

Providence City Planning Commission
Providence City Office Building
Providence City Council Chambers
15 South Main, Providence, UT
February 15, 2005

Present:

Chairman: Blaine Sorenson

Commission: Mark Malmstrom, Hank Howell, Jim Beazer, Kristina Lamborn, Nick Bouwes

City Manager: Vern Keeslar

Secretary: Rebecca Billings

Handout: Kartchner Homes revised site plan

STUDY MEETING

Update on Ordinance Changes

- Providence City Code 10-8-6-C-6 was amended to allow one access every 250 feet.
- City Council adopted the parkways ordinance but took out the decorative rock portion. No decorative rock will be allowed.

Providence Highlands Rezone and Final Plat

- City Council passed both of these.

General Value Statements for Providence City General Plan

- Vern Keeslar handed out a list of general value statements for the new Providence City General Plan.
- Keeslar explained that value statements are generalized statements that the City would like the General Plan to be centered around. He told the Commission that they can add, delete, reword, wordsmith, or come up with new standards. He said that these are general guidelines—thought-provoking things that could go into chapter 1 of the General Plan, things that the principals of the General Plan can be built upon.
- Keeslar asked the Commission members to drop by the City by next Tuesday and tell him what they like. He said that they will take these general guidelines to the citizens. He said that the City will hold an open house in early March. Citizens will be shown maps and can fill out comment forms. There will be a public record of the things discussed and the comments given for the Planning Commission and City Council to look at.
- Keeslar said that the first complete Providence City General Plan was created in 1970, and the next one was in 1994. The last was in 2002 (it was prepared in 1999 but was not finished until 2002). Keeslar said they were a mix between a capital improvement plan and a general plan.
- Keeslar said that if the City hired out to someone to draft the general plan, it would take 2-2 ½ years and about \$80,000. He said that the City is going to do it in-house and hopes to have it to the Planning Commission by this fall. He said it's a little aggressive, but there are a lot of ordinances that the City doesn't like. He said that they will need to rewrite the zoning after they make the General Plan so that the City's different zones fit within the General Plan designations.

- Keeslar said that he'd like all of the Planning Commission members at the open house. He said it would probably be from 6-8 p.m. The meeting will probably be held around the 16th of March, a Wednesday night—perhaps the 9th or 10th.
- Keeslar asked if there were any questions about the items on the agenda.
- Blaine Sorenson asked what item 3 did to signs that already exist in Providence.
- Keeslar said that this item would only affect billboards and off-premise signs. It just affects the ones in front of the storage units and the mechanic shop, and these would be grandfathered in. He explained that, with the advent of commercial, a lot of billboards will sneak in. Currently, billboards are a conditional use in the City. He said that Staff doesn't want them at all. He said that there are two reasons why they don't want them: one, the City is more aesthetically pleasing without them; and two, businesses can have their own signs in front of their businesses and don't have to deal with buying out an existing billboard.
- Mark Malmstrom wondered if any of the new parking strip ordinances were implemented in the Kartchner Homes landscaping (item one).
- Keeslar explained that the Kartchner Homes application was in before the passing of this ordinance by the City Council. He explained that Kartchner would not be required to bond for the trees in the park strips, but they will have to bond for the landscaping on their own property. He said that Kartchner exceeds the minimum landscaping required by the City—by a great deal. He said that the City should fix this in the ordinances. The current city ordinance only requires a commercial developer to landscape 10% of the property. Keeslar said that a commercial development ought to landscape 15-20% of the property, and a professional office ought to landscape 20-25%.
- Malmstrom noted that the street trees near Kartchner homes are 1 ½ caliber. He said it would be nice if they used 2 caliber trees, but he realized that the City can't make Kartchner do that. The new ordinance says that the parkways have to have 2 caliber trees, but on Kartchner's own property, they can put 1 ½ or 1 ¾ because the ordinance wasn't yet implemented when they put in their application.
- Keeslar said that, even if the open market is coming in with higher landscaping standards for commercial, the City better amend its ordinances.
- Malmstrom said that someone would come along in the future that would want to push the landscaping limit.
- Keeslar said that is why they would want to amend the ordinance to require higher percentages for commercial landscaping.

