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3 **Ordinance No. 2017-009**

4 AN ORDINANCE changing the zone from Single-Family Traditional (SFT) to Mixed Use (MXD) for
5 Parcel No. 02-093-0028, a 2.03 acre parcel located at 196 West 100 North.

6 WHEREAS on April 5, 2017 Gene Ashton filed an application requesting the SFT Zone be changed to MXD
7 for a 2.03 (+/-) acre parcel located at 196 West 100 N.

8
9 WHEREAS UCA § 10-9a-102.(2) states “. . . municipalities may enact all ordinances, resolutions, and rules
10 and may enter into other forms of land use controls . . .” and

11
12 WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the
13 prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its
14 present and future inhabitants and businesses, to protect the tax base, to secure economy in
15 governmental expenditures, to foster the state's agricultural and other industries, to protect both urban
16 and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide
17 fundamental fairness in land use regulation, and to protect property values in areas that may be
18 considered sensitive, including but not limited to fire danger, slope, soil content.

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

26 **FINDINGS OF FACT:**

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

street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

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

Conclusions of Law:

- The application has been processed in accordance with the above codes.

Conditions:

- The general plan should be changed prior to rezoning the property.

- Providence City Planning Commission recommended the City Council deny the rezone request.

THEREFORE be it ordained by the Providence City Council

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

Ordinance adopted **failed** by vote of the Providence City Council this 9 day of May 2017.

Council Vote:

| | | | | | |
|---------------|---------|--------|-------------|---------------|------------|
| Allen, Kirk | (X) Yes | () No | () Excused | () Abstained | () Absent |
| Baldwin, Jeff | () Yes | (X) No | () Excused | () Abstained | () Absent |
| Drew, John | (X) Yes | () No | () Excused | () Abstained | () Absent |
| Giles, Dennis | () Yes | () No | (X) Excused | () Abstained | () Absent |
| Sneddon, Roy | () Yes | (X) No | () Excused | () Abstained | () Absent |

Mayor Calderwood broke the tie vote with a nay vote.

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

Providence City

Don W. Calderwood, Mayor

Attest:

Skarlet Bankhead, Recorder