

1 **PROVIDENCE CITY PLANNING COMMISSION MEETING**

2 **December 13, 2006**

3 **6:00 p.m.**

4 **Providence City Office Building**

5 **15 South Main, Providence, UT 84332**

6 **Attendance:** Chair: Blaine Sorenson

7 Commissioners: Stephen Allan, Harry Ames, Bill Bagley, Jim Beazer,

8 Lance Campbell, Jon Mock

9  
10 Blaine Sorenson opened the meeting.

11  
12 **STUDY ITEMS:**

13 **Item No. 1. The Providence City Planning Commission will discuss with Mark Teuscher proposed**  
14 **changes to Providence City Codes.**

- 15 • Mark Teuscher explained that the map in his handout is an old version and is being updated. He  
16 explained his ideas for a residential document and a plan district concept. He stated that a  
17 substantial amount of property is zoned agriculture and will eventually end up residential. He  
18 feels that these areas should be created as a district with conditions, otherwise known as a plan  
19 district. In this case, the development agreement should be negotiated between the City and the  
20 developer. He explained the difference between a standard district and a P (plan) district. P  
21 districts have negotiated standards which are determined when the new zone is to be developed.  
22 They are more flexible than PUDs. The negotiated standards will be uniquely different for each P  
23 zone and will be determined according to the area, landscape, etc.
- 24 • J Beazer felt that it can give the Commission options. He presented the idea of two developers  
25 requiring different things with land that is to be developed.
- 26 • J Mock added that P zoning can be variable.
- 27 • Mark Teuscher explained that a large piece of property, because of its uniqueness, can be taken  
28 into account when considering the development. It could also be applied to any property that is  
29 annexed into the City. It allows for negotiations on rezoning. If the Commission chooses to do  
30 this, the zoning map can be amended and become part of the Code.
- 31 • J Mock wondered if timelines could be added to ensure the proper completion of the areas. Mark  
32 Teuscher said yes.
- 33 • Mark Teuscher explained that restricted land and density can be negotiated. He has added it as an  
34 option in his proposal.
- 35 • J Mock asked if the annexation would go to the City Council. M Teuscher answered yes. It adds  
36 flexibility to the Code without making a lot of changes. The City has about six zones currently.  
37 A P district contains existing zones.
- 38 • J Beazer explained that the developer would not make a traditional subdivision as specified by the  
39 code. He commented that the City does not have a mechanism in place to go to an alternative.  
40 The P district allows the City to do whatever works, giving more open space.
- 41 • J Mock wondered if developers would get as much return on smaller lots.
- 42 • Mark Teuscher explained that guidelines can be set that are critical to the City. P districts are  
43 over arching guidelines.
- 44 • J Beazer felt that only large lots would require negotiations. It is not an option to have large  
45 parks and one acre lots.
- 46 • Mark Teuscher said he would never use lot-size averaging and would recommend getting away  
47 from it. He suggested basing the zones on overall density.
- 48 • J Mock felt that consideration should be taken for the overall usage of the land.
- 49 • Harry Ames commented that within the city of Providence, there is a land variance. He  
50 questioned what would happen if someone wanted to develop land, but not within the next ten

1 years. He commented that this allows the City to allow P districts and say this land falls into this  
2 set of rules because of where it is.