AGENDA ITEMS

APPROVAL OF MINUTES

- Sorenson asked the Planning Commission if they had any questions, further discussions, or concerns regarding the minutes of the January 2005 Planning Commission Meeting.
- There were no corrections.
- **MOTION** by Mark Malmstrom to approve the minutes of the January 26, 2005 Planning Commission. **SECOND** by Jim Beazer. All in favor.

Sorenson reminded the Commission to sign in at the table at the back of the room.

Disclosure of any conflicts of interest on any of the agenda items: None.

- Jim Beazer noted that his business uses one of the two existing billboards in Providence for advertisement. Sorenson noted this.

Disclosure of any ex parte communication: None.

ITEM ONE: John Hoellein, agent for Kartchner Homes, is requesting site plan approval for an office building in the Commercial General (CG) zone for property located generally at 100 South 640 West.

- The following findings of fact, conclusions of law, and conditions were presented:

FINDINGS OF FACT:

1. John Hoellein, agent for Kartchner Homes, has submitted an application for site plan approval for an office building at the corner of 100 South and 640 West.
2. Providence City Code 10-8-5 Commercial Zoned Districts; Site Development and Providence City Code 10-8-6 Parking Regulations lists the requirements for site plan.

CONCLUSIONS OF LAW:

1. The application for site plan approval complies with Providence City Code 10-8-5 Commercial Zoned Districts; Site Development and Providence City Code 10-8-6 Parking Regulations.
2. The application complies with the Providence City General Plan.
3. The Staff Review Committee (SRC) has reviewed the site plan for compliance to the Providence City Code and has recommended approval.

CONDITIONS:

1. Continue to meet Providence City Code 10-8-5 Commercial Zoned Districts; Site Development and Providence City Code 10-8-6 Parking Regulations.
 2. Submit site and landscaping improvement cost estimates and bond for the site and landscaping improvement costs.
- Keeslar said that the submission had gone through a revision or two. He said that the handout was a revised site plan that didn't make it into the original packet. The sidewalk along 100 S was not shown on the original plat, but the handout the Commission received tonight had the correct changes.
 - Keeslar said that Kartchner has more parking than the requirement, and the two entrances to the building now meet City Code. He stated that, before they can obtain a building permit, they need to submit site and improvement cost estimates and bond for the site and landscaping improvement costs.
 - Keeslar said that this will be their main office that will display options as they build and sell homes.
 - Sorenson opened the time for public comment.
 - Ron Liechty, council member, wondered if there would be a problem with the second condition. He said that he didn't want the City to end up without a bond.
 - Keeslar said that when Kartchner submits the cost estimates, an engineer reviews them. He said that Kartchner will have a bond for a period of two years or until the improvements are accomplished. Then they get the bond money back. He said if they exceed the 2 years, then the City extends the bond.

- Jim Beazer wondered how the City got Kartchner to do a 5-foot strip. He didn't think that the ordinance had been passed at the time this was submitted.
- Keeslar said that the strip was probably about 4 feet. He said that there are still a number of items that weren't completed with the subdivision. He explained that the developer of the subdivision has been contacted, and Kartchner knows that a building permit can't be issued until the improvements are done. Keeslar said that the developer has the option to re-bond to get the improvements done. He explained that, for some strange reason, the bond either expired or was not posted.
- Malmstrom noticed the shed on the bottom right corner of the plat.
- Keeslar said that Kartchner is going to do their own maintenance, so they'll use the shed for tools. He explained that they will have to meet the 5-foot setback.
- **MOTION** by Kristina Lamborn that the Planning Commission approve of John Hoellein's request for a site plan for an office building in the Commercial General (CG) zone for property located generally at 100 South 640 West with the findings of fact, conclusions of law, and conditions stated in the staff report. **SECOND** by Jim Beazer. All in favor. Abstained: Nick Bouwes.

ITEM TWO: Colette Yates is requesting a conditional use for a home business for colon hydrotherapy located generally at 560 Edgewood Drive.

- The following findings of fact, conclusions of law, and conditions were presented:

FINDINGS OF FACT:

1. Colette Yates has submitted an application for a conditional use for a home business for colon hydrotherapy located generally at 560 Edgewood Drive.
2. Providence City Code 10-3-5 Conditional Use Permits lists the requirements for conditional use permits
3. Providence City Code 10-1-4 Definitions defines a conditional use as "A use that may locate in certain zoning districts, provided it will not be detrimental to the public health, safety, and welfare and will not impair the integrity and character of the zoned district."

