## BOUNTIFUL CITY PLANNING COMMISSION AGENDA

Tuesday, March 6, 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 February 20, 2018.
- 3. **PUBLIC HEARING** Consider approval of a variance to allow for a parking space within the required front yard. The property is located at 3457 S Bountiful Blvd, Ryan and Sandra Call, applicants.
- 4. **PUBLIC HEARING** Consider approval of a variance to allow a third driveway. The property is located at 992 E 550 N, Kevin Menlove, applicants.
- 5. Planning Director's report, review of pending applications and miscellaneous business.

Chad Wilkinson, City Planner

#### Bountiful City Planning Commission Minutes February 20, 2018 6:30 P.M.

Present:

Chair - Sean Monson; Planning Commission Members - Jesse Bell, Jim Clark, Tom Smith and

Sharon Spratley; City Council Representation – Richard Higginson; City Attorney – Clint Drake;

City Planner – Chad Wilkinson; and Recording Secretary – Darlene Baetz

Excused:

Vice Chair - Von Hill; City Engineer - Paul Rowland

#### 1. Welcome and Introductions.

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

#### 2. Approval of the minutes for February 6, 2018.

Sharon Spratley made a motion to approve the minutes for February 6, 2018 with the following corrections to page 9.

Paragraph 3. "Mr. Drake stated that the Planning Commission's responsibility depends on the type of application. With many applications their role is mostly administrative in nature making. For Public Hearings on zoning amendments they are acting in a legislative role and they consider the standards and listen to and take comment from the public. This item about the Downtown standards is considered a legislative decision and the Commission will take comments from the public into account when making decisions for the entire city.".

Paragraph 7. "Mr. Higginson proposed that the frontage on 100 W and 100 E be 35 ft façade and get more aggressive with the setting stepping up of the height....".

Paragraph 8. "Von Hill made a motion to table this item and propose that staff change language for:

- 1. The building height on 100 W and 100 E be 35 ft ht stepping up at 50 ft to 45 ft.
- 2. With the maximum of 25 foot interval for articulation instead of 20 foot.
- 3. Standards the same for Mixed Use and residential.
- 4. Landscaping as proposed.

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

## 3. PUBLIC HEARING (Continued from February 6, 2018) – Consider amending the standards of the Downtown (DN) Zoning District found in Chapter 7 of the Bountiful Land Use Ordinance.

Chad Wilkinson presented staff report.

The changes to the DN ordinance included the revisions requested by the Planning Commission at the last meeting. The following summarizes the proposed changes:

- Modifying the ordinance to include a "step up" provision for building heights along 100 West (and East) at 50 feet instead of 100 feet.
- A change to the proposed architectural standards to require changes in horizontal and vertical articulation at intervals of 25 feet instead of 20 feet.

- Modifications that remove distinctions between multifamily and mixed use developments related to development standards.
- A change that requires ground floor development standards in order to facilitate future commercial uses including 12 foot floor to floor heights on ground floor residential.

Chair Monson opened Public Hearing at 6:46 p.m.

Eric Egenolf with Process Studio PLLC in SLC is working on a project in Bountiful. Mr. Egenolf asked about staff about his concern over the proposed code that would require the 50% flex commercial and residential uses, the parking screening and his concern for the 2:1.

Kenny Knighton is a business owner on Main Street. Mr. Knighton spoke about the concern about the 50% requirement and for the lack of demand for commercial projects in this area. He discussed the option for ground parking under the building and let parking dictate and limit the density.

Brian Knowlton is a developer in Bountiful. Mr. Knowlton was comfortable with the proposed revisions but wanted clarification of the proposed 50% commercial space is for street fronting units only.

Todd Willey resides at 66 E 1200 South. Mr. Willey agrees with the other public. He is concerned about the allowed types of commercial businesses with the ability to obtain financing. He would like to see the parking as part of the 50% commercial use and to strike the mixed use language.

Jessie Bell asked Mr. Knighton about his concerns about parking. Mr. Knighton likes the idea of ground level parking under new buildings and showed plans.

Bryce Moulton resides at 3206 Sunset Hollow Way. Mr. Moulton feels that the ordinances as written are more effective if they allow the design process to be more open.

Chair Monson closed the **Public Hearing** at 7:17 p.m.

