

1 **PROVIDENCE CITY COUNCIL MEETING MINUTES**
2 **April 2, 2008**
3 **Providence City Office Building**
4 **15 South Main, Providence UT**
5

6 Call to Order:

7 Roll Call:

8 City Council Attendance:

Kathy Baker, Ron Liechty, David Low,
Trent Rasmussen, John Russell

10 Planning Commission Attendance:

Harry Ames, Dale Astle, Don Briel, Lance
Campbell, Wendy Wimmer

12 Historic Preservation Attendance:

Jay Hicken, Hoyt Kelley, Alma Leonhardt,
Marie Olsen, Karl Seethaler

14 Staff Attendance:

Skarlet Bankhead(City Administrator), Max
Pierce(City Engineer), Randy(Public Works
Director), Brenda Nelson(City Treasurer),
Katie McDermott (Office Specialist), Becky
Christensen (Office Specialist)

19 Excused:

Mayor Simmons(temporarily), Jon Mock,
Adrian Gale, Kaye Lynn Harris

21
22 **Item No. 2: Meg Ryan, Utah League of Cities and Towns Land Use Consultant, will discuss**
23 **design guidelines for development in the downtown Providence area.**

24 M Ryan specializes in ordinance writing and consulting. She looks at ordinances to make sure
25 they comply with State Code and also makes suggestions to improve the ordinances. She said the
26 Mayor mentioned that he wanted her to look at the traditional character of Providence. Meg
27 invited Kirk Huffaker from the Utah Heritage Foundation to come to the workshop with her. She
28 said one thing the League can do is get good experts and other resources for the City. They took
29 a tour with K Baker and J Russell and want to give the City some options and be a resource. She
30 said they will start off talking about the traditional neighborhood district. They will also discuss
31 subdivision ordinances. She wanted the City Council, Planning Commission, and Historic
32 Preservation District to feel free to ask questions throughout the presentation.
33

34 **Item No. 1: Kirk Huffaker, the Director of the Utah Heritage Foundation will discuss**
35 **resources and strategies for the downtown Providence area.**

36 K Huffaker said he has been with the Utah Heritage Foundation for about 10 years. They are a
37 non-profit organization that acts like the Utah League of Cities and Towns to connect people
38 with resources for historic preservation. He said he will talk about several options, and his
39 handout can be a resource to address some issues they saw on the tour. He said Providence has a
40 wonderful collection of architecture. There are a range of architectural styles, and they saw some
41 of the historic buildings during the tour. He said it is definitely part of the character of
42 Providence. He said some of the issues go beyond just the buildings. The grid design of the City
43 makes some of the character. On the tour they talked about preserving that character, the streets,
44 tree lining, and swales. He asked if everyone feels those are important characters.
45 M Ryan wanted to know if the City Council and other appointed bodies are trying to accomplish
46 certain building styles, lot sizes, or if it is the other characteristics they want to preserve.
47 K Huffaker said the large lot character of the downtown area was one big thing he saw as being a
48 potential thing Providence would want to conserve. He was glad K Baker mentioned that the
49 City already addressed that with the ordinance restricting downtown lots to have 95 ft. frontages.
50 J Hicken said he thinks the large lots are important. He feels the small lots look like Salt Lake

