

Ordinance 2023-39

SHORT TITLE:

AN ORDINANCE AMENDING PROVO CITY CODE CHAPTER 14.33A REGARDING LIMITS OF DISTURBANCE AND CLUSTERING REQUIREMENTS IN THE CRITICAL HILLSIDE OVERLAY ZONE. CITYWIDE APPLICATION. (PLOT20230163)

I
PASSAGE BY MUNICIPAL COUNCIL
ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	KATRICE MACKAY			Excused
CW 2	DAVID SHIPLEY	✓		
CD 1	BILL FILLMORE			Excused
CD 2	GEORGE HANDLEY	✓		
CD 3	SHANNON ELLSWORTH	✓		
CD 4	TRAVIS HOBAN	✓		
CD 5	RACHEL WHIPPLE	✓		
TOTALS		5	0	

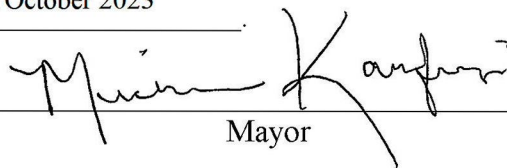
This ordinance was passed by the Municipal Council of Provo City, on the 3rd day of October 2023, on a roll call vote as described above. Signed this 11th day of October 2023.



Chair

II
APPROVAL BY MAYOR

This ordinance is approved by me this 18th day of October 2023.


Mayor

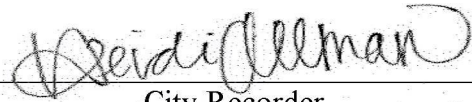
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III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 18th day of October 2023 and was published on the Utah Public Notice Website on the 5th day of September 2023. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2023-39.





City Recorder

ORDINANCE 2023-39

AN ORDINANCE AMENDING PROVO CITY CODE CHAPTER 14.33A REGARDING LIMITS OF DISTURBANCE AND CLUSTERING REQUIREMENTS IN THE CRITICAL HILLSIDE OVERLAY ZONE. CITYWIDE APPLICATION. (PLOTA20230163)

WHEREAS, it is proposed that Provo City Code Chapter 14.33A be amended to update limits of disturbance and clustering requirements in the Critical Hillside Overlay Zone; and

WHEREAS, on September 13, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 8-0; and

WHEREAS, on October 3, 2023, 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 14.33A should be amended as described herein and (ii) the proposed amendment 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 14.33A is hereby amended 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 Section 10-3-711, presented to the Mayor in accordance with Utah Code Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.

END OF ORDINANCE.

Exhibit A

Proposed Amendments

14.33A.020

Definitions.

"Limits of disturbance (LOD)" means the area(s) of a development in which construction and development activity are to be contained, ~~including development and construction of the main building, accessory structures, and recreation areas. The following need not be included in limits of disturbance:~~ Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done are not included in limits of disturbance.

~~(a) Up to ten (10) feet of paved or unpaved shoulders for driveways.~~

~~(b) Areas consisting of natural ponds, streams, trees, and other vegetation where no grading work is done.~~

"Natural open space" means land in a predominantly open and undeveloped condition that is suitable for any of the following: natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; little or no land disturbance; or trails for nonmotorized activities.

...

14.33A.090

Limits of Disturbance (LOD).

(1) Limits of disturbance shall be located and identified on development plans indicating the specific area(s) ~~of a property~~ where construction and development activity shall be contained.

(2) Limits of disturbance ~~for a single lot or parcel~~ may be segmented. ~~No , but no~~ more than forty percent (40%) of a ~~lot~~ development or parcel may be included in the LOD. However, a dwelling site may have ~~except that~~ an additional ten percent (10%) ~~of the lot LOD may be~~ disturbed for landscaping only, including nonnative vegetation. ~~, and shall be considered within the LOD~~

(3) Upon request of the applicant, and only for those properties developed prior to establishment of the CH Zone, the Development Services Director may offer relief of the standards in this Section by up to ten percent (10%), only if the Director finds one (1) of the following circumstances applies:

(a) The adjustment is designed to yield more effective preservation of existing mature trees, vegetation, riparian areas, rock outcrops, or other significant natural features of the site; or

(b) Strict application of the standard(s) would prohibit any development on the site.

