

BOUNTIFUL CITY
PLANNING COMMISSION AGENDA
Tuesday, December 4, 2018
6:30 p.m.

NOTICE IS HEREBY GIVEN that the Bountiful City Planning Commission will hold a meeting in the Conference Room at City Hall, 790 South 100 East, Bountiful, Utah, at the time and on the date given above. The public is invited. Persons who are disabled as defined by the American with Disabilities Act may request an accommodation by contacting the Bountiful Planning Office at 298-6190. Notification at least 24 hours prior to the meeting would be appreciated.

1. Welcome and Introductions.
2. Approval of the minutes for November 20, 2018.
3. Consider preliminary subdivision approval for Seifert Subdivision located at 3332 South 725 West, Roger Seifert, applicant.
4. **PUBLIC HEARING** - Consider approval of a variance to section 14-6-109 of the Bountiful City Land Use Ordinance to allow for the required landscaping in the parkstrip and the required 10 foot landscape buffer along the street frontage to be removed and replaced with asphalt at Antion Auto located at 633 S 500 West, Stephen Sandberg representing Antion Auto, applicant.
5. Consider approval of a Conditional Use Permit letter in written form for a 6-unit multi-family development located at 55 W 400 South, Brian Knowlton, applicant.
6. Planning Director's report, review of pending applications and miscellaneous business.



Chad Wilkinson, City Planner

**Bountiful City
Planning Commission Minutes
November 20, 2018
6:30 P.M.**

Present: Chair – Sean Monson; Vice Chair – Von Hill; Planning Commission Members – Jesse Bell, Jim Clark; Tom Smith and Sharon Spratley; City Planner – Chad Wilkinson; City Engineer – Lloyd Cheney; City Attorney – Clint Drake; and Recording Secretary – Darlene Baetz

Excused: City Council Representation – Richard Higginson

1. Welcome and Introductions.

Chair Monson opened the meeting at 6:30 pm and welcomed all those present.

2. Approval of the minutes for November 6, 2018.

Jim Clark made a motion to approve the minutes for November 6, 2018 as written. Von Hill seconded the motion. Voting passed 5-0 with Commission members Clark, Hill, Monson, Spratley and Smith voting aye.

Jesse Bell arrived.

- 3. PUBLIC HEARING - Consider approval of a Conditional Use Permit for a 6-unit multi-family development located at 55 W 400 South, Brian Knowlton, applicant.**
- 4. Consider approval of a preliminary site plan approval for a 6-unit multi-family development located at 55 W 400 South, Brian Knowlton, applicant.**

Brian Knowlton was present. Chad Wilkinson presented the staff report.

The applicant, Knowlton General, requests Conditional use permit and preliminary site plan approval for a 6 unit multifamily development located at 55 West 400 South. The property has been vacant for many years and is zoned DN (Downtown). The site is surrounded by single family residential use on the east and west, mixed use and commercial to the north, and commercial property to the south.

The proposed development is located on a .25 acre (±10,890) s.f. property. There appears to be some discrepancy between the legal description for the property and the actual area available for building. Prior to submitting for final site plan, the applicant will need to identify actual dimensions of the buildable area of the lot based on a survey of the property. This issue will impact the proposed parking layout on the site. Based on an analysis of the building design, the building official has determined that a disabled person parking space is not required based on the applicable building code. However section 14-7-112 C 9 requires that street-facing ground floor units be ADA accessible to provide for conversion to a future commercial use. Without the need for the accessible space, the proposal meets the parking standards of the Code including required covered parking and guest spaces with room to spare. If an accessible space is required, it will be necessary for more detailed property information to determine if the lot can accommodate adequate parking for the development.

The proposed building meets the required setback and height standards for the DN Zone. Because the building is located at least 200 feet from the 100 west right of way the maximum building height is 55

feet. The proposed building is approximately 46 feet and four stories in height with one unit located on the ground floor and the remainder above. The applicant proposes building materials consisting of a mix of EIFS and brick. Color renderings of the buildings are attached to this report. It is recommended that some brick be added to the south façade as this area will be highly visible from 500 South. The proposed structure meets the required articulation standards of the ordinance and complies with the maximum 2:1 height to width ratio requirements. Ground floor units have entrances facing the public street and balconies or patios are shown for each unit.

The plan shows the minimum 10 percent of landscape area and the additional landscaping required by Code for multifamily development; however, a detailed landscape plan will need to be submitted demonstrating compliance with the minimum requirements of the landscape code. A sidewalk is shown on the west side of the property running along the proposed parking area. The Code allows for sidewalks to occupy a total of 30 percent of the required landscape area. Based on the required landscape area the sidewalk will need to be reduced. It is recommended that the sidewalk be pulled back to the south edge of the building in order to comply with the applicable standard.

Access to the site will be via a single driveway on 400 South. Water and sewer will be provided via connections to existing lines in 400 South. Storm water drainage design will need to be further refined prior to submittal for final site plan approval. The proposed retention system may not adequately dispose of storm water and additional information is required to determine adequate permeability of soils to allow for retention on site.

The applicant will need to demonstrate how storm water impacts to the site will be handled. Sidewalks will have to be repaired as part of the project. Other infrastructure in the area is adequate for the impacts anticipated by the development.

Staff recommends that the Planning Commission approve the Conditional Use Permit and forward a recommendation of approval to the City Council for preliminary site plan review for the proposed 6 unit multifamily building subject to the following conditions:

1. Complete any and all redline corrections.
2. Prior to submittal for final site plan approval, complete a survey of the property to determine total buildable area available on the property. Complete any revisions to the site necessary based on the size of the parcel.
3. Revise the elevations to show some brick elements on the south side of the building in order to provide architectural continuity on this visible side of the building.
4. Revise the site plan to show the sidewalk on the property ending at the south side of the building.
5. Submit a landscape plan meeting the minimum requirements of Sections 14-16- 104 and 14-16-109.
6. All damaged curb and gutter and sidewalk along 400 S. shall be replaced.

Mr. Wilkinson clarified the current ADA code and the accessibility for the ground floor. Mr. Monson would like to make sure that there is available ADA parking if the space was converted to business space. Mr. Wilkinson stated that after the required survey is completed then the ADA parking will be worked thru and would be brought to the Planning Commission at final site plan approval. Mr. Knowlton stated that he is anticipating that the lot is shorter than the County legal description. He has been in contact with the Fire Marshall for the clearance of the 6' x 13' cantilever on the north side.

Mr. Bell discussed the possibility of extra windows. Mr. Wilkinson clarified that the plans for the

building does meet code for the opacity of the ground floor.

Chair Monson opened the **PUBLIC HEARING** at 6:47 p.m.

Randy Westergard resides at 75 W 400 South. Mr. Westergard was concerned about the 6-units on ¼ acre, decrease in property values and the possible trash and traffic impact for this area.