1 and likes the open look of Providence.
2 A Leonhardt wants to see Providence look like what it has always been. He wants it to always
3 have the historic downtown.
4 D Astle said he grew up here and has seen Providence change a lot in the last 50 years. He said
5 that historically most lots were 1 acre. He feels the 95 ft. frontage is important. He feels parts of
6 the downtown area are fairly easy to maintain like the ditches, trees, and grid pattern. He said we
7 can look at addressing streets, setbacks, and other things to try to maintain the character.
8 M Ryan said the “tools” are the zoning code. If you don’t have anything written in the
9 ordinances then when someone pulls a building permit that is what you are stuck with. She said
10 that they need to put the “tools” in place with ordinances to protect the “vision”. They can create
11 an overlay zone or a new zone to take care of this. She said playing “devil’s advocate” they need
12 to realize that the trees can all be gone tomorrow if there isn’t something in the ordinance. She
13 said they need to think about their choices and make sure they think about the worst case
14 scenario because it could come to fruition. She asked if there were plans submitted for a pink,
15 stucco, glass, wood house with flashing lights would the ordinances stop it from being built. She
16 said if the development pattern is unique within a certain area then the City can make it a new
17 zone. They can take 6 months to work on an ordinance with a temporary zoning ordinance.
18 These act like a “time out” or a moratorium. The State has given municipalities that as a tool to
19 develop and re-write ordinances.
20 A Leonhardt said we have sycamore trees that have grown so big they are tearing up some
21 sidewalks. He said we will have to deal with this.
22 M Ryan said Ogden set up special financing vehicles to deal with some of their tree issues. They
23 made a commitment to fix them and are now following through.
24 B Nelson asked if this group of people can decide the “vision” or if they have to do a survey or
25 public hearings. She said it isn’t currently addressed in the general plan.
26 M Ryan said for a zoning amendment they only need one public hearing. She said she always
27 recommends having more community input than is required by State Code.
28 W Wimmer asked if the temporary zoning ordinance can apply to current developments in the
29 process.
30 M Ryan said that it is for developments that are not vested. A developer is vested when they turn
31 in a substantially complete application.
32 K Huffaker said that they should think about the “vision” and get the ball rolling before they
33 enact a temporary zoning ordinance.
34 K Seethaler asked if it is different to give exceptions for a certain zone as opposed to more
35 restrictions.
36 M Ryan said they can create a new zone or an overlay district. She said those create additional
37 requirements or exemptions for a certain area. She said if it is really a separate feel that the City
38 wants to see maintained in a certain part of town then she would recommend making it a
39 completely different zone.
40 K Huffaker said with the national registry boundaries they could follow those boundaries for the
41 downtown zone. Some communities have addressed curb and gutter, sidewalks, parking, etc. for
42 those certain areas. He said if they want to maintain the character of the old town they need to set
43 ordinances.
44 S Bankhead said we do have a downtown area in the code book with some ordinances that apply
45 to that area.
46 K Baker asked if we should restrict giant homes in the downtown area. She said there isn’t
47 anything to stop someone from putting a home 3x bigger than their neighbors. There isn’t any
48 compatibility.
49 K Huffaker said on page 2 of his handout is talks about conservation districts. This can address
50 compatibility. He said there are many communities that have passed ordinances to deal with

1 compatibility issues. He said Salt Lake, Holladay, and Murray have all passed ordinances.
2 H Ames asked how “historic preservation” is defined. He said 100 years down the road the huge
3 homes on the bench will be historic. He asked why we should preserve a rickety home in the
4 downtown area. He doesn’t know how we can control the downtown area and not control
5 anywhere else. He said if a farmer buys 100 acres on the bench we can’t stop them from putting
6 homes on it. He doesn’t know how we can impose rules on people who might buy lots in the
7 downtown area.
8 K Huffaker asked if everyone understood that Providence is on the national register district list.
9 He said there are about 350 buildings in that district. The national register is an honorary
10 designation and provides honor for people who live there in knowing that their property is of
11 historic value. He said it doesn’t prevent them from property rights. What it does is provide an
12 incentive of tax credits to restore those homes in the district. There is encouragement to do
13 rehabilitation on the property and get money back.
14 D Low asked why people spend time and money to maintain the “traditional” look. He wanted to
15 know the philosophy behind why cities encourage that.
16 K Huffaker said that he hopes people feel it is unique and part of their town’s history. He said it
17 adds to the reasons why people choose to live in certain cities. He said if you open it up to new
18 housing then it will eventually look like the bench.
19 M Ryan said it is a community choice. She said what the community decides is not always what
20 everyone wants. She said it has to be a choice that this is something important for the
21 community. She said there are some resources to help with preservation. Cities set zoning
22 ordinances as a collective decision. She said that she and Kirk are trying to help with options.
23 She said the State doesn’t dictate the choices municipalities make in zoning.
24 K Baker said she has been doing the walking tour and people love living in those houses.
25 W Wimmer said some of the most expensive homes in Logan are in the historic area.
26 M Ryan said in Park City there is a home that is worth \$1.2 million that was built for \$100.
27 K Huffaker said the criteria for the national register starts with age. For the United States we start
28 with 50 years old. From there we ask about architectural integrity. Does it still look like it looked
29 50 years ago? Beyond that we talk about the significant events and people that have been
30 associated with the house. When we factor that all together then it is a historic structure. He said
31 there are about 200-250 contributing structures in Providence. The standards are federal criteria.
32 M Ryan said you can set additional criteria like fences. Some communities have done that and
33 come up with their own financial help.
34 J Hicken said it isn’t any different than restrictive covenants for new subdivisions.
35 W Wimmer asked about tax relief for contributing structures. She wanted to know if they can
36 still get the tax credit even as only a contributing structure.
37 K Huffaker said they can still get tax relief.
38 H Ames said the Planning Commission has very little real authority. He said he thinks it is
39 difficult to understand because what he is hearing is counterintuitive to what he has been
40 thinking. He asked where the zoning law comes from that makes historic preservation districts
41 special.
42 M Ryan said Planning Commissions have little power unless they are given power by the City
43 Council.
44 H Ames said that the power swung from cities to developers in the last few years in LUDMA.
45 M Ryan said LUDMA allows you to create zones. Cities can create districts/zones for anything.
46 She said the legislature has given the developers the right to due process but have not taken away
47 broad legislative power.
48 H Ames said he is afraid that the City will spend time, work on an ordinance, and then get taken
49 to court by a developer.
50 M Ryan said that there are numerous historic districts.