CONCLUSIONS OF LAW:

1. The application for a conditional use complies with Providence City Code 10-3-5 Conditional Use Permits.
2. The request will not be detrimental to the public health, safety, and welfare.
3. The request will not impair the integrity and character of the zoned district.
4. The application does not affect the Providence City General Plan.
5. The Staff Review Committee (SRC) has reviewed the request and recommends approval with the conditions as stated in the staff report.

CONDITIONS:

1. Continue to meet Providence City Code 10-3-5 Conditional Use Permits.
2. Continue to meet Providence City Code 10-1-4 Definitions of a Conditional Use.
3. Obtain a building permit from Providence City for compliance with the plumbing changes that have occurred.
4. Prohibit employees that do not reside in the home.
5. Dispose of medical waste in accordance with Utah laws.
6. Have machine semi-annually inspected for grounding and calibration by a bio-medical engineer.

- Keeslar explained that the applicant went through the process of amending the Code. Now colon hydrotherapy is an allowed use (as a conditional use) by Providence City Code. He said that, although the code has been amended, the Planning Commission needs to find that it complies with the current city ordinances. He said that the Staff Review Committee has gone back and forth over the issue. He said that, as additional information has come forth, the Staff has changed their minds on at least a couple of occasions. He said that the bottom line was that, since the Code has been amended, Staff felt that it was very appropriate that conditions be set forth to mitigate any harmful affects. He said that he had made phone calls to Cache County Health and some professionals. He said that they're still looking at it. He said that the Staff Review Committee is recommending approval to the Planning Commission.
- Sorenson opened up the time to Collette Yates. Yates explained that, because she wasn't able to converse with any of the Commission members, she created a notebook about colon hydrotherapy that all of the Commission members were able to look at. She said that she wasn't able to educate them about what colon hydrotherapy was and explain her qualifications and her liability insurance. She explained that she has letters from chiropractors saying they feel comfortable about her doing this in her home.
- She said that, despite what the media is reporting, she's not fighting the City, she's just discussing what she'd like to do.
- Yates explained that, at City Council, Vic Saunders had had a question about the safety of the instrumentation used. She said she uses the DoTolo spectrum instrument. She said that she was trained to use this. People worry that they may be injured during a session, but she said she uses just this one instrument. She said that they have plumbing for temperature. Nothing is introduced into the colon that is not safe. She said that she watches the machine. She said that the misconception of the colon rupturing simply cannot happen because she follows the correct procedures. Collette Yates explained to the Commission how the instrument works. She said that the water pressure from the machine is so low that it is not bad at all. She said that there was no need to go high. She said that the machine is not just rushing water into the body. She said that the body knows what to do when it feels the water. She said that the machine adds water to the colon, but it's a therapy, and it gets the colon working on its own.
- Beazer said that the following comments were about the machine, and not Collette: He asked what if the psi's go into the red. He asked what the maximum psi was that the machine could get to.
- Yates said that she didn't know.
- Beazer said that the concern was not over Collette, but perhaps the next person that comes in to Providence wanting to do this.
- Yates said that she imagined that the machine could go up to about 4 or 5 psi's. She said that she doesn't go even to two.
- Collette Yates presented to the Commission a letter from the president of DoTolo Research.
- Beazer wondered if the president is the man that manufactures and sells the machine.
- Yates said that he is the man that manufactures and sells the product. She said that the machine had gone through international mark testing and FDA approval. She explained that there had been zero adverse event reports by the FDA. She said that, attached to the letter she passed out to the Commission, was the FDA website. She said that if there had been an adverse event report, this website is where it would be reported. Yates said that she performed the search on the website, and she had found no adverse event reports. She said that she talks to each patient about his or her health before the session.