- 3 • Mark Teuscher explained that it is to be negotiated. The City will not determine density on the  
4 land included in a P district. Subdivision plots show a two dimensional description. Elevations  
5 are not easily visualized. This plan allows the subdivision to be designed in a creative way. The  
6 physical nature of the land determines where the subdivisions are.
- 7 • Harry Ames wondered if the City would be presetting limitations on what a person can do in five,  
8 ten, or twenty years from now.
- 9 • J Beazer believes this plan is giving more options.
- 10 • Mark Teuscher gave a glass of water as an example. He asked how much can be stuffed into a  
11 glass and yet not have any waste. He explained that zoning is doing this. A businessman will  
12 maximize costs. When he is finished, the City will have a subdivision it must maintain. Harry  
13 Ames felt that there is no flexibility with this concept.
- 14 • Mark Teuscher explained that the over and arching design principles can determine the plan.  
15 This is just a beginning point. What is put on the plan determines what will happen with the City  
16 and the developer.
- 17 • J Beazer believes that the City doesn't have the right to use the P zone to decrease how many  
18 homes can be built. He sees it as an opportunity to provide for the City better plans than exist  
19 now. He felt the City should plan in such a way that makes the area look better, and developers  
20 will walk away with the same amount of money.
- 21 • Harry Ames wondered if there will be legislation on this idea.
- 22 • Mark Teuscher used Wendy Fisher as an example. She had a developer who wanted to make ten  
23 lots. He ended up building half of what he wanted to build and left the rest in conservation. It  
24 sold faster and for more money. Design is more reflective of what people are willing to buy. The  
25 developer was willing to market the five lots with the idea that nobody will build behind the  
26 buyers. Design can be more advantageous to a developer because it can increase his property  
27 value. One of the problems with box style zoning is they become income segregated. The P zone  
28 creates more diversified neighborhoods.
- 29 • J Mock commented that lot size averaging is similar.
- 30 • Mark Teuscher stated that the Census Bureau finds that income in Providence is extremely high,  
31 but only a few people are making it that way. He explained the difference between lot size  
32 averaging and density.
- 33 • J Mock commented that as the Planning Commission looks at different lots, it gets an idea of  
34 where roads are to be. He felt that it is important to make sure the City knows where the roads  
35 should go.
- 36 • Mark Teuscher explained that transportation is always the primary issue. Understanding the  
37 transportation issues is more critical than assigning lot size.
- 38 • Mark Teuscher will go into the residential section of the general plan next and build basic  
39 guidelines to be looked at while designing P districts. He will bring his suggestions back on  
40 January 10, 2007, with over arching goals the Commission would like to develop. He asked the  
41 Commission to think about what is important to them as they ponder the philosophy of  
42 development.

43  
44 **Item No. 2. The Providence City Planning Commission will study a request for Preliminary Platt**  
45 **approval on the Everton Minor Subdivision located generally at approximately 800 South 300 East.**

- 46 • B Sorenson presented this study item. He explained that it will not be approved at this point in  
47 time.
- 48 • S Bankhead and J Beazer explained that this property has been split twice. At one time, it was  
49 one lot. Around ten years ago it was split into two. Now one of the lots will split off into four  
50 lots.
- 51 • Brian Lyon explained how the subdivision will be divided.

- 1 • J Beazer assumes the road will be completed from the north and south boundary.
- 2 • Mayor Simmons explained where the road exists.
- 3 • Harry Ames asked if it is the owner of Lot 1 who is selling off three lots.
- 4 • B Bagley asked if there is more property between the Everton property and 1000 South.
- 5 • Harry Ames asked if there will be an opportunity to subdivide in the future because of the
- 6 configuration of the land.
- 7 • J Beazer believes a minimum SFT zone could be put in at a later time and wonders if Lot 2 will
- 8 eventually want to divide.
- 9 • S Bankhead explained that water shares for the property were turned in with the first split. The
- 10 five lots are covered with the water shares.
- 11 • J Mock asked if there would be a maximum build out. S Bankhead said no.
- 12 • Harry Ames asked if sewer line sizing has been taken care of. The answer was yes.
- 13 • B Sorenson explained that public input will be on January 10, 2007, and a decision could be made
- 14 two weeks later.
- 15 • B Bagley asked if all of the utilities have been looked at. The answer was yes.
- 16 • B Sorenson recommended this be put in the January 10, 2007 meeting as a preliminary plat.
- 17 • Harry Ames asked Michael Cooper if he is an applicant or agent.
- 18 • J Beazer explained that Michael Cooper is a representative for Louise Everton because she is on a
- 19 mission.
- 20 • Harry Ames believes that developers should visit with their neighbors before they come to the
- 21 Commission. He also believes that things would go through the Commission more smoothly if
- 22 developers were considerate.

