

**PROVIDENCE CITY PLANNING COMMISSION MINUTES**  
**June 25, 2008, 6:00 p.m.**  
**Providence City Office Building**  
**15 South Main, Providence, UT 84332**

<b>ATTENDANCE:</b>	<b>Chairman:</b>	<b>L Campbell</b>
	<b>Commissioners:</b>	<b>H Ames, W Wimmer, D Briel, G Busch</b>
	<b>Excused:</b>	
	<b>Alternates:</b>	
	<b>Staff:</b>	<b>Skarlet Bankhead, City Administrator/Recorder</b> <b>Terri Lewis, Secretary</b>

**ACTION ITEMS:**

**Item No. 1.** The Providence City Planning Commission will consider for approval the minutes of May 14, 2008 and June 11, 2008.

Motion to approve: H Ames, W Wimmer, second

Pg 1 Line 45 limited access to this document

Line 47 State Department of Transportation plan along with County plan.

Pg 2 line 20 H Ames said housing market can go down the toilet they sell one house and the City supports the entire infrastructure. If the developer doesn't finish the subdivision the City has to.

Line 24 connected to completion.

Line 27 S at beginning.

Pg 3 line 34 water forecast study

Line 43 the city

Pg 4 line 6 John Mock was not here, D Briel was

Line 20 shown

Pg 7 line 6 D Astle not H Ames

Line 45 L Campbell

June 11<sup>th</sup> meeting

Pg 3 line 18 the Council makes the final budget decision.

All in favor with the changes.

**Motion to move public hearing until the attorney is present: D Briel, G Busch.**

**All in favor**

**PUBLIC HEARING 6:10:**

The Providence City Planning Commission will discuss an ordinance modification to Providence City Code 11-5-8 Water Availability Requirement.

Motion to open: W Wimmer, H Ames, second

All in favor.

C Smith said he was here to talk about the water ordinance. He made two changes, the first change on page 4 B – the language after the city council determines that the city ..... That is new language; it tracks the language in state law.

H Ames said that sentence doesn't make sense.

S Eames said it needs a comma.

S Bankhead said the city council accepts the development agreement by resolution, is that sufficient.

C Smith answered yes that is sufficient. Page 5 3-took that out. It was confusing. The other change is the numbering done for the ordinance.

H Ames said we need to go back to the timeline. Does this ordinance replace the draft ordinance that was voted on by the citizens or the one the Mayor did.

C Smith this is a new ordinance that would replace the draft ordinance. This ordinance will completely replace the old ordinance.

H Ames asked if the commission understands the major rewrite relative to the ordinance that was in place about 6 months ago.

W Wimmer asked if this is for the culinary water.

C Smith answered yes. Then we will work on secondary water.

H Ames said we've had that discussion enough on past water plans and now we want to focus on the one before us.

G Busch said this document talks about a water plan. Is this the same as the supply demand study?

1 C Smith answered for now it is. We will be looking more at that down the road. The law doesn't require planning but it  
2 is a good idea to do that.  
3 G Busch asked if that is done by an engineer.  
4 C Smith answered typically yes.  
5 S Eames said you are aware that I am part of a group that is worried about the availability of water. I want to be able to  
6 see the water. On the 1<sup>st</sup> page section 1 it says it will replace ordinance 11-5-8. Is this the one that is in existence now?  
7 S Bankhead answered yes.  
8 S Eames said on page 2 shouldn't you change water capacity to water availability. What does capacity mean?  
9 C Smith said capacity is referring to sources. Availability would be a synonym of capacity. When you look at water you  
10 look at water rights as paper water. How much water the state will allow you to take. What is my wet water? How much  
11 water will this well give me. How much storage do I have? Do I have enough water for fire flow, etc? These are the  
12 three aspects you look at. Can we still serve our citizens if this new development comes in?  
13 S Eames asked if it is appropriate to look at what this new well will do to other people.  
14 H Ames said he thinks there is a big difference between capacity and availability. Capacity means I can. Availability  
15 means can I do it.  
16 C Smith said R Eck knows better than anyone what the capacity of the wells is. If you are going thru the state you have  
17 to do a change application. The state won't approve it if they believe it will interfere with anyone else.  
18 H Ames asked if the city has any wells.  
19 C Smith said anyone including the city has to get permission from the State.  
20 H Ames asked if the state engineer is the one that says it's alright.  
21 S Eames said that gives her comfort  
22 C Smith this is a multi step process with the State. Let the process run its course. If the State doesn't approve it we stop  
23 at that point.  
24 Motion to close the public hearing. H Ames, W Wimmer second  
25 Action item for next meeting.  
26  
27

