

1 Providence City Planning Commission
2 Providence City Office Building, 15 South Main, Providence UT 84332
3 April 24, 2013 6:00 p.m.

4
5 Attendance: Roy Sneddon, Chair
6 Gordon Allred, Jeff Baldwin, Rowan Cecil, Sherman Sanders,
7 Garret Walker arrived at 6:10
8 Excused: Kirk Allen
9

10 **Approval of the Minutes:**

11 The Providence City Planning Commission will consider for approval the minutes of April 3, 2012.

12 **Motion to approve the minutes –**

13 **Corrections: none**

14 **Vote:** Yea: G Allred, J Baldwin, R Cecil, S Sanders, R Sneddon
15 Nay: None
16 Abstained: None
17 Excused: K Allen, G Walker
18

19 **Action Items:**

20 **Item No. 1:** The Providence City Planning Commission will consider for approval a preliminary plat for the Fields at
21 Brookside Subdivision; a 5-lot residential subdivision located at the south end of Art's Place (approximately 150
22 East 300 North).

23 Danny Macfarlane introduced himself as the developer and the design engineer.

- 24 • The length of the cul-de-sac was discussed; 546 feet from 360 North.
- 25 • The storm water was discussed; will be retained on-site as a deed restricted portion of Lot 1.
- 26 • The utilities are underground in this area.
- 27 • The lot size in relation to the Brookside Subdivision was discussed. D Macfarlane explained the basic
28 covenants and restrictions. 1400 sq feet main level, no vinyl siding, two trees per frontage. The lots are
29 consistent with the lots to the west and the south.

30 **Motion to approve the preliminary plat for the Fields at Brookside Subdivision – J Baldwin, second – R Cecil**

31 **Vote:** Yea: G Allred, J Baldwin, R Cecil, S Sanders, R Sneddon
32 Nay: None
33 Abstained: None
34 Excused: K Allen, G Walker
35

36 **Study Items:**

37 **Item No. 1:** The Providence City Planning Commission will consider for approval a preliminary plat for the Grace
38 Baugh Subdivision, a 3-lot residential subdivision located at 300 East and 300 South.

- 39 • R Sneddon explained he asked that the City Attorney present his opinion.
- 40 • S Baugh asked if a special meeting could be held in advance of the regularly scheduled meeting on May 8.
41 The Commission will hold a meeting on May 1.
- 42 • Craig Smith explained he handles water matters for Providence City. He is not the City Attorney for land
43 use, but he does handle land use for other municipalities. He has reviewed this matter because of a
44 potential conflict with the current City Attorney and the applicant.
- 45 • C Smith explained Utah is not a grant power state nor is it a home rule state. One of the things the
46 legislature was clear on was the short amount of time for land use appeals; 10 days for an appeal
47 authority, 30 days for a district court appeal. The legislature also put a time limit on the land use process.
48 C Smith felt it was clear that the appeal time has expired.
- 49 • C Smith felt there appears some question or confusion whether the City Council was granting a variance
50 (which has specific guidelines) or an exception. Exceptions are kind of like a planned unit development. A
51 PUD is widely used but there is nothing written about it in state code. Exceptions are similar in that it is

1 not addressed in state code – many places have a method for administrative exceptions. Variances are
2 designed to deal with the physical aspects of the property.

- 3 • C Smith explained he is not prepared to talk about the exceptional conditions for the specific cases. This is
4 not something exceptional to the property – it is exceptional to the use of the of the code requirements –
5 this is like requiring a certain type of roofing material but those materials weren't satisfactory to that type
6 or area of the building.
- 7 • G Walker explained his concern with the way the current code is written.
- 8 • C Smith explained even if this is interpreted to be a variance, the appeal time has lapsed.
- 9 • G Walker felt it was a due process problem. Instead of the Appeal Authority making the decision, the City
10 Council made a decision. C Smith explained he represented a citizen group that was opposed to a major
11 development in Grand County. There was an action by the City Council – it was unclear if the Council was
12 acting as an administrative body or their legislative capacity. The City said it was administrative. Since it
13 was unclear, he filed two appeals; one to the City and one to the District Court.
- 14 • C Smith didn't feel the Planning Commission could appeal because they were part of the City.
- 15 • D Calderwood felt the word exception was not in the City Code. He read from City Code Title 2.
- 16 • G Walker felt strongly the City Council did not have the authority and to remedy it, they should appoint
17 themselves as the Appeal Authority.
- 18 • G Walker asked if the proper channel would have been a variance and the City Council did not have the
19 authority to grant, is there potential liability for the City if someone is hurt because there is not curb,
20 gutter, and sidewalk.
- 21 • C Smith felt the duty was held by the public, not a particular individual. If it is unreasonably dangerous,
22 then there may be a problem.
- 23 • C Smith explained he did not feel it was intended to be a variance. This code does not have all the
24 requirements for a variance. If this is intended to be a safety valve for exceptions, there is nothing in the
25 state code for that. He suggested taking out terminology that mirrors the variance language.
- 26 • R Sneddon felt land use ordinances were put in place to treat people consistently. When that is shifted to
27 the politically elected officials, there is a perception that all are not treated the same.
- 28 • C Smith recommended the City form another board (perhaps a Board of Adjustment) to hear variances
29 and special exceptions.
- 30 • G Walker asked if the City Council had no authority, but acted anyway does the Planning Commission
31 have to accept the decision.
- 32 • S Eames asked for the code citation UCA 10-9a-701. It does not have to be announced that they are acting
33 as an Appeal Authority.