23

24 **ACTION ITEMS:**

25 **Approval of the Minutes for December 13, 2006, held at Spring Creek Middle School:**

- 26 • Page 3 of 8, 5<sup>th</sup> bullet, Wendell Morse was not at the meeting but has offered data.
- 27 • Page 3 of 8, 14th bullet, Denise Strong statement should not say “should not be appointed.”
- 28 • Page 3 of 8, last bullet, should say that DRC meetings are not public, but will be open if they are
- 29 serving as a Land Use Authority.
- 30 • Page 3 of 8, strike the bottom bullet by Harry Ames.
- 31 • Page 7 of 8, the last line, should say “a place we would all like to live.”

32 **Motion to approve the minutes for November 29, 2006 with the corrections as noted – J Mock, Second –**

33 **B Bagley.**

34 **Vote:** Yea: H Ames, B Bagley, J Beazer, L Campbell, J Mock

35 Nay: None

36 Abstained: None

37 Excused: S Allan

38

39 **Disclosure of any conflict of interest on any of the agenda items:**

40 None

41 **Disclosure of any ex parte communication on any of the agenda items:**

42 J Beazer spoke with K Baker and discussed density in The Cove and Hillcrest subdivisions. He also

43 spoke with Dennis Carlsen concerning development in general.

- 44 • B Bagley asked what the Commission could do if it feels one of the Commissioners is biased.
- 45 • Mayor Simmons explained that the Commission can still vote.
- 46 • Mark Teuscher explained that all the Commissioner has to do is declare what he did and it will
- 47 put the Commission on equal ground. By him disclosing what was discussed, the Commission
- 48 has heard what he has heard so ex parte communication goes away.

- B Bagley feels this is generalities. Mark Teuscher explained that it does not disqualify him. The State Code under Conflict of Interest states that it just has to be declared. The minimum requirements of State law have been met.
- Bob Bissland pointed out that Mark Teuscher is not a lawyer and that comments should be referred to Scott Wyatt.
- J Beazer had a discussion on Item #4 with Jared Nielson who owns property known as Hillcrest Subdivision.

**ITEMS FOR RECOMMENDATION:**

**Item No. 1. The Providence City Planning Commission will consider a recommendation proposing changes to Providence City Code 10-6-1 Use Chart by adding a dental lab as a conditional use on the Use Chart in the Single Family Traditional Zone.**

- Blaine Sorenson presented the recommendation.
- J Beazer commented on the difference between home occupation and home business.
- The Commission discussed conversations from the last meeting.

**Motion to recommend proposing changes to Providence City Code 10-6-1 Use Chart by adding a dental lab as a conditional use home occupation, not a home business, on the Use Chart in the Single Family Traditional Zone – J Beazer, Second – L Campbell.**

Vote:    Yea:                    H Ames, B Bagley, J Beazer, L Campbell, J Mock  
               Nay:                        None  
               Abstained:                None  
               Excused:                    S Allan

**Item No. 2. The Providence City Planning Commission will consider a recommendation proposing changes to Providence City Code 10-16 Fence Regulations.**

- B Sorenson presented this item.
- S Bankhead suggested that fences be a Code compliance issue rather than have the City involved.
- H Ames explained that the current code is drawing the City into private property conflicts. The recommendation makes it so that the City would deal just with the Code. He asked what changes would be involved.
- S Bankhead felt she didn't hear enough information to get direction for the next draft. She also asked that someone prepare a recommendation. Once the initial draft is ready, there should be something prepared after the public hearing.
- J Beazer explained the recommendation in detail. Less government interference makes him happier.
- B Bagley explained that there should be a vote recommending making the changes and present specifics at a later time.
- Harry Ames wondered if it should be tabled. He feels safety should come first.
- B Sorenson suggested making a motion to recommend proposing changes and assign someone to take the bull by the horns.

