

PLANNING COMMISSION MINUTES

Wednesday, February 28th, 2024, 6:00 pm

Providence City Office Building, 164 North Gateway Dr., Providence Ut

To view the video recording of the meeting please visit our YouTube channel found [HERE.*](#)

*There was an issue with the YouTube audio for the first half of the meeting.

Call to Order: Michael Fortune

Chair Roll Call of Commission Members: Robert Henke, Brian Marble (Had to leave mtg at 7:20 pm),
Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Members Absent: Joe Chambers

Staff in Attendance: Skarlet Bankhead, Ty Cameron & Colton Love

Pledge of Allegiance: Michale Fortune

Approval of Minutes: The Planning Commission will consider approval of the minutes for January 24th, 2024.

(MINUTES)

- Michael Fortune called for the approval of the minutes.
- Bob Washburn commented that on line 96 the word ‘safely’ should be included in the sentence. Also suggested that on lines 111-112 the words ‘building envelope’ also be included in the description as well as the words ‘safe and reasonable’. Commented that on line 207 it was him and not Brian Marble who commented on the large sign on Spring Creek Pkwy.
- Staff stated that they would make those requested changes.

Motion to approve the minutes of January 24th, 2024, with the stated corrections. – Bob Washburn. 2nd – Brian Marble.

Vote:

Yea- Robert Henke, Brian Marble, Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Nay-

Abstained-

Absent- Joe Chambers

Motion passes, minutes approved.

Public Comments: Citizens may express their views on issues within the Planning Commission’s jurisdiction.

The Commission accepts comments: in-person, by email providencecityutah@gmail.com, and by text 435-752-9441. By law, email comments are considered public record and will be shared with all parties involved, including the Planning Commission and the applicant.

- Michael Fortune opened the floor for public comment.

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- Staff indicated that a comment had come in via email but that it was for item 1 and that they would read it on the record when the item is called.
- No comments were made. Michael Fortune closed the public comment portion of the meeting.

Public Hearings/Presentations:

- **Item No. 1 PCC Amendments Clear View Areas and Residential Driveways:** The Providence City Planning Commission will take comments and questions from the public regarding proposed changes to city code 10-9 that deals with clear view areas and residential driveways.
 - Michael Fortune called item 1, gave a brief introduction, and opened the floor for public comment.
 - Ty Cameron, City Recorder, read a comment on the record that was emailed in by Kevin Moon. (Comment attached to minutes below)
 - No further comments were made. Michael Fortune closed the public hearing for item 1.
- **Item No. 2 PCC 11-4-8 Fiber System Code:** The Providence City Planning Commission will take comments and questions from the public in regard to establishing new code for the city's Fiber Optic Network as it relates to land use.
 - Michael Fortune called item 2, gave a brief introduction, and opened the floor for public comment.
 - No comments were made. Michael Fortune closed the public hearing for item 1.
- **Item No. 3 PCC Amendments Retaining Walls Use and Construction:** The Providence City Planning Commission will take comments and questions from the public regarding proposed changes to the city code that regulates the use and construction of retaining walls.
 - Michael Fortune called item 3, gave a brief introduction, and opened the floor for public comment.
 - Larry Radabaugh, resident and owner of an agricultural property in town has been cleaning up the construction mess since the start of the development that has been occurring near his property. The elevation of the property along with the wind has caused a lot of trash to end up on his property. Suggested construction of retaining walls be based on a commonsense approach, which involves using the property line as a possible divider or allowing retaining walls on property lines. However he noted that three feet would not suffice for large animals, and at least four to five feet minimum would be necessary. Larry realizes that there will be issues with retaining walls on sloping hills with landscaping and packing issues.
 - Loretta Buckley, a resident, shares her experiences with Larry and his property. She purchased her property in a hilly area before it was even a lot, and they chose the area due to its great view. Loretta had three documents to share with the Planning Commission: a topo survey, a geotext study, and construction documents for Sage Crest. The topo survey revealed 32 feet of fall from the lowest point of elevation to the grade to the sidewalk, with a section having a 57.1% grade. The international building code states that anything over 30% is extreme. She has also invested thousands of dollars in re-compaction of their lot to prepare for home construction. The color graphic, in her handout, provides a visual representation of all lots greater than 30% or higher.

While it is possible to put a retaining wall on these lots, it is important to be safe with the pressure for the surrounding areas.