### **CONTINUED STUDY ITEM:**

28  
29 **Item No. 1. Sexually Oriented Businesses:** The Providence City Planning Commission will discuss areas for an  
30 amendment to the general plan and City Ordinances designating a Sexually Oriented Business (SOB) Zone.  
31 L Campbell said our first concern is the location that we have chosen. There is a head start program that is rather close  
32 to the considered zone. Is it our ordinance or the state ordinance that says 1000 feet?  
33 C Call said that you are looking at Provo's ordinance. The City doesn't have an ordinance yet. That is up to you.  
34 D Briel asked what you do if there is no place in the city that will work.  
35 C Call said you will have to allow them somewhere. You can't set restrictions that don't allow them access. You need  
36 more than one site for this zone.  
37 D Briel asked if it is a site or piece of property.  
38 C Call said if someone builds a church or school closer to the property, then you need to be aware of that and have  
39 another site available. There is no application so it is a little hard to get into to much detail with it.  
40 H Ames said in a small community in Washington they had an SOB come in next to a school. They had no ordinance in  
41 place and it was a big problem. We need to find a site that meets the requirements.  
42 C Call said there are some communities that didn't have any ordinance in place and they got hit. There is no question  
43 that you need to be prepared for it.  
44 L Campbell stated that we weren't aware of the problem until K Baker brought it to our attention. Our commercial zone  
45 is fairly limited. If we designate a zone and it is absorbed we can say sorry we had a spot but it is gone.  
46 C Call said if that happened you would have to designate another area.  
47 L Campbell said if we have the one spot and we set the parameters and it can't be within 1000 feet there is no other  
48 place for them to go. Do we still have a battle?  
49 C Call said yes. You would have to redraft the distance. You don't have to check every week to make sure you still have  
50 the space. You have to restore some options.  
51 H Ames asked if we say this is where it's going to be can we put into the ordinance that a special variance is needed.  
52 C Call said you have to present some viable options. You can't limit it to one area. You need to put them in a viable  
53 location.  
54 H Ames asked if we had six SOB businesses come in at once can we refuse 5 of them.  
55 C Call said there isn't a lot of case law in Utah or the United States. Each community has to make an effort. If there  
56 were already 5 or 6 in Cache Valley you would probably be alright.  
57 H Ames said it seems we need to pick a spot. We have an obligation to make sure we keep that spot open for SOB.

