

***ITEM 1** David Bragonje requests a Zone Map Amendment from the A1.5 (Agricultural) Zone to the PRO-A10 (Arbors on the Avenue) Zone in order to construct a new 66-unit condo building, located approximately at 5610 N University Ave. North Timpview Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20230325

<p>Applicant: David B Bragonje</p> <p>Staff Coordinator: Aaron Ardmore</p> <p>Property Owner: CIRQUE CONDOS LLC</p> <p>Parcel ID#: 20:014:0051; 20:014:0066; 20:014:0065; 20:014:0102; 20:014:0103; 20:014:0108</p> <p>Acreage: 7.84 (2.85-acre project area)</p> <p>Number of Properties: 6</p> <p><u>ALTERNATIVE ACTIONS</u></p> <p>1. Approve the requested Zone Map Amendment. <i>This action <u>would not be consistent</u> with the recommendations of the Staff Report. The Planning Commission should <u>state new findings</u>.</i></p> <p>2. Continue to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is April 24, 2024, at 6:00 P.M.</i></p>	<p>Current Legal Use: There are no current established uses on the property.</p> <p>Relevant History: A portion of this property was graded in 2018. As the applicant went through staff review with his proposal, Public Works discovered a sewer capacity issue in the “freedom trunkline” that would not allow this project to move forward without large infrastructure improvements (see attached “Freedom Trunkline ERC memo”). The applicant has updated his request to the Arbors on the Avenue PRO Zone to address some of the earlier concerns with the HDR Zone.</p> <p>Neighborhood Issues: This item was discussed at the January 24, 2024 District 1 Neighborhood meeting. There was more support for a Medium Density project (up to 30 units/acre) than a High Density project (up to 50 units/acre). The following were listed as specific concerns:</p> <ul style="list-style-type: none"> • Traffic on Indian Hills Road/Canyon Road • Developing more than the described 2.85 acres • Allowable building height in the HDR Zone <p>Summary of Key Issues:</p> <ul style="list-style-type: none"> • The request has changed from asking for the HDR Zone to the PRO-A10 Zone. • The proposal is for 66 condominium units. • The limits on sewer connections for this property restrict the staff from recommending approval. <p>Staff Recommendation: That the Planning Commission recommend denial of the proposed rezone to the City Council.</p>
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OVERVIEW

David Bragonje is requesting a zone map amendment from the Agricultural (A1.5) Zone to the Arbors on the Avenue (PRO-A10) Zone in order to build a 66-unit residential condominium project at the mouth of Provo Canyon, approximately 5610 North University Avenue. This site has been left vacant since a grading on a portion of the site was done in 2018.

The proposal is to build a four-story condo building with underground and surface parking, accessed from Indian Hills Road. The concept plan shows twenty-three (23) three-bedroom units, thirty-one (31) two-bedroom units, and twelve (12) one-bedroom units, along with some amenity areas on each level. The site includes additional gathering space amenities, including a dog park, hot tub area, and trail connections.

The property around the site is vacant, open land to the north and east in the Agricultural (A1) and Open Space, Preservation, and Recreation (OSPR) Zones. To the south is a power station for Provo Power and the Indian Trail trailhead and parking lot. Further south, within approximately 500 feet south along Canyon Road, there are four to five single-family homes on Utah County land, with some agricultural uses. West, across University Avenue, there is a developing commercial center at 5609 N University Ave in the CG (General Commercial) Zone, and future office development in the PO (Professional Office) Zone to the southwest.

While additional housing is needed in Provo, and adding this type of housing in the northeast would be a benefit, Public Works Staff have found that there is not enough sewer infrastructure to support this rezone. In the attached Freedom Trunkline ERC memo, it concludes that the amount of property already zoned for development will use the remaining capacity of this sewer system due to several constraint points in the line that come with very high price tags to correct. These sewer improvements are not within the five-year improvement plans for Public Works, and therefore, staff must recommend denial on the requested zone change.

FINDINGS OF FACT

1. The current zones on the property are the A1.5 and OSPR Zones (*Chapters 14.08, 14.33, Provo City Code*).
2. The proposed zone is the PRO-A10 Zone (*Chapter 14.50(10), Provo City Code*).
3. The proposed parking is 140 stalls.
4. The required parking is 140 stalls (*Section 14.37.060, Provo City Code*).

STAFF ANALYSIS

To evaluate this proposal staff will address the criteria on page 47 of the General Plan (“evaluating proposed rezone applications for housing developments”) and the Provo City Code Subsection 14.02.020 for zone map amendments.

