

Provo City Planning Commission

# Report of Action

December 07, 2022

\*ITEM #1     The Provo City Council Office requests Ordinance Text Amendments to Titles 14 and 15 of the Provo City Code to make corrections regarding the Neighborhood District Program. Citywide application. Elizabeth VanDerwerken (801) 852-6120 evanderwerken@provo.org PLOTA20220370

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The following action was taken by the Planning Commission on the above described item at its regular meeting of December 07, 2022:

## RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Robert Knudsen

Second By: Raleen Whalin

Votes in Favor of Motion: Robert Knudsen, Raleen Whalin, Daniel Gonzales, Melissa Kendall, Andrew South  
Daniel Gonzales 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. Eric Lemus, Provo City Legal, presented the changes to Titles 14 and 15, but noted the change from the staff report to not strike Section 14.02.020(1) in its' entirety, but only subsection (b).

### CITY DEPARTMENTAL ISSUES

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

### NEIGHBORHOOD MEETING DATE

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

### NEIGHBORHOOD AND PUBLIC COMMENT

- 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:

- Becky Bogdin represented concerns from some of the neighborhood chairs that staff was removing the neighborhood program from City Code.

### APPLICANT RESPONSE

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

- Staff responded to public concerns, indicating that the program will still be codified in Section 2.29 of the City Code, and that the proposed changes with this application is just cleaning up Titles 14 and 15 to be consistent with the new neighborhood program.

### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The commissioners asked questions of staff regarding the new program and responsibilities of the neighborhood chairs, the neighborhood coordinator, and how the changes would affect the current system.
- Daniel Gonzales noted that he supports the changes and that having regularly scheduled neighborhood meetings would be an improvement to the program.
- Andrew South believes the objectives are sound but would like to have a future study session to go over the changes to the program with the Planning Commission.
- Melissa Kendall stated her support and that the neighborhoods still need to be informed of what applications are made in their areas.



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Planning Commission Chair



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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 Community and Neighborhood 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**

## **ATTACHMENTS**

### **Exhibit A – Proposed Ordinance Text Amendments**

#### **Exhibit A**

14.02.010 Hearings - Notice and Procedure.

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~~(2) Public hearings of the Planning Commission held under this Section regarding issues for which notice to a Neighborhood Chair is required under Section 2.29.040(2)(a), Provo City Code, shall not be held until the sooner of the following has occurred:~~

~~(a) Forty five (45) days have passed from the sending of such notice to the Neighborhood Chair;~~

~~(b) A neighborhood meeting has been held on the issue;~~

~~(c) A neighborhood meeting has been waived under Section 2.29.040(2)(c), Provo City Code; or~~

~~(d) Twenty (20) days have passed since the applicant has requested final action in writing pursuant to Section 10-9a-509.5(2), Utah Code.~~

(3) If the City mails notice of a proposed zoning change to property owners within the City within a specified distance of the property on which the zoning change is being proposed, it shall also mail equivalent notice to property owners of an adjacent municipality within the same distance of the property on which the zoning change is being proposed.

(34) This Section is not intended to preclude the giving of additional notice that may be deemed necessary by the Planning Commission, Board of Adjustment or Municipal Council.

(45) If notice given under authority of this Section is not challenged as provided in Section 10-9a-801, Utah Code Annotated, within thirty (30) days from the date of the meeting for which notice was given, the notice shall be considered adequate and proper.

(56) Hearing procedure shall be as set forth in the bylaws of the Municipal Council, Planning Commission and Board of Adjustment.

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14.02.020 Amendments - Procedure.

~~(1) This Planning and Zoning Title, including the Map, may be amended by the Provo Municipal Council after said amendments shall have first been submitted for recommendation to the Planning Commission. For the purpose of establishing and maintaining sound, stable, and desirable development within the City, it is declared to be the public policy that amendments shall not be made to the Planning and Zoning Title and Map except to promote more fully the objectives and purposes of this Title and the Provo City General Plan or to correct manifest errors. Any person seeking an amendment to the Planning and Zoning Title or Map shall:~~

~~(a) Submit to the Planning Commission a written petition containing the following information:~~

~~(i) Designation of the specific zone change or Title amendment desired.~~

~~(ii) The reason and justification for such zone change or Title amendment, and a statement setting forth the manner in which a proposed amendment or zone would further promote the objectives and purposes of this Title and the Provo City General Plan.~~

~~(iii) A complete and accurate legal description of the area proposed to be rezoned, or a draft of the proposed Title amendment.~~

~~(iv) The filing fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.~~

~~(v) If a Map amendment is proposed, the following shall also be submitted:~~

~~(A) An accurate plan, drawn to scale, showing all areas to be included within the proposed rezoning, designating the present zoning of the property subject of the petition, and properties immediately adjacent thereto.~~