1 C Call said you don't want to pick a spot where you might rethink the distance requirement. It would be hard to stop a  
2 viable business from coming in.  
3 H Ames said a property owner could refuse to sell to an SOB. That could very easily happen here.  
4 C Call said that is not your fault. You may not have people in the area who will rent to that kind of business but you  
5 need to be prepared for it.  
6 L Campbell stated if they want to fight it they can go wherever they want.  
7 C Call said that is not the case now. A community banned total nudity and the Supreme Court upheld it.  
8 L Campbell asked what kind of power do we have and how can we use it.  
9 C Call said the City Council is going to define the place and adopt the zoning ordinance. The land use issue is do you  
10 want an overlay zone and where do you want it. This should be a relatively easy ordinance.  
11 H Ames said if we say this is where an SOB can go in a zoned area around Maceys then it becomes the developer's  
12 problem. If there is a pad available and the developer is ok with it, then that is not the city's problem.  
13 C Call said you don't call it an SOB zone you call it an industrial zone. The leases in place probably prohibit it.  
14 H Ames asked if it could be go across the street at the theatres. Can we use all of that as the zone? Then they have to get  
15 permission from the property owners whether they want it or not.  
16 C Call said I don't believe that this kind of business would come to a small community like Providence.  
17 S Bankhead said we are limited to our development properties by the owners.  
18 L Campbell said when the property changes hands the new owners could sell to those kinds of businesses.  
19 H Ames said I don't think that they would go onto a piece of property that was being used for something else.  
20 D Briel said he didn't think the City had a piece of property that was more than 1000 feet from a school or church.  
21 L Campbell said I would rather put it further away from Maceys . I don't want to take the chance that 30 years down the  
22 road the owners would be ok with this kind of business.  
23 H Ames said you have to remember that there are other businesses that won't allow it. I am trying to shift the burden of  
24 what may never happen away from the city to the property owner.  
25 W Wimmer said we are zoning it industrial with an overlay. It would be good for them to lease it to an industrial zone.  
26 H Ames said I am looking for land owners, leasers, property owners to take an interest in whether they want an SOB  
27 business in their area.  
28 G Busch said my concern is the business owners would fight this.  
29 H Ames said it has to go into a commercial zone. We make the owners fight the zone. The places you did find these in  
30 California were the old strip malls.  
31 W Wimmer asked if we set an industrial zone can we go back and change the ordinance distance from a school or  
32 church.  
33 C Call said that kind of thing could be in the licensing papers. You provide 2 levels of zones. You might want to call it  
34 commercial 1 and 2. Allow it in the CDG zone and keep it in a certain place. One of the advantages you have is you  
35 provide the most commercial area you have. We have no industrial area.  
36 H Ames asked if C Call would give a recommendation.  
37 C Call said put it into an area where there are viable businesses with more than one property owner. If it encompasses  
38 an area within a couple of blocks I wouldn't think a business could complain about that. Over time things change. This  
39 industry is becoming more main line. The people in Providence Utah would not want that kind of business here. It isn't  
40 a good idea to think that this won't happen. It is a small town. That is your commercial area. Maybe somewhere down  
41 the road someone might change their mind. You need to set something up legally.  
42 H Ames said let the market take care of it. Let the property owner's deal with it later. City and State politics can be  
43 weak when it comes to developers. Is there another good spot that meets the requirements?  
44 L Campbell said another option was on the 1200 South corner. It is close to Logan's residential area.  
45 C Call said you need to be aware of all residential areas.  
46 D Briel said I don't think we have an area that isn't to close to a residential area.  
47 H Ames said that is a tough one. You need to give us some strong guidance with this.  
48 L Campbell said the Macys building strip mall is vacant and I don't want them to move because of this business. There  
49 is always a what if.  
50 H Ames said we are looking at the least intrusive decision.  
51 C Call said you have land use laws, take all of this into consideration. Set it up as a conditional use.  
52 H Ames said if I am Mr. Organized Crime I am going to look at all of these little communities and get in wherever I  
53 can. If we have this commercial area and don't make it an overlay they will have an easier time coming in.  
54 L Campbell said if their attorney sees that the city has something on the books they will be less likely to mess with  
55 them.  
56 S Bankhead said instead of an overlay zone show it in the commercial area as a conditional use then they can go in  
57 anywhere they want in the commercial zone with the owner's permission.  
58 C Call said for those who want to maximize the area it would be problematic. If you have more than one land owner

