

PLANNING COMMISSION MINUTES

Wednesday, January 24th, 2024, 6:00 pm

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

To view the video recording of the meeting please visit the city's YouTube channel found [HERE.](#)

HR. MIN. SEC. in green are timestamps of the YouTube recording.

Call to Order: Brian Marble, Vice Chair

Chair Roll Call of Commission Members: Shelly Nazer, Robert Henke, Brian Marble, Bob Washburn and Michael Fortune (Via Zoom)

Members Absent: Joe Chambers

Staff in Attendance: Ryan Snow (City Manager), Skarlet Bankhead (Community Development Director) & Ty Cameron (City Recorder)

Pledge of Allegiance: Shelly Nazer

1 MIN 15 SEC.

Approval of Minutes: The Planning Commission will consider approval of the minutes for November 8th, 2023 & January 10th 2024. [\(NOV. 8th\)](#) & [\(JAN. 10th\)](#)

- Brian Marble called for the approval of the minutes of November 8th and January 10th and if any corrections were needed.
- Regarding the November 8th meeting minutes Bob Washburn commented that on line 86 the word 'they' should be 'the' and on line 149 the word 'are' should be 'area'.
- Shelly Nazer noted that she submitted her corrections to staff. Staff responded that they would make those corrections.

Motion to approve the minutes of November 8th, 2023, with the stated corrections – Bob Washburn 2nd – Shelly Nazer.

Vote:

Yea- Shelly Nazer, Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-

Abstained-

Absent- Joe Chambers

Motion passes, November 8th minutes approved.

- Brian called for any corrections for the minutes of January 10th.
- Bob Washburn asked if the wording on line 61 regarding 'nonwaiver' could be clarified. Asked if also line 58 should be reworded or clarified as it didn't make sense. Staff confirmed that as the code reads now signs with lights are not allowed on the highways. Staff recommended changing the sentence to include the wording 'have been installed and utilized' as a better way of clarifying what was discussed. Planning Commission agreed. Staff recommend striking the 'nonwaiver' wording as the sentence is complete and clear without it.
- Bob Washburn noted that on line 127 the word 'away' should be 'a way'.

- Staff reported that they will make those changes.
- Shelly Nazer informed that she would abstain from voting as she was not present at the meeting.

Motion to approve the minutes of January 10th, 2024, with the stated corrections – Bob Washburn 2nd – Robert Henke.

Vote:

Yea-Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-

Abstained- Shelly Nazer

Absent- Joe Chambers

Motion passes, January 10th, 2024, 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.

- Brian Marble opened the floor for public comment.
- Staff informed that no comments had come in via text or email.
- Brian Marble closed the public comment portion of the meeting.

Public Hearings/Presentations: None

Legislative – Action Item(s): None

Administrative Action Item(s): None

Study Items(s):

14 MIN 35 SEC.

- **Item No. 1 PCC Amendments regarding clear view areas and residential driveways:** The Providence City Planning Commission will review and discuss proposed changes to city code 10-9 that deals with clear view areas and residential driveways. **(EXHIBIT)**

- Brian Marble called item 1, gave a brief introduction, and asked how the Planning Commission should review these amendments. Noted that this item was on the agenda 2 weeks ago but was continued to allow the Planning Commission more time to review the ramifications these changes would have. Asked if Skarlet Bankhead would give another overview of these amendments.
- Skarlet Bankhead commented that the city receives numerous calls from people concerned about the safety of intersections, especially during summer when tree vegetation grows. The city

realized that in areas where people are doing landscaping or new subdivision or builds, they don't always remember regulations. To address this, the city decided to make their code easier to understand what is and isn't allowed pertaining to clear view areas and site triangles with different road curves or intersections. For example, the intersection at Sarah St and Spring Creek Parkway, where people felt that stop signs should be placed due to traffic in the area. A traffic analysis revealed that the area warranted a four-way stop, but not due to traffic volume. The issue was due to the curves of the road, the placement of the intersection, and some landscaping trees, which made it very difficult for people on Sarah St. to pull safely into traffic.