- Loretta acknowledged that many residents have either purchased a lot or are waiting for them to be built on, as some properties are just lots with large piles of field that are pushing out and creating a big hill. As they continue to work on their property, they hope to provide more information and resources to help others navigate the complex process of building on these types of properties. Mentioned that terraced retaining walls are permitted where justified by topographic conditions, but the combined height of all walls must not exceed 12 feet. This is a concern for many homeowners, who have 32 feet of fall and want to landscape their property. She proposes adding an additional item number in the document under D on location height, separation, and plantings to address properties that have been raised. Agreed that terraced walls should be engineered to handle weight, water, and other factors. Also suggested that terraced walls can be raised, with the setback from a terrace doubled, and another wall added to give more height total. Asking for more consideration in the code changes and the proposed changes to include other options rather than landscaping.
- Larry Radabaugh commented on the engineering requirements and thought that it was a good idea that would help with any future issues such as flooding.
- Michael Fortune thanked those who have commented, noted that there were no more comments and closed the public hearing regarding this item.

➤ **Item No. 4 PCC Amendments regarding Sign Regulations:** The Providence City Planning Commission will take comments and questions from the public regarding proposed changes to the city code regarding sign regulations.

- Michael Fortune called item 4, gave a brief introduction, and opened the floor for public comment.
- No comments were made. Michael Fortune closed the public hearing regarding this item.

Legislative – Action Item(s):

➤ **Item No. 5 PCC Amendments Clear View Areas and Residential Driveways:** The Providence City Planning Commission will review, discuss, and may make a recommendation to the City Council regarding proposed changes to city code 10-9 that deals with clear view areas and residential driveways. [\(EXHIBIT\)](#)

- Michael Fortune called item 5, gave a brief introduction and asked Skarlet Bankhead to give a rundown of the amendments.
- Skarlet Bankhead commented that she has incorporated the most recent changes discussed in the previous meeting, including the use of new graphics created by Justin Blaylock. Staff believe these graphics capture the desired outcome. Skarlet addressed Bob Washburn's questions about a part of the code regarding driveways that is not suggested for changes to 10-9-4. That part is enforced through the stormwater code in Title 7 or the nuisance ordinance in Title 4. It states that if a home is built on a parcel of property that is not in a developed subdivision, such as those in downtown Providence with no curb, gutter, park strip, or sidewalk, it is considered a parcel of property. This allows the city to prorate and have certain infrastructure installed if it makes sense for the area. The stormwater part was crucial because it allowed people to consider stormwater

detention if their lot would cause additional runoff into the street. Clarified that the driveway changes have been successful in incorporating improvements into homes. Some people may be concerned about adding more construction costs, but most people are glad that the changes were incorporated, as they don't want to drive through the gravelly part or have issue with stormwater flooding.

- Noted that the focus of these amendments is on ensuring that people, regardless of their location, pay attention to their driveways and avoid down sloping them into their houses. Many people may choose to dig out a flat or lot to build a house and drive on it, which may not be suitable due to snow and melt. Having it in code is a better option. The Planning Commission asked if there are any current projects that require landowners or citizens to make changes to their existing lots. Skarlet clarified that there are no current projects that require changes to existing lots. The developers are currently in a lull on the development side, but they will be looking at final plats for highlands and copper heights. As they build infrastructure, they will start putting their infrastructure in and building them back up in late summer. The developers have made people aware of proposed changes to the codes and are now considering them when designing their houses.
- Parties discussed the safety issues of intersections and driveways in certain areas, such as on the 300 East and 100 East. Skarlet mentioned that there are numerous complaints about these intersections, particularly at the 300 East. The city does have a tree maintenance budget to address these issues but are more concerned about high traffic areas. Parties discussed certain issue areas that cars have trouble pulling out into traffic such as the road by Zions Bank that has some obstructions. The goal of this amendment is to reduce accidents and ensure the safety of all residents.
- Parties discussed the issue of park strips, Kevin Moons comment and suggestions regarding large park strips which can be problematic if large trees are planted in the park strip regardless of park strip size. The most common problem is the canopies, which block the view and can be difficult to see from the road. Some small trees are not tall enough to reach the eight feet trim requirement, making it difficult to view as well. Ty Cameron, City Recorder, reread Mr. Moons comment.
- Parties try to understand and clarify what the comment is saying about property lines going 25 feet up the property, as some language would make the triangle bigger and closer to the house. They believe that the property line should be taken into account when determining the size of the park strip, as it could affect the visibility for pedestrians and drivers.
- Robert Henke commented that the width of the park strip doesn't matter as much as how close it is to the street. Mentioned a situation they discussed last time where an undeveloped property line goes into the public right away or public street.
- Skarlet commented that the city acknowledges that sometimes a public right away over a lapse private property, and the clear view will be measured from the right of way line rather than the property line.
- Parties discussed placement of stop signs in park strips and requirements and if they have any bearing on these amendments. The Planning Commission emphasized the importance of considering the location and visibility of the park strip in relation to the street and the surrounding property lines and the potential impact of the current code on situations like the 300 E intersection.
- Parties continued discussion of the issue of trees blocking public view and the need for a clear intersection site. Skarlet commented that to address these issues, the lines were extended to create a triangle on the property and a rectangle type structure. Brian Marble acknowledges that the stop sign is not part of the amendment and must go where it has to go. However, the code states that nothing can block a stop sign.

