

1 **PROVIDENCE CITY PLANNING COMMISSION MEETING**
2 **November 29, 2006**
3 **6:00 p.m.**
4 **Spring Creek Middle School**
5 **350 West 100 North**
6 **Providence, UT 84332**

7
8 **Attendance:** Co-Chair: Jim Beazer
9 Commissioners: Stephen Allan, Harry Ames, Bill Bagley, Lance Campbell,
10 Jon Mock
11 Excused: Blaine Sorensen
12

13 **Study Items:** None
14

15 **Action Items:**

16 **Approval of the Minutes for November 7, 2006 Planning Commission Meeting:**

17 Page 2 of 10, strike a solution and move on.

18 Page 2 of 10, line 2 should be notices.

19 Page 8 of 10, line 22 should say part of this plan, doesn't like to ride bicycles in Providence because it is
20 suicide. It should be included in the general plan.

21 Motion to approve the minutes for November 7, 2006 with the corrections as noted – J Mock, Second – B
22 Bagley.

23 Vote: Yea: S Allan, H Ames, B Bagley, L Campbell, J Mock

24 Nay: None

25 Abstained: None

26 Excused: B Sorenson
27

28 **Disclosure of any conflict of interest on any of the agenda items.**

- 29 • Harry Ames works with the developers on Item No. 5.
30 • J Mock lives in the overlay zone and could have a conflict with Item No. 1.
31

32 **Disclosure of any ex parte communication on any of the agenda items.**

- 33 • J Beazer has had a discussion with an agenda item.
34 • Discussions were held with Scott Wyatt and Rand Henderson to hear both sides of issues.
35

36 **Public Hearings:**

37 **Item No. 1. 6:20 p.m. The Providence City Planning Commission will hold a public hearing on**
38 **Wednesday, November 29 at 6:20 p.m. to receive comment on proposed changes to Providence City**
39 **Code 10-6-1 Use Chart by adding a dental lab as a conditional use on the Use Chart in the Single**
40 **Family Traditional Zone.**

- 41 • J Beazer introduced this item and explained that the dental lab will be used for making molds. H
42 Ames expounded more on how the lab will be used.
43 • Laura Fisher questioned if toxic waste would be involved. J Beazer and J Mock explained that the
44 Health Department will take care of any concerns of this nature.
45 • J Beazer explained that conditional use permits go with the property, and if the permit isn't used for
46 one year, it reverts back to its original use. J Mock questioned what would happen if the business
47 becomes too big.
48 • J Beazer asked S Bankhead to explain what would preclude the dental lab turning into an employee
49 dental lab. She explained the code as written.
50 • K Baker noted a difference between home occupation and home business.

- J Beazer wondered what would happen if the condition was granted and in the future the code was changed, if the City has the authority to allow the conditional use permit of the home occupation and not the business.
- S Wyatt said absolutely. He suggested making a list of home occupations which include dental labs.
- H Ames explained that dental labs can get much bigger.

Item No. 2. The Providence City Planning Commission will hold a public hearing on Wednesday, November 29 at 6:30 to receive comment on proposed changes to Providence City Code 10-16 Fence Regulations.

- S Bankhead presented an overview of the fence regulations and explained the current process of obtaining a fence permit. Problems arise when the City ends up in the middle of a private property dispute. The City would like to do away with permits but have regulations in place to make the process run smoother. Anything over six feet tall requires a building permit.

Motion to close the public hearing on Item No. 2 to receive comment on proposed changes to Providence City Code 10-16 Fence Regulations – J Mock, Second – B Bagley.

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

Item No. 3. The Providence City Planning Commission will hold a public hearing on Wednesday, November 29 at 6:40 p.m. to receive comment on proposed changes to Providence City Code amending certain provisions in the Providence City Land Use Ordinance bringing it into compliance with recent amendments to the Utah Code including the establishment of a land use authority and an appeals authority.