- Yates said that Ron had asked about the procedure being performed on those that have diverticulitis. Yates said that if the person's diverticulitis is inflamed, then she does not perform the procedure. If there is no pain, she performs the procedure. She said that if the patient *did* have an infection, then the person would be under a doctor's care. She explained that colon hydrotherapy is considered a homeopathic procedure and does not require a license. She mentioned that in the notebook she put together, there are two letters from different licensed healthcare professionals that state that they feel comfortable about her doing the procedure in her home.
- Nick Bouwes said that he felt that if this is an established procedure, and not against the law, that it's not up to the Commission to decide if the machine is safe. He wondered what was so unique about Yates doing this in Providence as opposed to anywhere else.
- Lamborn said that there are a lot of things that are not illegal that a person wouldn't want next to his home.
- Beazer said there's not a problem if it is done in the right zone.
- Bouwes said that it's not up to the Commission to decide if the machine is appropriate in the home. He said the issue is whether they want this in Providence.
- Yates explained that she has 3 million dollars in aggregate insurance.
- Sorenson said that the statement from the letter that says, "accepts no responsibility" is a red flag.
- Yates said that it protects her from a lawsuit.
- Beazer said that nothing protects the patient.
- Collette Yates's husband, Michael, stated that, in 20 years of this machine in operation, there had been no adverse affects. Hundreds of thousands of sessions—no incidents.
- Beazer asked Keeslar if there was an incident, would the City be liable.
- Yates said that her attorney said no, and that the binder that she produced explains that.
- Keeslar said that the issuance of a conditional use does not thrust liability upon the City. He said he believed that just because they approve something doesn't mean that the City now assumes the liability for that design. He said that the City would only get into trouble if they didn't follow the State Code or if they didn't test something.
- Yates explained again that the City would hold no liability.
- Beazer said that a defendant's attorney would say the exact opposite.
- Beazer explained that he has had a colonoscopy, and that his doctor gave him several severe warnings of things that could go wrong.
- Yates said that colonoscopy and colon hydrotherapy are two separate procedures.
- Beazer wondered if Yates tells her patients that there are risks.
- Yates said that she doesn't even bring up the subject because she is so extremely conscientious about what she does.
- Michael Yates explained that Collette goes through a set of questions with her patients. He said that she wouldn't perform the procedure on someone at risk without a healthcare professional's recommendation.
- Yates said that, in the past, she had a business doing temple clothing, and she said that there was no difference in what the City told her to do then. She said that she intends to keep her CNA current. She said that there would be no more than two people at her house a night. She said that once she realized that there were more things going on than just the signatures required for the business license, she stopped doing colon hydrotherapy.

- Hank Howell asked if it was common to have colon hydrotherapy in the home. He wondered what the ratio was for colon hydrotherapy in the home vs. in a clinic.
- Yates said that probably 90% of colon hydrotherapists practice in the home.
- Howell asked if there would be any signs on her house or in her yard.
- Yates said that there wouldn't be. She said that she spaces the sessions a half an hour apart to preserve patients' privacy. She said that the patients park in her driveway, as well.
- Yates asked the Commission to think about the invasive things that people do to *themselves*.
- Beazer asked if Collette's patients do the procedure to themselves.
- Yates said that they insert the speculum themselves unless they don't want to.
- Beazer said that it would seem to be less safe for the patient to do it themselves.
- Yates said that she offers to let them do it themselves, but 99% ask her to insert it. She said that she highly recommends that everyone has a colonoscopy. She said that this is not in-lieu of a colonoscopy, but recommends that everyone has a colonoscopy.
- Kristina Lamborn asked how Utah law defines the disposal of waste. She asked if the Yates were putting the waste in the dumpster.
- Keeslar stated that the law says that if there are a certain amount of CCs from the body, then a different law comes in to place that the waste has to be disposed of in a different manner. He said that he had called the gastronomical clinic, and they had used the analogy of a woman's menstrual cycle and how the amount of CCs for this procedure doesn't even exceed those of a woman's menstrual cycle.
- Yates said that the waste goes right into the sewer line from the machine.
- Lamborn said that conditions are things that the City has to regulate. She wondered how the City would regulate the waste.
- Keeslar explained that conditions in a conditional use are "in case." She said that these conditions are placed to encompass all aspects. The City is not required to regulate these things unless a problem arises.
- Beazer said that a speculum shouldn't be in the trash and then go into a dumpster on the street.
- Yates said that it's no different than a baby diaper.
- Beazer said that it is completely different. It is a medical procedure.
- Lamborn said that she thought that they had established the fact that it's safe. She said that each of the Commission members had spent quite a bit of time with the book. She explained to Collette that she didn't think that the Commission has a problem with colon hydrotherapy, but with colon hydrotherapy in a home. She said that it should be in the correct zone.
- Beazer stated that the Commission is a zoning committee.
- Lamborn said that she wanted it on the record that when she came to the City Council concerning the code amendment for colon hydrotherapy, she talked to Collette about the media attention, and that she was surprised that she had such support. Lamborn had told Collette that she didn't oppose colon hydrotherapy, but that she didn't want it in the home. Lamborn explained that she did not change her mind but was just trying to be sympathetic to Mrs. Yates. She said that she still doesn't feel that it should be in a home.
- Sorenson opened up the time for public comment.
- Randy Eck commended the Planning Commission for the time and thought they put in to the issue at hand. He said that this is not an easy issue. He encouraged the Commission to be aware of the powers that they have, of the intelligence that they have. He thanked the Planning Commission.