- Parties discussed areas where there have been some near misses with pedestrians and making sure they approve these amendments, as their top priority should be safety. The goal is to ensure people can come to the intersection and see up the street while also being able to see what's happening on the sidewalk. This is important because sidewalk people sometimes get ignored.
- Parties discussed the tree removal process and who is responsible for what. Parties talked about the importance of open space before a tree can be placed on a parking strip in clear view areas. Parties wonder if there exists engineering that can determine the safe distance between a tree and other obstacles, such as stop signs or curbs. Skarlet commented that there is no engineering available to determine the safe distance between trees and parking strips but mentioned that many communities have clear view areas larger than 30 feet.
- Shelly Nazer commented that she believes they were overthinking the issues and that these amendments cover their intent in providing safety to the city's residents.
- Parties discussed the feet requirement, graphs and the need to make sure public comments are addressed.
- No further comments or discussion. Michael Fortune called for a motion.

Motion to recommend to the City Council that they approve the amendments to City Code 10-9 in accordance with the findings of fact, conclusions of law and conditions as laid out in the staff report. – Bob Washburn. 2nd – Robert Henke.

Vote:

Yea- Robert Henke, Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Nay-

Abstained-

Absent- Joe Chambers & Brian Marble.

Motion passes.

➤ **Item No. 6 PCC 11-4-8 Fiber System Code:** The Providence City Planning Commission will review, discuss, and may make a recommendation to the City Council regarding a new code for the city's Fiber Optic Network as it relates to land use. [\(EXHIBIT\)](#)

- Michael Fortune called item 6, gave a brief introduction and asked Skarlet Bankhead to give a rundown of the amendments.
- Skarlet Bankhead commented on the repetitiveness of the code but that it was needed. Discussed private versus public developments and that conduit installed by the developer on behalf of the city will be owned by the city. This is a requirement for both public and private systems. Gave examples of ownership regarding developments that are private versus those that are public. Noted that this is just a piece of the overall fiber code and that they are reviewing it because it deals with land use.
- Parties discussed city versus private ownership as it relates to utility lines. Mrs. Bankhead commented that this code makes it clear that the fiber lines is owned and will be maintained by the city.

Motion to recommend to City Council that they approve PCC 11-4-8 Fiber System in accordance with the findings of facts, conclusions of law and conditions as stated in the staff report, and with the addition that lines 20 & 36 include the word 'development'. – Bob Washburn. 2nd – Robert Henke.

Vote:

Yea- Robert Henke, Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Nay-

Abstained-

Absent- Joe Chambers & Brian Marble.

Motion passes.

➤ **Item No. 7 PCC Amendments Retaining Walls Use and Construction:** The Providence City Planning Commission will review, discuss, and may make a recommendation to the City Council regarding proposed changes to the city code that regulates the use and construction of retaining walls.

