



Provo City Planning Commission

# Report of Action

September 12, 2018

\*Item 2 Provo City Economic Development Dept requests a Code Amendment to Section 14.20.160(7) to increase the amount of residential development in a Regional Shopping Center Zone (SC3) Zone from 20% to 33%. City-wide application. Aaron Ardmore (801) 852-6404 PLOTA20180231

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The following action was taken by the Planning Commission on the above described item at its regular meeting of September 12, 2018:

## CONTINUED

On a vote of 5:1, the Planning Commission recommended to continue the above noted application. To clarify the motion, the item has been continued to the September 26, 2018 Planning Commission hearing.

Motion By: Jamin Rowan

Second By: Robert Knudsen

Votes in Favor of Motion: Jamin Rowan, Robert Knudsen, Shannon Ellsworth, Brian Smith, Deborah Jensen

Votes Opposed: Russ

*Deborah Jensen was present as Chair.*

- Additional Report of Action for item previously continued after a public hearing or other discussion: August 22, 2018.
- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not generally consistent with the Staff analysis and determination.

### **PROPOSED TEXT AMENDMENT**

#### **14.20.010. Purpose and Objectives.**

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The Regional Shopping Center [Zone](#) (SC3) is established to provide a [district](#) in which the primary [use](#) of the land is for commercial and service [uses](#) to serve needs of people living in an entire region and to serve as a place of employment in pleasant surroundings close to the center of the regional population it is intended to serve. The SC3 [zone](#) should be located close to freeways and adjacent to major arterials to provide convenient access for major traffic volumes without hazard and without traversing through a residential [area](#). It is intended that this [zone](#) shall be characterized by a variety of stores, shops, ~~and service~~ [buildings](#) and the option of limited multiple family housing at densities consistent with mixed use [developments](#), grouped into an integrated architectural unit. The typical [uses](#) allowed in the [zone](#) will include virtually the whole

range of retail and service establishments which can be attractively accommodated within a unified shopping center complex. When supported by the [General Plan](#), an appropriate mixture of [uses](#), such as **multiple family** residential housing ( **at a minimum density of 30 units per acre**), professional office, and institutional [uses](#) (preferably located above the ground level of mixed-use buildings), as well as entertainment and recreational venues, is allowable. Where necessary and appropriate, the bulk density design of the [development](#) should be tapered to provide for appropriate transition toward less intensive [uses](#) neighboring the [district](#).

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#### **14.20.160. Other Requirements**

(7) Residential [Uses](#). When incorporated as part of a mixed-use [development](#), residential [uses](#) and the necessary appurtenances (e.g., parking, landscape, etc.) are permitted provided they do not comprise more than ~~twenty percent (20%)~~ **thirty-three percent (33%)** of the overall project site [area](#) and that they comply with the design standards outlined in Section [14.34.287](#) and the following standards:

- (a) Any residential uses that are stacked on top of a ground floor retail store or use shall not count against the aforementioned residential limitation.
- (b) Residential uses may not be single family detached housing. As a minimum, residential densities in the SC- 3 zone shall be at (30) units to the acre or higher.
- (c) Residential uses within the SC-3 Zone shall be multiple levels with a minimum of two stories or higher, according to allowable height requirement.
- (d) A development, to be considered for adding a residential component, must be at least twenty-five (25) acres under single ownership or control.

#### **STAFF PRESENTATION**

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following: Reviewed the updated proposal from the applicant.

#### **NEIGHBORHOOD MEETING DATE**

- City-wide application; all Neighborhood Chairs received notification.

#### **NEIGHBORHOOD AND PUBLIC COMMENT**

- No Neighborhood Chair was present for this item.
- This item was City-wide or affected multiple neighborhoods.

#### **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: None

#### **APPLICANT RESPONSE**

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

- The applicant reviewed his new proposal and written responses to the Planning Commission's concerns from the previous meeting (written responses attached).