The following are questions asked of any residential zone change from Chapter Four of the General Plan: **(staff responses in bold)**

1. Would the rezone promote one of the top 3 housing strategies; (1) a mix of home types, sizes, and price points, (2) promote ADU’s and infill development, and (3) recognize the value of single-family neighborhoods?
The proposal would bring a mix of housing types for this area of the city, stacked condos are not the predominant housing type of North Timpview and providing these with a variety of floor plans and bedroom counts would create opportunities for a variety of price points.
The proposal would not promote ADU’s or infill development, as this is not an infill piece of land and ADU’s would not be possible.
2. Are utilities and streets currently within 300 feet of the property proposed for rezone?
Utility connections and service are the primary reason that staff cannot recommend approval for this rezone. Though there are utilities within 300 feet to connect to, there are issues down the line with utilities that do not have capacity for this proposal.
3. Would the rezone exclude land that is currently being used for agricultural use?
There are no agricultural uses within the development area of the rezone request.
4. Does the rezone facilitate housing that has reasonable proximity (1/2 mile) to public transit stops or stations?
The closest public transit stop is on River Park Drive for Route 834, about 0.4 miles away.
5. Would the rezone encourage development of environmentally or geologically sensitive, or fire or flood prone, lands?
There are no hazards or sensitive lands within the proposed rezone.
6. Would the proposed rezone facilitate the increase of on-street parking within 500 feet of the subject property?
There is no on-street parking on nearby adjacent roadways, so the owners and guests of this development would have to park within the project.
7. Would the rezone facilitate a housing development where a majority of the housing units are owner-occupied?
Since the proposal is for condominiums, this rezone *could* facilitate owner-occupied units; but there has been no guarantee made by the applicant at this time.
8. Would the proposed rezone facilitate a housing development where at least 10% of the housing units are attainable to those making between 50-79% AMI?
The rezone *could* facilitate attainable housing units, but there has been no indication of that being part of the proposal.

In addition to the above questions, Subsection 14.02.020 of the Provo City Code helps to identify whether the proposed amendment is in the interest of the public and consistent with the General Plan goals and objectives. The following guidelines are for that purpose: **(staff responses in bold)**

- (a) Public purpose for the amendment in question.
The applicant has stated that the public purpose for the amendment is to improve a blighted property, which would enhance the aesthetic of the area, facilitate infrastructure improvements, and provide more residential units.
- (b) Confirmation that the public purpose is best served by the amendment in question.
The proposed amendment may or may not be the best solution for the property. However, due to the sewer constraints, the public would not be well-served by the proposal increasing density that would create need for expensive infrastructure projects that are not currently in the budget.
- (c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.
While the proposal does meet some goals for housing like “allow for different types of housing in neighborhoods” and to “increase the number of housing units of all types across the whole of Provo in appropriate and balanced ways” (goals 1 and 2 of Chapter 4), there are also specific policies which the proposal does not meet like ensuring that there is adequate infrastructure for development.
- (d) Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.
The timing of this proposal is premature. Allowing the city to analyze current infrastructure and future needs, and then budget for those needs should come before any additional density increases in this part of the city.
- (e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan’s articulated policies.
Rezoning this property now would hinder the ability of the city to “provide services across the city” (goal 1 of Chapter 7).
- (f) Adverse impacts on adjacent land owners.
Adverse impacts associated with this rezone are far-reaching, more than the adjacent land owners would be impacted by approving a zone change that the sewer infrastructure cannot handle.
- (g) Verification of correctness in the original zoning or General Plan for the area in question.
The zoning and General Plan are correct.
- (h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

APPLICABLE ZONING CODES

15.03.100 Adequate Public Facilities.

Land shall be developed where existing infrastructure is in place or will be timely provided to service proposed development. For each such development an analysis shall be completed to determine whether adequate public facilities are available to service the development and whether the development will change existing levels of service or will create a demand which exceeds acceptable levels of service for roadways, intersections, bridges, storm drainage facilities, water lines, water pressure, sewer lines, fire and emergency response times, and other similar public services. A proposed development shall not be approved if demand for public services is shown to exceed accepted levels of service. No subsequent approval of such development shall be given until either the developer or the City installs improvements calculated to raise service levels to accepted norms.

