. It also included extensive improvements on SR75 to provide for acceleration and deceleration lanes for entrance and exit in the business park of a fast moving State road.

The grant is funded from the Economic Development Administration, within the Department of Commerce at the federal level. At the time, the best engineering estimate for the road construction cost was approximately $3.6 Million dollars. At that time there was already funding sufficient to cover the majority of the matching grant, of which the City was obligated to cover the entire $3.6 Million dollars upfront and then reimbursed half that amount - $1.8 Million dollars. We have now arrived at that point in time to provide the additional funding to complete the project.

FISCAL IMPACT: $1,060,000

PRESENTER'S NAME: Dixon Holmes

REQUESTED DURATION OF PRESENTATION: 15 minutes or less

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: Infrastructure investment for economic development.

CITYVIEW OR ISSUE FILE NUMBER: 23-006

RESOLUTION 2023-.

A RESOLUTION APPROPRIATING $1,060,000 IN THE MOUNTAIN VISTA FUND FOR COMPLETING THE MOUNTAIN VISTA BUSINESS PARK ROAD CONSTRUCTION PROJECT. (23-006)

WHEREAS, the Municipal Council of Provo City Corporation has received a recommendation from Administration that $1,060,000 be appropriated in the Mountain Vista fund for completing the Mountain Vista Business Park road; and

WHEREAS, the funding source for the appropriation is 50% Mountain Vista fund balance and 50% EDA matching grant; and

WHEREAS, on May 2, 2023, 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, all persons for and against the proposed appropriation were given an opportunity to be heard; and

WHEREAS, after considering the Administration's recommendations, and facts and comments presented to the Municipal Council, the Municipal Council finds the proposed appropriation reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

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

PART I:

The Mayor is hereby authorized to appropriate $1,060,000 in the Mountain Vista fund, applying to the fiscal year ending June 30, 2023.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

Mountain Vista Road Project











ADMINISTRATIVE SERVICES
TEL 801 852 6504
351 W CENTER ST
PO BOX 1849
PROVO, UT 84603

NOTICE OF PUBLIC HEARING BEFORE THE PROVO MUNICIPAL COUNCIL

Notice is hereby given that the Municipal Council of Provo, Utah will hold a public hearing on the following item during the Council Meeting that will take place on Tuesday, May 2nd, 2023 at 5:30 p.m. in the Council Chambers located at the Provo City Center Building, 445 West Center Street, Provo, Utah (new city hall building). Anyone interested is invited to attend.

Provo City Council will consider an appropriation of $1,060,000 in the Mountain Vista Fund for the completion of the Mountain Vista Business Park road. The funding source of the appropriation is Mountain Vista fund balance and an EDA matching grant.

The meeting will also be available to the public for live broadcast and on-demand viewing at: youtube.com/provocitycouncil. Those who would like to participate in the meeting virtually may do so via Zoom. To join the Zoom meeting, visit zoom.us/join and enter Meeting ID **857 3661 8492** and Passcode **255675**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **857 3661 8492** and press **#**. Press **#** again for participant ID. Once connected, press ***9** to indicate that you would like to comment. For more information regarding how to comment in the electronic meeting, visit agendas.provo.org and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JBLARSEN
Department: Development Services
Requested Meeting Date: 05-02-2023

SUBJECT: A resolution accepting an annexation petition for further consideration for approximately 9.1 acres of property generally located at 5500 N Canyon Road. North Timpview Neighborhood. (PLANEX20230020)

RECOMMENDATION: Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood.

BACKGROUND: Annexation of multiple parcels owned by Scott and Ginny Smith, UDOT, Utah County, and Provo City. This proposal will help with security of the Smith property and City infrastructure. Utah County has prepared a deed to transfer a small road parcel to the City upon completion of the annexation process.

FISCAL IMPACT:

PRESENTER'S NAME: Brandon Larsen, Planning Supervisor

REQUESTED DURATION OF PRESENTATION: 10

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: Staff is not aware of plan, policy, or goal incompatiability.

CITYVIEW OR ISSUE FILE NUMBER: PLANEX20230020

RESOLUTION 2023-

A RESOLUTION ACCEPTING AN ANNEXATION PETITION FOR FURTHER CONSIDERATION FOR APPROXIMATELY 9.1 ACRES OF PROPERTY GENERALLY LOCATED AT 5500 N CANYON RD. NORTH TIMPVIEW NEIGHBORHOOD. (PLANEX20230020)

WHEREAS, the Municipal Council has received a petition to annex approximately 9.1 acres of property generally located at 5500 N Canyon Rd. into Provo City; and

WHEREAS, pursuant to Utah Code 10-2-405, the Municipal Council may accept or deny the petition for further consideration; and

WHEREAS, if within fourteen days of the receipt of the annexation petition by the City Recorder the Municipal Council fails to affirmatively accept or deny the petition, it is considered to have been accepted for further consideration pursuant to Utah Code; and

WHEREAS, per the Provo City General Plan, Appendix C: Annexation Map and Policies, the property is within Annexation Policy Area #5; and

WHEREAS, Provo City Code Section 15.03.300 requires that, concurrent with any request to rezone or annex property, a concept plan application shall be submitted to the City, however, no development is proposed in connection with this annexation; and

WHEREAS, Provo City Code Section 15.15.020 requires (a) an accurate survey plat of the property, (b) a statement as to the anticipated timetable for development of the property being annexed, and (c) a full disclosure of any and all waters owned or historically utilized on the property to be annexed and a statement from the water owner as to the water owner's estimate of value of the water or the price at which the owner is willing to sell the said water to the City. However, while an accurate plat has been submitted of the property, the applicant has no development plans for the property, and water usage is not expected to increase with this proposal; and

WHEREAS, the applicant has submitted a statement, dated March 11, 2023, in which they state: "We do not have any expectations that our annexation into Provo City will entitle us to any new or improved city utility services."; and

WHEREAS, after considering the facts and comments presented to the Municipal Council at a public meeting held on May 2, 2023, the Council finds that accepting this annexation petition for further consideration would reasonably further the health, safety and general welfare of the citizens of Provo City.

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

PART I:

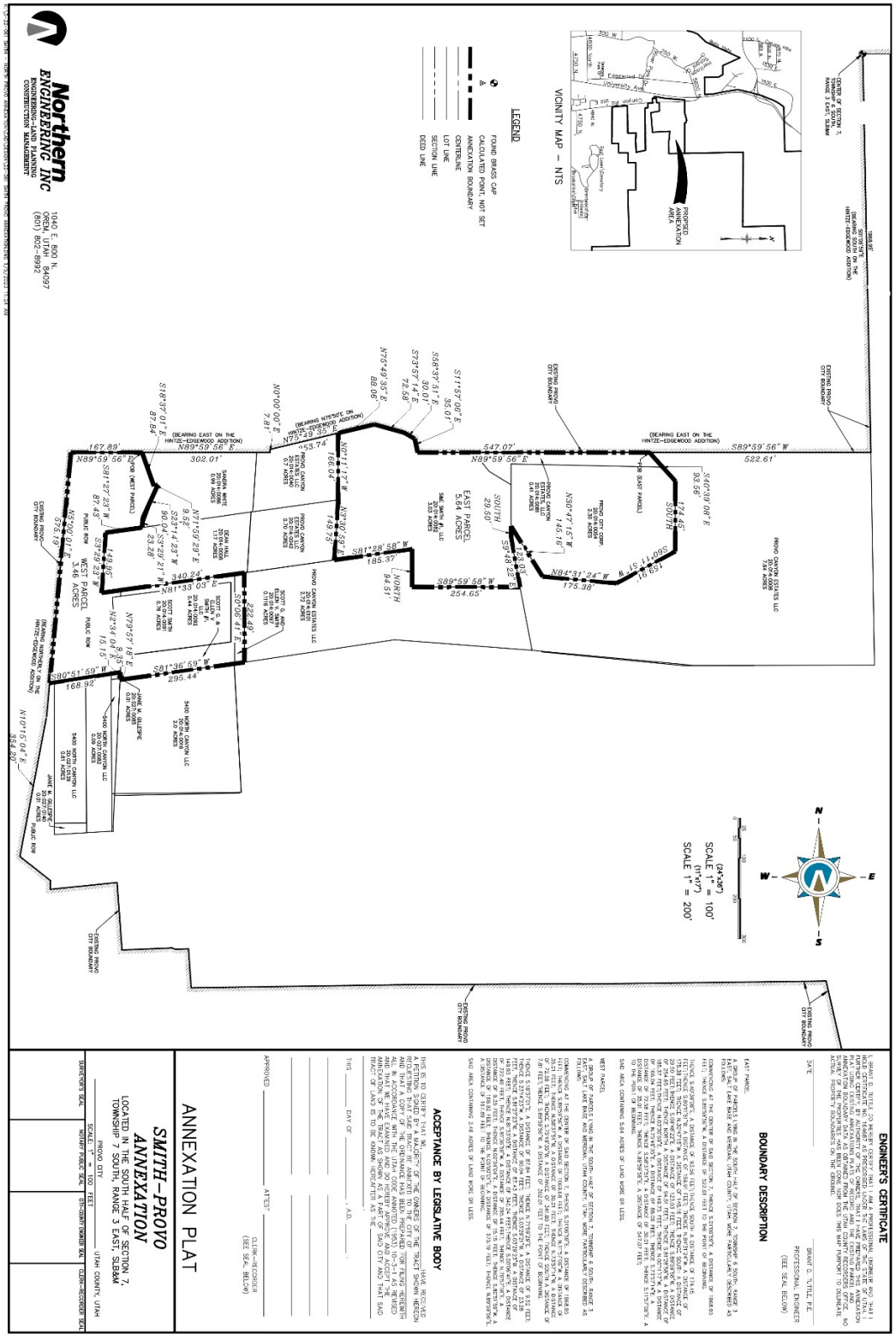
The Municipal Council hereby accepts for further consideration, in accordance with the process set forth in state law and local ordinance, the petition to annex approximately 9.1 acres of property generally located at 5500 N Canyon Rd., as shown in the attached Exhibit A.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

Exhibit "A"


ENGINEER'S CERTIFICATE
BOUNDARY DESCRIPTION
ACCEPTANCE BY LEGISLATIVE BODY
ANNEXATION PLAT
SMITH-PROVO
ANNEXATION
LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M
PROVO CITY
UTAH COUNTY, UTAH
SURVEYOR'S SEAL
NOTARY PUBLIC SEAL
CITY-COUNTY BOARD SEAL
CLERK-RECORDER SEAL
Northern ENGINEERING INC
1040 E. 800 N.
OREM, UTAH 84097
(801) 852-6892
VICINITY MAP – NTS
LEGEND
FOUND BRASS CAP
CALCULATED POINT, NOT SET
ANNEXATION BOUNDARY
CENTERLINE
LOT LINE
SECTION LINE
DEED LINE
PROPOSED ANNEXATION AREA
EXISTING PROVO CITY BOUNDARY
EAST PARCEL
5.84 ACRES
WEST PARCEL
5.46 ACRES
NORTH
84.51'
SOUTH
29.50'
(BEARING EAST ON THE HINTZE-EDGEWOOD ADDITION)
(BEARING NORTHERLY ON THE HINTZE-EDGEWOOD ADDITION)
PROVO CANYON ESTATES LLC
PROVO CITY CORP.
SCOTT & ANN SMITH
JANE A. GILLESPIE
5400 NORTH CANYON LLC
5400 NORTH CANYON LLC
SCALE 1" = 100'
(24"x36")
SCALE 1" = 200'
(11"x17")

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 8, 2023

***ITEM 1**	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Applicant: Ginny Smith

Staff Coordinator: Brandon Larsen

Property Owners: Ginny and Scott Smith, Provo City, Utah County, and Provo Canyon Estates LLC

Parcel ID#: 200140054, 200140081, 200140082, 200140083, 200140091, and 200140092

Acreage: 9.1 acres

Number of Properties: 6

General Plan Designation: Residential and Agricultural

Related Applications: 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 March 22, 2023, at 6:00 P.M.

2. Recommend *Denial* of the proposed annexation. This recommendation would be inconsistent with the staff report. The Planning Commission must make specific findings that the proposal does not meet City Code requirements.

Relevant History: None

Neighborhood Issues: None

Summary of Key Issues:

- A small portion of unincorporated land is proposed to be annexed into Provo City.
- All land proposed to be annexed appears to have an associated Residential land use designation, except for Parcel 200140054, which is home to a city utility facility, and a portion of Parcel 200140081, which is owned by Provo Canyon Estates LLC.

Recommended Action:
Recommend approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

OVERVIEW

This item is an annexation request for property located at 5500 N Canyon Road. The subject area is located just south of the Indian Road Trailhead and east of University Avenue. The total property proposed for annexation equals approximately 9.1 acres. There are two areas of this annexation, which are separated by approximately 200 feet. Canyon Road runs through the westerly portion of the annexation area. A portion of Canyon Road is owned by Utah County. They have prepared a deed to transfer this land to Provo City upon recordation of the proposed annexation plat. The applicant owns property in both of the small areas shown on the annexation plat. The westerly area includes the applicant's home, a portion of Canyon Road, and a city utility facility. The easterly area includes agricultural land owned by the applicant, a city utility facility, and a small parcel owned by Provo Canyon Estates LLC. A portion of an access road runs through the Provo Canyon Estates parcel.

The subject area is located within “Area Five” on the city’s Annexation Policy Map. A portion of Appendix C: Annexation Map and Policies sets forth the following regarding “Area Five”:

> *“Area Five is bounded on the west and south by existing Provo City limits, and on the east by the Uinta National Forest boundary. Existing water pressure zones can serve this area to an elevation of approximately 4,876 feet. Area Five can be served by gravity wastewater systems, but main lines would have to be extended into the area from existing lines several thousand feet away. Development in sizeable portions of this area would be subject to the city’s Hillside Development Standards, as well as the Critical Hillside Overlay (CH) Zone. The General Plan Map calls for residential development in a portion of this area; however, any property identified as Agriculture on the map should be included in the OSPR zone upon being annexed. Any future development project requiring a rezone from the OSPR Zone would be required to demonstrate a substantial benefit to the city and would be subject to the requirements of the Critical Hillside Overlay Zone.”*

§14.02.080 provides the following regarding the zoning of annexed property: *“any property in the process of annexation, or annexed to or consolidated to Provo City subsequent to the effective date of this Section, shall be deemed to be classified in accordance with the lowest density zone allowed by the land use designation set forth for the subject property in the Provo City General Plan.”*

The westerly area, as well as Parcel 200140082 and the western most portion of Parcel 200140081, has a Residential land use designation on the General Plan Map. Provo City Parcel 200140054, as well as the majority of Parcel 200140081, has an Agricultural land use designation.

The applicant desires to have agricultural zoning for her property. Staff recommends A1.1 (Agricultural, 1-ac) zoning for the land owned by Smith. Such zoning is less intense than the least intense residential zone (One-Family Residential – R1.2 Zone, 20,000 SF). Staff recommends A1.5 (Agricultural, 5-ac) zoning for the more easterly Parcels 200140054 and 200140081—to match the adjacent agricultural zoning. All agricultural zoning in the broader vicinity is A1.5.
There is no proposed development plan in connection with this annexation.

FINDINGS OF FACT

- The subject property is within “Area Five” of the Provo City Annexation Policy Map.
- The majority of the subject land is designated as “Residential” in the Provo City General Plan.
- The Provo City parcel, as well as a majority of the Provo Canyon Estates parcel, has an “Agricultural” land use designation.

CONCLUSIONS

In its review and evaluation of this request, Development Services Staff believes the proposed annexation is consistent with the adopted Annexation Plan and will be a benefit to the City.

RECOMMENDATION

Recommend Approval to the Municipal Council of the proposed Smith-Provo Annexation of approximately 9.1 acres, located at approximately 5500 N Canyon Rd.

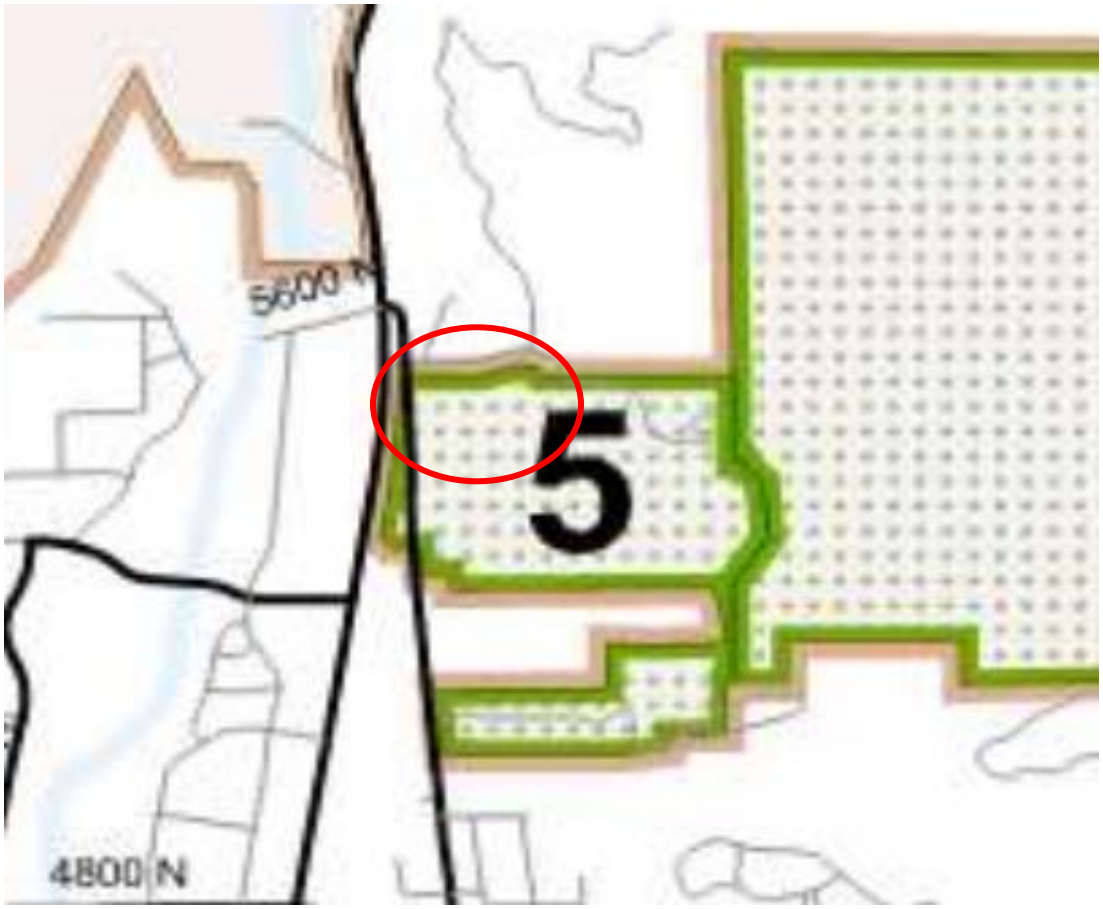
ATTACHMENTS

1. Location Map
2. Annexation Policy Map
3. Annexation Plat Map
4. General Plan Map
5. Public Works Staff Report

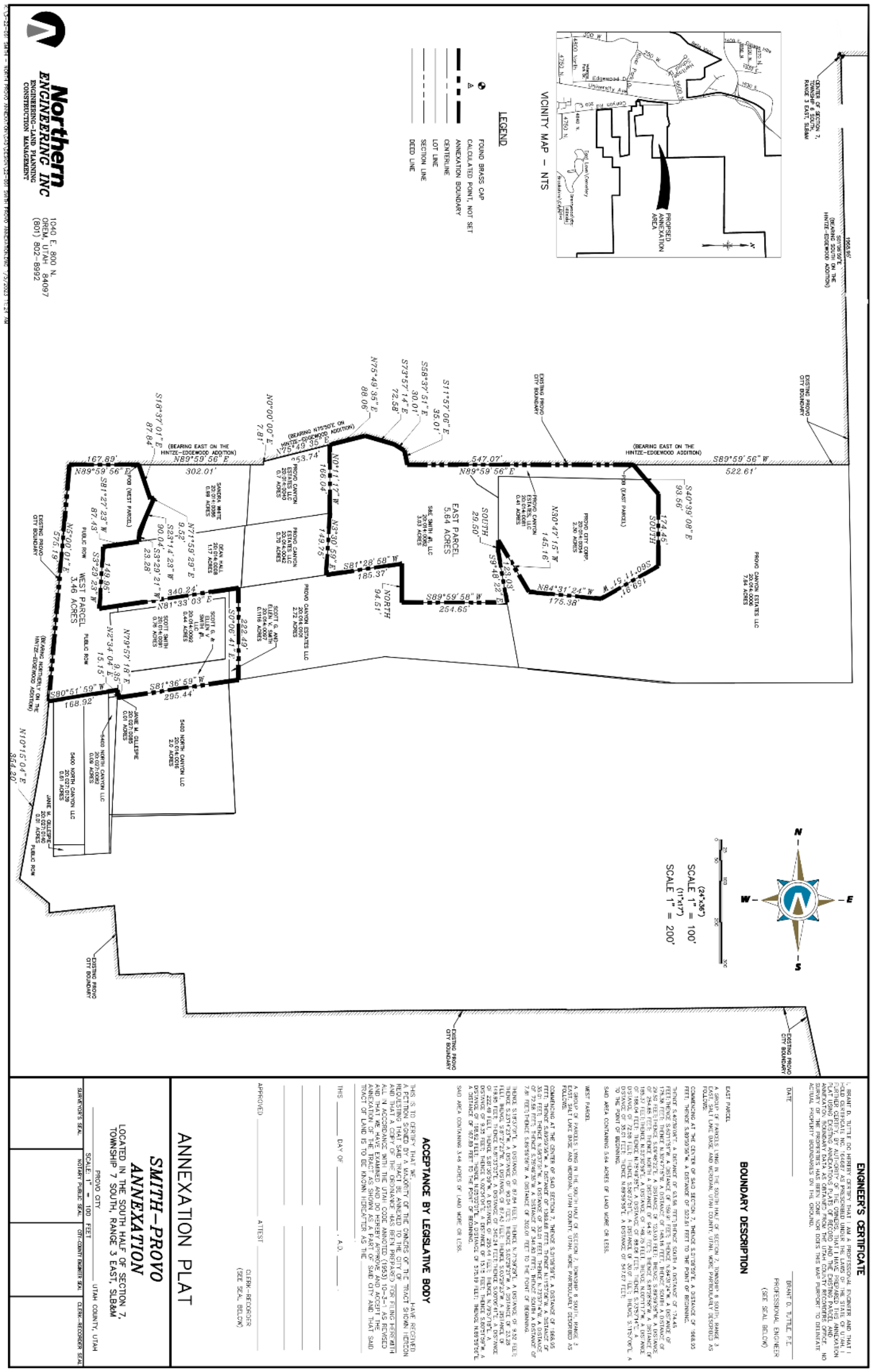
Attachment 1: Location Map



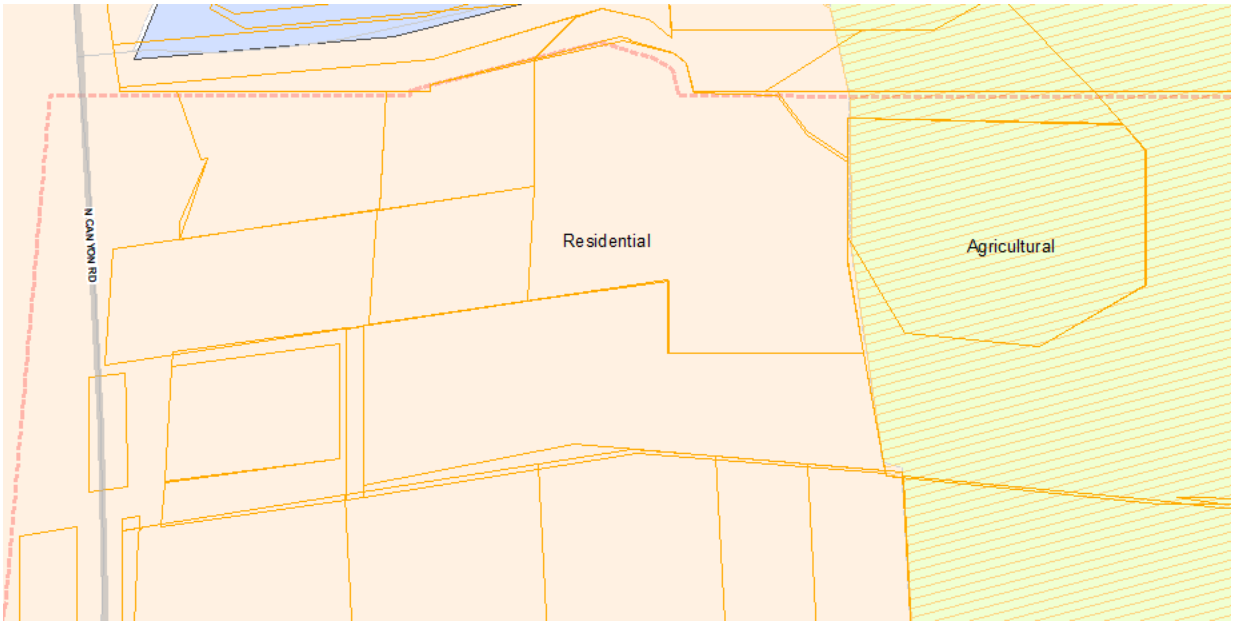
Attachment 2: Annexation Policy Map



Attachment 3: Annexation Plat Maps



Attachment 4: General Plan Map



Attachment 5: Public Works Staff Report

PUBLIC WORKS
TEL 801 852 6780
1377 S 350 E
PROVO, UT 84606

Public Works Staff Report
Hearing Date: 3/8/2023

Annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd.

Item #1 Summary:
Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

Staff Recommendation:
Public Works staff has major concerns with the requested action. Sewer, water and storm drain service systems are not available throughout this annexation area.

Dave Decker, Public Works Director
David Day, Development Engineering Coordinator

Provo City Planning Commission

Report of Action

March 08, 2023

*ITEM 1	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20230020

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 8, 2023:

RECOMMENDED APPROVAL

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Melissa Kendall
Second By: Jeff Whitlock
Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Robert Knudsen, Jeff Whitlock, Daniel Gonzales, Raleen Wahlin, and Andrew South

Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE ANNEXED

The property to be annexed is described in the attached Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Public Works Department wants an acknowledgement from, or agreement with, the Smiths essentially acknowledging they will not receive additional utility services from the city upon annexation. The Power Department wants powerline easements on future plats involving the subject property.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.
- Steve Turley expressed a desire for the city to not bring in the proposed annexation without requiring utilities. He also said there is a recorded restrictive covenant against all or some of the subject property that could be impacted through the annexation. The restrictive covenant is referred to as a Declaration of Zoning Lot, which was signed in 2004.

CONCERNS RAISED BY PUBLIC

The only comments staff received from the public are related to the comment above from Steve Turley.

APPLICANT RESPONSE

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

- Ginny Smith said this annexation will help them to maintain their agricultural pursuits on their property, as well as help keep their property safer with better police protection through the city.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen suggested zoning, the issue with the restrictive covenant referenced by Mr. Turley, and development issues are interesting, but not relevant to their decision tonight because there is no development being proposed.
- The restrictive covenant issue can be addressed at the Council level.
- Commissioner Jensen suggested we typically do not like patch work annexations, but it is adjacent to land within the city. We are not dealing with a county island.
- Commissioner Gonzales requested the following finding be included in their motion: The property is mainly used for agricultural purposes, namely fruit growing, and the applicant intends to continue to use the property for agricultural operations.
- Commissioner Kendell recommended the Commission recommend approval of the annexation with Commissioner Gonzales's finding. The motion was seconded by Commissioner Whitlock. The motion was approved 7-0.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

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

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, 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

EXHIBIT A

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 522.61 FEET TO THE POINT OF BEGINNING.

THENCE S.40°39'08"E. A DISTANCE OF 93.56 FEET; THENCE SOUTH A DISTANCE OF 174.45 FEET; THENCE S.60°11'51"W. A DISTANCE OF 159.91 FEET; THENCE N.84°31'24"W. A DISTANCE OF 175.38 FEET; THENCE N.30°47'15"W. A DISTANCE OF 145.16 FEET, THENCE SOUTH A DISTANCE OF 29.50 FEET; THENCE S.09°48'22"E. A DISTANCE OF 123.03 FEET; THENCE S.89°59'58"W. A DISTANCE OF 254.65 FEET; THENCE NORTH A DISTANCE OF 94.51 FEET; THENCE S.81°28'58"W. A DISTANCE OF 185.37 FEET; THENCE N.03°30'59"E. A DISTANCE OF 149.75 FEET, THENCE N.00°11'17"W. A DISTANCE OF 166.04 FEET; THENCE N.75°49'35"E. A DISTANCE OF 88.06 FEET; THENCE S.73°57'14"E. A DISTANCE OF 72.58 FEET; THENCE S.58°37'51"E. A DISTANCE OF 30.01 FEET; THENCE S.11°57'06"E. A DISTANCE OF 35.01 FEET; THENCE N.89°59'56"E. A DISTANCE OF 547.07 FEET;
TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

WEST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE S.18°37'01"E. A DISTANCE OF 87.84 FEET; THENCE N.71°59'29"E. A DISTANCE OF 9.52 FEET; THENCE S.23°14'23"W. A DISTANCE OF 90.04 FEET; THENCE S.03°29'21"W. A DISTANCE OF 23.28 FEET, THENCE S.81°27'23"W. A DISTANCE OF 87.43 FEET; THENCE S.03°29'23"W. A DISTANCE OF 149.95 FEET; THENCE N.81°33'03"E. A DISTANCE OF 340.24 FEET; THENCE S.00°06'41"E. A DISTANCE OF 222.49 FEET, THENCE S.81°36'59"W. A DISTANCE OF 295.44 FEET; THENCE N.79°57'18"E. A DISTANCE OF 9.35 FEET; THENCE N.02°34'04"E. A DISTANCE OF 15.15 FEET; THENCE S.80°51'59"W. A DISTANCE OF 168.92 FEET; THENCE N.05°00'01"E. A DISTANCE OF 575.19 FEET; THENCE N.89°59'56"E. A DISTANCE OF 167.89 FEET TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

Provo City Annexation Petition

The undersigned, being a majority of the owners of real property and the owners of at least 1/3 of the value of all private real property within the area proposed for annexation, as shown by the last assessment rolls, situated in the territory lying contiguous to the present corporate limits of Provo City, Utah, as described on the plat attached hereto and made part thereof as exhibit 'A', are desirous of having said property annexed to Provo City, Utah, and hereby petition the Municipal Council of Provo City, Utah, to annex the said territory to Provo City, Utah, in accordance with Chapter 10-2, Utah Code, as amended.

Signature	Printed Name	Property Address
Ellen Smith	S & E Smith # (Ellen Smith	5440 N. Canyon Rd Provo
Scott G. Smith	Scott G. Smith	5440 N. Canyon Rd "
Ellen V. Smith	Ellen V. Smith	5440 N. Canyon Rd "

This petition form may be duplicated as necessary to accommodate additional signatures.

Return petition forms to the Provo City Recorder and provide copies to the Provo City Development Services Department at the time an annexation application is made, along with:

a. An accurate and recordable map (plat), prepared by a licensed surveyor in accordance with Section 17-23-20, Utah Code, of the area proposed for annexation; and
b. A copy of the notice sent to affected entities as required under Subsection 10-2-403(2)(a)(i)(B), Utah Code, and a list of the affected entities to which notice was sent.

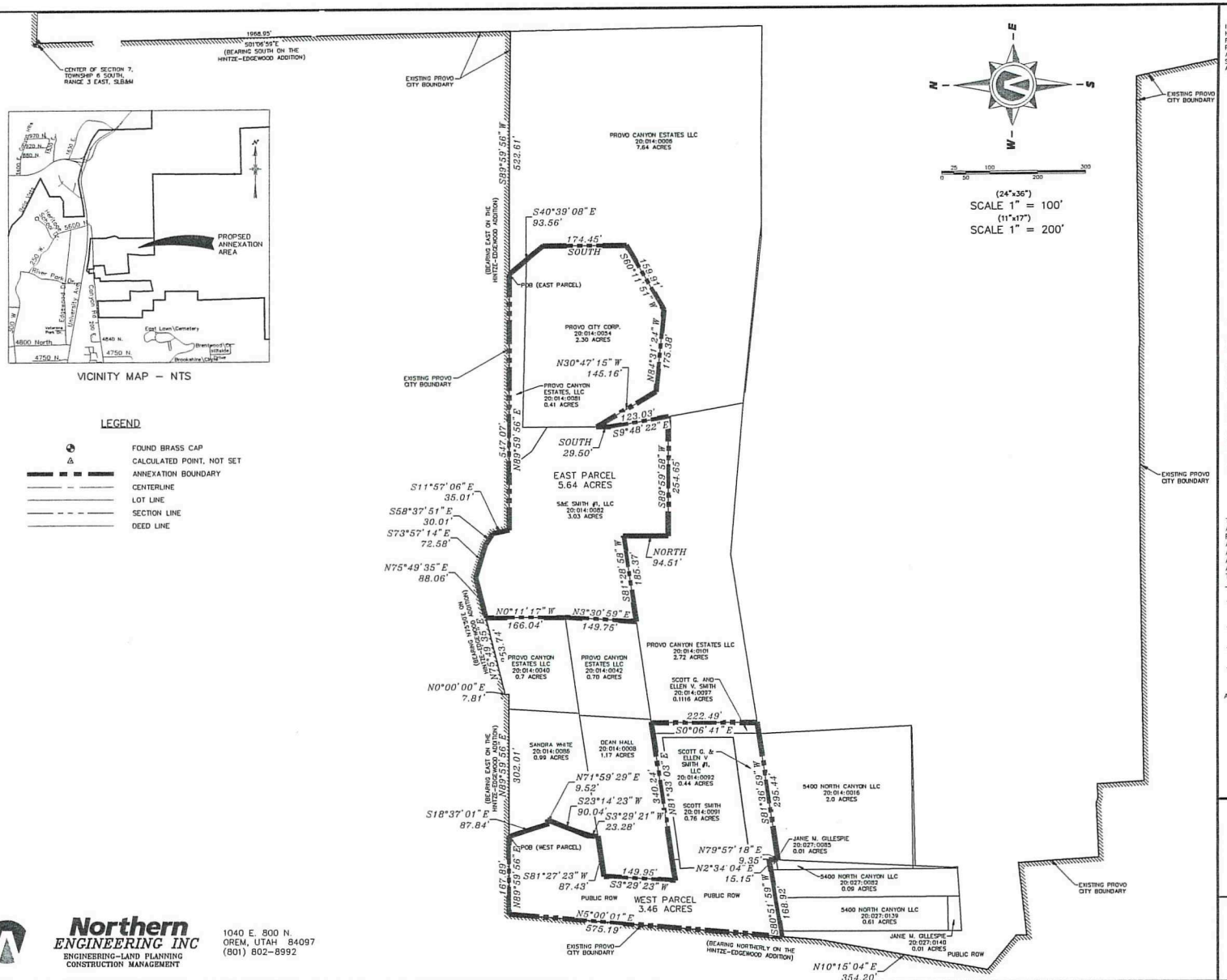
Notice:

- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.
- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

Annexation Petition Sponsors

Utah Code requires that up to five of the signers of the petition are designated as sponsors, one of whom shall be designated as the contact sponsor. Please indicate the mailing address of each sponsor.

	Name	Mailing Address
Contact Sponsor	Ginny Smith	5440 N. Canyon Rd Provo 84604
Sponsor	Scott G. Smith	5440 N. Canyon Rd Provo 84604
Sponsor		
Sponsor		
Sponsor		



ENGINEER'S CERTIFICATE

I, BRANT D. TUTTLE DO HEREBY CERTIFY THAT I AM A PROFESSIONAL ENGINEER AND THAT I HOLD CERTIFICATE NO. 164687 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY, BY AUTHORITY OF THE OWNERS, THAT I HAVE PREPARED THIS ANNEXATION PLAT USING EXISTING ANNEXATIONS PLATS OF RECORD AND THE EXISTING PARCEL AND ANNEXATION BOUNDARY DATA AS OBTAINED FROM THE UTAH COUNTY RECORDERS OFFICE. NO SURVEY OF THE PROPERTIES HAS BEEN DONE NOR DOES THIS MAP PURPORT TO DELINEATE ACTUAL PROPERTY BOUNDARIES ON THE GROUND.

DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, _____ HAVE RECEIVED A PETITION SIGNED BY A MAJORITY OF THE OWNERS OF THE TRACT SHOWN HEREON REQUESTING THAT SAID TRACT BE ANNEXED TO THE CITY OF _____ AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTED (1953) 10-3-1 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREAFTER AS THE _____.

THIS _____ DAY OF _____, A.D. _____.

APPROVED _____ ATTEST _____

CLERK-RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH-PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	CLERK-RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING-LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802-8992

N:\3-22-061 SMITH - NORTH PROVO ANNEXATION\CAD\DESIGN\22-061 SMITH PROVO ANNEXATION.DWG 1/5/2023 11:24 AM

NOTICE OF INTENT TO FILE ANNEXATION PETITION

Date of Notice: 4/17/23

Date of Intended Petition: 4/17/23

Petition Sponsor: Ginny Smith

Please be advised that as per Utah State Code Annotated §10-2- 403(2)(a) this serves as a notice of intent to file an annexation petition with the Provo City for property described as follows:

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

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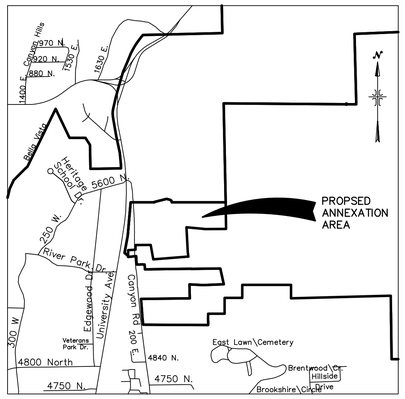
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SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.

Smith-Provo Annexation -- Affected Entity, Noticing for Notice of Certification of Annexation Petition:

- Utah County – 100 E Center St, #3100, Provo, Ut 84606
- Provo School District - 280 West 940 North, Provo, Utah 84604
- Alpine School District - 575 N 100 E, American Fork, Utah 84003
- Orem City -- 56 N State St, Orem, UT 84057
- Smith Ditch -- 5082 North Canyon Road, Provo UT 84604
- Central Utah Water Conservancy District, 1426 E. 750 N. Suite 400, Orem, UT 84097
- Utah Valley Dispatch Special Service District, 3047 W 3200 N, Spanish Fork, UT 84660
- Utah Valley Road Special Service District, 100 E Center St, #3100, Provo, Ut 84606

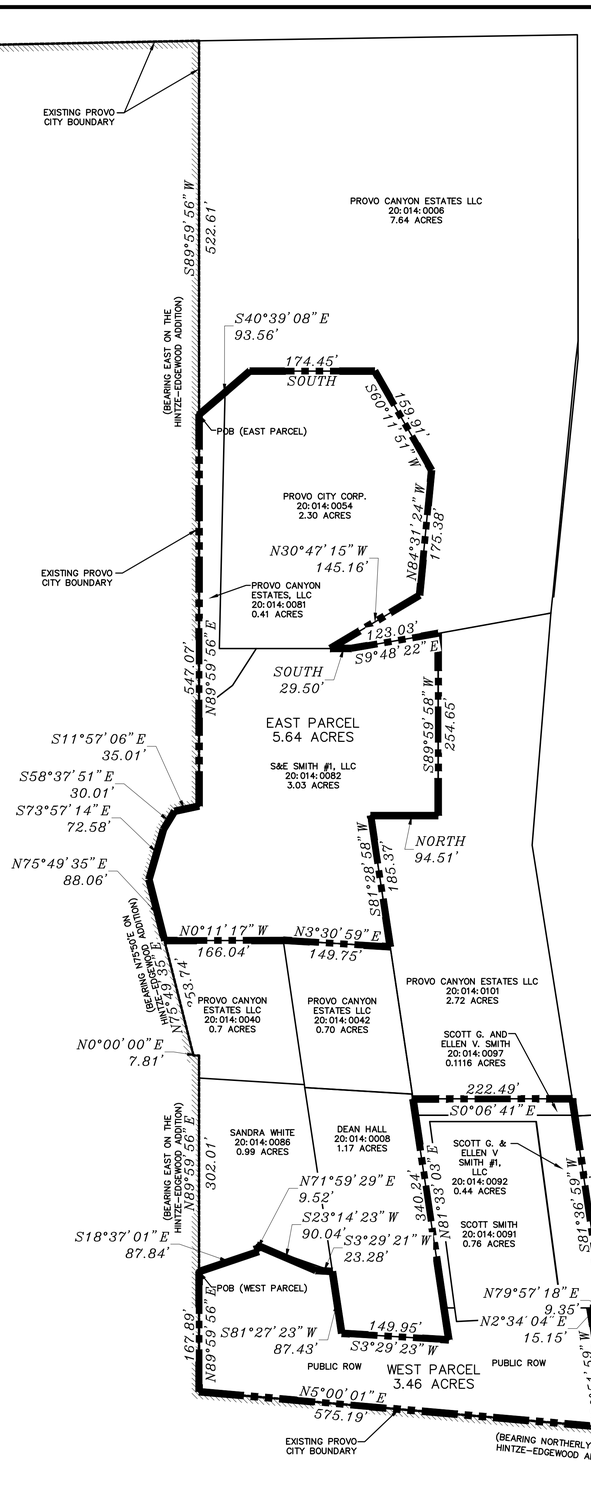
*Noticing sent on April 17, 2023

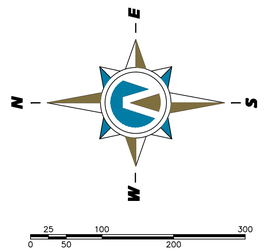


VICINITY MAP – NTS

LEGEND

- FOUND BRASS CAP
- CALCULATED POINT, NOT SET
- ANNEXATION BOUNDARY
- CENTERLINE
- LOT LINE
- SECTION LINE
- DEED LINE





(24"x36")
SCALE 1" = 100'
(11"x17")
SCALE 1" = 200'

ENGINEER'S CERTIFICATE

I, BRANT D. TUTTLE DO HEREBY CERTIFY THAT I AM A PROFESSIONAL ENGINEER AND THAT I HOLD CERTIFICATE NO. 164687 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY, BY AUTHORITY OF THE OWNERS, THAT I HAVE PREPARED THIS ANNEXATION PLAT USING EXISTING ANNEXATIONS PLATS OF RECORD AND THE EXISTING PARCEL AND ANNEXATION BOUNDARY DATA AS OBTAINED FROM THE UTAH COUNTY RECORDERS OFFICE. NO SURVEY OF THE PROPERTIES HAS BEEN DONE NOR DOES THIS MAP PURPORT TO DELINEATE ACTUAL PROPERTY BOUNDARIES ON THE GROUND.

DATE

BRANT D. TUTTLE, P.E.
PROFESSIONAL ENGINEER
(SEE SEAL BELOW)

BOUNDARY DESCRIPTION

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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ACCEPTANCE BY LEGISLATIVE BODY

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THIS _____ DAY OF _____ , A.D. _____ .

APPROVED _____ ATTEST _____

CLERK-RECORDER
(SEE SEAL BELOW)

ANNEXATION PLAT

SMITH-PROVO ANNEXATION

LOCATED IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SLB&M

PROVO CITY _____ UTAH COUNTY, UTAH

SCALE: 1" = 100 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY-COUNTY ENGINEER SEAL	CLERK-RECORDER SEAL

Northern ENGINEERING INC
ENGINEERING-LAND PLANNING
CONSTRUCTION MANAGEMENT

1040 E. 800 N.
OREM, UTAH 84097
(801) 802-8992

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 05-02-2023

SUBJECT: An ordinance amending the General Plan Map classification of approx. 0.23 acres of real property, generally located at 2050 North Canyon Road, from Commercial (C) to Residential (R). Pleasant View Neighborhood. (PLRZ20220301)

RECOMMENDATION: To be heard at the May 2, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: Ryan Salmon is requesting approval of a General Plan Map Amendment from Commercial to Residential in order to build a twelve-unit apartment building over two properties on North Canyon Road. This request is associated with a rezone request to HDR, and a concept plan that would be tied to the rezone request through a Development Agreement. The reason the HDR zone is being requested for a MDR (Medium Density Residential) zone density project is for the reduced yard requirements in the HDR zone.
The related concept plan proposes an "L-shaped" apartment building fronting Canyon Road, with a surface parking lot hidden behind and accessed off of 2100 North. The building has six, one-bedroom units on each of the two levels, each around eight-hundred (800) square feet. The building elevations show a height of twenty-four feet (24') to the parapet, and just under thirty-feet (30') to the midpoint of the sloped roof features. For context, single-family homes have a permitted height of 35'.
The site includes twenty-one off-street parking spaces and approximately 8,600 square feet of landscape/open space. There is no requirement for amenities for projects under twenty units in the HDR zone, but the applicant has provided landscaped space for around forty-one percent (41%) of the project area.

FISCAL IMPACT:

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

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLGPA20220301

ORDINANCE 2023-.

AN ORDINANCE AMENDING THE GENERAL PLAN MAP CLASSIFICATION OF APPROXIMATELY 0.23 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 2050 NORTH CANYON ROAD, FROM COMMERCIAL (C) TO RESIDENTIAL (R). PLEASANT VIEW NEIGHBORHOOD. (PLRZ20220301)

WHEREAS, it is proposed that the classification on the General Plan Map of Provo for approximately 0.23 acres of real property, generally located 2050 North Canyon Road (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 General Plan Map has been updated), be amended from Commercial (C) to Residential (R); and

WHEREAS, on April 12, 2023, 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 May 2, 2023, 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 General Plan Map of Provo, Utah should be amended as described herein; and (ii) the proposed general plan 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 General Plan Map of Provo, Utah is hereby amended from the Commercial (C) designation to the Residential (R) designation for approximately 0.23 acres of real property generally located at 2050 North Canyon Road, as described herein.