1 H Ames said he thinks that individual property rights will be challenged.
2 R Liechty said we have a historic district ordinance. There is no inner block development
3 allowed in downtown. He said they have had people buy lots that had to follow the ordinance.
4 That is why those ordinances are in the code book.
5 M Ryan said they have created a boundary, and now they have to make choices about what is
6 important for the community.
7 K Huffaker said they may want to discuss design. He said it is difficult discussion for some
8 people because it is about what people can do on their property. The City can start by looking at
9 form and mass. They can also put restrictions on scale.
10 R Liechty said in the commercial district they have design guidelines. He said they could do it in
11 historic district as well.
12 K Huffaker said in a small town it is important to make it easy for the administration.
13 D Low asked if they can set their own rules.
14 M Ryan said it isn't any different than putting design standards in a commercial district.
15 D Low asked how you discuss an old/rundown house versus a historic house.
16 R Liechty said they can say that if someone wants to tear down a historic building then they have
17 to build it back to its original integrity.
18 K Huffaker said that they would want to encourage buildings to be contained or restored. If that
19 is not possible then they could re-build in a specific way. There can be examples in the actual
20 ordinance to show homeowners what the design ideas are.
21 D Astle asked how far you can go before courts will say you have gone too far.
22 K Huffaker said back east there are very strict guidelines. He said in Utah historic preservation is
23 approached in a different way. He said public education, incentives, and encouragement are used
24 more than very strict guidelines. He said it works in a lot of cases. He said some communities
25 also make the choice to be stricter.
26 L Campbell said some people like old houses, but he lives in an old house because he has to. He
27 stressed that as long as the City has main criteria against eye sores he has problems with
28 narrowing it down for the next generations. He is concerned with the next generation and
29 allowing them to have a little bit of diversity. He doesn't think we should restrict building in the
30 downtown area totally from what it is like right now.
31 M Ryan said if we are using a 'taking' then the City has to pay for the property. She said it is a
32 balance. She said the economic enticement is important. She said they need to remember the
33 importance of historic areas but also use balance. She said they need to figure out what is
34 important and what the consequences are for those important things.
35 K Huffaker said that every town is different and not everyone wants to be Park City or the
36 Avenues. He said there should be a diversity of income and houses. He said the City could aim to
37 conserve affordability and diversity in the downtown area.
38 J Hicken asked if there are some cities that have done some really good things with historic
39 preservation that we could model as we work on our ordinances.
40 K Huffaker said he might have to get back to them. He said the residential area with so little
41 commercial property is really unique to Providence.
42 D Astle asked if the Utah League of Cities and Towns has done any research that would be
43 helpful.
44 M Ryan said that she can get model ordinances. She said it might be a bunch of different cities
45 ordinances that will help Providence.
46 J Hicken said there are some things he thinks of and some things he would never think of so he
47 would really like examples.
48 M Ryan said the State just put together a model ordinance website. She said they have been
49 working on it for about a year.
50 M Ryan said obviously not everyone has given opinions. She said the Council could set up a

1 joint board/commission to start working on this issue and start getting community input. They
2 should get some sort of a framework to see if they need additional regulations. She said the City
3 needs to first make a philosophical decision about where Providence should go with their historic
4 district.