Chair Monson closed the **PUBLIC HEARING** at 6:48 p.m.

Mr. Wilkinson stated that there will be a trash enclosure for the property and the project. We don't know what will happen with the property values and have no control over what happens. Mr. Knowlton will have a survey done for this property and the allowed size of the building will be completed in the final site plan.

The Commission members requested that the applicant uses appropriate sized trees on the east and west side. Staff stated that the completed landscape plan will be with the final site plan approval.

Sharon Spratley made a motion that the Planning Commission approval the Conditional Use Permit for a 6-unit multi-family development located at 55 W 400 South with the 6 conditions outlined by staff and the addition of 2 more conditions,

7. Additional windows shall be added to the ground floor facing 400 South.
8. The project needs to include columnar trees on the east and west side of the building to provide screening for adjacent properties.

Tom Smith seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith, and Spratley voting aye.

Sharon Spratley made a motion that the Planning Commission forward to the City Council a recommendation of approval for a preliminary site plan for a 6-unit multi-family development located at 55 W 400 South with the 6 conditions outlined by staff and the two additional conditions. Jesse Bell seconded the motion. Voting passed 6-0 with Commission members Bell, Clark, Hill, Monson, Smith, and Spratley voting aye.

Jim Clark and Clint Drake were excused to City Council Special Meeting.

5. Consider re-approval of a preliminary and final site plan for a 40-unit mixed use office and residential building located at 1501 S Renaissance Towne Dr (Pad A), Bruce Broadhead, applicant.

Bruce Broadhead was present. Chad Wilkinson presented the staff report.

The applicant, Bruce Broadhead, requests site plan approval for "Pad A" (shown now as Lot 9) of the Renaissance Town Center Development. The plan was originally approved in April of 2017 and a six month extension was granted In April of 2018. That extension has now expired and so the site plan must be reapproved in order to move forward. The proposal still includes 40 units and retains the approximately 5,500 square feet of commercial space located on the street level originally approved. There have been no substantial changes to the Code in the intervening year and a half since the original approval. The project is very close to permit issuance and the reauthorization will allow the

developer to move forward with the project. However, in order to avoid any conflicts with future code changes, building permits should be obtained in a timely manner. Therefore, it is recommended that a condition be required to obtain a building permit within 6 months of the re-approval.

Staff recommends that the Planning Commission forward a recommendation of approval to the City Council for the site plan subject to the following conditions:

1. Obtain a building permit for the project within 6 months and keep the permit active.
2. At least one of the parking spaces for the development shall be a van-accessible disabled person parking space.

Sharon Spratley made a motion that the Planning Commission forward to the City Council a recommendation of approval for the preliminary and final site plan for a 40-unit mixed use office and residential building located at 1501 S Renaissance Towne Dr (Pad A) with the two (2) conditions outlined by staff. Jesse Bell seconded the motion. Voting passed 5-0-1 with Commission members Bell, Monson, Smith and Spratley voting aye with Hill abstaining.

6. Planning Director's report, review of pending applications and miscellaneous business.

1. Next Planning Commission meeting will be December 4, 2018.
2. Discussion about upcoming Legislation update.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:02 p.m.

Chad Wilkinson, Bountiful City Planner

Commission Staff Report

Item 3

Subject: Preliminary Subdivision Approval for the Seifert Subdivision
Address: 3350 South 725 West
Author: City Engineer, City Planner
Department: Engineering, Planning
Date: December 4, 2018



Background

Mr. Roger Seifert is requesting preliminary approval of the Seifert Subdivision. This three lot subdivision proposes to include the existing single family home at 3332 S 725 W and the vacant parcel at the end of the street into a three lot subdivision. It is proposed that a new cul-de-sac be created in the existing vacant parcel, resulting in a new lot on the east and west sides of the cul-de-sac. The existing vacant parcel slopes from east to west at approximately 5% on the north property line and increases to approximately 20 % towards the south-east corner of the parcel which abuts the Jenkins property.

Analysis

The existing parcels are located in the R-4 zone and combine to form a 1.384 acre parcel from which three lots will be created. The proposed area of each lot is more than twice the 8,000 sq.ft. minimum lot size requirement for this zone. Lot 1, which will include the existing home on the west side of 725 West, will have 90 ft. of frontage. Lots 2 and 3 will have widths of 109 ft. and 112 ft. respectively (measured at the 25 ft. setback).

Utilities are already serving the four lots which front onto 725 West, north of the proposed subdivision. A South Davis Water District 6" culinary water main is located behind the west curb. This line will need to be extended approximately 145 feet to the south side of the cul-de-sac and have a fire hydrant installed at the termination of the line. An existing 8" sewer main extends to the south through the property, so the installation of 2 new sewer laterals to serve the lots which front the cul-de-sac are all that is necessary to provide sewer service. Overhead power lines are located on the south side of the vacant parcel.

The street improvements as proposed deviate slightly from the standard right of way requirements because of the limited north-to-south dimension of the vacant parcel and the width of the adjacent parcel 3333 S 725 W. Because of these conditions, the cul-de-sac is proposed with a 50 ft. radius (measured at the property line). Since there is no sidewalk on 725 W, sidewalk is not proposed to be installed at this time, however, the 8 ft. separation between the curb and gutter and the proposed property line would accommodate a 4 ft. wide park strip and a 4 ft. wide sidewalk.

It should be noted that the extension of the culinary water line as shown will require that the existing curb and gutter on the west side of 725 W be removed and replaced. A 3 ft wide asphalt patch will be required in the existing pavement.

Department Review

The proposed preliminary and final plat has been reviewed by the Engineering Department and Planning Department.

Recommendation

Recommend preliminary approval of the Seifert Subdivision with the following conditions:

1. Provide a current title report.
2. Make all necessary red line corrections.
3. Pay all required fees (Storm Water Impact Fee).