Motion to open the public hearing for Item No. 3 to receive comment on the proposed changes to Providence City Code amending certain provisions in the Providence City Land Use Ordinance bringing it into compliance with recent amendments to the Utah Code including the establishment of a land use authority and an appeals authority – L Campbell, Second – J Mock.

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

- Scott Wyatt explained that the State law allows an optional form in providing notice by posting on the City’s web page. He suggested that an alternative to appointing one appeal authority is to have a multi-person board. His choice would be to create a specific appeal authority board. A number of cities are considering appointing a one person board. He feels it would be helpful to take the administrative work away from the Planning Commission and put their focus on planning. He suggested designating a process for uncontested applications. After applications are received, post them on the internet to allow fifteen days for objections or complaints. If there are none received, the request can be granted. He and R Henderson suggest changing the time for an appeal to a fifteen-day period. He will work on the drafts until the Planning Commission is comfortable. He explained that notices will be placed on the internet as well as in other places, including the newspaper.
- Rand Henderson felt that the proposal would be worth looking at. He explained that the citizens would receive proper notice. He felt a 30-day process from start to finish is reasonable for new applications. J Beazer questioned when the 30-day period would start.
- R Henderson explained that the law requires only one public hearing. He prefers a multi-person board be appointed as the Land Use Authority. He also suggested including a non-resident serve on the Appeals Authority Board.

- 1 • J Beazer felt having a combination of members appointed, such as five, would be best. He believes a
2 floating member who had training and represent many cities would be an option. He feels one
3 meeting a year doesn't allow the proper training. R Henderson felt that the climate of the City would
4 be more comfortable with a five-member board, and that is what his clients prefer.
- 5 • Sharell Eames questioned the size of the appeals board. S Wyatt clarified that any number the
6 commission desires can serve on the board.
- 7 • Sharell Eames prefers seeing meeting agendas published rather than submitted. S Wyatt explained
8 that public hearings are always submitted and published.
- 9 • Gary Anderson, an attorney, presented information suggesting changes to be made to the land use
10 ordinance as well as for two other items listed on the agenda. He referred to the ordinance relating to
11 rules and the ordinance designed to preserve the value of rural neighborhoods, insure orderly growth,
12 efficient and safe traffic movements, tax base, encourage good visual quality, etc. He presented
13 websites which make information readily available.
- 14 • It was noted that previously Wendell Morse offered the use of data on the GIS system.
- 15 • Laura Fisher thanked the Commission for listening to citizen input.
- 16 • Sharell Eames felt issues like this illustrate problems with the citizens and the Commissioners
17 receiving late information.
- 18 • Dan Hogan felt that Gary Anderson's information is subjective and doesn't show any guidelines to
19 follow a project through.
- 20 • R Henderson felt progress was made in this meeting.
- 21 • Dan Hogan expressed that when all is said and done, we, as well as our children, all live here and
22 want to get along and live with the rules. He feels subjective deals prevent affordable housing inside
23 of Providence.
- 24 • Ken Sim feels that placing extra members on the appeal authority would be like the blind leading the
25 blind. He suggested using a consultant to give professional opinion to avoid redundancy.
- 26 • Gary Meunier feels it would be worthwhile for the Council to appoint one or two members directly.
- 27 • S Wyatt explained that it is not legal. The City Council must approve. It is the same as the President
28 of the United States appointing the Supreme Court.
- 29 • Denise Strong believes diversity comes with more than one person serving on the Land Use and
30 Appeals Authority boards. She feels that with more than one person, members will not be swayed as
31 easy and that varying opinions and life experiences will affect the decision. She also believes
32 members from Providence City should be appointed because there is a feeling of being vested
- 33 • J Beazer questioned the viability of three or five members and wondered if there is a way to team in
34 the expertise of a consultant.
- 35 • R Henderson said yes.
- 36 • S Wyatt explained that the Commission can do what they want. He admonished them to remember
37 the appeal board has different authority than the Planning Commission. The Planning Commission
38 has the ability to collect ideas. The Appeal Authority is a judge who makes a decision whether or not
39 the Land Use authority is arbitrary, capricious, or illegal. He commented that while being a County
40 Attorney, an issue capturing attention would be moved to another county. A consultant makes a
41 compromise between a neutral person and someone who is vested in the outcome. R Henderson
42 commented that it is impossible to get away with someone who is vested. It is the same as an
43 administrative law judge because the judge is being paid by the agency being judged. He believes it
44 would be good to have someone from outside the City be in the board.
- 45 • J Beazer explained that DRC meetings are not public at the present. They will be open if they are
46 being held as the Land Use Authority, which would also call for a time change.
- 47 • H Ames commented that if the Land Use Authority is doing their job well, the Appeals Authority
48 should never get used. If the Land Use Authority isn't doing their job well, the Appeal Authority is
49 eminent.