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Planning Commission noted that they understand the value of mixed-use development, and that wasn't the basis of their concerns; it was the proposed 33% and the apparent lack of a rational basis for that amount.
- The Commission discussed with the applicant the desire for Economic Development to do more research on the subject of mixed-use and what the right percentage would be for the proposal.
- There was a concern of opportunity costs with the proposal and if the applicant has any estimate on the potential loss in sales tax revenue to the City is this amendment was approved.
- The Commission thought that comparing other SC3 zones with the Shoppes at Riverwoods was an unfair comparison based on the different nature of the properties. The Riverwoods was built at one of the first Lifestyle Centers in Utah.
- A suggestion of using the ITOD zone or a similar TOD zone for "The Mix" property along University Parkway was offered to the applicant, with the reasoning that it would produce a more conducive environment for that developer; rather than further amending the existing SC3 zone.
- The Commission expressed frustration over the lack of research for the proposal and the applicant's desire to cater to one developer.
- Since the Planning Commission is working on a General Plan update, it may not be an appropriate time to make major changes to existing zones while the General Plan review is happening.

### FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

The Planning Commission identified the following findings as the basis of this decision or recommendation:

- That more research needs to be done before making a decision on the proposal, and the current General Plan update should be developed prior to changing the SC3 zone again.



Director of Community Development

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

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

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

**BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS**

In reference to the Report of Action and the Planning Commission Discussion:

1. “The Planning Commission questioned how a significant increase in residential uses in the SC-3 zone is effective as an economic development tool.”

While Provo is and will remain largely a suburban community, coupled with land scarcity, the trend is moving towards densification of projects and not just residential. Nationally, and in Provo, we are starting to see multi-family residential be an important component to larger retail development – mostly in centers – such as The Mix, University Place in Orem, eventually Provo Towne Centre, and communities within Utah and Salt Lake Counties. This is not only in brand new construction, but more-so in redevelopment projects that scrap and start over. Retailers prefer to have as many residential units and pass-by traffic in close proximity as possible. A mix of uses is a strategy to bring strength and vitality to commercial projects. “For many forward-thinking developers and designers, it’s simply not enough to build a product that’s a one-trick pony. Retail is often mixed in with office, which is often mixed in with hospitality, which frequently finds itself sharing its units with multi-family dwellers”

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. Mixing residential with commercial/retail provides immediate access to consumers.

2. “The amendment, as proposed, has no standards for residential development. Therefore, a developer could propose a fairly low density, such as townhouses, or even single-family homes, which would not achieve the goals on an economically vibrant, mixed-use development. In other words, there is no density standard in the proposed amendment for the type of residential development that could be developed in the SC-3 Zone”.

The proposed language calls for prohibiting single family residential. While a maximum density is not regulated, there is a minimum density equivalent to Medium Density Residential, which is 30 units to the acre. The multi-family residential in the SC-3 Zone must be a minimum of two stories tall. The additional language also requires development to be a minimum of twenty-five (25) acres. All other standards in Provo City 14.34.287 Residential Design Standards apply.

3. “The potential for reallocating 50 acres of relatively scarce commercial property to residential land uses with only a vague idea of economic impact of such a reallocation seem risky”.

There is no doubt that developable land in Provo is scarce and commercial property even more so. This request is development driven, and responding to needs as requested by a developer/owner. Certainly other developers/owners may utilize the same provision, if approved. It is anticipated that each large property owner in the SC-3 Zones would carefully evaluate their particular property and make a business decision. Does it makes sense to convert a portion of valuable land to residential uses? It appears this trend is gaining momentum nationally and now being manifest locally. Land development provides no guarantee of return on investment. Most quality and prudent developers do market research, observe regional or national trends, and then make a calculated risk – making all possible efforts to minimize costs and time delays. One economic impact would be the benefit of 1,500 additional households in close proximity to commercial centers (50 acres multiplied by 30 units to the acre).

4. “There may be alternative approaches to increasing the economic vitality of our SC-3 Zones; this amendment should be tested before being applied to ALL SC-3 Zones. For example, perhaps The Mix property should be zone ITOD to give residential opportunity with impacting all the SC-3 Zones in the City”.

Agreed. This is an excellent alternative and a noteworthy public-policy decision to be

determined by the Provo Municipal Council. The Planning Commission's recommendation is duly noted for Council consideration and a valid alternative. Bringing residential dwelling units at a higher density in closer proximity to retail commercial centers can be accomplished in numerous ways and is the end goal of this request.

5. "Increasing the portion of the SC-3 Zones that could be used for residential purposes from 20% to 33% seems like an arbitrary number that isn't based in any factual experience or research. When Commissioners asked the applicant to explain why it was advocating that up to 33% of an SC-3 zone could be used for residential purposes, the applicant suggested that this number was the product of a best guess as to what might work for this zone".