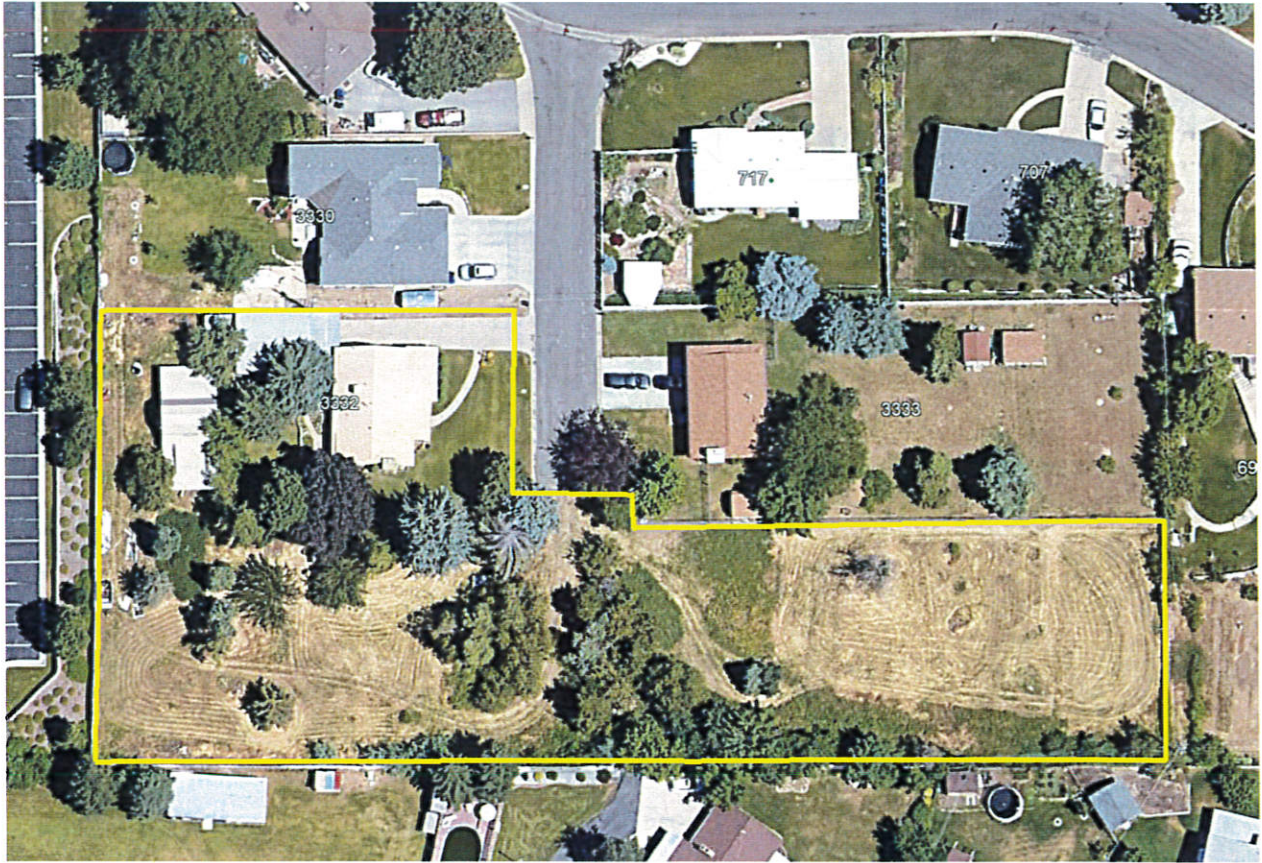
Significant Impacts

None

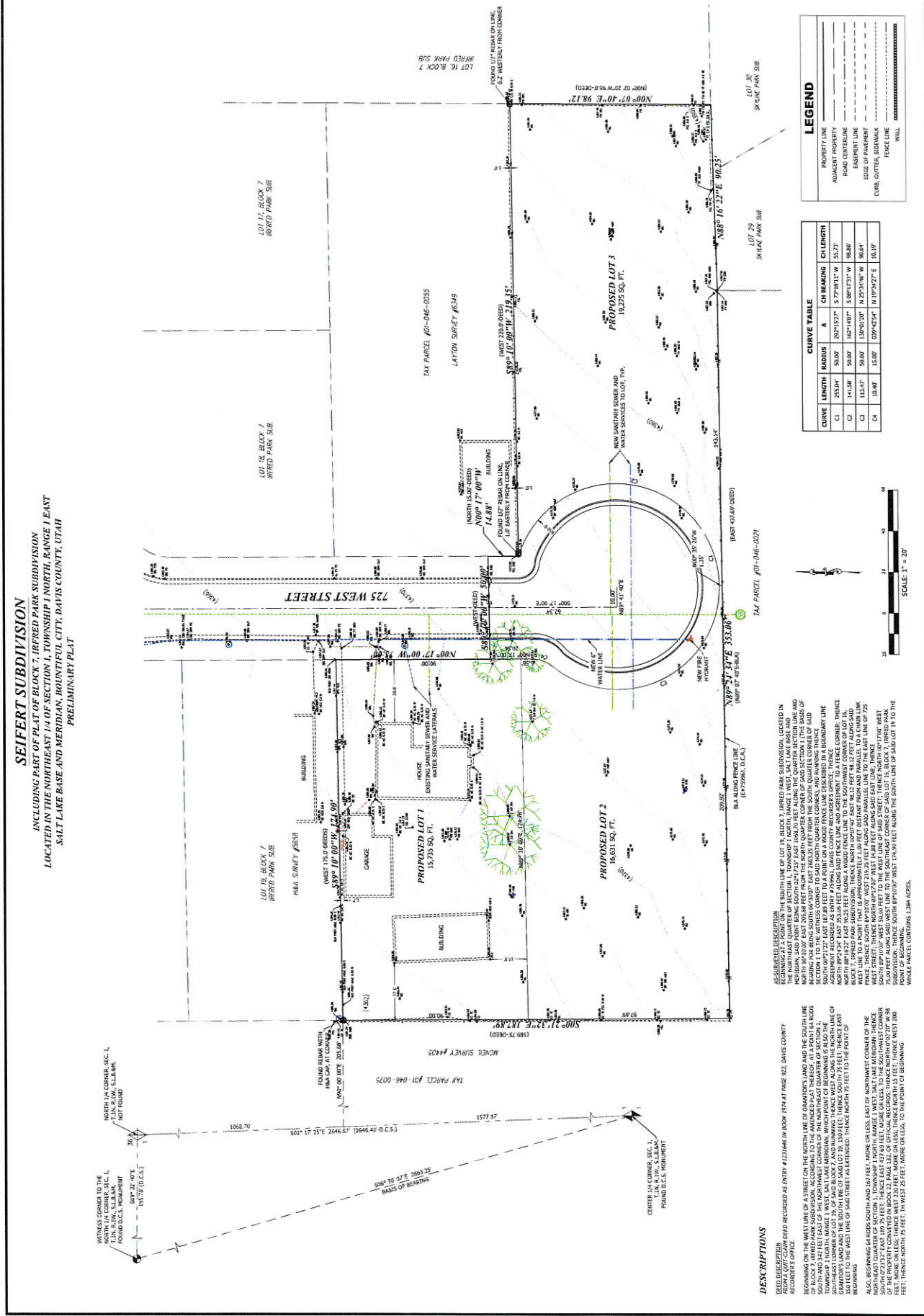
Attachments

1. Aerial photo showing the proposed location
2. A copy of the preliminary plat.

Aerial Photo of the Proposed Seifert Subdivision



SEIFERT SUBDIVISION
 INCLUDING PART OF PLAT OF BLOCK 7, IRFRED PARK SUBDIVISION
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 EAST
 SALT LAKE BASE AND MERIDIAN, BOUNTIFUL, UTAH COUNTY, UTAH
 PRELIMINARY PLAT