PART II:

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

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

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

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

END OF ORDINANCE

EXHIBIT A – GENERAL PLAN MAP


2120 N
2100 N
2090 N
2050 N
1990 N
1980 N
CANYON RD
80 E
180 E
220 E
2050
2102
2105
2109
2048
2085
2038
2075
2020
2065
1998
2055
1991
1981
1937
2122
2114
2112
2110
2115
200
206
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196
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210
2089
2087
178
182
184
188
192
198
2000
1960
244
74
88
2039
2019

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: April 12, 2023

***ITEM #9** Ryan Salmon is requesting a General Plan Map Amendment from a Commercial designation to Residential designation in association with a zone change request and concept plan for a twelve-unit apartment building in a proposed HDR (High Density Residential) zone, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLGPA20220301

Applicant: Ryan Salmon

Staff Coordinator: Aaron Ardmore

Property Owner: Canyon FG LLC

Parcel ID#: 20:050:0029

Acreage: 0.23

Number of Properties: 1

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested General Plan Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The property at 2050 N Canyon Road is currently a real estate office in the CG (General Commercial) zone.

Relevant History: This property has been zoned CG and 1993, and the commercial property has had a variety of uses over the last thirty years. The applicant has a related zone map amendment request and concept plan with this property for a twelve-unit residential building.

Neighborhood Issues: Initial concerns from an October 2022 neighborhood meeting were related to the height, density, and parking for the original concept. There have not been any comments on Open City Hall on the revised concept at the time of this report.

Summary of Key Issues:

- The plan brings an additional twelve residential units that fit in to the surrounding area.
- The Commercial designation has not provided for a strong commercial value at this property.
- The change to residential will help fulfill the goals of the General Plan Land Use and Housing chapters.

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the General Plan Amendment from Commercial to Residential to the City Council.

OVERVIEW

Ryan Salmon is requesting approval of a General Plan Map Amendment from Commercial to Residential in order to build a twelve-unit apartment building over two properties on North Canyon Road. This request is associated with a rezone request to HDR, and a concept plan that would be tied to the rezone request through a Development Agreement. The reason the HDR zone is being requested for a MDR (Medium Density Residential) zone density project is for the reduced yard requirements in the HDR zone.

The related concept plan proposes an “L-shaped” apartment building fronting Canyon Road, with a surface parking lot hidden behind and accessed off of 2100 North. The building has six, one-bedroom units on each of the two levels, each around eight-hundred (800) square feet. The building elevations show a height of twenty-four feet (24’) to the parapet, and just under thirty-feet (30’) to the midpoint of the sloped roof features. For context, single-family homes have a permitted height of 35’.

The site includes twenty-one off-street parking spaces and approximately 8,600 square feet of landscape/open space. There is no requirement for amenities for projects under twenty units in the HDR zone, but the applicant has provided landscaped space for around forty-one percent (41%) of the project area.

RELEVANT HISTORY

As stated earlier, the applicant has adjusted his proposed project over the previous six months. The initial concept for three levels, fifteen units, and a reduced parking request raised concerns from the neighborhood and from Provo City Staff. Through discussions with the applicant and three rounds of revised plans with the CRC (Coordinator Review Committee) the project has been able to address concerns with building height, setback, and parking. The applicant has been responsive to staff comments and acknowledges future design details that will need to be addressed in the future Project Plan application if the zone change and General Plan amendment are granted by the City Council.

STAFF ANALYSIS

In order to analyze the proposed General Plan Map change, staff uses the criteria in Section 14.02.020, as follows: **(Staff response in bold type)**

> 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:

(a) Public purpose for the amendment in question.

Staff response: The applicant has noted that the purpose is "to engage in a redevelopment that significantly improves the aesthetic and use of these otherwise under-utilized properties" and to provide additional housing in the area.

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

Staff response: Staff feels that the applicant has worked to provide a project that would help meet the above goals and that this General Plan Map Amendment, along with the zone map amendment and proposed development agreement, would best meet those goals.

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

Staff response: One of the top three land use strategies listed in Chapter Three of the General Plan text is to "promote small scale, infill development across the city". Staff feel this plan is consistent with that strategy, but also is consistent with the goals later on in that chapter to "promote neighborhood scale development in residential areas, including a mix of density" (goal 1c).

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

Staff response: This proposal is consistent with the relevant implementation matrix on page 92 of the General Plan.

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

Staff response: The proposed amendment should not hinder or obstruct attainment of the General Plan policies. The designation change from Commercial to Residential doesn't have much impact on the economic development goals for the City in this circumstance, as this commercial property has been struggling over the past decade.

(f) Adverse impacts on adjacent land owners.

Staff response: Staff feel that the loss of the commercial designation and what it would be replaced with would not bring in any adverse impacts, but provide for a more attractive and useful property.

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

Staff response: Staff has verified the zoning and General Plan for the area in question.

(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 response: Staff has shown that this amendment will be consistent with the policies of the General Plan.

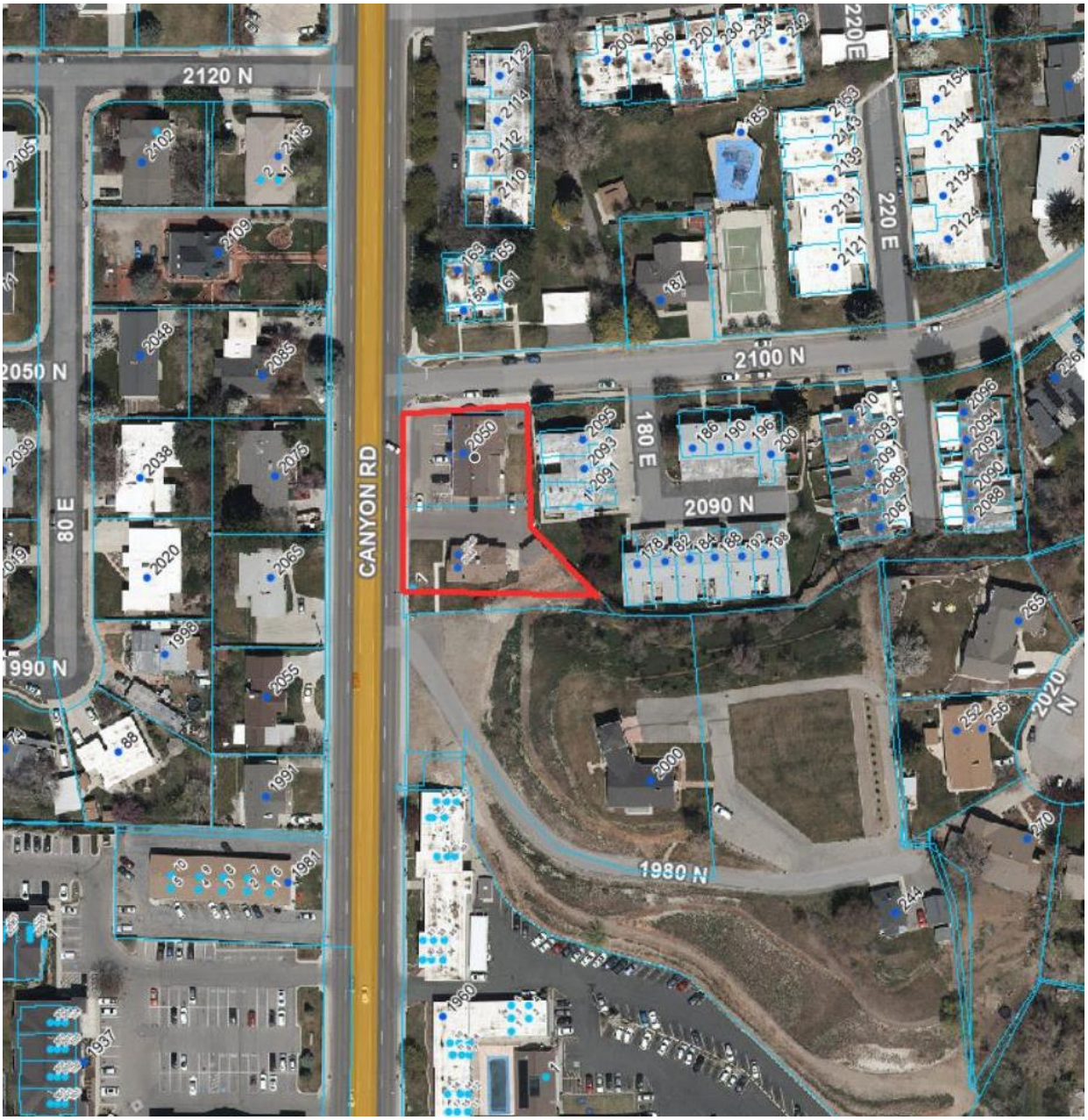
CONCLUSIONS

The related rezone and concept plan give staff the confidence to support this General Plan map amendment. The scale and design of the concept plan blend with the residential character of the neighborhood more appropriately than the existing commercial building and should provide more value as various uses have been tried in the commercial building and all have struggled to stay in business.

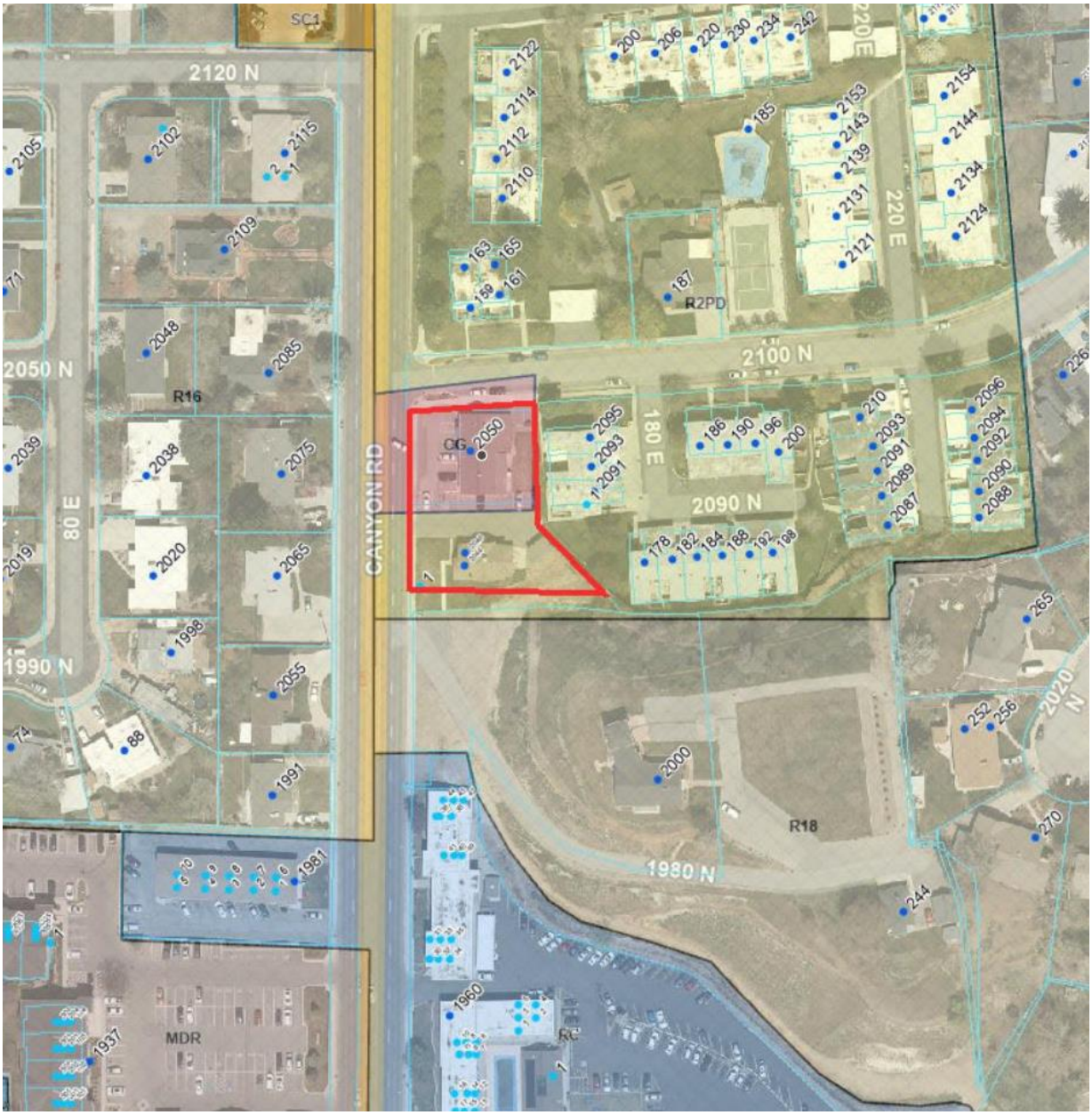
ATTACHMENTS

1. Area Map
2. Zone Map
3. General Plan Map
4. Concept Site Plan

ATTACHMENT 1 – AREA MAP



ATTACHMENT 2 – ZONE MAP



ATTACHMENT 3 – GENERAL PLAN MAP



ATTACHMENT 4 – SITE PLAN



R Paul Evans | April 12, 2023
Planning Commission - 12 April 2023 - Salmon Apartments and Rezoning

Ryan Salmon carefully listened to the concerns voiced by the Provo City Pleasant View Neighborhood and has modified the proposed apartment complex at the corner of 2100 North and Canyon Road presented to the neighborhood in November 2022. The 12 apartment complex height is reduced to 30 feet (two stories) complementing and seamlessly integrating with the neighboring two story Garden Villa condos and apartments. The reduction in density (from 15 to 12 one-bedroom units) allows for the parking ratio to include guest parking stalls. Some windows have been added to the east side of the proposed apartment building to break up the previous monotonous building image facing existing residences. Thank you Ryan Salmon and Provo City Development Services staff for listening.

The use of 2100 North as a parking lot by the neighboring Stadium 150 Apartments continues unabated. In violation of Provo City Code, the residents of Stadium 150 Apartments are operating more vehicles from their location than the number of off street parking stalls. Though reported repeatedly for the past three years, enforcement of parking by Provo City has not yet curbed the problem. Stadium 150 Apartments is closer to mass transit than the proposed Salmon Apartments. Though every hope is that the Salmon Apartments will not also use 2100 North as a parking lot, the ability of Provo City to regulate and control spill over parking from high density and medium density developments onto nearby neighborhood streets is an important yet lacking assurance as high density housing continues to integrate with residential neighborhoods. Proof of the concept that Provo City can integrate high density housing into existing neighborhoods without parking impact could be demonstrated by Provo City controlling the Stadium 150 parking issue, now, before the Salmon Apartments are occupied. If the parking issue is not controlled now when the numbers are in the 10's, Provo City and neighbors will be unable to control the parking problem when the numbers are in the 20's and 100's. A good example of unregulated parking is south of the BYU campus and in areas of southeast Provo.

In the presentation to the Provo City Planning Commission and the Provo City Municipal Council neighbors would appreciate some response to the following questions/comments collected over the past week.

1. Will the existing power lines remain or be buried?
2. I would like to know what is in store for the property line that runs north to south on the east property line. Will the current fence remain? And if so, we would really (really!) love to see trees along Salmon's property line so Garden Villa doesn't have a view inside neighbors' apartments.
3. What will the light situation be in the parking lot on the east side and the west side facing Canyon Road? We don't want lights shining in our windows.
4. I'm not a fan of the color scheme, but I understand it's (somewhat) their prerogative. My suggestion would be neither the dark gray/bright blue, nor earth tones, but light, neutral colors.
5. Will these units be for lease or for sale? What is the projected price point whether for lease or sale?
6. When will a draft of the proffered Development Agreement be available for review?
7. What signage (location, size, lighting) is proposed for the apartments?
8. The homes on the west side of Canyon Road are being restored and refurbished strengthening the single family home nature of the northwest corner of the Pleasant View neighborhood.

Cheers,
R. Paul Evans

Provo City Planning Commission

Report of Action

April 12, 2023

*ITEM #9	Ryan Salmon is requesting a General Plan Map Amendment from a Commercial designation to Residential designation in association with a zone change request and concept plan for a twelve-unit apartment building in a proposed **MDR** (**Medium** Density Residential) zone, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 PLGPA20220301

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2023:

RECOMMENDED APPROVAL

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

Motion By: Daniel Gonzales
Second By: Andrew South
Votes in Favor of Motion: Daniel Gonzales, Andrew South, Lisa Jensen, Jeff Whitlock, Melissa Kendall, Robert Knudsen
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE AMENDED

The property to be amended to the Residential designation is described in the attached Exhibit A.

RELATED ACTIONS

The related rezone (PLRZ20220302) and concept plan (PLCP20220303) were also heard at the April 12th Planning Commission hearing, with the rezone recommended for approval with a Development Agreement and the concept plan being approved.

DEVELOPMENT AGREEMENT

- Applies - referred applicant to Council Attorney.

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. Staff gave an overview of the staff report and indicated that a MDR zone would be supported, and the Director of Development Services will adjust the setbacks with the MDR zone to make the concept work.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held in October 2022.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was present /addressed the Planning Commission during the public hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Paul Evans expressed his appreciation and support for a project that works in the neighborhood and that development agreements provide security for the community.
- Lilly Mott expressed some concern regarding the view from her windows into the project but hopes the development agreement will take care of the major concerns.

APPLICANT RESPONSE

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

- Ryan Salmon stated his reasoning for proposing the project. He also related correspondence from the former neighborhood chair and answered the questions sent with that email.
- Mr. Salmon also discussed his hope to have owner-occupied units and enhance the design as it moves forward.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen confirmed that the proposed development agreement would hold the development to twelve units, two stories, and site layout. She also noted that a MDR zone could be an option, with the same development agreement.
- Commissioner Kendall and Gonzales confirmed with staff that the development agreement would run with the land.
- Commissioner Jensen appreciated the site plan, façade, and intention to provide owner-occupancy. However, she did have a concern that the garbage truck would have difficulty in the site but noted that can be adjusted in the project plan application.
- Commissioners liked the project and hoped for owner-occupancy in the units as much as possible.
- The commission discussed the characteristics that allow for a small neighborhood commercial property to thrive.

Lisa Jensen

Planning Commission Chair

Bill Peperone

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 Development Services, 445 W Center Street, 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

EXHIBIT A


2120 N
CANYON RD
2100 N
2090 N
1980 N
180 E
220 E
80 E
2050
Provo City
provo
0
0.015
0.03
0.06 mi
Author: Provo City
Date: 4/4/2023
This map is for graphical representation only and not for construction or defining feature locations.

ITEM 9*

Ryan Salmon is requesting a General Plan Map Amendment from a Commercial designation to Residential designation in association with a zone change request and concept plan for a twelve-unit apartment building in a proposed HDR (High Density Residential) zone, located at 2050 N Canyon Road.

Pleasant View Neighborhood

PLGPA20220301

2050 N Canyon Road



2050 N Canyon Road

- Concept: 12 one-bed residential units



2050 N Canyon Road

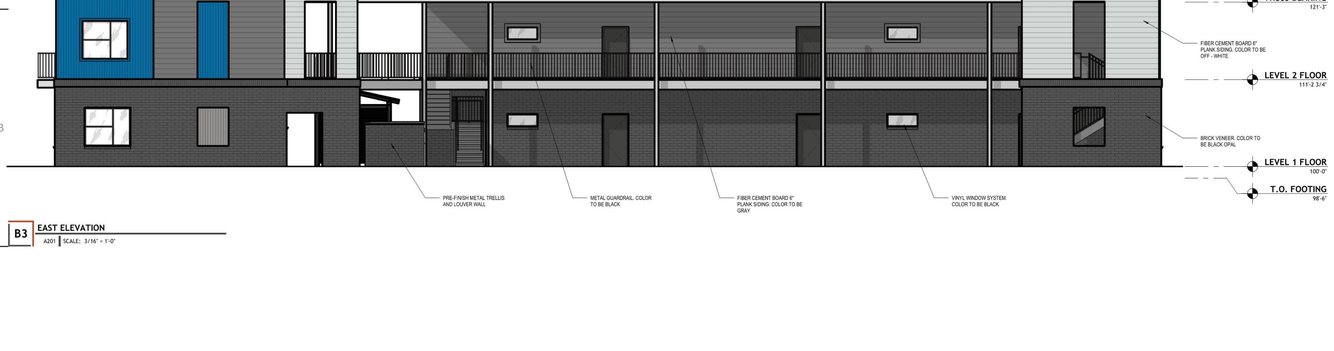
- Concept: 12 one-bed residential units

- Providing 21 parking stalls (requirement is 18)

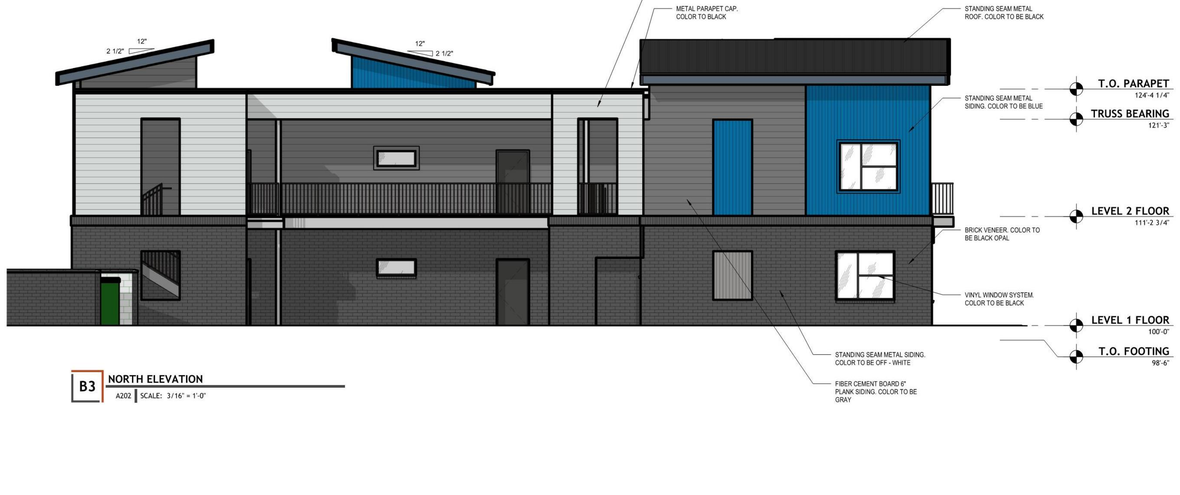


2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.



B3 EAST ELEVATION
A201 | SCALE: 3/16" = 1'-0"



B3 NORTH ELEVATION
A202 | SCALE: 3/16" = 1'-0"



D3 WEST ELEVATION
A201 | SCALE: 3/16" = 1'-0"



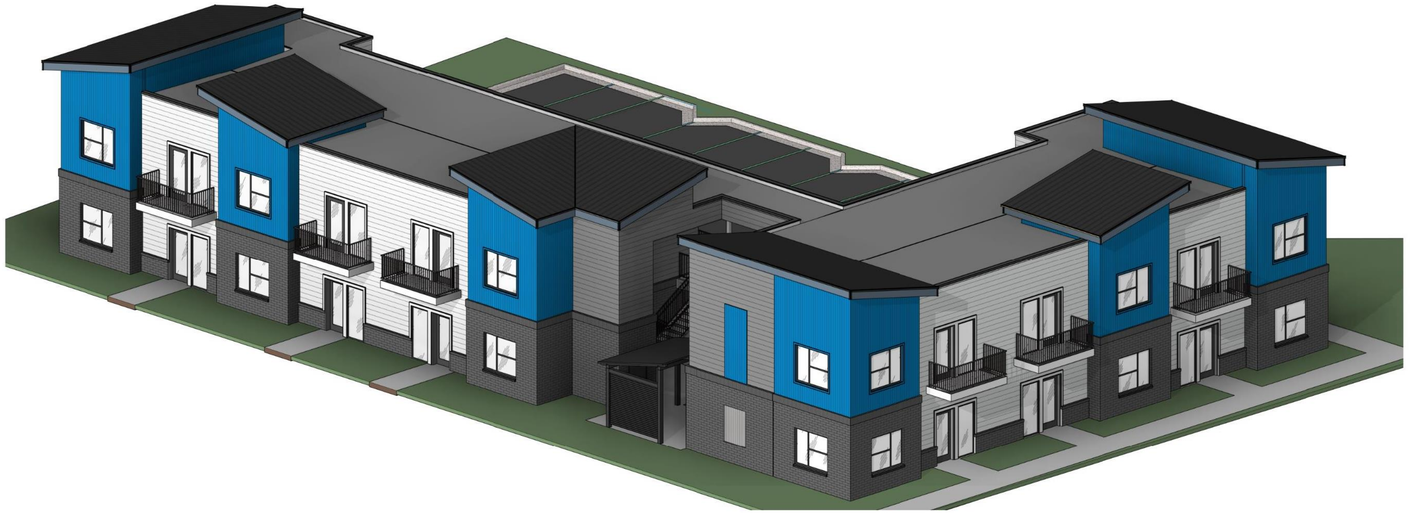
D3 SOUTH ELEVATION
A202 | SCALE: 3/16" = 1'-0"

2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.



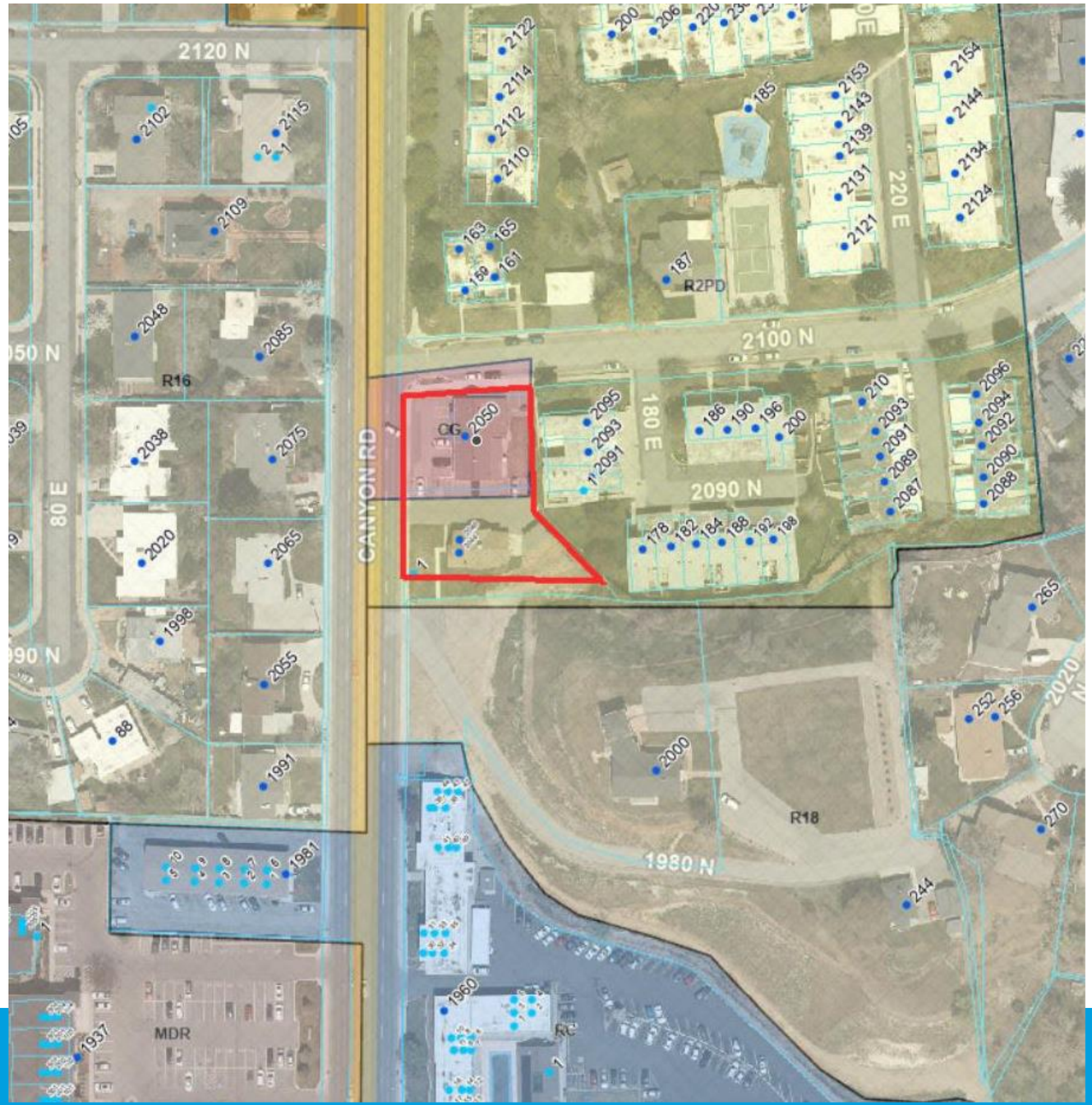
B1 NORTHWEST PERSPECTIVE
A203 | SCALE:



D1 SOUTHWEST PERSPECTIVE
A203 | SCALE:

2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.
- Rezone Request: From CG and R2PD to HDR (for setbacks)



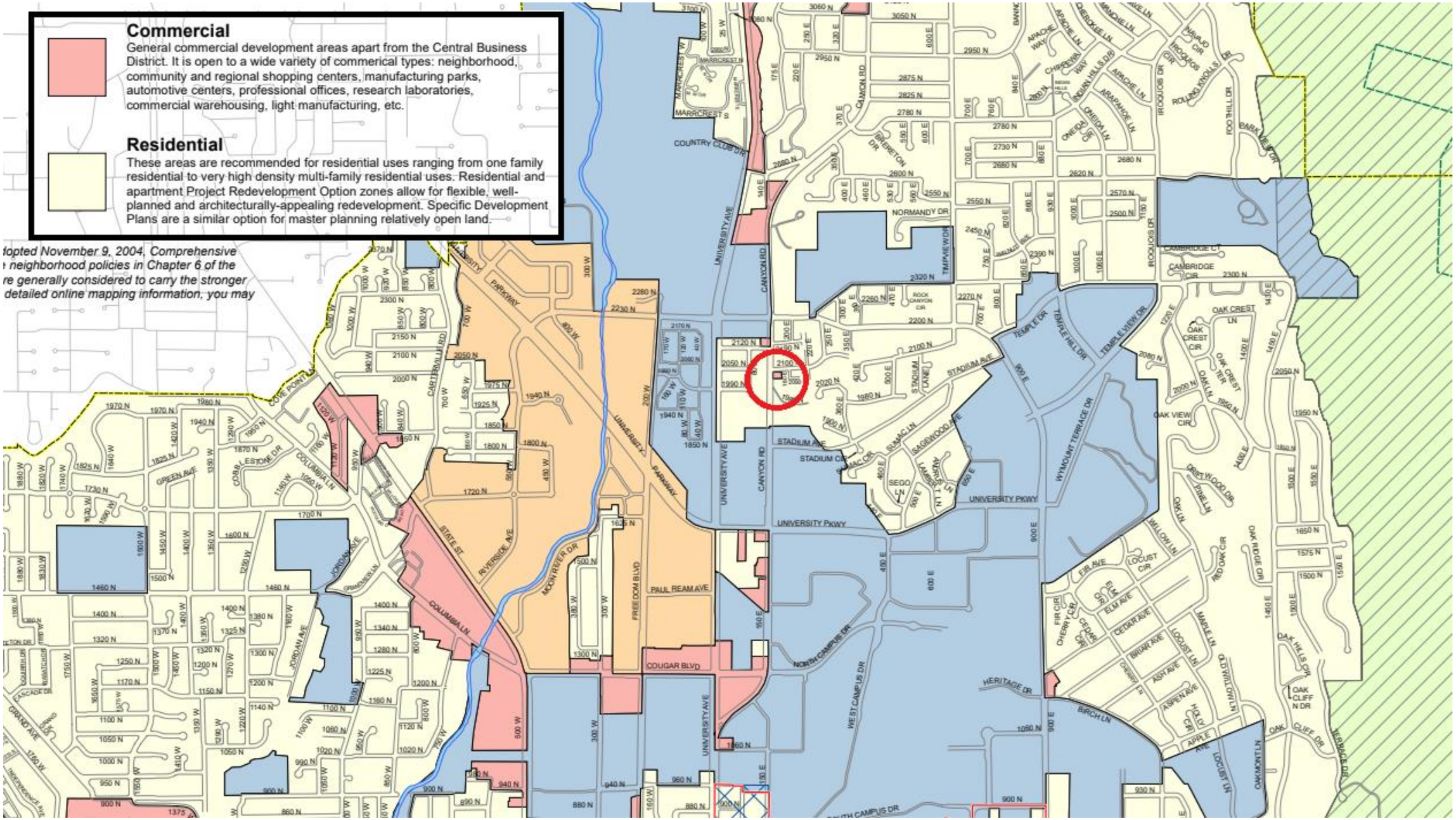
2050 N Canyon Road

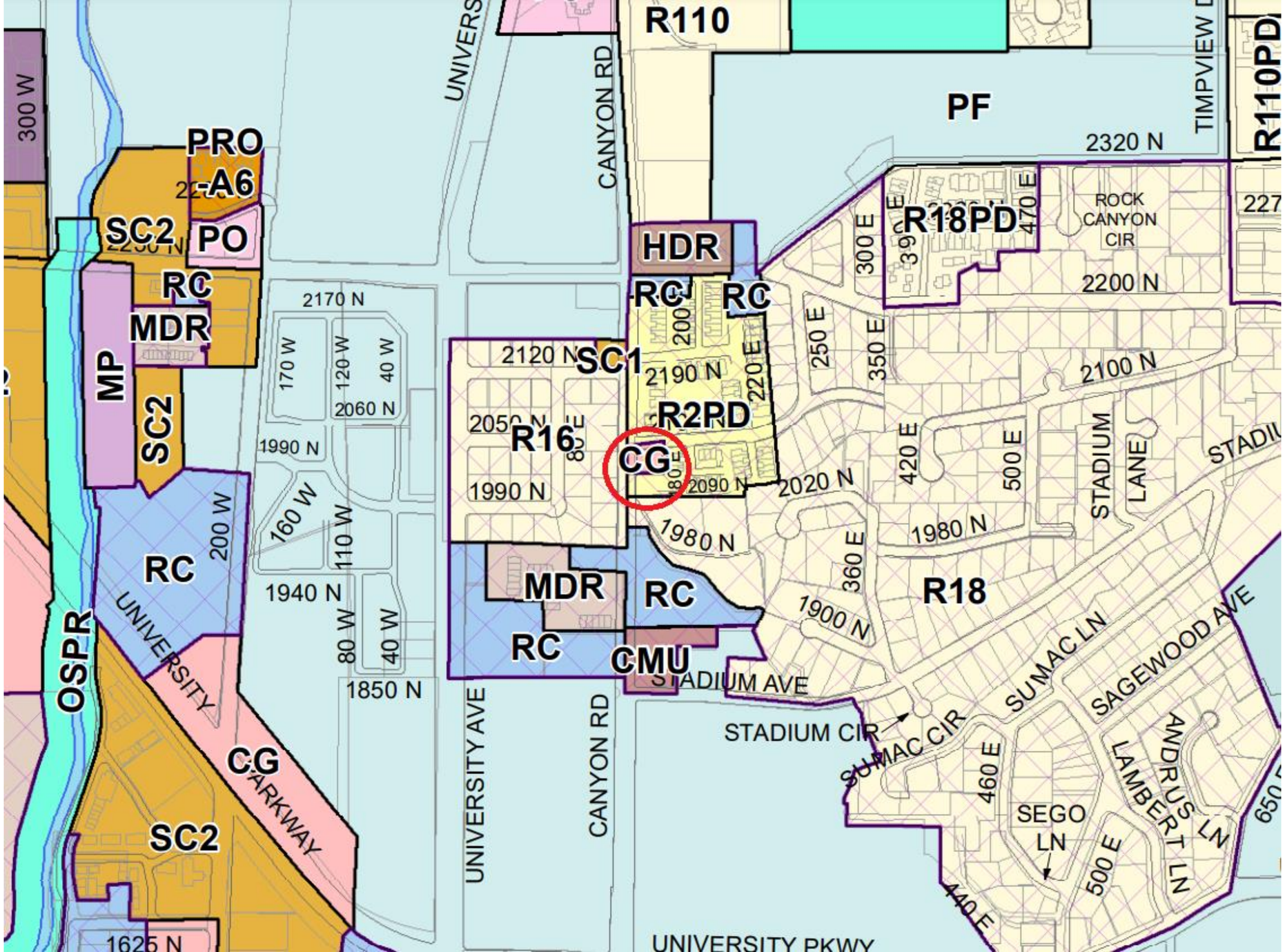
- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.
- Rezone Request: From CG and R2PD to HDR (for setbacks)
- General Plan change from Commercial to Residential



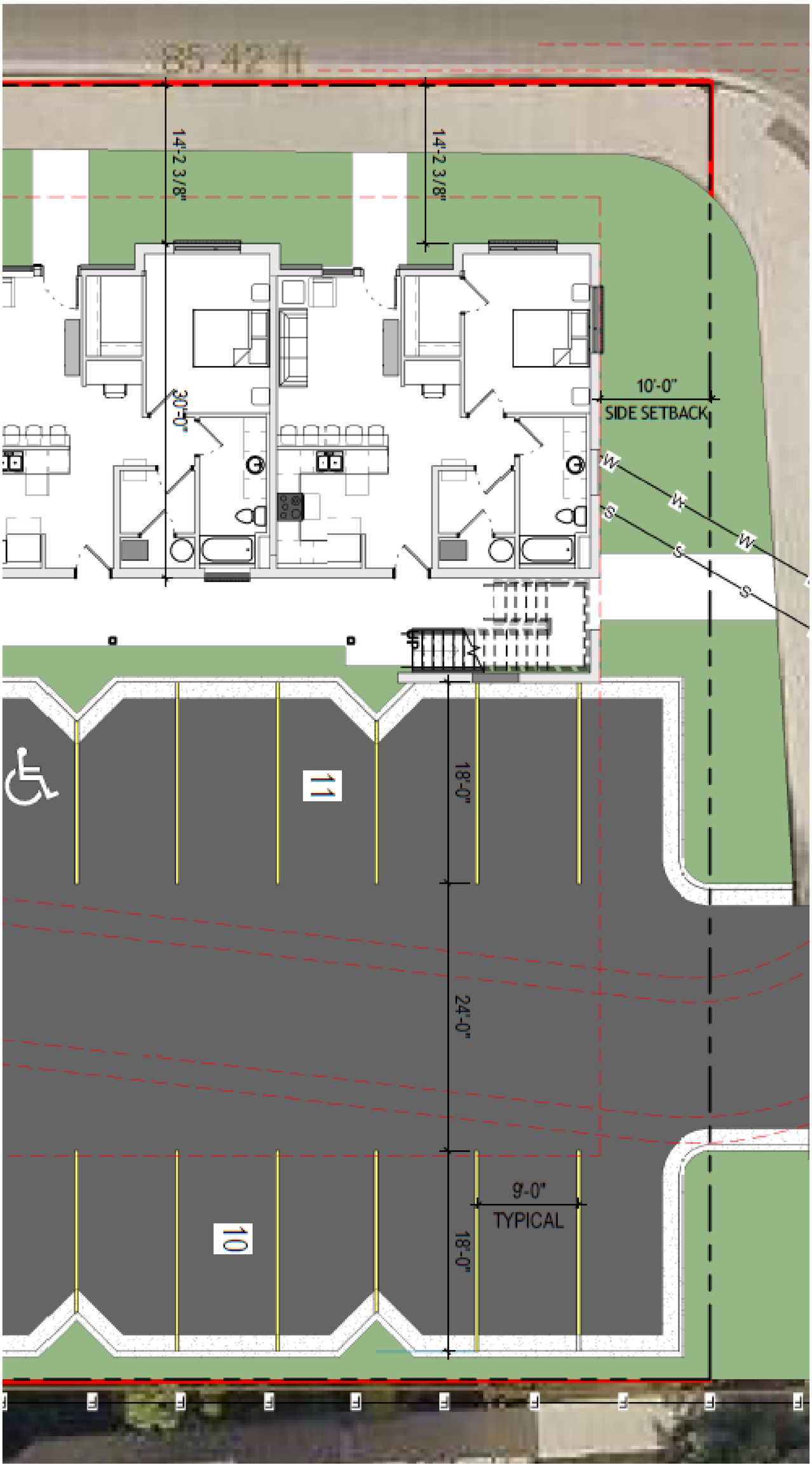
2050 N Canyon Road

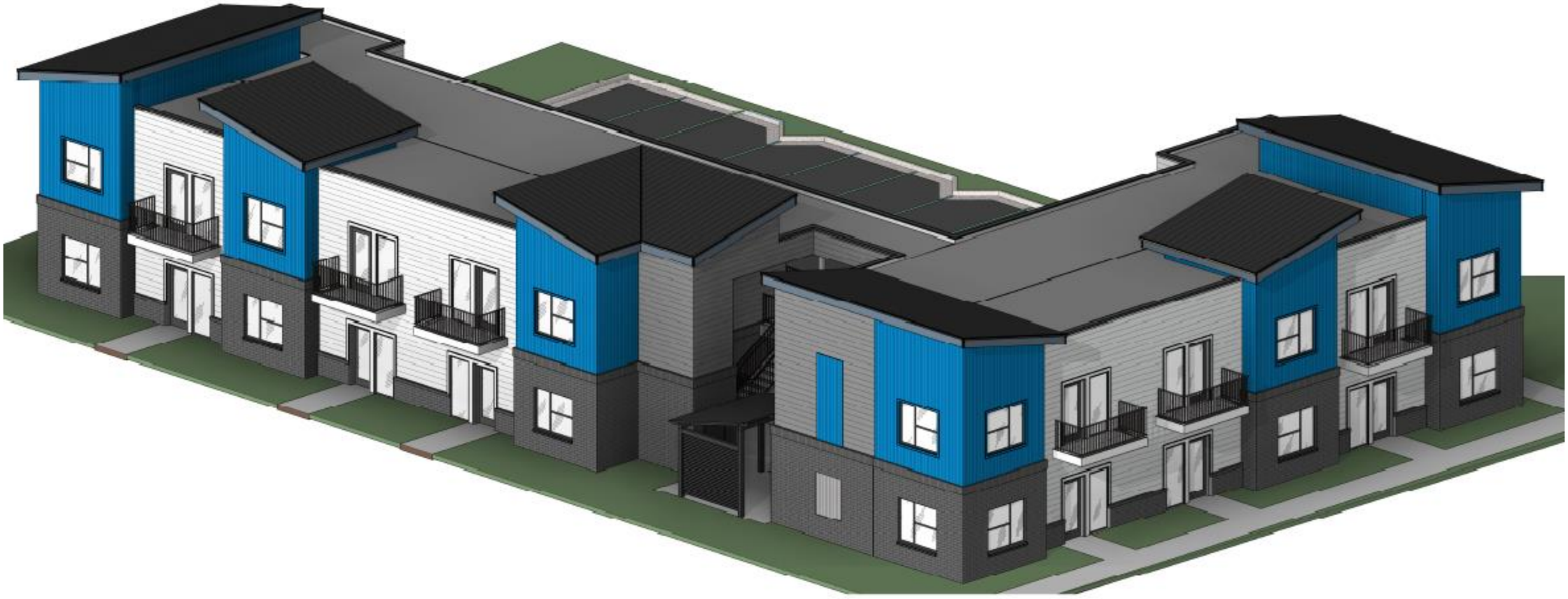
- Applicant Slides


Commercial
General commercial development areas apart from the Central Business District. It is open to a wide variety of commerical types: neighborhood, community and regional shopping centers, manufacturing parks, automotive centers, professional offices, research laboratories, commercial warehousing, light manufacturing, etc.
Residential
These areas are recommended for residential uses ranging from one family residential to very high density multi-family residential uses. Residential and apartment Project Redevelopment Option zones allow for flexible, well-planned and architecturally-appealing redevelopment. Specific Development Plans are a similar option for master planning relatively open land.
dopted November 9, 2004, Comprehensive
neighborhood policies in Chapter 6 of the
re generally considered to carry the stronger
detailed online mapping information, you may
UNIVERSITY PKWY
STADIUM AVE
STADIUM CIR
UNIVERSITY AVE
CANYON RD
COUNTRY CLUB DR
NORMANDY DR
CAMBRIDGE CT
CAMBRIDGE CIR
OAK CREST LN
OAK CREST CIR
OAK CREST TER
OAK VIEW CIR
TEMPLE E DR
TEMPLE HILL DR
TEMPLE VIEW DR
WYMOUNT TERRACE DR
ROCK CANYON CIR
TIMPVIEW DR
IROQUOIS DR
IROQUOIS CIR
ROLLING KNOLLS DR
FOOTHILL DR
PARK VIEW DR
APACHE LN
APACHE WAY
ARAPAHOE LN
ONEIDA LN
ONEIDA CIR
CHIPPEWA WAY
INDIAN HILLS DR
MARRCREST W
MARRCREST S
MARRCREST N
BRENETON DR
CANYON RD
UNIVERSITY PARKWAY
CARTERVILLE RD
CODE POINT
ESTONE DR
COBB
COLUMBIA LN
GREEN AVE
JORDAN AVE
GRANDVIEW LN
STATE ST
RIVERSIDE AVE
MOON RIVER DR
FREEDOM BLVD
PAUL REAM AVE
COUGAR BLVD
NORTH CAMPUS DR
WEST CAMPUS DR
HERITAGE DR
BIRCH LN
SUMAC LN
SUMAC CIR
SAGEWOOD AVE
SEGO LN
LAMBERT LN
GRIST WOOD DR
OAK LN
WILLOW LN
RED OAK CIR
OAK RIDGE CIR
OAK HILLS CIR
OAK CLIFF N DR
OAK CLIFF DR
TERRACE DR
OAKMONT LN
LOCUST LN
LOCUST CIR
FIR AVE
FIR CIR
ELM AVE
CEDAR AVE
CEDAR CIR
BRIAR AVE
ASH AVE
ASPEN AVE
HOLLY CIR
APPLE AVE
CHERRY CIR


R110
PF
R110PD
TIMPVIEW DR
CANYON RD
UNIVERSITY AVE
2320 N
R18PD
ROCK CANYON CIR
2200 N
HDR
RC
RC
PRO
A6
SC2
PO
RC
MDR
MP
SC2
OSPR
2170 N
2120 N
SC1
2190 N
R2PD
R16
CG
2090 N
1990 N
2060 N
2100 N
STADIUM LANE
2020 N
1980 N
R18
MDR
RC
RC
CMU
1940 N
1900 N
1850 N
STADIUM AVE
STADIUM CIR
SUMAC CIR
SUMAC LN
SAGEWOOD AVE
SEGO LN
LAMBERT LN
ANDRUS LN
UNIVERSITY
CARKWAY
SC2
CG
UNIVERSITY PKWY
1625 N
300 W
200 W
160 W
110 W
80 W
40 W
170 W
120 W
300 E
350 E
250 E
220 E
420 E
500 E
360 E
460 E
440 E


CANYON ROAD
77.42 ft
85.42 ft
10'-0" MINIMUM SIDE SETBACK
54'-2 3/8"
54'-2 3/8"
54'-2 3/8"
TRASH
F.E. / RIV
10'-0" SIDE SETBACK
10'-8 7/8"
30'-0"
11'-1 3/4"
38'-4"
18'-4"
36'-4"
18'-4"
9'-0" TYPICAL
22'-4" REAR SETBACK
25'-0" REAR SETBACK
OUTSIDE FRONT FAÇADE
23.58 ft
43.50 ft
43.50 ft
43.50 ft
43.50 ft
20.00 ft
20.00 ft
20.00 ft
20.00 ft
20.00 ft
13.08 ft
13.08 ft


85.42 ft
14'-2 3/8"
14'-2 3/8"
30'-0"
10'-0"
SIDE SETBACK
W
W
W
S
S
S
11
18'-0"
24'-0"
9'-0"
TYPICAL
10
18'-0"



D1 SOUTHWEST PERSPECTIVE

A203 | SCALE:

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 05-02-2023

SUBJECT: An ordinance amending the Zone Map of approx. 0.48 acres, located at 2050 N Canyon Road, from General Commercial (CG) and Two Family Residential (R2PD) to Medium Density Residential (MDR) & authorizing a related development agreement. (PLRZ20220302)

RECOMMENDATION: To be heard at the May 2, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: Ryan Salmon is requesting approval of a rezone from the CG and R2PD zones to the HDR zone in order to build a twelve-unit apartment building over two properties on North Canyon Road. This request is associated with a request to change the General Plan designation of the north property from commercial to residential, and a concept plan that would be tied to this rezone request through a Development Agreement. The reason the HDR zone is being requested for a MDR (Medium Density Residential) zone density project is for the reduced yard requirements in the HDR zone. The related concept plan proposes an "L-shaped" apartment building fronting Canyon Road, with a surface parking lot hidden behind and accessed off of 2100 North. The building has six, one-bedroom units on each of the two levels, each around eight-hundred (800) square feet. The building elevations show a height of twenty-four feet (24') to the parapet, and just under thirty-feet (30') to the midpoint of the sloped roof features. For context, single-family homes have a permitted height of 35'.
The site includes twenty-one off-street parking spaces and approximately 8,600 square feet of landscape/open space. There is no requirement for amenities for projects under twenty units in the HDR zone, but the applicant has provided landscaped space for around forty-one percent (41%) of the project area.