~~(B) A concept plan that meets the requirements of Section 15.03.300, Provo City Code, and/or a preliminary subdivision plan that meets the requirements of Section 15.04.130, Provo City Code, whichever is applicable.~~

~~(C) The signature of the property owner or authorized agent or, in the case of a multiple property rezoning request, the signature of a majority of the persons who own property within the area proposed for the Zoning Map amendment.~~



~~(b) Contact the Neighborhood Chair(s) for the Neighborhood(s) affected by the application as provided in Section 2.29.040(2)(b), Provo City Code.~~

(12) Upon receipt of a petition by the Planning Commission, the Commission shall hold a public hearing in accordance with the provisions of Section 14.02.010, Provo City Code, and may approve, conditionally approve, or deny the concept plan. 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:

...

(23) The fee provided herein shall not be returnable and shall be applied to the General Fund to offset the cost of legal publications, notification of property owners, and the staff time involved in researching the appropriateness of said request and its effect upon the general welfare of the community.

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#### 14.03.010 Adoption and Effect of Major Street Plan.

(1) The Provo City Planning Commission shall adopt and maintain a major street plan for Provo City in conformance with, and as a part of, the General Plan in accordance with procedures for adopting and amending the Provo City General Plan as set forth in Chapter 15.17, Provo City Code, and the procedures set forth in this Chapter. Said major street plan shall contain the proposed location of all arterial and collector streets as defined in the Provo City Subdivision Regulations, and such other principal streets as the Planning Commission may deem appropriate.

(a) Prior to the Planning Commission adopting or amending the Major Street Plan, ~~all neighborhoods and neighborhood chairs that would be directly affected by any changes to the Major Street Plan~~ the Neighborhood Coordinator shall be notified ~~and shall schedule a Neighborhood District Executive Board meetings held for each affected Neighborhood District~~. The Provo City Engineering Department shall make a presentation at a ~~Neighborhood District Executive Board~~ meeting explaining the proposed changes to the public. When possible, public notice signs shall be placed in the public rights-of-way along the affected roadways advertising the proposed changes and the ~~Neighborhood District Executive Board~~ meeting. A report of the meeting may be provided by the ~~Neighborhood chair~~ Coordinator to the Planning Commission for consideration following the meeting.

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14.32.110 Parking, Loading and Access.

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(3) (b) Reduction in the required width of a driveway may be permitted only if:

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(iii) The subject property:

(A) Is located within the Dixon, Franklin, Joaquin, Maeser, or Timp  
Neighborhoods as shown on the Official Neighborhood Map referenced  
in Section 2.29.010(1), Provo City Code; and

(B) Is not located in an RA, R1.20, R1.15, or R1.10 zone.

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14.34.250 Standards for Conditional Uses.

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(3) *Dance Halls.*

...

~~(viii) After application is made for a conditional use permit, a neighborhood meeting shall be conducted prior to a public hearing. Such meeting shall involve the applicant, neighborhood chair, and representatives from the City. Notification of the meeting shall be given to property owners within five hundred (500) feet of the use at the expense of the applicant.~~

(viii ~~ix~~) No musical instruments, stereophonic equipment, sound amplifier or similar device shall be operated in such a manner as to create a noise or vibration disturbance across a real property boundary. If such a device is plainly audible on property of another or within a building other than that within which the device is located, and if a complaint is made to the Police Department and verified by the Department that a noise disturbance exists, this shall serve as prima facie evidence of a violation of this requirement.

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14.34.400 Moderate Impact Service Organizations.

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~~(5) A neighborhood meeting must be conducted prior to application for a public hearing involving the applicant, the neighborhood chair, and the representatives from the City. Notification must be given to property owners within five hundred (500) feet of the use at the expense of the applicant.~~

(56) Miscellaneous service organizations shall not be located closer than one hundred (100) lineal feet from a residential zone and must be bordered on all sides by a commercial zone including across public streets.

(67) Designated off-street parking shall be located no closer than one hundred (100) feet from a residential zone.

(78) The Service Organization shall not exceed the noise limitations set forth in Chapter 9.06, Provo City Code. If a complaint is verified by the Police Department that a noise disturbance exists in violation of any provision of Chapter 9.06, Provo City Code, this shall serve as prima facie evidence of a violation of this condition of approval.

(89) The Service Organization shall perform routine and proper maintenance of the exterior of the building and grounds.