- 1 • R Henderson explained that the Appeal Authority is very important.
- 2 • H Ames feels that decisions that go to the Appeal Authority will end up in court.
- 3 • S Wyatt noted that currently, cities go to the appeals board once a year.
- 4 • Denise Strong has encountered an appeals board with a former City attorney and felt she was being
- 5 treated unfairly. She feels that the board should address who is the client so that it is clear.
- 6 • S Wyatt explained that the City Attorney represents the city, which means the Appeal Authority
- 7 would represent the City.
- 8 • J Beazer explained that both are entities of Providence City.
- 9 • S Wyatt explained that the city can appeal land use decisions. Several cities are considering
- 10 appointing one person to share because that person would be completely independent of their City
- 11 Attorney or lawyer.
- 12 • Sharell Eames asked if the City Attorney would advise the Appeals board.
- 13 • S Wyatt commented that the City Attorney is biased toward his client.
- 14 • R Henderson disagreed. He commented that is unethical for the City Attorney to give advice in an
- 15 appeals court since he represents the City. Just because an attorney is hired by the City doesn't mean
- 16 he has to represent the City.
- 17 • J Beazer commented that the Appeals Authority must recognize that S Wyatt is to give them advice.
- 18 • H Ames feels an Appeals Authority would be worthless if it is working for the City. Both sides of the
- 19 argument should be looked at.
- 20 • H Ames felt that if someone making an appeal wanted advice from someone else, they should be free
- 21 to do so. Gary Meunier commented that the language should address the qualifications for the Land
- 22 Use Authority.

23 Motion to close the public hearing receiving comment on the proposed changes to Providence City Code
 24 amending certain provisions in the Providence City Land Use Ordinance bringing it into compliance with
 25 recent amendments to the Utah Code including the establishment of a land use authority and an appeals
 26 authority – H Ames, Second – J Mock.

27 Vote: Yea: S Allan, H Ames, B Bagley, L Campbell, J Mock
 28 Nay: None
 29 Abstained: None
 30 Excused: B Sorenson

31
 32 **Item No. 4. The Providence City Planning Commission will hold a public hearing on Wednesday,**
 33 **November 29 at 7:00 p.m. to receive comment on a zone change from Agricultural to Single-Family**
 34 **Traditional (SFT) for a 20.07 (+/-) acre parcel located generally at 870 South 400 East.**

35 Motion to open Item #4 to receive comment on a zone change from Agricultural to Single-Family
 36 Traditional (SFT) for a 20.07 (+/-) acre parcel located generally at 870 South 400 East – J Mock, Second
 37 – L Campbell.

38 Vote: Yea: S Allan, H Ames, B Bagley, L Campbell, J Mock
 39 Nay: None
 40 Abstained: None
 41 Excused: B Sorenson

- 42
- 43 • Denise Strong would like to have this issue tabled until the legalities have been resolved in fairness to
- 44 the citizens. Once the court issues have been addressed, the Commission should address the safety,
- 45 health, and water issues prior to inviting the developer back. She would like concrete parameters set
- 46 up for the developers to follow.
- 47 • S Wyatt explained that one of the main arguments in Court is an allegation that the City gave
- 48 insufficient notice before holding meetings and hearings on the rezones. Rather than spending time
- 49 and money, it seemed prudent to start over and make sure the notices are correct, although it may not
- 50 solve all the issues in the trial.