FISCAL IMPACT:

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

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20220302

ORDINANCE 2023-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.48 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 2050 NORTH CANYON ROAD, FROM GENERAL COMMERCIAL (CG) AND TWO FAMILY RESIDENTIAL (R2PD) TO MEDIUM DENSITY RESIDENTIAL (MDR) AND AUTHORIZING A RELATED DEVELOPMENT AGREEMENT. PLEASANT VIEW NEIGHBORHOOD. (PLRZ20220302)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 0.48 acres of real property, generally located at 2050 North Canyon Road (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 General Commercial (CG) and Two Family Residential (R2PD) to Medium Density Residential (MDR); and

WHEREAS, on April 12, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval 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 May 2, 2023, 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 Mayor is hereby authorized to negotiate and execute a development agreement as proposed by the applicant for this zone change, consistent with those commitments described in the development agreement and the representations made by the applicant and the applicant's representatives in the Council Meeting of May 2, 2023 and in form substantially similar to the draft attached hereto as Exhibit C, an executed copy of which shall be attached hereto as Exhibit D after execution.

PART II:

The classification on the Zone Map of Provo, Utah is hereby amended from the General Commercial (CG) Zone and the Two Family Residential (R2PD) Zone to the Medium Density Residential (MDR) Zone for approximately 0.48 acres of real property generally located at 2050 North Canyon Road, as described herein. The effective date of this zone map change shall be the date of final execution of the development agreement described in Part I.

PART III:

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

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

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

D. Except as otherwise stated in Part II, this ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this ordinance, the entire ordinance shall expire, becoming null and void as if it had never been approved. Because the zone classification change contemplated in Part II cannot come into effect if the Development Agreement is not executed, neither the applicant nor any successor(s) in interest shall have any vested rights under this ordinance if it expires.

END OF ORDINANCE

EXHIBIT A – ZONE MAP

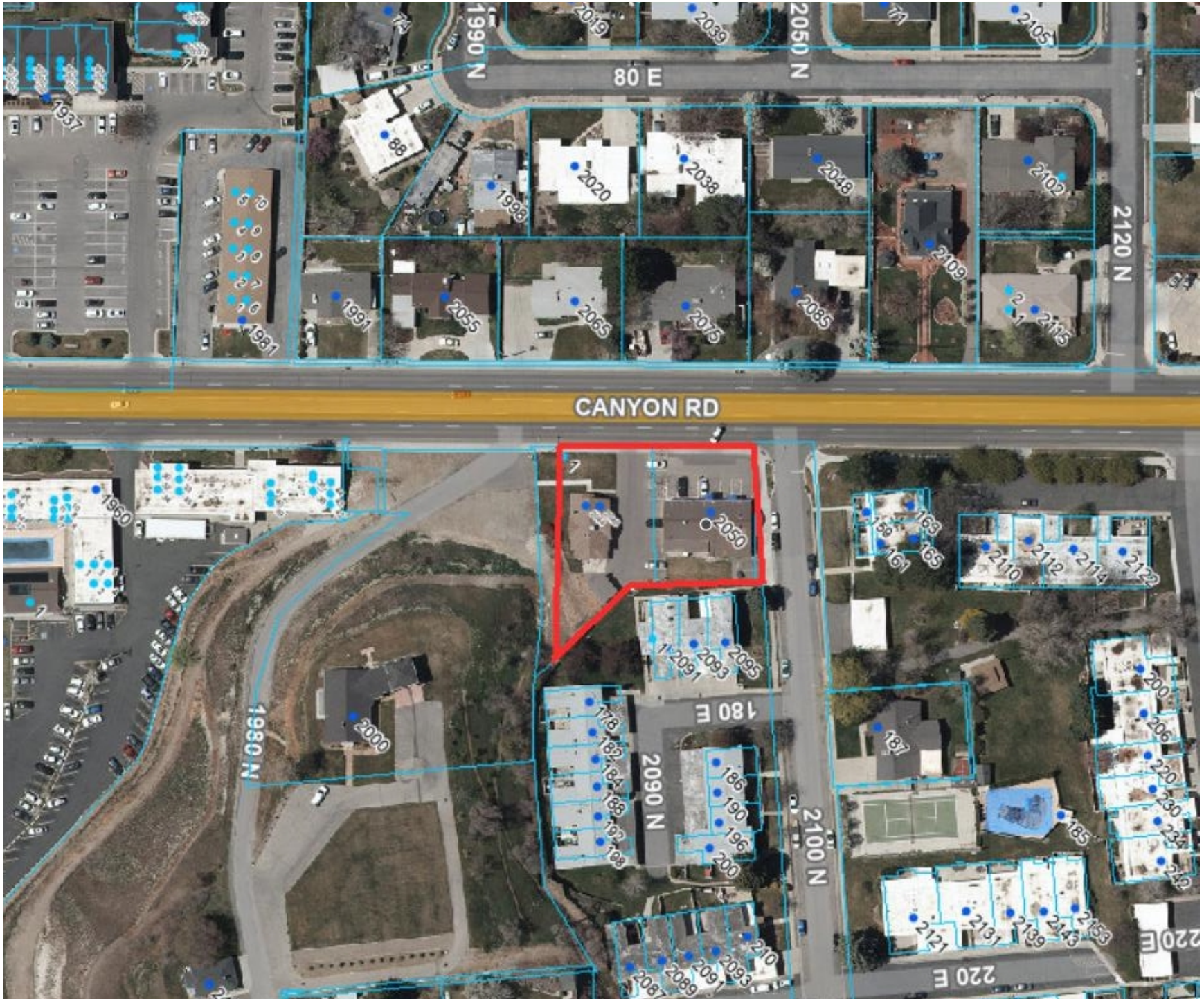

1990 N
80 E
2050 N
2120 N
CANYON RD
1980 N
2090 N
2100 N
180 E
220 E

EXHIBIT C – DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT
FOR
Ryan Salmon Canyon Road Development

(2050 N Canyon Rd)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2023 (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Canyon FG LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately .48 acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Medium Density Residential (MDR) Zone, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

a. Maximum building height: thirty (30) feet.

b. Unit density maximum: 12 units for the combined parcels.

c. Parking density: parking will meet or exceed parking standards outlined in 14.37.060. Additionally, developer will provide ample covered bicycle storage.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Canyon FG LLC
Attn: Ryan Salmon
1012 Quail Summit Dr.
Provo, UT 84604
Phone: (801) 360-8810

To the City: City of Provo
Attention: City Attorney
445 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses,

building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder

shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

Canyon FG LLC, a Utah limited liability company

By: _____
Name: Ryan Salmon
Title: Owner/Developer

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

Exhibit A

Legal Description of the Property

Parcel 1: 2048 N Canyon Road, Provo UT

Legal Description: COM N 102.58 FT & E 257 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 85.42 FT; E 116 FT; S 83.37 FT; S 88 DEG 59' 3" W 116.02 FT TO BEG. AREA 0.225 AC.

Parcel 2: 2044 N 150 East, Provo UT

Legal Description: COM N 88 DEG 59' 3" E 257.04 FT & N 20.59 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 77.43 FT; N 88 DEG 58' 57" E 117.12 FT; S 0 DEG 0' 18" W 20.06 FT; S 42 DEG 41' 47" E 2.97 FT; S 4 DEG 14' 47" E 1.79 FT; S 45 DEG 10' 38" E 82.34 FT; N 89 DEG 10' 34" W 177.66 FT TO BEG. AREA 0.254 AC.

Exhibit B

Concept Plan



PARKING CALCULATION SUMMARY
1.5 STALL PER BED
12 BEDS PROVIDED
18 PARKING STALLS REQUIRED
21 PARKING STALLS PROVIDED

WATER LINE NOTE:
2 INCH LINE PERPENDICULAR TO MAIN METER, SPLIT INTO (6) 1" LINE MANIFOLD WITH INDIVIDUAL METERS (FOR EACH BUILDING)

SEWER NOTE:
MANHOLE AT MAIN CONNECTION, 6" LINE FROM MAIN TO BUILDING (FOR EACH BUILDING)

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report Hearing Date: April 12, 2023

***ITEM #8** Ryan Salmon is requesting a Zone Map Amendment from the CG (General Commercial) and R2PD (Two Family Residential) zones to the HDR (High Density Residential) zone in order to build a new twelve-unit apartment building, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20220302

Applicant: Ryan Salmon

Staff Coordinator: Aaron Ardmore

Property Owner: Canyon FG LLC; Salmon, Ryan J & Jessica (ET AL)

Parcel ID#: 20:050:0029; 20:050:0031

Acreage: 0.48

Number of Properties: 2

Number of Units: 12

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested Zone Map Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The property at 2050 N Canyon Road is currently a real estate office in the CG (General Commercial) zone; and the legal use of 2044/2046 N Canyon is a two-family dwelling in the R2PD zone.

Relevant History: The properties have been zoned CG and R2PD since 1993, and the commercial property has had a variety of uses over the last thirty years. The applicant initially made an application for a three-story, fifteen-unit apartment building, but has worked over the last six months to address neighborhood and staff concerns and now is asking for a two-story, twelve-unit building.

Neighborhood Issues: Initial concerns from an October 2022 neighborhood meeting were related to the height, density, and parking for the original concept. There have not been any comments on Open City Hall on the revised concept at the time of this report.

Summary of Key Issues:

- The concept plan layout, density, height, and parking count are being secured by a proposed Development Agreement with the rezone request.
- The plan brings an additional twelve residential units that fit in to the surrounding area.
- The rezone is tied to a General Plan map amendment for 2050 N Canyon Road.

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the zone change subject to approval of a Development Agreement.

OVERVIEW

Ryan Salmon is requesting approval of a rezone from the CG and R2PD zones to the HDR zone in order to build a twelve-unit apartment building over two properties on North Canyon Road. This request is associated with a request to change the General Plan designation of the north property from commercial to residential, and a concept plan that would be tied to this rezone request through a Development Agreement. The reason the HDR zone is being requested for a MDR (Medium Density Residential) zone density project is for the reduced yard requirements in the HDR zone.

The related concept plan proposes an “L-shaped” apartment building fronting Canyon Road, with a surface parking lot hidden behind and accessed off of 2100 North. The building has six, one-bedroom units on each of the two levels, each around eight-hundred (800) square feet. The building elevations show a height of twenty-four feet (24’) to the parapet, and just under thirty-feet (30’) to the midpoint of the sloped roof features. For context, single-family homes have a permitted height of 35’.

The site includes twenty-one off-street parking spaces and approximately 8,600 square feet of landscape/open space. There is no requirement for amenities for projects under twenty units in the HDR zone, but the applicant has provided landscaped space for around forty-one percent (41%) of the project area.

RELEVANT HISTORY

As stated earlier, the applicant has adjusted his proposed project over the previous six months. The initial concept for three levels, fifteen units, and a reduced parking request raised concerns from the neighborhood and from Provo City Staff. Through discussions with the applicant and three rounds of revised plans with the CRC (Coordinator Review Committee) the project has been able to address concerns with building height, setback, and parking. The applicant has been responsive to staff comments and acknowledges future design details that will need to be addressed in the future Project Plan application if the zone change and General Plan amendment are granted by the City Council.

STAFF ANALYSIS

Analyzing the surrounding area shows a variety of land uses within five hundred feet of the subject property. Overall, there are single-family homes to the west, condos (Garden Villa) to the north and east, and apartments (Stadium 150 and Stadium Garden) to the south; equating to around 118 residential units. Further to the south along Canyon Road there are the Timp Towers apartments and Timpangos Gateway Condominiums; another 178 units between them. The scale for the proposed project would fit well in this corridor. The two-story concept is not as tall to the apartments and condos to the south, and would match the level of the condos to the north and east; with

a height restriction of thirty feet (30'), it would be less than what the single-family homes can be built to in the R1 zoning to the west.

In order to analyze the proposed zone change against the General Plan, staff uses the criteria in Section 14.02.020, as follows: **(Staff response in bold type)**

> 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:
>
> (a) Public purpose for the amendment in question.

Staff response: The applicant has noted that the purpose is "to engage in a redevelopment that significantly improves the aesthetic and use of these otherwise under-utilized properties" and to provide additional housing in the area.

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

Staff response: Staff feels that the applicant has worked to provide a project that would help meet the above goals and that the zone map amendment with the proposed development agreement would best meet those goals.

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

Staff response: One of the top three land use strategies listed in Chapter Three is to "promote small scale, infill development across the city". Staff feel this plan is consistent with that strategy, but also is consistent with the goals later on in that chapter to "promote neighborhood scale development in residential areas, including a mix of density" (goal 1c).

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

Staff response: This proposal is consistent with the relevant implementation matrix on page 92 of the General Plan.

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

Staff response: The proposed amendment should not hinder or obstruct attainment of the General Plan policies. The zone change away from the General Commercial zone in this case doesn't have much impact on the economic development goals for the City, as this commercial property has been struggling over the past decade.

> (f) Adverse impacts on adjacent land owners.

Staff response: Staff feel that the ability to guarantee the building height and off-street parking as shown in the concept plan alleviates any possible adverse

impacts on adjacent land owners with this request. The height is consistent with surrounding allowances and the parking provides more stalls than what is required by code.

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

Staff response: Staff has verified the zoning and General Plan for the area in question.

(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 response: Staff has shown that this rezone will be consistent with the policies of the General Plan, which is important in this case, as the General Plan map for the property is proposed to change with this request.

In addition to these standards, the General Plan identifies the following criteria for proposed rezone applications for housing developments: **(Staff response in bold)**

- Would the rezone promote one of the top 3 housing strategies?
  - Promote a mix of home types, sizes, and price points
  - Support zoning to promote ADUs and infill development
  - Recognize the value of single-family neighborhoods

Staff feel that this request meets all three strategies. The proposed rezone would help to promote a mix of home types, sizes, and price points by bringing in a different style of one-bedroom units. It is also recognized that this zone change would bring in an infill development for property that is underutilized. The project also recognizes the value of the nearby single-family neighborhoods by keeping the height of the building consistent with that of those homes.

- Are utilities and streets currently within 300 feet of the property proposed for rezone?

The adjacent streets, 2210 North and Canyon Road, have been verified by engineering to be able to handle the additional vehicle trips. Utilities are available in the area but will most likely be upgraded for water service.

- Would the rezone exclude land that is currently being used for agricultural use?

There are no agricultural uses in the area.

- Does the rezone facilitate housing that has reasonable proximity (1/2 mile) to public transit stops or stations?

Yes, the closest transit stop is at 2230 N Freedom Blvd and is about a ½ mile away, as is the BYU Stadium UVX stop.

- Would the rezone encourage development of environmentally or geologically sensitive, or fire or flood prone lands? If so, has the applicant demonstrated these issues can reasonably be mitigated?

No, the request would not encourage development in any hazardous lands.

- Would the proposed rezone facilitate the increase of on-street parking within 500 feet of the subject property? If so, is the applicant willing to guarantee use of a TDM in relation to the property to reduce the need for on-street parking?

No, the applicant has provided twenty-one (21) off-street parking spaces on the site when the city code only requires eighteen (18) off-street spaces.

- Would the rezone facilitate a housing development where a majority of the housing units are owner-occupied? Is the applicant willing to guarantee such?

These units could be built as condos or apartments. The developer could bring a Project Plan for condo units and a HOA that restricts rental units.

- Would the proposed rezone facilitate a housing development where at least 10% of the housing units are attainable to those making between 50-97% AMI? Is the applicant willing to guarantee such?

No, the current proposal would be market-rate.

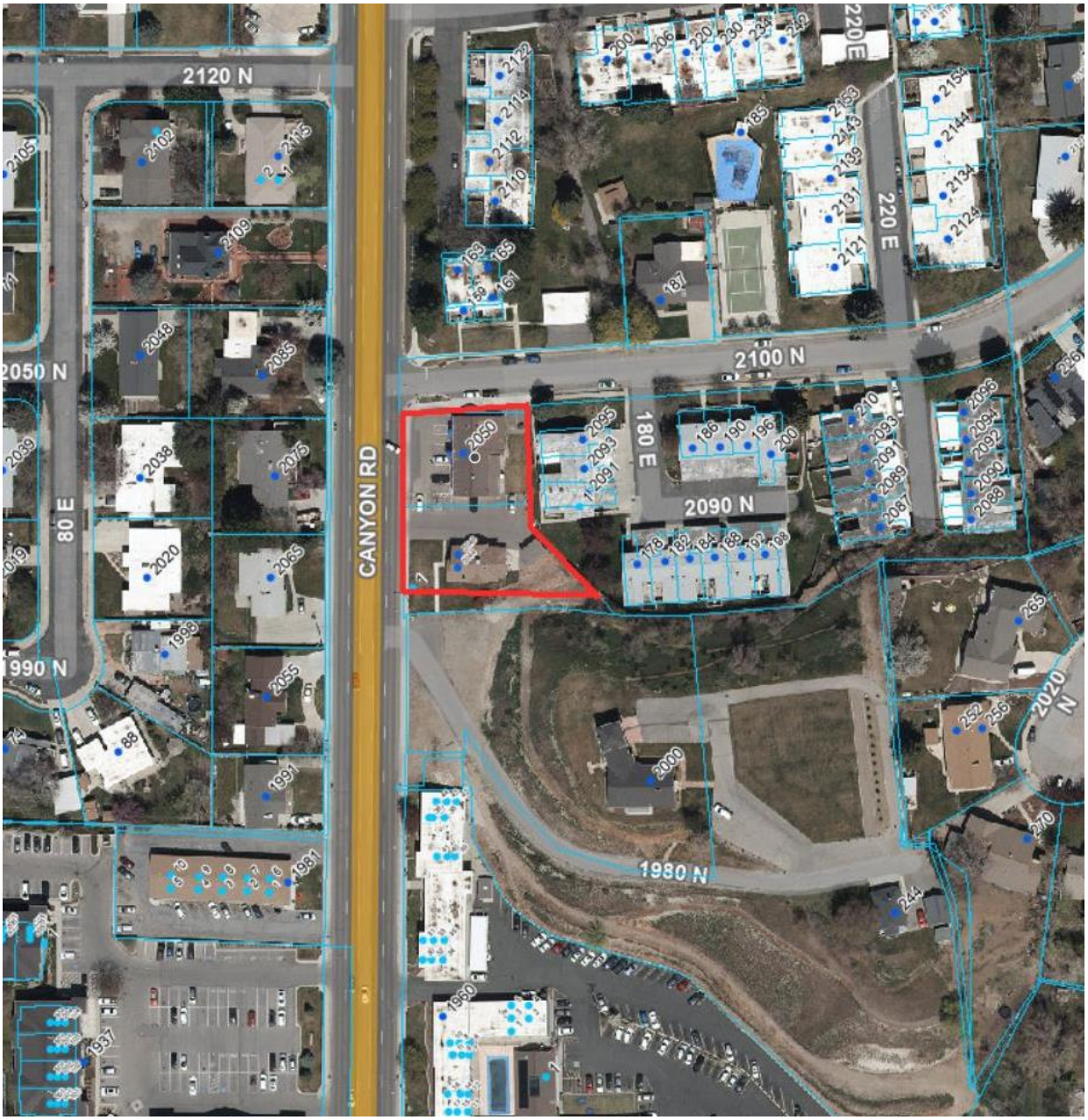
CONCLUSIONS

Staff has appreciated working through the different iterations of this project and believes the current version has addressed the initial concerns. Being able to guarantee the site layout with a limit on the height and number of units, while providing the required parking should be a benefit to the tenants and the area. Additionally, keeping a good percentage of the site as landscaped space helps to provide a more livable apartment for future residents. The scale and design blend with the residential character of the neighborhood more appropriately than the previous proposal. Additionally, various uses have been tried in the commercial building and all have struggled to stay in business.

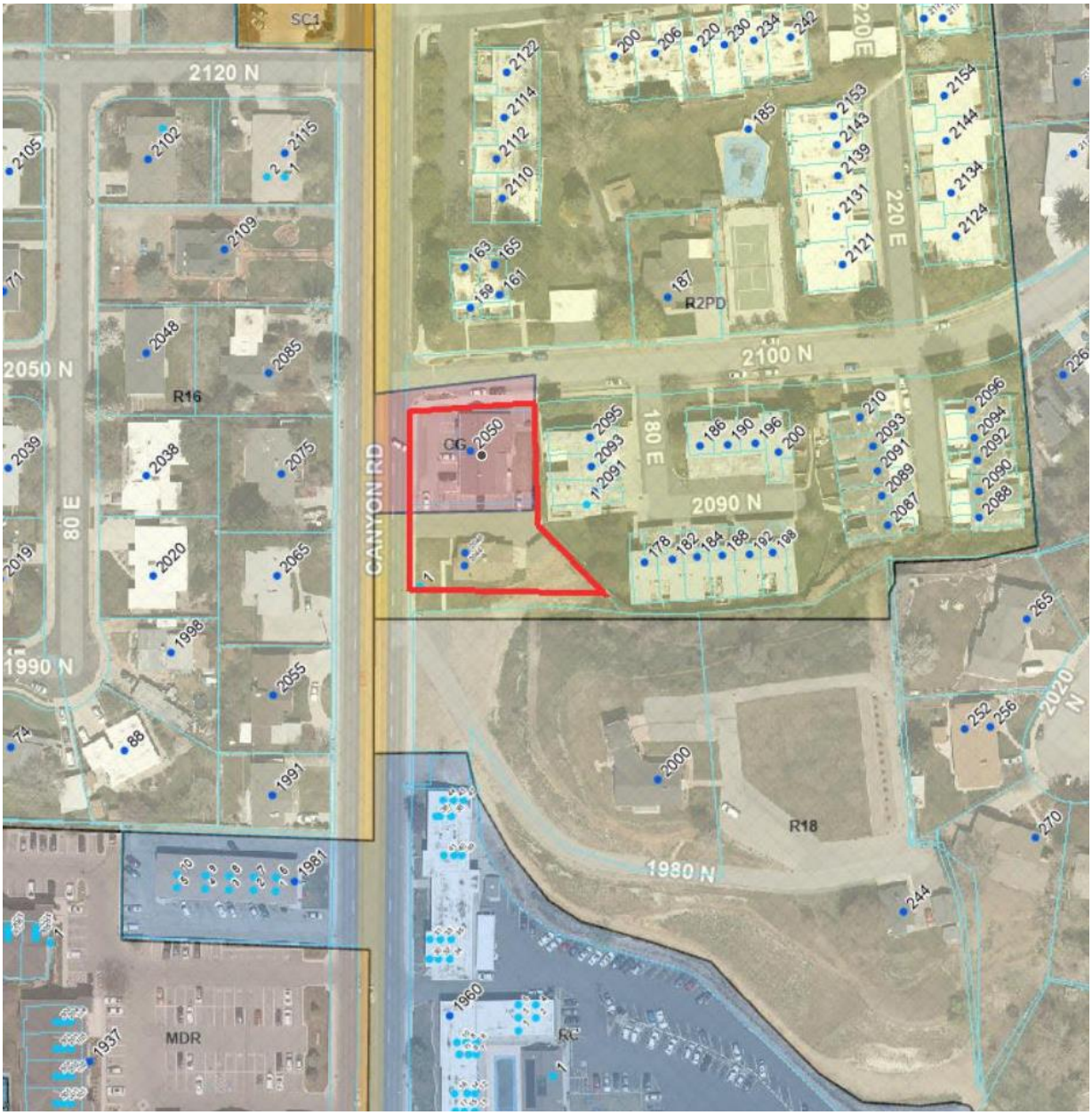
ATTACHMENTS

1. Area Map
2. Zone Map
3. General Plan Map
4. Concept Site Plan

ATTACHMENT 1 – AREA MAP



ATTACHMENT 2 – ZONE MAP



ATTACHMENT 3 – GENERAL PLAN MAP



ATTACHMENT 4 – SITE PLAN



ITEM 8*

Ryan Salmon is requesting a Zone Map Amendment from the CG (General Commercial) and R2PD (Two Family Residential) zones to the HDR (High Density Residential) zone in order to build a new twelve-unit apartment building, located at 2050 N Canyon Road.

Pleasant View Neighborhood

PLRZ20220302

2050 N Canyon Road



2050 N Canyon Road

- Concept: 12 one-bed residential units



2050 N Canyon Road

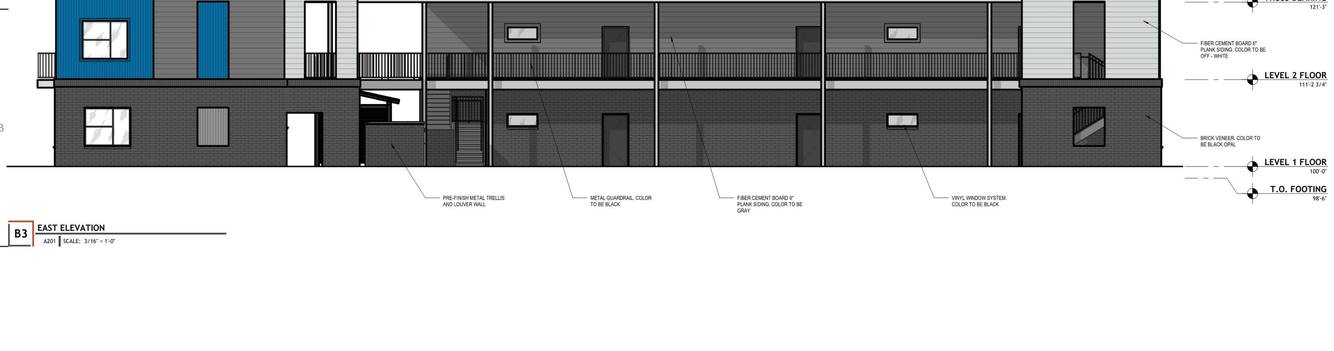
- Concept: 12 one-bed residential units

- Providing 21 parking stalls (requirement is 18)

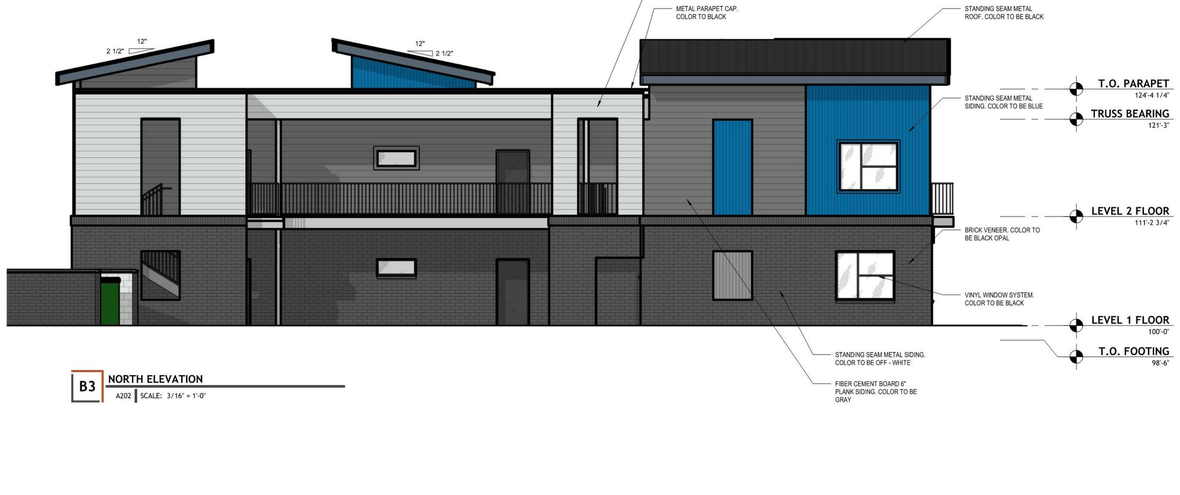


2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.



B3 EAST ELEVATION
A201 | SCALE: 3/16" = 1'-0"



B3 NORTH ELEVATION
A202 | SCALE: 3/16" = 1'-0"



D3 WEST ELEVATION
A201 | SCALE: 3/16" = 1'-0"



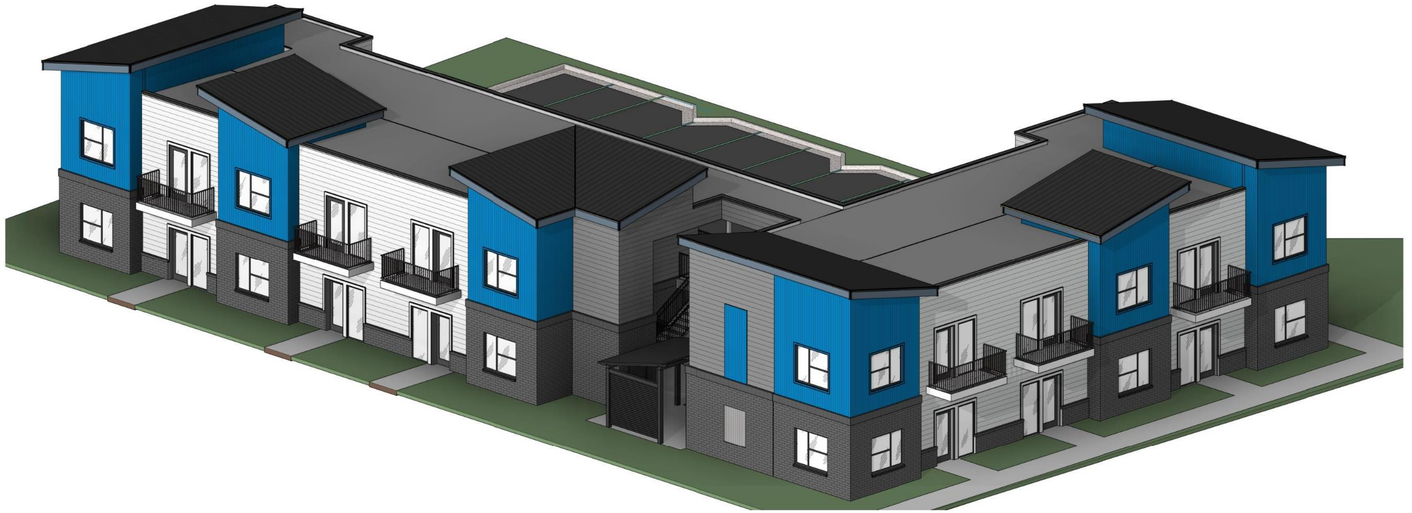
D3 SOUTH ELEVATION
A202 | SCALE: 3/16" = 1'-0"

2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.



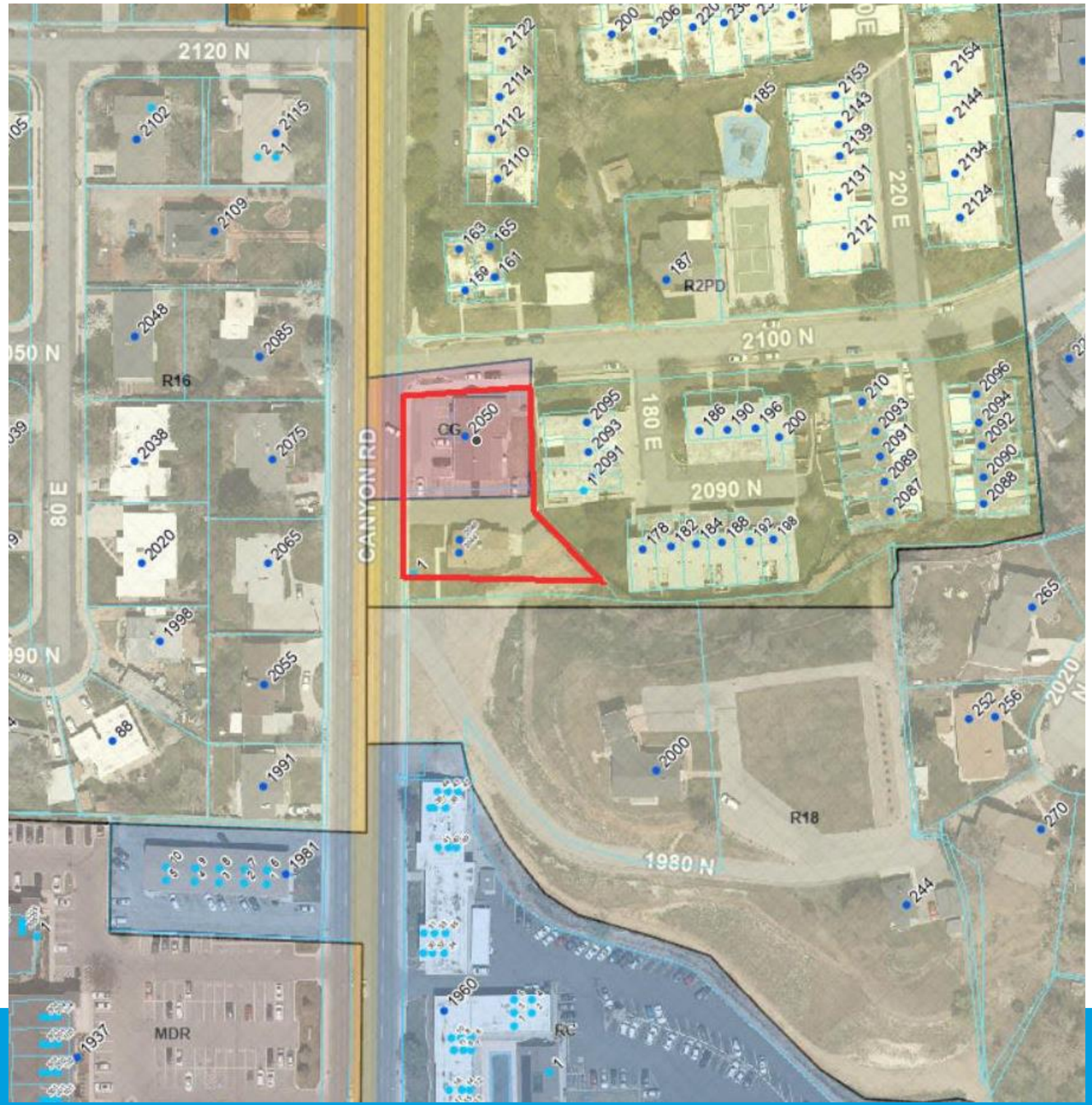
B1 NORTHWEST PERSPECTIVE
A203 | SCALE:



D1 SOUTHWEST PERSPECTIVE
A203 | SCALE:

2050 N Canyon Road

- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.
- Rezone Request: From CG and R2PD to HDR (for setbacks)



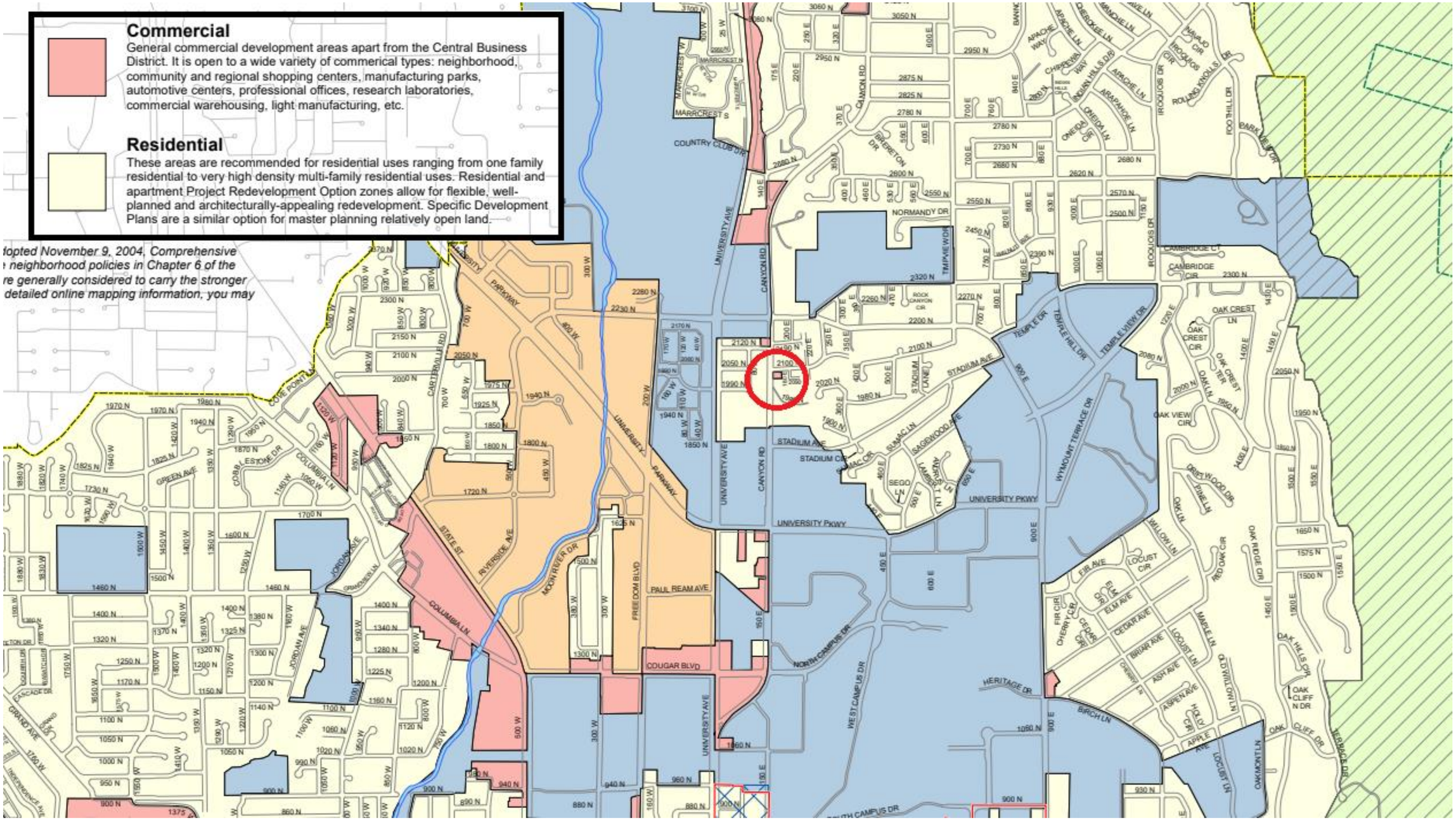
2050 N Canyon Road

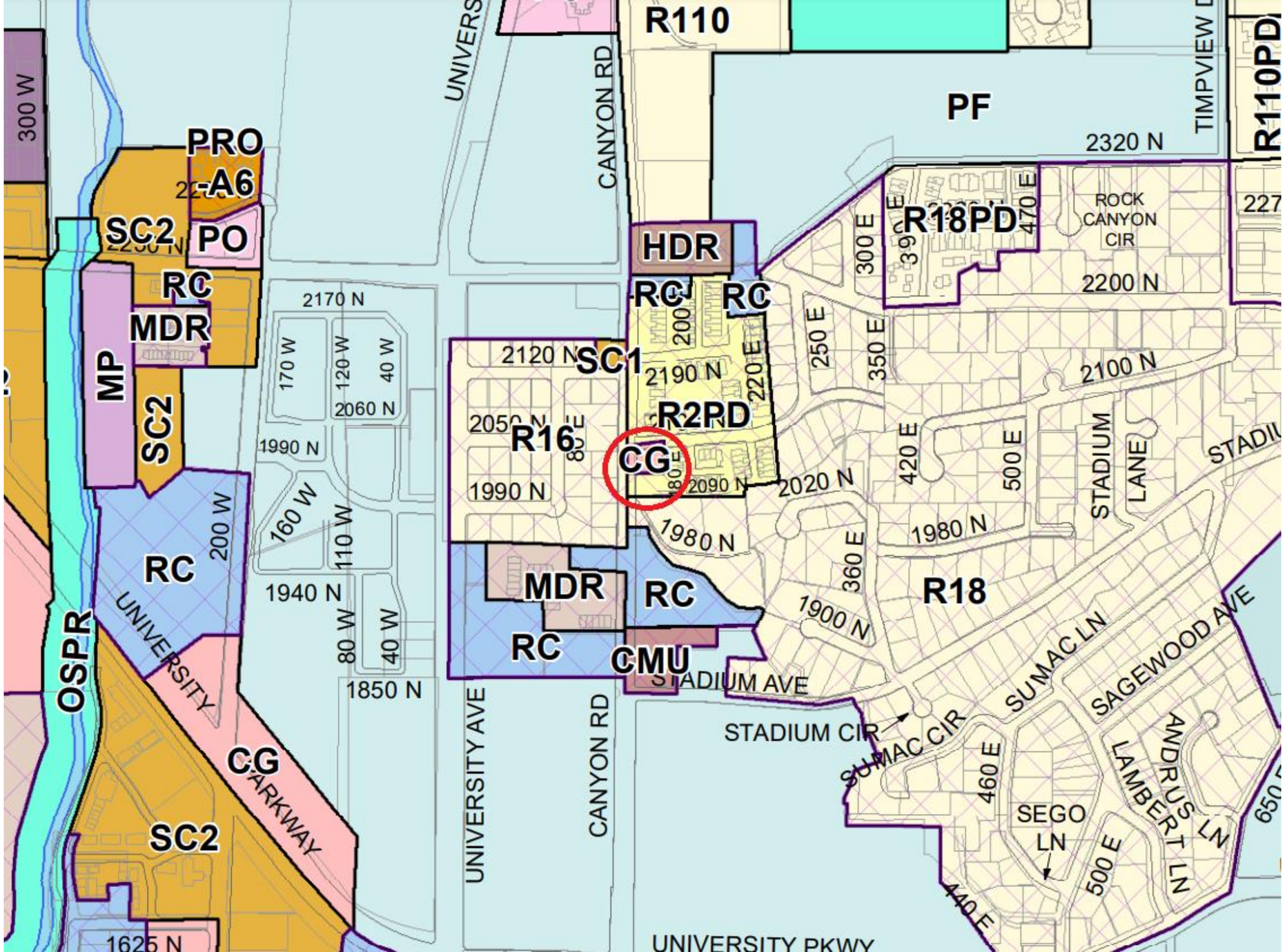
- Concept: 12 one-bed residential units
- Providing 21 parking stalls (requirement is 18)
- Height held at 30 feet.
- Providing Development Agreement on all the above.
- Rezone Request: From CG and R2PD to HDR (for setbacks)
- General Plan change from Commercial to Residential