34 **Item No. 2: The Providence City Planning Commission will discuss amending Providence City Code Title 11**
35 **including but not limited to Concept Plan and road grades.**

- 36 • R Sneddon felt Title 11 Chapter 1 was ready to be an action item.

37 **Motion to approve Title 11 Chapter 1 as red lined as an action item – J Baldwin, second – R Cecil**

38 **Vote: Yea: G Allred, J Baldwin, R Cecil, S Sanders, R Sneddon, G Walker**

39 **Nay: None**

40 **Abstained: None**

41 **Excused: K Allen**

- 42 • J Baldwin reviewed his suggestion to consider removing sidewalk.
43 A Test to Determine Whether or Not to Put In Sidewalk/Curb/Gutter
44 1. For developments which are more than 3 lots, standard sidewalk curb, and gutter are required as
45 specified in current ordinances and road specifications.
46 2. For determination of lots, the original lot with the original house is included in the lot count.
47 3. For developments which are 3 or less, the following test, to determine if sidewalk, curb, and gutter
48 are required, must be used:
49 Y N Will there be a measurable increase in pedestrian safety? This is determined by children living on
50 either side of the proposed development. See Note 1.
51 Y N Are there existing sidewalks to either side of the proposed developed lots or within 75 feet of
52 where the new sidewalk will end?

- 1 Y N Will the addition of curb and gutter improve storm drainage control and not cause neighboring
- 2 property owners water damage or control mitigation?
- 3 Y N If property is on a corner lot, will curb, gutter, and sidewalk improve visibility for automotive
- 4 traffic at the intersection?
- 5 Y N Is the proposed sidewalk a potential connector for foot traffic to parks, schools, churches, and
- 6 other public buildings?

7 If the answer is yes to any of the previous questions, then the requirements for curb, gutter, and sidewalk
 8 must be complied with.

9 Note 1: Sidewalks which go nowhere (i.e. a sidewalk in a middle section of a block which has no connector
 10 and is not on a corner) are not considered to have a measurable safety improvement.

- 11 • This will be a study item on the next agenda.

12 **Item No. 3: The Providence City Planning Commission will discuss amending Providence City Code Title 10**
 13 **Chapter 5 Overlay Zones addressing non-developable sensitive area, potentially developable sensitive area,**
 14 **hazard wildfire zones, and engineering geotechnical report.**

15 Page 1 – The professional position in the Appeal Authority discussed. It was suggested the professional be selected
 16 dependent upon the situation.

17 Page 1 – no other recommendations.

18 Page 2 – G Walker asked if the legislature passed anything about fireworks.

19 Page 2 – Planning Commission may bring in experts to advise.

20 Page 4 – explained the City does not currently have a wildfire zone. Commission expressed concern with
 21 encourage instead of require. J Baldwin felt more work was needed to research the items encourage.

22 Page 4 – licensed geotechnical engineer. and licensed geologist.

23 Page 5 – Trench logs, soil borings, aerial photographs need to be added.

24 Invite Fire Marshal to May 1 meeting.

25 **Item No. 4. The Providence City Planning Commission will discuss amending Providence City Code Title 11-5-2 by**
 26 **adding the following to the minimum improvement requirements: All curb, gutter and all utility trenches that**
 27 **lay inside the roadway.**

28

29 **Staff Reports:** Any items presented by Providence City Staff will be presented as informational only.

30

31 **Commission Reports:** Items presented by the Commission Members will be presented as informational only; no
 32 formal action will be taken.

33 R Cecil will not be able to attend the May 8, 2013 meeting.


34 **Motion to adjourn – G Walker, second – J Baldwin**

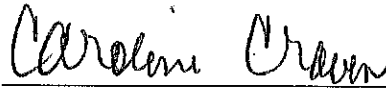
35 **Vote: Yea: G Allred, J Baldwin, R Cecil, S Sanders, R Sneddon, G Walker**
 36 **Nay: None**
 37 **Abstained: None**
 38 **Excused: K Allen**

39

40 Minutes taken by Skarlet Bankhead and prepared by Caroline Craven.

41

42 
 43
 44
 45 Roy Sneddon, Chairman

42 
 43
 44
 45 Caroline Craven, Secretary

46

