

Bountiful City
Planning Commission Minutes
October 1, 2019

Present: Chair – Sean Monson; Planning Commission Members – Sam Bawden, Jesse Bell, Jim Clark and Sharon Spratley; City Council Representation – Richard Higginson; City Attorney – Clint Drake; City Planner – Francisco Astorga; City Engineer – Lloyd Cheney; and Recording Secretary – Darlene Baetz

Excused: Vice Chair – Von Hill

1. Welcome and Introductions.

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

2. Approval of the minutes for September 17, 2019.

Jim Clark made a motion to approve the minutes for September 17, 2019 as written. Sharon Spratley seconded the motion. Voting passed 6-0 with Commission members Bawden, Bell, Clark, Higginson, Monson, and Spratley voting aye.

3. PUBLIC COMMENT

Kathleen Bailey resides at 1272 Northridge Dr. She has spoken with City staff and other Council members and wanted to voice her concern over the language of the Accessory Dwelling Unit (ADU) Ordinance passed in 2018. She is questioning the language “contract purchaser” that is used and would like the City to add a definition for “contract purchaser” to the current Bountiful Code. She shared the SLC Ordinance for ADU and stated that she doesn’t want to have a “duplex” in her neighborhood.

Chair Monson stated that the Planning Commission is an advisory board and that she should talk to the City Council members. Mr. Drake suggested that the Planning Commission does not take Public comment at these meetings due to the subjects not being noticed and that the Planning Commission is an administrative body.

4. PUBLIC HEARING – Consider a Variance Request to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% located at 925 E Highland Oaks, Don Crowther, representing owners, applicant.

Don Crowther was present. Francisco Astorga presented the staff report.

The applicant, Bruce Larson, has requested a Variance to allow for encroachments on slopes greater than 30 percent and to build retaining walls taller than ten (10) feet. The property is located at 925 East Highland Oaks, which is in the R-F Residential Foothill Zone. The proposed Variance would allow for construction of a new home. In 1986 the Highland Oaks subdivision Plat A was approved. The Applicant’s property, 925 East Highland Oaks, or Lot 106, was part of the approved subdivision. Only Lots 106 and 107 in the subdivision remain undeveloped. There is a twenty (20) foot sewer easement which runs through the property from east to west. The proposed home would be built between the easement and Highland Oaks.

The Applicant has submitted plans for a new home to be built on the property. With the steepness of the downward slope the Applicant needed to address the reverse grading of the driveway, disturbing slopes greater than 30 percent and the height of the retaining walls. The City Engineer is recommending the

Applicant provide direct drainage from the garage to the street. This would prevent future concerns of storm runoff flooding the home and property. The home is disturbing the 30 percent steep slopes; however, the lengthened design seeks to contain the disturbance.

Utah Code 10-9a-702 establishes the criteria for review of a variance request and stipulates the applicant “shall bear the burden of proving that all of the conditions justifying a variance have been met.” 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 purpose of the building standards in the R-F Zone is to preserve the hillsides and manage erosion. The Applicant has designed a home which seeks to minimize the disturbance of the steep slopes.

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

Staff Response: Many of the properties in the R-F Zone have similar constraints as the Applicant’s property which limit the buildable area and require steep driveways, tall retaining walls and disturbances of slopes greater than 30 percent. The Applicant’s property is unique because of the twenty (20) foot sewer easement which cuts the property in two and prevents any structure from being constructed on it. This feature does not generally apply to other properties in the R-F Zone.

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

Staff Response: Other properties in the R-F Zone with buildable lots have been allowed some reasonable disturbances of the slopes greater than 30 percent, and in building tall retaining walls. Granting the Variance will allow the Applicant to enjoy similar property rights possessed by others in the R-F Zone. Denying the Variance will allow other properties a right not extended to the Applicant’s property.

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

Staff Response: Granting the Variance for the Applicant will not have a substantial effect to the General Plan as other properties in the R-F Zone are treated similarly regarding steep slopes and retaining walls. It is an interest to the City to have all buildable lots developed as opposed to remaining vacant.