...

14.33A.220

Cluster Developments.

(1) The Planning Commission may approve a request for the clustering of a proposed development in the CH Zone, as set forth herein, if all of the following standards are met:

(a) At least twenty-five percent (25%) of the proposed cluster development is preserved as passive or active natural open space.

(ab) The applicant shall submit a report that has been stamped by an engineer and landscape architect licensed in Utah that attests the clustering proposal will have no adverse impact on adjacent properties, or, if such impacts are anticipated, such report will detail these impacts and recommend mitigation measures, such as landscape, screening, illumination standards, and other design features. If impacts are anticipated, as set forth in the above-mentioned report, the applicant shall enter into an agreement with the City to implement and maintain appropriate mitigation measures, approved by the City Engineer, to buffer and protect adjacent properties from the proposed clustered development. The developer's Utah licensed engineer and landscape architect shall verify that the recommended mitigation measures have been incorporated into the development. The responsibility – throughout the development process – for verifying mitigation measures shall be the responsibility of the developer's Utah licensed engineer and landscape architect;

(bc) The Planning Commission, based upon the findings of a report submitted by the applicant and stamped by an engineer and landscape architect licensed in the State of

Utah, finds that the clustering proposal, compared with a conventional development, better attains the policies and objectives of the CH Zone, such as providing more natural open space, preserving existing trees and vegetation coverage, and preserving sensitive environmental areas such as stream corridors, geological sensitive areas, prominent ridgelines, wetlands, and steep slopes; and

(d) The Design Review Committee issues an opinion that the architecture, height, building materials, building colors, and other design features of the development blend with the surrounding natural landscape and are compatible with adjacent properties or development.

(2) To encourage the clustering of development, a density bonus is provided, as follows:

~~(a) In the A1 Zones (except for the A1.1 Zone), a cluster density bonus of fifty percent (50%) over the base density is permitted for those developments that satisfy the standards in Subsection (1) of this Section.~~

~~(ba)~~ In the A1 ~~.1~~-Zones, RA Zone, R1 Zones (except the R1.6 and R1.7 Zones), and R2 Zone, ~~and RA Zone~~, a ~~cluster~~ density bonus of twenty-five percent (25%) over the base density is permitted for those cluster developments that satisfy the standards in Subsection (1) of this Section. To facilitate clustering, the area, width, and depth of lots may be reduced by up to twenty-five percent (25%) from such requirements in the base zone; however, in no case shall the depth of a lot be less than seventy-five (75) feet.

~~(cb)~~ The allowable density bonus for a cluster development shall be calculated based on net developable acreage. Such resulting number shall be rounded to the nearest whole number, but in no case less than one (1).

(3) Cluster developments shall meet the following design standards and applicants for such shall provide the written opinion of a landscape architect and/or engineer licensed in the State of Utah that the following design standards have been met:

(a) The undeveloped area of the development site shall be preserved as active or passive natural open space. Natural open space areas shall provide contiguity with adjacent natural open space and/or conservation areas; protect unique natural, historical, or cultural site features and resources; avoid fragmentation of open space areas within the site; and preserve existing, legal public access.

(b) No more than thirty (30) lots are allowed in a single cluster. Each cluster shall be

separated from other residential clusters by a minimum of one hundred (100) feet.

(c) The layout of a cluster development shall protect significant natural resources within the proposed development. Natural resources include riparian areas, wetlands, ecological resources, and steep slopes and ridgelines. The overall site design shall employ the site's natural topography to hide multiple residential clusters from the sight of adjacent clusters.

(d) Cluster development shall preserve the following:

- (i) Open sky backdrop above those ridgelines designated for protection by the Planning Commission; and
- (ii) Significant views of the natural landscape as viewed from adjacent streets.

(4)

Figure 14.33A.19. Development – Permitted



(This development was clustered and preserved significant areas of open space.)

(5)

Figure 14.33A.20. Development – Not Permitted



(This development was not clustered; little open space exists in the area.)