#### 14.34.410 High Impact Service Organizations.

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~~(9) A neighborhood meeting must be conducted prior to application for a public hearing involving the applicant, the neighborhood chair, and the representatives from the City. Notification must be given to property owners within five hundred (500) feet of the use at the expense of the applicant.~~

(910) The Service Organization shall not exceed the noise limitations set forth in Chapter 9.06, Provo City Code. If a complaint is verified by the Police Department that a noise disturbance exists in violation of any provision of Chapter 9.06, Provo City Code, this shall serve as prima facie evidence of a violation of this condition of approval.

(1011) The Service Organization shall perform routine and proper maintenance of the exterior of the building and grounds.

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#### 14.36.100 Determination of Nonconforming Status – Effect of Determination.



(1) Procedure. The Zoning Administrator, or the Administrator's designee, shall determine the existence, expansion, or modification of a nonconforming lot or use, noncomplying structure, or other nonconformity as provided in the following procedure:

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(b) Notice of the determination of nonconforming status shall be mailed to the owners of the subject property, ~~and to the chair of the neighborhood where the property is located.~~

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14.36.120 Multiple-Family Dwellings and Apartment Complexes Constructed Prior to 1974 - Status Determination.

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(2) The owner of an apartment complex which meets the requirements of Subsection (1) may request a zoning verification from the Development Services Department. If after due investigation, the Department determines by a preponderance of evidence that the building conforms to the requirements of Subsection (1), the name, address and a statement of the characteristics of the apartment building shall be added to an official list of such apartment complexes maintained by the Development Services Department. Upon determining that an apartment complex should be added to the list, the Department shall send a letter to the owner of the complex ~~and the chair of neighborhood where the building is located~~ stating the Department's findings and decision. During regular business hours the list shall be made available to the public upon request.

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14.37.100 Parking Design Standards.

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(16) Subject to the provisions of Subsection (16)(a) of this Section, the parking design standards set forth in Subsections (1) to (15) of this Section may be reduced for a nonconforming one-family detached dwelling or one-family detached dwelling constructed on a nonconforming lot to allow expansion of the dwelling or establish an accessory apartment.

(a) Reduction of a parking design standard set forth in Subsections (1) to (15) of this Section may be permitted only if:

...



(iii) The subject property is:

(A) Located within the Dixon, Franklin, Joaquin, Maeser, or Timp  
Neighborhoods as shown on the Official Neighborhood Map  
referenced in Section 2.29.010(1), Provo City Code; and

(B) Not located in an RA, R1.20, R1.15, or R1.10 zone.

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#### 14.43.030 Waiving of Fees.

Fees for items appearing before the Planning Commission or Board of Adjustment may be waived upon request if the applicant is a Neighborhood District Executive Board Chair who has submitted an item of general interest to the neighborhood and not for a particular development. The Development Services Director shall waive fees for an item submitted by a Neighborhood District Executive Board Chair as provided in this section.

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#### 14.44.140 Guarantees and Covenants.

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(2) The following assurances and standards shall be included within the Declaration of Covenants, Conditions, and Restrictions recorded in conjunction with any R&BP development:

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(d) The Declaration shall provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. At least one (1) member of this committee shall be selected from the surrounding neighborhood by the Planning Commission. (To accomplish this, the Neighborhood District Executive Board shall submit a list of at least six (6) names of area residents to choose from). This provision shall provide for the approval by said architectural committee of all schematic project plans and elevations of all buildings and signs to be erected in the R&BP development prior to submission for project plan approval by Provo City. The declaration shall also establish design guidelines governing the appearance of the site, buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment.

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#### 14.50.010 Purpose and Intent.

(1) This Chapter creates a regulatory framework to govern the enactment of regulations to further the intent of the Provo City General Plan, particularly, but not exclusively, in older, densely developed areas of the City known as the “Pioneer Neighborhoods.” ~~The Dixon, Franklin, Joaquin, Maeser, and Timp Neighborhoods are hereby defined as the Pioneer Neighborhoods.~~

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14.50.030 Optional Schematic Development Plan.

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~~(3) A neighborhood meeting shall be held at least two (2) weeks prior to presenting a schematic development plan at a meeting of the Planning Commission.~~

(34) Pursuant to the notice and hearing requirements of Sections 14.02.010 and 14.02.015, Provo City Code, the schematic development plan shall be first submitted to the Planning Commission for a recommendation and thereafter to the Municipal Council for consideration. After a public hearing, the Council may vote to recommend that an applicant:

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14.50.050 Review of PRO Zone Application - Approval.

~~(1) A neighborhood meeting shall be held at least two (2) weeks prior to presenting a PRO zone application at a meeting of the Planning Commission.~~

(12) When considering an application for a proposed PRO zone, the Planning Commission may recommend, and the Municipal Council may adopt, modifications to PRO regulations and standards proposed by an applicant which, in the opinion of the approving authority, are needed to meet the intent and requirements of this Chapter.