DESCRIPTORS

DEED DESCRIPTION FROM COUNTY CLERK DEED RECORDED AS ENTRY #2121694 IN BOOK 1974 AT PAGE 922, DAVIS COUNTY BEGINS ON THE WEST LINE OF A STREET ON THE NORTH LINE OF GRANT'S LAND AND THE SOUTH LINE OF BLOCK 7, IRFRED PARK SUBDIVISION, ACCORDING TO THE AMENDED PLAT THEREOF. AT POINT 64 RIGGS SOUTH AND 342 FEET EAST OF THE CENTERLINE OF SALT LAKE AVENUE, WHICH POINT OF BEGINNING IS ALSO THE SOUTHWEST CORNER OF LOT 19, OF SAID BLOCK 7, AND RUNNING THENCE WEST ALONG THE NORTH LINE OF SAID BLOCK 7, 150 FEET TO THE WEST LINE OF SAID STREET AS EXTENDED; THENCE NORTH 75 FEET TO THE POINT OF BEGINNING.

ALSO, BEGINNING 66 RIGGS SOUTH AND 167 FEET, MORE OR LESS, EAST OF NORTHWEST CORNER OF THE PROPERTY CONTAINED IN DEED RECORDED AS ENTRY #2121694 IN BOOK 1974 AT PAGE 922, DAVIS COUNTY SOUTH 72°13'21" EAST 75 FEET, THENCE EAST 47' 49" FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID BLOCK 7, 150 FEET TO THE WEST LINE OF SAID STREET AS EXTENDED; THENCE NORTH 75 FEET, THENCE WEST 200 FEET, THENCE NORTH 75 FEET, THENCE WEST 87 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ASSUMED DESCRIPTION

THE SOUTH LINE OF LOT 18, BLOCK 7, IRFRED PARK SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING 300 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 1, THE BEARING FOR BEING SOUTH 90°30'00" EAST 282.28 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 1, THE POINT OF BEGINNING IS ALSO THE POINT OF BEGINNING OF SAID SUBDIVISION. THE SOUTH LINE OF SAID LOT 18, BLOCK 7, IRFRED PARK SUBDIVISION, BEING 300 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 1, THE BEARING FOR BEING SOUTH 90°30'00" EAST 282.28 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 1, THE POINT OF BEGINNING IS ALSO THE POINT OF BEGINNING OF SAID SUBDIVISION. THE SOUTH LINE OF SAID LOT 18, BLOCK 7, IRFRED PARK SUBDIVISION, BEING 300 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 1, THE BEARING FOR BEING SOUTH 90°30'00" EAST 282.28 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 1, THE POINT OF BEGINNING IS ALSO THE POINT OF BEGINNING OF SAID SUBDIVISION. THE SOUTH LINE OF SAID LOT 18, BLOCK 7, IRFRED PARK SUBDIVISION, BEING 300 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 1, THE BEARING FOR BEING SOUTH 90°30'00" EAST 282.28 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 1, THE POINT OF BEGINNING IS ALSO THE POINT OF BEGINNING OF SAID SUBDIVISION.

CURVE TABLE

CURVE LENGTH	RADIUS	A	CH BEARING	CH LENGTH
C1	255.04'	50.00'	292°15'27"	5.7718117 W 15.27'
C2	143.58'	50.00'	162°14'07"	5.081731 W 98.80'
C3	133.87'	50.00'	139°20'20"	4.925146 W 96.64'
C4	10.96'	15.58'	109°42'54"	1.192427 E 10.13'

LEGEND

- PROPERTY LINE
- ADJACENT PROPERTY
- ROAD CENTERLINE
- EASEMENT LINE
- EDGE OF PAVEMENT
- CURB, GUTTER, SIDEWALK
- FENCE LINE
- WELL

Commission Staff Report

Item # 4



Item: PUBLIC HEARING – Request for a variance to allow for the standards of section 14-6-109 of the Bountiful City Land Use Ordinance to allow for the required landscaping in the parkstrip and the required 10 foot landscape buffer along the street frontage to be removed and replaced with asphalt.

Address: 633 South 500 West

Author: Curtis Poole, Assistant Planner

Date: October 9, 2018

Description of Request

The applicant, Durbano Law Firm, is requesting a variance to allow for the standards of section 14-6-109 of the Bountiful City Land Use Ordinance to allow for the required landscaping in the parkstrip and the required 10 foot landscape buffer along the street frontage to be removed and replaced with asphalt. The purpose of the variance is to allow the applicant additional room for cars to be displayed. The property is located in the C-H zone.

Authority

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to landscaping and parking setbacks.

Appeal Procedure

Bountiful City Land Use Ordinance section 14-2-108 states an applicant, board or officer of the City, or any person adversely affected by a Land Use Authority's decision administering or interpreting a land use ordinance or ruling on a request for a variance may, within fourteen calendar days of the written decision, appeal the decision to the Appeal Authority. No other appeals may be made to the Appeal Authority.

The appeal must be in writing and specifically allege there is an error in an order, requirement, decision or determination by the Land Use Authority. The appellant shall state every theory of relief it can raise in District Court.

Background and Analysis:

On May 25, 2018, the City received a code enforcement complaint explaining the applicant had removed the parkstrip and buffer landscaping of their property and replaced it with asphalt. Case #76-2018 was opened and notifications were sent on June 7 and 19, 2018. After no response from the applicant a final certified letter was mailed on July 12, 2018. On

Mr. Sandberg agreed to submit a landscaping plan to be approved by the Planning Department by August 20, 2018. On August 20, 2018, Mr. Sandberg requested additional time to submit the landscaping plan, and a new deadline of August 31, 2018 was given. Mr. Sandberg emailed on August 31, 2018 indicating the applicant would be considering other options.

The applicant's property is in the C-H zone and the existing business, Antion Auto, has been operating from this location since 2012. City Code 14-6-109 requires there shall be a 10 feet wide landscape buffer installed along all frontage areas except for drive approaches. It further states landscaping shall be installed in all parkstrips, and prohibits any non-vegetative material in the parkstrip. This part of the City Code has been in force since it was adopted in 1982. Aerial photos show that through at least June of 2017 the applicant was meeting the landscape area requirement for the setback buffer and the parkstrip. Landscaping was required as a part of the original approval of the site in 1988 and removal of the landscaping makes the site noncompliant with the original approval. It appears from aerial photos the landscaping on site has been slowly allowed to deteriorate up and until the landscaping was removed sometime after June 2017. City Code requires continuous maintenance of landscape areas in accordance with approved plans.