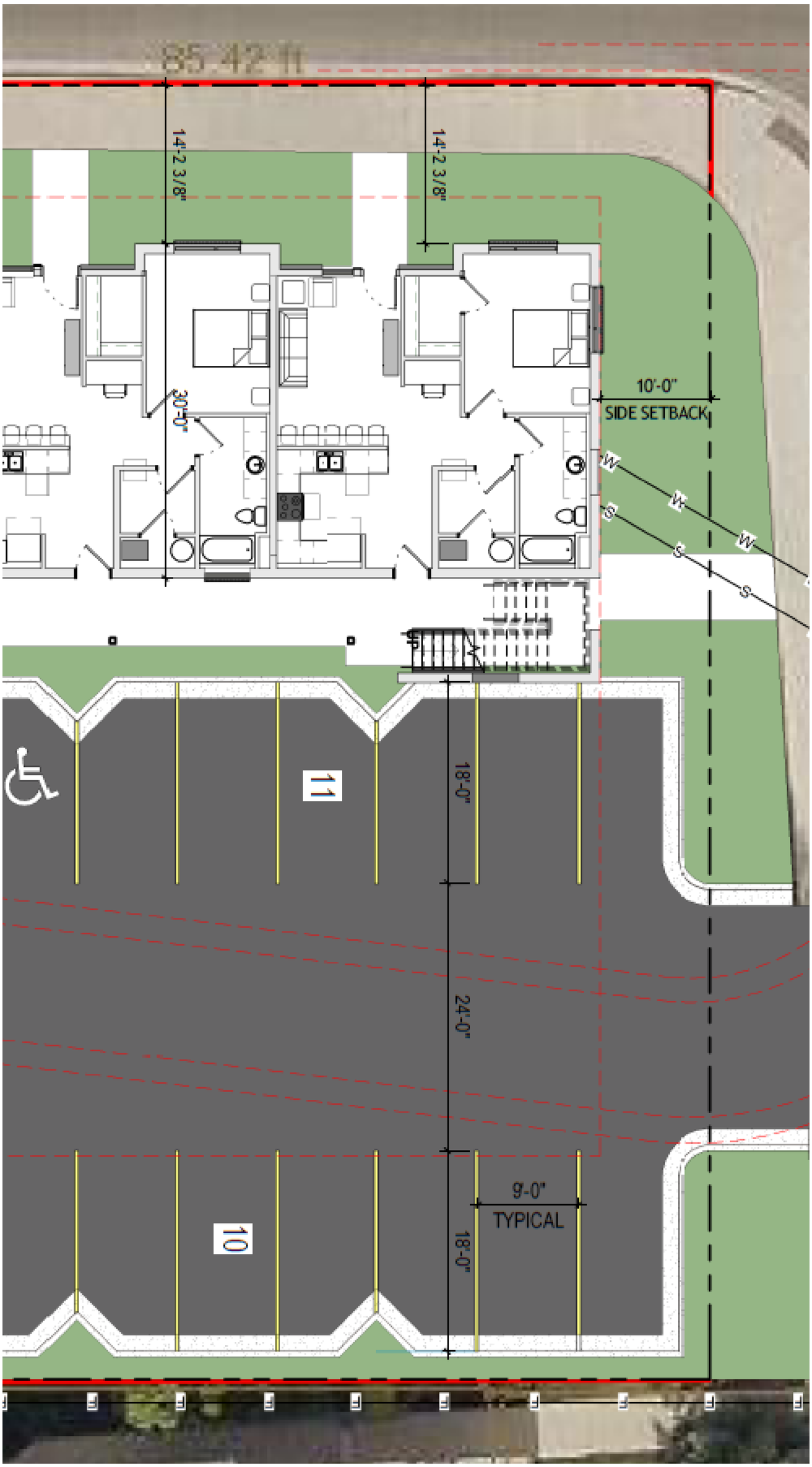
2050 N Canyon Road

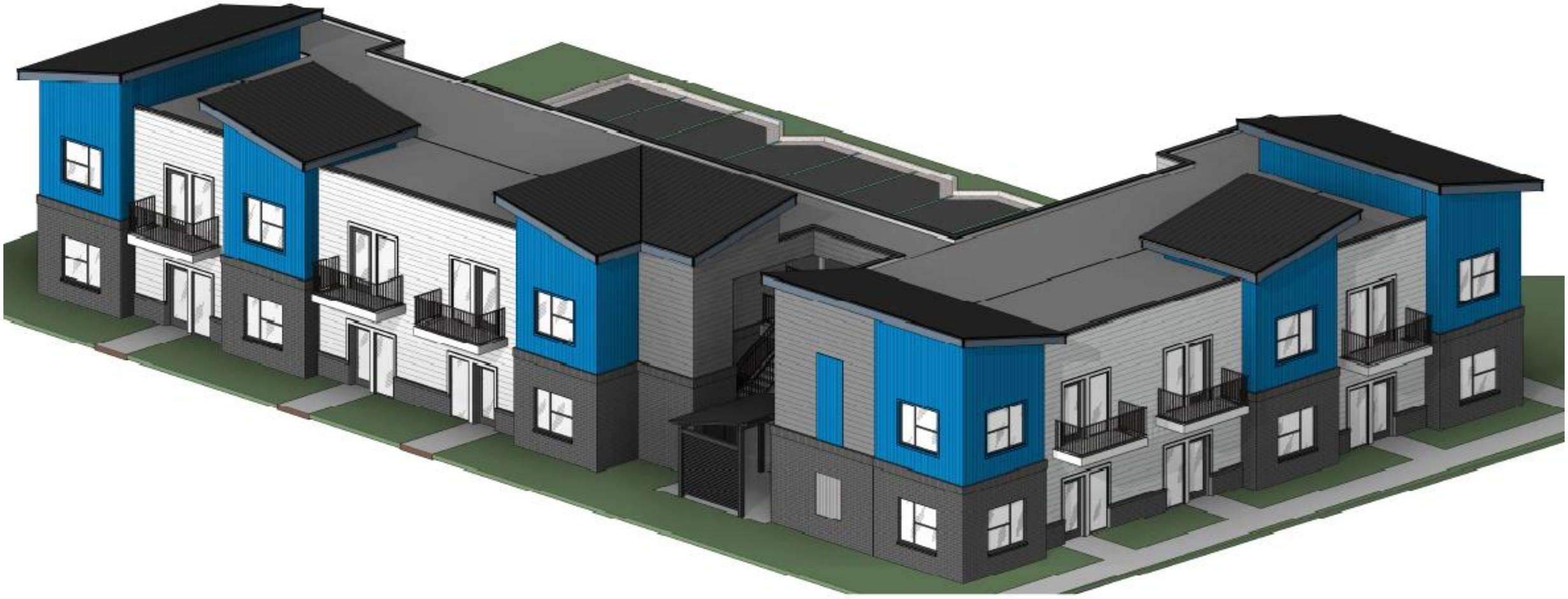
- Applicant Slides


Commercial
General commercial development areas apart from the Central Business District. It is open to a wide variety of commerical types: neighborhood, community and regional shopping centers, manufacturing parks, automotive centers, professional offices, research laboratories, commercial warehousing, light manufacturing, etc.
Residential
These areas are recommended for residential uses ranging from one family residential to very high density multi-family residential uses. Residential and apartment Project Redevelopment Option zones allow for flexible, well-planned and architecturally-appealing redevelopment. Specific Development Plans are a similar option for master planning relatively open land.
dopted November 9, 2004, Comprehensive
neighborhood policies in Chapter 6 of the
re generally considered to carry the stronger
detailed online mapping information, you may
UNIVERSITY PKWY
STADIUM AVE
STADIUM CIR
UNIVERSITY AVE
CANYON RD
COUNTRY CLUB DR
NORMANDY DR
CAMBRIDGE CT
CAMBRIDGE CIR
OAK CREST LN
OAK CREST CIR
OAK CREST TER
OAK VIEW CIR
TEMPLE E DR
TEMPLE HILL DR
TEMPLE VIEW DR
WYMOUNT TERRACE DR
ROCK CANYON CIR
TIMPVIEW DR
IROQUOIS DR
IROQUOIS CIR
ROLLING KNOLLS DR
FOOTHILL DR
PARK VIEW DR
APACHE LN
APACHE WAY
ARAPAHOE LN
ONEIDA LN
ONEIDA CIR
CHIPPEWA WAY
INDIAN HILLS DR
MARRCREST W
MARRCREST S
MARRCREST N
BRENETON DR
CANYON RD
UNIVERSITY PARKWAY
CARTERVILLE RD
CODE POINT
ESTONE DR
COBB
COLUMBIA LN
GREEN AVE
JORDAN AVE
GRANDVIEW LN
STATE ST
RIVERSIDE AVE
MOON RIVER DR
FREEDOM BLVD
PAUL REAM AVE
COUGAR BLVD
NORTH CAMPUS DR
WEST CAMPUS DR
HERITAGE DR
BIRCH LN
SUMAC LN
SUMAC CIR
SAGEWOOD AVE
SEGO LN
LAMBERT LN
GRIST WOOD DR
OAK LN
WILLOW LN
RED OAK CIR
OAK RIDGE CIR
OAK HILLS CIR
OAK CLIFF N DR
OAK CLIFF DR
TERRACE DR
OAKMONT LN
LOCUST LN
LOCUST CIR
FIR AVE
FIR CIR
ELM AVE
CEDAR AVE
CEDAR CIR
BRIAR AVE
ASH AVE
ASPEN AVE
HOLLY CIR
APPLE AVE
CHERRY CIR


R110
PF
R110PD
TIMPVIEW DR
CANYON RD
UNIVERSITY AVE
2320 N
R18PD
ROCK CANYON CIR
2200 N
HDR
RC
RC
PRO
A6
SC2
PO
RC
MDR
MP
SC2
OSPR
2170 N
2120 N
SC1
2190 N
R2PD
R16
CG
2090 N
1990 N
2060 N
2100 N
STADIUM LANE
2020 N
1980 N
R18
MDR
RC
RC
CMU
1940 N
1900 N
1850 N
STADIUM AVE
STADIUM CIR
SUMAC CIR
SUMAC LN
SAGEWOOD AVE
SEGO LN
LAMBERT LN
ANDRUS LN
UNIVERSITY
CARKWAY
SC2
CG
UNIVERSITY PKWY
1625 N
300 W
200 W
160 W
110 W
80 W
40 W
170 W
120 W
300 E
350 E
250 E
220 E
420 E
500 E
360 E
460 E
440 E


CANYON ROAD
77.42 ft
85.42 ft
10'-0" MINIMUM SIDE SETBACK
54'-2 3/8"
54'-2 3/8"
54'-2 3/8"
TRASH
F.E. / RIV
10'-0" SIDE SETBACK
10'-8 7/8"
30'-0"
11'-1 3/4"
38'-4"
18'-4"
36'-4"
18'-4"
9'-0" TYPICAL
22'-4" REAR SETBACK
25'-0" REAR SETBACK
OUTSIDE FRONT FAÇADE
23.58 ft
43.50 ft
43.50 ft
43.50 ft
43.50 ft
20.00 ft
20.00 ft
20.00 ft
20.00 ft
20.00 ft
13.08 ft
13.08 ft


85.42 ft
14'-2 3/8"
14'-2 3/8"
30'-0"
10'-0"
SIDE SETBACK
W
W
W
S
S
S
11
18'-0"
24'-0"
9'-0"
TYPICAL
10
18'-0"



D1 SOUTHWEST PERSPECTIVE

A203 | SCALE:

Provo City Planning Commission

Report of Action

April 12, 2023

*ITEM #8	Ryan Salmon is requesting a Zone Map Amendment from the CG (General Commercial) and R2PD (Two Family Residential) zones to the **MDR** (**Medium** Density Residential) zone in order to build a new twelve-unit apartment building, located at 2050 N Canyon Road. Pleasant View Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20220302

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2023:

RECOMMENDED APPROVAL

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application and authorize the Mayor to sign the development agreement.

Motion By: Robert Knudsen
Second By: Jeff Whitlock
Votes in Favor of Motion: Robert Knudsen, Jeff Whitlock, Lisa Jensen, Melissa Kendall, Daniel Gonzales, Andrew South
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the MDR Zone is described in the attached Exhibit A.

RELATED ACTIONS

The related general plan amendment (PLGPA20220301) and concept plan (PLCP20220303) were also heard at the April 12 Planning Commission hearing, with the general plan amendment recommended for approval and the concept plan being approved.

APPROVED/RECOMMENDED OCCUPANCY

- Twelve (12) units.

APPROVED/RECOMMENDED PARKING

- 18 Total parking stalls required.
- 21 Total parking stalls provided.
- 1.5 Required parking stalls per unit.

DEVELOPMENT AGREEMENT

- Applies - referred applicant to Council Attorney.

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. Staff gave an overview of the staff report and indicated that a MDR zone would be supported, and the Director of Development Services will adjust the setbacks with the MDR zone to make the concept work.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held in October 2022.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was present /addressed the Planning Commission during the public hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Paul Evans expressed his appreciation and support for a project that works in the neighborhood and that development agreements provide security for the community.
- Lilly Mott expressed some concern regarding the view from her windows into the project but hopes the development agreement will take care of the major concerns.

APPLICANT RESPONSE

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

- Ryan Salmon stated his reasoning for proposing the project. He also related correspondence from the former neighborhood chair and answered the questions sent with that email.
- Mr. Salmon also discussed his hope to have owner-occupied units and enhance the design as it moves forward.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen confirmed that the proposed development agreement would hold the development to twelve units, two stories, and site layout. She also noted that a MDR zone could be an option, with the same development agreement.
- Commissioner Kendall and Gonzales confirmed with staff that the development agreement would run with the land.
- Commissioner Jensen appreciated the site plan, façade, and intention to provide owner-occupancy. However, she did have a concern that the garbage truck would have difficulty in the site but noted that can be adjusted in the project plan application.
- Commissioners liked the project and hoped for owner-occupancy in the units as much as possible.
- The commission discussed the characteristics that allow for a small neighborhood commercial property to thrive.

Lisa Jensen

Planning Commission Chair

Bill Peperone

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 Development Services, 445 W Center Street, 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

EXHIBIT A

COM N 102.58 FT & E 257 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 85.42 FT; E 116 FT; S 83.37 FT; S 88 DEG 59' 3" W 116.02 FT TO BEG. AREA 0.225 AC.

AND

COM N 88 DEG 59' 3" E 257.04 FT & N 20.59 FT FR SW COR. SEC. 30, T6S, R3E, SLB&M.; N 77.43 FT; N 88 DEG 58' 57" E 117.12 FT; S 0 DEG 0' 18" W 20.06 FT; S 42 DEG 41' 47" E 2.97 FT; S 4 DEG 14' 47" E 1.79 FT; S 45 DEG 10' 38" E 82.34 FT; N 89 DEG 10' 34" W 177.66 FT TO BEG. AREA 0.254 AC.

R Paul Evans | April 12, 2023
Planning Commission - 12 April 2023 - Salmon Apartments and Rezoning

Ryan Salmon carefully listened to the concerns voiced by the Provo City Pleasant View Neighborhood and has modified the proposed apartment complex at the corner of 2100 North and Canyon Road presented to the neighborhood in November 2022. The 12 apartment complex height is reduced to 30 feet (two stories) complementing and seamlessly integrating with the neighboring two story Garden Villa condos and apartments. The reduction in density (from 15 to 12 one-bedroom units) allows for the parking ratio to include guest parking stalls. Some windows have been added to the east side of the proposed apartment building to break up the previous monotonous building image facing existing residences. Thank you Ryan Salmon and Provo City Development Services staff for listening.

The use of 2100 North as a parking lot by the neighboring Stadium 150 Apartments continues unabated. In violation of Provo City Code, the residents of Stadium 150 Apartments are operating more vehicles from their location than the number of off street parking stalls. Though reported repeatedly for the past three years, enforcement of parking by Provo City has not yet curbed the problem. Stadium 150 Apartments is closer to mass transit than the proposed Salmon Apartments. Though every hope is that the Salmon Apartments will not also use 2100 North as a parking lot, the ability of Provo City to regulate and control spill over parking from high density and medium density developments onto nearby neighborhood streets is an important yet lacking assurance as high density housing continues to integrate with residential neighborhoods. Proof of the concept that Provo City can integrate high density housing into existing neighborhoods without parking impact could be demonstrated by Provo City controlling the Stadium 150 parking issue, now, before the Salmon Apartments are occupied. If the parking issue is not controlled now when the numbers are in the 10's, Provo City and neighbors will be unable to control the parking problem when the numbers are in the 20's and 100's. A good example of unregulated parking is south of the BYU campus and in areas of southeast Provo.

In the presentation to the Provo City Planning Commission and the Provo City Municipal Council neighbors would appreciate some response to the following questions/comments collected over the past week.

1. Will the existing power lines remain or be buried?
2. I would like to know what is in store for the property line that runs north to south on the east property line. Will the current fence remain? And if so, we would really (really!) love to see trees along Salmon's property line so Garden Villa doesn't have a view inside neighbors' apartments.
3. What will the light situation be in the parking lot on the east side and the west side facing Canyon Road? We don't want lights shining in our windows.
4. I'm not a fan of the color scheme, but I understand it's (somewhat) their prerogative. My suggestion would be neither the dark gray/bright blue, nor earth tones, but light, neutral colors.
5. Will these units be for lease or for sale? What is the projected price point whether for lease or sale?
6. When will a draft of the proffered Development Agreement be available for review?
7. What signage (location, size, lighting) is proposed for the apartments?
8. The homes on the west side of Canyon Road are being restored and refurbished strengthening the single family home nature of the northwest corner of the Pleasant View neighborhood.

Cheers,
R. Paul Evans

ORDINANCE 2022-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY TWO (2) ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 2075 WEST CENTER STREET, FROM ONE FAMILY RESIDENTIAL (R1.8) TO MIXED USE (MU) AND AUTHORIZING A RELATED DEVELOPMENT AGREEMENT. PROVO BAY NEIGHBORHOOD. (PLRZ20210271)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 2 acres of real property, generally located at 2075 West Center Street (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 One Family Residential (R1.8) to Mixed Use (MU); and

WHEREAS, on April 18, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended denial to the Municipal Council by a 3:3 vote; and

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

WHEREAS, on May 2, 2023, 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 Mayor is hereby authorized to negotiate and execute a development agreement as proposed by the applicant for this zone change, consistent with those commitments described in the development agreement and the representations made by the applicant and the applicant's

representatives in the Council Meeting of May 2, 2023 [in form substantially similar to the draft attached hereto as Exhibit C], an executed copy of which shall be attached hereto as Exhibit D after execution.

PART II:

The classification on the Zone Map of Provo, Utah is hereby amended from the One Family Residential (R1.8) Zone to the Mixed Use (MU) Zone for approximately 2 acres of real property generally located at 2075 West Center Street, as described herein. The effective date of this zone map change shall be the date of final execution of the development agreement described in Part I.

PART III:

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

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

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

D. Except as otherwise stated in Part II, this ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this ordinance, the entire ordinance shall expire, becoming null and void as if it had never been approved. Because the zone classification change contemplated in Part II cannot come into effect if the Development Agreement is not executed, neither the applicant nor any successor(s) in interest shall have any vested rights under this ordinance if it expires.

END OF ORDINANCE

EXHIBIT A – ZONE MAP

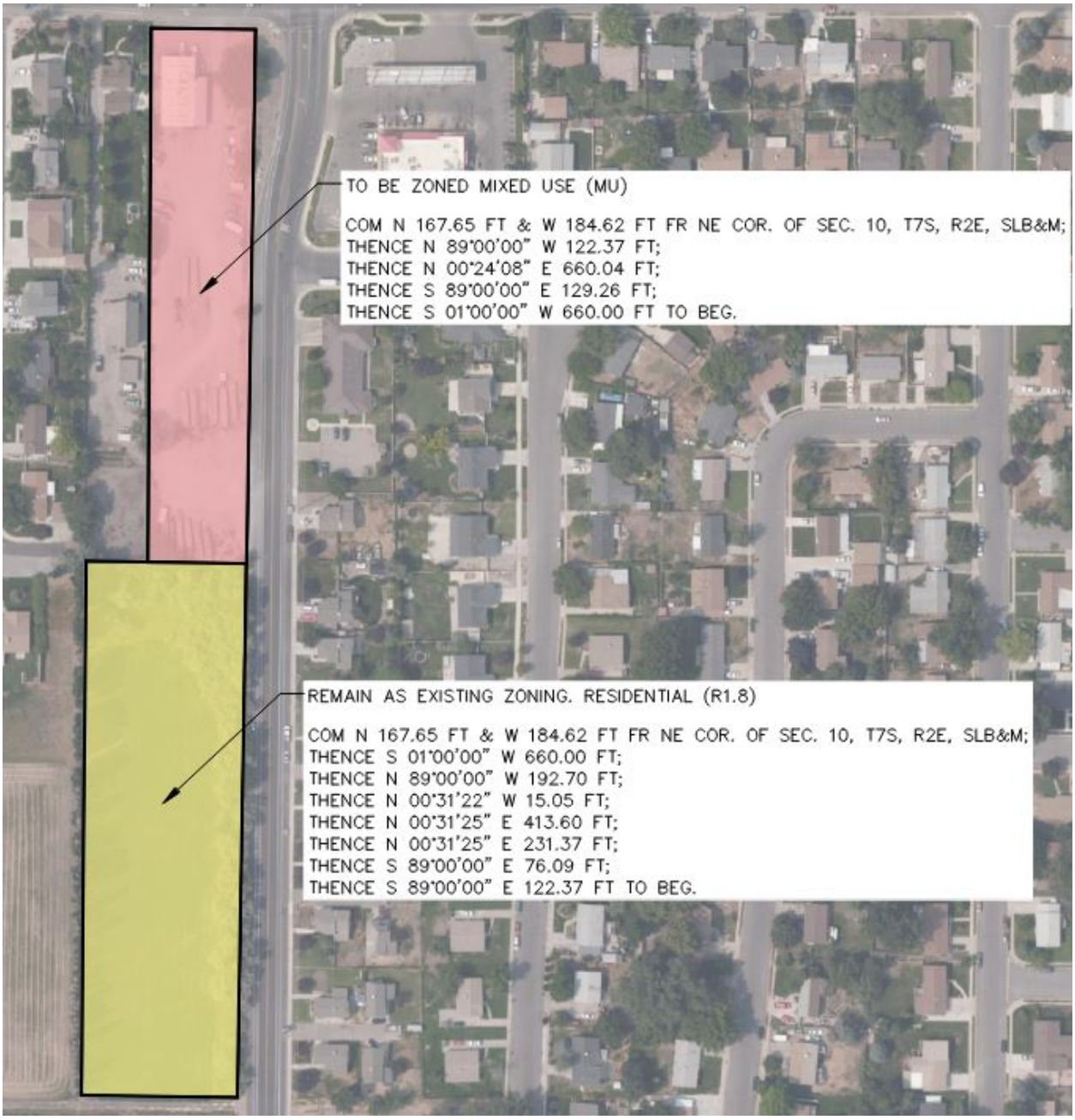


EXHIBIT C – DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

> We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney

351 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not

unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

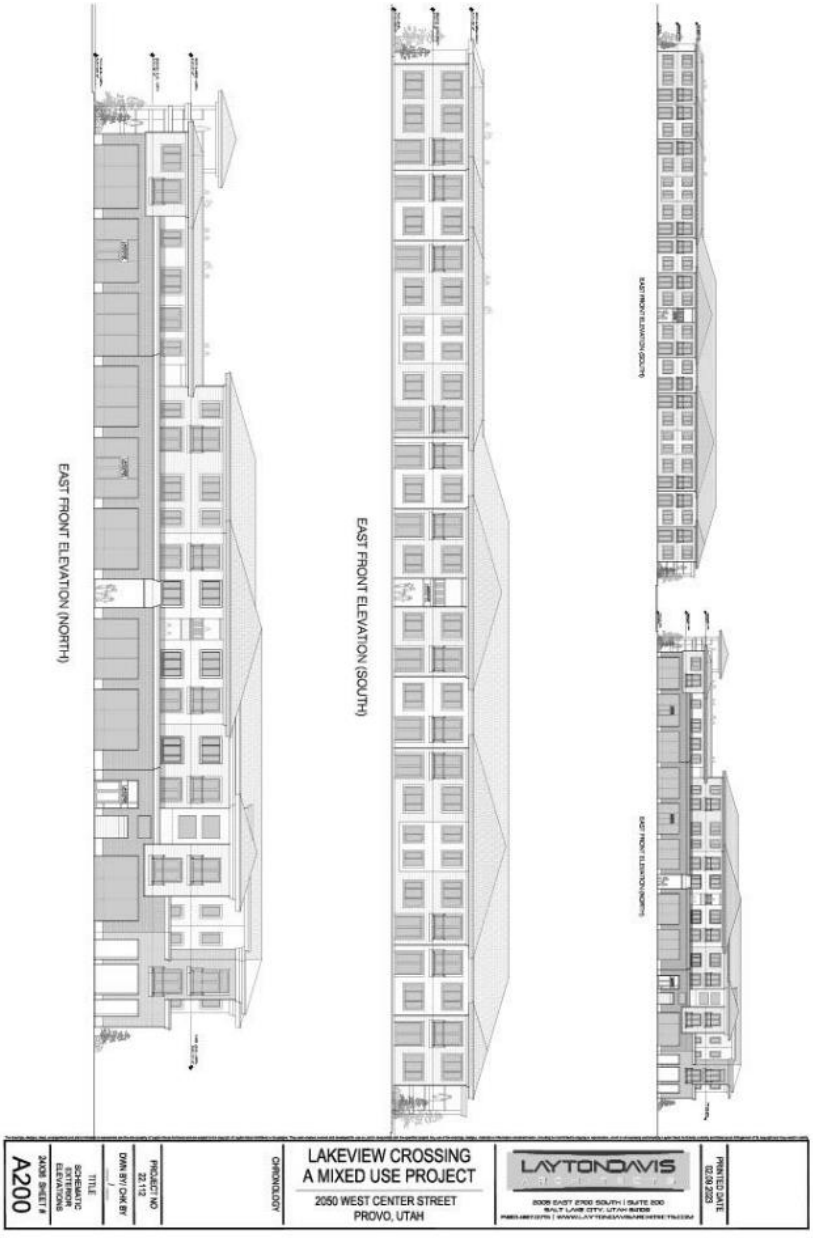
Exhibit A

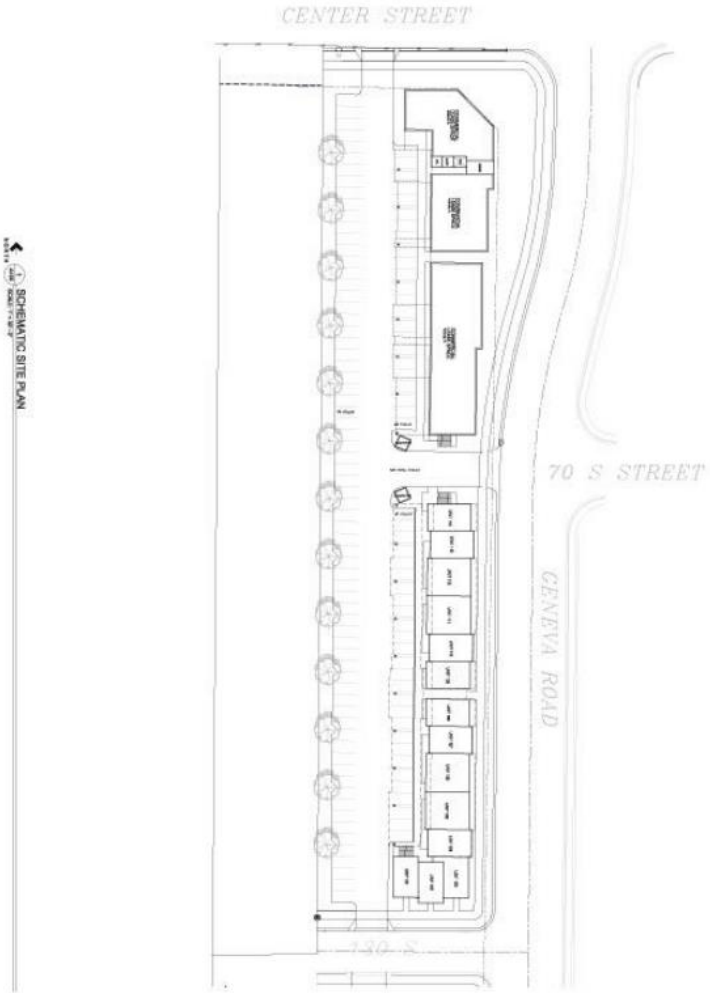
Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00’00” W 122.37 FT;
THENCE N 00°24’08 E 660.04 FT;
THENCE S 89°00’00” E 129.26 FT;
THENCE s 01°00’00” W 660.00 FT TO BEG

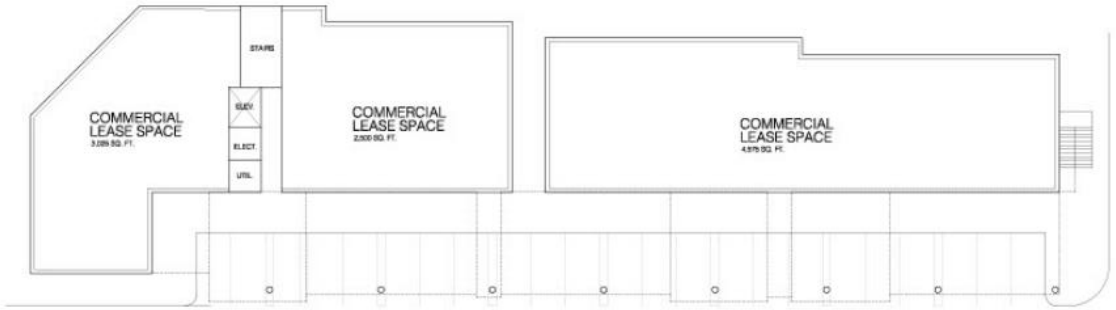
Exhibit B

Concept Plan

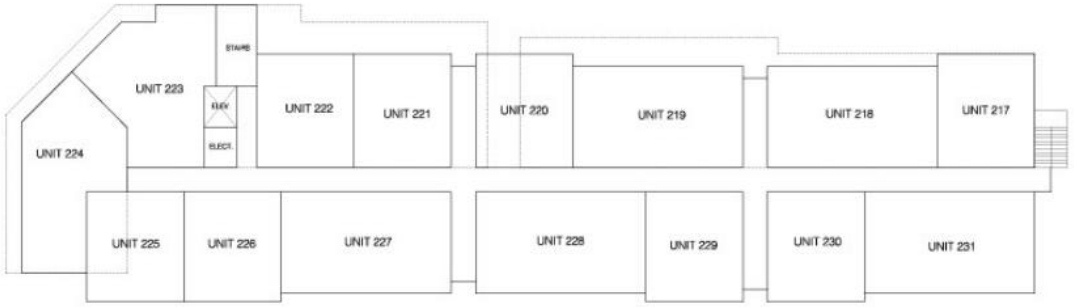




A100	PROJECT NO 22.112	CHRONOLOGY	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH	LAYTONDAVIS ARCHITECTS 8005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 PHONE (801) 272-0278 | WWW.LAYTONDAVISARCHITECTS.COM	PRINTED DATE 02.13.2023
24X36 SHEET #	DWN BY | CHK BY				
	TITLE SCHEMATIC SITE PLAN				



NORTH BUILDING - MAIN FLOOR PLAN



NORTH BUILDING - SECOND FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTON DAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
—/—

TITLE
NORTH - MAIN AND SECOND FLOOR PLANS

24X36 SHEET #
A101

PRINTED DATE	02.13.2023
LAYTONDAVIS ARCHITECTURE	2005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 PHONE (801) 278-7678 | WWW.LAYTONDAVISARCHITECTS.COM
LAKEVIEW CROSSING A MIXED USE PROJECT	2050 WEST CENTER STREET PROVO, UTAH
CHRONOLOGY	
PROJECT NO	22.112
DWN BY/ CHK BY	___/___
TITLE	NORTH - THIRD FLOOR PLAN
24X36 SHEET #	A102

UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 103
UNIT 102
UNIT 101
SOUTH BUILDING - MAIN FLOOR PLAN
UNIT 214
UNIT 213
UNIT 212
UNIT 211
UNIT 210
UNIT 209
UNIT 208
UNIT 207
UNIT 206
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UNIT 204
UNIT 203
UNIT 202
UNIT 201
UNIT 215
UNIT 216
UNIT 217
UNIT 218
UNIT 219
UNIT 220
UNIT 221
UNIT 222
SOUTH BUILDING - SECOND FLOOR PLAN
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
ARCHITECTS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
PHONE 801.277.7275 | WWW.LAYTONDAVISARCHITECTS.COM
PRINTED DATE
02.13.2023
CHRONOLOGY
PROJECT NO
22.12
DWN BY/ CHK BY
TITLE
SOUTH - MAIN
FLOOR PLAN AND
FLOOR PLANS
2408 SHEET #
A103

LAKEVIEW CROSSING
A MIXED USE PROJECT

2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS

2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P.801.967.2570 | WWW.LAYTONDAVISARCHITECTS.COM

PRINTED DATE
02.13.2023

CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
SOUTH - THIRD FLOOR PLAN

24X36 SHEET #
A104

Planning Commission Hearing Staff Report Hearing Date: April 12, 2023

***ITEM #5** Steve Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street. Provo Bay Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20210271

Applicant: Steve Turley

Staff Coordinator: Aaron Ardmore

Property Owner: LL Income - Miscellaneous Properties LLC

Parcel ID#: 21:038:0083

Acreage: 5.20

Number of Properties: 1

ALTERNATIVE ACTIONS

1. **Recommend Approval** of the requested zone change. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023.*

3. **Recommend Denial** of the requested zone change. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The property is mostly vacant land with a legal, nonconforming commercial trucking business on the north.

Relevant History: The zone for the property has been R1.8 since 1974. This area was considered with the Southwest Area Future Land Use Map adopted by the City Council in 2018.This item was continued from the January 11, 2023 PC hearing with specific items to address on a revised concept plan.

Neighborhood Issues: A neighborhood meeting was held for this item on December 2nd, 2021 through an online format, the following concerns have been shared:

- Not enough open space and trees
- Lack of commercial entrance to the street
- Too much parking

Summary of Key Issues:

- The General Plan calls for commercial on the corner and single-family housing of no more than four units per acre on the rest of the property.
- The Mixed-Use zone for the amount of property requested is not supported as it would increase the planned mixed-use by nearly 50% on the parcel and bring densities above four units per acre.
- Staff recommends following the Southwest Area Future Land Use Map for any westside development.

Staff Recommendation: That the Planning Commission recommend that the City Council **approve a zone change, limited to the area shown in the Mixed-Use area in Appendix V of the General Plan**.

OVERVIEW

Steve Turley is requesting approval of a zone change at 2075 West Center Street that would replace approximately 2 acres of the existing R1.8 (One-Family Residential) zone on the north portion of the parcel with the MU (Mixed Use) zone and leave the remainder of the lot as undeveloped R1.8 zoned land.

The property is surrounded by mostly detached one-family dwellings, with R1.8 zoning to the west and south and R1.8PD zoning to the southeast. The property to the south of this lot is currently vacant, and there is a PF zone on one parcel to the east for a fire station. To the north and northeast of the property is the CG zone which includes the 7-11 and some vacant commercial parcels that are home to temporary commercial uses at times. The dominant land use in this area are single-family homes, with around forty (40) one family detached dwellings within five-hundred feet (500') of the subject property.

The concept for the mixed-use portion includes a north building with just over ten thousand (10,000) square feet of ground-floor commercial space with twenty-four (24) residential apartments in the two stories above. The south building plans show another thirty-six (36) residential apartments in a three-story building. The plans also show the required amount of amenity spaces provided through rooftop gardens on both buildings. The applicant has provided a draft development agreement detailing the amenity program that is attached to this report.

The parking requirement for the residential portion alone would be eighty (80) stalls based on the summary of sixty (60) units. These numbers are *with* the code giving a 25% reduction for the MU zone. The concept shows a total of 120 total stalls for the site, that would leave forty (40) stalls for the commercial use, equating to one stall per 252 square feet of commercial space.

STAFF ANALYSIS

In addition to the concerns staff have regarding the extension of the Mixed-Use zone into the second acre, there are still pending review comments that have not been addressed. The concept plan has yet to show the required design corridor standards, residential design standards, and transitional development standards. Staff has made the applicant aware of these issues in review of the concept plan and noted that all relevant codes would need to be complied with at the Project Plan phase if the zone changes are approved.

The Southwest General Plan provides for just over two-thousand multi-family units west of I-15, not including any multi-family units within the mixed-use node at this location. The applicant is proposing to stretch the mixed-use node into what would amount to a

doubling of residential density over two acres and not be in line with the General Plan. Provo has seen multi-family units outpace detached single-family homes over the last several years at a rate of nine to one. With all of the multi-family units the city has approved, stretching a mixed-use node to allow for even more multi-family, to the detriment of single-family lots, does not make sense to staff. Further reducing land slated for single-family homes, as this proposal suggests, does not fall in line with the goals and policies for west-side development. Staff is concerned that the city is becoming more and more out-of-balance in terms of rental units to owner-occupied units and multi-family units compared to single-family homes.

Staff is not in favor of this proposal as shown, especially considering that the applicant has already provided another concept application for a single-family subdivision that meets the current zoning and has been approved by the Coordinator Review Committee (CRC). Alternatively, rezoning only the north one (1) acre would be in line with the General Plan and still provide for a quality mixed-use development on the corner.

Section 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

> 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:
>
> (a) Public purpose for the amendment in question.

Staff response: The public purpose for the request is to provide additional commercial and residential opportunities on the west side of Provo.

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

Staff response: While staff may support a zone change for the north part of the property, the public is not best served by carrying that further south on the parcel. The MU zone would allow for increased density that was not accounted for when analyzing the west side for infrastructure limits. There are specific nodes for these densities expressed on the Southwest Area Future Land Use map that amount to around two-thousand multi-family units. Attempting to double the size of this particular node creates a concern that the public would not have the infrastructure to meet demands for the larger area. Additionally, substantially increasing the multi-family node in the highest density permitted on the west side will encourage all other multi-family nodes to also seek expansions. Again, staff suggests that the city not expand multi-family at the expense of single-family.

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

Staff response: As stated earlier, this proposal to extend the MU zone over two acres is not compatible with the General Plan maps, policies, and objectives for this property. Section 1.2.9 states that the overall average density of the west side should average four units per acre, and that the single-family home should be the predominant housing type. Staff would be comfortable with the MU on the north one acre of the property and R1 zoning on the remainder.

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

Staff response: There are no timing and sequencing provisions articulated for this property.

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

Staff response: Approving this request would obstruct attainment for development goals for the rest of the west side. Allowing increased density on this parcel would essentially take it away from those areas that anticipate growth and increased density on the west side.

(f) Adverse impacts on adjacent land owners.

Staff response: There are impacts associated with this request to the surrounding properties, on top of impacts to the entire west side of Provo. The adjacent properties would experience increased traffic and parking demands.

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

Staff response: Staff has verified the correctness of the General Plan and zoning 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 response: Staff has found no such conflict.

CONCLUSIONS

The proposed zone change does not comply with the General Plan's policies, maps, or appendices. Additionally, the related concept plan shows issues in meeting the proposed zone. The General Plan Appendix V designates specific areas for densities over four units per acre, otherwise we need to hold property owners and developers to that standard on the west side of Provo in order to maintain the ability to provide water and sewer services to all in the City; but also, to hold to existing owners' expectations on how their neighborhoods will develop. The applicant asked that these items come before the Planning Commission and City Council for decision knowing that there is not staff support.

The Planning Commission noted six specific items to be addressed on this project before it came back to them when they continued it at the January hearing. Those items were to:

1. Provide a draft development agreement detailing the amenity space.
2. Have the number of units solidified.
3. Redistribute the number of units (or decrease the number) in the proposal to transition to the south.
4. Provide a plan with no parking reduction request.
5. Put the highest use and most intensity on the north corner.
6. Have verification from Provo City Engineering on preferred access points.

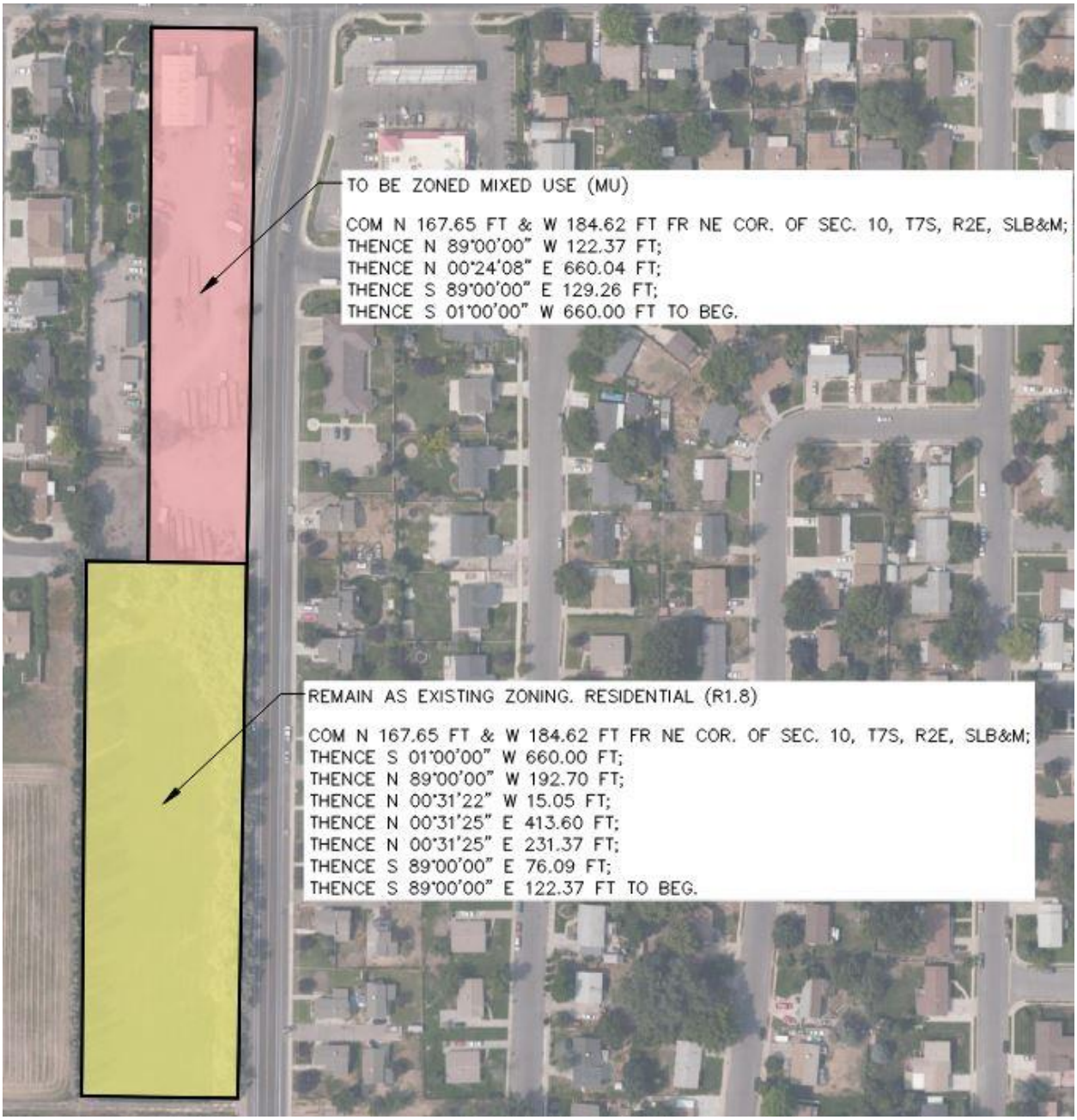
While the applicants have provided a draft development agreement to detail the amenity spaces, they have not provided that content in the plans. Staff feels that the amenities need to be detailed and show some type of coverage from the weather. The other items have been sufficiently addressed in the plans.

Since the rezone request does not comply with the General Plan of the City, staff recommends that the Planning Commission approve a revised zone map amendment, rezoning the portion of this property that lies within the Mixed-Use area of the Southwest Area Future Land Use map (appendix V) of the General Plan.