1 at the time you set it there will be viable options. You don't want to open the door any wider than you have to. You can  
2 have a higher level of commercial zone or do an overlay zone. You will come out being more proactive. Craig Smith is  
3 very knowledgeable about city law. Do you have anything to add?  
4 C Smith said the city will probably never get an SOB here. You need to pick one location and say this is where it goes.  
5 H Ames asked do we say here is a commercial 2 area, but we don't define too much and say all other kinds of  
6 commercial businesses are not listed.  
7 L Campbell asked if the city can call our zone the commercial 2 zone.  
8 C Call said you just say this is a C1 zone, this is a C2 zone. In the licensing ordinance you say the SOB can only go into  
9 the C2 zone. You don't have the option to choose a zone that is right for this kind of business.  
10 D Briel asked if this would cover us on home businesses, would this keep this kind of business from becoming a home  
11 business.  
12 C Call said there are these kinds of businesses that have parties in their homes.  
13 H Ames said these kinds of parties are invited into their homes like a Tupperware party.  
14 S Bankhead said our office staff is trying to monitor this kind of home business. Our staff is trying to work on this to get  
15 the correct wording in our business license ordinance.  
16 H Ames said this sounds like something that we need to work on.  
17 D Briel agreed that this needs to be covered in the business licensing ordinance.  
18 L Campbell said our other issue is signs.  
19 S Bankhead said you still have to decide where the C1 or C2 zone is going to be.  
20 L Campbell said then the Commission decides the size of the sign.  
21 C Call said then you may decide that this is where the less offensive zones will go. If someone wants a gas station it will  
22 be allowed in C2 as a conditional use. Then let the Council work with the licensing.  
23 L Campbell said we find a spot for the C2 zone then do the licensing and then let the city council know what we have  
24 decided. These are our recommendations that they only have flat signs.  
25 C Call said the Supreme Court has found that these kind of businesses cause more problems than regular businesses do.  
26 They have certain rules they have to follow.  
27 D Briel asked when this is set is it set for everyone in the zone.  
28 C Call said you can put restrictions on the different businesses.  
29 L Campbell asked if this is put on the licensing ordinance.  
30 C Call said you will give the city council your opinion. They should look at all of your concerns.  
31 H Ames asked if C Call had wording on this.  
32 C Call said this kind of business uses neon signs. They have their way to tell the public what is going on. They are  
33 different than other business.  
34 H Ames asked if C Call could get the city some of the language instead of trying to reinvent the wheel.  
35 C Call said you want to pass something that is going to work for Providence City.  
36 S Bankhead said the city council did follow the language from Provo. They have put some licensing rules in place. At  
37 that time they were looking at doing it as more of an overlay zone with restrictions as part of the land use.  
38 H Ames said to summarize we are looking at a C1 or C2 zone with some kind of a definition for SOB. In the licensing  
39 area we will get some help wording it. We will not do an SOB overlay.  
40 L Campbell said that is my understanding. What do we need to do now?  
41 S Bankhead said you need to decide where the C2 zone is going to be.  
42 H Ames asked if you could have more than 1 C2 if you wanted.  
43 C Call said it may be in the SOB you could restrict it without inventing a zone.  
44 L Campbell said we have come up with 2 different areas. We will wait to see what C Call comes up with.  
45

#### **STAFF AND COMMISSION REPORTS**

46 L Campbell asked when is the chairman requested to be at the Council meetings.  
47 S Bankhead asked which meeting works for you.  
48 H Ames asked if L Campbell wanted to look at the agenda.  
49 W Wimmer asked if the chairman could be put first on the agenda unless requested otherwise.  
50 S Bankhead said we could put him on after the public comment. He could come to the 2<sup>nd</sup> meeting of the month for  
51 awhile to see how that works. If the chairman can't come he could designate someone else to attend.  
52 L Campbell asked if D Briel will be here on the 9<sup>th</sup>.  
53 W Wimmer said she didn't think there should be a meeting on the 23<sup>rd</sup> because of the Holiday. Can D Briel make a vote  
54 over the phone for a new chairman and a vice?  
55 S Bankhead said maybe you would like to change the by-laws and elect a chair every two years. According to the by-  
56 laws you select a vice chair and they become the chairman in July if the chair isn't put back on.  
57 L Campbell said he is ok with electing a vice chair and then they become the chair if the chair leaves.  
58

1 What if we change our meeting to July 30<sup>th</sup>? We would meet July 9<sup>th</sup> and the 30<sup>th</sup>.  
2 S Bankhead said that would be OK.  
3 L Campbell said at that time we can vote on the new vice-chair.  
4 W Wimmer asked if there was any news on the agreement between M Hoth and Anderson.  
5 S Bankhead said Anderson may have hit a snag on 300 north. The staff appreciates the commission keeping firm on that  
6 condition.  
7  
8 Motion to adjourn- W Wimmer, G Busch, second  
9 All in favor.  
10 Vote: Yea:  
11 Nay: None.  
12 Abstained: None.  
13 Excused: None.  
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19 Lance Campbell, Chairman  
20 Meeting adjourned at 7:55 p.m.  
Minutes taken and prepared by Terri Lewis

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Terri Lewis, Secretary