Ordinance 2019-16

SHORT TITLE:

An ordinance enacting the Mill Race PRO zone. Downtown neighborhood. (PLOTA20190046)

I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL	√		
CW 2	GEORGE STEWART	√		
CD 1	GARY WINTERTON	√		
CD 2	GEORGE HANDLEY	√		
CD 3	DAVID KNECHT	√		
CD 4	KAY VAN BUREN	√		
CD 5	DAVID HARDING	√		
	TOTALS	7		

This ordinance was passed by the Municipal Council of Provo City, on the 23rd day of April 2019, on a roll call vote as described above. Signed this 8th day of May 2019.

Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 9th Day of May 2019.

Mayor

Ordinance 2019-16

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 9th day of May 2019, with a short summary being published on the 28th day of April 2019, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2019-16.

PROVO CITY SEAL
INDUSTRY AND COMMERCE
UTAH COUNTY, UTAH

Amanda Graxiorack
City Recorder

ORDINANCE 2019-16.

AN ORDINANCE ENACTING THE MILL RACE PRO ZONE. DOWNTOWN NEIGHBORHOOD. CITY-WIDE IMPACT. (PLOTA20190046)

WHEREAS, it is proposed to enact Provo City Code Chapter 14.50(37) (Mill Race Project Redevelopment Option Zone) to create the zone denominated as "PRO-A-37"; and

WHEREAS, the applicant is requesting approval of a new PRO zone in order to complete the project on the block between 500 South and 600 South, and 100 West and University Avenue; and

WHEREAS, the proposed text amendment specifically addresses design standards and regulations for the proposed development; and

WHEREAS, the differences between the ITOD zone and the proposed PRO zone are an increased building height maximum, specifically defined parking standards, and the omitting of the minimum average unit size regulation; and

WHEREAS, on April 10, 2019, the Planning Commission held a duly noticed public meeting to consider the proposed amendment and after such meeting the Planning Commission recommended approval to the Municipal Council by a vote of 5:0; and

WHEREAS, on April 23, 2019, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code Chapter 14.50(37) (Mill Race Project Redevelopment Option Zone) should be enacted, and (ii) the proposed enactment reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

NOW THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Chapter 14.50(37) (Mill Race Project Redevelopment Option Zone) is hereby enacted as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

Chapter 14.50(37) Mill Race Project Redevelopment Option Zone, denominated as "PRO-A-37."

Sections:

- 14.50(37).010 Purpose and Intent.
- 14.50(37).020 Compliance with Titles 14 and 15 Required.
- 14.50(37).030 Permitted Uses.
- 14.50(37).040 Single Ownership and Control.
- 14.50(37).050 Lot Area.
- 14.50(37).060 Minimum Finished Floor Area.
- 14.50(37).070 Lot Depth.
- 14.50(37).080 Lot Frontage.
- 14.50(37).090 Residential Density.
- 14.50(37).100 Yard Requirements.
- 14.50(37).110 Projections into Yards.
- 14.50(37).120 Garbage Collection.
- 14.50(37).130 Building Height.
- 14.5037).140 Distance Between Buildings.
- 14.50(37).150 Permissible Site Coverage.
- 14.50(37).160 Parking, Loading, and Access.
- 14.50(37).170 Notice of Parking and Occupancy Restrictions.
- 14.50(37).180 Project Plan Approval/Design Review.
- 14.50(37).190 Fencing Standards.
- 14.50(37).200 Inclusionary Housing

14.50(37).010 Purpose and Intent.

The purpose and intent of the Mill Race Project Redevelopment Option (PRO-A-37) zone is to establish a well-planned, high density, mixed-use development zone. The standards set forth herein are intended (1) to capitalize on the close proximity to the UTA Front Runner Station and the Utah Valley Express BRT transit line for commuter arrangements to reduce vehicle usage; (2) to encourage pedestrian movement through convenient access to transportation and well-placed walkways and pedestrian connections; (3) to beautify and improve the block in a way that will benefit current and future residents and neighbors; (4) to incorporate artistic elements from the local artist community, forming a cohesive atmosphere between the new project and current residents.

14.50(37).020 Compliance with Titles 14 and 15 Required.

In addition to the PRO development standards contained in this Chapter, areas zoned to the Mill Race PRO zone shall comply with the development requirements in Provo City Code Titles 14 and 15 that have not been specifically addressed within this Chapter.

14.50(37).030 Permitted Uses.