Ms. Spratley asked for clarification about the mandate for the changes for the mixed use ordinances.

Mr. Wilkinson reviewed the history of the planning process for the Downtown. During the original planning process in 2006-2008, Mixed use was identified as the preferred development pattern for downtown. That was reiterated by a majority of respondents in the survey on the Plat A neighborhood that was administered last summer. The standards are an attempt to allow for multifamily residential while facilitating the mixed use development pattern that was anticipated in the original plan and that was supported again last summer. The proposed codes have been based on the work that other communities have done in relation to promoting mixed use pedestrian neighborhoods. Bountiful has made changes to parking standards and other development standards to facilitate mixed use development. The proposal would allow for residential use while not precluding development of ground floor space as residential in the future.

Ms. Spratley stated her agreement about the commercial space facing the street.

Mr. Smith is concerned about taking away the retail focus from Main Street and spoke about the possible 9 ft ceiling height for office space instead of the 12 ft commercial ceiling. He would prefer the space be for non-retail and limit the space to professional businesses.

Mr. Wilkinson stated that currently there is not a high demand for commercial space in this area. If the space would include a 12 ft ceiling, this would give the most flexibility for future commercial or residential use change.

Mr. Bell stated that he likes the idea of a plan to allow for future changes in the commercial or residential use.

Mr. Higginson agreed with Mr. Smith about encouraging the retail businesses to be kept on Main.

Commission members and staff discussed the impact of the 50% flex space for commercial or residential uses and the possible parking issues.

Chair Monson reopened the **Public Hearing** at 7:52 p.m.

Mr. Knighton and Mr. Egenolf spoke about standards for parking and possible more efficient solutions that would preserve the site. Mr. Egenolf would prefer to not use the percentage for commercial uses.

Bryce Moulton feels that the community and design would be able to determine a presence on the ground floor instead of using a percentage.

Mr. Higginson explained that the code is written for all designers.

Mr. Smith stated that the major concern for this area is streetscape.

Mr. Sebright discussed the language from research done on other city's code. 25 ft was a minimum standard in most codes for the depth of the office using both percentages and standard length.

Mr. Bell suggested that the depth of the office be 25 ft minimum and the predominant side of the street would be the primary entrance would be oriented toward the street.

Mr. Monson feels that flex space should have as much flexibility as possible. He would not be in favor of putting on restriction on the flex space. The street facing units makes sense to have street access.

Chair Monson closed the **Public Hearing** at 8:30 p.m.

Sharon Spratley made a motion to approve the amending the standards of the Downtown (DN) Zoning District found in Chapter 7 of the Bountiful Land Use Ordinance with the following changes to Section 14-7-112-C-9:

- 1. Commercial flex space standards shall only apply to buildings 200 ft from 100 West and 100 East in areas where 55 ft buildings are allowed.
- 2. Flex space should apply to only those buildings fronting the street and be required a minimum depth of 25 ft from the street.

Jesse Bell seconded the motion. Voting passed 5-1 with Bell, Clark, Higginson, Smith and Spratley voting aye and Monson voting nay. Chair Monson explained that his nay vote was based on his opinion that the mixed use should be encouraged throughout the downtown.

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

1.	Land	Use	issues	in	with	the	state	including	building	permit	review,	home	business	licensing,
			and foo						,,,	-				C,

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 8:39 p.m.

Chad Wilkinson, Bountiful City Planner

## **Commission Staff Report**

**Item: PUBLIC HEARING-** Request for a variance for the addition of concrete parking pad and concrete in park strip to allow parking

within the required front yard setback.

Property Address: 3457 Bountiful Boulevard

Author: Kendal Black, Assistant Planner

**Department:** Planning **Date:** March 6, 2018



#### **Description of Request**

The applicants, Ryan and Sandra Call, have requested a variance to allow for the addition of a concrete parking pad in the front yard setback and concrete in the parking strip at 3457 Bountiful Boulevard in order to allow parking within the required front yard setback. The property is located in the R-F zoning district.