- 1 • J Beazer explained that this hearing has no effect on the lawsuit. This hearing isn't redoing or
- 2 undoing anything that has been done. It is saying you have proper notice now.
- 3 • B Bagley asked what would happen to the court case if the Planning Commission decided not to
- 4 rezone.
- 5 • S Wyatt explained that it would be okay to do so, but it voids the decision on posting. If the
- 6 Commission decides not to rezone, the lawsuit would probably continue. He added that there has
- 7 been no vote to undo the rezone.
- 8 • R Henderson commented that the initial vote would still be in effect. All it does is allow argument in
- 9 court.
- 10 • S Wyatt explained that the vote stands the way it is. If the City Council votes to not ratify the earlier
- 11 decision, they would make a motion to go through the process to rezone it back to agricultural.
- 12 • Robert Hughes, who works with Jared Nelson, feels the process is unnecessary. If the City did opt to
- 13 not go through with this process, there would be a different kind of lawsuit. The 2000 Master Plan
- 14 indicates that the land should have been rezoned from agricultural to SFT. A more productive way
- 15 would be to help the City make a new Master Plan. The Supreme Court specifies that rules cannot be
- 16 changed after a decision.
- 17 • R Henderson presented the traffic study submitted to the City Council and feels that if a vote had
- 18 been held for the rezone, the problem would have been resolved. He doesn't feel the traffic study is
- 19 accurate and explained his reasoning. If the atmosphere of a quiet community is to be maintained, he
- 20 feels the road should be kept at Level B.
- 21 • Robert Hughes would like to help the City develop ordinances. He feels that data shows an evenness
- 22 which should be in the ordinance. He feels it is urgent because developers are lining up to develop
- 23 the land. He asked the Commission to turn down the rezones.
- 24 • Ken Sim, an environmental planner, feels it makes perfect sense to rezone.
- 25 • Sharell Eames feels that a livability standard is a profound statement. She felt that cities can adopt
- 26 their own standards without submitting themselves to criteria submitted by the Federal Government
- 27 and begged the commission to adopt the livability standards.
- 28 • J Beazer asked S Wyatt if the ordinance can adopt what a livability standard number is.
- 29 • S Wyatt answered yes, it can be said that the road cannot handle any more traffic; therefore, if a new
- 30 subdivision comes in, they must to provide another access or beef up the existing road.
- 31 • R Henderson referred to the City Council meeting and commented that Provo is doing it to maintain
- 32 livability standards on specific roads.
- 33 • Laura Fisher commented on usability. She protests the idea the City must save thousands of dollars
- 34 for legal fees in order to go through with the lawsuits because she has spent personally what she feels
- 35 is a lot. In regards to the Hillcrest subdivision, Mayor Simmons has stated what water rights the City
- 36 has. Two people have assured her that the information given to the City on the water supply isn't
- 37 true.
- 38 • Dan Hogan is involved with The Cove Subdivision and sees an interesting phenomenon on Canyon
- 39 Road. He feels that telephone poles, trees, fences, landscaping boulders, and stakes indicate that
- 40 citizens feel their property is by the road and this should be addressed. He feels that citizens do not
- 41 own the road because it is a dedicated City road.
- 42 • Elinor Hansen owns property to the north of the Hillcrest Development. She and her neighbors feel
- 43 that quarter acre lots are not in harmony with the land that surrounds them. Efficient and safe traffic
- 44 movement as well as water is still being discussed. She was thrilled to receive notification of this
- 45 public hearing. She commented that she does support good development on Hillcrest and The Cove
- 46 developments.
- 47 • Wayne Christensen feels like the room is divided. He understands that the issue has already been
- 48 resolved and asked the audience how they can go back and rewrite the rules. He feels the attorneys
- 49 will not say anything incriminating to them. He told the Commission that they must stay with the
- 50 rules unless the rules are changed in the future.