(EXHIBIT)

- Michael Fortune called item 7, gave a brief introduction and asked Skarlet Bankhead to give an overview of the amendments. Michale Fortune asked if item 7 referenced item number 9 on the agenda and if it would be best to call item 8 and then call item 7 and 9 together.
 - Skarlet Bankhead responded that they do go together in a sense. Noted that item 7 was discussed at the last meeting and is just the diagram that they are reviewing. Item 9 comes from that City Council where they have asked the Planning Commission to review and make recommendations. Mentioned that item 7 was on for a public hearing tonight and that item 9 is just a study item and that the public hearing will be had by the City Council.
 - Parties agree to move on to item 8 and then call item 7 & 9 together as they both deal with retaining wall code.
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- Michale Fortune called item 7 and item 9, gave a brief introduction, indicated that they are seeking to make a recommendation on item 7 and that item 9 is a study item for them to review and make comments and then send back to City Council where they'll have a public hearing and move forward with approving those amendments.
 - Parties discussed the updated diagram in item 7's staff report. Michael Fortune asked about walls being built on property lines so long as the neighbors agree and that it is recorded for future owners.
 - Parties discussed allowing fences on retaining walls. The parties talked about retaining walls that are six feet or higher with a fence. Scarlett believes that putting a fence on top of a retaining wall makes it part of the fence, but the fence ordinance allows for higher heights based on topography for safety and privacy issues. However, if a fence is directly on top of a retaining wall, the height is read as a combined height which may make the fence taller than it should be. The overall fence ordinance also discusses extending the height of a fence due to topography. If the fence is not attached to the retaining wall but is right next to it, it is acceptable. However, the concern is that if a retaining wall is six feet high, there may be a safety issue with animals, children, and adults falling over it.
 - Parties commented on retaining wall height and what would be recommended as the optimal height or restrictions. Commented that the height restriction currently in place is eight feet for single retaining walls and twelve feet for terraced ones. However, if the wall is large enough for another property or public right away, it can be higher than twelve feet. This rule is not absolute, but it is seen as a solution to many problems.

- The Planning Commission agreed that they like the terrace walls that allow for walls to be higher so long as the horizontal is double. Parties acknowledge that they may not want people to end up with fifty-foot walls, but they believe that having a terrace wall spread out on the property could help. They also mentioned that the new rule would make it safer if the distance was doubled horizontally, but they must have at least a minimum. The parties discussed making the code consistent and in line with other retaining wall codes other cities have in the valley.
- The Planning Commission noted the importance of recorded easements in property agreements, as it prevents the possibility of disagreements between neighbors. If a neighbor agrees to build a retaining wall, they must put their name on the line, which is crucial for future buyers. The ordinance also clarifies that when building on the property line with both parties, the height of the wall can be eight feet.
- The parties continued discussion of wall heights. The maximum height for a retaining wall can vary depending on the elevation of the property. For example, if property A is on the downside with an exposed side of eight feet and property B is on the upside with an exposed side of only four feet, the wall would measure from the biggest side, from the foot from the tallest side of the exposed side of the soil. The footing would not be an average or between the two pieces of property, but from the exposed side.
- Skarlet discussed the requirements for a single retaining wall on a property line. The retaining wall must not exceed eight feet, and it is important to harmonize the requirements between the setback and the middle of the property. If the retaining wall is on the property line, it is still in the setback unless an agreement is made, which can be either six or eight feet. If it is on the rear or non-street side setback, retaining walls greater than six feet or where they expose side of the wall faces out are subject to the same requirements as the main structure.
- Loretta Buckley commented on retaining wall and fence heights and the need to go higher in some properties that's have animals, notes that if the fence or wall is too low the animals can get over. Also commented on the importance of topo surveys when people go to buy a house or a lot.
- Parties discussed retaining walls on slopes or where there is a difference in elevation along the retaining wall making the wall vary in size which would require footings to extend along the slope.
- Parties talked about the engineering requirements. Parties continued discussion of terraced walls.
- Parties discussed the necessity of engineering for permanent loads, such as protection systems against slope erosion and adjacent structures. If a load is present, such as a building or something, it may be necessary to have an engineering design. For example, if a two and a half-foot wall is only five feet away from a house, it may not be suitable. However, if a retaining wall is needed for a side yard, it should be the same distance as the main structure. Skarlet noted that in some cases, a retaining wall can be used to create an entryway with stairs that go up part of the wall, which is right next to the house and only four or five feet away depending on how the steps are designed. Parties also emphasized the importance of being site-specific in engineering design, as it helps to ensure that the design is tailored to the specific needs of the site.
- The Planning Commission commented on allowing for other options, other than just landscaping to help prevent issues or erosion such as pickleball or basketball courts, artificial turf, drip systems, and other sustainable practices.
- Parties talked about the design engineer being required to conduct regular inspections during the construction of a wall and provide a final report that is certified. This information should be recorded and accessible for property owners, buyers, and sellers. The recommendation is to

include all engineering drawings in the building permit application, including any modifications made along the way.