#### Authority

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

#### Background and Analysis:

The applicant has requested a variance to allow an existing concrete parking pad and concrete in the parking strip constructed at 3457 Bountiful Boulevard to remain. The issues were discovered when performing an investigation of a code enforcement complaint mentioning a vehicle parked on the sidewalk. A code enforcement case was started to address the concrete in the park strip, a vehicle parked on the sidewalk obstructing the public right-of-way, and the noncompliant parking pad. The parking pad was constructed without permit and does not meet City standards for driveways and allowed parking. The City initiated enforcement action in order to obtain compliance with the Code and the applicant has elected to request a variance rather than removing the noncompliant parking pad and concrete in the park strip.

The parking pad in question does not meet the standards for the R-F zone. Section 14-18-105 (F) states that, "No off-street parking shall be permitted in any required residential front yard or street side yard other than in approved, paved driveways. And no vehicle, trailer, or similar device may be parked on a lawn, park strip, or any other non-paved surface." (Emphasis added). Additionally, Section 14-18-105 (H) states that, "Off-street parking spaces shall be located at least ten (10) feet from any street property line except for driveways serving one and two-family dwellings. For single family and two-family residential uses, at least one (1) of the required on-site parking spaces per unit shall be provided behind the minimum front yard setback. No driveways or paved vehicle areas of any kind are allowed in a street side yard setback unless they provide access to a garage, carport, or other approved parking area located beyond the minimum setback area."

Single family residential requirements include a maximum drive access width of thirty (30) feet. The drive access at the applicant's home is approximately fifty (50) feet wide. It is mentioned in the applicant's narrative that the drive access has been in place like this for over 25 years. City staff determined that this was probably built this way to access the utility easement that runs along the northern part of the property. It is important to note that at the time the driveway was originally constructed, the northern parcel was not a part of the applicants' property. The existence of the drive access did not make paving this area legal and should not be paved or used for parking. The parking pad and concrete in the park strip do not meet the standards of the Land Use ordinance.

The applicant has submitted a written narrative which is attached to this report.

The submittal includes photographs of existing areas that have concrete in the park strip throughout Bountiful. The existence of other non-permitted and/or illegal installation of concrete in the park strip is not a justification for a variance. It should also be noted that the park strip is City right of way and not owned by the applicant. The City will not approve of this variance in the public right of way and therefore the variance is limited to the concrete work on the applicant's property.

#### 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:** The property has adequate off-street parking to meet code standards and therefore the elimination of the parking space will not cause an unreasonable hardship. Instead, elimination will bring the site into compliance with the original approval.

(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 has listed several special circumstances including the steepness of the terrain on the north side of the house impeding the ability to add an RV pad for additional parking and adding an RV pad to the south of the home not being possible due to the proximity of the North Canyon Creek as justification for a variance. The street view image on Google Earth from May of 2016 shows that there was sufficient space and the grade was not too excessive to add an adequate RV pad. The applicant has changed the landscaping on the north side of the house since then. The current landscaping creates a difference in grade creating a "shelf". The portion by the existing driveway is leveled off to join in the same slope and elevation as the existing driveway, whereas the portion behind the driveway (to the north of the house) is raised up to create the shelf. Other options such as excavating the area near the house to provide additional parking could be accomplished without the need for a variance.

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

**Staff Response:** Approval of a variance would actually grant a right that is not possessed by other property in the same zone. The applicant has sufficient parking in the driveway and in the garage.

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

**Staff Response:** Limitations on the number and location of parking areas within required front yards is in the public interest.

(iii) 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. The driveway spacing standards of the Code are meant to enhance public safety by limiting the number of locations vehicles may enter the public right-of-way. Restrictions on parking within a front yard provide opportunities for additional landscape areas in front yards which enhances the beauty of the community.

#### **Department Review**

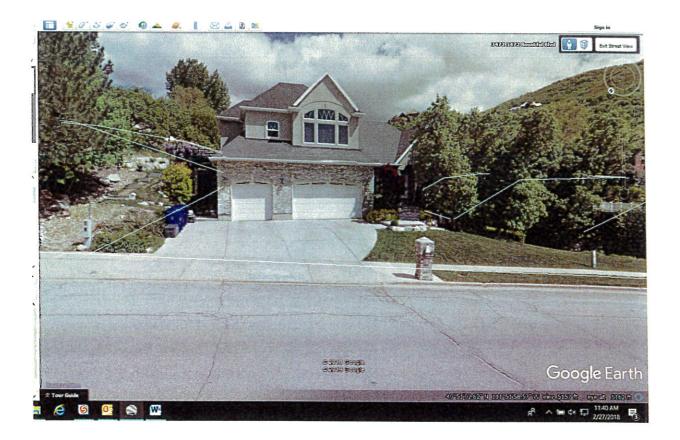
City Planner, City Engineer.