- Mrs. Bankhead noted the biggest problem is the trees in the area. The previous code allowed trees in clear view areas as long as their trunks were no bigger than 12 inches in diameter and the canopy was at least eight feet high. However, trees in the area are not tall enough for the canopy to be out of the way and in the future the trees diameter could grow beyond 12 inches. Tree canopies are blocking stop signs and clear views, some are being asked to be removed from certain areas due to their size and height which now has exceeded the diameter requirement. The code states that tree canopies or growth should not block signs, signals, or streetlights. Vegetation is also blocking street signs in some places. Most of these issues can be resolved by updating the code to be consistent with what other cities are doing in the surrounding area. Complaints from citizens have brought this issue to the city's attention.
- Mrs. Bankhead commented that regarding the code amendments for driveways; residential driveways have been problematic recently for some homeowners, the city, sidewalk clear views, and for safety purposes based on new subdivisions and landscaping. To address this issue, the amendment has introduced provisions for residential driveways. These amendment proposals ensure that people, when building their homes, especially in hillside areas, consider the building envelope, the placement of their house and ensure that access to the lot is within code compliance and is in a safe and reasonable manner. If a house is placed in a location that makes access difficult, the lot could be utilized where it was placed, but could cause unforeseen issues in the future and there is no code that would tell anyone to look for these issues. These changes will also be included in the ADU code the Planning Commission will be reviewing next time.
- The Planning Commission clarified that the wording in red was the requested changes and the wording in black is what is currently in the code.
- Parties discussed if any of the code is grandfathered in. Staff commented that regardless of any grandfathered clause if there is a life safety issue the city can move forward to address that issue.
- Parties talked about who is responsible for removing the trees or fixing the landscape to comply with code. Staff responded that in most cases it is the homeowners responsibility. Park strips and landscaping in the park strips are also the responsibility of the homeowner. residents are supposed to follow the code and should maintain it. If a hazard is identified, the city may work with the property owner to follow the ordinance. Also, if the city is involved in a project, such as widening a road, and if it fixes a safety problem in the area, it may be covered at the city's expense. The responsibility for tree removal is often the responsibility of the homeowner.
- Shelly Nazer asked about utility poles in clear view areas. Parties discussed utility poles and flag poles which would be allowed so long as their diameter doesn't exceed 12 inches. Parties give and address the example and issue of Spring Creek Pkwy and 300 E. Planning Commission noted that the intersection is also affected by a chain link fence along the road, which is difficult

to see due to the growth of grass and weeds. The owner recently trimmed the fence or weeds, but the vegetation growing along the fence is difficult to keep down.

- Parties review the clear view graphic, and how it would apply to this issue on 300 E. Staff responded and showed that the site triangle is 30 feet wide and 20 feet off of the corner and setback. The property lines at this intersection affect the intersection more than the other intersections, but that is because the property line goes out into the middle of the street. Back then building a street on private property was common because roads were initially placed along property lines, and the County didn't necessarily own the property. As the city develops, the city works with people/residents to dedicate property to avoid paying property tax and to avoid issues like these. However, some areas have remained undeveloped, and property lines are the way they are until they get developed and can be reworked.
- Staff commented that the majority of intersections in the city don't have this problem but that they are proposing to update this code to allow the city to address the ones that do.
- Parties discussed the issue of trees being planted in the park strip and the issues they cause if they are in the clear view site area, such as the trees on Sarah St and Spring Creek Pkwy which makes it really hard for residents to see oncoming traffic, especially since the road is curved as well. Staff noted that some of the issue is that when the trees were first planted it didn't obstruct any views but now that it has grown and there is more foliage, they are causing problems. It is recommended that no tree be placed in the park strip area that is in the clear view site area. Parties discussed the measurements of the clear view site area. Parties discussed the issue of trees not in the clear view area that cause problems. Staff responded that overall regardless of where its at if there is cause for concern regarding life safety issues the city will take action.
- Brian Marble discussed the need for safety measures in the city, including the removal of trees. Agrees that safety is essential but also wants the city to avoid being known for chopping down trees. Suggested considering safety hazards and concerns in earnest, especially in corners where trees have been there for a long time and are expensive to remove. Also suggested being cautious about who pays for the removal of trees, as it could upset citizens and is expensive. Doesn't believe a tree should be removed just because it can or because the code says it should be removed. Notes that some things or areas should be grandfathered in if safety is not an issue.
- The parties discussed examples in the city and in their neighborhoods of trees that would be considered an issue by the new measurement of clear view site code and how it would be addressed. Asked if a tree could be cut down if it was in the clear view area but did not have any safety issues. Staff responded that having no trees in the new clear view area is what would be recommended. The new code is about resolving current issues and preventing future ones.
- Parties discussed the importance of balancing the enforcement of ordinances with the need for a balance between removing trees and ensuring they meet the city's code. Commented that the city can remove trees at any time, but concerns arise about the cost and safety of doing so. Staff acknowledges that if a tree is not causing a safety hazard, it may not be removed.
- Ryan Snow highlighted that the city acknowledges that if the city doesn't enforce an ordinance, it does not mean they are giving up their rights to enforce it in the future. Commented that they do not have to enforce everything every minute. Reiterated that the goal is not to force people to tear down their trees, but to solve problems in the future and make sure above all else are citizens are safe. Mentioned that the council does not have a budget to approve tearing down every tree.