ATTACHMENTS

1. Proposed Zone Change Map
2. General Plan Map
3. Conceptual Site Plan
4. Concept Plan Summary Table
5. Draft Development Agreement
6. Applicant Submittal

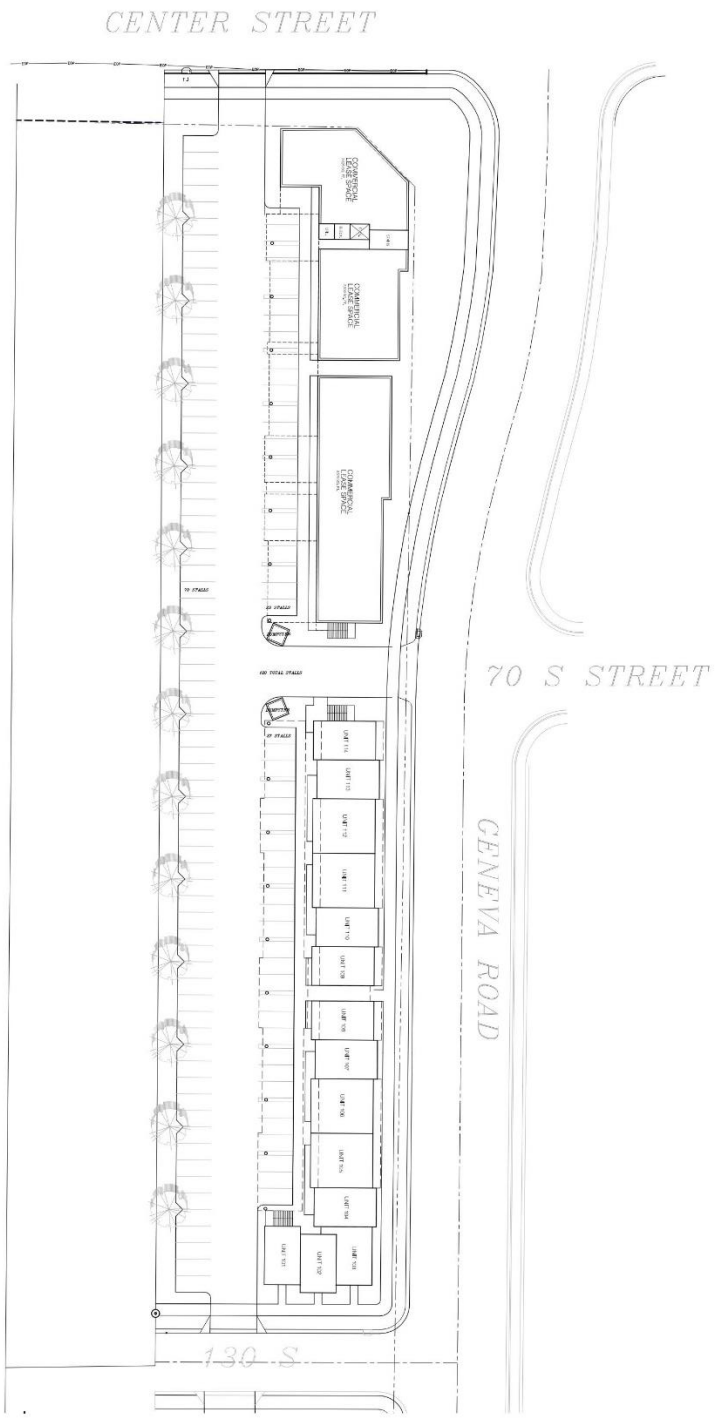
ATTACHMENT 1 – PROPOSED ZONE CHANGE MAP



ATTACHMENT 2 – GENERAL PLAN MAP



ATTACHMENT 3 – CONCEPTUAL SITE PLAN



ATTACHMENT 4 – CONCEPT PLAN SUMMARY TABLE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

ATTACHMENT 5 – DRAFT DEVELOPMENT AGREEMENT LANGUAGE

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

ATTACHMENT 6 – APPLICANT SUBMITTAL

LAKEVIEW CROSSING

Center Street and Geneva Road

Zone Change application: PLRZ20210271
Concept Plan application: PLCP20210398

Applicant Responses to Planning Commission Requests – 1/11/2023

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE 2
2. HAVE THE NUMBER OF UNITS SOLIDIFIED 21
3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH. 28
4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST 33
5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER 37
6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS 39
SUPPLEMENTAL INFORMATION 41
A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN 41
B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY 44

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE

APPLICANT RESPONSE:

Mixed-Use Zones 14.14D.120(1) requires the following:

> "an area equivalent to twenty percent (20%) or more of the residential gross floor area must be developed in recreational amenities, such as a common … rooftop garden, or other amenity."
>
> "Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering place."

The total residential gross floor area of the proposed concept plan equals 45,178 square feet, therefore, based on the 20% amenity requirement, the required amenity area minimum would be 9,036 square feet.

We proffer that a minimum of 9,036 square feet of massed area be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

See draft development agreement, including concept plan, attached.



Image of what rooftop amenity could possibly look like.

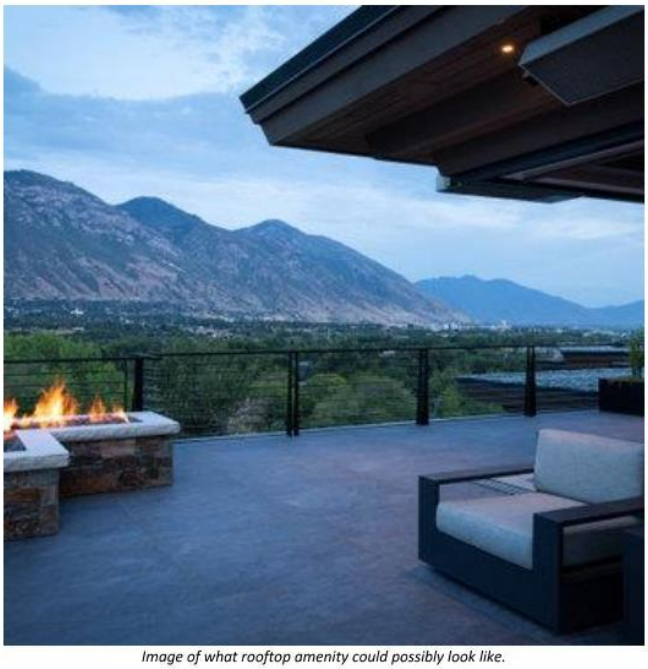
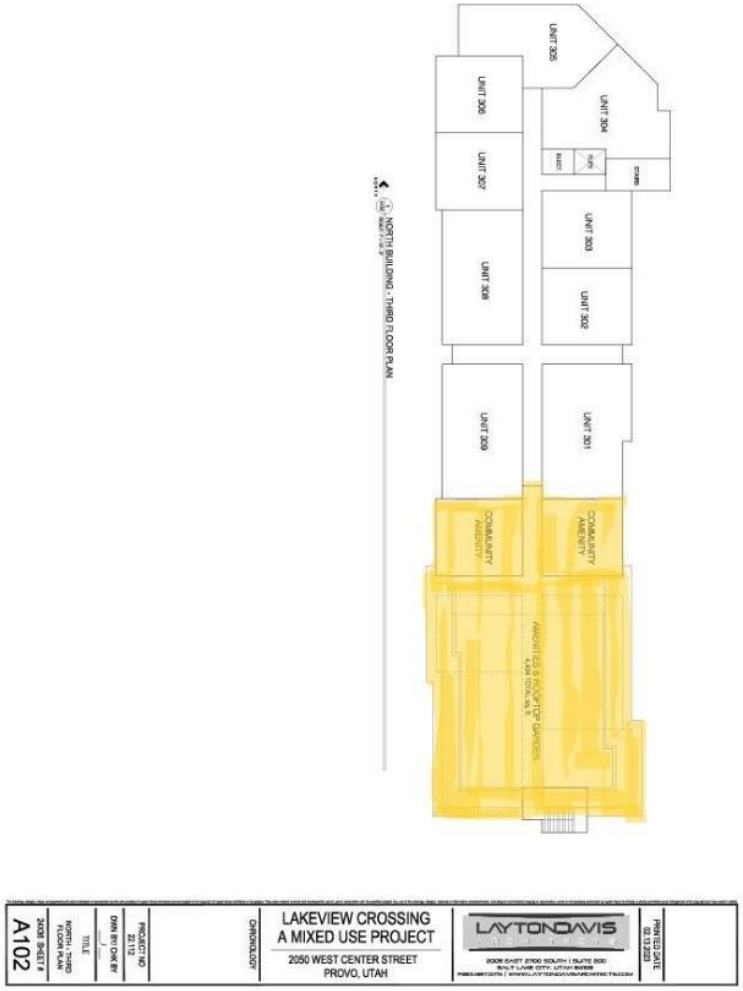


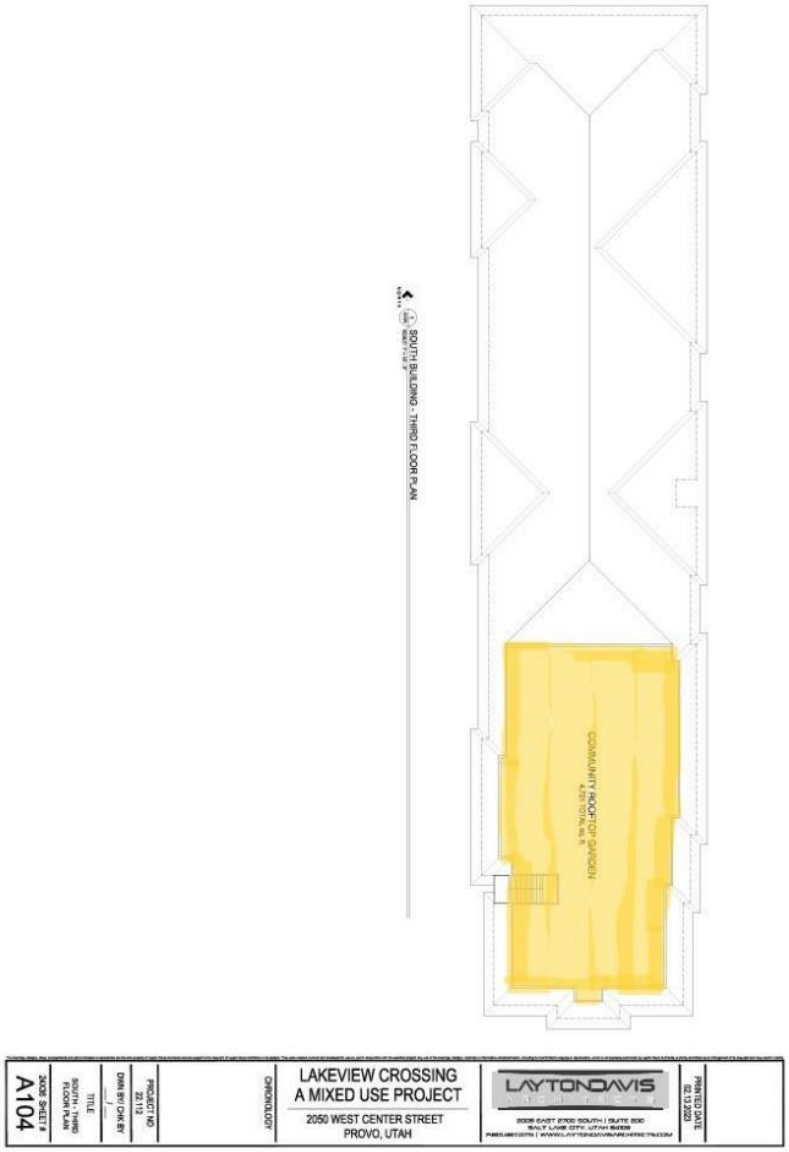
Image of what rooftop amenity could possibly look like.



Image of what rooftop amenity could possibly look like.

CONCEPT PLAN WITH AMENITY AREA HIGHLIGHTED




SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
4,751 TOTAL sq. ft.
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
A104
SHEET #
TITLE
SOUTH - THIRD FLOOR PLAN
DWN BY CHK BY
PROJECT NO
22.113
CHRONOLOGY
PRINTED DATE
02.13.2023

DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

> We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney

351 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not

unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____
City Recorder

By:_____
Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

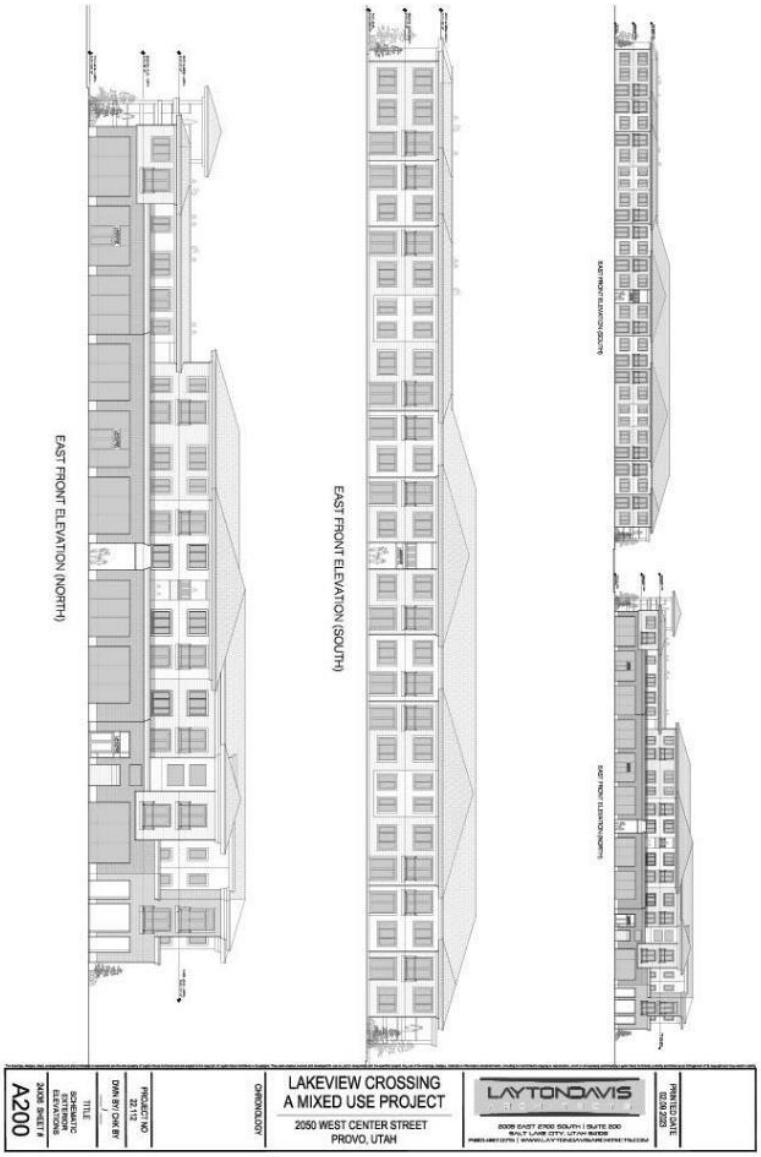
Exhibit A

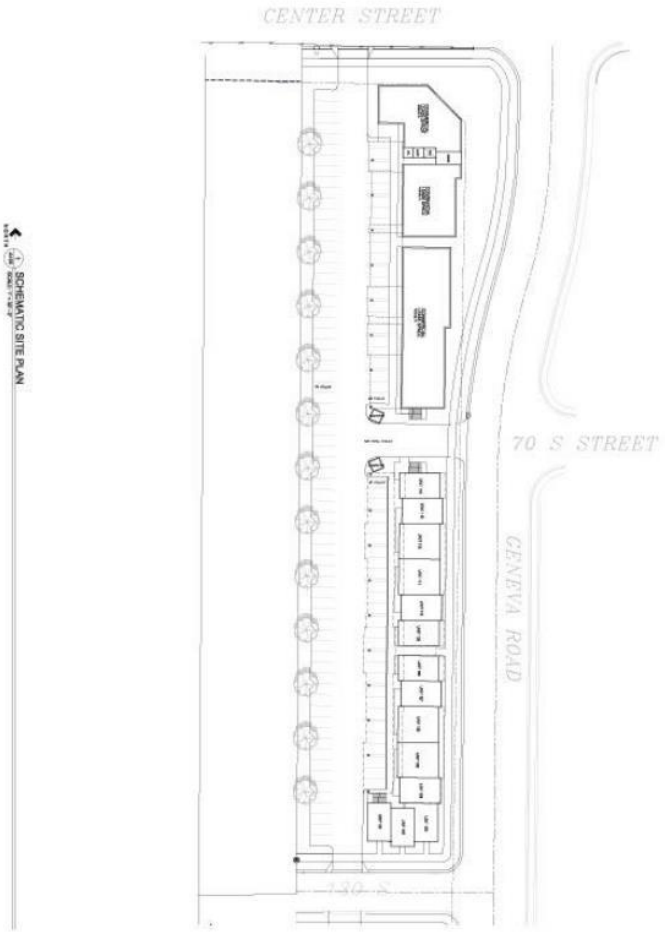
Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00'00" W 122.37 FT;
THENCE N 00°24'08 E 660.04 FT;
THENCE S 89°00'00" E 129.26 FT;
THENCE s 01°00'00" W 660.00 FT TO BEG

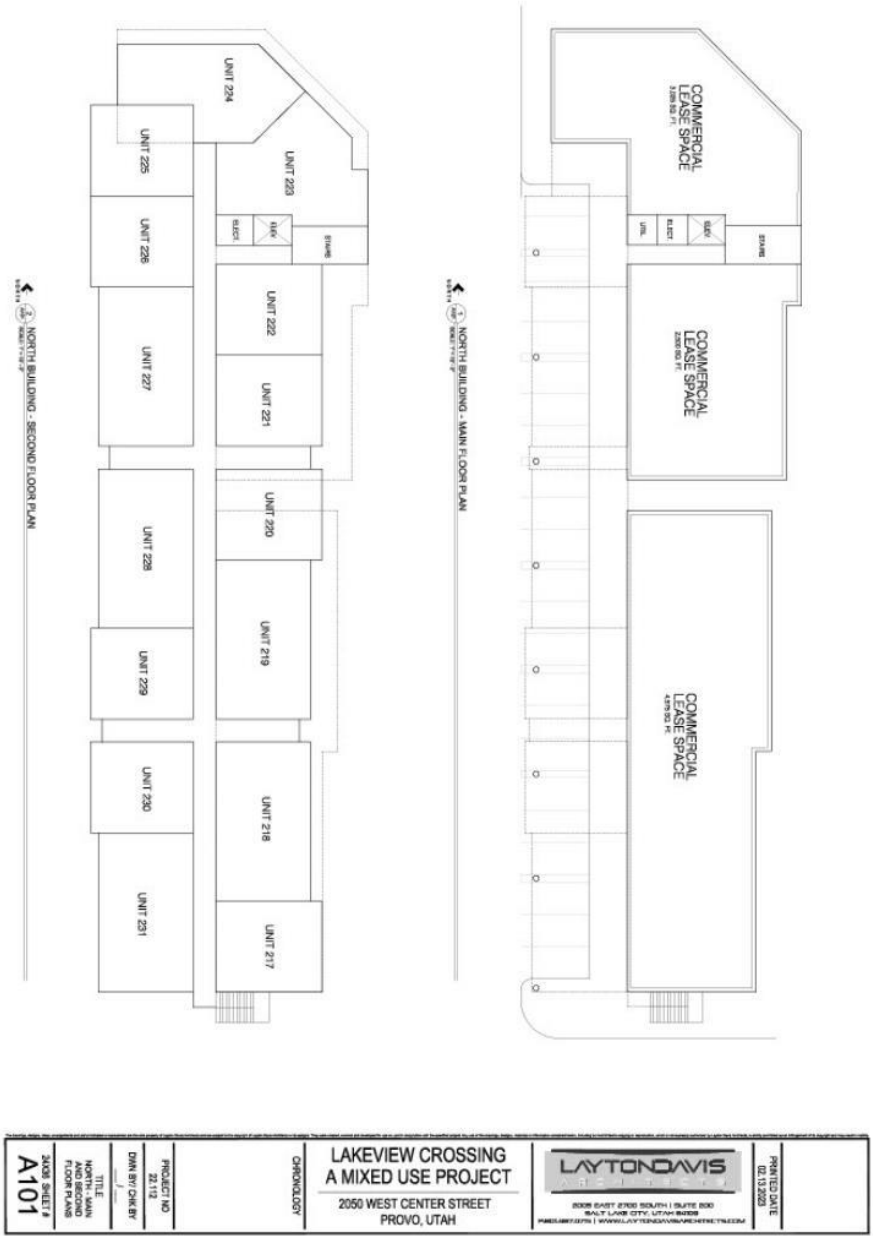
Exhibit B

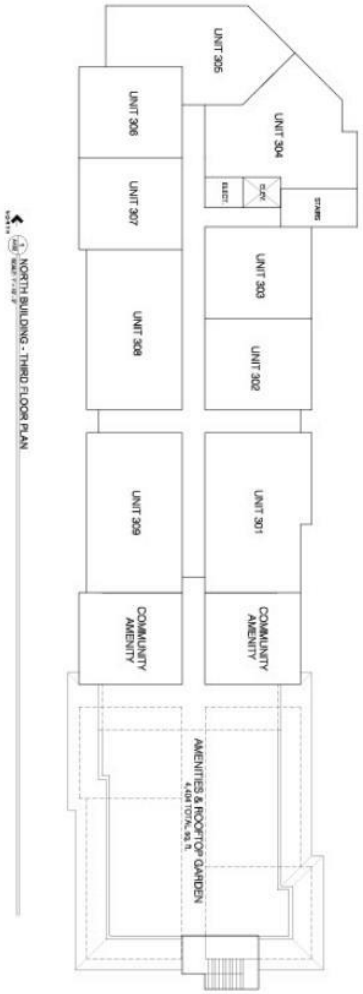
Concept Plan





A100 SHEET #	TITLE: SCHEMATIC SITE PLAN	PROJECT NO: 22.113 / DWN BY / CHK BY: /	CHRONOLOGY	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH LAYTONDAVIS ARCHITECTURE 5006 EAST 2700 SOUTH | SUITE 300 SALT LAKE CITY, UTAH 84109	PRINTED DATE: 02.13.2023


NORTH BUILDING - SECOND FLOOR PLAN
UNIT 224
UNIT 225
UNIT 226
UNIT 227
UNIT 228
UNIT 229
UNIT 230
UNIT 231
UNIT 223
UNIT 222
UNIT 221
UNIT 220
UNIT 219
UNIT 218
UNIT 217
NORTH BUILDING - MAIN FLOOR PLAN
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
NORTH - MAIN AND SECOND FLOOR PLANS
SHEET #
A101
CHRONOLOGY
PRINTED DATE
02.13.2023



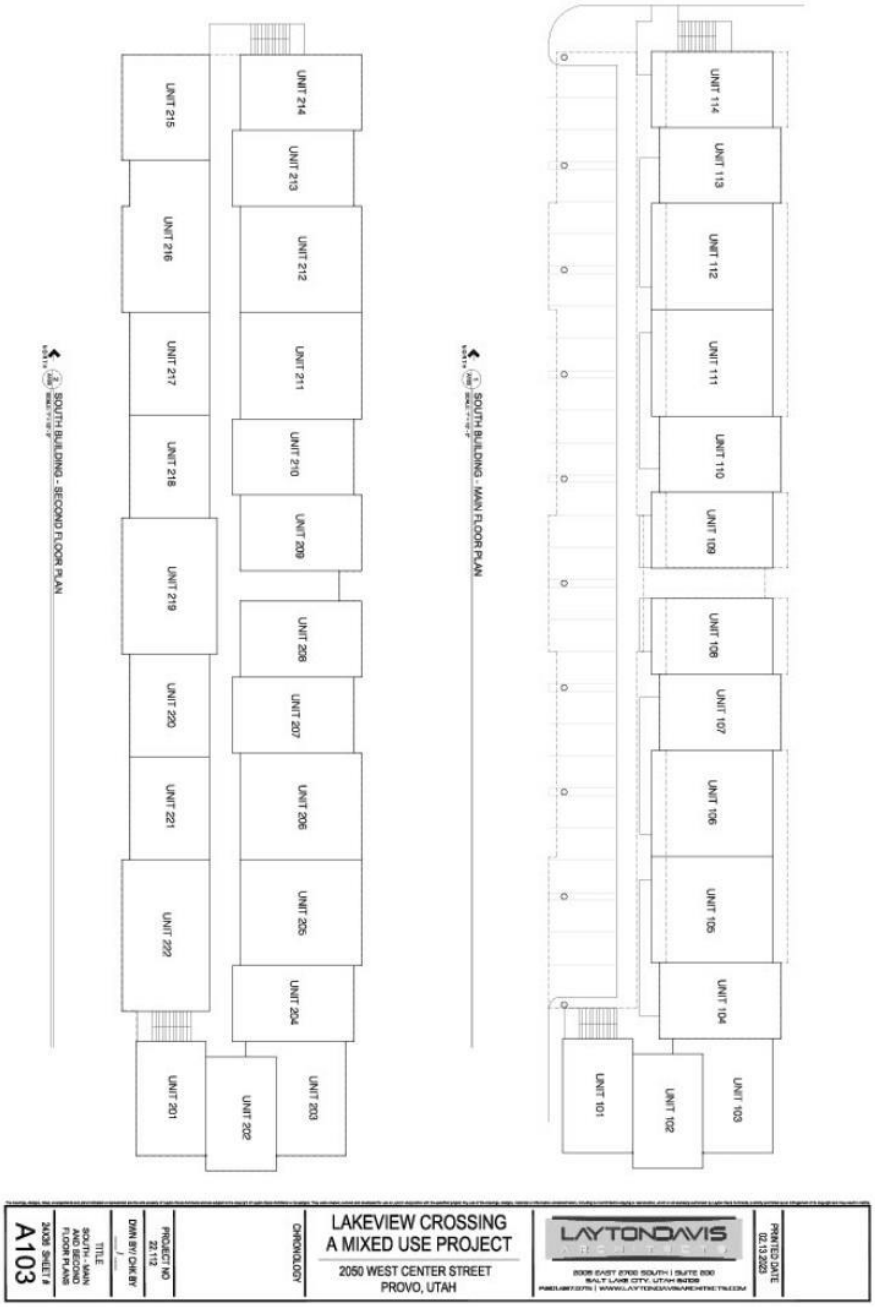
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

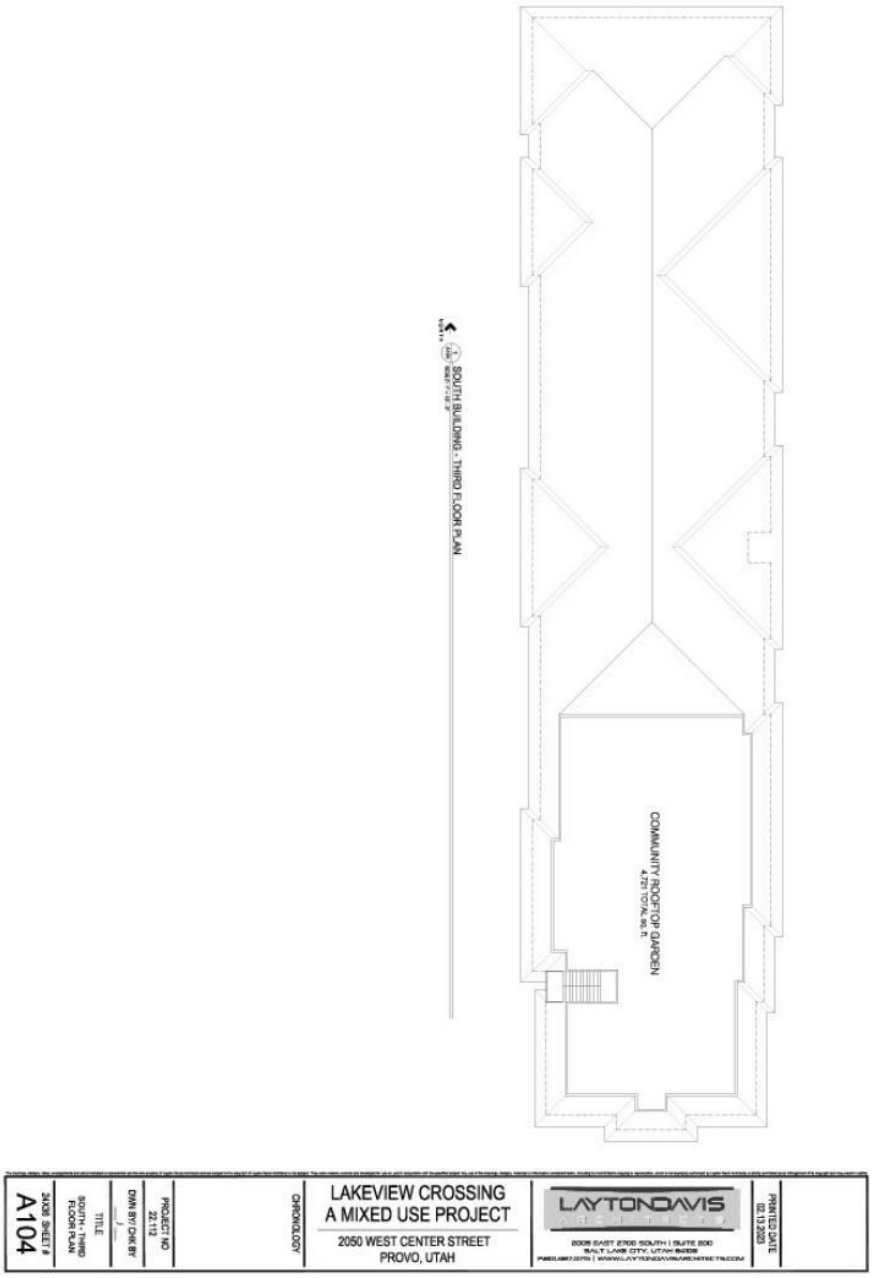
LAYTONDAVIS ARCHITECTURE
8305 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109

PROJECT NO: 22.13
DWN BY/ CHK BY: ___/___
TITLE: NORTH - THIRD FLOOR PLAN
SHEET #: A102

CHRONOLOGY

PRINTED DATE: 02.13.2023


SOUTH BUILDING - SECOND FLOOR PLAN
UNIT 214
UNIT 213
UNIT 212
UNIT 211
UNIT 210
UNIT 209
UNIT 208
UNIT 207
UNIT 206
UNIT 205
UNIT 204
UNIT 203
UNIT 202
UNIT 201
UNIT 215
UNIT 216
UNIT 217
UNIT 218
UNIT 219
UNIT 220
UNIT 221
UNIT 222
SOUTH BUILDING - MAIN FLOOR PLAN
UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 103
UNIT 102
UNIT 101
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PRINTED DATE
02.13.2023
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
SOUTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET #
A103


SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
A104

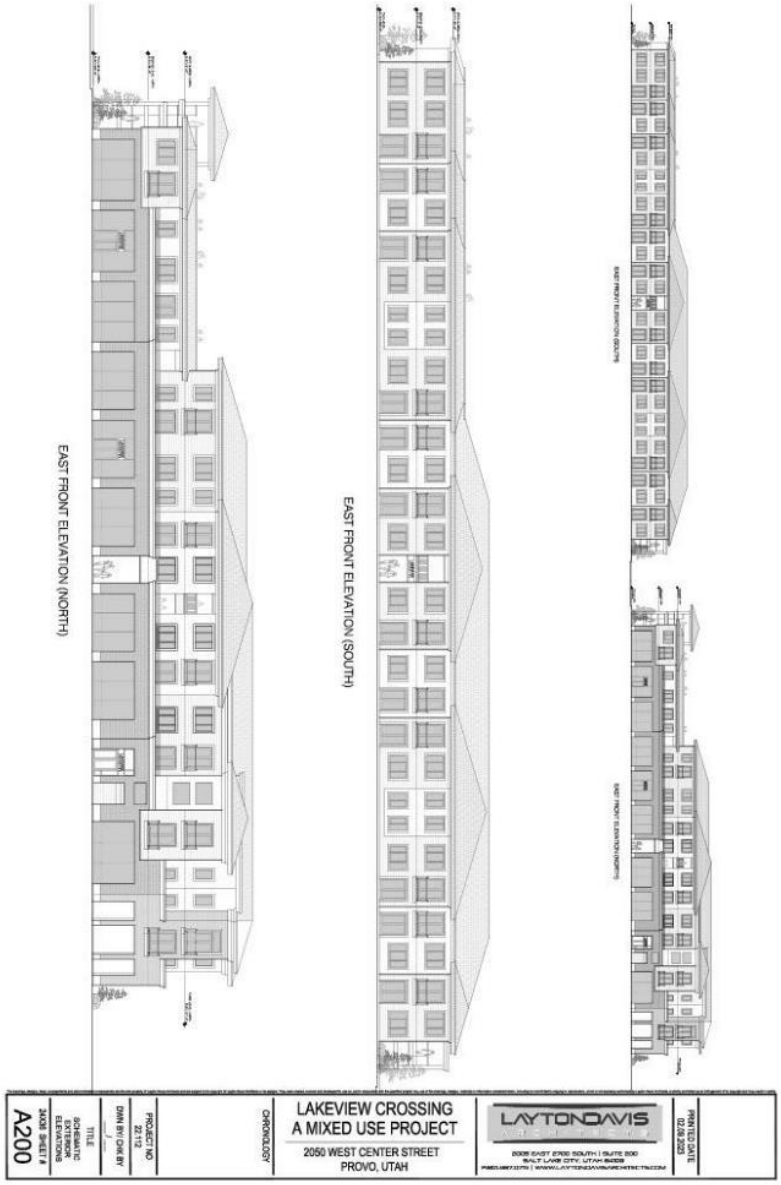
2. HAVE THE NUMBER OF UNITS SOLIDIFIED

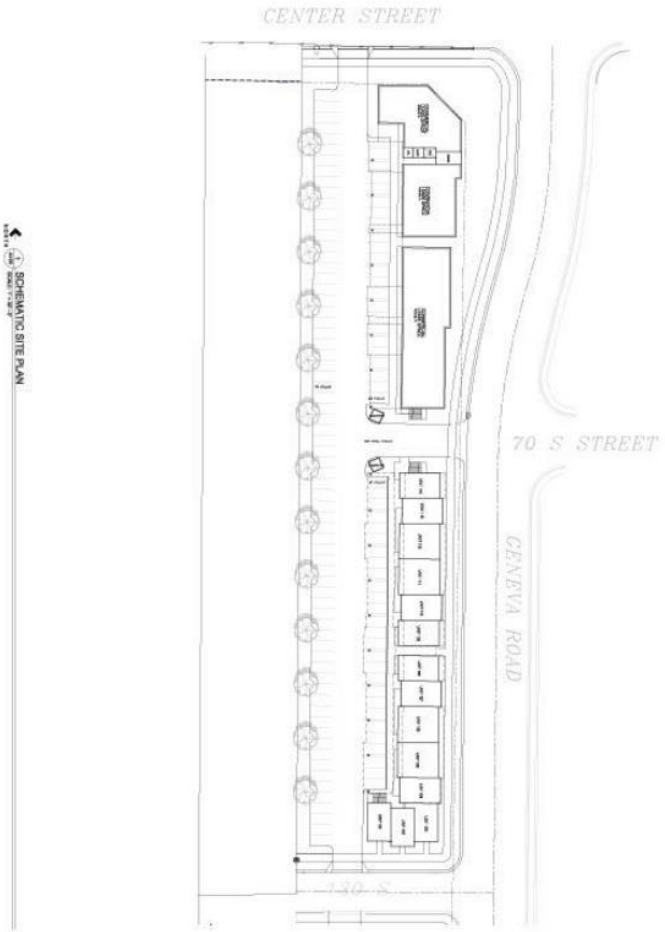
APPLICANT RESPONSE:

	UNIT COUNT
Studio	20
1-Bedroom	20
2-Bedroom	18
3-Bedroom	2
TOTAL	**60**

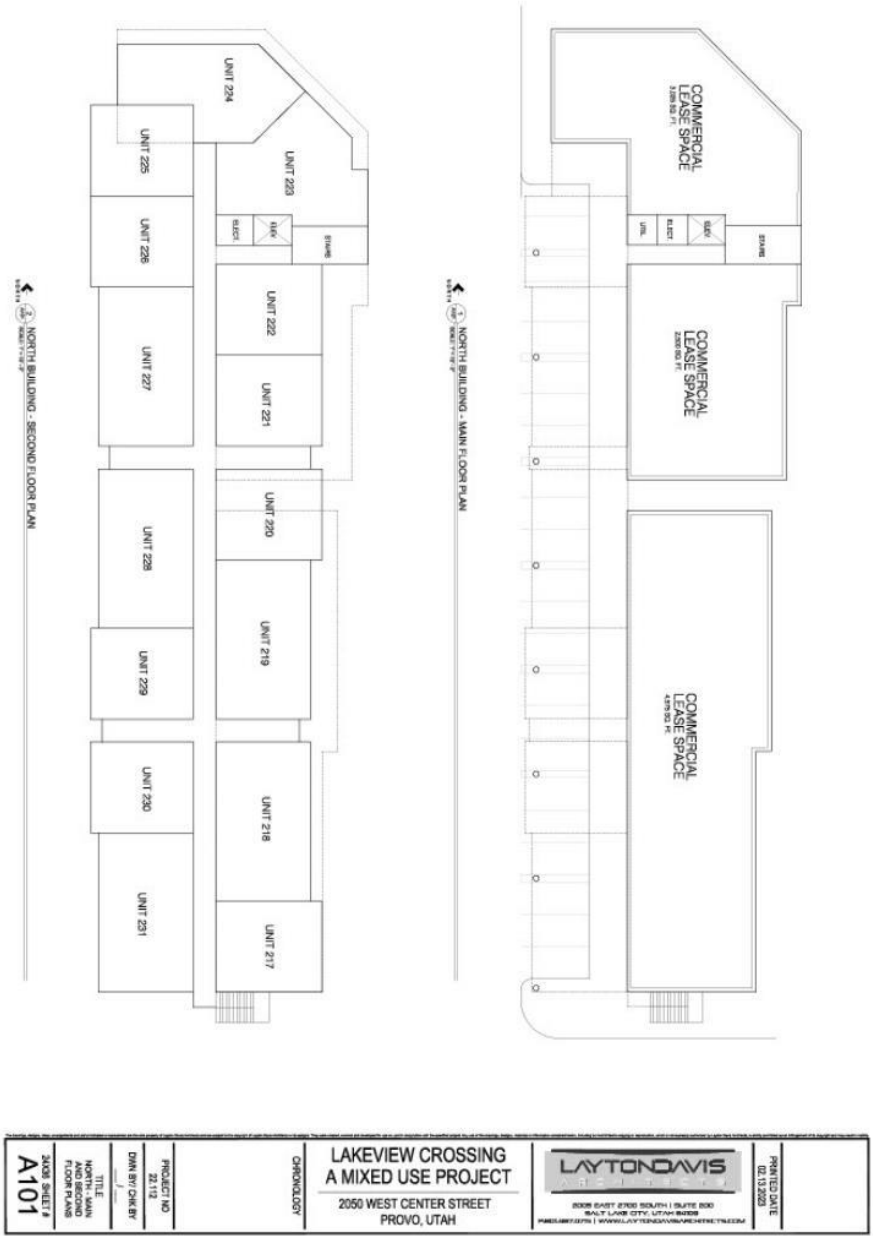
See concept plan attached.

CONCEPT PLAN SHOWING UNITS:





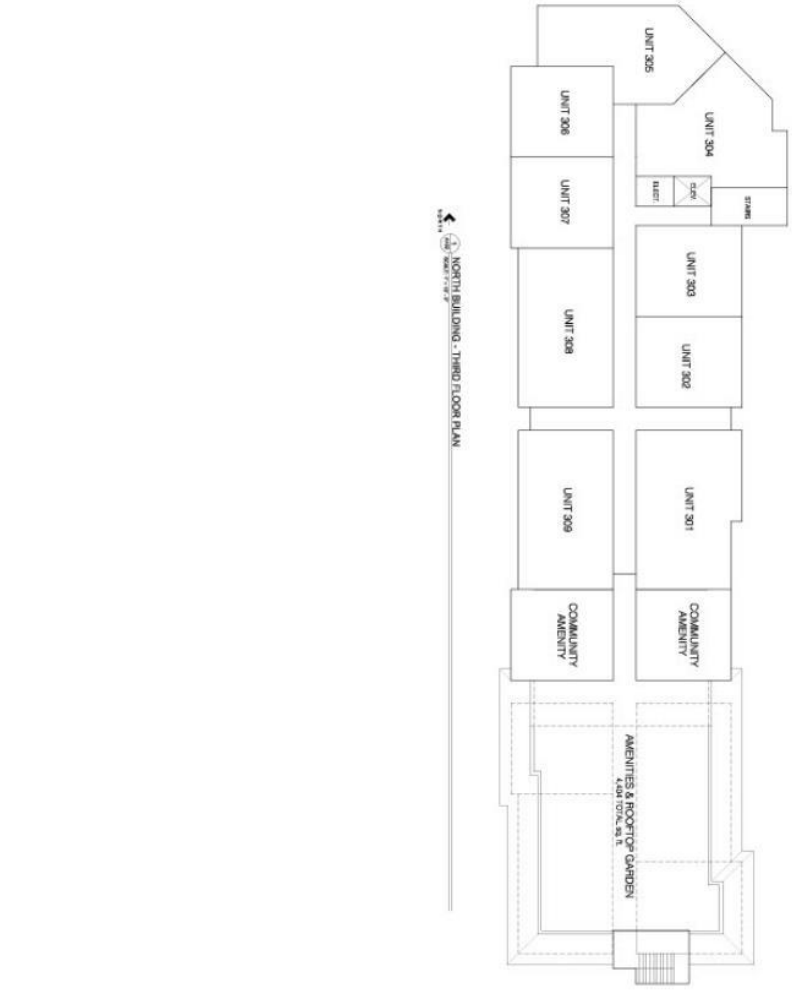
A100 SHEET #	PROJECT NO 22.13	CHRONOLOGY	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH	LAYTONDAVIS 8305 EAST 2700 SOUTH | SUITE 300 SALT LAKE CITY, UTAH 84109	PRINTED DATE 02.13.2023
TITLE SCHEMATIC SITE PLAN	DWN BY / CHK BY				



LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS

PROJECT NO 22.112
DWN BY/ CHK BY
TITLE NORTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET # A101
CHRONOLOGY
PRINTED DATE 02.13.2023



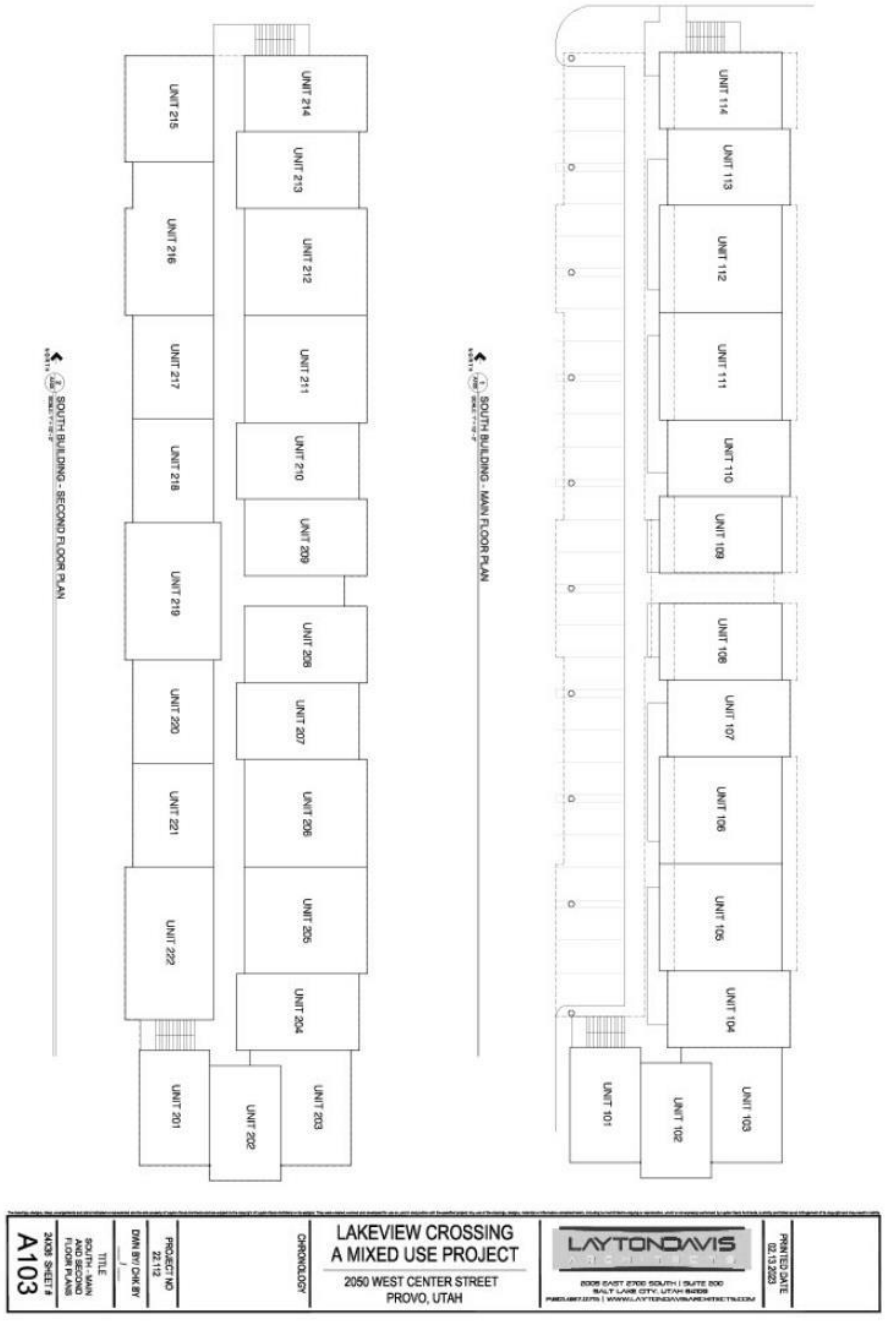
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

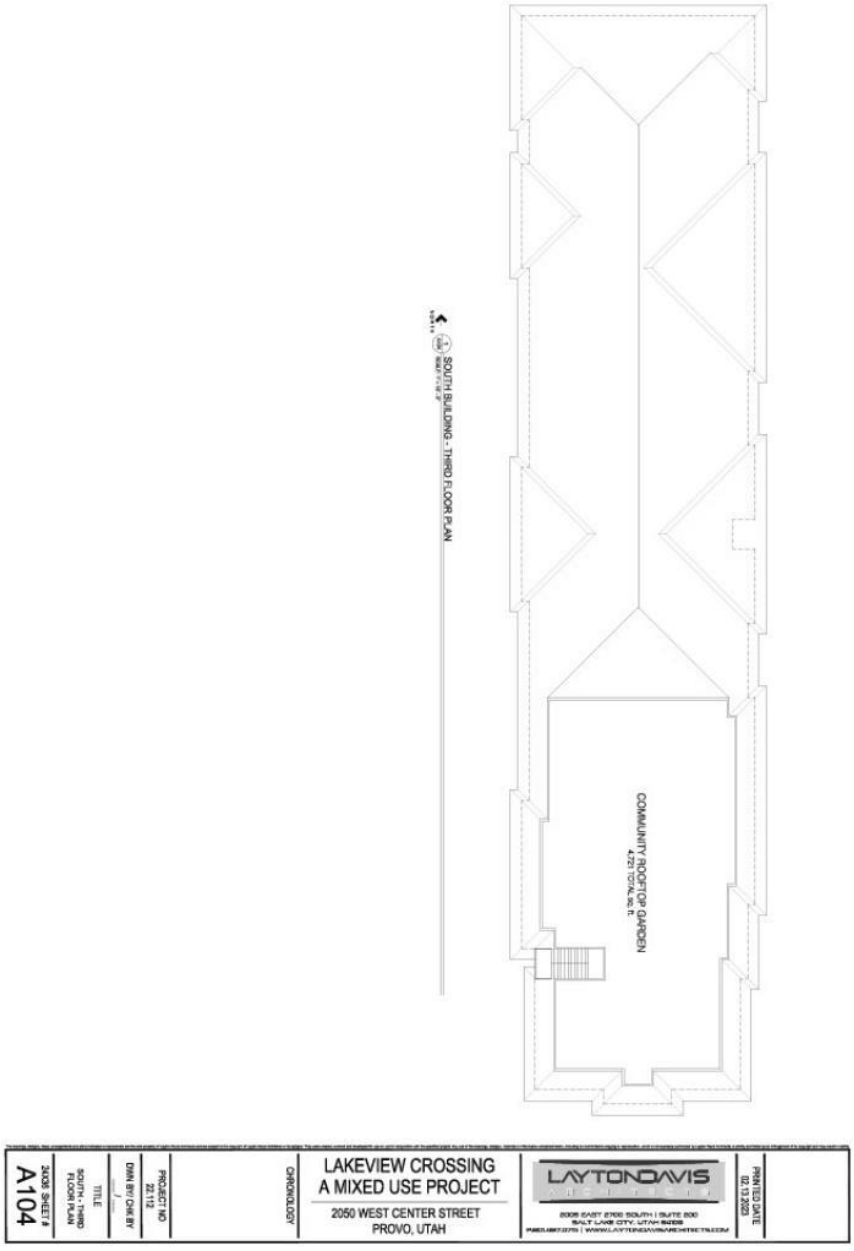
LAYTONDAVIS ARCHITECTS
8308 EAST 6700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84609
PHONE (801) 255-1 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PROJECT NO 22.112
DWN BY/ CHK BY
TITLE NORTH - THIRD FLOOR PLAN
24X36 SHEET # A102

PRINTED DATE 02.13.2023


SOUTH BUILDING - SECOND FLOOR PLAN
UNIT 214
UNIT 213
UNIT 212
UNIT 211
UNIT 210
UNIT 209
UNIT 208
UNIT 207
UNIT 206
UNIT 205
UNIT 204
UNIT 203
UNIT 202
UNIT 201
UNIT 215
UNIT 216
UNIT 217
UNIT 218
UNIT 219
UNIT 220
UNIT 221
UNIT 222
SOUTH BUILDING - MAIN FLOOR PLAN
UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 103
UNIT 102
UNIT 101
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY/ CHK BY
TITLE
SOUTH - MAIN AND SECOND FLOOR PLANS
24X36 SHEET #
A103
CHRONOLOGY
PRINTED DATE
02.13.2023


SOUTH BUILDING - THIRD FLOOR PLAN
COMMUNITY ROOFTOP GARDEN
4721 TOTAL sq. ft.
LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH
LAYTONDAVIS
PROJECT NO
22.112
DWN BY CHK BY
TITLE
SOUTH - THIRD FLOOR PLAN
SHEET #
A104
PRINTED DATE
02.13.2023
CHRONOLOGY

3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH.