- Blaine Sorenson closed the meeting to public comment and opened the time for Planning Commission comment.
- Beazer said that the newspaper implicated that the Planning Commission thought that colon hydrotherapy was a yucky procedure. He said that he was fully educated about the procedure, and that he was fully supportive of it, but that things have a zone that they are to be in. He stated that the City shouldn't conditional use and variance itself into doing whatever it wants, wherever it wants.
- Yates said that there are people that wouldn't be able to afford to have this done if it were in a commercial zone.
- Lamborn said that if this procedure can really help the people who can't afford it, she feels that those people will find a way to afford it.
- Beazer said that it's an issue of where things belong. He said it does not belong in a Single Family Traditional zone.
- Sorenson said that he would agree with the last two things Beazer had said, and that he had received a number of calls from people in his area wanting to know what was going on. He said that none of the calls he had received were positive.
- Beazer told Yates that there were people in her (Yates's) neighborhood that had called him and expressed concern.
- Lamborn noted that those people didn't come to Planning Commission.
- Beazer stated that not everyone in the Yates's neighborhood was happy about this.
- Yates said that it is a very positive thing that can help peoples' health. She said that she hoped the Commission would consider their votes.
- Yates said that she thought the City should follow through with what they had told her.
- Lamborn asked Yates if it had crossed her mind that there might be a problem with this business in her home.
- Yates explained that, when she had asked the City, there was no indication that there would be a problem. She said that, in the meantime, the City had hired a city manager. She said that the City had told her that she just needed three signatures and twenty-five dollars. She felt that the City should follow through on what they promised her.
- Lamborn said that there was no conditional use for colon hydrotherapy when Yates had approached the City.
- Yates wondered why the secretary hadn't stated that when she had called.
- Keeslar said that, under the home occupation ordinance, there are certain home occupations that are outright permitted. The previous business Yates had in her home was an automatic permitted use. He explained that the reason why that business was approved that way is that the City Code approved it that way. Keeslar said that Yates has the option to pursue legal means if she feels she was told something different. She may have been misinformed. Keeslar explained that things at the City have tightened because he reviews every business license and building permit. The issue at hand is strictly the conditional use and does it belong in the City.
- Keeslar explained that he had contacted the Environmental Agency, and they felt there wasn't a problem.
- Howell said that he thought that the Planning Commission was trying to foresee and determine right now what is going to happen. He wondered if they could do a test period because this is a very divisive issue. He said that they can't know for sure if it's going to be a good or a bad thing.
- Sorenson explained that, if Howell wanted to do that, he would need to make the proposal.