Variance Findings

Utah Code 10-9a-702 establishes the criteria for review of a variance request. In order to grant a variance each of the following criteria must be met:

- (i) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*

Staff Response: City records show the landscaping of the property was originally installed in 1988. Since then property owners have continued to maintain the landscaping until at least June of 2017. The landscaping was removed voluntarily by the applicant to increase their vehicle inventory and parking. State Law 10-9a-702 § (b) states "the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic." The fact the applicant removed the landscaping voluntarily should be considered a self-imposed event. Also, any potential economic impact alleged by the applicant cannot be considered an unreasonable hardship by State Law.

- (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;*

Staff Response: The applicant's property is located in the C-H zone. It is a middle lot with frontage on 500 West. The City Code adopted in 1982 required all new commercial developments in the zone to submit a landscaping plan as part of their site development plan. If other properties involving auto-sales or similar businesses were to develop in the C-H zone they would be required to keep and maintain the current landscaping required by

the ordinance. There are no unique circumstances which would allow this property to be considered for a variance to the landscaping ordinance.

(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

Staff Response: All commercial development which occurred after the 1982 Code was adopted have been required to install and maintain landscaping according to this ordinance. Within the C-H zone the properties which were developed prior to the adoption of the 1982 Code were not required to meet the landscaping code and are considered legal non-conforming, as in the case of properties such as Bountiful Bowl, Flower Patch, and Robintino's. As these legal non-conforming properties have been developed, they have been and will be required to meet the current landscaping requirements, as in the case of the current Culver's and Stout business developments as well as the recent development of the Fordham Commercial Park. There are also circumstances where a property was forced to remove their landscaping by UDOT as expansions to the intersection of 500 West and 500 South occurred, as in the case of Walgreen's, McDonald's, Sherwin Williams and KFC. These properties are now considered legal non-conforming. If these properties were to redevelop in the future they would be required to meet the current landscaping code. Properties which have removed their landscaping voluntarily and do not comply with the current landscaping code have been and will be subject to code enforcement proceedings.

(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest;

Staff Response: As the property is located in the high traffic corridor of 500 West, it is a very visible part of the city and maintaining the landscaping code is a public interest.

(v) The spirit of the land use ordinance is observed and substantial justice done

Staff Response: Granting a variance would be contrary to the spirit of the land use ordinance. Landscaping required by ordinance serves as an aesthetic benefit to the City and also provides valuable pervious space to assist in capture of storm water runoff. Granting the variance to the landscaping ordinance is not in keeping with the spirit of the ordinance.

Department Review

The request has been reviewed by the City Planner, City Engineer, and City Attorney

Recommended Action

Staff recommends denial of the requested variance to allow for the landscaping in the parkstrip and setback buffer to be removed and replaced with non-vegetative material. Landscaping shall be restored in order to comply with the originally approved landscape plan for the property.