Emphasizes the importance of balancing the enforcement of ordinances with the need for a balance between removing trees and ensuring the safety of the community.

- Staff commented that guidelines, like these amendments, are a great way to prevent future problems and ensure that any legitimate problem is addressed if it is a safety issue. The city's intent is to follow this process or code, focusing on issues that interfere with pedestrian or vehicle traffic safety. If a tree is not a safety problem, it would not need to be addressed, unless it was shown that it could become a problem.
- Robert Henke stated that using common sense was a must and forcing residents to cut down trees is acceptable as long as it is done for legitimate safety reasons but that we should avoid burdening the resident with unnecessary cost.
- The Planning Commission asked staff when the last time was that they had to remove trees. Staff responded that they probably have removed about a dozen or so trees in the last year, noted that they had quite a few road projects, so the cost was fronted by the city. Some were removed due to sidewalk cracking up and for new trails. Mrs. Bankhead added that the city does do a lot of noticing for residents to make sure they keep their trees trimmed.
- Parties discussed how this will be enforced or monitored. Staff replied that it will be or should be included in site plans, plats and construction drawings, so that they can see what kind of clear view area is being followed.
- Bob Washburn commented on their review and their responsibility to make a recommendation and that they can add things if they feel it is necessary, if the City Council accepts great if not, at least we brought it to their attention.
- Parties discussed changing up the measurement or including a second set of measurements due to property lines and roads sometimes not matching.
- Parties discussed how developers, contractors, landowners etc. will be responsible for making sure they meet the new requirements and who will be responsible for enforcement and making sure they are compliant and responsible for any fixes.
- Robert Henke asked how property lines are established on round-a-bouts. Parties reviewed an example of a round-a-about and how clear view site lines would work. Parties discussed property line setbacks versus building setbacks. The parties talked about park strip dimensions and extension of site triangle. Skarlet Bankhead commented on updating the illustration to include shading.
- The parties continued discussion of if a grandfather clause needed to be included. Discussed including wording for all obstructions that interfere with safety, for example signs. Bob Washburn commented on a large sign on Spring Creek Parkway that blocked some of the view of the intersection. Staff noted that the city can use other code, such as the nuisance code, to enforce or address safety concerns and that making this code specific or defined should help be more transparent on what we are trying to accomplish. The parties discussed if retaining walls and fences should be addressed or included.
- Parties talked about the trees in the historic district.
- Micheal Fortune commented that the Planning Commission really needed to know the ins and outs of this code before it goes to a public hearing so that they can address any issues, concerns or questions the residents might have.
- Parties addressed the residential driveway amendments and the need to change it up to provide safety measures to residents and homeowners. These changes will help mitigate stormwater

issues. The parties discussed driveway slope or grade. Parties noted what material can be used to construct driveways. Parties discussed building and fire code standards as they relate to driveways.

- Parties talked about setback as they relate to property lines and driveways.
- The Planning Commission reviewed that changes they would like to see and the public hearing process.

Motion to move item to a public hearing with the requested changes that have been presented here tonight – Robert Henke. 2nd – Bob Washburn.

Vote:

Yea- Shelly Nazer , Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-

Abstained-

Absent- Joe Chambers

Motion passes, item to be set for a public hearing.