APPLICANT RESPONSE:

North Building: 55% of total project square footage

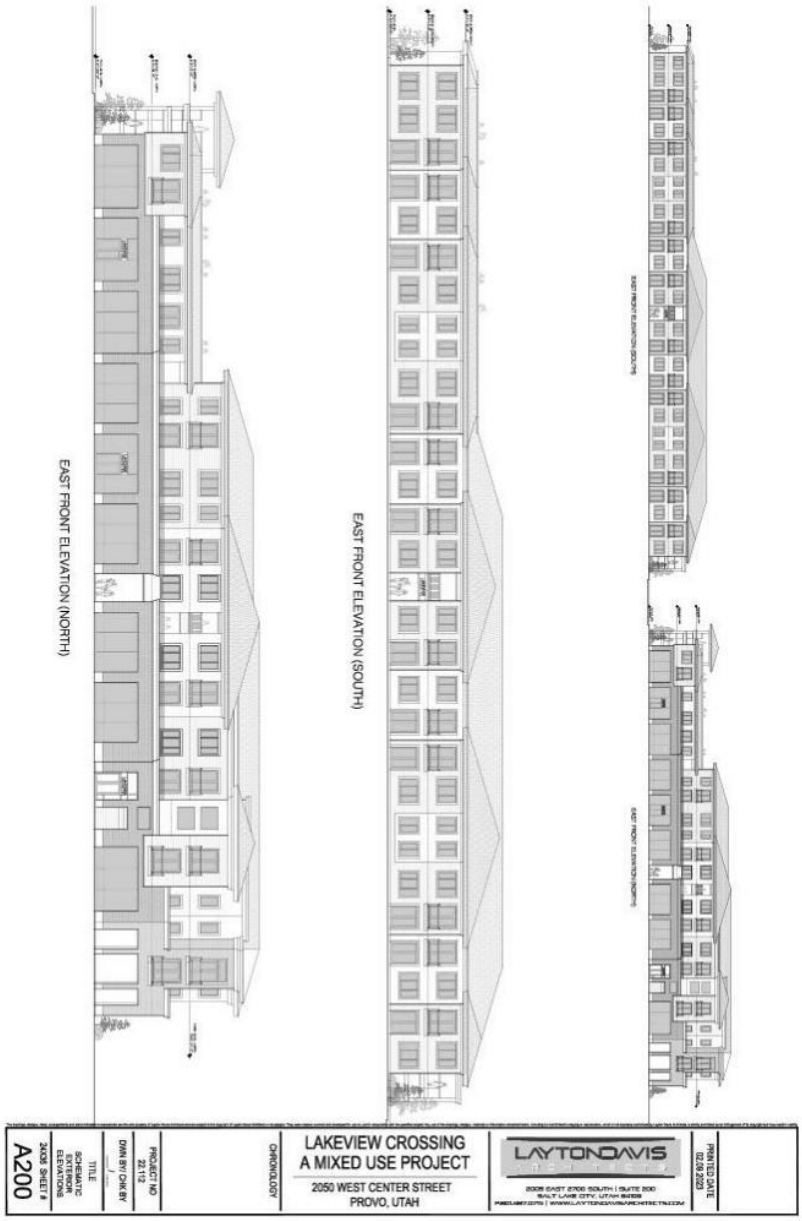
Height:	3 stories
	40' to eave
	47' to ridge
Use:	commercial & residential
Transition:	3 story building to 2 story building

South Building: 45% to total project square footage

Height:	2 stories
	26' to eave
	32' to ridge
Use:	residential only
Transition:	2 story townhome-style units on south elevation facing 130 South Street

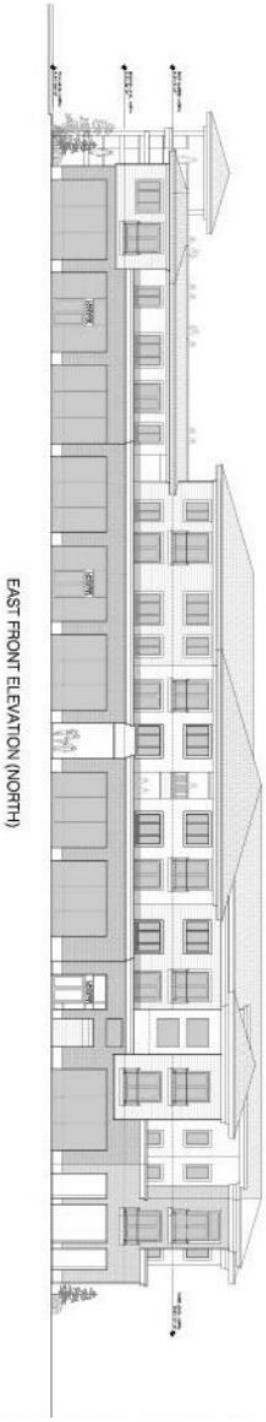
See revised architectural elevations attached.

REVISED ARCHITECTUTRAL RENDERINGS

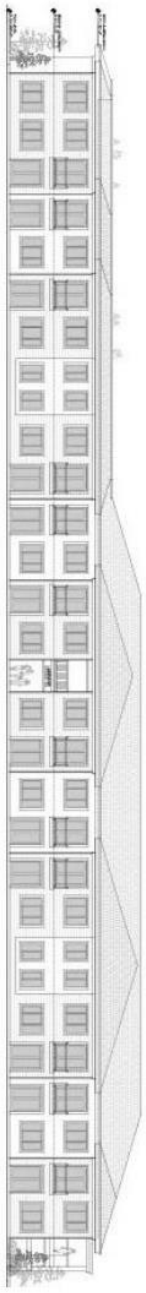




30



EAST FRONT ELEVATION (NORTH)



EAST FRONT ELEVATION (SOUTH)

32

4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST

APPLICANT RESPONSE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

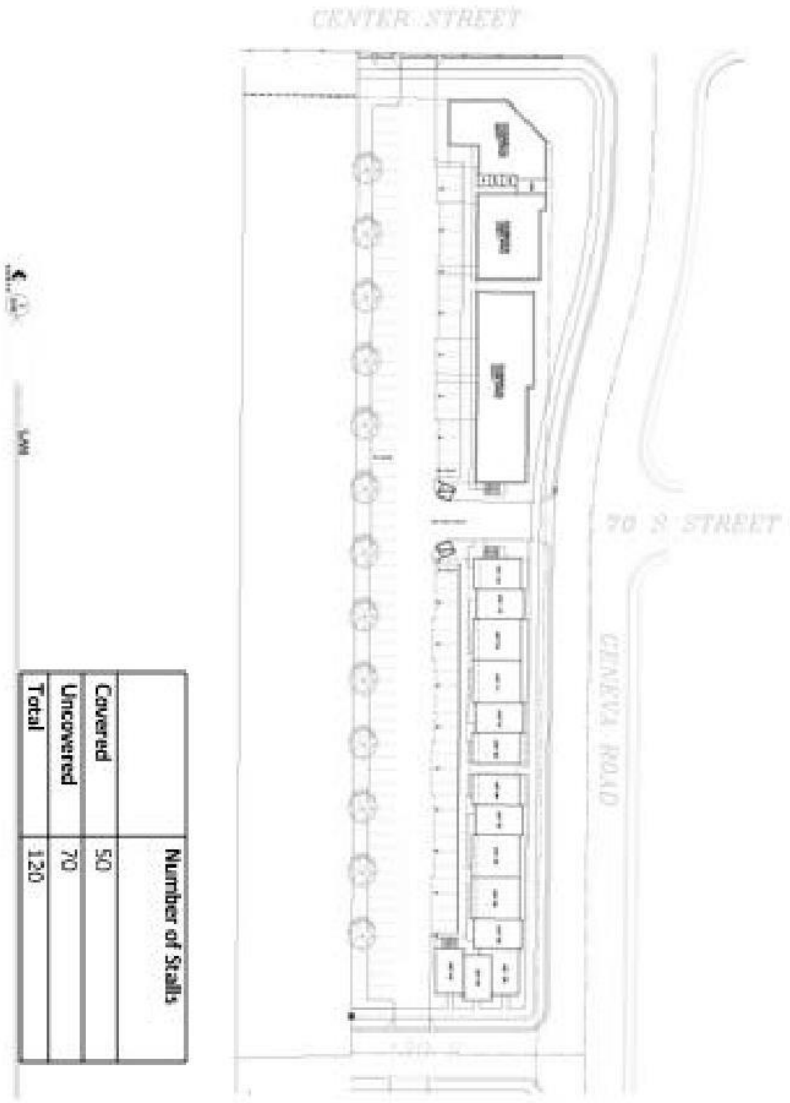
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

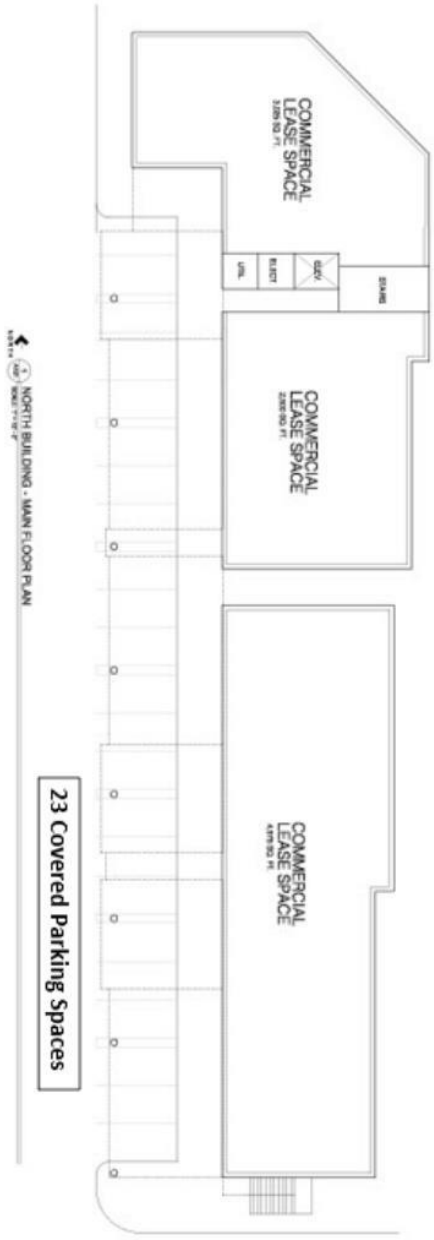
- **No shared use parking reduction request**
- 50 covered parking stalls / 70 uncovered parking stalls
- 25% more parking stalls than parking demand study (Hales Engineering – Report UT22-2389)
- Electric Vehicle (EV) charging - 50 stalls (public charging & private charging)
- Bike lockers & bike repair station
- Public Transit (UTA Route 833)
    - 7 minutes to Provo Airport
    - 10 minutes to Provo Center Station (UVX bus rapid transit line & UTA FrontRunner commuter rail)

See concept site plan and parking detail attached.

CONCEPT SITE PLAN:



Number of Stalls	
Covered	50
Uncovered	70
Total	120


COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
COMMERCIAL LEASE SPACE
23 Covered Parking Spaces
NORTH BUILDING - MAIN FLOOR PLAN


UNIT 114
UNIT 113
UNIT 112
UNIT 111
UNIT 110
UNIT 109
UNIT 108
UNIT 107
UNIT 106
UNIT 105
UNIT 104
UNIT 101
UNIT 102
UNIT 103
SOUTH BUILDING - MAIN FLOOR PLAN
27 Covered Parking Spaces

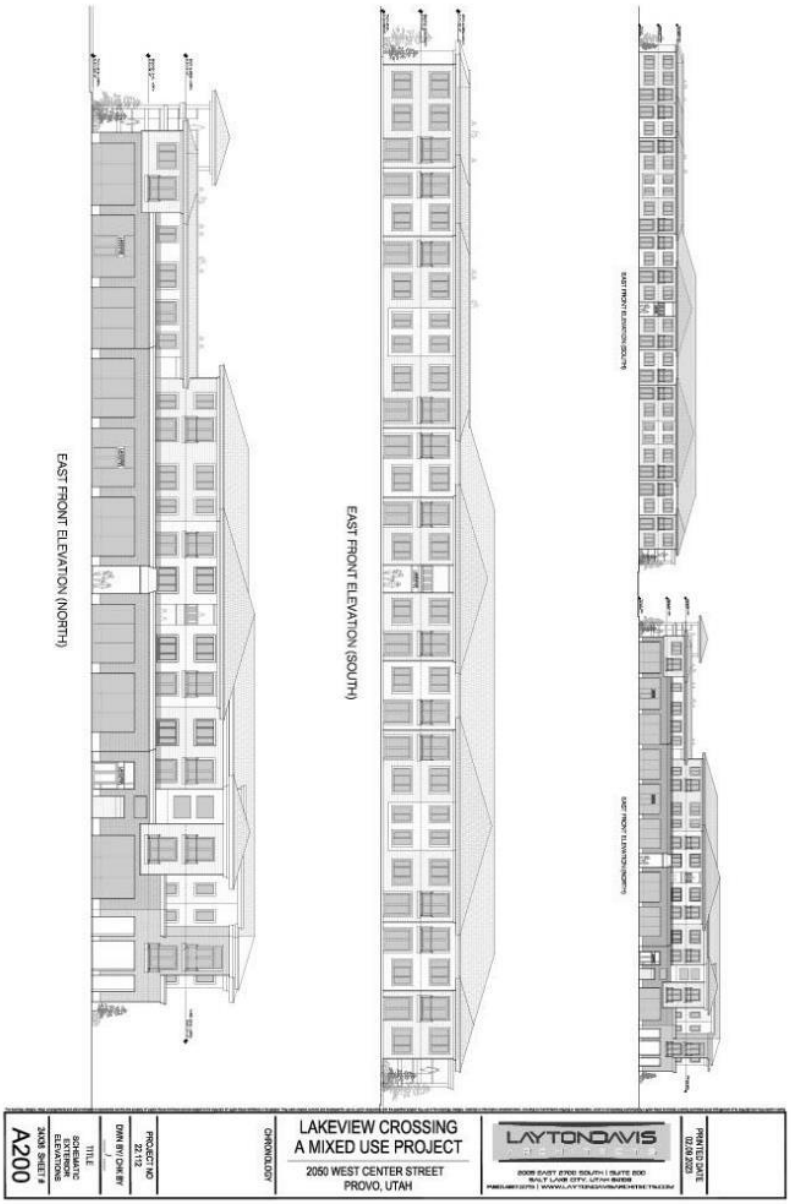
5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER

APPLICANT RESPONSE:

North Building: 55% of total project square footage
Height: 3 stories
40' to eave
47' to ridge
Mixed-Use:
Commercial - 10,100 sqft
Residential - 20,040 sqft

See revised architectural elevation attached.

REVISED ARCHITECTUTRAL RENDERINGS



6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS

APPLICANT RESPONSE

In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
- The proposed driveway accessing Geneva Road (2050 West) is at an acceptable location (where it is aligned with the opposing 70 South Street to the east).
- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street, and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

See email confirmation attached.

ATTACHED EMAIL FROM DAVID DAY

From: David Day <DDay@provo.utah.gov>
Sent: Tuesday, January 24, 2023 11:54 AM
To: Steve Turley <StevenTurley001@msn.com>
Subject: RE: Lakeview Crossing discussion 1/19/2022

Yes

From: Steve Turley <StevenTurley001@msn.com>
Sent: Monday, January 23, 2023 6:29 PM
To: David Day <DDay@provo.utah.gov>
Subject: Lakeview Crossing discussion 1/19/2022

CAUTION: This email originated from outside of Provo's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David,

Thanks for talking me through the accesses on the proposed project at Center Street and Geneva Road last week.

I'm drafting a response to the staff report. Can I include the following?

6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS
APPLICANT RESPONSE:
In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

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SUPPLEMENTAL INFORMATION

A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN

STATEMENT REGARDING COMPLIANCE WITH GENERAL PLAN

Lakeview Crossing @ Center Street & Geneva Road (2050 West), Provo
re-zone and concept plan

Staff maintains that the General Plan only supports changing the existing *R1-8 One-Family Residential Zone* designation to the *Mixed-Use Zone* on the northern-most one acre area (on the corner of Center Street and Geneva Road) of the project, and that any area further south must remain zoned as *R1.8 One-Family Residential*. Support for this determination is based on the strict interpretation of the boundary of land use bubbles on the General Plan's *Southwest Area Future Land Use Map*.

The General Plan's adopted Southwest Neighborhood Plan states the following regarding the Southwest area Future Land Use map:

> *"The boundaries of the illustrated land uses should be viewed as flexible and not hard boundaries in order to allow creativity in the layout and development of a site."*
> Provo City Council Meeting, November 15, 2022 - p. 14

Please further consider the following comment by Bill Peperone, Director of Development Services, when he presented the *Southwest Area Future Land Use Map* to the City Council on November 13, 2018, (when the area plan was approved and adopted):

> *"There's a certain amount of ebb and flow that we expect to go with this. So as development applications come in, it's expected that there's going to be some give and take on the boundaries of all of those areas."*
> Provo City Council Meeting, November 13, 2018 - Bill Peperone (31:48)

Clearly, the land use bubble boundaries in the *Southwest Area Future Land Use Map* are intended to be flexible and are not hard delineations. As stated, these bubble boundaries "should be viewed as flexible and not hard boundaries" and that these boundaries "ebb and flow" and there is "give and take" according to the interpretation and discretion of the Planning Commission and City Council. Regarding projects that may not fit entirely within the land use bubbles, Provo City Councilor David Harding stated the following:

> *"These very specifically were drawn as kind of bubbles. What we are trying to communicate with the community is this is what you can expect. We'd like to communicate to developers this is what we are looking for. Now if you come in with something that doesn't quite fit, but it's aligned with the vision of what we are trying to achieve, great bring it in."*
> Provo City Council Meeting, November 13, 2018 - City Councilor David Harding (1:18:33)

The northern-most one acre of the proposed rezone area lies in the *Village Center / Commercial Mixed-Use* land use bubble. The southern one acre of the proposed rezone area lies in an area that is not included in any land use bubble. In fact, there is approximately 600 feet between the *Village Center / Commercial Mixed-Use* land use bubble to the north and the *Residential* land use bubble to the south. The Staff's position that there is a hard boundary of the north *Village Center / Commercial Mixed-Use* land use bubble but not a hard boundary to the south *Residential* land use bubble is untenable and arbitrary. Such a position would render the 600 feet between land use bubbles as not designated for any land use. Clearly this is not logical.

While the proposed rezone area does not entirely fit within the *Village Center / Commercial Mixed-Use* bubble, the proposed rezone meets the vision that the area is intended to be a mix of well-designed commercial and residential uses. Staff specified that the new *Mixed-Use Zone* should be used for the *Village Center / Commercial Mixed-Use* area and the proposed project concept meets the requirements of this zone.

When the proposed rezone was originally presented to the Planning Commission on March 9, 2022, commissioners provided the following direction:

> *"What you are proposing for the two [acres] on the north doesn't bother me at all. It seems like that is a perfect location for that kind of thing and certainly having higher density housing, if it were on top of the commercial, it would be fine."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:06:00)

> *"We would feel comfortable with the [Mixed-Use Village Center] commercial General Plan designation being rezoned in an area that was larger than the bubble shown on the map because it meets the intent, which is to provide something useful in that commercial node…we actually want it [Mixed-Use Village Center area] to be something useful to the community so allowing [the rezone] to go further than what the bubble shows, would, in my mind, meet that requirement."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Lisa Jensen (2:19:00)

> *"I support what [Commissioner Jensen] has just recommended."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:19:40)

> *"I agree with Commissioner Jensen, it makes more sense to clean things up on the zoning, but to stick strictly to the General Plan just because something is not quite within the bubble doesn't make sense…"*
> Planning Commission Meeting, March 9, 2022 - Commissioner Miles Miller (2:22:19)

> *"A 'village center' to me is a more walkable neighborhood….to see something that meets the corner is a building that helps define the intersection with shops on the bottom with apartments above that to me says: 'village center'… I would love to see something that is actually mixed-use on that corner…to create something a little more walkable, a little more 'mini downtown' feel."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Brian Henrie (2:24:23)

In consideration of the guidance provided by these comments, the request to change the zone designation from the existing *R1-8 One-Family Residential Zone* designation to the proposed *Mixed-Use Zone* allows the two acres at the corner of Center Street and Geneva Road to accommodate a mix of ground-floor commercial uses with higher density residential uses above.

Please also consider that the *Mixed-Use Zone* requires at least 10,000 square feet of commercial uses to facilitate the desired mixed-use walkable community. The parking spaces required to support 10,000 square feet of commercial uses can range from 40 parking spaces (office), 50 spaces (retail), to 100 parking spaces (restaurant). Requiring the minimum of 10,000 square feet of commercial space and even the minimum of 40 parking stalls cannot fit on a single acre site. The combination of requiring the 10,000 square feet of commercial space and the adequate parking requirement necessitates incorporating the additional acreage to the south (logically bounded by 130 South street). Limiting the *Mixed-Use Zone* to only one acre makes development simply impossible. Either rezone both acres, or rezone none and eliminate the opportunity for this corner property to contribute to the *Village Center / Commercial Mixed-Use* area.

In conclusion, Staff maintains that the rezone request does not comply with the General Plan based on the southern one-acre area of the proposed rezone being designated on the *Southwest Future Land Use Map* as limited to residential uses not exceeding three (3) units per acre. This determination is arbitrarily based on strictly defining the boundary of one land use bubble (*Village Center / Commercial Mixed-Use*) to NOT include the southern acre, but fudging the boundary of the other land use bubble (*Residential*) by 600 feet.

- This position is contrary to the adopted Southwest Neighborhood Plan (pending adoption by City Council on November 15, 2022).
- This position is contrary to the prior statements made by Staff, Planning Commision, and City Council when this map was being created and adopted.
- This position is contrary to the opinions expressed by a majority of the planning commissioners when they considered this project's rezone request at their March 9, 2022, meeting.

Staff suggests that 'hands are tied' and that the Planning Commission and City Council must interpret the General Plan solely on the arbitrary boundary of a bubble (and curtail development accordingly). The General Plan itself states the opposite and is actually much broader and details greater goals. The General Plan aspires for a vibrant mixed-use node at west Provo's most prominent intersection facilitating the beginnings of a much-desired west-side walkable community. This project creates the desired "mix of retail, office, and higher density residential uses, with attractive site amenities and distinctive design features with a density limit of 30 residential units per acre (see: Southwest Neighborhood Plan, p. 15). It is a choice to encourage and facilitate the creation of mixed retail, office, and residential uses (and extend an arbitrary flexible boundary of a bubble on a map), or hold fast to an arbitrary line of a bubble on a map (and exclude the potential benefits of the proposed mixed-use project). We hope you'll choose to support this project as proposed and begin to realize the Village Center envisioned by Provo's General Plan.

B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY

Planning Commission Meeting-January 11, 2023

1:36:15

Commissioner Whitlock: I had a question for Mr. Day from Public Works. There was a comment made about sewage and I didn't see anything about that in the Staff Report. Is that a concern at all from Public Works about the project?

David Day: No

Commissioner Whitlock: No. OK.

Commissioner Jensen: I think the comment was in relation to the thing we've talked about a lot on the West Side where there's a limit to the number of units that the sewer system can sustain and so that always comes up in just an aside.

Commissioner Whitlock: Yea, and I just wanted to know if it was pertinent to this particular project.

David Day: [inaudible] I should probably come to the microphone, right? David Day with Public Works. Don't let that influence your decision on this. I think that the sewer and water issue is far below what you're contemplating here. So, just don't let that even influence you.

Provo City Planning Commission

Report of Action

April 12, 2023

*ITEM #5	Steven Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street. Provo Bay Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20210271

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2023:

RECOMMENDED DENIAL

On a vote of 3:3, the Planning Commission failed to recommend that the Municipal Council approve the above noted application.

Motion By: Daniel Gonzales (to recommend approval to the City Council)
Second By: Jeff Whitlock
Votes in Favor of Motion: Daniel Gonzales, Jeff Whitlock, Andrew South
Votes Against the Motion: Melissa Kendall, Robert Knudsen, Lisa Jensen
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the MU Zone is described in the attached Exhibit A.

RELATED ACTIONS

The related concept plan request was also voted on at the April 12th Planning Commission hearing and was denied due to a 3:3 split vote (PLCP20210398).

DEVELOPMENT AGREEMENT

- May apply with future approvals.

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. Planning staff gave an overview of the changes from the last time the item was before the Planning Commission and noted that the specific criteria asked for by the Commission had been addressed. Staff reiterated that there is only support for the north building.

CITY DEPARTMENTAL ISSUES

- There are remaining issues from the Coordinator Review Committee (CRC) review that need to be resolved.
- Important issues raised by other departments – addressed in Staff Report to Planning Commission

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 12/02/2021.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present during the hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Brian Taylor sent a message that he is in support of staff recommendations on this project.
- Rick Cox spoke in favor of the project as proposed as a way to attract more commercial services.
- Dave Lewis spoke in favor of the project for the full two acres.
- Frank Gilbert spoke in favor of the project to bring business to the west side.
- Vicki Gilbert spoke in favor of the project.
- Becky Bogdin agreed with the staff recommendation and wants to stick to the area plan.
- Michael Mitchell spoke in favor of the proposal and stated there would be no issues with traffic.

APPLICANT RESPONSE

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

- Steve Turley went into detail on how he has addressed each of the six criteria that the Planning Commission had asked about at the previous hearing.
- Mr. Turley also expressed his opinion on how the plan would meet the General Plan for this property and confirmed with Public Works that the sewer demand would not be an issue if the project were approved.
- Mr. Turley stated that he is not interested in doing only the north building and that parking would not work for the site due to the minimum 10,000 square feet of commercial space and the parking for that use.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission confirmed that there are 24 units proposed on the north, with 36 in the south building.
- Lisa Jensen indicated that the scale of the buildings is fine, but the density limits of the General Plan should be followed.
- Some of the commissioners discussed the southwest plan and noted that there are areas specified for higher density that should be respected, while some others thought that those areas could be adjusted to make the project work.
- Commissioners Jensen and Kendall were expecting a decrease in density after the continuance and thought the project could still be revised to work on the north one acre.
- Commissioners Whitlock and South noted that the project seems to fit and would be a positive for the area.
- The Commission confirmed with David Day that the proposed project would not pose any issues with the sewer demand.



Planning Commission Chair



Director of Development Services

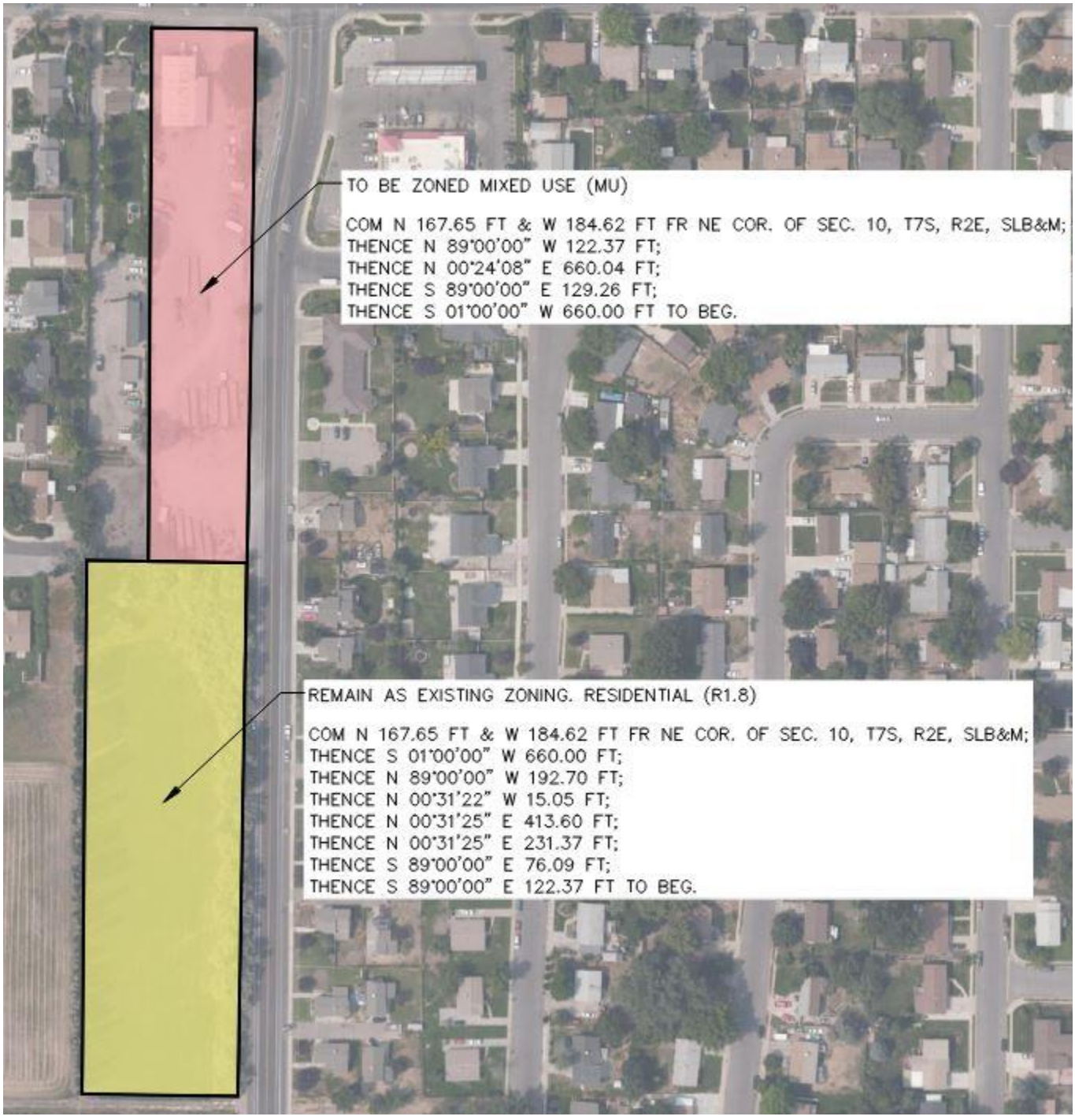
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ 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 Development Services, 445 W Center Street, 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

EXHIBIT A


TO BE ZONED MIXED USE (MU)
COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC. 10, T7S, R2E, SLB&M;
THENCE N 89°00'00" W 122.37 FT;
THENCE N 00°24'08" E 660.04 FT;
THENCE S 89°00'00" E 129.26 FT;
THENCE S 01°00'00" W 660.00 FT TO BEG.
REMAIN AS EXISTING ZONING. RESIDENTIAL (R1.8)
COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC. 10, T7S, R2E, SLB&M;
THENCE S 01°00'00" W 660.00 FT;
THENCE N 89°00'00" W 192.70 FT;
THENCE N 00°31'22" W 15.05 FT;
THENCE N 00°31'25" E 413.60 FT;
THENCE N 00°31'25" E 231.37 FT;
THENCE S 89°00'00" E 76.09 FT;
THENCE S 89°00'00" E 122.37 FT TO BEG.

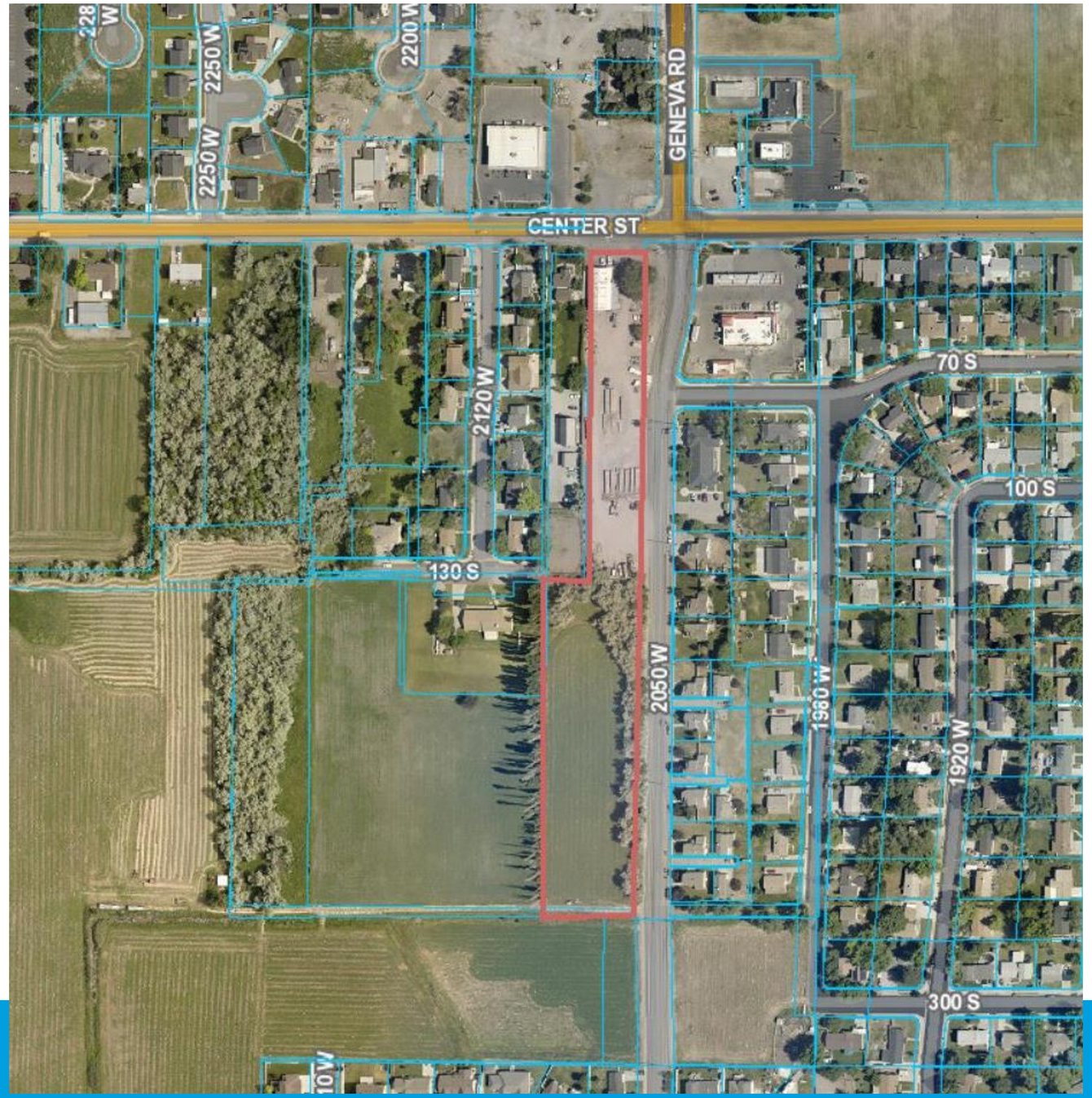
ITEM 5*

Steven Turley requests a Zone Change from the R1.8 (One Family Residential) zone to the MU (Mixed Use) zone for approximately two acres of land, located at 2075 W Center Street.

Provo Bay Neighborhood

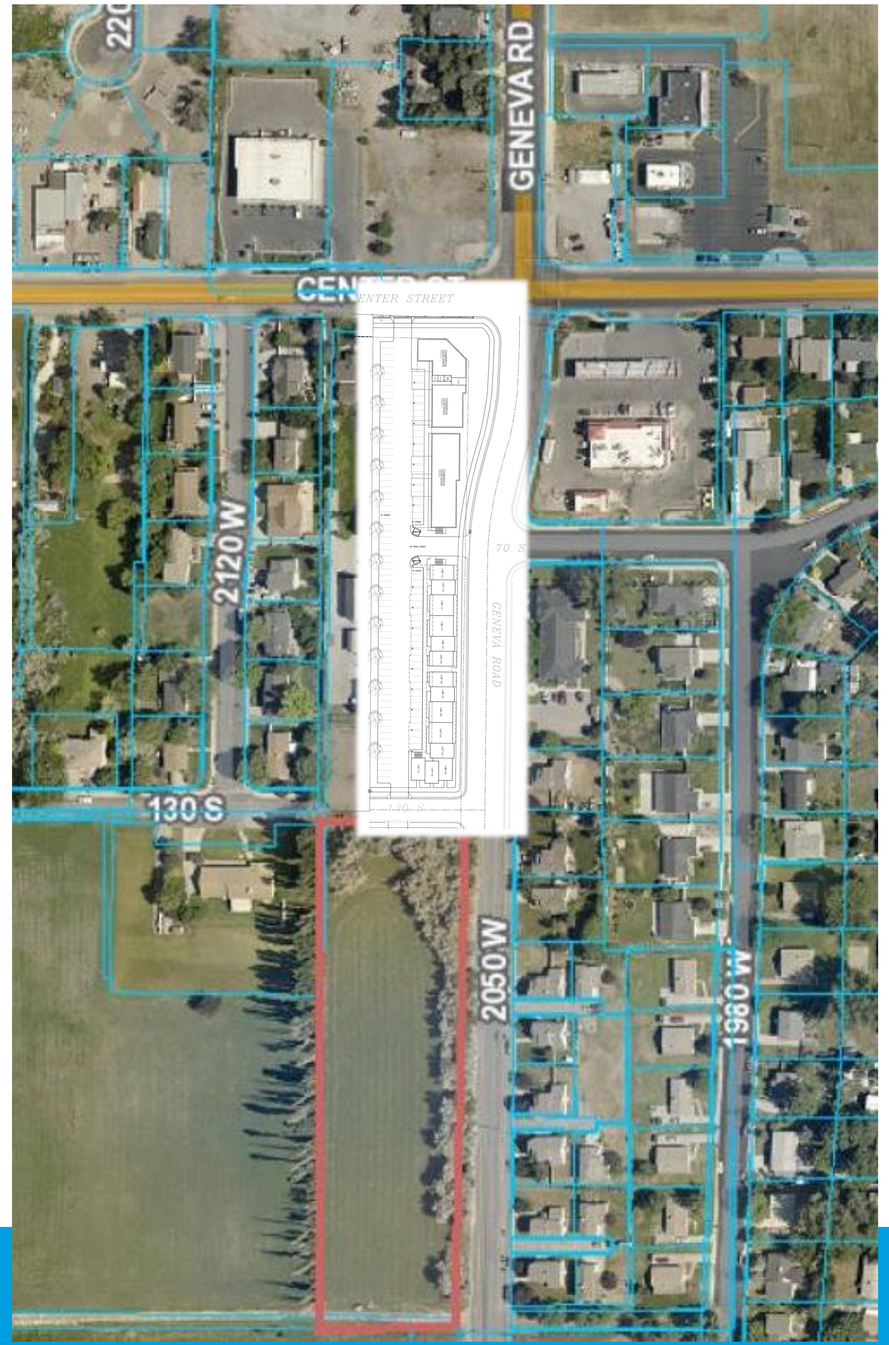
PLRZ20210271

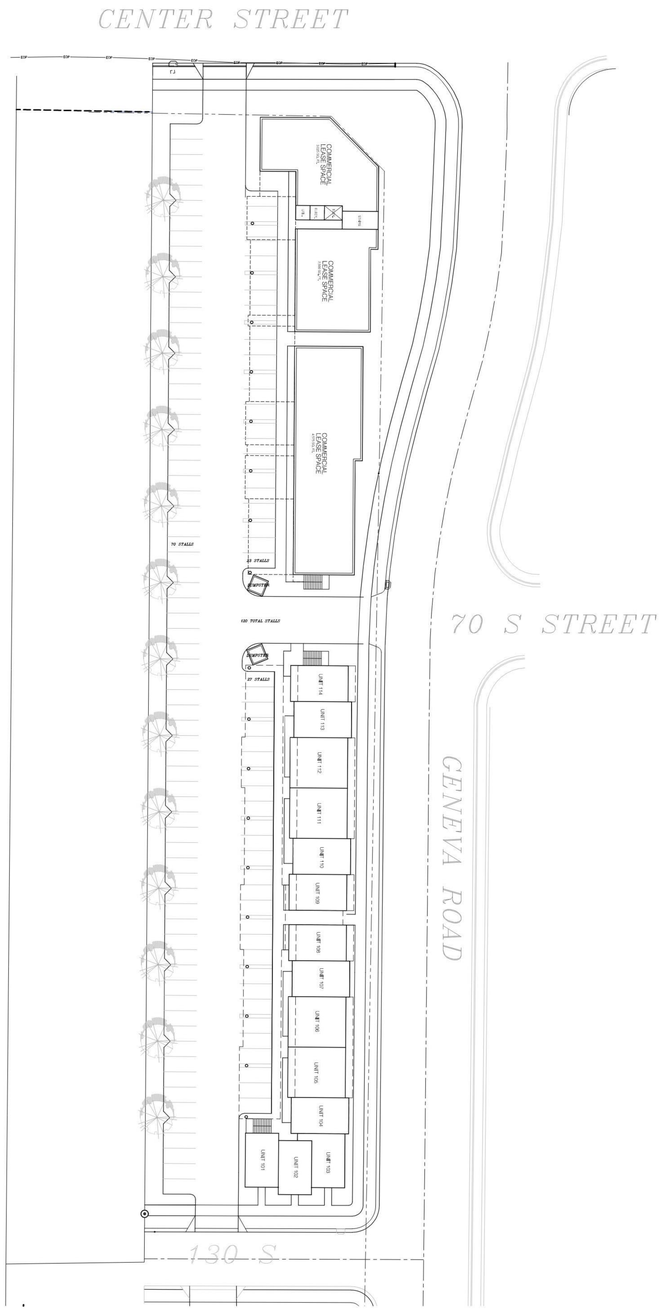
2075 W Center



2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.





2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.