#### Recommended Action

Staff recommends denial of the requested variance to allow for the continued use of the recently constructed parking pad for parking in the front yard setback in the R-F zone. Staff recommends removal of the parking pad and the concrete in the park strip in order to comply with the standards of the Land Use Ordinance.

#### Attachments

- 1. Aerial Photo
- 2. Recent Photographs of the property
  - a. Google Earth Street view image May 2016
  - b. Photo of home taken November 2017
- 3. Applicant's Narrative
- 4. Proposed Site plan (Existing)
- 5. Photos of other properties with concrete in park strip









The letter addressed to us (Ryan and Sandra Call) states that in order to comply with the code, we need to remove the "noncompliant park pad and concrete from the park strip and remove any noncompliant parking spaces from the front yard".

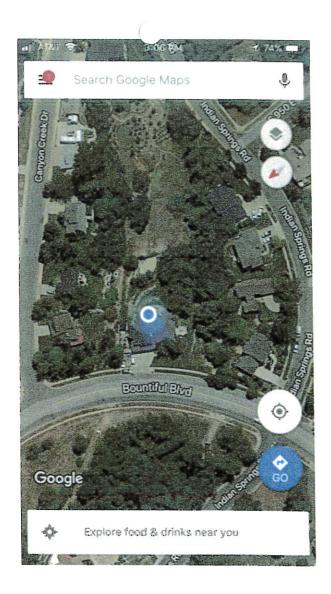
- We have moved the vehicle that was parked in the park strip.
- We wish to keep the concrete park pad and the concrete in the park strip.

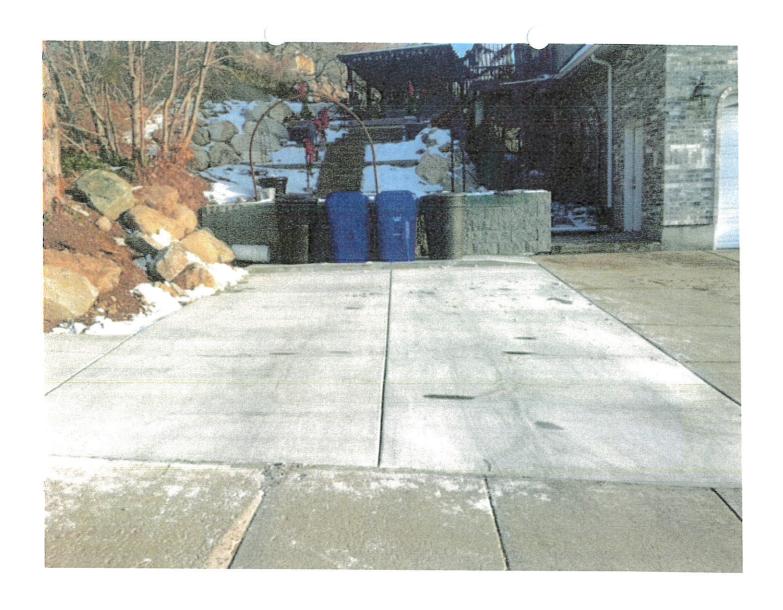
  The 16' x 25'6" and the 7' x 8'6" concrete pad allows us to keep all vehicles off the street and onto a safe parking location. Keeping the concrete in the park strip will help keep the park strip looking nice in that location due to lack of watering since there is not water extended to that area.