- 1 • Larry Booth stated that he is a former planning administrator in Idaho. He pointed out that this is not
2 an issue of what citizens like or don't like, but whether the law has been fulfilled. He commented that
3 it is frightening to see how the nation is moving toward a direct democracy. The founding fathers
4 never intended for citizens to write the law. Citizens should elect people with good character and
5 integrity and let them govern. If the citizens aren't happy with the law, they should elect someone
6 who will make the necessary changes. He feels Providence is going to be ruled by direct democracy,
7 pleasure, and whim if citizens are allowed to dictate. He reminded the Commission that if they
8 violate the law, they can be held responsible for their decision. If the General Plan map is accurate,
9 then the compatibility has already been resolved. He feels that direct democracies are not for the
10 public good whereas they give a select few too much power.
- 11 • Rand Henderson mentioned that the postings were only a small part of the lawsuit. He appreciated
12 the opportunity to give information to the Commission.
- 13 • Nathan Miller just moved into the community and is coming with an outside perspective. He
14 indicated that if development was stopped, children would not be able to live in the city where they
15 were raised. Providence stopping development and growth is a form of dictatorship.
- 16 • A concerned citizen mentioned that most citizens are opposed to quarter acre lots. Providence lots are
17 not maintained and that smaller lots create less garbage and are easier to maintain.

18 Motion to close Item #4 to receive comment on a zone change from Agricultural to Single-Family
19 Traditional (SFT) for a 20.07 (+/-) acre parcel located generally at 870 South 400 East – J Mock, Second
20 – H Ames.

21 Vote: Yea: S Allan, H Ames, B Bagley, L Campbell, J Mock
22 Nay: None
23 Abstained: None
24 Excused: B Sorenson
25

26 **Item No. 5. The Providence City Planning Commission will hold a public hearing on Wednesday,**
27 **November 29 at 7:20 p.m. to receive comment on a zone change from Agricultural to Single-Family**
28 **Traditional (SFT) for a 10.62 (+/-) acre parcel located generally at 690 Grandview Drive.**

29 Motion to open No. 5 to receive comment on a zone change from Agricultural to Single-Family
30 Traditional (SFT) for a 10.62 (+/-) acre parcel located at 690 Grandview Drive – B Bagley, Second – J
31 Mock.

- 32 • Susan Ames feels that what is happening at this meeting is an attempt to make something right as a
33 precedent for the future. She looks forward to the City establishing itself as a national city and
34 planning for future growth. She feels the rezone should be approved and then changes can be made in
35 ordinances to address the issues.
- 36 • Jared Jensen felt the area around Grandview Drive is surrounded by the SFT zone and feels that the
37 area should be developed in harmony with the existing homes.
- 38 • Nathan Miller felt that it is good to follow the laws, but with changing times people have to move
39 with society. If the zoning laws are outdated, the people have the power and the ability to change
40 those laws and society must adapt.
- 41 • Ken Allsop feels that a memo explaining Providence City's water circulated by the Mayor is an
42 important issue that requires attention. His clients are concerned that Providence City may not look
43 closely at the water that is available. He feels steps may be taken with growth in new subdivisions
44 and will later cause regrets, and he feels the way the City is collecting their information is inaccurate.
45 His clients urge the Commission to carefully consider and research to see if Providence has enough
46 water to meet the daily demands. He also mentioned where water rights are for future use.
- 47 • J Beazer questioned the discrepancy Ken Alsop mentioned.
- 48 • Ken Allsop explained the doctrine of prior appropriation in Utah and feels that the City should have
49 permission to change a zone from agricultural to residential. He commented that it can't be used in a
50 municipal system without filing with the State Engineer. He also explained the difference between

1 diversion and irrigation systems. The water company does not have the authority to let the City use
2 excess water.