(23) A proposed PRO zone application and associated preliminary project plan, shall be approved only if, in the opinion of the approving authority, development proposed on the property will:

...

(34) When deemed necessary or desirable by the City, application and approval of a PRO zone and/or any development within a PRO zone may require the submission and approval of a development agreement.

...

14.50(7).190 Project Plan Approval/Design Review.

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(1) Building Requirements.

(a) Development design for owner occupied units shall include variety among individual building colors and textures. Building forms and landscape materials shall be harmonious with existing neighborhood dwellings. Architectural character shall be similar to the character of dwellings in the Maeser ~~N~~neighborhoods. Architectural features should enhance individual identity of each dwelling unit.

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14.50(14).010 Purpose and Intent.

The purpose of the Place on Ninth Project Redevelopment Option zone is to allow owner-occupied units in the Dixon ~~r~~ and Timp Neighborhoods. This zone has been created to implement the goals of the General Plan to encourage owner-occupancy and to remove blighted residential properties. The standards set forth herein are intended to encourage long term stability through home ownership; to enhance the quality of the neighborhood through compatible residential design; and to reinforce neighborhood architectural character through the use of compatible building materials and landscaping.

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14.50(32).010 Purpose and Intent.

The Beacon on 100 Project Redevelopment Option zone is established to provide high density multiple family residential facilities within the North Park Neighborhood and the proposed Utah Valley Express Bus Rapid Transit (BRT) corridor that is consistent with the current density of the neighborhood and the ~~cities~~ General Pplan. The standards set forth herein are intended to provide quality housing to families, improve the walk-ability of the North Park Neighborhood, encourage use of public transportation, promote urban design strategies, and serve as a standard for development of this type within the city of Provo. The densities permitted by this zone are intended to encourage redevelopment of land for residential uses, improve pedestrian activity, and promote a more cohesive community. The uses typically permitted in this zone are high density multiple-family residential.

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14.50(36).010 Purpose and Intent.



The purpose for the establishment of the Spring Creek High Occupancy (PRO-A-36) zone is to allow redevelopment of an otherwise blighted area of the [Spring Creek Neighborhood](#) along South State Street ~~Neighborhood of~~ in Provo and to provide townhouse ownership opportunities of attached dwelling units for young professionals. This zone is intended to provide a style and type of housing that will foster a sustainable sense of community for the young professionals with a townhouse style for the housing. Housing in this zone shall include unique roof deck open space, adequate safe parking, friendly, neighborly interaction, and foster a sense of community by providing an open space with a pavilion for a gathering place and pickle ball courts for recreational purposes for the young professionals.

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15.01.030 Development Application and Review Process.

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~~(5) Step 5 – If required by Section 2.29.040, Provo City Code, applicant must contact the chairperson of the neighborhood where development activity is proposed to discuss the matter and allow the chairperson to determine whether a neighborhood meeting should be held. If a neighborhood meeting is requested, the applicant is expected to follow appropriate procedures for a neighborhood meeting.~~

Applications for zone changes and General Plan amendments (unless the application is filed by City staff or has citywide impact) will be placed on the agenda for a Neighborhood District meeting by the Neighborhood Coordinator.

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15.17.040 Amendment of Plan.

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(4) After payment of the application fee shown on the consolidated fee schedule adopted by the Municipal Council, general plan amendment proposals shall be ~~discussed at a neighborhood meeting, pursuant to Section 2.29.040, Provo City Code, and then~~ considered by the Planning Commission and Municipal Council as provided in Section 15.17.030, Provo City Code. ~~However, the Planning Commission and the Municipal Council may consider general plan amendment proposals even if a neighborhood meeting has not been held, if:~~

~~(a) Forty five (45) days have passed from the sending of notice to the Neighborhood Chair by the Development Services Department pursuant to Section 2.29.040(2)(a), Provo City Code;~~

~~(b) A neighborhood meeting has been waived under Section 2.29.040(2)(c),  
Provo City Code; or~~

~~(c) Twenty (20) days have passed since the applicant has requested final action  
in writing pursuant to Section 10-9a-509.5(2), Utah Code.~~



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

## **Public Works Staff Report** **Hearing Date: 12/7/2022**

Provo City Ordinance Text Amendments to Titles 14 and 15.

### **Item #1 Summary:**

The Provo City Council Office requests Ordinance Text Amendments to Titles 14 and 15 of the Provo City Code to make corrections regarding the Neighborhood District Program. Citywide application. Elizabeth VanDerwerken (801) 852-6120 [evanderwerken@provo.org](mailto:evanderwerken@provo.org) PLOTA20220370

### **Staff Recommendation:**

Public Works staff has no concerns with the requested action.

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