Attachments

1. Recent Property Photos
2. Aerial Map Progression of Property
3. Applicant's Narrative
4. 1988 Approved Landscape Plan

Site Photos - June 2018

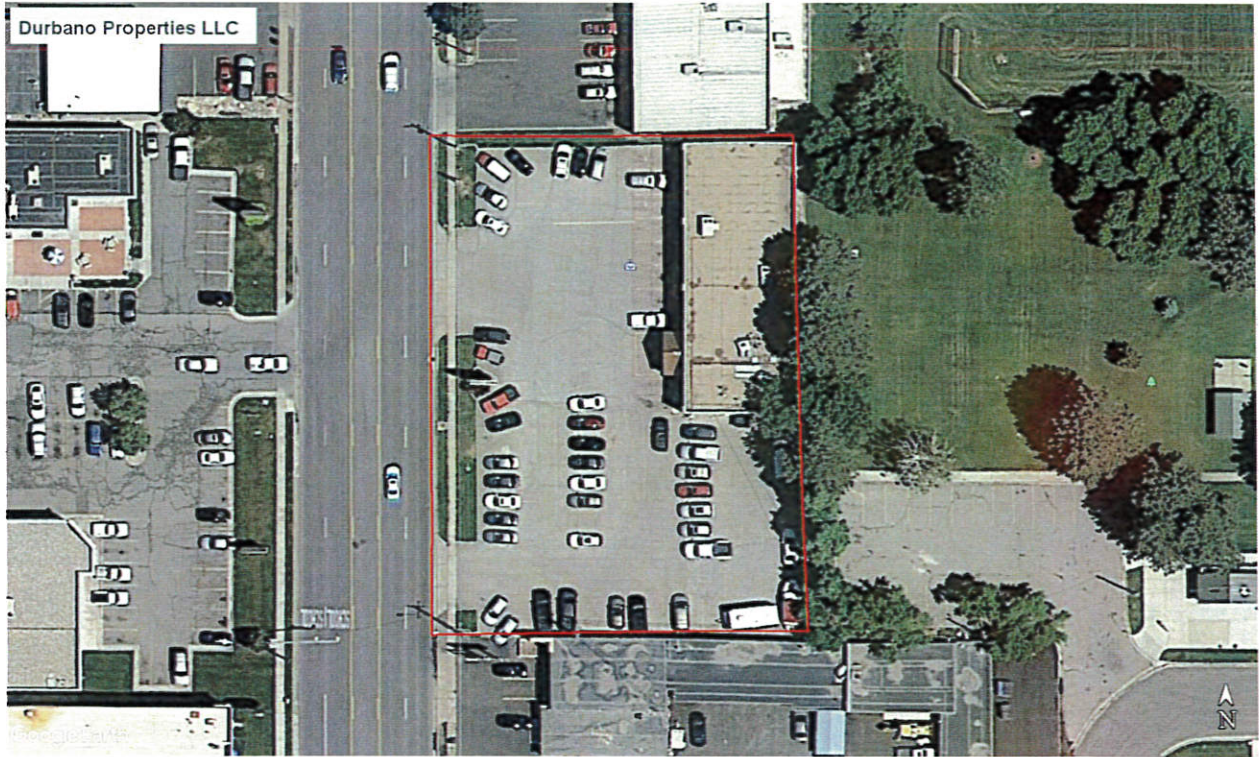


Map Aerial Progression

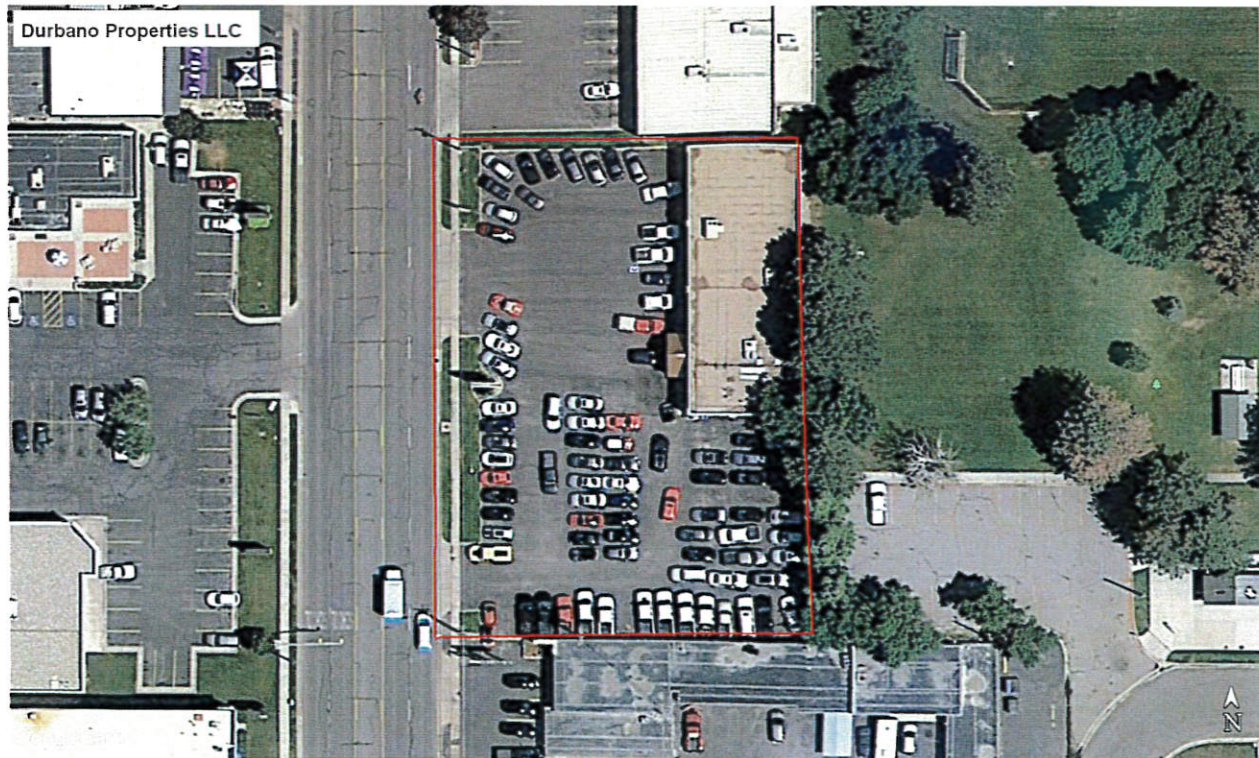
July 17, 2010



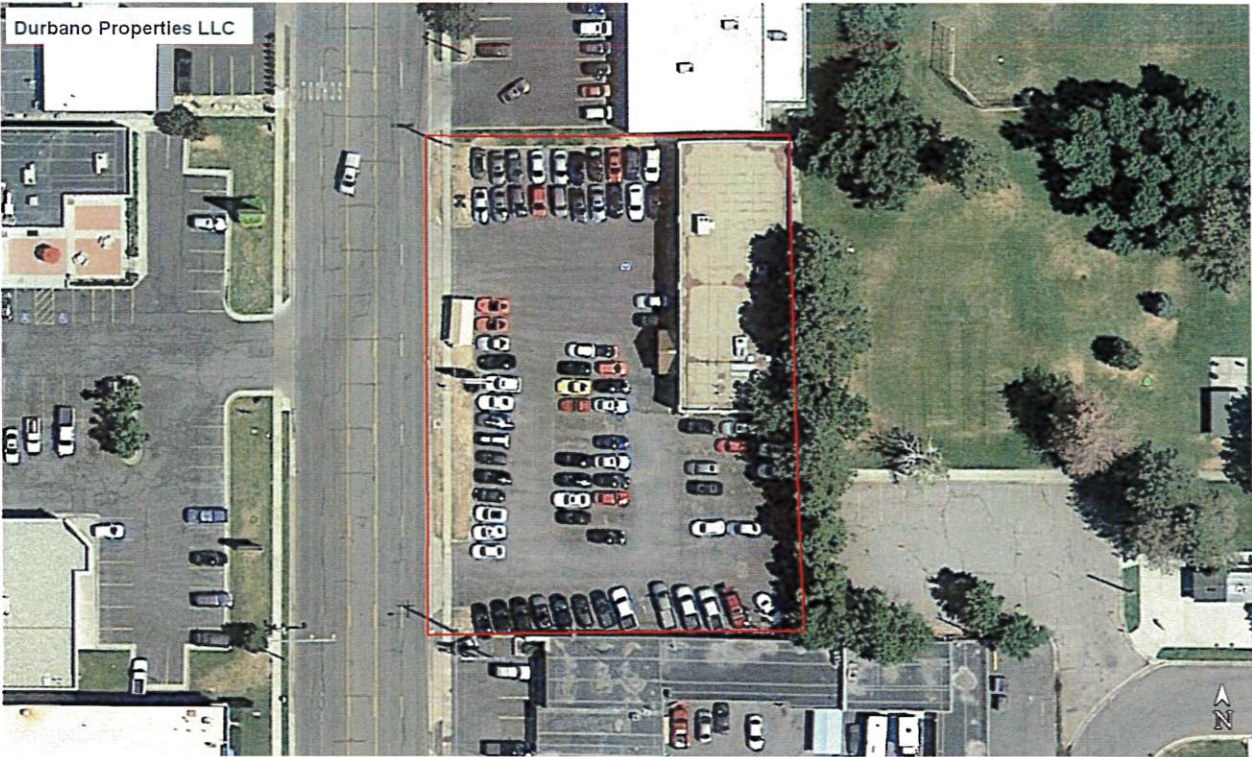
June 4, 2013



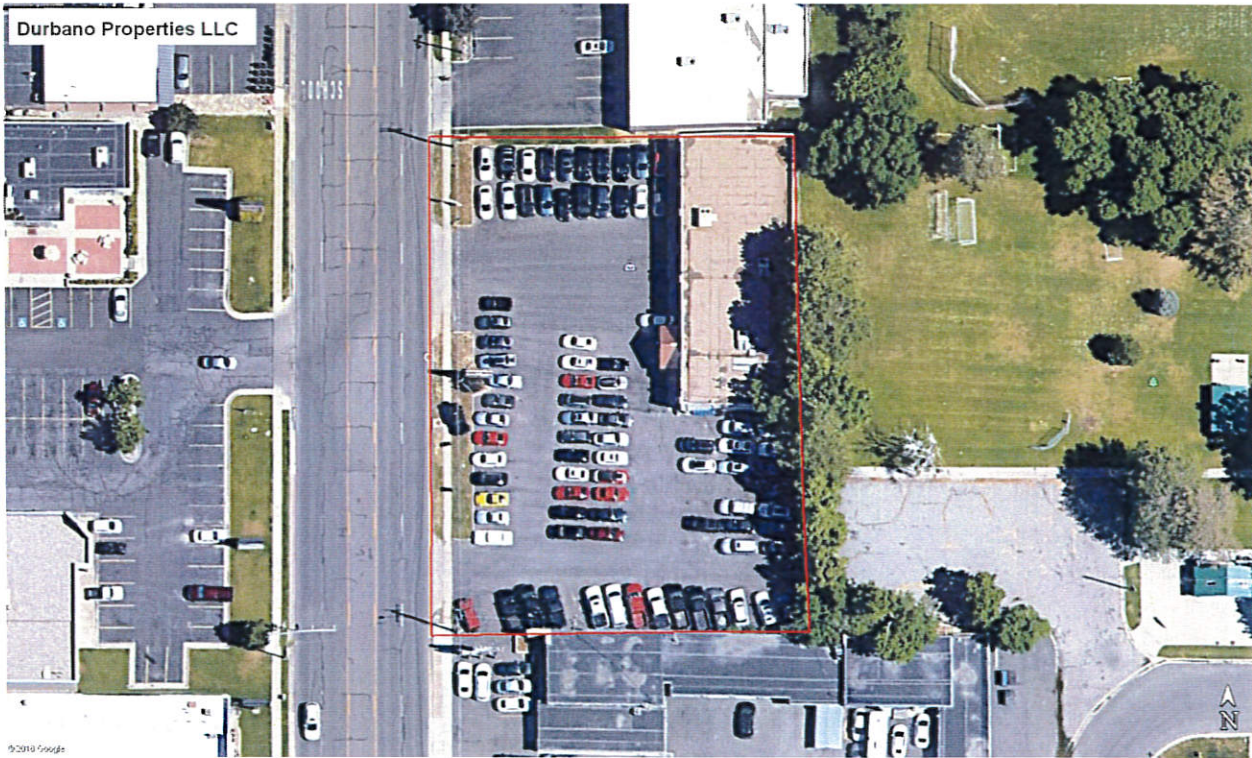
June 15, 2015



July 8, 2016



June 15, 2017



What City Ordinance(s) do you want a variance from?

Antion Auto, L.C., (“Antion”) respectfully requests a variance from the requirements of Bountiful City Ordinance 14-6-109 (the “Landscaping Ordinance”).

How does the proposed variance request meet all of the requirements of Utah Code § 10-9a-702?

- i. **Literal enforcement of the ordinance will cause an unreasonable hardship for the applicant and is not necessary to carry out the general purpose of the land use ordinance.**

As a car dealership, Antion’s parking lot serves as both its store-front and warehouse. While the space in which Antion operates is clearly finite, they can only store and show their inventory within the boundaries of their property, the Landscaping Ordinance restricts Antion’s use of its property. This restriction places an unnecessary and unreasonable hardship on Antion by further limiting its usable space and preventing it from fully utilizing and enjoying its property. The Landscaping Ordinance, specifically subsection (4), requires a “minimum ten (10) feet wide landscape buffer ... along all frontage areas” (the “Setback”) and literally shrinks Antion’s store front and storage space. Although Antion maintained the Setback for some time, due to Antion’s unique circumstances as described below, the Setback was, from the beginning, a hardship on the business.

Additionally, literal enforcement of the Landscaping Ordinance is not necessary. Although Antion seeks a variance from the requirements of the Landscape Ordinance, it operates in a Heavy Commercial subzone which, under Bountiful City Ordinance 14-6-109(1), only requires 15% of the property to be landscaped. Because there remains a strip of land between the sidewalk and the road that can be landscaped, Subsection (4) of the Landscape Ordinance is not necessary to carry out the general purpose of the land use ordinance.

- ii. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone.**

As noted above, Antion operates in a Commercial Zone, and, more specifically, a Heavy Commercial subzone. The stated purpose of the Commercial Zone is to “provide areas dedicated primarily to retail, office, and service related uses.” Bountiful City Code 14-6-101. The typical uses in the Heavy Commercial subzone are “Big-box retail, light manufacturing, planned commercial developments, office towers, automobile repair and service, outside storage yards, and office/warehouse buildings.” Bountiful City Code 14-6-101(A). Clearly, the Commercial and Heavy Commercial zones were established to promote business development and commercial enterprises, not thwart the ability to grow and thrive in the community. The Setback, however, acts as a legislative barrier to Antion’s business growth leaving it with only two options: (1) comply with the Setback and lose approximately 20% of its inventory or (2) move to a different location. These limited options create a special circumstance for the property in addition to an unreasonable hardship under section (i) above.