- 3 • K Baker owns land in this area and agreed that it should be zoned with the surrounding property.
- 4 • Nathan Miller cannot see why the State Engineer wouldn't approve the rezone.
- 5 • Dennis Carlsen is appalled with the audience. Citizens bringing the lawsuits have approached him.
6 He felt this is a free country and that the Planning Commission is trying to help, but lawyers are being
7 hired anyway. He asked those filing lawsuits to help the Planning Commission out because they
8 know they will be sued if they do follow the law. He added that his acre yard requires extra time and
9 water for upkeep as well as higher taxes. He plans to stay neutral because he would like a place for
10 the kids to live. He appealed to the citizens to get together and help those elected.
- 11 • Dan Hogan reported that The Cove has seven shares of Spring Creek water. He explained the
12 population and housing situation in Hong Kong and commended Dennis Carlsen for proposing a
13 turning lane on Grandview. He feels that together more can be accomplished instead of filing
14 lawsuits. No matter what the makeup is, there should be room in the City for all types of people. He
15 admonished the audience to not dictate large parcels of land.
- 16 • Brian Marble feels he has a perspective on development issues with his previous court experience.
17 He is glad to see discussions and pressure on the City to make good decisions.

18 Motion to close the public hearing on Item #3 to receive comment on a zone change from Agricultural to
19 Single-Family Traditional located generally at 690 Grandview Drive – L Campbell, Second – J Mock.

20 Vote: Yea: S Allan, H Ames, B Bagley, L Campbell, J Mock

21 Nay: None

22 Abstained: None

23 Excused: B Sorenson

- 24 • J Beazer feels that the General Plan should be changed if that is the way the citizens feel. He
25 encouraged input.
- 26 • B Bagley commented that citizens probably perceive two factions. He feels the City needs and
27 encourages development but wants it done right. He believes as Dan Hogan does that something
28 should be done on Canyon Road. He suggested that the City Council should meet with the developer
29 and approach the citizens on Canyon Road to get improvements made on the road. He would like to
30 see Providence be a place we would all like to live.

31
32 **Items for Recommendation:**

33 **Item No. 1. The Providence City Planning Commission will consider making changes to Providence**
34 **City Code 10-1-4 Zoning, General Provision, Definitions by adding a definition for Downtown**
35 **Area; Providence City Code 10-5-6 Zoning, Overlay Zones, Lot Downsize by repealing the lot**
36 **downsize zone; and Providence City Code 10-14-1 Zoning, Cluster and Inner Block Development**
37 **by prohibiting inner block development in the defined downtown area.**

- 38 • J Beazer explained what lot downsize is and what downtown Providence should look like. He felt the
39 current ordinance was at odds with the City's desire to preserve its community heritage.

40 Motion to recommend changes to the Providence City Code 10-1-4 Zoning, General Provision,
41 Definitions by adding a definition for Downtown Area; Providence City Code 10-5-6 Zoning, Overlay
42 Zones, Lot Downsize by repealing the lot downsize zone; and Providence City Code 10-14-1 Zoning,
43 Cluster and Inner Block development by prohibiting inner block development in the defined downtown
44 area – J Mock, Second – L Campbell.

45 Vote: Yea: S Allen, B Bagley, L Campbell, J Mock

46 Nay: None

47 Abstained: H Ames

48 Excused: B Sorenson

1 **Item No. 2. The Providence City Planning Commission will consider making changes to**
2 **Providence City Code amending certain provisions in the Providence City Land Use Ordinance**
3 **bringing it into compliance with recent amendments to the Utah Code including the establishment**
4 **of a land use authority and an appeals authority.**

5 Motion to continue Item No. 2 to consider making changes to Providence City Code amending certain
6 provisions in the Providence City Land Use Ordinance bringing it into compliance with recent
7 amendments to the Utah Code including the establishment of a land use authority and an appeals authority
8 – J Mock, Second – L Campbell.

9 Vote: Yea: S Allen, H Ames, B Bagley, L Campbell, J Mock
10 Nay: None
11 Abstained: None
12 Excused: B Sorenson
13

14 Meeting adjourned at 9:25 p.m.
15 Minutes taken and prepared by B Turley.
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19 _____
20 Jim Beazer, Co-chair

Becky Turley, Office Specialist

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