- Beazer said that, if the Commission passed this, they would be saying that now everyone can have a colon hydrotherapy business in his home.
- Howell asked who it would hurt.
- Beazer said that it hurts the people in the neighborhood. He said that this is a medical, invasive procedure in a Single Family Traditional zone. He said that things belong in certain areas and not others. He wondered why even have a zoning map if this wasn't the case.
- Howell wondered where the line was between an internet consulting business and colon hydrotherapy.
- Lamborn said that they had to draw the line somewhere.
- Hank said that, to him, Yates had proven that no one in the neighborhood would know what was going on.
- Sorenson stated that they had reached a point for a motion.
- Beazer asked about condition 6. He wondered where the City would find a biomedical engineer.
- Keeslar said that the Commission shouldn't force themselves with a timeline. He said that the conditional use is issued, and if something happens, the Commission will re-evaluate the permit. He stated that the Commission has the power to hold a revocation hearing. Keeslar said that, individually, the Commission cannot go up and look at Collette's house, but they could dismiss for a field trip and, as a body, go up and look.
- Keeslar explained that the 6th condition means that Yates will simply drop off a copy of an inspection form every 6 months from the engineer, and we put it in the file. He said that the 5th condition is all-inclusive, so the State is on the City's side if something happens.
- **MOTION** by Mark Malmstrom that the Planning Commission recommend to the City Council approval of Colette Yates's request for a conditional use for a home business for colon hydrotherapy in the Single Family Traditional (SFT) zone for property located generally at 560 Edgewood Drive with the findings of fact, conclusions of law, and conditions stated in the staff report. **SECOND** by Hank Howell.

Yea: Hank Howell, Mark Malmstrom

Nay: Kristina Lamborn, Blaine Sorenson, Jim Beazer

Abstained: Nick Bouwes

- Sorenson said that he thinks that the Commissions' previous actions and their actions at this meeting have demonstrated how they feel concerning this particular item. He stated that this is an automatic appeal to the City Council, and they will make their determination on it.
- Yates requested a private meeting with Mayor Leonhardt and Chairman Blaine Sorenson.
- Keeslar told her that an executive session during the meeting would not be possible, but that a private meeting after the Planning Commission meeting would be.

ITEM THREE: Providence City is requesting a code amendment to Providence City Code 10-15, Sign Regulations to remove billboards and off-premise signs from the sign ordinance.

- Keeslar stated that the current ordinance allows billboards and off-premise signs as conditional uses. He stated that conditional uses are fairly difficult to turn down. The City feels there are reasons to delete from Providence City Code billboards and off-premise signs.
- The following findings of fact, conclusions of law, and conditions were presented:

FINDINGS OF FACT:

1. Providence City Code 10-1-5 lists the requirements for Amendments, Changes.
2. Providence City Code 10-15, Sign Regulations allows for billboards and off-premise signs as a

conditional use in the General Commercial (GC) zone.

3. The Staff Review Committee (SRC) has recommended in favor of the code amendment believing that billboards and off-premise signs detract from an aesthetically pleasing environment. Further, these signs could utilize land that would be better suited for retail development.

CONCLUSIONS OF LAW:

1. The proposed code amendment would provide better utilization of Providence City's limited commercial area.
2. The proposed code amendment would allow for a more aesthetically pleasing environment.
3. The proposed code amendment promotes efficient use of signage in commercial developments.

CONDITIONS:

1. None.
 - Keeslar stated that there are two billboards that will be grandfathered into the City. He explained that billboards have a lot of discretion in their constitutional right of free speech. This means that a community cannot hold standards that the billboard has to adopt.
 - Sorenson opened the meeting to public comment.
 - Stacie Gomm, council member, asked if the sign in front of Knight Storage would be grandfathered in. She stated that she worried about grandfathering the existing signs and billboards. She said that the content on the existing billboard cannot be censured.
 - Beazer said that the City has no control now anyway.
 - Keeslar said that the state of Utah has the strictest laws for content on billboards. They can be bought at fair market value or their contracts negotiated, but they are hard to get rid of.
 - Sorenson closed the meeting to public comment and opened it up to comments from the members of the Planning Commission.
 - Beazer said he wishes the two signs that are going to be grandfathered in would have never come in to Providence, and he wishes they were gone.
 - MOTION by Mark Malmstrom that the Planning Commission recommend to the City Council approval of Providence City's request for a code amendment to Providence City Code 10-15, Sign Regulations to remove billboards and off-premise signs from the sign ordinance with the findings of fact, conclusions of law, and conditions stated in the staff report. SECOND by Kristina Lamborn. All in favor.

The meeting adjourned at 7:15 p.m.

Meeting Minutes for January 26, 2005 Planning Commission Approved.

Blaine Sorenson _____ Date _____
Chairman

Rebecca Billings _____ Date _____
Secretary