**Motion to consider a recommendation proposing changes to Providence City Code 10-16 Fence Regulations – J Beazer, Second – L Campbell.**

Vote:    Yea:                    H Ames, B Bagley, J Beazer, L Campbell, J Mock  
               Nay:                        None  
               Abstained:                None  
               Excused:                    S Allan

- Mayor Simmons, H Ames, and J Beazer suggested having Mark Teuscher write the proposal with J Beazer' assistance.

**Item No. 3. The Providence City Planning Commission will consider a recommendation proposing changes to Providence City Code amending certain provisions in the Providence City Land Use**

1 **Ordinance bringing it into compliance with recent amendments to the Utah Code including the**  
2 **establishment of a land use authority and an appeals authority.**

- 3 • B Sorenson presented this issue.
- 4 • J Beazer suggested creating an Appeals Authority Board by using four Providence citizens and  
5 one person who is educated in Land Use Authority who also sits on the Board for other cities.
- 6 • H Ames stated that the Utah Code has changed and all cities need to be in compliance.
- 7 • B Bagley gave his ideas on setting up the board.
- 8 • S Bankhead suggested that the Commission give the information now and the Staff will  
9 incorporate it before it goes to the City Council.
- 10 • H Ames felt this issue would become a budget item for the City.
- 11 • J Mock felt that the general consensus is leaning toward J Beazer's suggestion.
- 12 • H Ames felt that more solutions are available when considering public input. He would like to  
13 see this issue revisited until a good solution appears.
- 14 • B Bagley read the recommendation.
- 15 • J Beazer commented on how a unanimous vote could be a deterrent. He believes that certain  
16 members who are citizens cannot be unbiased.
- 17 • B Sorenson asked Mark Teuscher to explain.
- 18 • Mark Teuscher explained that the boards can be set whichever way the Commission desires. He  
19 assumes there will be bylaws listing qualifications. Annexations are not part of the decisions.  
20 They are legislative decisions that can not be appealed. Boundary Commissions talk about  
21 annexations and corporations. They are a separate entity—a county entity. The only condition is  
22 that a member cannot be on the Land Use Authority and on the Appeals Authority.
- 23 • J Beazer asked Mark Teuscher to provide a copy of Brigham City's code.
- 24 • Mark Teuscher mentioned that codes can be revisited.
- 25 • J Beazer would like the decision to be revisited in a year. He feels that the Land Use Authority  
26 may want to be revisited more often.
- 27 • H Ames suggested having Mayor Simmons suggest names for recommendation.
- 28 • J Beazer doesn't feel a certain profession should be put in the recommendation or that it should  
29 be micromanaged.
- 30 • Someone asked if a floating professional is working for other municipalities.
- 31 • S Bankhead explained that the Board hasn't appointed anyone at this time.
- 32 • Mayor Simmons commented that the only person he has thought of is a retired district court judge  
33 and an attorney acting as judge.
- 34 • H Ames felt it wasn't necessary to share an individual with other municipalities.
- 35 • J Beazer recommended picking a professional fifth person who works with other cities.
- 36 • H Ames felt that two motions are needed.
- 37 • S Bankhead explained that it is all written as one ordinance and asked if four residents and a  
38 shared professional are recommended. She asked what to do with the Land Use Board.
- 39 • H Ames believes that the Commission should be involved in the administrative decisions.
- 40 • L Campbell suggested delegating the work to the Staff. He asked if this is similar to what the  
41 DRC is doing. He recommended setting the meeting up at a time when the citizens could attend.
- 42 • Mark Teuscher explained that he is the Land Use Authority for Brigham City for small  
43 subdivisions less than ten lots. Major subdivisions of ten or greater lots go through the Planning  
44 Commission. They hold public hearings and then make recommendations to the City Council.
- 45 • The Commission agreed with Mark Teuscher's idea of setting up the Land Use Authority. Mayor  
46 Simmons explained that this only comes to the Commission as a public hearing.
- 47 • L Campbell suggested the Land Use Authority meet in the evening, and that the City  
48 Administrator, Public Works Director, and City Engineer serve as the Land Use Authority.
- 49 • J Mock suggested trying this for one year to see if it works.
- 50 • B Bagley and L Campbell mentioned that citizens could be involved in public hearings.