iii. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.**

While the need for many businesses to maintain large parking lots for visiting customers is declining due to online retailers, car dealerships still rely almost exclusively on customers physically visiting their business. Unlike retailers selling clothes, office supplies, or auto parts, a car dealership's inventory is not stackable nor easily housed on shelves but requires substantial amounts of space in addition to the need for parking spaces for customers. Thus, Antion's industry faces unique circumstances and needs that are not present for other retailers in the zone.

Because other property owners do not face the same unique circumstances as Antion, they are not negatively impacted by the Landscaping Ordinance and, therefore, are able to fully use and enjoy their property. The Landscaping Ordinance, however, prevents Antion from being able to fully utilize and enjoy its property. Additionally, a cursory search of Google maps reveals that the following businesses have similarly removed, or never had, the Setback: Sherwin-Williams Paint Store, Intermountain Homecare-Woods, Charlie Fuller's Appliance, Robintino's of Bountiful, Andy's Lube and Service, Utah Direct Auto, Cottage Dental, Appliance Discount Center, Bountiful Utah Homes for Sale, Flower Patch, Walgreens, Subway Restaurants, Bountiful Bowl, McDonald's, Wok Lin, and Show & Tell AV Solutions. These are just a few of the businesses that do not have the Setback along the frontage of 500 West in Bountiful. Thus, granting the variance is essential to Antion's enjoyment of a substantial property right enjoyed by other property in the same zone.

iv. **The variance will not substantially affect the general plan and will not be contrary to the public interest.**

As noted in Section i above, Antion would only be required to have 15% of its property landscaped, which could be accomplished through less oppressive means than the Setback. Additionally, Antion operates in a commercial zone, the stated purpose of which is "to provide areas dedicated primarily to retail" Bountiful City Ordinance 14-6-101. The variance does attempt to change the zoning or sub-zoning of the property and, therefore, does not affect the general plan of the area. Likewise, the variance is not contrary to the public interest because it does not create a safety hazard, create potential environmental hazards, or have a negative visual impact as the lot is maintained and the vehicles are clean and, arguably, more aesthetically pleasing than a shrub or potted plant.

v. **The spirit of the land use ordinance is observed and substantial justice done.**

The spirit of the land use ordinance is observed because, as noted, the aesthetics of the property are at least maintained, if not improved, no neighboring properties are negatively impacted by the variance, and the variance does not create a health or safety hazard. Substantial justice is done because a profitable, tax-paying business can continue to operate in Bountiful without having to sacrifice approximately 20% of its inventory and, again, the variance does not negatively impact neighboring properties or the zone.