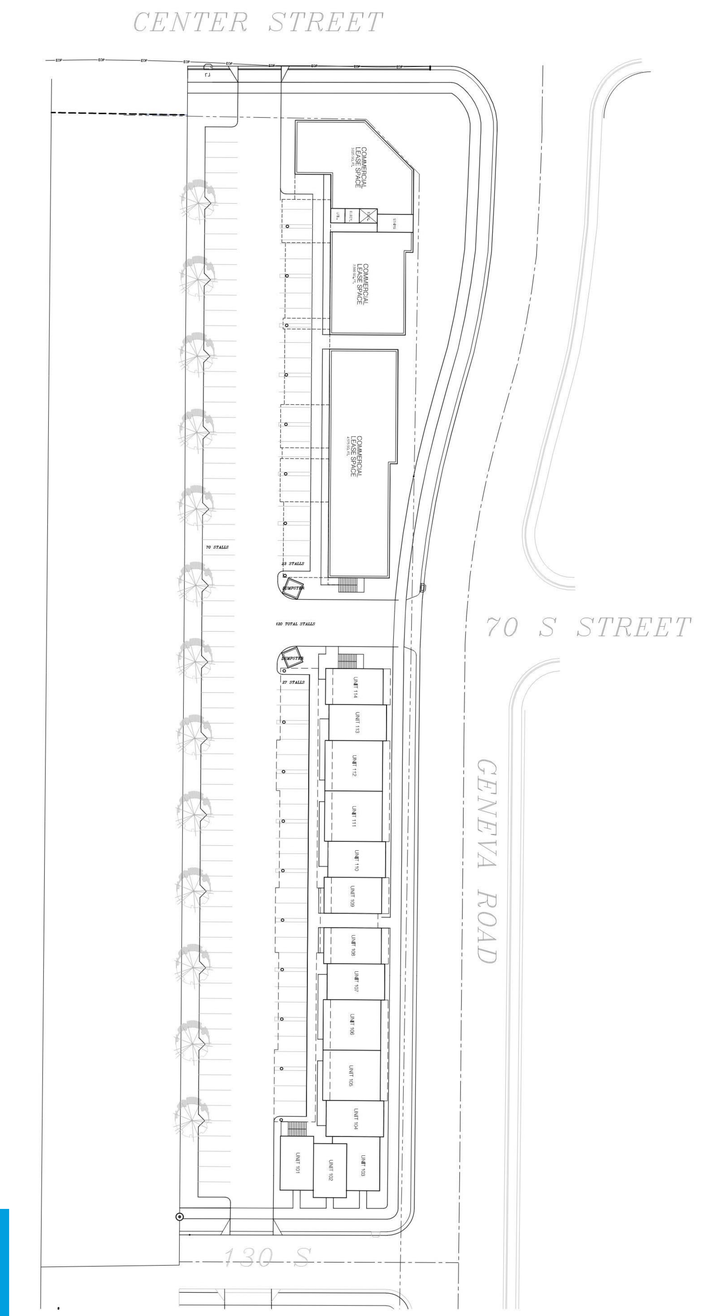
- Revised Plans provide parking to meet code.

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

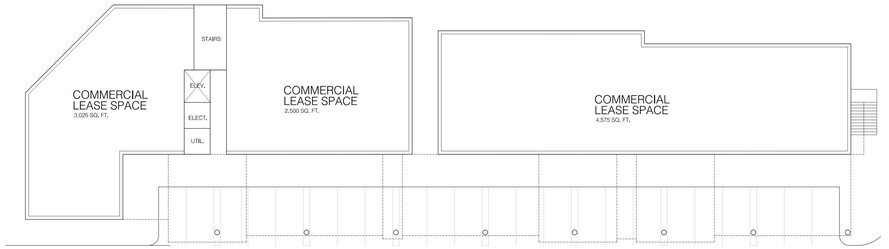
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

TOTAL PROVIDED	**120**

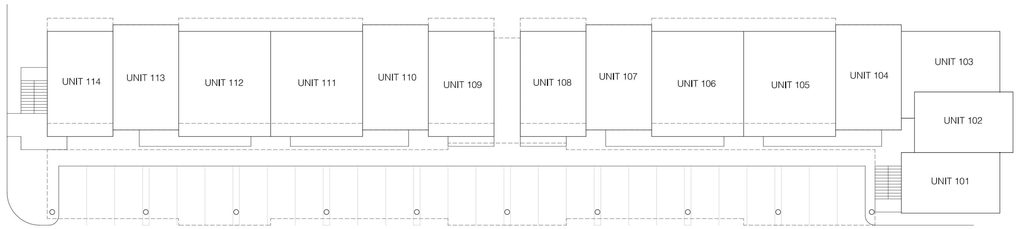


2075 W Center

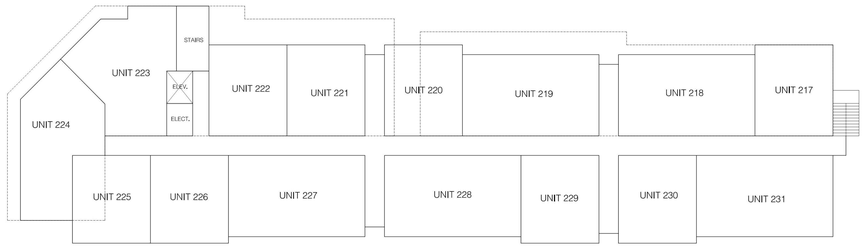
- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Revised Plans provide parking to meet code.
- Floor Plans and Elevations address most of the prior concerns.



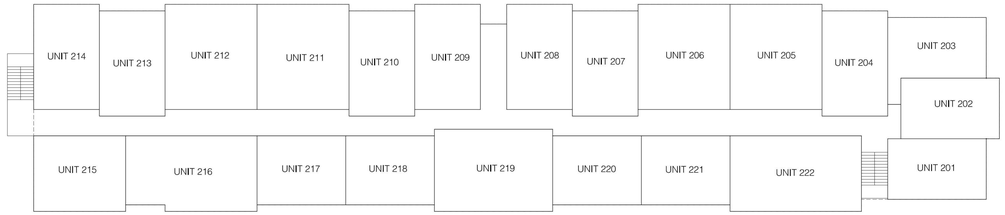
NORTH BUILDING - MAIN FLOOR PLAN



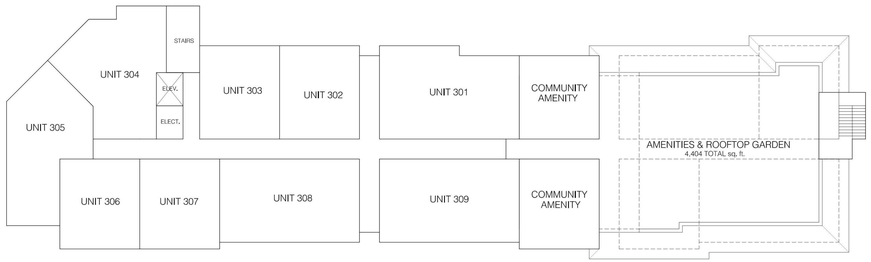
SOUTH BUILDING - MAIN FLOOR PLAN



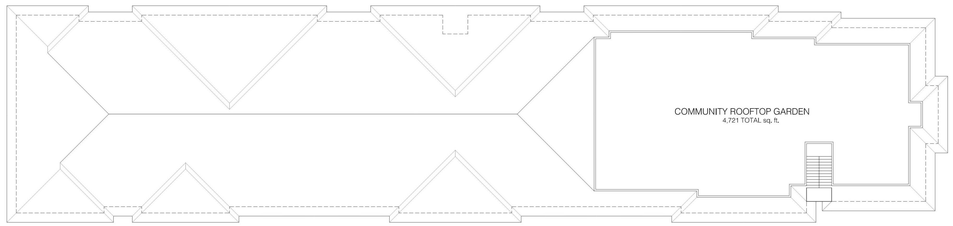
NORTH BUILDING - SECOND FLOOR PLAN



SOUTH BUILDING - SECOND FLOOR PLAN



NORTH BUILDING - THIRD FLOOR PLAN



SOUTH BUILDING - THIRD FLOOR PLAN

2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Revised Plans provide parking to meet code.
- Floor Plans and Elevations address most of the prior concerns.



EAST FRONT ELEVATION (SOUTH)



EAST FRONT ELEVATION (NORTH)



EAST FRONT ELEVATION (SOUTH)

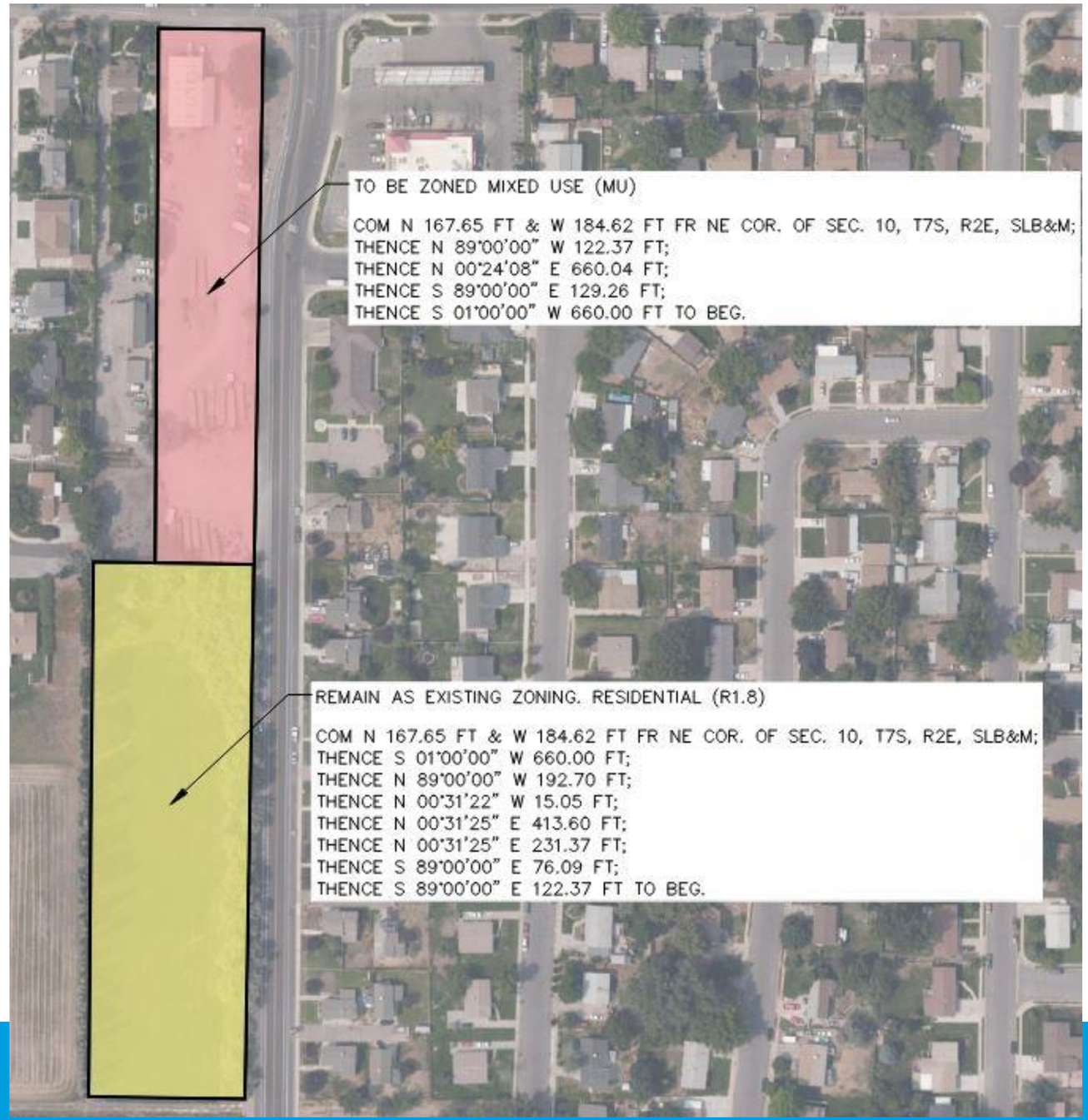


EAST FRONT ELEVATION (NORTH)

2075 W Center

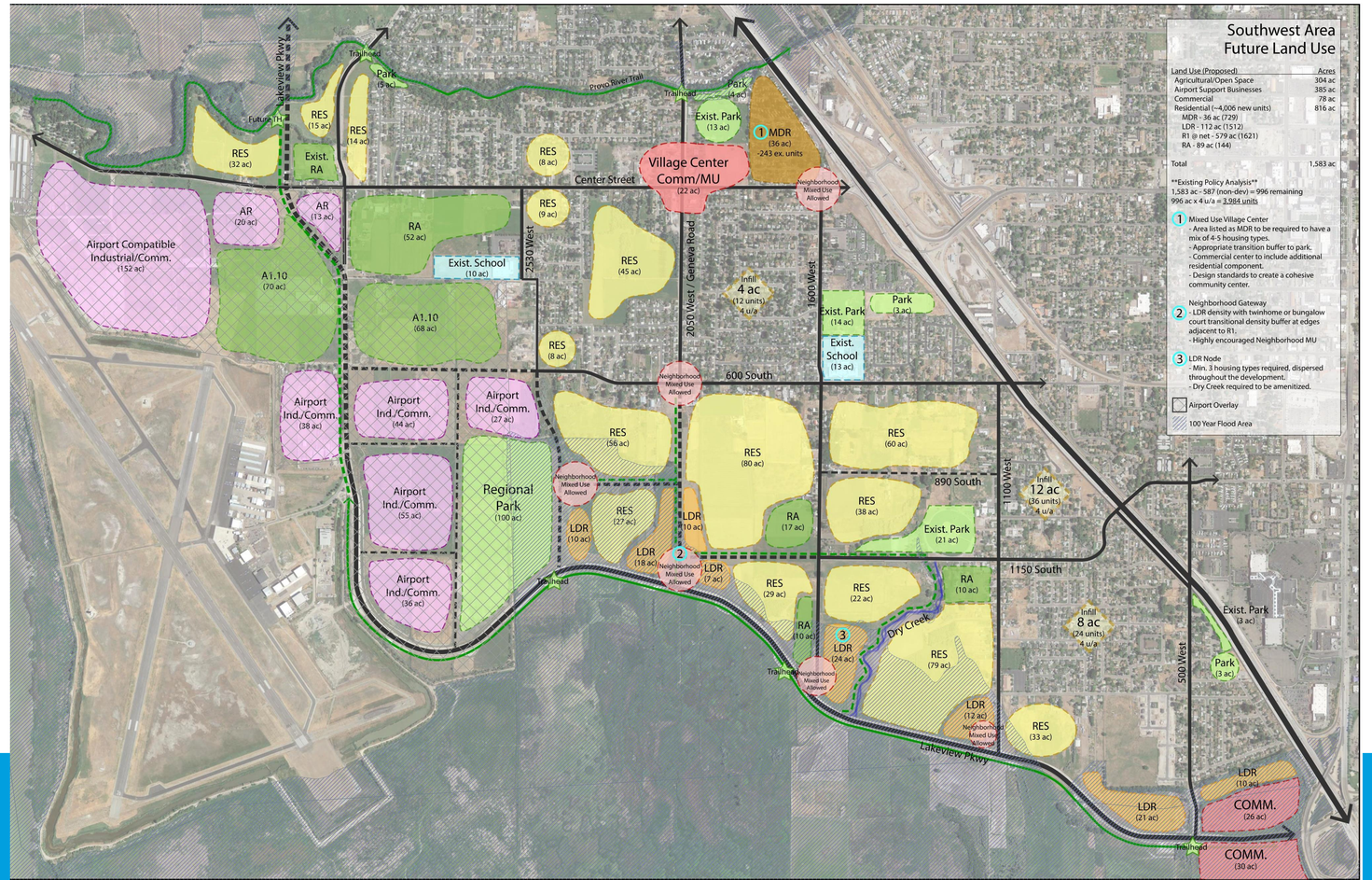
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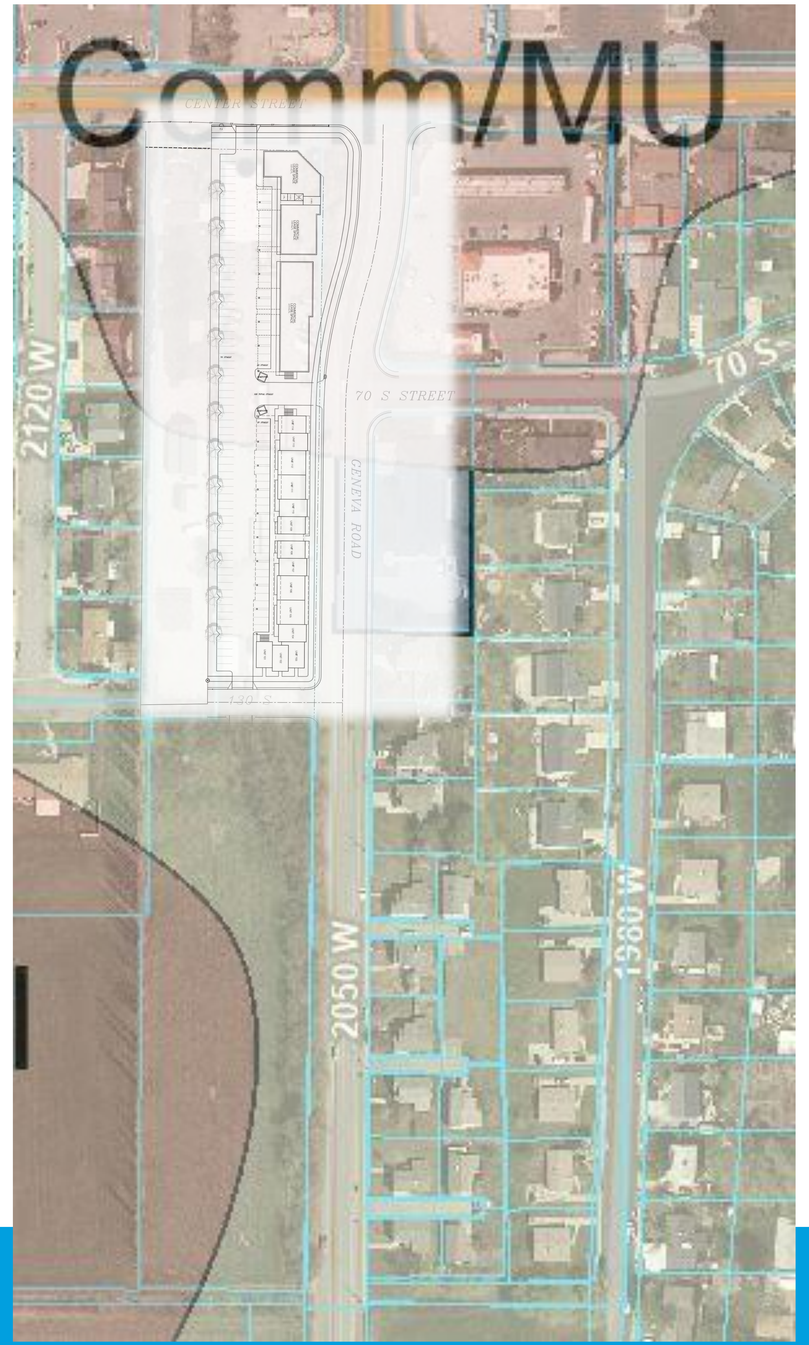
- Zone Change Request: north 2 acres from R1.8 to MU



2075 W Center

- Concept: 10,100 sq. ft. of commercial space and 60 res. units.
- Zone Change Request: north 2 acres from R1.8 to MU
- General Plan: only supports mixed-use on north acre, and 4 units/acre on remainder.





2075 W Center

- Applicant Slides

LAKEVIEW CROSSING

Center Street and Geneva Road

Zone Change application: PLRZ20210271
Concept Plan application: PLCP20210398

Applicant Responses to Planning Commission Requests – 1/11/2023

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE 2

2. HAVE THE NUMBER OF UNITS SOLIDIFIED 21

3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH. 28

4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST 33

5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER 37

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B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY 44

1. PROVIDE A DRAFT DEVELOPMENT AGREEMENT DETAILING THE AMENITY SPACE

APPLICANT RESPONSE:

Mixed-Use Zones 14.14D.120(1) requires the following:

> "an area equivalent to twenty percent (20%) or more of the residential gross floor area must be developed in recreational amenities, such as a common … rooftop garden, or other amenity."
>
> "Any open space counting towards this requirement must be massed or accumulated to be functional as a recreational amenity or gathering place."

The total residential gross floor area of the proposed concept plan equals 45,178 square feet, therefore, based on the 20% amenity requirement, the required amenity area minimum would be 9,036 square feet.

We proffer that a minimum of 9,036 square feet of massed area be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

See draft development agreement, including concept plan, attached.



Image of what rooftop amenity could possibly look like.

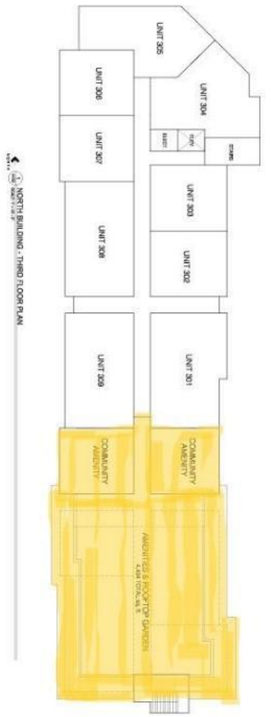


Image of what rooftop amenity could possibly look like.



Image of what rooftop amenity could possibly look like.

CONCEPT PLAN WITH AMENITY AREA HIGHLIGHTED



A102

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTON DAVIS



DEVELOPMENT AGREEMENT
FOR
LAKEVIEW CROSSING

(Center Street to 130 South, 2050 West, Provo, Utah)

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Premier Realty Investments, LLC, a Utah limited liability company, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately two (2) acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and

responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the Mixed-Use Zones, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

We proffer that a minimum of 9,036 square feet of massed area to be included in Lakeview Crossing as a rooftop garden, including patio, canopy, deck, BBQ, firepit, pet exercise space, gardens, kitchenette, lounge furniture, and storage. This proffer is subject to change based on the final project plan, but the rooftop amenity space shall not be less than the minimum square footage required by the Mixed-Use (MU) zone for the size and scope of the amenity.

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Premier Realty Investments, LLC
Attn: Steve Turley
1480 South State Street
Provo, Utah 84606

To the City: City of Provo
Attention: City Attorney

351 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not

unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

Premier Realty Investments, LLC, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

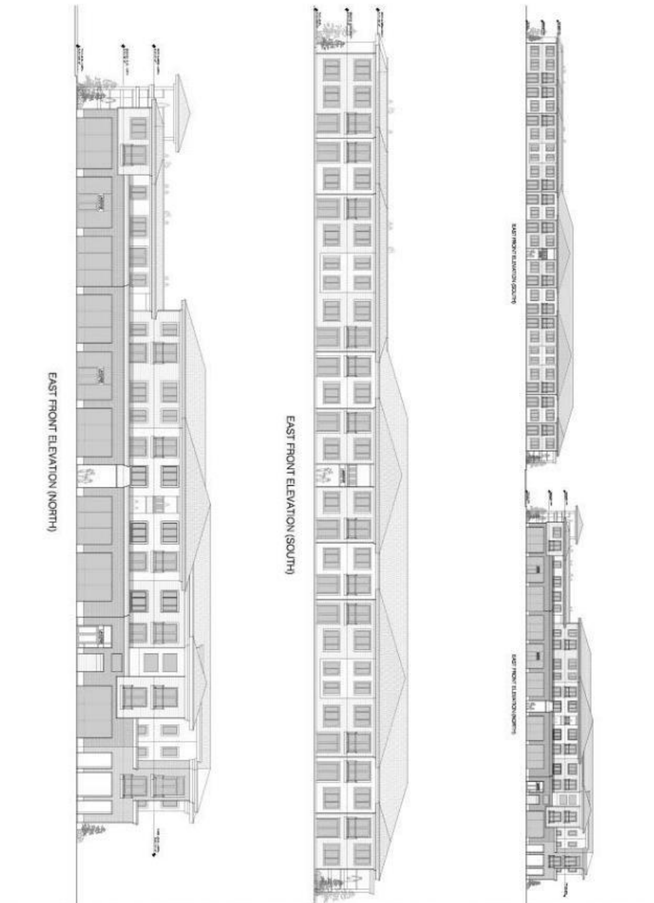
Exhibit A

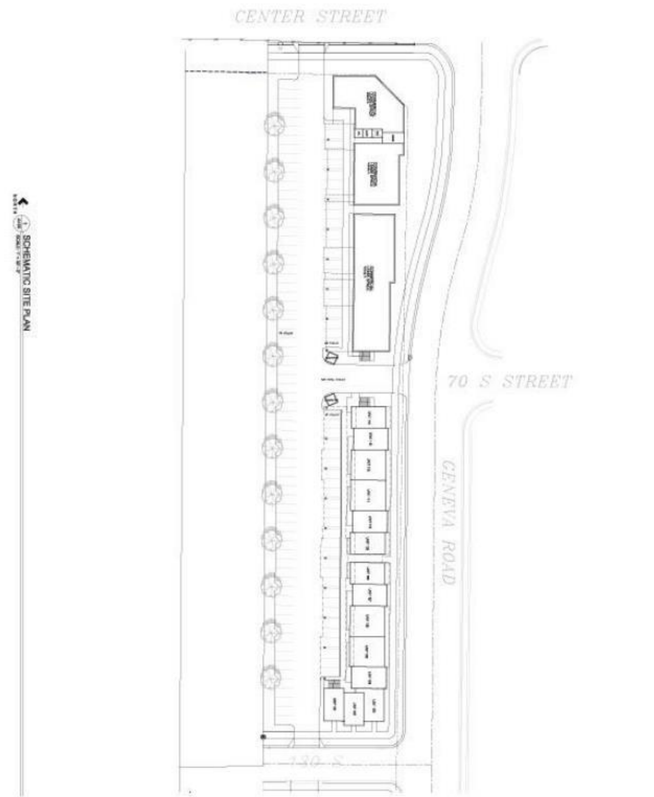
Legal Description of the Property

COM N 167.65 FT & W 184.62 FT FR NE COR. OF SEC 10, T7S, R2E, SLB&M;
THENCE N 89°00’00” W 122.37 FT;
THENCE N 00°24’08 E 660.04 FT;
THENCE S 89°00’00” E 129.26 FT;
THENCE s 01°00’00” W 660.00 FT TO BEG

Exhibit B

Concept Plan





LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2020

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
NORTH BUILDING
FLOOR PLANS

SHEET #
A101

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
2005 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2020

PROJECT NO
22.112

DWN BY/ CHK BY
__/__

TITLE
NORTH - THIRD
FLOOR PLAN

SHEET #
A102

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
3905 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
PHONE:(801)272-2276 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2023

PROJECT NO
22.112
DWN BY/ CHK BY
___/___
TITLE
SOUTH - MAIN & SECOND FLOOR PLANS
SHEET #
A103

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

LAYTONDAVIS ARCHITECTS
3905 EAST 2700 SOUTH | SUITE 200
SALT LAKE CITY, UTAH 84109
PHONE:(801)272-2276 | WWW.LAYTONDAVISARCHITECTS.COM

CHRONOLOGY

PRINTED DATE
02.13.2023

PROJECT NO
22.112
DWN BY/ CHK BY
___/___
TITLE
SOUTH - THIRD FLOOR PLAN
SHEET #
A104

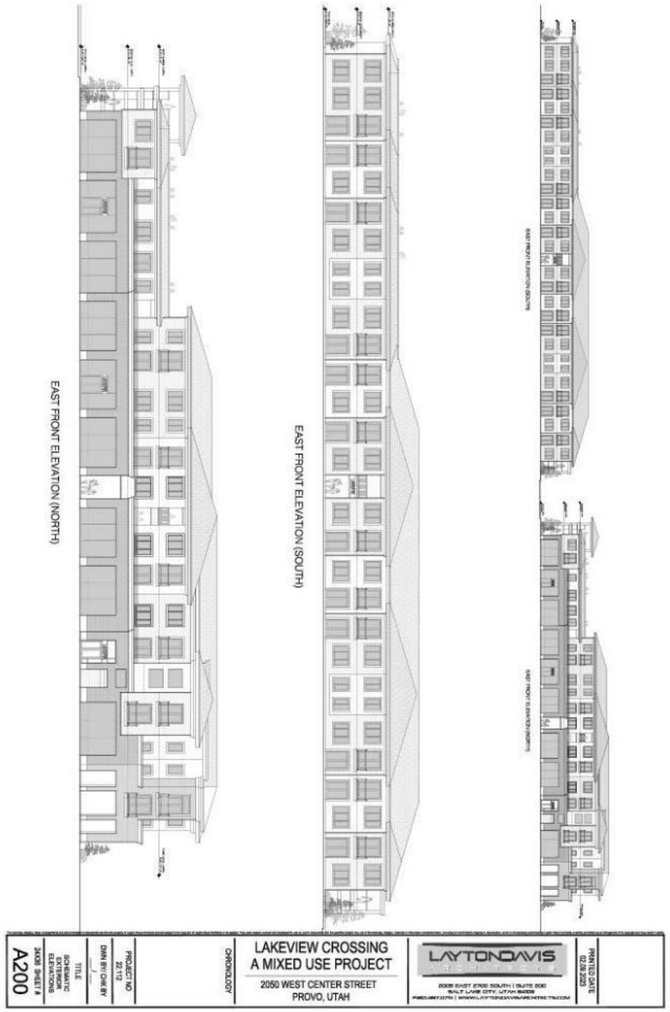
2. HAVE THE NUMBER OF UNITS SOLIDIFIED

APPLICANT RESPONSE:

	UNIT COUNT
Studio	20
1-Bedroom	20
2-Bedroom	18
3-Bedroom	2
TOTAL	**60**

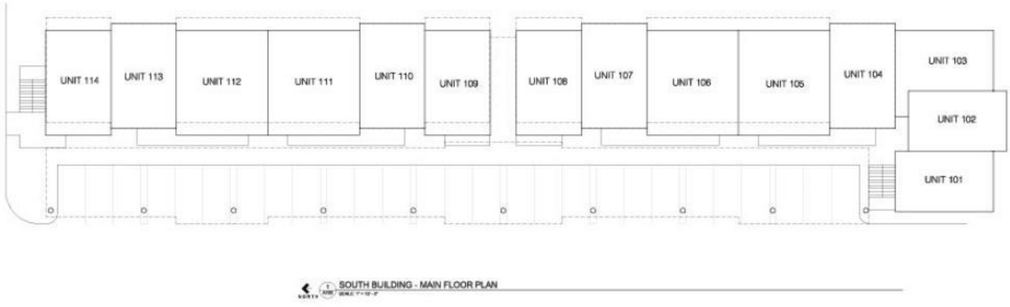
See concept plan attached.

CONCEPT PLAN SHOWING UNITS:

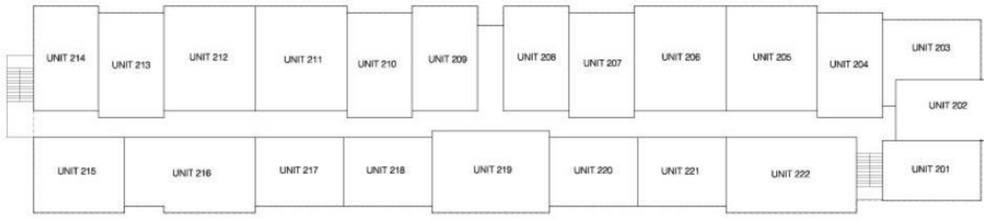


CHRONOLOGY	
	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH
	LAYTONDAVIS ARCHITECTURE 3005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM
PRINTED DATE	02.13.2020
PROJECT NO	22.112
DWN BY | CHK BY	___ | ___
TITLE	SCHEMATIC SITE PLAN
24X36 SHEET #	A100

CHRONOLOGY	
	LAKEVIEW CROSSING A MIXED USE PROJECT 2050 WEST CENTER STREET PROVO, UTAH
	LAYTONDAVIS ARCHITECTURE 3005 EAST 2700 SOUTH | SUITE 200 SALT LAKE CITY, UTAH 84109 P:801.487.0378 | WWW.LAYTONDAVISARCHITECTS.COM
PRINTED DATE	02.13.2020
PROJECT NO	22.112
DWN BY | CHK BY	___ | ___
TITLE	NORTH MAIN AND SECOND FLOOR PLANS
24X36 SHEET #	A101



SOUTH BUILDING - MAIN FLOOR PLAN



SOUTH BUILDING - SECOND FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

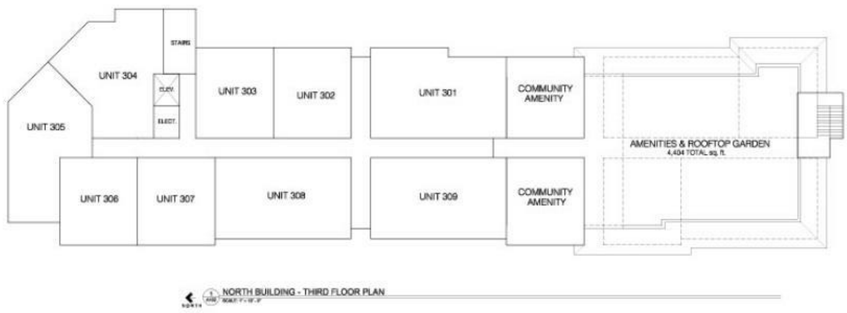
CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
/

TITLE
SOUTH - MAIN
AND SECOND
FLOOR PLANS

24X36 SHEET #
A103



NORTH BUILDING - THIRD FLOOR PLAN

PRINTED DATE
02.13.2023

LAYTONDAVIS

LAKEVIEW CROSSING
A MIXED USE PROJECT
2050 WEST CENTER STREET
PROVO, UTAH

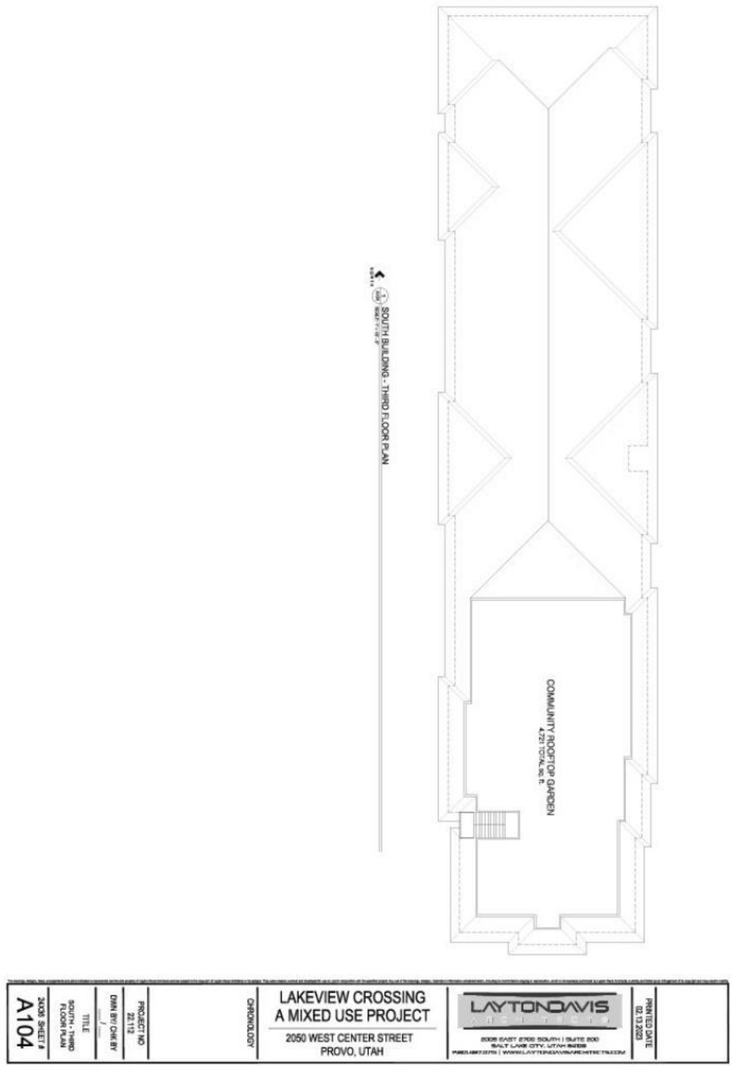
CHRONOLOGY

PROJECT NO
22.112

DWN BY/ CHK BY
/

TITLE
NORTH - THIRD
FLOOR PLAN

24X36 SHEET #
A102



3. REDISTRIBUTE THE NUMBER OF UNITS (OR DECREASE THE NUMBER) IN THE PROPOSAL TO TRANSITION TO THE SOUTH.

APPLICANT RESPONSE:

North Building: **55% of total project square footage**

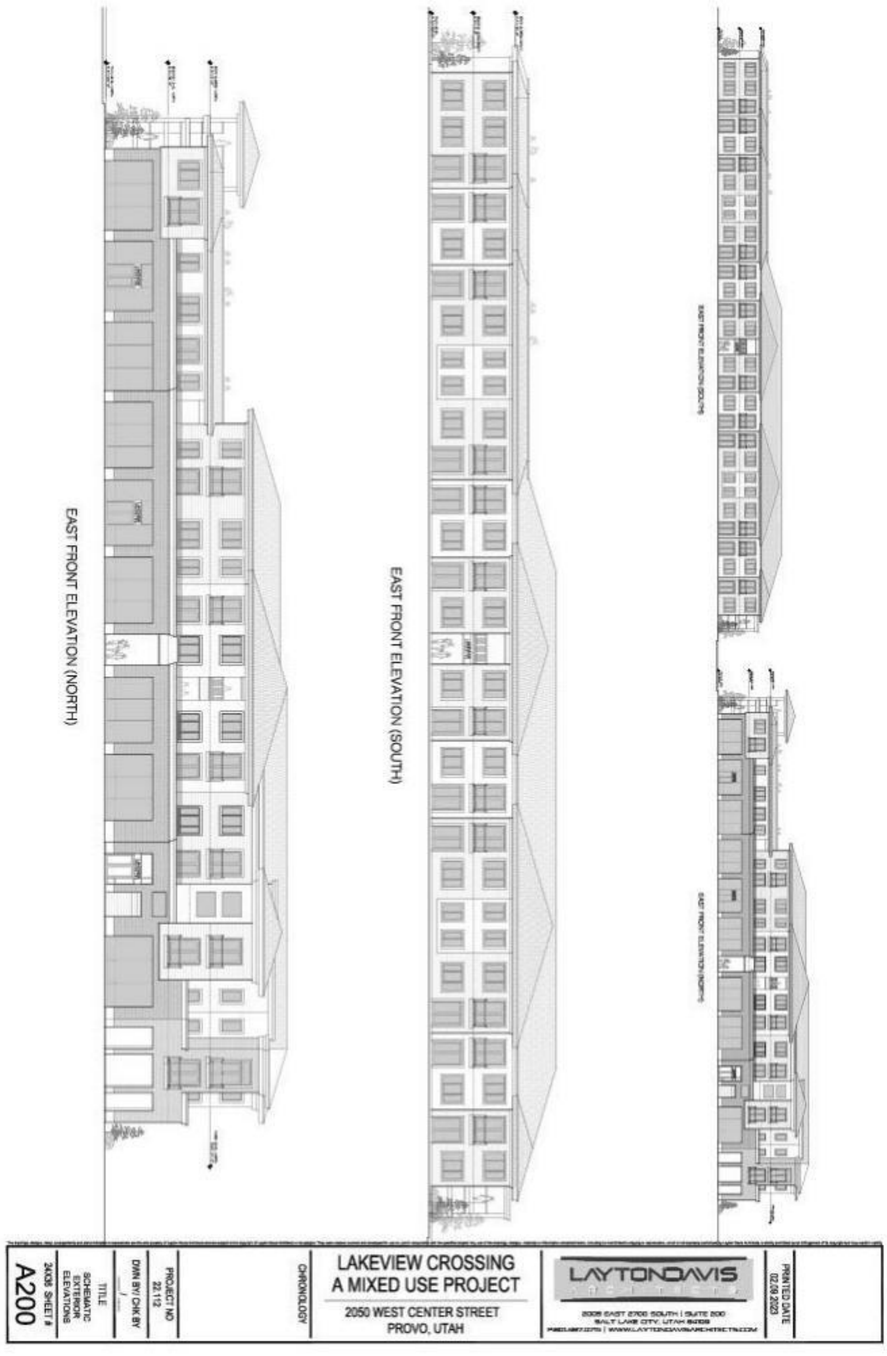
Height:	3 stories
	40′ to eave
	47′ to ridge
Use:	commercial & residential
Transition:	3 story building to 2 story building

South Building: **45% to total project square footage**

Height:	2 stories
	26′ to eave
	32′ to ridge
Use:	residential only
Transition:	2 story townhome-style units on south elevation facing 130 South Street

See revised architectural elevations attached.

REVISED ARCHITECTUTRAL RENDERINGS



EAST FRONT ELEVATION (SOUTH)

EAST FRONT ELEVATION (NORTH)

31



EAST FRONT ELEVATION (NORTH)

32



EAST FRONT ELEVATION (SOUTH)

4. PROVIDE A PLAN WITH NO PARKING REDUCTION REQUEST

APPLICANT RESPONSE

Parking requirements as per 14.14D.110, land uses within the Mixed-Use (MU) Zone "*need only provide seventy-five (75%) of the required off-street parking*" (see also 14.37.050 & 14.37.100).

The Staff supports this MU Zone parking allowance for this location as follows: "*Staff would not be supportive of a parking reduction for this location beyond the 25% reduction allowed in the zone*" (Staff Report – January 11, 2023).

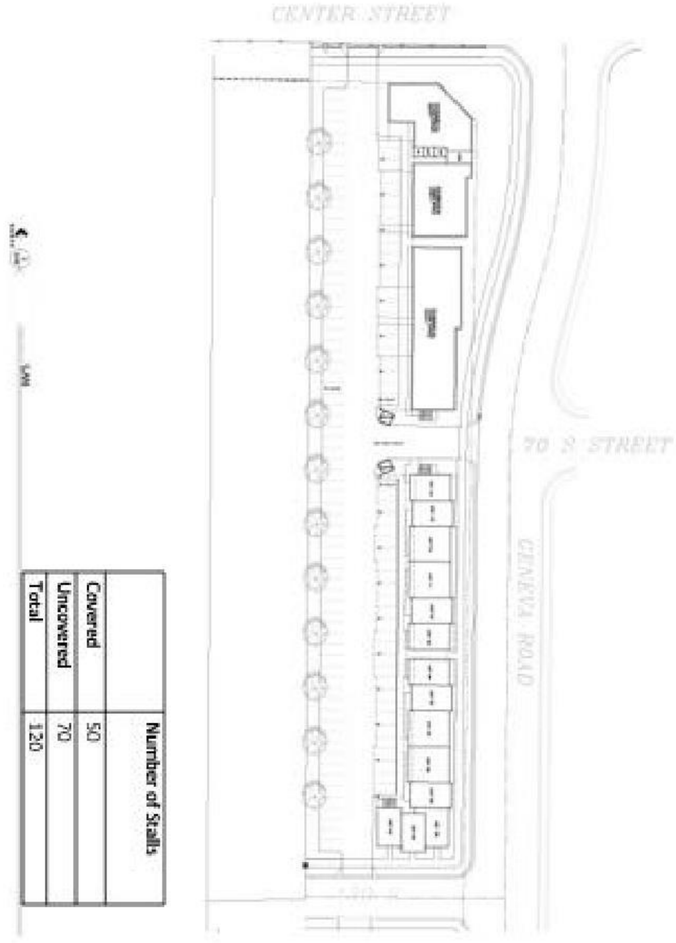
	UNITS	TYPE	STALLS/UNIT	STALLS	REQUIRED	REQUIRED STALLS
Studio	20	DU	1.5	30.0		
1-Bedroom	20	DU	1.5	30.0		
2-Bedroom	18	DU	2.25	40.5		
3-Bedroom	2	DU	2.25	4.5		
Retail	10.1	KSF	5	50.5		
TOTAL REQUIRED				**155.5**	75%	**117**

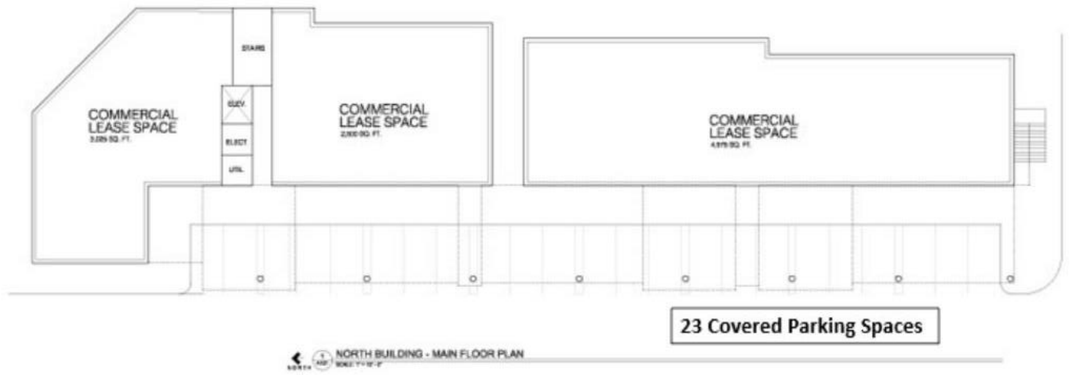
TOTAL PROVIDED	**120**

- **No shared use parking reduction request**
- 50 covered parking stalls / 70 uncovered parking stalls
- 25% more parking stalls than parking demand study (Hales Engineering – Report UT22-2389)
- Electric Vehicle (EV) charging - 50 stalls (public charging & private charging)
- Bike lockers & bike repair station
- Public Transit (UTA Route 833)
    - 7 minutes to Provo Airport
    - 10 minutes to Provo Center Station (UVX bus rapid transit line & UTA FrontRunner commuter rail)

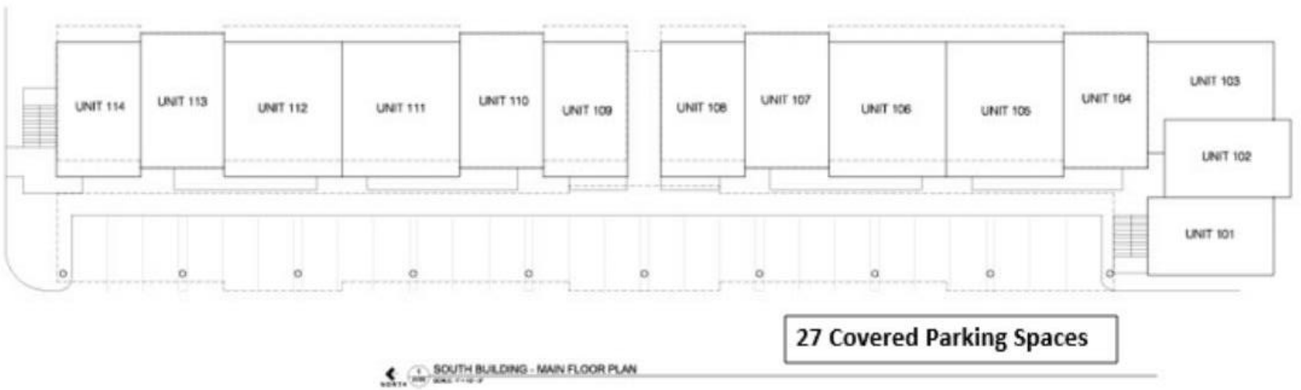
See concept site plan and parking detail attached.