- S Bankhead mentioned that they would still get professional opinions from consulting the City Attorney and the Fire Marshall.
- J Beazer asked if those people appealing a decision must appear before the public and the Planning Commission before going to the Land Use Authority.
- S Bankhead explained that the Board will have letters of recommendation or the appellant could appear and give discussion.
- S Bankhead explained that the public would be able to hear the Land Use Authority read and discuss the points so they could understand what is happening.

Motion to recommend to the City Council that they create an Appeals Authority consisting of four residents at large and one shared professional hired by the City; that person would also be a voting member to listen to appeals; that we would want to revisit this decision one year from its inception or whenever the City Council creates it; and to recommend to the City Council a creation of a Land Use Authority consisting of a City Administrator, Public Works Director and City Engineer; that they would seek expertise and letters of recommendations; that Land Use Authority meetings be held in the evenings; that the Land Use Authority Board will be for subdivisions of nine or less lots; the Planning Commission will serve as the Land Use Authority for subdivisions of ten or more lots, and the Staff will be the authority for everything except the ten or greater lots – J Beazer and L Campbell, Second – J Mock.

Vote: Yea: H Ames, B Bagley, J Beazer, L Campbell, J Mock  
Nay: None  
Abstained: None  
Excused: S Allan

**Item N o. 4. The Providence City Planning Commission will consider a zone change from Agricultural to Single-Family Traditional (SFT) for a 20.07 (+/-) acre parcel located generally at 870 South 400 East, also known as the Hillcrest Subdivision.**

- B Sorensen presented the zone change.
- J Mock mentioned that a number of the Commission was not present at the first rezone, and he isn't certain he participated.
- B Sorensen questioned what the meeting of November 29 was about.
- L Campbell explained that it was to provide the public with the proper notice.
- S Bankhead said the rezone was on February 14<sup>th</sup>.
- M Teuscher recommended that the Planning Commission not reconsider the decision because it will complicate the lawsuit.
- L Campbell doesn't feel that the Commission can go back and vote again. As of now it is rezoned.
- J Beazer felt that we are dotting the I's and crossing the T's.
- B Bagley commented that a motion to rezone has not been made by the Commission.
- J Mock explained that the vote cannot be changed.
- J Beazer wondered if the zoning would be undone if the City lost in Court.
- M Teuscher informed the Commission that the judge makes the decision.
- J Beazer commented that if the judge feels it is junk and tells the City to start over, it comes back to the Planning Commission. If it isn't thrown out, the previous vote would stand. He proposed that the Commission revoke.
- H Ames asked the Commission to vote tonight and be through with the discussion.
- M Teuscher explained that the Commission is ratifying the procedure.
- Mayor Simmons explained that this vote is to ratify the previous vote.
- Ken Allsop declared that if the Commission votes to ratify, it doesn't necessarily take care of the problem. He mentioned that Rand Henderson said Utah does not have a ratification statute. Voting to ratify does not necessarily take care of the problem.
- B Sorensen presented the zone change.

1 Motion from the Providence City Planning Commission to recommend a zone change from Agricultural  
2 To Single-Family Traditional (SFT) for a 20.07 (+/-) acre parcel located generally at 870 South 400 East,  
3 also known as the Hillcrest Subdivision – L Campbell, Second – J Beazer.