The original 20% residential allowance that is presently in the SC-3 Zone was based on what The Mix developer/owner requested based on what they felt was a good mix and conducive to their project, at that time. When they further refined the project, they were not in compliance with the 20% and suggested that more acreage was necessary to make the residential portion and overall development work. One alternative to more acreage was or is to make the existing residential acreage denser, or rather, go taller – meaning more units on the same amount of ground. The taller the building, the higher the construction costs. Developers and owners attempt to balance the cost of additional building height, which has a smaller foot print but costs more, with shorter buildings that cost less but consume more acreage. The Economic Development staff is not aware of the study or rationale behind the original 20% request by the developers of The Mix, other than that was their request. The request for 33% does work for current project design at The Mix.

The changing of the 20% to 33% is not entirely arbitrary. The 33% represents an acreage that would allow the developers of The Mix to do the project with the amount of density and acreage, recognizing they too are still trying to refine the development. The 33% represents a 1/3 of the total project, still leaving 2/3 of the project for commercial development – it sounds reasonable. Interesting enough, it was determined that the Riverwoods at 4800 North does have roughly the same percentage residential, taken as a whole, including the retail and the residential. The retail portion of the Shops at Riverwoods is just over 34 acres. The residential portion of the Riverwoods, three story townhomes, have about 11.4 acres with 90 units. The ground levels of a portion of the town homes, those that face the commercial area, have retail uses.

In the final analysis, 33% seems to be a good number. Staff is not aware of a financial, scientific or social study that indicates 20% or 33% is best. It is a number that is less than half and it seems to give flexibility to the owner/developer as they consider market demand and reasonable return on investment. The Economic Development staff would not feel comfortable with a higher percentage without a study to go higher.

6. "The proposal does not comply with the sections of the General Plan, specifically the Economic Development Chapter. The example, Section 7.2.2 Major Community Entrance Development (Updated General Plan language) reads:

a. Major entrances (or Gateway areas, as they are referenced on the Land Use Map) into Provo move large volumes of traffic and provide significant opportunities for development that is (are) different or more intense than currently being used. Because these areas experience a daily in and out flow of workers and visitors to the City, the economic development potential for these areas is much greater, and should be the focus of economic development. This may include limited and specifically more intense and dense redevelopment in and around the Bus Rapid Transit routes and stations..."

Precisely. It is the opinion of the Economic Development staff that this request of increasing the acreage in the SC-3 Zone from 20% to 33% is completely consistent with Economic Development Chapter of the General Plan. The Mix is located on a BRT (UVX) line, as is Provo Towne Centre Mall. Downtown Provo allows a mix of residential, retail, offices and hospitality. By allowing residential and retail to be in closer proximity, it allows for mini-urban clusters to disperse throughout the community and not just in downtown. Using projections from the Utah Governor's Office of Planning, Utah Valley will double in size in the next 30 years. Provo is not likely to double. However, the increase in housing to meet demand, will not all be provided in downtown or the west side of Provo. By allowing a limited amount of higher density residential in an already existing commercial development, some of the housing demand can be provided and cater to those who want amenities and services in closer proximity.

7. "The Commission suggested that the ITOD zone may be more appropriate to accomplish the plans for the "Mix" development, which spurred this amendment".

As previously mentioned, there are numerous ways to allow more residential dwelling units in the existing SC-3 Zone developments such as The Mix and Provo Towne Centre Mall – the ITOD is certainly another way of doing it. A case by case approach for considering a zone change to each project as the developer/owner determine, if more housing is desirable, is certainly a legitimate approach. It does take more time, but it does allow for greater control and discretion of the Planning Commission and the Municipal Council. However, the net result could be the same, more residential dwelling units in commercial zones – consumers in closer proximity to retail services.

#### 8. Summary:

The purpose of the change from 20% to 33% is to allow developers/owners to react more quickly to change in the market demand by allowing more residential dwelling units in the SC-3 Zone. It is not a question of, if residential should be allowed, but how much? The Planning Commission pointed out a number of deficiencies in the proposed language. Hopefully these deficiencies have now been addressed with the revised proposed language by adding more specific criteria to guard against concerns and achieve a desirable outcome.