The city ordinances we wish to gain a variance from are:

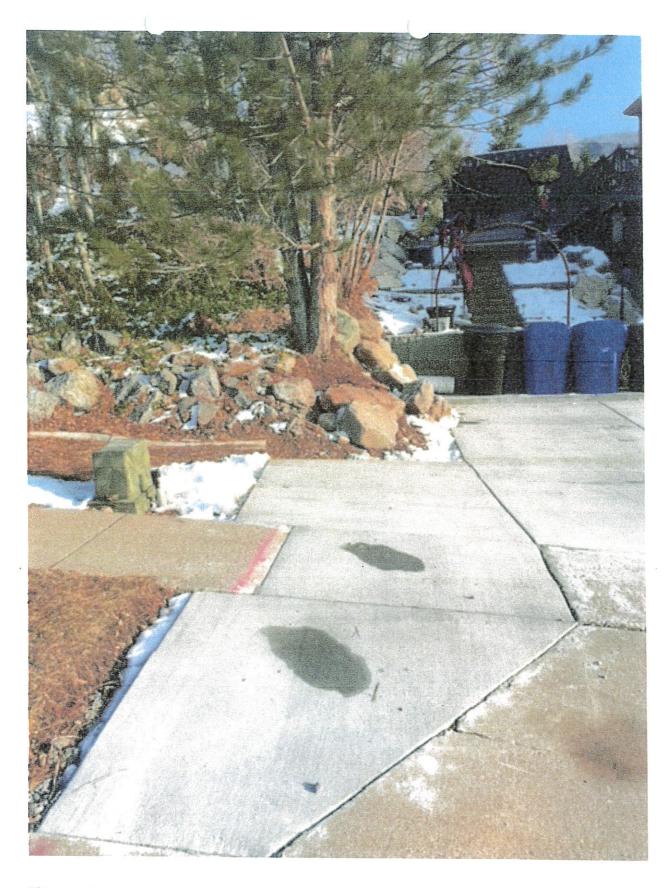
- 14-18-109 A & B
- 14-18-105 F & H
- i) Due to the steepness of the terrain on the north side of the house, adding an RV pad for additional parking is not possible. By adding concrete to the park strip, it will keep a consistence look with the drive approach and concrete pad.
- ii) Adding an RV pad/additional parking to the south side of property is not possible due to the proximity of the North Canyon Creek.
- iii) By adding this concrete pad, it will enable us, the property owners, to comply with the ordinance of no overnight street parking during the winter months. The concrete in the park strip will enable easier access to the concrete pad.
- iv) The zoning and general plan for the property is residential and by granting this variance, it simply allows the homeowners to park 2 vehicles on the additional concrete pad, and allow easier access to it by adding concrete in the park strip.
- v) The new concrete pad and concrete in the park strip extends the driveway to the existing drive approach that has been in place for over 25 years.



