

****ITEM 3** Development Services request an Ordinance Text Amendment to the Critical Hillside Overlay (CH) Zone, Section 14.34.040, to add additional language on exceptions. Citywide application. Aaron Ardmore (801) 852-6404 aardmore@prvo.org PLOTA20240176

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 August 14th, 2024, at 6:00 P.M.*
2. **Recommend Denial** of the requested ordinance text amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: During the June 2024 review of the Buckley Draw project (application PLRZ20240047) it was found that a text amendment to the CH Overlay Zone would be needed. Both the Planning Commission and City Council were comfortable allowing the Buckley Draw rezone to move forward, directing Planning Staff to return quickly with an amendment to the CH regulations that allow for careful exceptions. Staff have been working to create the proposed language since that time.

Neighborhood Issues: This is a citywide application that could affect multiple neighborhoods. However, there were neighborhood concerns with the Buckley project that instigated these changes.

Summary of Key Issues:

- The CH Overlay was applied to multiple undeveloped properties in 2020 with a broad brush.
- There are some properties zoned CH which do not have all the characteristics that the Critical Hillside zone is meant to address.
- Staff suggests adding additional language in Section 14.33A.040(3) to empower the city to modify standards or add exceptions to certain properties that do not meet the intent of the CH zone.

Staff Recommendation: That the Planning Commission recommend approval of the proposed amendments to the City Council.

OVERVIEW

Development Services is requesting an ordinance text amendment to the CH Overlay Zone, as directed by the City Council. This proposed change will help give the Council and staff more flexibility on properties that were zoned with the CH Overlay in 2020.

The key motivation for this proposed change was the review of the Buckley Draw rezone and concept plan. This property was shown to be in the CH Overlay zone but does not have the typical characteristics or hazards associated with most hillside properties. There is very little slope greater than 30% (none in the proposed improvement areas), no ridgelines or faults, and has shown to have stable soils. Properties like this should be able to seek some relief from the stringent CH Overlay regulations, specifically, with the limits of disturbance (LOD) standards found in Section 14.33A.090.

Currently within the CH chapter, there are four listed exceptions to CH Overlay standards. Among the existing exceptions are public parks, cemeteries, and lots created prior to the enactment of the overlay zone. Staff proposes adding the ability to still apply the CH standards but modify them with this proposed fifth exception (14.33A.040(e)) for parcels that do not meet certain criteria, such as steep slopes, slides, faults, and ridgelines.

STAFF ANALYSIS

Staff have used the criteria below from Section 14.02.020(2), Provo City Code, to evaluate this staff proposal against the goals and objectives of the General Plan, ensuring compatibility with the vision of the city.

(a) Public purpose for the amendment in question.

Staff response: The public purpose of the amendment is to enable development on buildable land within the city, to provide additional needed housing.

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

Staff response: Staff believes that the proposed amendments are the best way to address the above public purpose.

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

Staff response: The proposed amendments help to meet goals of the General Plan, specifically, Chapter 3, goal 3, to “review and revise Provo City Code to make it more consistent and accessible” as well as Chapter 4, goal 1b, to

“consider revising regulations to encourage development of a mix of housing types.”

(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 issues related to this request.

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

Staff response: Staff believe that this proposal would not hinder or obstruct General Plan policies. In truth, due to the characteristics of the Buckley Draw parcel, it is questionable whether it should have been included in the CH Overlay Zone. Modifying certain regulations to both protect the intent and spirit of the CH zone while allowing for desperately needed housing on the site should meet the goals and policies of the Provo General Plan.

(f) Adverse impacts on adjacent landowners.

Staff response: Staff do not anticipate any adverse impacts resulting from the proposed amendment.

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

Staff response: Does not apply.

(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: Does not apply.

CONCLUSIONS

Staff are confident that this amendment provides a reasonable solution to an obstacle to good development and would hope that the Planning Commission and City Council approve the proposed language.

ATTACHMENTS

1. Proposed Amendments

ATTACHMENT 1 – PROPOSED AMENDMENTS

14.33A.040

Development in Critical Hillside (CH) Overlay Zone.

- (1) All development in the CH Zone, including, but not limited to, grading, clearing, and excavation, shall comply with the applicable provisions of this Chapter.
- (2) The submittal of maps, plans, narratives, or any other document necessary to demonstrate compliance with this Chapter shall be submitted to the Coordinator Review Committee for review.
- (3) The provisions of this Chapter shall not apply **or may be modified** in the following situations:
 - (a) For lots created prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;
 - (b) For developed parcels (not lying in a development plat) developed prior to the effective date of the ordinance establishing the Critical Hillside (CH) Overlay Zone;
 - (c) For parcels or lots actively and solely used in the operation of a public or private cemetery; and
 - (d) For public parks.
 - (e) For parcels that do not have more than 15% of land covered in slopes over 20% and that do not have any of the following development constraints (to be confirmed by Provo City Engineering), subject to approval of a Development Agreement:
 - (i) hazardous soils;
 - (ii) faults; or
 - (iii) ridgelines.