2 HR. 04 MIN. 50 SEC.

- **Item No. 2 PCC 11-4-8 Fiber System Code Introduction:** The Providence City Planning Commission will review and discuss establishing new code for the city's Fiber Optic Network as it relates to land use. [\(EXHIBIT\)](#)

- Brian Marble called item 2, gave a brief introduction, and confirmed with Skarlet Bankhead that this was all new code. Mrs. Bankhead responded that yes this was all new code. Noted that the City Council would be having a public hearing on the rest of the code but that this piece of the code dealt with land use, which is why the Planning Commission is to review it, hold a public hearing and make a recommendation.
- Mrs. Bankhead explained the purpose of the new code was because the city was taking on fiber as a new utility. Noted that this part of the code that the Planning Commission is reviewing has to deal with making sure developers understand their requirements and responsibilities in making sure their developments include fiber, just like any other utility.
- Parties discussed who is responsible for putting in the conduit and if issues arise who is responsible for fixing those issues. Staff responded that after the warranty it is the city's responsibility. The developer is responsible for laying the fiber but that the homeowner would be responsible for connecting it to their home.
- The Planning Commission have no issues or corrections with what is being presented.

Motion to move item to a public hearing – Shelly Nazer. 2nd – Bob Washburn.

Vote:

Yea- Shelly Nazer , Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-

Abstained-

Absent- Joe Chambers

Motion passes, item to be set for a public hearing.

2 HR. 12 MIN. 35 SEC.

- **Item No. 3 PCC Amendments regarding the use and construction of retaining walls:** The Providence City Planning Commission will review and discuss proposed changes to the city code that regulates the use and construction of retaining walls. (EXHIBIT)
- Brian Marble called item 3, gave a brief introduction and asked Skarlet Bankhead to give an overview of the code changes.
 - Skarlet Bankhead commented that these code amendments have been in the works for awhile as the city has seen residents use more and more retaining walls on their property's, especially as developments move to the hill side. Noted that retaining walls are being used to build up a lot or elevation to meet the homeowners design for their home, sometimes at the expense of their neighbors. Relayed recent issues the city has dealt with regarding retaining walls being built without regard to code or compliance. Part A of this amendment or code is what is currently in the city code, which developers should be following; however, some developers have found loopholes in the code and the city is bring these amendments to address those issues or loopholes and make sure homeowners and neighbors aren't having issues. Continued that developers were following the letter of the law but not the spirit of it. Mrs. Bankhead noted that she included the whole code even though the Planning Commission would only be holding a public hearing and making a recommendation on the first part of the code and graphic, and the City Council will address the remaining part.
 - Parties clarify what they will be making a recommendation on. Parties discussed the definitions as presented in the staff report.
 - Parties review the graphics, set back requirements and restrictions.
 - Bob Washburn asked about lots that bud up against an agricultural zone and allowing walls to be built on the property line. Parties discussed the issues that could bring in the future if that agricultural zone ever became developed. Robert Henke stated that walls should not be allowed to be built on the property line.
 - Parties discussed adding an additional graphic to show agricultural lots and what would be allowed.
 - Planning Commission asked if walls could be built on property lines if both neighbors agreed. Mrs. Bankhead referenced that is has been allowed in the past and there have been issues that have arisen based on there not being any contract or financial obligation or recording, so if they allowed such the city would want something in place. That way future residents would know what was agreed to before they bought the property.
 - Parties talked about how contracts or financial obligations would be initiated, especially if one of the owners built the whole wall and the other owner just agreed to it.
 - Parties talked about adding 2 new graphics to the code to show shared walls, property lines or walls against agricultural zones and including measurements in the graphic.
 - Parties commented on the Governor's new 1st time homebuyer program or initiative and some of the issues that may bring.

- The Planning Commission requested that when this goes to public hearing that only the items that they are to address and make a recommendation on should be included in the agenda. Staff agreed.
- The parties discussed the contradiction in the wording on line 12 regarding the 6 feet in height requirement. Mrs. Bankhead responded that she would fix that to the required 3 feet.

Motion to move item to a public hearing – Shelly Nazer. 2nd- Bob Henke.

Vote:

Yea- Shelly Nazer, Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-

Abstained-

Absent- Joe Chambers

Motion passes, item to be set for a public hearing.

Motion to adjourn meeting. – Robert Henke. 2nd – Shelly Nazer.

Vote:

Yea- Shelly Nazer , Robert Henke, Brian Marble, Michael Fortune & Bob Washburn.

Nay-


Abstained-

Absent- Joe Chambers

Motion passes, meeting adjourned.

Minutes approve by vote of Commission on 28th day of February 2024


Michael Fortune, Chair


Ty Cameron, City Recorder