- Bob Washburn commented that part of the code seems to technical and that it didn't belong as it seems like it clutters the code, suggested that it be placed in one of the manuals or guidelines that the city or public works uses. Mrs. Bankhead responded that it has to be detailed to show what is required and that a lot of developers or engineers use the code for reference for understanding the required wording and requirements. Loretta Buckley pointed out that the terms listed in the code are not mentioned in any significant engineering studies, suggesting that the information may be outdated. Suggested that the city engineer review the code and identify which terms are not common.
- Parties discussed engineering reports, soil testing and other studies that could be done to make sure lots are safe.

Motion to recommend to City Council that they approve the code amendments to PCC 10-8-3 as shown in item 7 in accordance with the findings of fact, conclusions of law and conditions as found in the staff report – Rober Henke. 2nd - Bob Washburn.

Vote:

Yea- Robert Henke, Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Nay-

Abstained-

Absent- Joe Chambers & Brian Marble.

Motion passes.

➤ **Item No. 8 PCC Amendments regarding Sign Regulations:** The Providence City Planning Commission will review, discuss, and may make a recommendation to the City Council regarding proposed changes to the city code regarding sign regulations. [\(EXHIBIT\)](#)

- Michael Fortune called item 8, gave a brief introduction and asked Skarlet Bankhead to give an overview of the amendments.
- Skarlet Bankhead noted that this item was on the agenda at the last meeting and that it is being brought back to the Planning Commission with their recommended changes from that meeting.
- Bob Washburn asked if they need to address temporary electronic message boards that are usually found on streets to direct traffic or warn of construction. Also asked about wall signs and if painted on signs counted or were regulated. Mrs. Bankhead responded that she could include a section specific to traffic control signs but that the temporary sign section should cover that but if its utilized by UDOT they may have their own regulations. She noted that painted wall signs are covered, like that one at Macys but that wall murals or art are not covered or included. Parties discussed advertisements versus wall murals. Skarlet commented that she could include a section about wall murals or wall art.
- Parties talked about roof signs and regulating them. Discussed doing more research.
- The Planning Commission discussed incandescent illumination and wondered if they should just strike incandescent and make it less specific. Parties agreed that making it more general would be beneficial.
- Parties talked about bringing this back with their recommendations or approving it with their recommendations stated in the motion. The Planning Commission agree to move it to City Council.

Motion to recommend to City Council that they approve PCC amendments regarding Sign Regulations with the before mentioned recommended changes in accordance with the findings of facts, conclusions of law and conditions as found in the staff report – Bob Washburn. 2nd – Robert Henke.

Vote:

Yea- Robert Henke, Michale Fortune, Bob Washburn & Shelly Nazer (Via Phone)

Nay-

Abstained-

Absent- Joe Chambers & Brian Marble.

Motion passes.

Administrative Action Item(s): None

Study Items(s):

- **Item No. 9 PCC Amendments Regarding the Use and Construction of Retaining Walls:** The Providence Planning Commission will review and discuss proposed changes to the city code that regulates the use and construction of retaining walls and make any recommended changes or suggestions.

(EXHIBIT)

- This item was called and discussed with item 7. The Planning Commission moved that staff make the recommend changes and updates per their discussion and bring this back in a future meeting to review and further discuss.

Minutes approved by vote of Planning Commission on ____ day of _____ 2024.

Michael Fortune, Chair

Ty Cameron, City Recorder.

Emailed Comments.

Hello,

I cannot attend tonight's meeting, but I wanted to propose that the size of the park strip be taken into account in the proposed rules. For neighborhoods with very large park strips, the proposed rules result in a very large triangle that is more than enough for clear views and could prevent owners from planting trees in park strips that still preserve plenty of visibility.

I propose instead that the edge of the triangle be the maximum of a) the triangle formed by 25' measured from the property line/city right of way and b) the triangle formed by 30' from the edge of

412 the street. In this case, the triangle would have a side length at least 30' away from the street, but
413 wouldn't make it as large if the park strip is large. This would still provide plenty of visibility for
414 pedestrians and drivers.

415

416 Thank you,

417

418 Kevin Moon