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3 **Ordinance No. 2017-005**

4 AN ORDINANCE AMENDING THE PROVIDENCE CITY ZONING DISTRICT(S) AND ZONING MAP BY CHANGING
5 THE ZONE OF THE NORTH PORTION OF PARCEL NO 02-090-0011, APPROXIMATELY 305 SOUTH
6 HWY 165, PROVIDENCE UT, APPROXIMATELY 4.43 ACRES FROM COMMERCIAL GENERAL
7 HIGHWAY DISTRICT (CHD) TO MIXED USE DISTRICT (MXD).

8 WHEREAS on February 1, 2017, Kent Dunkley filed an application requesting the CHD Zone be changed to
9 MXD for a 4.43 (+/-) acre parcel located at approximately 305 South HWY 165, Providence UT.

10
11 WHEREAS UCA § 10-9a-102.(2) states “. . . municipalities may enact all ordinances, resolutions, and rules
12 and may enter into other forms of land use controls . . .” and
13

14 WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the
15 prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its
16 present and future inhabitants and businesses, to protect the tax base, to secure economy in
17 governmental expenditures, to foster the state's agricultural and other industries, to protect both urban
18 and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide
19 fundamental fairness in land use regulation, and to protect property values in areas that may be
20 considered sensitive, including but not limited to fire danger, slope, soil content.

- 21 • UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing on a
22 proposed land use ordinance or zoning map; and prepare and recommend to the legislative body
23 a proposed land use ordinance and zoning map that represent the planning commission's
24 recommendation.
- 25 • Prior to making a recommendation, the Planning Commission studied the proposed rezone and
26 held a public hearing on March 22, 2017.
- 27 • The Planning Commission considered the following:

28 **FINDINGS OF FACT:**

- 29 1. Providence City Code (PCC) 10-1-5:A. states changes and amendments to this Zoning Title
30 shall be done in accordance with state law.
- 31 2. UCA § 10-9a-505(1)(a) The legislative body may divide the territory over which it has
32 jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to
33 carry out the purposes of this chapter.
- 34 3. UCA § 10-9a-505(3)(a) There is no minimum area or diversity of ownership requirement for a
35 zone designation. (b) Neither the size of a zoning district nor the number of landowners
36 within the district may be used as evidence of the illegality of a zoning district or of the
37 invalidity of a municipal decision.
- 38 4. UCA § 10-9a-102 Purposes -- General land use authority.
 - 39 a. *The purposes of this chapter are to provide for the health, safety, and welfare, and*
40 *promote the prosperity, improve the morals, peace and good order, comfort,*
41 *convenience, and aesthetics of each municipality and its present and future*
42 *inhabitants and businesses, to protect the tax base, to secure economy in*
43 *governmental expenditures, to foster the state's agricultural and other industries, to*
44 *protect both urban and nonurban development, to protect and ensure access to*
45 *sunlight for solar energy devices, to provide fundamental fairness in land use*
46 *regulation, and to protect property values.*
 - 47 b. *To accomplish the purposes of this chapter, municipalities may enact all ordinances,*
48 *resolutions, and rules and may enter into other forms of land use controls and*
49 *development agreements that they consider necessary or appropriate for the use*
50 *and development of land within the municipality, including ordinances, resolutions,*
51 *rules, restrictive covenants, easements, and development agreements governing*

1 uses, density, open spaces, structures, buildings, energy efficiency, light and air, air
2 quality, transportation and public or alternative transportation, infrastructure,
3 street and building orientation and width requirements, public facilities,
4 fundamental fairness in land use regulation, considerations of surrounding land uses
5 and the balance of the foregoing purposes with a landowner's private property
6 interests, height and location of vegetation, trees, and landscaping, unless expressly
7 prohibited by law.

- 8 5. UCA § 10-9a-501 states the legislative body may enact land use ordinances and a zoning map
9 consistent with the purposes set forth in in this chapter.
10 6. UCA § 10-9a-502 Requires the planning commission provide notice and hold a public hearing
11 on a proposed land use ordinance or zoning map; and prepare and recommend to the
12 legislative body a proposed land use ordinance and zoning map that represent the planning
13 commission's recommendation.
14 7. UCA 10-9a-503.(1) The legislative body may amend: (b) any regulation of or within the
15 zoning district; or (c) any other provision of a land use ordinance.
16 8. PCC 10-4-4 Mixed Use District lists the purpose, procedures, development standards, etc.
17 9. PCC 10-6-1 Use Chart

18 **CONCLUSIONS OF LAW:**

- 19 1. The application has been processed consistent with the Findings of Fact listed above.
20 2. The above Use Chart compares the CHD uses with MXD uses.
21 3. Providence City has limited area fronting State Road 165. The Commercial Highway
22 District was created to help the City maintain an area for business that provide sales tax.
23 The Mixed Use District states, "Any development in the MX District must include retail
24 and either commercial or residential uses." It also states, "The MX District includes a
25 mixture of uses with no one land use type being a constant dominate or prevailing use."
26 Because retail does not have to be the predominate use, the area could be developed
27 with residential and commercial and very little retail; properties that produce property
28 tax, but very little sales tax.

29 **CONDITIONS:**

30 Accurate legal description including the acreage.

- 31
32 • Providence City Planning Commission took the following action on March 22, 2017
33 *Motion to recommend the zone not be changed on Parcel 02-090-0011 – R Cecil,*
34 *second – J Parker;*
35 *Vote: Yea: M Harbin, J Parker, B Fresz, R James, R Cecil*
36 *Nay: None*
37 *Abstained: None*
38 *Excused: None*
39

40 THEREFORE be it ordained by the Providence City Council

- 41 • OPTION 1: The rezone request shall be approved based on the findings of fact, conclusions of
42 law, and conditions listed above
43 OPTION 2: The rezone request shall be denied based on the findings of fact, conclusions of law,
44 and conditions listed above and the recommendation of the Providence City Planning
45 Commission.
46 • This ordinance shall become effective immediately upon passage and posting or 30 days after
47 final passage, whichever is closer to the date of final passage.
48

49 Ordinance adopted **FAILED** by vote of the Providence City Council this 28 day of March 2017.

50 Council Vote:
51

1	Allen, Kirk	() Yes	(X) No	() Excused	() Abstained	() Absent
2	Baldwin, Jeff	() Yes	(X) No	() Excused	() Abstained	() Absent
3	Drew, John	() Yes	(X) No	() Excused	() Abstained	() Absent
4	Giles, Dennis	() Yes	(X) No	() Excused	() Abstained	() Absent
5	Sneddon, Roy	() Yes	(X) No	() Excused	() Abstained	() Absent

Signed by Mayor Don W Calderwood this day of 2017. **ORDINANCE WAS NOT ADOPTED**

Providence City

Don W. Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder

Part Plat A,B,&D Providence Farm
SE^{1/4} SECTION 9 TOWNSHIP 11 NORTH, RANGE -1-East
SCALE 1 INCH = 5 ch. TAX UNIT 2842709