(1) Those uses or categories of uses as listed herein, and no others, are permitted in the Mill Race PRO zone:

a) Apartments and condominiums;

b) Residential facilities for the elderly or disabled (see Section 14.34.230, Provo City Code);

c) Public utilities and rights-of-way, including accompanying facilities;

d) Police protection and related activities, branch (office only);

e) Religious activities;

f) Parks;

g) Parking structures or facilities;

h) Professional Office;

i) Variety stores;

j) General retail;

k) Food or grocery stores;

l) Eating places, restaurants;

m) Banks;

n) Postal services;

o) Duplicating services;

p) Pharmacy;

q) Reception centers and other similar uses;

r) Fitness centers and other similar uses;

s) Hotel or nightly rentals;

t) Vending machines or business;

u) Communications;

v) Day care; and

w) Personal services (including laundry, barber shop, clothing repair and other similar uses).

(2) *Permitted Accessory Uses.* Accessory uses and structures are permitted in the Mill Race PRO zone, provided they are incidental to and do not substantially alter the character of the permitted principal use of structure. Such permitted accessory uses and structures include, but are not limited to, the following:

a) Accessory buildings such as garages, carports, greenhouses, gardening sheds, recreation rooms, and similar structures which are customarily used in conjunction with and incidental to a principal use or structure;

b) Swimming pools and incidental accessory structures subject to the standards of Section 14.34.210, Provo City Code;

c) Vegetable and flower gardens;

d) Home occupations subject to the regulations of Chapter 14.41, Provo City Code;

e) Storage of materials used to construct a building, including the contractor's temporary office; provided, that such use is on the building site or immediately adjacent thereto; and provided further, that such use shall be permitted only during the construction period and thirty (30) days thereafter;

f) Household pets; provided, that no more than two (2) dogs and two (2) cats six (6) months of age or older shall be kept at any residence or commercial establishment at any time. Nothing herein shall be construed as authorizing the keeping of any animal capable of inflicting harm or discomfort or endangering the health and safety of any person or property.

(3) *Conditional Uses.* There are no conditional uses permitted in the Mill Race PRO zone.

14.50(37).040 Single Ownership and Control.

Land within the Mill Race PRO zone shall be in control of a single entity or an entity with similar ownership during design and construction to provide for full supervision and control of said development, and to insure conformance with these provisions and all conditions imposed upon the preliminary and final development plans. Individual units may be owned by individuals, partnerships, corporations, and/or other legally recognized entities after a certificate of occupancy has been issued. Common open spaces shall be managed by a management company, and individually owned units will be managed by the same

management company or another party selected by the owners association created in conformance with Utah State Law.

14.50(37).050 Lot Area.

Any existing nonconforming lot or structure may remain as to current lot area, width, and depth until the subject property is developed. Development of such property shall conform to the requirements of this Chapter. A single lot shall be a minimum of 1.00 acre in size. Any lot less than 1.00 acre in size not under common ownership with adjacent properties already developed or being developed according to this Chapter shall be developed in accordance with the ITOD zone regulations. Development may proceed in phases so long as each phase meets applicable fire code requirements and has acceptable circulation and access.

14.50(37).060 Minimum Finished Floor Area.

The minimum finished floor area of a dwelling unit in the Mill Race PRO zone shall be four hundred fifty (450) square feet.

14.50(37).070 Lot Depth.

Each lot in the Mill Race PRO zone shall have a minimum lot depth of one hundred (100) feet.

14.50(37).080 Lot Frontage.

Each lot in the Mill Race PRO zone shall have a minimum lot frontage of one hundred (100) feet.

14.50(37).090 Residential Density.

Residential density in the Mill Race PRO zone shall have a minimum of fifty (50) dwelling units per acre of land area.

14.50(37).100 Yard Requirements.

Yards shall be provided according to the requirements listed below: (Note: All setbacks are measured from the property line.)

(1) Front yard: no minimum, maximum thirty (30) feet

(2) Side yard: no minimum, maximum thirty (30) feet

(3) Rear yard: no minimum, maximum thirty (30) feet

14.50(37).110 Projections into Yards.

Balconies, canopies, awnings, and bridges may project into Yards.

14.50(37).120 Garbage Collection.

Garbage containers and collection shall comply with Provo City Code Title 11 and shall be provided by a private company contracted by the property management company. Garbage containers shall be stored inside a trash storage container enclosure designed in accordance with Section 14.34.080, Provo City Code.

14.50(37).130 Building Height.

No lot or parcel of land in the Mill Race PRO zone shall have a building or structure that exceeds a height of one hundred ninety-five (195) feet. Parapets, chimneys, flagpoles, or similar structures not used for human occupancy shall be excluded in determining height.

14.50(37).140 Distance Between Buildings.

The minimum distance between any buildings on a lot or parcel shall be as allowed by the building code.

14.50(37).150 Permissible Site Coverage.

The total coverage of all buildings and structures shall not exceed ninety percent (90%) of the property in the Mill Race PRO zone.