August 16, 1988

Video USA
633 So. 500 W.
Bountiful, UT 84010

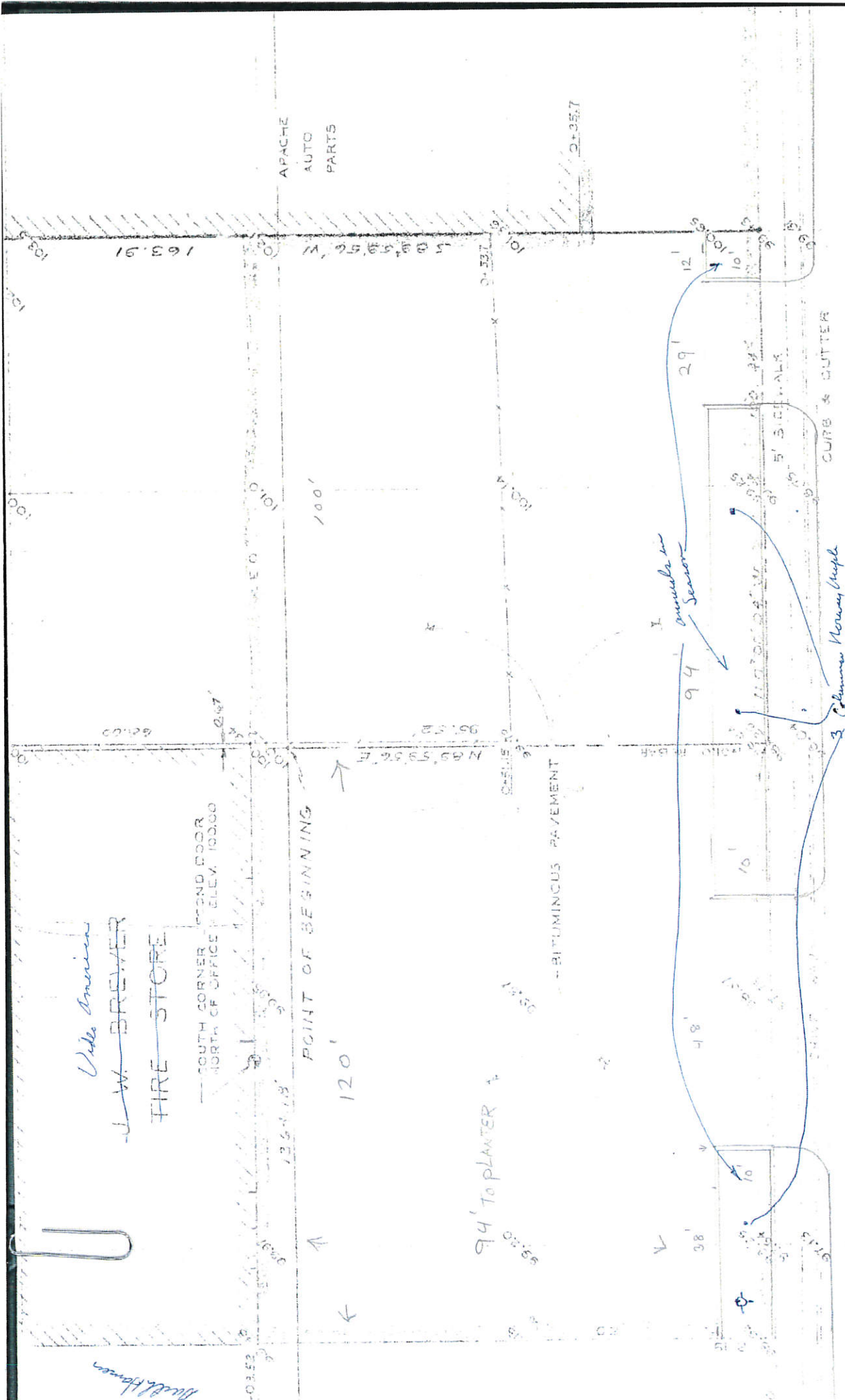
Gentlemen:

We are returning your check #6462 in the amount of \$5,000 which you posted for landscaping at your new business location.

Sincerely,

Jon Reed Boothe
Planning Director

1988 Landscape Plan



When Recorded, Please Return to:
Bountiful City Planning Department
790 S. 100 E.
Bountiful, UT 84010

Conditional Use Permit

A public hearing was held on November 20, 2018, at Bountiful City Hall to consider the request for a Conditional Use Permit for a 6-unit multi-family development located at the following location:

55 West 400 South, Bountiful City, Davis County, Utah

Parcel: 03-032-0081 BEG AT NE COR LOT 2, BLK 5, PLAT A, BOUNTIFUL TS SURVEY, TH W 66 FT, TH S 165 FT, TH E 66 FT, TH N 165 FT TO BEG. CONT. 0.25 ACRES

The Bountiful City Planning Commission heard the matter and considered the statements of the applicant, the City staff, and the public. As a result, the Planning Commission makes the following findings:

1. This matter is properly heard before the Planning Commission.
2. Appropriate public notice has been provided and a public hearing held.

The Bountiful City Planning Commission hereby grants this Conditional Use Permit for a 6-unit multi-family development located at 55 W 400 South, Bountiful, Davis County, Utah, with the following conditions:

1. Complete any and all redline corrections.
2. Prior to submittal for final site plan approval, complete a survey of the property to determine total buildable area available on the property. Complete any revisions to the site necessary based on the size of the parcel.
3. Revise the elevations to show some brick elements on the south side of the building in order to provide architectural continuity on this visible side of the building.
4. Revise the site plan to show the sidewalk on the property ending at the south side of the building.
5. Submit a landscape plan meeting the minimum requirements of Sections 14-16- 104 and 14-16-109.
6. All damaged curb and gutter and sidewalk along 400 S. shall be replaced.
7. Additional windows shall be added to the ground floor facing 400 South.
8. The project needs to include columnar trees on the east and west side of the building to provide screening for adjacent properties.

The Conditional Use Permit was approved on November 20, 2018, and this written form was approved this 4th day of December 2018.

Sean Monson
Planning Commission Chairman

ATTEST: Darlene Baetz
Recording Secretary