5 W Wimmer asked about rental regulations in historic districts.

6 M Ryan said it gets difficult, but you can stop nightly or short term rentals.

7 K Huffaker said they can encourage home ownership in the downtown area instead of turning
8 property into rentals.

9 D Low asked why we have to create incentives to have people live in “old town”.

10 K Huffaker said people will make choices and not everyone will choose old town. He said
11 incentives help everyone continue to have options.

12 H Ames said it is a hard balance. He said old town turned into rentals equals blight. He said old
13 town with people who appreciate “old” creates an area too expensive to live in and it becomes
14 gentrified.

15 M Ryan said it is very fine balance. Sometimes you create things that you don’t want. That is
16 why we can revise ordinances.

17 Mayor Simmons arrived at 7:15pm.

18 S Bankhead asked if we have to do an audit every 5 years to keep the historic district in place.

19 K Huffaker said the national register district is there forever. He said the certified local
20 government status has to be re-certified.

21 R Eck asked if the national register can go away if the City wants it to or if the boundaries can be
22 changed.

23 K Huffaker said it cannot be taken away, but the boundaries can be changed.

24 M Ryan will follow up with Kirk and get some information to the City with examples and
25 different choices the City could make.

26 K Huffaker told everyone to feel free to call him as well. He was excused from the meeting.
27

28 M Ryan next addressed subdivisions.

29 Mayor Simmons wanted her to talk about different ideas for zoning ordinances that produce
30 different results. He said SFL doesn’t create a way to promote clustering or flexibility. We
31 wanted to discuss the pros and cons.

32 M Ryan said she wanted to talk about the curb and gutter issue in the old town area first. She
33 said the capital facilities plan needs to have plan for the City’s goals for this aspect. She said they
34 should look at what they have and pick specific areas. She said the curb and gutter can be
35 different in each district. She said curb, gutter, and trails are a very long term vision. They need
36 to think about connectivity for the future. She said thinking in a long term way is the only way to
37 get it achieved.

38 M Ryan said she understands there are four pieces of property on the bench and two are vested.
39 She said development agreements can be put in place to change requirements, but both parties
40 have to agree. She said from a planning standpoint she was very concerned about Redstone. She
41 advised that the City and the developer should get geotechnical and soil reports for Redstone.
42 She worries about the City’s liability. The City Council and Planning Commission might want to
43 do a sight visit on the two remaining parcels. She said her first impression of Anderson
44 Development is that it is huge. It will have some huge implications for Providence.

45 M Pierce asked which properties are vested because he was unclear about how she was using the
46 term “vested”.

47 S Bankhead pointed out the parcels on the map that are at concept plan and preliminary plat.

48 M Ryan said once a developer has a concept plan submitted they are vested in the subdivision
49 process. They can only correct things with development agreements for these properties. She
50 said they need to think about doing a temporary zoning ordinance if the other properties will