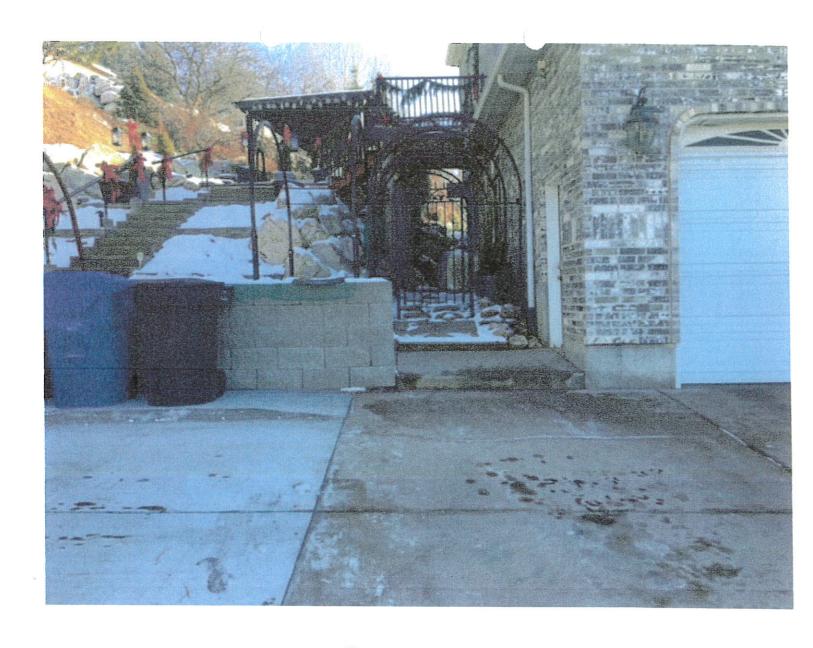




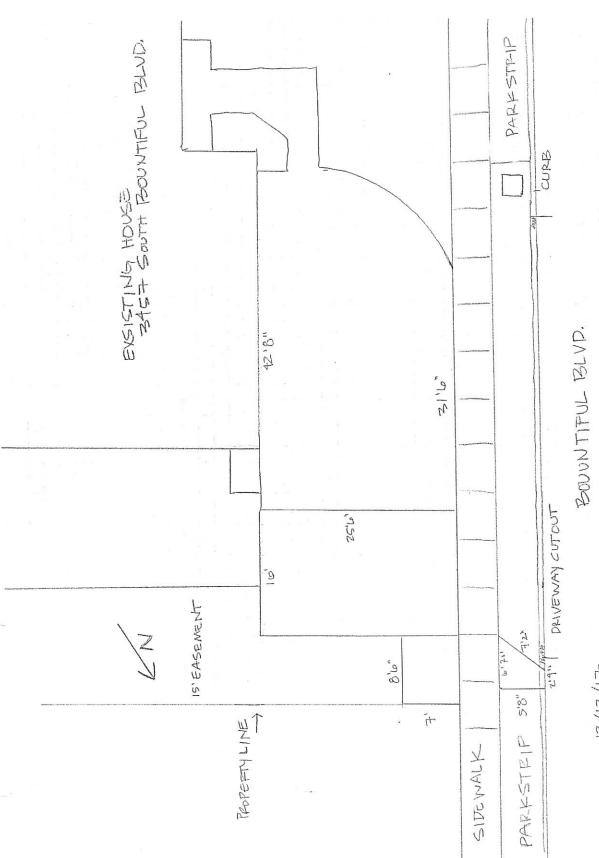
PROPOSED NEW CONCRETE PARK PAD 10' X ZG'0"



PROPOSED CONCRETE IN PARK STRIP
7' X 8'6" (continued pad)

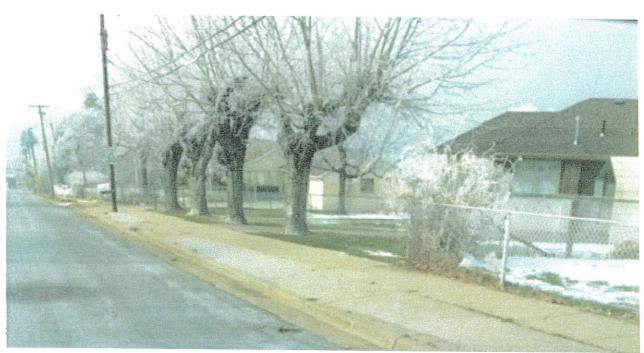


NOT SUFFICIENT SPACE TO ADD AN EV
PAD BY SIRE OF HOUSE



12/12/17 2457 S. BOONTFUL BLVD.

# PROPERTIES IN BOUNTIFUL WITH CONCRETE IN THE PARK STRIP







## **Commission Staff Report**

BOUNTIFUL

**Item:** PUBLIC HEARING – Request for a variance in order

to allow for a third driveway

Address: 992 E 550 North

**Author:** Chad Wilkinson, Planning Director

**Date:** March 6, 2018

#### **Description of Request**

The applicant, Kevin Menlove, has requested a variance to allow for a third driveway for the property located at 992 E. 550 North. The property is located in the R-4 zoning district.

#### **Authority**

Section 14-2-111 authorizes the Planning Commission as the review body for variance requests related to driveways.

#### **Background and Analysis:**

The applicant has requested a variance to allow an existing paved area to remain and to be authorized as a driveway. Bountiful Code Section 14-18-109 B states, "Each residential lot shall be allowed not more than two drive accesses." The variance request is the result of enforcement action on the property which was initiated in June 2017 by the City in relation to an RV parked on a nonpaved surface and the use of a third driveway on the northwest corner of the property. The applicant has removed the RV and has petitioned the City to allow the paved area to remain and to be used a third driveway to the property.