4 Vote: Yea: B Sorenson, L Campbell, J Beazer  
5 Nay: J Mock, B Bagley  
6 Abstained: None  
7 Excused: S Allan  
8

9 **Item No. 5. The Providence City Planning Commission will consider a zone change from**  
10 **Agricultural to Single-Family Traditional (SFT) for a 10.62 (+/-) acre parcel located generally at**  
11 **690 Grandview Drive, also known as The Cove Subdivision.**

- 12 • B Sorenson presented this item. He also explained that H Ames is an alternate and cannot vote,  
13 so he (B Sorenson) voted on the last item. H Ames can participate in the discussion, but cannot  
14 vote since a full quorum is present.

15 Motion to recommend a zone change from Agricultural to Single-Family Traditional (SFT) for a 10.62  
16 (+/-) acre parcel located generally at 690 Grandview Drive, also known as The Cove Subdivision – J  
17 Beazer, Second – L Campbell.

- 18 • H Ames read the following letter:

19 *It is clear to me that the developers, neighbors, the mayor, the council, and the planning organization*  
20 *have made victims of each other. I've found no heroes in any of this.*

21  
22 *This whole mess has run up an unconscionable amount of cost in terms of time and money. The genesis*  
23 *of the problems associated with these developments is due to a lack of well considered processes for*  
24 *dealing with growth within Providence city and also is due in part to a lack of understanding of laws*  
25 *relative to development.*

26  
27 *I'm going to fault the developers for not understanding the difference between what is legal and what is*  
28 *just plain courtesy. I'd suggest that before any more developments are brought before this commission or*  
29 *any other city organization that the developer get together with the neighbors who are primarily affected*  
30 *by the plans and seek their input before ever coming forward to the city. I'd like to see that put into our*  
31 *city laws in some way, but I'd settle just for the courtesy. The developers in question would have saved*  
32 *thousands and probably made just as much profit had they followed this common courtesy.*

33  
34 *We as a planning commission have been rudely lectured, about our job and obligations. We've had*  
35 *stories spun about parcel size that would embarrass even the 'greasiest' of national politicians. We've*  
36 *had people who are not Providence residents pack meetings and speak the loudest about what is right and*  
37 *what is wrong. Contractors have regaled us about the poor and needy, so I'd make a simple suggestion*  
38 *that public comment be limited to residents of the city, and the developer and his or her legal*  
39 *representation and engineer. I have no idea whether or not that is something that can legally be*  
40 *implemented.*

41  
42 *I'd also suggest that applying for re-zoning before a plat is even considered would be money and time*  
43 *saving process improvement for all involved.*

44  
45 *I can see that in the end the whole process, as poor and messy as it has been on the part of all involved,*  
46 *has placed this commission, the city, and the neighbors in the position of approving the re-zone and*  
47 *application for development of the referenced property. I don't see at this point in time, with all that has*  
48 *gone before that the planning organization has any option but to vote in the affirmative.*

49  
50 *If that vote takes the issue on to court, so be it.*  
51

1 *As long as I'm allowed to stay on this commission or in any other city capacity, I will be looking very*  
2 *hard at all developers, the laws, the spirit and intent of the laws, and what is best for the residents of*  
3 *Providence. I'll not be part of approving or disapproving any new land use without being comfortable*  
4 *that there is a solid, well thought out and unambiguous guideline for all involved to follow.*

5  
6 Vote:    Yea:            B Sorenson, L Campbell, And J Beazer  
7            Nay:                B Bagley, J Mock  
8            Abstained:        None  
9            Excused:          S Allan

10  
11 Meeting adjourned at 8:12 p.m.  
12 Minutes taken and prepared by B Turley.

13  
14  
15  
16 \_\_\_\_\_  
17 Blaine Sorenson, Chairman

\_\_\_\_\_

Becky Turley, Office Specialist