CONCLUSIONS

Though staff have taken the time to evaluate this proposal and help the applicant find ways to handle the zoning standards, the big issue remains the infrastructure limitations. A similar proposal on a future year may be appropriate in helping fill housing needs, but this proposal is untimely considering current infrastructure constraints. The above reasoning and code section on adequate public facilities leaves staff without a feasible alternative to denial of this request at this time.

ATTACHMENTS

1. Freedom Trunkline ERC memo
2. Area Map
3. Concept Site Plan
4. Zone Map

ATTACHMENT 1 – FREEDOM TRUNKLINE ERC MEMO

Memo

To: Gary Calder
From: Barry Prettyman
Date: March 14, 2024
Re: Freedom Trunkline Sewer ERC

The 2021 Wastewater Collection System Master Plan establishes the capacity of the existing and future wastewater collection system in Provo City based on land uses and population densities in the Provo City General Plan.

Part of the Master Plan focused specifically on the Freedom Trunkline. This area has seen several new projects that were not previously planned. Bowen Collins was asked to indicate existing (2021) capacity on the Freedom trunkline so Public Works could observe growth in the area and plan improvement projects accordingly. The results showed that 718 equivalent residential connections (ERC's) could be installed before any deficiencies appeared in the model and projects were needed.

Public Works has been asked how many ERC's have been accounted for and how many remain on the Freedom trunkline. The estimated number of allocated ERC's were found by looking at approved developments since 2021. There are an estimated 398 ERC's that have been allocated since 2021. *That leaves a remainder of 320 ERC's on the Freedom trunkline* before deficiencies are expected and projects are needed. The larger developments used to calculate the ERC's include:

- The River District Residential (5448 N River Run Drive) – 195 ERCs
- Timpanogos Towers (1918 N Canyon Road) – 120 ERCs
- Miscellaneous Residential and Commercial Development – 83 ERCs
- The Provo River Water Treatment Plant (2025 N Freedom Blvd.) – Number of ERCs vary

There are a number of developments that are still in the planning phases of design but have not received approval. These developments include but are not limited to:

- The Harris Building (312 S University)
- Blue Haven (950 N University)
- Millrace Apartments Future Phase (77 W 500 S)
- Legacy Village Phase II (4093 N 100 E)

If these developments are added to the existing ERC's, then the ERC's allocated for the existing Freedom trunkline will be exceeded.

The highlighted trunkline in Figure 2-1 shows the Freedom trunkline and the area that feeds into it. The areas of most concern have been highlighted in the circles for clarity. Projects are identified in the Master Plan and costs for each project were estimated. If all projects are completed, the Freedom trunkline will have additional capacity. The project number is listed next to the circles. Each of the projects was expected to be outside of the 10-year window in 2021. A cost (in 2021 dollars) and a brief description for each project arranged from south to north is as follows:

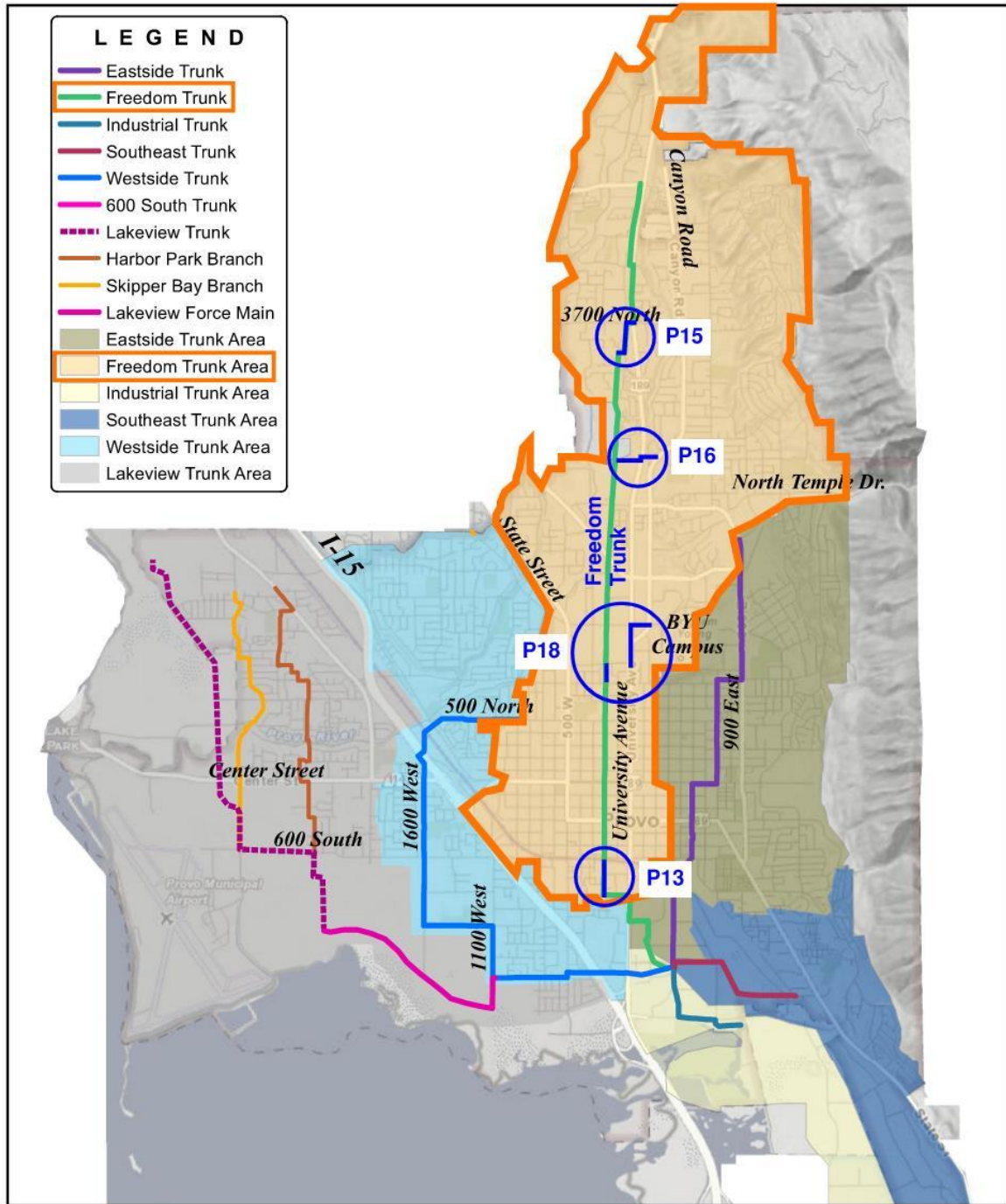
- P13 (\$1,221,000) - Freedom Blvd. from the Provo FrontRunner tracks to 920 South – The project begins just south of the railroad tracks and stretches down to 920 South. The recommended replacement pipe diameter for this project is 30-inch.
- P18 (\$3,148,000) - University Ave./ Cougar Blvd from 150 East to 800 North and Freedom Blvd. from 950 North to 800 North – This Project is the result of the increasing student population at Brigham Young University (BYU) and the corresponding increased flows expected in the future. It is recommended that the current pipe diameters be increased to 18-inch along Cougar Blvd and University Ave., and 27-inch along Freedom Blvd.
- P16 (\$1,343,000) - 2680 North - This stretch of pipe is 10-inch and is smaller in diameter than upstream pipes (which are 15-inch). The pipes are on steep slopes, so have not exhibited any hydraulic deficiencies yet, but will at buildout unless replaced with 15-inch diameter pipe.
- P15 (\$1,729,000) - University Ave. from 3700 North to 3470 North – This Project is located along the pipeline that leads to the Provo Canyon. These pipelines are deficient only under planned buildout conditions. If the City decides to connect future flows from Provo Canyon, it is critical that the City monitor this area. It is recommended that the pipe be upsized to a 15-inch diameter to accommodate the buildout growth (without Provo Canyon). If Provo Canyon were added, this size would need to be re-assessed.

It should also be noted that the projects listed above provide additional capacity for minimal cost. Any additional capacity beyond this would require significant changes to Provo's sewer collection system and costs would increase significantly.

Thank you,



Barry Prettyman, P.E.



	<p align="center">Sewer System Service Area and Trunk Line Collection Areas</p>	<p>NORTH:</p> 	<p>SCALE: 0 2,500 5,000 Feet</p>
	<p align="center">PROVO CITY WASTEWATER COLLECTION SYSTEM MASTER PLAN</p>		<p>FIGURE NO. 2-1</p>

P:\Provo City\011-20-01 Sewer Master Plan\4.0 GIS\Fig2-1-ServiceAreas.mxd sharik 4/5/2021

ATTACHMENT 2 – AREA MAP



ATTACHMENT 3 – CONCEPT SITE PLAN



ATTACHMENT 4 – ZONE MAP