1 submit in the eminent future. She said they need to think about if the City is in a good position.
2 A Leonhardt asked about the State regulations for slopes.
3 M Ryan said the State allows you to create those ordinances and zones. She said some
4 communities say that slopes over 15% require extra engineering and studies and some cities say
5 slopes over 30% cannot have building on them. She said we are learning a lot in Utah. This year
6 a law was passed that set up an appeal process for the developers.
7 Mayor Simmons asked if there are any examples of 15% ordinances.
8 M Ryan said she will get some she things she thinks will work well for Providence. She brought
9 some examples. One was from Pittsburgh. They did some studies and included Park City and
10 Ogden while looking nationally. She thought that was very beneficial.
11 D Astle asked about negotiating with separate parties.
12 M Ryan said they are a case by case type of agreement, and each agreement does not set
13 precedence. She said if there are reports that show problems the City needs to take those into
14 serious consideration.
15 Mayor Simmons said that is why there is now the 3rd party mediation.
16 S Bankhead asked why the City should put a professional out there if that makes the City liable.
17 M Ryan said it is a new process, and it will be interesting to see if it works or not.
18 D Astle asked about unsafe conditions that cannot be mitigated. He asked if we are required to
19 approve subdivisions with unsafe conditions and if we are liable for approving lots like that.
20 M Ryan said if there is nothing viably buildable on a lot we shouldn't create those lots when
21 subdivisions are platted. She said once it is made a buildable lot it may constitute a taking if the
22 City does not allow building on it. She said to be careful about liability. Don't make non-
23 buildable lots or buy the property if there is a real health, safety, and welfare concern on a lot
24 already platted and approved.
25 D Astle said properties should be required to do geotechnical studies.
26 M Ryan said that we need to have things in the ordinance that will require the two non-vested
27 properties to take certain measures as they develop.
28 S Bankhead said on the Saddlerock Subdivision there are two plats that are completely different.
29 One had open space, but the Staff had to send it back because 5 lots were too small.
30 Mayor Simmons asked if we can do a development agreement that allows the developer to
31 negotiate to get the open space.
32 M Ryan said she doesn't think you can change the base zoning. She said we would need to
33 consult with Dave Church or another attorney. She said they need to think about open space and
34 what it means to different people. It could be recreation, trails, parks, or open space with nothing
35 on it. She said it normally doesn't mean setbacks. She said infrastructure and roads are other
36 things to think about. She said there can be conservation subdivisions and clustering.
37 Mayor Simmons asked if we could amend the ordinance if the developer liked the other idea.
38 M Ryan said on the bench there are subdivision layouts that may need to be different. She said
39 open space needs to be defined. She said it can be passive or recreation. She said Farmington has
40 some conservation subdivisions.
41 H Ames said that although one subdivision layout may be better for the City we can't allow it
42 because the City doesn't have a flexibility clause.
43 M Ryan said the different types of subdivisions give the flexibility.
44 H Ames said the P Zone is what was supposed to deal with that.
45 Mayor Simmons said the P Zone is kind of like the zone in Farmington.
46 M Ryan said that maybe the two unvested properties would be better as P Zones.
47 H Ames asked if we can rezone the developer to the P Zone with their current subdivision plat.
48 M Ryan said they are vested under the current ordinances. She said they could make the changes
49 and see if the developer is amiable.
50 Mayor Simmons said that some people feel 12,000 sq. ft. lots are too small.

1 M Ryan asked what the concerns were about lot size.
2 D Astle said on flat property a 12,000 sq. ft. lot is big, but on a slope it isn't very big. He said
3 engineers sometimes layout the lots on paper and then try to deal with slope.
4 M Ryan said they need to look at what they have in the ordinances and what concerns they have.
5 She didn't get a very clear idea of what 'open space' means to Providence.
6 S Bankhead said everyone will give a different answer.
7 M Ryan said that they need to think about access points, curb and gutter, and other infrastructure.
8 She said the City is stuck with what they have now, but they need to think about flexibility. She
9 asked how Providence is going to pay for these developments. She said the less the City can do
10 to take care of open space the better. She said the design of open space comes into play when the
11 City has to think about maintenance. She said the 'Center for Green Space Design' goes through
12 all the different types of subdivisions and alternatives. She said we can still put in provisions for
13 the next two pieces. She thinks it's worth negotiating with the developers, but the City has to
14 know they can't force anything since the developers are vested.
15 D Astle asked about Anderson Development being willing to renegotiate a new zone.
16 M Ryan said to developers' time is money. If we can make something extradited that they will
17 like then they will maybe think about it. She said if the City doesn't try then they won't ever
18 know if there could have been something better. She said the Planning Commission might want
19 to think about the 'Center for Green Space' coming to do a workshop.

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21 Meeting adjourned at 8:02pm.
22 Minutes taken and prepared by Katie McDermott.

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Randy Simmons, Mayor

Skarlet Bankhead, City Recorder