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

Staff Response: The purpose of the Land Use Ordinance that requires improvements be located on slopes less than 30 percent is to preserve the hills and manage runoff and erosion on properties located in the foothills. The Code anticipates that there are existing lots with special circumstances and the Variance process provides a way for those lots to be developed. However, Section 14-4-101 of the Code also stipulates that the alteration of sensitive lands should be the minimum necessary to allow for reasonable use of the property. The proposal submitted by the Applicant, demonstrates there has been a

substantial effort has been made to minimize the impact construction will have on the slopes of the property.

Based on analysis of the required criteria from State law included in the findings above and the materials submitted by the Applicant, Staff recommends approval of the requested Variance related to encroachments on slopes greater than 30% and tall retaining walls with the following conditions:

1. The Applicant will continue to work with City Staff to ensure the final plans submitted will meet the standards for building in the R-F Zone, in particular the impact of retaining walls and building on slopes greater than 30 percent.
2. In addition to a building permit, the Applicant shall apply for a separate permit for any retaining walls taller than 4 feet.

Chair Monson opened the **PUBLIC HEARING** at 6:42 p.m.

Tom Gyuro resides at 951 Highland Oaks Dr. Mr. Gyuro is concerned about the sewer line running along the driveway and the homes access to this sewer line. He also spoke of the concern about the possible fall of the retaining walls.

Chair Monson opened the **PUBLIC HEARING** at 6:45 p.m.

Christian Traeden, general contractor for the applicant stated that the easement will not be built on. The sewer will be also used for the applicant's home. The retaining walls will be minimal and be used for a walking area with landscaping in the tiers. The 20 foot setback is being used to stay off most of the slope. The 10 foot retaining wall is part of the front basement wall. Bountiful City Engineering is working with the applicant for the grading and drainage plans including a trench drain being added to the front yard.

Mr. Cheney appreciates the applicant and their development team and the effort that they have gone to design this home. He feels that the applicant and design team have developed a minimal impact for this property.

Richard Higginson made a motion to grant the Variance request to the standards of the Bountiful City Land Use Ordinance to allow for encroachments on slopes greater than 30% located at 925 E. Highland Oaks with the two conditions outlined by staff. Sam Bawden seconded the motion. Voting passed 6-0 with Commission members Bawden, Bell, Clark, Higginson, Monson and Spratley voting aye.

5. Consider approval for the Findings of Fact for the approval of a Variance for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South.

Richard Higginson made a motion to approve the Variance Request for development standards to the Val Verda Well for South Davis Water District located at 33 E 3300 South as written. Jim Clark seconded the motion. Voting passed 6-0 with Bawden, Bell, Clark, Higginson and Spratley voting aye and Monson voting nay.

6. Consider approval for the Findings of Fact for the approval of a Variance for parking restrictions in the front setback and required parking for buildings fronting Main Street located at 220 and 246 N Main, Phil Holland, applicant.

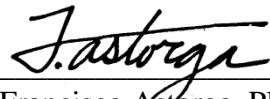
Mr. Higginson stated that there was a discussion of the idea of this project being a self-imposed hardship. He stated that this discussion should be added into the September 17, 2019 minutes. Staff stated that this change: *“Chair Monson raised concern that this could be a self-imposed hardship and there was a discussion with the Commissioners that continued.”* will be added to the previously approved minutes for September 17, 2019 and will be brought back to the Planning Commission at the next meeting for approval. Jim Clark made a motion to reconsider approval of the September 17, 2019 minutes at the next meeting. Richard Higginson seconded the motion. Voting passed 6-0 with Bawden, Bell, Clark, Higginson, Monson and Spratley voting aye.

Sharon Spratley made a motion to approve the Findings of Fact for the approval of a Variance for parking restrictions in the front setback and required parking for buildings fronting Main Street located at 220 and 246 N Main as written. Sam Bawden seconded the motion. Voting passed 6-0 with Bawden, Bell, Clark, Higginson, Monson and Spratley voting aye.

7. Planning Director’s report, review of pending applications and miscellaneous business.

1. Francisco Astorga presented training for Planning Commissioners
 - a. Video from the Land Use Academy of Utah titled “What Hat do you wear? How to make a decision in land use planning in Utah 2016.”
2. Rules of Order will be brought to the Planning Commissioners at a future meeting.

Chair Monson ascertained there were no other items to discuss. The meeting was adjourned at 7:20 p.m.



Francisco Astorga, Planning Director