The existing residence on the property was constructed in 2008. At the time of construction, the City identified an existing driveway approach on the northwest corner of the lot and required that the approach be removed (see attached site plan note). The City did not approve an access to the lower garage on the property at that time or subsequently. Many residences include lower garages used for the storage of yard maintenance equipment and other general storage and the City did not approve a vehicle access to this garage at the time of construction. The City also has no record of approval of a basement apartment on the property as this would have required the approval of a conditional use permit for an accessory dwelling unit. The permit issued for the property indicates a rough basement and did not indicate a basement finish. Based on aerial photography the paved area appears to have been constructed sometime between 2011 and 2013 after final inspection of the property by the City and has been used as a parking area for vehicles since its construction. A driveway approach was not installed and no permit was issued for the construction of a driveway. From aerial photography and street view images it appears that the paved area was accessed by a metal ramp placed in the right of way in the past. When the neighboring property to the west was constructed in 2015, a paved connection was

constructed that was not shown on approved plans. This access appears to have been constructed as a way for vehicles to access the paved area on the applicant's property.

The applicant has submitted a narrative that describes the paved area as a "sidewalk." However, it is clear from photographic evidence that the paved area has been used as a parking area for several years. Section 14-4-105 F. requires that driveways accessing parking on an interior side yard be at least 12 feet in width, requiring a 12 foot setback for the home. Based on the approved site plan, the home was constructed at the minimum 8 foot setback which would not provide adequate setback for the required driveway.

#### **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:** The site plan approved with the building permit did not include the paved area and the existing driveway approach was required to be removed in order for the property to comply with Code. The property has adequate off-street parking to meet code standards and therefore the elimination of the paved area will not cause an unreasonable hardship. Instead, elimination will bring the site into compliance with the original approval. State Code stipulates that a variance cannot be based on a hardship that is based on financial considerations or is self-imposed. The choice of building design and setbacks were a self-imposed condition.

(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 has listed circumstances related to access of the basement garage and a mother-in-law apartment. The City has no record of approval for a basement apartment (which would have required the approval of a conditional use permit and recording of a deed restriction on the property). The issue is related to the number of allowed driveway accesses on a property. The Code limits the number to two access points. The applicant has elected to use both allowed accesses on the east side of the home. There are no special circumstances that apply to the property that do not apply to other similar lots in the zone. The design of the home with two driveway accesses on 1000 East was a choice of the property owner and is self-imposed.

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

**Staff Response:** Approval of a variance would actually grant a right that is not possessed by other property in the same zone. The Code limits the number of driveways to two for all properties in the zoning district. The approved design of the home showed both of the allowed driveways on 1000 East.

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

**Staff Response:** Limitations on the number and location of driveways and parking areas within required front yards is in the public interest. Requiring compliance with the approved site plan is also in the 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. The driveway standards of the Code are meant to enhance public safety by limiting the number of locations vehicles may enter the public right-of-way. Restrictions on number of driveways provide opportunities for additional landscape areas in front yards.

#### **Department Review**

City Planner, City Engineer, City Attorney

#### Recommended Action

Staff recommends denial of the requested variance to allow for a third driveway in the R-4 zone. Staff recommends modifications be made to the paved area to prevent vehicle parking in the future.

#### Attachments

- 1. Current Aerial Photo
- 2. Historic Aerial Photos
  - a. 2010
  - b. 2011
  - c. 2013
  - d. 2015
  - e. 2016
- 3. Applicant's Narrative
- 4. Original approved Site Plan

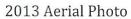


#### 2010 Aerial Photo



2011 Aerial Photo







2015 Aerial Photo







Kevin Menlove 992 East 550 North Bountiful, UT 84010

The City Ordinance we would like a variance from is 14-18-105(C). Noted: 14-18-109(B) There is no cut approach to the sidewalk.

The proposed variance request meets all of these criteria:

- (I) The literal enforcement of the ordinance would cause an unreasonable hardship for us by causing us to remove part of our sidewalk and restricting our access to the backyard garage.
- (II) The special circumstances attached to the property are that our house plans that were submitted to and approved by Bountiful City shows a garage in the backyard. It also has an office and mother-in-law on the west side of the house. The sidewalk on the west side of the house is the only access to the backyard and the office and mother-in-law apartment.
- (III) Granting the variance is essential to the enjoyment of a substantial property right of accessing the backyard, office, and mother-in-law apartment, and the sidewalk has been there for 8 years.
- (IV) The variance will not substantially affect the general plan and will not be contrary to the public interest as the sidewalk does not affect the public.
- (V) The spirit of the land use ordinance is observed and substantial justice is done.