14.50(37).160 Parking, Loading, and Access.

(1) Each lot or parcel in the Mill Race PRO zone shall have on the same lot or parcel, or on an adjacent lot or parcel located in the same zone, automobile parking sufficient to comply with the following requirements:

(a) Multifamily/Condo Residential: Minimum parking in the amount of 1.00 parking space for each studio or one bedroom unit and 2.00 parking spaces for each two bedroom unit.

(b) Retail and Office: 1 space for every four hundred (400) square feet of net usable floor area.

(c) Residential community center serving residential uses located on the same lot or parcel: None required.

(d) Church: 1 space for every three hundred (300) square feet.

(2) Parking requirements for different uses in a mixed-use project may be joint-use or shared so long as the calculated required parking for each use is provided at the Parking Occupancy Rates shown in the following table:

Uses	M-F	M-F	M-F	Sat. & Sun.	Sat. & Sun.	Sat. & Sun.
	8am-5pm	6pm-12am	12am-6am	8am-5pm	6pm-12am	12am-6am
Residential	50%	100%	100%	80%	100%	100%
Office/ Warehouse /Industrial	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Conference/Convention	100%	100%	5%	100%	100%	5%
Institutional (non-church)	100%	20%	5%	10%	10%	5%
Institutional (church)	10%	5%	5%	100%	50%	5%

(3) The parking of recreational vehicles and boats within the condominium development is prohibited, and such preclusion shall be strictly enforced by the management.

14.50(37).170 Notice of Parking and Occupancy Restrictions.

(1) Prior to the issuance of a building permit for any multiple residential project over two (2) dwelling units, Provo City and the developer shall enter into a contract agreeing to a determined occupancy based on the number of parking spaces provided according to the parking requirements identified in this Mill Race Project Redevelopment Option Zone.

(a) Such contract shall be recorded with the Utah County Recorder and shall run with the property.

(b) A copy of a recorded deed for the property in question that indicates the maximum allowable occupancy as a deed restriction shall also be submitted prior to the issuance of a building permit.

(i) Attached to the deed shall be a document that separately lists the occupancy according to Provo City Code, the foregoing deed restrictions, and any other use restrictions pertaining to parking and occupancy, such as restrictions of use as noted in condominium documents.

(ii) This document shall be signed, dated, and notarized indicating that the owner acknowledges and agrees to all restrictions and regulations stated on the deed and attachments.

(2) Prior to the issuance of a Certificate of Occupancy for new multiple residential dwelling units a permanent notice shall be placed on the electrical box within each unit indicating the maximum allowable occupancy of the unit based on the approved occupancy consistent with the recorded parking and occupancy contract. This notice shall be set forth on a six (6) inch by six (6) inch metal or plastic plate that is permanently attached to the electrical box with minimum one-half (1/2) inch engraved letters.

(3) Upon submittal of the foregoing documents, any violation of the restrictions and regulations noted therein shall be a misdemeanor offense subject to criminal action as provided in Section 1.03.010, Provo City Code.

14.50(37).180 General Architectural and Landscaping Standards.

1. Development shall comply with Section 14.34.295 and Chapter 15.20 of the Provo City Code.
2. Outdoor lighting plans shall conform to all regulations set forth in Chapter 15.21, Provo City Code. Landscape and Hardscape associated with development are to be maintained by property owners.
3. Any development phase which follows the initial phase of development within the Mill Race PRO zone shall be harmonious with the design of such initial phase, as determined by the Design Review Committee.
4. Due to the elevated bridge at University Avenue, any design, development, or architectural requirements attributed to frontage on a primary street shall not be applicable to those portions of developments with frontage along University Avenue.

14.50(37).190 Fencing Standards.

(1) Structural fences six (6) feet or less in height shall not require a building permit. Structural fences over six (6) feet in height shall require a building permit from the Building Inspection Division. A structural or vegetative fence shall not create a sight

distance hazard to vehicular or pedestrian traffic as determined by the Provo City Traffic Engineer.

(2) Solid walls, fences, hedges or screening materials that are sight obscuring may be built to a maximum of three (3) feet in height in any required front yard perimeter. Such walls, fences, hedges or screening materials may slope upward to connect with a higher side yard fence. The length of a sloped fence section shall not exceed one (1) section or a maximum of ten (10) feet.

(3) Solid, sight obscuring fences or walls and non-sight obscuring fences may be built to a maximum height of six (6) feet in a side yard.

14.50(37).200 Inclusionary Housing

Projects in the Mill Race PRO zone will provide some work-force or affordable housing to be privately operated and managed. For every five thousand (5,000) square feet of office/commercial space developed, one unit shall be offered to the purchaser/owner of such office/commercial space at 70% AMI rental rates.