CONCEPT SITE PLAN:





23 Covered Parking Spaces



27 Covered Parking Spaces

5. PUT THE HIGHEST USE AND MOST INTENSITY ON THE NORTH CORNER

APPLICANT RESPONSE:

North Building: 55% of total project square footage

Height: 3 stories

40’ to eave

47’ to ridge

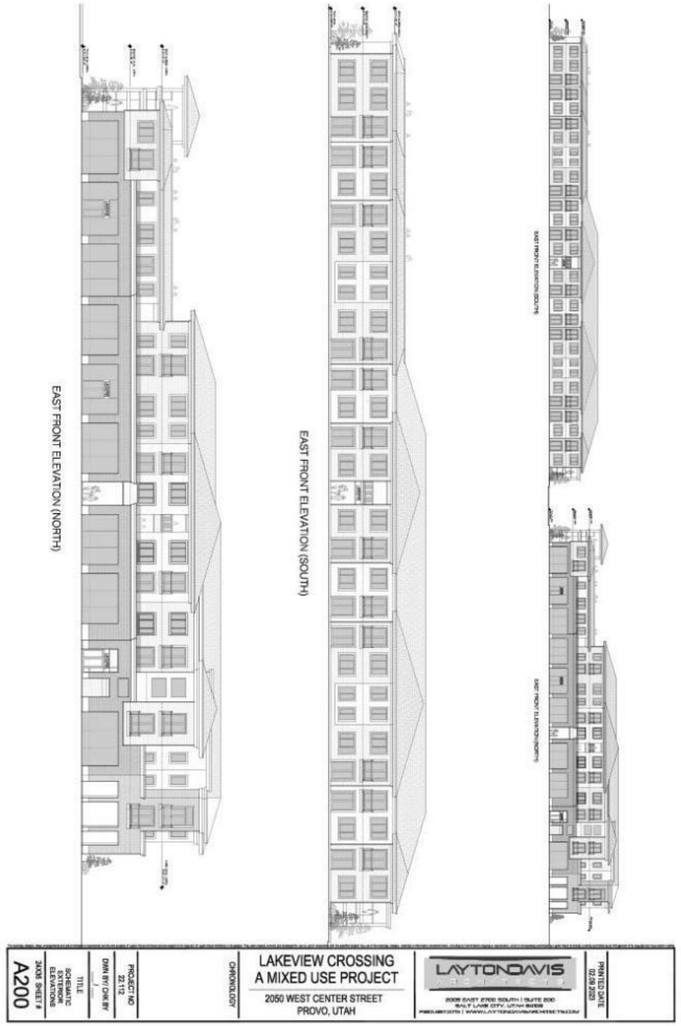
Mixed-Use:

Commercial - 10,100 sqft

Residential - 20,040 sqft

See revised architectural elevation attached.

REVISED ARCHITECTUTRAL RENDERINGS



6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS

APPLICANT RESPONSE

In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
- The proposed driveway accessing Geneva Road (2050 West) is at an acceptable location (where it is aligned with the opposing 70 South Street to the east).
- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street, and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

See email confirmation attached.

ATTACHED EMAIL FROM DAVID DAY

From: David Day <DDay@provo.utah.gov>
Sent: Tuesday, January 24, 2023 11:54 AM
To: Steve Turley <StevenTurley001@msn.com>
Subject: RE: Lakeview Crossing discussion 1/19/2022

Yes

From: Steve Turley <StevenTurley001@msn.com>
Sent: Monday, January 23, 2023 6:29 PM
To: David Day <DDay@provo.utah.gov>
Subject: Lakeview Crossing discussion 1/19/2022

CAUTION: This email originated from outside of Provo's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David,

Thanks for talking me through the accesses on the proposed project at Center Street and Geneva Road last week.

I'm drafting a response to the staff report. Can I include the following?

6. VERIFICATION FROM PROVO CITY ENGINEERING ON PREFERRED ACCESS POINTS
APPLICANT RESPONSE:
In meeting with David Day on January 19, 2023, David reviewed the proposed site plan (attached) and verified the following:

- The proposed driveway accessing 130 South Street is at an acceptable location.
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- The proposed driveway accessing Center Street is at an acceptable location. Center Street is an Arterial Street and all improvements need to be constructed according to Provo City Standard Detail P-900 on the north (Center Street) frontage of the project.

SUPPLEMENTAL INFORMATION

A. STATEMENT REGARDING LAKEVIEW CROSSING COMPLIANCE WITH GENERAL PLAN

STATEMENT REGARDING COMPLIANCE WITH GENERAL PLAN

Lakeview Crossing @ Center Street & Geneva Road (2050 West), Provo
re-zone and concept plan

Staff maintains that the General Plan only supports changing the existing *R1-8 One-Family Residential Zone* designation to the *Mixed-Use Zone* on the northern-most one acre area (on the corner of Center Street and Geneva Road) of the project, and that any area further south must remain zoned as *R1.8 One-Family Residential*. Support for this determination is based on the strict interpretation of the boundary of land use bubbles on the General Plan's *Southwest Area Future Land Use Map*.

The General Plan's adopted Southwest Neighborhood Plan states the following regarding the Southwest area Future Land Use map:

> *"The boundaries of the illustrated land uses should be viewed as flexible and not hard boundaries in order to allow creativity in the layout and development of a site."*
> Provo City Council Meeting, November 15, 2022 - p. 14

Please further consider the following comment by Bill Peperone, Director of Development Services, when he presented the *Southwest Area Future Land Use Map* to the City Council on November 13, 2018, (when the area plan was approved and adopted):

> *"There's a certain amount of ebb and flow that we expect to go with this. So as development applications come in, it's expected that there's going to be some give and take on the boundaries of all of those areas."*
> Provo City Council Meeting, November 13, 2018 - Bill Peperone (31:48)

Clearly, the land use bubble boundaries in the *Southwest Area Future Land Use Map* are intended to be flexible and are not hard delineations. As stated, these bubble boundaries "should be viewed as flexible and not hard boundaries" and that these boundaries "ebb and flow" and there is "give and take" according to the interpretation and discretion of the Planning Commission and City Council. Regarding projects that may not fit entirely within the land use bubbles, Provo City Councilor David Harding stated the following:

> *"These very specifically were drawn as kind of bubbles. What we are trying to communicate with the community is this is what you can expect. We'd like to communicate to developers this is what we are looking for. Now if you come in with something that doesn't quite fit, but it's aligned with the vision of what we are trying to achieve, great bring it in."*
> Provo City Council Meeting, November 13, 2018 - City Councilor David Harding (1:18:33)

The northern-most one acre of the proposed rezone area lies in the *Village Center / Commercial Mixed-Use* land use bubble. The southern one acre of the proposed rezone area lies in an area that is not included in any land use bubble. In fact, there is approximately 600 feet between the *Village Center / Commercial Mixed-Use* land use bubble to the north and the *Residential* land use bubble to the south. The Staff's position that there is a hard boundary of the north *Village Center / Commercial Mixed-Use* land use bubble but not a hard boundary to the south *Residential* land use bubble is untenable and arbitrary. Such a position would render the 600 feet between land use bubbles as not designated for any land use. Clearly this is not logical.

While the proposed rezone area does not entirely fit within the *Village Center / Commercial Mixed-Use* bubble, the proposed rezone meets the vision that the area is intended to be a mix of well-designed commercial and residential uses. Staff specified that the new *Mixed-Use Zone* should be used for the *Village Center / Commercial Mixed-Use* area and the proposed project concept meets the requirements of this zone.

When the proposed rezone was originally presented to the Planning Commission on March 9, 2022, commissioners provided the following direction:

> *"What you are proposing for the two [acres] on the north doesn't bother me at all. It seems like that is a perfect location for that kind of thing and certainly having higher density housing, if it were on top of the commercial, it would be fine."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:06:00)

> *"We would feel comfortable with the [Mixed-Use Village Center] commercial General Plan designation being rezoned in an area that was larger than the bubble shown on the map because it meets the intent, which is to provide something useful in that commercial node…we actually want it [Mixed-Use Village Center area] to be something useful to the community so allowing [the rezone] to go further than what the bubble shows, would, in my mind, meet that requirement."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Lisa Jensen (2:19:00)

> *"I support what [Commissioner Jensen] has just recommended."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Laurie Urquiaga (2:19:40)

> *"I agree with Commissioner Jensen, it makes more sense to clean things up on the zoning, but to stick strictly to the General Plan just because something is not quite within the bubble doesn't make sense…"*
> Planning Commission Meeting, March 9, 2022 - Commissioner Miles Miller (2:22:19)

> *"A 'village center' to me is a more walkable neighborhood….to see something that meets the corner is a building that helps define the intersection with shops on the bottom with apartments above that to me says: 'village center'… I would love to see something that is actually mixed-use on that corner…to create something a little more walkable, a little more 'mini downtown' feel."*
> Planning Commission Meeting, March 9, 2022 - Commissioner Brian Henrie (2:24:23)

In consideration of the guidance provided by these comments, the request to change the zone designation from the existing *R1-8 One-Family Residential Zone* designation to the proposed *Mixed-Use Zone* allows the two acres at the corner of Center Street and Geneva Road to accommodate a mix of ground-floor commercial uses with higher density residential uses above.

Please also consider that the *Mixed-Use Zone* requires at least 10,000 square feet of commercial uses to facilitate the desired mixed-use walkable community. The parking spaces required to support 10,000 square feet of commercial uses can range from 40 parking spaces (office), 50 spaces (retail), to 100 parking spaces (restaurant). Requiring the minimum of 10,000 square feet of commercial space and even the minimum of 40 parking stalls cannot fit on a single acre site. The combination of requiring the 10,000 square feet of commercial space and the adequate parking requirement necessitates incorporating the additional acreage to the south (logically bounded by 130 South street). Limiting the *Mixed-Use Zone* to only one acre makes development simply impossible. Either rezone both acres, or rezone none and eliminate the opportunity for this corner property to contribute to the *Village Center / Commercial Mixed-Use* area.

In conclusion, Staff maintains that the rezone request does not comply with the General Plan based on the southern one-acre area of the proposed rezone being designated on the *Southwest Future Land Use Map* as limited to residential uses not exceeding three (3) units per acre. This determination is arbitrarily based on strictly defining the boundary of one land use bubble (*Village Center / Commercial Mixed-Use*) to NOT include the southern acre, but fudging the boundary of the other land use bubble (*Residential*) by 600 feet.

- This position is contrary to the adopted Southwest Neighborhood Plan (pending adoption by City Council on November 15, 2022).
- This position is contrary to the prior statements made by Staff, Planning Commision, and City Council when this map was being created and adopted.
- This position is contrary to the opinions expressed by a majority of the planning commissioners when they considered this project's rezone request at their March 9, 2022, meeting.

Staff suggests that 'hands are tied' and that the Planning Commission and City Council must interpret the General Plan solely on the arbitrary boundary of a bubble (and curtail development accordingly). The General Plan itself states the opposite and is actually much broader and details greater goals. The General Plan aspires for a vibrant mixed-use node at west Provo's most prominent intersection facilitating the beginnings of a much-desired west-side walkable community. This project creates the desired "mix of retail, office, and higher density residential uses, with attractive site amenities and distinctive design features with a density limit of 30 residential units per acre (see: Southwest Neighborhood Plan, p. 15). It is a choice to encourage and facilitate the creation of mixed retail, office, and residential uses (and extend an arbitrary flexible boundary of a bubble on a map), or hold fast to an arbitrary line of a bubble on a map (and exclude the potential benefits of the proposed mixed-use project). We hope you'll choose to support this project as proposed and begin to realize the Village Center envisioned by Provo's General Plan.

B. PUBLIC WORKS STATEMENT REGARDING ADEQUATE SEWER CAPACITY

Planning Commission Meeting-January 11, 2023

1:36:15

Commissioner Whitlock: I had a question for Mr. Day from Public Works. There was a comment made about sewage and I didn't see anything about that in the Staff Report. Is that a concern at all from Public Works about the project?

David Day: No

Commissioner Whitlock: No. OK.

Commissioner Jensen: I think the comment was in relation to the thing we've talked about a lot on the West Side where there's a limit to the number of units that the sewer system can sustain and so that always comes up in just an aside.

Commissioner Whitlock: Yea, and I just wanted to know if it was pertinent to this particular project.

David Day: [inaudible] I should probably come to the microphone, right? David Day with Public Works. Don't let that influence your decision on this. I think that the sewer and water issue is far below what you're contemplating here. So, just don't let that even influence you.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: April 12, 2023

***ITEM #10** Provo City Development Services requests approval of General Plan Text Amendments to Appendix C (Annexation Map and Policies) in order to update zoning standards for agricultural lands. Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLGPA20230063

Applicant: Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 26, 2023 at 6:00 P.M.*

2. **Recommend Denial** of the requested General Plan Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: The most recent version of the General Plan Annexation Map and Policies was adopted in early 2023. Staff identified a gap in land use assignment in that process and have brought forward an amendment to provide space for agricultural properties to continue that land use, when annexed into Provo City.

Neighborhood Issues: This is a citywide application, and all neighborhood districts were notified, but no issues have been reported to staff at the time of this report.

Summary of Key Issues:

- The proposal would allow lands historically used for agriculture to continue with that use when annexed, without a need for a subsequent zone change.
- Current annexation policy would require agricultural lands to be zoned with the OSPR (Open Space, Preservation and Recreation) zone.
- The proposal to allow these properties to annex as A1 (Agricultural) zones would apply to Area 5 and Area 6 of the Provo City Annexation Map and Policies (appendix C) of the General Plan.

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the proposed General Plan Amendment.

OVERVIEW

Staff have reviewed the General Plan policies against some of the properties in areas five and six and have determined that the policies on land use for annexation need to be amended. There are agricultural lands in these annexation areas that would have to come in as Open Space zoning under the current policies. Adding language to allow agricultural properties to come in under agricultural zoning will simplify the process for annexation and ease the burden on these agricultural landowners. The language change would only apply to properties previously used for agriculture and that are intended to remain in agricultural production.

STAFF ANALYSIS

To help evaluate this proposal, staff will use criteria found in Subsection 14.020.020(2), Provo City Code. These standards establish criteria for amendments as follows: **(Staff response in bold type)**

> 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:
>
> (a) Public purpose for the amendment in question.

Staff response: As stated above, the public purpose for these amendments is to simplify annexation for agricultural properties, being valued by Provo City.

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

Staff response: Staff has determined that the proposed amendments provide the best strategy for bringing in agricultural lands in areas 5 and 6 of the Annexation Map.

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

Staff response: This proposal is compatible with the specific goal to "simplify zoning and codes to be more user friendly" as stated in goal #3a, on page thirty-six of the General Plan.

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

Staff response: The language proposed to be amended has no relevance to any "timing and sequencing" provisions of the General Plan.

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

Staff response: Staff does not see any way that the proposed amendment could hinder or obstruct the policies of the General Plan.

(f) Adverse impacts on adjacent land owners.

Staff response: There are no adverse impacts related to this request.

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

Staff response: Staff has verified the correctness of the General Plan related to this request.

(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 response: This proposal amends the policies; the map would stay as it is.

CONCLUSIONS

Staff see this amendment as a simple change to ease the annexation of agricultural lands in the north and east of Provo City and recommend that the proposed language be approved.

ATTACHMENTS

1. Proposed General Plan Text Amendment
2. Appendix C (2023 Provo City General Plan Annexation Policy Map)

ATTACHMENT 1 – PROPOSED GENERAL PLAN TEXT AMENDMENT

Area Five

Area Five is bounded on the west and south by existing Provo City limits, and on the east by the Uinta National Forest boundary. Existing water pressure zones can serve this area to an elevation of approximately 4,876 feet. Area Five can be served by gravity wastewater systems, but main lines would have to be extended into the area from existing lines several thousand feet away. Development in sizeable portions of this area would be subject to the city's Hillside Development Standards, as well as the Critical Hillside Overlay (CH) Zone. The General Plan calls for residential development in a portion of this area; however, any property identified as Agriculture on the map should be included in the OSPR zone upon being annexed, except for those that are intended to remain in agricultural use after annexation which may annex with agricultural zoning. Any future development project requiring a rezone from the OSPR zone would be required to demonstrate a substantial benefit to the city and would be subject to the requirements of the Critical Hillside Overlay Zone.

Area Six

Area Six is bounded on the west, south, and north by the Provo City limits and on the east by Utah County. The area encompasses the Forest Service land east and north of Sherwood Hills and north of Little Rock Canyon. Even though this area contains steep slopes that would limit development, it would be annexed into Provo to preserve the hillsides from future mining uses. Upon annexation, properties in this area should be included in the OSPR zone, however, properties to remain in agricultural production may annex with agricultural zoning. Any future development project requiring a rezone from the OSPR zone would be required to demonstrate a substantial benefit to the city and would be subject to the requirements of the Critical Hillside Overlay Zone. Area Six should consist of property that is owned by government entities.

ATTACHMENT 2 – APPENDIX C (2023 PROVO CITY GENERAL PLAN ANNEXATION POLICY MAP)



DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: April 12, 2023

***ITEM # 2** Provo City Development Services requests Text Amendments to Section 14.34.060 (Location of Boats, Boat Trailers, and Travel Trailers).

Applicant: Development Services

Staff Coordinator: Abinadi Borja

Property Owner: Citywide Application

Relevant History: The Development Services Department desires to revise Section 14.34.060 of the Municipal Code to clarify the text and include other types of trailers. This will allow for an easier understanding of requirements within this section of code, as well as a more equitable enforcement on trailers throughout the city. It is also requested that a list of definitions be added to section 14.06.020 Definitions.

Neighborhood Issues: Staff attended District 2, 3, and 5 meetings. District 2 had no comment. District 3 had one comment on the restriction of the proposed amendment to RVs and trailers and where they can park in Residential Zones. District 5 asked for clarification of the proposed text amendment.

Staff Recommendation: Staff recommends that the Planning Commission forward a positive recommendation to the Municipal Council to amend Sections 14.34.060 and 14.06.020, as proposed.

ALTERNATIVE ACTIONS

1. **Approve** the requested appeal. *This action would be consistent with the recommendations 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 April 26th, 2023, at 5:00 P.M.*

3. **Deny** the requested variance. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

OVERVIEW

Section 14.34.060 of the Provo City Code currently regulates the location of boats, boat trailers and travel trailers in residential zones of Provo City. Development Services Department wishes to amend the text of this section to clarify the wording as well as include Trailers, along with a definition of Trailers in section 14.06.020. It is believed that this will allow for a more equitable enforcement of trailers in general throughout Provo City Residential Zones.

FINDINGS OF FACT

1. Provo City Code 14.34.060 currently regulates the location of boats, boat trailers, and travel trailers in Residential Zones.
2. Provo City Code does not regulate the location of all other types of trailers in Residential Zones.
3. Provo City Code specifically defines “Travel Trailers” as “a motorized or non-motorized vehicle which is designed or used for temporary human habitation and for travel or recreational purposes, which does not at any time exceed eight (8) feet in width and forty (40) feet in length and which may be moved upon a public highway without a special permit or chauffeur’s license, or both, without violating provisions of the Vehicle Code.” This definition will change to meet state statue.
4. Provo City Code does not specifically define “Trailers.”

APPLICABLE ZONING CODES

14.34.060 Location of Boats, Boat Trailers, and Travel Trailers

14.06.020 Definitions

ANALYSIS

Section 14.34.060 of Provo City Code currently states:

> *“Boats, boat trailers, or travel trailers may not be placed, kept, or maintained within the front yard areas of any residential [R] zones, except that such boats or trailer may be located anywhere on the lot., except in a clear vision zone of a corner lot as defined in Section 14.34.100, Provo City Code for a temporary period not to exceed twenty-four (24) hours for loading and unloading purposes, or for temporary storage not to exceed seven (7) days if such facility is owned by a bona fide gust of the occupants of the premises.”*

This section of code is currently used by Code Compliance Officers to enforce on property owners for having boats, boat trailers, and travel trailers parked in front yard areas of residential zones, When a property owner is enforced on for violation this section of code, a copy of this section is sent along with a Notice of Violation to the property owner. As written currently, this section can lend to confusion and misunderstanding as to what is and what is not allowed.

As Officers are enforcing on properties, they generally look along the street to verify if additional properties are also in violation of the same section of code. They often find that, while some

properties have trailers that fit this section of code and are enforceable violations of code (see Attachment 3), other nearby properties have trailers (see Attachment 5) that do not fit the definitions of any trailer mentioned in section 14.34.060.

At times Officer have found one trailer that is enforceable and another tailer which is not enforceable located on the same lot and in similar locations (see Attachment 4). Including the various proposed definitions to Section 14.34.060 (see Attachment 2) would allow for a more equitable enforcement of various trailers parked in front yard areas of Residential Zones.

City Staff has found properties where camp trailers are being used and/or rented as a separate dwelling unit. In addition, some of these trailers have discharged their waste onto the property, and not into the appropriate discharge location (see Attachment 2 & 3).

CONCLUSIONS

Based on the Findings of Fact and Analysis, staff recommends the Planning Commission forward a positive recommendation of the proposed text amendment to Municipal Council.

ATTACHMENTS

1. Current Text from Section 14.34.060.
2. Proposed Text Amendment for Sections 14.34.060 & 14.06.020.
3. Examples of trailers that are in violation of current text of Section 14.34.060.
4. Examples of properties that have one trailer enforceable, and another trailer not enforceable of current text.
5. Examples of trailers not enforceable under current text but would be with new text amendment.

ATTACHMENT 1 – CURRENT TEXT SECTION 14.34.060

14.34.060 Location of Boats, Boat Trailers, and Travel Trailers.

Boats, boat trailers, or travel trailers may not be placed, kept, or maintained within the front yard areas of any residential (R) zones, except that such boats or trailers may be located anywhere on the lot, except in a clear vision zone of a corner lot as defined in Section 14.34.100, Provo City Code for a temporary period not to exceed twenty-four (24) hours for loading and unloading purposes, or for temporary storage not to exceed seven (7) days if such facility is owned by a bona fide guest of the occupants of the premises.

The Provo City Code is current through Ordinance 2023-01, passed January 17, 2023.

Disclaimer: The city recorder has the official version of the Provo City Code. Users should contact the city recorder for ordinances passed subsequent to the ordinance cited above.

City Website: www.provo.org
City Telephone: (801) 852-6000
Code Publishing Company, A General Code Company

ATTACHMENT 2 – PROPOSED TEXT AMENDMENT FOR SECTIONS 14.34.060 & 14.06.020

14.34.060 ~~Location of~~ Boats, Recreational Vehicles, and ~~Boat~~ Trailers~~, and Travel Trailers~~.

(1) Boats, recreational vehicles, ~~boat~~ or trailers~~, or travel trailers,~~ may not be placed, kept, or maintained within the front yard areas of any residential (R) zones, ~~except that such boats or trailers may be located anywhere on the~~ lot~~, except~~ in a clear vision area ~~zone~~ of a corner lot as defined in Section 14.34.100, Provo City Code or in a street side yard of a corner lot. However, such items may be allowed in these locations for:

(a) a temporary period not to exceed twenty-four (24) hours for loading and unloading purposes, or

(b) for temporary storage not to exceed seven (7) days, provided the item ~~if such facility~~ is owned or rented by a bona fide guest of the occupants of the premises.

(2) Travel trailers and other recreational vehicles may be occupied on a temporary basis on a lot in a single-family residential (R) zone for traveling guests or visitors subject to the following:

(a) The trailer or recreational vehicle must be parked off the street, and not within the front yard areas;

(b) The occupancy must be limited to not more than seven (7) consecutive days and not more than a total of thirty (30) days in any calendar year; and

(c) Discharge of any sewage (black water) waste must be done properly by accessing a dump station so as to not pose environmental harm or create unsanitary conditions.

14.06.020 Definitions

…

"Block Face" means all property fronting upon one (1) side of a street between intersecting and intercepting streets, or between the street and the railroad right-of-way, waterway, terminus of a dead end street, city boundary, public park, or other natural boundary. An intercepting street shall determine only the boundary of the block face of the side of the street which it intercepts.

"Boats" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

…

"Building-Main" means the principal building on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one (1) structure designed or used for the primary purpose, as in the case of apartment groups, each such permitted building on one (1) lot as defined by this Title shall be construed as constituting a main building.

"Camping van" means a van designed, used, and maintained primarily to provide a mobile dwelling, sleeping place, or facilities for human habitation or for camping.

…

"Public" means that which is under the ownership of the United States Government, Utah State, or any subdivision thereof, Utah County, or Provo City (or any departments or agencies thereof).

"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(a) Recreational vehicle includes:
(i) a travel trailer;

(ii) a camping trailer;
(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a camping van.

…

"Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

"Travel trailer~~s~~" ~~and **"recreational vehicles"** means a motorized or non-motorized vehicle which is designed or used for temporary human habitation and for travel or recreational purposes, which does not at any time exceed eight (8) feet in width and forty (40) feet in length and which may be moved upon a public highway without a special permit or chauffeur's license, or both, without violating provisions of the Vehicle Code.~~ means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

ATTACHMENT 3 – EXAMPLES OF TRAILERS THAT ARE IN VIOLATION OF CURRENT TEXT OF SECTION 14.34.060








MAXUM





ATTACHMENT 4 – EXAMPLES OF PROPERTIES THAT HAVE ONE TRAILER ENFORCEABLE, AND ANOTHER TRAILER NOT ENFORCEABLE OF CURRENT TEXT





ATTACHMENT 5 – EXAMPLES OF TRAILERS NOT ENFORCEABLE UNDER CURRENT TEXT, BUT WOULD BE WITH THE NEW TEXT AMENDMENT







Provo City Planning Commission

Report of Action

April 12, 2023

* ITEM #2	Provo City Development Services requests Text Amendments to Section 14.34.060 (Location of Boats, Boat Trailers, and Travel Trailers). Citywide Application. Abinadi Borja (801) 852-6421 aborja@provo.org PLOTA20230034

The following action was taken by the Planning Commission on the above-described item at its regular meeting of April 12, 2023:

CONTINUED

On a vote of 6:0, the Planning Commission continued the item to the next Planning Commission date, which is May 10th, 2023.

Motion By: Daniel Gonzales
Second By: Jeff Whitlock
Votes in Favor of Motion: Jeff Whitlock, Melissa Kendall, Lisa Jensen, Daniel Gonzales Robert Knudsen, Andrew South
Lisa 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.

TEXT AMENDMENT
The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION
The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES
- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

DISTRICT MEETING DATE
- Multiple district meetings were held on March 9th, 16th, and 30th, 2023.
- The District Chair determined that a neighborhood meeting would not be required for District 1 and 4.
- City-wide application: all District Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT
- The District Chair Representative (District 3) was present/addressed the Planning Commission during the public hearing.
- This item was City-wide or affected multiple neighborhoods.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC
Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Karen Saluone – Addressed a stat that was given to her concerning the percentage of cases that address this section of code. She addressed that there is more harm creating a space or storing it outside of an owner's property compared to parking it on the driveway. She asked to recommend denial and repeal part 1 of section 14.34.060.
- Jonathan Saluone – He mentioned driving on the road he commutes to work would affect 12 properties. Most people who would be affected are the working class. You are only hurting the citizens by enforcing this. This is not being enforced in the neighborhood he lives in. His recommendation is to repeal.
- Art Phillips – He mentioned he has multiple trailers. He received 2 tickets for his trailers. Lisa Jensen asked what type of tickets he received. He said parking tickets for parking on the street. He owns everything he has. He doesn't understand the proposed section of code.
- Becky Bogdin – There are many people in Lakewood neighborhood that would like to park their trailers on their driveways.
- Eldin Johnston – Hope this statute is fully repealed. He understood how some of the statute came to be. There needs to be some leniency on this.

APPLICANT RESPONSE

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

- Equality of enforcing all trailers.
- Address occupancy in trailers on private property.
- Add several definitions of trailers to section 14.06.020.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Knudsen – Keep bringing up things about pads. Was there ever part of this ordinance mention about a pad?
- South – Does the space need to be improved at all as long as it refers to off-street?
- Kendall - What if there is no space on the property to put a pad or off-street parking space?
- Jensen – Worried about the outcry about this being enforced when it hasn't been in the past. Where are all the trailers going to go? She agrees it will hurt the small owners. Even without the text amendment, there are 12 violators on the street. Why can't we just enforce on-street parking and junk vehicles? She hasn't seen the current version of the law enforced.
- Gonzales – Some language we can agree on. 2(c). There's a situation in Orem that has a large parcel with multiple campers and use it as a homeless camp. There's some type of balance that needs to occur to enforce health and safety while also recognizing the needs of community members to park their trailers on their property.
- Whitlock – Agrees with a lot of what Jensen said. He agrees with all of 2, but there are problems with 1. It is not enforced.
- Kendall – Trailers on the street are a safety issue. We have laws on them and they need to be enforced. Agrees with almost all of 2 except for the front yard part.
- South – Agree with staff on consistency and almost all of 2, but why? What's the objective?
- Scott Johnson – We see violations of code enforced in the city and have difficulty enforcing some types of trailers on one property and not the others. The way the code is currently written isn't equal with all types of trailers. We want to make it equal with all types of trailers. Planning Commission can make a recommendation to City Council to allow trailers to be parked on driveways, staff and make that change.
- Jensen – Allowing trailers parked on the driveway addresses public concerns and addresses the commissioners concerns.
- South – How do we tackle the root of this part of the ordinance? Is there another way to get a pull on how this can affect others, not just directly affected by people with trailers?
- Jensen – If there was a wide knowledge of this, the language adaptation would not be a problem. Because there is so much ignorance that this is on the books, it will be a tough sell.
- Scott Johnson – The suggestion made does not include the street. It includes minor tweaks to the language to allow parking on the driveway.
- Jensen – Always a big-time advocate for parking the trailer properly. This has been discussed before with not great adoration. Let's move forward to continue this item.

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

- Allow parking on the driveway.
- Address the occupancy.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

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

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services, 445 W Center Street, 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

EXHIBIT A

14.34.060 ~~Location of~~ Boats, Recreational Vehicles, ~~Boat~~ Trailers, and Travel Trailers.

(1) Boats, recreational vehicles, ~~may boat~~ trailers, or travel trailers, may not be placed, kept, or maintained within the front yard areas of any residential (R) zones, ~~except that such boats or trailers may be located anywhere on the lot, except~~ in a clear vision area ~~zone~~ of a corner lot as defined in Section 14.34.100, Provo City Code or in a street side yard of a corner lot. Items listed herein may be allowed in such locations for a temporary period not to exceed twenty-four (24) hours for loading and unloading purposes, or for temporary storage not to exceed seven (7) days, provided ~~if~~ such facility is owned or rented by a bona fide guest of the occupants of the premises.

(2) Travel trailers and other recreational vehicles may be occupied on a temporary basis on a lot in a single-family residential (R) zone for traveling guests or visitors subject to the following:

(a) The trailer or recreational vehicle shall be parked off the street.

(b) The occupancy is limited to not more than seven (7) consecutive days and not more than a total of thirty (30) days in any calendar year.

(c) Discharge of any sewage (black water) waste should be done properly by accessing a dump station as to not pose environmental harm or create unsanitary conditions.

14.06.020 Definitions

"Boats" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

….

"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(a) Recreational vehicle includes:

(i) a travel trailer;

(ii) a camping trailer;

(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a van.

….

"Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

"Travel trailers" ~~and **"recreational vehicles"** means a motorized or non-motorized vehicle which is designed or used for temporary human habitation and for travel or recreational purposes, which does not at any time exceed eight (8) feet in width and forty (40) feet in length and which may be moved upon a public highway without a special permit or chauffeur's license, or both, without violating provisions of the Vehicle Code.~~ means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

ITEM 2*

Provo City Development Services requests Text Amendments to Section 14.34.060 (Location of Boats, Boat Trailers, and Travel Trailers).

Citywide Application

PLOTA20230034

14.34.060 ~~Location of~~ Boats, Recreational Vehicles, and ~~Boat~~ Trailers~~, and Travel Trailers~~.

(1) Boats, recreational vehicles, ~~boat~~ or trailers~~, or travel trailers,~~ may not be placed, kept, or maintained within the front yard areas of any residential (R) zones, ~~except that such boats or trailers may be located anywhere on the lot, except~~ in a clear vision area ~~zone~~ of a corner lot as defined in Section 14.34.100, Provo City Code or in a street side yard of a corner lot. However, such items may be allowed in these locations for:

(a) a temporary period not to exceed twenty-four (24) hours for loading and unloading purposes, or

(b) for temporary storage not to exceed seven (7) days, provided the item ~~if such facility~~ is owned or rented by a bona fide guest of the occupants of the premises.

(2) Travel trailers and other recreational vehicles may be occupied on a temporary basis on a lot in a single-family residential (R) zone for traveling guests or visitors subject to the following:

(a) The trailer or recreational vehicle must be parked off the street, and not within the front yard areas;

(b) The occupancy must be limited to not more than seven (7) consecutive days and not more than a total of thirty (30) days in any calendar year; and

(c) Discharge of any sewage (black water) waste must be done properly by accessing a dump station so as to not pose environmental harm or create unsanitary conditions.

14.06.020 Definitions

...

"Block Face" means all property fronting upon one (1) side of a street between intersecting and intercepting streets, or between the street and the railroad right-of-way, waterway, terminus of a dead end street, city boundary, public park, or other natural boundary. An intercepting street shall determine only the boundary of the block face of the side of the street which it intercepts.

"Boats" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

...

"Building-Main" means the principal building on a lot or building site designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one (1) structure designed or used for the primary purpose, as in the case of apartment groups, each such permitted building on one (1) lot as defined by this Title shall be construed as constituting a main building.

"Camping van" means a van designed, used, and maintained primarily to provide a mobile dwelling, sleeping place, or facilities for human habitation or for camping.

...

"Public" means that which is under the ownership of the United States Government, Utah State, or any subdivision thereof, Utah County, or Provo City (or any departments or agencies thereof).

"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(a) Recreational vehicle includes:
(i) a travel trailer;

(ii) a camping trailer;
(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a camping van.

...

"Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

"Travel trailer~~s~~" ~~and "recreational vehicles" means a motorized or non-motorized vehicle which is designed or used for temporary human habitation and for travel or recreational purposes, which does not at any time exceed eight (8) feet in width and forty (40) feet in length and which may be moved upon a public highway without a special permit or chauffeur's license, or both, without violating provisions of the Vehicle Code.~~ means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

Examples of Trailers that are in violation of current text of section 14.34.060.







Examples of Trailers that are in violation of current text of section 14.34.060.







Examples of a property that has one trailer enforceable, and the other trailer not enforceable of current text.





Examples of Trailers not enforceable under current text but would be with new text amendment.







Matt Peterson | March 20, 2023
Trailer text amendment

Hi Abinadi,

I'm a neighborhood executive board member for district 3 and many of the folks in our area have questions about this agenda item for the work session:

Provo City Development Services requests Text Amendments to Section 14.34.060 (Location of Boats, Boat Trailers, and Travel Trailers). Citywide Impact. Abinadi Borja (801) 852-6421 aborja@provo.org PLOTA20230034

I understand that a few people have seen the proposed amendments but it has not otherwise been made publicly available. Rather than spend the time and gas to come down to transcribe it personally at the study session I'd like to request a copy of the text amendment as you intend to present it so that the neighborhood discussion can be informed by the actual proposal rather than speculation as I've already encountered conflicting information on it.

Regards,
Matt Peterson

Becky Bogdin | March 29, 2023
Trailer ordinance

Hi all

My concerns about the trailer ordinance are:

1. No reasons are being given other than public clamor for the ordinance change. Residents that I am hearing from are wanting/needing more than that. The best I can compare it to is if it is subject to lawsuit for council to base a zone change on public clamor the same sentiment is being felt here for the ordinance amendment. Some solid reasons for the change would be better received.

2. As I understand it travel trailers and boats are already subject to enforcement under the current ordinance. We are looking at utility trailers which are often used for work.

One example I will use is Kip. He is a friend of my dads and his mother in law is a former resident of the neighborhood. Kip lives in Highland and flips houses for a living. Last year he did the drug house across from me that COP and zoning got rid of. THANK YOU. Side of house parking is NOT an option and he had a trailer there for the entire summer hauling things in and taking things away.

Now they have moved his mother in law into senior living and he is doing the same for her home. Pictured is his trash trailer but he also has one of those enclosed models.


1668

3. 30 days in the calendar year. Residents I have spoke with think that is too little of time. They would like driveway parking allowed for loading/unloading purposes. I am sure for guests as well.

4. Corner lot parking. This would impact at least 6 people within that little area around my home. PICTs below.





5. Trailer living

With the area I am concerned by enforcing this we will be trading one problem for another. I already have shed dwellers, that imo is worse. When we look at different cultures and poverty levels, All of which I have here, I am sure this will NOT solve any issues. They will just do something else. I would prefer trailer living compared to shed living or even the shanty town that existed near Duncan aviation or the barn dwellers.

I don't feel comfortable handing over the shed dwellers address. They were renters in the neighborhood about 7 years ago and could NOT find housing so they lived in the hotel by maverick by the mall until someone from the neighborhood sold them their home. It is a really old small 3 bedroom home and they have 6 kids. One was married and living with them so they had their older kids live in the sheds behind the home. 2 kids have moved away but last I spoke with them about 3 years ago they still had children living in what they called the "cottages". Don't know how they heat those things. My guess is space heaters. But I don't know.

https://localtvkstu.wordpress.com/2018/11/12/crews-working-to-find-two-people-after-fire-at-farm-in-provo/

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Becky Bogdin

Robert Dey | March 27, 2023
proposed ordinance concerning trailer parking on private residential areas.

I usually don't get involved in city policy decisions but this proposed ordinance is not only an incredible overreach by city government but it is a direct attack on the working class and the poor in our city.

First we have entered a time of economic difficulty. Wages are not increasing as fast as inflation, home prices are out of control, rents have followed home prices etc. these things put an economic stranglehold on those who are just getting by. Many are small contractors who make their living doing various construction work. Almost all of these require a trailer or two to move their equipment to and from the job sites. Most of them cannot afford to have a dedicated shop and cannot afford to pay to park their equipment in a paid storage area. This ordinance will put many of them out of business.

Concerning the parking of recreational vehicles, boats, utility trailers, the city of provo has no business telling citizens what they can or cannot park on their privately owned property unless there is a demonstrated safety concern. When I look beyond the surface of this I can only see it as another attack on those citizens whom are in the lower socioeconomic class. If the city makes it illegal for citizens to park their privately owned vehicles on their property then code enforcers can ticket and fine them until they are in a financial position that causes them to lose their possessions and eventually their houses. Then of course its very easy to rezone the area to accommodate apartments or more expensive homes which benefits the more wealthy larger contractors who have ties to city officials. It also eliminates the smaller competitors by driving them out of the area. Whether it is intentional or not is of little consequence the results are the same.

Because of the way our political system is set up the working class citizens are rarely represented by any of their peers, instead they are misrepresented by those in the upper socioeconomic class.

This proposed ordinance will grind upon the faces of the poor and is a sad indication that our city government operates in a sounding chamber that only lets the elected officials hear the echoes of their own small group of citizens.

Robert Dey

Eldon Johnston | March 22, 2023
Proposed amendment for 14.34.060

Dear Provo City council and planning commission,

I am writing concerning proposed amendments to city code 14.34.060, regarding trailers, RV's, recreational vehicles and where they are stored on one's property. I'll keep it short and to the point. Until you pay my mortgage, and taxes on the property on which I reside, you have no say as to what is parked on my property and where it is parked. I didn't buy a house that is part of a HOA for a reason. Stop trying to turn Provo into a HOA. I do own a RV trailer, and it is parked on MY property, not my neighbors, not on the public street. It is on MY property. That's all I have to say. I don't see ANY justification for these proposed restrictions.

Eldon Johnston
Concerned member of Provo City

Brian Sheets | March 21, 2023
Re: 14.34.060 Boats, Recreational Vehicles, Trailers, and Travel Trailers

I do not yet own a boat, an RV, or a trailer of any kind, but I'm writing to voice my objection to the tightening of these laws regarding them. As one gentleman said on a community forum I follow, you're "turning Provo into a bloody HOA."

If the concern is over safety, such as clear views of or from a driveway or sidewalk, that ought to be enforced. If it's about aesthetics... tough cookies! Keep your danged opinions to yourself. You're not the ones paying our mortgage and property taxes, we are. We should be able to do what we want with our property, so long as it isn't a hazard to ourselves or our community.

If article (1)(b) is because the city is being stiffed on taxes by someone allowing friends or family a place to stay, then maybe something ought to be done about the housing market. For one, put limits on "house flippers." *Real families* with *real housing needs* keep getting undercut by these [mother] flippers who can drop cash, keep it vacant while they wrap it in $1K worth of bandaids, then sell it for an extra $100K.

Set policies and update laws that *help* the families. And stop it with these petty "Karen laws" that are just about controlling your neighbors.

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Brian Sheets

[redacted]

Brian Sheets | April 6, 2023
Re: 14.34.060 Boats, Recreational Vehicles, Trailers, and Travel Trailers

Thank you.

After having conversations with Katrice Mackay, I want to clarify that I am not opposed to further creating and enforcing policies regarding street or otherwise obstructive parking; this is strictly about property rights -- what I am allowed to keep on my own property, so long as it isn't a public hazard, such as sightline obstruction, improper waste disposal, etc. I merely wish for us to reserve our rights to keep / store boats, trailers, campers, RVs, etc on personal, private property.

Please let me know if you have any follow-up questions.

Karen & Jonathan Saluone | April 10, 2023
Planning Commission Item #2, April 12th

Hello Abinadi,

I am a resident who lives in the Fort Utah neighborhood of District 3. I have a question about the staff report that you have written for Item 2 on this week's Planning Commission Agenda. In the Findings of Fact number 3 you reference a state statute (there's a typo in that sentence, by the way) that is related to the proposed definition change. Can you explain more about what state statute you are referring to? Or are you trying to say that this new definition will more closely align with the State's definitions of trailer, travel trailer, etc.? I appreciate any clarification you can provide.

Thanks,
Karen Saluone

Karen & Jonathan Saluone | April 12, 2023
Re: Planning Commission Item #2, April 12th

Hi Abinadi,

Thanks for getting back to me with that information. I couldn't find 13-1-102 in the State Code, maybe that reference is missing a number? But it's okay, I this I understand now how this aligns more with the Utah Code.

Can you tell me how often your division enforces or issues Notices of Violation for this particular code section? And what percentage it is of all Notices of Violations issued? I would love to see data for the last 5 years or since the ordinance was enacted (which I haven't been able to find out). If you could break it out by neighborhood I would love that even more, but something simple like: "In 2022 we had 100 code cases and 10 of them were for 14.34.060" would do.

Thanks,
Karen Saluone

PLOTA20230034 - Citywide

April 27, 2023, 9:02 AM

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PLOTA20230034 - Citywide

What do you think of the proposed Ordinance Text Amendment to add clarifying language to Section 14.34.060 (Boats, Recreational Vehicles, Trailers, and Travel Trailers) for administrative approvals?

Summary Of Statements

As of April 27, 2023, 9:02 AM, this forum had:		Topic Start	Topic End
Attendees:	11	March 23, 2023, 3:19 PM	April 26, 2023, 11:59 PM
Statements:	2		
Minutes of Public Comment:	4		

PLOTA20230034 - Citywide

What do you think of the proposed Ordinance Text Amendment to add clarifying language to Section 14.34.060 (Boats, Recreational Vehicles, Trailers, and Travel Trailers) for administrative approvals?

Individual Statements

Name not shown
inside City Boundary
April 10, 2023, 10:39 AM

I feel like this amendment is adding more government overreach to an enacted ordinance that shouldn't even exist. I do not think that Provo City should be able to tell me where I can park a boat, trailer, or recreational vehicle on my own property - period. I already pay property taxes, as well as vehicle registration, I should be able to park where I want on my own property. Ordinances already exist to limit unregistered and inoperable vehicles from being parked in the driveway and elsewhere; and there are clear vision ordinances that limit where vehicles can be parked if it interferes with being able to see around corners. Why do we also need to be told where we can and cannot park a registered trailer on our own property? It isn't worth the time and effort to enforce this rule, and the truth is the only people who will be enforced upon are those with nitpicky neighbors, which speaks even more to this being an unnecessary ordinance. I would question how often the Code Compliance Division is even enforcing on this ordinance. If it is minimal, that should also tell you how unnecessary the existing ordinance is. I would hope that you deny this ordinance amendment and then seek to repeal Section 14.34.060 altogether.

Michael Mitchell
inside City Boundary
April 12, 2023, 8:54 PM

It is important to identify the purpose of this ordinance. To what extent is this ordinance designed to promote safety by prohibiting trailer and junk car storage on the street and/or overhanging a sidewalk? To what extent is this ordinance designed to "beautify" a neighborhood by hiding trailers from view? What aspects of these reasons are actually reasonable to require of a private property?
I would suggest that safety reasons should be the main focus of this ordinance, specifically applied to street parking, obstruction of sidewalks, and obstruction of clear vision areas. I believe that if the formerly specified safety hazards and any other environmental hazards are mitigated, homeowners should be permitted to use their private driveway as temporary storage (3-7 days depending) of all types of vehicles and trailers as they see fit. Because of this belief, I am against the proposed changes to the ordinance as well as any current aspects of the ordinance that do not directly pertain to safety.
I also request that there be a clarification as to what a "front yard area" includes. My interpretation of a front yard area does not include a driveway, which I perceive as a designated location for vehicle and trailer driving and storage. While this may be an incorrect interpretation, it does seem to be consionable.